Amy Gutmann's and Dennis Thompson's The Spirit of Compromise: Why Governing Demands It and Campaigning Undermines It, Princeton: Princeton University Press 2012, 256 pp

Samantha Besson

Book Reviews

Amy Gutmann and Dennis Thompson, *The Spirit of Compromise. Why Governing Demands It and Campaigning Undermines It*, Princeton: Princeton University Press 2012, 256 pp.

Reviewed by: Samantha Besson, *Professor of Public International Law and European Law, University of Fribourg and 2011-12 Fellow of the Wissenschaftskolleg zu Berlin*
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Amy Gutmann and Dennis Thompson argue that compromise among politicians and law-makers is necessary for democracy in circumstances of persistent and intractable reasonable disagreement, and that a rejection of compromise biases politics in favour of the status quo and therefore stands in the way of desirable change. They criticize American politicians for their uncompromising attitude, and attribute it to the spirit of "permanent campaign" (4). Drawing nuanced lessons from historical compromises and failures to compromise in American politics since the 1980s, the authors then propose changes in political institutions and processes to strengthen what they refer to as the "compromising mindset" (3) and to obtain a better balance between campaigning and governing.

The Spirit of Compromise is an interesting example of a new genre of books published by political theorists lately that aims at providing a non-ideal and more institutionally attuned assessment of democratic politics. Actually, at places, it seems to have been written primarily for a non-philosophical audience. The book succeeds, however, in delivering both a careful theoretical argument in its first chapters—albeit mostly in the endnotes—and a nuanced practical assessment of each theoretical statement in light of concrete examples throughout the book, concluding with timely proposals for institutional reform. This unique combination of political theory and practice distinguishes the book from previously published studies on compromise, even though the main line of theoretical argument is not that novel. Regrettably, the argument focuses primarily on American politics. Although the authors do not exclude the application of its conclusions to other democratic polities (24, 165), they do not provide any discussion of comparative

politics or of concrete non-American examples—except by foreseeing their progressive "Americanization" (165).

In this review, I concentrate on three issues: the notion of compromise, the justification of compromise, and the institutions of compromise.

First, the notion of compromise: Gutmann and Thompson define compromise as "an agreement in which all sides sacrifice something in order to improve on the status quo from their perspective, and in which sacrifices are at least partly determined by the other side's will" (10). More specifically, the two authors are concerned with the kind of compromises that occur in democratic politics (10), and in particular legislative compromises, that is, "agreements that produce laws" (11) and that are made by law-makers, that is, mostly legislative representatives (47)—although the authors also refer to citizens in some cases (117, 206). Unlike other forms of compromise and in particular private compromises or ad hoc political compromises, legislative compromises take place "in an ongoing institution in which the members have responsibilities to constituents and their political parties, maintain continuing relationships with one another, and deal concurrently with a wide range of issues that have multiple parts and long-range effects" (11). Legislative compromises are mostly "classic compromises" where sacrifices have to be made on both sides, and it is difficult, they say, to find other kinds of compromises such as "consensual compromises" and "integrative compromises" in legislative politics (12–15). In terms of content, the authors' core interest is in those legislative compromises that pertain to justice and other moral concerns rather than compromises of interests, and they consider that "political compromises are usually a mélange of measures that reflect conflicting values that no set of moral standards can consistently encompass" (80).

Interestingly, at various places in their argument, Gutmann and Thompson define compromise by reference to "status quo," itself defined as standing in the way of "desirable change" or "reform" (32). They seem to be packing too much into the notions of change and its desirability. While the authors rightly emphasize the ambivalence of compromise that is always something valuable and something to be resisted, they are particularly unambivalent about the value of change. They even argue later on in the book that compromise "opens up opportunities to promote greater justice" (101). This default understanding of the value of reform and its centrality to their notion of compromise are particularly problematic for Gutmann and Thompson's refutation of Ronald Dworkin's argument against internal or checkerboard compromises (81–84, 208). The authors argue that "to judge compromises as acceptable only if they are consistent with a coherent standard is to put the compromise—but not the status quo—on the moral defensive" (81). The same applies, they say, to Dworkin's "ideal of integrity" that puts "the state's action

on the defensive" (83). Here, one cannot fail to wonder why the authors assume compromise is the only way to trigger "change" (e.g., 32), and what makes change "desirable" in the first place (e.g., 41). After all, less compromise will ensure more coherence in the law in the long run, even if it means sticking to a compromised status quo; following Joseph Raz on the "partial reform dilemma," one may argue indeed that it is easier to cohere with past laws in the long run the lesser compromised they are.

In sum, the difficulty with Gutmann and Thompson's default compromising mindset is that it sets the priority of change as necessarily desirable over status quo by default and against what they see as the sole alternative, that is, status quo over change by default (e.g., 108–9). However, either may be morally justified depending on the circumstances of the case, and choosing one mindset over the other blinds us to their potential justifications. The compromising mindset may be said to be particularly uncompromising, as a result.

Second, the justification of compromise: Gutmann and Thompson advance justifications for and against compromise. They claim, like many before them, that compromises are valuable in the abstract even if they cannot always be justified in concrete cases (27–29, 35, 49–50). They then rightly reject the interests-versus-principle argument against all legislative compromises over questions of principle. It may have been interesting for them, however, to dwell deeper into the latter argument from the perspective of legal philosophy, especially since their object is legislative compromising: there, the question of a justified resolution of conflicts of principle, and conflicts of human rights duties in particular, has given rise to very nuanced treatments.

Interestingly, the authors, as democratic theorists and deliberative democratic theorists in particular, see a close connection between the justification of compromise and democracy (22–23). In fact, that connection actually underpins almost all of their arguments for the compromising mindset (1–2, 204). With respect to the relationship between compromise and democracy, Gutmann and Thompson seem to be saying that the relationship is instrumental (2), but it remains unclear in which direction the instrumental relationship goes (e.g., 85), and why it is so. In particular, the association of democracy with change and overcoming the status quo (30), that plays an important role in the connection between compromise and democracy, remains unaccounted for (e.g. 84–85). Furthermore, there are other ways of triggering change through democratic processes than internal compromises of justice; following many other authors, one may even regard democracy as a form of external compromise *qua* decision-making process over which scheme of justice to choose, without, however, necessarily opting for an internally compromised outcome (contra 220 fn 11). And there are other dimensions of

democracy that may conflict with compromising. One may think here of deliberation itself. Of course, Gutmann and Thompson define compromise in terms of principled prudence and of mutual respect (16–17, 100) and then point to the perfect correspondence with the very same requirements of democratic deliberation they have defined in previous work (34–35, 84–85). To those who have not read their previous argument or do not endorse it, however, the book's argument is strangely amputated. It is not clear why deliberation has to lead to mutual accommodation, and why mutual accommodation requires mutual sacrifices rather than agreement on common ground or on one of the principles at stake. This is particularly important if one is to apply some of the proposals developed in the book outside the United States: there, the relationship between other forms of direct democracy, in particular non-electoral political participation, and compromise would have to be seen in a different light.

Finally, the institutions of compromise: Gutmann and Thompson focus on compromise in law-making. This is the kind of politics and hence of institutions they have in mind (11). More specifically, they claim they want to focus on the U.S. Congress (12). As legal theorizing on compromises is still quite limited to date—except for Ronald Dworkin's work—this is a very welcome contribution. However, one may have wished for a more detailed discussion of what differentiates legislative and, more generally, legal compromises from other political compromises in a democracy. Even more so after the authors have considered, presumably by reference to Montesquieu, that "when the spirit of compromise fades, the spirit of the laws suffers" (24, 204). It is not clear what the authors mean by the "spirit of the laws" and how it differs from other "spirits" more generally, and this is a shame as the term features so prominently in the book's title.

Constitutional compromises are often central in the book (54–61), even though the constitutional law-making institutions and processes are very different from those of ordinary legislation. Moreover, it is not entirely clear why the authors chose to contrast campaigning to governing, as if the latter only referred to executive decision making (Ch. 4). Finally, the law-making process and compromising therein are incompletely grasped if one eludes the judiciary. This is even more important in the context of concrete decisions on principles and values. Legislation on such issues is usually abstract and requires judicial decisions for the specification of the relevant duties. As a result, it is usually at the judicial level that compromises are taken, if at all, and it is there that concerns for coherence arise.

These three sets of comments aimed at showing why the compromising mindset should not be construed necessarily as uncompromisingly as the book does. But I would not detract from the courage of a political theory

book that takes the authors' country's current practice of democratic politics seriously and makes concrete proposals to reform it. After all, uncompromisingly endorsing compromising compromises may well be a risk worth taking in an "uncompromising time" (140).

The Political Philosophy of Zionism: Trading Jewish Words for a Hebraic Land, by Eyal Chowers. Cambridge: Cambridge University Press, 2012.

Reviewed by: Julie E. Cooper, *University of Chicago, USA*

Do we need philosophy to make sense of Zionism? In recent years, dissident Jewish scholars have argued that Zionism is best fought with philosophical ammunition. At first glance, this faith in philosophy's political purchase might appear misplaced. It is not immediately obvious that Zionism poses a philosophical problem. Does the inability to honor principles of equality in Israel/Palestine reveal a philosophical mistake at Zionism's inception? Or does the intractability of the Israeli/Palestinian conflict reflect more mundane obstacles to pragmatic compromise (e.g., high stakes, scarce resources, interested parties, entrenched enmity)? One's skepticism about philosophy's usefulness could increase upon examining some of the more prominent efforts in this genre—for they seldom manage to move the debate beyond the polemic surrounding Israel's legitimacy. Although Judith Butler musters the considerable resources of continental philosophy, her indictment of Zionism (in *Parting Ways: Jewishness and the Critique of Zionism*) repeats standard tropes of settler colonialism. Eyal Chowers shares the view that we need philosophy to understand Zionism, which he approaches as an internal critic. Yet, unlike other philosophical critics, Chowers manages to "move the discussion on Zionism to another level of inquiry" by asking political-theoretical questions (13). In *The Political Philosophy of Zionism*, Chowers uses philosophy to expose the inadequacy of extant categories for understanding Zionism. Uncovering the metaphysical, temporal, and linguistic assumptions on which Zionism rests, Chowers contends that Zionism is best understood as a promethean modernism—rather than a nineteenth-century nationalism or a settler colonialism. With this compelling new approach, Chowers exposes a curious political lacuna at the heart of one of modernity's most successful political movements.