

The Obama Phenomenon:

DELIBERATIVE CONVERSATIONALISM & THE PURSUIT OF COMMUNITY THROUGH PRESIDENTIAL POLITICS

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28 August 2008

The pundits like to slice-and-dice our country into Red States and Blue states; Red States for Republicans; Blue States for Democrats. But I've got news for them, too. We worship an awesome God in the Blue States, and we don't like federal agents poking around in our libraries in the Red States. We coach Little League in the blue States and yes, we've got some gay friends in the Red States. There are patriots who opposed the war in Iraq and there are patriots who supported the war in Iraq. We are one people, all of us pledging to the Star and Stripes, all of us defending the United States of America. . . . There is not a liberal America and a conservative America. There is the United States of America.

—Barack Obama²

America is ready to turn the page. America is ready for a new set of challenges. This is our time. A new generation is ready to lead.³ We're not only going to win this campaign, but also transform our country.⁴

—Barack Obama

Communities had never been a given in this country, at least not for blacks. Communities had to be created, fought for, tended like gardens. They expanded or contracted with the dreams of men—and [in the civil rights movement] I saw the African-American community becoming more than just the place where you'd been born or the house where you'd been raised. Through organizing, through shared sacrifice, membership had been earned. And because membership was earned—because this community I imagined was still in the making, built on the promise that the larger American community, black, white, and brown, could somehow redefine itself—I believe that it might, over time, admit the uniqueness of my own life.

—Barack Obama⁵

If we see knowing . . . as a right, by current standards to believe, then we are well on our way to seeing conversation as the ultimate context within which knowledge is to be understood.

—Richard Rorty⁶

[It is by] [p]articipating in these conversations, and not the ability to reason cogently, to make discoveries about the world, or to contrive a better world, which distinguishes the human being from the animal Indeed, it seems probable that it was the engagement in this conversation (where talk is without conclusion) that gave us our present appearance, man being descended from a race of apes who sat in talk so long and so late that they wore out their tails.

—Michael Oakeshott⁷

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INTRODUCTION

Senator Barack Hussein Obama has taken American politics by storm. With little more than two years on the national scene, his decision to run for president has enchanted Americans of all political persuasions and from all walks of life. Both his unusual biography and his personal demeanor have especially infused the young with the will to sweep away, what they consider to be, our broken political system and to replace it with the pursuit of community and the common good.⁸ His message is that we can, if we will it, change the corrupt political landscape by embracing a more creative and humane politics.⁹ With audacious hope, the Obama phenomenon has captured the imagination of a generation.

According to the advocates of the Obama Phenomenon, the presidential candidate is a unique blend of brilliance, cordiality, and passion. Even though he is an African American, Obama is running for president as an American who happens to be black, not as a black man whose campaign is designed to vindicate past racial injustice.¹⁰ In no way does his racial identity exhaust his presidential goals. Author Shelby Steele eloquently emphasizes this point when he writes that some people view Obama as embodying “a great and noble human aspiration: to smother racial power in a democracy of individuals. To stand in the glow of so high an aspiration is to seem a bit enchanted or, at the very least charismatic.”¹¹ Alternatively stated, Obama’s charisma derives, in part, from a rejection of racial politics. He regards racism as one among many problems we can overcome if we transform the way we conduct politics. As Steele elaborates: “The very essence of Obama’s appeal is the idea that he represents racial idealism—the idea that race is something that America can transcend. That’s a very appealing idea. A lot of

Americans would truly love to find a black candidate they could comfortably vote for President of the United States.”¹²

The question remains whether the United States is “now the kind of society that can allow a black—of whatever pedigree—to become the most powerful human being on earth, the commander of the greatest military in history?”¹³ This question underlies everything written about the Obama and his effectiveness on the national stage. However, even though this question is critically important, only Election Day can provide an answer.¹⁴ Consequently, this is not the question with which this Article is concerned.

The question this Article seeks to answer is whether we can explore the Obama Phenomenon through the lens of political theory.¹⁵ Does Obama’s conduct exemplify an attractive political theory? Is it possible to identify elements in the Senator’s behavior that lend themselves to interpretation in terms of a political theory that is coherent and appealing? Answering these questions, if successful, involves a fundamentally novel approach to evaluating politicians, political movements, and the course of political history. In essence, this approach provides a new role for political theory in American political discourse.¹⁶

In pursuing this approach, keep in mind that, according to conventional wisdom, there are, at least, two distinguishable types of political theory. The first type of theory seeks to determine the correct political and institutional design, especially how government should work and what role government should play in society. Examples of this type of theory are liberalism and conservatism. The second type of theory consists of a moral theory, which justifies theories of the first kind. Consequentialism and deontological ethics represent examples of this second type of theory.

Now, the possibility of a third type of theory presents itself. Theories of this type arise when there exists systemic disagreement within and between theories of the first two types. The theory I propose in this Article is an example of this third kind of theory.

Some observers may wince at this proposal to resurrect the pursuit of theory. Americans are much too pragmatic to give theory a serious chance. Theories have no place in the humanities and perhaps not even in the social sciences. Theories are fixed, rigid, and implacable. Politics are soft, malleable, and transient. Hence, theory gets a bad rap from the public and even from some academics. The situation is so dire that some scholars simply have no patience for theorizing. Some scholars even denigrate the very idea of legal theory.¹⁷

This Article strikes a blow in the opposite direction. Theories need not be tendentious, abstract, or algorithmic. We employ commonsense theories daily,¹⁸ which help tie together seemingly disparate elements of our experiences into a syncretic whole.¹⁹ This Article demonstrates a novel use for such a political theory. A political theory can be used to interpret a presidential candidate's conduct in order to determine whether the candidate's behavior exemplifies the theory. By doing so, we can garner evidence about how these candidates will perform their duties as president. Additionally, the entire quest for a candidate's "vision" is made easier if there exists a theory that is exemplified by the candidate's behavior. In Obama's case, this Article interprets a subclass of Senator Obama's verbal behavior—biographical statements, as well as statements of his goals and policies—in such a manner that permits one to say his behavior exemplifies the theory.²⁰

The theory I propose is called “deliberative conversationalism,” and the goal of this Article is to determine whether this theory is exemplified in Senator Obama’s verbal behavior. Senator Obama’s speeches and writings are evaluated in order to determine whether they express deliberative conversationalism.²¹ In order for that determination to be significant, deliberative conversationalism should be seen as an attractive theory. This does not mean that the theory must be the one true theory, nor that the theory is even true at all; it simply means that deliberative conversationalism can be cast in a favorable light, at least relative to our considered intuitions about settling controversies.

The first part of this Article explains the failure of reason and the necessity for discourse theory, a group of theories of which deliberative conversationalism is a member. Part Two articulates the theory of deliberative conversationalism. Part Three shows that Senator Obama’s verbal behavior can be interpreted in terms of the theory. This involves showing that conspicuous features of Senator Obama’s vocabulary reflect key elements in the vocabulary of deliberative conversationalism. Part Four defends the proposition that Senator Obama’s behavior exemplifies deliberative conversationalism against certain objections.

Presenting the case establishing the connection between deliberative conversationalism and Senator Obama sometimes warrants speaking of Obama in laudatory terms. This should not suggest that the Article’s thesis rests on endorsing Obama’s candidacy for president. In fact, this thesis does not require one to embrace either deliberative conversationalism or Senator Obama. However, if one finds deliberative conversationalism attractive, and if it can be shown that Senator Obama is a deliberative conversationalist, then one has reason to vote for him. Similarly, if one

opposes deliberative conversationalism and Senator Obama exemplifies the theory, then one has reason not to vote for him.²² The Article's purpose is to tie political theory to the voting booth, but it does not dictate how one should vote. Let us now turn to the task of elaborating the theory of deliberative conversationalism.

PART ONE: THE RISE AND FALL OF REASON

A. THE BIRTH OF REASON

Why did deliberative conversationalism emerge as a political theory? Appreciating this novel political theory requires a crash explanation of a critical development in Western intellectual history. What follows is a brief account of how the rise and fall of epistemology brought us to the doorstep of deliberative conversationalism.

The modern era of intellectual history ushered in an intoxicating transformation in our conception of human knowledge.²³ The change involved switching from a paradigm of knowledge by status and authority to a paradigm of knowledge by an individual's capacity to reason. The Church was the main target against which this new protestant view of reasoning railed. No one—certainly no institutional authority—could conceivably corner the market on truth. Each individual is, in principle, just as competent to formulate arguments about the way the world is, and the way the world ought to be, as any other individual or institutional authority. No longer were gods and kings the exclusive arbiters of what counts as knowledge. Now every individual could participate in the discovery of truth with equal status to that of everyone else.

The governing principle in this epistemological revolution is reason—the capacity to deductively and inductively derive knowledge from evidence.²⁴ Reason belongs to no individual, institution, or ideology. It is simply a function of human intellection and

reveals universal principles of thought and action for any rational being. Reason promises an Archimedean vantage point from which all individuals committed to rationality and reasonableness may judge the truth of a proposition for themselves. This Archimedean perspective purports to be a neutral and impartial means of discovering truth and resolving conflicts of both fact and value.

This Enlightenment conception of reason has influenced legal development. Judges, embodying reason, adjudicate controversies impartially and neutrally. They have no vested interest in the result of the controversy, except to produce a rationally defensible judgment. To achieve this goal, judges must remain neutral and impartial when adjudicating controversies. According to this conception, there exist acontextual principles and rules in caselaw and American jurisprudence, which are divorced from any particular individual's values, and can be invoked to settle controversy. In other words, in this view, there are right and wrong answers to legal conflicts that can be discovered but only if we exhibit the intellectual fortitude to follow the dictates that reason lays down.²⁵

This modernist conception of reasoning persists in law today. Legal theorists are among the most strident in insisting that there are value-free right answers to legal conflicts. Despite the inability to find the right answer or to convince others that we have found it, the belief that there is, in principle, always one right answer is not often challenged. Even when it is challenged, it seems to always prevail. Alternatively stated, while acknowledging the presence of epistemic indeterminacy and underdeterminacy, the Enlightenment view maintains that, at least for the foreseeable future, rational argument is the exclusive means of settling conflicts. Merely by using legal reasoning, according to the appropriate rules of inference and empirical factors scientifically discovered, we can

derive legal truth. There is, however, dispositive evidence that reason cannot fulfill its promise. The next section explains why.

B. WHY REASON FAILS

Reason's failure means that it alone cannot be used to resolve political conflicts. It does not mean that reason is good for nothing. The art of reasoning persists and will continue to be used in resolving uncontroversial cases. However, in the hot-button issues of the so-called culture wars, reason is one among several factors operative in political dispute resolution. Empathy, tolerance, negotiation, and compromise are among the other factors. To put this point differently, on the one hand, reason is prevalent in political dispute resolution as an ordinary low-budget mechanism useful in resolving relatively uncontroversial cases. On the other hand, the idea of reason, as a high-budget, philosophical concept, adequately designed to resolve hot-button cases, is illusory.

What must be rejected is the idea that if we could only apprehend the philosophical meaning of "reason," we would then have a procedure for rationally settling social, political, and moral conflicts sans phrase. Such philosophical hubris distracts us from the central problem of trying to better understand our adversaries. Taking other people seriously, by appreciating their stories, is the central task in settling controversies, and the first step toward solidarity with our fellow citizens of the United States and of the world.²⁶ Searching for a philosophical theory of reason sidetracks us from the realization of reason's limited role in resolving political controversies. In a free society, other factors play a far greater role than reason does. For example, television images of fire hoses inundating innocent African Americans and African Americans

being attacked by dogs had a much greater effect on the civil rights movement's success than did any argument about equality.

C. Explaining Reason's Failure

Reason fails because in a free society reasonable disagreement is inevitable. Reasonable disagreement simply means that nothing compels belief. Where belief is not compelled, individuals will be able to justify incompatible judgments. At some point justification runs out and resolution is beyond reach. One is left with two carefully reasoned, yet incompatible, arguments, neither of which compels assent. Therefore, it is not unreasonable to reject either conclusion. Three related problems explain why this is so: (1) the problem of essentially contested concepts,²⁷ (2) the burdens of judgment, and (3) the conflict between dedicated and deliberative constructs.

1. The Problem of Essentially Contested Concepts

An essentially contested concept has an internal structure that systematically generates conflicting answers to political controversies. The problem these concepts pose goes directly to the nature of reasoning as a tool for settling controversies and achieving consensus. To appreciate this problem, it is necessary to distinguish between concepts and conceptions.

A concept embodies an abstract idea whose semantic content is required to facilitate political dispute resolution. A conception is an abstract idea contextualized or made concrete, thus enabling the concept to be used in practical reasoning. For instance, the concept of "equality," in free societies is one about which there is considerable agreement. However, the concept of equality possesses an internal structure,²⁸ which makes agreement about what equality actually means in a particular situation virtually

impossible.²⁹ The complexity of the internal structure of equality generates different conceptions of equality, all clamoring, unsuccessfully, to stand for the sole meaning of the concept. The inability to identify the concept of equality with one, and only one, conception of equality makes reasonable disagreement inevitable.

Equality is an evaluative concept whose importance in a free society is paramount. The core meaning of the concept “equality” requires the relevantly similar treatment of two relevantly similar individuals in relevantly similar circumstances. While there may be wide agreement over this definition, “equality” is still an essentially contested concept because using it in an argument requires explicating the meaning of the subsidiary element “relevantly similar” as applied to persons, treatment, and circumstances. Because in a free society, “relevantly similar” will inevitably be understood differently by different individuals and different groups, it will yield different conceptions of equality.

Living in a free society does not create, rather it compounds, the probability that agreement, if possible at all, will be difficult. Concepts are essentially contested because in free societies individuals are permitted, often encouraged, to make their own decisions about controversial political issues.³⁰ Due to their different experiences, which generate dissimilar conceptions of relevant similarity, reasonable disagreement will persist. Waiting for some wunderkind philosopher or political theorist to overcome reasonable disagreement is, of course, possible. If intellectual history is any guide, however, there is little reason to be sanguine about this possibility.

However, there are many non-controversial cases in which “equality” plays a significant role, because agreement exists about the meaning of the subsidiary element

“relevantly similar.” Granting a benefit to or imposing a burden on red-haired people is arbitrary, and hence violative of the concept of equality because hair color is typically unrelated to political benefits and burdens. Similarly, granting sixteen-year-old adolescents the privilege of driving automobiles while denying the privilege to fourteen-year-olds does not violate equality because age is roughly related to good judgment in driving.

The salient point is, however, that the concept of equality will be unable to settle a certain class of controversies because what counts as “relevantly similar” is itself contested. Our different experiences and background commitments will influence what we consider to be relevant similarities. In controversial cases, these differences will make resolution virtually impossible. The critical point is that in these cases, the internal structure of “equality” makes reasonable disagreement a permanent feature of political life.

2. The Problem of the Burdens of Judgment

Reasoning and judgment will inevitably be challenged in a free society. These challenges—or what political philosopher John Rawls calls “the burdens of judgment”³¹—render it virtually impossible to achieve a consensus over central political controversies. The burdens of judgment explain why reasonable disagreement is, and should be, inevitable in a free society. These burdens include: (1) the complexity of the empirical factors relevant to a judgment; (2) the difference in weight placed on relevant empirical factors; (3) the indeterminacy associated with concepts and the need for interpretation; (4) the difference in life experiences and the effect this difference has on our judgments; (5) different kinds of normative factors, with their concomitant difference

in normative force, generate different judgments; and (6) the difficulty in selecting the appropriate subset of values from the society's actual set of "cherished values" and the difficulty in determining the priority of the values finally chosen.³²

In general, the burdens of judgment explain the fact and degree of dissensus that exists in a democratic republic such as the United States. Dissensus itself does not entail the permanent inability to discover truth or to determine the right answers to political conflicts. However, when a particular intractable controversy is subject to examination over the course of history by the best minds of several generations with no apparent success, then the most plausible conclusion is that, even if there is a right answer to a controversy, we will never know it. From the epistemic vantage point we can only wistfully dream of discovering that answer; only if there existed a reliable epistemic perspective, is consensus possible.

Consensus cannot be forced in a democratic republic. Only argument or endless conversation is available to arrive at resolutions or, failing that, to crystallize the reasons explaining why agreement eludes us. While a great deal of consensus is possible and actually occurs, there exists a set of related controversies that resist—sometimes permanently—resolution. These battles in the culture wars—including but not limited to, abortion, affirmative action, same-sex marriage, patriotism and flag burning, immigration, and the role of religion in a democracy—resist consensus because they all involve essentially contested concepts that cannot overcome the burdens of judgment.³³

3. The Distinction Between Deliberative and Dedicated Constructs

Do you have any beliefs or values that you would not give up though the heavens fall?³⁴ Perhaps the question is better put, "Do you hold any beliefs or embrace any values

that are beyond criticism, revision, or repudiation?” I am not asking whether there are some beliefs and values for which you would die. Rather, are there certain beliefs and values that you could not imagine being false, and to which you are unwilling to even consider challenges? If so, you hold dedicated beliefs and values. If not, you are probably a deliberativist.³⁵

Deliberative constructs, including concepts, reasons, justification, cultures, and communities, among others, are modeled on the idea that everything is open to challenge, though not all at once. Few, if any, propositions in one’s conceptual scheme are sacrosanct. Every proposition can be challenged and repudiated, if the overall benefits to the explanatory utility of the conceptual scheme outweigh the burdens. Thus, deliberativists reject the idea of a non-relative, necessary truth. Epistemically speaking, deliberativists hold even their deepest values tentatively. This does not imply that deliberativists will not defend these values; rather it means that they acknowledge that nothing is absolutely certain.³⁶

Deliberativists are willing to hold their beliefs and values out to the widest possible criticism and modify, revise, and refine them until further revision seems, at least for the moment, pointless. This presents trouble for the deliberativists. The deliberativists’ idea of change encourages abandoning beliefs and values in light of disconfirming evidence, and therefore they are open to the charge of “flip-flopping.” However, it is not flip-flopping to change one’s opinion when new evidence warrants it. Flip-flopping in the name of the best evidence is no vice.³⁷ Sticking to one’s position, even though the results are catastrophic, is no virtue. Because the deliberativist’s credo is

to continually seek disconfirming evidence for his or her beliefs and values,³⁸ changing positions on some issues will occur often.³⁹

By contrast, dedicated constructs are designed to be virtually untouchable. Their truth, usually, is derived from some authoritative book, person, or doctrine, and challenging this canonical source is typically unacceptable.⁴⁰ While deliberativists are open to new information that can be evaluated along with longstanding beliefs, dedicated systems are virtually closed to new information. Doubtless, new information may become part of a dedicated system, but it is not welcomed or self-consciously sought.⁴¹

When a free society tolerates both kinds of constructs, as it must, reasonable disagreement will be inevitable. Deliberativists will unsuccessfully encourage those holding dedicated beliefs and values to subject them to critical scrutiny. Similarly, those holding dedicated beliefs and values will encourage deliberativists to embrace the truth as judged from their dedicated perspective. In these circumstances there will be agreement on many commonsense judgments, but hot-button controversies have little chance of being resolved. When a free society contains strong conceptions of deliberative and dedicated judgments, reason will be unable to achieve consensus, thereby creating the need for some less demanding form of inquiry.

These challenges to reason—essentially contested concepts, the burdens of judgment, and the distinction between deliberative and dedicated constructs—explain the failure of reason and suggest that reason is too blunt and feeble to be the basis of resolving political disagreement in a free society.

When rational consensus cannot be achieved, the natural conclusion is that even if there is one right answer to the controversy, it does us little good to strive to discover it.

Rather, when the absence of consensus is systemic across a range of issues, our primordial faith in reason becomes unsettled. In these circumstances, one can choose to become a nihilist, contending that truth, reason, reality, and objectivity are all an illusion, or turn to some less demanding form of inquiry. At this point, discourse theory enters the discussion.

PART TWO: ENTER DISCOURSE THEORY

A. DISCOURSE THEORY REPLACES REASON

Discourse theory is designed to be a more resilient form of political dispute resolution.⁴² We are beset with intractable controversies that define a volatile aspect of American culture. We seek agreement, but it must be unforced agreement, which comes about through human interaction and discussion. Discourse theory contends that talking to one another in the hope of achieving consensus through some sort of compromise requires more than reasoning. It requires putting oneself in the shoes of the other guy, developing empathy for an opponent's perspective, and challenging one's own reasons to see if a fundamental value is involved and whether that value should be acted upon in a society where reasonable disagreement prevails. Discourse theory sometimes mirrors ordinary reasoning, however, it rejects the idea that reason has any greater foundation than its utility.

Accordingly, reason is a useful, but significantly limited, concept. It can resolve ordinary political disputes. What it cannot do, however, is guarantee agreement or make agreement more likely in those highly controversial political disputes. Once we apprehend that reason is limited to easy cases—cases in which right answers are probable—we are then able to recognize that discourse, perhaps unending discourse, is

replete with non-rational factors. In appreciating discourse theory, we realize that reason takes us only so far.⁴³

To grasp the nature of discourse theory, including deliberative conversationalism, it is important to understand the distinction between normal discourse and transformative discourse. Normal discourse occurs when one attempts to resolve questions governed by a clear and comprehensive paradigm.⁴⁴ This permits straightforward debate and dispute resolution.⁴⁵ Normal discourse includes a default vocabulary and a default set of intuitions relevant to political dispute resolution. Without normal discourse, one could not even raise questions about intractable political controversies. For instance, raising the question of whether abortion is morally right depends upon normal discourse. Included in normal discourse are such basic moral intuitions as murder is wrong and, if abortion is murder, it too is wrong.⁴⁶

However, it is critical to keep normal discourse and transformative discourse distinct. One common instinct is to try to settle the question of abortion through normal discourse. Yet, when we fail to discover a shared paradigm governing this controversy, normal discourse has run out.⁴⁷ The absence of a shared paradigm moves the debate into the zone of transformative discourse, and a new paradigm must be forged if disagreement is to be resolved.⁴⁸

B. THE BIRTH OF DELIBERATIVE CONVERSATIONALISM

Deliberative conversationalism developed as a reaction to the bravado of mainstream theorists trumpeting reason's reliability. Their notion that for every controversy one true answer existed became highly suspect. A new form of inquiry in law was born.⁴⁹

Deliberative conversationalism posits a group of individuals deliberating over what is in the community's best interest. It is more concerned with "unforced [deliberative] agreement" rather than wasting time trying to grasp the correct philosophical account of "objectivity."⁵⁰ Such agreement provides "everything in the way of objective truth" that we can reasonably expect.⁵¹ When engaged in deliberative conversation the end is consensus or, failing that, getting a sharper sense of just what is in conflict. Nothing "philosophical" will do the job any better. As philosopher Richard Rorty elaborates:

If we see knowing not as having an essence, to be described by scientists and philosophers, but rather as a right, by current standards to believe, then we are on our way to seeing conversation as the ultimate context within which knowledge is to be understood. Our focus shifts from the relation between human beings as the objects of their inquiry to the relation between alternative standards of justification, and from there to actual changes in those standards, which make up intellectual history.⁵²

The goal of unforced deliberative agreement replaces truth, and deliberative conversationalism replaces reason as the new approach to political controversies.⁵³

The hallmark of deliberative conversationalism is its invitation to others to join the conversation. Conversationalism is a form of communication, but it also provides evidence that you take your opponent seriously. You afford your opponent the respect and consideration all human beings warrant. This involves acknowledging that your conversational partner, even Hitler himself, has inherent worth, however much his or her conduct suggests otherwise.

Deliberative conversationalism sometimes requires directly approaching one's opponents. The phenomenological dimension of facing one's opponents, addressing

them, and listening to their points of view, confers an earnestness that cannot be conferred indirectly. This dimension suggests that one is willing to explore the possibility of a just and principled compromise. This willingness itself tends to soften entrenched positions.

C. THE CONTENT OF DELIBERATIVE CONVERSATIONALISM

Deliberative conversationalism embraces the following elements: First, it consists of deliberation and conversation between and among all sides in a controversy. Second, it distinguishes between normal and transformative discourse and change. Third, and most critical, deliberative conversationalism emphasizes a community of equally valuable individuals,⁵⁴ and seeks to include as many different types of people as possible, and therefore, is always ready to expand the community.⁵⁵ Fourth, the goal of this conversation is consensus, which requires epistemic humility, empathetic persuasion, cooperation, collaboration, bargaining, and compromise. For the sake of simplicity, I will refer to these elements as “the seeds of consensus.”

Deliberative conversationalism emphasizes deliberating with one’s opponents as well as one’s friends. By engaging in unfettered dialogue, deliberative conversationalism is always ready to reconstruct our current vocabulary and political intuitions and seek more perspicuous ones.⁵⁶ Since deliberative conversationalism abandons the contemporary rationalist’s adoration of reason, it is transformative in its very inception. Further, those embracing deliberative conversationalism are ready to sweep away the results of prior conversations if the circumstances warrant it. This penchant for transformative change rests on a commitment to critical and self-reflective deliberation.

However, those committed to deliberative conversationalism recognize, as contemporary rationalists do not, that one person's reason is another person's irrelevancy.

The core of deliberative conversationalism is its commitment to communitarianism, which can be understood in at least two senses.⁵⁷ First, communitarianism can posit a pre-established and complete community existing prior to the advent of deliberations. This sense of community is best illustrated in dedicated communities and cultures. Because dedicated cultures are antithetical to deliberation this sense of community is unavailable to deliberative conversationalism. Second, communitarianism can be designed to bring individuals together in recognition of their common needs and aspirations. In doing so, this form of communitarianism seeks an inclusive and expansive community so that each of us can see ourselves reflected in the presence of others. It acknowledges the equal inherent worth of all individuals and, therefore, each person is prepared to modify or abandon positions in light of not only more plausible arguments by others, but also in light of other individuals' needs and aspirations, as well as the common good. In this Article, deliberative conversationalism will be understood to be communitarian in this second sense. And this sense of communitarianism drives deliberative conversationalism's pursuit of consensus.⁵⁸

The vocabulary of deliberative conversationalism has never been prominent in American politics, thus it will be ferociously resisted. Deliberative conversationalists will be accused of empty rhetoric, wanting everyone to just get along, or seeking a "kumbaya moment." Until the vocabulary of deliberative constitutionalism has sufficient currency in political discourse, if it ever will, critics will fail to appreciate the impact embracing consensus over zero-sum, victory will have on politics. Extraordinary discipline is

required to implement the vocabulary of deliberative conversationalism. It is too easy to fall into the old vocabulary of reason and denigrate, or even demonize, one's opponents. So rather than employ empty rhetoric, deliberative conversationalism requires hard work in instantiating its credo. Fortunately, its vocabulary, especially the seeds of consensus, shows us the way.

D. FROM DELIBERATIVE CONVERSATIONALISM TO PRESIDENTIAL POLITICS

How would a deliberative conversationalist approach presidential politics? A presidential candidate, committed to deliberative conversationalism, will seek to interact with others through dialogue and debate. The presidential candidate may advocate shifting the paradigm for presidential leadership in the appropriate circumstances, especially when the system is perceived to be broken. He or she is ready to engage in normal conversation and transformative conversation when the circumstances warrant it. Moreover, he or she regards everyone as inherently equal, and seeks to include as many voices in the dialogue as possible. The deliberative conversationalist candidate seeks to instantiate community and the seeds of consensus. Does deliberative conversationalism capture Senator Barack Obama's philosophy of politics?⁵⁹

PART THREE: THE CASE FOR OBAMA AS A DELIBERATIVE

CONVERSATIONALIST

A. SENATOR OBAMA'S STORY

Senator Obama's story is both unusual and remarkable.⁶⁰ His multi-racial and multicultural background has led him to reject the divisiveness that plagues American society. In Obama's view, "divisiveness has been exploited and encouraged by pundits and politicians who need this division to score points and win elections."⁶¹ But it is a

division of America that I am running for President to fundamentally reject—not because of a blind optimism I hold, but because of a story I’ve lived.”⁶² The heart of his story is better told in his own words:

It is a story that began here in El Dorado, when a young man fell in love with a young woman who grew up down the road in Augusta. They came of age in the midst of the Depression, where he found odd jobs, on small farms and oilrigs, always dodging the bank failures and the foreclosures that were sweeping the nation.

They married just after the war broke out in Europe, and he enlisted in Patton’s army, after the bombing of Pearl Harbor. She gave birth to their daughter on the base at Fort Leavenworth, and worked on a bomber assembly line when he left for war.

In a time of great uncertainty and anxiety, my grandparents held on to a simple dream—that they could raise my mother in a land of boundless opportunity; that their generation’s struggle and sacrifice could give her the freedom to be what she wanted to be; to live how she wanted to live.

I am standing here today because that dream was realized—because my grandfather got the chance to go to school on the GI Bill, buy a house through the Federal Housing Authority, and move his family west—all the way to Hawaii—where my mother would go to college and one day fall in love with a young student from Kenya.

I am here because that dream made my parents’ love possible, even then; because it meant that after my father left, when my mother struggled as a single parent, and even turned to food stamps for a time, she was still able to send my sister and me to the best school in the country.⁶³

This is a story of an ostensibly patriotic man from humble beginnings, filled with gratitude for the opportunity to pursue the American dream, who seeks transformative change so other people from humble beginnings can also achieve the American dream.

This is the story of a man who confronts the conventional complaint that Americans

cannot come together by replying, in effect, “Why not?” We can, in his vision, do better if we only realize that the status quo polarization is not inevitable. The possibility of change is in our hands.⁶⁴

B. SENATOR OBAMA AS A DELIBERATIVE CONVERSATIONALIST

For what America needs right now, more than ever . . . is a willingness to engage in a sober, adult, conversation about our future.

—Barak Obama⁶⁵

The philosophy contained in Senator Obama’s speeches and literary works lend themselves to interpretation as deliberative conversationalism.⁶⁶ To support this claim, this section shows that his public statements are consistent with a deliberative conversationalist vocabulary.⁶⁷ Obama uses the same critical terms—or functionally equivalent terms—in his public statements as those found in deliberative conversationalism. Moreover, his use of this vocabulary follows the logic of deliberative conversationalism.

1. Is Senator Obama Committed to Deliberation and Conversationalism?

Senator Obama insists that he believes in the possibility of deliberating and opening a conversation in almost every situation.⁶⁸ He tries “to get . . . different points of view communicating so it [verbal interaction with others] is a conversation and dialogue.”⁶⁹ Specifically, Obama seeks to engage people who disagree with him in dialogue. This was demonstrated when he gave a heckler the microphone at a town meeting to express his dissatisfaction with Obama’s alleged neglect of questions important to the black community. Obama respectfully listened to the question and then responded.⁷⁰ This predilection to conversationally engage critics is a central element in

Obama's conduct and suggests a commitment to deliberative conversationalism. Additionally, his use of the vocabulary of deliberative conversationalism—deliberation, dialogue, discourse, and conversation—expresses his political philosophy.

According to Obama, deliberation is the process of taking one's seat at the metaphorical table of political discussion and with others deciding in good faith which policy is in the best interest of the community. This requires stating one's conscientious views about social policy. Still more important, it requires listening to other people's stories and the different perspectives derived from them.⁷¹ For Obama, every type of person, "farmers and teachers, businessmen and laborers, all of them with a story to tell, all of them seeking a seat at the table, all of them clamoring to be heard. . . . It was here we learned to disagree without being disagreeable."⁷² Compared with the shouting and bullying in American political culture, Obama's technique represents a radical change. Americans must restrain the instinct to fight and must learn to quiet the clamoring for domination.

Ideally, this clamor will desist and deliberation about the community's common good will ensue: "We may disagree on certain issues and positions, but I believe we can be unified in service to a greater good."⁷³ Everything in Obama's deliberative conversationalism is designed to emphasize the common good as determined through a respectful deliberative process. Obama's deliberative conversationalism is the process that explores all sides of a controversy in order to maximize the chances of forming social policy that serves the common good.

The health care crisis Americans face can be resolved, for example, only if we talk with one another in good faith. According to Obama, "It's time to turn the page on

health care—to bring together unions and businesses, Democrats and Republicans, and to let the insurance and drug companies know that while they get a seat at the table, they don't get to buy every chair.”⁷⁴ Because this view introduces a legitimacy condition—who gets to sit at the table—it is far from empty-headed. This legitimacy condition rests on Obama's egalitarianism. One may infer that each person has one voice and is entitled to one chair only.⁷⁵

Deliberation requires critical reflection, patience, and empathy enabling participants to listen to one another.⁷⁶ Obama insists that he has “never learned anything from refusing to listen to other people or refusing to engage in conversation with them, and that surely can't be the basis for healthy politics in our society.”⁷⁷ Obama's commitment to deliberative conversationalism requires listening to others in good faith, not in patronizing condescension. In the context of our occupation of Iraq Obama opines: “Essential to a successful policy is the Administration listening to its generals and diplomats, and members of Congress—especially those who disagree with their policies and believe it is time to start bringing out troops home.”⁷⁸ Open dialogue and debate are constant themes in Obama's political theory.

This predilection for seeking the widest possible input, especially from those opposed to current policy in Iraq, reveals Obama's commitment to deliberation, which requires “the power of our diplomacy.”⁷⁹ Obama believes “we need the United States to lead tough-minded diplomacy.”⁸⁰ Such a “[d]iplomacy is measured by patience and effort.”⁸¹ In this regard, a regional conference of key players in the region must be consulted with and this must include odious regimes as much as cooperative ones. “As odious as the behavior of those regimes may be at times, it is important that we include

them in a broader conversation about how we can stabilize Iraq.”⁸² Every regime in the area should be motivated to engage in such diplomacy. All the countries in the Middle East have an enormous stake in the outcome in Iraq, and so must be engaged in finding a solution.⁸³

. . . I firmly believe that we should convene a regional conference with the Iraqis, Saudis, Iranians, Syrians, the Turks, Jordanians, the British and others. The goal of this conference should be to get foreign fighters out of Iraq, prevent a further descent into civil war, and push the various Iraqi factions towards a political solution.⁸⁴

Senator Obama has faith in Americans “to understand that it’s not weakness, but wisdom to talk not just to our friends, but our enemies.”⁸⁵ Quoting President John F. Kennedy, Obama states “we should never negotiate out of fear, but [we] should never fear to negotiate.”⁸⁶ The safest way to deal with outlaws is to bring them to the negotiation table.⁸⁷

Senator Obama audaciously challenges “the conventional thinking that says we can’t conduct diplomacy with leaders we don’t like. Strong countries and strong Presidents talk to their adversaries as well as their friends, and that’s what I’ll do.”⁸⁸ Abandoning the timeworn requirement of setting strict pre-conditions before negotiating with our adversaries, domestic or international, is risky business. Yet, how serious can a leader be if he insists that his adversary accept, as a pre-condition to negotiations, what should be a substantive goal of the negotiations?

Risky or not, Senator Obama wants to eliminate the entrenched view that talking to one’s adversaries without pre-conditions is foolhardy. Obama is quite aware that this transformation

will require a new era of American diplomacy. To signal the dawn of that era, we need a President who is willing to talk to all nations, friend and foe. I'm not afraid that America will lose a propaganda battle with a petty tyrant - we need to go before the world and win those battles. If we take the attitude that the President just parachutes in for a photo-op after an agreement has already been reached, then we're only going to reach agreements with our friends. That's not the way to protect the American people. That's not the way to advance our interests.⁸⁹

Obama's desire for "a new era in American diplomacy" is not mere rhetoric; it has content. Obama promises that he "will call for a standing, bipartisan Consultative Group of congressional leaders on national security. . . . But these discussions have to take place on a bipartisan basis, and support for these decisions will be stronger if they draw on bipartisan counsel."⁹⁰ It is critical to note that "diplomacy" is Obama's problem solving methodology generally—internationally, domestically as well as inter-personally. And a robust sense of diplomacy is at the core of deliberative conversationalism.

2. Is Senator Obama Committed to Transformative Change?

I am running for President because I believe that we need fundamental change in America. Not just a change of Party in the White House, but change in Washington that the American people can believe in—unity instead of division; hope instead of fear; a politics that leaves behind the fights of the past so that we can finally take hold of the future.

—Barack Obama⁹¹

As illustrated in the discussion on diplomacy, for Senator Obama, change is critical, but not merely changing the party controlling the wheels of government. He accepts nothing less than change that redefines politics for our time. He not only wants to quiet the vitriol in Washington, he also wants to institute a new understanding of how to carry on political discussion. If we stop perseverating about our differences, we may be

able to see what unites us. The commitment to unity—that Americans are decent people with much in common—drives Obama’s endorsement of transformative change.

Obama implores us to recognize “that there is a political transition that is going to happen nationally, where people try to break out of some of the conservative-liberal sharp divisions.”⁹² In Obama’s view, it is this either-or mentality that restricts us to tired and worn solutions on both sides. Rejecting this dichotomy permits us to adopt a pragmatic, commonsense approach to controversial questions.

Obama believes “there is a great hunger for change in the country, and not just policy change. What I also think they [the people] are looking for is change in tone and a return to some notion of the common good and some sense of cooperation, of pragmatism over ideology.”⁹³ He hopes that he has “a particular ability to bring the country together around a pragmatic, common-sense agenda for change that probably has a generational element to it as well[.]”⁹⁴ He senses “that the current generation is more interested in smart government. If the market solution works, let’s go with the market solution. If the solution requires government intervention, let’s do that. But let’s look at the practical outcomes.”⁹⁵ Obama calls upon the uniquely American philosophy of pragmatism to provide a new American attitude towards change.

Obama believes that “there are moments in American history where there are opportunities to change the language of politics or to set the country’s sights in a different place,” and in his view “we’re in one of those moments.”⁹⁶ But we have to act, “America is ready to turn the page. America is ready for a new set of challenges. This is our time. A new generation is ready to lead.”⁹⁷ Obama’s deliberative conversationalism seeks to

replace the vocabulary of self-interest and factionalism with a vocabulary of deliberative conversation and the common good.

This desire for transformative politics explains Senator Obama's admiration of Ronald Reagan. Obama stated that President Reagan "spoke to the failures of liberal government, during a period of economic stagnation, to give middle-class voters any sense that it was fighting for them."⁹⁸ Moreover, "Reagan spoke to America's longing for order, our need to believe that we are not subject to blind, impersonal forces but that we can shape our individual and collective destinies, so long as we rediscover the traditional virtues of hard work, patriotism, personal responsibility, optimism, and faith."⁹⁹ Although Senator Obama disagreed with many but not all of Reagan's policies, he enthusiastically endorsed the traditional virtues. As a result, he deeply admired Reagan's ability to create transformative change in our nation.

3. Is Obama a Communitarian?

Be a good citizen, think about the other guy, but most importantly, do something about it.

—Barak Obama¹⁰⁰

Communitarianism maintains that an individual is grounded in community and that practical reasoning cannot center on individual interests alone.¹⁰¹ Obama believes that Americans are more than mere individualists:

Our individualism has always been bound by a set of communal values, the glue upon which every healthy society depends. We value the imperatives of family and the cross-generational obligations that family implies. We value community, the neighborliness that expresses itself through raising the barn or coaching the soccer team. We value patriotism and the obligations of citizenship, a sense of duty and sacrifice on behalf of our nation. We value faith in something bigger than ourselves, whether that

something expressed itself in formal religion or ethical precepts. And we value the constellation of behaviors that express our mutual regard for one another: honesty, fairness, humility, kindness, courtesy, and compassion.¹⁰²

He believes that Americans want to better express this sense of community. In his view, we “are hungry for a different kind of politics—the kind of politics based on the ideals this country was founded upon. The ‘idea’ that we are all connected as one people. That we all have a stake in one another.”¹⁰³ Obama holds a “fundamental belief—I am my brother’s keeper, I am my sister’s keeper—that makes this country work.”¹⁰⁴ The goal of this new kind of politics is the communitarian idea that we are bound to one another and that what matters to others should matter to us. Emphasizing this point Obama states “[o]ur individual salvation depends on collective salvation.”¹⁰⁵ This comment turns on its head the widely shared view that collective interests are grounded in individual interests. By contrast, according to in Obama, individual interests must be grounded in collective interests, conceptually and practically.

Obama’s communitarianism reminds us of the early republic’s notion of civic virtue, which included a sense of the importance of other members of the community. It is an ethical universalist doctrine that Dr. Martin Luther King, Jr. explained as follows: “I can never be what I ought to be until you are what you ought to be. And you can never be what you ought to be until I am what I ought to be.”¹⁰⁶ For Dr. King, Americans “find themselves together in a single garment of destiny, caught in an inescapable network of mutuality.”¹⁰⁷ The need for mutuality or reciprocity renders us incomplete if we fail to interact with others in a respectful and caring manner. Yet, by acting on mutuality or reciprocity we foster a sense of community with whomever we interact.

Factions and interest group politics have fractured these bonds, pitting individual against individual and groups against groups. Individuals band together to seek special goals without concern for how their pursuit affects others or the common good. Senator Obama believes in calling “all Americans to a common purpose—a higher purpose.”¹⁰⁸ From the Revolution to the present, the essential struggle has been whether Americans can create a society honoring individual freedom in a community of common purpose.

For Obama, this common purpose is activated when “we begin to recognize ourselves in one another.”¹⁰⁹ When talking to different groups of individuals Obama noted, “I found that I recognized in these folks a part of myself. I learned that everyone’s got a sacred story when you take the time to listen. And I think they recognized a part of themselves in me too.”¹¹⁰ This interconnectedness of people and their stories forms the communitarian basis of Obama’s commitment to deliberative conversationalism. The fact that we have real differences is not disputed, but these differences are often warring ships on an ocean of commonality.

Obama’s search for community stands as a driving force in his life as illustrated by the following excerpt from his memoir:

Communities had never been a given in this country, at least not for blacks. Communities had to be created, fought for, tended like gardens. They expanded or contracted with the dreams of men—and [in the civil rights movement] I saw the African-American community becoming more than just the place where you’d been born or the house where you’d been raised. Through organizing, through shared sacrifice, membership had been earned. And because membership was earned—because this community I imagined was still in the making, built on the promise that the larger American community, black, white, and brown, could somehow redefine itself—I believe that it might, over time, admit the uniqueness of my own life.¹¹¹

Community, of the sort Obama embraces, now seems to drive his politics as well. In this respect, the vocabulary of community, central to Obama's personal and political personality, is the vocabulary of deliberative conversationalism. Community, then, becomes the reason for pursuing consensus.

4. Is Obama Committed to Consensus?

The seeds of consensus follow from Obama's communitarianism. His sense of community dominates the new politics and explains why consensus becomes so important:¹¹²

I have seen people of differing views and opinions find common cause many times during my two decades in public life, and I have brought many together myself. I've walked arm-in-arm with community leaders on the South Side of Chicago and watched tensions fade as black, white, and Latino fought together for good jobs and good schools. I've sat across the table from law enforcement and civil rights advocates to reform a criminal justice system that sent thirteen innocent people to death row. And I've worked with friends in the other party to provide more children with health insurance and more working families with a tax break; to curb the spread of nuclear weapons and ensure that the American people know where their tax dollars are being spent; and to reduce the influence of lobbyists who have all too often set the agenda in Washington.¹¹³

In place of ideological strife, Senator Obama wants us to consider "what can be achieved when we bring people together to seek pragmatic solutions."¹¹⁴

Cooperation and collaboration are critical ideas in this process. In America "cooperation happens not because we agree on everything, but because behind all the labels and false divisions and categories that define us; beyond all the petty bickering and point-scoring in Washington, Americans are a decent, generous, compassionate people, united by common challenges and common hopes."¹¹⁵ The better angels of our nature

incline us towards talking things through and forming coalitions in search of pragmatic solutions.¹¹⁶ The worst devils of our nature make it easy for us to vilify and condemn our opponents.

In this collaborative spirit Senator Obama believes with a working consensus we can fix various problems our society faces, such as our broken system of public education. To do so, however, “we need to work with governors, educators and especially teachers to develop better assessment tools that effectively measure student achievement, and encourage the kinds of research, scientific investigation, and problem-solving our children will need to complete.”¹¹⁷ Similarly, a working consensus would be better equipped to address environmental problems, especially global warming, “by partnering with business, not fighting it.”¹¹⁸ An obstacle to such pragmatic solutions, however, is that people have become entrenched in their own prejudices and biases. Obama is asking people to set themselves free.¹¹⁹

The battle over the role of the government in the market illustrates how these prejudices operate. Conservatives generally want government to stay out of the market and not influence economic decision-making. Liberals, by contrast, distrust economic views that reject the government playing a major role. This either-or approach encourages us to automatically reject solutions that challenge our entrenched views about government’s proper role in the market, views that were formularized and crystallized in another era but which we inherit as sacrosanct. Again, Obama challenges this either-or approach:

[O]ur history should give us confidence that we don’t have to choose between an oppressive government-run economy and a chaotic and unforgiving capitalism. It tells us we can emerge from great economic upheavals stronger, not

weaker. Like those who came before us, we should be asking ourselves what mix of policies will lead to a dynamic free market and widespread economic security, entrepreneurial innovation and upward mobility, and we can be guided throughout by Lincoln's simple maxim: that we do collectively, through government, only those things that we cannot do as well or at all individually and privately. In other words, we should be guided by what works.¹²⁰

This passage reveals Obama's pragmatism. He believes that "[y]ou can't always come up with the optimal solution, but you can usually come up with a better solution."¹²¹

Bargaining and compromise are the standard means of settling issues for deliberative conversationalists.¹²² In Obama's opinion, "it's possible to compromise so long as you know those principles can never be compromised; and that so long as we're willing to listen to each other, we can assume the best in people instead of the worst."¹²³ In pursuit of this goal, we must scrap a "preference for scoring cheap political points instead of rolling up our sleeves and building a working consensus to tackle big problems."¹²⁴

However, Senator Obama's pursuit of consensus presents serious political problems. No matter what a politician believes, he is supposed to take a stand. Legal scholar Richard Epstein puts this point succinctly: "His [Obama] entire life, as best as I can tell, is one in which he's always been a thoughtful listener and questioner, but he's never stepped up to the plate and taken full swings."¹²⁵ This appraisal misconstrues Obama's pursuit of consensus. Obama sees himself as an arbitrator and a bricoleur first trying to appreciate the nuances and complexities of opposing opinions and only then trying to piece together what might be held in common from the opinions at hand. This requires him to restrain his own view until all relevant opinions have been heard. Obama

comes to the plate and takes full swings but his full swing is to cobble the various perspectives into an integrated view satisfactory to different warring factions

In conclusion, Obama's public statements show that he is committed to deliberation, conversation, transformative change, community, and consensus. These are critical elements in deliberative conversationalism. In understanding this political theory we achieve a window into the mind of Barack Obama.

Part Four defends this deliberative conversationalist interpretation of Senator Obama statements.

PART FOUR: DEFENDING THE INTERPRETATION

A. IS SENATOR OBAMA COMMITTED TO DELIBERATIVE CONVERSATIONALISM?

One objection to attributing deliberative conversationalism to Obama is that he never invokes the theory in his public remarks. According to this objection, the subject of an interpretation should exhibit an awareness of the theory and express the theory in his or her behavior. This objection insists that attributing a theory to a person requires that he or she use the theory when describing, explaining, or justifying his or her behavior. However, Obama never invokes deliberative conversationalism or, any other theory for that matter in referring to his conduct. A more intimate relationship between the theory and the subject is required. This argument should at least assert that Obama would assent to the theory if confronted with it. In these hypothetical circumstances, Obama would see that the vocabulary of the theory and his vocabulary converge, and therefore, he would embrace the theory.

This objection misses its mark. Nothing requires subjects of interpretation to actually or hypothetically assent to an interpretation of their behavior in the vocabulary of

a particular theory. One might interpret someone's behavior as Christian without the person being Christian or even knowing what Christianity is. Furthermore, whether the person would assent to the theory if certain hypothetical circumstances obtained is typically something we cannot know, and therefore, entirely beside the point. Indeed, a politician who does, in fact, ascribe to a theory may still deny it for political reasons. Yet, even in this limiting case, the theory might nonetheless be an accurate interpretation of his behavior.

If, upon grasping the theory, Senator Obama accepted its interpretation of his conduct, then that would constitute some evidence supporting the interpretation. However, such evidence is neither necessary nor sufficient for characterizing Obama as a deliberative conversationalist. Consequently, Senator Obama need not specifically invoke the theory, actually or hypothetically, for it to accurately interpret his conduct.

However, Senator Obama does invoke the theory in his speeches, though neither by its name nor as a theory. Obama invokes the theory implicitly because his use of the language of deliberative conversationalism corresponds to the way someone who self-consciously appeals to the theory in her practical reasoning would speak and act. The language of deliberation, conversation, transformative change, community, and consensus represent constant themes in his speeches.¹²⁶ Of course, this does not imply that he is aware of the theory as such. He does not use the term "deliberative conversationalism," yet, that is hardly necessary for a theory to serve as an illuminating interpretation of Senator Obama's conduct.¹²⁷ If Senator Obama's favored vocabulary corresponds to the theory of deliberative conversationalism or its functional equivalent, then the theory assists in explaining Senator Obama's political statements.

B. DOES SENATOR OBAMA SINCERELY BELIEVE IN WHAT HE SAYS?

Another objection to the interpretive process this Article advocates is that just because a person's behavior can be interpreted according to some political perspective does not mean that the person actually embraces the content of this perspective. Generally speaking, but especially in the case of politicians, what a person says does not always accurately reflect the individual's normative commitments. Accordingly, Senator Obama might be using the language of deliberative conversationalism, while not believing it. Rather, he may adopt the vocabulary in order to appeal to voters expecting an advantage over his opponents, while still devoid of any personal connection to the theory of deliberative conversationalism.

Such a degree of skepticism (and cynicism) is not unwarranted. Many politicians, perhaps an overwhelming number, will say anything to get elected at one time or another. There is no mechanism available to determine conclusively whether anyone, let alone a politician, is sincere. Yet, the attractiveness of what they say can be evaluated. It can be determined whether they live up to the ideals expressed in the vocabulary they choose, but not very much more.

While deliberative conversationalism does not provide a means for determining the sincerity of a person, the fact that a person chooses to use this discourse tells us something important about that person. If the cynic (or skeptic) is right about sincerity, the fact that Senator Obama chooses the language of deliberative conversationalism tells us what Senator Obama thinks Americans want. If the perspective of deliberative conversationalism is chosen because it appears to reflect the people's choice of political values, then the theory helps us understand something important about contemporary

politics and what the American people desire. More important, if the theory is attractive and Obama uses its vocabulary, even if insincerely, to garner votes, people are then exposed to the theory's vocabulary and may embrace the theory even if Obama does not.

However, what are the odds that Senator Obama is completely insincere? How likely is it that he has no personal investment in deliberative conversationalism? It does not require much investigation to see that his speeches are replete with references to the theory's vocabulary. What is more interesting and important is whether Senator Obama will keep faith with this political theory during critical times in the campaign and, should he become president, when governing.¹²⁸ It is too soon to draw any conclusions about this issue one-way or the other.

Any appreciation of Obama's personality, however, must acknowledge that he is complex and not always consistent, but perhaps no more so than other effective politicians.

Like many politicians, Obama is paradoxical. He is by nature an incrementalist, yet he has laid out an ambitious first-term agenda (energy independence, universal health care, withdrawal from Iraq). He campaigns on reforming broken political process, yet he has always played politics by the rules that exist, not as he would like them to exist. He runs as an outsider, but he has succeeded by mastering the inside game. He is ideologically a man of the left, but at times he has been genuinely deferential to core philosophical insights of the right.¹²⁹

This Obama's complexity derives from deliberative conversationalism itself. One cannot attempt to tolerate, even if only temporarily, all sides to a controversy without appearing inconsistent. Therefore, a deliberative conversationalist is bound to appear paradoxical in this fashion.

Additionally, deliberation requires thinking things through, given the political rules one inherits. Arguably to be successful in politics one must become ruthless even if only temporarily. Obama is not unaware of his own “reptilian” side.¹³⁰ Any serious evaluation of a politician must involve a cost-benefit analysis. Is his ruthlessness too much of a price to pay for the possible benefits of his vision? The problem Obama poses is that his vision, which reflects deliberative conversationalism, is so far removed from his reptilian, Chicago politician side, as to perhaps cause cognitive dissonance.

In Obama’s defense, however, the deliberative conversationalist is not barred from attempting to change the rules when he has sufficient power. Working within the system in order to change the system may be the only game in town. Perhaps the best way to describe this possibility is that “Barack Obama is ready to seize the opportunity and satisfy America’s hunger for a president capable of facilitating workable plans to achieve idealistic goals.”¹³¹ Reptilian traits may even assist in this process. We must never forget it is a political theory we are expounding.

C. Isn’t the Theory Rather Ad Hoc?

Another objection is the theory of deliberative conversationalism seems to cherry-pick the features of Senator Obama’s conduct that support the theory. When theory and conduct match so well, it raises suspicions that the theory was devised specifically to solely interpret a particular individual’s conduct. As such, it appears arbitrary and *ad hoc*, skewed to one subject only. For the theory to be non-arbitrary it must apply to a class of individuals, not only Obama.

This objection is misplaced. Any theory that accurately interprets its subject’s behavior will have an intimate relationship with that subject. This is an inevitable

consequence of theorizing. The fact that the vocabulary of the theory and the vocabulary use to characterize Obama's behavior "match" does not imply that the theory is arbitrary or ad hoc. Indeed, the "match" provides presumptive evidence that the interpretation succeeds.

More important, deliberative conversationalism has significance independent of Senator Obama or his campaign for the presidency. Deliberative conversationalism is a form of discourse theory. It rejects foundationalism and other forms of contemporary rationalism. The theory can be stated without reference to Senator Obama. Hence, the interpretation is anything but arbitrary or ad hoc regards to the Senator's behavior. The theory is designed to interpret the behavior of anyone using a particular political vocabulary. Rather than arbitrary, the theory provides window into the subject's political convictions.

A related objection maintains that the vocabulary of deliberative conversationalism can be found in the public statements of any presidential candidate. Words like "change," "community," "cooperation," and "consensus" sooth a dispirited public. It is not improbable that John McCain sometimes uses words associated with deliberative conversationalism. However, it is not obvious that Senator McCain uses deliberative conversationalism or that it plays as prominent role in his public statements and in campaign for president as it does in Obama's.¹³² Furthermore, if deliberative conversationalism was to play a prominent role in Senator McCain's public statements, then that is additional evidence that the theory is one which America embraces. Is the interpretive approach then committed to the truth of deliberative conversationalism?

D. IS DELIBERATIVE CONVERSATIONALISM THE CORRECT POLITICAL THEORY?

According to this objection, there is no evidence that deliberative conversationalism is the correct political theory, even if it is America's theory. Accordingly, even if it correctly interprets Senator Obama's behavior, if the theory is false or unprovable, it provides no benefit whatsoever. At best, it means that Senator Obama is misguided.

Unfortunately, this objection conflates interpreting conduct in terms of a theory and endorsing the theory. This Article's thesis is simply that deliberative conversationalism is a coherent, plausible theory that can be used to interpret Senator Obama's conduct, and therefore, it helps us understand the decision-making process of an important American politician. It does not claim that the theory is true, and that every rational person should vote for Obama. Rather, let me reiterate, if one believes the theory to be false, and the theory accurately interprets the Senator's behavior, then one has a reason to vote against Obama.

E. DOES SENATOR OBAMA LIVE UP TO DELIBERATIVE CONVERSATIONALISM?

One troubling objection to interpreting Senator Obama's conduct as that of a deliberative conversationalist, is simply that he does not live up to the theory. Consider NEW YORK TIMES columnist David Brooks' view on this matter:

God, Republicans are saps. They think that they're running against some academic liberal who wouldn't wear flag pins on his lapel, whose wife isn't proud of America and who went to some liberationist church where the pastor damned his own country. They think they're running against some naive university-town dreamer, the second coming of Adlai Stevenson. But as recent weeks have made clear, Barack Obama is the most split-personality politician in the country today. On the one hand, there is Dr. Barack, the high-minded, Niebuhr-quoting speechifier who spent this

past winter thrilling the Scarlett Johansson set and feeling the fierce urgency of now. But then on the other side, there's Fast Eddie Obama, the promise-breaking, tough-minded Chicago pol who'd throw you under the truck for votes. This guy is the whole Chicago package: an idealistic, lakefront liberal fronting a sharp-elbowed machine operator. He's the only politician of our lifetime who is underestimated because he's too intelligent. He speaks so calmly and polysyllabically that people fail to appreciate the Machiavellian ambition inside.¹³³

When things get tough for the idealist, (the reformer, or in this case, the deliberative conversationalist)¹³⁴ Dr. Barack's alter ego, Fast Eddie, takes over. After insisting, "he could no more disown the Reverend Jeremiah Wright than disown his own grandmother,"¹³⁵ Fast Eddie took over and threw the good reverend under a truck.

Nowhere is this multiple personality divide more striking than in Barack Obama's reversal of his promise to take public campaign financing funds. Brooks writes:

And then on Thursday, Fast Eddie Obama had his finest hour. Barack Obama has worked on political reform more than any other issue. He aspires to be to political reform what Bono is to fighting disease in Africa. He's spent much of his career talking about how much he believes in public financing. In January 2007, he told Larry King that the public-financing system works. In February 2007, he challenged Republicans to limit their spending and vowed to do so along with them if he were the nominee. In February 2008, he said he would aggressively pursue spending limits. He answered a Midwest Democracy Network questionnaire by reminding everyone that he has been a longtime advocate of the public-financing system.

But Thursday, at the first breath of political inconvenience, Fast Eddie Obama threw public financing under the truck. In so doing, he probably dealt a death-blow to the cause of campaign-finance reform. And the only thing that changed between Thursday and when he lauded the system is that Obama's got more money now.

And Fast Eddie Obama didn't just sell out the primary cause of his life. He did it with style. He did it with a video

so risibly insincere that somewhere down in the shadow world, Lee Atwater is gaping and applauding. Obama blamed the (so far marginal) Republican 527s. He claimed that private donations are really public financing. He made a cut-throat political calculation seem like Mother Teresa's final steps to sainthood.¹³⁶

Brooks' hyperbole is entertaining, but is it accurate? Should an idealist—a reformer, or a deliberative conversationalist—stick to his principles in every situation no matter the cost? More germane to our concerns, must a deliberative conversationalist ignore strategic considerations entirely? Is an idealist or deliberative conversationalist compelled to single-mindedly fall into “the Idealist Trap,” of sticking to his ideals even if it costs him the election?¹³⁷ The bottom line is that some of the greatest presidents have compromised principles and broken promises. It must be permissible for a president to do, so even a reformer president, just as long as he is willing to accept the consequences of doing so.¹³⁸

Most of the examples Brooks uses can be interpreted in a plausible, non-hypocritical fashion. Regarding Reverend Wright, Obama simply had too much. He might have believed that Wright's provocative statements were too great a distraction from the pressing issues this nation faces. Who knows, whether Obama—or any reasonable person, for that matter—might have denounced his grandmother if she acted in a similar manner? One also must take into account just how strategically important a reversal may be. Obama's choice to opt out of public campaign financing may turn out to be the single most important decision in a winning presidential campaign.

Anyone who believes that a self-avowed reformer must never act contrary to reform principles lives in a hermitage. There are times when reformers should make choices that run contrary to some of their principles. The question for American citizens

is not whether Obama betrayed one of his "core principles." Rather the questions should be whether his vision is attractive and whether he acts in accordance with this vision more often than not and in more significant contexts than not. From a deliberative conversationalist perspective, if the deliberative conversationalist generally acts in accordance with that vision, even if there are conspicuous failures to do so, then he is still better than an ordinary politician who opposes deliberative conversationalism.

However, does Barack Obama suffer from Brooks' metaphorical multiple personality syndrome? Only if we take the "politics" out of "idealist politics." Any reformer, idealist, or visionary committed to deliberative conversationalism is useless if we excise "politician" from his description. The difference between an idealist, a reformer, or a visionary, on the one hand, and a political idealist, political reformer, or political visionary, on the other, is simply that to implement ideals, reforms, and visionary principles, one must get one's hands dirty. One must especially get one's hands dirty if one wants to be elected to the presidency. No quixotic visionary will ever be elected president without being prepared to make strategic choices. Moreover, in a thuggish world, no president is qualified or competent to defend the nation without being ready to make such strategic choices.

F. SHOULD PRESIDENTS COMPROMISE?

Any presidential candidate committed to deliberative conversationalism realizes that epistemic humility, as well as the pursuit of consensus, require compromise. What kind of compromise is appropriate? Or compromise about what?¹³⁹ Following Thomas Jefferson,¹⁴⁰ the conventional view is that compromising on policy is acceptable, but compromising on principle is not. While there may be a presumption against

compromising on principle, it must be a defeasible presumption. The reason is that it is arguably better to implement part of a principle in a compromise, and reap the benefits of doing so, than to reap no benefits at all.¹⁴¹ For example, there may be no legitimate reason why a certain group of people should not receive the proper health insurance, but political reality militates against including that group in a new public plan. The choice is to abandon the principle that everyone ought to receive health insurance or compromise on principle and reap the incremental benefits of more people being covered by health insurance.

One might reply that this is a compromise on policy, not principle, but that reveals an additional reason for regarding the prohibition against compromising on principle to be a defeasible presumption, namely, the distinction between policy and principle is often impossible to draw with any confidence. Accordingly, this condition requires conversationalists to be willing to compromise on policy, and sometimes, even on principle.

CONCLUSION

This Article introduces a political perspective known as “deliberative conversationalism,” an anti-foundationalist, and anti-modernity conception of resolving controversial political questions. Deploying this theory provides an interpretation of Senator Obama’s behavior, mostly through his public statements and writings. Deliberative conversationalism accurately depicts Senator Obama’s behavior and consequently, deliberative conversationalism helps us understand an important political figure, who may become the next president of the United States.

What is novel about this approach is the contention that political theory can assist us in understanding candidates for the presidency. Perhaps others will appeal to egalitarianism, libertarianism, and republicanism to interpret the public statements and conduct of other presidential candidates, and a practice such as this will encourage candidates to see themselves through the eyes of theory. Candidates can then embrace or reject the theory depending upon the candidate's self-conscious choices. Introducing commonsense theories back into presidential campaigns may replace the detritus that now permeates the "news" with a more productive discussion about the community's future. Moreover, it will help us to understand the various theories that have accompanied the constitutional development of the United States.

NOTES

¹ Professor of Law, Widener University School of Law (Delaware). Ashleigh Ormsby deserves credit for her excellent research and editing.

² Senator Barack Obama, Democratic Nat'l Convention Keynote Address (July 27, 2004).

³ Steve Dougherty, HOPES AND DREAMS: THE STORY OF BARACK OBAMA (2007).

⁴ http://www.blackvoices.com/black_news/headlines_features/canvas_news_Articles/_a/obama-experience/20070820130009990001

⁵ Barack Obama, DREAMS FROM MY FATHER 34-35 (1993).

⁶ Richard Rorty, PHILOSOPHY AND THE MIRROR OF NATURE 389-94 (1979).

⁷ Michael Oakeshott, *The Voice of Poetry in the Conversation of Mankind*, in RATIONALISM IN POLITICS 197, 199 (1962).

⁸ His impact on the young has been astonishing. John K. Wilson, BARACK OBAMA: THIS IMPROBABLE QUEST 11-12 (2008). *See generally*, THE OBAMA MOVEMENT: WHY BARACK OBAMA SPEAKS TO AMERICA'S YOUTH (Joseph Vogel, ed. 2007).

⁹ The cynic, even the skeptic, no doubt will chuckle at this apparent naiveté. American politics was corrupt since, at least the 1796 election, but certainly by the 1800 revolution. High-minded visionaries have sounded the clarion call before; yet time and time again, politics tend to revert back to an impoverished state of inertia. Proposing otherwise—that virtuous politics can become a permanent feature in American society—is nothing less than utopian, in the worst sense of that term.

This cynicism itself, however, acknowledges the possibility of transformative political change. The presidential elections of 1800, 1828, 1932, and 1980 were transformative elections, bringing in new political visions or resurrecting old ones for

American society. Senator Obama believes the presidential election of 2008 has the potential to be added to this list.

¹⁰ It has been questioned whether Obama is sufficiently black. *See* John McWorter, *The Color of His Skin*, N.Y. SUN, September 21, (2006) (arguing that Obama is considered a presidential candidate “not despite his race, but because of it.”). While Obama is talented and definitely black, his background does not include American slavery, *de jure* segregation, or *de facto* segregation, at least not to the same extent as an African American whose parents were raised in the United States.

¹¹ Shelby Steele, *A BOUND MAN: WHY WE ARE EXCITED ABOUT OBAMA AND WHY HE CAN’T WIN* 8 (2007).

¹² Shelby Steele *Quoted in*, Joann F. Price, *BARACK OBAMA: A BIOGRAPHY* 104 (2008). This raises the question of whether race can be transcended without coming to terms with the effects of past racism and the continuing injuries racism causes.

¹³ *Id.*

¹⁴ An Obama loss does not necessarily mean that Americans are not ready to elect an African American president. There may be legitimate reasons explaining such a loss. However, if he wins, the question is effectively answered in the affirmative.

¹⁵ The Obama Phenomenon can and will be studied from various perspectives. Historical and sociological inquiries would yield interesting information about changes in American society, specifically about race, and what makes contemporary America ripe for electing president a man whose skin color would probably have seen him enslaved one hundred and fifty years ago.

¹⁶ In this Article, “political” includes legal and constitutional factors. Consequently, reference to political controversies includes legal and constitutional controversies.

¹⁷ Stanley Fish, *Dennis Martinez and the Uses of Theory*, 96 YALE L. J. 1773 (1987) (condemning theory as superfluous in practical reasoning).

¹⁸ Robert Justin Lipkin, CONSTITUTIONAL REVOLUTIONS: PRAGMATISM AND THE ROLE OF JUDICIAL REVIEW IN AMERICAN CONSTITUTIONALISM 34-35 (2000) (distinguishing between white and blue collar theories of constitutionalism).

¹⁹ Wilfrid Sellars, IN THE SPACE OF REASONS 359 (2008) (explaining philosophy as the attempt to see “how things hang together” in the broadest possible sense).

²⁰ This leaves open the question of whether Senator Obama’s general conduct conforms to his verbal behavior, that is, does he put his money where his mouth is?

²¹ This exploration is potentially illuminating if it can show that there exists a novel and revealing political philosophical theory that Senator Obama exemplifies. We then learn something terribly important about political philosophy, Senator Obama, and perhaps the future of America.

²² There are additional possibilities. One might embrace the theory but reject Obama’s candidacy because one does not believe his behavior exemplifies the theory. Similarly, one may endorse Obama on grounds independent of deliberative conversationalism.

The aim of this Article is to determine whether the theory of deliberative conversationalism is exemplified in Senator Obama's linguistic behavior, therefore, a discussion of the myriad objections, both to the theory and to the Senator Obama's political positions is not included. The focus is not on the truth of either the theory or Senator Obama's political positions. Rather, the focus is on the relationship between the theory and what Senator Obama says. Even when both the theory and Obama's political positions are implausible, if the theory accurately explains his behavior, it is critical to understand the theory and how Senator Obama's behavior exemplifies it. It is the *relationship* that is important because, right or wrong, Senator Obama may become the next president of the United States.

²³ This modern era lasted roughly from 1630 to 1940.

²⁴ It is important to distinguish between the context of discovering propositions and the context of validating them. In the former almost anything counts as a means for arriving at justified beliefs and values—definitely analogical inferences and intuitive inferences. In the latter, reason is required to validate the justified belief or value as knowledge, or so the argument goes.

²⁵ Ronald Dworkin, *LAW'S EMPIRE* 259 (1986) (insisting that every legal controversy has a right answer even if we cannot discover it).

²⁶ One might reply that if taking other people seriously plays this important role, then it is grounded in and defended by reason. This move is tantamount to saying anything valuable, including restricting the use of reason in a given context, is rationally defensible. Unfortunately, this trivializes reason's role in human inquiry. It equates reason with anything valuable and by doing so begs the question against reason's critics.

Alternatively stated, if deliberative conversationalism is better than other political theories, then it must be reason's choice. The circularity of this reply should be obvious.

²⁷ W. B. Gallie, *Essentially Contested Concepts*, 56 PROC. ARISTOTLEAN SOC'Y 167 (1956) (describing the idea of "essentially contested concepts").

²⁸ This internal structure is usually complex also. The concept of "cat" does not exhibit sufficient complexity to qualify as an essentially contested concept.

²⁹ For a complete definition of an essentially contested concept see *supra* note 27.

³⁰ Practically speaking, the idea of an essentially contested concept relies on freedom. In totalitarian societies, the essentially contested dimension of the concept of equality is suppressed because the definition of "relevantly similar," for instance, is defined by the state. This does not mean the concept of "equality" has a univocal meaning in a totalitarian society. It just means contesting its meaning is impermissible.

³¹ John Rawls, *POLITICAL LIBERALISM* 54-58 (1990) (describing and explaining the burdens of judgment).

³² These burdens represent neither a proof of conceptual skepticism about the possibility of resolving controversial political issues nor do they entail epistemic skepticism. What these burdens suggest, by contrast, is the factual improbability of reaching agreement in these cases.

³³ Consensus is doing the heavy lifting here, both conceptually and practically. The reason for emphasizing consensus is that truth should be impersonal, and therefore, there should be an epistemic process for reliably generating truth across persons. Without such a reliable epistemic process for discovering truth, the fact, if it is one, that there are true answers to political controversies is irrelevant to our practical decisions.

³⁴ For example, “let justice be done though the heavens fall.”

³⁵ Robert Justin Lipkin, *Liberalism and the Possibility of Multiculturalism Constitutionalism: The Distinction Between Deliberative and Dedicated Cultures*, 29 U. RICH. L. REV. 1263 (1995) (explaining and defending the distinction between deliberative and dedicated cultures).

³⁶ Paradoxically, not even this proposition is absolutely certain. In certain circumstances, holding a proposition’s truth to be absolutely certain has better consequences than regarding it deliberatively. Barack Obama insists that the abolitionist movement is such an example. Referring to this movement, Obama writes: “I am reminded that deliberation . . . may sometimes be a luxury . . . and that it has sometimes been . . . the unreasonable—in other words the absolutists—that have fought for a new order. . . . I am robbed even of the certainty of uncertainty—for sometimes absolute truths may well be absolute.” Barack Obama, *THE AUDACITY OF HOPE THOUGHTS ON RECLAIMING THE AMERICAN DREAM* 97 (2006).

³⁷ One could argue that flip-flopping is in the eye of the beholder or that one person’s pragmatism is another’s flip-flopping. Jonathan Weisman, *In Campaign, One Man’s Pragmatism Is Another’s Flip-Flopping*, WASH. POST, June 28, 2008, at A6.

³⁸ The reason deliberativists seek disconfirming evidence rests on the conviction that one’s beliefs and values are supportable as long as one can defend against disconfirming evidence.

³⁹ The charge that a candidate is flip-flopping is usually an accusation that the candidate changed his or her position for expediency, rather than conscientious reasons. However, the distinction between these two types of reversals is not always easy to draw.

⁴⁰ Dedicated constructs may define a general framework that cannot be challenged, while permitting deliberation within that framework. Though conceivable, such a blending of dedicatedness with deliberation is unlikely. What happens when deliberation within the framework threatens some part of the framework? If the framework always trumps the deliberation, then the scheme is dedicated.

⁴¹ Deliberative and dedicated constructs are, of course, ideal types. Perhaps no one is exclusively committed to deliberative constructs as opposed to dedicated constructs, or vice versa.

⁴² Discourse theory is stated in different ways. The more prominent characterizations are: neutral discourse, communicative discourse, dialogue, and conversation. Bruce Ackerman, *Why Dialogue?*, 86 J. PHIL. 9 (1989) (presenting and defending the neutral discourse example of discourse theory); Jurgen Habermas, *THEORY AND PRACTICE* (1973) (elaborating the communicative action example of discourse theory); Joseph W. Singer, *The Player and the Cards: Nihilism and Legal theory*, 94 YALE L.J. 1 (1984) (applying Richard Rorty's attack on epistemology to legal theory); Robert Justin Lipkin, *Kibitzers, Fuzzies and Apes Without Tails: Pragmatism and the Art of Conversation in Legal Theory*, 66 TULANE L. REV. 69 (1991) (examining discourse theories and elaborating the conversationalist paradigm of discourse theory in terms of Rawls' notion of wide reflective equilibrium). For a powerful critic of discourse theory see Frederick Schauer, *Theory and Its Discontents*, 72 NOTRE DAME L. REV. 1309 (1997) (examining discourse theory in the context of free speech).

⁴³ Discourse theory appeals to the sociology of controversy. This sociology alerts us to the fact that agreement is sometimes achieved in controversial cases,

but only when we take our opponents seriously and realize nothing we possess can guarantee consensus. At this point, the savvy advocate of reason will move from a self-assured rationalist to a pragmatist with epistemic humility.

⁴⁴ Paradigms provide instructions about how to use a particular term. The term “dog” is governed by a clear and comprehensive paradigm, even if that paradigm has multiple senses; the term “equality” is not governed by such a paradigm, at least not by one that generates a determinate set of instructions.

⁴⁵ For example, many commonsensical and scientific questions can be resolved fairly straightforwardly, though this does not necessarily mean that the answers are obvious or easy. Some answers are obvious. We know that eating is necessary for survival, that what goes up must come down, and that a U.S. president must be at least 35 years of age.. Normal discourse is the discourse used successfully in everyday activities.

⁴⁶ However, whether abortion is murder is hotly contested.

⁴⁷ Both pro-life and pro-choice advocates share a commitment to life and choice. But each ranks them differently or denies that “life” is involved in the abortion controversy for the purposes of due process.

⁴⁸ Sometimes critical controversies can be overcome when a new paradigm is forged by struggle and then gains acceptance through the law. That is precisely what happened regarding racial segregation. The conflict between the vocabulary of states’ rights and the vocabulary of judicial supremacy was resolved in the context of race by authorizing the latter’s vocabulary. After civil rights protesters won the hearts and minds of the nation, those denying the equality of African Americans

abandoned their racial superiority conception of equality for an egalitarian paradigm. Transformative discourse overturned the racial superiority conception of equality, and by doing so, changed the soul of a nation.

⁴⁹ Rejecting reason results in the rejection of a certain family of words—a particular vocabulary—or the retention of a vocabulary with a drastically different import. The vocabulary in question is the vocabulary of argumentation, demonstration, proof, objectivity, and truth, among others. This vocabulary, it is believed, provides a guarantee, or at least some significant assurance that one is on the right track in reflecting reality. *But see* Richard Rorty, PHILOSOPHY AND THE MIRROR OF NATURE, *supra* note 6.

⁵⁰ Richard Rorty, *One Step Forward, Two Steps Backward*, 15 POL. THEORY 538, 541 (1987).

⁵¹ *Id.*

⁵² Richard Rorty, PHILOSOPHY AND THE MIRROR OF NATURE, *supra* note 6, at 389-94.

⁵³ Deliberative conversationalism constitutes a contemporary (some would say “postmodern”) epistemology for seeking unforced agreement. When this new “conversational epistemology works magic in achieving consensus that consensus is tantamount to political truth or warranted assertability.” *Id.*

More generally, conversation and unforced deliberative agreement in such disparate fields as science, literature, and politics are possible through deliberative constraints. Such constraints are the garden-variety constraints such as formal and

informal logical fallacies, and empirical factors, among others. There are no hard and soft subjects pertaining to truth. Rather, it is conversation all the way down.

⁵⁴ Amy Gutmann & Dennis Thompson, *DEMOCRACY AND DISAGREEMENT: WHY MORAL CONFLICT CANNOT BE AVOIDED IN POLITICS, AND WHAT SHOULD BE DONE ABOUT IT* (1996).

⁵⁵ Robert Justin Lipkin, *The Theory of Reciprocal Altruism*, 30 *PHIL. STUD.* (Ireland) 108 (1983-84) (describing two foundational principles of political ethics: (1) the principle of inclusion and (2) the principle of expansion).

⁵⁶ See Robert Justin Lipkin, *Reconstructing the Public Square*, 24 *CARDOZO L. REV.* 2025 (2003) for a discussion of reconstructing dedicated sectarian and secular into public discourse.

⁵⁷ This contrasts with an individualist interpretation of conversationalism, which regards conversationalism as the means for unencumbered individuals to work through political conflict for their own ends or the ends of their particular group or class.

⁵⁸ Deliberative conversationalism does not countenance the existence of correct answers lying out there in the world waiting for reason to discover them. For the deliberative conversationalist, "correct" answers are those that, upon reflection, a consensus of the community embraces. That is why our conversations should try to include as many individuals as possible. The larger the consensus the more assurance that the content of the consensus is justified. Accordingly, deliberative conversationalism, as indicated earlier, replaces epistemology with deliberative inquiry and recognizes that political truth is

grounded within the deliberations between and among equally inherently valuable individuals trying to resolve problems in order to bring about a better future.

⁵⁹ One important caveat is necessary at the outset. Evidence that Senator Obama is committed to deliberative conversationalism will be derived largely from what he says. Of course, both his words and his entire demeanor might be a charade. However, even if it is a charade, it tells us something about Obama, namely, that he believes his story is appealing to Americans. In other words, even if he cynically chooses this story only to win votes, his belief that this is a good story reveals something about Obama's normative commitments. Why go to the trouble of stressing his mixed race origins if he does not believe in its importance to changing America? The only answer is that he believes in the efficacy of the story. He is a politician, but a politician who clearly believes in the American dream. He may, of course, fail to live up to his ideals sometimes, but that does not mean he is a fraud. It just means that he is human.

⁶⁰ Barack Hussein Obama was born in Hawaii in 1961 to a white mother from Kansas and a black father from Kenya. He has lived in Indonesia and various parts of the United States. For much of his young life, his maternal grandparents raised him. Obama graduated from Columbia University and Harvard Law School, where he was elected the first African American president of the law review. Before attending law school he

worked as a community organizer on Chicago's south side. Upon graduating from law school he practiced law. He then entered politics, first serving as a state senator and subsequently being elected to the United States Senate.

⁶¹ Senator Barack Obama, "Reclaiming the American Dream" Speech (Jan. 29, 2008), (transcript available at http://www.barackobama.com/2008/01/29/remarks_of_senator_barack_obam_44.php).

⁶² *Id.*

⁶³ *Id.* For a more complete account of Obama's story see Barack Obama, DREAMS FROM MY FATHER, *supra* note 5.

⁶⁴ According to Obama's supporters, he is neither a fool nor an optimist; nor has he lost touch with reality. He recognizes the "unalterable fact" that the country is divided. BARACK OBAMA, THE AUDACITY OF HOPE, *supra* note 36, at 6. While others are defeated by such recognition, so the argument goes, Obama is not. Obama can stomach the ignorance, the meanness, and the greed existing today, and yet still he seeks unity. Without people like this in American political culture, the United States becomes, or remains, a mechanism for individuals and groups to seek their own gratification without concern for the common good. For Obama's supporters, we need to be reminded of the importance of the common good. Obama's campaign for the presidency is, win or lose, just such a reminder.

⁶⁵ Senator Barack Obama, Northwestern University Commencement Address (June 16, 2006) (transcript available at http://www.barackobama.com/2006/06/16/northwestern_university_com).

⁶⁶ I intend nothing more mysterious in interpreting the statements of a subject than to say that his conduct can be described, explained, and justified (at least relative to the theory) by invoking the theory's vocabulary.

⁶⁷ This Part shows that the vocabulary of deliberative conversationalism corresponds to Senator Obama's vocabulary in his speeches and public statements. Although, his public statements are articulated with each of the basic elements in deliberative conversationalism, there is a great deal of overlap. Obama's statements are not rigidly characterizable into deliberation, conversation, transformation, communitarianism, and consensus. Consequently, when he speaks about conversation or transformation, he often also talks about communitarianism and consensus. Nevertheless, these categories do characterize the core elements in Obama's political philosophy. And the complete language of deliberative conversationalism can be seen in what the Senator says.

⁶⁸ Obama uses the term "conversation" in a variety of discursive contexts, such as his definition of the law. Obama regards the law as a recording of "a long running conversation, a nation arguing with its conscience," Barack Obama, *DREAMS FROM MY FATHER*, *supra* note 5, at 437.

⁶⁹ Lisa Rogak, *BARACK OBAMA, IN HIS OWN WORDS* 64 (2007).

⁷⁰ Barack Obama, *THE AUDACITY OF HOPE*, *supra* note 36, at 6. While campaigning in Illinois Senator Obama said he tried to "keep his mouth shut and hear what [others] had to say." He "listened to people talk about" what mattered most to them.

⁷¹ Not only does one learn when listening to others, but also those who are speaking are gratified because they "feel listened to." Darryl Pinckney, *Obama & the*

Black Church, NY REV. BKS, p. 19, July 17, 2008 (describing importance of Obama's inclination to listen to what people have to say).

⁷²Senator Barack Obama, Presidential Announcement (Feb. 10, 2007) (transcript available at <http://obamaspeeches.com/099-Announcement-For-President-Springfield-Illinois-Obama-Speech.htm>).

⁷³ Senator Barack Obama, Address at the Wesleyan University Commencement (May 25, 2008) (transcript available at http://www.barackobama.com/2008/05/25/remarks_of_senator_barack_obam_70.php).

⁷⁴Senator Barack Obama, "Turn the Page" Speech at the California Democratic National Convention (Apr. 28, 2007) (transcript available at <http://obamaspeeches.com/120-Obama-Turn-The-Page-Speech-California-Deomcratic-Convention.htm>).

⁷⁵ Other legitimacy conditions might enter into this equation. For example, someone who insists on being the only one to speak cannot hope to prevail. Consequently, Obama's deliberative conversationalism implies a richness that cannot be captured in the present inquiry.

⁷⁶ Obama's conversationalism requires conversing, but, as indicated earlier, it also requires listening. It is with irony and a singular touch of sadness that, in referring to the Senate, he says: "In the world's greatest deliberative body, no one is listening." BARACK OBAMA, *THE AUDACITY OF HOPE*, *supra* note 36, at 15.

⁷⁷ Steve Dougherty, *supra* note 3, at 41.

⁷⁸ Senator Barack Obama, Senate Floor Statement on Iraq Debate (June 21, 2006) (transcript available at http://obama.senate.gov/speech/060621-floor_statement_6/).

⁸⁰ Senator Barack Obama, Remarks on the Final Primary Night in St. Paul, MN (June 3, 2008) (transcript available at http://www.barackobama.com/2008/06/03/remarks_of_senator_barack_obam_73.php).

⁸¹ *Id.*

⁸² Senator Barack Obama, Senate Floor Statement on President Bush's Decision to Increase Troops in Iraq (Jan. 19, 2007) (transcript available at <http://obamaspeeches.com/096-Floor-Statement-on-Presidents-Decision-to-Increase-Troops-in-Iraq-Obama-Speech.htm>).

⁸³ Senator Barack Obama, Remarks on Iraq at the Chicago Council on Global Affairs (Nov. 20, 2006) (transcript available at <http://obamaspeeches.com/094-A-Way-Forward-in-Iraq-Obama-Speech.htm>).

⁸⁴ *Id.*

⁸⁵ Senator Barack Obama, Speech on Primary Night in Raleigh, NC (May 6, 2008) (transcript available at http://www.barackobama.com/2008/05/06/remarks_of_senator_barack_obam_62.php).

⁸⁶ Senator Barack Obama, Speech at the Virginia Jefferson-Jackson Dinner (Feb. 9, 2008) (transcript available at http://www.barackobama.com/2008/02/09/remarks_of_senator_barack_obam_47.php).

⁸⁷ A deliberative conversationalist is inclined to believe that Americans shout a lot, but seldom try to put themselves in the other guy's shoes. The choice is clear, both internationally and domestically. Put your fears, biases, and arrogance aside and meet your opponent at the table for deliberative conversation in order to attempt to discover

areas of commonality. This is a difficult road, but the easy road is to reject deliberation and conversation and continue to demonize and bully one's opponents.

⁸⁸ Senator Barack Obama, "The Past Versus the Future" Speech (Jan. 30, 2008) (transcript available at http://www.barackobama.com/2008/01/30/remarks_of_senator_barack_obam_45.php).

⁸⁹ Senator Barack Obama, "A New Beginning" Speech at DePaul University (Oct. 2, 2007) (transcript available at http://www.barackobama.com/2007/10/02/remarks_of_senator_barack_obam_27.php).

⁹⁰ *Id.*

⁹¹ Remarks of Senator Obama: "The Past Versus the Future" Speech, Denver, CO—January 30, 2008.

⁹² Howard Fineman, *A Different Kind of Politics?*, NEWSWEEK (Sept. 25, 2006).

⁹³ Kenneth T. Walsh, 'A Great Hunger for Change,' U.S. NEWS & WORLD REPORT (Jan. 8, 2007).

⁹⁴ Rick Pearson, *Obama on Obama*, Chicago Tribune (Dec. 15, 2006).

⁹⁵ *Id.* at 159

⁹⁶ Steve Dougherty, *supra* note 3, at 99

⁹⁷ *Id.* at 100.

⁹⁸ Barack Obama, THE AUDACITY OF HOPE, *supra* note 36, at 31.

⁹⁹ *Id.* It is difficult for progressives to appreciate to whom Regan appealed. He did not appeal to those displaced by "impersonal" market forces or those choosing to live counter-cultural life styles, or the poor, gays, and others who did not fit the conservative mold. Obama recognizes this but asserts that: "Nevertheless, by promising to side with

those who worked hard, obeyed the law, cared for their families, and loved their country, Reagan offered Americans a sense of common purpose that liberals seem no longer able to muster.” *Id.*, at 32.

The source of Obama’s attraction to Reagan might be explained by a need for order and belonging in Obama’s own life, which persisted during most of his formative years. Indeed, Obama’s longing for order in his attempt to discover his own identity is the foundation of his commitment to deliberative conversationalism.

¹⁰⁰ Senator Barack Obama, Remarks at the Herblock Foundation Annual Lecture (Apr. 6, 2005) (transcript available at http://www.barackobama.com/2005/04/06/remarks_of_senator_barack_obam_1.php).

¹⁰¹ BARACK OBAMA, *THE AUDACITY OF HOPE*, *supra* notes 36, at 55.

¹⁰² *Id.*

¹⁰³ “Turn the Page” Speech at the California Democratic National Convention.

¹⁰⁴ Steve Dougherty, *supra* note 3, at 49.

¹⁰⁵ *Id.*, at 64.

¹⁰⁶ Martin Luther King, Jr., *Remaining Awake Through a Great Revolution*, in *A KNOCK AT MIDNIGHT: INSPIRATION FROM THE GREAT SERMONS OF REVEREND MARTIN LUTHER KING, JR.* 205, 207 (1998).

¹⁰⁷ *Id.*, at 207-08.

¹⁰⁸ *See supra* note 12.

¹⁰⁹ Senator Barack Obama, Remarks to the National Council of La Raza (July 22, 2007) (transcript available at http://www.barackobama.com/2007/07/22/remarks_of_senator_barack_obam_21.php).

¹¹⁰ *See supra* note 7.

¹¹¹ Barack Obama, *DREAMS FROM MY FATHER*, *supra* note 5, at 34-35.

¹¹² Obama's commitment to consensus derives from his first exposure to executive management of an institution. Obama's "tenure as [Harvard Law] president . . . would foreshadow his future political style: a belief in giving attention to people with views other than his own; a desire to reach across the aisle to form consensus; a tendency to disappoint people in his own crowd—blacks and progressives—by not being more strident in his demeanor or behavior." David Mendell, *OBAMA: FROM PROMISE TO POWER* 91 (2007).

¹¹³ *See supra* note 7.

¹¹⁴ Senator Barack Obama, "Renewing the American Economy" Speech in New York City (Mar. 27, 2008) (transcript available at http://www.barackobama.com/2008/03/27/remarks_of_senator_barack_obam_54.php).

¹¹⁵ *See supra* note 7.

¹¹⁶ According to Obama, "the issue is not are you centrist or are you liberal. The issue to me, Is what you're proposing going to work? Can you build a working coalition to make the lives of people better? And if it can work, you should support it whether it's centrist, conservative, or liberal." Jennifer Senior, *NEW YORK MAGAZINE*, Sept. 25, 2006.

¹¹⁷ Senator Barack Obama, Remarks at Kettering University on Renewing American Competitiveness (June 16, 2008) (transcript available at http://www.barackobama.com/2008/06/16/remarks_of_senator_barack_obam_79.php).

¹¹⁸Senator Barack Obama, Energy Independence and the Safety of Our Planet (Apr. 3, 2006) (transcript available at <http://obamaspeeches.com/060-Energy-Independence-and-the-Safety-of-Our-Planet-Obama-Speech.htm>).

¹¹⁹ To achieve this, Americans must care about our collective future and be willing to make sacrifices in order to bring it about.

¹²⁰ Barack Obama, *THE AUDACITY OF HOPE*, *supra* note 36, at 158-59.

¹²¹ William Finnegan, *The Candidate: How the Son of a Kenyan Economist became an Illinois Everyman*, *THE NEW YORKER*, May 31, 2004. However, even Obama's pragmatism is qualified. He recognizes that in American history, especially regarding slavery, "it has not always been the pragmatist, the voice of reason, or the force of compromise, that has created the conditions for liberty." Barack Obama, *THE AUDACITY OF HOPE*, *supra* note 36, at 97. At times it has been "unbending idealism" and "absolutists" who were instrumental in removing cancerous social policy from the bones of the American nation." *Id.* To reiterate Obama's trenchant point, he reminds us that we are "robbed even of the certainty of uncertainty—for sometimes absolute truths may well be absolute." *Id.*

¹²² Shelby Steele sees Obama's penchant for bargaining in racial terms. Shelby Steele, *supra* note 11. Steele distinguishes between racial bargainers and racial confronters. Bargainers give whites the illusion of innocence for shredding any remaining vestiges of racism. Confronters distrust whites and believe racism to be the single most important obstacle to black liberation. Steele casts Obama as a racial bargainer giving whites absolution so that they will not feel threatened by him.

The fact that Steele sees Obama’s “bargaining” in racial terms precludes his appreciating that Obama’s bargaining comes, not from racial or electoral strategy, but rather, from his awareness that democracy requires bargaining. More interestingly, it derives from something basic in Obama’s nature. Steve Dougherty, *supra* note 3, at 17 (“It’s just not my style to go out of my way to offend people or be controversial just for the sake of being controversial. That’s offensive and counterproductive. It makes people feel defensive and more resistant to changes.”).

Steele’s preoccupation with race prevents him from appreciating that Obama is a deliberative conversationalist who bargains across the board. Steele does recognize, however, that bargaining is basic to Obama’s nature. He calls bargaining Obama’s “natural *métier*.” Shelby Steele, *supra* note 11, at 100. Yet, he then insists that the reason bargaining is a natural virtue to Obama is because Obama believes bargaining to be “a kind of charm—a charm that seizes on that first pleasant surprise that whites experience when they encounter a black who is not angry.” *Id.* The more plausible explanation is that Obama believes compromise and consensus is an inherently more promising form of dispute resolution than racial bargaining.

¹²³ *Supra* note 3.

¹²⁴ *Id.*

¹²⁵ Jodi Kantor, *Teaching Law, Testing Ideas, Obama Stood Apart*, NEW YORK TIMES, July 30, 2008.

¹²⁶ See Part Three for examples.

¹²⁷ The use of this vocabulary must represent a pattern of speaking. Using the language of the theory only occasionally is insufficient. Anyone observing Senator

Obama's campaign rhetoric, however, can not deny the role they play in his normative discourse. Additionally, the language of the theory must be used as reasons for Obama's proposed policy decisions. These reasons must both explain and justify his decisions. Part Three has shown that the language of the theory is a primary element in Obama's normative political discourse.

¹²⁸ Nevertheless, there are some who contend that Obama's reformer demeanor is a sham, and that the Senator is a seasoned, hardball-playing, Chicago politician. David Freddoso, *THE CASE AGAINST OBAMA: THE RISE AND UNEXAMINED AGENDA OF THE MEDIA'S FAVORITE CANDIDATE* (2008).

¹²⁹ Ryan Lizza, *Making it: How Chicago Shaped Obama*, *THE NEW YORKER*, July 21, 2008.

¹³⁰ Lisa Rogak, *BARACK OBAMA: IN HIS OWN WORDS*, *supra* note 69, at 4 (quoting Obama).

¹³¹ *THE OBAMA MOVEMENT*, *supra* note 8, at 59.

¹³² Of course, whether Senator McCain is just as much of a deliberative conversationalist as Obama is an empirical question, which must be determined by studying his public statements.

¹³³ David Brooks, *The Two Obamas*, *N. Y. TIMES*, June 20, 2008.

¹³⁴ While there are differences among idealism, reformism, and deliberative conversationalism, they do have one thing in common. All three posit principles that are antithetical to an exclusive commitment to strategic politics. Each of these positions seeks to elevate the moral dimension of actions performed in their name.

¹³⁵ *Id.*

¹³⁶ *Id.*

¹³⁷ Brooks' piece calls for campaign perfectionism. Never break a promise. Never veer from your articulated course. Stick to your “principles” no matter what the consequences. Why even if one’s decision to start a war was ill conceived and a “foreign policy blunder,” stick it out! Stay the course! Just who is an exemplar of Mr. Brooks' conception of competent and morally grounded presidential leadership?

¹³⁸ Such presumptively unacceptable behavior must be evaluated according to a qualitative and a quantitative dimension. What kinds of reversals does the reformer make? Are they reversals of principle? How often is the imperfect reformer inclined to break his word? How often does a reformer sacrifice reform for expediency?

¹³⁹ Put differently, should presidents compromise on principle? Can presidents compromise even a fundamental value and still be a person of integrity? Martin Benjamin gives the following answer to these questions.

If . . . the overall patter of life favored by most of is . . . one that includes a high degree of trying to see matters from others' points of view, an appreciation of factual uncertainty, moral complexity, and limited resources, a presumption against settling matters by rank and force, and so on, it would not be surprising if a compromise . . . were more integrity preserving than either of the polar alternatives. . . . To choose to preserve as best as possible the overall pattern of one's life cannot be regarded as betraying one's integrity. Indeed, in such circumstances, a compromise may provide the best means to preserving it.

Martin Benjamin, SPLITTING THE DIFFERENCE: COMPROMISE AND INTEGRITY IN ETHICS AND POLITICS 37 (1990).

¹⁴⁰ <http://www.yale.edu/lawweb/avalon/presiden/inaug/jefinau1.htm>.

¹⁴¹ The counterargument is that every time a politician acts in an apparently unprincipled manner, the long term negative consequences to the practice of acting on principle outweigh the perceived positive consequences of acting in the name of expediency.