

**Pluralism and Political Legitimacy:
Toward a Perfectionist Defense of Deliberative Democracy**

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In recent writings, both John Rawls and Jürgen Habermas have sought to resolve what is certainly one of the most persistent dilemmas to be faced within normative democratic theory: how to ensure that the capacity of all reasonable citizens to lead a good life matter equally—i.e., that no such citizens experience acute violation of their personal integrity—when there exist in modern society a wide variety of competing doctrines regarding what the good life entails. This dilemma (which I will call the ‘dilemma of the good’) is, I take it, a driving force behind their respective attempts to articulate bases of a just political order that all reasonable citizens can freely endorse. For within such an order, ideally, the legitimation of at least the constitutional essentials and matters of basic justice requires the deliberative uptake and unanimous consent, in accordance with a shared body of publicly available reasons, of those subject thereto while not merely taking the socio-historical fact of the plurality of doctrines of the good life as a binding constraint upon democratic theory but regarding it as a particularly laudable characteristic of modernity.

Yet, as James Bohman aptly notes, while unanimous consent of this sort in principle provides a praiseworthy criterion of political legitimation, neither Rawls nor Habermas adequately explains how public deliberation can aid *in practice* in (even the approximation of) its realization—and thus how equal respect for the capacity of all reasonable citizens to lead a good life actually can be reconciled with the fact of value pluralism, i.e., the existence of multiple “incompatible but morally valuable forms of life.”¹ Drawing upon elements of both critical social theory and classical pragmatism, Bohman attempts to develop a practically oriented and, I suggest, highly promising deliberative conception of democracy intended to reveal how a more minimal criterion of legitimation can better serve to resolve the dilemma of the good. I devote the first part this essay to examining Bohman’s conception in greater detail (I).

As promising as his conception is, however, Bohman leaves a key issue unresolved regarding this dilemma: viz., the extent to which the political institutions that would need to be established to operationalize the norms upon which he relies can be *neutral* with respect to all reasonable doctrines of the good, and thus whether his conception can ensure not only the adequate legitimation of “fundamental laws” but also fair means of enforcement thereof.² We will see in fact that he covertly presupposes certain moderately perfectionist values that cannot but preclude such neutrality and that this threatens to raise doubts about the feasibility of his own criterion of legitimation.³ In other words, Bohman falls prey to what Bert van den Brink calls the “tragic predicament” of liberalism: he cannot articulate how a resolution to the dilemma of the good can (seem to) be achieved without defending ideals that, in spite of his best intentions, covertly let some doctrines of the good life appear more worthy of pursuit, and thereby of state promotion, than others.

But be that as it may, I will draw more fully upon van den Brink’s account of the tragic predicament later in this essay to argue that Bohman’s falling prey to it ultimately *need not* preclude employing his deliberative conception of democracy to beneficially address the dilemma of the good. In fact, revealing Bohman’s moderate perfectionist tendencies, ironically, can serve to *strengthen* his conception in this regard. Thus are we provided not only with powerful means to contend with this recalcitrant dilemma but also a novel and interesting way to reconsider the application of deliberative democracy (II).

I

Before looking more closely at Bohman’s theory, let us briefly touch upon the main features of Rawls’s and Habermas’s respective theories with which he takes issue: their explications of the practice of public deliberation and the demanding criterion of legitimation

they both support.⁴ In laying out his political liberalism, Rawls maintains that public deliberation depends not merely upon its being an ongoing process whereby free and equal citizens discursively legitimate the binding fundamental laws to which they are collectively subject but also upon the specific *kinds* of considerations that are to be open to deliberation.⁵ Given the wide variety of competing reasonable conceptions of the good—of “comprehensive” moral, philosophical, and religious doctrines—that exist in modern society, Rawls holds that it is patently impracticable to assume that the unanimous consent required for such legitimation can be achieved if citizens provide just any reasons for the enactment of the fundamental laws they favor. What is needed is a narrowing of the array of considerations that are to count as viable for public deliberation.⁶

This can be accomplished without alienating reasonable citizens, Rawls argues, insofar as there exists in democratic society an implicitly shared fund of public political values that all such citizens can be expected to endorse given that these values have proven over time to be quite beneficial in establishing just means of governance. This shared fund provides a set of “provisionally fixed points”⁷ for the development of a “freestanding” political conception of justice: a conception that (i) offers a coherent and complete articulation of the guiding principles for a just political order, (ii) presupposes no particular doctrine of the good, yet (iii) is nonetheless expected to be acceptable to citizens as “modularly” sustainable—i.e., epistemically independent of but capable of fitting easily—within their chosen doctrines.⁸ Thus does the political conception of justice serve to delineate a singular set of publicly available reasons that are acceptable, ideally, to all reasonable citizens and can provide the means for them to freely endorse political decisions despite the fact of value pluralism.⁹ As such, Rawls takes the dilemma of the good, on the whole, to be resolvable.¹⁰

As Claus Offe notes, however, over the past several decades we have witnessed significant shifts in the boundaries of the political. With the development of the new social movements in the 1960s, not only has the scope of the political—of those matters regarded to be in need of legislative or judicial resolution—expanded to include issues previously regarded as nonpolitical, but so too has its very nature changed. As Kenneth Baynes puts it, “Politics is no longer oriented to more narrowly conceived ‘interest-based’ issues that are relatively capable of compromise, but rather has become increasingly occupied with values and normative concerns that do not fit easily into the traditional paradigm of politics.”¹¹ To accommodate these developments, Habermas advocates (*pace* Rawls) that the process of reason giving occurring through public deliberation be unrestricted.¹² No reasons can be determined to be nonpolitical prior to actual deliberation, for this threatens to make the norms underlying political decisions needlessly controversial, quite possibly exclusionary, and hence illegitimate by Rawls’s own standards.¹³

Habermas’s discursive conception of democracy is thus drawn from his general theory of communicative action, according to which the norms that fully informed free and equal citizens could endorse in an indefinite process of ideal unrestricted deliberation serve to guide “[how] we want to live together and how practical conflicts can be settled in the common interest of all.”¹⁴ The rationality of this deliberative process is ensured insofar as it occurs in accordance with an ideal reason-giving procedure requiring contested interests to be examined impartially by means of “ideal role taking” by deliberators. This involves taking up the perspective of all other deliberators in order to judge whether all those possibly affected by the adoption of these interests as binding, action-guiding norms could accept the consequences of their adoption.¹⁵ If accepted, these norms become *generalized*; they are discursively redeemed in such a way that, as

with Rawls, all participants can accept them for the same publicly available reasons. As such, without determining in advance the scope or nature of the political, Habermas shows—at least counterfactually—how unanimous endorsement of these norms can be achieved.

But in distancing his theory from Rawls's, Habermas does not by contrast maintain that decisions concerning which norms in turn deserve the legal backing of the state can be determined wholly through deliberation.¹⁶ Rather, as he argues in *Between Facts and Norms*, a constitutional framework must first be democratically established to act as a medium through which deliberative power can be translated into institutional power. From here he envisions a “two-track model” of governance in which unrestricted deliberation among citizens occurring in an informal public sphere can “pass through the sluices of democratic and constitutional procedures situated at the entrance of the parliamentary complex or the courts”¹⁷ that make up a formal institutional sphere. This institutional sphere is able to effectively reduce the strains of value pluralism exhibited within public deliberation insofar as it provides systematized means to evaluate the deliberation arising from the public sphere and to effectively enact at least fundamental laws that reflect the duly ‘generalized’ will of the public—laws that regulate matters in the equal interest of all those affected and which are justifiable to all for the same publicly available reasons.¹⁸ As such, Habermas indicates, the dilemma of the good can be resolved without having to resort to the politically unpalatable parameters Rawls provides.¹⁹

For his part, Bohman is quick to applaud both Rawls and Habermas for emphasizing the value of public deliberation based upon the public use of reason as a means to establish a just political order. Yet, he is openly suspect regarding whether their respective approaches are theoretically adequate when it comes to showing how the criterion of legitimation they call for is even approximately achievable in actual political life and thus whether their attempts to resolve

the dilemma of the good hit their intended mark. This criterion, recall, aims (ideally) at unanimous consent with respect to at least the fundamental laws by all reasonable citizens in accordance with the same publicly available reasons. While there may be many nonpublic reasons whereby citizens engage in political life that emerge from their idiosyncratic doctrines of the good, Rawls maintains, there is “but one public reason” that all reasonable citizens must be willing to accept.²⁰ Habermas, in similar fashion, holds the strong assumption that all citizens (properly situated) construe in the same way the impartial standpoint according to which deliberation takes place.²¹ And although he argues that the effective operation of his two-track model and not public deliberation alone ultimately is meant to ensure the legitimacy of fundamental laws, their generalizability, strictly speaking, can only be assumed if there is a singular shared set of public reasons.²²

Indeed, accepting the possibility of generating agreement by appealing to such a set of reasons is for both Rawls and Habermas among the primary indications of reasonability—of the willingness to seek public justification of one’s preferred policy proposals. Bohman asserts, however, that this fails to account for the existence of what he calls “deep conflicts” among those in modern society, most notably the proponents of the new social movements and the fundamentalist movements that have arisen in reaction to them²³: conflicts not merely over how to address specific policy issues but, more basically, regarding what counts as exhibiting a willingness to seek public justification. In other words, the sorts of disagreements that occur between deliberators as they attempt to specify, for example, the proper limits of reproductive, religious, or cultural rights; the use of public funding for political campaigns, education, or health care; or the constitutionality of affirmative action or ‘special’ rights for women, homosexuals, and the disabled often reflect not just the incompatibility (or, moreover, the

incommensurability) of citizens' comprehensive value-orientations.²⁴ They likewise exhibit deeper disagreements over what counts as a properly *public* reason, or over what sorts of reasons are in fact appropriate for public expression. To put this in slightly different terms, it would seem that there exists in modern society not one impartial standpoint that citizens are obliged to assume when engaging in public deliberation but a wide variety of interpretations thereof—not one but many “individualized impartial concerns.”²⁵ Making unanimous consent in accordance with the same public reasons even a counterfactual, hence regulative, ideal with regard to the legitimation of political decisions simply demands too much of citizens, Bohman argues. For in practice the adequate approximation of such an ideal would always justifiably be open to question and thereby the criterion of legitimation never rightly fulfilled.²⁶

In providing such an assessment, however, Bohman is not seeking to deny the possibility of developing any adequate bases of political agreement between citizens. Despite the existence of deep conflict, he is nonetheless committed to exploring how “the core idea of egalitarian democracy—that legitimate laws are authored by citizens who are subject to them—can still be credible in complex and pluralistic societies.”²⁷ The critical theoretical demand for democratic means of governance that ensure the equal capacity of all reasonable citizens to lead a good life still must be sought. But if these means are to be achieved, he argues, the very nature of public deliberation must be rethought. What is at stake is to show that it can be effective in helping to generate bases of political agreement in circumstances exhibiting deep conflict. A more pragmatically oriented conception of public deliberation must be developed: one that entails a less demanding, hence more viable, criterion of legitimation than that offered by Rawls and Habermas without abandoning the core idea of egalitarian democracy that they both rightly endorse.²⁸

To this end, Bohman offers what he calls a “dialogical account of public deliberation.”²⁹ This account focuses specifically upon how the exchange of reasons in the give and take of dialogue makes deliberators answerable to one another in their mutual attempts to communicate and elicit acceptable responses when seeking to develop binding collective decisions. That is to say, as with the conceptions of public deliberation offered by Rawls and Habermas, it starts from the basic assumption that citizens who recognize—or who are at least in the position to be convinced of—the distinctive merit of achieving some form of political agreement through cooperation would be willing to offer reasons to support their commitment to the policies they back and to listen to the comparable reasons offered by others. They would be willing (or could be convinced) to engage in dialogue aimed at achieving a mutually acceptable outcome so long as others prove willing to do so as well.³⁰

Yet, unlike Rawls’s and Habermas’s conceptions, insofar as the dialogical account is likewise premised upon the idea that public reason is itself subject to significant contestation, Bohman maintains that it is best to regard such reason—like non-public reason—as *plural*. What this connotes is not that citizens can appeal to just any reasons they desire when engaging in public deliberation. For while the *content* or the *categorical impartiality* of public reasons is subject to deep conflict, that such reasons can be considered public nonetheless must at the very least entail that they be offered in such a way that the presenter has every expectation that others will freely accept them as sincerely provided justifications for the policy proposal under scrutiny. In being cooperatively minded, the presenter accepts that she is openly accountable for the claims she makes; that she should appeal to reasons that others are likely to share; and that others must be granted equal standing and opportunity within the decision-making process.³¹ What makes these reasons plural, however, is that they need not be judged to arise from a single

impartial standpoint.³² Practically speaking, seeking such a standpoint or attempting to judge the extent to which given reasons might exhibit it would make the dialogical process needlessly complicated and thus could do more to derail reaching a mutually acceptable decision than to foster it. And heuristically speaking, taking public reason to be plural reminds deliberators to be cognizant of the need to avoid violating the personal integrity of others—to avoid rushing to judgment regarding the commitments others hold before actually making such a discovery within the dialogical encounter. In this respect, Bohman notes, it should not be unexpected if public reasons arise out of citizens' divergent "interpretive frameworks": out of the potentially numerous and variegated "ways of assessing evidence or balancing reasons."³³ Particular care thereby should be taken by citizens within the dialogical process both in determining how to address themselves to others so as to appeal to reasons that others could accept and to make every effort to understand what motives, intentions, and interests are represented in the reasons others offer for the policies they favor.

At the very least, Bohman maintains, undertaking dialogue in accordance with plural public reason has the potential to better assist citizens, vis-à-vis both Rawls's and Habermas's conceptions of public deliberation, to clarify exactly where their disagreements regarding politically relevant matters lie. This is so both insofar as the former can prove to be more flexible than the latter, hence better suited to the exigencies of actual political life, and in turn less beholden to worries concerning either the proper bounds or the ideal manner of deliberating over politically relevant issues. In this respect, dialogue can be both more pragmatic and also have something of a laundering effect without appealing to singular public reason. It can provide the means for citizens to "raise the level of their debate"³⁴ so as to create greater understanding regarding how persistent disagreements can be better addressed or, what is more, increase the

possibility of coming to decisions that are, in some fashion, widely acceptable. Yet, what form are these mutually acceptable decisions to take? More specifically, how can such decisions possibly be widely acceptable if there continue to exist deep conflicts between citizens?

Bohman's answer to these questions comes out in his discussion of the form of agreement he takes to be most readily fostered by dialogue, this form being what he calls "moral compromise." Lest we be deceived by its rather odd nomenclature, however, such a compromise does not entail making concessions regarding our moral commitments. It is not simply a *modus vivendi*. For, as Bohman remarks, "we often evaluate such...concessions as involving 'compromising' [our] beliefs or losing integrity; that is, we think that moral reasons [backing these commitments] should be overriding in all cases."³⁵ As such, demanding these sorts of concessions would invariably result in running up against the core difficulty highlighted by the dilemma of the good: violations of personal integrity on the part of otherwise reasonable citizens.³⁶

Moral compromise signifies, rather, that citizens are willing to acknowledge that the process of coming to political decisions through dialogue entails at least two basic ideas. First, the goal of achieving widely acceptable binding collective decisions means not that the differences in citizens' interpretive frameworks that give rise to the plurality of public reasons must be overcome. If the personal integrity of citizens is to be protected, the best choice to make in this regard is simply to find the means to move forward through public deliberation with the recognition that doing so will likely entail the continued existence of both particular moral disagreements arising from divergent value-orientations and deep conflicts arising from differentiable interpretive frameworks. Second, although the achievement of unanimous consent the likes of which Rawls and Habermas promote should hardly be expected to materialize, the

widespread acceptance of binding collective decisions is nonetheless possible if cooperatively minded citizens who engage in dialogue are willing to seek bases of *accommodation* that do not violate their personal integrity.³⁷ The search for such accommodation is, in fact, the key to moral compromise.

The dialogical account of public deliberation is thus squarely directed toward assisting citizens to *mutually modify* their interpretive frameworks according to terms that each represented party finds acceptable—or, put simply, in a manner with which each can comfortably live. Such modification can occur as citizens “work to make *explicit* what is *latent* in their common understandings, shared intuitions, and ongoing activities” as well as in their attempts to clarify and understand “differences in biographical and collective historical experiences.”³⁸ It likewise can be fostered by exploring whether a particular situation demands the application of norms in a manner that was not originally apparent to any of the deliberating parties or by finding ways to more richly elaborate why one party is committed to a particular policy so as to incorporate the commitments of others. Finally, some degree of role taking by citizens can be practiced in order to make better sense of why others maintain the position they do, this potentially allowing one to see one’s own values and interests reflected in the values and interests championed by others.

If these sorts of interchange prove fruitful, they can help to generate freely accepted revisions to the ways in which citizens ‘assess evidence and balance reasons’ with regard to the specification and application of their commitments. In this way, the process of mutual modification can provide them with the means together to develop a *new* interpretive framework with regard to the issue under discussion that is “common enough” that the widest possible array of citizens can recognize their commitments as fairly represented and fairly treated by others.³⁹

They can expect more expedient uptake and readier consideration of their voiced concerns within further dialogue aimed at achieving binding collective decisions, so long as each willingly gives a full hearing to the concerns of others.⁴⁰ And they can anticipate that their commitments will be incorporated often enough into resulting decisions in a manner that at least is not unfavorable to them—this entailing, if nothing else, that there remain adequate means for revision thereof.

Not only, then, is the dialogical account of public deliberation more *practicable* than the deliberative conceptions offered by Rawls and Habermas, insofar as it depends not upon achieving unanimous consent in accordance with the same reasons but rather upon seeking maximum accommodation while maintaining robust bases of integrity. It can, moreover, “result in decisions that everyone may consider *legitimate* in a special sense: even if there is no unanimity, citizens agree sufficiently to continue to cooperate in deliberation.”⁴¹ For though continued cooperation, citizens acknowledge their agreement that the decision-making process has been open and honest; and the fairness of the process is substantiated through the discursive validation both of their willingness to abide by plural public reason—to be attentive to the existence of different interpretative frameworks—and of their ready practice of mutual modification. Not only is moral loss by the deliberating parties likely to be avoided. So too are new avenues of communication and mutual recognition established that can further enhance political life itself. In this manner, on Bohman’s account, is dilemma of the good resolved.

II

Yet, a significant problem remains in this respect, one that Bohman leaves unacknowledged. For the success of the dialogical process would seem to require the establishment of an institutional framework that is neutral toward competing doctrines of the good life. Without this guarantee of neutrality, given the fact of deep conflict, the possibility of

achieving widely acceptable political decisions would appear to be remote indeed. The threat of legally supported biases against certain of the deliberating parties would, in all likelihood, short-circuit the dialogical process from the very outset. But herein lies the problem: the neutrality of the institutional framework that Bohman champions is all but precluded by the fact that this framework is covertly supported by a set of norms that cannot possibly be upheld without letting certain doctrines of the good life appear more worthy of state promotion than others. In his attempt to articulate a more minimal criterion of legitimation, Bohman presupposes and affirms a moderately perfectionism whereby he seeks to protect and promote both personal autonomy and value pluralism.⁴² This being the case, his account cannot but engender violations of the personal integrity of some cooperatively minded citizens—citizens who could be expected to be willing participants in the dialogical process.⁴³

With regard to *personal autonomy*, Bohman does not seek to prescribe the specific content of doctrines of the good life that are to be given preferential treatment. But he nonetheless does indicate that the question of the good life is primarily directed toward establishing the means to grant citizens the widest possible latitude to determine the manner in which they desire to live their lives. In other words, the question of the good life is nothing other than a question concerning how to promote adequate bases for personal autonomy through self-authentication. This is precisely why, within public deliberation, we are to assume that all deliberators have the equal capacity to contribute their values and interests—that they can be self-authenticating sources of a wide variety of validity claims worthy of recognition. The telling remark by Bohman that “deliberation requires the public exercise of capacities for autonomy,”⁴⁴ is thereby more than a descriptive claim regarding the prerequisites for dialogical engagement. Given the basic fact that his basic intent is to encourage such engagement, the

autonomy of citizens must have considerable normative import as well that cannot but be presupposed as a capacity which must be institutionally protected and promoted in laying out the criteria for reaching binding collective decisions.

What is more, the central impetus behind Bohman's argument for the plurality of public reason is to allow citizens to secure uptake of the reasons they offer for their preferred policy proposals in a manner that does as little harm to their means of self-authentication as possible. But, as Daniel Weinstock points out, securing uptake of the reasons one offers requires that self-authentication—or what he calls “individual autonomy”—must entail more than simply seeking to maximize whatever preferences one might maintain. Rather, he notes, it in fact “requires that we [reflectively] endorse those desires upon which we act,” including those “values and beliefs that may have been handed down...by tradition or convention.”⁴⁵ Personal autonomy, put more generally, requires nothing less than that we *authorize our acts as our own* and that the desires motivating those acts reflect our sincerely held commitments, since this provides the basic means to assure that the personal integrity of each citizen is not harmed by the resulting decisions that are established through the dialogical process.

This being so, even in attempting to articulate a criterion of legitimation that does as little harm as possible to the personal integrity of citizens, the process of reflective endorsement and subsequent reason-giving would likely run up against the prevailing commitments of at least some otherwise cooperatively minded citizens. Those who are willing to abide by fair terms of cooperation but who do not happen to find the pursuit of personal autonomy valuable in supporting their personal integrity—perhaps opting instead for biblical or papal guidance that they would find sacrilegious to reflectively endorse, being that which is most properly taken on faith—would seemingly invariably experience moral loss within the dialogical process.⁴⁶ Even

if they present the reasons for the enactment of laws that accord with the non-reflectively-endorsable will of God, for example, in a way that they sincerely expect to be convincing, taking part in dialogue would likely lead to these reasons systematically failing to secure either institutional protection or discursive uptake. For such reasons, by their very nature, cannot be regarded as self-authorized. To the extent, then, that they cannot accept this basic requirement underlying the exercise of the capacity for personal autonomy, the means of ‘self-authentication’ practiced by citizens who withhold endorsement thereof would risk failing to be treated as valid. Or, to put the matter more bluntly, the purported viability of the dialogical process could be maintained only by ignoring or silencing their voices.

So too does adherence to the dialogical process require that we ought to respect each other as citizens whose capacities for self-authentication are of equal consideration—at least to the extent that the value of personal autonomy itself is not threatened—whether they conflict with our own or not. Bohman requires not only regarding *value pluralism* (or, further still, deep conflict) as a fact, but endorsing the merit of said pluralism as a characteristic of modern society that can contribute to the vibrancy of our chosen political order and the agreeableness of our social lives. For, as he remarks, “it is through public deliberation that we can best preserve a cooperative, tolerant, and democratic form of pluralism.”⁴⁷ Hence, the willingness of deliberators to accommodate themselves to those with conflicting interests, at least to the extent that all parties seek moral compromise in a manner that exhibits personal autonomy, is not merely a pragmatic requirement but a moral requirement—one worthy of institutional protection and promotion both in itself and insofar as it contributes to effective public deliberation, more tolerant means of engaging in political life, and thus to the well-being of deliberators.⁴⁸

Once again, however, those citizens who do not laud value pluralism, who instead take it to be a highly problematic by-product, say, of social fragmentation the toleration of which has caused considerable harm within the modern world, would likely be at a distinct disadvantage when it comes to promoting means to overcome such fragmentation.⁴⁹ For moral compromise, which is overtly to be sought within an institutional forum intended to provide all citizens with the discursive space to offer the sorts of reasons necessary to articulate their commitments, would covertly require those citizens who oppose value pluralism to accept that which they ostensibly most adamantly deny: the *reasonability* of plural public reason.⁵⁰ Accepting as much could not but undermine their personal integrity.⁵¹ The purported success of the dialogical process, again, could only come at their expense.

Bohman is left, therefore, with two choices regarding how to proceed: he can either admit that the achievement of moral compromise is a lost cause—a path he would be loath to take insofar as he has roundly criticized just such skepticism⁵²—or he can admit the controversiality of his own claims and do his best to accommodate his dialogical account of public deliberation to demands that heretofore he has overlooked. The second path, as I assume Bohman would agree, is the more preferable one; and I suggest that it is wholly within his power to make such accommodations, and *still* to address the dilemma of the good in a beneficial manner, without abandoning his commitment either to value pluralism or personal autonomy. In fact, open acknowledgement of these commitments—hence of his moderate perfectionist tendencies—seems to be, strangely enough, just what is called for in this regard.

I noted above that Bohman falls prey to what van den Brink calls the tragic predicament of liberalism.⁵³ What makes his dialogical account tragic is not merely that it fails to meet its intended aim of granting all reasonable citizens an equal capacity to lead a good life and, as such,

cannot but lead to violations of the personal integrity of some such citizens. It is tragic because this aim, as van den Brink remarks, “is—paradoxically—both rather unrealistic and highly valuable”⁵⁴: unrealistic given the clash between the existence of *deeper* conflict than Bohman acknowledges and the values he upholds; but highly valuable because, despite the inevitable violations of personal integrity the means of governance he advocates would generate, the dilemma of the good nonetheless can be addressed in a particularly worthwhile fashion from within the scope of his account—so long as this account undergoes just a bit of reconstruction.

How, then, must this reconstruction proceed? How can the basic norms underlying Bohman dialogical account be utilized, for I believe they can be, to make it yet more inclusive? We can begin, to be sure, by recognizing this: the fact that personal autonomy and a vibrant value pluralism are championed by Bohman need not entail that those who endorse these values are to be permitted to exhibit disrespect toward citizens who fail to do so or, worse yet, to employ coercive measures to compel them to accept political decisions that violate their personal integrity. By its very nature, championing the capacity for self-authentication seems to preclude such action—including, if strictly adhered to, the systematic devaluation of the capacities for ‘self-authentication’ exhibited by those cooperatively minded citizens who balk at reflective endorsement of their commitments. In other words, if the means by which citizens can be judged to provide authentic reasons can be expanded to include sincerely offered faith-based reasons (or any such reasons that fall outside the scope reflective endorsement), at least under certain situations, then the viability of these reasons need not be invariably ruled out. There certainly have been times when such reasons have proven exceptionally salient with regard to matters of public policy: whether they be voiced by the likes of Harriet Beecher Stowe with regard to the horrors of slavery, Martin Luther King, Jr. respecting the evils of segregation and the need for

civil rights, or Pope John Paul II concerning the ethical justifiability of the recent military action in Iraq. This does not entail, of course, that the publicity conditions that Bohman outlines, including honestly seeking to offer reasons that one expects others to share, do not still apply. Finding the means to establish moral compromise would certainly be ruled out if just any reasons could be treated as publicly valid. But, to the extent that citizens are willing to cooperate, there is nothing that necessarily precludes the process of reason giving from becoming just slightly more plural in this respect while still upholding the basic conditions of publicity.⁵⁵

Further still, taking the merit of value pluralism seriously would seem to involve being willing to recognize those doctrines of the good maintained by cooperatively minded citizens who do not laud value pluralism as resulting equally, as Rawls puts it, from the free use of thought and thus to be potential sources of validity claims that can be worthy of uptake.⁵⁶ As van den Brink notes:

it is precisely because of its adherence to the values of personal autonomy and pluralism that deliberative democracy will, despite its substantive assumptions, not coerce citizens into accepting it. Rather, it will advocate its own views by trying to gain legitimate political power that will be used to shape cultural conditions under which egalitarian, communicatively integrated life worlds will flourish.⁵⁷

In other words, even though Bohman covertly backs state promotion of the moderately perfectionist values he supports, there is little reason to believe—if he adheres to the letter of these values—that resulting state activities would compound the violation of personal integrity experienced by some citizens either with repression or with the refusal of their grievances to be heard. Bohman is far better served in this respect if he openly acknowledges that he is promoting, on the one hand, a certain modestly circumscribed view of the good life and, on the other, the attending establishment of moderately perfectionist means of governance in a manner that presupposes a set of worthwhile but nonetheless controversial values. He should regard

himself as but one more political actor engaged, as van den Brink remarks, in “ongoing social struggles over questions of justice, social esteem, and self-realization.”⁵⁸ To be sure, this does force him to regard the dialogical account as but one sectarian view among many. But not only would he be considerably more honest with regard to his own intentions if he were to do so; he would likewise increase his awareness of how and why these intentions are likely to meet with opposition, thus improving his ability to engage with those threatened with moral loss in a manner befitting the egalitarian and communicatively rich cultural conditions he seeks to foster.⁵⁹

This could make the dialogical account yet *more* practical to the extent that he would take far more seriously how his moderate perfectionism both aids *and* inhibits the resolution of specific conflicts that remain with respect to matters of deep conflict. He would likely be more open to his own criterion of legitimation being subject to scrutiny and perhaps, if it proves to inhibit the development of discursively validated bases of moral compromise, to revision. This sort of revisability is already intended to be at work in the process of mutual modification of interpretive frameworks, so there seems to be scant reason to deny that it can be operative with regard to the dialogical specification and application of the normative presuppositions underlying this process as well.⁶⁰ As such, although Bohman could certainly contend that institutional parameters be set up that foster personal autonomy and value pluralism, this too would be subject to legitimation. He would recognize himself as being placed in a position whereby he, like all citizens, must seek the free acceptance by others of the parameters to which he is committed. The proponent of the conception in this situation can be no less a participant within the political fray. The conception itself is inseparable in this regard from the practices it promotes.⁶¹

Furthermore, insofar as the status of his own intentions would be subject to critique, Bohman also could come to endorse a form of deliberation that is likely yet *more* appealing to those who might otherwise find it unacceptable. This in turn could lead to beneficial dialogue concerning how to address the eventuality that the commitments which those cooperatively minded citizens who do not laud personal autonomy or value pluralism are likely to be excluded from deliberative uptake: this occurring not because these commitments are necessarily unreasonable when judged by means of purportedly neutral deliberative requirements but instead because they reflect commitments that do not meet the moderately perfectionist standards that covertly underlie the form of public deliberation Bohman lays out. Likewise, to the extent that Bohman is willing to promote means of public deliberation that not only lead to less moral loss by those who might otherwise find his account unacceptable but also potentially to provide greater opportunities for any remaining grievances to be addressed, such citizens in return may well be more willing to endorse binding collective decisions—or at least to more fully consider policy proposals—that do not undermine either the norms or the form of governance that he supports.

In this respect, in closing, that Bohman falls prey to the tragic predicament of liberalism and is thereby unable to wholly resolve the dilemma of the good should not be considered to exhibit either a fundamental flaw within his deliberative conception of democracy or to be a significant source of misgiving. On the contrary, the practical advantages to be gained by his openly acknowledging his moderate perfectionist tendencies and how they can actually *beneficially* influence his dialogical account of deliberation—both specifically in terms of addressing the recalcitrant dilemma of the good and more broadly with regard to rethinking the application of deliberative democracy—could not be more welcome.⁶²

Notes

¹ Joseph Raz, *The Morality of Freedom* (New York: Clarendon Press, 1986), 133.

² I here appropriate the phrase “fundamental laws,” i.e., the constitutional essentials and matters of basic justice, from Frank Michelman. See “How Can the People Ever Make the Laws? A Critique of Deliberative Democracy,” in *Deliberative Democracy: Essays on Reason and Politics*, ed. James Bohman and William Rehg (Cambridge, MA: MIT Press, 1997), 145-171.

³ Joseph Chan provides a helpful distinction between what he calls “extreme perfectionism” and “moderate perfectionism” in “Legitimacy, Unanimity, and Perfectionism,” *Philosophy & Public Affairs* 29(1) (2000): 5-42. Advocates of the former hold that the state must adopt something akin to a comprehensive doctrine as the basis for state policy and thus promote the good life in accordance with this doctrine through openly coercive measures. Advocates of the latter, rather, maintain the following: (a) the state has a compelling interest in promoting a conception of the good but only in a *non-coercive* manner, i.e., through the use of subsidies, tax incentives, educational grants, and so on; (b) there may be other overriding values with which the state may be concerned and on certain occasions to which it must attend; and (c) the promotion of the good life is not necessarily state-centered but instead multi-centered, insofar as actors external to the state can play a role in such activities. I do not thereby seek to equate the sort of perfectionist position I take Bohman to hold with that of Joseph Raz, for example, who alludes in *The Morality of Freedom* to the use of coercive—and thus potentially illiberal—measures to support the values he endorses. For a critique of Raz’s perfectionism on this count, see Bert van den Brink, *The Tragedy of Liberalism* (Albany: State University of New York Press, 2000), chapter 4.

⁴ See Samuel Freeman, “Deliberative Democracy: A Sympathetic Comment,” *Philosophy & Public Affairs* 29(4) (2000): 371-418, for a more detailed account of Rawls’s and Habermas’s respective ideas of the public use of reason. For my purposes within this essay, with bases of divergence duly noted when appropriate, their respective criteria of legitimation can be regarded as roughly equivalent.

⁵ In “The Idea of Public Reason Revisited” (reprinted in *The Law of Peoples* (Cambridge, MA: Harvard University Press, 1999), 129-180), Rawls indicates that citizens are to enter into public deliberation in accordance with public reason when the constitutional essentials are at stake (168). He notes, however, that the outcome of voting upon specific laws is legitimate to the extent that actors vote in accordance with the idea of public reason (169). Thus, even when it comes to more mundane laws, unanimous consent remains at least an informal ideal. Also, for helpful definitions of freedom and equality as employed within this context, see Joshua Cohen, “Democracy and Liberty,” in *Deliberative Democracy*, ed. John Elster (New York: Cambridge University Press, 1998), 192.

⁶ Rawls does, under certain circumstances, permit the introduction of comprehensive reasons into public deliberation. This can be done, in accordance with what he calls the “wide view of public reason,” so long as these reasons are supported in due course by publicly available reasons (see “The Idea of Public Reason Revisited,” 152ff.).

⁷ John Rawls, *Political Liberalism* (Cambridge, MA: Harvard University Press, 1993), 8.

⁸ As Rawls notes, “the political doctrine can be seen as part of a comprehensive doctrine but it is not a consequence of that doctrine’s nonpolitical values” (*ibid.*, 155). Moreover, “The content of

public reason is given by a political doctrine of justice” (253). In “The Idea of Public Reason Revisited,” he widens the content of public reason to include a “family” of liberal political conceptions of justice, but those engaging in public reasoning must still “appeal to one of [the family of] political doctrines—to their ideals and principles, standards and values—when debating fundamental political questions” (143-144). Also, for reference to the modularity of the political conception of justice, see *Political Liberalism*, 12.

⁹ Habermas argues that in developing his account of legitimation, Rawls does not require that citizens endorse laws for the same publicly available reasons but merely relies upon the “lucky convergence” of a “reasonable” overlapping consensus formed in accordance with the different comprehensive reasons citizens maintain for consenting. See “Reconciliation Through the Public Use of Reason,” in *The Inclusion of the Other*, trans. Ciaran P. Cronin and Pablo De Grieff (Cambridge, MA: MIT Press, 1998), 59f. For a defense of Rawls’s account of public reason against this criticism, see Kenneth Baynes, “Practical Reason, the ‘Space of Reasons,’ and Public Reason,” in *Pluralism and the Pragmatic Turn*, ed. William Rehg and James Bohman (Cambridge, MA: MIT Press, 2001), 71ff.

¹⁰ I say “on the whole” here insofar a Rawls openly acknowledges, following Isaiah Berlin, that “there is no social world without loss: that is, no social world that does not exclude some ways of life that realize in special ways certain fundamental values” (*Political Liberalism*, 197). Those citizens who maintain unreasonable comprehensive doctrines are, it would seem, destined to lose out in a social world in which the political conception of justice that Rawls endorses (i.e., justice as fairness) is institutionalized. Such loss, according to Rawls, neither indicates arbitrary bias nor injustice to the extent that such citizens are unwilling to acknowledge the historically proven efficacy of cooperation in accordance with the shared fund of public political values.

¹¹ Kenneth Baynes, “Liberal Neutrality, Pluralism, and Deliberative Politics,” *Praxis International* 12(1) (April 1992): 50. For Offe’s remarks, see “Challenging the Boundaries of Institutional Politics: Social Movements Since the 1960s,” in *Changing Boundaries of the Political*, ed. Charles Maier (New York: Cambridge University Press, 1987), 65.

¹² See Amy Gutmann and Dennis Thompson, *Democracy and Disagreement* (Cambridge, MA: Harvard University Press, 1996), chapter 1, for a similar argument.

¹³ For a fuller account of Habermas’s critique of Rawls, see chapters 2 and 3 of *The Inclusion of the Other*. William Galston makes a similar point in “Pluralism and Social Unity,” *Ethics* 99 (July 1989), 724. Also, for a critique specifically of Rawls’s ‘method of avoidance’—which he discusses, among other places, in *Political Liberalism* (224) and whereby he takes the scope of political considerations to be properly narrowed—see Baynes, “Liberal Neutrality, Pluralism, and Deliberative Politics.” Baynes’s argument against Rawls also serves to undercut Bruce Ackerman’s comparable strategy of conversational restraint. See Ackerman, “Why Dialogue?” *The Journal of Philosophy* 86(1) (January 1989): 5-22.

¹⁴ Jürgen Habermas, “Remarks on Discourse Ethics,” in *Justification and Application*, trans. Ciaran P. Cronin (Cambridge, MA: MIT Press, 1993), 24.

¹⁵ For a brief account of ideal role taking, see Habermas, *The Inclusion of the Other*, 57-58, and “Remarks on Discourse Ethics,” 32. The impartial perspective taken up through ideal role taking is one that deliberators ‘must’ accept not in morally obligatory terms but instead due to the ‘weakly transcendental’ conditions coinciding with what Habermas calls the pragmatic presuppositions of argumentation. These presuppositions cannot but be invoked within discourse involving the give and take of reasons aimed at achieving agreement. See Jürgen Habermas,

“Discourse Ethics: Notes on a Program of Philosophical Justification,” in *Moral Consciousness and Communicative Action*, trans. Christian Lenhardt and Shierry Weber Nicholsen (Cambridge, MA: MIT Press, 1990), 43-115, and also “‘Reasonable’ Vs. ‘True,’ or the Morality of Worldviews,” in *The Inclusion of the Other*, 95f.

¹⁶ See Jürgen Habermas, *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy*, trans. William Rehg (Cambridge, MA: MIT Press, 1996), 298, and also “Three Normative Models of Democracy” in *The Inclusion of the Other*, 239-252.

¹⁷ Habermas, *Between Facts and Norms*, 356.

¹⁸ The burdens produced by value pluralism (and other forms of social complexity) can be further reduced, Habermas maintains, if there exist socialization processes that ‘meet halfway’ the institutional framework of the two-stage model. See *Between Facts and Norms*, 113f., 302, and 461. It is also worth remarking that Habermas outlines the means by which compromises, resting on different reasons, with regard to the balancing of competing interests can be achieved to ensure legitimacy when particularly persistent conflicts arise. Yet, as Bohman rightly notes, not only does Habermas take these compromises to be epistemically inferior to unanimous consent. More significantly, if they are to be fair they must be indirectly regulated by antecedent moral discourses. See *Between Facts and Norms*, 167.

¹⁹ When it comes to matters of law as opposed to those of morality, Habermas maintains that deliberation expands to incorporate not only moral but also ethical and pragmatic questions. See *Between Facts and Norms*, 155. This raising of the bar with regard to the scope of considerations open to deliberation makes consensus concerning the legitimacy of laws that much more difficult to achieve, which (at least in part), as I take it, is why Habermas introduces the account of compromise outlined in the previous note.

²⁰ Rawls, *Political Liberalism*, 220.

²¹ As Bohman states, “Habermas’s discussion of conflict places almost exclusive reliance on capacities for abstraction to solve the problem of plurality, very much in the manner of democratic theories based on singular public reason” (*Public Deliberation*, 88).

²² For a considerably fuller critique of Habermas on this count, see William Rehg and James Bohman, “Discourse and Democracy: The Formal and Informal Bases of Legitimacy in *Between Facts and Norms*,” in *Discourse and Democracy: Essays on Habermas’s Between Facts and Norms*, ed. Rene von Schomberg and Kenneth Baynes (Albany: State University of New York Press, 2002), 31-60.

²³ Charles Larmore states the following in “The Moral Basis of Political Liberalism,” *The Journal of Philosophy* 96(12) (December 1999): “Paradoxical as it may sound, traditionalism is a modern innovation, and for that reason we can expect it to prove an abiding feature of our culture,” (624). See also Henk A.M.J. Ten Have “Consensus, Pluralism and Procedural Ethics,” in *The Concepts of Moral Consensus*, ed. Kurt Bayertz (Boston: Kluwer, 1994), 67.

²⁴ For a helpful clarification of the distinction between incompatible and incommensurable value-orientations, see John Kekes, *The Morality of Pluralism* (Princeton, NJ: Princeton University Press, 1993), 53ff.

²⁵ This phrase is appropriated from Thomas Nagel, *Equality and Partiality* (New York: Oxford University Press, 1991), 65.

²⁶ For a helpful discussion of just how difficult it would be to actually achieve unanimous consent by means of ideal discourse, see Thomas McCarthy, *Ideas and Ideals* (Cambridge, MA: MIT Press), chapter 7.

²⁷ James Bohman, *Public Deliberation: Pluralism, Complexity, and Democracy* (Cambridge, MA: MIT Press, 1996), 5.

²⁸ Baynes argues in “Deliberative Democracy and Public Reason” (unpublished paper presented at the Montreal Political Theory Workshop, McGill University, Fall 2002) that Bohman overestimates the importance of the search for consensus within both Rawls’s and Habermas’s theories. For both thinkers, Baynes argues, political legitimacy ultimately rests not upon the achievement of a *de facto* consensus through an adequately delineated set of fair procedures but instead upon the extent to which any such decision reflects a specified substantive commitment to the freedom and equality of citizens. In other words, political legitimacy is not measured by the actual achievement of consensus but by the fact that it mirrors this substantive content. This being so, Bohman’s argument that a more pragmatic account of public deliberation is required rests upon a fundamental misunderstanding of the role consensus plays in both Rawls’s and Habermas’s theories. If we are to assume, however, that the means whereby the substantive content is reflected in political decisions is itself subject to *democratic* endorsement—that there must be some process whereby to reach agreement in this regard—it would still seem to be the case that a more pragmatic account of public deliberation can prove highly worthwhile.

²⁹ It is worth noting that Bohman’s approach is similar in nature to that offered by Gutmann and Thompson in both *Democracy and Disagreement* and “Why Deliberative Democracy Is Different,” in *Democracy*, ed. Ellen Frankel Paul, Fred D. Miller, Jr., and Jeffrey Paul (New York: Cambridge University Press, 2000), 161-180. I choose to focus upon Bohman’s account in this article, however, insofar as we get perhaps a better sense of how the *process* of deliberative decision-making can unfold, whereas Gutmann and Thompson are more directly concerned with examining the *conditions* necessary for successful deliberation.

³⁰ Gutmann and Thompson provide a brief but helpful argument to justify assuming that citizens have the capacity to be cooperatively minded in *Democracy and Disagreement*, 42.

³¹ See Bohman, *Public Deliberation*, 35ff.

³² This idea goes further than Rawls’s acknowledgement of the “burdens of judgment” (see *Political Liberalism*, 54ff). For on Bohman’s account, Rawls still assumes that there can be wide agreement concerning what constitutes a politically reasonable commitment instead of acknowledging that deep conflict often extends to this level. For a more thorough critique of Rawls on this point, see Gerald Gaus, “Reason, Justification, and Consensus: Why Democracy Can’t Have It All,” in Bohman and Rehg, *Deliberative Democracy*, 214ff.

³³ Bohman, *Public Deliberation*, 90.

³⁴ *Ibid.*, 101.

³⁵ *Ibid.*, 89-90. This is similar in tone to Joseph Schumpeter’s suggestion that any such process of bargaining with regard to fundamental value-orientations would entail bringing into conflict “irreducible differences of ultimate values which compromise could only maim or degrade.” See *Capitalism, Socialism, and Democracy*, third edition (New York: Harper & Row, 1950), 251. To the extent, however, that Schumpeter maintains this outlook with regard to *all* forms of compromise of this sort, his position is that of the skeptic whereas Bohman’s is not.

³⁶ George Sher seeks the same result by sketching out his own version of moral compromise. See “Subsidized Abortion: Moral Rights and Moral Compromise,” in *Approximate Justice: Studies in Non-Ideal Theory* (Lanham, MD: Rowman & Littlefield, 1997), 155-164. It is far from clear, however, that moral compromise for Sher entails much more than that conflicting parties—in this case, opponents and proponents of legalized abortion—end up having to make

unpalatable trade-offs. For a criticism of Sher's position, see Gutmann and Thompson, *Democracy and Disagreement*, 87ff.

³⁷ This second idea is likewise captured by what Gutmann and Thompson call an "economy of moral disagreement." See *Democracy and Disagreement*, 3, and "Why Deliberative Democracy Is Different," 168ff.

³⁸ Bohman, *Public Deliberation*, 59 and 60, respectively. The ideas discussed here with relation to mutual modification reflect Bohman's account of the five distinctive features of dialogue. See *ibid.*, 59ff.

³⁹ *Ibid.*, 91. For a similar account of compromise, see Daniel Weinstock, "Saving Democracy from Deliberation," in *Canadian Political Philosophy*, ed. Wayne Norman and Ronald Beiner (New York: Oxford University Press, 2001), 86f.

⁴⁰ *Ibid.*, 95ff., for Bohman's account of the voting process that often occurs in the establishment of binding collective decisions. For yet another helpful account of voting from within the scope of a deliberative conception of democracy, see Henry Richardson, *Democratic Autonomy: Public Reasoning about the Ends of Policy* (New York: Oxford University Press, 2002), 203ff.

⁴¹ *Ibid.*, 26. Bohman thus reformulates Habermas's principle of democracy (provided in *Between Facts and Norms*, 108f.) as follows: "A law is legitimate only if it is based on the public reasons resulting from an inclusive and fair process of deliberation in which all citizens may participate and in which they may continue to cooperate freely" (*Public Deliberation*, 184). This is comparable to, but stronger than, Seyla Benhabib's account of the merits of public deliberation whereby the process thereof and not its result is arguably most valuable. See Benhabib, "In the Shadow of Aristotle and Hegel: Communicative Ethics and Current Controversies in Practical Philosophy," in *Hermeneutics and Critical Theory in Ethics and Politics*, ed. Michael Kelly (Cambridge, MA: MIT Press, 1990), 12f. Bohman is quite clear that it is not merely the continuation of the deliberative process but the impending results of moral compromises that are of highest moral and political import.

⁴² Bohman explicitly argues that his position is not a "deliberative perfectionism." See *Public Deliberation*, 237. But he regards said perfectionism in terms of a communitarian view that attempts to enrich democracy by restoring a shared doctrine of the common good, according to which (i) citizens make politics one of their highest values and (ii) political judgments meet the test of public virtue rather than of continued cooperation. We will see that Bohman's moderate perfectionism does reject the former yet in fact implicitly endorses a position akin to—but perhaps slightly weaker than—the latter.

⁴³ Van den Brink directs his attention specifically toward showing that both Rawls's and Habermas's theories are covertly moderately perfectionist. See chapter 3 in *The Tragedy of Liberalism* for his critique of Rawls and chapters 5 and 6 for his critique of Habermas. I here extrapolate from these chapters in focusing upon Bohman.

⁴⁴ Bohman, *Public Deliberation*, 151.

⁴⁵ Weinstock, "Saving Democracy from Deliberation," 87 and 88, respectively.

⁴⁶ See, for example, Stephen L. Carter, *The Culture of Disbelief: How American Law and Politics Trivializes Religious Devotion* (New York: Doubleday, 1994).

⁴⁷ Bohman, *Public Deliberation*, x.

⁴⁸ The promotion of value pluralism can also be seen to have another distinctive benefit, this being with regard to the laundering of reasons mentioned above. The existence of a wide array of value-orientations is perhaps precisely what is called for in order to raise the level of public

debate, for it allows reasons offered in dialogue to be subject to more rigorous testing. To promote value pluralism, then, would also enhance the possibility for “‘filtering the inputs’ of public deliberation about conflicts through testing” (ibid., 101). That is to say, such testing can serve to make these reasons epistemically superior to their untested counterparts. For a similar argument, see Richard Bernstein, “Pragmatism, Pluralism, and the Healing of Wounds,” in *The New Constellation: The Ethical-Political Horizons of Modernity/Postmodernity* (Cambridge, MA: MIT Press, 1991), 328.

⁴⁹ See, for example, Alysdaire MacIntyre, *After Virtue: A Study in Moral Theory* (Notre Dame, IN: Notre Dame University Press, 1981).

⁵⁰ Bohman may object to this characterization, arguing instead that the reasonability of plural public reason does not in fact require that one endorse value pluralism. All that it demands is the recognition of the fact of reasonable disagreement—of the nature of practical reasoning generally rather than of any substantive value commitment. This, in any case, is the position that Larmore takes in *The Morals of Modernity* (New York: Cambridge University Press, 1996), 167ff. Although I am unable to go into any great detail regarding this contentious debate, two basic points count against allowing Bohman to provide such an objection. First, this seems to presuppose that citizens exhibit a specifiable “common human reason” (Rawls), which Bohman rejects (see *Public Deliberation*, 86). Second, that reason does not tend to lead to agreement but instead away from it does not entail in and of itself that disagreement is reasonable. This would seem to require the further normative judgment that there is something valuable about regarding divergent value-orientations as potentially equally reasonable.

⁵¹ One response offered by neutralists to meet such an assertion is to distinguish between two types of neutrality: consequential and justificatory neutrality. See, for example, Will Kymlicka, “Liberal Individualism and Liberal Neutrality,” *Ethics* 99 (July 1989): 74-97. As George Sher notes, in *Beyond Neutrality: Perfectionism and Politics* (New York: Cambridge University Press, 1997), the former involves the idea that the state “may not adopt any laws or policies that *have the effect of promoting any particular doctrine of the good,*” whereas the latter entails that states “may not take any actions *in order to promote any such doctrines,*” (4). Surely it is the case, the neutralist might argue, that any theory—Bohman’s included—will advocate an institutional framework that unwittingly ends up favoring some doctrines over others. Rawls is quite clear that even political liberalism has this unintended result—that it is not, and cannot be, consequentially neutral (see *Political Liberalism*, 193f.). Yet, Bohman’s theory is not merely consequentially non-neutral; it is, as I have tried to show, covertly *justified* by means of his moderately perfectionism. See *Beyond Neutrality* for a compelling argument against the very possibility of justificatory neutrality, 22ff.

⁵² See, for example, Bohman, *Public Deliberation*, ix.

⁵³ Although Bohman is not himself an avowed liberal, the general structure of the tragic predicament still applies in this case. See Donald Moon, *Constructing Community: Moral Pluralism and Tragic Conflicts* (Princeton: Princeton University Press, 1993), for a similar argument concerning the tragedy of liberalism.

⁵⁴ Van den Brink, *The Tragedy of Liberalism*, 25.

⁵⁵ In “The Idea of Public Reason Revisited,” Rawls worries that appeals to non-public reason in order to justify fundamental laws or policy proposals cannot but lead over time to “divisions and hostilities” between citizens (174). He may well make the same objection against the possible expansion of public reason to include (discursively validated) faith-based values. While Rawls is

right that such a risk does indeed exist, there seems to be a comparable risk engendered by limiting the scope of public reason in the manner that he does. As Gutmann and Thompson assert in *Democracy and Disagreement*, “Moral argument can arouse moral fanatics, but it can also combat their claims on their own terms. Extending the domain of deliberation may be the only democratic way to deal with moral conflict without suppressing it” (44).

⁵⁶ See Rawls, *Political Liberalism*, xxvi.

⁵⁷ Van den Brink, *The Tragedy of Liberalism*, 117.

⁵⁸ *Ibid.*, 161.

⁵⁹ Bohman’s moderate perfectionism therefore does not necessarily run the risk of exhibiting the sort of elitist tendencies with which Rawls is concerned in his critique of perfectionism in *A Theory of Justice*. For a clearer defense of a non-elitist perfectionism, see Richard Arenson, “Perfectionism and Politics,” *Ethics* 111 (October 2000): 37-63.

⁶⁰ Gutmann and Thompson likewise argue that the norms underlying deliberation should be taken as morally provisional and political decisions, although binding, as politically provisional. See “Why Deliberative Democracy Is Different,” 171ff.

⁶¹ This basic idea is captured by John Elster’s criticism of Habermas’s account of discourse ethics in “The Market and the Forum,” reprinted in Bohman and Rehg, *Deliberative Democracy*, 3-33. The heart of this criticism is that “one cannot assume that one will in fact approach the good society by acting as if one has already arrived there,” (18). In other words, ideal theory tends to ignore the heavy lifting involved in bringing a particular view of the good society to fruition. Although this need not entail utilizing anti-democratic means to further one’s agenda, neither can it be assumed that the theoretical presentation of a preferred set of institutions operating in accordance with a preferred set of norms in and of itself can be translated into effective bases for political practice—a point with which Bohman would likely agree. This notion is at the very heart of the pragmatic approach to political philosophy.

⁶² Along with presenting an earlier draft of this essay at the 19th International Social Philosophy Conference in Eugene, OR, on July 20, 2002, it was also presented at the 4th Annual Michigan State University Graduate Student Philosophy Conference in East Lansing, MI, on September 28, 2002. I would like to thank the participants of both conferences for their useful feedback. I would also like to extend my gratitude to Steven W. Patterson, two anonymous reviewers, and especially Kenneth Baynes for their extensive and exceptionally helpful comments.