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Reply to David Godden's Commentary on "Splitting a Difference of Opinion"

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First we deal with Godden's worry about the epistemic legitimacy of shifting from persuasion to negotiation dialogue. Second, we deal with his concerns about the *need* for compromise, even if there are good reasons to compromise.

(1) Godden raises the issue whether shifts from persuasion dialogue to negotiation dialogue can be legitimate in "epistemic contexts or contexts where epistemic considerations are relevant" (p. 4). Our account of splitting differences of opinion deals only with situations in which the participants have to make a practical decision, and we agree with Godden that our account cannot, without further ado, be applied to settings that lack a practical aspect. We want to make two further comments.

First, even scientific discussions may have a practical aspect, which could make it opportune to compromise. When co-authoring a handbook chapter, or a scientific dictionary, or a research proposal, collaborating authors that disagree on how to characterize some theory or define some term may each be willing to make a concession in order to finish their task in time.

Second, practical issues may depend on subordinate issues of a factual or theoretical nature, such that the participants would resolve their practical issue were they to resolve these "epistemic" issues. Take for instance a policy debate on whether to adopt a particular set of measures in order to keep the average temperature from rising more than two degrees on the scale of Celsius. Suppose that the parties embrace the same climate goals and that they all prefer economic over spendthrift policies. Suppose further that one party expects that these measures are required and sufficient to bring about the intended effect whereas the other party expects that these measures do not suffice and that costly additional measures are needed. Then only a non-practical difference underlies the policy dispute. Nevertheless, we take it for granted that in such a situation, the parties may have legitimate reasons to split their difference of opinion, and to inquire into the possibility of modifying the set of measures, possibly by adding some of the proposed additional costly measures but not all of them. By doing so each party attempts to realize most, yet not all, of what it considers an appropriate balance between effectiveness and efficiency. That a disputed proposition is factual or theoretical does and should not keep parties from adopting a compromise. Godden may object that "any rational, third-party judge" (p. 5) would reject the outcome, for example because it does not save our world from climatological disaster, or because it would be economically reckless. If both disputants acknowledge this judge as completely rational and neutral, we agree with Godden that the disputants have reason to go along with this judge's judgments. However, for most controversies we have no such judges available, or the disputants disagree over who could act as a rational and neutral judge. When the

participants are left to their own devices but unable to convince one another on substantial grounds, they would, we think, be better off if they shifted to negotiation.

With regard to Godden's concerns about plea-bargaining, we want to reply simply: Yes, that's very risky. We didn't think of plea-bargaining, probably because we don't have such a practice in the Netherlands – even though we have something that comes close, called “transactie” (transaction) where the prosecutor makes the defendant a take it or leave it offer that does, however, not imply any confession of guilt by the latter. We agree that plea-bargaining is likely to have very unwelcome effects. Prosecutors may profit from their being better informed and from the fact that they are in a position to push and even coerce the defendant into going along with concessions that are unwarranted and unjust. Yet, this does not exclude other types of situation where shifting to negotiation is much less risky or where the existence of risks is compensated by welcome effects. So, we think that plea-bargaining would provide an excellent domain for studying social restrictions on shifts from persuasion to negotiation dialogue. Admittedly, we didn't say much about that topic.

(2) Godden also has worries about the need for compromise when dealing with differences of opinion. If we interpret his objection correctly, there would be a *resolution* of a difference of opinion available in any setting where (1) the participants shift to negotiation dialogue for good reasons and (2) they succeed in crafting a compromise they both consider expedient. If there are reasons that convince the parties to initiate a negotiation dialogue, as well as further reasons that convince the parties to settle for a particular compromise, there exist reasons that could have been used successfully within the original persuasion dialogue to achieve a resolution of the difference of opinion in favor of the very same policy that resulted from the negotiation dialogue.

We disagree. First, it is feasible that these parties are unable to craft an agreed upon policy proposal in the context of a persuasion dialogue, yet are capable of finding such a compromise solution in the contexts of a negotiation dialogue. (This may correspond to the rhetorical perspective Godden introduces at the end of his commentary.) Second, the outcome of a negotiation dialogue is of a different kind than a policy that would result from a persuasion dialogue: a compromise is subscribed to on the basis of considerations that do not only have to do with the objective merits of the policy, but also with the social circumstance in which it happens to be the case, namely that mutual concessions are required to arrive at a shared policy. Each party would prefer still a different policy, if it were to disregard (1) that the other side cannot be persuaded of one's favorite position and (2) that a lasting disagreement has highly negative effects. Our analysis by means of the distinction between a persuasion dialogue aimed at resolution and a negotiation dialogue aimed at compromise was meant to clarify the special nature of a compromise. How does a compromise settle the difference of opinion, if the initial disagreement has not disappeared? It does so by the decision to move on, to take one's losses, and to implement the compromise through action. Thus, a compromise settles a dispute, without resolving it. Therefore, we uphold the idea that a Fallacy of Middle Ground can be committed by confusing the two kinds of results. But then, agreeing to compromise does not by itself constitute a Fallacy of Middle Ground.

We can exploit Godden's setting of the prisoner's dilemma for clarifying our position further. Suppose that prisoner A is convinced that he is morally entitled to a reward of 5 and his fellow prisoner B to no reward at all, and that B takes the standpoint that he is entitled to 5 and A to 0. Suppose they come to agree to a reward of 3 for each as the result of a negotiation dialogue that they are allowed to have in preparation of making a choice. Then prisoner A would, by our

lights, commit the Fallacy of Middle Ground if he would forget about the special nature of the agreement, misinterpreting it as a resolution of their difference of opinion and coming to think that he is morally entitled to only a reward of 3. However, if he maintains his original standpoint but acquiesces to a reward of 3 by accepting it as a reasonable compromise based on mutual sacrifices and preferable to a lasting dispute, he does not commit the fallacy at hand.