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van Laar, Jan Albert; Krabbe, Erik C. W.

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Jan Albert van Laar
University of Groningen

Erik C W Krabbe
University of Groningen

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Splitting a Difference of Opinion

JAN ALBERT VAN LAAR and ERIK C. W. KRABBE

*Faculty of Philosophy
University of Groningen
Oude Boteringestraat 52
9712 GL Groningen
The Netherlands
j.a.van.laar@rug.nl
e.c.w.krabbe@rug.nl*

Abstract: When unable to resolve a conflict of opinion about the objective worth of an action proposal, discussants may choose to negotiate for a compromise. Is it legitimate to abandon the search for a resolution, and instead enter into a negotiation that aims at settling the difference of opinion? What is the nature of a compromise, in contradistinction to a resolution? What kinds of argument do participants typically put to use in their negotiation dialogues?

Keywords: compromise, fallacy of bargaining, fallacy of middle ground, mixed difference of opinion, negotiation, resolution

1. Introduction

When cooperating with others we need to compromise now and then. If we want to arrive at a shared decision but cannot convince our peers to go all the way along with us, we need to settle for less than we really prefer: a compromise. This compromise will have to result from discussing one or more proposals and their pros and cons. Interpersonal reasoning always plays a vital role in such a dialogue, and since the initial situation of the dialogue is one of disagreement or conflict one may expect this reasoning to be aimed at overcoming the doubts of one's interlocutor, i. e., to have an argumentative function.¹

For instance, suppose that Bob and Wilma (who live in the Netherlands) are making plans for their vacation. When deciding on their destination, are they going to opt for Bob's proposal to camp on a Dutch island nearby or for Wilma's proposal to stay at a hotel far away at the Algarve? Bob might offer to drop his demand for a vacation on a Dutch island in return for Wilma's sacrifice of her demand for a hotel. In this way, Bob may have created a convincing reason for Wilma, but also for himself, to settle on camping at the Algarve. After all, they might both prefer camping at the Algarve to not having a shared holiday, and the proposed compromise might be seen as striking a fair balance between their diverging wishes as well as being the result of a fair procedure. We see that, in such an example, there is interplay of argumentation and negotiation. Bob and Wilma differ in their preferences but these differences, by themselves, do not necessarily give rise to any difference of opinion. Yet, in their negotiation process, use is made of argumentation.

Compromises are fashioned also in situations in which the parties do not merely conflict as to their private or partisan interests and preferences, but where they also differ in their opinions regarding the course of action or policy that ought to be adopted. Wilma may not only

¹ In our survey of the functions of reasoning (Krabbe & van Laar, 2007, pp. 28- 31), we proposed to use the term "argumentative function [of reasoning]" in the sense of being "used in some kind of conflict in order to overcome doubt of an interlocutor" (p. 31).

prefer a hotel at the Algarve but also be of the opinion that it would be only fair if she were the one to determine their destination for the reason that Bob did so last time, whereas Bob disagrees and contends that a destination should be determined only on the basis of its merits. In such a situation, there is not only a difference of interest but also a difference of opinion. Typical examples of such hybrid differences can be found among politicians who advance idealistic points of view to defend their preferred choice of policy.

Compromises may even be the intended outcome if the participants do not have conflicting private or partisan interests, but only a difference of opinion. Take, for instance, two parents disagreeing on what would be the best way to raise their children: Should John go to a Christian private school or to a secular public one? Should Mary be allowed to go to this friend's party? In each case neither parent may be able to convince the other; even so they could solve the problem by a compromise that is not motivated by any other concerns than the child's well-being and a prompt decision. Thus, discussants who are unable to convince their interlocutors of the objective worth of action proposals are sometimes willing to search instead for a compromise that each may conceive as only a second choice, but fair and preferable to a lasting conflict.

In this paper, we are particularly interested in dialogues about an action proposal in which the participants shift from a persuasion dialogue about the proposal's merits, towards a negotiation dialogue in which they aim at splitting their difference of opinion in a reasonable way. We further want to contribute to the theory of argumentation by investigating the difference between resolving and settling a difference of opinion (van Eemeren & Grootendorst, 2004, pp. 57-58) and by presenting a view on the role of arguments within the context of negotiation and compromise formation.

The three sections that follow deal with three questions. (1) What reasons might there be for shifting from a persuasion dialogue to a negotiation dialogue; and under what conditions would such a shift from persuasion dialogue to negotiation dialogue be a licit shift, rather than a fallacious one? In Section 2, we connect this issue with the Fallacy of Bargaining (Walton & Krabbe, 1995, p. 104). (2) What is the nature of a compromise, in contradistinction to a resolution? In Section 3, we examine this issue and connect it with the Fallacy of Middle Ground. (3) What is the role of arguments in negotiation and how are arguments helpful in the search for a compromise? In Section 4, we deal with offers and proposals, and with the arguments participants typically use to justify them to their interlocutors. Moreover, we connect these arguments to the arguments that can be used to vindicate the resulting compromise to critical supporters.

2. Avoiding the fallacy of bargaining

A natural setting for initiating a negotiation dialogue is the situation that occurs within a persuasion dialogue when both parties have attempted but failed to convince the other of the acceptability of one's own favorite policy option. A persuasion dialogue is the kind of dialogue that starts from a difference of opinion and in which the participants try to convince one another of their standpoint by appealing to reasons that the other side is willing to concede, doing so in a cooperative endeavor to resolve their difference of opinion on the merits of both sides (Walton & Krabbe, 1995, Section 3.1; Walton, 1998, Chapter 2; van Eemeren & Grootendorst, 2004, Chapter 6). The failure to find a resolution may prompt the parties to shift to a negotiation dialogue, which is a dialogue that starts from a difference of interests or from a difference of opinion (see Section 1) and in which the participants aim at getting as much as possible what

they want, doing so in a cooperative attempt to strike a deal (Walton & Krabbe, 1995, Section 3.1; Walton, 1998, Chapter 4). What would be good reasons to make this shift from persuasion dialogue to negotiation dialogue, and under what conditions would such a shift be a licit shift, rather than a fallacious one? Before we come to these questions we will elaborate on persuasion dialogues starting from a mixed difference of opinion (i.e., a difference of opinion in which both parties have expressed a standpoint) about an action proposal. For these are the kind of persuasion dialogues that naturally could shift to a negotiation dialogue.

2.1. Resolving mixed differences of opinion about action proposals

Let us assume that party A and party B have advanced opposing positions regarding the policies they should adopt in order to respond to a social problem or contingency: party A contends that the best response would be to adopt policy Alpha-1 and policy Alpha-2, whereas party B favors policy Beta-1 and policy Beta-2 but adoption of policy Alpha-1 would be incompatible with adoption of policy Beta-1 and similarly for policy Alpha-2 and policy Beta-2. Let the thesis defended by A be the proposition that they should adopt policies Alpha-1 and Alpha 2 and (consequently) neither policy Beta-1 nor policy Beta-2 (proposition *a*). Let the thesis defended by B be the contrary (but not contradictory) proposition to the effect that they should adopt policies Beta-1 and Beta 2 and neither policy Alpha-1 nor policy Alpha-2, (proposition *b*).

Let us illustrate the situation by means of a real example. In 2012, two Dutch political parties, the Labor Party (PvdA) and the Liberal Party (VVD) agreed to form a coalition government. Part of their agreement dealt with renewable energy and climate change. As a starting point, the Labor Party proposed that the level of renewable energy be increased to 18% in 2020 (policy Alpha-1) and that taxes on self-generated electricity from solar panels be abolished (Alpha-2), whereas the Liberal Party favored policies of increasing the level of renewable energy to just 14% in 2020 (Beta-1) and of maintaining taxes on self-generated electricity from solar panels (Beta-2) (Visser, 2012).

Now let us further assume that party A and party B engage in a persuasion dialogue in which both parties seriously try to convince the other of the superiority of one's own preferred policies and thus to resolve their difference of opinion. How must we apply the notion of the resolution of a difference of opinion in the present case of a mixed difference of opinion? Van Eemeren and Grootendorst (2004) defined the notion of "resolution" for non-mixed differences of opinion where a protagonist defends a standpoint and an antagonist takes a position of critical doubt, yet without adopting an opposed standpoint of her own. In such a situation, the difference of opinion is said to have been resolved either "when the arguments advanced [by the protagonist] lead the antagonist to accept the standpoint defended, or when the protagonist retracts his standpoint as a consequence of the critical reactions of the antagonist" (van Eemeren & Grootendorst, 2004, p. 133). But here we are dealing with a mixed difference of opinion in which each of the two parties takes the role of protagonist regarding its own standpoint (party A defending standpoint *a*, party B defending *b*) and the role of antagonist regarding the other party's standpoint. Therefore there are two non-mixed differences involved and we need to check what outcomes of the persuasion dialogue are now possible and which of them we would want to call resolutions, either fully or partly, of the mixed difference of opinion composed of these two non-mixed differences. In particular, we are interested in those outcomes that would naturally lead to a shift to negotiation.

At the end of a persuasion dialogue between parties A and B, each party may either maintain its standpoint or have to retract it, also each party may either maintain its critical stance towards the standpoint of the other or have to retract its criticism. But since the propositions *a* and *b* are (we presume: obviously) incompatible, it will not be possible that a party maintains its own standpoint and retracts its criticism of (i.e., concedes) the standpoint of the other. Therefore, there are only three possibilities for each party: (1) a party (say party A) maintains its standpoint (*a*) and maintains its critical stance towards the standpoint of the other (party B); (2) party A retracts its own standpoint (retraction of *a*) as well as its criticism of party B's standpoint (conceding *b*); (3) party A retracts its own standpoint (retraction of *a*) yet sees no reason to retract its criticism towards party B's position (maintaining its critical stance regarding *b*). Similarly, there are three possibilities for party B, which yields nine possible outcomes. Of these nine possible outcomes, three may count as "full resolutions."

Full resolution: (Outcome (i):) If party A acts according to (1) and party B according to (2), the mixed difference of opinion will have been fully resolved in favor of party A. (Outcome (ii):) If party A acts according to (2) and party B according to (1), the mixed difference of opinion will have been fully resolved in favor of party B. (Outcome (iii):) If both parties act according to (3), the mixed difference of opinion will have been fully resolved, partly in favor of party A and partly in favor of party B.

Outcome (iii) differs from the other two in that, even though the differences of opinion are resolved, there is now no action proposal left to be adopted. This situation would, so we think, give naturally rise to a deliberation dialogue (Walton & Krabbe, 1995, pp. 73-74) in which the participants explore new policy options.

The situation that most naturally gives rise to a shift towards negotiation (though a shift to deliberation is never excluded) is where party A and party B both act according to (1) (Outcome (iv)), so that they each maintain their own standpoint and their critical stance towards the standpoint of the other and no progress is made towards resolution, except for possibly gaining a better understanding of the issues. Each of the other possible outcomes would, we think, like Outcome (iii) give most naturally rise to a deliberation dialogue.

So, unless the persuasion dialogue between parties A and B results in an agreement about adopting either the policies proposed by party A or the policies proposed by party B (Outcomes (i) and (ii)), the parties may be motivated to deliberate in order to develop a new policy option, say policy Gamma, to which they can subscribe. Then, if disagreement arises over the desirability of that new policy proposal, the parties can try to resolve the issue within a new persuasion dialogue, about the acceptability of a new standpoint (proposition *c*). But in the case of Outcome (iv), where there is no advancement in the direction of a resolution of the difference of opinion, it may seem better to turn to negotiation.

2.2. Reasons for a shift to negotiation

Suppose now that, at a certain point in their persuasion dialogue, the parties, A and B, have made serious attempts to convince the other but that no full resolution has been realized. Further, suppose that party A does not expect that this persuasion dialogue will ever result in a full resolution nor that a different persuasion dialogue about a somewhat different policy proposal

will succeed in that way. Finally, suppose that at this point party A proposes to abandon the persuasion dialogue and to turn to a negotiation dialogue aimed at reaching some compromise. Party A may table such a proposal explicitly but can also do so more implicitly, for example by the kind of *quid pro quo* move that will be dealt with in more detail in Section 4.2: “If you would accept policy Alpha-1 (increasing the level of renewable energy to 18% in 2020), I would be willing to mitigate my demand for policy Alpha-2 (abolishing taxes on self-generated electricity from solar panels).” In order to examine the dialogical possibilities in some detail, let us, however, suppose that party A makes an explicit proposal to pursue their conversation in another way: “I propose that we abandon our persuasion dialogue on this issue and initiate a negotiation dialogue in order to find out whether we can agree on some compromise.”

In such a situation, what might be the reasons for party A to propose the shift, and how may party A convince party B to accept such a proposal? We examine this issue by listing a number of answers party A may advance in response to party B’s challenge: “Why shift thus?”

The principal reason for shifting away from persuasion dialogue as well as from further deliberation about alternative policy options and persuasion dialogues about these options is the expectation that the persuasion dialogue’s common goal of resolving differences of opinion is not realizable for the issue under discussion and that consensus is therefore out of reach. Possibly, in party A’s estimation, all available options and considerations have been advanced, without there being any prospects for gaining further insights about the position of the other or about the issue at hand, let alone for resolving the present difference of opinion. Apparently, party B finds no reason to budge, and neither does party A. “A full resolution is beyond reach and dragging out the persuasion dialogue would not serve any purpose,” so party A may claim in order to justify to party B its proposal to abandon the current persuasion dialogue.

But why turn to negotiation, rather than to another type of dialogue, such as an eristic one, or to a non-discursive device for ending the dispute, such as having a vote on the matter, or throwing the dice? The possible answers we here attribute to party A, and the responses we attribute to party B are inspired by a discussion between Simon Căbulea May (2005) and Daniel Weinstock (2013). In order to justify its proposal to shift to a negotiation dialogue, our party A draws upon the justificatory resources provided by Weinstock. Party B engages critically with these justifications, making use of the more skeptical considerations about *principled compromise* advanced by May.

Party A then finds five reasons for compromising: a strategic (pragmatic) reason and four more principled reasons. We label them in line with Weinstock’s nomenclature.

(1) *The strategic argument*

Party A may justify its proposal to party B, saying: “By arguing you achieve nothing. By negotiation you achieve at least something.” Party A explains to party B that a mutually agreed upon compromise will admittedly not provide either of them with its favorite policy but with a policy that, though second-best will, given the personal or partisan interests of both parties, yet be preferable to a lasting disagreement (see May, 2005, p. 319; Weinstock, 2013, p. 541).

This line of reasoning could convince party B. But then, party B may have some qualms about it. Party B may assess the situation differently, and if this party does not assume that a compromise is to be expected, or at least not an outcome that is preferable to the situation that will result when no deal is made, it can be expected to reject the proposal.

(2) *The argument from principled consequentialism*

Party A may justify its proposal, saying: “It would just be *wrong* to neglect the possibility of realizing at least part of your aims.” Weinstock argues that a cost-benefit analysis can also be considered to provide a *principled* reason in support of compromise. He stresses the principled motivation for developing a compromise if the latter is considered to advance one’s moral aims (Weinstock, 2013, pp. 552-554).

Again, party B may assess the situation differently and expect that the profits from entering the negotiation dialogue, even if some of these are moral profits, will not weigh up against the kind of concessions he will be required to make.

(3) *The epistemic argument*

Party A may justify its proposal, saying: “Neither of us can be sure of having a complete view of all aspects of the situation and a deal might do justice do a wider array of considerations.” Party A thus advances an epistemic reason for exploring the possibility of a compromise. This reason could justify a negotiation dialogue even if one of the contesting parties is in the position to foist its favorite policy option upon the other side. For each of the parties may come to acknowledge that because of the complexity of the issue at hand, the policy it favors will, as a matter of fact, run a risk of not taking adequately into account all relevant considerations. By compromising, one could do justice to one’s own epistemic fallibility, especially if one strives after a compromise that *integrates* various aspects of the parties’ favored policies (see May, 2005, pp. 338-340; Weinstock, 2013, pp. 545-548).

Party B could acknowledge that an outcome is more firmly justified if it integrates components of the proposals of both parties. Instead, however, party B may advance the following objection to party A’s proposal: If you would be interested in an outcome that is based on a broader range of considerations, so party B could explain, it would be more sensible to initiate a deliberation dialogue in which both parties explore possible solutions. The outcome of negotiation may turn out to be more one-sided than desirable, for example by no longer duly promoting the interests of some of the stakeholders.

(4) *The democratic argument*

Party A may also justify its proposal, saying: “Making a deal with contributions from both sides is more democratic than a one-sided solution.” A party may opt for a negotiation dialogue for the reason that a compromise would reflect at least some of the opinions or interests of both interlocutors. Thereby, a compromise outcome can be seen as having a democratic merit. Party A, then, can try to convince party B to accept the proposal to shift to a negotiation dialogue by an appeal to party B’s democratic concern for letting not just its own views but also at least some of party A’s views be reflected in the outcome of their discussion. Party A may add that the outcome of a persuasion dialogue may be skewed towards those who are well-equipped with persuasive skills and that there is reason to correct for such a procedural bias by making a concession to any party that is unable to get things his way by means of a persuasion dialogue (see Weinstock 2013 on compensating for biases in democratic procedures, pp. 548-551).

Party B may reject the idea that democracy ought to produce middle-of-the-road policies that contain something for each and all. Also, party B could table a counter-proposal for the improvement of the current procedures for persuasion dialogues. If party A has any specific reasons to think that the rules of the persuasion dialogue unduly favor one side or the other, this information can be used to improve the procedure along the way (see Weinstock’s 2013 version of this reply, which pertains to democratic decision making procedures, pp. 549-550). An

attempt to improve the setting for persuasion dialogue, so party B alleges, is more fruitful than a shift to negotiation dialogue: Concessions made within negotiation dialogue are likely to be *ad hoc* and not systemically directed at neutralizing the bias at hand and they need not result in an improved outcome.

(5) *The community-based argument*

Finally, party A may justify its proposal, saying: “To compromise would help to build a community.” In this way, party A tries and persuades party B to shift to a negotiation dialogue by pointing out that a compromise fosters a relationship among them that is based on mutual concern rather than on a winner-takes-all mentality. It would be mutually generous if they would aspire at a compromise that includes preferences from both sides (see Weinstock, 2013, pp. 551-2).

Party B may be susceptible to this appeal to his appreciation of this kind of community, even if this means conceding something to party A. Of course, it may also be the case that party B doesn’t mind a winner-takes-all mentality and prefers a political culture where the winner gets a real chance of implementing its favored policy to a political culture of moderation in which controversy is avoided.

These five arguments show that party A has various options for motivating a shift to negotiation dialogue, so that this party has quite some means for trying to win over party B to accept its proposal, if the latter party would be hesitant to make the shift. Of course, party B may not be persuaded by party A’s reasoning, in which case their dialogue probably will take a different direction.

But suppose, party B does go along with party A’s proposal. Having reasons available for shifting to negotiation would make such a shift understandable. But would such a shift from persuasion dialogue to negotiation dialogue be a *licit* or an *illicit* shift? Walton and Krabbe (1995) have dealt with the procedural requirements for making licit dialogical shifts. About the shift from persuasion dialogue to negotiation dialogue they write:

Sometimes it may be better to close off the persuasion dialogue and try to settle the matter by negotiation or some other means. The problem is that often the persuasion dialogue isn’t closed off properly at all and the shift occurs without both participants being aware of it and agreeing to go along with it. (Walton & Krabbe, 1995, p. 110)

They characterize the *Fallacy of Bargaining* (substituting offers for arguments) as an illicit shift from persuasion dialogue to negotiation dialogue (Walton & Krabbe, 1995, p. 104).

However, let us assume that when party A makes an explicit or implicit proposal to party B to abandon their persuasion dialogue on a policy issue and to shift towards a negotiation dialogue about that issue, this party tries to close off the persuasion dialogue in a proper manner and prepares for the start of a negotiation dialogue in a way that is transparent to its interlocutor. If party B then, implicitly or explicitly, agrees to shift, the fallacy of bargaining will presumably not have been committed even though the parties are now engaged in quite a different conversational setting.

In this section we saw that there can be good reasons available for the discussants to shift from a persuasion dialogue to a negotiation dialogue and that discussants may carry out such a

shift in a licit manner. A licit shift from persuasion dialogue to negotiation dialogue completely changes the nature of the conversation. After the shift, the main goal of the dialogue is different: No longer will the parties attempt to resolve their conflict, but rather to settle it by compromise. Yet the ultimate goal still consists in a kind of agreement. How does the agreement found in a compromise differ from that found in a resolution? This issue will be dealt with in the next section.

3. Avoiding the fallacy of middle ground

What is the nature of a compromise, and how is a compromise different from an outcome that qualifies as a resolution? This section deals with the sense in which participants can *settle* their difference of opinion by means of compromise. In our view, a compromise that settles a disagreement is different from a resolution of that disagreement, even though it is connected to the resolution of a related but different disagreement. When the socialist party A and the liberal party B persist in disagreeing with one another about the policy to be preferred and commence a negotiation dialogue, it will be expected that a successful outcome will consist of a compromise that lies “somewhere in the middle” between the original positions of these parties. However, parties may mistake a compromise where the outcome is “somewhere in the middle” for a regular resolution of the policy issue. For example, when the accuser pleads that 100 euros have been taken away and the accused pleads innocence, parties may conclude and agree that the accused must have stolen 50 euros. But is this a resolution or a compromise? It can be a resolution only if it is based on argumentation that is fully convincing for both parties. We label the mistake of taking a compromise for a regular resolution the *Fallacy of Middle Ground*.²

We adopt the following definition of “compromise” offered by Weinstock (2013):

At a first approximation, a compromise is a position that, with respect to the issue at hand, is from the point of view of parties locked in debate or negotiation inferior to the positions that both (or all) bring to a decision making process (a negotiation, an election, or more trivially a decision-oriented discussion among friends), but which both have reason to accept instead of the position they favor. They may favor X, when only the issue at hand is in view, but favor Y when all things are duly considered. (p. 539)

We shall try to provide further clarification by highlighting five features of compromises:

First, compromise is not resolution. A compromise about a policy implies that the parties to the compromise still favor their initial policy proposals and that they *only* subscribe to the compromise for the reason that each of them happens to be unable to realize the adoption of its own preferred policy. No compromise is without mutual *concessions*, in the sense of sacrifices. Thus, we do *not* speak of a compromise in a situation where the parties come to acknowledge strong features of one another’s positions, and where they change their minds about what policy to pursue, even if the resulting consensus concerns a more intermediate, middle-of-the-road policy than the preferred positions with which the parties entered the conversation. As Benjamin (1990) writes: “Strictly speaking, a compromise does not end the disagreement” (p. 7).

² There is not much literature to be found on the Fallacy of Middle Ground but there is a Wikipedia entry devoted to the Fallacy of Moderation that broaches the subject (Wikipedia, 2016).

Second, compromise is not imposed. A compromise is subscribed to in a sufficiently free and autonomous manner and is the outcome of a sufficiently non-coercive process. On the other hand, some measure of pressure and even threat is inherent in a negotiation dialogue. One general constraint must be that the pressure does not spoil the cooperative process. Among the *prima facie* acceptable ways of pressuring in negotiation dialogue we include the negative message suggested by a *quid pro quo* move—“If you don’t accept the concession I request I won’t accept yours” (see also Section 4) as well as the threat to abandon the negotiation process. The outcome must, however, count as a result of free choices, rather than of intimidation.

Third, compromise implies commitments. When a negotiation dialogue results in a compromise consisting of the adoption of policy P, each participant can be expected to have become committed to those actions that are required for P to get implemented. Next to having these *action commitments*, the parties can be expected to have become committed to particular propositions, and here we focus on these *propositional commitments* (see Walton & Krabbe, 1995). The primary propositional commitment that an agreement on a compromise incurs is the proposition that all things considered, *including* the (real or alleged) circumstance of there being an irresolvable disagreement about what policy to pursue, P merits acceptance and implementation. Thus, if a compromise must, afterwards, be vindicated *vis-à-vis* political supporters, the appropriate vindication requires an appeal to the compromise’s gains, as well as an excuse of the compromise’s sacrifices in light of this irresolvable disagreement.

Fourth, a compromise is based on a kind of trade. Any compromise is made possible by a distribution of material or other assets by which the participants, as it were, split the difference and this holds equally for compromises that settle differences of opinion. Underlying a compromise, there is some sort of exchange and before agreeing on any exchange, the parties must, at some point, decide upon or go along with a way of dealing with their difference of opinion as a problem of distributing or trading items, thereby “commodifying” as it were their opinions. Of course, the parties are not required to renege on their deeply held convictions. All that is required for compromise to work is that the parties set up and acquiesce in some measure of commodification. Even if, for instance, a party considers human beings as God-ordained stewards of the earth, this party may—without abandoning this principle—for practical purposes go along with a policy that does not do full justice to its ideal of stewardship, in order to accommodate another, dissenting, party and make some political headway.

Fifth, compromise implies a resolution of second-order issues. We saw that settling a difference of opinion by means of compromise is something quite different from realizing a resolution of this very difference of opinion because a compromise does not eliminate the initial disagreement. At the same time, we recognize a close tie between compromise and resolution, because a compromise does seem to eliminate a potential disagreement of some sort, to wit, a disagreement about the second-order issue of how to deal with the problem that the first order issue of what policy to pursue is irresolvable. If a compromise is the outcome of a conversation in which the parties have (also) exchanged arguments about the best way to deal with this second-order issue, the compromise will imply a special kind of resolution.

Let us label the resolution of a second-order (or: first-order) issue a “second-order (or: first-order) resolution.” Then we can say that a compromise that results from an argumentative exchange about the merits of this way of dealing with the first-order issue implies a second-order resolution. Suppose, for instance, that you and I disagree on the issue: “Should we adopt your preferred policy Alpha or my preferred policy Beta?” Suppose further that we fail to realize a first-order resolution of this issue by means of a persuasion dialogue but succeed by means of a

negotiation dialogue in developing the compromise of adopting policy Gamma. Let it be the case that, in some way or other, the negotiation dialogue has provided us with ample opportunity to critically assess the standpoint that indeed adoption of policy Gamma is practically feasible and fair. Then this outcome yields a second-order resolution of the second-order issue “Is the compromise to adopt policy Gamma practically feasible and fair, within the current setting where you prefer policy Alpha and I prefer policy Beta?” As we will specify in Section 4, the resolution of such an issue regarding a policy Gamma is often the result of a series of failed attempts to resolve similar issues regarding other possible compromises: the adoption of policies Delta, Epsilon, etc., such that by those failed attempts the parties obtain the information that is required for them to arrive at a second-order issue (regarding policy Gamma) that does admit of a (second-order) resolution.

The Fallacy of Middle Ground, now, can be seen as the fallacy of confusing a compromise with a *first-order* resolution of the difference of opinion that prompted the parties to compromise. We distinguish two variants of this fallacy. First, one may falsely feel the need to defend policy Gamma as one’s favorite policy choice, being misled by the popular saying that the truth must be somewhere in the middle. The website named The Nizkor Project gives the following example of a fallacy that seems to match with this first variant of the Fallacy of Middle Ground (albeit outside of any context where one would expect a compromise): “Some people claim that God is all powerful, all knowing, and all good. Other people claim that God does not exist at all. Now, it seems reasonable to accept a position somewhere in the middle. So, it is likely that God exists, but that he is only very powerful, very knowing, and very good. That seems right to me” (Nizkor Project, 2016). The second variant could also be called the Fallacy of No Middle Ground: confusing compromise with a first order resolution may lead someone to feel obligated to refuse to subscribe to any compromise, holding it to be a violation of one’s integrity (See Benjamin, 1990, pp. 36-37). A politician may refuse to compromise on account of the impossibility to compromise on matters of principle, failing to see the importance of second-order reasons for compromise.

A compromise can result from a negotiation dialogue in which the participants, possibly in addition to exerting pressure, deliberate and reflect on the quality of the proposals (offers) and counterproposals (counteroffers). Critical doubts concerning proposals can be met with persuasive arguments. In the next section, we will elaborate on the role of arguments in bargaining and negotiation dialogue.

4. Argumentation in negotiation

In the preceding section we stressed the difference between persuasion dialogue and negotiation dialogue but in this section we shall deal with the dialectic of exchanging offers and compromise proposals and show that much of negotiation dialogue consists of or can be reconstructed as persuasive arguing. We start by examining how an interest-based bargaining dialogue may allow of an argumentative reading, and proceed by applying this way of reading a bargaining dialogue to the kind of negotiation dialogue with which parties may try and settle differences of opinion about action proposals in a reasonable way. Finally, we briefly discuss the kind of argument that can be used to vindicate a resulting compromise to supporters who see reason to critically test the result.

4.1. An argumentative reading of bargaining

The following exchange can be seen as a typical example of bargaining, i.e., an interest-based negotiation dialogue that is mainly made up from offer and counteroffer. In the dialogue the piano salesman and a customer need each other in order to serve their individual interests: to sell the piano for a high and to buy it for a low price.

- Turn 1. Salesman: "Seven grand."
Turn 2. Customer: "No. Six."
Turn 3. Salesman: "Six and a half, and that's it."
Turn 4. Customer: "But then you get it up to my apartment!"
Turn 5. Salesman: "Deal!"

The piano dialogue, version 1

We may bring out the *quid pro quo* (in the sense of "my concession in return for your concession") character of the various contributions more clearly by conceiving of the utterances as elliptical sentences, the expanded versions of which read:

- Turn 1. Salesman: "[I'm prepared to sell you this piano if you're willing to pay me] seven grand."
Turn 2. Customer: "No. [But, I'm prepared to pay you] six [grand in return for the piano]."
Turn 3. Salesman: "[No, but I'm prepared to sell you the piano in return for] six [grand] and a half, and that's it."
Turn 4. Customer: "[I'm prepared to pay you six grand and a half in return for the piano if] you get it up to my apartment!"
Turn 5. Salesman: "Deal!"

The piano dialogue, version 2

Although no reasoning is being made explicit in the expanded version, this bargaining plausibly depends upon an exchange of reasoning. As we have discussed at an earlier occasion (van Laar & Krabbe, 2007, pp. 29-30), the interpersonal reasoning that is characteristically expressed in a negotiation dialogue fulfills a *directive function*: The arguer reasons either (1) in order to make the addressee understand that his or her proposals are unrealistic and thereby to make the addressee mitigate his or her demands or (2) to make the addressee understand that the arguer's proposal would provide a feasible outcome of the negotiation and thereby to make the addressee accept the proposal or at least propose a counteroffer that approaches the arguer's proposal. We consider reasoning that is used in some situation of conflict (either a personal antagonism, a difference of interest, or a difference of opinion) with the purpose of overcoming doubt by means of reasons (either doubt regarding the proper intellectual or social relationship amongst the parties, or regarding the way of distributing scarce resources, or regarding the acceptability of opinions) as reasoning with an *argumentative function* (Krabbe & van Laar, 2007, p. 31). Thus,

reasoning with a directive function is reasoning with an argumentative function, and we shall elaborate on that function by way of a further analysis of our sample dialogue.³

It's not hard to reconstruct the argumentative message of the directive reasoning in our sample dialogue by conceiving of the dialogue as an exchange of what we label as "expediency arguments from consequences" or shortly as "expediency arguments." An expediency argument is an instantiation of the following argumentation scheme (see Walton, Reed, & Macagno, 2008, pp. 332-333):

- Premise 1: Party X's acceptance of offer Y has consequences Z.
- Premise 2: Consequences Z serve party X's interests.
- Conclusion: It is expedient for party X to accept offer Y.

The argumentation scheme "Expediency Argumentation from Consequences"

Note that within the current context of a negotiation dialogue, the consequences Z referred to in Premise 1 may include the realization of a compromise, and thereby the settling of a policy issue. Such expediency arguments from consequences that appeal to the desirability of settling a (first-order) policy issue are characteristic for the kind of argumentative exchange, implicit in the negotiation dialogue, with which parties try to resolve the second-order issue of how to deal with the irresolvable disagreement about the policy issue. If the parties negotiate in a way that goes beyond mere pressuring and that contains serious attempts to convince one another of the acceptability or unacceptability of particular compromise options, we can reconstruct the *quid pro quo* moves implicit in the negotiation dialogue as expressing expediency arguments by which the speaker attempts to convince the interlocutor of the acceptability of the proposed compromise (offer), given the interlocutor's own value-assignments. Take, for example, the salesman's first turn:

Turn 1, Salesman:

The salesman makes an offer and presents Argument 1 in support of it:

Offer: "I am prepared to give you this piano if you are willing to give me 7000 euro."

Argument 1: "(Premise 1.1) If you would accept my offer of selling you the piano for 7000 euro, you would obtain this piano for 7000, and (Premise 1.2) you really value this piano at 7000 at least. Therefore, (Conclusion 1.3) it is expedient for you to accept my proposal."

By making the offer, the salesman creates and expresses a persuasive argument that appeals to the customer's interests, hoping that the argument's premises are acceptable or at least hoping that the customer is willing to put forward a counterproposal that will do justice to the salesman's interests conveyed by proposing 7000 as an acceptable price.

³ Reasoning that is used for *polemical* or for *persuasive* purposes is likewise argumentative in our view. However, reasoning used for *probative*, *explorative*, and *explanatory* purposes is not inherently argumentative (Krabbe & van Laar, 2007, pp. 28-31).

Turn 2, the customer's counterproposal, contains two components. The implicit message of turning down the salesman's first proposal can be reconstructed as a critical response towards Argument 1, and towards Premise 1.2 in particular. In her counterproposal the customer can be seen as advancing a thesis of her own, accompanied by a new expediency argument from consequences:

Turn 2, Customer:

Criticism of Argument 1: "I do not value this piano at 7000 at least."

New offer: "I am prepared to pay you 6000 euro if you provide me with the piano."

Argument 2: "If you would accept my offer of buying the piano for 6000 euro, you would earn 6000, and you really value this piano at 6000 at most. Therefore, it is expedient for you to accept my proposal."

In her critical response to the salesman's offer the customer is legitimately appealing to what is or is not in her own interest, while in her attempt to persuade her interlocutor of her own proposal she is appealing to the addressee's interests. More in general, it can be expected that appeals to one's own interests must be understood as the motivation or explanation of why a proposal is rejected (or accepted), and also as giving hints to the interlocutor about the kind of proposals (theses) that might successfully be argued for in one of the upcoming negotiation rounds. Instead, appeals to the addressee's interests must be seen as *ex concessis* argumentation, that is, as attempts at convincing an opponent to accept a particular proposal.

Turn 3, Salesman:

Criticism of Argument 2: "I do not value this piano at 6000 at most."

New offer: "I am prepared to give you the piano if you are giving me 6500." He adds the warning that in any future negotiation round where the customer offers less than 6500, he will not accept the proposal.

Argument 3: "If you would accept my proposal of buying this piano for 6500, you would obtain the piano for 6500 and you really value this piano at 6500 at least. Therefore, it is expedient for you to accept this compromise."

Turn 4, Customer:

Criticism of Argument 3: "I do not value only this piano at 6500 at least."

New offer: "I am prepared to give you 6500 euro if you are giving me the piano and bring it up to my apartment."

Argument 4: “If you would accept my proposal of my buying this piano for 6500 euro and your getting the piano up to my apartment, you would earn 6500, and you really value the combination of this piano and the effort of bringing the piano up to my apartment at no more than 6500. Therefore, it is expedient for you to accept this proposal.”

Turn 5, Salesman:

Response to Argument 4: “You’re right! Accepting this proposal is expedient for me.”

Response to the offer: “Deal: I’ll sell you the piano for 6500 and get it up to your apartment.”

In a situation where there is reason to expect that the parties try to convince one another on reasonable grounds, a bargaining exchange of offer and counteroffer can be analyzed as an interlocked series of local argumentative moves. The first move of the exchange consists of just an expediency argument; all other moves but the last comprise a critical response towards the previous offer and a new expediency argument; and the last move consists of an acceding response or some other (less positive) way of ending the negotiation dialogue. In this systematic search for an offer that is acceptable to both, each critical response provides information about the interests of the critic and directs the interlocutor towards an offer that consists of a successful expediency argument based upon concessions that the critic is willing to make. Bargaining can thus be reconstructed as a series of argumentative exchanges about what the participants want, about how much they want it, and about the expediency of particular choices in the light of information about the existing preferences, which gradually becomes available. Each pair consisting of an expediency argument in one turn and a critical or acceding response in the next turn can be seen as a small persuasion dialogue that revolves around one standpoint. According to this argumentative reading of negotiation, a successful compromise is in a special way connected to the resolution of a difference of opinion, for the reason that a progressive series of persuasion dialogues, each about a distinct second-order issue, finally concludes with a persuasion dialogue that results in a full resolution (in our example: the persuasion dialogue in which argument 4 is presented).

This argumentative reconstruction of bargaining is plausible in so far as it can be assumed that the bargaining participants are making well-considered decisions in the negotiation process. In some situations, this is certainly not the case, think for example of negotiation contexts in which a participant is by manipulative tricks lured into believing that some offer would be expedient, or in which he or she is by blackmail or bribe pressured to accept an offer, rather than accepting the offer by light of an autonomous estimation of its expediency. The more manipulation plays a role the less the result may count as a compromise (Margalit, 2010). But then, in many other situations, the bargaining can be expected to be reflective and argumentative.

Our position has been that even mere bargaining allows of an argumentative reading based on expediency arguments. Holzinger has shown how the hard core of exchanges of offer and counteroffer can be supplemented by yet other types of argument (Holzinger, 2004). While the hard core of bargaining may be implicitly argumentative, as we have contended, the level of argumentativeness can certainly be increased by such supplements. The result will be an

explicitly argumentative kind of negotiation. For example, the salesman might in his third turn in the piano conversation add a reason:

Turn 3', Salesman: "6500, and not one euro less. For this piano has quite a nice sound."

Such an additional reason can be reconstructed as functioning simultaneously as a part of a critical response to the interlocutor's preceding offer and as a new part of the arguer's defense of his own offer.

Turn 3', Salesman:

Criticism of Argument 2: "I do value this piano at more than 6000. To explain myself: It has quite a nice sound."

Salesman, in his capacity of proponent, advancing Argument 3': "It is expedient for you to accept my proposal and buy the piano for 6500 euro, because that would give you this piano for 6500, and you really value this piano at 6500 at least. You do value this piano at 6500 at least, because, as I told you, it has quite a nice sound."

When such additional arguments are not advanced, the bargaining can be seen as being aimed at finding a compromise that is based on fixed preferences. By adding such arguments, the participants try to modify the preferences from which the negotiation starts.

4.2. An argumentative reading of splitting a difference of opinion

We now want to apply the argumentative way of understanding bargaining dialogues and, generally, negotiation dialogues starting from a difference of interests to negotiation dialogues starting from a difference of opinion about action proposals. For this we return to the mixed difference opinion between the Labor Party and the Liberal Party in Section 2.1.

Remember that, in the coalition talks of 2012, the Labor Party favored a green policy of increasing the level of renewable energy to 18% in 2020 in combination with abolishing taxes of self-generated electricity from solar panels, and that the Liberal Party favors an economizing policy of increasing renewable energy to only 14% in combination with maintaining taxes on solar panels. When trying to build a coalition, the negotiators of the two parties may or may not have started their discussion of these issues with a persuasion dialogue. If they did let us suppose that in this persuasion dialogue neither party could be moved to change its position (this was called "Outcome (iv) in Section 2.1) and that a proposal to shift to negotiation was accepted. Imagine that the Labor Party tables the following opening offer: Labor Party: "If you accept the 18% level for 2020 and forgo your claim to restrict the increase to only 14%, I would be willing to accept to maintain taxes on solar panels and forgo my claim to abolish those taxes."

The Liberal Party may respond in various ways. First, the liberals could accept the offer, and close the deal. Second, they could reject the offer and table a counter-offer based upon the same method of distributing items, saying for example: "If you accept my 14% and forgo your 18%, I would be willing to accept an abolishment of taxes on solar panels and forgo my claim to

maintain them.” Third, they could table a counter-offer based on a different method of distributing items, saying for example: “Let’s settle on a *moderate* increase of only 16% and only a *moderate* taxation of solar panels by introducing some kind of fiscal benefit.” Both counter-offers would provide the Labor party with information that this party can exploit in order to devise a counter-counter-offer, if not yet satisfied. For example, in the first counter-offer the liberals disclose their willingness to accept an abolishment of taxes on solar panels as part of a future compromise, and in the second counter-offer they show to consider a softening and moderation of their demands in a compromise as a real option. Whereas the details of the actual negotiations are not available, it is known that the outcome has been that the two parties that constituted the coalition of 2012, the Labor Party and the Liberal Party, opted for this last option of moderation: They decided to subscribe to the compromise of 16% renewable energy in 2020 and some fiscal benefits for producers of renewable energy.

This kind of exchange shares many features with a bargaining process, such as the dialogue about the price to be paid for the piano. And given the political setting, it is even more plausible to conceive of the exchange as an exchange of expediency arguments and critical responses. For instance, the Labor party’s initial offer could be reconstructed as follows:

Turn 1, Labor Party:

Offer: “18% renewable energy in 2020 and maintaining taxes on solar panels.”

Argument 5: “(Premise 5.1) If you would accept my offer of having 18% renewable energy in 2020 and maintaining taxes on solar panels, you would reach your goal of maintaining these taxes at the expense of having to agree with 18% instead of 14% renewable energy in 2020, and (Premise 5.2) for you it would be worthwhile to accept this higher percentage of renewable energy in order to secure maintenance of taxes on solar panels. Therefore, (Conclusion 5.3) it is expedient for you to accept my proposal.”

And the Liberal Party’s second possible response could be reconstructed thus:

Turn 2, Liberal Party:

Criticizing Argument 5: “For us, it’s not worthwhile to accept this higher percentage of renewable energy in order to secure maintenance of taxes on solar panels.”

New offer: “14% renewable energy in 2020 and abolishment of taxes on solar panels.”

Argument 6: “(Premise 6.1) If you would accept my offer of having 14% renewable energy in 2020 and abolishing taxes on solar panels, you would reach your goal of abolishing these taxes at the expense of having to agree with 14% instead of 18% renewable energy in 2020, and (Premise 6.2) for you it would be worthwhile to accept a lower percentage of renewable energy in order to secure an

abolishment of the taxes on solar panels. Therefore, (Conclusion 6.3) it is expedient for you to accept my proposal.”

When negotiators have reached a compromise, this compromise will usually still need to be approved by others. A compromise concluded by negotiators of political parties in coalition talks (as in the case above of the Labor Party and the Liberal Party) must still be officially approved by these parties, say at a party convention. We conclude this section by introducing what we expect to be the typical structure of a complex argument in support of a compromise:

We, supporters of party P, should accept this compromise with party Q, because
(1) by doing so we achieve X at the expense of Y, and although we sacrifice Y,
(2) achieving X at the expense of Y is preferable to the consequences of not accepting this compromise.

When this pattern of reasoning is put to use to vindicate a compromise, the supporters of party P who are critically testing the argument can advance at least the following challenges:

Focusing on Premise 1:

(a) Will we actually achieve X? Does Y comprise all the disadvantages of the compromise?

Focusing on Premise 2:

(b) Is gaining X at the expense of Y really preferable to the consequences of not accepting this compromise? Didn't we sell-out our fundamental principles? Aren't there objections against the other party that ought to prevent us from cooperating with this party?

Focusing on the connections between the premises and the conclusion:

(c) Isn't there a *better deal* that can be closed? Is it better to close this deal or must we try to obtain a different one at some future moment?

This list of possible challenges provides us with a first idea of the issues that a compromise gives rise to, when it comes to the discussion between negotiators that have concluded a compromise (or those that already agree with them) and critical supporters of their party.

5. Conclusion

Some scholars in political philosophy have emphasized the differences between negotiation and argumentation, for example by understanding bargaining as a non-argumentative exchange of threats and promises (for such a view, see Elster, 1995). On the basis of our investigation, however, we tend to be more sympathetic to the recent trend in political philosophy to emphasize the feasibility of a kind of negotiation that aims at a reasonable outcome based on sound

reasoning, for example by understanding negotiation as a form of “political deliberation” (for such a view, see Mansbridge et al., 2010).

First, we have found that within a persuasion dialogue, participants may have good reasons for shifting towards a negotiation dialogue in which they cooperate to settle their difference of opinion by way of compromise. Splitting a difference of opinion may be a sensible idea, and the shift towards negotiation can be made without committing the Fallacy of Bargaining. Second, we have found that a compromise that splits a difference of opinion is quite different from a resolution of a difference of opinion, and that splitting a difference of opinion does not imply that the Fallacy of Middle Ground has been committed. On the other hand, we have seen that finding a compromise implies that a potential second-order difference of opinion admits of a resolution. Third, we have found that in a negotiation dialogue, even in mere bargaining, the process can plausibly be understood as being for an important part of an argumentative character.

We conclude this exploration into the connections between negotiation and argumentation by emphasizing the need for further investigations of the argumentative aspects of compromise formation, whether within political discourse or in other adversarial settings.

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