

Patriotic, Not Deliberative, Democracy

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Conversation must naturally follow the spirit of the age.
'Orlando Sabertash', *The Art of Conversation*¹

Both those who defend what I call a patriotic politics and those in favour of a deliberative conception of democracy call on us to try and respond to conflict with conversation rather than just negotiation or bargaining.² And since conversation aims for reconciliation, for realizing the common good, while the compromises of negotiation take us no further than accommodation, both patriots and deliberative democrats can claim an inheritance from the premodern ideology of classical republicanism.³ To classical republicans, negotiation is the mark of a polity dominated by factions, one considered fundamentally corrupt; this is how they would interpret the politics advocated by contemporary pluralist political philosophers.⁴ While neither the modern patriot nor the deliberative democrat would go that far, both share the classical republican's concern for the common good and so both will be found voicing worries about too much negotiation.

¹ John Mitchell, *The Art of Conversation* (London, 1842), p. 33.

² See my *From Pluralist to Patriotic Politics: Putting Practice First* (Oxford: Oxford University Press, 2000); James Bohman and William Rehg, eds., *Deliberative Democracy: Essays on Reason and Politics* (Cambridge, Mass.: MIT Press, 1997); and Jon Elster, ed., *Deliberative Democracy* (Cambridge: Cambridge University Press, 1998).

³ As defended, for example, in Aristotle, *The Politics*, trans. Carnes Lord (Chicago: University of Chicago Press, 1984); Niccolo Machiavelli, *The Discourses*, ed. Bernard Crick, trans. Leslie J. Walker (Harmondsworth: Penguin, 1970); and Hannah Arendt, *The Human Condition: A Study of the Central Dilemmas Facing Modern Man* (Garden City, NJ: Doubleday, Anchor Edition, 1959).

⁴ Thinkers such as Isaiah Berlin, Stuart Hampshire, and Bernard Williams. See, for example, Berlin, *Four Essays on Liberty* (Oxford: Oxford University Press, 1969); Hampshire, *Justice Is Conflict* (Princeton: Princeton University Press, 2000); and Williams, *In the Beginning Was the Deed: Realism and Moralism in Political Argument*, ed. Geoffrey Hawthorn (Princeton: Princeton University Press, 2005).

That said, when it comes to conversation, what the patriot and what the deliberative democrat mean by it are not the same. In the theories of deliberative democracy a central role is given to what is described as a fundamentally “non-coercive” form of dialogue; mostly this is called “conversation,” though sometimes also “negotiation,” but it is always contrasted with a self-interested “bargaining” (or, confusingly, “negotiation”). Semantics aside, it is evident that the preference here is for conflicting interlocutors to truly *listen* to each other, to strive for genuine understanding rather than simply accommodating their differences – and with this, at least, the patriot has no complaint. Where the two approaches diverge is that in patriotism conversation is conceived as that ordinary, everyday sort of dialogue that is carried out in line with one’s common sense, while the deliberative democrat would have interlocutors conform instead to a *theory* of conversation and so adhere to a preestablished systematic set of procedures. That theory, moreover, is at the centre of a particular conception of democracy, one that calls upon the state and civil society to relate in ways which would be discouraged by the patriot. Now given that I count myself among those who favour patriotism, I want to lend support to the approach here by offering some criticisms of deliberative democracy.

I

The first has to do with the rules of conversation that deliberative democrats tend to recommend. Jürgen Habermas has offered three groups of such rules. One is logical and semantic: if there’s to be genuine deliberation, he claims, those participating must strive to use their predicates consistently and avoid making contradictions or giving varied meanings to the same expression. A second group derives from the assumption that interlocutors sincerely wish to reach an agreement: speakers must defend only what they really believe to be true, and those who would dispute a notion not under discussion must provide a reason for doing so. The third group is meant to ensure that minds change solely as a result of the better argument: no one competent to speak must be excluded from the discourse, and everyone should be allowed to question or introduce whatever assertion they see fit.⁵

⁵ See Habermas, “Discourse Ethics: Notes on a Program of Philosophical Justification,” in *Moral Consciousness and Communicative Action*, trans. Christian Lenhardt and Shierry Weber Nicholsen (Cambridge: MIT Press, 1990), pp. 87-9.

Let's take each in turn. Even if we accept the understandings of logic and semantics that are implied by the first group, demanding that their standards be met is sure to rule out a number of contributions that I just cannot see us wanting to exclude. For example, humour, with its tendency to wordplay, would have to be prohibited;⁶ likewise art.⁷ While some deliberative democrats have come to be more open to the presence of such things during deliberations, none is willing to welcome them into the chamber of the concept of deliberation itself; none, that is, considers them aspects of deliberative rationality. On the contrary, they are seen as, at best, tolerable exceptions to the process. But humour, as I have argued elsewhere, is a form of interpretation, meaning that employing it in a discussion is a matter of (practical) reason, and I would say the same of invocations of art (though artworks, it should be noted, may also be approached creatively rather than interpretively).⁸

Regarding the second group, the demand that interlocutors consistently tell the truth (as Habermas conceives of it) suggests that, at the very least, he fails to appreciate how such things as rhetoric, exaggeration, flattery, the odd white but tactful lie and so on can sometimes contribute to reconciliation.⁹ At the very most, we might take on board none other than Don Quixote's claim that "nothing that is directed at a virtuous end . . . can be called deception."¹⁰ Or consider *King Lear's* disguised but "honest" Kent, who once declared:

If but as well I other accents borrow,

⁶ Whence Sammy Basu's suggestion that "Habermas is perhaps the apogee of interlocutory humorlessness." Basu, "Dialogical Ethics and the Virtue of Humour," *Journal of Political Philosophy* 7, no. 4 (1999): 378-403, p. 380.

⁷ So much for Shelley's "In Defence of Poetry," in *Shelley's Poetry and Prose*, eds. Donald H. Reiman and Sharon B. Powers (New York: W.W. Norton & Co., 1977), which closes with the famous declaration that "Poets are the unacknowledged legislators of the world." For critiques of the later Habermas's restriction of the validity of art to the subjectivity of its creator, a kind of "subjective production aesthetics," see Pieter Duvenage, *Habermas and Aesthetics: The Limits of Communicative Reason* (Cambridge: Polity Press, 2003), ch. 5.

⁸ On humour as interpretive, see my (relatively humourless) "On the Minimal Global Ethic" (ch. 9 of this volume), part II; and for a survey of it in politics, see Alexander Rose, "When Politics is a Laughing Matter," *Policy Review*, no. 110 (Dec 2001 – Jan 2002): 59-71. For an example of art in politics, see Yvon Grenier's interesting study, *From Art to Politics: Octavio Paz and the Pursuit of Freedom* (Lanham, MD: Rowman & Littlefield, 2001).

⁹ For an interesting account of the social usefulness of lying, one nevertheless sensitive to its potential abuses, see Jeremy Campbell, *The Liar's Tale: A History of Falsehood* (New York: W.W. Norton & Co., 2001).

¹⁰ Cervantes, *The Ingenious Hidalgo Don Quixote de la Mancha*, trans. John Rutherford (London: Penguin Books, 2000), p. 631.

That can my speech defuse, my good intent
 May carry through (I.iv.1-4)

This, the possibility of falsehood contributing to truth, is obviously a difficult and complex issue. Perhaps a distinction (admittedly controversial) is in order here, one between what we could call the “plain truth” on the one hand and the “moral truth” on the other: only the latter may be served by deception. But rather than delve too deeply into the matter here I will simply suggest that Habermas’ conception of the need for truth-telling in conversation is not flexible enough to take account of its complexity. I would also add that his demand that speakers defend only what they really believe to be true reveals a utopianism that is at odds with the very nature of political practice. For politics is a certain way of responding to conflict and there will always be occasions when the plain truth must be counted among the antagonists.

One might also accuse Habermas of utopianism as a result of his third group of rules, the one which demands that all who are competent be allowed to participate. For this leaves us wondering whether legislative proceedings, which generally restrict speaking rights to elected representatives, are acceptable, or even whether it is permitted to limit participation to one’s fellow citizens who, after all, are the ones who must live with the laws that result. Not that contributions from non-citizens shouldn’t be welcome, only that, when the time comes to really decide, a citizenry should be able to do so on its own. Habermas’ rules, however, imply a cosmopolitanism that is incompatible with this.

Difficulties with the content of those rules aside, there’s also a more general problem. It is that the rules have their basis in theory, which means that the deliberations conforming to them will, to some degree at least, be detached from any practical context; as Habermas himself puts it, “discourses are islands in a sea of practice.”¹¹ But it is only within practical contexts that people may skilfully judge what is – and what is not – appropriate to a given conversation. Instead of fidelity to some theory, conversation requires that degree of sensitivity which comes from successfully employing one’s common sense. This means engaging in an interpretive form of reason, one that must be distinguished from theoretical reason since it is incompatible with the

¹¹ Habermas, “A Reply to My Critics,” in John B. Thompson and David Held, eds., *Habermas: Critical Debates* (Cambridge: MIT Press, 1982), p. 235.

application of a previously formulated system.¹² Only this way can we avoid the reduction, and so distortion, of our goods that inevitably comes with theory.¹³

Patriotic conversation, being thoroughly hermeneutical, avails itself of just such a practical form of reason. To the patriot, while it may be helpful to articulate a few culturally relative maxims about the practice of conversation,¹⁴ any theory will ultimately only get in the way. Partly this is because conversation is a skill, a “knowing how” rather than a “knowing that,”¹⁵ and no skill can ever be articulated either in the way, or to the degree, that theory requires. And partly it is because theories of conversation only shelter the practice itself from conversation since, as one theoretical philosopher once put it, theory aims “to present some matter so thoroughly researched that there remains no room for doubt, and so solidly presented that there remains no need for further discussion.”¹⁶ A patriotic politics, by contrast, will at least on occasion consist of conversations about conversation itself, and that is why any rules guiding them will be rules, not of theory, but of thumb (if even that).¹⁷

II

¹² See, for example, Hans-Georg Gadamer, *Truth and Method*, trans. Joel Weinsheimer and Donald G. Marshall (New York: Crossroad, 1989, 2nd ed.), pp. 19-30.

¹³ See Stanely G. Clarke and Evan Simpson, eds., *Anti-Theory in Ethics and Moral Conservatism* (Albany: SUNY Press, 1989); Dwight Furrow, *Against Theory: Continental and Analytical Challenges in Moral Philosophy* (New York: Routledge, 1995), ch. 1; Peter Levine, *Living Without Philosophy: On Narrative, Rhetoric, and Morality* (Albany: SUNY Press, 1998); my *From Pluralist to Patriotic Politics*, ch. 1; Bent Flyvbjerg, *Making Social Science Matter: Why Social Inquiry Fails and How It Can Succeed Again* (Cambridge: Cambridge University Press, 2001); and Jonathan Dancy, *Ethics without Principles* (Oxford: Oxford University Press, 2004).

¹⁴ For a survey of a number of manuals for good conversation, see the cultural historian Peter Burke’s “The Art of Conversation in Early Modern Europe,” in *The Art of Conversation* (Ithaca: Cornell University Press, 1993).

¹⁵ See Gilbert Ryle, *The Concept of Mind* (London: Hutchinson & Co., 1949), ch. 2.

¹⁶ Giovanni Pico Della Mirandola, “Letter to Ermolao Barbaro,” in Arturo B. Fallico and Herman Shapiro, eds. and trans., *Renaissance Philosophy*, vol. 1: *The Italian Philosophers* (New York: Random House, 1967), p. 110.

¹⁷ See David Bogen, *Order Without Rules: Critical Theory and the Logic of Conversation* (Albany: SUNY Press, 1999).

The reliance upon theory is responsible for another problem with deliberative democracy: its bias. Deliberative democrats often claim that their theories are “just formal,”¹⁸ but in reality at least three kinds of ideological assertion tend to be derived directly from them.¹⁹ First, the deliberations called for are said to be especially appropriate within the bounds of civil society, in particular, within its public sphere; only later, once a conclusion has been reached, will it be transmitted to or “pressed upon” the state. This, of course, is all about the development of “public opinion,” about the “will-formation” of a *demos* located within a civil society seen as autonomous from the state. As Karl Marx, of all people, once put it so well: “in a democracy the constitution, the law, the state, insofar as it is a political constitution, is itself only a self-determination of the people, and a particular content of the people.”²⁰

But this is only one version of democracy. It is one, moreover, that leads deliberative democrats to emphasize such representative mechanisms as polling and referenda over political parties. Yet the former are much more at home in republican democratic systems such as those in the United States or Germany than in parliamentary ones such as Britain’s or Canada’s.²¹ In a parliamentary system, the background assumption is that the power to govern originates not in “the People” but in “the Crown,” which resides in parliament. The locus of political power is thus, given its different source, otherwise situated: closer to the citizenry’s representatives in parliament, and so within the domain of the state, than to the People in civil society. That, for example, is why no

¹⁸ As in, for example, Simone Chambers, *Reasonable Democracy: Jürgen Habermas and the Politics of Discourse* (Ithaca: Cornell University Press, 1996), pp. 164, 172.

¹⁹ I refer to “ideology” here in a relatively non-pejorative way. To me, any doctrine meant to provide us with guidance as to how to respond to specific political conflicts, whether these concern questions of institutional design or everyday policy making, is an ideology. See my “Political Philosophies and Political Ideologies” (ch. 1 of this volume).

²⁰ Marx, “Contribution to the Critique of Hegel’s Philosophy of Law,” in Marx and Frederick Engels, *Collected Works*, vol. 3 (New York: International Publishers, 1975), p. 31.

²¹ The classic case for “deliberative opinion polls” is made in James Fishkin, *Democracy and Deliberation* (New Haven: Yale University Press, 1991). Joshua Cohen, however, is one deliberative democrat who writes of the beneficial role of parties, albeit not for the reason I’m about to give here. See Cohen, “Deliberation and Democratic Legitimacy,” in Bohman and Rehg, eds., *Deliberative Democracy*, pp. 85-6. John Uhr emphasises parties as well and so could also be considered an exception, if not for the fact that his account, based as it is on a peculiar proceduralist reading of Aristotle, should ultimately not be considered a version of deliberative democracy. The Australian parliamentary background to his approach thus comes as no surprise. See Uhr, *Deliberative Democracy in Australia: The Changing Place of Parliament* (Cambridge: Cambridge University Press, 1998).

parliament will ever wear a sign such as the one posted above the entrance to the German *Reichstaag*, which proclaims its dedication to “*Dem deutschen Volke / The German People.*”

The role of the political party in parliamentary democratic representation is thus, at least in principle, more significant than the poll or referendum since the party, given its presence directly within parliament, is, once again, much closer to the locus of political power. Moreover, rather than lending support to a conception of the state as a tool distinct from the *demos* employing it, the party, through its membership, is an institution capable of *connecting* parliament, and so the state, to civil society. In deliberative democracy, however, whether or not there are also occasional calls for deliberations to take place within the institutions of the state, emphasis is placed on the quality of discourse located in the public sphere, and in a way that invariably affirms civil society’s independence from, rather than connection to, the state. Whenever deliberative democrats defend deliberative forums of citizens, for example, these rarely if ever include politicians. No surprise, then, that the state and civil society are considered to partake of qualitatively different forms of power: a “communicative” one said to arise from successful deliberation in civil society’s public sphere and an “administrative” one associated with the functions of the state.²²

One result of all this is that deliberative democrats – regardless of how they differ over the balance to be struck between the two elements of that famous accommodation, “liberal democracy”²³ – all assume that it is indeed a balance that needs to be struck. For they see each set of principles, the liberal and the democratic, as practically rooted in independently distinct domains: the state for the former and the public sphere for the latter. Hence their belief that a zero-sum dynamic is the best that can be had between them. But all this, again, arises from a tendency to favour polling and referenda over parties and it thus reveals an insensitivity towards the diversity of real-world democratic political cultures. No good general account of conversation in politics should,

²² See Habermas, *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy*, trans. William Rehg (Cambridge, MA: MIT Press, 1996), pp. 307-8, 486-7.

²³ Works which call for more weight to be given to the democratic side of the balance include Habermas, *Legitimation Crisis*, trans. Thomas McCarthy (London: Heinemann, 1976); Nancy Fraser, “Rethinking the Public Sphere: A Contribution to the Critique of Actually Existing Democracy,” in Craig Calhoun, ed., *Habermas and the Public Sphere* (Cambridge, MA: MIT Press, 1992); James Bohman, *Public Deliberation: Pluralism, Complexity, and Democracy* (Cambridge, MA: MIT Press, 1996), esp. ch. 4; and John S. Dryzek, *Deliberative Democracy and Beyond: Liberals, Critics, Contestations* (Oxford: Oxford University Press, 2000); while a greater willingness to endorse liberal institutions can be found in Habermas, *Between Facts and Norms*; and Bohman, “The Coming of Age of Deliberative Democracy,” *Journal of Political Philosophy* 6 (1998): 399-423.

in itself, have anything to say about particular institutions or practices, since that requires interpreting a given polity's particular traditions. Abstract theory, once again, can only get in the way.

It should go without saying that the choice of some deliberative democrats to endorse *liberal* democracy constitutes another case of ideological bias on their part. This choice results from one of the conditions of discourse said to be established by their theory: the respect for the equal liberty of individuals. But is this form of equality, understood as requiring an equality of power, really a requirement of genuine conversation? I would say not. True, interlocutors must be willing to speak and listen in turn if they're to have a hope of reconciling, and this means striving together in the attempt to articulate truths that they may share in common. But they do not have to be equal in power to do these things; on the contrary, people who are radically unequal whether in terms of physical strength, wealth, communication skills, etc., are still capable of demonstrating the necessary will. Indeed I would go as far as to suggest that deliberative democrats themselves haven't room for this sense of equality since, when it comes to what they describe as the "ideal case," i.e., when "the only power that prevails," as Habermas once put it, is the "force of the better argument," such power is not, in fact, "a force equally available to all."²⁴ This is so for the simple reason that some people are just smarter than others. Rather than equality of power, then, we would do better to follow Martin Buber for whom real dialogue requires only a kind of "symmetry" between interlocutors, one based upon their willingness to participate in the genuine back-and-forth – the tactful speaking and earnest listening – that is essential to it.²⁵

That said, affirming the obligation to listen, to converse with an opponent, is a way of expressing a basic respect for him or her, and this is something that modern patriots share with deliberative democrats. Yet the former do not affirm this respect as an abstract principle, as grounded, say, in a conception of humanity divested of all socially assigned roles. On the contrary it is, we might say, the dignity of "personhood" rather than "humanity" that is being affirmed, and in a way that *honours* the individual by recognizing that, though his or her position seems to be quite wrong, they nevertheless deserve to be listened to. It is in respecting individuals in this way, then,

²⁴ Joshua Cohen and Joel Rogers, "Power and Reason," in Archon Fung and Erik Olin Wright, eds., *Deepening Democracy: Institutional Innovations in Empowered Participatory Governance* (New York: Verso, 2003), p. 242.

²⁵ See Buber, "Dialogue," in *Between Man and Man*, trans. Ronald Gregor Smith (Boston: Beacon Press, 1947).

that the patriot can be said to respect the integrity of civil society, and hence endorse a modern form of politics.

But this never done in an absolute way. For oftentimes one just cannot avoid turning to negotiation or even force. Deliberative democrats, however, affirm their principle of the equal liberty of individuals as something uncompromisable, as something that deserves to be granted special protection when it comes into conflict with other values. Many of the more liberal deliberative democrats, for example, would have us enshrine the rights that derive from this principle within a justiciable constitution.²⁶ Yet this means that those rights are subject to neither conversation nor negotiation but to the *pleading* that courtroom proceedings make necessary. So although I myself am a (Canadian) liberal, I must confess to being astonished at the assumption revealed here, namely, that *everyone* in a democracy must affirm not only this particular ideology but also a “neutralist” form of it, one that encourages the idea that a constitution should be justiciable. Is it not, however, precisely because there is genuine ideological diversity within Western polities that citizens often find themselves facing conflicts over the principle of the equal liberty of individuals? This means that the only way those citizens are going to be able to respond to those conflicts dialogically, and so politically, is if they refuse to grant the principle – indeed any principle – an overriding status from the start.

The same applies to all of the deliberative democrat’s rules. Why, one wonders, have the liberal deliberative democrats stopped with the rights associated with the equal liberty of individuals? That is, why not enshrine into law – constitutional or otherwise – all of the rules purportedly essential for successful deliberation? For example, how about a statute that prohibits those participating in deliberations from lying? Of course few if any deliberative democrats would support such a law, but given their presuppositions I fail to see their reasons for doing so. On what grounds would they distinguish it from those laws derived from the other rules deriving from their theory? Rather than wait for the answer to this question, however, I would suggest that we turn instead to an approach that takes as its starting point – not some theory – but the practices constitutive of a given country’s political culture.

²⁶ See, for example, Carlos Santiago Nino, *The Constitution of Deliberative Democracy* (New Haven: Yale University Press, 1996), esp. ch. 7.

Another of the deliberative democrats' biases is revealed by their call for greater levels of political participation than one sees in Western polities today. Of course this is also the kind of recommendation one would hear from the classical republican. Yet few, if any, deliberative democrats would echo the ancient claim that the life of politics is an intrinsic good in its own right. Rather, their concern with participation is at least partly derived from their theory's requirement that anyone competent be allowed to participate. To the modern patriot, however, any such abstract favouring of more participatory political cultures is inappropriate. This is not because greater participation is considered a bad thing; indeed, the patriot concurs with the classical republican that political liberty is an intrinsic good (albeit with the caveat that it is one such good among many and that, like the others, it requires different kinds and degrees of emphasis in different contexts, different political cultures). The point is that, to patriots, calling for more (or even less) participation in politics is more of a cultural than a philosophical matter, which is to say that it is something that should be highly relative to given polities. No philosophical account of conversation ought, on its own, to have very much to say about how many people should be joining in; on the contrary, that is just the kind of thing about which compatriots ought to be conversing.

III

Another criticism arises from what strikes me as the deliberative democrat's too-strong division between just and rational deliberation or conversation on the one hand and self-interested and coercive bargaining or negotiation on the other. In deliberative democracy, deliberation is said to require offering "reasons" as distinct from emotional appeals or "interests," the latter being considered the stuff of the negotiator. Arguments ought not to refer to particular persons or groups but must instead constitute disengaged and generalized claims that speak to the good of everyone.²⁷ Some deliberative democrats go even further, demanding that claims be "reciprocal," meaning that one must be able to assume that others who do not share one's particular world-view should

²⁷ One of the clearest formulations of this is also one of the earliest. See Habermas, *Legitimation Crisis*, p. 109.

nevertheless still be able to accept them.²⁸ Regardless, the consistent assumption is that good reasons are detached in the way demanded by most modern forms of theory.

But one not only does not need detachment to arrive at the common good, it is actually an impediment to doing so. For common goods are things that are shared by particular communities in particular historical contexts; a community's members will thus be capable of being true to their common good only if they, too, remain engaged with their own particularity. Hence the need for a conception of conversation in which interlocutors remain intimately connected to the goods that constitute their identities. Only this way can they be capable of listening for how to transform those goods in order to bring about reconciliation. Realising the common good, that is, cannot be a matter of *transcending* differences, of reaching a consensus about some detached thing. Indeed the detachment required of a deliberative democratic public would, to borrow an argument from Kierkegaard, make its members care less, rather than more, about each other, for people can only feel real commitment when they are present in the concrete.²⁹ Moreover, the reconciliation of particular differences can only arise from integrating the specific goods upon which those differences are based. Only this way can those reconciliations be compatible with a respect for difference since, as hermeneutics teaches us, understanding is always understanding *differently*.³⁰ So just as the classical republican could never have imagined citizens taking on a stance as detached as that which deliberative democrats recommend, the modern patriot rejects disengaged, procedural practical reasoning.

The plausibility of patriotic conversation is only enhanced when we contrast its requirements with another of the deliberative democrat's: the belief, ironic given the argument above, that interlocutors must exhibit something of an altruistic spirit if the common good is to be fulfilled. The problem here is that it makes the call for conversation in politics sound naïve, particularly given the many inequalities that conflicting interlocutors can be expected to bring with them to the political arena. Patriots, however, hope for nothing other than avoiding the concessions

²⁸ See, for example, Amy Gutmann and Dennis Thompson, *Democracy and Disagreement* (Cambridge, MA: Harvard University Press, 1996), ch. 2.

²⁹ See Kierkegaard, *The Present Age*, in *The Present Age and Of the Difference Between a Genius and an Apostle*, trans. Alexander Dru (New York: Harper and Row, 1962), esp. p. 63.

³⁰ See Gadamer, *Truth and Method*, p. 309.

required by negotiation through progressively transforming, rather than compromising, their conceptions of the good. That is why patriotic citizens listen to each other, to the justifications being offered, for they hope to learn something and so improve their positions. This is not altruism so much as what we might identify as a non-instrumental form of enlightened self-interest.³¹

Patriotism, it should be evident, adheres to a substantive rather than procedural conception of ethics, one that rejects the selfishness-altruism dichotomy underlying the latter. It thus avoids another difficulty plaguing the deliberative democrat, or would if he or she recognized it. Like patriots, deliberative democrats accept that there are times when it is legitimate for citizens to give up on achieving consensus – times, that is, when the conversation unavoidably breaks down.³² Yet the move to negotiation that (one hopes) will follow cannot consist of some stark motivational shift from ethics to self-interestedness, nor from a formal to a purely instrumental form of rationality. On the contrary, the patriot concurs here with the pluralist for whom good-faith negotiations (as distinct from the *realpolitik* kind) are those that are based upon a willingness to *tolerate* the other, to make at least some concessions for reasons other than that one feels forced to do so. Such negotiation cannot be associated with a notion of practical reason that requires either respecting certain abstract deontic constraints or employing disengaged calculations of rational choice. Yet while deliberative democrats do distinguish between fair and unfair bargaining – “fair” consisting of respect for the procedures meant to ensure that parties have an equal opportunity to pressure each other³³ – those parties are nevertheless still said to act in accord with a strictly instrumental form of rationality. Otherwise put, there is no room for making the kinds of concessions that genuinely good-faith negotiations require.

Moreover, even the sometimes legitimate move to force, which arises when negotiations have unavoidably broken down, cannot be considered rational in deliberative democratic terms. While deliberative democrats have a theory about how to deliberate, that theory is silent about when it ought to be suspended; as a consequence, one might say, they just don’t know when to stop. For they simply have no place for a form of judgment that is *engaged with* rather than

³¹ For more on patriotic conversation, see Susan Bickford, *The Dissonance of Democracy: Listening, Conflict, Citizenship* (Ithaca: Cornell University Press, 1996); and my *From Pluralist to Patriotic Politics*, ch. 3.

³² See *ibid.*, ch. 3; and Chambers, p. 160.

³³ See Habermas, *Between Facts and Norms*, pp. 166-7.

disengaged from the context, and this is precisely what's required when one must decide to shift from conversation to negotiation or from negotiation to force. Otherwise put, what's needed is that practical kind of reason which I associated above with common sense, one that we can specify further here as sharing a great deal with Aristotle's notion of *phronēsis* or practical wisdom. Deliberative democrats, however, have made the choice for Kant over Aristotle, and the result is that their notion of practical reasoning is simply far too abstract to do the job required.

IV

The final criticism that I want to make is, I think, the most significant. Above, I described deliberative democrats as calling for a politics that, like the classical republican's and the modern patriot's but unlike the pluralist's, affirms the common good.³⁴ That said, deliberative democrats would have us meet this ideal quite differently from the other two. For one thing, as we've already noted, they assume that deliberation should aim for generalizable reasons that require individuals to at least partly disengage from their particular identities. But this makes available only a very restricted form of solidarity between citizens, essentially a "solidarity among strangers."³⁵ Both the patriot and the classical republican, by contrast, uphold a kind of *friendship* between citizens, one that they consider essential if there is to be talk of genuine compatriots.

Another contrast arises from the particular way in which the deliberative democrat's theory of discourse asserts "the boundaries between 'state' and 'society'."³⁶ As we've seen, the two are conceived as separate from each other, with an emphasis placed on the autonomy of civil society's public sphere. This separation, however, as well as the embrace of the fragmentation or plurality of discourses within the public sphere that sometimes comes with it,³⁷ means that there is no place for a conception of the common good that is larger than that shared by the *demos*. That is why the

³⁴ Some deliberative democrats are more explicit about this than others. Samuel Freeman is particularly so. See his "Deliberative Democracy: A Sympathetic Comment," *Philosophy and Public Affairs* 29, no. 4 (2000): 371-418, pp. 372-3.

³⁵ Habermas, *Between Facts and Norms*, p. 308.

³⁶ *Ibid.*, p. 299.

³⁷ See, for example, *ibid.*, pp. 168-76, 373-4; and Dryzek, *Deliberative Democracy and Beyond*, pp. 50-1.

deliberative democrat's state cannot be said to express, even occasionally, an "ethical community,"³⁸ which is to say a civic or political community that encompasses *all* citizens, including those who spend their time in and around the state or economy rather than in the public sphere. Now this, I would claim, is a serious failing.

One reason why has to do with the basically functionalist grounds upon which deliberative democrats establish the independence of the domains of state and civil society. In deliberative democracy, the state cannot exhibit communicative action; it cannot be the locus of a genuine political conversation. This is because, unlike the people in the public sphere, state agents must meet certain imperatives if they are to secure the state's longevity and stability. For example, there are times when politicians must simply come to a decision and this means that they haven't the luxury to deliberate in a genuinely open-ended way. Interestingly, some social-choice critics of deliberative democracy have made the very same claim about deliberations in the public sphere:

Deliberation theorists . . . wish away the vulgar fact that under democracy deliberation ends in voting . . . Deliberation may lead to a decision that is reasoned: it may enlighten the reasons the decision is taken and elucidate the reasons it should not be taken. Even more, these reasons may guide the implementation of the decision, the actions of the government. But the authorization for these actions, including coercion, originates from voting, counting heads, not from discussion.³⁹

Deliberative democrats, however, effectively counter this charge and thus reaffirm their state–public sphere distinction by arguing that government is not only responsible for the “implementation” of decisions since it is, for the most part, within its domain and not that of the public sphere that those decisions are taken. Not being subject to a similar pressure to decide, those situated within the public sphere are able to achieve the openness conducive to developing influential discourses, a luxury considered unavailable to state agents. As John Dryzek writes,

³⁸ Habermas, *Between Facts and Norms*, p. 296.

³⁹ Adam Przeworski, “Deliberation and Ideological Domination,” in Elster, ed., *Deliberative Democracy*, pp. 141-2.

Democratic life is not just the endless interplay of discourse. There have to be moments of decisive collective action, and in contemporary societies it is mainly (but not only) the state that has this capacity. Discourses and their contests do not stop at the edge of the public sphere; they can also permeate the understandings and assumptions of state actors. Yet it is important to maintain a public sphere autonomous from the state, for discursive interplay within the public sphere is always likely to be less constrained than within the state. It is within the public sphere that insurgent discourses and identities can first establish themselves.⁴⁰

Similarly, according to Habermas,

Only the political system can “act.” It is a subsystem specialized for collectively binding decisions whereas the communicative structures of the public sphere constitute a far-flung network of sensors that react to the pressure of society-wide problems and stimulate influential opinions. The public opinion that is worked up via democratic procedures into communicative power cannot “rule” of itself but can only point the use of administrative power in specific directions.⁴¹

In deliberative democracy, then, the voice of the people is heard more through the “context of discovery”⁴² it establishes as a result of deliberations within the public sphere than through voting. And this is specifically because the people, unlike state agents, do not feel a similar pressure to decide.

But the “deliberation–decision” dichotomy underlying all of this is nevertheless overdrawn. For it contains within it an exaggerated notion of a decision as something that comes only *after* all the talking has finished, as marking a “moment” that breaks the flow of dialogue. In reality,

⁴⁰ Dryzek, *Deliberative Democracy and Beyond*, pp. 78-9.

⁴¹ Habermas, *Between Facts and Norms*, p. 300; see also *ibid.*, pp. 361-2; and Bohman, *Public Deliberation*, p. 179.

⁴² Habermas, *Between Facts and Norms*, p. 307.

however, time in no sense stops when a decision is taken. No decision is ever really final; indeed even the application of one often invites debate.⁴³ As Paul Ricoeur once put it: “every judgement calls for a ‘but’ beyond itself.”⁴⁴ And after all, what are reasoned decisions if not interpretations of what must be done, and was not Hans-Georg Gadamer right when he declared that “conclusive interpretation simply does not exist”?⁴⁵ In consequence, I suggest that we recognize the following possibilities. In the best (patriotic) case, when a decision is arrived at through successful conversation and so expresses a reconciliation, it can be expected to lose its controversial character and fade into the background. More often than not, however, decisions will be reached because people have participated in the give-and-take of negotiations; or because they have accepted the results of a vote; or, finally, because the state has imposed one even though a minority (and sometimes even the majority) continues to disagree. Now with regard to such cases it is indeed necessary to speak, to varying degrees, of coercion and not only dialogue. As Jocelyn Maclure has written,

It is not a question of closing one’s eyes before that other moment in politics: the moment of decision and institutionalization (the one previous being that of deliberation). This is the moment – tragic but unavoidable – when injustices are committed and liberties restricted. Sooner or later, and always in imperfect circumstances, a decision must be taken.⁴⁶

Maclure’s evident negativity here – “tragic but unavoidable” – smacks of pluralism, but he can nevertheless be said to share with the deliberative democrat the notion that the “moment” of decision is something sharply distinguishable from that of dialogue. But this, again, is a mistake.

⁴³ Here the Habermasian would respond that we need to distinguish between “discourses of justification” and “discourses of application” (see *ibid.*, p. 162), another distinction that, I would claim, is overdrawn.

⁴⁴ Ricoeur, “The Act of Judging,” in *The Just*, trans. David Pellaner (Chicago: University of Chicago Press, 2000), p. 128.

⁴⁵ Gadamer, “Epilogue to ‘Who Am I and Who Are You?’” in *Gadamer on Celan: ‘Who Am I and Who Are You?’ and Other Essays*, ed. and trans. Richard Heinemann and Bruce Krajewski (Albany: SUNY Press, 1997), p. 146. Elsewhere: “The very idea of a definitive interpretation seems to be intrinsically contradictory. Interpretation is always on the way.” Gadamer, “Hermeneutics as Practical Philosophy,” in *Reason in the Age of Science*, trans. Frederick G. Lawrence (Cambridge, MA: The MIT Press, 1981), p. 105.

⁴⁶ Maclure, *Récits identitaires: Le Québec à l’épreuve du pluralisme* (Montreal: Québec Amérique, 2000), p. 214; my translation.

For the debate often carries on after the decision is taken, with those on the losing end vowing to continue the struggle. This will surely influence implementation, as will any new debates that that implementation may itself trigger. And the latter will surely be influenced by the original, ostensibly completed debate. Given all of this, we should conclude that it is artificial to talk of some sharply distinct “moment” of decision, one that implies a clear break between dialogue on the one hand and coercive, wholly non-dialogical application on the other.

This leads me to call for a blurring of the deliberative democrat’s distinction between the domains of state and civil society. True, there may be more deliberating going on in the latter and more decision taking in the former, but appreciating that these two activities are not all that different means that any line we might wish to draw between the two domains should be “dotted” rather than “solid.” And how else to interpret the spaces in that line if not as indicative of there being something shared between the members of a community within which both state and society are situated? This is the civic or political community, the one that patriots put at the centre of their concerns.⁴⁷

Another challenge to the way deliberative democrats distinguish between state and society can lead us to the same conclusion. This one has to do with how they believe the public sphere and the state ought to relate: the former, it is said, should “transmit” its deliberations to the latter. Whatever this means, exactly, it certainly does not consist of the kind of pure deliberation in search of the common good said to have its place within the public sphere. As Habermas writes, for example, the communicative power generated in the public sphere is to be “exercised in the manner of a siege”⁴⁸ on the state. And Dryzek has expressed a worry that Habermas’ vision is not adversarial *enough*, his concern being that there is a threat of the “co-option” of social movements by the state. This leads him to go as far as to recommend that those in the public sphere work on behalf of the “insurgency” of the state.⁴⁹ Similarly, while Dryzek is willing to emphasize the public sphere’s discursive capacity to change the terms of political debate within the state, he nevertheless specifies that this is discursive only in a Foucaultian and so non-communicative sense.⁵⁰ At least

⁴⁷ See my *From Pluralist to Patriotic Politics*, ch. 5.

⁴⁸ Habermas, *Between Facts and Norms*, pp. 486-7.

⁴⁹ See Dryzek, *Deliberative Democracy and Beyond*, ch. 4.

⁵⁰ *Ibid.*, p. 52.

Habermas, as we've seen, writes of the public sphere's ability to establish a certain context of discovery that can influence the debates taking place between state agents. Hence his claim that "in the discursively structured opinion- and will-formation of a legislature, lawmaking is interwoven with the formation of communicative power."⁵¹ In Habermas' case, then, we ought to conceive of the transmission of deliberations from civil society to the state as characterized by a *mix* of communicative and other, non-truth-seeking forms of discourse. We may say the same of James Bohman: "the debate mixes together argumentation, compromise, and bargaining, as well."⁵²

But there is a problem with this whole picture. It is that, practically speaking, such a mix is just not viable. For conversation is an extremely fragile mode of dialogue; it can be an effective response to conflict only when *all* participating parties strive to engage *thoroughly* in the kind of speaking and listening that it requires. One might say that, while disagreeing, conversationalists must be "opponents" who are not also "adversaries," which is to say that they need to strive, as well as be seen to be striving, *together* in the search for their common good.⁵³ The slightest indication that one party has taken on an adversarial stance will make the other defensive and thus undermine its capacity to listen; the conversation will, accordingly, break down. This means that while it is possible for adversarial interlocutors to learn things indirectly from their exchanges – hence wrong to suggest that no reconciliation, no integration, could ever emerge from their encounter – we still shouldn't be speaking of genuine conversation here. "Mix," in consequence, is simply not a feasible characterization of the deliberative democrat's transmission mechanism.

It should thus come as little surprise that in deliberative democracy no real reconciliation is possible, much less encouraged, between state and society. Citizens, as a result, cannot aim for the realization of the civic, political community as a whole. Now while this will not induce much worry on the part of the deliberative democrat, the patriot would indeed object. For can we never strive for a degree of reconciliation between the state agents and other citizens? Only the (unwarranted) assumption that an impermeable border lies between the state and civil society rules this out, for conversation, as we've seen, requires there to be at least some spaces in that line.

⁵¹ Habermas, *Between Facts and Norms*, p. 162.

⁵² Bohman, *Public Deliberation*, p. 175.

⁵³ On the distinction, see my "Opponents vs. Adversaries in Plato's *Phaedo*" (ch. 11 of this volume).

Moreover, recognizing such spaces means recognizing that, depending on the issue being discussed, such conversations have the potential to realise much more than just “democracy” strictly speaking. To the patriot, that is, democracy is but *a part* of good governance, a feature of a larger whole – “politics” – within which democracy is distinct from, yet always to a degree integrated with, the other parts. Not only the People, but also a respect for the individual, a concern for economic welfare, for the environment, and so on, all these goods make calls that conversing patriots strive to heed.

V

I consider this essay itself to be a contribution to such a conversation. My disagreement with deliberative democrats, that is, is oppositional but not adversarial, since I believe that we can all be said to share a concern for the truth of the matter that is in question here. Otherwise put, getting a better understanding of conversation’s role in democratic politics is a good that we hold in common. Moreover, even though this particular conversation is, for the most part, limited to the bounds of civil society, I doubt that any of the participants would truly prefer to have its conclusions *pressed* upon the state in an adversarial manner. For who could possibly be disappointed if it turned out that our political representatives were genuinely convinced to go along?

I would also point out that academic conversations such as this one simply do not respect anything like the rules of discourse theory. For one thing, they are certainly not open to all comers: books and journal articles are vetted by appointed readers before publication and not all proposals for delivering papers at conferences are accepted. For another, there is today a whole school of political thought – namely, the postmodernist – whose contributions often consist of ironic wordplay and self-consciously contradictory assertions. Yet few, if any, of those opposed to the approach would support banning its advocates from the discussion on the basis of some rule of discourse. In fact, many of those who do disagree with it have happily pointed out how it has been parodied by a paper which had been submitted under false pretences to an academic

journal that was nevertheless fooled into publishing it.⁵⁴ Falsehood, they would thus have to admit, is indeed sometimes the way to truth.

Finally, it should go without saying that the participants in this discussion are of a variety of ideological persuasions. Not only liberalism but conservatism, socialism, feminism, green ideology, nationalism – all these and more have their voices, though liberalism happens to be the loudest amongst academics today. The hope, however, is that before speaking up on behalf of their respective ideological preferences all will come to the conversation with a truly open mind. For that is what patriotism demands.

⁵⁴ I'm thinking, of course, of what's come to be known as "the Sokal hoax." See the editors of *Lingua Franca*, eds., *The Sokal Hoax: The Sham that Shook the Academy* (Lincoln: University of Nebraska Press, 2000).