1. Introduction

One common and cruel discovery of adolescence is that personal confidence is rarely attained except by those who manage not to care much about it, or at least not to give it much conscious thought.¹ For the very act of holding confidence as an aim before the mind only tends, perversely, to heighten perception of our own shortcomings, an awareness which ironically is the source of personal insecurities in the first place. In this respect, confidence is an example of what Jon Elster calls an essential byproduct: a goal that can be intentionally achieved only as a consequence of aiming at some other objective.² Most of us have also experienced sleep as another paradigm example of this phenomenon. We can try to count sheep or imagine a serene beach because we believe that doing so will help us to sleep. But in the same way that trying to be confident is typically a bad way of becoming confident, trying to sleep is typically a very bad way of achieving slumber.³ As Elster notes, the same dynamic is at work in trying to be spontaneous or to forget a troubling thought.

¹ I am grateful to Akeel Bilgrami, Philip Kitcher, Melissa Schwartzberg, and Joseph Raz for valuable feedback on this material. I also benefited from discussions with Gerald Gaus, Kerah Gordon-Solmon, Daniel Groll, Felix Koch, Jane Mansbridge, José Luis Marti, Michael Neblo, and Daniel Viehoff. Versions of this paper were presented at the University of Waterloo Philosophy Department, the School of Public Policy at Georgia Tech University, and the 2011 Association for Political Theory Conference at the University of Notre Dame, and I would like to thank the audience members from each of these occasions as well. This paper draws substantially on Chapter Two of my Ph.D. thesis, “The Scientific Public: Inquiry in Democratic Society” (Columbia University: 2009).
³ Ibid., p. 46
In this paper, I defend the view that democratic consensus – one of the more prominent ideals in recent political thought – is in this particular respect like sleep, confidence, or spontaneity. I will argue that democratic consensus is an essential byproduct of the pursuit of something else, namely, epistemically warranted beliefs about political action and organization. And I will try to show that this ultimately undermines the moral significance of consensus as a guiding aim of democratic civic life, pushing us to adopt an epistemic conception of deliberation in its place. Below, I describe in more detail the nature of such a conception and contrast it with deliberation that aims at consensus. But the basic idea is simple: political deliberators should give and receive arguments as an attempt to figure out what political beliefs are best supported by the preponderance of evidence and experience. And they should do this without regard for whether it makes agreement any more or less likely. Thus, as I shall discuss further, from an epistemic point of view, achieving agreement and achieving warranted political belief must be treated as distinct objectives.

The recent prominence of democratic consensus ideals is connected with the rise of deliberative models of democracy and the problems associated with moral pluralism. In the most general terms, deliberative democrats hold that political legitimacy requires a free, equal, and widely inclusive process of deliberation among the citizenry. And they typically hold that, in the face of a plurality of competing moral views, at least one important aim of deliberation should be some form of consensus (though, as I discuss below, the precise sense and significance attributed to that aim has evolved substantially). I will call theories that make this claim consensus

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theories of democracy, or consensus theories for short. In my usage, the idea that deliberation should aim at consensus is a claim about what provides the appropriate reasons for deliberative activity: agents should treat the contributions of their deliberative activities (defending a view, abandoning a view, listening to others, etc.) to the realization of consensus as providing the reasons for those activities. In contrast, an epistemic approach to deliberation holds that the appropriate reasons for deliberative activity concern its contribution to epistemically warranted belief.

Consensus theories have already been criticized on a variety of grounds. One prominent line of criticism notes that the push for consensus can stifle valuable forms of dissent and the essential expression of individual or localized group interests. Relatedly, a second important line of criticism emphasizes the hopeless idealism of social consensus, pointing to its detachment from the empirical realities of real world deliberation and the inevitability of durable disagreement in a pluralistic society. I pursue a different kind of critique here, however. For I seek to establish that the consensus ideal is not so much problematic as inert: it simply does not tell us anything interesting about what democratic citizens ought to do in their civic lives. The critique I offer is significant in at least two principal respects:

First, the established challenges to consensus theory have prompted attempts to moderate and qualify in various ways the role of consensus ideals (see Section Two). The line of criticism


I offer is substantially stronger than established challenges because it implies that even these
more moderate conceptions of consensus theory should be abandoned. Second, my criticisms of
consensus theory serve to bring out the indispensable role of epistemic standards in political
deliberation. They imply an essential place for epistemic norms in our civic lives, and they
highlight the need for an epistemically motivated account of deliberation that takes a
recognizably democratic form. This paper thus lends support to the growing body of work on
epistemic democracy and highlights some of the important concerns that epistemic accounts
should address.

Importantly, the claim that we should ignore consensus as a guiding aim in democracy
does not imply that democratic consensus is not a valuable thing to achieve. The analogy with
sleep may be helpful here. For the bleary-eyed insomniac, sleep is to be ignored as an aim
precisely because and not in spite of the fact that achieving it would be valuable. Likewise I will
not contest the assumption that democratic consensus confers valuable moral and practical
benefits, but I will argue that, in an odd way, realizing those benefits requires that we treat it as
irrelevant to our civic activities.

2. Consensus Theory, Weak and Strong

The early, definitive statements of consensus theory came from Habermas and Joshua
Cohen. For both Habermas and Cohen, properly democratic decision-making consists in an
ongoing process of inclusive, discursive exchange among the citizenry. And although both
concede that one can never expect full agreement among the citizenry in actuality, a rational,
unforced consensus nonetheless remains deliberation’s ideal endpoint. Thus, Habermas’s
“democratic principle” holds that “…only those statutes may claim legitimacy that can meet with
the assent (Zustimmung) of all citizens in a discursive process of legislation.”7 Similarly, Cohen argues that democratic legitimacy is a matter of arriving at “…reasons that are persuasive to all who are committed to acting on the results of a free and reasoned assessment of alternatives by equals.”8

Although Habermas and Cohen characterize deliberative norms in terms of a radically idealized scenario, they each envision that scenario as a regulative ideal for actual democratic practice. Thus, on Habermas’s view, real-world democratic institutions ought to be organized around the provision of liberal rights essential to free and equal discourse;9 likewise, the health of democratic society depends, in Habermas’s view, on the existence of a free and robust sphere of civic contestation.10 Similarly Cohen holds that the “ideal deliberative procedure” he describes is intended to serve as a “model for institutions to mirror.”11 In this respect, democratic consensus theories differ from standard contractarian theories of ethics or justice. They aim to provide a recipe for democratic practice and not only a procedural definition of political legitimacy.12

If we take Cohen’s and Habermas’s views as a first pass, then, the basic components of a consensus theory would be the following:

(a) The legitimacy of democratic laws and institutions depends in some essential way on whether they could be the object of a free, equal, and universal agreement.

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7 Habermas, BFN, p. 110
8 Cohen, "Deliberation and Democratic Legitimacy," p. 75
9 Habermas, BFN, pp. 82-131
10 Ibid., pp. 329-87
11 Cohen, "Deliberation and Democratic Legitimacy," p. 75
(b) Democratic procedures and institutions should foster conditions under which a free, equal, and universal agreement on laws and institutions can be achieved (or at least approximated as closely as possible).

(c) Democratic citizens have substantial obligations to engage in deliberation that aims at achieving a free, equal, and universal agreement on laws and institutions.

My interest is specifically in claims about what the appropriate aims of deliberation are, and so my primary target below will be a version of (c) (see further discussion below). So far as I am concerned, my arguments only bear indirectly on (a), since (a) makes a claim about the benefits that consensus realizes. If I am right that we should not aim at consensus, then that might put some pressure on the claim that it should be the definitive criterion of political legitimacy. Nonetheless, as I pointed out in the introduction, one significant feature of essential byproducts is that they can be valuable in spite of the fact that we ought not aim at them. Though I will not give much explicit discussion of the relevant issues, my arguments bear on (b) insofar as our institutional frameworks ought to be structured in response to the appropriate aims of civic life. Since I hold that consensus is not an appropriate aim of civic life, this ought to have significant institutional implications, but detailed consideration of these will have to be pursued elsewhere.

I said earlier that Habermas’s and Cohen’s views were notably strong. They are strong in that they envision consensus as both *universal* – in the sense that, at least in the ideal, it obtains among all citizens – and *comprehensive* in the sense that the possibility of consensus, under ideal conditions, is the definitive test of legitimacy for all matters of government policy and organization. As I noted in the introduction, the distinctive strength of the consensus ideal in Habermas’s and Cohen’s formulations has sparked a range of objections that it is excessively
idealistic and/or stifling of essential forms of difference. As a result, there has been a general push towards tempering the model, and recent discussions of deliberative democracy tend to emphasize that consensus is not always an appropriate aim of deliberation, that it can be provisional, and that there are numerous levels of conflict (underlying values, specific conceptions of values, conceptions of the problem at hand, concrete policy prescriptions, practices for dispute-resolution, etc.) at which valuable agreement can be achieved.13

But even if the model of consensus has been tempered in important respects, it retains an important role in contemporary deliberative theory. Let me briefly cite a few notable examples. In a recent paper, James Bohman and Henry Richardson criticize the idea that deliberation should aim at “reasons that all can accept,” holding that it “can do no useful work in political theory” on the grounds, very briefly put, that it is either hopelessly indeterminate or else relies on normative criteria that are too remote from citizens’ actual acceptance.14 As an alternative, they suggest that we shift from the modality of possibility – reasons that “can” be accepted – to one of actuality, namely, the reasons that all “do” or “will” accept. Deliberation, on their view, should thus be guided by a framework of civility that “recognizes and exploits the complexity of every tradition and of every actual person’s views in the hopes of finding tenets the other person believes that will provide them with a basis for agreement.”15 Even as they concede that

15 Ibid., p. 271
comprehensive consensus will inevitably remain elusive, the search for shared reasons should remain a definitive “hope” of democratic society.16

In another example of the hold that consensus retains on deliberative democracy, John Dryzek and Simon Niemeyer argue that, as an alternative to comprehensive consensus of a Habermasian sort, one defining aim of democratic deliberation should be “meta-consensus,” by which they mean consensus about the “nature of the issue at hand,” which includes agreement on “the domain of relevant reasons or considerations (involving both beliefs and values) to be taken into account.”17 On their view, even when citizens disagree on matters of policy, they might at least seek a shared understanding of what exactly is at stake and what concerns bear appropriately upon it.

Finally, consider the broad assessment of deliberative theory recently issued by Jane Mansbridge and a host of prominent collaborators. They characterize the range of productive forms that deliberation can take, emphasizing among other things that “the goal at the outset of deliberation ought not necessarily to be a substantive consensus.”18 Given the inevitable prospect of “conflicting interests or irreconcilable disagreements,” they hold, deliberation should seek to “clarify conflict as much as commonality.”19 They seek both to emphasize a valuable democratic role for non-deliberative mechanisms, such as fair bargaining and aggregative voting, and to expand the conception of democratic deliberation to include, not only the “classic,” Habermasian model of deliberation, but also a range of alternatives: “convergence,” “incompletely theorized agreements,” “integrative negotiation,” and “fully cooperative distributive negotiation.” But though these alternatives are less demanding in important respects

16 Ibid., p. 274
19 Ibid., p. 84
than classical consensus theory, Mansbridge et al. note that “each of these processes ends in a kind of consensus, that is, a genuine agreement among participants that the outcomes are right or fair.” In the case of convergence, citizens agree on the same policy for the same reasons, but begin without deep conflict. Incompletely theorized agreements and integrative negotiations both involve agreement on the same policy for different reasons, while fully cooperative distributive negotiations involve agreements on how to fairly balance competing interests.

In all of these cases, the authors begin with a recognition that the strongest consensus ideals face crucial problems. But they come around, nonetheless, to endorsing a prominent place for the aim of consensus within political deliberation. This is perhaps in part because, in spite of the classic model’s problems, it remains unclear what precisely should take the place of consensus as deliberation’s defining objective. In any case, I aim to show that the ideal should be abandoned, even in its more moderate forms. The arguments below apply not only to the strong claim (c) above, but also to any view holding that some form of consensus, under at least some circumstances, constitutes at least one significant goal of democratic deliberation. When I use the term consensus theory, it is this very general claim to which I refer.

### 3. Two Ideals of Rational Consensus

In thinking about the difficulties with consensus theory, let us start by considering a peculiar ambiguity in the central notion of a “rational agreement.” In the excerpts given earlier, both Cohen and Habermas are quite explicit that a morally desirable democratic consensus must be rational. That is, it must be the result of a due sensitivity to reasons under conditions of freedom and equality. In general, some version of this claim is endorsed by all consensus

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20 Ibid., p. 70
theorists. That is because, without it, brainwashing or mass delusion would be permissible routes to agreement, and the value of the consensus ideal would immediately be suspect.

But in thinking about the idea of rational consensus there are two possibilities, each of which has rather different implications: An agreement might be rational, first, in the sense that the parties to that agreement all have good reasons to form an agreement, or it might be rational, second, because there are good reasons to endorse the view agreed to, reasons that are independently valid for all the parties to the agreement. In the first sense of rational consensus, the parties have reason to form an agreement because agreeing itself realizes certain kinds of values irrespective of any differential merits among possible objects of agreement. I will call any such value deriving from consensus a convergence value. While convergence values will vary with the sort of view on which agreement is achieved, they generally include, not only what is broadly referred to as “stability,” but also the kind of efficiency and productivity that cannot be achieved without coordinating the activities of large groups around a common purpose. Thus, in the classic example, a community realizes an important value by agreeing to drive on one side of the road rather than another. Realizing that value depends, not on which side of the road is chosen, but on the mere fact that a choice is made. Consensus on a right-side rule is rational in virtue of the value that attaches to the consensus, rather than the rational advantages of a right-side rule over its left-side competitor.

In the second sense of rational consensus, the parties agree because they all recognize the advantages of a specified view over its competitors. The agreement is supported by the value that is realized by making that particular decision, rather than the value of simply making a decision at all. I will call any such value an epistemic value. Notably, this sort of consensus results not from a concern for the value of consensus itself but, rather, from a scrupulous regard
for the differential merits of competing points of view. Here, the paradigm example would seem
to be consensus among scientists. While the extent of consensus within the scientific community
(particularly the natural-scientific community) is often cited as one of its most impressive
features, that achievement is primarily the product of the rigorous gathering and evaluation of
evidence concerning natural facts, combined with extensive channels for communication
concerning the evidential findings. It is the fact that such evidence is independently compelling
to individual members of the scientific community that they adopt the same beliefs, and not
because adopting the same beliefs has any value in itself. For the scientific community, then,
consensus arises as an essential byproduct of aiming at epistemically warranted belief.

To be sure, the aim of agreement is often implicit, and at times explicit, in the
deliberations among scientists about available evidence. But consensus in such cases figures as
a relevant consideration in scientific deliberations only to the extent that there is good reason to
see consensus as a reliable indicator of epistemic success. For example, while the repeatability
of experimental results constitutes an important piece of evidence in scientific debate, the value
of repeatability derives from the evidence it provides that the results were not produced by
irrelevant variables, that they were not deliberately fudged, and so forth. The fact that it provides
such evidence in this way provides additional grounds to believe that the recorded results give
evidence of what is true. Notably, if we had reason to think that scientists had modified their
claims in some way out of a desire to agree (perhaps because they wished to present a unified
front to the public, for example), then we would also have reason to question the truth of those
claims. That is because sameness of belief has no intrinsic bearing on truth. It has a bearing on

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21 I thank Joseph Raz and Jeff Helzner for pressing this point on me in a particularly forceful way.
22 However, those who are more skeptical about traditional paradigms of truth and rationality in the sciences often
suggest that some form of agreement is constitutive of scientific success, or otherwise primary in guiding the actions
of scientists. See, for example, Richard Rorty, "Science as Solidarity," in Objectivity, Relativism, and Truth, (New
truth only if it is achieved because of a common sensitivity to epistemically significant
evidence.\textsuperscript{23} This fact explain why scientific unanimity is likely to arouse suspicions among us;
given the complexity of scientific issues, a complete absence of dissent suggests that agreement
may have non-epistemic causes.\textsuperscript{24}

So, again, natural science is a case in which the value of consensus is dependent on its
being achieved strictly as a byproduct of action that aims at epistemic value. It aims at epistemic
value in the sense that scientists treat the contribution of their actions to the realization of
epistemic value as providing the reasons for those actions. I will now argue that political
consensus is like scientific consensus in that its value depends on its being an essential byproduct
of deliberation that aims at epistemic value. I defend that thesis in Sections Four and Five. But
before proceeding further, let us get clearer about what epistemic deliberation involves.

3. Epistemic Standards in Political Deliberation

The standard view of epistemic democracy, developed most thoroughly by David
Estlund, holds that there is some standard of correctness, independent of the actual outcomes of
democratic procedures, against which political decisions can be judged.\textsuperscript{25} On Estlund’s view, the

\textsuperscript{23} Rescher, *Pluralism: Against the Demand for Consensus*, p. 17, argues along similar lines: “In opinion formation
our duty is surely not towards a co-ordination with others as an independent desideratum of its own, but simply
towards the truth. The obligations we have in this regard involve such principle as ‘Do all you can to form your
opinions on the basis of rationally cogent grounds,’ and ‘Stand by your opinions when formed on this basis
irrespective of where other people stand.’”

\textsuperscript{24} John Beatty and Alfred Moore, "Should We Aim For Consensus?," *Episteme* 7 (2010): 198-214

notion of an independent correctness standard suggests at least a minimal way of introducing truth-talk to the political domain: normative policy claims that conform to the independent correctness standard are true. Democracy is thus “epistemic” insofar as democratic decision-making can be seen as a form of inquiry that aims at true policy claims.

For my purposes, the key feature of epistemic standards is that they hold agents accountable for their beliefs in the following respect: meeting those standards at least depends on substantially more than whether an inquirer believes or desires that she has met them. We may say that such standards are *minimally objective* in that sense. Thus, in order to be justified in believing that the Earth is not flat, one must actually be in a state in which one is entitled to that belief. It is not enough that one does, it so happens, believe that one is entitled to that belief (even if these sorts of higher-order beliefs may be necessary for entitlement). Likewise, there seem to be a range of cases in which one is entitled to a belief without believing that one is so entitled (e.g., Jones offers a brilliant and sound argument for a new theorem even though, suffering from a lack of confidence, Jones doubts that the argument is good). I will use the phrase *warranted belief* to refer to beliefs that satisfy epistemic standards. Political deliberation aims at epistemic value, then, when those engaged in it aim to have warranted beliefs. Whether the minimal objectivity of epistemic standards entails some notion of political truth is a further question that I will not pursue here. Likewise, I will take no stand on which particular norms of inquiry count as epistemic, but I assume that these will fall within the range of norms conventionally labeled as such. These would at least include standard constraints of rational argument, empirical reasoning, logical inference, and reliability of evidence.

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26 Along similar lines, David Estlund, "Who's Afraid of Deliberative Democracy?: On the Strategic/Deliberative Dichotomy in Recent Constitutional Jurisprudence," *Texas Law Review* 71 (1993): 1437-77, at p. 1451 holds that epistemic accounts of deliberation presuppose “objective” standards of judgment, which he defines as “a standard by which individual judgments and the associated political outcomes could be mistaken.”
The idea that political deliberation might be directed first and foremost towards the satisfaction of epistemic standards is not intended as an exotic theoretical proposal. Rather, it is the most straightforward way of explaining our ordinary experience of political debate. Consider an example. Suppose someone argues that the death penalty should be abolished because it does not have a meaningful deterrent effect. We might hold her accountable by considering the empirical quality of the studies to which she appeals and the plausibility of the conclusions she draws on their basis. If she argues that the death penalty is immoral because it violates the dignity of persons, then our assessment will navigate the murkier waters of moral and political philosophy: Is the conception of dignity invoked morally defensible? Are there cases in which the state may legitimately violate such dignity? What are the implications of this conception of dignity in other cases and are they plausible? These are all fraught questions to be sure, but the point is just that, in answering them, we are holding one another accountable by reference to a familiar package of rational standards.

An epistemic perspective on this sort of deliberative exchange entails two things: First, that the rational standards we invoke are minimally objective and, second, that the aim of giving and receiving these arguments is to satisfy these standards. Thus, on a conventional understanding, the fact that someone believes her empirical studies to be good does not make them good. The fact that someone believes her theory of dignity to be consistent with human liberty does not mean that her theory of dignity is consistent with human liberty. And – crucially for the purposes of this paper – just as an individual can believe that she is warranted in believing something when in actuality she is not, so too can a group believe that they are warranted in believing something in common when in actuality they are not.
The aim of our criticisms in this context is epistemic insofar as we see epistemic considerations as providing appropriate reasons for making them. Notably, in a case like the death penalty debate, we typically continue to make our criticisms even when we know that doing so is likely to anger our opponents or exacerbate our political differences. An epistemic interpretation of deliberation provides a natural explanation for this fact: we persist because our motivations are epistemic. Though we may hope to persuade our opponents, we think that satisfying epistemic standards is what should drive debate, even when it will make our disagreements worse.

It is worth emphasizing that we can apply this sort of analysis to all forms of consensus, not merely those about concrete policy measures. As deliberative theorists, we may follow Dryzek and Niemeyer, for example, in emphasizing the importance of “meta-consensus.” Or, following Mansbridge et al., we may pursue a fully cooperative distributive negotiation. But in these cases, precisely the same set of considerations apply. Thus, Mansbridge et al. describe a fully cooperative distributive negotiation as one in which “…participants enter deliberation with conflicting interests, but, after deliberating on the contents of those interests and on the principles of fairness appropriate to adjudicating them, adopt a distributive agreement that all consider fair” (where the term “distributive” implies that both parties must give something up for the agreement to be realized). But deliberating about the contents of interests and the principles appropriate for adjudicating among them is itself a substantial and complicated business. Like an argument about policy, an argument about these things can be naturally interpreted as an endeavor to find out what way of proceeding is actually best supported by the preponderance of evidence and experience. In that way, following an epistemic interpretation, the pursuit of a

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fully cooperative distributive negotiation is premised on our accountability to minimally objective standards.

None of this serves as a proper argument that an epistemic interpretation of ordinary political deliberation is the right one. I will press that argument in the next two sections. My aim here has simply been to explain what an epistemic conception of political deliberation actually involves, and to show that it is consistent with some important aspects of ordinary political debate.

4. Why Democratic Citizens Should Not Aim at Consensus

The heart of my argument is not complicated: Deliberation is labor intensive. It is characterized by normally difficult contestation and inquiry among individuals with a plurality of competing views. This simple fact presents a problem for the idea that deliberation should aim at consensus, because the rational premise of contestation and inquiry is that there are worthwhile evaluative distinctions to be made between possible points of convergence. That is, such contestation has a point only if, of all the possible agreements to be had, only some are properly wanted, and some properly wanted more than others. But if it is only agreement that we are after, then that premise is false (so far as deliberative action goes), since sameness of belief is a property equally well instantiated at any possible point of convergence. In that case, we would be better off choosing straws or pursuing some other course that imposes similarly light cognitive and temporal burdens. In this respect, the very act of deliberation seems by nature to aim at epistemic value, that is, conditions of doxastic success that are independent of commonality in our beliefs.
Notably, when Habermas characterizes deliberation he speaks of “competing validity claims” and famously insists that deliberation, in the ideal, must not cease until our claims “stand up” against “a test of reasons and reasons alone” in a “contest for the better arguments.” Likewise, in describing his ideal deliberative procedure, Cohen cites Habermas’s proposal that “no force except that of the better argument is exercised.” This way of talking notably obscures the sense in which deliberators ought to seek consensus since it suggests that, in fact, deliberators are to be guided by characteristically epistemic concerns – validity, knowledge, and superiority of argument – rather than any desire to agree. When a contest for the better argument goes well, the better argument wins. But it is a familiar fact of life that the better argument is often less popular than the worse argument. Advancing better arguments is only sometimes, and with good fortune, the most effective route to agreement.

Here things get a bit complicated. Habermas’s point is not that, in general, giving better arguments is the most effective route to consensus. Rather, he thinks that giving better arguments will foster consensus under the perfectly exacting conditions of ideal discourse. This suggests that we might reconcile the epistemic language of arguments and reasons with the significance of the consensus ideal by drawing a distinction between the agreements of ideal deliberators and the aims of their real counterparts. Political legitimacy, a consensus theorist might propose, is to be defined by reference to what ideal deliberators would agree on. Real deliberators, however, need not themselves aim at real agreement; rather, they should aim simply

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28 Habermas, BFN, p. 119
29 Ibid., p. 228
to figure out what their ideal counterparts would all accept, and pursuing that aim might very well involve robust and enduring disagreements.

Though tempting, this proposal fails. It fails, first, because it severs the important connections that idealized deliberation is supposed to have with the real political context. As I noted above, consensus theorists take themselves to be providing a sort of blueprint for civil society and not only a standard of correctness against which to measure decisions. If consensus is conceived strictly in the ideal then it is entirely possible that a specialized elite, for example, would do the best job of working through the elaborate counterfactual sociology of ideal deliberation. The connection between consensus theory and democracy becomes tenuous.

Even setting aside this point, however, the focus on ideal consensus simply transfers the difficulties with consensus theory from the real to the ideal context. For what is driving debate among our ideal counterparts? If it is a strict preoccupation with agreement, then there is no basis for establishing differential merits among possible points of agreement. But if it is a preoccupation with epistemic value, then we are left wondering once again how the commitment to agreement should guide deliberators’ actions. So the distinction between a real and ideal context is not helpful in this context, because our concerns about real consensus are simply mirrored at the ideal level. If valuable forms of political consensus are an essential byproduct of epistemic deliberation in the real context, then the same thing is true in the ideal.

A more promising defense of the consensus ideal would focus on the real and significant convergence values that consensus possesses. Notably, there are many times in politics when multiple options are defensible on the merits. In these cases, there may be reasons to prefer those options that enjoy the most support or, ideally, are endorsed unanimously, in spite of the preponderance of merit-based considerations. One such reason is straightforwardly practical. All
things being equal, political actions that enjoy more support will be easier to implement, and will therefore tend to be more effective and less costly. Another reason to prefer more-supported options over less-supported options is broadly moral in character. From a standard liberal perspective, government actions that are widely supported better respect citizens’ autonomy and, in that respect, enjoy more legitimacy. In these respects, there is clear convergence value in the political context that is realized through agreement. Perhaps that is the value at which deliberators should aim?

The problem with this suggestion is that, in fact, if we all recognize that the available options are equally defensible on their epistemic merits then we have already achieved a substantive consensus. That is, we have reached consensus on which set of options are equally meritorious. At that point, what we have reason to do is abide by the results of the least costly decision procedure for choosing from among them; nothing beyond that is added by calling upon deliberators to strive to agree. Now, one might think that, in the political context, epistemic merit only goes so far. In a democracy, one might think, it is the desires of citizens that determine which among equally defensible actions we should pursue. Should we build soccer fields or a new music venue in the park? Maybe, in the end, after we’ve talked about the rational merits of budgets, justice, physical fitness, and noise levels, this is simply a question of which option is preferred by more citizens. But even if this is the right way of thinking about democratic decisions, it does not provide a good premise for deliberation, precisely because deliberation is, as I have already emphasized, an endeavor to assess the comparative advantages of alternatives. If we suppose that preferences are proper targets for normative evaluation, then we cannot rest content with simply tallying them up, since there remains a question of whether the distribution of preferences is actually warranted. But if there is really no appropriate
question of which preferences ought/ought not be held, then the role for deliberation has been exhausted. The proper course is simply to implement some appropriate procedure for aggregating and satisfying whatever preferences we have. Notably, the very idea of consensus theory arose largely as a rejection of preference-based models of democracy, and their tendency to treat the morally weighty questions of politics as mere matters of taste. Our obligation to seek agreement through rational deliberation arises from the fact that some outcomes ought to be preferred and some ought not be preferred.

A different scenario, perhaps more typical in the political case, is that we disagree about which option is better on the merits but see, nonetheless, that there is something to be gained by coalescing around a common position. In these cases, we commonly speak of compromising, or “giving a little” to our interlocutors as a way of respecting the important convergence reasons that exist. Or we might seek to resolve our issues through some fair adjudication procedure that takes into account everyone’s concerns, as in a fully cooperative distributive negotiation.

But when we seek to compromise on an issue such as reform of the healthcare system, or austerity measures to reduce national debt, or the imposition of economic sanctions, the question at issue is always: “whose version of compromise?” In the United States, for example, some view more or less any government intervention in the healthcare system as a fatal lapse into fascism. Others view anything short of a government run, single-payer model as medical apartheid. Attempts to seek consensus around this issue have largely consisted of proposals from each side that the other views as beyond the pale. Deliberation has thus centered, not only on the merits of the various positions in play, but on what kinds of concessions from both parties would actually constitute a legitimate balancing of concerns. On this second-order level, disagreement

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is as heated as it is at the first-order level. If the parties could come to an agreement on the question of what counts as a legitimate balancing of concerns, then they would have a consensus on what ought to be done. But as I pointed out earlier in my discussion of fully cooperative distributive negotiations, a disagreement about how fairly to resolve our differences is (if it is rational) itself a disagreement about the actual merits of different dispute resolution procedures. It does not make sense as an endeavor merely to survey the ideals of fair compromise that happen to exist among us. Hence, if we manage to reach agreement on a standard of fair compromise, our consensus would itself be a byproduct of epistemic deliberation concerning ideals of fair compromise.

Of course, any party could set aside considerations of epistemic merit in order to facilitate agreement. But, crucially, an agreement achieved in this way would not realize the primary convergence value that made it attractive to consensus theorists in the first place. For consensus theorists, the principal motivation for seeking agreement is not the pragmatics of policy implementation. Rather it is the fact that consensual decisions display respect for the autonomy and equal worth of citizens. But they only display that kind of respect when they actually realize values of fairness and equality. And – setting aside fortuitous accidents – they will only realize values of fairness and equality when deliberation is directed, not at agreement (since we might just as well agree on wickedly unjust forms of compromise as anything else) but rather at the merits of competing conceptions of a fair resolution of disagreement.

The general point is this: sameness of political position, in and of itself, is a trivial achievement for rational deliberators. It becomes difficult to attain under the normal circumstances of politics, however, either because we think that (i) there are differential merits of the competing positions at stake, and/or (ii) we think that there are differential merits among
competing principles for settling our dispute our fairly. In either case, an agreement that has the relevant legitimacy-conferring properties will be one that arises from careful attention to epistemic standards rather than the desire to agree. That is, deliberation functions as a (reliable) route to legitimacy only because it is animated by a due concern for the features of a decision that actually make it legitimate. Holding that citizens should seek fair compromise or mutual accommodation, etc. does not change this point precisely because “fair compromise” or “mutual accommodation” are standards which are themselves properly subject to epistemic evaluation.

5. Consensus and Reciprocity

Let me now articulate one crucial way in which my argument up to this point might seem to have gone wrong. Democracy has traditionally been understood as a process through which citizens construct their own standards of action through public institutions that allow them to express and act on their political beliefs. Indeed, deliberative democracy seems so appealing precisely because it represents an attractive way of explicating this “will of the people” theme in democratic thought. From this point of view, deliberation is a means through which citizens tutor and adjust their beliefs about political action in light of what matters to their fellow citizens. The “right thing for the government to do,” then, is to be defined as the result of this social, civically virtuous process, and cannot be specified independently of it. Deliberation thus is understood to aim at consensus insofar as this process aims at the identification of mutually agreeable terms of cooperation through a process of continual, reciprocally motivated refinement. And ideals of “fair compromise” or “mutual accommodation” are not properly understood as standards independent of the outcomes of deliberation themselves. Rather, the fairness of a compromise is constituted by the fact that the citizens governed by it come to see it
as fair through a process that embodies norms of mutual respect. The general worry then, is that in casting democratic consensus as a byproduct of attending to epistemic standards, we may be overlooking this essentially constructive aspect of democratic political morality.

But what exactly is involved in this process of “reciprocally motivated refinement?” What norms are supposed to guide citizens in their quest for common ground? In this section, I consider whether the idea of reciprocity can provide a way of addressing our concerns about consensus ideals and argue that they cannot. I conclude in the next section with some considerations which suggest at least the plausibility of reconciling an epistemic model of deliberation with democracy.

On the subject of reciprocity, it is the Rawlsians who have offered the most thorough guidance. In his discussion of political deliberation, Cohen emphasizes that citizens are to seek agreement on political matters in spite of durable differences among their comprehensive worldviews. In this respect, he draws on Rawls’s idea of an “overlapping consensus,” which holds that our constitutional essentials (the “basic structure”) should be justifiable exclusively by appeal to reasons that are acceptable from all “reasonable” points of view. Reasons that do not meet this condition are therefore to be left out of the justificatory process. This does suggest one way in which consensus might function as an action-guiding objective: aiming at consensus would involve the intentional setting aside of arguments that are not acceptable from at least one reasonable point of view.

Rawls intended this proposal to function in the context of deliberation about general constitutional essentials. But extending it to democratic deliberation in general presents an obvious problem, which is that the perennial policy matters that confront democratic society –

33 Cohen, "Deliberation and Democratic Legitimacy,"
questions of diplomacy, economics, security, health policy, etc. – cannot possibly be handled by exclusive appeal to arguments that are not reasonably disputed. Forging policy in such areas requires that we rely on a complex body of theory about which substantial doubt, and therefore substantial controversy, is unavoidable. Even if there is some level of abstraction at which there is no reasonable disputation of reasons, the attempt to draw practical implications from them will inevitably draw out controversies in their specification.

In the democratic policy context, therefore, the idea that we might seek consensus through the mutual accommodation of difference must involve more than the avoidance of reasonable controversiality. Mutual accommodation requires of us some genuine adjustment of our beliefs, an adjustment tending towards commonality. Of course, one possibility is that these adjustments will be driven by a careful attention to the preponderance of evidence. But in that case we would have arrived once again at an epistemic conception of deliberation, with agreement cast as a mere byproduct. We might nonetheless consider alternatives to epistemic considerations as motivations for belief change.

In discussing deliberation about constitutional essentials, Rawls notably emphasizes the importance of reciprocity in the process, which on his interpretation involves the desire to cooperate with others on free and equal terms, at least so long as those others are themselves motivated by that desire. And in their landmark statement on deliberative democracy, Amy Gutmann and Dennis Thompson treat this notion of reciprocity as a pillar of the deliberative democratic ideal, once again highlighting their debt to Rawls. On their view, citizens who disagree “…ought to offer reasons that can be accepted by others who are similarly motivated to

35 Ibid., pp. 15-21
find reasons that can be accepted by others.”

This notion of reciprocity is moral rather than epistemic; the acceptability of claims to others becomes a reason to revise our views about political principles because we genuinely respect and care about others’ autonomy. Notably, and in clear contrast with any epistemic norm, this is so even when we believe that the preponderance of evidence does not favor our views.

Unfortunately, reciprocity fails as an alternative to epistemically motivated deliberation. To show this, I will consider the case of abortion policy, which is one of Gutmann and Thompson’s central examples. In response to the abortion controversy they tentatively propose, as a reciprocally motivated resolution, that abortions continue to receive government funding, but that pro-lifers have the option of diverting their tax dollars in order to reduce their “complicity in actions [they regard] as murder.”

They argue that this proposal is a plausible outcome of a process in which pro-lifers and pro-choicers reason strictly from two shared principles: (i) “Innocent people should not be killed,” and (ii) “Women have a basic liberty to live their own lives and control their own bodies.”

Without recapitulating entirely Gutmann and Thompson’s reasoning, the basic idea is that this particular policy solution represents a recognition of both parties that the other’s moral convictions are worthy of respect. The fact that abortions continue to receive government funding is a concession to the central role that government funding plays in assuring women genuine freedom over their lives and bodies. And the diversion of tax dollars from pro-lifers embodies a recognition that, given their conceptualization of the act as murder, any participation in its support would be morally unacceptable.

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36 Gutmann and Thompson, *Democracy and Disagreement*, p. 53. For an interesting alternative to Gutmann and Thompson’s reciprocity norm, see the idea of “deep compromise” in Richardson, *Democratic Autonomy*, pp. 143-61.

37 Gutmann and Thompson, *Democracy and Disagreement*, p. 89

38 Ibid., p. 74
Of course, as Gutmann and Thompson themselves concede, the implications of principles (i) and (ii) depend entirely on how we interpret notions like personhood and liberty, and how the various values at stake are to be weighed against each other. The solution they propose is likely to strike many people on both sides of the debate as wholly unacceptable. The necessary presumption of their reasoning is that, were both sides sufficiently motivated by the desire to find mutually agreeable terms of cooperation, they might come around to endorsing a proposal that would, under other circumstances, be cast aside as morally anathema. Everything hinges, that is, on the power of reciprocal moral motivations.

Here is how reciprocity should work in this case. Recognizing (let us suppose) that abortion is a matter about which disagreement is reasonable, both the pro-lifer and the pro-chooser ask themselves what reasons the other would accept were the other similarly committed to finding mutually acceptable reasons. Of course, given the high moral stakes, neither party wants to concede more than is strictly necessary to secure the acceptance of the other. Thus, let us take the pro-lifer’s perspective for a moment. She must estimate what the maximally sympathetic offering would be of the pro-chooser, given the pro-chooser’s identical “motivation” to find mutually agreeable terms. How far would the pro-chooser go and, more importantly, how could the pro-lifer assess how far she would go? Well, since the pro-chooser is committed to reciprocity, she is willing to make concessions, but – to repeat – only to the extent that she must to secure the agreement towards which reciprocity recommends she strive. To answer that question, of course, the pro-chooser must herself figure out what terms the pro-lifer would accept given the pro-lifer’s identical commitment to finding (the maximally sympathetic) terms that she, the pro-chooser, would accept. But since the question of the terms that the pro-lifer would accept depends on her own application of the principle of reciprocity, we have now arrived back at the
very question with which we started: what terms of agreement ought the pro-lifer accept given her commitment to the principle of reciprocity? Answering that question, of course, will require that we set in motion the same series of counterfactuals, which means that we have found ourselves in an infinite regress.

The basic problem is that the results of each party’s application of the reciprocity criterion is indeterminate pending the other party’s application of the criterion. The consequence, however, is that neither party has a basis for figuring out what she ought to do. Reciprocity therefore cannot be of any help in answering the central question of politics in the context of disagreement: “what sort of concessions ought I make to a political interlocutor with whom I disagree?” At best, perhaps, the commitment to reciprocity tells citizens that they should make some or other concessions to the views of others. But the problem is that the cases where reciprocity is needed are precisely the kinds of cases in which concessions are likely to seem painful and, indeed, morally inappropriate. Whether some or other concession is morally appropriate or required is exactly the question that a reciprocity ideal should answer.

This consideration parallels the problems with ideals of fair compromise considered earlier. The problem with a fair compromise ideal, as I pointed out, is that there are rational disputes about what actually constitutes a fair compromise. Without settling those (epistemic) disputes, there is no way of specifying what concessions from each side are morally appropriate. Similarly, the general requirement to make respectful concessions to one’s interlocutor is not a significant moral demand absent some way of distinguishing between those concessions that respect actually requires and those that it does not. But that is once again an epistemic question, for reasons that I have repeatedly emphasized: If agreeing that some set of concessions were required by reciprocity were, in itself, sufficient to make them morally required by reciprocity,
then any disagreement about the matter would be irrational. The way to be a good reciprocal citizen would be to instantly accede to the position of others, thereby achieving agreement, thereby morally ratifying the position agreed upon. The absurdity of this idea shows that our civic duties require attending in good faith to the epistemic merits of different forms of mutual accommodation rather than trying to agree.

6. Conclusion

Given that the idea of “aiming at agreement” is a commonplace and – so it seems – perfectly intelligible aspect of our social existence, there is a distinct risk that I have overreached. Are all notions of “aiming at agreement” misguided? No. But I believe the foregoing shows that they are misguided as a conception of democratic civic norms.

In its everyday sense, the idea that we should aim at consensus generally means something like: we ought to make a good-faith effort to compromise by offering concessions to our interlocutor. How much we ought to concede is not an entirely precise matter, but seems to depend on an assessment of what a commensurate concession by the other party would amount to. All things being equal, we aim to find a sort of intermediate point at which the sacrifices of both parties are equivalent. Ideally, our actions will be at least partly motivated by mutual respect and concern, rather than selfish prudence alone. In their most recent work, Gutmann and Thompson define the idea as follows:

“In general, compromise is an agreement in which all sides sacrifice something in order to improve on the status quo from their perspective, and in which the sacrifices are at least partly determined by the other sides’ will. The sacrifice involves not merely getting
less than you want, but also, thanks to your opponents, getting less than you think you
deserve.”

So far as it goes, none of this is particularly problematic. Nonetheless, agreements in
such cases are normally driven by some measure of mutually recognized expediency. That is, it
is typically in the interests of all parties to achieve some agreement rather than none, and all
parties are motivated by the recognition that this is in their interest. Unlike genuinely consensual
decisions, healthy compromise is founded in part on what Gutmann and Thompson call
“principled prudence.” But while the prudential negotiation of interests may be a necessary
feature of collective law-making, democratic deliberation is meant to be a way of determining
what position is morally right. We cannot approach such questions simply as attempts to strike a
“deal” given the present distribution of power and the exigencies of legislative politics, which
is why, indeed, Gutmann and Thompson are not proposing “the spirit of compromise” as a
theory of political legitimacy.

The essential difference between seeking agreement in the everyday sense and in the
context of democratic theory is that, in the latter case, the ideal is supposed to bear an enormous
moral weight, one that cannot be shouldered by the bare imperative to make some or other
concessions for the sake of the common good. If the consensus ideal is to offer morally
significant guidance to citizens, it must provide some standard that enables them to answer the
question I raised earlier in reference to the debate over American healthcare reform: “whose
version of compromise?” That is, it must at least enable them to criticize some sets of

39 Amy Gutmann and Dennis Thompson, *The Spirit of Compromise: Why Governing Demands It and Campaigning
40 Ibid., pp. 101-08
41 Thus, deliberative democrats have traditionally defined the idea of moral deliberation in opposition to merely
strategic “bargaining.” See, for example, the discussion in Joshua Cohen, "Procedure and Substance in Deliberative
concessions as morally inappropriate and praise others as appropriate. If, as I have argued, it
cannot do that, then it requires at most some very general set of dispositions to adjust one’s
views in the name of the public interest.

This suggests a possible alternative to consensus ideals in our civic lives. Rather than
holding out agreement as an essential aim of political activity, we might focus instead on related
character traits that are crucial to sustain a fruitful political co-existence, i.e., a body of civic
evirtues. A society that is democratically organized, in which power is widely and equitably
distributed, one might reasonably think, is only likely to thrive given citizens who tend to set
aside selfish interest for the sake of the common good. More than that, perhaps, it requires
citizens who are possessed with the emotional and rational tendencies toward what Henry
Richardson calls “deep compromise”: the continual and dynamic revision of our values in light
of a respectful regard for what others care about. Such virtues – what we might call the virtues
of “democratic respect” – embody important aspects of the consensus ideal but do not commit
us, nonetheless, to the civic project of aiming at agreement. That is because the citizen who is
disposed to revise her values in the light of others’ aims and ideals must always ask herself what
sorts of revisions are warranted in light of the values of freedom and equality that motivate
democracy. Being democratically virtuous entails the commitment to a deliberative evaluation
that is guided by minimally objective standards.

But there is another way one might want to defend the relevance of consensus ideals.
One might think that, even if the consensus ideal provides no direct moral guidance to
democratic citizens, it might nonetheless provide them with indirect guidance by giving them
reason to implement the epistemic procedures of which, I have argued, consensus is a byproduct.

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42 Richardson, *Democratic Autonomy*, pp. 143-61
The original analogy with sleep illustrates this point nicely. Although in an effort to fall asleep one should ignore the aim of sleep, that aim does provide a reason to engage in the activity (counting sheep, etc.) of which sleep is a byproduct. In this respect, the aim of sleep provides an essential action-guiding role.

Nonetheless, the kind of role that the consensus ideal plays, from this point of view, is hardly the one that consensus theorists envision. Among other things, the consensus ideal would not tell citizens what kinds of reasons they should offer one another, when they are obligated to compromise, or what institutional frameworks are best for deliberation. At best, it would give citizens a second order norm of sorts, that is, a norm that allows them to identify other norms – epistemic deliberation and its companion norms – as the appropriate framework for democracy. Being relegated to this sort of second-order role is perhaps not the worst fate, though it is worth noting that the connection between epistemic deliberation and rational agreement in the political context is tenuous. In general, given the great epistemic complexity of political issues, combined with our own cognitive limitations, epistemic deliberation in politics can easily increase rather than decrease our differences. The aim, notably, has only a weak connection to consensus since, among other things, empirical research on political deliberation and its effects does provide some meaningful measure of support for this claim though, not surprisingly, epistemic gains tend to be contingent on the conditions under which deliberation is conducted. See, for example, James S. Fishkin, When The People Speak: Deliberative Democracy and Public Consultation (Oxford: Oxford University Press, 2009), Robert C. Luskin, et al., "Considered Opinions: Deliberative

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epistemic values are normally advanced by a proliferation of strong and diverse voices of dissent.45

Showing that consensus theory fails does not suffice as a positive argument for an epistemic alternative. Nonetheless, one of the central contentions of the preceding discussion is that deliberation is a practice premised on an orientation to epistemic objectives. And that implies that, to the extent that we hold out deliberation as one of democracy’s definitive practices, we will be obliged to come up with a substantial account of the epistemic standards that properly motivate political deliberation, and a broader account of how this bears on democratic civic norms.46 That is a crucial upshot of the preceding discussion. Still, there remain critical questions about epistemic deliberation that I have not addressed: Can it be genuinely democratic? And can we have genuine democracy without a consensus ideal? Though I lack the space for an adequate response, I will conclude with a few suggestive, admittedly sketchy, remarks.

All contemporary democracies are characterized by ongoing, vigorous disagreement, and a general commitment to deciding disputes through majority rule rather than unanimity. One can argue that, in fact, these are cases of imperfect approximations of a scenario in which we all agree, or that these are cases in which agreement ought to be the aim though it is not. Alternatively, one can accept that durable disagreement – even perhaps under ideal conditions – is a healthy and inevitable manifestation of a public conversation that aims to balance the

Polling in Britain," British Journal of Political Science 32 (2002): 455-87. But the relevant empirical issues are much too complicated to address here.


interests of everyone fairly, as free and equal citizens. From an epistemic point of view, we can say that disagreement is inevitable because there are so many different kinds of considerations that rationally bear on what is involved in achieving such a balance. And we can say that disagreement is healthy for the familiar Millian reason that a competition among ideas is the best way of figuring out what claims are best supported by the preponderance of information, arguments, and experience. In any case, those are the lines along which a good argument would have to be made.

From an epistemic perspective, the motive for egalitarianism and inclusiveness in this kind of conversation has to be that equality and inclusion in debate contribute in valuable ways to the particular sort of inquiry that democracy requires. Equality and inclusion must have their limits when the topic is molecular biology or macroeconomics. But democratic societies, if they are worthy of the label, aim at fairly serving the diverse values and interests of all citizens. Figuring out how to do that requires gaining knowledge about the values and interests that all citizens have, and how political actions actually play out in their lives.\textsuperscript{47} It requires a process in which citizens take one another’s cares and concerns seriously. The aim of this process, in a democracy, is the achievement of a free, fair, and egalitarian form of government. As an epistemic process, however, it is premised on the difference between agreeing that some policy realizes free, fair, and egalitarian government and its actually doing so. The prospects for an epistemic conception of democratic deliberation ride on our ability to give a plausible account of this distinction. Though I have not given such an account, I have argued that it plays an indispensable role in our understanding of what political deliberation is and what it should be.

\textsuperscript{47} Nino, \textit{The Constitution of Deliberative Democracy}, Richardson, \textit{Democratic Autonomy}