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What Makes a Good Compromise?[1]

WHAT DISTINGUISHES A GOOD FROM A BAD COMPROMISE? I HAD NEVER thought about this question in any depth. But surely I should have done. First, as a political philosopher involved in discussions about justice, that is, discussions about something that is supposed to emerge from a reasonable agreement, and hence something that should have more than a superficial relationship with a good compromise. Secondly, as a Belgian citizen who has been hearing for his whole life what is supposed to be – laudably or lamentably – a local specialty: 'le compromis à la Belge'.[2] Thirdly, and most simply, as a spouse, who, after thirty years of life with my wife, must have realized – as no doubt most others do – how much the survival and quality of this shared life owes to a never-ending sequence of compromises.

[1] This text is based on presentations at the conference 'Les sociétés musulmanes sont-elles hostiles au compromis?', Tunis, 16 March 2010, and at the Oxford Political Thought Conference, Oxford, January 2011. An earlier French version was published in *Raison publique*, 14 (April 2011), pp. 229–43, and in M. Nachi (ed.), *Les Figures du compromis dans les sociétés islamiques*, Paris, Karthala, 2011, pp. 85–96. The present version benefited from insightful comments by Richard Bellamy, Valérie Rosoux and several participants at the two conferences mentioned above.

[2] Presumably the salience of compromise in Belgian public life can be traced to the fact that major social decisions, such as the content of the programme of a national government or the pluri-annual deal between trade unions and employers have to be made jointly by people and organizations who have previously made, publicly and often forcefully, mutually incompatible demands. However, compromise politics is by no means confined to countries with proportional representation (and hence coalition governments) or corporatist institutions. It is, for example, sometimes identified as a core feature of social democracy (see Alain Bergounioux and Bernard Manin, *La Social-démocratie ou le compromis*, Paris, P.U.F., 1979).

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WHAT IS A COMPROMISE?

To be able to say what constitutes a good compromise, we must first know what a compromise consists of. I shall here adopt a broad and value-neutral definition which is in line with the common usage of the French noun 'compromis' and the English noun 'compromise': *a compromise is an agreement that involves mutual concessions*.[3]

As an agreement, a pact or a deal, a compromise allows both parties to the agreement to avoid an option which each of them deems worse or less promising than the option which the agreement makes accessible.[4] This worse option which the parties are trying to avoid can take three forms. In some cases – those in which the compromise is tightly linked to pacification, the alternative option is the escalation or the continuation of a *conflict*: a war or a riot, a fight or a row, a boycott or a sulk, with all that this means in terms of (the risk of) costs incurred by both parties.[5] In the second set of cases,

[3] Narrower definitions are possible, such as those proposed by Richard Bellamy and Martin Hollis, 'Consensus, Neutrality and Compromise', *Critical Review of International Social and Political Philosophy*, 1: 3 (1998), pp. 54–78, at pp. 54–5, 62–3, which distinguishes a compromise (by negotiators) from a bargain (by traders); and by Dominique Leydet, 'Pluralisme et compromis', in M. de Nanteuil and M. Nachi (eds), *Éloge du compromis. Pour une nouvelle pratique démocratique*, Louvain-la-Neuve, Academia Bruylant, 2005, pp. 81–106, at pp. 84–8, which also distinguishes between compromise (positively connoted) and bargaining (negatively connoted). In the present context, however, it seems better to see this as a basis for a hypothesis (discussed below) as to what constitutes a good compromise. Other definitions of compromise include a process of negotiation through mutual concessions, rather than the agreement that this process produces (see Mohamed Nachi, 'Esquisse d'une théorie du compromis', in Nanteuil and Nachi, *Éloge du compromis*, pp. 143–72, at pp. 154–5. A definition is not true or false, but more or less useful. The one adopted for this article is offered as the most useful for my purposes.

[4] In other words, the terms of a feasible compromise must be such that each party feels (ex ante) better off under the compromise than under its best alternative to a negotiated agreement (BATNA), see Roger Fisher and Bill Ury, *Getting To Yes: Negotiating Agreement Without Giving In*, Boston, MA, Houghton Mifflin, 1981, and the subsequent literature in negotiation theory. What a compromise enables a party to do is to avoid the loss (in terms of whatever it cares about) that corresponds to the difference between what it gets under the compromise and its BATNA.

[5] In the interesting analysis of Avishai Margalit, *On Compromise and Rotten Compromises*, Princeton and Oxford, Princeton University Press, 2010, the focus is on this first case: compromises that avoid conflict, violence or war. The second case plays only a minor role, and the third one is ignored.

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what the compromise prevents is an *exit*: (the risk that) cooperation will cease or will fail to get off the ground; that a secession or a divorce will occur; that a plan for collaboration, cohabitation, integration or merger will be abandoned, with all that this implies in terms of gain forgone, of wasted cooperative surplus. In the third and last set of cases, what the compromise allows the parties to avoid is that the decision be taken out of their hands and subjected to *arbitration*. If no agreement can be reached by the two parties, the matter will be settled by a third one: a judge, referee, jury, higher authority or majority vote, with everything that this entails in terms of time lag, cost of the proceedings and the possibility that the arbitrator's verdict will be insensitive to what both parties most care about.[6]

These options that would materialize in the absence of a compromise, or at least the perception (identical or divergent) of these options by the two parties, influence the terms of the compromise. They limit the range of possible agreements: neither side will underwrite an agreement unless it enables them to get more than they believe they can expect as a result of the conflict, exit or arbitration that the agreement aims to prevent. The balance of power between the parties therefore strongly affects the substance of the compromise: the probability of winning and the power to harm if a conflict breaks out or continues; the relative importance of cooperation with the other party by comparison to the options accessible in the event of exit; and the ability to wait or to influence the verdict of the third party in cases of arbitration.[7]

[6] The third-party arbitrator, who decides in the absence of agreement, must be distinguished from the third-party mediator, who assists the parties in finding a compromise. The person mandated to assist a company's management and its workers to reach an agreement that would avoid or end a strike, is a third-party mediator. The government that threatens to legislate if the social partners fail to reach an agreement is a third-party arbitrator.

[7] The balance of power thus determined affects both the possibility and the contents of the compromise as far as the extent the parties are aware of it. But the parties may also have an inaccurate idea of what may happen in the absence of an agreement, and unrealistic expectations can both facilitate the reaching of a compromise and make it very difficult. If expectations on either side are overly optimistic about what will happen in case of conflict, exit or arbitration, compromise may prove elusive. If both sides are overly pessimistic, on the other hand, it should generally be quite easy to reach an agreement. Margalit, *On Compromise*, p. 51, argues that exaggerated optimism is one of the reasons why war prevails over a compromise that would have saved huge costs for both parties. Even with realistic expectations, however, war will prevail either

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MUTUAL CONCESSIONS

A compromise is an agreement, but not just any agreement. Its distinctiveness resides in the mutual concessions involved. This feature makes it different from *capitulation*, whereby one of the parties makes all of the concessions: where there is unconditional surrender or submission of one party to domination by the other. A compromise is also different from an agreement, explicit or implicit, which is the object of a *consensus* and hence has no need of concessions to come about. It is important to distinguish between two types of agreement by consensus. In the first case, the agreement results from a *spontaneous convergence* in the interests of the two parties, their preferences, their wants. In the second type, it is the result of a reconciliation of divergent interests, preferences or wants through a *shared conception of fairness*. When the interests of the parties do not converge spontaneously, *negotiation* can lead to a compromise that avoids the costs and risks of conflict, exit or arbitration, whereas *deliberation* can lead to a consensus about what is required for a fair solution.

This last distinction prompts the need to reflect further on the very notion of a concession, a concept essential to the definition of a compromise. A concession is where parties accept something inferior, in their opinion, to something else. But inferior to what, exactly? The concession definitely cannot be inferior to what the party concerned (believes that it) would have obtained without the agreement. On the contrary, a compromise is only possible as long as the concessions made by each party do not (in their view) make their respective situations worse than they would have been without the agreement. Nor should every concession involve accepting a situation inferior to what one has under the status quo. Indeed, a compromise is quite often a deal between supporters and opponents of the status quo. If concessions were defined using the status quo as the baseline, all agreements which change the status quo would be, by definition, a capitulation on the part of supporters of the latter and not a compromise.

because at least one party does not sufficiently trust that the other will respect the terms of the agreement, or because any compromise would necessarily involve the sacrifice of something so valuable to at least one party that any probability above zero of obtaining it by war justifies the refusal to compromise.

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Does a concession, then, consist of a party accepting less than he/she *would like*, or less than what would best satisfy his/her interests? This definition is clearly more satisfactory. It makes it intelligible that those who demand and obtain some change in the status quo may still be making concessions. Yet, this definition remains inadequate because it does not manage to distinguish a compromise from the second type of consensus defined above: the one that stems from a deal recognized as fair between diverging interests. Hence, a concession does not consist of agreeing to receive less than one has an interest in obtaining, but rather in agreeing that one will receive less than what one regards as one's entitlement. Suppose a cake needs to be split between you and me in circumstances in which we would each like to eat the whole thing. There is no compromise, but rather a consensus if we both believe that cutting the cake in half is fair. By contrast, there is room for compromise if you claim all of the cake because you made it, while I believe I have a right to have it all because I have not eaten for three days.[8]

The phrase 'one regards as one's entitlement' must be understood in a very broad sense that reaches far beyond the self-interest of the parties. A disagreement can stem from differences in the values held by the various parties rather than from conflicts between the interests they defend. Furthermore, when there are shared interests or common values, strong divergences can arise from different convictions (albeit sometimes influenced by values or interests) about factual matters. If consensus is out of reach and hence a compromise must be reached – on Islamic headscarves, for example – this can admittedly be because of different values or interests, but it can also be because of different opinions about the likely effects of the practice of wearing the hijab in specific contexts.

AN HONOURABLE COMPROMISE

Having clarified the concept of a concession, we now know what counts as a compromise – an agreement involving mutual

[8] In order to characterize concessions, Margalit, *On Compromise*, pp. 47–50, refers to the *dream points* of the two parties. However, this reference fails to distinguish sufficiently between what the parties would like and what they feel entitled to.

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concessions. But what is a *good* compromise? I wish to consider here three simple hypotheses.[9]

The first hypothesis is that a good compromise is an honourable compromise, that is to say a compromise that enables each of the parties to save face, one that does not dishonour either party. This hypothesis is far from implausible if one thinks of those compromises that are made in public, especially when agreements are negotiated by representatives or leaders whose authority or careers depend on their prestige. However, compromises are also sometimes carried out with the utmost discretion, without a present, future or potential audience to witness whether the negotiators have lost face or not. It is therefore difficult to conceive of honourability so defined as a standard applicable to all compromises.

Moreover, honourability seems to be a question of cosmetics rather than of content. Before the agreement, it is in the negotiators' interest to emphasize to the public and, above all, to the other party the extent of the concessions which they are offering to make. After the agreement, by contrast, it is in their interest to downplay the extent of their concessions (often more significant than those offered initially) to that very same public, especially to that part of it that they represent. This cosmetic concern with how an agreement is perceived by the public tends to render compromises more opaque, ambiguous and complicated than would be the case if there were no public. It thereby leads to hiding problems, postponing them and letting them bubble under the surface instead of resolving them. Consequently, the honourability of a compromise in the sense specified can be defended as a condition of its acceptability by both parties, and therefore of its feasibility, but hardly as a criterion of its quality.[10]

[9] This distinguishes my purpose here from Avishai Margalit's. Whereas I want to identify the difference between good and bad compromises, he wants to characterize 'rotten' (as opposed to acceptable) compromises. A rotten compromise, he proposes, is one that is both humiliating and cruel (*On Compromise*, pp. 54, 62). Not all acceptable compromises are good, and not all bad compromises are rotten.

[10] Whether a compromise is honourable or not in this sense is a matter of plausible presentation to the outside world. It is therefore very sensitive to a specific subsequent cooperation between the two parties: in order to save its own face, each party must downplay its concessions, but in order not to threaten the other party's face, it must not downplay them too much. To the extent that each party's declarations reaches a common audience, triumphalism must be avoided. The very feasibility of a compromise therefore depends on the negotiators managing to be able to trust each other

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There is, however, another interpretation of what counts as an honourable compromise which makes this hypothesis more plausible as a characterization of the difference between a good and a bad compromise. In this interpretation, an honourable compromise is not a compromise the content or formulation of which makes it possible for both parties to save face vis-à-vis the outside world, but rather a compromise that emerges from a process characterized by mutual respect, or at least by a concern for understanding the other's point of view, by a will to meet as far as possible the demands of the other party without giving up one's own, by an explicit desire to reach a 'balanced' agreement. Such a process is to be contrasted with crude *bargaining*, whereby each party uses threats and bluff in order to extract as many concessions from the other as it can get away with.[11]

A compromise that is honourable in the latter sense offers greater guarantees of being stable than one that is not, for two distinct reasons. First, as neither party is pushed to the limits of what it can accept, the probability of the compromise unravelling due to a fluctuation in power relations is reduced. Secondly, the mutual respect shown during the negotiations contributes to making the relationship of cooperation or cohabitation between the two parties smoother, more trusting and less resentful than if the compromise that made that relationship possible had been the product of ruthless bargaining. Such stability is without doubt advantageous. But can the distinguishing feature of a good compromise really reside in the characteristics of the process that led to it rather than in its content? Is it not possible for a compromise to be bad, however honourable in this sense it managed to be?

A FAIR COMPROMISE?

The second hypothesis is that a good compromise is a *fair* compromise. At first glance, this hypothesis too is highly plausible, but let us

sufficiently not to run the risk of being publicly humiliated by the other party's triumphalist exhibition of the concessions they made.

[11] An honourable compromise in this sense corresponds to what Leydet, 'Pluralisme et compromis', p. 103, simply calls 'compromise' in a narrower sense than the one adopted here: it results, by definition, from a process of negotiation that is halfway between *deliberation* (leading to a robust consensus) and *bargaining* (leading to a precarious modus vivendi).

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be careful. As pointed out above, if both parties find some agreement fair, we are not talking about a compromise but about a consensus: each party gets what it believes it is fairly entitled to. And if one of the two parties considers that it has got what it is entitled to but the other party does not, it is not a compromise either, but a unilateral concession: one of the parties has yielded to the demands of the other. It does not follow that we should dismiss out of hand the hypothesis that there is a connection between fairness and what makes a good compromise. It could be reformulated as follows: a good compromise is the fairest compromise which can be reached under the circumstances. Under the agreement, one of the parties gets less than what fairness would require, but as much as is currently achievable, given the balance of power.

Such a characterization of a good compromise requires that we adopt a view from above, that we define fairness independently from whatever conception of fairness the parties happen to appeal to when stating their claims. This definition of fairness may be different from those put forward by both parties, but it may also align with that of one or the other. For example, those who fight to abolish slavery may settle on compromises with those who want to keep it. From the point of view of those who believe that any form of slavery is unjust, such compromises can be regarded as good if they advance the abolitionist cause as much as possible, given the prevailing balance of power, that is, given the likely outcomes in the absence of compromise, whether conflict, exit or arbitration.

Such an interpretation of a good compromise could, however, be considered too lax, too permissive. Isn't accepting less than what is just, necessarily betrayal, resignation or cowardice? A more subtle variation of our second hypothesis, which takes into account the indirect effects of the agreement, is less vulnerable to this objection. A compromise that grants what is currently possible to those who want to abolish slavery may, nevertheless, be judged a bad thing if it reduces the pressure and thus delays more significant advances or reduces the likelihood that they will happen. The hypothesis therefore becomes that a compromise is good to the extent that it allows justice to be promoted as far as possible, all things considered. In response to those who would protest against giving in to the unacceptable, it may suffice to appeal to Max Weber's classic distinction between the ethic of responsibility and the ethic of conviction or, less pompously, to the old saying: 'the best is the enemy of the good'.

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Whichever variant is chosen, however, our second hypothesis can only be used if we know, or think we know, which of the parties makes the claims that best approximate what fairness truly demands. This could be seen as a major drawback, which a third hypothesis enables us to avoid.

A PARETO-IMPROVING COMPROMISE?

The final hypothesis is that a good compromise is a *Pareto-improving* compromise, one that brings about a situation that is Pareto-superior to the status quo: each of the parties becomes better off as a consequence of the agreement. We need to watch out, though: this condition is not equivalent to demanding that a good compromise should bring about a situation judged to be better by each of the parties than what would have happened in the absence of the agreement, whether conflict, exit or arbitration. This latter condition needs to be satisfied for a compromise to be feasible or stable, but is not a criterion for its quality. The hypothesis under consideration here asserts that even those who initially prefer the status quo and feel entitled to maintain it, end up believing that the situation that obtains as a result of the compromise is better in their own eyes than if their wish to maintain the status quo had prevailed. How is that possible? It is important to identify two sets of cases.

In the first set of cases, the scope of the compromise is being broadened. To the dimension on which the disagreement focuses initially, one or more dimensions are being added, along which the party interested in preserving the status quo and the party interested in changing it are not the same as in the initial dimension. To illustrate the point, let me briefly sketch a key moment in the history of my university and my country. In 1968, Belgium experienced tensions between its two linguistic communities more acute than anything it has experienced since – so acute that all national parties split along the linguistic divide as a result. To address these tensions, the Belgian government decided to yield to Flemish pressure and relocate the French section of the University of Louvain over the linguistic border to a place now called Louvain-la-Neuve, 30 kilometres south of the Flemish town of Leuven where the university was established in 1425. Outraged by the expulsion from the town where the university had operated in French (from the eighteenth century

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onwards) far longer than in Dutch (since the 1930s), the leaders of the French section of the university and their French-speaking political allies obtained substantial compensation which allowed them to build a new campus with a decent budget. Not only did the wounded not die in the ambulance – as many at that time feared – but the French-speaking University of Louvain has become the largest property owner and the biggest employer in what is now the most prosperous province in the country. At the same time, the Dutch-speaking University of Leuven has been able to develop in the old town and become the leading university in the country in terms of size and reputation, while at the same time putting an end to the threat that the growing French-speaking minority posed to the linguistic cohesion of Flanders. Other compromises had been possible, such as a partial relocation of the French-speaking university, but there are strong reasons to think that such a compromise would have been a 'bad' one in the sense of our third hypothesis. By contrast, the compromise actually reached, to the dismay of those who were fond of the old town of Louvain, turned out to be excellent: an intelligent deal which used a distinct dimension – that of financial compensation – to arrive at a situation that is today considered better than the earlier status quo, even by those most attached to the old position.[12]

What this example illustrates is the importance of broadening the space in which we seek an agreement in order to increase the chances of arriving at a good compromise.[13] If we restrict the compromise to the dimension of the initial conflict, it is highly likely that no good compromise, in the sense meant here, will be reached between supporters and opponents of the status quo. Incorporating one or several other dimensions allows the construction of a more comprehensive package and hence a more global compromise, whereby the supporters of the status quo along the initial dimension gain enough along the other dimensions for the global compromise to be better, in the opinion of both parties, than maintaining the status quo in all

[12] The use of financial compensation to achieve a (good?) compromise is obviously nothing new. Emmanuelle Tixier du Mesnil, 'L'exemple andalou: le compromis érigé en mode de gouvernement', in M. Nachi (ed.), *Les sociétés islamiques sont-elles hostiles au compromis?* Paris, Karthala, 2011, pp. 113–25, shows, for example, how in the fifteenth century, the Sultan of Granada, Abdullah, made this a centrepiece of his statecraft.

[13] See the discussion of compromise as multi-dimensional 'trading' in Richard Bellamy, *Liberalism and Pluralism. Towards a Politics of Compromise*, London, Routledge, 1999, pp. 103–5.

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dimensions. Identifying Pareto-improvements requires not only broadening the scope of the exploration and negotiation instead of focusing narrowly on the object of the initial conflict. It also requires that the two parties know each other, understand each other and trust each other enough to be able to detect the relative importance the other party attaches to the various dimensions which the compromise could conceivably encompass. This suggests the existence of a close link between a Pareto-improving compromise and an honourable compromise in the second sense specified above (negotiations characterized by mutual respect). But this link is far from being necessary.[14]

A COMPROMISE WHICH BECOMES CONSENSUS?

The second set of cases is more problematic and more interesting. It concerns compromises that turn out to be Pareto-improvements – even partisans of the status quo consider the situation that is brought about by the compromise better than the status quo – because of a change in preferences. To illustrate this, consider the following set of episodes in the history of the Low Countries.

The Pacification of Ghent is a compromise reached in 1576 between the (predominantly Catholic) delegates of the States-General of the Low Countries and the (predominantly Calvinist)

[14] In particular, adequate mutual understanding and a joint exploration of the consequences of different possible compromises goes beyond the mutual respect required for an honourable compromise. In the Belgian context, the development of mutually beneficial compromises has been adversely affected by the vanishing of intellectual interaction between members of the two communities (following the splitting up of the national political parties and the devolution of all competences in matters of education and research to the linguistically defined communities) and the virtual disappearance, therefore, of any common reflection on the consequences of different reform options for each of the two communities. The Re-Bel initiative (www.rethinkingbelgium.eu) aims to remedy this situation and thereby to facilitate the emergence of win-win reforms. In other places, where the conflict is more acute, the lack of intellectual interaction is even more striking. During a visit to Jerusalem in April 2010, I discovered that the colleagues I met at lectures at Hebrew University and Al Quds University had never set foot on each other's campus, although they are but a few kilometres apart. One month later, when attending a conference on 'bi-nationalism' organized by the Israel Democracy Institute, I was dismayed to discover than not one Arab featured among the participants.

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delegates of Holland and Zealand at the behest of the Prince of Orange, William of Nassau, a Brussels-based aristocrat who had converted to Calvinism. It allowed a truce in the civil war between Catholics and Calvinists and constituted the first official recognition of religious freedom in the West.[15] Broadly speaking, the compromise gave Catholicism and Calvinism the status of a publicly recognized religion in different parts of the Spanish Low Countries and halted the persecution of the Calvinists in Catholic territory. It was indeed a compromise to the extent that each of the parties wanted and felt entitled to impose the true religion over the whole territory. Given the balance of power between them following the failure of the Duke of Alba's policy of brutal repression and his subsequent departure for Spain, both parties benefited from avoiding the heavy cost of the continuation of a civil war with uncertain results. Several years later, the arrival of Spanish troops under Alessandro Farnese significantly changed the balance of power, and the compromise was quick to unravel. The northern provinces – present-day Netherlands – won their independence, whereas the southern provinces – present-day Belgium – had to wait for an edict from Austrian Emperor Joseph II (in 1781) for a form of religious tolerance to be introduced.

What makes this example relevant as an illustration of our third hypothesis is not the ephemeral compromise itself, but the history of how it has been celebrated. In the northern provinces, it was commemorated continuously, often grossly exaggerating its importance in the process, as a major milestone in the glorious progress of emancipation.[16] In the southern provinces, by contrast, it was viewed as a regrettable concession to the enemies of the true religion and therefore largely ignored. However, the rise of Belgian liberalism

[15] The British historian Henry Kamen, *The Duke of Alba*, New Haven, CT, Yale University Press, 2004, p. 134, identifies what makes the Pacification of Ghent unprecedented as follows: 'nowhere in Europe had any state gone so far as to permit freedom of belief to subjects. The most that had been done, for example, was to permit a limited freedom to certain nobility and the regions they controlled.' The Edict of Nantes was not published until 1598. Note, however, that in the same period, the Mogul emperor, Akbar, could be considered to have gone further: see Amartya Sen, *The Idea of Justice*, Cambridge, MA, Harvard University Press, 2009, pp. 36–9.

[16] For a critical perspective, see W. P. Blockmans and P. Van Peteghem, 'La Pacification de Gand à la lumière d'un siècle de continuité constitutionnelle dans les Pays-Bas', in R. Vierhaus (ed.), *Herrschaftsverträge, Wahlkapitulationen, Fundamentalgesetze*, Göttingen, Vandenhoeck & Rupprecht, 1977, pp. 220–34.

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over the course of the nineteenth century created a new atmosphere. Thus, the liberals in power in the municipality of Brussels in the mid-century erected statues of William of Nassau and his adviser, Philippe de Marnix – the main author of the Pacification of Ghent – and named one of the streets, in what has now become Brussels' European Quarter, the rue de la Pacification. In 1876, the Ghent liberals celebrated the tercentenary of the event with great pomp. But this celebration caused virulent polemics and prompted a boycott and even rioting by Catholics. However, in 1976, the Catholics joined in the celebration of the quatercentenary, and many condemned the one blot on the celebration: the refusal of the bishop of Ghent to participate in an ecumenical con-celebration.[17]

What happened during the century between these two celebrations? It can be interpreted as a change in preferences induced by the incremental development of institutions characteristic of a liberal society as a result of edicts by the 'enlightened despot' Joseph II in the late eighteenth century, and above all as a result of the adoption of Belgium's first constitution when it became independent in 1830. Unlike the Catholics of 1876, most of the Catholics of 1976 felt that, on balance, religious freedom was something important and that the modest change brought about by the Pacification of Ghent – although against the wishes of the Catholics at the time – was actually an improvement. In contrast with the first set of cases, the reason why the compromise is here deemed better than the status quo by the (successors of) those who supported the latter is not that they got adequate compensation in another dimension with unchanged preferences, but that their preferences underwent a relevant change.

This second pattern of Pareto-improving compromise suggests a convergence between my second and third hypotheses regarding what makes a good compromise. If the external standard of fairness to which the second hypothesis appeals matches the notion of fairness to which the parties are made to converge by the coexistence, cooperation or interaction which the compromise is making possible, then the fairest possible compromise in terms of that standard will also tend to be a compromise that all parties deem superior to the status quo, in light of the new preferences produced by the adoption

[17] See Hans Cools, 'De Pacificatie van Gent', in J. Tollebeek and H. te Velde (eds), *Het geheugen van de Lage Landen*, Rekkem, Ons Erfdeel, 2009, pp. 19–25, at pp. 19–22.

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of this criterion. At the end of the process, the compromise has been converted into a consensus, and is thereby immune to changes in the balance of power between the parties.[18] In this second pattern, as illustrated by the stylized history of attitudes towards the Pacification of Ghent, one could say that a good compromise is one that ceases to be a compromise once the cooperation that it helped make possible has produced its full effects.

To expect this result from all compromises or even from all good compromises, however, would not be very reasonable. If in the absence of a consensus we must compromise, this is not always because of a conflict of interests or values which the adoption of a common conception of fairness should resolve. The need for compromise also often stems from disagreements about matters of fact which no empirical knowledge currently available can hope to settle, or from an irreducible arbitrariness in the application of shared principles.[19]

CONCLUSION

To sum up, our discussion has led to the formulation of three logically independent answers to the question of what constitutes a good compromise: (1) it must result from a process characterized by mutual respect, or at least by a concern for 'balance' rather than maximum gain; (2) it must advance as far as possible the cause of justice, independently defined; (3) it must make both parties better off than under the status quo, not just better off than in the absence of compromise. There are reasons to suppose that some of these three criteria may sometimes yield the same verdict, but there is no reason to assume that they will always do so. Consequently, a good compromise in any one of these three senses is not necessarily better,

[18] John Rawls, *Justice as Fairness: A Restatement*, Cambridge, MA, Harvard University Press, 2001, pp. 192–5, stresses that this stability is an essential difference between what he calls an overlapping consensus (which allows for a shared conception of justice) and what he calls a modus vivendi (which corresponds, when it is the subject of an explicit agreement, to a compromise in the sense defined here).

[19] See the notion of 'burdens of judgement', as introduced by John Rawls, *Political Liberalism*, New York, Columbia University Press, 1993, pp. 54–8; Rawls, *Justice as Fairness*, pp. 35–7; and discussed, for example, by Richard Bellamy, *Liberalism and Pluralism*, chapter 2.

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all things considered, than a poor compromise in that particular sense. But, providing each of the three criteria of goodness (or some variant of it) is sound enough, this should not prevent us, every time a compromise is possible, from trying to make that compromise as good as possible in all three senses.

This being said, even the best compromise in all three senses is still not quite as good as an (unconstrained) consensus. The fact that good compromises enable us to get on well enough and even to move forward should never make us give up the attempt to reach a consensus, both through better arguments about the relevant values and through better knowledge of the relevant facts.

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