

Must Democracy Be Reasonable?

THOMAS CHRISTIANO
University of Arizona
Tucson, AZ 85721
USA

Democratic theorists stress the importance of free and equal discussion and debate in a well-functioning democratic process. In this process, citizens attempt to persuade each other to support legislation by appealing to considerations of justice, liberty or the common good and are open to changing their minds when hearing the arguments of others. They are concerned to ground policy and legislation on the most defensible considerations of morality and the best empirical evidence. To be sure, majority rule remains important in democratic decision making because of the persistence of disagreement. But many have argued that debates over legislation that appeal to moral considerations ought to be given a much larger place in our understanding of the ideals of democracy than theorists have given them in the past. This emphasis on the importance of moral debate and discussion in democracy is characteristic of what I call the *wide* view of deliberative democracy.

In addition to assigning importance to moral discussion and debate in a democracy, Joshua Cohen's account of deliberative democracy adds the constraint that this discussion and debate ought to be framed by considerations that all reasonable citizens can sign on to. Debate in a well-functioning democracy ought to be limited to a shared basis of public reasons. The requirement that debate be limited to considerations on which there is reasonable consensus imposes severe constraints on a legitimate process of moral discussion and debate in democracy. Indeed, I would venture to say that most people in most contemporary democracies do not satisfy these constraints. I call the conception of

deliberative democracy that includes this constraint, the *narrow* conception of deliberative democracy.

My purpose in this paper is to examine the narrow conception of deliberative democracy and to explore the reasons given for thinking that it is the best account of a well-ordered deliberative democracy. In my view, the reasons offered do not support the thesis that the narrow conception of deliberative democracy is superior to the wide conception and I think that there are some disadvantages to accepting the narrow conception. While I applaud the recent tendency to include moral discussion and debate in an account of a well-ordered democracy, I think we should resist the additional thesis of the narrow conception of deliberative democracy.

The basic principle that distinguishes the narrow account of deliberative democracy is the principle of reasonableness. Cohen gives three basic arguments for this principle: an epistemological argument, a moral argument and an argument from democratic values. In this paper, I articulate the narrow conception of deliberative democracy. Then I explain and critique the three arguments Cohen offers for holding the principle of reasonableness. Along the way, I argue that the chief considerations employed to defend the principle of reasonableness actually argue against the principle. Not only is the principle not defended, it ought to be rejected.¹

I Cohen's Account of Deliberative Democracy

Cohen gives an account of the *ideal deliberative procedure*, which provides 'a model characterization of free reasoning among equals, which can in turn serve as a model for arrangements of collective decision making that are to establish a framework of free reasoning among equals.'² The ideal deliberative procedure is a *model* of genuinely democratic institu-

1 The principle of reasonableness is employed and defended by other democratic thinkers as well, most prominently by Amy Gutmann and Dennis Thompson in *Democracy and Disagreement* (Princeton: Princeton University Press 1996), 52 and *Why Deliberative Democracy?* (Princeton: Princeton University Press 2005), 3 as well as Samuel Freeman in 'Deliberative Democracy: A Sympathetic Account,' *Philosophy and Public Affairs* 29, 4 (2000) 371-418. In this essay, I focus on Joshua Cohen's arguments for the narrow conception of deliberative democracy.

2 See Joshua Cohen, 'Reflections on Habermas on Democracy,' *Ratio Juris* 12, 4 (1999) 385-416, at 396.

tions. I will understand this idea to mean that democratic institutions ought to emulate the model as closely as possible.³

Participants in the ideal deliberative procedure are *free* in the sense that adherence to any particular comprehensive view of life is not a condition of citizenship or of any of the rights, liberties, and powers of citizenship. Citizens are bound only by the results of their free deliberation among equals. Citizens are *equal* since each citizen has an equal right to participate in politics at each of the stages of the democratic process and furthermore their abilities to participate are not affected by the distribution of power or wealth. Citizens provide arguments for their proposals to each other grounded in their conceptions of the common good and justice and are ready to accept the better argument.

-
- 3 Another interpretation of the idea of a model is that the ideal deliberative procedure is a kind of contractualist procedure in which laws and policies are justified. To the extent that these proposals are justified in such a procedure, the question is to figure out how to bring about these justified proposals in the conditions of the actual world. Cohen links the proposals justified in the ideal deliberative procedure to actual democratic deliberation by arguing that such proposals are more likely to emerge from democratic political institutions in which citizens attempt to resolve disagreement by giving reasons that each can reasonably accept. The argument is that the more actual democratic processes resemble the justificatory process embodied in the ideal deliberative procedure, the more the outcomes of the actual democratic process will resemble the outcomes of the ideal deliberative procedure. Briefly, Cohen argues that only if citizens aim at deliberative justification in the process of actual democratic deliberation can they hope to bring about outcomes that are justified in the ideal procedure. Furthermore, actual deliberation fosters mutual respect among participants and so helps foster the kind of discussion that is had in the ideal procedure. In addition, actual deliberation enables citizens to master political principles because that is the currency of discussion and finally, deliberation tends to reduce the extent of disagreement in the population.

Needless to say, the inference from the justification of the outcomes of the hypothetical procedure to the justification of the outcomes of an actual procedure that approximates the ideal procedure is highly problematic. The inference is clearly subject to the worries expressed in the theory of the second best. Just because the properties of the actual procedure resemble the properties of the hypothetical procedure, it does not follow that the properties of the outcomes of the actual procedure will resemble to the same extent (whatever that means) the properties of the outcomes of the hypothetical procedure. The four arguments mentioned above do not seem to me to ensure that the outcomes of an actual non-deliberative democratic institution will more closely resemble the outcomes of the ideal procedure than the outcomes of an actual highly deliberative democratic society. It may even turn out that the outcomes of a non-democratic but benevolent dictatorship will be closer to those of the ideal procedure than those of an actual attempt to realize deliberative democracy. We need a much more powerful set of instrumentalist arguments for the claim that an actual deliberative democracy will achieve defensible outcomes. But I will leave these issues to the side in this paper.

These first three elements are shared by the wide conception of deliberative democracy.

Citizens are *reasonable* in this model in the sense that they recognize the fact of reasonable pluralism and are willing to defend and criticize institutions in terms that other reasonable citizens, as free and equal, have reason to accept given the fact of reasonable pluralism. This is what I call the *principle of reasonableness* in what follows and is the distinguishing feature of the narrow conception. The key idea is that citizens, under the conditions of reasonable pluralism, advance proposals for organizing their shared political institutions only on the basis of reasons that are compelling to their fellow citizens as long as their fellow citizens accord them the same respect. Citizens proceed from consensus on the main considerations relevant to political decisions though they may disagree on the relative weights of those considerations and the exact interpretations of those considerations.⁴ They avoid advancing proposals on the basis of controversial considerations even if they deem them true or compelling.⁵

I doubt very seriously whether a community can reach a reasoned consensus of this sort. It seems to me that a principle of legitimacy based on reasoned agreement is beyond the reach of real political societies. I have also argued that this kind of consensus may not be desirable for a democratic society. Given our fallibility about the truth in moral and political matters and the importance of disagreement in spurring us on to improve our understanding of moral and political truths, even the weak type of consensus Cohen celebrates carries with it a serious danger of self-delusion and intellectual stagnation.⁶

4 As long as there is agreement on the list of considerations, the remaining disagreements on the relative weights of the considerations and their exact interpretation can be legitimately resolved by majority rule, Cohen says. Citizens can reasonably accept terms of association when they agree on the list of considerations in support of those terms. See Cohen, 'Procedure and Substance in Deliberative Democracy,' reprinted in *Deliberative Democracy*, James Bohman and William Rehg, eds. (Cambridge, MA: MIT Press 1998) 407-37, esp. 414.

5 Here there seems to be a slight addition to the account of the ideal deliberative procedure. In 'Deliberation and Democratic Legitimacy' (reprinted in Bohman and Rehg, 67-91, esp. 74), Cohen contrasts the reasoned aspect of the procedure to the mere aggregation of preferences or interests and insists that only the force of the better argument is exercised; in 'Reflections on Habermas on Democracy,' Cohen adds that the reasons have to be of a particular sort, namely, ones that can be accepted by other reasonable citizens. This may prove to be a major change.

6 See my 'The Significance of Public Deliberation,' in Bohman and Rehg, for a defense of some of these claims.

In this paper, I pursue a different set of issues. I probe the reasons offered for seeking the kind of consensus Cohen thinks is so important to a legitimate democratic society. First I give careful accounts of the principle of reasonableness and the fact of reasonable pluralism. Then I explain and criticize the epistemological arguments for the principle. After that I discuss the moral argument for the principle and the democratic argument. Along the way I show that the considerations that underpin these arguments actually suggest that the principle of reasonableness is highly problematic.

II The Principle of Reasonableness

The centerpiece and principal animating idea behind the narrow conception of deliberative democracy is the principle of reasonableness. The *principle of reasonableness* or the *criterion of reciprocity* asserts:

People are reasonable, politically speaking, only if they are concerned to live with others on terms that those others, understood as free and equal, can also reasonably accept.⁷

A key component of the principle of reasonableness is the need to acknowledge the *fact of reasonable pluralism*. This fact is:

Conscientious, good-faith efforts in the exercise of practical reason, by politically reasonable people, do not converge on a particular philosophy of life.⁸

The principle of reasonableness is the distinguishing feature of the ideal of deliberative democracy on Cohen's account. 'Reasonableness' is a basic normative notion in Cohen's account of a well-ordered society. And so a criterion of reasonableness is meant to provide a principle for the evaluation of all basic political and economic institutions of the society in which one lives and it is thereby meant to guide the deliberations of democratic citizens as they attempt to design those basic institutions.

We must clarify three notions to understand the principle of reasonableness that I have quoted above. First, we must clarify the idea that one *can reasonably accept* terms of association or cooperation. Cohen says: 'a consideration is an acceptable political reason just in case it has the support of the different comprehensive views endorsed by reason-

7 See 'Reflections on Habermas on Democracy,' 396.

8 Ibid.

able citizens.⁹ I take this to imply that a sufficient condition for saying that a particular person can reasonably accept terms of association is to say that the terms, and the considerations the society accepts as underpinning the terms, are at least compatible with that person's reasonable doctrine. And a sufficient condition for saying that a particular person cannot reasonably accept terms of association is to say that the terms, or the considerations the society accepts as underpinning the terms, are incompatible with that person's reasonable doctrine. For instance, terms of association that affirm some religious belief, say by establishing a religion, cannot be reasonably accepted by someone who is an atheist. And a religious person cannot reasonably accept terms of association that establish atheism, as in the case of the Soviet Union.¹⁰ But also if the terms of the society are seen by the society to be grounded in some controversial set of religious or moral considerations, those who reject these considerations cannot reasonably accept the terms.

We also need to clarify the idea of a reasonable comprehensive doctrine. A *reasonable comprehensive doctrine* is an epistemically reasonable doctrine held by a reasonable person. It is a doctrine designed with a view to justifying terms of association on terms that others can reasonably accept. The atheist whose doctrine affirms that the state must eradicate religion in a political society marked by the fact of reasonable pluralism does not hold a reasonable comprehensive doctrine. While such an atheist desires to eradicate religion, it is not true that this desire shows that he cannot reasonably accept a political society that allows the survival of religion.

I stated a sufficient condition for rightly saying that a person can reasonably accept terms of association. It should be possible to say when an unreasonable person can or cannot reasonably accept terms of association. This idea is not thoroughly discussed in Cohen or Rawls. Presumably to say that an unreasonable person can reasonably accept terms of association is to say that such a person could reasonably accept

9 Ibid., 398.

10 As Cohen and Rawls use these terms, to say that A can reasonably accept terms of association T is to say that A cannot reasonably reject those terms. And to say that A cannot reasonably accept the terms T is to say that A can reasonably reject those terms. So, given a particular reasonable comprehensive doctrine, reasonable rejectability and reasonable acceptability are exclusive. Of course, it is possible for terms T to be both reasonably rejectable by one person and reasonably acceptable to another when those persons have different reasonable comprehensive doctrines. And of course one person might change from reasonably rejecting terms to reasonably accepting those terms because of a change in reasonable comprehensive view.

those terms were that person reasonable. We do not have the space here to consider the conditions that make this counterfactual true.

One other term that should be clarified is the idea of the *epistemically reasonable*. A doctrine is epistemically reasonable to the extent that it is coherent, intelligible and survives conscientious critical reflection.¹¹ This condition imposes a kind of minimal condition of epistemic legitimacy on comprehensive doctrines. The different formulations that Cohen gives of this minimal condition are all meant to be quite undemanding so as to avoid the charge that a particular epistemological doctrine is being presupposed.

From the above definitions, we can see how the principle of reasonableness is a criterion of reciprocity. It states that reasonable people propose terms of association that other reasonable people can reasonably accept. I want to focus, in this chapter, on a key component of this requirement of reasonableness. It is a necessary condition on being a reasonable person that one seek to justify terms of association to others on the basis of considerations that they can accept, as long as they are reasonable. Reasonable persons try to find a shared basis of justification among reasonable citizens of a political society. The reasonable person seeks consensus as a basis for the justification of terms of association of a political society.

It is important to be clear on what this consensus is. First, it is a consensus among reasonable persons. Hence, the fact that some unreasonable persons do not agree with some basic considerations is not sufficient to show that those considerations are not the shared basis the reasonable person is looking for. Still, reasonable persons do look for actual agreement among persons as long as those persons satisfy the condition of reasonableness. Reasonable persons may look for actual agreement among some unreasonable people as well, at least to the extent that the relevant considerations are ones those unreasonable persons could hold were they reasonable. For example, the unreasonable atheist's atheistic views can still be taken into account and must still be accommodated as long as we do not try to accommodate the unreasonable parts of the views (the parts which say that religion must be eradicated by the state).

Second, the consensus arrived at is not a complete consensus. The fact of reasonable pluralism rules out complete consensus on all the items in the comprehensive doctrines of the citizens. This is the most

11 See Cohen, 'Moral Pluralism and Political Consensus,' in *The Idea of Democracy*, David Copp, John Roemer, and Jean Hampton, eds. (Cambridge: Cambridge University Press 1993) 270-91, esp. 281-2.

prominent way in which the consensus has been thought to be incomplete. More important for us, consensus cannot be achieved on all the political ideas of the citizens. The search for a shared basis of justification involves a kind of self-restraint. Reasonable persons do not seek to advance those aspects of their ideas about justice and political morality that they know others cannot reasonably accept.

Third, the consensus that reasonable citizens search for is a consensus on the list of considerations that are relevant to the justification of terms of association. They may not agree entirely on the relative weights of these considerations but they do agree on the basic list of considerations. And they may not agree entirely on the exact interpretation of these considerations. Cohen thinks that as long as justification proceeds from a shared list of considerations, disagreement on the exact principles and policies people propose as terms of association is compatible with each person being able reasonably to accept the terms of association. Cohen argues that once the limited consensus on the list of considerations has been arrived at, disagreements based on the different weights people place on considerations and their different interpretations can legitimately be resolved by majority rule.¹² Majority rule cannot however legitimate decisions that are not based on the considerations in the agreed upon list of considerations.¹³

Finally, the consensus concerns considerations that are relevant to evaluating the basic political institutions of society: in particular, the constitutional essentials and the principles of basic justice. Though much of Cohen's discussion proceeds without this last restriction, I will limit my discussion to these issues for the sake of ease of presentation.

The principle of reasonableness requires that one seek a kind of consensus among citizens as a basis for the justification of political institutions. A basic implication of the idea of the reasonable is that persons, when proposing terms of association for the society, must refrain from

12 See Cohen, 'Procedure and Substance in Deliberative Democracy,' 407-37, esp. 414.

13 Even with all these qualifications and caveats on the kind of consensus sought after, the consensus does not have to be entirely actual, even among reasonable persons. For some may wrongly believe that the terms proposed are incompatible with their reasonable doctrines. Some such false beliefs ought not to count against saying that they can reasonably accept the terms. But others presumably do count against saying that they can reasonably accept the terms. Presumably, reasonable acceptance is not closed under implication. But what the exact boundaries are is uncertain. I do not think that these difficult issues need to be settled for the purposes of this paper. See Gerald Gaus, *Justificatory Liberalism* (Oxford: Oxford University Press 1996) for a nuanced treatment of this issue in the context of this kind of theory.

justifying those terms on the basis of what they regard as the whole truth concerning matters of justice and political morality. They must exclude from their justifications those parts of what they regard as the whole truth that are incompatible with the political ideas of other reasonable persons.

My question is why must we refrain from proposing terms of association on the basis of reasons that we believe to be true or appropriate considerations but that we know to be incompatible with the reasonable comprehensive doctrines others accept? This question is particularly important in the light of the great amount of disagreement over ideas about justice and political morality we see in political life. The principle demands a great deal of restraint on the part of those who participate in politics. What are the arguments for this principle?

In what follows I discuss three types of arguments Cohen gives for the great importance given to a shared basis of justification (i.e. the list of considerations that reasonable people can agree on as bases of justifying institutions) that is at the heart of the principle of reasonableness. I argue that they all fail. First I discuss a democratic argument for the principle of reasonableness and then argue that democratic norms of freedom and equality do not require that one adhere to the principle of reasonableness. Second, I discuss two versions of what I call the epistemological argument and show that both versions fail. Indeed, both versions of the argument are essentially self-defeating. Third, I discuss what I call the moral argument for the principle of reasonableness. I show that it fails and that in fact the considerations given by the argument point away from the principle that we ought to seek a shared basis of justification.

III The Democratic Argument for the Principle of Reasonableness

Cohen offers a democratic argument for the principle of reasonableness. In a sense he is arguing that the basic ideas that underwrite democratic institutions also support the principle of reasonableness. In the terms given above, he is arguing that if one adheres to the wide conception of deliberative democracy one must then adhere to the narrow conception. He argues very briefly that the principle is required by the fact of reasonable pluralism coupled with the demand that citizens be seen as free and equal.¹⁴ Cohen says

14 See 'Reflections on Habermas on Democracy,' 405.

[Because of] the background of democracy — the idea of citizens as free and equal — and the fact of reasonable pluralism... the relevant justification must be addressed to citizens, by which I mean that its terms must be acknowledged as suitable by those subject to political power. Given that citizens have equal standing and are understood as free, and given the fact of reasonable pluralism, we have an especially strong showing of legitimacy when the exercise of state power is supported by considerations acknowledged as reasons by the different views endorsed by reasonable citizens, who are considered as equals. No other account of reasons is suited for this case.

The key idea here is that in order for political authority to treat individuals who reasonably disagree as free and equal it must exercise power only on the basis of reasons they all reasonably accept. If an authority exercises power on the basis of a reason that some reasonably do not accept then it is treating those persons not as free and equal. As I understand this, the authority is treating these persons as inferiors or subordinates.

Let us consider an example of this idea. A majority in a democratic society believes the reasons the dissenters have for rejecting the policy concerning matters of basic justice at issue are not very good ones and so the majority chooses the policy the dissenting citizens reasonably reject. Ought we to say that the majority treats the reasonably dissenting citizens as inferiors? Cohen suggests this, but I do not think he is right. The citizens' *views* concerning the issue at hand are being treated as less reasonable or defensible than the ideas the majority is acting on. But this is not the same as saying that the citizens are being treated as inferiors. We must distinguish between treating a person as an inferior and treating a person's ideas or policy proposals as inferior.

There are three main ways in which one can think of persons as inferiors. One way to think of persons as inferiors is to think of them as having *lesser capacities* for insight, good judgment and reasoning or as having generally wasted their capacities for no good reason.¹⁵ A second way to think of people as inferiors is to think that *their interests are less important* than those of others. A third way is to think of them as morally *depraved or evil* and thus not deserving of the same rights and advantages as others are.

Commitment to these kinds of inferiority is expressed by depriving a person of a right to a say in how the common world they live in is organized and to those things that are necessary to a right to an equal say. It is also expressed by depriving a person of basic liberal rights

15 Cohen understands treating others as equals this way in 'Democracy and Liberty,' in *Deliberative Democracy*, Jon Elster, ed. (Cambridge: Cambridge University Press 1998), 192.

of expression, association, and conscience as well as by the denial of equality before the law. Furthermore, simply ignoring a person's views or never taking her arguments seriously in the process of making collective decisions also expresses a sense that she is an inferior. These are the basic ways in which one can treat others as inferiors.

On the wide view of deliberative democracy, there are three components to treating the other as an equal in a political society. First, one treats others as equals by respecting the democratic process and basic liberal rights: by giving each individual equal opportunities to affect the outcome of decision-making and present their arguments. Democratic and liberal institutions make no commitment about the relative capacities of individuals and instead allow citizens to choose for themselves who they wish to ally themselves with or who they wish to associate with and trust.¹⁶ And democratic institutions implicitly express the equal importance of each person as a being with interests. Second, to the extent that one has taken the other persons' interests and capacities into account in the best way one knows how, that is, one's proposals take them into account, one has treated them as equals. Third, to the extent that one has listened to others' arguments in the democratic forum, attempted to give arguments that defeat their arguments, and submits to the 'force of the better argument,' one has treated them as equals in the process of discussion by taking them seriously and not ignoring their views. Must one also be reasonable, in Cohen's sense, in order to treat others as equals?

It is clear that one does not treat another person as an inferior merely by thinking that some or even many of their ideas are less defensible than one's own. Indeed, one can think of another as superior in the senses listed above while rejecting their particular views.

The question is, does one treat another as an inferior when, having the best justified views on a particular subject (by one's own lights), one proposes terms of association to the democratic assembly on that basis? The answer to this must be no, for anyone who recognizes that people disagree with each other and that policy proposals are always controversial.

Here is the basic argument. First, clearly, one need not think that someone is an inferior if one disagrees with her on some very deep questions. One does not have to think that her capacities are inferior or that she is deprived or that her interests are of less importance.

16 See my 'Knowledge and Power in the Justification of Democracy,' *Australasian Journal of Philosophy* 79, 2 (2001) 197-215, esp. 212-15, for a defense of this claim.

Second, disagreements among rational persons are normally ones in which each of the parties thinks that she has superior reasons on her side. And every person can recognize this. Under these circumstances, the effort to advance one's proposals in the democratic assembly is an attempt to bring about the most supported terms of association for all. Therefore, a person's advancing a proposal is not a mere form of self-assertion over others.¹⁷

Third, once we acknowledge the facts of deep disagreement on questions of basic justice, we are in a situation where it is either one person's views or another's that is implemented. There is no neutral baseline to which we can fall back when we disagree about terms of political organization. Some proposal must be adopted. Therefore, the mere adoption of a controversial proposal cannot by itself imply that those who disagree are treated as inferiors. The only way in which the process of decision can be thought to treat some as inferiors is if the decision expresses the idea that they are inferiors or if the decision is made in a way that excludes or diminishes the participation of some of the members.¹⁸

But we have established that the mere fact that one person disagrees with another does not imply that he thinks of the other as an inferior. And since each is advancing a view on the basis of reasons that each

17 The democratic argument for the principle of reasonableness might seem to work if we accept Cohen's epistemological argument (which I will discuss and argue against in detail in the next section of the paper). For, given the epistemological argument, if another reasonably disagrees with me on the basis of a different comprehensive view from my own, then I appeal only to my belief in justifying forcing him to live in accordance with my views. Then I treat the other as an inferior to the extent that I make laws on the basis of my beliefs but I do not permit the other to base laws on his own belief. (See Cohen, 'Democracy and Liberty,' 206 for this epistemic consideration within the democratic argument.) I have given myself a right that I do not similarly offer to others and, consequently, I have treated the other as an unequal.

I doubt that even this implies a genuine inequality. The above argument fails to take into account that the proposals are made to a democratic assembly. For suppose we live together with the dissenters in a democratic society wherein each has the right to advance his views in the public forum and wherein only some can get their way. It would seem that the democratic way of making decisions treats everyone as equals in this context.

But once we reject the epistemological argument (as I will urge below that we must), disagreement on comprehensive views in no way suggests that one treats the other as an inferior when one proposes terms of cooperation on the bases of considerations they cannot reasonably accept.

18 This argument is bolstered by the last part of this paper where I argue in favor of what I call the 'deliberative impasse' and the impossibility of a neutral baseline which itself needs no justification and from which departures require justification.

takes to defeat the others' views, no one is treating the others with contempt by simply ignoring them or not taking them seriously. Hence, to the extent that a decision must be made, the fact that it is made on controversial grounds cannot express the idea that the dissenters are inferiors. And since the decision is made democratically, so that each has an equal say in the process, the making of the controversial decision does not amount to treating the dissenters as unequals. Therefore, I see no reason for thinking that the principle of reasonableness is a further necessary condition on treating others as equals.¹⁹

Now that we have the fundamental argument in mind, let us consider another way in which democratic institutions can fail to treat individuals as equals in a way that may appear to support the principle of reasonableness. Democratic institutions do not foreclose the possibility that a society may have permanent minorities, i.e. groups that always or nearly always lose in the ultimate voting decisions. If there exists within a society an insular minority that has very different views from the majority which itself has a great deal of agreement on views, there is a danger that the minority will always find itself governed on the basis of reasons it rejects. Suppose the majority's views never coincide with those of the minority and the majority never makes any attempt to accommodate the minority members' views. This is a rare case in democratic societies but it has occurred and continues to occur in some parts of the world.²⁰

To be sure, the majority may be acting in a principled way in that it does take the minority's interests into account as they are understood in the majority comprehensive view. But, in this kind of case, one can imagine that the members of the minority are deeply alienated from the

19 One commentator has objected that 'the devout Catholic who is told that his Catholic views are inferior may find it psychologically very hard to distinguish this from a claim that he is inferior.' I am afraid that I do not see this. Though there may be some who might have this reaction, I do not see how, in a society where many deeply different views flourish, this would be a general reaction. Of course, when someone's deeply held views are rejected by the democratic assembly as a basis for association, that person is apt to feel somewhat alienated from his political world. But this is likely to happen more or less to anyone in a democratic society where there is substantial disagreement about how it ought to be organized. One way of seeing the point of democratic institutions is as a way of distributing this inevitable feeling of alienation in an egalitarian way.

20 This kind of case must be distinguished from the case of majority tyranny where the majority simply mistreats the minority on the basis of crazy views about justice or hatred. In the case of permanent minorities, the majority may well be treating the minority as equals in accordance with its own distinctive conception of the minority's interests and its own norms of equality.

political institutions and policies that regulate their lives. They do not agree with the majority conception of their interests and they find the majority norms of morality and religion quite foreign. In brief, they are not at home in the world as organized by the majority. In these kinds of situations, a case can be made for saying that the members of the minority are being treated as inferiors if nothing is done to alleviate this alienation.

How does this kind of situation relate to the principle of reasonableness? The main condition that produces the kind of cleavage described above occurs when the minority and the majority are adherents of deeply conflicting comprehensive views and social practices. Under these circumstances, the majority simply always gets its way and never listens to the views of the minority because they are so different and because the solidity of the majority ensures that minority votes are never needed to ensure a collective decision. In this kind of situation, it really appears that the majority is exercising authority directly from their comprehensive doctrine without a concern for the views of the minority. Here we can see the basis of the anxiety that Rawls expresses in the following passage: 'There is no reason why any citizen, or association of citizens, should have the right to use state power to decide constitutional essentials as that person's, or that association's, comprehensive doctrine directs. When equally represented, no citizen could grant to another person or association that political authority.'²¹ In the case of permanent minorities, it is as if political authority in a democracy has been simply conferred on the majority. When the majority acts on its comprehensive doctrine, the minority is bound to be deeply alienated from the decisions made by the majority. I do not want to go further here into the basis of this alienation or the importance it has for political life, I have discussed this in more detail elsewhere.²²

I want to make a number of comments on this possible support for the principle of reasonableness. First, it ought to be noted that this is not how democracies usually work. In general, even after vigorous debate on the issues, decisions are made by alliances of different groups who vote in favor of policies on the basis of different reasons.²³ No person is

21 See *Political Liberalism*, 62 and 226 (the same passage recurs).

22 See my *The Constitution of Equality: Democratic Authority and Its Limits* (Oxford: Oxford University Press 2008), 288-99.

23 To use Robert Dahl's felicitous phrase, democracy is in fact polyarchy or 'rule by minorities.' For these expressions and the idea of democracy that lies behind them, see Robert Dahl, *A Preface to Democratic Theory* (Chicago: University of Chicago Press 1956).

granted authority to make decisions on the basis of his or her comprehensive view. Only the democratic assembly as a whole has authority, and majorities in the democratic assembly rarely agree on the reasons behind their decisions. Furthermore, majorities are usually shifting coalitions of groups. The case that Rawls's description seems to point to is a very special case in a democracy. Moreover, strictly speaking, even in the case of permanent minorities, the majority does not exercise authority because of its comprehensive doctrine; it does so because democratic decision-making is supposed to be a fair and authoritative process that treats everyone as equals.

The case of permanent minorities is a case, I would argue, in which the members of the minority are being treated as inferiors and I believe that it suggests a possible source of the appeal of the principle of reasonableness. But our judgment here does not support the principle of reasonableness. First, the principle of reasonableness really is not capable of sorting things out in this kind of case since there is no shared basis of reasoning. Indeed, the case seems to be another counterexample to the principle of reasonableness as a necessary condition for treating others as equals because there are egalitarian ways of accommodating such insular minorities. One may grant them limited political autonomy or one may attempt a formal or informal type of consociational arrangement or the majority can simply attempt to accommodate the minority views in its decision-making.²⁴

Second, the principle of reasonableness has a far greater reach than this kind of case. It is meant to exclude considerations that are not based in shared conceptions whenever they occur in the public political arena. And though the case of permanent minorities is a case of treating the members of the minority as inferiors, the normal case in which citizens base policy proposals on controversial comprehensive views is not sensibly thought of as a case of treating the dissenters as inferiors. Participants in normal democratic processes defend policy proposals in terms not everyone can reasonably accept but they see that the democratic decision itself gets its authority only when enough support has been garnered for the chosen proposal.

To the extent that citizens have equal votes, equal resources with which to negotiate with others and equal resources with which to participate in the process of discussion and debate over principles, and to the extent that citizens are willing to listen to their fellow citizens with

24 For discussions of examples of some of these kinds of arrangements, see Arend Lijphart, *Democracy in Plural Societies* (New Haven, CT: Yale University Press 1977), and Donald L. Horowitz, *A Democratic South Africa? Constitutional Engineering in a Divided Society* (Oxford: Oxford University Press 1991).

an open mind and willing to take everyone's interests equally into account when making democratic decisions, they are treating each other as equals (with the proviso that there are no permanent minorities) as much as can be done in a society where people disagree.²⁵ I don't see what argument can be given for the claim that action in accordance with the principle of reasonableness is necessary to treat persons as equals.

IV Epistemological Arguments for the Principle of Reasonableness

So far I have argued that one cannot argue merely from the principles that underwrite democracy to the principle of reasonableness. But this argument is not the only one that Cohen gives. In addition, Cohen gives an epistemological argument for the principle of reasonableness that Rawls seems to endorse.²⁶ And he offers what appears to be a straightforward moral argument for the principle. I will discuss the epistemological argument in this section and the moral argument in the last section.

The key premises in the epistemological argument are these: (1) If it is reasonable for us to adopt a belief and even a comprehensive doctrine as true and it is reasonable for others to deny the truth of that belief or comprehensive doctrine (the fact of reasonable pluralism), then *as far as others are concerned* 'what lies between our taking our views to be reasonable and our taking them to be true is not a further reason but simply our belief in those views.'²⁷ (2) If what lies between our taking our views to be reasonable and our taking them to be true is not a further reason but simply our belief in those views, then 'an appeal to the whole truth will seem indistinguishable [to others who disagree] from an appeal to what we believe.'²⁸ (3) The 'mere appeal to what we believe carries no force in justification.'²⁹ Therefore, given the fact of reasonable pluralism, if the terms of cooperation are to be justified to

25 See my *The Constitution of Equality* throughout for an extended defense of this thesis.

26 See John Rawls, *Political Liberalism* (New York: Columbia University Press 1993), 61.

27 Joshua Cohen, 'Moral Pluralism and Political Consensus,' in *The Idea of Democracy*, David Copp, John Roemer, and Jean Hampton, eds. (Cambridge: Cambridge University Press 1993) 270-91, esp. 284.

28 Ibid.

29 See *ibid.*, 283.

others, they must be justified to them on a basis of justification (or reasons) they can accept.

Note that the first premise's claim that what I take to be justified may not be justified *as far as others are concerned* is not a psychological claim, but a normative claim. To say that 'as far as others are concerned what lies between our taking our beliefs to be reasonable and our taking them to be true is simply our beliefs in those views,' is to say that from that other person's point of view, we are merely asserting our belief. It is to say that the beliefs are not justified at all from that other person's standpoint. To be sure, when I appeal to my beliefs, I do not appeal to them *qua* beliefs but *qua* truths. Truths, of course, do have force in justification and so I am able to justify the exercise of power for myself and for those who agree with me. In contrast, for those who disagree with my comprehensive view there is nothing more than my appeal to my belief in the comprehensive view when I use it in justification. I am merely stating a psychological fact about myself. And this has no force in justification for others.

But what support is there for the thesis that, given reasonable disagreement, *as far as others are concerned* 'what lies between our taking our views to be reasonable and our taking them to be true is not a further reason but simply our belief in those views'? Cohen asserts that 'reason does not mandate a single moral view.'³⁰ He claims that in the context of reasonable pluralism it is rationally permissible (though not mandatory) 'to take the sectarian route of affirming one's own view, that is, believing it as a matter of faith.'³¹

One way to understand these remarks that supports the first premise in the epistemological argument is that subjective justification is the only kind of justification of beliefs there is. By *subjective justification* I mean justification on the basis of a body of premises and modes of reasoning the relevant subject actually accepts whether they are based in true or false premises, good or problematic methods of reasoning. As long as the body of beliefs is intelligible, coherent, and has survived critical reflection, the beliefs that are parts of the view are justified. And they are justified solely for those who hold the coherent and intelligible set of beliefs and whose critical reflection it has sur-

30 'Moral Pluralism and Political Consensus,' 284. Rawls suggests this same idea when he speaks of a plurality of conflicting and *incommensurable* reasonable views. As I understand Rawls, he is suggesting that the merits of different comprehensive views cannot be compared to one another. But I am not sure of this interpretation. See Rawls, *Political Liberalism*, 135.

31 See Cohen, 282.

vived.³² Justification is always indexed to a body of particular beliefs and methods of reasoning and belief evaluation. There is no other kind of justification. As a consequence, no single moral point of view or set of ideas is justified *simpliciter*. As examples, we might think here of Thomistic rational theology and Darwinian evolutionary biology. The propositions of Thomistic biology cannot be justified in evolutionary biology but are not defeated by them either since they are not parts of the same body of thought and inference. And the same goes the other way around. Hence, Cohen says that if I disagree with another person's reasonable view and accept my own reasonable view, then the controversial parts of that other person's view are not justified as far as I am concerned.

We can see how this might provide a defense of the idea that reasonable persons will not impose their views on others who cannot reasonably accept the views. Reasonable persons want to justify their proposals to others. But, justification to another, on this view, must proceed from within the body of beliefs and inferences the other person accepts (as long as that person is reasonable and her views are epistemically reasonable). If the exercise of power is to be justified to another it must be on a shared basis of justification.

Cohen's argument, on the subjectivist interpretation, is implausible because it hinges on a narrowly subjectivist conception of justification. There are at least two main worries that undermine the thesis that the narrowly subjectivist account of justification is the relevant notion for political justification.

First, the subjective conception of justification seems to impose *too little constraint on the process of justification*. Some people and peoples conscientiously exercise reason but spend much less time on it or are in possession of fewer resources with which to develop. These problems may arise because these people are burdened with other problems. Some exercises of reason are blocked for reasons internal to the comprehensive scheme. Some are in various ways very confused. Some may be based on very limited experience. They may be conscientiously held and have survived the critical reflection of members of the group but still fall short in important ways. In the light of these facts, to say that any comprehensive system of beliefs that is coherent, intelligible and survives critical reflection is reasonable and therefore that there are no relevant considerations outside this scheme of belief that are rel-

32 A view can be coherent and yet still employ problematic modes of reasoning, e.g. most people would regard predicting the future on the basis of the reading of tea leaves to be a highly problematic mode of reasoning about the future. But most people would not say that the mode of reasoning is incoherent.

evant to supporting it or undermining it is a serious mistake. It is to imply that those systems that have developed after a great deal of effort and progress cannot be compared to those that have developed under the most inauspicious circumstances and have not had the benefit of a highly developed intellectual tradition.³³

To be sure, when we disagree with another's views, that the other has subjective justification for those views is a fact about the person that may make that person *blameless* in holding the false beliefs or acting on such a belief. But if we think that the person is mistaken in what she deems to be justified, we clearly want to say that the justification is highly defective or even defeated. We make a distinction between subjective justification and undefeated justification in this context.

To see this let us observe how the conception of subjective justification is not the same as coherentist justification, to which it bears some resemblance. I take my observations about justification to be platitudes about justification that coherentists and opponents of coherentism all try to accommodate within their views. And I do not wish to take a stand on these epistemological theories in this paper. A plausible coherentism will try to show that the claims of superior justification that people make are claims to a superior degree of coherence with accepted modes of reasoning and available sources of evidence once they are followed *without flaw*. The coherentist, to be sure, does appeal to the beliefs, modes of reasoning and procedures for collecting evidence in a person's evaluative set to determine whether they are justified in believing something. And coherentists can say that the subjectively justified person is at least justified in some respect, the respect in which we take them to be blameless. But coherentism has room for another more demanding notion of justification. It requires that the beliefs be coherent with all of the beliefs, modes of reasoning and procedures for collecting evidence the person subscribes to as well as the evidence that is available given those beliefs, modes of reasoning and procedures for collecting evidence. And for undefeated justification it requires that the procedures and modes of reasoning be followed without flaw and until all evidence and considerations have been properly taken into account.

33 Perhaps Cohen could say that only well-developed exercises of reason can be reasonable. This might help with limiting the absurdity of the requirement of justification but it does so at the cost of limiting the set of doctrines that can be described as reasonable. Presumably Cohen's criterion of coherent, intelligible, and surviving critical reflection is meant to cast a very wide net. Furthermore, there are still degrees of development of views that seem to vitiate the requirement to respect all these views.

While a set of ideas may be justified subjectively for a particular person, it may be the case that were that person to have followed their methods and modes of reasoning without flaw, they would have acquired very different beliefs. They might have discovered evidence that they had not previously known about. They might have seen that some of the inferences they made were problematic. They might even have seen that some of the modes of reasoning they use are problematic, once evaluated by means of the set of standards for evaluating beliefs when followed without flaw. For these reasons, the subjective justification can be defeated by the very same standards that the person upholds as relevant to the assessment of beliefs.

By contrast, to say that someone is subjectively justified does not imply that their views are coherent with all of the elements of their evaluative set when carried out without flaw. For example, I would assume that creationism is a coherent and intelligible view that has survived the critical reflection of the members of a group. But since the members subscribe to the epistemic value of empirical evidence for deciding matters relating to how the world works (in their everyday lives) and the empirical evidence defeats creationism, the justification of creationism is defeated from a plausible coherentist standpoint. That would hold even if the group had never realized the relevance of empirical evidence to the view or simply did not have the tools to collect the kind of evidence necessary to evaluate it. On the subjectivist conception of justification, however, creationism could still be fully justified and thus a reasonable view. But any plausible coherentism would agree that there is a serious defect in the justification of the view.³⁴

Can Cohen appeal to the more demanding coherentist notion of justification in support of the first premise? It seems clear that Cohen would have to abandon the first premise on the grounds that someone could easily think that what separates his view from those of another is not his mere belief but a superior justification that implies the defeat of the other's justification once all the relevant evidence has been acquired and all inferences have been made without flaw. And this thought will be defensible in the case of many major religious, moral and philosoph-

34 See Keith Lehrer, *Theory of Knowledge* (Boulder, CO: Westview Press 2000), 171 for these ideas of subjective or personal justification and defeated justification. See also Gerald Gaus, *Justificatory Liberalism* (Oxford: Oxford University Press 1996), 31, for the idea of 'open justification,' or the idea that a person can have reason to believe a set of ideas once they subject their beliefs fully and without error to the standards they actually are committed to. Subjective justification, as I am using the term, is what Gaus calls 'closed justification.'

ical differences. Hence the epistemological argument for the principle of reasonableness does not go through.³⁵

A second related worry is that the limitation to subjective justification is clearly *not true to the positions that are taken by reasonable persons* in a controversy. Each person, to the extent that she thinks that the other points of view are coherent, intelligible, and conscientiously sustained through reflection, measures her view against those other views and deems her view superior on the basis of reasons not adequately taken into account by the other positions.

To maintain that one has justified one's own views one must think that one has reason to believe that one's own views are superior to their competitors. And to the extent that one thinks that one's own reasons are superior to those offered by the other, one must think that the other's justification is defeated by considerations that one has adduced for one's own position. But this implies that one must think that the other has reason to believe what one believes as well. And those reasons are the same as the ones one has. This is a requirement of justification. Justification is, for each person, essentially unitary and comparative in this way.

To be sure, as a matter of psychological fact, others view one's own scheme of beliefs as false and perhaps only barely reasonable (and sometimes not even that). But this does not touch the implicit normative claim one makes when one believes that one has good reason, considering the alternative views and their arguments, for believing what one believes and that those reasons obtain for all.

If one thinks that one's own comprehensive view is better supported by reason than another person's, what reason could one have for thinking that, *as far as that other person is concerned*, one's views are no better supported by reason? The only possible basis for claiming that my views are no better supported by reason than others' are, as far as those others are concerned, would be the narrowly subjectivist conception of justification discussed above. But this is clearly incompatible with the thought of reflective persons that their beliefs are better supported by reason. To say that one's beliefs are better supported by reason is to be committed to the idea that one's justification is superior to the others in a way that defeats the other justifications. Therefore, if the consequent of the first premise is to be sustained by the idea that justification is

35 It must be conceded that the coherentism that I have outlined can allow for divergences among the evaluative sets of persons and thus can allow for divergences in open or undefeated justifications among these persons. But these divergences are likely to be few and far between and will not explain the great majority of disagreements we see in politics.

only subjective justification it must be by denying the claim of every holder of a comprehensive view to hold a superior view to those of all the others.

If these last claims are right, the epistemic condition described by the consequent of the first premise seems to call for suspension of judgment on everyone's part at least with regard to the relative merits of the different comprehensive views. If I really thought that there was no more reason for me to believe what I believe than there is for what others believe, then I would not have reason to believe what I believe. I would be compelled to suspend judgment. Indeed, if the consequent of the first premise is true and I recognize that truth, then it is not clear how I can believe the antecedent of the first premise. The first premise collapses into incoherence.

No doubt it is very difficult to apprehend certain facts that are important to assessing different views. For instance, some reasons may depend on experiences that are rarely had and, as a matter of psychological fact, may not be taken into account by others. One may excuse others for not taking these into account. But if one thinks the experiences support one's views, one must think that the experiences are reasons for others. One must think that there is some room in the other's view for thinking about these experiences. In any case, the idea that faith and revelation are the sources of controversial comprehensive views has been greatly overemphasized by writers such as John Rawls, Thomas Nagel, and Cohen. The great majority of controversial comprehensive views do not think of themselves as grounded in these kinds of experiences.

To be sure, the insistence that one's views are justified does not require that one think that one's views are conclusively justified or certain or even that one has conclusively defeated other views, but it does require that one has reason to think that one's views are the most justified. This conception of justification is perfectly compatible with a reasonable fallibilism about one's own beliefs.

Of course, all the proponents of opposing comprehensive views believe that reason favors their views over the others' views. We must acknowledge this kind of irresolvable rivalry. But we are not required to infer from this that what lies between thinking one's view is reasonable and thinking it true is just that one believes it. One can acknowledge as a matter of psychological fact that others conscientiously think one is wrong, while still thinking that one has better reasons for believing one's views than other people's views and that they would have more defensible beliefs if they believed the same. Once one has concluded from a careful examination of other people's views that there are good reasons to reject them in favor of one's own views, the fact that they also think our views are defective does not establish epistemic symmetry between our views. Acknowledging such symmetry is incompat-

ible with the idea that one's views are defensible. There may well be a reason why we ought to treat others and their views with respect but it will have to be based on a different principle from the one suggested by this interpretation of the argument.³⁶

To sum up, the notion of justification necessary to shore up the first premise is a narrowly subjective conception of justification. We do have recourse to such a notion when we try to make sense of how another might plausibly have arrived at certain beliefs given the other things they believe. And we normally hold people epistemically blameless if they have subjectively justified beliefs. But it is not the main notion of justification of beliefs that we normally use in assessing beliefs. We often think that a person has subjective justification for a certain belief and that that justification is defeated by other considerations they have not properly taken into account. We have recourse to a stronger notion of justification when we are evaluating and attempting to improve our beliefs as well as those of others. Given this stronger sense of justification, it makes no sense to say that, as far as the other who disagrees with us is concerned, the difference between saying our belief is reasonable and saying it is true is merely that we believe it.

V An Objective Account of the First Premise

There is an alternative way to support the first premise of the epistemological argument. It is to say that reason does not favor any view objectively speaking and so we must simply accept that the different comprehensive views are radically incommensurable, epistemically speaking. On this view, reasonable pluralism entails that there is no more *reason* to believe what we believe than what others believe. Choice between reasonable comprehensive doctrines is merely a matter of faith.

If we accept that there is no more justification for accepting our view than others' and we acknowledge the great variety of comprehensive views, we must see that as far as our reasons go, our beliefs may be with equal chances true, false or neither. In effect we have a kind of skepticism with regard to the justification of comprehensive doctrines. As a consequence, one comprehensive view is no better, with respect to justification, than any other. This is another interpretation of Cohen's

36 Some of this argument is similar in some respects Joseph Raz's critique of Nagel in his 'Facing Diversity,' in *Ethics in the Public Domain* (Oxford: Oxford University Press 1993) 60-96, esp. 88-94.

claim that 'reason does not mandate a single moral view.' And perhaps he thinks that his view follows from that simple unobjectionable phrase.

Cohen's argument interpreted as an argument from objective skepticism to the principle of reasonableness fails for a variety of reasons. First, there is a serious internal difficulty for this particular grounding of the principle of reasonableness, in that it implies a highly controversial variety of skepticism about our beliefs in comprehensive doctrines and it states that a condition of reasonableness is that each person must accept this skepticism. This is a claim that Cohen and Rawls want desperately to avoid.³⁷ It is, first of all, highly controversial among all of those doctrines that he claims to want to reconcile. Most adherents of these doctrines are committed to the idea that the basic elements of their belief systems are defensible on grounds common to all and that they are more warranted than other views. Indeed, some views imply that their doctrines are more or less incontrovertible in the light of commonly available facts. Now many do not go that far but they still assert the epistemic superiority of their views over all others.

If acceptance of deliberative democracy relies on these highly controversial epistemological claims, then it is not clear that it can be accepted as a basis of community among very different comprehensive views. Adherents of these views will be justified in thinking that they are being made to live in accordance with principles that they cannot accept. If so, deliberative democracy and indeed political liberalism has not made much progress over the so-called comprehensive liberalisms.

Second, the defense of objective skepticism is faulty. The fact of reasonable disagreement among persons who reasonably accept different and incompatible comprehensive doctrines does not imply skepticism in the sense that there is no good reason for preferring any doctrine over any of the others. The facts of reasonable disagreement are perfectly compatible with some doctrines being more supported by reasons than others are even if none are conclusively defeated or conclusively justified.³⁸

A third trouble with the argument interpreted as proceeding from claims about objective justification is that it is straightforwardly inter-

37 See Rawls, *Political Liberalism* (New York: Columbia University Press 1993), 62-3.

38 Here I disagree with Wenar's claim that the ideas of the burdens of judgment and their implications imply skepticism, although I do share his worry that Cohen and Rawls are dangerously close to that view. Persons can conscientiously, intelligibly, and coherently believe different things when examining the same evidence, even though some of the beliefs are more reasonable than others. See Leif Wenar, 'Political Liberalism: An Internal Critique,' *Ethics* 106, 1 (1995) 32-62.

nally inconsistent. For now the consequent of the second premise can be generalized to say that any appeal to the truth is indistinguishable from appeal to what one believes. In addition to implying that others rightly think that my appeal to truth is merely an appeal to my belief, I now rightly think that my appeal to truth is nothing but an appeal to my belief. But if this is so, then premise three will undercut any arguments I make. So there will not be any justification. I should be suspending judgment.

The plausible sounding phrase 'reason does not mandate a single moral view' could be given a weaker and much more plausible interpretation. It could be thought simply that reason does not supply *conclusive* justification for any view or even conclusive defeaters for many opposing views. Such a claim is compatible with saying that some views are more in accordance with all the evidence than all the others, but it would not require belief in those views. By analogy, all the available evidence may better support one scientific theory than any other theory, but because the evidence is inductive and the conclusion universal, belief in the theory may not be required by reason. Whatever the merits of this latter position, it is not sufficient to defend the claim of the first premise that only belief lies between the reasonableness of one's view and one's holding it to be true. For this position allows that some positions may be more reasonable than others, objectively speaking. And this would undercut the claim that only belief lies between our taking our view to be reasonable and our holding it to be true.

If we deny that choice between different reasonable doctrines can only be made on faith, what argument is there for the premise that whenever we exercise power, those over whom power is exercised must be given a sufficient justification on a basis of justification they accept? Is it plausible to assert this if we think that our views are better supported than other people's views? The moral argument and the democratic argument attempt to ground the principle of reasonableness in a way that avoids controversial or implausible epistemological doctrines. I turn now to the moral argument.

VI The Moral Argument: Respect for Reason

Another way of supporting the contention that the reasonable person justifies himself to others on a basis of justification each can accept, might proceed from the premise that the reasonable person has respect for the products of reason. The argument I am envisioning proceeds in three simple steps. First, everyone must respect each person's free exercise of her own reason. Second, in order to respect the free exercise of each person's reason, one must respect the products of her reason, in

particular her reasonable comprehensive doctrines. Third, in order to respect the products of each person's reason, one must not require her to live in ways that are incompatible with their reasonable comprehensive doctrines. This argument seems to be implied when Cohen says, 'Adjustment [to the fact of reasonable diversity] is reasonable because some forms of diversity are the natural consequence of the free exercise of reason.'³⁹

Respect for the free exercise of reason, on this account, implies that one may not require persons to live in accordance with doctrines that are incompatible with the products of their own reason even if, objectively, reason tells one that those products are mistaken. Despite the fact that some doctrines are less epistemically reasonable than others, respect for the reason of other persons requires us to make sure that our impositions on others are justifiable to them on bases they accept.⁴⁰

Notice that this implies also that we may not live under those terms of association that we regard as most reasonable if they are incompatible with the reasonable doctrines of our fellow citizens even if we think those other reasonable doctrines are flawed. The principle of restraint stops each person from living in accordance with what she takes to be the most defensible conception of justice.

There are two fatal dilemmas for this argument. The first says that the argument from respect for reason either implies a controversial comprehensive doctrine or it does not support the principle of reasonableness. The second says that argument either implies a need for complete consensus or it fails to establish the principle of reasonableness.

To establish the first fatal dilemma, I will argue, on the one hand, if respect for the free exercise of reason requires us to put aside our sense that a particular doctrine is more epistemically reasonable than other reasonable doctrines when justifying political proposals (which is what the principle of reasonableness requires), then it presupposes a controversial comprehensive doctrine. On the other hand, if it permits us to take account of the epistemic superiority of a particular reasonable doctrine in setting up political institutions, then it cannot provide support for the principle of reasonableness.

Two premises support the first horn of the dilemma. One, respect for the free exercise of reason supports the principle of reasonableness only

39 Joshua Cohen, 'Moral Pluralism and Political Consensus,' in Copp, Roemer, and Hampton, 270-91, esp. 285.

40 The idea of respect for reason seems to be what Charles Larmore has in mind in his 'The Moral Basis of Political Liberalism,' *Journal of Philosophy* 96, 12 (1999) 602, by the notion of respect for persons. The difference in expression suggests that Larmore adheres to a rationalist conception of the person.

if it is lexically superior to other values. Two, the lexical superiority of the free exercise of reason makes it a highly controversial value.

Here is the argument for the first horn in more detail. Suppose the value of the free exercise of reason is not lexically superior to all other values. Then some values and combinations of values override the value of the free exercise of reason and its products in some cases of conflict. If the most epistemically reasonable conception of value implies the existence of a value greater than the free exercise of reason, then it recommends that the free exercise of reason be overridden in some cases of conflict with this value. Therefore, if there is a most epistemically reasonable conception of value and it is incompatible with some other reasonable conception of value, then, at least in some circumstances, one ought to take into account that epistemic superiority in deciding how to organize terms of association among those who hold these two conceptions.

Therefore, if the value of the free exercise of reason is not lexically superior to all other values then, at least in some circumstances, one ought to take into account the greater epistemic reasonableness of some doctrines in deciding how to organize terms of association. As a consequence, if one ought not take into account the greater reasonableness of some doctrines in establishing terms of association, then the free exercise of reason is lexically superior to all other values.

The idea that the value of the free exercise of reason is lexically superior to all other values is a highly controversial claim. Welfarist, contractarian and most rationalist views as well as many religious views reject the view. Indeed most moral views reject the idea. So it must necessarily express commitment to a controversial claim about all reasonable comprehensive doctrines. Both Cohen and Rawls intend their views about the basis of cooperation to be themselves acceptable to all.⁴¹ This is why they both eschew skepticism as a basis for the principle of reasonableness.⁴² And so an argument from the lexical priority of respect for reason to the principle of reasonableness would be self-defeating.⁴³

41 See, again, Rawls, *Political Liberalism*, 62-3, for the idea that the account of the reasonable cannot presuppose controversial doctrines.

42 I reject Larmore's claim that the respect for persons, as it functions in the argument for political liberalism does not imply significant part of a comprehensive doctrine. See Larmore, 623.

43 It is important to note that nothing I have said so far implies that the Kantian comprehensive liberalism is incoherent in itself. All that is being said is that this particular grounding of liberalism is incompatible with the Rawlsian aim of finding a mutually acceptable basis for social cooperation.

To be sure, it is open to Cohen and others to assert that all the views that do not accept the lexical priority of respect for reason are unreasonable. But this seems like a problematic move because the notion of the reasonable is meant to reconcile many different moral views to each other. It becomes by this move a highly contested moral position itself and is not capable of the kind of reconciliation it is designed to effect.

The second horn of the dilemma falls out of the argument just given. If the free exercise of reason is not a lexically superior value then there is no reason to think that one may not take into account the epistemic superiority of one reasonable doctrine over others in advancing political proposals. One may advance epistemically superior political proposals even if some can reasonably reject them.

From these remarks we can see that the argument from the respect for reason generates a fatal dilemma for the advocate of the principle of reasonableness. Either it presupposes a highly controversial moral idea, which cannot serve as a shared basis of justification, or it fails to provide support for the principle of reasonableness because it is compatible with offering proposals that reasonable persons can reject. This argument in favor of the principle of reasonableness loses its force.

VII Why Respect for Reason Does Not Support the Principle of Reasonableness

The second fatal dilemma is that either respect for reason requires complete consensus within the society on basic principles of justice or it is incompatible with the principle of reasonableness.

The argument we are considering asserts that there is something disrespectful to someone's reason in requiring him or her to live in accordance with principles he or she does not accept. But consider the situation in which someone is proposing terms of association for her group on the basis of reasons that she reasonably accepts but that some reasonably reject. Cohen thinks that it is disrespectful of the dissenters' reason to impose those terms on them, which they reasonably reject.⁴⁴ What Cohen does not appear to see is that, by the same token, we must say that it is disrespectful of this proponent's reason to require her to

44 Recall here that we are talking about the need for agreement on the list of considerations. Cohen thinks, as we noted above, that all that is needed to respect others is that one bases decisions on a list of considerations everyone can reasonably accept. For resolving disagreements on the relative weights of these considerations, Cohen thinks majority rule is legitimate.

forgo living in accordance with principles she reasonably accepts (that is, to forgo living in accordance with the whole truth as she sees it).

To see this suppose that I believe that, as a matter of basic justice, the distribution of jobs ought to be determined by the distribution of qualifications: the most qualified person ought to be given the job.⁴⁵ I believe this to be a requirement on treating people justly. As it happens many reject the use of desert based considerations altogether for assigning jobs. And let us suppose that I have good reasons for thinking that desert-based considerations are important and that others have reasons for thinking they are not important. They think that jobs ought to be distributed in accordance with the principle of what will produce the most efficient outcome or perhaps in accordance with Rawls's three principles.⁴⁶ Now, of course, I think that efficiency is an important value in the organization of work so I agree with the others that this value ought to have weight in determining the organization of work. But I also adhere to desert based considerations while the others reasonably reject them. I think, in other words, that the organization of work and society is unjust if it is not regulated by a principle of desert, while others think that desert considerations are of no importance. If my desert based proposal wins then the others must live with terms of association that they reasonably reject. Desert was not on the list of considerations they reasonably accept. If my desert based proposals fail because a majority of others reasonably reject them, then I must live with terms of association that I reasonably regard as unjust.⁴⁷

I don't see that Cohen or Rawls have given any arguments that this is less of a sacrifice of one's reason than living in a society that conforms

45 It should be noted here that different theorists disagree as to what the content of the principles that are the focus of reasonable agreement. Samuel Freeman seems to be inclined to think that Rawls's justice as fairness is the object of reasonable agreement. See his 'Deliberative Democracy: A Sympathetic Account,' *Philosophy and Public Affairs* 29, 4 (2000) 371-418, esp. 411. Rawls has recently broadened his account of what reasonable people could agree to. See his 'The Idea of Public Reason Revisited,' in *The Law of Peoples* (Cambridge, MA: Harvard University Press 1999), 143. He includes a family of liberal political conceptions of justice in the domain of conceptions reasonable people can agree to. This family is much smaller, of course, than the set of principles that are actively debated in modern democracies.

46 See John Rawls, 'The Idea of Public Reason Revisited,' 141.

47 See David Miller, *The Principles of Social Justice* (Cambridge, MA: Harvard University Press 1999), chs. 7-9 for a defense of the fundamental importance of desert claims. Obviously, examples of disagreement on principles of basic justice abound. People disagree on the importance of considerations of utility, self-ownership, community and many others to issues of the basic justice of society.

to principles I do not accept. Indeed, it is not clear that there is any fundamental difference between the two kinds of accommodation. Rawls's idea that one person's appeal to the whole truth in designing institutions is unreasonable (when some can reasonably reject it) would seem to apply symmetrically to another person's appeal to their rejection of a view in designing those institutions (when some reasonably accept it). Living in a society that fails to conform to justice as I see it is as much an offense to my reason as living in a society that conforms to some principles I reject.

Let us call this situation the *deliberative impasse*. Either one must impose on one person terms that she does not accept or one must require another to live under terms that he regards as fundamentally inadequate. From this observation, it is hard to see why respect for reason would require one and not the other. But then respect for reason does not provide any guidance when there is disagreement and it certainly does not support the principle of reasonableness.

If these claims are right, then the principle of reasonableness requires complete consensus on the considerations that people take to be important to questions of basic justice. They show that even if there is an overlapping consensus on certain doctrines there is a problem in excluding the beliefs that are not in the overlap.⁴⁸ The problem is that exclusion of the beliefs that are not in the overlap is as much an expression of lack of respect for the reason of citizens as inclusion of views that are not in the overlap. So the principle of respect for reason pushes us to say that reasonable persons propose terms of association only when they are the object of complete consensus among persons concerning considerations relating to basic justice. But we know that consensus on all the considerations relevant to basic justice is impossible. Indeed, Rawls and Cohen agree on this point, which is why they attempt to show that an overlapping consensus is possible. The argument from respect for reason on this account does support the principle of reasonableness but it seems to require complete consensus on considerations relevant to basic justice. And this is a serious flaw for principles for pluralistic societies.

One might respond to the above argument by asserting that respect for reason requires that decisions be made by majority rule when there is a deliberative impasse. The trouble with this response is that it amounts

48 An overlapping consensus is a consensus among reasonable persons once the controversial elements of their doctrines have been excluded. It is the consensus reasonable persons are supposed to have on Cohen's view and on the basis of which terms of association are justified.

to a rejection of the principle of reasonableness since it permits people to advance proposals for terms of association others reasonable reject.

Another response to the above argument might assert that the solution to the deliberative impasse is to find a neutral baseline such that in order for one to introduce any terms of association backed by political power one must justify those terms or remain at the baseline which itself does not need justification. When there is a deliberative impasse, one reverts to the baseline. When I am not able to justify my proposals to others, the dissenters do not impose the baseline upon me nor do they treat me as an unequal if the baseline condition is what is chosen. When there is a baseline of this sort, there is an asymmetry in the requirements of justification. Every departure from the baseline must satisfy a burden of proof while remaining at the baseline need not. In order to have my way, it must either be at the baseline or I must provide justification to others.⁴⁹

In cases like the above that involve competing conceptions of social and political order, I don't see how there can be a baseline solution as an alternative to deliberative impasse. First of all, the choice of baseline is likely to be as controversial as any other choice of political principles.

For example, the idea of the minimal state has been proposed as such a baseline solution to conflicts of view over more ambitious conceptions of the role of the state. The reason given for this is that the minimal state involves a smaller state than more ambitious schemes. It seems to limit liberty less than other schemes. The minimal state is a baseline, some might claim, because there is more liberty in it. But this is clearly not generally true. It is a matter of the particular circumstances. Some might assert that the minimal state is a baseline because there is more coercion in more ambitious states than in minimal states. But why believe this?⁵⁰ Another possible support for this is that the minimal state is the most cautious use of political power. But this depends on where one starts from. In the early 21st century attempting to bring about a minimal state would be a hazardous and highly uncertain enterprise. Finally, some may assert that the minimal state is a neutral baseline because it interferes only minimally with the rights of property and liberty understood in a classical liberal sense. But now we need a highly controversial view of justice just to get off the ground.

49 This kind of baseline is used in Gerald Gaus's *Justificatory Liberalism* (Oxford: Oxford University Press 1996), 162-6.

50 See G. A. Cohen, 'Capitalism, Freedom and the Proletariat,' in *The Idea of Freedom*, Alan Ryan, ed. (Oxford: Oxford University Press 1969), 9-25 for an effective dismantling of this argument.

Furthermore, we can ask why we should accept some controversial conception of liberty as a baseline. Why not accept some notion of equality as the baseline or some notion of the common good or a harm principle? The fact of controversy here seems to belie the idea that there is a neutral baseline at all.

The basic problem is that there is no morally basic baseline that can serve as the starting point for justification of the exercise of political power. Any such claim to a baseline will be highly controversial and as a consequence, it does not bear a lesser burden of proof. No scheme of rights, powers and liberties that determines the distribution of resources and liberties bears a greater burden of proof than any other, they are simply different.⁵¹ The addition of the alternative of the minimal state or *laissez-faire* seems only to add to the deliberative impasse; it does not resolve it. The citizen who reasonably rejects a proposal that another citizen reasonably accepts is no more burdened by a state that implements the proposal than the citizen who reasonably accepts the proposal is burdened by the lack of implementation of the proposal. Therefore, it is clear that a neutral baseline cannot save us from the problems generated by the deliberative impasse.

Let us take the other horn of the dilemma. Let us suppose that complete consensus is impossible and there is no neutral baseline. There is a deliberative impasse. The only way to ensure that one person does not have to live on terms he does not accept is to require another to live on terms she does not accept. What does the idea of respect for reason have to say in this circumstance? It seems plausible to think that the respect for reason always tilts in favor of the most epistemically reasonable doctrine when the above impasse occurs. And this will imply that each person, who believes that her doctrine is best supported, should attempt to advance her own view when others disagree. Otherwise, the proponent is disrespectful of her own reason if she willingly forgoes living in accordance with principles that she thinks are most epistemically reasonable in order to accommodate views that she takes to be less reasonable (though perhaps minimally reasonable). By hypothesis, she has to give up living in a way that her reason tells her is best.

51 Gerald Gaus has proposed to me in discussion that there may be a baseline in politics that is analogous to the case of belief. Some think that in the case of belief, if we do not have good reasons for belief then we should suspend judgment. Suspending judgment is a kind of neutral baseline for belief. But I think that this is precisely what is disanalogous to politics. Political commitments cannot be suspended in the way belief can be, the society one lives in will satisfy some political commitment or another.

On this horn of the dilemma, respect for reason is not capable of providing support for the principle of reasonableness because it is not capable of providing support for the idea of reciprocity that is part of the principle. That idea, recall, is that it is reasonable for me to accept terms of association only if those terms can also be reasonably accepted by others. What I have argued is that in the inevitable case of disagreement, respect for reason cannot generate this kind of reciprocity. The failure of respect for reason displayed by abandoning proposals that one thinks are the most defensible because others disagree with them seems to me to be greater than the failure of respect for reason incurred when one makes others live on the basis principles that are the most defensible but that they reject. The only way to defend the kind of reciprocity that is part of the principle of reasonableness is to take an impartial stance towards the different views at issue and not compare their relative merits. But this, I contend, is incompatible with the respect for reason unless one accepts some variant of the epistemological argument I have refuted above.⁵²

We have, then, a second fatal dilemma for the argument from respect for reason to the principle of reasonableness. On the one hand, the principle of respect for reason does support the principle of reasonableness but pushes us to require complete consensus on considerations relevant to basic justice, which consensus is not even remotely possible in pluralistic societies. On the other hand, in the absence of consensus, the principle of respect for reason leads us to reject the principle of reasonableness in favor of saying that we should advance the most epistemically reasonable considerations relevant to questions of basic justice.

Those who wish to live under the most reasonable type of regime need not abandon respect for rights to life and liberties. Nor need they be committed to violent means for establishing the most reasonable regime or the suppression others' liberties of conscience and association. Those who aim to live under the most reasonable type of regime may think it morally appropriate to engage in peaceful (even democratic) means to achieve their controversial aims. And, most important, those who wish to live under the most reasonable regime may think that

52 Of course, none of this problem need arise in a social world in which everyone agrees on all the basic principles of justice. As I understand Rawls, an overlapping consensus does not require full agreement on all the principles. It merely requires that there be agreement on some principles and disagreement on others. Then each person must restrain himself in trying to implement those principles on which there is disagreement. If so, then the problem I have outlined is a serious one. But if Rawls refers to the first kind of consensus as the overlapping consensus, then I contend that this is quite impossible in the world we live in.

among other things, such a regime is democratic and liberal. The above argument in no way commits one to authoritarianism.⁵³

In conclusion, the arguments used to support the principle of reasonableness and the associated narrow conception of deliberative democracy fail to hit their targets. The epistemological arguments, the moral argument and the democratic argument do not support the principle of reasonableness. Indeed, we have seen that the main considerations behind each of these arguments and the combination of them suggest that the wide conception of deliberative democracy is superior to the narrow conception.⁵⁴

Received: February 2004

Revised: August 2005

Revised: August 2006

53 I want to raise a final worry about the connection between the principle of reasonableness and democracy. In my view, we have reason to think that the principle of reasonableness is inequalitarian, Cohen's position notwithstanding. There are two worries here. First, the view that Cohen espouses excludes religious reasons and religiously based policies as well as other comprehensive moral views such as Kantianism, Utilitarianism, Communitarianism and a whole host of other positions that are commonplace in the politics of democratic societies. Second, Cohen's account of democracy does not seem to assign any fundamental value to the inclusion of unreasonable people. Recall that the ideal deliberative procedure includes only the reasonable in its characterization of the democratic process. What reason is there then for the inclusion of the unreasonable? To be sure, the view does not directly entail the legal exclusion of these comprehensive views and the exclusion of views is only from the formal political forum of discussion that occurs in electoral campaigns and legislative debates, to name the most important. Still the inclusion of unreasonable views seems to be a concession to reality in the sense that it may be difficult to exclude unreasonable views without also excluding some reasonable views. The worry is confirmed by the very limited role Rawls assigns to citizens in a liberal democracy. He says: 'Citizens fulfill their duty of civility and support the idea of public reason by doing what they can to hold government officials to it.' See 'The Idea of Public Reason Revisited,' 136. This gives citizens something dangerously close to a merely instrumental role in the democratic process and if it does not literally do so, it is not clear why Rawls would be opposed to such a limited role.

54 I would like to thank John Christman, Joshua Cohen, David Estlund, Gerald Gaus, Andrew Williams, and the anonymous referees and editors of the *Canadian Journal of Philosophy* for their helpful comments on previous drafts of this paper.