The Politics of Dissensus and Political Liberalism

Jan Harald Alnes, UiT The Arctic University of Norway

Abstract

An emerging branch of political theory, "the politics of dissensus," starts out from the premise that in order to understand the politics of constitutional democracies, one needs to focus on parliamentary politics, which compromises both institutional settings and debates. Politics takes place among adversaries, and dissensus and argumentation *pro et contra* is the rule. The focus on the conditions for consensus in contemporary democratic theory accordingly misses the essence of politics. The politics of dissensus tends to think that the political philosophy inaugurated by John Rawls, political liberalism in particular, is too idealistic and utopian to capture real parliamentary politics. I argue that this basic objection against political liberalism is misconceived. To the contrary, the politics of dissensus and political liberalism supplements each other. The impact of my argument is that research in these disparate fields of political studies ought to enlighten each other.

I: The topic

In "Has Philosophy Lost Contact with People," Willard Quine states that "Until the nineteenth century, all available scientific knowledge of any consequence could be encompassed by a single first-class mind." However, "This cosy situation ended as science expanded and deepened. Subtle distinctions crowded in and technical jargon proliferated, much of which is

genuinely needed."[1] Today, this is the situation even within the individual sciences, and the field "Political Philosophy" or "Political Science" – labels are inconsequential – is no exception. Reflections over theories of justice and the normative foundations of democracy, on the one hand, and parliamentary studies, on the other, are but two examples of specialized subfields within political philosophy or political science.[2] Roughly speaking, the former reflects on abstract normative principles and the latter investigates real politics as it takes place in space and time. Although new distinctions and improved technical jargon are necessary to bring political philosophy forward, specialization has its drawbacks. The great philosopher and political theorist J. S. Mill reflected on the fundamental normative principles of the ideal form of government *and* ways of organizing and improving the structure of and the debates within the English parliament, in one volume.[3] The situation today appears to be that the theorists who study the normative foundations of democracy find what goes on in parliaments to be more or less irrelevant to their subject, while those who study the complex organization of parliaments, and how politics unfolds in these institutions, suspect the former theorists to be out of touch with *politics*.

I find this tendency unfortunate from both an intellectual and a practical point of view. My attempt at a remedy is to focus on the political liberalism inherited from John Rawls and on a recent collection of essays on parliamentary studies, unified by the committal and substantial title *The Politics of Dissensus*. In this essay, I use "the politics of dissensus" and "political liberalism" as markers for given theoretical conceptions. My aim is to demonstrate that despite the impression to the contrary, encouraged by the term "overlapping consensus" and other reasons, political liberalism does not exclude or even unjustifiably restrict politics, and that it is consistent with the politics of dissensus's empirical-historical and less normative approach to politics. Given that these fields are consistent and guided by dissimilar aims and conceptualizations, it seems to me that combined studies in the spirit of Mill might prove

fruitful.[4] My purpose is not to evaluate the politics of dissensus or political liberalism *per se*, but to reflect on their conceptual relationship.

Political liberalism is here understood as a realistic utopia, and, accordingly, politics is approached from the point of view of a well-ordered society.[5] Now, as is well known, Rawls wrote *Political Liberalism* against the constitutional background that he knew from the "inside," namely that of the USA. A central feature of this constitution is that it has a strong judicial review, and consequently the principal political reasoning is paradigmatically displaced by the written verdicts of the Supreme Court. Many European democracies, England in particular, have weak, if any judicial review and the principal political reasoning takes place in the parliament.[6] I do not view this as a problem for political liberalism, as the main point is that principal or public reason plays a crucial role in deliberative democracy, not its primary forum.[7] The assumed realistic utopia simplifies my analysis and it is justified by the fact that if it is correct that politics – as circumscribed by the collection of papers in *The Politics of Dissensus* – is an essential feature of democratic well-ordered societies with a strong parliamentary system, politics is present in any constitutional democracy of that kind. My main point is that political liberalism gives a model for the logic and limits of deliberation and it is not a consensus theory of politics.

I begin by introducing main features of the politics of dissensus (Part II). I then show that the overlapping consensus that lies at the heart of political liberalism is not itself the result of deliberation (Part III). After this, I argue that political liberalism is coherent with the view on parliamentary deliberation developed by the politics of dissensus (Part IV). In the fifth part, I turn to the so-called "Conversational model" of deliberation. I demonstrate that even if political liberalism accepts this model, which is a question I leave open, it does not mean that failing to reach a consensus signals that the debaters have not tried hard enough or have not been sincere, or anything like that. It all depends on one's take on the idea of the "force of the

better argument." I provide some comments on the normative idea of public reason and I introduce a topic for an empirical parliamentary study that I believe would enlighten the present speculations.

II: The Politics of Dissensus

In the introduction to their recent book, Kari Palonen, José María Rosales and Tapani Turkka boldly state that

> *The Politics of Dissensus* argues a novel perspective on the study of parliamentary politics. Although it shares the recognition and appreciation of the practices of parliamentary politics, it inverts the traditional perspective by focusing on its less obvious and less well-known aspects. Dissensus instead of consensus then becomes the *raison d'être*, the conceptual condition for the intelligibility of parliamentary politics.[8]

The framework, the conceptual web, of this perspective is that of a constitutional liberal democracy with a strong, law-making, and responsible parliament, and with weak judicial review. Although this is a "novel perspective," the politics of dissensus draws on a distinguished tradition within political science and the history of ideas. It is deeply influenced by the understanding of politics expressed in the writings of Max Weber and Quentin Skinner. A basic premise to these authors is the dynamic and holistic character of politics, where no concepts, or point of view, including human rights, liberty or equality, are sacred and withdrawn from contextual interpretation.[9] According to the editors of *The Politics of Dissensus*, "for decades parliament's political centrality has been disregarded by democratic theory."[10] "Democratic theory," as the term is used here, points towards studies within political science that focus on existing forms of democratic deliberations, such as town meetings, worker-managed

organizations, and mini-publics, and conduct experiments with different deliberative set-ups.[11] As a rule, these studies take consensus to be the core-concept of deliberation, and they look for the success-principles for obtaining this result in varying circumstances. Political dissensus maintains that these widespread attempts at spelling out the characteristics of deliberative democracy are politically inconsequential, as they do not provide models for the real and important political deliberation that takes place in parliamentary debates.[12] Consequently, they miss out one of the prerequisites for understanding politics, and thereby the very core of deliberative democracy. In their own words and with a historical touch: "Normative democratic theory, however, soon separated the idea of deliberative democracy from parliament (…) thus depoliticising parliaments."[13] Although I am not going into the main features of democratic theory, the topic is complicated and demands a separate treatment, I would like to mention that the dialectic situation is delicate. Political dissensus uses "depoliticising" in a negative sense, while to democratic theory it is positively loaded. For the latter, it is crucial to preserve or save certain areas of human interaction and deliberation from politics, as it distrusts the power relations, the voting systems, and the external factors that typically influence on the verdicts made by the parliament. Such factors makes politics less rational and consensus-oriented than well-functioning deliberation aimed at truth, justice, or some other high non-political value.[14] It seems to me that when politics of dissensus introduces a distinction between "parliamentary politics" and "politics in parliament," part of the purpose is to separate two factors that they think are conflated in democratic theory.[15] In any case, at present, I focus exclusively on parliamentary politics.

The passage from the introduction to *The Politics of Disensus*, cited above, continues:

Certainly parliamentary politics is indebted to the rhetorical culture of addressing issues from opposite views and debating the alternatives *pro et contra*. In parliamentary

procedure dissensus and debate are institutionalised: no motion is approved without a thorough examination of and confrontation among imaginable alternatives.[16]

To keep things simple and in line with the politics of dissensus, let us understand political deliberation as argumentation *pro et contra*.[17] Let us call the proposition or course of action that grounds the argumentation for "Pc" (standing for "Proposition/course of action under consideration"). The debaters pay (or appear to pay) due respect to the relevance and validity of the arguments that support or oppose a given Pc.[18] The debate is fair, according to some specification or another of this multifarious notion.[19] The debaters have (or argue as if they have) a common aim, namely to reach the just or best outcome in accordance with some independently fixed notions of "just" or "good."[20] It is important not to misunderstand this description in the direction of some given and ready-made criterion for judging the strength and weaknesses of an argument. In accordance with the Weberian and Skinnerian insights alluded to above, it is evident that no criterion is fixed and withdrawn from controversy and deliberation.[21] In real political debates taking place inside or outside the parliament, a consensus is the exception, not the rule:

Although the omnipresence of dissensus, conflict, controversy, dispute and debates in politics is widely acknowledged, they tend to be regarded in political institutions as provisional stages to be overcome in the final moment of decision-making. Our perspective turns the terms around to see final decisions as temporary de-actualizations of dissensus, whereas dissensual activities are taken as the heart of politics. Consensus is understood as a marginal case of dissensus, visible in moments such as, for instance, that it is better to agree upon some budget than none. Politics is, in other words, a quintessentially contingent and controversial activity (…) the guiding procedural

principle of parliamentary politics teaches that the political content of a proposal can only be judged if it is examined from opposing perspectives and confronted with alternative proposals.[22]

The fruitfulness of this general approach to parliamentary debates is clear from the collections of articles in *The Politics of Dissensus* and *Parliamentarism and Democratic Theory*.[23] Fortunately, for the present purposes, we do not need to go beyond this rough picture. For, despite the fact that I have not encountered any theoretical explanation of the basic notion of argumentation *pro et contra* among the scholars of political dissensus, it is clear that in their opinion reasoning and argumentation do take place in parliamentary politics, not just screaming and stamping of the feet. My apparently paradoxical claim is that to view the nature of politics as a primarily dissensual activity is consistent with political liberalism's approach to parliamentary debates (in a well-ordered society) as based on an overlapping consensus. Formulated differently, given that a focus on consensus makes politics into something it is not, and should not be, political liberalism does not debar politics.[24] Let me reformulate in light of a remark from *The politics of Dissensus*:

> Parliamentarism establishes the openness of political debating, and its relying on an irreducible plurality of perspectives has become a distinctive historical contribution to the rise of parliamentary democracy.[25]

I am going to argue that "an irreducible plurality of perspectives" is a characterizing feature of political liberalism, due to the fact of reasonable pluralism. This stands in sharp contrast to most versions of comprehensive liberalism.[26]

III: Deliberative Consensus versus Overlapping Consensus

Rosales maintains that "the most salient features of deliberative democratic theory" in Rawls's writings is to be found in the analysis of the deliberation that takes place in the analytic tool called "the Original Position" in *A Theory of Justice*.[27] The fall-out of the deliberation is the social conception of justice labelled "justice as fairness."[28] As Rosales observes*:*

> The veil of ignorance means a requirement for impartial deliberation, unlikely reproducible in real deliberative processes unless adapted, but valid as procedural ideal guarantee in the formulation of a theory of justice. Discussing the 'status of majority rule' in legislative procedures Rawls reminds that real deliberations of 'representative legislators' hardly resembles the ideal process.[29]

Rosales's claim that the deliberation involved in Rawls's thought-experiment does not resemble political deliberation is correct, and Rawls would agree. He concludes his historical-conceptual investigation by reflecting on the post-Rawlsian (and post-Habermasian) situation in current democratic theory:

> Thus the discussion around associations and democracy resumed central themes of democratic theory, from citizen participation and democratic deliberation to inclusion and representativeness of the democratic process, but began reformulating them. Democratic theory largely became normative democratic theory. It focused on counterfactual considerations to devise ideal procedures of political deliberation, that way assuming the normative leaning of mainstream political philosophy. As we have seen deliberative experiments do not easily reproduce comparable conditions to those

of real political debates, as they leave behind relevant aspects of parliamentary politics regulated by legislative procedures.[30]

Rosales is certainly right in maintaining that although Habermas and Rawls inspire normative democratic theory, it goes beyond them in abstracting from the institutional frameworks at the basis of the normative theories of these authors. Rawls's work, as a whole, classifies as a branch of moral philosophy.[31] However, it is not the kind of normative thinking associated with democratic theory, namely attempts at re-describing, improving, or changing democratic political deliberation into genuine democratic deliberation.[32] The author of *A Theory of Justice* and *Political Liberalism* never thought of new designs for deliberation, political or non-political. Now, it might well be that to democratic theory Rawls's thought-experiment gives a paradigmatic ideal for a real deliberation about a deep normative issue, namely our basic social principles of justice. However, as this thought-experiment is not designed with the purpose of providing a model for deliberations in a democratic regime, it is arguable that Rosales and Rawls share the view that the term "deliberative" in "deliberative democracy" is not a pointer in the direction of a consensus-theory of deliberation.

After this clarification, let us turn to political liberalism.[33] This is a key-passage from *Political Liberalism*:

> The idea of an overlapping consensus is easily misunderstood given the idea of consensus in ordinary politics. Its meaning for us arises thus: we suppose a constitutional democratic regime to be reasonably just and workable, and worth defending. Yet given the fact of reasonable pluralism, how can we frame our defence of it so that it can win sufficiently wide support to achieve stability.[34]

It is urgent to warn against conflating consensus in ordinary politics and overlapping consensus. Political consensus is deliberative consensus, and, according to the politics of dissensus, it is rare in well-functioning parliamentary regimes, while an overlapping consensus is *not* deliberative. The key-notion is that of reasonable pluralism within a constitutional democratic regime. This idea, maybe the single most important premise behind political liberalism, is that reasonable citizens in an industrial modern society disagree on fundamental issues, such as what the basic goods are and on how to live the best life, *and*, at the same time, realize that the others, with whom they disagree, are reasonable.[35] The fact of reasonable pluralism is grounded in the phenomenon that Rawls labels the "burdens of judgement." In order to explain this, Rawls proposes an open-ended, non-reducible list of elements that influence our judgements, containing such factors as the complexity and relative weighting of evidence, the vagueness of basic concepts, and our total experience.[36] In this light, it is unreasonable and certainly unwise to expect citizens to share one or just a few so-called comprehensive doctrines.[37] In short, political liberalism is a theory for a society and not a community.[38]

An overlapping consensus is a consensus on a family of social conceptions of justice, where each member satisfies a given, classically liberal list of conditions.[39] These conceptions furthermore "meet the criterion of reciprocity and recognise the burdens of judgment."[40] The criterion of reciprocity is defined as "when terms are proposed as the most reasonable terms of fair cooperation, those proposing them must think it at least reasonable for others to accept them, as free and equal citizens."[41] Its purpose is to ensure that all citizens "as free and equal, can cooperate with each other on terms all can accept."[42] In this context, the fact of reasonable pluralism implies that in a well-ordered society, the citizens hold both a reasonable comprehensive (or partly comprehensive) doctrine and a social conception of justice. The relationship between these ideas might be as strong as a deductive one or as weak as coherence.[43] The basic point is that the citizens of a democratic regime work out for themselves

the relationship between their understanding of the basic goods and their political views and values.[44] A crucial factor for an appreciation of political liberalism is always to keep in mind that its starting point is from the inside of our common democratic tradition; all its key-concepts belong to this very tradition. The citizens view each other as free and equal citizens and they adopt or form a social conception of justice that respects this liberal and political value. However, a reasonable comprehensive doctrine need not itself be liberal. It is to be expected that religious doctrines, for instance, prevail among citizens of such a regime.[45] Of course, helped by fellow citizens reasoning from conjecture, one might come to realize that a reasonable liberal political conception of justice follows from, or is coherent with one's higher or non-political values, but, again, this is not deliberation.[46] At present, my moderate aim is to make clear that an overlapping consensus on a family of reasonable social conceptions of justice is not, and cannot be, the result of a deliberation, but concern the relation between a social conception of justice and a comprehensive doctrine. In this light, it seems as if the politics of dissensus can and should appreciate the burdens of judgement and the fact of reasonable pluralism, as they provide a foundation for the fact that it is unreasonable to expect consensus in political deliberation in a well-ordered society. As a partial vindication of this assumption, I would like to cite a remark from one of the contributors to *The Politics of Dissensus*, Enrico Biale, who defends a complex conceptualization of compromise:

> In a pluralistic society that includes people with different, and sometimes conflicting, opinions, preferences, and ideals, it is reasonable to assume that there will be disagreements regarding these important issues. Moreover, although members of a pluralistic society acknowledge one another as free and equal, they do not necessarily agree on principles of justice that could provide a shared standard against which to

assess political proposals or laws and policies (the input and output, respectively, of the decision-making process).

Even if the citizens share principles of justice, they would disagree on their interpretation and the best way to implement these principles.[47]

Biale's observations capture nicely basic facts of political liberalism. The reasonable citizens will hold one of a number of conflicting social conceptions of justice, and none of these conceptions is self-interpretable. Accordingly, conflicting views might prevail among defenders of the same conception. There is an additional feature to be taken into consideration, namely that those who hold the same comprehensive doctrine, need not agree to exactly the same social conception of justice. All this means that the burdens of judgement must always be taken into account when we reflect on political issues and political judgements. (If this sounds like a kind of relativism, we must not forget that the criterion of reciprocity and the associated understanding of the reasonable secure the needed bulwark.)

IV: Political Liberalism and Dissensus

In *Political Liberalism,* there is one comment that appears to go against the very idea of politics, in particular. It comes as the third element of Rawls's explanation of the notion of social unity:[48]

Public political discussion, when constitutional essentials and matters of basic justice are at stake, are always, or nearly always, reasonably decidable on the basis of reasons specified by one of a family of reasonable liberal conceptions of justice, one of which is for each citizen the most (more) reasonable.[49]

In order to comprehend what is going on here, let us begin by substantiating the key-phrase "constitutional essentials and matters of basic justice." "These", says Rawls, "are of two kinds:"

> (a) fundamental principles that specify the general structure of government and the political process: the powers of the legislature, executive and the judiciary; the scope of majority rules; and
>
> (b) equal basic rights and liberties of citizenship that legislative majorities are to respect: such as the right to vote and to participate in politics, liberty of conscience, freedom of thought and association, as well as the protections of the rule of law.[50]

Clearly, as Rawls observes, among regimes with free institutions, (a) varies far more than (b). With respect to our theme, we note that "principles governing social and economic inequalities" are not included in the list. Therefore, even if questions of constitutional essentials are settled by consensus – which Rawls notes are not always the case, from time to time even such issues are settled by the majority – issues concerning the application of social conceptions of justice on pressing social and economic questions, are seldom thus decided. The reason is clear:

> Whether the constitutional essentials covering the basic freedoms are satisfied is more or less visible on the face of constitutional arrangements and how these can be seen to work in practice. But whether the aims of the principles covering social and economic inequalities are realized is far more difficult to ascertain. These matters are nearly always open to wide differences of reasonable opinion; they rest on complicated inferences and intuitive judgments that require us to assess complex social and economic information about topics poorly understood. Thus, although questions of both kinds are to be discussed in terms of political values, we can expect more agreement

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about whether the principles for the basic rights and liberties are realized than about whether the principles for social and economic justice are realized.[51]

Political values form part of the content of public reason.[52] This means that *even when* political deliberation is limited to public reason, that is, is grounded on arguments derived from social conceptions of justice, dissensus prevails. The exception might be basic questions essential to the very core of our idea of democracy. The ideal of public debate is that it is restricted to the principle of reciprocity and that the debaters follow the moral duty of civility.[53] Therefore, it would be preferable that all, or close to all, political questions debated in parliament are treated in light of public reason and its values.[54] However, to repeat, this is not to say that such issues would be settled by consensus.[55]

I think Anthoula Malkopoulou gives voice to a common misreading of Rawls, early and late, when she, from the perspective of the politics of dissensus, writes that:

> If we side with the rhetorical or parliamentary approach to deliberation, then subjective reason, perspectivism and disagreement become a *sine quo non* of political discussion. To the contrary, the Rawlsian and Habermasian variants of deliberative democracy are rather at odds with this idea, as they place emphasis on justice and consensus respectively. Even if they accept that a political discussion may not always lead to agreement, deliberative judgement still has a clear priority over will. But, talking to our interlocutors and expecting them to accept our opinions merely because they are 'reasonable' may betray less than horizontal approach to political discussions than the deliberativists would like to admit.[56]

First, we have seen that the consensus of "overlapping consensus" is not a political consensus, or the end-point of a deliberation. Therefore, on this point no clear disagreement is detectable. The question that remains concerns the scope of reason. If Malkopoulou by "subjective reasons" means "all kinds of personal reasons," including "religious reasons" and "reasons due to personal experience," then there is a clear difference between her positions and that of political liberalism, with its restriction of parliamentary debate to public reason. (But, consider note 20 and the discussion leading up to it.) However, this difference does not concern the logic of deliberation.

Another misunderstanding is that Malkopoulou ascribes to Rawls the idea that a reasonable person expects her interlocutors to agree with her because they are reasonable, as well. However, it is exactly the other way around. To be a reasonable person is to realize that there are limits to what can be reasonable justified to others. When serious political and moral issues are at stake, the reasonable person does not expect, but of course, she hopes, that other reasonable persons will agree with her.[57] In fact, to accept that other reasonable persons disagree with you, in the face of your well-developed and reflective arguments, is part of what makes you a reasonable person.

Now, if one takes political liberalism to imply or presuppose a consensus theory of politics, then one might think that in the comparatively rare cases where questions of constitutional essentials are not settled by public reason, one might introduce into the debate additional arguments aiming for a consensus. But no! Sometimes, as in the case of a verdict in court, one must simply leave the decision to the rulings of the majority:

> Thus, when there seems to be a stand-off, that is, legal arguments seem evenly balanced on both sides, judges cannot simply resolve the case by appealing to their own political views (…). The same holds with public reason: if when stand-off occur, citizens invoke

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the grounding reasons of their comprehensive views, then the principle of reciprocity is violated. The reasons deciding constitutional essentials and basic justice are no longer those that we may reasonably expect that all citizens may reasonably endorse … From the point of view of public reason citizens should simply vote for the ordering of political values they sincerely think the most reasonable. Otherwise we fail to exercise political power in ways that satisfy the criterion of reciprocity.[58]

Let me round off this part by introducing two more passages from *Political Liberalism* that make it clear that there is plenty of room for politics even in a well-ordered constitutional regime:

However, disputed questions, such as that of abortion, may lead to a stand-off between different political conceptions, and citizens must simply vote on the question. Indeed, this is the normal case: unanimity of views is not to be expected. Reasonable political conceptions of justice do not always lead to the same conclusion (…) nor do citizens holding the same conception always agree on particular issues.[59]

In general, prevalent reasonable doctrines and the family of social conceptions of justice belonging to the overlapping consensus do not decide political issues. Rawls discusses in some detail the cluster of complex and demanding issues concerning the family and its structure. He demonstrates that political liberalism has no saying on these issues, with the exception of the considerably weak claim that they must be decided within the framework of the constitutional essentials.[60] We might specify citizens in the direction of representatives in the passage just cited, and then we have a case of dissensus and a verdict made by the force of the majority.

The second passage makes a point about the positive value of disagreement.

> [T]he ideal of public reason does not often lead to general agreements of views, nor should it. Citizens learn and profit from conflict and argument, and when their arguments follow public reason, they instruct and deepen society's public culture.[61]

This echoes some basic ideas in J.S. Mill's *On Liberty*. Unresolved disagreement, i.e., dissensus – especially in cases where the arguments are guided by public reason – is valuable.[62]

I am not alone in taking Rawls to be a scholar that values politics and does not want to get rid of it. This is Joshua Cohen's apt formulation:

> [I]n his political liberalism, Rawls embraces the deliberative conception of democratic politics while also accepting that, even under the best circumstances we can reasonable hope for, members of a democratic society will disagree with one another about what justice requires (…) politics is, in the first instance, a matter of deliberation: of citizens and representatives defending laws and policies by reference to reasons drawn from a conception of justice that they might reasonably expect others to endorse.[63]

Cohen, as I, takes the ideal that for a deliberation to be successful, it ends in consensus, to be an idea of democratic theory that does not belong to political liberalism. I discuss this topic in the next and final part.

V: The Conversational Model and Normativity

In his chapter in *The Politics of Dissensus*, Manuel Toscano observes that:

[T]he contemporary mainstream on deliberation and deliberative democracy follows what Gary Remer calls 'the conversational model'. This model presents three main features: 1) deliberation is conceived as a free and open dialogue; 2) the strict symmetry of the partners, so that dialogue takes place between equals; and 3) dialogue is understood as a cooperative enterprise where only 'the force of the better argument' matters (Toscano 2014, 409).

Toscano forcefully argues that this model is not appropriate for actual parliamentary debates, which typically take place among adversaries.[64] For the sake of the argument, let us assume that deliberations in the parliament in a well-ordered society pay due respect to the three features – but for reasons that will become evident, let us rephrase the third as "3) dialogue is understood as an enterprise where only 'the force of the better argument' matters." One might think that given these normative constraints, in the normal case the decisions made by such a parliament are consensus-based. However, this conclusion is unwarranted. On the contrary, in this hypothetical and idealized situation, the basic insight of the politics of dissensus still holds; that is to say, the parliamentary debates typically take place among adversaries.[65] This becomes clear from some reflections on how to understand the phrase "the force of the better argument" from the point of view of political liberalism. Assume that we have a paradigmatic case of argumentation *pro et contra*, where one member of the parliament argues in favour of Pc, and another argues against Pc, neither argues for personal gain or suchlike, and both regard the other as equal. Assume furthermore that it is shared knowledge between the two contenders that this is the case. These representatives subscribe to the full conversational model. However, and this is the decisive point, they might be aware of the fact that the attempt at persuading the other, likewise reasonable and rational representative, is on all counts a lost case. In such a situation, which I gather would be quite common in the well-ordered regime, the two debaters are

adversaries: they cannot agree and at most, one of them wins; that is, unless a bearable compromise is reached.[66] It follows that if the conversational model is taken to be a model for reaching consensus in debates, it is too idealistic to fit parliamentary debates in a well-ordered society. However, if one rejects, as political liberalism does, the naïve and anti-political assumption that the "force of the best argument" means that there always or normally is such an argument available, then, as argued, political liberalism displays a model for the logic and limits of deliberation, and not a model for consensus. This is because when underlying presuppositions about reason and rationality are brought to light, it is evident that the conversational model does not imply that a failure to reach a consensus indicates either that one or more of the debaters do not accept the model, or that they should continue debating until a consensus is established. This shows that there is no tension between political liberalism and the slightly modified conversational model of deliberation, on the one hand, and the politics of dissensus on the other.

Allow me to formulate an empirically refutable conjecture concerning parliamentary politics. Political liberalism starts out from inside our existing, but not fully well-ordered, constitutional democracies. It takes these to be the result of contingent historical processes that involve both material and conceptual factors, including a refined awareness among the members of the parliament of the kinds of arguments that are appropriate to their office. I conjecture that if one undertook a diachronic parliamentary study of the kinds of arguments used in a selected group of parliaments, say the Scandinavian ones, over a time-span of the last 50 years, one would find that they tend to become restricted to social conceptions of justice, and presented as self-standing and independent of comprehensive doctrines. Such a study would be highly instructive, and throw light on our speculations about the origin and continuous development of political liberalism and parliamentary politics.

Let me close off with a final observation. A major point behind politics of dissensus is to push back moralism of all kinds.[67] A defender of this approach towards political philosophy could maintain that political liberalism fails in that it starts out from an ideal picture of citizens and members of parliament as rational and reasonable, and that it is therefore founded on moralistic presuppositions. This vision of a citizen and a representative, however, is not nearly as substantial as those one regularly encounters in normative political theory, be it democracy theory, contract-theory, communitarianism, or critical theory in the hands of Habermas or Honneth, or Marxism. To refuse to take into account normative assumptions on the human being and better or worse forms of deliberation would be to reject normative political theory in all its branches. I do not think that the politics of dissensus is meant to be an exclusively descriptive project, for in that case, it is hard to see how it might have a bearing on the pressing political issues of the present day.

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Notes

[1] Quine 1991, p. 191.

[2] Henceforth, "political philosophy" and "political science" are used in accordance with established conventional use.

[3] *Considerations on Representative Government* from 1861. Its three first chapters concern the higher principles, they are entitled "To what Extent Forms of Government are a matter of Choice," "The Criterion of a Good Form of Government" and "That the Ideally best form of Government is Representative Government," while chapters

X–XIII are called "Of the Mode of Voting," "Of the Duration of Parliaments," and "Ought Pledges to be Required from Members of Parliament?"

[4] I firmly think that if normative political philosophy is to have a bearing on today's political situation, it must engage with pressing political issues. (Cf. Alnes 2014 and 2015 for reflections on the questions of education from the point of view of political liberalism.) However, at this occasion, I refrain from raising this topic. For the invoked notion of "conceptualization," cf. Rawls 1996, 11–15 and the references provided in note 43 below.

[5] Cf. Rawls 2001, 4 and 13.

[6] Two informative accounts on the fundamental distinctions between parliamentary and juridical public reasoning are Ackerman 1989 and Urbinati 2010, 81–85; cf. also Toscano 2014, 406–407. For accounts of the different parliamentary cultures, cf. Ackerman 1989 and Kronlund 2014.

[7] Cf. Rawls 1996, 216 and 231.

[8] Palonen, et.al. (eds.) 2014, 2.

[9] A number of highly relevant articles are collected in Weber 1994 and Skinner 2002. In their writings, Weber and Skinner combine detailed historical studies with systematic analysis. Skinner's "Retrospect: Studying rhetoric and conceptual change," provides a clear account of some of the basic tenets of the politics of dissensus (Skinner 2002, Volume I, 175 –188). Here Skinner expresses his debt to Kari Palonen, the leading scholar of the politics of dissensus, for introducing the notion of a rhetorical perspective on conceptual change (Skinner 2002, Volume I, 179).

[10] Palonen, et.al. (eds.) 2014, 2.

[11] Cf. Fung 2007, Pettit 2004 and Setälä 2015.

[12] In the introduction to their recent book, *Parliamentarism and Democratic Theory*, Palonen and Rosales reject abstract democratic theory as a politically irrelevant project (Palonen and Rosales (eds.) 2015, 11).

[13] Palonen, et.al. (eds.) 2014, 6.

[14] Cf. Fung 2007, Pettit 2004 and Urbinati 2010.

[15] On this distinction, cf. Palonen, et.al. (eds.) 2014, 4–5.

[16] Palonen, et. al. (eds.) 2014, 3.

[17] There are numerous references to argumentation *pro et contra* in Palonen, et.al. (eds.) 2014 and Palonen and Rosales (eds.) 2015. The origin of this approach to parliamentary politics is traced back to Weber's influential article "Die 'Objectivität' sozialwissenschaftlicher und sozialpolitischer Erkenntnis," somewhat unfortunately translated into English as "'Objectivity' in Social Sciences and Social Policy" (*knowledge* is left out) (Weber

2012); cf. Blanc 2015 and Palonen and Rosales (eds.) 2015, 308. In note 21 some of the simplifications are noted.

[18] There is a lot to be learned about rational deliberation from Arne Næss's classical booklet from 1966, although it focuses on the singular rational actor, and thus on what Toscano calls "deliberation within" (Toscano 2014, 404–405).

[19] Palonen 2014 provides a detailed and illuminating discussion of this complex ideal.

[20] In the parliamentary case, when traced through the justification-line, this outcome refers to "the best of the state," "the best for the inhabitants," "fair to all citizens everything taken into consideration" or some such general and all-inclusive idea. The view that one acts on behalf of the nation, has been dominant among parliamentarians since the sixteen century; cf. Rosales 2014, 25, Elster 1998, 101–105 and Urbinati 2010, 83. Rosales and Elster refer to Edmund Burke's epoch-making "Speech to the Electors of Bristol" from 1774.

[21] The anonymous reviewer made me aware that my contracted statement, drawn from observations of Elster, Rosales and Urbinati (cf. the note above) could be taken in a "Habermasian" direction. The reviewer further, and correctly, observes that "Policy questions must be judged in relation to the broader political setting, such as controversies on parliamentary agenda-setting itself or from the debates on the rules of procedure." He/she also introduces power struggles as basic features of parliamentary politics, and he/she draws a line between debate and dissensus, where debate is oriented to the items, while dissensus "concerns the perspectives on reconsidering the strengths and weaknesses of the items, including the criteria of judging." For a full picture of the politics of dissensus, such insights must be brought to the table; and here belongs also reflections on the political rhetoric tradition (cf. the reference to Skinner and Palonen in note 9). In this article my focus lies elsewhere. I argue, however, that majority voting and parliamentary compromises will be frequent in a Rawlsian well-ordered society, and that the idea of the best argument in an absolute, objective or non-political sense is a chimera. As far as I can tell, then, the highly complex phenomenon of parliamentary politics as illuminated by Weber, Skinner, and the politics of dissensus, is not in tension with the perspective of political liberalism.

[22] Palonen, et.al. (eds.) 2014, 3–4. The contrast between mainstream democratic theory and the politics of dissensus is evident from the title of the conference *Deliberation after consensus: Democracy, epistemic quality and public discourse*, hosted by the Norwegian Centre for Human Rights, University of Oslo, 20–21 November 2014. This is the opening statement of the call for papers, making the prevalent position on decision-making in deliberative democracy crystal-clear:

"The concept of consensus still seems indispensable to theories of deliberative democracy. Successive generations of scholarship have debated whether the ideal of rational, unanimous agreement is practically feasible and normative desirable or whether it is impossible, given the circumstances of value pluralism and deep disagreement, and political perilous, as it may serve to oppress certain ideas, interests or identities. Recent scholarship on deliberative democracy has sought to find more workable notions of legitimate outcomes – for instance, meta-consensus, working agreements and moral compromise. Yet many still hold the notion of rational consensus to be a regulative ideal constitutive of deliberative democracy, for if we do not assume that we can and should be able to rationally persuade each other, why should we engage in public discourse?" (http://www.jus.uio.no/smr/english/research/areas/constitutionalism/consensusparadox-blog/cfp-deliberation-after-consensus)

[23] Palonen and Rosales (eds.) 2015. If Nadia Urbinati's reading of John Stuart Mill is correct, he can be viewed as a forerunner of the politics of dissensus: "[Mill] did not propose that we deliberate in order to reach a consensus, and thus bury dissent; rather, we deliberate in order to reach decisions, but decisions do not imply consensus" (Urbinati 2002, 4).

[24] To my knowledge, none of the defenders of the politics of dissensus has formulated such a strong claim in print. However, Palonen (at the conference *Ideas and Realities of Democracy,* The Åland Islands Peace Institute, Mariehamn, 26–27, September 2013)*,* and Rosales (in his rejoinder to my presentation of an earlier version of this article at the conference *Ethics, Democracy and Rights*, University of Córdoba, 7–8 November 2014), maintain that Rawls's political philosophy, early and late, suffers severely from a lack of grasp on real politics and parliamentary procedures. See also the discussion of Malkopoulou 2014 below.

[25] Palonen, et.al. (eds.) 2014, 3.

[26] A comprehensive liberalism bases its political philosophy on some fundamental non-political value, typically autonomy (I. Kant) or individuality (J. S. Mill).

[27] Cf. Rosales 2014, 42–43.

[28] The term "justice as fairness" is ambiguous; it either stands for a conception of justice, or it stands for this conception *together with* its elaborate justification, including, among a number of features, that of the Original Position. In note 39, "justice as fairness" is used in the first, limited sense.

[29] Rosales 2014, 42.

[30] Rosales 2014, 43.

[31] Cf. Rawls 1996, xxxviii, 2001, §5 and Floyd 2007, 18.

[32] Sandel 2009, Chapter 6, provides strong arguments for the claim that the contract reached behind the veil of ignorance is a paradigmatic case of a morally, and not solely legally binding contract.

[33] For a clear account of Rawls's two political philosophies, cf. Dreben 2002.

[34] Rawls 1996, 39.

[35] "The fact of reasonable pluralism which characterizes a society with free institutions […] is the fact of profound and irreconcilable differences in citizens' reasonable comprehensive religious and philosophical conceptions of the world, and in their views of the moral and aesthetic values to be sought in human life" (Rawls 2001, 3–4).

[36] Cf. Rawls, 1996, 56–57 and Alnes 2015 and 2014.

[37] For the notion of a reasonable comprehensive doctrine, cf. Rawls 1996, 58–66.

[38] Cf. Rawls 1996, 201.

[39] Cf. Rawls 1996, xlviii. Rawls realized that the overlapping consensus must be on a family of social conceptions of justice, and not just on one, preferably justice as fairness, only after the first edition of *Political Liberalism* was out. This issue is treated in the introduction to the paperback edition from 1996 and in Rawls 1999.

[40] Rawls 1996, xlix.

[41] Rawls 1999, 14.

[42] Rawls 1996, 50.

[43] The relationship between the notions of idea, conceptualization, and doctrine is spelled out in Rawls 1996, 14 (n15) and 1999, 131 (n2). For a good explication, cf. Dreben 2003, 329–331.

[44] "All those who affirm the political conception start from within their own comprehensive view and draw on the religious, philosophical, and moral ground it provides" (Rawls 1996, 147).

[45] Rawls 1996, xxxix–xl. I explicate the distinction between reasonable and non-reasonable religious comprehensive doctrines in Alnes 2015.

[46] Cf. "the second form [of discourse] is conjecture, defined thus: we argue from what we believe, or conjecture, are other people's basic doctrines, religious or secular, and try to show them that, despite what they might think, they can still endorse a reasonable political conception that can provide a basic for public reasons" (Rawls 1999, 155–156).

[47] Biale 2015, 187.

[48] This form an ingredient of Rawls's response to a well-known class of communitarian objections against political liberalism (cf. also Rawls 2001, 198–202).

[49] Rawls 1996, xlix–l.

[50] Rawls 1996, 227.

[51] Rawls 1996, 229–230.

[52] Cf. Rawls 1996, 224–225.

[53] The duty of civility consists in being able "to explain to one another on those fundamental questions how the principles and policies they advocate and vote for can be supported by the political values of public reason" (Rawls 1996, 217).

[54] Cf. Rawls 1996, 214–215.

[55] Chantal Mouffe states that "Rawls's ideal society is a society from which politics has been eliminated (…) Conflicts of interests about economic and social issues (if they still arise) are resolved smoothly through discussions within the framework of public reason, by invoking the principles of justice that are endorsed by everyone" (Mouffe 2005, 226). Tor Ivar Hanstad drew this passage to my attention. I hope to have made it clear that this understanding of the utopian features of Rawls is incorrect. (Cf. this remark "This reasonable society is neither a society of saints nor a society of the self-centred. It is very much a part of our ordinary human world, not a world we think of much virtue, until we find ourselves without it" (Rawls, 1996, 54).)

[56] Malkopoulou 2014, 90. I believe that lumping together Habermas and Rawls as belonging to, or even being the founding fathers of a certain liberal-normative tradition covers up deep differences that might be fundamental to the issues under consideration.

[57] Cf. Rawls 1996, 58–61.

[58] Rawls 1996, lv.

[59] Rawls 1996, lv-lvi. I discuss the distinction between reasonable pluralism and reasonable disagreement in Alnes 2014.

[60] Cf. Rawls 2001, 162–168.

[61] Rawls 1996, lvii.

[62] Cf. Mill 1859, Chapter II. For an illuminative account of the political significance of antagonism in Mill, cf. López 2014.

[63] Cohen 2003, 103.

[64] Cf. Toscano 2014, 410–411.

[65] I follow Toscano's description of an adversary setting as a "kind of competitive interaction between two or more players," characterized by the fact that "a player wins when the other loses or vice versa" (Toscano 2014, 402).

[66] I have evaded the phenomenon of compromise, as I think it cuts no ice between political liberalism and the politics of dissensus. We have seen that in the parliamentary politics in a well-organized society compromises will frequently be made. This fact is not a source for regret. Thus, as I view matters, political liberalism does not downplay the role of compromise in politics, despite the impression to the contrary. Compromise is furthermore central to the politics of dissensus. (For an analysis of the fascinating notion of a fair compromise, cf. Biale 2015).

[67] Cf. Palonen and Rosales (eds.) 2015, 19.