



Interplay of Mythic Conceptions of Democracy in Congressional Deliberations over the USA PATRIOT Act

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Abstract

From ancient Greece through Alexis de Tocqueville and on through today, democracy has meant a lot of different things to many different people. The ambivalence surrounding the meaning of democracy and all of the ‘adjectives’ used to ‘precise’ the concept (i.e. constitutional, constitutive, direct, republican representative, deliberative, fugitive, pluralist, parliamentary, multiracial, and electronic) suggests that democracy is a rich discursive site for the study of these competing discourses. Through contrapuntal analysis, a form of social text analysis informed by Mikhail Bakhtin’s work in dialogism, this study provides a method for discussing ideological conceptions of democracy in fluid tension within the discursive activity of a U.S. Congressional meeting.

Keywords: Bakhtin, Congress, Democracy, USA PATRIOT Act, Dialogism, Discourse, Contrapuntal Analysis

1. Introduction

For centuries democracy has been ‘debated, discussed, practiced, established, attacked, supported, and ignored’ (Dahl 1998: 3). From ancient Greece through Alexis de Tocqueville and on through today, democracy has meant a lot of different things to many different people. David Collier and Steven Levitsky (1997) have argued that conceptual innovations of democracy have proliferated to such an extent — creating what they call ‘democracy with adjectives’ — that the concept with which democracy was initially associated has shifted and potentially diminished. Democracy, it seems, has become an empty symbol. The ambivalence surrounding the meaning of democracy and all of the ‘adjectives’ used to ‘precise’ the concept (i.e. constitutional, constitutive, direct, republican representative, deliberative, fugitive, pluralist, parliamentary, multiracial, and electronic) suggests that democracy is a rich discursive site for the study of these competing discourses.

Contemporary interpretations of democracy derive in part from centuries-old myths about how democracy should function. For the purposes of this study I have distilled the spectrum of American cultural democratic ideals into two primary camps: a consensus model and an agonistic model. It is common to view these two models of democracy in opposition or as parallel monologues, but I want to treat them as two sides to the same mythic coin, existing in fluid tension with one another. Both models are ‘mythic’ in the sense that they

derive from specific cultural stories emphasizing political ideologies of competition or consent. In addition, each model has its own pragmatic pitfalls, while maintaining the expectation for political participation to lead to conclusive decision.

The differences between the two models primarily lie with their valuation of conflict and their perspectives toward decision. In a consensus-driven model, conflict is treated as a problem to overcome, a roadblock obstructing the path to a final decision. In an agonistic model, on the other hand, conflict is regarded as an opportunity for expansion and critical reflection that will lead to a more fitting and inclusive decision. For agonists, a decision is less permanent; it is a decisive moment in a series rather than a totalizing grand finale as in the consensus model.

Two well-known cultural stories from the same historical era that reify these mythic ideals are the Missouri Compromise and the Lincoln-Douglas Debates. These historical case studies are widely taught in the United States. They are standard fixtures in public school textbooks and may be one place where Americans develop their ideas about how democracy should work. In my estimation, the Missouri Compromise reflects a consensus model due to its emphasis on concession and conciliation. The dispute began in Congress in 1819 when Missouri applied for admission to the Union. Speaker of the House Henry Clay developed a compromise to balance entrance of the slave state of Missouri with the free state of Maine. In this well-known cultural story, negotiation, concession, compromise, and *consensus* are central to the practice of democracy.

On the other hand, the Lincoln-Douglas debates of 1858 represent an agonistic model in their demonstration of rigorous, high-minded dispute. They were a series of seven, three-hour long debates between Democratic senator Stephen Douglas and Republican challenger Abraham Lincoln over the issue of extending slavery into the territories. The Lincoln-Douglas debates are such a staple in American cultural mythology that they were re-enacted live on CSPAN in 1994 and turned into a 16-hour audio book in 2009. The model of democracy represented by this commonly told cultural story emphasizes the importance of conflict, argument, and the weighing of issues.

The pervasiveness of these cultural ideals has undoubtedly influenced political theories ranging from Habermasian public sphere theory to postmodern radical democracy (Habermas 1987; Benhabib 1996; Dryzek 2000; Gutmann and Thompson 2004; Mouffe 2000). However, it will not serve the larger purposes of this study to discuss cultural conceptions of democracy in terms of political theory. Instead I want to engage their discursive existence locally and concretely through an analysis of their interplay during a Congressional meeting. What I hope to achieve is a modest contribution to the important research conducted by Martin Mölder (2010) who examined focus group discussions of democracy in Estonia. As Mölder points out, ‘theories of democracy have over centuries produced a myriad of different meanings’ but he laments that ‘there is next to no knowledge about how the people – the central actors of any true democracy – understand this word and construct its meaning’ (2010: 39). While Mölder’s research centred on ‘the people’, the present study examines the meaning-making practices of U.S. representatives in an effort to show the interplay between two prevalent cultural conceptions

of democracy — a consensus model and an agonistic model — during a U.S. Congressional meeting. Through the employment of a form of social text analysis informed by Mikhail Bakhtin's work in dialogism (Bakhtin 1981, 1984, 1986, 1990), this study uses a new form, Contrapuntal Analysis (Baxter 2011), as a method to discuss these ideological outlooks in constant struggle.

2. Theoretical Framework

The perspective of dialogism derives from the philosophical and critical work of the Russian philosopher and literary theorist, Mikhail Bakhtin. The foundation of dialogism rests on the metaphor of a dialogue because it contends that there is a natural give-and-take relationship in *all* language wherein meanings emerge in the moment. In this view, meaning making is a social, speech phenomenon. For Bakhtin, when we speak we join an already existing, unending conversation, or an 'utterance chain', wherein any given utterance is necessarily 'filled with echoes and reverberations of other utterances to which is it related' (Bakhtin 1986: 91). Bakhtin's social approach to language resonates with many poststructuralist scholars. It recommends replacing traditional linguistic transmission models of communication with a more interactive, reciprocal approach. Instead of a Saussurean, structuralist position which views language as a de-contextualized, abstract system of signs, Bakhtin argues for language to be studied in its concrete, lived reality because he imagines language as a living, breathing organism that originates in social interactions and struggle over meaning.

As a theoretical perspective dialogism allows the researcher to better attend to the interplay of differing concepts and understand how contingent meaning emerges from their struggle. For Norman Fairclough (2003) discourse simply refers to a way of representing aspects of the world from a particular perspective. Discourses, however, are rarely equal and are usually in competition for a hegemonic position. Bakhtin uses another metaphor — the centrifuge — to speak to this competition and the general movement, struggle, and interplay of discourse.

Dialogic analysis centres on the relation of difference. As Stanley Deetz (2001) explains, one of the broader goals of the dialogic project is to 'reclaim conflict and challenge fixed meanings and relations' in an effort to create space for new discursive possibilities (Deetz 2001: 37). Given its attention to the mobility and polyvalence of discourse, Bakhtin's dialogic analysis does not perceive concepts in unitary isolation, but rather in their active relation with other concepts. The application of this perspective to ideological concepts such as democracy resonates with the work of several poststructuralist scholars such as Jacques Derrida (1978), Michel Foucault (1972), and Ernesto Laclau and Chantal Mouffe (1985) who argue against a unified notion of ideology. Following this perspective, this study will be a dialogically informed textual analysis wherein the dominant discourses of democracy (consensus and agonism) are interrogated for both implicit and explicit ideologies.

3. Data Text and Method of Analysis

Bakhtin's interest in interpersonal interactions drew him to the literary novel because the multiple characters served as conduits to multiple discourses. Therefore, as a genre, it was what Leslie Baxter would later call 'dialogically expansive' (2011: 173-174). In a similar vein, I have selected the congressional record because there are many 'characters' giving voice to competing discourses about democracy. In the process of exchanging utterances, the speakers engage in meaning construction. By paying attention to the interplay of discourse, I can better attend to the meaning of democracy that emerges in the given speaking situation.

The textual data included in this paper is taken from the Congressional Record on 23 October 2001. This was the date when the bill called the 'Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act' (hereafter USA PATRIOT Act) was introduced to the House. One of the Act's central provisions grants federal officials greater authority to track and intercept communications, both for law enforcement and foreign intelligence gathering purposes. Critics of the bill argue that some of its provisions go too far, impinging on individual civil liberties such as the right to privacy. The bill's supporters, on the other hand, view the piece of legislation as a critical tool in the war on terror. Unlike other legislation passing through the House and Senate, criticism and support for the USA PATRIOT Act do not follow political party lines. The bill was introduced in 2001 to a Republican House, Senate, and President. Since then the party in power has shifted (beginning in 2007 with Democrat control of the House and Senate) yet the USA PATRIOT Act is continually reinstated. In fact, as recently as 26 May 2011, a Democratic Senate voted in favour of another four-year extension of the bill's provisions. The reason I point out the incidental nature of party affiliation with respect to the USA PATRIOT Act is because the same is true for the cultural models of democracy. Political party does not inform which model of democracy is privileged.

My selection of this site was informed, in part, by the work of Ann Swidler (2001) who found that people were most likely to draw from their existing cultural repertoire when they were at points of transition or critical (in)decision. Likewise, in her research on familial relationships, Baxter refers to a similar concept which she calls 'turning points' wherein major changes in a relationship cause discursive competition to become especially prominent (Baxter 2011: 94). During these critical moments, individuals will call upon prevalent discourses to interpret the confounding situation. Given the competitive discursive activity in these watershed moments, I selected the congressional conference regarding the USA PATRIOT Act since it refers to a significant piece of legislation during a time of national turmoil. It is important to note, however, that I do not intend to make any generalizations based off of this analysis. In keeping within the tenants of dialogic theory, I am focused on the *particular* utterances of interlocutors in *specific* temporal and spatial relationships. Dialogic research does not aim to establish universal truths. Nonetheless, the ability to shed light on the interplay between dominant discourses of democracy provides a valuable contribution to understanding the meaning-making practices of Congress.

The method of analysis for this study is a variation of dialogic analysis conceptualized by Leslie Baxter (2011) called contrapuntal analysis. With Bakhtin's dialogue metaphor as its foundation, contrapuntal analysis also falls in line with what Gee (1999) sees as central to any good critical discourse analysis—studying the social and political implications of language-in-use. There are three steps to analyzing a text with this method: selecting a text, identifying discourses, and finally determining whether those discourses are in competition. Sometimes discourses are taken-for-granted or naturalized (Fairclough 2001). In order to uncover such calcified discourses, researchers must engage in the process of *unfolding* (Baxter 2011; Bakhtin 1984). To accomplish this, the researcher must determine which member resources or background knowledge (Fairclough 2001) is needed to render the text intelligible.

The next step is to determine whether the discourses identified are in competition. A clear demonstration of competitive interplay is key because the site of struggle is where meaning is being constructed. To demonstrate this competition, discourse markers must be identified. The most helpful and widely identified discourse marker in this particular study was the *evaluative claim*. Evaluative claims are significant because they usually reveal an utterance's latent, or naturalized discourses by explicitly voicing preference and/or rejection. In addition to evaluative claims, negating, countering, and entertaining were also useful sensitizing devices (Martin and White 2005). But the analysis that follows will focus mainly on evaluative claims since those emerged most often in the text.

The final step in contrapuntal analysis is determining what type of interplay is animating the discourses. When there is competition among discourses, meaning emerges in the struggle. In this study, competition was detected using the sensitizing devices described by Martin and White (2005) as well as Baxter (2011) and Deetz (1992). For example, Deetz noted that naturalization and neutralization (i.e. when evaluative talk is treated as neutral) are, what Baxter (2011) describes as dialogically contractive results of interplay. This means the dominant discourse is both established and sustained by the competition.

4. Analysis

The results of the study found the competition between the two dominant conceptions of democracy to produce a dialogically contractive interplay. Although the Congressional commentaries revealed some centripetal and centrifugal struggle, the central position of the consensus-driven model of democracy was ultimately reified. The next two sections of the paper will walk the reader through the analysis, highlighting specific discourse markers such as evaluative claims, negating phrases, and even instances of Bakhtinian 'rogue talk' (parody) to illustrate the meaning-making struggle over conceptions of democracy in the House of Representatives.

4.1 Discourse One: Consensus-Driven Democracy

The first example of an utterance reflecting a consensus-driven model of democracy is from Republican Congresswoman Margaret Roukema of New Jersey. She was one of the first to address the House during this meeting and her commentary arguably set the tone for the day. Her remarks exhibit a centering of a consensus-driven approach to democratic practice. She said:

I would like to say to some of the nay sayers that complain about the provisions, as to whether or not they deny due process or whatever, the question has been asked are we endangering the rights and privacy of innocent Americans. The answer is no... (Congressional Record 23 October 2001)

Roukema's utterance contains an indirect evaluation. She refers to colleagues with unsupportive or dissenting opinions as 'nay sayers' who 'complain'. Rather than regarding them as legitimate political stances, she reduces their discordant views to irritating nuisances. In contrapuntal analysis, evaluative claims are indicators of an authoritative voice. When discourse assumes an authoritative voice, meaning can become calcified because it does not allow alternative meanings (Baxter 2011: 9). In other words, Roukema's shrouding dissent in a negative valence (e.g. 'nay sayers'), assumes that unity or consensus is the preferred (centred) discourse. An affront to harmony is not viewed favourably. In this way, Roukema's utterance reflects a consensus view of democracy because difference is presented as an obstruction rather than an opportunity for expansion. In this discursive model of democracy, dissent is something to be managed or regulated. Like Roukema, the next person to speak, Michael Oxley of Ohio, also privileges a consensus view of democracy. He seems to value congruency and unanimity over a plurality of perspective. He says:

Mr. Speaker, this has been a legislative process at its best, the Congress coming together, recognizing a very, very serious problem... Congress came together, both Republicans and Democrats from both sides of the Capitol, to craft this legislation. This is going to pass by an overwhelming margin. I think we all understand that. (Congressional Record, 23 October 2001)

Whereas Roukema's utterance contained a negative evaluative claim, Oxley's statement contains a *positive* evaluation, although both accomplish the same ends. He says that when Congress comes together in a bi-partisan manner, it reflects 'a legislative process at its best'. Bakhtin would say that this utterance contains 'discourse with a sideward glance' because he directly praises bi-partisan cooperation but he also indirectly speaks to the alternative wherein Congress does not 'come together' in agreement. He even goes on to be more explicit with his consensus view of democracy by saying that the bill 'is going to pass by an overwhelming margin' – which indicates that his version of 'a legislative process at its best' is one wherein disagreement is at minimum and bi-partisan participation yields unanimity. Another 'sideward glance' is when he acknowledges difference by saying that Republicans and Democrats came together from both sides, indicating that this level of cooperation is not always the case. But since it occurred here, the process was flagged as the very 'best'. Oxley's utterance illustrates a preference for a 'bracketing', or placing difference aside in order to reach a consensual decision. To conclude his remarks, Oxley says:

So from my perspective, this is one of the proudest moments of my 20 years here in the Congress, to participate in this wonderful exercise of democracy and positive legislation. For that, I think all of us deserve a great deal of credit. (Congressional Record, 23 October 2001)

This utterance includes more evaluative claims: ‘proudest’, ‘wonderful’, and ‘all of us deserve a great deal of credit’. These speech acts demonstrate that a lack of disagreement is something to be ‘proud’ of. In addition, the ‘exercise of democracy’ is, in fact, ‘wonderful’ when Republicans and Democrats come together to produce a piece of legislation that will pass by an ‘overwhelming margin’. Oxley’s utterance is exemplary of consensus democracy because it emphasizes a trajectory toward compromised decision without the hassle of discord.

In another utterance, Democrat Representative Bill Delahunt of Massachusetts represents a middle ground between consensus and agonism. While he seems to centre a consensus view where decision is reached with minimal struggle, he also notes that sometimes dissent results in a more fitting piece of legislation. Delahunt says:

Much was accomplished... It has been mentioned time and time again that it was a unanimous vote, and both the chairman and the staffs on both side and the gentleman from Michigan (Mr. Conyers) really do deserve our gratitude....However, in the aftermath of what happened here, many of us could not support the bill. I was one of those who voted against it. But the good news is that there were subsequent negotiations with the Senate, and it has resulted in a better bill. (Congressional Record 23 October 2001)

For Delahunt, accomplishment rests on accord. He indirectly gives voice to those who have praised the unanimity that deserves so much ‘gratitude’. This utterance is also interesting because of the ‘however’ and ‘but’ which both flag discursive competition. Words such as: but, even though, however, just, still, surprisingly, may, might, and it seems, all work as sensitizing devices in the broader process of unfolding wherein utterances are imagined in response to prior conversational utterances (Baxter 2011; Bakhtin 1984). Therefore Delahunt’s use of ‘however’ and then subsequently ‘but’ draws attention to the larger utterance chain. At these junctures a researcher is motivated to ask: What renders this particular utterance intelligible? In this case, Delahunt’s use of ‘however’ comes after discussing the ‘accomplishment’ of consensus and right before he admits that he could not support the bill. Thus he acknowledges himself as a dissident voter in the legislative process. *But* then he redeems his dissent by saying that ‘it resulted in a better bill’. The process of unfolding reveals the underlying centripetal – centrifugal struggle. Delahunt is caught in the middle – acknowledging both the centred consensus-driven model while also giving voice to the agonistic position. However, in spite of Mr. Watt’s equivocal prepositions, there is an inherent submission to the authoritative discourse of consensus democracy. He feels inclined to justify his lack of support, which speaks to the dominance of the norm wherein harmony rules the day. Delahunt’s colleague, a Republican Representative from Wisconsin, Jim Sensenbrenner, is less impartial. His support of a consensus model of democracy is explicit given his use of positive evaluative claims. Sensenbrenner says:

The Committee on the Judiciary did marvellous work. The gentleman from Michigan (Mr. Conyers) was a joy to work with, as were all of the other members of the committee when we reported the bill out 36 to nothing. (Congressional Record, 23 October 2001)

In this utterance, Sensenbrenner explains that his colleagues were a ‘joy to work with’ when the bill passed by an undisputed vote — ‘36 to nothing’. He calls this consensus-driven voting ‘marvellous work’. This commentary calls upon consent-based discourses of democracy because it speaks to the goal of shelving difference in the name of decision. Later in his statement Sensenbrenner openly addresses the need to eradicate conflict: ‘*The issues and disagreement between the House and the Senate were thrashed out thoroughly*’ (Congressional Record, 23 October 2001). A consensus view of democracy treats difference as something to be managed, stifled, or violently ‘thrashed out’ in favour of similarity. In this view, consensus represents opinion’s submission to the majority. Communication scholars call this manoeuvre ‘pacification’. It is a powerful discursive practice by which competing discourses are silenced (Deetz 1992; Baxter 2011) through a discursive plea to a higher order discursive position such as consensus (Fairclough 2003). In the next section I will demonstrate places where participants effectively gave voice to the competing discourse, agonistic democracy, which alternatively emphasizes difference and change.

4.2 Discourse Two: Agonistic Democracy

Representative Melvin Watt, a Democrat from North Carolina is similar to Delahunt in that his utterance reflects a middle position within the centrifuge, but contrary to Delahunt, Watt seems to prefer an agonistic model of democracy because he is adamant that personal differences not be put aside:

And let me be blunt. Some of us, who have a different history in America, with delegation of authority to the Government and the abuse of that authority, proceed a lot differently than others when we talk about giving authority to the Government that can be abused. And I think that is why we are having so much trouble in this debate. We cannot just come in in the middle of a terrorism episode and forget all of the history that has occurred in our country. (Congressional Record, 23 October 2001)

Watt’s utterance is fascinating because it both reflects an agonistic view of democracy wherein he refuses to couch history and socio-political difference while simultaneously recognizing the centrality of the consensus ideal since he refers to discord with the evaluative claim: ‘trouble’. Assumptions typically flag the presence of a hegemonic discourse. In this case, the assumption that difference causes ‘trouble’ indicates the dominance of the consensus ideal. Rather than some sort of dominating force, the discourse’s power resides in the *acquiescence* or acceptance of its perceived ‘naturalness’. Therefore, despite Mr. Watt’s lending voice (and preference) to the agonistic discursive model there is an inherent submission to the authoritative discourse of consensus-driven democratic practice.

In the next utterance Representative Barney Frank, a Democrat from Massachusetts, is more steadfast in his appeal to an agonistic conception of democracy. He says:

We now, for the second time, are debating on the floor a bill of very profound significance for the constitutional structure and security of our country. In neither case has any Member been allowed to offer a single amendment. At no point in the debate in this very profound set of issues have we had a procedure whereby the most democratic institution in our government, the House of Representatives, engages in democracy. (Congressional Record, 23 October 2001)

For Mr. Frank, the importance of the decision is closely tied to the richness of debate. In his view the vitality of democracy seems to hinge on amendment. He says that although Congress is meant to represent the most democratic institution, it is not practicing democracy even when the issues are 'very profound'. This seems to be a sideward glance at the bureaucratized mythic ideology that focuses on process/procedure rather than substantive content. Frank wonders how it could be that 'the most democratic institution' is not practicing democracy. He explicitly acknowledges this paradox by asking:

Who decided that to defend democracy we had to degrade it? Who decided that the very openness and participation and debate and weighing of issues, who decided that was a defect at a time of crisis? (Congressional Record, 23 October 2001)

Frank's frustration speaks to a theme that Swidler found in her talk of love research. During times of crisis, interview subjects drew upon a more romantic ideal of love because critical moments of transition caused them to find comfort in a stable ideal rather than a more realistic model containing difference and struggle. Frank's utterance also contains the evaluative term 'defect', to describe the way 'open participation and weighing of issues' was presently being treated. This suggests that he can feel the centripetal pull of the consensus ideal while his own agonistic conception of democracy is pushed to the margin. In exasperation Frank resorts to parody by saying:

This bill, ironically, which has been given all of these high-flying acronyms, it is the PATRIOT bill, it is the U.S.A. bill, it is the stand up and sing the Star Spangled Banner bill, has been debated in the most undemocratic way possible, and it is not worthy of this institution. (Congressional Record, 23 October 2001)

In this utterance, Frank mocks the contrived acronym of the bill's name by parodically referring to it as the 'stand up and sing the Star Spangled Banner bill'. For Bakhtin (1981), parody is a type of 'rogue talk' which becomes a playful communication device that serves to challenge a competing discourse. In her uptake of Bakhtin, Baxter explains that the serious-playful dimension of parody draws attention to the tone of the utterance (Baxter 2011: 136). Even though it is in typed, transcript form, it is hard to miss the tone of Frank's utterance. Through mimicry Frank challenges the way consensus-driven democracy places its emphasis on procedural outcomes that are as compulsory and contrived as the title of the bill it produces. He goes on to ask: 'Why could this not have been a full-fledged debate with some amendments?' (Congressional Record, 23 October 2001). This comment indirectly speaks to legitimacy. In Frank's view, a decision is only legitimate after it has gone through a thorough, or as he puts it, 'full-fledged' process of agonistic struggle. Congressman Frank was the last representative to address the House before the conference was brought to a close. This was likely due to

time constraints, but it is also worth considering the contractive impact of parody. As a rhetorical trope, parody can often remove discourse from the realm of critique. It serves as a debunking project that reduces the original text to a caricature. In what follows, I give an overview of the discursive interplay found in the textual data and broadly discuss the implications for meaning making of democracy in the broader body politic.

5. Concluding Remarks

As the analysis of utterances has demonstrated, centripetal and centrifugal struggle can take many forms with discourses being acknowledged directly or indirectly, in serious or in playful tones. As Bakhtin explains, 'Every concrete utterance of a speaking subject serves as a point where centrifugal as well as centripetal forces are brought to bear. The processes of centralization and decentralization, of unification and disunification intersect in the utterance' (Bakhtin 1981: 272). In my final analysis, the discourse practices of Congress on October 23 2001 suggest a centering of a consensus-driven democracy. Not only did the material outcome of the meeting suggest a consensus ideal (the bill passed through the House un-amended and was signed into law three days later), so did the interplay of the two competing discourses.

The centering of a consensus ideal is problematic for two primary reasons. First, a majoritarian sense of democracy, as purported by consensus discourse, closes down opportunity for movement, invention, and to Frank's chagrin, amendment. Moreover, it is a similarity project that generates a species of power based upon non-differentiation. This is not a very appealing (or fitting) option for a pluralistic society like the United States of America. In her work on democratic theory, Danielle Allen (2004) laments the way parliamentary procedure closes down discussion by deciding a winner. She considers our idealization of agreement and unanimity to be a 'bad habit of citizenship' (2004: 85). This drive toward perfection or 'oneness', as Allen refers to it, is not only impractical, but it is dangerously misguided. Instead she calls on us embrace imperfect ideals that can account for a rounder, richer 'wholeness' rather than the flat, inflexible 'oneness' characteristic of the consensus-driven model.

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