A Novel Epistemology of Political Disagreement

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Political justificationism: a novel contextual epistemology of political disagreement

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Abstract:
The conciliationist and steadfast approaches have dominated the conversation in the epistemology of disagreement. In this paper I will outline a novel epistemology of political disagreement that departs from these majority viewpoints. Drawing on Jennifer Lackey’s justificationist approach and the casuistry paradigm in medical ethics, I will develop a more contextual epistemology of political disagreement. On this account, a given political disagreement’s scope, domain, genealogy, and consequence can be helpful for determining whether we should respond to that disagreement at the level of our confidence, beliefs, or with policy. Though some may argue that responding with policy is a practical consideration instead of an epistemic matter, I argue that even policy responses to disagreements have an epistemic dimension to them that we should not ignore.

Keywords: Epistemology of disagreement, political disagreement, casuistry, justificationism, Jennifer Lackey
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The epistemology of disagreement literature centers around the issue of epistemic significance of disagreement: when two people disagree on an issue—especially when they are epistemic equals or peers with one another—what are they required to do epistemically speaking? While some, known as steadfasters, claim that one can justifiably maintain one’s belief even in the face of such disagreement, others, known as conciliationists, argue that one should modify one’s opinion in light of that disagreement. In contrast with these two approaches, in this paper I will outline a more particularist approach to political disagreement that follows within Jennifer Lackey’s justificationist approach to disagreement. My proposal, following from the casuistry paradigm in medical ethics, suggests that paying attention to a given political disagreement’s scope, domain, genealogy, and consequence can be helpful for determining whether to respond to it at the level of our confidence, beliefs, or with policy.

1. Lackey and justificationism

Lackey gives the example of two people who disagree what street their favorite restaurant is on, even though they have both been there with each other several times. She argues that this kind of situation might not be as epistemically symmetrical as it seems. In these kinds of cases, the symmetry breaker is that one has personal information that one is functioning normally that one does not have of the other person. She claims that while one can know that one’s own cognitive functioning is operating normally, one is not under the effects of any psychotic, memory-altering drugs, and so on, one cannot be so sure that these things are true of one’s interlocutor. When that personal information is combined with a highly justified belief, Lackey concludes that steadfastness—or non-conformism in her terms—is called for (Lackey 2010, 300-301). Conversely,
though, when one is in a situation where one does not have such a symmetry breaker or one’s belief is not as justified, then Lackey would recommend a more conciliationist response (Lackey 2012, 106). Lackey’s account contrasts with others because there is no simple, one-size-fits-all approach to disagreement. How you should respond to a given disagreement—whether to conciliate or not—depends on which view has the most justification: if the preponderance of justification turns out to be on the other person’s side, you should conciliate them, but if it happens to be with your beliefs, you should stick to your original position.

There are some initial issues with her approach. First, it is not clear that it removes the kind of symmetry that is troublesome with peer disagreements. There could be situations where such personal information could provide one with reason to trust one’s own faculties over another person. But in such scenarios, we could easily imagine that the other person would have reason to make the very same claim; they have personal information that their cognitive faculties are operating fine, and it is you who is cognitively malfunctioning. If one was a third-party observing this disagreement, the symmetrical nature of the disagreement would still seem salient. Lackey’s appeal to personal self-knowledge is especially troublesome in the contexts of political disagreements, where we know that various forms of unconscious bias and motivated reasoning are rampant, often unbeknownst to individuals (Hallsson 2018).

Tim Kenyon takes Lackey’s justificationist approach to mean that an epistemology of disagreement should adopt a more particularist, case-by-case method and less of a general theory. That might not be the most accurate way of characterizing Lackey’s position—on her view there is a unitary standard of justification that should be applied in every instance of disagreement. But nevertheless, Kenyon takes this case-by-case approach to be a more adequate way of approaching disagreement overall:

“[That there is no single privileged answer to the question, ‘What ought we to do, epistemically speaking, when faced with a disagreement?’] is no more surprising, and certainly no
bleaker, than the idea that there is no single privileged answer to the question, ‘What ought I to do, possession-wise, when somebody hands me something? It depends on whether I’m being handed a cake or a cobra’” (Kenyon 2018, 244).

Kenyon is claiming here that the disagreement literature is misguided into thinking that there is a universally applicable answer or general formula to what we should do when we disagree. But when asked “what should we do when we disagree?” an “It depends” is a pretty unsatisfying answer. Depends on what? I suggest that there are at least four dimensions of political disagreement that are relevant to what one should do (epistemically speaking) in a given case. While these dimensions are surely not the only ones worth thinking about, I think they provide some initially plausible considerations for political disagreements.

2. Dimensions of political disagreements

While political disagreements are going to vary along lots of different dimensions, I will focus on four: domain, scope, genealogy, and urgency. While there are certainly other dimensions worthy of consideration, focusing on these will provide a wide array of disagreement-types. For each dimension, I will also give a prima facie gloss of how differences along these dimensions might affect the epistemological evaluation of these respective types. To be clear, there are wide discussions raised in each of these dimensions, and my intention here is not to settle all, or even most, of these controversies. Rather, my aim is to show why it is reasonable to think that different disagreement-types may warrant different epistemological evaluations and responses.

2.1 Domain

First, political disagreements differ in their domain: some disagreements are about facts about the empirical world, while others are about normative claims about what is valuable or how we ought to act. While treatment of political disagreements has usually centered on normative disputes — e.g. "What steps should we take to address climate change?” conflicts over factual matters
—“Is anthropogenic climate change occurring?”—are also becoming increasingly salient in the current political atmosphere. Though there are good reasons to be skeptical of a firm distinction between these domains (Douglas 2014, Robert and Zeckhauser 2011), for the moment we can at treat these as conceptually independent types of disagreement.

Why think that this difference in domain is important for the epistemological questions surrounding political disagreements? Christopher Robert and Richard Zeckhauser (2011) point out that where a disagreement is over an empirical matter, one possible solution might be to continue the investigation, do some additional research, perhaps to put the two clashing views to an empirical test. For instance, if two people disagree on the empirical question about whether large deficit government spending produces higher levels of inflation in the near-term future, there are ways of adjudicating that dispute: one can track how much inflation happens after a recent spate of deficit spending, or look at historical examples of how much inflation happened after past iterations of high spending. While these kinds of empirical tests are available for responding to factual disputes, they are not as readily or directly available to resolving normative ones. For value disagreements that are not as amenable to empirical testing, Robert and Zeckhauser suggest the only available option seeking a mutually beneficial compromise of some sort (Robert and Zeckhauser 2011, 2). Of course, the availability of empirical testing should not lead us to be sanguine that political factual disputes are likely resolved by simply appealing to such empirical tests. The literature on theoretical underdetermination suggests that crucial experiments demonstrating one scientific theory to be rationally preferable to a rival are rare (if they exist at all), as there are always auxiliary hypotheses that can be utilized to explain away a false prediction (Arabatzis 2008). While such special-pleading is likely to be prominent in the political domain, it nevertheless remains one way of responding to more factual political disagreements.
2.2 Scope

Second, political disagreements differ in their scope. Many disagreements are deep, in the sense that they are widespread about more than one issue. A staunch libertarian and a democratic socialist do not just disagree on government’s place in healthcare, but on a wide range of political issues as well. In the starkest examples, disagreements may go all the way down to differences in philosophical first principles. Robert Fogelin, took “deep disagreement” to be conflict of fundamental epistemic principles (Fogelin 2005, 8) though deep disagreements surely also happen at ethical, ontological, and other philosophical foundations as well. Other disagreements, though, are more localized in the sense that they take place against a background of general agreement on related issues. Following with the image of “deep disagreements” we might call these localized disagreements “shallow.” People who generally agree that universal healthcare coverage is an important policy goal might still disagree about what kind of single payer or multi-payer system best implements that vision.

The scope of disagreement plausibly affects how one should respond to it. Several conciliationists have argued that that the conciliatory requirement diminishes as the scope of a disagreement widens. Martin Ebeling, has argued that disagreeing with someone who is an epistemic peer on a political question obligates one to conciliate with them. If upon further inspection, however, one finds that the disagreement between two people is more widespread than originally thought, that gives reason to downgrade their status as an epistemic peer (Ebeling 2017, 82). The opposite is also possible as well: two people who initially think they are far apart on a given matter may discover after discussion that they are actually agree on a lot more than had realized. On Ebeling’s view, that realization of a more localized disagreement puts pressure on the two conciliate. Even if there is reason to disagree with Ebeling about how strong that pressure is in either of these cases, the point here is that the depth of disagreement does affect how one should respond to that
disagreement. John Pittard (forthcoming) has also argued that the skeptical force of a disagreement is weaker for more “fundamental” disagreements that are driven by different epistemic starting points than in shallower disputes that might take place among peers.

Independent of their relation to shallower disputes, the question of how one should respond to deep disagreements has spawned its own burgeoning subfield in epistemology. Fogelin himself was skeptical that there could be a rational resolution to this kind of dispute; the normal argumentative methods that allow for people to resolve their disagreements rationally are not available because in such deep disagreements there is not a shared framework—no agreed upon test or source—from which to resolve the conflict. There has been pushback against this though. Michael Lynch (2010) has argued that while deep disagreements cannot be resolved epistemically—since in these kinds of situations one cannot provide a non-question-begging epistemic reason that would solve the conflict—it can be treated at the level of practical reason. One can give practical reasons to one’s interlocutor in a kind of epistemic analogue to a Rawlsian veil-of-ignorance exercise, where each cooperate with each other to come up with reasons for what kind of principles should be used for privileging some epistemic methods over others (Lynch 2010, 274-5).

2.3 Genealogy

Third, it is plausible to think that political disagreements have different kinds of genealogical sources, particularly from both rational and irrational sources. Many political disagreements are caused by one or more irrational biases influencing at least one of the disputants. For instance, someone who disagrees with the factuality of the Sandy Hook shooting because they rely on a known to be unreliable source like Alex Jones as their primary source of information are likely disagreeing irrationally. Other instances of irrationality might be more subtly problematic, in that a person may hold irrational beliefs but nevertheless ostensibly satisfy epistemic criteria of rational belief. Endre Begby notes that when prejudicial beliefs are a part of a person’s background beliefs, it
becomes epistemically rational for those beliefs to control, interpret, and evaluate new evidence and experiences (Begby 2013, 94). Motivated reasoning is another prominent cause of many political disagreements. Motivated reasoning describes a bias that skews one’s evaluation of the evidence in favor of the beliefs that one already holds. Rather than evaluating their beliefs in light of the available evidence, motivated reasoning causes people to start reasoning from their conclusions they want to reach and then interpret the available evidence in a way that supports those conclusions. One famous variant of motivated reasoning is confirmation bias, where people accept at face value information that confirms their prior political views, while subjecting any disconfirming data to significantly more scrutiny (Lord et al. 1979). Antecedent political confidence interferes with ability to interpret statistical data correctly, even among the most highly mathematically literate people (Kahan et al. 2013). While perhaps less egregiously irrational than the kinds of causes discussed, and others, it is plausible to think that motivated reasoning still produces irrational forms of disagreements (Ancell 2017).

Despite the presence of all of these irrational forces on political disagreements, I think it would be too hasty to claim that all disagreements in this domain are irrational. W.B. Gallic (1956) argued that some interminable disputes in domains like politics are over what he terms “essentially contested concepts”: ideas whose application and validity are both not resolvable by rational argumentation, but “nevertheless sustained by perfectly respectable arguments and evidence” (Gallic 1956, 169). Essentially contested concepts like “democracy” have complex components that are open for reasonable individuals to interpret and weigh them differently. The essential contestability of political concepts often invites taking an anti-realist or relativist understanding of the dispute in question: if there are no uniquely rational or superior way to understand these concepts, then perhaps there is simply no truth about the matter. This is also too quick, as essentially contested concepts do not have to be capable of convincing every reasonable person in order for it to be good
or valuable (Mason 1993, 54). Though he does not engage with the notion of “essentially contested” concept, Alvin Goldman (2010) has presented a similar account of how reasonable disagreement can be possible. In a complex domain like politics, discovering one uniquely rational answer to many conflicting issues might seem implausible. Goldman thinks that norms of inquiry in this kind of difficult domain are likely to be permissive rather than prescriptive, indicating what range of ideas are rationally permissible to believe and enact rather than dictating some unique position. For instance, even if we assume that there is a truth about how to balance autonomy and well-being in society, there might still be a range of reasonable and justifiable positions that deviate from that ideal.

More specific to political disagreements John Rawls (2005) has argued for the possibility of reasonable political disagreements based on what he called the “burdens of judgment.” The relevant evidence that bears on a dispute issue is often dispersed, not easily accessible, likely open to many different interpretations, and different ways of balancing competing goals or values. If people are able to independently use their rational faculties in these situations, Rawls thinks we should expect that they will likely come to different conclusions. To use the earlier example of well-being and autonomy, a libertarian and a liberal will likely disagree about how to prioritize one over the other, not necessarily because one them is being unreasonable or committing a gross error of irrationality, but because people freely exercising their own rational capacities will not necessarily come to the same conclusions about how to weight competing values.

Of course, while it might be uncontroversial to say that some political disagreements are reasonable while others are not, giving a clear and principled demarcation between the two will be hotly contested. One might think that the demarcation of reasonable and unreasonable is itself a relative idea: Infowars enthusiasts will likely claim that questions about the Sandy Hook shooting, Pizzagate, or Barack Obama’s citizenship are at the very least matters of reasonable disagreement.
Given certain background beliefs, these theories can certainly appear reasonable. Climate change skeptics will insist that their skepticism about attributing climate change to human activity is a matter of reasonable disagreement, despite the overwhelming consensus in the opposite direction. Under what conditions are disagreements reasonable? Christopher McMahon has argued that disagreements are reasonable just in cases when all of the disputing parties are competent reasoners who give due consideration to all the relevant factors at play (McMahon 2009, 8-10). On this account disagreements can be reasonable even if the participants dispute not only what considerations are relevant but also whether they consider their opponents to be reasonable.¹

2.4 Consequence

Finally, some political disagreements are consequential in ways that others are not. Some disagreements are inconsequential in that nothing hangs on their being resolved. Suppose that you are discussing with your family members over whether the individual mandate of the Affordable Care Act is an unconstitutional government overreach or a necessary aspect of sustainable healthcare policy. If it is like most such discussions, neither person will provide enough reason to sway the other side; in which case, it seems like the only option is to come to no resolution. And this “agree to disagree” outcome seems acceptable in part because there are likely no substantial consequences that result from that lack of resolution. Disagreements in informal settings seem to have this (relatively speaking) inconsequential character. But when the Supreme Court deliberated over this very issue of the individual mandate in NFIB v. Sebelius, they likely went over much of the same

¹ The claim that a given disagreement is reasonable should be understood in a weak epistemological sense that it seems to be reasonable, from our vantage point. This is not to say disagreements that are seen as reasonable actually meet some criteria of reasonableness from an objective, God’s-eye-view perspective, but rather simply that we have not located the error in reasoning yet. Here I am drawing on the analogy of Robert Talisse’s weak epistemological pluralism that says there value conflicts that do not seem amenable to any kind of rational resolution but not necessarily because of any culpable error on any disputant’s part: whether by failure of rationality, error in judgment, or lack of knowledge. This epistemological pluralism is agnostic on the deeper question of whether these conflicts are best explained by an ontological pluralism (Talisse 2011, 24-25).
evidence and arguments that you and your family members considered, and yet still had staunch disagreements through their deliberation. But what is different about the Supreme Court’s handling of this disagreement is that they could not simply “agree to disagree” in the way that you and your family members did. And the reason is simple: how they settled that question would have far wider consequences; their decision would have coercive authority on everyone subject to that law. It seems reasonable, then, to think that when coercive authority is at stake individuals should treat their disagreements differently than in situations where it is not in play. Andrea Sangiovanni has succinctly articulated the claim that many political disagreements are distinctive in that they make claim to the use of political authority: political disagreements are “not merely about which party is epistemically justified…but which party is politically justified in laying claim to the armature of political authority … that shapes basic constraints and opportunities” (Sangiovanni 2008, 157).

Coercive power is also at play in many formal legislative disagreements, so the stakes it reasonable to think the stakes are similarly elevated there as well. It seems reasonable to think in deliberations where coercion is in play that more justification is required than there are in lower-stakes discussions of the same issue. The presence of coercive power in formal legislative and judicial contexts therefore plausibly encroaches on how one should respond to that disagreement in those high-stakes situations. The encroachment of coercion on certain political disagreements connects with a prominent theme in contemporary analytic epistemology known as pragmatic encroachment (Stanley 2005, Fantl and McGrath 2012). Christopher Hookway has articulated a similar notion of encroachment the explicitly draws out an epistemic relevance of practical concerns, namely in when we are justified in gathering more evidence and data or going forward with acting on the available evidence: “the greater the disaster if our actions fail to achieve their purpose, the more evidence we require before we regard the belief as properly justified; the greater the risks attaching to inaction, the readier we are to act on limited evidence (Hookway 1990, 139).
The primary argument for pragmatic encroachment relies on consideration of cases that are identical in their epistemic or evidential properties but differ in their practical or moral properties. Suppose I remember that my car is parked on the street around the corner from my house in a spot I have parked in before. It seems reasonable to say in this instance that I know that my car is legally parked. Call this the low-stakes case. But street sweeping signs go up fairly regularly without my awareness of them, so it is possible that my car is parked illegally on this particular day. Suppose there is a report that local police are going to start writing large punitive tickets to cars parked on streets during their street cleaning days. In this high-stakes case, even though my epistemic reasons about whether my car is legally parked have not changed from the low-stakes scenario, it seems reasonable to say I am not as justified in believing that my car is legally parked.

But even if practical considerations do encroach on our beliefs, why think that coercion should be one such practical consideration when it comes to certain political disagreements? Suppose that I have strong justification to believe it is ethically wrong to eat meat and therefore I should adopt a vegetarian diet and lifestyle. I might believe that if other competent moral reasoners considered the relevant factors about this issue, they would come to agree with me, and that the world would be better off if everyone converted to this way of life. But suppose I transposed these ethical beliefs about eating meat into the political domain, say that the state or government should prevent people from consuming meat, perhaps even banning or significantly curtailing meat manufacturing. Even if we granted the truth of this ethical belief, that would not necessarily justify this parallel political belief. Part of what distinguishes political beliefs from evaluative claims like ethical ones is that the former are aimed at giving us normative instructions of how we ought to cooperate with each other, in particular what should be prevented or allowed. Gerald Gaus notes that what distinguishes political and social morality from ethical concerns about a good life is that the former is a “set of social-moral rules...that we direct to each other to engage in, or refrain from,
certain lines of conduct” (Gaus 2011, 2). Political and social morality thus inherently claims authority over others, how people are allowed or prohibited from interacting with each other, in a way that strictly speaking ethical concerns do not. When a disagreement gets transposed into a situation involving coercion, it elevates the stakes of the situation, as the people subject to the coercive policy would justifiably require a reason, one that they would not be warranted in asking for otherwise. Believing this in the ethical domain does not necessarily commit me to the further political claim that the state is warranted in preventing people from believing and acting differently than I do on this matter. When political attitudes have this coercive element to them, it is reasonable to think that this elevates the stakes of what kind of justification is necessary for them to be acceptable.

This request for higher levels of justification in the context of political morality is often cast as an issue of moral justification, but I think an epistemic aspect is operative as well. Thomas Nagel (1987) has argued for an epistemological division between the public and the private sphere, that we have to seek a higher level of justification for coercive political actions than we do for ordinary moral beliefs: “…in certain contexts I am constrained to consider my beliefs merely as beliefs rather than as truths, however convinced I may be that they are true, and that I know it” (Nagel 1987, 230). On his account, we do not have to stop thinking that our beliefs are true or justified according to our own epistemological perspective, only that from the political perspective they are required to meet some more impartial justification. A related epistemic consideration is that the justifications provided have to be acceptable in some sense\(^2\) to those who ask for it. As Fabienne Peter puts it, if a policy is to be politically justified it must be justified to the citizens who are subject to it (Peter 2018). If there is no accessible reason available to them to accept some political decision, then we have some good reason to think that decision is not politically justified. It might be the case that they

\(^2\)Of course, much of this claim hinges not on what actual individuals—who may be irrational, ignorant, or subject to some kind of cognitive bias—but rather what some idealized rational individuals would find acceptable. There is much discussion on what degree of idealization is necessary for this kind of justification (See Vallier 2014, ch. 5).
would be persuaded by the same reasons that convinced me, but it is highly unlikely that everyone would buy into those reasons that I find acceptable, chiefly because reasonable disagreement likely obtains in even the most idealized scenario. In the meat-eating example given above, it is more plausible that many reasonable people would differ in their assessment of that the ethics of eating meat and thus not come to the same conclusion as I do.

But while I think the pragmatic encroachment theorists are correct to posit a relationship between the epistemic and practical states, there is a sense in which it is too close for the purposes of political disagreement. One way of motivating the pragmatic encroachment thesis is by positing a connection between an epistemic state and a practical action Jeremy Fantl and Matthew McGrath call the Knowledge-Action thesis: if a person knows that \( p \), then she is justified in acting on the basis that \( p \) (Fantl and McGrath 2002, 72). This seems too strong of a connection in the political context, as the meat-eating example demonstrates: there can be beliefs that one can have justification for believing without thinking they rise to the level of justification required to use in the public sphere.

In surveying these four dimensions, a given disagreement will fall somewhere along each of these dimensions. Thus, there will be deep, irrational, consequential disagreements over facts, as well as narrow, reasonable, non-consequential normative disagreements, and all the combinations in between.

3. Responding to disagreements: levels

Responding to a disagreement can take place at three distinct levels: confidence, beliefs, and policy. They could take place at the level of credences or confidence. Take the case of Joan and Jane who disagree on the justice of legally permitting abortions. While they each have divergent credences on the question of the justice of abortion of .2 and .8, respectively, after discussion with each other, they become less confident in their original position, and therefore downgrade their respective
credences to .3 and .7. We can also talk about the confidence level in less formal terms of going from more to less confident in one’s position in light of a disagreement. There is no presumption that credence-conciliation would require any significant alteration to either one’s beliefs or their justifications for them. Nathan Ballantyne (2013) provides one example where such a credence-response is motivated without any substantial alteration to a person’s beliefs themselves. He argues that, for any finished project one writes, it is highly likely that there is a fatal flaw or defeater in its argument. A more perceptive philosopher like Elizabeth Anscombe would likely notice that error if they examined it, but since they are not alive to point out that error, the author is currently unaware of. Ballantyne thinks this counterfactual operating as a weak defeater motivates some mild form of intellectually humility that should make us less confident in our beliefs without seriously altering our beliefs themselves. The empirical research on how much people overestimate their own skills and competency may even support the more radical claim that disagreement (at least with one’s epistemic equals) should make a person weakly confident that they themselves are wrong (Wiland 2016).

We could also respond at the level of the content of our beliefs. Martin Ebeling gives the example of three legislators (A, B, C) who are deliberating on what the top tax rate should be: A says 40%, B 50%, C 60%. If A, B, C are peers with each other (i.e. agree on all the factual and normative issues related to this question), then Ebeling thinks the uniquely rational thing for them to do is “achieve full epistemic conciliation” with each other, in this case at 50% (Ebeling 2017, 173). Though adjusting one’s confidence does not necessarily require any alterations of one’s beliefs, often they are related: it is difficult to imagine a substantial shift in one’s confidence without some attendant alteration in one’s beliefs. If someone provides you with a previously unconsidered argument or reason to think one’s beliefs are false, that will often result in one becoming less confident in those beliefs. One could also include in this level of conciliation the modification of
reasons and justification as part of the content of the belief, where one is incorporating those new justifications into one’s belief structure.

Finally, we can respond at the level of a plan or policy. On this level, we are not adjusting our beliefs or confidence in them; instead, we are agreeing on a plan or policy that in some way accommodates (at least some of) the representative viewpoints. Policy-level resolutions often take the form of a compromise, where the disagreeing parties make some kind of concessions of their ideal position in order to come to agreement with their opponent. Similarly, Fabian Wendt notes “…what is distinctive about compromises is that all parties regard some other arrangement—not the one agreed upon—as the optimal solution…” (Wendt 2016, 14).

What is the relationship between these three levels? There is a significant literature on the general relationship between beliefs and credences (Jackson 2018), whether one is reducible to the other or whether they are distinct entities that play different roles in our epistemic and cognitive lives. Following Wendt, I would say these levels of responses are conceptually independent of each other: while becoming less confident in one’s beliefs might at some point motivate making some significant modifications of one’s first order beliefs, that connection is not necessary. Similarly, modifying at the policy level does not necessarily require substantial revision at the level of one’s beliefs or confidence.

3.1. Epistemic legitimacy of compromises

While there can be many different kinds of policies to respond to disagreement, one of the most natural form that comes to mind is a compromise, where two opposing sides come to an agreement with each other. We can ask several questions about the epistemology of political compromises. First, how does a compromise on policy differ from mere bargaining that is part and parcel of the normal operations of politics? The concern about mere compromise is that this creates a kind of modus vivendi agreement. Rawls (2005) speaks of a modus vivendi as an agreement wherein two
parties resolve a conflict only out of pursuit of their own interests. They do not come to terms because they have converged on some justification that all parties find acceptable but because they are not able to pursue their own interests or achieve their own ideological goals in any other way. I suggest that there can be compromises are an epistemic kind of *modus vivendi*, where there are no epistemic reasons to justify it, but only practical ones. Second, as described above by Lister (2007) and Wendt (2016), compromises are epistemically peculiar because they are by their very nature viewed as the second-best option. One might wonder about what kind of epistemic justification these second-best compromises have. There are often practical or strategic reasons that motivate adopting various compromises—as they can build coalitions across political divisions that are more likely to pass. In fact, Simon Cabuela May (2005) argues against the very idea of a principled compromise in a political disagreement independent of practical reasons. May argues that moral considerations like respect for persons and mutual reciprocity are an insufficient basis for adopting a compromise; on his view, there are no reasons to pursue a principled compromise apart from practical concerns—e.g. that it keeps the peace or the current distribution of power makes it unlikely that she can realize any of her goals without modifying one’s position.³ One might wonder if a similar argument applies to epistemic disagreements, that epistemic compromises are only justified if there are strategic or practical reasons for it.

There are several compelling responses to the epistemic equivalent of May’s argument. Federico Zuolo and Giulia Bistagnino (2018) argue that a compromise can be epistemically motivated by recognizing the other party as an epistemic peer, as someone with whom one is on a par with epistemically speaking. In a similar vein, Klemmens Kappel (2018) has argued that while some political disagreements can give a reason to reduce at least some confidence in one’s own

³ May allows for pursuing compromises provided that that they “morally acceptable”, that is, do not result in a moral loss or violate any fundamental moral principle (May 2005, 322-3).
beliefs, it does not necessarily warrant large scale revision (or abandonment) of one’s original stance. While these responses are helpful, I think there is more we can say about the epistemic justification of compromises. The alternative to an epistemic modus vivendi I have in mind here is that the agreement they eventually come to should meet some kind of epistemic criteria, more specifically a notion of epistemic kind of legitimacy.

What might this kind of epistemic legitimacy look like? Epistemic legitimacy can be located in two different sources: in the final outcomes or decisions that a political body generates or in the procedures by which the body comes to its decisions. This first source would be a kind of substantial legitimacy: an agreement A is epistemically legitimate only if all parties to it can locate a reason in their set of beliefs that would make A acceptable to them. The second source is a procedural kind of legitimacy, where the source is legitimate because it was produced by an epistemically fair procedure. Fabienne Peter points out that these sources of legitimacy are not mutually exclusive, as one can have a substantive (or “rational”) proceduralism that combines both sources as conditions of epistemic legitimacy: a compromise must be rationally justified as well as decided by an epistemically fair procedure (Peter 2007, 338-339). David Estlund (2009) has defended this kind of hybrid position he calls epistemic proceduralism on the grounds that, if his account is correct, it shows that democratically fair procedures are not just good in themselves but also serve one of the central epistemic goals of achieving true beliefs. One might worry, though, that looking for compromises that are epistemically legitimate in Estlund’s substantial sense is unrealistic, as it would require more agreement than we could expect to get in a situation where resorts to a compromise decision. In fact, since participants will likely view their original pre-compromise

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4 Regarding May’s point about the necessity of practical reasons for compromises, it is fair to consider the epistemic risk at play in responding to political disagreements (Aikin et al. 2010)
position as more fully true than the compromise itself, requiring agreement that the end decision is the truest option seems implausible.

I think the more purely proceduralist account developed by Peter would be more realistic account of legitimacy in situations where epistemic compromises are usually called for. One can find a policy outcome unacceptable in its content, while still thinking that it is acceptable because the procedure by which it was decided is acceptable. Following her account of pure epistemic proceduralism, what is required for compromises to be legitimate is not only that all parties to the dispute can participate in the deliberation and decision-making process under conditions of political and epistemic fairness, that but also that all are also able to “regulate public deliberation at the fact-gathering and analysis stages” (Peter 2007, 343-4). Furthermore, one can see these kinds of democratic procedure as themselves compromises: Aurelia Bardon (2018) has argued that procedures and processes for making political decisions are themselves best viewed as epistemic compromises that do not have to be acceptable as a more comprehensive epistemology. For instance, suppose one is a religious person who believes that revelation is a vitally important epistemic source for one’s beliefs about God and the world, but one is considering a set of rules and procedures that do not permit revelation as a valid source of evidence in its proceedings. On Bardon’s view, it is not inconsistent for this religious person to affirm this public epistemology as acceptable in the public sphere while rejecting it as a satisfactory epistemology outside of that limited scope. As long as everyone agrees that these kinds of procedures are acceptable for use in deciding public or political questions, they can reject these procedures in favor of a more expansive epistemology to answer comprehensive questions that fall outside of the public sphere.

3.2. Justificationism revisited

To connect this discussion of political disagreements to Lackey’s justificationism, there are several reasons to think that the different political disagreements outlined above present a problem
for her view. Lackey’s view is that our response to a disagreement should be anchored by where the balance of justification happens to lie. First, answering Lackey’s specific question about where the balance of epistemic justification lies requires answering at least some of these questions like “how much justification do we need?”: is it a factual disagreement or normative one, is it consequential or not, etc? How one should respond to a disagreement might vary based on whether the disagreement is over facts or norms, deep or shallow, rational or irrational. In one sense, that is not necessarily an insurmountable obstacle: determining where the balance of justification in a given case likely includes these kinds of elements. For Lackeyan justificationism, at the very least one has to conceive of epistemic justification in a broader sense than epistemologists have traditionally conceived it. In this expanded conception of justification, as argued earlier, pragmatic considerations like coercion in particularly high-stakes legislative or judicial disputes can become epistemic reasons of sort that can motivate us to respond to a disagreement in a way that we would not in lower-stakes situations.

3.3. Political justificationism

If Lackey’s justificationism is insufficient on its own to confront these different kinds of disagreements, can we improve upon it? I think so. I will call this development “political justificationism.” This view is the claim that what one should do in a given disagreement depends on what kind of disagreement it is, where it falls along the dimensions of its domain, scope, genealogy, and urgency. There are also three general independent levels at which one can respond to a policy disagreement: confidence, beliefs, and policy.

4.1. Problems for political justificationism

At this level of generality, though, political justificationism might seem rather thin and uninteresting. Can we say anything more specific about how one should respond to certain kinds of disagreements, or even at what level response they should receive? On political justificationism,
there are a multitude of different kinds of political disagreements as well as several different levels at which one could respond to them. One might hope that the above discussion could render a comprehensive account of political disagreement, to the degree that one can say “If you’re having Type X kind of political disagreement, you should respond in direction Y at level Z.” In the following two sections, I want to lay out two reasons to be skeptical that construing political justificationism as this kind of generalist epistemology of political disagreement is plausible. This pessimistic attitude is motivated, first, by how many different kinds of disagreement there are. While I think the diversity detailed in 2.2 is a virtue for political justificationism, it is not a comprehensive account. Political justificationism presents a complex menagerie of disagreements, but it must be noted that these dimensions still elide numerous further complications and nuances that we find when we examine individual cases. The nuances of these specific disagreements could plausibly affect how we should respond to them.

Take the domain dimension distinguishing disagreements over facts and norms. Facts can obviously vary based on what part of the world they are trying to describe or explain. Some facts are in static domains with relatively little variance, like soil inspectors and Southern California meteorologists, while others are in ones that are dynamic and have high volatility, like stock brokers and parole officers. While expert opinion tends to coalesce in the former domains, they tend to diverge (sometimes wildly) in the latter ones (Shanteau 2015). Politically relevant facts are thus likely just as variable in this respect. But what would follow epistemically from the claim that we fewer disagreements arise in the former domains than in the latter ones? Should we characterize disagreements in discordant domains as more reasonable than those where convergence more regularly happens? Such a sweeping claim seems presumptuous to make from the philosophical armchair.
Furthermore, factual and value disagreements are themselves often so closely intertwined it is often difficult to pinpoint where a particular disagreement is on the domain spectrum. Disagreement about whether life begins at conception might appear to be factual dispute related to abortion, but, even if it is a factual question, it often spills over into more value-laden conflict over the value of a woman’s autonomy vs life of a fetus, the interpretation and relevance of sacred scriptures, and so on. Abortion more generally is a case where certain facts (e.g. fetal development) are deemed morally relevant by one side of the argument but not the other (Luker 1984). Adjudicating the reasonableness of abortion disagreement may require determining the reasonableness of those more specific disputes.

Further nuances arise when we consider the scope dimension more closely. All deep disagreements are also not all deserving of the same kind of response. Some deep disagreement are the result of belief polarization, where individuals become more extreme in their attitudes. It is a common assumption that belief polarization is generally epistemically undesirable, perhaps even irrational. For instance, Thomas Kelly (2008) has argued that the presence of belief polarization in our beliefs should give us pause about how confident we are in them. But we should be wary of taking the epistemic undesirability of these kinds of deepening disagreement as a general principle. There are some empirical instances (Lindell et al. 2017) of deepening disagreement in deliberative forums that do not seem to have many of the epistemic defects that are normally ascribed to polarizing beliefs. There are also lots of complexities along the urgency dimension as well. While disagreements over an annual budget might be urgent in some important sense, they are likely not as exigent as disagreements over a human right legislation. The differences even within tokens of the same type of disagreement make me skeptical that they warrant the same kind of response.
5.1. Casuistical epistemology

I think what follows from this diversity of political disagreements make it difficult, if not impossible, to expect a general epistemology of political disagreements from the philosophical armchair. If there is an account that can do justice to the diversity of these disagreements—both between the different types and also tokens of the same type—it may depend on the particular features of the context in which the disagreement takes place. Luckily, we have a model for this kind of reasoning from the casuistry tradition in bioethics (Jonsen and Toulmin 1988, Jonsen 1995, Arras 1991) is skeptical of starting with abstract general moral principles to decide what to do in medical decisions. On the generalist view they oppose, making ethical decisions involves starting from universally applicable moral principles, and then applying them in particular circumstances.

Practitioners of casuistry, or casuists, argue that this generalist top-down methodology is too

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**Figure A**

**Four Box Method**


<table>
<thead>
<tr>
<th>Clinical Indications</th>
<th>Patient Preferences</th>
</tr>
</thead>
<tbody>
<tr>
<td>What are the goals of treatment? What are the probabilities of success?</td>
<td>Has the patient been informed of benefits and risks, understood this information, and given consent?</td>
</tr>
<tr>
<td>What are the plans in case of therapeutic failure?</td>
<td>If incapacitated, who is the appropriate surrogate? Is the surrogate using appropriate standards for decision making?</td>
</tr>
<tr>
<td>In sum, how can this patient be benefited by medical and nursing care, and how can harm be avoided?</td>
<td>Is the patient expressed prior preferences, e.g., Advanced Directives?</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Quality of Life</th>
<th>Contextual Features</th>
</tr>
</thead>
<tbody>
<tr>
<td>What are the prospects, with or without treatment, for a return to normal life?</td>
<td>Are there family issues that might influence treatment decisions?</td>
</tr>
<tr>
<td>What physical, mental, and social deficits is the child likely to experience if treatment succeeds?</td>
<td>Are there provider (physicians and nurses) issues that might influence treatment decisions?</td>
</tr>
<tr>
<td>Are there biases that might prejudice the provider’s evaluation of the patient’s quality of life?</td>
<td>Are there financial and economic factors?</td>
</tr>
<tr>
<td>Is the patient’s present or future condition such that his or her continued life might be judged undesirable?</td>
<td>Are there religious or cultural factors?</td>
</tr>
<tr>
<td>Is there any plan and rationale to forego treatment?</td>
<td>Are there limits on confidentiality?</td>
</tr>
<tr>
<td>Are there plans for comfort and palliative care?</td>
<td>Are there problems of allocation of resources?</td>
</tr>
</tbody>
</table>

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insensitive to the nuances of cases. They instead favor evaluating situations on a more case-by-case basis. When evaluating what to do in a given situation, they begin with a thorough description of the features of a case. Albert Jonsen, Mark Siegler, and William Winslade (2006) have developed a four-box analysis (see Figure A) that conceptualizes the relevant aspects of a medical case in terms of medical conditions, quality of life, patient autonomy, and contextual features: given a patient’s condition, how can she be benefitted or not harmed? What is her quality of life likely to be? Is she capable of making fully informed choice about her situation? Is that right being respected? What outcome is fair and just to all parties involved? Are there any conflicts of interests? Clearly laying out the details of the circumstances are usually illuminating about what kind of case it is: a patient’s mild dementia that has diminished her capacity to make a rational decision about her care means the case should be classified as one involving compromised autonomy. Casuists then look to prior cases or paradigm cases of this type and what decisions were made in those cases (Jonsen and Toulmin 1988, 35). These prior cases serve as precedents that give a provisional conclusion about what should be done in the present case. Finally, casuists examine the analogies and disanalogies between the present situation and those prior cases, and then reflect how any peculiar or exceptional circumstances might warrant a different evaluation than the provisional conclusion (Miller 1996, 5).

While general moral principles like autonomy, beneficence, non-maleficence, and justice can certainly play a role in these kinds of deliberations (see Jonsen 1995) casuistry relies more heavily on reasoning by analogy to decide what should be done.

5.2 Political justificationism: a particularist epistemology of political disagreement

Following the four-box method from casuistical medical ethics, I propose a similar four-box method (displayed in Figure B) for analyzing political disagreement. While it might be difficult to provide many broad principles how to deal with the complex types outlined in Figure 1, I will sketch out how political justificationism’s analysis might be helpful. Let us examine a case of disagreements
that are deep and reasonable. Let us consider Jane and Joan’s disagreement about the justice of legalized abortion mentioned in chapter 1. Take \( p \) to be “Legalized abortion is morally just.”

Suppose Jane holds a credence of .8 for \( p \), while Joan holds a credence of .2 for \( p \). After they learn of their disagreement—as well as discussing their reasons for their respective positions—they decide they are peers on this issue and that they should weakly defer to each other to account for the possibility of their own cognitive biases and limitations. They therefore downgrade their respective credences to .7 and .3. They both exchange their reasons for their respective beliefs, and neither is able to provide a decisive reason that the other person accepts. I think it is plausible to say that in this situation a “agree to disagree” steadfast is a defeasibly permissible response. What justifies this claim? Since no decisive defeater was presented for either
side, modifying their first-order beliefs seems unwarranted in this case. Even to the extent that a conciliatory modification in warranted, it would be at most a slight change at the level of confidence. And nothing hinges on their failure to agree; they are not deciding abortion policy or ruling on an important legal case about abortion, so I see no need for them to substantially revise their position or come to agreement with each other on this matter. Of course, these judgments are all defeasible, as not all disagreements about abortion are as reasonable as this very abstractly sketched example. It is possible that a defeater was provided by Jane or Joan that the other person should have recognized but failed to. If it came out that either Jane’s or Joan’s views were founded on inaccurate or misleading information or that one (or both) of their attitudes were being influenced by some cognitive biases that would provide some reason for them to modify their beliefs (or at least their confidence in them) to some extent.

Another example of how this four-box method would evaluate a specific case, specifically the Finnish deliberative poll on immigration discussed by Marina Lindell and co-authors (2017). In this study research subjects in Turku, Finland debated the highly charged topic of immigration. The researchers wanted to compare the differences between those who deliberate in like-minded groups and those who are in more heterogeneous groups. Based on previous research, it was expected that the participants in like-minded groups would engage in more polarization than the heterogeneous group. Based on a survey of their initial attitudes on immigration coming into the deliberation, they were then randomly allocated to like-minded groups, heterogenous groups, or a control group. In this study, participants who polarized their opinions did not display many of the features that ordinarily make polarization problematic from a normative standpoint: they formed their beliefs in heterogenous groups—so there was very little possibility for a groupthink dynamic—and showed normal levels of information absorption and learning (Lindell et al. 2017, p. 39). One might expect those who moderated their position post-deliberation would be the ones who learn more, display
more empathy, and become more open-minded. But in this case, the polarizers displayed many of
the same behaviors and dispositions as those who moderated their opinion (Lindell et al. 2017, p.
40). One possible explanation of this is that the participants were exhibiting preference clarification,
where as a result of deliberation and discussion individuals come to have a clearer, more reflective
understanding of what their actual commitments are. Preference clarification may sometimes result
in convergence and moderation of opinions, but it may also result in polarization. The authors
conclude that we should not assume that polarization as a result of preference clarification is
necessarily bad, epistemically speaking.

How would the four-box method approach this case? At the descriptive level they engage in
polarization. Is that attitude shift epistemically justified? The first thing that stands out here is the
apparent absence of epistemically undesirable biases or forces: there was not any obvious group
effects or individual biases that were influencing people in epistemically problematic ways. Regarding
urgency, they are not policy-makers crafting immigration policy so there are no implications from
them failing to agree. They are also not coming together to make a collective conclusion or decision
either. One might wonder, though, about the long-term effects of such further polarization; while
the clarification of their preferences might be worthwhile and desirable epistemic achievement in
isolation, one could be concerned about how that development might affect their subsequent
interactions. While there are obviously moral components to this concern—e.g. whether they treat
people they disagree with respectfully—there are also epistemic parts to this as well: will this
polarization incline them to further retreat into ideological informational silos that entrench their
views and make them less open to hearing the other side, or less likely to see those they disagree
with as reasonable?
6. Conclusion

I began with the aim of developing a more adequate epistemology of political disagreement, specifically through Lackey’s justificationist approach. I have argued that what follows from this approach is that there is neither one kind of political disagreement, nor even one level at we can respond to them. While these points might seem rather banal, I think the importance of noticing the diversities here illustrates the difficulty in developing a generalist approach to political disagreement that seems to be the default assumption in much discussion of epistemology of disagreement. The alternative I have sketched out here suggests that figuring out how to properly respond to political disagreement is likely going to require paying attention to the fine-grained details of its type and its circumstances and then a good deal of deliberation (internally but interpersonally) about which level of response—confidence, content, or policy—is warranted.


