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Democracy for Resistance: Employing Participatory Democracy as a tool for Social Resistance

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Democracy with a Nudge – Employing Participatory Democracy as a Tool for Resistance

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Oppressive Social Norms and the problem of Private Resistance

In his paper, "Means of Correct Training," from the book, *Discipline and Punish*, 20th century French philosopher Michel Foucault outlines a form of "disciplinary power" embedded within social norms that works by coercion through the observation of these norms. Foucault makes this analysis through an investigation of the history of surveillance within public

institutions, such as the military and public schools. From his research, he concludes that these institutions were constructed in an attempt to observe the people that inhabit them. Every physical construction, from the positioning of the windows in schools and the strategic placement of officer's quarters in military camps to the location of dining halls in both schools and the military, provided a means of observing both students and soldiers.

Drawing upon similar examples within hospitals and other public structures, Foucault delineates how, at the turn of the 18th century, the historical power structures of surveillance present within public structures had become the basis of an omnidirectional form of social surveillance across society. In his analysis, he argued that, unlike the binary traditional concepts of power or 'juridical' power that function through prohibition and punishment, the disciplinary form of power embedded within surveillance is ubiquitous and penalizes various forms of deviation from the norm. The punishment that people face for deviating from norms occurs through normalizing—setting a standard of what is "normal," and then comparing, differentiating, hierarchizing, or excluding people accordingly. Individuals in this system act as both the subject and the object of surveillance. The effects of self-regulation and the regulation of others create a self-sustaining mechanism whereby individuals (at every point surveyed) experience pressure to adhere to established norms[1]. For individuals who are 'othered', this form of oppression and the insistence on assimilation burdens them with social and economic costs, and in some cases, such as in the case of racism or homophobia, it may cost them their lives.

Some institutional norms may serve to maintain a civil society by subjecting all individuals to similar standards. One example is the case of norms surrounding conduct in public spaces such

[1] Michel Foucault, "Means of Correct Training", page 193- 200

as the marketplace, classrooms, and hospitals. However, the ability of such norms to subject all individuals to the same expectations may characterize their oppressive capacities when left unchecked. This occurrence is due to their ability to hierarchize, differentiate, and exclude people. Oppression occurs especially when the peculiar qualities that characterize certain groups are ignored in the definition of the "accepted", "expected" or "normal". Additionally, some oppressive norms are created and enforced to control the bodies of certain groups in society in order to subdue them.[2] To address resistance against oppressive social norms, scholars have explored various approaches on how minimize their effects. For instance, Sandra Bartky (1997) and Cornel West (1993) identified resistance in the form of a "private" resistance as the best way to disrupt the exclusion of individuals in society. This resistance occurs via the blatant dismissal of the demands of the norms and the acceptance of one's own self, unencumbered by the burden of norm adherence. While employing this approach as a primary tool for resistance has had its successes, it subjects the individual to the possibility of further exclusion and losses in opportunities such as intimacy and employment. Moreover, it fails to specifically target and address the norms from institutional standpoints—the point where the norm is primarily disseminated. Thus, another approach which may prove as a useful tool for resistance is greater inclusion and participation in the creation of social and political institutions through an avenue such as participatory democracy.

Democracy, since its inception, has isolated certain groups from its description of 'citizen'.[3] Women, for instance, were never considered as full and equal members in any democracy since the description of 'citizen' did not encompass any of the peculiar qualities of a woman. Most democratic ideals, for instance, assumed an idea of a universal individual who was

[2] Carol Pateman "The disorder of women: women, love, and the sense of justice" 20-34
[3] Carol Pateman 1989. Feminism and Democracy. Pp. 372-406

an equal citizen without any acknowledgement of the fact that there was sexual and social inequality that ensured that women were subordinate to men, or that there existed a patriarchal order. Furthermore, democratic theorists, in their bid to promote ideals of 'justice' and 'civility', promoted the woman as 'immoral' and 'incapable of developing a sense of justice'[4] and hence unfit to make public decisions. Consequently, feminist theorists are often skeptical about the very idea of a 'democracy' or its capacity as a tool for resistance.

Nonetheless, active participation in public life such as in the case of demonstrations, activism, public outcries, and other forms of participation in local and national government, academia, and in various capacities have brought issues that deal with femininity, gender, race, and sexuality to light and have subsequently gained some expression of freedom for individuals affected by these issues. History has continually shown that 'othered' people are often the best advocates for themselves.

In this paper, I argue that intentional and active participation in public life made possible by a participatory democracy is perhaps the most potent tool for resistance. This is because increased participation, even in a flawed system such as democracy, can undo previous conventions of the 'normal' and re-establish less oppressive institutions and an even better and more inclusive democracy. Through an emphasis on the participation of 'othered' groups, democracy-- which at a point served as the source of oppression for these groups by ensuring their exclusion from it-- can become a potent tool for change. The participatory democracy approach, compared to other resistance approaches taken on by theorists like Bartky and West, recognizes the reinforcing relationship between oppressive norms and public institutions, and the citizen's

[4] Carol Pateman "The disorder of women: women, love, and the sense of justice" 20-34

role in halting the oppressive cycle by actively participating in all aspects of public life. While this approach does not solve the problem, Foucault presents in its entirety, it is a pragmatic solution to curb the oppression of specific groups within society by offering the alternative of a continuously self-improving system. To emphasize the relevance of this discussion, I will begin by describing modern applications of Foucault's juridical power in society.

Oppressive Socio-political Norms and the Problem of Private Resistance

In discussing the failure of liberal democratic societies to acknowledge the social inequalities women face, Carol Pateman interrogates the division between private and public life and draws the conclusion that as long as social equality does not exist, political equality will not.[5] In addition, she argues that some liberal democratic theorists such as Rousseau felt that women, unlike men, were incapable of subduing their passions and pursuing the justice that civil life demands[6]. Likewise, Freud claimed that men's commitment to public life relegates women to second place citizens who in turn become hostile towards public life.[7] As a solution to these concerns, it was determined that a double standard for sexual conduct (and all social and political conduct) was necessary in order to further the course of civilization. Rousseau makes the following argument in *Politics and the Arts*:

> "*Even if it could be denied that a special sentiment of chasteness was natural to women, would it be any the less true that in society… they ought to be raised in*

[5] Carol Pateman. 1989. "Feminism and Democracy". Pp. 372-406
[6] Carol Pateman 1980 "The disorder of women: women, love, and the sense of justice" 20-34
[7] Carol Pateman 1980 "The disorder of women: women, love, and the sense of justice" 20-34

> *principles appropriate to it? If the timidity, chasteness, and modesty which are proper to them are social interventions, it is in society's interest that women acquire these qualities.*"[8]

The political and social perceptions of women fed into the norms surrounding how women were viewed and treated, as well as the kind of expectations placed on them in social and political settings. Such expectations meant that women were required to live within a certain standard and a particular form of morality. They were to suppress their own desires and personhood as they tried their best to represent what society expected of them in political and social realms. Consequently, the dismissal of their personhood meant that they were not active citizens, as they were incapable of pursuing justice or living up to the demands of public life. In essence, the very definition of citizenship was one that sought to exclude women.

To emphasize examples of current oppressive social norms, Sandra Bartky provides comprehensive examples that outline specific ways through which societal standards dominate women through a constant comparison, differentiation, and exclusion. Bartky's first point of reference emphasizes the societal control of the female body figure. She describes a western ideal of a taut, small-breasted, narrow-hipped figure that represents a pubescent girl rather than a grown woman. This description is one of many bodily ideals western women are expected to heed to in certain professional or social settings. Other social groups perpetuate their own various images of the ideal woman, setting a standard of what women across the globe should be. Although beauty standards, for instance, continue to change with every generation, women remain held by the current social standards and continue to discipline themselves to conform. In some instances, the

[8]Rousseau J (1968) "Politics and the Arts". pp 97

woman's body becomes her enemy since she cannot curb her biological need for food and may develop habits that could lead to disorders such as anorexia or bulimia as a result.

In addition to bodily standards, there are also social expectations of how a 'proper' woman should sit, how much space she should take when walking, the appropriate facial expressions in specific settings, the nuances in appropriate clothing, etc. There are also habits for skincare she is required to pick up that consider the kind of skin exposure she has had, the temperature outside, and the occasion she dresses for, among many other factors. In order to conform to these expectations, she is expected to remain disciplined enough to abide by its requirements. The length of time and attention required for these practices cost time, money, and discipline and her failure to participate may cost her opportunities such as income and intimacy, leaving her little choice. As Bartky writes: "like a schoolchild or a prisoner, the woman mastering good skincare habits (and other habits required for the various beauty processes) is put on a timetable"[9]. As a solution to the social norms prescribed for women and the habits women develop as a result, Bartky proposes that women resist these ideas of the normal propagated by popular culture by remaining skeptical towards its demands and taking control of their bodies.[10]

As Foucault's theory predicts, the norms that women are expected to heed by are reinforced by societal structures in many ways. For example, in responding to the beauty demands of women, the cosmetic and beauty industries provide the necessary tools for women to make over their entire bodies. Their development of new technology to improve on these products, advertisements to encourage their consumption, as well as the frequent depiction of the natural female body as unattractive, unkempt and in need of beautification techniques, are examples of ways through

[9] Bartky S (1997) Foucault, femininity and the modernization of patriarchal power. Page 483
[10]Bartky S (1997) Foucault, femininity and the modernization of patriarchal power.

which private institutions take part in this disciplinary process. The demands of women to fulfill social norms, together with the social, political and economic systems that meet these needs work together to ensure the system endures. Institutions and social norms participate in a reinforcing symbiotic relationship. Together they represent a self-fueling mechanism where the institutions keep the norms active and the norms establish the institutions.

Public institutions also play a role in the reinforcement of norms in other ways. Through extant rules of how women should dress or present themselves in certain public spaces, to the kinds of disciplinary structures they put in place for those who abuse women or discriminate against women, as well as some of the unintended effects of policies public institutions may undertake, oppressive norms are continually enforced. One particular role institutions play in this cycle is that they ensure that the images of the "ideal" are plastered everywhere, serving as a reminder to all people of what the standard is and how to maintain it. Institutions such as the workplace and public establishments also serve as a check on behavior and a means to exclude individuals who do not adhere to these norms. The reinforcing relationship among institutions, greater society, and the direct victims of the norms ensures that the norm is not completely eradicated simply by the will of those it affects. It becomes ingrained in every structure of society and ensures that individuals are constantly observed and reminded of the standard of behavior. The consequence being when the norms oppress, they do so in a vast number of ways and are hard to resist by the actions of one individual.

Women who resist gender norms run the risk of the refusal of male patronage. For heterosexual women, this represents intimacy. Another potential loss for all women is the possibility a decent livelihood, as their chances of gaining employment in a decent job, or progressing in their careers, may dwindle when they refuse to succumb to the social pressure of

norms. To avoid this exclusion, women may pick up specific habits in order to adhere to the demands of these norms. Shannon Sullivan, in her paper ,"Reconfiguring Gender with John Dewey: Habit, Bodies, and Cultural Change," describes such gendered habits as 'transactional'. This description encapsulates the fact that not only do the demands of society in the form of norms cause individuals to pick up these habits, but the habit itself constitutes, and may possibly change, society and its demands[11].

In light of the interpretation presented by Bartky, there has typically been a mixed reaction in responses. While her examples present some of the specific instances of women constantly manipulating their bodies to fit into various societal standards, there is a question of whether Bartky exaggerates this construal. Some have, for instance, argued that some gender practices are not, in fact, oppressive; rather, they have become a form of expression for women. Are such practices still oppressive if more and more women embrace them and delight in them? On the surface this may imply that beauty norms that were once disciplinary may not be. Yet, the heterosexual female who lacks interest in these activities and refuses to ascribe to any of these practices risks exclusion in some spaces in which she would like to belong; in this sense, these norms oppress.

Another major example of how norms oppress 'othered' people, is how society hierarchizes according to a perception of race. In Al Saji's, "A Phenomenology of Hesitation: Interrupting Racializing Habits of Seeing," she describes the incidence of racism as a way in which colonialism and white supremacy "divide bodies politically, economically, spatially, and socially to exploit

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[11] Sullivan Shannon. "The Physiology of Sexist and Racist Oppression." Page 12

and dominate them."[12] She refers to racialization as the historical, cultural, and social means by which races are constructed, seen, and internalized. A key characteristic of this form of social behavior, as highlighted by Al Saji, is the projection of certain qualities to body features, such as skin and body types, and cultures such as in clothing, music, and food. In doing so, race is perceived as a natural category that hierarchizes people according the natural features they possess physically and psychologically and not as the social, cultural, and historical constructs that they are. Al Saji's description of the perceptions surrounding race and the social hierarchy born out of it provide examples of how society differentiates based upon characteristics that do not fit an ideal. According to the argument Al Saji presents, racism does not derive from skin color or a real distinction that hierarchizes. Instead, the distinction is perceptive, and individuals are categorized according to how closely they relate to these perceived distinctions. Certain clothing, hairstyles, music, and tastes are categorized by race although they are cultural and the extent to which individuals relate to these characteristics serves to hierarchize them.

Often there is a further exclusion inflicted on people due to peculiar characteristics they possess within the confines of perceived race. For instance, a person's skin tone (how light or dark they are), accent, or even name may further act as a secondary form of distinction within a particular race. Due to the negative perception individuals project onto cultures that are historically African- American, African-American individuals adjust their bodies and identities in an attempt to differentiate themselves from these negative perceptions. Women who share this heritage may bleach their skin to differentiate themselves from the negative images of black skin, wear weaves to cover the appearance of "ghetto hair," and reject cultural clothing and practices in order to conform to what is accepted. Likewise, African-American individuals who have access to

[12] Al- Saji, Alia "A Phenomenology of Hesitation: Interrupting Racializing Habits of Seeing." Page 137

privileges such as wealth, often attempt to differentiate themselves from the negative images projected on this culture to fit into corporate and elite spaces. They may alter their vocabulary and accents, and police their bodies to conform to standards that are deemed acceptable--in this case, a "white culture." Similar to gender (as presented by Bartky), the individual is both the subject and object of practices aimed at aligning him with a more accepted form of life within society. In her paper, "Pushing for Inclusion", Iris Young describes such assimilation as capable of producing a self-loathing and double characteristic of oppression. As such, the oppressed person is "caught in a dilemma where to participate means to accept and adopt an identity one is not, and to not participate means to be reminded by oneself and others what one is".[13]

America's history with racism also remains present in its institutions in both subtle and explicit ways. It is deadly when it presents itself in public institutions such as the police force and the criminal justice system, and may lead to the loss of lives and racial biases in prison sentences for black individuals because their bodies are perceived as threatening. Other forms of racial oppression are also present in the actions of private individuals. In the housing market for instance, people may choose to move out of neighborhoods when the number of black families increase in it in order to protect their economic interests. There are numerous examples of racial oppression in the experience of African-Americans, such as how they are policed in shops and in workplaces, suspected as thieves or evil-doers when they drive around in certain neighborhoods, called names such as "thugs" when they dress in "non-white" attire, and many more.

Thinkers on the subjects of gendered social oppression and racial oppression often prescribe a form of resistance as the solution to fight this oppression. Historically, resistance

[13] Iris Young. "Pushing for Inclusion". Page 271

against oppression has taken place in the form of public or collective resistance though demonstrations and in the form of private resistance[14] such as an individual attempt to reject beauty standards. Cornel West offers an example of resistance his book *Race Matters*, published in 1993. He argues that the emergence of a strong Black Nationalist sentiment among the young black people in America is a consequence of a resistance against the idea that black people must "fit in" and assimilate into the already established American life. According to West, as long as black people are seen as the "other," the burden falls on them to do the moral and cultural work necessary to foster healthy race relations. The consequence is that only certain Americans can truly define themselves as American while the rest try to assimilate.[15] The idea of assimilation implies that there exists a "truly American culture" that African-Americans must attempt to fit into. As Iris Young puts it:

> *"Assimilation always implies coming to the game after it has already begun, after the rules and standards have already been set, and having to prove oneself according to the rules and standards. In the assimilationist strategy, the privileged groups implicitly define the standards according to which all will be measured.*" [16]

Resistance against racist norms has led to an increase in the number of spaces for all things relating to black identity, for instance. Adjustments have been made to social expectations in schools, workplaces, and in most of American public spaces as a result of changes in law and

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[14] I refer to resistance that takes place outside the democratic process/public institutions as private/personal. Examples of this include women refusing to wear make-up or shave legs, or black individuals forming a strong pro black sentiment. This is a fine line because such practices can easily lead to public resistance if engaged on a public platform or turned into a movement. Such an example would be the "me too" movement. Essentially, the forms of resistance that make use of public channels and press upon institutions such as elections, school board participation, demonstrations, etc., are referred to as public resistance in this paper.

[15] West, Cornel. Selections from Race Matters. Page 256

[16] Iris Young. Pushing for Inclusion page 271

policy to make room for the inclusion of the "other" in society. These forms of resistance have taken many different forms which I classify as the "private" and the "collective". As Carol Pateman rightly argued, the private and public spheres are not necessarily unconnected. However, some characteristics of resistance practices, such as the immediate intention and the means used to resist, offer a subtle distinction.

I propose that this distinction is threefold. The first characteristic is that the private emphasizes the need to use one's body as a means to resist. It is resistance in the form of a refusal to participate in established norms. Examples of these forms of resistance include women resisting oppressive beauty norms by growing beards, refusing to wear "feminine outfits" such as high heels, and by showing presentations of themselves in their natural states on social media and other social platforms. Other examples include black women refusing to adhere to a western depiction of beauty by wearing their natural hair, American individuals of other cultures wearing culturally themed outfits in public spaces, individuals cross-dressing, etc. On the political sphere, individuals may refuse to participate in an election or defy a law as a form of resistance against it. The characteristic of this form of resistance is that an individual or a number of people instigate resistance by refusing to participate in a norm until they create a momentum that may inspire authority figures or institutions to effect changes. In this sense, even though the resistance has an active intent, it is passive in the way that it approaches creating institutional change. It does not directly challenge the norm by addressing the institution; instead, any such institutional change becomes a by-product of such resistance. Nonetheless, this approach to resisting domination has had its successes throughout history as society often adapts to new ideas and standards if enough people deviate or resist from the old.

The collective or public equivalence of such resistance may include targeted attempts to engage and revise institutional rules and laws that pertain to individual freedom of expression within institutions. These may include directed efforts by the affected party and their allies to encourage institutions, such a private companies or public buildings to change the extant rules governing standards of behavior that fuel oppressive norms, or to create protection for individuals who fall outside the norms. The activities within this kind of resistance may include participation in elections to drive out ineffective leaders, public demonstrations, worker strikes, and negotiation meetings, among many others.

Another characteristic of the more private resistance is that the individual bears a higher personal cost. It follows that when one refuses to adapt to the socially accepted standards of behavior, one is likely to face the direct consequence of this refusal. These costs may come in the form of exclusion from certain spaces such as workplaces and as a form of further discrimination on such individuals. Depending on the severity of one's actions, this kind of resistance could also lead to arrest or even death. In the face of collective resistance there are costs as well. These include the material costs of negotiation, campaigns, the opportunity costs of voting during elections, the possible loss of income during worker strikes, etc. These costs, however, do not single out individuals to exclude them as they do in private resistance. Within collective resistance, the group factor acts as a form of shield that is unavailable within the private resistance.

The third characteristic difference lies in the distinction in their objectives, which although mutual, may bear some nuances. Private resistance may be aimed at symbolic representation in society or the initial resistance to oppression. Individuals may accomplish this by flouting the norms in a bid to claim their peculiar identities. For instance, individuals in various fields such as academia or medicine may opt to publicly live their non-conforming sexual orientation or may

flout the norm with regard to accepted appearance in certain spaces in a bid to embrace their identities while simultaneously challenging the perception society attributes to these characteristics. On the other hand, the public or collective resistance approach may be directly targeted towards amending institutional practices that define what is accepted, and in the long-term changing factors that contribute to violence against certain individuals who do not conform to those established rules.

The distinction between the private and public resistance is nuanced. There is the question of 'the point at which private resistance becomes collective resistance given the fact an individual is simultaneously a private and public entity. Additionally, it is worth noting that even the means of resistance that engage public tools often start out as a private refusal to adhere to established norms. Also, throughout history, oppressed individuals have continuously used their own bodies as a form of resistance. They have gone into spaces they had restricted access to, defied certain oppressive norms that defined what they could wear, where they could go, and how they could behave even before they had access to any form of franchise or citizenship. Yet, one cannot dismiss the additional opportunity for resistance that citizenship presents. One such opportunity is democracy.

While the distinction between the use of private or public tools for resistance is subtle, it is nonetheless significant. One emphasizes resistance that takes place by using one's own body in the hopes of changing a perception, creating a momentum, or starting a movement which may eventually influence a norm. In this sense, even though the private resistance is active in its intent, it is passive in the way it hopes to influence institutions. On the other hand, the public or collective resistance targets the political, social, economic, and cultural institutions with the aim of addressing the oppressive norms from their source of dissipation. The public or collective

resistance recognizes that the individuals affected by these norms are also responsible for the public institutions that reinforce the social norms (the component required to keep norms systematically oppressive) and seeks to challenge such norms from the institutional standpoint.

My discussion below is in three parts. In the first, I address a specific flaw within most theories of liberal democracy which is its emphasis on consensus. Based on Connolly's theory of democratic discordance, I argue that the need for consensus within democracy serves as a tool for normalization and may oppress "othered" groups. Here I argue that for this to be rectified, democracy should emphasize both discordance and participation. In Part 2, I extend the argument on participatory democracy, highlighting specific ways in which this form of government maximizes resistance and the fight against social oppression. In Part 3, I attempt to offer solutions in response to some of the challenges to participatory democracy. In this section I argue that, perhaps, a paternalistic approach such as one described by the nudge theorists may offer opportunities to motivate participation. First, I will address a problem within democracy itself, which is its capacity to marginalize.

1. An Emphasis on Democratic Discordance

In his paper, "Democracy and Normalization," William Connolly provides a perspective on democracy that qualifies it as a means of resistance while emphasizing its capacity to be oppressive. Connolly represents one of the few thinkers on the matter of social oppression who acknowledges democracy as an opportunity for the individual to challenge norms via a collective form of resistance. However, he also acknowledges the mechanisms of social oppression inherent

within democracy due to its reliance on conventions- a view that is very similar to that of Foucault. Yet, Connolly argues that the citizen of a democracy, unlike the citizen of any other kind of society, is less willing to be a "mere stone in an edifice."[17] This is because democracy presents him with the tools to challenge existing traditions, protest and overturn unfavorable policies, and weigh public decisions to ascertain the common good for both short and long-term.

In a democratic society, citizens have the opportunity to speak and act against oppressive norms and affect the policies to change those norms through the tools democracy makes available to them. These tools include the participation and deliberation on issues that relate to the public, the use of media to share and access information and encourage skepticism toward traditional rules, laws, existing norms, and regulations, among many others. This system allows for freedom of thought and expression, allows a healthy skepticism of the system in itself, and places some form of power within the hands of its citizens. It is perhaps the most potent tool for any form of social resistance. Even a private resistance against a norm can assemble greater support within a democracy than in any other system. A recent example of resistance empowered through democracy includes the "me-too" movement, which aims at creating awareness for those marginalized by sexual violence in an attempt to reduce its incidences and make perpetrators accountable. Similar campaigns against workplace norms and unrealistic beauty standards thrive within a democracy due to the tools inherent within it such as the media and public forums. Connolly argues that modern democracy makes life "more free" and enhances the will by giving the modern individual the capacity to act out of willed tradition and not from "unreflected tradition."[18]

[17] Connolly, William. "The Ambiguity of Democracy." Page 215
[18] Connolly, William. "The Ambiguity of Democracy." Page 215

However, democracy is not without its problems. Its ability to draw upon a larger portion of individuals and subject them to the same set of norms enlarges the field of potential conduct deemed abnormal. Because democracy, as with most forms of government, requires that all affected individuals be subject to a set of common laws, the tendency for a large group of people to be oppressed at once is high. Consequently, as Connolly argues, the participants within a democracy experience pressure to identify with the set of established norms to be established as free agents. He argues that, within democracy, one is unfree to the extent that he is governed by "traditions unthemized publicly, governed by conventions undemocratically established, governed by conventions that are at odds with his will or that he falls below the threshold needed to qualify him as a free or autonomous agent"[19] The result of this is that the individuality of the citizen and the commonality of people within a democracy are simultaneously differentiated and forced to integrate either by changing the will of the individuals or the conventions to conform to the will, with the former being the most likely occurrence[20]. While other forms of government may embody these characteristics as well, the emphasis on democracy is unique because democracy, unlike other forms of government, seeks to represent the people and not just to rule them.

Traditional theories on democracy emphasize concordance and harmony. According to Connolly, this emphasis assumes that the ideal represents a situation in which all individuals or the collective subject achieves harmony with itself and with all other elements of social life. In creating this harmony, any indication of discordance is viewed as a sign that the source of this otherness is incapacitated and should be assimilated back into society to internalize that which is external to it.[21] This rejection of otherness is sought to be "corrected" by elimination, punishment,

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[19] Connolly, William. "The Ambiguity of Democracy." Page 216
[20] Connolly, William. "The Ambiguity of Democracy." Page 216
[21] Connolly, William. "The Ambiguity of Democracy." Page 219

or integration. The act of "normalizing" the other is the means by which democracy excludes and erases the existence of "others," hence oppressing them. Similar to Foucault's interpretation, this form of power within democracy works to control, integrate, optimize and organize forces under it.

Connolly, assuming a stance more sympathetic towards democracy than Foucault, proposes a form of democracy that acknowledges and encourages internal strife as a solution to democracy that requires harmony. Although this type of democracy does not eliminate norms, or the incidence of oppression, Connolly argues that this form of democracy fosters discordance as part of the function of democracy itself. When explored, the discordance creates a democratic turbulence, which will then subjugate the incidence of normalization. Furthermore, this form of democracy is necessary because policies that are universally formed and blind to differences such as gender, sexuality, race, and disability often perpetuate, rather than undermine, oppression. This is because the assumption of the universal often depicts the dominant group, suppressing others.[22]

In his critique of participatory democracy, Connolly posits that causes to improve participation often aim to increase the number of people who identify with norms by encouraging them to participate in their creation. He writes:

> *"Participation seldom seems to bring the dividends it promises for freedom: the constellation of hostile and resentful citizens is spawned by that action which temporarily satisfies the others' sense of justice in the established order of things.*

[22] Iris, Young. "Pushing for Inclusion." Page 272

The tenacity of the ambiguity is underplayed by those who believe participation is its solution."[23]

While Connolly is right that the emphasis on participation often disguises the need to increase the scope of the norm, participation especially from 'othered' individuals has the potential to attain the discordance Connolly seeks. Additionally, the idea of participation he assumes in his argument is of a more limited view. It limits participation to an increase in the number of citizens who contribute in a democracy (perhaps an increase in voter turnout), and not the means through which they participate, such as in the form of a participatory and deliberative democracy. The form of participation he describes is similar to that of "herd mentality," in which a group of citizens take up a singular project of interest and act on it, create changes in public life as far as this issue is concerned, and return to their passive stance on public life. An example of this is when citizens passionately lobby or demonstrate against a singular (or even multiple) agenda or bill that affects them directly, see it through, and return to private life. Participation in its best form, however, would emphasize an ongoing and lasting means through which citizens have discourse, deliberate, and act in the endless process of coming up with solutions to the problems faced within public life and continually adjust them as needed. In the latter kind, there is constant change based on all considerations that affect the citizens. Although a consensus is often made to create a solution (as with all solutions that require multiple inputs), the solution arrived at and the action taken is never a final decision, but often a temporary one that awaits further deliberation.

Democracy may be even more liberating when participation is matched with discordance and will present an effective form of social justice when individuals act as a community to address

[23] Connolly, William. "The Ambiguity of Democracy." Page 216

all that concerns them. A participatory democracy of this form improves upon the tenet of equality that democracy is built upon by ensuring that in the face of the public sphere, all individuals, especially those "othered," are represented.

2. Democracy as a Tool for Resistance

Benjamin Barber in his 1984 paper "Selection from Strong Democracy" argues that representative democracy is incompatible with freedom, social justice, and equality because it sacrifices genuine self-government and autonomy. He argues that within this kind of democracy citizens are not directly responsible for public outcomes through common deliberation, common decision, and common action on the issues that pertain to all, as they should in a democracy. Furthermore, a representative democracy, which he refers to as "weak democracy" is incompatible with equality, freedom, and justice because it wears down the presence of an equally invested community that deliberates and determines public life. Instead, it encroaches on the personal autonomy and self-sufficiency necessary for a democracy.

Barber describes two alternative forms of democracy through which the activation of citizenship and community take place. The first form to which he refers as Unitary Democracy describes the politics in "a consensual" mode. This form of democracy calls on a unanimous will of a homogenous community.[24] The kind of government within this democracy is centralized and the citizen achieves his civic duty by abandoning his personal will by merging it

[24] Benjamin Barber 1984. "Strong Democracy." Page 173

with that of the collective. This form of democracy works best in small face-to-face communities in which the individual voluntarily self- identifies with the whole and harnesses a willing acceptance of the group norms. This democracy, due to its need for consensus, can be conformist and coercive when there is a lack in a harmony especially within heterogeneous communities.

Barber argues that, within Unitary Democracy, the voices of active citizens are reduced to the "banished voice of hubris, of would-be truth and of could-be-right which were unable to obtain a hearing on their own merits"[25] The unitary mode of democracy does not allow or equip citizens with the opportunities to adequately participate in decision making. As a result, unitary democracy demands conformism and coerciveness. Unitary democracy is also the type of participatory democracy that most scholars who argue against the merits of participation imagine. It embodies the silencing and erasure of the other because of the need to integrate this "other" into the boundaries of the norm due to its emphasis on concord.

The second form of democracy that Barber presents in his paper is the Strong Democracy, which he presents as the future of democracy. It is characterized by "a community that is not collectivistic, a form of public reasoning that is not conformist and a set of civic institutions that is compatible with the modern society"[26] Compared with unitary democracy, strong democracy emphasizes the participatory form of politics in which citizens govern themselves directly through established institutions. This self-government does not work on every level of decision-making but in all basic decision making in all situations in which significant power is being used.

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[25] Benjamin Barber 1984. "Strong Democracy." Page 174

[26] Benjamin Barber 1984. "Strong Democracy.". Page 174

Barber argues that this self-government is carried out through institutions designed to facilitate ongoing civic participation in agenda setting, deliberation, legislation, and policy implementation. He extends this view by stating that Strong Democracy is based on the Machiavellian principle that "the multitude will on the whole will be as wise or even wiser that the princes."[27] He defines strong democracy based on this characteristic: "Strong democracy in the participatory mode resolves conflicts…though a participatory process of ongoing, proximate self-legislation and the creation of a political community capable of transforming dependent private individuals into free citizens and partial and private interests into public goods"[28]

Within a strong democracy, deliberation, problem solving, and action are never-ending processes based on actual historical, social, and economic situations. This process aims to bring about public ends through the quest for mutual solutions and not from absolutes, preexisting commonalities, or existing norms. This kind of democracy gives meaning to the liberty, equality, and social justice by fostering communities through participation. Within this kind of democracy, each citizen is a politician who is equally important in decision making without the presence of the intermediary. In Barber's words,

> Strong democracy creates the very citizen it depends upon because it permits the representation neither of me nor of we, because it mandates a permanent confrontation between the me as citizen and the 'other' as citizen forcing us to think in common and to act in common. The citizen is by definition a we-thinker, and to think of the 'we' is always to transform how interests are perceived and goods defined.[29]

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[27] Benjamin Barber 1984. "Strong Democracy.". Page 174
[28] Benjamin Barber 1984. "Strong Democracy.". Page 174
[29] Benjamin Barber 1984. "Strong Democracy.". Page 175

An illustration of strong democracy in practice is an increase in participation in the deliberation, decision making and implementation processes in public and social institutions such as schools boards, home ownership associations, social enterprises such as the church and other places of worship, local, and district government, among others. On a more public level, such participation can also take place in the citizen's involvement in the election process, holding representatives accountable through public outcries and demonstrations as well as involvement in the deliberative process. Barber argues that strong democracy is the "politics of amateurs where each man is compelled to encounter every other man without the intermediary of expertise"[30] The emphasis on participation is the quality that causes strong democracy to transcend the criticisms that Barber imposes upon representative democracy and unitary democracy.

Democratic Theorists who argue for a purely representative democracy in place of a participatory democracy often cite the argument that the masses only push for their own private interests and gains when called upon to act on the public behalf. They claim that representatives, on the other hand, can appropriately act on the behalf of the public since they have a better sense of the public's needs and are accountable to them. This view cannot be disregarded. For instance, in the formulation of specific policy relating to an end that the citizenry has decided upon, expert opinion from bureaucrats or representatives may be required as they have the skill and experience in doing so. However, leaving the decision of public ends to representatives based on the assumption that citizens are incapable is problematic because it assumes individuals are not better advocates for themselves or capable of decision making—this view, if true, questions the idea of equal citizenship and of democracy itself. If citizens are incapable of determining ends,

[30] Benjamin Barber 1984. "Strong Democracy." Page 175

why have a democracy? Additionally, as Barber correctly notes, scientists and political elites who have conducted studies to test the idea of citizen capacity, historically, only thrown referenda at the public without the adequate knowledge to make decisions and then criticize their uncertainty and indecisiveness. American philosopher John Dewey extends this concept. In "Selection from the Public and its Problems," he argues that we cannot form our estimations on the capacity of the public to make decisions based on the present conditions under which representative democracy thrives. In Dewey's words

> "Until secrecy, prejudice, propaganda, bias and sheer ignorance of the masses are replaced with inquiry and publicity, there is no way of telling how apt the masses will be in determining social policy"[31]

Further, as long as society remains dependent on the set of prevailing habits and interests set by institutions and traditions, the private citizen has no incentive to remain abreast on social policies.

Discordant democracy, as presented by Connolly, and Participatory Democracy, presented by Barber, share similar ideals. Connolly, like Barber, is skeptical of preexisting democratic norms. From his Foucauldian approach, preexisting norms within democracy may mask oppression inherent within the need to express homogeneity and a 'normal. From the participatory standpoint, the rejection of such preestablished norms is merited on the grounds that these so called independent establishments are not democratically formed.

This similarity aside, there are a number of differences between both approaches to democracy. Barber's approach, which depicts a more republican ideal, requires citizens to identify and commit to a shared experience of citizenship. According to Iris Young, this model

[31] Dewey, John. "Selection from The Public and Its Problems." Page 170

relies on an opposition between the public sphere of a general interest and a private sphere of a particular interest[32]. For the Barber ideal of strong democracy, all citizens are to assume to same impartial point of view that transcends all particular interest, perspectives and experiences[33]. This runs counter to the discordance theory set forth by authors like Connolly, who argues that the need to emphasize homogeneity and reject the private identities on the public front is the very oppressive nature within democracy. Barber's approach in Strong Democracy, while claiming to reject the consensus mode of democracy, fails to do so due to its emphasis on the separation of the public and the private.

Iris Young, in her famed paper on Polity and Group Difference, further criticizes Barber on his separation of the public from the private and argues that the idea of citizenship as an expression of a general will implicitly supports exclusions and homogeneity. According to Young, democracy, founded by men assumed a universal set of norms and values which were derived from the particular male experience. Some of these values included "militarist norms of honor and homoerotic camaraderie" as well as unemotional tones of dispassionate reason[34] and a separation of the social from the political. In addition, conscious decisions were taken to exclude some people from citizenship on the grounds that they could not adopt the general point of view[35]. For instance, the white male bourgeoisie conceived as a virtue, a rational, restrained citizenship not yielding to the passions of desire and able to rise above his needs for the common good.[36] As such, they claimed that poor people, wage workers, and women, were too motivated by need to adopt a general perspective needed for such citizenship.

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[32] Iris Young. "Polity and Group Difference: A critique of the ideal of Universal Citizenship"
[33] Iris Young. "Polity and Group Difference: A critique of the ideal of Universal Citizenship"
[34] Iris Young. "Polity and Group Difference: A critique of the ideal of Universal Citizenship" pp 250
[35] Iris Young. "Polity and Group Difference: A critique of the ideal of Universal Citizenship"
[36] Iris Young. "Polity and Group Difference: A critique of the ideal of Universal Citizenship"

The emphasis of participatory democrats on any form of generality threatens to suppress any differences among citizens. According to Iris Young, the solution to a more participatory democracy is in the inclusion and empowerment of oppressed social groups in the pursuit of justice. This includes institutional emphasis on empowering othered social groups such as women, blacks, working class and poor people in the decision-making process. She argues that, in the utopian future, there may be a society without group oppression. But till then, we cannot develop political principles on the assumption of a completely just society. As such, participatory democracy cannot be based on undifferentiated humanity but rather on the acknowledgement that there are group differences and some groups are oppressed and disadvantaged. In her words:

> "Until and unless group oppression or disadvantages are eliminated, political publics, including democratized work spaces and government decision making bodies, should include the specific representation of those oppressed groups, through which those groups express their specific understanding of the issues before the public and register a group-based vote. Such structures of group representation should not replace structures of regional or party representation but should exist alongside them"[37]

While Young has been criticized on the pragmatism of this approach, it bears some similarity with the politics of discordance presented by Connolly. Both argue that democracy can only claim to be just if the minority groups, oppressed groups and other voices of discordance are empowered. While Connolly argues that voices of discordance have to be continually emphasized within democracy, Young requires that social groups which are oppressed be empowered institutionally within democracy creating the discordant voices that Connolly describes.

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[37] Iris Young. "Polity and Group Difference: A critique of the ideal of Universal Citizenship" Page 256

The question of the relevance of democratic norms, however, remains. Foucauldian theorists like Connolly and Participatory theorists like Barber are right in being suspicious of any preexisting norms surrounding democracy such as the presence of independent grounds and rights based liberal institutions. These independent grounds such as courts (which may overrule the decisions made by a leader chosen by popular vote) are non-democratic and have the capacity to oppress since they create a standard of behavior for all. Additionally, they do not particularly inculcate public participation in their formation even if the participants in them are occasionally elected. In addition to this, as argued by Barber, these institutions may lead to apathy on behalf of citizens since such institutions appear to be out of the citizen's reach. While their concerns are valid, some presence of liberal institutions or independent grounds guarantees individual rights which include the rights of all citizens to partake in democracy and the structures for free and fair elections. These institutions also ensure that minority rights are upheld.

On the subject of the relevance of liberal institutions, authors have debated the question of if there can even exist democracy without liberal or independent institutions (institutions not come about democratically). In answer to this, Political theorist Jan-Werner Mueller argues that there is simply no democracy without liberalism. Liberal institutions uphold democracy by ensuring free and fair elections, the rights of citizens and the freedoms of political candidates and all other basic rights required to create a functioning democracy. According to Mueller, illiberal governments are fundamentally undemocratic because "If opposition parties have been hindered in making their case to the electorate, and journalists do not dare to report on government failure,

the ballot boxes have already been stuffed"[38] The independent institutions are what ensure that minority rights are protected and that a truly democratic process can take place.

While theorists like Barber do not argue that these independent bodies should be completely eradicated or that they should be no rights outside of democracy, participatory democrats must realize that the very process of introducing and electing a body that protects rights, for instance, or the choice of a democratic government, requires the support of some form of independent grounds that preexist the democratic process. The ideal of participatory democracy itself, as well as its implementation of participation democracy rely on preexisting norms. And without the pre-structured institutions that ensure free and fair democracy, any undertakings in public decision making may end up not being democratic. Furthermore, an emphasis on participation without the empowerment of oppressed social groups or the promotion of independent grounds, exposes democracy to incidences such as the 'a tyranny of the majority'[39], which can be detrimental to minority groups.

A participatory democracy which embodies the ideals described above would allow individuals to be established as citizens in a way that racism, sexism, homophobia cannot obstruct. Aside from the creation of a greater sense of community, "othered" individuals can use this process as a tool to resist and enlarge the scope of the norm. This component of participatory democracy is even more relevant especially since the oppressed are the best representatives of themselves.

Several factors make the adoption of participatory democracy more pertinent than ever, with globalization being a factor. Certainly, the heritage, history, culture and ancestry of every society is of great importance and, often, immigrants and later additions to a culture come to

[38]Jan-Werner Muller 'What is Populism'. Page
[39] John Stuart Mill. On Liberty

learn of it, benefit from it, and show great respect and reverence for it. Yet, globalization, which leads to greater differences in preferences, identities and ideals, means that we become increasingly diverse as a society although we may share very similar goals such as maximizing public life, freedom and justice. Globalization, both in terms of migration and ideological pluralism, makes participatory democracy important for two reasons. The first is that we cannot always rely on a single mandated person to represent the masses within all political spheres, as there is hardly a single view this person could represent that encapsulates all. Participatory democracy, ensures that different views, backgrounds, ideas, and skills are incorporated into public life with the aim of continuously arriving at better policies for all.

It is important to note that participatory democracy does not preclude all forms of representation. Within a participatory democracy, citizens may still independently form alliances based on interests and identities that enable them to gather support and lobby for their preferences. The difference between this form of representation and the traditional kind, which is often made up of different variations of geographic representation, is that this form of alliance and representation would have a bottom up structure instead of one mandated by a democracy that insists upon representation. In addition to this, the peculiar needs of individuals which stems from shared experiences that transcend their geographic situation can receive the needed attention and representation.

Certainly, one cap does not fit all and countries with greater education and a lower social inequality have worked themselves into a better position for participatory democracy. This is not because the uneducated are unfit to self-govern, but it may be logistically easier to implement participatory democracy where there is a high literacy rate. Participatory democracy is easier to enforce when citizens have basic education, a basic understanding of the democratic process, of

policies and its implications, although the opposite does not preclude participation or render it ineffectual.

One of the challenges to participatory democracy is how to get the citizen who is used to taking the backseat on political matters and leaving the decision-making process to his representatives to take active part in self-government. Certainly, there are societies in which citizens may weigh the intrinsic benefits of participation and participate but, for some societies, the extra responsibility will not be quickly embraced. This is because participation comes at a cost. An emphasis on participation alone without any additional support or incentive means that those privileged to bear the cost of participation may increase their participation whilst the economically and socially disadvantaged take a backseat. Democracy as a form of resistance requires necessary steps to foster participation by all groups.

3. Habits, Nudges and Democratic Participation

John Dewey in *Human Nature and Conduct* argues that habits form who we are because they are the subconscious line of action we take when faced with certain conditions[40]. On the subject of habit change, Dewey argues that to understand habits, we need to differentiate between materials, tools, and means. Using the example of person using a saw and hammer, he argues that the latter represent "materials" and only become "tools" when they are used in conjunction with the eye, arm, and hand in a specific operation.[41] These in turn are only means when they are in active operation. Moreover, using them to perform a specific task requires external support; it is this support he refers to as the habit. Specifically, the addition of the habit

[40] John Dewey, *Human Nature and Conduct*, 24.
[41] John Dewey, *Human Nature and Conduct*, 25.

is what makes changes tools into "means." Our habits are then our best response to conditions (or tools) that bring about the results.[42]

Dewey provides the illustration of a person with a bad posture who seeks to change the habit. Such a person is able to hold a better posture for as long as the idea is in his mind but quickly returns to the bad posture when the idea is no longer active in his mind. This is because the way to change a habit is not by willing oneself to do so, but by replacing the unwanted habit with a new action unrelated to the previous condition that will lead us into the habit in which we want to engage. In his example of a person who has developed the bad habit of having a bad posture, Dewey points out that such a person cannot simply change the habit at will, as the habit is a response to the conditions that created it. Assuming that one can simply change such a habit by will makes this assumption according to Dewey:

> It is assumed that means are there, so that the failure to stand erect is wholly a matter of failure of purpose and desire…One might as well suppose that the man who is a slave of whiskey-drinking is merely one who fails to drink water. Conditions have been formed for producing a bad result, and the bad result will occur as long as those conditions exist. They can no more be dismissed by a direct effort of will than the conditions which create drought can be dispelled by whistling for wind.[43]

The assumption is built on a wrong premise because the means by which we develop habits do not exist independently from our habits. Instead, habits themselves are the active means by

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[42] John Dewey, *Human Nature and Conduct*, 26.
While Dewey does not account for addictions in his account of habits, specifically the sense that addiction do not comply with the definitions of the "true will" as some addictions, such as drug use, affect a person's ability to form a will, I do not address addictions in this paper as they are an exception.
[43] Dewey, 29

which we react to conditions. As such, it is only possible to change habits if we replace the conditions that lead one to exhibit the action.

Dewey's account presents a vital perspective on how conditions lead to habit formation. This particular interpretation of habit formation and change has gained more relevance in the past decade or so as more and more policy makers emphasize behavioral economics and psychology of habit and action in drafting policies. In countries like the UK and the USA, policymakers have explored the idea of making policies more effective by using some of the ideas on habit creation presented by these disciplines. The USA for example employed some of these methods in the formulation of the ACA healthcare reform, financial law reform and climate change policy[44]. The UK also employed similar techniques in their pension reform by changing the options from opting into available pension programs to opting out of automatically enrolled programs.[45] Cass Sunstein and Richard Thaler in their book, *Nudge: Improving Decisions about Health, Wealth and Happiness*, present their version of "choice architecture"[46] known as "nudges"[47] aimed at encouraging individuals to make better decisions as judged by them by using liberty-preserving mechanisms that seek to encourage the more desired social outcome[48]. Similar to Dewey's theory on habit change, the concepts surrounding the efficacy of "nudge theory" rely on the premise that humans create habits and take actions as responses to conditions. However, the nudge theory extends this idea by arguing that conditions can be altered by other bodies, such as the government, to arrive at the better social outcome.

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[44] Carolyn Pedwell, "Habit and the Politics of Social Change: A Comparison of Nudge Theory and Pragmatist Philosophy" Page 3
[45] Carolyn Pedwell, "Habit and the Politics of Social Change: A Comparison of Nudge Theory and Pragmatist Philosophy", 3.
[46] This is a term they use in their book
[47] This is a term they use in their book
[48] Richard H Thaler and Cuss R. Sunstein, *Nudge*, 5.

The first two sections of the paper have focused on the subject of social oppression and bio power and the use of democracy as a tool for resistance. In this section, I build on a need for democratic participation by employing Cass Sunstein's account of 'nudge theory' which stems from behavioral economics. Within this theory he outlines an idea that can be summarized as 'the default option is a nudge'. Based on this, Cass Sunstein argues that the default options given in all contexts, particularly by the government, serve as a basis for citizen behavior. Using this as a premise, I argue that institutions, laws, policies, and regulations are nudges, which influence the kind of actions and habits individuals form in response to them. This claim is particularly important because it suggests that policies, norms, or conventions that may be racist, sexist, or homophobic set a precedent for how society in general interacts with these ideas. It becomes the norm to discriminate or look down upon certain groups when the laws, rules, and institutional practices allow one to. The way to counter this behavior, I argue, is through an increase in participation in all decision-making processes at all levels of the democratic process by these groups and all other socially oppressed groups. Their diverse perspectives, first hand experiences, and personal knowledge of how social policies affect their experience provide valuable input for decision-making and address the gaps left by "norm-conforming"[49] individuals. Additionally, their increased representation in public spaces builds upon the sense of community by fostering relationships between othered people and norm-conforming individuals.

In addition to this, I explore the possibility of using nudge tools to encourage people into the habit of participating in democracy[50]. While nudging citizens to participate in the democratic

[49] This simply refers to individuals who fit within the demands of social norms.
[50] The kind of democracy discussed here is the agonistic participatory type discussed in the first two sections.

process may seem paternalistic on the surface, it is in the pursuit of more liberty, which is the spirit of the harm principle. As such, any paternalism employed in this context is unique because it aims to empower liberty. Further, the increase in participation within the democratic process serves as a tool for increasing resistance against oppressive norms.

I will also address why nudging, and not downright compulsion, is important in this particular example. I conclude by advocating for research by the proponents of nudge theory into this possibility. First, I will analyze the arguments concerning nudge theory and how it relates to the previous sections of this paper.

Economist Richard Thaler and legal scholar Cass Sunstein in their bestselling book support a theory they refer to as libertarian paternalism. They describe libertarian paternalism as policies that maintain an individual's freedom to choose while steering their choices in ways that will improve their lives and make them better off as judged by them[51]. According to the theorists, libertarian paternalism does not aim at forcing individuals to desist from undesirable choices nor does it aim to make undesirable choices more difficult to take. Instead, it aims at nudging people toward the desirable by taking advantage of the behavioral tendencies to which people are naturally disposed. One such example is in sticking to the default. This theory, also known as "nudge theory," is defined as a "relatively weak, soft, and nonintrusive type of paternalism where choices are not blocked, fenced off, or significantly burdened"[52]. The way that nudges work, as explained by the authors, is that they appeal to the part of the brain, which is intuitive and automatic;[53] the parts that make up our habits.

[51] Richard H Thaler and Cuss R. Sunstein, *Nudge*, 5.
[52] Richard H Thaler and Cuss R. Sunstein, *Nudge*, 5.
[53] Cuss Sunstein, *Why Nudge*, 26.

The authors argue that the brain contains two systems. The first system, known as System 1, is not associated with deliberative thought. It is rapid, effortless, and perhaps unconscious. System 1 controls the immediate reactions to events, the regular mundane habits, and everyday choices that do not have high stakes. This system represents the myopic and impulsive decision maker who may place too much emphasis on the present, procrastinate, or be unrealistically optimistic when making decisions[54]. Apart from this, System 1 is greatly affected by default rules. For instance, most people may leave the manufacturer setting on a laptop or phone and tick the "default" button instead of the "customize" when installing a new software. Similarly, the existing social structures, laws, and conventions constitute examples of these defaults to which people adhere. I return to this point later.

The second system, which they refer to as System 2, is defined as the deliberate thinking system we engage with when making deliberate calculations and big decisions such as where to attend college or how much to budget for a trip. Some habits we later develop may begin as System 2 and then transition into System 1 once individuals have developed some mastery over them. Consider the example of a person who masters a skill and no longer requires deliberation to act on it. Such skills include driving or perhaps competing in a sport. Another example, provided by Sunstein, is the way through which we learn to speak languages. When learning a language, one may engage System 2 in trying to put together sentences and conjugate verbs, but System 1 is engaged after one masters the language.

The authors define the act of "nudging" as making subtle changes to the environment or to the conditions upon which people make choices in System 1 in a way that it increases the likelihood of the more desirable choice. Within this system, the individual is free to opt out or

[54]Cuss Sunstein, *Why Nudge*, 9.

make his own deliberate choice if he chooses to. The kind of social architecture employed in these situations do not affect the individual making the reflected choice, and he remains free to choose any option. Policies of this kind target the person going with the default or the person not engaging System 2, who stands to benefit when the more desirable option is the default. For instance, most people may leave the manufacturer setting on a laptop or phone and tick the "default" button instead of choosing customization when installing a new software. Should such a default be desirable, the passive individual benefits. Thaler and Sunstein attribute the behavior of sticking to the default to a number of variables. These include the degree of difficulty of the task, the present vs. future benefits, frequency, habitual tendency to go with default options, or understanding of the options, among many others.[55]

Thaler and Sunstein argue that for anything to count as a nudge, it would have to be cheap and easy to avoid and involve no form of coercion. Additionally, it should be transparent and straightforward, and there should be reason to believe that they would improve the welfare of those being nudged. The example they present in their book to illustrate this example involves a cafeteria owner named Carolyn, who faces options of how to arrange food for the consumers in the cafeteria. In this example, the cafeteria owner has a number of choices, three of which are as follows: to arrange food randomly, to arrange food in a way that will increase her profit or to arrange the food in a way that makes the students healthier. For her action to count as one of libertarian paternalism, it would have to be for the latter intentions- arranging food to make students better off. There are a number of things worthy of note in this activity. First, her choice, regardless of what it is, does not preclude the students from picking what they like, and neither does it make it harder for them to in any way- their liberty is preserved. This also means

[55] Richard H Thaler and Cuss R. Sunstein, *Nudge*, 73-75.

that a ban or intentional shortage of food that Carolyn determines to be unhealthy does not constitute a nudge because it does not preserve the freedom of students.

Second, regardless of how the cafeteria owner arranges food, even if randomly, some form of nudge takes place, which will influence behavior in one way or another. This quality is a key component of the argument for nudge theory—nudges are unavoidable. It is worthy to note that a situation in which a shop owner wrongfully labels merchandise, or intentionally misleads individuals to make certain choices, will not count as a nudge. Further, for Carolyn to nudge cafeteria consumers into better choices, she would have to be capable of determining what the better choices are.

Sunstein argues in his book, *Why Nudge,* that the free market is able to protect the consumer against errors in decision making that may result from using System 1. This is due to the fact that in most cases, competition deters firms from exploiting this tendency of individuals to error.[56] In this sense, firms guilty of hiding information and using false advertising are punished and eventually driven out by competition. In the absence of competition, such as in the case of firms forming collusions to set prices and minimize choices, the consumer suffers. In most circumstances that the free market is unable to compete fairly, government intervention may be sought. One such example is government legislation, such as in the example of the antitrust laws, which prohibits firm collusion that hurt the consumer.

As Sunstein points out in his book, *Why Nudge*, there are some situations in which firms who seek to exploit errors because of System 1 are rewarded. When this happens, firms that refuse to take advantage of consumers may be hurt because their competitors profit from doing so. Sunstein cites examples such as complicated phone plans, credit card plans, hidden overdraft

[56] Cuss Sunstein, *Why Nudge*, 9.

fees, etc.[57]. These advantages, however, are short-term as consumers, by participating in such markets, become aware of its traps and learn to avoid them with time. Eventually, consumers, after bad experiences with phone plans, overdraft fees, and faulty products may refuse patronage of these products in the future prompting the firms to adjust their business models.

The opportunity the free market possesses which allows it to self-regulate in this regard – to drive out undesirable behavior on the part of firms and to help customers make better choices is through participation. In the free market, all individuals are consumers who participate in one way or another to ensure that competition brings about the best outcomes for society, which is sometimes achievable with the help of government. Hence, participation plays the role of fine-tuning the policies, products, and behaviors exhibited by these firms. Firms are always motivated by profit and revenue and continually adjust and improve their products to attract more customers. This process gives the consumer increased options and better products while driving out the individuals who fail to innovate or who try to take advantage of individual errors. Participation, which is the desirable quality that sparks innovation and inclusion in the free market, is harder to come by on the public front. Unlike the free market, where doing so is intuitive, simple, and bears immediate results (like perhaps shopping for food), the public front has less competition, is more complex, less intuitive, and may not bear immediate results. Additionally, individuals are able to free ride as some of the benefits from the process can be derived without personal participation. For instance, one can benefit from a PTA meeting they did not attend if other parents did and took beneficial decisions. The risk in free riding, especially by oppressed groups and minorities, is that it may prevent the kind of change needed to fight against social oppression. When individuals, especially those who face social oppression, refuse

[57] Cass Sunstein, *Why Nudge*, 11.

to participate in the decision-making process, they lose out in their ability to influence the decisions that ensure that their freedoms are protected.

Relating Sunstein and Thaler's ideas to Dewey, there are two key themes I extract. The first is that the two arguments suggest that not only do people act and form habits in response to conditions, they may do so without realizing it, and the second is that simple standards, rules, policies and norms- and sometimes the unavailability of these, are able to push people into specific actions and habits. This is not in any way to argue that individuals are irrational creatures who pay little to no attention to the conditions present around them. On the contrary, the conditions are so subtle and commonplace that they are very easily overlooked. One such example is the default option or standard of behavior. The authors argue that research shows that whatever the default options are, many people stick with them even when the stakes may be considerably high.[58] In practice, people stick to default options in phone settings, on laptops, and car radio services. This behavior is also evident in the way people opt for the default social security options, the default health insurance options, and many others.

Within society, default rules are often passed down many generations and may come about because of previous conventions, traditions, and values that have been passed down and modified. In modern society, they are continually reformed through government, legislative, and judiciary action. This takes place through new legislature, rules, norms, standards of behavior, among many others. On the local level, these are in the form of local laws and rules, which are enacted through school policy, local government, and social conventions, among many others. These default rules create habits, influence choices, and set the mode of conduct in all spheres of

[58] Richard H Thaler and Cuss R. Sunstein, *Nudge*, 8.

society. They are also the basis upon which we define what is acceptable and the foundation upon which we form other rules and norms that influence lives in private settings.

The effect of default option is phenomenal. It suggests that government action and inaction have a greater effect than their immediate intent. This effect is the creation of a default. This is because the public makes up the government body (within a democracy by choosing legislatives) and the government create the public ideals. Individuals are born into the previous ideals held by previous generations and in their death, they leave behind their own ideals for the next generation. These defaults evolve because of a legislative body and greater society that continues to amend laws, oppose oppressive institutions and reform rules. This process is even more effective when the very people oppressed by existing institutions participate, as they are the better advocates for themselves. As such, a way to ensure that this on-going cycle is current and effective and includes as many as possible is through an increase in citizen participation in the democratic process- something thinkers on oppression currently do not emphasize enough.

This concept of the default is very similar to the ideas drawn upon by Foucault concerning the ability of institutions to create social norms. The examples Foucault presents, such as the physical and institutional structures of the classroom, hospitals, and military that translate into social structures, are typical examples of defaults within society. The kinds of policies within these institutions determine how individuals interact with them and develop habits in response to these conditions. Further, the concept that the default being a nudge suggests that these structures, both physical and social, nudge individuals into certain modes of behaviors. Examples of this include minor instances such as the placement of a staircase in a courthouse that influence the paths people take, as well as issues that are more pertinent, such as the rules and social conventions that define ideal citizenship or perhaps femininity.

In Foucault's depiction of bio power, he emphasizes that no institution or agency enforces bio power, but his argument did not dismiss the idea that these standards, which become norms and influence social behavior by differentiating, hierarchizing and excluding people, often originate from a source such as institutions or public structures and may be reinforced by them. The goal of the emphasis on using nudge techniques to foster democratic participation is to use these behavioral defaults that institutions project for liberating purposes. This practice aims to reverse the repressive and disciplinary function of the norms outlined by Foucault by presenting active, liberating defaults in its stead.

The way institutions form the basis of behavior is that they either establish and/or accept the means of accepted social behavior or coerce individuals to adhere to them by reminding individuals of the norms and by presenting the alternative behavior as the abnormal and undesirable. An example of institutions furthering the instance of norms is the depiction of LGBT members in countries that are yet to legalize it by the public or the kind of sodomy laws that some countries uphold and punish individuals for faulting. The result is that all individuals are coerced to adjust their behaviors to situate themselves within these conditions by conforming to the norm. If they fall under the oppressed groups, they may become resistant and be projected as "angry," or even demure, in their attempt to adjust themselves to better align with the social expectations. Should they fall under the dominant group, individuals may be entitled and continue to project the ideals of racism, sexism, homophobia, etc., on the more oppressed groups. In all circumstances, individuals are coerced to form habits and behaviors in response to the social conditions propagated by greater society through its institutions.

If institutions create defaults, and the default is a nudge, the responsibility lies on those who make up institutions to ensure that the decisions they make (which will eventually become

new "defaults") are less oppressive and inclusive as determined by the participators[59]. Sunstein and Thaler do not specifically address the topic of the oppressive capacities of the defaults they suggest. However, it is reasonable to expect that institutions and public structures which have historically upheld public norms and have the capability to influence behavior in this regard take on the responsibility of ensuring that the defaults that create habits and influence behavior do not oppress certain groups.

Additionally, public institutions are perhaps the biggest body with the power to affect all. The task that institutions face is to empower an ongoing process that seeks to include rather to exclude and to expand the "norm" until all oppressed groups are represented. This feat can only be established once all individuals or their social representatives participate in public life and the elimination of oppressive structures. Democratic participation in all public spheres in all available capacities, especially by oppressed groups, ensures that the old oppressive systems are updated with structures that are more inclusive.

There are a number of criticisms against nudge theory which are specifically targeted at its simplistic view in regards to social change. Carolyn Pedwell makes some vital observations on the insufficiency of the concept of nudge in achieving long lasting social change. Three of these I will address. Her first contention is that the arguments made by the nudge theorists ignore the complexities of the ongoing interplay among bodies and environments through which habits are constituted. [60] The arguments presented by the nudge theorists ignore the deeper social conditions and structural framework such as the environmental, cultural and societal contexts, under which a person develops any habit. Instead, it relies too heavily on the premise that

[59] The goal is that all individuals are participating and so the participants here refer to the public and not a select few.

[60] Carolyn Pedwell, "Habit and the Politics of Social Change: A Comparison of Nudge Theory and Pragmatist Philosophy", 20

individuals are prone to making mistakes. For instance, nudge theory relies on the idea that individuals are prone to certain types of mindless behavior such as going with default options. As Natasha Dow Schull puts it, ideas such as nudge "assumes a choosing subject, but one who is constitutionally ill-equipped to make rational healthy choices"

Another concern posed by Pedwell is whether habits created or changed using these nudge techniques are substantive and long lasting. Using an example presented by Thaler and Sunstein about disincentivizing American high school girls from teenage pregnancy by giving them a dollar every day that they avoid getting pregnant, Pedwell poses this question:

> How might their patterns of intimacy and sexual health shift or deteriorate as they inhabit new cultural and socio-economic constraints, pressures and atmospheres?[61]

Since habits are as a result of individual reactions to conditions, are these kinds of nudge incentives, such as the use of money, enough to cause individuals to pick up habits that will persist when they meet a new set of conditions?

Lastly, Pedwell questions if nudges have the capacity enact deeper social or structural changes. Dewey, for instance, argues that a key objective of democratic governance is to cultivate conditions whereby intelligence may become a capacity available to all.[62] As such, democracy should be a means of 'stimulating original thought and evoking action deliberately adjusted in advance to cope with new forces'[63] Nudge theory, in this regard, is not only a superficial adjustment that operates below the level of consciousness, but it does not provoke any thought or deliberate action-- counter to the ideal that Dewey presents.

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[61] Carolyn Pedwell, "Habit and the Politics of Social Change: A Comparison of Nudge Theory and Pragmatist Philosophy", 22

[62] Carolyn Pedwell, "Habit and the Politics of Social Change: A Comparison of Nudge Theory and Pragmatist Philosophy", 26

[63] Carolyn Pedwell, "Habit and the Politics of Social Change: A Comparison of Nudge Theory and Pragmatist Philosophy", 26

In answer to these concerns, even though the nudge theorists offer a simplistic solution to habit change (Individual propensity to err), the justification to employ nudge techniques, especially by the government, is not simply because individuals err. It is because defaults create nudges and government institutions have played a role, and continuously play a role, setting up conditions that lead to habits, systems, preferences and institutions that are sometimes oppressive or unbeneficial to certain groups. The knowledge of System 1 and 2, and how individuals may err in making decisions using System 1 is nothing more than a tool, which when recognized and used appropriately, could be a potent means of correcting some of the errors previous defaults (or nudges) in government institutions have created. One must keep in mind that nudges are unavoidable. As such, the question is not "should we nudge"? But how to make any nudges and default options just.

To address the issue of the capability of nudge techniques to create long lasting change, let us consider this: The underlying assumption of nudge theory is that if the changes are indeed better for the welfare of the individuals, as judged by them, then it merits grounds to make minor adjustments to conditions leading to these changes. If the above premise is respected and individuals are able to identify the increase in welfare, they should be inclined to make conscious choices in this regard when faced with similar situations in the future. Considering the example of the school girls who are given a dollar for each day they are not pregnant, critiques are right that the dollar provides nothing more than an incentive. However, this incentive, if executed properly, would not only be used to directly nudge girls to avoid teenage pregnancy. It will be used to encourage the girls to show up and listen to the other advice and products made available by the concerned organization such as sex education, birth control and other possible factors that could make this a long-lasting habit change. By receiving a dollar, gaining access to other

resources and information and particularly by experiencing the benefits of not being pregnant at a teen age, the girls are better dispositioned to avoid teenage pregnancy as compared to their peers who were not incentivized.

Indeed, nudge theorists ignore the deeper composition of conditions that bring about habit creation in the first place. They may even oversimplify the process of habit change to one that can be come about by providing little incentives to seemingly unreflective individuals to get them to act in certain ways. Yet, some of these techniques, such as the use of incentives, trigger individuals to consider certain options they may have overlooked and in doing so may stimulate thought in that direction. Nudge addresses the means to get these individuals involved in the first place, to the point at which further education and experience can change their habits and cause long term change.

In answer to the criticism on the paternalistic or anti-democratic nature of Nudge theory, Sunstein addressed in his book *Why Nudge* two reasons that merit choice architecture. The first is that choice architecture is inevitable and the second is that behavioral market failures[64] exist. These two reasons, he argues, are significant and merit regulation from the government. These two reasons on their own may be insufficient to merit such paternalism, especially by the government in a free society. However, if such nudges are intended to increase liberty in society and further instill the freedom of the participant, perhaps such nudges may be warranted. The context of participatory democracy merits this form of paternalism because it is in the pursuit of more liberty. The lack of participation in the democratic process—especially by "othered" groups—presents society with rules, laws, norms, and defaults that may seek to punish and oppress them, even unintentionally. I refer to this consequence as a form of externality. While

[64] He defines this as market failures brought about by human propensity to err.

nudging individuals at risk of social oppression to participate within the democratic process and change the cycle of oppression appears to run counter to Mill's harm principle, it takes place in the pursuit of liberty, which is the spirit behind the harm principle.

Once we have established the importance of an increase in participation, especially by oppressed groups, the question arises regarding how to achieve it. Increased awareness campaigns are certain means to increase participation. Additionally, support and advocacy groups such as feminist groups, LGBT support groups, and other representative groups may encourage their members to participate more in government. The ideal situation, however, would be an increase in participation nationally, which would encompass all groups within society and foster an increased sense of community. One obvious means of attaining this is an increase in civic education nationally that stresses the importance of taking part in government. This may be emphasized in the school systems or through various local, state, and national campaigns. Another possible approach may be to coerce individuals to participate. However, this possibility is a nonstarter because the very idea of democracy represents freedom. Although society stands to benefit from the positive effects of greater participation, it defeats the purpose to treat participation like paying one's taxes. The benefits of a participatory democracy emerge when individuals first accept, through education, the importance of this activity and act on it willingly, even if it is out of habit. At all points in this entire process, freedom should be maintained.

An increase in participation may provide the benefit of decreasing social oppression, but it comes at a cost. It takes time, research, and effort for individuals to take active part in community projects, local government, and school PTA events, among many others. More often

than not, the same people whose participation may be necessary to break the cycle of social oppression may be unable to afford to do so.

Conclusion

The potency of democracy as a tool for resistance lies in participation. To increase participation, democratic habits need to be formed. Yet, as Dewey argues, habits are not formed simply by intention but by making changes to the conditions that encourage passivity. Education is one such change. Education changes the mental conditions of an individual and has the power to cause a reflective individual to make the needed adjustment to social, economic and cultural conditions in order to change his habits.

Another means that encourages individuals to make changes to existing conditions is perhaps through incentives, campaigns aimed toward increasing participation or other nudge methods. These actions, when efficient, may encourage individuals to consider certain electoral options and deliberate over issues they may have otherwise ignored. If the default truly is a nudge, then the default within democracy cannot remain passivity. Secondly, the benefits of participation when it becomes the norm, such as the increase in social welfare, the decrease in oppressive institutions, diversity in decision making bodies, among others, when realized would incentivize individuals to keep participating.

Ideally, nudge incentives towards this agenda may be enforced by the government who will be taxed with the research and development of policies that encourage more participation from the non-participating citizenry. The incentive options could range anywhere from tax deductions to required paid time off for individuals who take part in the democratic processes in the local government system or participate in other forms. Such decisions taken by any local

government to incentivize citizen participants in public decision is one taken in the interest of furthering liberty.

In addition to the government and public and private institutions, various political bodies such as political parties, lobbyist groups, various interest groups, as well as private service providers could also play a role in boosting participation from their members and from members of the community as most private entities stands to benefit from citizen involvement.

One concern Foucault may have with nudge theory is the question of if the efforts of the nudge theory itself has a normalizing function. If such nudges represent minor adjustments to keep the oppressive disciplinary system functioning and if nudge theory is itself just an expression of normalizing power relations. In addition, there is a concern of how fundamentally anti-democratic nudging is since it involves shaping the unconscious, habitual behavior of individuals by so-called experts usually without the consent or participation of the individuals being nudged. Certainly not all applications of nudge theory are meant to empower freedom. In the private sector, nudges may serve to increase wealth for firms, in some societies, nudges may punish the poor, illiterate, and individuals who are less likely to recognize and engage system 2 where it matters. Additionally, some individuals may employ the techniques outlined by the nudge theorists to push the vulnerable into decisions they may not otherwise make. However, the use of nudge techniques to encourage individuals to participate in a democracy that emphasizes discordance and ultimately reduces oppression addresses the very issue a Foucault sympathizer may have. The adjustments made are not to keep the oppressive system functioning but to break up the cycle enlarging the scope of the normal through inclusion.

Greater participation by all women, for instance, (not merely those who already fit into societal norms) on school boards, city council, local government, national government, etc.,

influences the images of femininity portrayed publicly and embraces more othered groups which may otherwise be hidden. The increase in representation also has the capacity to create more friendly policies and the adjustment of what is considered the normal or expected. Similarly, an increase in participation by people of color means that their cultures are represented and included in any definition of social norms. Further, it means there would be more people of color showing up as themselves (and not as a whiter version of themselves) within public life.

Individuals cultivating the habit of participation will also have spillover effects in the free market. Greater participation in public life means greater awareness and involvement in society in general. This encourages a more educated public that holds the greater public, firms, and all social-serving entities accountable. Additionally, the presence of social media and technology provides a greater avenue for the citizenry to participate in the free market by providing customer reviews, suggestions, criticisms, etc., than ever before.

The problem presented by Foucault in his biopower is a complex one, indeed. However, active, deliberate engagement within a democracy that appreciates the dissonance and fosters citizen participation, is a step towards resisting particular social norms decimated by institutions.

Policies, nudges and campaigns that encourage participation embolden individual to acquire more information, more civic education and a better understanding of social, economic, political and cultural issues. The effect of this is a greater sense of citizenship, a greater sense of responsibility and a stronger sense of community. Perhaps a mandate lies on nudge theorists, proponents of social change and various activism groups to explore some of the various nudge techniques which may potentially encourage citizen participation and bring about the benefits of it.

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