

## Chapter 6

# Democracy and Compromise

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A compromise is a settlement of differences in which each side makes concessions. Such a settlement is usually defined as a bargaining between conflicting interests under the pressure of a given balance of power. People have to compromise when they are not powerful enough to have their own way. In some cases, they just feel threatened by the other. In other cases, they need his or her cooperation to achieve their own goals. In order to pursue their own interests, they have to help or let the others do the same.

Meeting halfway is necessary for establishing peace and mutual tolerance. Still, it is not fully satisfying if one has to give up legitimate claims in order to achieve peaceful coexistence. In some cases, the very idea of compromising sounds absurd. If you are right, you are right; if your interlocutor is wrong, he is wrong. There is no point in admitting, for the sake of peace, that you might be half wrong and he might be half right. Mutual concessions may be sometimes morally inadmissible. Compromising on principles – human rights, moral imperatives – for the sake of reciprocal political support, economic relationships, and so on, is a symptom either of weakness or of cynicism. As a result, the very notion of compromise is ambiguous. On the one hand, to compromise means to be able to respect another's point of view. On the other hand, to compromise means: to compromise oneself.

Accordingly, contemporary political philosophy tends to consider compromise as the lowest form of agreement. According to Habermas, compromise belongs to strategic action; it is directed toward achieving certain goals, whereas communicative action aims at reaching inter-subjective understanding. A compromise is achieved by making mutual concessions with regard to the interests at stake, whereas the result of communicative action is an agreement on reasons for action.<sup>1</sup> In this

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<sup>1</sup> See Habermas J (1996). *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy*. Cambridge: Polity, pp. 140–141.

view, compromise is a bargaining that must be redeemed by its submission to fair rules of procedure agreed upon on a consensual basis. Recent works, however, have reevaluated the concept of compromise, underlining its relevance for political theory. Such analyses provide suggestive insights for a further discussion of the notion.<sup>2</sup>

The purpose of this paper is: I. to distinguish between different types of compromise and especially between rational and reasonable compromises; II. to sustain the idea that the basic structure of constitutional democracies is a system of communicative interactions between different kinds of institutions: state institutions, social and cultural organizations. Such institutional interactions: (1) frame a political field in which action through speech is more or less effective according to the interlocutors' position in the field; (2) organize a collective decision-making where compromise plays a central role. In this view, we understand the relationships between argumentation and law, which is the topic of this volume, as the relations between the compromise-making process and the constitutional framework of modern democracies. Of course, democracies may prove unable to reach rational and reasonable compromises. Absurd and irresponsible decisions are made. Therefore, we will try to draw a normative pattern from the very concept of reasonable compromise. One criterion for the evaluation of democratic states is whether their institutions make it possible to reach sensible compromises.

## 6.1 Different Types of Compromise

Political scientists have made relevant distinctions between different types of compromise. For example, distinctions must be made between regulated and unregulated, brokered and not brokered, distributive and integrative compromises. Regulated compromises follow a procedure that guarantees the fairness of the compromise; unregulated compromises do not. Brokered compromises are mediated by a third party; un-brokered compromises are directly negotiated. Distributive compromises settle a dispute between contesting parties. Integrative compromises are achieved when each party endeavors to solve a common problem.<sup>3</sup>

Another distinction can be made between homogeneous and heterogeneous compromises. Homogeneous compromises deal with the partition of one and the same thing, aiming at some kind of equilibrium (which does not mean necessarily equal share). For instance, two countries have a claim on a given territory. In this case,

<sup>2</sup>See Bellamy R (1999). *Liberalism and Pluralism. Towards a Politics of Compromise*. London and New York: Routledge and *Social Science Information*, June 2004, vol. 43, n°2, London, Thousand Oaks, CA and New Delhi: SAGE Publications, 2004, special issue dedicated to the concept of compromise, with contributions by Arnspurger C, Dupret B, Ferrié J-N, Kutty O, Leydet D, Nachi M, Papillaud C, Picavet E, Rol C, Salazar P-J (2009). See also *Eloge du compromis. Pour une nouvelle pratique démocratique*. In Nachi M and de Nanteuil M (eds) (2009). Louvain-la-Neuve: Academia-Brylant.

<sup>3</sup>See Carens JH (1979). "Compromise in Politics". In Pennock JR and Chapman JW (eds) *Compromise in Ethics, Law and Politics*. New York: New York University Press.



partition is a compromise solution. Instead of dividing one and the same reality, heterogeneous compromises combine different realities, sometimes adding a hierarchy between them. An example of such a compromise is Kant's solution of the third antinomy. Necessity and liberty are combined in such a way that each principle has absolute value, but in two different realms, the empirical and the transcendental,<sup>4</sup> the former being subordinated to the latter.

The difference between rational and reasonable compromises can be introduced by means of an example. Suppose a couple plans to go on a 2 weeks vacation. Paul wants to go to the seaside; Mary wants to go to the mountains. First solution: one of them gives up; the other has his/her own way. Second solution: compromise. They both spend 1 week at the seaside, the other week in the mountains. This is the "meeting halfway" solution. Each partner makes concessions. Each of them has a concept of the ideal holidays. Both concepts are irreducible. Consequently, Paul and Mary agree on a reciprocal limitation of their demands. Another solution would be for each partner to switch from their first to their second preference, in case an agreement can be reached on this "second best" option. For example, instead of going either to the seaside or to the mountains, Paul and Mary go to Italy and visit Venice. They might be also incapable of reaching a decision on a concrete project. In this case, a decision could be achieved by means of an agreement upon a decision-making procedure. For instance, Paul and Mary might decide that each of them will alternatively make the decision. This year they follow Paul's choice, next year they are going wherever Mary wishes. Suppose Paul and Mary have children, they might as well agree to submit the choice of a vacation plan to the vote of the entire family. Eventually, Paul and Mary might discuss their plans with their friend Peter, follow his advice and opt for the Venice trip. In a word, the example illustrates a series of compromise-making methods: procedural or not procedural, brokered or not brokered, etc. Whatever the method, the compromise is based on mutual concessions.

There is another way of compromising. The mutual concessions are the same. For instance, Paul and Mary are going to spend 1 week at the seaside and another week in the mountains. In this case, however, the concessions lead to something more than a mere bargain. After considering the matter, the couple decides that splitting the 2 weeks is the best possible plan. In order to give sense to their mutual concessions, they convene that 2 weeks at the same place would be too long anyway. Consequently, they work out a new concept of ideal holidays. The new concept is based on the idea of variety. Changing places is more fun. Good health requires relaxation (at the seaside) and exercise (in the mountains), etc. In other words, a new concept of a good life makes the compromise meaningful for both partners.

What is the difference between the two kinds of compromise? In both cases, compromise implies mutual concessions. In the first case, the concessions are the result of a certain balance of power. None of the interlocutors is in a position to carry

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<sup>4</sup>On this point see Perelman C and Olbrechts-Tyteca L (1988). *Traité de l'argumentation*. Bruxelles: Editions de l'Université de Bruxelles, p. 553.

the day; none of them is ready to give up. In a couple, of course, affection plays its role. Mutual concessions repose on reciprocal self-restraint for the sake of the other. There may be some sort of reverse calculation where the goal is to maximize the other's well being. However, that kind of compromise is not stable. On the one hand, when the partners' relationship is based on a mere bargaining a shift in the balance of power undermines the compromise. On the other hand, reciprocal self-restraint is not that stable when it is not embodied in a common way of life. What stabilizes the compromise is the fact that mutual concessions lead to a consensus on a common course of action. A compromise stands the best chance of being enforced when all partners – or, at least, a majority of them – agree that the resulting course of action makes sense.

Two additional remarks must be made. First: from Paul's point of view, the compromise is a rational means to achieve his own goal, although he will have to be content with a partial satisfaction of his desire. From Mary's point of view, the situation is the same. From Paul *and* Mary's point of view, the compromise is a rational means to fulfill the couple's goal, which is to enjoy their common holidays. In the first case, the compromise is rational as regards the achievement of each partner's goals. In the second case, the compromise is rational as regards the achievement of the couple's ends. Now, the same compromise is *reasonable* inasmuch as both partners consider the other's viewpoint and work out a shared understanding of such common ends.

Second: one could argue that, from an objective point of view, Paul and Mary have no better choice than the Venice trip. Whether they agree or not on this point, the trip would be *the* answer to their question. From Peter's point of view, for instance, going somewhere else is definitely the wrong decision. As far as Paul and Mary are concerned, compromising is the best possible way to make a common decision. It may lead to the best solution *under the circumstances*. It does not lead necessarily to the "absolutely best" solution.

Starting from these remarks, we introduce a distinction and a hierarchy between rational and reasonable compromises. By rational we understand either a relationship between definite goals and efficient means (instrumental rationality) or a relationship between definite values and appropriate goals (value rationality). By reasonable, we understand an interpretation of values, ethical or political, that is comprehensible and acceptable to all relevant interlocutors. Rationality is rather a matter of calculation, reasonability of "enlarged thinking" in Kant's sense.<sup>5</sup> In this view, a rational compromise is a way of maximizing one's achievement in the given circumstances, while the result of a reasonable compromise makes sense to all partners.

Without claiming to be exhaustive, we distinguish four sub-types of rational compromise:

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<sup>5</sup>See Kant's *Critique of Judgment*, § 40.



- (1) Gains and losses calculations. The parties compromise for fear of losing ground. A compromise provides more advantages than the so-called "fall-back position", that is: "the position which each party could guarantee itself in the absence of a compromise".<sup>6</sup> In another version of the same sub-type, the deal allows each party to avoid disadvantages that would be otherwise inevitable.
- (2) Strategic expectations. The parties compromise for strategic reasons. In such a case, the dispute between the interlocutors is not settled by the compromise. The dispute is only temporarily stabilized. The interlocutors view the compromise as a first step in the right direction, that is: toward full achievement of their goals. Of course, such a strategy is always risky. In some cases, what was taken as a first step turns out to be a standoff. Temporary concessions become permanent renunciations while prospects of future improvements fade away.
- (3) Rational self-restraint. In this case, rationality means: self-restriction of one's demands. The parties do not see the point of getting the upper hand. Consequently, they are satisfied with a semi-achievement of their goals. In some cases, this is still a way of maximizing the results that are obtainable under the circumstances. For example, in a context of class struggle a semi-victory secured by social peace is more profitable than a complete victory ensued by permanent social unrest.<sup>7</sup> In this case, the partners will consider social peace as a way of securing their profits. In other cases, self-restraint indicates a shift from one goal to another. For instance, the partners might consider social peace as more valuable to them than profit. In such a case, the partners' strategy is determined by a rearrangement of the hierarchy of values that sets a priority between their goals. Consequently, the compromise implies a reassessment of the goals. This is a matter of value-rationality rather than of instrumental rationality. We have an example of such a reassessment when the partners "agree to disagree" in order to maintain peaceful cooperation. In such a situation, conflicts among partners are neither solved nor forgotten, but merely set aside. They are subordinated to a consensus on the overarching value of social peace. Such a compromise supposes the existence of a stable society in which no collective action based on crucial choices is needed.
- (4) Pragmatic compromises. In the three previous sub-types the goal is individual. The compromise is rational from each partner's viewpoint. For a group, however, a compromise between conflicting members is a rational means to achieve a common goal or to solve a common problem. While a mere combination of instrumental means is "technically rational", such a compromise is "pragmatically rational". It is a kind of integrative compromise. By bringing all members together, it enables a group or a community to reach common ends.

<sup>6</sup>Arnsperger and Picavet, "More than a *modus vivendi*, less than an overlapping consensus: towards a political theory of social compromise", in *Social Science Information*, *op. cit.*, p. 168.

<sup>7</sup>On compromise based on self-restraint, see Arnsperger and Picavet, *op. cit.*, pp. 167-204.

A pragmatic compromise enables a group to achieve a definite common goal. That is why the compromise is rational. Such a compromise is also "reasonable" when all interlocutors consider their partners' views and work out a shared reinterpretation of the values that justify the goal. Thus, a rational compromise between group and individual interests is overlapped by a consensus on shared values. The values give meaning to the compromise. Reciprocally, the necessity to reach a compromise – otherwise the common goal cannot be achieved – leads the interlocutors to a renewed interpretation of their shared values. The compromise is real: all partners give something up. Nevertheless, it makes sense to all of them.

Paradoxically, rational compromises are not stable. They rely on a given balance of forces. The moment there is a shift in the balance of forces the compromise is gone. This is the case with the "gains and losses" type of compromise. By definition, this is also the case with the "strategic type" of compromise. The "self-restraint" and "pragmatic" types of compromise are more stable as long as there is good will, but the compromise remains fragile when there is no common concept of what really matters.

As well as rational compromise, reasonable compromise is based on mutual concessions. In the ideal case, mutual concessions (at instrumental level) are overlapped by a consensus (at value level). Such an agreement is not a *modus vivendi* that transforms progressively into a consensus. It is a consensus that stabilizes the compromise by giving it a meaning. When compared with the parties' initial positions, the meaning of the compromise enlarges the previous viewpoints, each interlocutor evolving toward a standpoint that makes sense to the others. That is why the compromise is reasonable. It remains that the consensus is reached through reciprocal constraints and mutual concessions; it is not the result of common and disinterested reasoning. Reciprocally, a reasonable compromise is not a mere equilibrium of claims and forces. The partners work out a concept incorporating their initial positions.

The result of such a process is not a synthesis (or *Aufhebung*) because we have two distinct levels: a compromise of interests at instrumental level and a consensus on shared values at value level.<sup>8</sup> Of course, one could object to such a clear cut distinction between interests and values. Interests are always determined by ethical preferences. When formulated as legitimate claims, they refer to moral norms justifying the claim. Accordingly, we might be tempted to say that a compromise on shared values – more precisely: on the interpretation of such values – goes along with a compromise of interests. We would have one and the same compromise reconciling conflicting interests, on the one side, and competing interpretations of common values, on the other side. However, such a formula is wrong. As far as

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<sup>8</sup>Richard Bellamy is right in saying: "A compromise is not a synthesis, that all regard as superior to their previous position. Compromisers must endorse a package many of the components of which they would reject if taken in isolation" (*op. cit.*, p. 102). Nevertheless, such a settling of interests leaves the possibility of a consensus on the values (or interpretation of values) justifying the compromise.



meaning is concerned, there can be no compromise. Interlocutors may accept a compromise combining semi-satisfaction of their own interests and semi-satisfaction of their partners' interests. They cannot agree on an interpretation that would partially make sense and partially not make sense to them. The meaning of a text, of an action, of a value, is a matter of consensus or dissent. Sometimes consensus goes with dissent. In such cases, we have a partial agreement which is very different from compromise. For instance, someone says that a given action is legal and just. Someone else contends that the action is legal, but not just. There is a partial agreement on how the action must be interpreted. A compromise would be an agreement on a signification that is partially nonsense for each interlocutor. For instance, interlocutors contending that the action is just but not legal, or legal but not just, would compromise and conclude that the action is just and legal (or neither just nor legal). This is clearly a case of fake consensus (covering up a compromise of interests). A real agreement on the meaning of a text, an action, etc., implies consensus, even though the consensus may be restricted to certain parts of the proposed interpretation. Therefore, the compromise making through which conflicting interests are reconciled ends up, either with a persisting disagreement concerning the values justifying the claims, or with a consensus on the values justifying the compromise. In the first case, the compromise is merely rational. In the second case, the compromise is reasonable as well as rational.

Such reasonable compromise is not achieved through disinterested dialogue. Moreover, what would be seen as methodological defects in comparison with the rules of inter-subjective dialogue is precisely what characterizes the "logic" of compromise-making. In reasonable compromises, common understanding is not reached *in spite of* the existence of a given balance of forces. True, power relations are duly said to play a negative role when no agreement can be reached. A balance of forces may result in a mere deadlock. However, when the partners do manage to reach a consensus, it may be said, retrospectively, that power relations have played a positive role. Under the presupposition that all partners are determined to settle their differences by peaceful means, the resilience of each partner forces all the others to take his/her point of view into account. Although a reasonable compromise is not reducible to a mere settlement of conflicting interests, it does incorporate such a settlement as a way of progressing toward common understanding.

Consequently, there is no strict opposition between compromise and consensus. Of course, compromise does not necessarily lead to consensus, while consensus can be achieved through inter-subjective dialogue. However, compromise is not merely a medium term between sheer bargaining and reasonable consensus. In the optimal case, a compromise between conflicting interests is overlapped by a consensus on the meaning of the compromise. Rationality leads to reasonability; reasonability contributes to rational efficiency.

Two final remarks must be made. On the one hand, the overlap of a rational compromise by a reasonable consensus signifies that no agreement is fully rational unless it is also reasonable. In other words, no agreement is fully effective unless it makes sense to all partners. Of course, this is an ideal case. In most instances, especially when a plurality of actors is concerned, consensus is impossible and must be

substituted by a majority agreement. On the other hand, a reasonable compromise may be the best possible course of action under the circumstances, knowing that the circumstances are determined by the partners' wishes, priorities, refusals, etc. Consequently, the result of a reasonable compromise is not necessarily the best conceivable course of action. Even if the result is a sensible decision, it may not be the optimal solution.

## 6.2 Democracy and Compromise-Making

### 6.2.1 *The Ideal-Type of Constitutional Democracies*

Political issues are always a matter of compromise, be it a compromise between political partners, competitors, etc., or between promising theories and imperfect realities. Therefore, the concept of compromise is central to the logic of political discussion. To some extent, the institutional framework of constitutional democracies can be viewed as the institutionalization of compromise-making processes.

According to their ideal-type, contemporary democracies are constitutional states in which citizens participate in political decision-making. The constitution defines the citizens' basic rights and organizes the interactions between the executive, the legislative and the judiciary. Contrary to classic political theories, the role of the executive branch is not merely to enforce the laws passed by the legislative. On the contrary, most of the laws are legislative translations of the government's political initiatives. Far from being a mere executive, the government is meant to take positive action. Its task is to handle such problems as the enforcement of basic rights, the reconciliation of national security and individual liberties, of social justice and economic development, the preservation of the environment, etc. Such problems are matters of internal as well as external policy.

The difference between democracy and autocracy is that a democratic government cannot act alone.<sup>9</sup> On the one hand, it has to be authorized by the parliament. By refusing to pass laws, approve the budget or authorize the use of armed forces, the parliament has the power to stop or inhibit governmental action. On the other hand, supreme courts see to it that governmental action and legislative measures comply with constitutional rules and respect the citizens' fundamental rights. Public administration is also submitted to judicial control. Whenever they are denied their rights, the citizens are entitled to prosecute the administration. Governmental action is central but it is submitted both to parliamentary and judicial control.

As to the citizens, universal suffrage and eligibility to public office empower them to take part in the political process. Citizens may run for office at local or national level. They elect their representatives. They influence the composition of

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<sup>9</sup>I am drawing on Eric Weil's theory of the constitutional state, see Weil E (1996). *Philosophie politique*. Paris: Vrin.



the government – directly when electing a president, indirectly through parliamentary elections. They give further support to the previous administration or dismiss it; they impose the formation of a new government, etc. In doing so, they make decisive political decisions. They make the choice of a given course of action.

The citizens' participation in the political process is mediated by political parties. The task of these parties is to set up and participate in viable governments. Of course, not every party lives up to this task. Some political parties are merely lobbying for particular interests, socio-economic or ethno-communitarian. All of them are meant to select politicians and foster their career. However, proper political parties are supposed to develop a political program in view of the general interest. The citizens make their choice between competing political projects.

Consequently, public and private liberties are equally important. The citizen is entitled to both of them: participation in political decision-making and private activity secured by judicially enforceable rights. Thus, the opposition between the "liberty of the ancients" and the "liberty of the moderns", as Benjamin Constant puts it,<sup>10</sup> is not relevant in contemporary democracies. Constitutional democracies entail a combination of both types of liberty.

Simple as it is, such an ideal-type poses a series of difficulties that necessitate additional institutions and political practices. Most of them are due to the paradoxical status of ordinary citizens. As a collective body, citizens are policy-makers. When electing a president, when choosing their representatives, they give support to a political party or a coalition of parties. In doing so, they approve a given course of action. As individuals, however, ordinary citizens have no influence on governmental action. The citizenry as a whole makes the decision but the decision is often uncertain and sometimes unpredictable. That is why constitutional rights and individual liberties are fundamental. Independence of the judiciary and the authority of constitutional courts, which secure those rights and liberties, are crucial issues.

Another problem derives from the idea of popular sovereignty. In principle, the citizenry constitutes a sovereign people unified by a general will. The vote gives voice to the "will of the people". However, the "sovereign people" is represented by the electorate and the general will is expressed through a majority vote. Such a vote splits the electorate in two conflicting parts. The result of the election signifies victory of the one part over the other. The solution to such a problem is political alternation within the framework of a widely accepted type of society. Political conflicts are more or less acceptable provided there is a broad consensus over the basic structure of the society. In addition to such a constitutional consensus, participatory politics (civic movements, participation of associations in local administration, citizens' consultation websites, etc.) give ordinary citizens the opportunity to have their say in public affairs, whether they belong to the majority or not. It remains

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<sup>10</sup>See Constant B (1980). "De la liberté des Anciens comparée à celle des Modernes", in *De la liberté chez les Modernes*. Paris: Hachette, coll. Pluriel, p. 491–515. English version in Constant B (1988). *Political Writings*, translated and edited by Biancamaria Fontana. New York: Cambridge University Press.

that modern democracy, as we know it, is an aporetic concept. The historic development and realization of this concept is a process of permanent adjustment and self-correction.<sup>11</sup>

### 6.2.2 *Political Discussion in Contemporary Democracies*

According to such a paradoxical ideal-type, the structure of the political discussion in constitutional democracies may be envisaged in two different ways. On the one hand, it corresponds to the interaction between political parties. On the other hand, the discussion is framed by the relationships between state institutions: parliament, government, administration, constitutional courts, etc.

From both points of view, however, political discussion appears to be specifically different from inter-subjective dialogue. Political discussion is not an inter-individual dialogue. It is a discussion between groups, communities and their institutions. In practical terms, it is a discussion between individuals who have institutional positions, who represent more or less institutionalized groups or communities. Interlocutors taking part in a dialogue are individuals trying to reach a theoretical or practical truth through an exchange of arguments. Such interlocutors are not supposed to defend any kind of social or political interest. They express and submit their well-considered convictions to rational examination. In a political discussion, however, interlocutors are individuals, but they do not speak *as* individuals. Willingly or not, they represent various forms of institutions. Consequently, any political agreement entails a settling of different interests. On the one hand, institutions like political parties are rooted in civil society. They give voice to group interests, ideological trends and moral preferences. On the other hand, any institution has a symbolic and strategic interest in preserving its influence and furthering its own development. This is true of social and political organizations like political parties, workers unions, etc. This is also true of state institutions and agencies. Thus, any political discussion includes a compromise between conflicting interests as well as an interpretation (or reinterpretation) of common values.<sup>12</sup> A theory of political decision must take into account such a basic fact. It must also consider the heterogeneity of the various interests at stake: social interests of professional groups, cultural interests of communities, personal interests of party leaders, strategic interest of each institution as such.

Such a remark does not mean that only politicians, union leaders, representatives, and so on, are entitled to take part in political debates. All citizens have a right to participate in such debates. However, ordinary citizens take little part in the *public* discussion. As a whole, they follow the discussion and make their decision on voting day. Although all citizens have a say in the political debate, publicly

<sup>11</sup>See Rosanvallon P (2006, 2008). *La Contre-démocratie*. Paris: Seuil, and *La Légitimité démocratique*. Paris: Seuil.

<sup>12</sup>On this point see Weil E (1982). "Vertu du dialogue". In *Philosophie et Réalité*. Paris: Beauchesne.



expressed opinions of senators, union leaders, experts, judges, etc., have a different kind of impact (and impacts of different kinds). Individual voices have a more or less important “weight” according to the interlocutor’s position in the political field. Such a weight is related to the individual’s participation (or non participation) in the social and political institutions. Individuals with no institutional position have no political influence whatsoever. Ordinary citizens participate in private discussions (among friends and family members), in semi-private (among colleagues) or semi-public discussions (among members of civic associations, etc.). Stimulated by the increasing exchange of information, ideas and propaganda on the internet, semi-private and semi-public discussions may have considerable influence on the formation of public opinion. Nevertheless, such discussions are framed by the government’s political agenda and the interaction between political parties. Eventually, the citizens’ political influence crystallizes in the electorate’s verdict on voting day.

To some extent, such a political discussion may be compared to a debate in a court of justice. In the same way as members of a jury make their decision after hearing the prosecution’s and the defense’s arguments, the citizens make their decision after hearing competing public discourses – which they reduplicate and discuss in more or less local public spheres, in more or less private spaces. Political parties confront their programs (when they compete for power) and results (when they have been in charge). The citizens are supposed to make their choice after weighing the pros and contras.<sup>13</sup>

In order to capture the main characteristics of political discussion, we have to consider the interplay between political parties as well as the interactions between state institutions. As regards the interplay between political parties, two features characterize the discussion: polarization and compromise. The discussion crystallizes around practical issues. Opposite options and ideological preferences appear on each issue and polarize the political spectrum. Between political competitors, polarization underlines the differences. Among political partners, it makes compromise necessary. In order to set up viable governments, partners within political parties or coalitions must define their common goals and values, identify the appropriate means and reconcile their different interests.

Such compromise making may be envisaged in two different ways. On the one hand, particular interests of different kinds must be reconciled: social and cultural interests of groups, classes or communities, strategic interests of social and political institutions. The reconciliation of such particular interests necessitates compromises of the “gains and losses” or “strategic” type. However, a mere distributive compromise between particular interests does not suffice to work up a real political project – that is: a project for the entire *polis*. In order to do so, the general interest must be assessed and determined. Particular interests must be reconciled with, and submitted to, the general interest.

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<sup>13</sup>See Ana Dimiskovska’s contribution to this volume: “The Logical Structure of Legal Argumentation: Dialogue or ‘Triologue’?”.

Since particular interests must be subordinated to the general interest, the public expression of those interests is submitted to three constraints. First, there must be some sort of integrative compromise between the particular interests of groups, communities, social organizations, political parties. Such a compromise is strategic from the point of view of each partner. However, the compromise must be also rational with respect to the achievement of common goals. It implies self-restraint formula for partners who must accept a limited satisfaction of their claims or a rearrangement of their priorities in order to reach a common goal. In a word, such a compromise must be *pragmatically rational*.

Second, the general interest is determined by an objective assessment of the situation (economic, social, diplomatic, etc.) and a definition of the problems that are to be solved. In this view, the general interest requires the adoption of appropriate technical measures. In order to maintain the global welfare of society, for instance, interest and inflation rates must be contained within certain limits. Political choices have to be made on such issues. However, the choices are more or less conditioned by technical constraints. As a result of such constraints, any compromise between the interests at stake must meet the requirements of *technical rationality*.

Third, particular interests must be expressed in the form of legitimate claims. Formally speaking, legitimate claims are universalizable. Such claims must be granted to all social groups, nations, minorities, etc., which find themselves in the same situation or face the same problem. For instance, security is a legitimate claim, domination is not. However, legitimate claims are also vindicated by a discourse that is meant to justify the claim with reference to common goals and values. Therefore, any reconciliation of interests supposes a common understanding of the values that provide ethical grounds for such a justification. For example, a reform of the retirement system necessitates reconciliation between different interests (professional groups, trade-unions, state agencies interests, etc.) as well as an interpretation of such values as solidarity (among citizens), responsibility (toward the coming generations), etc. Such ethical values are combined in a representation of what is just – a “scheme of justice” – that justifies the final decision. In the previous example, such a scheme must accommodate social solidarity and individual responsibility – which can be done in different ways, including the subordination of one value to the other. Such a scheme of justice must sound *reasonable* to all partners, that is: it must be understandable and acceptable to all of them. Moreover, given the fact that the citizenry as a whole assess the value of the policy, the compromise must be understandable and acceptable to all citizens, not only to the social or political partners involved. The compromise must sound reasonable to all citizens, that is: the interpretation of common values it implies must make sense to all of them.

As a result of the triple constraint imposed on the formulation of the various interests at stake, particular and general, any political project must reconcile the imperative of justice with the requirements of pragmatic effectiveness and technical efficiency. Both are necessary if the project is to succeed. In other words, a reasonable scheme of justice must accommodate the requirements of pragmatic and technical rationality. This is what political compromises are about.



As regards political parties, such reconciliation between justice, pragmatic and technical constraints determines a credible political program. As regards governmental action, it is a matter of institutional interaction between parliament, state administration and government. On the one hand, the parliament represents a variety of social interests, political ideologies and ethical convictions. It represents the society in its diversity. Such a representation establishes a balance of forces between political parties or coalitions. It reflects conflicts and alliances of interests between social groups and ethno-cultural communities. It expresses the ethical convictions and ideological preferences prevailing in the country for the time being. On the other hand, modern state administration is an instrument for law enforcement and social regulation. It is also an organ for technical reflection. With respect to governmental policy-making, the role of modern administration is to elaborate several possible courses of action, to assess their preconditions and foreseeable results, to provide the government with a variety of scenarios on each issue of importance. Consequently, state administration is not a mere instrument for social regulation by means of coercive power; it is an agency for technical reflection. As to governmental action, it must combine technical expertise (provided by state administration and agencies) and pragmatic compromises (within and between political parties) while subordinating them to the ethical and social demands expressed by the citizens and their representatives.

From an institutional viewpoint, compromise making between pragmatic and technical rationality is a matter of mediation between the political agenda of the parliamentary majority and the demands of the state administration. The composition of parliament determines a political balance of forces, while the administration provides technical expertise. In principle, such mediation between the two types of imperatives depends from the government's policy and governance style. The subordination of technical rationality to a scheme of justice implies government control over the state administration. The reverse means autocratic bureaucracy. The subordination of pragmatic rationality to the realization of a political project implies government initiative and accountability. The reverse leads to political clientelism and policy immobilism. However, institutional relationships must not be understood in a univocal way. Within the limits of a given constitution, they serve different functions, they have different meanings. The configuration of the parliament determines a balance of political forces. It also represents the society in its social and cultural diversity. It expresses a variety of ideologies and ethical convictions that coalesce into a representation of what is just. Through parliamentary control the scheme of justice vindicating the government's policy is put to the test of its legitimacy and acceptability to the citizens. In the process, the technical rationality of the administration is submitted to a collective paradigm of justice.

As regards the citizens, they are supposed to answer two questions: "What should we do?" and "Is this policy in agreement with our basic rules and principles?" The first question is a matter of political decision. Citizens are faced with problems concerning poverty, public education, healthcare, criminality, war and peace, etc. Such problems arise in respect to the more or less far-ranging goals of the country (independence, economic progress, social justice, national unity, individual and collective

freedom, cultural autonomy, political influence in world affairs, etc.). In this view, the question is "What is the right thing to do?" Answering the question means to approve or disapprove a given policy. The policy is worked out (at party level) or is being pursued (by the government) through a political process that involves both polarization and compromise making. The citizens follow the political discussion. Laws and political decisions resulting from all sorts of compromises are submitted to their approval. Although individuals may be involved in political activities and state administration, citizens as a whole do not intervene in the compromise making process. In fact, public discussion is not about *making* compromises. It is about approving, rejecting, demanding compromises. Political compromises are worked out within political parties or coalitions, within and between state institutions and agencies, most of the time, through non-public discussions.

The second question is a matter of critical judgment. Judicial review sets a model for such a judgment. In this case, there is no room for compromise. A given policy complies or does not comply with the citizens' rights. It is admissible or unacceptable with respect to the fundamental human rights that are incorporated in most democratic constitutions. It is true that compromises are involved in the making of constitutions. A given constitution may be seen as a compromise between nation-state and federalist principles, another as a compromise between presidential and parliamentary democracy, etc. Combined with political alternation, the majority vote can be viewed as a compromise on a decision-making procedure. In any case, citizens do not participate in the making of constitutional compromises. They approve or reject compromises resulting from non-public discussions. Public discussion begins when it comes to the ratification of the constitution. In this view, constitutional compromises may appear rational or irrational, reasonable or not.<sup>14</sup> Once the constitution has been approved, however, the enforcement of constitutional principles is not a matter of compromise.

When assessing the merits of a given policy, citizens are supposed to envisage it from those two complementary points of view: political and judicial. On the one side, the policy must solve the problems faced by the country. On the other side, it must comply with the state constitution and respect the citizens' fundamental rights. To some extent, the polarity between universal suffrage and judicial review reflects the difference between both points of views. Universal suffrage enables the citizens to influence the formation of the government. Judicial review aims at rejecting

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<sup>14</sup>For instance, the Constitution of the USA is a compromise between federal and state sovereignty. Although interpretations of the constitution and subsequent political practices have considerably evolved over time, the compromise remains fundamental. The Missouri compromise of 1820 was supposed to settle the dispute between free and slave states by drawing a geographic line between territories where slavery would be prohibited and territories where it would not (Maine and Missouri were admitted in the Union at the same time, Maine as a free state and Missouri as a slave state, but slavery was banned in the rest of the Louisiana Purchase north of latitude 36°30'). Such a compromise was a mixture of the "gains and losses" and "strategic" types of compromise and it soon proved fragile. Both examples may be seen as instances (the one positive, the other negative) of the fact that rational compromises are fully rational if, and only if, they are at the same time reasonable.



laws and procedures that contradict the constitution or the citizens' rights. However, the citizens must assess the problems from both standpoints, judicial and political. Accordingly, judicial review is not only the judge's task. Judicial review sets a model for examining any political program or governmental policy.<sup>15</sup> When considering any political project, citizens should consider themselves as judges assessing the conformity of the project to the basic principles of their democracy. They are also supposed to support a policy that is likely to help them out of the situation, problems, difficulties they are faced with. They must assess whether the policy is altogether just and efficient (technically and pragmatically).

In the preceding paragraphs, we introduced the expression "scheme of justice". This needs clarification. More precisely, we must distinguish between principles and schemes of justice. Principles of justice determine the individuals' fundamental rights and the basic structure of the society. Schemes of justice are involved in day to day policy-making. They accommodate various ethical values by giving each value its signification and proper place – its "just" place – in a concept that justifies a given policy, in a given context, in relation to a specific problem. A scheme of justice determines an interpretation of ethical values and a hierarchy between the values that justifies – in a reasonable or ideological way, depending on the case – a normative representation of the relationships between individual and society and/or between social groups, communities, nations, etc. We use the term "schemes" of justice in order to point out the fact that such schemes must comply with the fundamental principles that are enshrined in the constitution, in the declarations of human rights, etc. Moreover, schemes of justice determine a course of action that is supposed (in the ideal-type) to put principles of justice into effect. In the case of a healthcare system reform, for instance, a representation of what is just accommodates individual responsibility and social solidarity by subordinating the one to the other or establishing a balance between both values, a balance that has social and financial implications. As regards the relationships between social groups, schemes of justice are also at issue. For example, creating attractive work conditions for school teachers decides upon the position of science and culture in the society. Such policy determines to what extent modern economy requires high-level education. It also depends on the society's insistence on the ethical dispositions that must be developed through such education: personal autonomy, independence of judgment, etc. Schemes of justice are also involved in foreign policy. For instance, any concerted action between partner states implies a representation of a world order, of a hierarchy of alliances, etc., in which a given balance of powers is at stake as well as a certain understanding of independence, leadership, loyalty, and so on. At all events, schemes of justice describe the mutual relationships between social groups (within a given society) or nations (at world level) that would lead to, and result from, a better enforcement of principles of justice, whatever they are.

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<sup>15</sup>See David Rasmussen's contribution to this volume: "Public Reason and Constitutional Interpretation".

Because principles of justice frame the basic structure of the society, they are more or less stable. All members of society are assumed to accept them, although minority groups may simply tolerate such principles.<sup>16</sup> In contradistinction, a scheme of justice is a representation that evolves continuously in relation to technical advancements, economic cycles, changes in the division of labor, etc. Schemes of justice need constant re-evaluation. Eventually, there are various competing schemes of justice in any society. Such schemes result from people's contrasted social positions and experiences. The role of political discussion is to express them in a conceptual discourse. It is to crystallize the opposition between different schemes of justice and work out a scheme that vindicates a common course of action.

As regards governmental action, the schemes may vary with respect to the particulars of each problem to be solved. Therefore, the agreement on values that overlaps the compromise may be circumscribed to a given issue. In any case, such an agreement is provisional. It may be called into question as new problems arise. Nevertheless, similar schemes of justice appear in the political handling of different problems. This is the case when there is political or ideological coherence in the government's action. Such coherence may be theorized in the form of a political doctrine (liberalism, socialism, etc.) that is comprehensive in the sense that it applies to a whole range of issues. However, political alternation implies that no coherent ideology is put into effect over a long period of time. Governments of different political convictions alternate. In the long run, the political doctrine that "governs" a people's policy is a compromise between different political orientations or ideologies – more precisely: between political orientations that are compatible with the fundamentals of constitutional democracies in general, with the political traditions and the constitution of each state in particular.

### ***6.2.3 The Normative Structure of Rational and Reasonable Compromises***

From the previous analyses we may derive normative criteria for political compromises. In this view, we may distinguish three main criteria: (a) the interests or claims that are to be reconciled must be legitimate; (b) the compromise must be fair; (c) it must be rational and reasonable. The legitimacy criterion determines what interests or claims may be taken into account. The fairness of the compromise is a matter of recognition among partner groups or communities. Rationality and reasonableness refer to the very structure of the compromise. Criteria (a) and (b) set up the conditions for acceptable compromises. Criterion (c) defines an optimum for political compromises.

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<sup>16</sup>There may be a consensus among the majority of citizens who support the principles, while passive toleration of these principles by the diverse minorities is a mere compromise.



- (a) The interlocutors' claims must be legitimate. As we have seen, the claims are legitimate insofar as they may be recognized to all the groups or communities concerned and/or facing the same problem, in similar circumstances.
- (b) The compromise must be fair. The fairness of the compromise depends on several factors. On the one hand, it depends on the interlocutors' rights and positions in the compromise-making process. For instance, all interlocutors must be equally entitled to express their views. They must be free from coercion.<sup>17</sup> There must be a procedure of compromise-making and the procedure must be agreed upon by all interlocutors. Whenever the compromise is brokered, the mediating party must be accepted and trusted by all partners, etc. On the other hand, the fairness of the compromise may be also defined with respect to its rationality. Technical and pragmatic rationality determine the limits within which legitimate claims may be satisfied. It is fair to satisfy the claims as far as possible within such limits. Doing otherwise leaves room for arbitrary preferences.
- (c) Optimal political compromises are rational *and* reasonable.

As regards *rationality*, political compromises must be technically as well as pragmatically rational. By definition, such compromises are heterogeneous. On the one hand, they must be compatible with the requirements of technical efficiency. On the other hand, they must accommodate competing interests and political forces in view of the realization of common goals. The reconciliation of both types of rationality, technical and pragmatic, is also a matter of compromise. For example, economic measures must be taken in order to solve a financial crisis. In order to implement the measures rational and reasonable compromises must be reached between different political partners (political parties, partner-states, etc.). Political choices enable policy-makers to select a course of action among the various scenarios that are technically possible. Reciprocally, technical necessities must be matched by political compromises. What is technically necessary must be rendered "politically" possible.

Two further remarks. First, optimal compromises must be *integrative* rather than merely distributive. In some cases, especially in matters of international policy, bringing the partners to peaceful coexistence through compromise making is a great and un hoped-for achievement. However, optimal compromises make the partners capable of further cooperation or common action. In contrast, mere distributive compromises of the "gains and losses", "strategic" or even "self-restraint" type lead to policies based on a "lowest common denominator". In matters of internal as well as external affairs (e.g. European affairs), such policies aim at satisfying the particular

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<sup>17</sup>Prohibition of violence and equal participation in the discussion are necessary preconditions for the achievement of a fair compromise. However, such preconditions do not preclude any kind of constraint. In international politics, for example, the parties may be compelled to political negotiation by a third party that prevents the use of violence (international peace-keeping force, etc.). In any case, prohibition of violence does not mean absence of power relations. A given balance of forces between the parties – and between the parties and a third party when the compromise is "brokered" – plays a major role in the result.

interests at stake – interests of different segments of society, of political parties, of partner-states, etc. – without developing any global political project.

Second, a particular form of political compromise appears when the partners “agree to disagree”. This is an example of reciprocal self-restraint. However, such a compromise may be understood in two different ways. On the one hand, the “agree to disagree” sort of compromise permits to maintain peaceful coexistence in a deeply divided society. The problem is: such a compromise does not suffice when common action is needed. Effective political action is about making choices between different courses of action. In this view, to agree to disagree means: to be in a situation where crucial decisions may be avoided or delayed. On the other hand, reciprocal self-restraint for the sake of peaceful coexistence is only a particular instance of the “agree to disagree” kind of compromise. In its most general form, such an agreement makes possible the achievement of a delimited consensus. The consensus may concern social peace as well as any other value that is considered as essential by the partners. That is the reason why the “agree to disagree” form of agreement is implied in many kinds of political compromises. Governmental coalitions, for example, suppose that the partners agree on a selected range of priorities, setting aside other issues they view as less important or less urgent. In this case, the partners “agree to disagree” because they know that an open conflict on such issues would endanger the unity of the coalition. Most of the time, the compromise serves strategic purposes. Partners in a governmental coalition are liable to insist on their common goals and priorities at the beginning of their mandate. When the time comes for new elections, they will insist on their divergences in order to mark their difference and maximize their electoral support.

As regards *reasonability*, pragmatic compromises (between political partners) as well as compromises between technical and pragmatic imperatives must be subordinated to an agreement on a scheme of justice. The scheme must be understandable and acceptable to all the partners involved in the compromise. It must be also understandable and acceptable to the citizenry and the public at large.

What is normative in the structure of a rational and reasonable compromise is the fact that the rational must be subordinated to the reasonable. Such subordination is the core principle of optimal political compromises. In the ideal case, an agreement on common values – a scheme of justice that accommodates such values as solidarity and responsibility, security and liberty, etc. – overlaps a compromise of interests. Such a normative structure reconciles justice and efficiency by subordinating technical and pragmatic calculations to a shared interpretation of ethical values. In this view, the compromise has instrumental as well as value rationality. It is instrumental as regards the partners’ particular and collective interests. It is value-rational insofar as it permits the realization of certain principles or values under the circumstances, within the limits of a given community. Although rationality is subordinated to reasonability, both are closely interrelated. A reasonable agreement on common values is achieved inasmuch as there is need for a stable and durable compromise. Reciprocally, no compromise is fully rational unless it is also reasonable. Rational calculation compels to reasonable agreement; reasonable agreement gives full effectiveness to the compromise. In order to be durably enforced, compromises



must sound reasonable to all partners. Insofar as their implementation needs political support, they must make sense to the public at large.

Shifts in the hierarchy between rationality and reasonability determine distortions and failures in political interaction and co-action. Mere compromises of the “gains and losses” or “strategic” type lead governments to political clientelism. Such a policy aims at satisfying the particular interests of different groups or layers of society without developing any global political project. Distributive compromises of the “gains and losses” or even “self-restraint” type may end up with an agreement on a “lowest common denominator”. When ethical principles are subordinated to political calculation, public discussion boils down to a mere phraseology (on justice, rights, etc.) covering up lobbying and partisan combinations. When technical expertise is not subordinated to ethical and political choices, technocracy replaces politics. When schemes of justice are nothing else but rationalizations of socio-economic interests, they turn to mere ideologies, etc.

What remains to be seen is whether the approval of a political compromise by the public at large is a sufficient condition for the compromise to be reasonable. In the optimal case, an agreement on shared values gives sense to political compromises. We call reasonable such an agreement inasmuch as it is based on reciprocal understanding among partners who recognize each other as legitimate interlocutors – which does not mean that they all have the same social and political “weight”. In order to reach a reasonable agreement each interlocutor must be open to the others’ standpoints; each of them must make his/her point of view understandable to the others. To some extent, this is how John Rawls understands reasonability, which is a central concept in his later work.<sup>18</sup> However, such openness results from the necessity to reach compromises. It is not only a virtue that permits the citizens to handle their internal pluralism or settle their conflicts. It is a virtue that actual conflicts force them to acquire, if – and only if – the conflicts cannot (or may not) be settled by force. True, we should conceive of reasonability as some kind of a priori that enables us to handle pluralism. However, reasonability is also the *result* of conflicts of interests when the use of violence is either prohibited (within the state), impossible or ineffective (in external affairs). Once again, this is the optimal case. Conflicts that cannot be solved by force may also end up in a standoff; they may be settled by mere bargain, etc.

At all events, the agreement on a scheme of justice that secures the compromise must be distinguished from the agreement on basic principles that makes possible the very process of compromise making. As we have seen, such principles concern the equality of all partners, the absence of coercion, etc., whereas the agreement resulting from the compromise concerns the interpretation of common ethical standards. The compromise is reasonable insofar as it gives way to a consensus on values that is achieved through reciprocal agreement. We may assume that such agreement on a certain interpretation of common values supposes that the underlying

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<sup>18</sup>See Rasmussen D (2004). “Defending reasonability”. *Philosophy & Social Criticism*, vol. 30, No. 5–6. London, Thousand Oaks, CA and New Delhi: SAGE Publications, pp. 525–540.

compromise of interests is fair. Nevertheless, the fairness of the compromise must be distinguished from the reasonability of the ethical agreement that is achieved through the compromise.

However, we must take into account the fact that such agreement concerns a limited group of partners, although it must be assessed and approved by the public at large – and by the electorate that represents the public. No such agreement is reasonable in absolute terms. A political compromise is always *more or less* reasonable. The compromise sounds reasonable to a people at a given time, under certain circumstances. It may sound absurd to another people, to the “international community” or even to the same people at another period of its history. Reasonability means universal comprehensibility and admissibility. It does not refer to a “faculty” (Reason) that would be substantially different from other faculties. It refers to an indefinite *process* of “enlarged thinking”. Differentiation and universalization define such an ideal process. Each interlocutor must endeavor to overcome the peculiarities (prejudices, bias) of his view by comparing it with a variety of alternative standpoints. Thus, each interlocutor must be able to understand an indefinite variety of viewpoints that differ from his own. He must express his views in a way that makes them understandable and admissible to all the others. A community of such interlocutors would be a reasonable community, that is: the community would be able to achieve reasonable agreements. A reasonable agreement is an agreement that accommodates a plurality of universalizable viewpoints, as opposed to the summation of strictly particular (i.e. arbitrary) standpoints. In this view, a reasonable individual can be defined as an individual capable of doing by himself what a reasonable community does. Such an individual would be able to achieve by himself a conclusion that accommodates a plurality of viewpoints. He would retain each viewpoint in its universal content while overlooking its particular bias. A community of reasonable individuals would be made up of such individuals and their relationships would be based on the recognition of each other’s reasonableness. Such individuals would not only express their views in a way that makes them comprehensible and admissible to the others. They would discuss the various ways in which every one of them strives to accommodate the plurality of their different but universalizable viewpoints.

Obviously, there is a gap between the citizenry as it really is and such an ideal community of reasonable individuals. As we have seen, in political matters individuals act as members of social groups, cultural minorities, nations, etc. Interests must be reconciled while agreements on common values must be reached. Any agreement on shared values – more precisely: on a certain interpretation of these values – occurs within the limits of a reconciliation of interests. In a democratic framework, however, compromises must be accepted and supported by the public at large. Therefore, the process of compromise making must include an anticipation of the public’s response to the compromise. The public is supposed to assess: (a) whether the interests at stake are legitimate; (b) whether the way they are reconciled is fair; (c) whether the compromise is rational and reasonable.

However, the interlocutors involved in the compromise-making can anticipate either the response of the public as it is (*de facto*) or the response of an ideal political



community as we understand it (*de jure*), that is, as a community of reasonable individuals. If the compromise is to be reasonable, the second form of anticipation must serve as a regulative ideal. The compromise stands a better chance of being reasonable insofar as the compromise making anticipates the response of a community of reasonable individuals. Such regulative ideal does not provide an ideal response. It provides an ideal *methodology*. It determines an ideal method of response which is based on a process of "enlarged thinking" in a context of social and cultural heterogeneity. Such a methodological ideal serves also as a reference for citizens asking themselves whether they, as a people, can accept and support a given policy. The result is more or less reasonable, depending upon the degree of social and cultural differentiation of the society and the citizens' ability and willingness to generalize their views. At all events, the citizens' expectable response must be measured to the response of the political community at it is supposed to be. To the political community *as it is supposed to be*, because the very idea of democratic institutions presupposes that all citizens are capable of rational and reasonable thinking. When neither politicians nor the citizenry refer to such a norm of political judgment, the communicational interaction between the citizens and the government leads to demagoguery and public manipulation. When the citizens contend themselves with expressing their particular interests or moral convictions, the resulting policy is often chaotic or mediocre. Under the most favorable circumstances, it may still be rational or even reasonable, but in spite of the democratic institutional framework it cannot be democratic. In this case, only an élite of policy makers is in the position of working out and assessing the compromises that are necessary to accommodate such a variety of particular views. Democratic discussion is about selecting the best possible way of defining and realizing the general interest. It supposes that all citizens express not only their particular interests or moral convictions, but also their own understanding of the general interest.

A range of issues concerning home politics in contemporary democracies might illustrate the previous analyses. However, similar remarks can be made when it comes to international affairs. In international matters, citizens are to judge policies resulting from compromises between political parties, between the administration and the military, between partner states, between states and international organizations, etc. Most of international politics is about solving problems through reasonable compromises between rival states (in order to avoid violence) or between partner states (in order to build alliances). Such compromises underline international treaties and concerted actions. The citizens assess the compromises when they are asked to approve a treaty or to support their government's international policy.<sup>19</sup> In such matters, as well as in domestic affairs, the role of parliament is to verify that a given policy is understandable and acceptable to a large majority of citizens. Nevertheless, the citizens have the final say. Therefore, the compromise making

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<sup>19</sup>The referenda held in France and the Netherlands over the European Constitution (May 2005) are perfect examples. The Constitution was meant as a compromise between nation-state independency and federalist principles, between social solidarity and free market economy. Most of the debate focused on the question: is this a good or a bad compromise?

process must (should) anticipate the citizens' response and take it into account from the very start.<sup>20</sup> In international politics, this implies the expectable reaction of the world public opinion, of the international community.

In any case, reasonable compromises are never ideal solutions. By definition, a reasonable compromise is the best solution *under the circumstances*. Although there is a normative pattern in the concept of an integrative and pragmatic, rational and reasonable compromise, such a compromise is never the "absolutely best" solution. Reasonable compromise is the "relatively best" form of agreement, the form that is appropriate to the structure of constitutional democracies. Two concluding remarks will underline this point. First, there are situations that require uncompromising stances and courses of action (for instance, against totalitarianism or ethnic cleansing). We must recall that polarization as well as compromise is an essential feature of policy making. Wars of independence, resistance to genocide, etc., compel to radical action. Generally speaking, reasonable compromises are possible if, and only if, the partners agree that a negotiated solution is preferable to the use of violence or the exertion of sheer domination. Second, reasonable compromises are still what they are, that is: compromises. Although precedence is given to ethical tenets over technical and political calculations, technical and political constraints determine the extent to which ethical ideals may be realized for the time being, that is: in a given situation. Such compromises are central in political action but they never constitute perfect or definite solutions. They can be nothing more than milestones on a road that leads (or should lead) to a better enforcement of human rights and democratic principles.

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<sup>20</sup>Analyzing the failure of the 1992 Charlottetown Accord on constitutional reforms in Canada, Dominique Leydet writes: "If the negotiators know in advance and work with the assumption that any negotiated agreement will be submitted to a national referendum, then this awareness will discipline their bargaining and direct them to an agreement more likely to stand the test of public debate". See Leydet D (2004). "Compromise and Public Debate in Processes of Constitutional Reform: the Canadian Case". In *Social Science Information*, vol. 43, p. 245.