Effective Deliberative Inclusion of Women in Contexts of Traditional Political Authority

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Abstract: This article examines several obstacles to the deliberative inclusion of women where traditional cultural-political authority exist alongside national democratic institutions. Drawing on the example of land reform in post-apartheid South Africa, the article argues that introducing deliberative democratic procedures to local cultural-political institutions may fail to achieve the inclusion and/or empowerment of subordinated members, such as rural women. I discuss three ways that deliberative interventions might be made more inclusive in such contexts: first, by using strategic exclusion to amplify the voices of disenfranchised community members and/or to make possible parallel deliberation by them; second, by legitimizing and supporting the informal political practices of more disempowered group members (e.g., informal protests, political activism); and third, by fostering the political capacities of disempowered citizens in both formal and informal political life.

Keywords: cultural institutions, democratic inclusion, informal politics, political exclusion, traditional leadership, women's equality

A central claim made on behalf of deliberative democracy is that it can foster the inclusion and empowerment of ordinary citizens in democratic political life. But ideal structures of deliberation tell us remarkably little about how much real inclusion and actual power citizens will enjoy. This is so in part for reasons much discussed by deliberative democrats themselves, such as group-based differences in political speech styles and capacities, and inequalities in the resources and opportunities required to participate in political deliberation (Bohman 1997, 2000; Sanders 1997; Valadez 2001; Williams 1998; Young 1990, 2000). But it is also, more insidiously, because of the way that private and social relations of subordination are readily carried over into political deliberation itself. As an ideal, democratic deliberation strives to ensure that political equals work through disagreements using norms of reciprocity and public reason;

but in reality, power asymmetries and deep inequalities in other areas of citizens' lives readily impact the extent to which they are included, or heard, in political processes. Deliberative democratic mechanisms and processes can arguably help to increase the political accommodation of cultural minority groups in multicultural liberal democracies (Benhabib 2002; James 2004; Tully 1996; Young 2000) and can also be a valuable resource for resolving cultural groups' internal conflicts (Deveaux 2003, 2006a; Song 2007). However, deliberative democratic theory has not adequately addressed the problem of the coupling of private and political subordination, especially in traditional cultural and religious contexts.

In the context of multicultural democracies, this challenge comprises two main criticisms, the first much more widely discussed than the second. First, systematic background inequalities are said to disadvantage a range of minority groups – among them, certain religious, ethno-cultural, and racialized social groups – vis-à-vis majorities even where deliberative institutions aim to foster wide political inclusion (Bächtiger et al. 2010; James 2004; O'Flynn 2006; Pedrini et al. 2013). Second, political and legal institutions that make it possible for cultural or religious communities to govern their own affairs, at least on some matters, may also fail to genuinely include and empower some group members even when ostensibly deliberative principles and procedures are in place. In this article, my concern is with the second problem. Women's exclusion from political life frequently tracks their subordination in their private and social arrangements in ways that theories of radical, participatory, and deliberative democracy have yet to fully acknowledge. The likelihood that women will be marginalized from deliberative processes in cultural (including religious) settings that are explicitly patriarchal is especially great, and as such presents a formidable challenge to those who propose deliberative solutions to inter and intracultural conflicts.

The asymmetries of power that group members experience within their own communities, I argue, are reflected in the political inequalities that characterize the institutions of (typically local) cultural-political authority. In the face of this, introducing deliberative democratic norms and procedures into local cultural-political institutions will fail to achieve the inclusion or empowerment of subordinated members. I discuss three possible moves that democratic theorists might explore to redress this exclusion. First, theorists might consider the strategic use of exclusion, so to speak, by making possible focused, parallel deliberations by disenfranchised cultural group members, such as women. Second, deliberative democrats could pay greater attention to informal political practices, and think of ways these may be supported when undertaken by more disempowered group members (e.g., informal protests, political activism).

Finally, theorists might conceive of ways to foster the political capacities of disempowered members of cultural groups in both formal and informal political life.

If democratic theorists are to advocate that institutions of cultural-political authority within democratic states should embrace a deliberative approach to political decision making, they need first to attend to structural inequalities of power within those cultural communities. Because of the local and sometimes informal character of cultural-political authorities, there may be multiple forms of power operating, including internalized forms of oppression that amounts to domination. My focus here is on women's political marginalization because I believe their lives dramatically illustrate the coupling together of private and political subordination, and because deliberative democracy theorists have not said enough about the problem of gendered power inequalities in political deliberation. Specifically, I address the case of cultural groups that enjoy some degree of autonomy and recognition in liberal states, and which have formal structures of political power. Such cultural-political institutions range from systems of traditional governance to the practices and institutions of systems of religious leadership and religious law; they may combine formal and informal types of power, and are not always fully institutionalized. Regardless of their precise form, they share in common the tendency to reflect and reproduce private and social asymmetries of power.

I begin by sketching how deliberative democrats have treated the question of power in political deliberation, and how gender has figured in this discussion. Next, I explain why local and informal politics are often where we see the intersection of public and private forms of inequality and power most clearly. Then, using the example of traditional leadership and governance in South Africa, and specifically the issue of land tenure reform efforts, I explain why merely including women in political deliberation may do little to challenge prevailing power structures and hierarchies, or to respond politically to women's needs and interests. In conclusion, I explore how democratic theorists might address these challenges.

Gender and Power in Deliberative Democracy Theory

Deliberative democracy has been widely criticized for not dealing adequately with power inequalities inside and outside of actual political deliberation. Even as a normative ideal, it has come under fire for neglecting the ways in which social and material inequalities can dramatically undercut the equal political voice of some participants in political delib-

eration, just as surely as it benefits those with greater economic, social, and political capital. Not everyone's deliberative contributions are equal, then, nor are they heard to the same degree. Deliberative democrats have scrambled to meet these challenges by urging that we apply certain norms to actual political deliberation, such as norms of political equality and reciprocity (Benhabib 2002; Bohman 2000; Knight and Johnson 1997). Others have delineated the concrete background requirements for securing equal capacities and opportunities for political deliberation: more equitable access to a quality education, and to the things people need in order to participate effectively in political deliberation, such as leisure, political skills, even childcare and basic health provisions (Bohman 1997; Cohen and Rogers 1993; Sanders 1997). Still others have suggested specific institutional mechanisms for strengthening the political contributions of less powerful or marginalized groups (Young 2000). But while proponents of deliberative democracy have become more sensitive to issues of power and inequality in deliberative democratic processes, their responses have tended to overlook the issue of women's voices in political deliberation. On one level this makes sense, since women are members of both marginalized more privileged social groups, and are not uniformly disadvantaged in political life. Yet women in diverse socio-political contexts do bring different issues to table, issues that reflect their different circumstances, perspectives, needs, and interests. Less obviously, the background conditions for women's political engagement, and for the development of their political capacities, may differ in significant respects from those of men. If so, this arguably warrants a re-thinking of our strategies for political inclusion with a view to women's participation in deliberation.

Iris Young's (2000: 52–57) discussion of "internal exclusion" in political life captures how a range of factors, from status differentials to different styles of political speech, can privilege some and disadvantage others in public deliberation and decision-making. But I want to suggest that we should look at a broader range of informal, chiefly local, political structures and practices, and how these often exclude women and reflect their private and social subordination. Especially in the context of informal cultural-political structures, women may be unable or unwilling to reflect critically on their own circumstances and interests, let alone press their particular agendas for change. To get at what Steven Lukes (2005: 11) calls the "third dimension of power" – "the power to prevent people, to whatever degree, from having grievances by shaping their perceptions, cognitions and preferences in such a way that they accept their role in the existing order of things" – we need to look at how social and cultural practices and arrangements intersect with local structures of cultural-political power. This includes, as Serene Khader has argued,

attending closely to instances in which women appear to make choices "inconsistent with basic flourishing" (Khader 2011,184) in settings marked by poverty and patriarchal arrangements.

Why Local and Informal Politics Matter to Women

Early proponents of deliberative democracy tended to focus on large-scale institutions of representative democracy to show how we might render them more deliberative – how we might move away from zero-sum politics and towards more reasoned and communicative, rather than strategic, political discussion and decision making. More recently, studies of the use of deliberative democratic strategies in local politics have offered a glimpse of the potentially transformative and empowering effects of more participatory and deliberative practices in smaller scale institutions concerned at the level of local communities (Baiocchi 2005; Johnson 2015). Deliberative democracy has also been proposed in connection with global political institutions, notably by Dryzek (2006) in his account of "transnational discursive democracy" and deliberative global politics. These discussions of how deliberative principles can inform sub- and supra-national political practices have generated interest in the interface of deliberative democracy and informal politics. Deliberative democrats interested in informal politics typically have in mind opinion formation and discourse in the public sphere generally, particularly insofar as these are directed towards influencing national politics (Dryzek 2006). But, taking our cue from radical and agonistic democrats, as well social movement theorists, this space of informal political life might also be conceptualized as including less formal, everyday, kinds of democratic practices, often highly decentralized and more grassroots-based. We might think, for example, of a group of women in a community in a developing country coming together to deliberate about what their most pressing needs are and which collective projects or actions might best meet these (e.g., how to secure reliable transportation to the local health clinic, or to grind the grain they need for food more efficiently), which their government or community leaders have so far failed to address.[1] Especially in poor and middle-income states, and in transitional democracies where citizens may be able to shape the character of the emerging public sphere, it seems important to think more broadly and innovatively about how democratic political spaces and practices (such as activism) can amplify the political voices of marginalized citizens.

Informal political activities or practices, and people's freedom (or lack thereof) to engage in them, can tell us something about the democratic

legitimacy of contested cultural practices and structures. Where "conflicts of culture" emerge in multicultural liberal democracies, such informal avenues of resistance may provide the only means of resistance for women who are structurally vulnerable vis-à-vis institutions of cultural and religious authority (Deveaux 2006a). These conflicts, which often intra-cultural and highly political in character, are frequently marked by an absence of legislation that could dispositively settle the specific tensions at hand — for example, those between cultural recognition and sexual equality rights in post-apartheid South Africa. More typically, legislation does exist, but has had little impact. It is of course a truism that formal rights are not readily translated into actual freedoms, especially for marginalized citizens, and especially during times of democratic transition. Not only are the necessary economic and social resources and rights absent, but in the case of women, gender inequalities in private and social life often prevent them from "realizing" their formal rights.

Women's political power, in particular, is often constrained by the circumstances of their private and social lives, including their cultural arrangements and practices. Consequently, to focus exclusively on (actual or potential) formal, usually large-scale, political institutions risks ignoring critical dimensions of women's disempowerment, or conversely, spaces in which they are relatively empowered. To understand the different sources of women's political powerlessness in places with group-based cultural-political institutions, we need to look at a much wider realm of informal social and political structures and practices than studies of women's political equality generally consider. This is especially true in communities where customary systems of law and authority govern important areas of women's lives, such as marriage, inheritance, and property. Where federal law either is absent or pending, or where the relevance or impact of federal law is minimal, the effects of these traditional structures are compounded. Rural black women in South Africa, for example, are arguably more affected by the arrangements for communal land tenure observed by their particular communities, as well as by whether local custom permits women to cultivate land and partake of communal ownership rights over farmland, than they are by high court decisions upholding sexual equality rights. We might also suppose that since women's disempowerment is rooted in the private and social structures and practices of their everyday lives (in religion and culture, especially), they are more readily empowered by challenging these informal social structures and customs directly. This suggests that we need to examine both formal and informal social, political, and legal structures and practices, and especially at how they intersect. The system of traditional leadership in South Africa is a case in point.

Traditional Leadership and Communal Land Tenure Reform in South Africa

It is one of the ironies of the post-apartheid period in South Africa that the power of unelected local chiefs was greatly buoyed by the transition to democracy that began in 1990. In a process sometimes referred to as "re-tribalisation" (Ntsebeza 2005: 256), traditional leaders have managed to secure a number of protections for their customary bases of authority, including those that had long since lapsed over the years (and some new powers as well). This resulted from a series of political trade-offs involving, at different stages, the African National Congress (ANC), the National Party, the United Democratic Front (UDF), the Inkatha Freedom Party (IFP), CONTRALESA (the Congress of Traditional Leaders of South Africa), and Chief Buthelezi (with a stronghold in Kwazulu Natal province) during the various rounds of constitutional negotiations leading up to the drafting of the Interim Constitution in 1993 and the final, revised constitution in 1996. The risk that traditional authorities would boycott national, and later local, elections and thereby cause gridlock was ever-present. Yet traditional leaders were not obvious allies for the ANC due to their association with apartheid-era rule and the fact that most chiefs were marginal to the liberation struggle. But pressure from CONTRALESA — the lobby group formed only in the mid-1980's specifically to protect the flailing power of traditional leadership — combined with the ANC leadership's belief that traditional authorities could help to deliver votes, meant that traditional leaders had negotiating power.

When multi-party talks started at Kempton Park in March 1993 (the Multi-Party Negotiating Process, or MPNP), traditional leaders and their political supporters (chiefly the IFP) were a force to contend with. When the IFP walked out of the MPNP talks in June 1993, and subsequently rejected the Interim Constitution (which passed anyway, in November of that year), this set the stage for a number of political concessions by the ANC and the National Party. Both were justifiably worried that the IFP and traditional leaders could jeopardize the upcoming national elections (Ntsebeza 2005: 272). Key concessions for the IFP and traditional leadership thus followed, including greater powers for provinces, and constitutional recognition of the King of the Zulus and his kingdom of Kwazulu (in Kwazulu Natal Province). Nevertheless, throughout the 1990's, the ANC-led government made some effort to try to democratize and stem the consolidation of traditional leaders' power, mainly by proposing to split local government off from land administration, the key power base for chiefs. Traditional leaders responded by mounting challenges in the Constitutional Court and, under CONTRALESA, calling for a boycott of

local government elections – the first of the post-apartheid era (Ntsebeza 2005). Ultimately, traditional leaders prevailed: with the passing of the Traditional Leadership and Governance Framework Act of 2003 and the Communal Land Rights Act of 2004 (which reinforces their power over communal lands) their powers were asserted and protected.

Throughout this period of political wrangling over the power and jurisdiction of traditional leaders, women's rights activists in South Africa vigorously protested the "politics of traditionalism" (Walker 1994: 347–358). The Women's Coalition had, in the period between the interim and final constitutions, successfully defeated traditional leaders' bid to have customary law and leadership exempted from the Constitution's individual equality clause. But this was only the beginning. Despite containing some rhetorical support for women's equality, the Traditional Leadership and Governance Framework (TLGFA) and Communal Land Rights Acts (CLRA) are considered by women's equality activists to be serious setbacks for the status and rights of black women. These two pieces of legislation gave the newly established Traditional Councils full control over land administration and carte-blanche to discriminate against women in matters of land tenure, blocking their access to lands that fall under the auspices of communal land arrangements. Indeed, in numerous local rural and municipal jurisdictions across the country, traditional leaders began to systematically revoke women's land rights, mainly by blocking their access to communal lands. It would be hard to overstate the effects that such practices have had on the lives of rural, poor, black women, who are often single heads of households.[2]

Any one of the many political battles that marked the re-establishment of the authority of traditional leaders in the post-apartheid period could serve as a basis for analyzing the intersection of local, informal and formal, political power with the everyday social sources of women's subordination. The events leading up to the passing of this legislation evince the ways in which ostensibly more democratic (and even deliberative) local political structures can reflect and even reinforce the private and social subordination of politically marginalized groups, such as women. As I argue below, these examples also show why greater inclusion of women, and more political deliberation, may not suffice to challenge the coupling of private/social and political power. At the level of rhetoric, proponents of such community-based political processes can mask the workings of power by claiming (as traditional leaders have in South Africa) that these are consistent with a mythical democratic past, and with their cultural traditions and identities. This merely lends ideological window-dressing to the elite political bargaining and power grabs that frequently ensue.[3] To better illustrate this phenomenon, I shall briefly address the example

of recent land tenure reform in South Africa and women's exclusion, in the main, from this process.

Throughout the 1990s, the SA government sponsored a number of land redistribution projects in rural areas, the purpose of which was to give disenfranchised blacks access to agricultural land. In the first phase of this reform program (1994–1999), under the auspices of the Department of Land Affairs (DLA), specific guidelines were issued to support women's land ownership rights.[4] The effect of these measures was nonetheless minimal: many of the women listed as beneficiaries were "joint husband/wife listing … [which] in itself reveals nothing about women's actual authority over the land supposedly transferred under their name"; and as for the inclusion of women in community land reform committees, "attempts to ensure women's participation in discussions and projects relied on informal, *ad hoc* measures" and were largely a failure (Walker 2005: 302). The local politics of land redistribution – the way these actually unfolded on the ground – is very instructive. Researcher Cherryl Walker conducted interviews with individuals involved in three land redistribution projects in KwaZulu Natal in 2000–2001; she found that women selected for involvement in community committees were often inactive, and when they did participate, often deferred "to the authority of men in the household and project affairs" for fear of ridicule or worse (2005: 309). In the final project Walker (2005: 310) investigated, "women displayed a strong interest in the outcome by attending meetings – minutes showed that they regularly outnumbered men at community meetings – and by signing up their households as beneficiaries. They were, however, reluctant to play too active a role publicly. One woman reflected that separate meetings for women were important 'because we are free to speak if there are no men.'"

This example of land redistribution and land tenure reform illustrates the interlocking character of women's social/private subordination and their political marginalization in local cultural-political structures. It also suggests why merely including more women in local political processes, even those with a more deliberative character, may not effectively increase their political voice. Where women were included in land trust committees, they were generally unable or unwilling to speak out against the views or decisions of local leaders, or even, in some cases, to press their own interests. Compounding this was the DLA's inconsistency with respect to gender policy in land reform, and its tendency to accede to the authority of local Tribal Authorities when it came to the question of who should serve on land reform committees. Women's internalization of their unequal status, their fear of the consequences of dissent (ranging from ridicule to anger), their lack of basic political capacities, combined

with the strategic moves made by local traditional authorities and the DLA's lack of follow-up on their gender policies, all contributed to their systematic exclusion from real political power in the land reform process. Thus it came as no surprise when draft legislation for communal land reform circulated in 2001 failed to consider gender as an important factor in the perpetuation of women's unequal access to land, much less offer solutions to these inequalities.[5]

This example also shows that the power relations that underlie local, often less formal, political structures, cannot be readily challenged simply by introducing deliberative ideals of equality and fair inclusion. Gender equality policies as set out by the DLA, and the inclusion of women in land reform committees, did little to challenge women's discrimination at the hands of local leaders who have the power to distribute land as well as to refuse women's specific land claims. With the passing of the CRLA, effectively sedimenting the power of traditional authorities over land administration (at least, until legal challenges force its revision), the prospects for women's effective equality of access to communal lands seem dim. The ineffectiveness of these efforts to include women in local political processes prompts us to ask what could be done to genuinely empower women politically vis à vis local cultural-political structures of power: what kinds of interventions might women make, which democratic norms and procedures might usefully guide these, and what concrete resources and supports might support women's political capacities more generally? To effectively challenge the ways in which local structures of both formal and informal cultural-political power shape and intersect with social practices that disempower women in their daily lives, it is important to make strategic interventions and also to support women who seek to challenge cultural-political structures of power.

Women's Empowerment and Deliberative Mechanisms in Traditional Governance Contexts

Should institutions of traditional cultural-political authority — such as the system of traditional governance in South Africa, including the newly recognized traditional councils, traditional courts, and the institution of chiefs and headmen — adopt more deliberative democratic political procedures of discussion and decision-making? Some political theorists view democratic procedures of decision-making as a condition for according decision-making autonomy (over matters that predominantly affect the community) to cultural and religious minorities within liberal states (Spinner-Halev 2001); others propose them as a way to bring greater

equality and reciprocity to bear on relations between cultural majorities and minorities in liberal democracies (Benhabib 2002). But if women's private and social subordination reinforces their political powerlessness in local cultural-political institutions, will deliberative norms and procedures serve their intended purpose? What implications might the relationship between social and political domination – between women's structural inequalities in the family and community, and their political marginalization – hold for thinking about the prospects for, and design of, deliberative democratic institutions in multicultural democracies?

If private/social subordination and political inequality are intertwined, then even when women are explicitly included in cultural-political decision-making institutions, background asymmetries may nonetheless undermine their effectiveness or voice in political deliberation. One important reason for this is simply that the underlying hierarchical structuring of power in cultural-political institutions may go unchallenged – indeed, may be simply masked – by the token inclusion of women in consultative and decision-making forums. Here the appearance of inclusion and the use of deliberative procedures may merely legitimate the interests and authority of those in positions of power: as Young (2003: 106) has argued in connection with political activists' attempt to "deliberate" with those in institutions like the World Trade Organization who wield vastly more power, "activities of deliberation … tend more to confer legitimacy on existing institutions and effectively silence real dissent." In South Africa, the government-directed process of rural land reform has shored up the authority of traditional leaders, particularly their powers over local land administration, by legitimizing the newly-established (and largely undemocratic) traditional councils and traditional courts. Moreover, the consultations that surrounded the land reform initiative, including the establishment of local land trust committees at the behest of the DLA, reinforced the power of traditional leaders, even in the wake of considerable popular mistrust of this institution.[6]

Despite rather significant attempts to democratize the structures of local governance, rural black South African women, whose interests are directly undermined by many land distribution reforms, have not been empowered. As we saw, women were included in local land trust committees, but this did not prevent traditional leaders from discriminating against women where their land rights were concerned. Nor did consultations with such groups as the Rural Women's Movement prevent the closed-door, elite bargaining between representatives of the Congress of Traditional Leaders and the government that characterized the final stages of the Communal Lands Reform Act. In a particularly dramatic instance in which women protested local land policies, women in Buffel-

spruit, Mapumalanga Province, marched naked within view of the local chief, and were promptly imprisoned for a week (one elderly woman died in custody). These women were protesting a new policy restricting their traditional right to engage in subsistence farming on communal lands; they were additionally provoked by the recent deliberate destruction of their crops, which they had planted in defiance of this rule (Rangan and Gilmartin 2002: 651). The ostensibly democratic channels open to them to challenge these policies were wholly ineffective in the face of the hierarchical authority of local traditional authorities, who had the legal and political power to dismiss women's interests and needs and to impose their own agendas: "In effect, the traditional authorities had succeeded in manipulating the politics of accommodation and evasion towards their preferred 'solution'" (Rangan and Gilmartin 2002: 654). Consultative democratic procedures that are mere gestures towards inclusion and deliberation will then tend to merely reinforce existing structures of power and hierarchy, particularly where cultural-political institutions reflect or fail to challenge entrenched relations of social and private inequality (Deveaux 2006a).

Merely including women in cultural political institutions may give them little real power not only because they have internalized their secondary status, then, but because they may lack the political capabilities to identify and defend their own interests. Internalized subordination that some thinkers view as adaptive preferences, and others see as tantamount to domination, are what are at issue here. How to determine domination is of course a complex political and epistemological problem. But for present purposes, Steven Lukes's discussion of the second and third "face of power" is useful. These dimensions function to "secure the consent to domination of willing subjects" by controlling decision-making and the political agenda, and relatedly, by shaping and obscuring the interests of subjects. In the second edition of his classic essay on power, Lukes rejects "a reductive and simplistic picture of binary power relations," and disavows his earlier treatment of "an actor's interests as unitary, failing to consider differences, interactions and conflicts among one's interests" (2005: 109). His view that we ought to pay closer attention to the internalization of structures and roles of subordination — and to the question "How do the powerful secure the compliance of those they dominate?" — is suggestive for thinking about the deeper layers of women's domination (Lukes 2005: 110). In particular, it pushes us to ask why the mere inclusion of women in structures of local cultural-political authority may not suffice to bring their interests to the table, much less enable them to effectively defend them. As Lukes (2005: 115) writes, "Subjection to domination impedes the subject's ability 'to use reason correctly.' … Power can be de-

ployed to block or impair its subjects' capacity to reason well, not least by instilling and sustaining misleading or illusory ideas of what is 'natural' and what sort of life their distinctive 'nature' dictates, and, in general, by stunting or blunting their capacity for rational judgment. Power can induce or encourage failures of rationality." Moreover, when subjects are conditioned to accept their subordination, it is tremendously difficult for actors to suddenly identify separate needs and interests – even when political inclusion is suddenly extended to them: "Domination can consist in [judgment] being suppressed and stifled within relations between groups, as in colonial settings (as explored by Fanon), in authoritarian families and tyrannical educational institutions, and between individuals in asymmetrical relationships … – power relations which disempower by infantilizing" (Lukes 2005: 117). We might recall here the inhibited and ineffective participation of women on local land trust committees as an example of the way that women can so internalize their subordinate status as to be unable to defend their own interests even when they have some sense of what these might be.

Drawing on Lukes's analysis of the third dimension of power, we might say that deliberative procedures can mask underlying relations of domination, in part by obscuring the needs and interests – complex and sometimes contradictory – of actors under a veneer of inclusion and apparent equality. Normative ideals of non-domination and equality in deliberation are, however, rather general and underspecified; what is needed to implement them in contexts of traditional governance structures? One option may be to delimit the scope of deliberation by refusing to open up to discussion proposals which would clearly violate women's human rights. When traditional leaders contest women's entitlements to property or attempt to block them from governance positions, for example, it may be prudent to appeal to existing human rights instruments to close off such actions. Johanna Bold (2009-10, 564), for example, proposes "accepting as consensus the regional human rights norms articulated in the [*2003*] *Protocol [to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa]* and focusing deliberation on the best ways to implement those norms at the local level." She is surely right that this is the best strategy in cases where traditional leaders' actions or proposals undercut women's human rights clearly established under (uncontested) international law. But where decisions about how to mediate conflicts between recognized cultural rights (including those to do with traditional leadership) and women's rights are concerned, this strategy will not always be available or provide sufficient guidance. In such instances, we might need instead to consider a range of possible ways to foster the inclusion of marginalized and disempowered members of cultural groups: the tactical, strategic

exclusion from deliberation of those who seek to dominate; resources for less powerful members (including women) who may need to deliberate separately, perhaps as a precursor to broader deliberations, as a way to determine their own interests and needs in parallel deliberation; greater recognition of, and legitimization of, women's informal political activism; and finally, concrete support for the development of women's political capacities in both formal political deliberation and informal political life.

The Importance of Exclusion?

Like other deliberative democrats, I endorse the principle of wide political inclusion of stakeholders as a central norm of deliberative democracy. Political inclusion is both central to the democratic legitimacy of political procedures and critical to the practical success of policies and reforms that may result from deliberation and decision making about multicultural accommodations (Deveaux 2006a). Nonetheless, I want to tentatively suggest here that if we take seriously the interweaving of private/social subordination and political marginalization and domination, it may be necessary to make judicious use temporary strategies of exclusion in deliberative political processes concerned with identifying citizens' needs, interpreting their rights, and imagining solutions to conflicts. Without such exclusion, in may not be possible to effectively challenge and redress the dramatic power inequalities that characterize some local cultural-political institutions and processes, especially where these inequalities mirror relations of subordination in the home and community. As Suzanne Dovi (2009: 1172) has argued, a perspective of exclusion "recognizes that power and influence must be taken away from privileged groups who are overrepresented within democratic institutions if the representation of historically disadvantaged groups is to be improved."

Strategic exclusion might take one of either two forms.[7] First, it might take the form of excluding from some phases of political deliberations or consultations particular individuals who consistently refuse to acknowledge dissenting voices, or who intimidate other participants and/or are unwilling to open up decision-making to democratic challenge. We might even think of such exclusions as a requirement of the principle of non-domination in political deliberation endorsed by numerous proponents of deliberative democracy (Bohman 2000; Deveaux 2006a; Pettit 1997). We might also adapt the arguments of those who worry about "bad civil society" to show why that the actions of those traditional leaders in SA who seek to dominate and exclude women's voices may in turn warrant their own exclusion — even while we acknowledge, along with Kopstein and Chambers (2001), that exclusion is only a temporary and

suboptimal solution to the underlying problems of social and economic inequality that underpin illiberal associational life.

A second form that exclusion might take is that of parallel, separate deliberation by disempowered members of cultural communities, preferably in processes that carry some political authority. Given the phenomenon of internalized subordination and domination discussed in connection with Lukes's analysis of the third dimension of power, it may be that individuals who are in subordinate positions in the home and other social structures need initially to deliberate separately in order to determine their own best interests and needs. Discussing issues in parallel — either before, or as a supplement to deliberative processes that include their community leaders — might enable disempowered sectors of the community to begin to disentangle their own interests from those who wield considerable power over them in their daily lives. The views and arguments of those involved in parallel deliberation would still need to pivot on public reasons: deliberation cannot just a matter of conveying information, or of expressing needs and interests, but must appeal to reasons that are defeasible, or open to scrutiny and rejection. Nonetheless, the practice of parallel deliberation might help to provide an opportunity to develop and support the political capacities of marginalized citizens, such as black women in South Africa (Britton 2001: 173–174).

Expanding Spaces for Activism and Informal Politics

If women's inequality in social and private life contributes to their political marginalization in multiple ways, then it will be important to think about women's empowerment not only in the sphere of formal politics but also in a range of social practices, relationships, and institutions. We will need to look not only at women's inclusion in formal, institutionalized political processes, but also to ask what might help to empower women to transform and resists relations of subordination in their everyday lives. Women's informal responses to the domination they experience in their daily lives, and the political activism they sometime engage in to protest unjust structures or practices, may be more far-reaching and transformative than legislation designed to protect women from discrimination.[8] This is especially so in contexts where local cultural-political institutions have a large impact on women — as in the case with traditional systems of governance and leadership in South Africa — and where customary roles and arrangements (e.g., religious personal law) render equality legislation largely ineffective.

There are several reasons why those concerned about gendered power inequalities in deliberative politics should be interested in wom-

en's informal political activities.[9] In some contexts this may be the only form of political agency open to women who seek to protest perceived injustices. An irony of processes of democratization in multicultural states is that while the participation of women is widely touted as critical to the shaping of the new democratic institutions, their inclusion may be blocked by local cultural and social relationships and structures. While it is important to work towards the reform of legal and political institutions, including what I have called political-cultural institutions, this may not suffice: in states that are undergoing democratization (like SA), and even in advanced liberal democracies in which the status and accommodation of cultural groups is in flux, there may not yet exist the necessary institutions or legislation designed to foster women's inclusion. Or, there may be a long lag between the implementation of legislation and the impact of its effects (as in the case of some legislation reforming customary law in South Africa, for instance). Finally, the legislation in question — for example, the Communal Land Rights Act — may not be sympathetic to women's specific needs and interests, but instead reflect political deals or established hierarchies. In these instances, a range of practices and activities in informal politics can take on enormous importance — both as a way for actors to identify common concerns, and as a way to begin to push against the liberal state, or institutions of traditional cultural-political authority. In connection with women's citizenship in South Africa, one commentator writes that:

> Citizenship in South Africa is inextricably connected to naturalized social roles, which legal rights and policy-making cannot easily dislodge. … [T]he fruits of democracy have not been extended to the majority of women who are black, poor, subjected to private patriarchies and vulnerable to violence. However, it is perhaps not to the state, government policy or institutional change that one should look for future possibilities of transforming private patriarchies, but to those everyday resistances in the homes, communities and neighborhoods. (McEwan 2000: 643)

Another reason why we need to pay attention to women's informal political activity and activism has to do with the way that such activity can help to change the "official" political agenda to better address women's needs and interests, using direct and dramatic strategies of protest. At least where states are reasonably responsive to the demands of democratic civil society, women's political activism can put issues on the agenda that might not otherwise get raised in the process of political deliberation and decision-making. Moreover, it can do so without necessarily legitimizing what may be unjust political and legal institutions. Indeed, such activism may pose a direct challenge to local institutions

of cultural-political authority, as in the example of the nude marchers of Buffelspruit. By contrast, political deliberation in formal political processes can sometimes yield only very small and ineffectual changes, because of restrictions (of procedure and agenda) set down by those in power. Furthermore, as noted earlier, it tends to shore up those already in positions of authority. At its best, then, popular political activism can challenge these constraints, and hegemonic discourses more generally, at deeper levels. This is why Young (2003: 118–119) suggests that deliberative democrats should resist the vision of politics as necessarily orderly, and as always consisting of argument and deliberation; we should, she reminds us, instead remember that it involves (and should involve) protest.

Finally, women's informal political activities and protests in civil society can help to open up spaces for women's political participation in formal politics, and also help women to begin to formulate a shared agenda. The continuity between women's activism in civil society and their participation in "official" politics is especially important in states undergoing rapid democratization (and in which the public sphere is expanding quickly). In many liberal constitutional democracies, the women's movement — ranging from large national organizations to much more local and informal groupings of women — has helped to put women's (and feminist) issues on the national political agenda. In South Africa, it was only as a result of widespread lobbying and protest that the Final Constitution was amended to make clear the non-derogable status of women's individual rights (McEwan 2000: 644). Moreover, where there are significant differences among women across class, race, ethnicity, religion, and geography, activist politics and informal political life may be better contexts for negotiating these differences than formal politics; as Dryzek (2005) has argued, informal spaces of civil society may more readily permit citizens to raise contentious issues. The question of how women's informal political resistance and political activism generally might be supported and fostered is connected to the question of women's political capacities and the requirements for these capacities, to which I now turn.

Developing/Supporting Women's Political Capacities

Many deliberative democracy theorists address the issue of political capacities in broad terms, largely in response to the concern that citizens' background (social and economic) inequalities constrain their ability and opportunity to participate effectively in political deliberation and decision-making.[10] I do not offer a comprehensive account of this discussion here.[11] Briefly, there has been much talk of the problem of exclusion in political deliberation, and of "deliberative inequalities" and their effect on

dialogue and public reason. For instance, Bohman, drawing on Amartya Sen's work, has developed a capacities-based approach to political agency that takes up the issue of citizens' deliberative inequalities in formal deliberation and decision-making. On his view, citizens have "adequate functioning" to the extent that they have "the capacities for full and effective use of political rights and liberties in deliberation – capacities that are evident when citizens successfully initiate deliberation, introduce new themes into public debate, and influence the outcome" (Bohman 2000: 124). Conversely, they suffer from "political poverty" to the extent that they are unable "to make effective use of opportunities to influence the deliberative process" (125). But what of the ways that the relations and structures of private and social subordination constrain citizens' capacities for political activity, both formal and informal? Bohman (1997: 322) argues that "the proper criterion for deliberative democracy is *equality of effective social freedom,* understood as equal capability for public functioning." If sufficiently expanded, this criterion of social freedom could help us to think about how citizens' social and political freedoms are closely interwoven, just as are the conditions for these freedoms.

For a better understanding of the connection between our social structures and relationships and political voice/participation in both formal and informal life, we might also look to discussions of political capacities by philosophers who have begun to connect the issue of individuals' everyday capacities and conditions of life with their ability to engage in political life. Perhaps the two best examples are Martha Nussbaum's enumeration of a list of capabilities required for human flourishing – which includes capacities and opportunities for practical reasoning and political participation, and is geared especially to the situation of women – and Sen's argument that peoples' "capabilities for freedom" are linked to economic development and, specifically, to resources like education and freedom from poverty. Nussbaum (2002: 62) has argued that human flourishing requires that people ought to be "able to participate effectively in political choices that govern one's life." I would like to somehow connect this interest in the political capacities of citizens, and the requirements and background conditions for these, to the discussion of the importance of informal political life. My thought here is that citizens must also have the freedom, capacities, and opportunities to participate in democratic activity inside and *outside* of formal political life, and that this is a real marker of their democratic freedom. This involves far more than the right to free association, and standard political rights; rather, it includes citizens' practical ability to participate in democratic decision-making about matters that concern them in their daily lives, and those of their families and communities – or what James

Tully has called the "democratic practices of citizen freedom" (1999: 179). Broadly, it includes citizens' capacities and opportunities to engage in local, regional, and national political activism without fear of repression and retaliation.

The question of women's political capacities in culturally plural contexts is similarly bound up with the question of how they experience social and political power, both formal and informal, in their daily lives – in domestic/familial, cultural, and communal structures. If citizens are to have a real say over the decisions and arrangements that bind them in their daily lives, then they will need to have agency at this everyday level. Such agency should also include their ability and opportunity to resist and transform private and social relationships of subordination. The criterion of contestability with respect to policies, laws, and institutions – without which power can become static and exploitative (Pettit 1997: 184–185) – is helpful here. Similarly, we might suggest that the contestability of private and social structures of subordination is a condition of broad democratic legitimacy and justice (Deveaux 2006a). Institutions of cultural-political authority such as the systems of customary law, traditional leadership and governance in South Africa, can make it difficult and sometimes costly (in terms of risking repercussions) for women to protest these everyday strictures and sources of subordination, however. Without the security and resources necessary to effectively challenge, transform, or simply reaffirm aspects of their social and cultural arrangements, women may also be blocked from participating in local political life. When rural black South African women to participate in the land reform process, their power was often effectively undercut by traditional structures of social and cultural power and authority. Here I can only gesture at some of the things that are critical to the development of women's capacities for agency in formal and informal political life: economic security and independence; freedom from violence; access to health care and protection of their reproductive rights and choices; and "sufficient respect and recognition so as to be able to influence decisions that affect [one] in a favorable direction" (Bohman 1997: 324). Ultimately, what is critical is to acknowledge, at the level of social policy and institutional political reform that "women's citizenship derives as much from the private sphere as it does from the public sphere" (McEwan 2000: 646).

Conclusion

I have argued that women's private and social subordination shapes, and is shaped by, their political marginalization in multiple ways, and that

this comes into clearer view when we consider cultural-political institutions and practices of power. I have also suggested that to begin to challenge the close coupling of these dimensions of women's subordination in the context of democratic politics, it will not be enough to merely introduce mechanisms for more inclusion and deliberation. Rather, we need to consider more far-reaching solutions, such as greater support for women's informal political practices and activism; resources and policies that foster women's political capacities in both formal and informal political life; and even, at times, the use of strategic exclusion or parallel deliberation. In raising these challenges to the use of deliberative democracy for problems of multicultural accommodation, I do not mean to suggest that we should ignore formal political institutions or cease to think about how we might re-invent and reform these; far from it. Indeed, it is precisely because federal legislation and constitutional court decisions will have such potentially far-reaching consequences for so many women that it is important that they be invited to articulate both their lived experience of cultural practices and what changes or reforms would help them the most, in processes contributing indirectly or directly to legal reform and policy formation. Deliberative and consultative forums that address the interpretation and possible application of rights are thus an important way for women to shape precisely those arrangements that are of such immediate relevance to their daily lives. Foregrounding women's participation in the development and drafting of legislation that aims to bring cultural practices in line with constitutional rights, especially, will go a long way towards ensuring that women's needs and interests are acknowledged and met — but we must be mindful of the ways in which their private and social sources of subordination can precisely prevent them from making these political contributions.

It might seem paradoxical to suggest that the liberal democratic state can help to challenge the intertwining of women's social and political forms of subordination; it might seem further contradictory that the state can help foster women's political capacities and also support informal political activity. But this is only so if we view the liberal democratic state as necessarily and fundamentally as somehow separate from rather than constitutive of the diverse social, cultural, and religious groups it comprises. This is why the South African case is such an instructive one, since the cultural "minorities" to be protected include the majority black population. If directed to do so, the state surely can help to facilitate women's greater say in the reform of systems of systems of legal and political authority, particularly local religious and cultural institutions. It can, and should, also support them in challenging the hierarchies that prevent them from taking up their new rights, and in their efforts to

transform the structures and relations that subordinate them in their daily lives.

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➤ **NOTES**

1. For example, this is the approach taken by the Association Pour la Promotion de la Femme Sénégalaise (APROFES), an NGO based in Kaoulak, Senegal, which encourages groups of women in local communities to identify their own needs and strategies for change through discussion and consensus-building (Deveaux 2006b).
2. Fearing precisely this outcome, women's rights lobbyists protested the Communal Land Rights Act and eventually secured rhetorical support for women's equality, but observers predicted Constitutional Court challenges on the grounds of gendered discrimination (Walker 2005: 312).
3. Traditional leaders in SA have at various times insisted that their governance structures are historically, and inherently, democratic — albeit distorted by the apartheid era — even in the face of evidence of authoritarian tendencies. They have made similar claims about traditional leadership being the only legitimate authority representing authentic African cultural arrangements and practices.
4. As Walker (2005: 301–302) explains, the DLA "promoted two strategies for involving women: the inclusion of female-headed households on project beneficiary lists and the appointment of women to community land reform committees."
5. Following an outcry from women's rural advocacy associations, the final version of the Bill underscores women's rights, yet still gives traditional councils the power of land administration.
6. Ntsebeza (2005: 269) explicitly challenges the assumption that traditional leaders enjoyed wide support in the transition from apartheid, citing evidence that rural residents sometimes feel intimidated into voting for candidates endorsed by tribal authorities.
7. My proposal for the limited and strategic use of exclusion does not entail endorsement of exclusion in other contexts, e.g., the claim that we ought to exclude non-liberal groups in order to protect liberal identity and culture, as advocated by Tebble (2006).
8. The question of which informal, non-institutionalised political activity is "democratic" is an important one that I cannot take up here. A related

question is whether and which informal political practices and spaces are compatible with deliberative strategies and processes (see also James 2004: 108–139).

9. Deliberative democrats have written widely of the importance of civil society/public sphere groups and associations to deliberative democracy: Dryzek (1996, 2000) stresses the value of civil society as a space for democratization. Dryzek (2004) also discusses the role of social movements and associations in deliberative democracy.

10. For example, Cohen (1989: 22–23) argues that one of the basic features of the ideal deliberative procedure is the equality of citizens – both formal and substantive, in the sense that "existing distribution of power and resources does not shape their chances to contribute to deliberation, nor does that distribution play an authoritative role in their deliberation."

11. Many of the specific recommendations made by deliberative democracy theorists for enhancing citizens' deliberative capacities are of little use here: the empowerment of rural black women in South Africa will depend less on state financing of political parties and secondary associations (as suggested by Cohen and Rogers) than it will on establishing their freedom from violence, basic economic security, as well as their practical freedom to resist arbitrary exercises of power in the family, at the level of local village politics, or at the hands of larger state institutions.

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