

SYMPOSIUM
POLITICAL LIBERALISM VS. LIBERAL PERFECTIONISM



EDITORIAL PREFACE

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Most contemporary moral philosophers and political theorists recognize the difficulty of finding mutually acceptable terms of cooperation in societies characterized by deep disagreement about what is of general value in life. Taking such disagreement seriously, supporters of Rawls's political liberalism claim that a conception of justice should be freestanding and not grounded on the various comprehensive values present in society. Opposing this view, liberal perfectionists claim that principles of justice and political institutions ought to be built upon a set of key liberal values, defining what is objectively good for human beings. There is a growing discussion about the consistency of the 'political' understanding of liberalism and on whether perfectionism can legitimately belong to the family of liberal doctrines.

This first volume of the new series of *Philosophy and Public Issues* addresses these issues through a discussion on the relationship between political liberalism and liberal perfectionism. In the first part of the volume, Jonathan Quong presents his recent *Liberalism Without Perfection* (Oxford: Oxford University Press 2011), addressing questions by Jerry Gaus, Ben Colburn, Joseph Chan and Michele Bocchiola. In the second part, we host four papers critically engaging with contemporary liberal perfectionist theories.

With the new series of *Philosophy and Public Issues*, we hope to contribute to the contemporary philosophical discussion about moral and political problems, continuing the tradition of *Filosofia e questioni pubbliche*, which was animating the Italian debate since 1992.

Sebastiano Maffettone – Gianfranco Pellegrino – Michele Bocchiola

Editors of *Philosophy and Public Issues*

SYMPOSIUM
POLITICAL LIBERALISM VS. LIBERAL PERFECTIONISM



LIBERALISM WITHOUT PERFECTION

A PRÉCIS BY JONATHAN QUONG

Liberalism Without Perfection

A Précis by Jonathan Quong

Imagine the following scenario. The Supreme Court in your country strikes down as unconstitutional a piece of legislation that defines marriage as being an exclusively heterosexual institution. The majority opinion for the Court justifies this decision largely by appeal to an argument made by a prominent moral philosopher who claims that monogamous relationships (regardless of sexual orientation) represent one of the highest forms of human flourishing, and as such must be made legally available to all persons.

Consider how liberals are likely to react to this decision. Most liberals will, I assume, applaud the *outcome* of the Court's decision, but they are also likely to feel a deep unease about the *rationale* for the Court's decision. Homosexual couples ought to have the same rights to marry as heterosexual couples, but has the court offered the right sort of reason in defence of its decision? In deciding the case, the court has relied on a specific and controversial claim about the nature of human flourishing or the good life (I'll use these terms interchangeably). Proponents of the legislation, we can assume, offered a similarly controversial claim about the good life in support of the legislation. Should liberal rights and institutions depend on engaging in such controversial debates about the nature of the good life? Is liberalism, in this sense, just another sectarian doctrine, one that competes alongside others to use the power of the state to promote its particular views about value and human flourishing?

In my book, *Liberalism Without Perfection*, I argue that liberalism need not be grounded in some particular view of the good life, nor should the liberal state promote allegedly valuable forms of life or discourage allegedly disvaluable ones. Instead, following John Rawls, I defend a version of *political liberalism*. On this view, liberalism should be grounded in an ideal of persons as free and equal, and of society as a fair system of social cooperation for mutual benefit. An important part of what it means to treat

each other as free and equal, I suggest, is ensuring that our collective exercise of political power is reasonably justifiable to all those persons who are subject to that power. And since free and equal people can and do reasonably disagree about morality, religion, and the good life, the exercise of our political power must be justified in ways that avoid appeal to these, and other, controversial domains. Instead our political principles and institutions should be justified only by appeal to *public reasons*: considerations that appeal only to political values or ideals, and not to controversial claims about the good life or other areas of reasonable disagreement.

Liberal perfectionists disagree. They argue that the liberal state can and should try to help people lead better, more valuable lives. Most liberal perfectionists also endorse the further thesis that liberal rights and institutions are best understood as being grounded in a particular view of human flourishing, one where the value of personal autonomy—of being the author or at least part-author of one’s own life—is the centrepiece of leading a good life.

The book has two main aims. The first is to subject the liberal perfectionist position to critical scrutiny of a sort that has been surprisingly absent in the recent literature. Chapters 2-4 present three distinct, though related, objections to liberal perfectionism. In chapter 2 I argue that the most influential version of liberal perfectionism, developed by Joseph Raz in his magisterial *The Morality of Freedom*, is in one important sense unstable. Raz argues that the value of personal autonomy can justify a liberal principle of toleration—something like the harm principle—but that it can do so in a way that leaves considerable scope for the liberal state to engage in perfectionist policies, for example offering financial incentives (e.g. tax breaks or other subsidies) to citizens to induce them to pursue more valuable activities. I argue that Raz’s argument for the harm principle makes that principle hostage to certain empirical conditions in a way that seems illiberal. But more importantly, I show that Raz’s own account of personal autonomy cannot simultaneously ground the harm principle while also permitting many of the policies that liberal perfectionists favour.

In chapter 3 I argue that liberal perfectionism, despite what many of its proponents claim, remains a paternalistic doctrine. Liberal perfectionists must explain why the state needs to enact perfectionist policies. Why not simply give each citizen their fair share of resources and let them make their own decisions? The perfectionist answer must be, I suggest, that people will not make the right decisions if left to their own devices. But this means that

perfectionist policies are justified by reference to paternalistic reasoning. The perfectionist believes the state must act because she makes a negative judgement about citizens' capacities to make effective decisions about their own lives. This negative judgement, I claim, makes perfectionist policies presumptively wrongful, since it fails to treat people in accordance with their moral status as free and equal.

Chapter 4 presses the case against liberal perfectionism further. Even if the arguments in the previous chapters could be overcome, I argue that liberal perfectionists lack a persuasive account of political legitimacy; an account of how the state gains the moral right to rule. Perfectionists argue that whenever we have most reason to follow the state's directives, the state has legitimate authority over us. But this is a mistake. Even when we ought to follow someone else's directive, this does not suffice to establish that this person has legitimate authority over us. Perhaps, for example, I ought to follow my friend's directives about which career to pursue—I may do best by following his advice—but this does not mean he has the moral right to determine my career choices.

These objections regarding autonomy, paternalism, and legitimacy give us strong reasons to reject liberal perfectionism, and to look elsewhere for the best conception of liberalism. Chapters 5-10 of the book pursue this latter project by developing and defending a version of political liberalism. I begin, in chapter 5, by distinguishing two different conceptions of political liberalism. On one view, political liberalism is a very ambitious theory, one that seeks to vindicate liberalism by showing that liberal rights and institutions can be justified to the diverse constituency of persons that we find in modern, pluralistic societies. Should we be unable to show that liberal rights and institutions can be justified to this diverse constituency, this would prove fatal to the liberal project. I call this the *external* view of political liberalism since the constituency to whom liberal rights and institutions must be justified represents an external constraint on the success of the liberal project.

One of the central arguments in the book is that the external conception is fatally flawed. I argue for a more modest conception of political liberalism. The aim is not to establish that liberalism can be vindicated by showing it can be justified to people who may not accept some very basic liberal ideas. Instead, the aim is to understand how liberalism might be possible, and what the structure of political justification must be, in an ideal and well-ordered liberal society. We can assume that an ideal and well-ordered liberal society

will contain citizens who are committed to treating one another as free and equal, and who view society as a fair system of social cooperation for mutual benefit. But we can also assume that there will be deep and permanent disagreement in such a society about morality, religion, and the good life. This pluralism is the inevitable result of the free exercise of rationality under conditions of liberty. If this is a feature of ideal liberal society, we can then ask ourselves; how might liberal rights and institutions be justified under these conditions? In particular, could such citizens find ways to justify their shared political principles and institutions to one another in a manner consistent with respecting each other as free and equal? Political liberals answer these questions by arguing that the only way liberalism can succeed—the only way it can be fully consistent with its own ideals under the best feasible conditions—is if citizens eschew perfectionist or comprehensive reasoning in politics, and instead aim at the public justification of political power. I call this the *internal* conception of political liberalism since the puzzle it sets out to address is one that is internal to liberal theory itself. In chapters 6-8 I argue that many of the most prominent objections pressed against political liberalism can be effectively rebutted once we adopt the internal conception.

Some critics of political liberalism argue that the appeal to an overlapping consensus amongst reasonable people is either superfluous—since reasonable people will by definition accept the correct principles of justice—or else it makes liberal justice hostage to people who hold incorrect and potentially deeply illiberal views about justice. In chapter 6 I respond to this objection by arguing that the overlapping consensus should be conceptualised as the first stage in the justificatory structure of a political liberalism. As the internal conception recommends, we begin by asking what values or ideals citizens in an ideally well-ordered liberal society would all accept, and then we use those ideas as the basis for subsequent philosophical argument and public reasoning about the content of liberal justice. This defuses the worry that the overlapping consensus is either unnecessary or else somehow mistakes mere agreement for justification.

Other critics argue that political liberalism depends on treating disagreements about the good life very differently than disagreements about justice, and that this differential treatment cannot be justified. Reasonable people, the critics point out, disagree about justice as much as they do about the good life, so why does political liberalism declare that claims about the good life, but not claims about justice, cannot provide a legitimate basis for

the exercise of political power? I call this *the asymmetry objection*. In chapter 7 I show how this objection can be defused by appeal to a distinction between two different types of reasonable disagreement: justificatory and foundational. The former disagreements are characterised by the fact that the parties share certain premises which frame their dispute, whereas the latter disagreements are characterised by the fact that there are no shared premises or frameworks between the parties—the dispute goes ‘all the way down’. On my account of political liberalism, reasonable disagreements about justice are by definition justificatory, whereas reasonable disagreements about the good life are foundational, and thus there is a principled reason for political liberals to treat these two kinds of disagreements differently.

Rawls famously tells us that political liberalism does without the concept of truth. It does so because the philosophical nature of truth is something over which reasonable persons will disagree. But if political liberals cannot defend their theory as true, only as reasonable, then how can they insist that liberal principles and institutions must take priority over what citizens take to be true (e.g. their religious or otherwise comprehensive doctrines)? Political liberals could tell us that we ought to be *sceptical* about the truth of our comprehensive doctrines, but that’s also a controversial epistemological position that political liberals must avoid. Critics thus argue that the priority of liberal justice cannot be vindicated without violating political liberalism’s commitment to epistemic abstinence. In chapter 8 I argue this objection can be overcome once we adopt the internal conception. Political liberalism, as a theory, does not purport to provide a singular justification as to why citizens ought to be reasonable; why they ought to accord liberal justice priority over other considerations. Rather, it passes the buck on this task to citizens themselves. Political liberalism, as a theory, thereby remains epistemically abstinent while allowing citizens to decide why the political values ought to be accorded a certain deliberative priority.

Having responded to some of the major objections to political liberalism, chapters 9 and 10 offer novel arguments regarding the scope, structure, and constituency of public justification. In chapter 9 I make two main claims. First, I argue that in a large and diverse liberal society, the project of public reasoning depends on shared reasons, that is, considerations all reasonable persons can endorse as relevant. This conflicts with Gerald Gaus’s influential account, under which a law can be publicly justified so long as each person has his or her own sufficient reasons to endorse the law, even if

those reasons are not shared by other reasonable citizens. Second, I argue that the scope of public reason should include, in principle, all decisions where citizens exercise collective political power over one another. This differs from Rawls's view, where the scope of public reason is limited to what he calls the constitutional essentials and matters of basic justice.

Chapter 10 offers an account of how political liberals ought to address unreasonable citizens: those people who reject one or more of the central liberal ideals (persons as free and equal, society as a fair system of social cooperation, or the fact of reasonable pluralism). I argue that such persons are rightfully excluded from the constituency of public justification, that is, they are not part of the group to whom our rules and institutions need to be justified in order to be legitimate. However, despite what some have claimed, this does not entail that such persons are not citizens or not entitled to all the normal rights and benefits that citizenship confers. The rules and institutions that are justified by public reason apply to all members of the political community, even those who do not endorse its fundamental values. But this does not mean that unreasonable citizens can use the rights of citizenship as a shield to protect themselves from state interference when their aims are explicitly unreasonable, and threaten either the rights of others or the normative stability of a liberal democratic society.

In sum, the book is motivated by two main ideas. First, governments should not be making and acting on judgements about what constitutes a good or flourishing life—that is something for people to work out for themselves. If we want to treat one another as free and equal persons, and to live with each other on fair terms, we cannot use the power of the state to try and render our fellow citizens more perfect by our own lights. Second, liberalism does not depend on adopting some particular view of what constitutes a good life. Liberalism can instead be presented as something that all persons of good faith can accept, despite their many differences and disagreements.

Many critics of political liberalism, I believe, fail to understand the value of this latter achievement. By showing that the sort of pluralism generated under liberal conditions does not undermine the liberal project—by showing that the public justification of political power is possible under these conditions—we see how it is possible to treat one another as free and equal persons, and to live together on fair terms despite all of our differences. My hope is that the arguments in the book make some contribution to clarifying the nature of that valuable ideal.

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SECTARIANISM WITHOUT PERFECTION?
QUONG'S POLITICAL LIBERALISM

GERALD GAUS

Sectarianism Without Perfection? Quong’s Political Liberalism

Gerald Gaus

I

Jonathan Quong is, in my view, the leading Rawlsian political philosopher of his generation. His *Liberalism Without Perfection*¹ is an original and important restatement of a Rawlsian-inspired political philosophy. Quong does not merely restate and defend Rawls; his work is an original contribution, developing a distinctive version of the public reason project. Too often those struck by the power of Rawls’s work have bowed before it — but looking at the ground is never a good vantage point for seeing further. Quong builds on, and in so doing extends, Rawls’s public reason project. As a fellow participant in this project, I am delighted by the enthusiastic reception accorded to *Liberalism Without Perfection*.

Yet Quong and I disagree as to the way forward. As is often the case with disagreements between those working in the same paradigm, these can be sharp. After all, so much more is at stake than in disputes with external critics, whose approach is based on fundamental mistakes. We disagree on the most fruitful way to proceed on what we agree is the most fruitful project.

II

With that prolegomenon, let me press one, rather complex, query. In his précis, Quong asks:

¹ Oxford University Press, 2011. hereafter referred to as “LWP.”

Should liberal rights and institutions depend on engaging in ... controversial debates about the nature of the good life? Is liberalism, in this sense, just another sectarian doctrine, one that competes alongside others to use the power of the state to promote its particular views about value and human flourishing? (p. 2)

I totally agree that the answers to both of these questions should be a resounding “No!” Rejecting sectarianism is, I believe, fundamental to public reason liberalism. Note, though, that Quong characterizes “sectarianism” in a rather narrow way — a view that seeks to employ state power to advance notions of *value and flourishing*. Although that is the form of sectarianism represented by so-called “perfectionism,” there are surely others, such as those based on a moral philosophy, which may not be about value or flourishing but, say, about the correct moral code. A more general characterization of an illiberal sectarian doctrine seems to be something like:

β is an illiberal sectarian doctrine in population P if (1) β is held only by S , a proper subset of P , (2), the members of S justify moral and political regulations R for the entire P population (3) by appeal to β and (4) only β could justify R .

This is only an approximate characterization, but I believe it captures the crux of illiberal sectarianism. There is nothing illiberal about being a sect; so long as S only applies R to S itself, it is merely a group of like-minded people (say a Church) regulating its common life by common beliefs. What is objectionable in the eyes of the public reason liberal, I would have thought, is when S extends R to all of P .

We can employ Quong’s distinction between foundational and justificatory disputes to make the point clearer (LWP: 214ff). “By definition” (LWP: 193) disputes within S about the contours of R (what the precise regulations should be) are “justificatory”: all members of S accept that β is the grounds of R , though of course they may still disagree on whether β leads to this or that specification of R . We can think of R as a family of regulations that sensible and competent members of S think are sound implications of β . So if S is, say, the Catholic Church (or Razian Perfectionists), their internal disputes about proper social regulation will be justificatory. However, disputes between the members of S and the rest of the population will be what Quong calls “foundational”: “Disagreements of this type are characterized by the fact that the participants do not share any premises which can serve as a mutually acceptable standard of justification” (LWP: 193). Illiberal sectarianism is so objectionable because, though there is foundational disagreement concerning β within P , S nevertheless claims

that R regulates all of P , and is willing to enforce R on all of P . Those members of P who are not members of the sect S cannot accept R as justified. Regulation R is not part of a basic framework of political life those outside the sect can endorse.

As I said, I believe Quong is entirely right that perfectionism is a sectarian doctrine in this sense. But now the worry: isn't also Quong's "modest" version of political liberalism? Quong makes much of the fact that he does not offer an "external" justification of liberalism, which seeks to show "non-liberals" that liberalism is justified (LWP: 5). The modesty of Quong's political liberalism is that it seeks to show that "citizens *already committed* to certain basic liberal norms" can justify certain further principles to each other (LWP: 5, emphasis in original).

As Quong stresses, "by definition" disputes about justice in this group are justificatory (LWP: 193), for *by definition* they share a common set of premises from which justification proceeds. But unless the liberal sect is coextensive with P , it looks like we have another sectarian doctrine. The liberal sect (S_{LIB}) employs Quong's method to justify to themselves a favored R , which they then insist should regulate all of P . Between S_{LIB} and the rest of P the disagreement over Rawlsian principles appears to be what Quong calls "foundational," for those in P outside of S_{LIB} do not share the basic liberal norms that serve as premises for R (but see below, §IV). It looks like Quong's political liberalism is not an opponent of sectarianism, but of perfectionist sectarianism, willing to replace it with a Rawlsian sectarianism. Isn't the Church of Perfection simply replaced with that of High Rawlsianism?

III

We might anticipate the following, correct, reply: in one sense *any* set of moral or political principles will be sectarian in relation to *some* part of the population. For example, we have strong reason to think that psychopaths cannot grasp basic aspects of our moral practice, so it cannot really be justified to them for they do not grasp what "it" is all about. The live worry about sectarianism looms when those who wish to live with others on terms that all can see as normative, who understand the basic give-and-take, and impartiality, of moral life, are subjected to regulations and demands that, searching their understanding of the normative realm, they simply cannot

endorse. So we must ask: is S_{LIB} almost all the population, excluding only the most extreme sorts of evaluative perspectives (say, fanatics who have no interest in mutually acceptable terms for our common life), or do a lot of good-willed moral agents fall into the “not- S_{LIB} ” part of the population?

Now at some junctures Quong’s version of political liberalism seems ecumenical. He tells us that “by ‘basic liberal norms’ I mean fairly abstract values such as the idea of persons as free and equal, or a general commitment to fairness in the distribution of goods and advantages amongst citizens” (LWP: 5). Stated thus it would appear that everyone who is committed to the moral life is part of the liberal sect. However, I do not think that the rest of the analysis bears this out. In the end, I believe that the liberal sect excludes a great many good-willed and sensible people. Quong’s liberal sect, I fear, is just another illiberal sect.

The key to seeing why this is so goes to the heart of his main revision of the Rawlsian theory: the place of overlapping consensus. On Rawls’s view there are three stages of justification.²

1. *Pro tanto justification*. The famous argument from the original position is, as Rawls sees it, a “free-standing” justification that turns only on certain political values and conceptions. Rawls calls this a “*pro tanto*” or as “far as it goes” justification, since it is only based on a subset of our overall evaluative considerations.

2. *Full justification* is the core of “overlapping consensus.” Here each person reflects on her overall evaluative considerations to decide whether she can endorse the *pro tanto* argument. Rawls explicitly allows that, since justification depends on one’s entire set of relevant considerations, the *pro tanto* argument can be overridden “once all values are tallied up.”³ An overlapping consensus obtains when individuals find that the *pro tanto* argument is supported, or at least does not conflict with, their overall evaluative standards.

3. *Public Justification* obtains when all “reasonable members” of the society have achieved a full justification of the principles, and this is generally

² Reprinted in John Rawls, *Political Liberalism*, paperback edition (New York: Columbia University Press, 1996), 374-434, at 385ff.

³ *Ibid.*, 386.

known, and shapes their relations. This is, says Rawls, a basic idea of political liberalism.⁴

Quong's fundamental revision is to move the idea of overlapping consensus — which for Rawls comes *after* the argument from the original position and is the basis of full justification — to *before* the argument from the original position (LWP: 180-87). Overlapping consensus is among S_{LIB} on the shared premises for the justification of the principles of justice in the original position; drawing on their overall evaluative perspectives, a portion of the population discovers that they have the shared premises to engage in the justification of liberal principles. After uncovering the requisite shared premises *overlapping consensus plays no further role*, and so, as far as I can see, the stage of full justification is divorced from overlapping consensus and the former is dropped. Now on this view, before we can commence with political justification in the form of the original position, we must first identify a liberal sect: those individuals who are to be included in the overlapping consensus on the shared liberal premises. That is, the *very first move in political justification* is to divide the population into liberals, who participate in the foundational overlapping consensus, and the non-liberals who are excluded. Because overlapping consensus occurs at the initial stage of justification there is no way to distinguish these two groups except by first identifying the initial liberal sect for whom disputes will, by definition, be justificatory. The theory commences with a sectarian classification.

A fundamental implication of dropping the stage of full justification is that the initial liberal sect is not simply identified as a sub-group that endorses shared premises (the “basic liberal norms”) but by a further condition: *this group must also hold that these basic liberal norms, along with the idea of shared public reason, are sufficient for justification*. Once S_{LIB} has decided on the abstract principles that follow from their shared liberal convictions, all further justification must be conducted in terms of Rawlsian public reason. As Quong sees it, to allow full justification as a check on the argument from the original position renders the original position's results hostage to “illiberal” values and unjust views (LWP: 167, 169). And so a person is illiberal, and so excluded from S_{LIB} , if, even though she accepts the basic values of free and fair cooperation, on her view these values (along with public reason) are not sufficient for her to reach judgments about basic principles of justice. Anyone who believes that her own conclusions about morality, ethics, or the will of God are *relevant* to checking whether the

⁴ Ibid., 387.

liberal “freestanding” argument is truly justificatory is expelled from S_{LIB} . Surely we have now excluded large swaths of the population on the grounds that they are “unreasonable” and hold “unjust” views. And this, even if they are good willed, wish to live with others on mutually acceptable terms, and concur that the argument from the original position gives us *pro tanto* reasons! Can Quong plausibly criticize perfectionists for being sectarian while deeming unreasonable and unjust anyone who thinks that her views on moral philosophy or religion are relevant to whether the conclusions of the rather austere freestanding Rawlsian argument are acceptable?

IV

Again, we might anticipate a reply. The perfectionist’s sect advances a dogma: human flourishing (β_{PER}) is a — on some views *the* — ground of political justification, whether or not a person can endorse this. The perfectionist sect, S_{PER} , and the rest of population P , have what Quong calls a foundational disagreement about β_{PER} . In contrast, Quong’s version of political liberalism is exclusionary, not dogmatic. I think he might say that on his view, just about everyone accepts the basic liberal values (β_{LIB}), and so just about everyone has a justificatory dispute about them. However, the liberal sect S_{LIB} , we have seen, does not merely claim that β_{LIB} and its associated norms of shared public reasoning are relevant to justification, but that they are (essentially) *all that counts* in justification; those in P outside of S_{LIB} might well disagree, and hold that other considerations are also be relevant (they may insist on relevancy of the stage of full justification). Thus we might contrast dogmatic sectarianism with exclusionary sectarianism. The former says that you must accept some premise, the latter that you cannot use some premises in your reasoning. Is this a fundamental difference?⁵

It is not at all clear to me that exclusionary sectarianism is less worrying than dogmatic sectarianism. Jonathan Haidt’s recent research into the moral attitudes of left-leaning liberals and conservatives, I believe, indicates that Quong’s liberal exclusionary view systematically favors the moral attitudes of those on the left while discriminating against those on the right. Thus S_{LIB} ,

⁵ Formally, the exclusionary version conforms to the schema in section II; the variable β is a meta-belief about what is relevant to justifying R .

because of its requirement that all justification must take place in terms of the shared basic liberal values and associated public reason, does not simply exclude the marginal: it is essentially a sect of the left.

Haidt’s “moral foundations theory,” based on his extensive survey of ordinary moral reasoners, hypothesizes six different foundations of people’s moral responses to various vignettes with which they were confronted, such as the following:

Julie and Mark, who are sister and brother, are travelling together in France. They are both on summer vacation from college. One night they are staying alone in a cabin near the beach. They decide it would be interesting and fun if they tried making love. At the very least it would be a new experience for each of them. Julie is taking birth control pills, but Mark uses a condom too, just to be safe. They both enjoy it, but they decide not to do it again. They keep that night as a special secret between them, which makes them feel even closer to each other. So what do you think about this? Was it wrong for them to have sex?⁶

Haidt finds that subjects make very quick and firm moral judgments (80% say that it was wrong for the siblings to have sex). However, many subjects, especially left-leaning-liberals, founder in attempting to give a justification for their view in cases like this. As one subject finally concludes in response to the attempt by the interviewer to solicit the rationale for his firm judgment that “it’s totally wrong [for Julie and Mark] to have sex”: “Um . . .well . . . oh, gosh. This is hard. I really — um, I mean, there’s just no way I could change my mind but I just don’t know how to — how to show what I’m feeling, what I feel about. It’s crazy!”⁷

Haidt’s hypothesis is that moral responses have six dimensions, given in Display 1.

⁶ Jonathan Haidt, *The Righteous Mind: Why Good People are Divided by Politics and Religion* (New York: Pantheon, 2012), 38.

⁷ *Ibid.*, 39-40.

Name	Features
<i>Liberty/ oppression</i>	anti-bullying; anti-constraining others; anti-tyrant; related to egalitarianism
<i>Fairness/ Anti-cheating</i>	emphasis on playing by the rules, and doing one's part in cooperative schemes; rewards according to desert
<i>Care/Harm</i>	emphasis on not harming others; disapproval of cruelty; sympathetic concern with the needs of others
<i>Loyalty/Betrayal</i>	loyalty to groups in which we participate; sensitivity to those who betray our group
<i>Authority/ Subversion</i>	respect for rank and status relations; sensitivity to inappropriate behavior given status
<i>Sanctity/ Degradation</i>	attribution of intrinsic value and sacredness to objects and symbols; disapproval of that which disrespects these values; disgust

DISPLAY 1 SOURCE: HAIDT, *THE RIGHTEOUS MIND*, PP. 153-54, 181-85

Haidt found that left-leaning-liberal subjects display responses and justifications that very strongly focus on the Liberty/Oppression and Care/Harm dimensions. Haidt calls this the Western, Educated, Industrialized, Rich, Democratic morality (or WEIRD morality); a morality that is most familiar in universities. We must be careful; this is not to say that left-leaning liberals are entirely without intuitions based on the other foundations, but that their intuitions are strongly inclined to those two foundations (or dimensions) as are, especially, their justifications. On their view morality is essentially about freedom, equality and preventing harm. Morality is really *only* about treating all as free and equal, avoiding harm and ensuring that needs are met.⁸ All other foundations are irrelevant. Consequently, left-leaning-liberals are apt to be more confused when endeavoring to provide justifications for their moral reactions in cases such as incest; they are disgusted (which relates to impurity and sacredness), but cannot parse this into their essentially anti-oppression, anti-harm morality. In contrast, Haidt shows, those associated with conservative political views (a *lot* of people!) tend to rely on *all* the foundations, both in their reactions and justifications. Whereas “liberal” subjects put great stress on only two

⁸ See *ibid.*, chap. 5.

foundations, “conservative” respondents rely almost equally on all.⁹ They do not reject the “basic liberal norms,” but they draw on others as well.

We immediately see how Quong’s exclusion of all considerations not shared in the freestanding argument from the original position mandates WEIRD political justification. But WEIRD morality is simply a subset of a much wider set of moral attitudes, a set on which conservatives draw far more extensively. Quong’s initial sect, from which justification proceeds, is the group of WEIRD reasoners. To say that *only* the foundations they identify count is simply to proclaim at the outset that the left-leaning liberal moral attitudes are correct, and the rest of the population are unreasonable and unjust. Isn’t *that* sectarian?

V

In the end I only have one big question, which breaks up into many little ones. Isn’t Quong’s original and insightful book a critique of one form of sectarianism so as to make way for another? As far as I can see, it is a philosophical justification for one highly controversial view of what is morally relevant being imposed on all of us in the name of non-sectarianism.¹⁰

⁹ Ibid., 161. “Very conservative” respondents rely more on authority and loyalty. In the figure referred to here Haidt was relying on an earlier version of this theory, which only specified five foundations; some of the foundations are differently characterized in this earlier version.

¹⁰ My thanks to Kevin Vallier and Chad Van Schoelandt for their very helpful comments.

SYMPOSIUM
POLITICAL LIBERALISM VS. LIBERAL PERFECTIONISM



IN DEFENCE OF COMPREHENSIVE
LIBERALISM

BEN COLBURN

In Defence of Comprehensive Liberalism

Ben Colburn

In *Liberalism without Perfection* Jonathan Quong defends a form of political liberalism; that is, a political philosophy that answers ‘no’ to both the following questions:

1. Must liberal political philosophy be based in some particular ideal of what constitutes a valuable or worthwhile human life, or other metaphysical beliefs?
2. Is it permissible for a liberal state to promote or discourage some activities, ideals, or ways of life on grounds relating to their inherent or intrinsic value, or on the basis of other metaphysical claims? (p. 15)¹

In these remarks, I respond to Quong’s arguments against those of his rivals who answer ‘Yes’ to his first question by dint of their comprehensive commitment to an ideal of individual autonomy. One of these, which Quong calls ‘comprehensive antiperfectionism’, answers ‘Yes’ to Question 1 and ‘No’ to Question 2.² The other, which answers ‘Yes’ to both, he calls (comprehensive) ‘liberal perfectionism’.³ Quong poses these positions a dilemma: they cannot consistently be both comprehensive (by retaining their commitment to autonomy) and liberal (by ruling out the sort of coercive interference in people’s choices which is beyond the liberal pale). In what follows, I argue on the contrary that a comprehensive commitment to

¹ All in-text references are to J. Quong, *Liberalism Without Perfection* (New York: Oxford University Press, 2011). Other political liberals include Charles Larmore (e.g. *Patterns of Moral Complexity* (Cambridge: Cambridge University Press, 1987) and “Political Liberalism,” *Political Theory* 18 (1990): 339-360) and John Rawls (e.g. *Political Liberalism* (New York: Columbia University Press, 1993)).

² Quong ascribes versions of this position to Ronald Dworkin, J.S. Mill, and Will Kymlicka. See R. Dworkin, *Sovereign Virtue* (Cambridge: Harvard University Press, 2000), especially chapter 6; J.S. Mill *On Liberty* in S. Collini (ed.), *On Liberty and other writings* (Cambridge: Cambridge University Press, 1989); and W. Kymlicka, *Liberalism, Community, and Culture* (Oxford: Clarendon, 1989).

³ E.g. J. Raz, *The Morality of Freedom* (Oxford: Clarendon, 1986), S. Wall, *Liberalism, Perfectionism, and Restraint* (Cambridge: Cambridge University Press, 1998), and T. Hurka, *Perfectionism* (Oxford: Oxford University Press, 1993).

autonomy actually demands a general injunction against such coercive interference, because responsibility is an important component of the autonomous life, and coercion always undermines responsibility. So, Quong's dilemma is unsuccessful.

I

The Antiperfectionist's Dilemma

Quong argues that comprehensive antiperfectionism is inconsistent, because its comprehensive foundations inevitably lead to perfectionist politics.⁴ He suggests that the following argument represents the core motivation behind the position:

1. It is wrong to coerce someone for his own good.
2. The reason it is wrong has to do with *autonomy*, the importance of being the author of your own decisions and your own life.
3. People disagree about perfectionist judgements and conceptions of the good life generally.

Therefore,

4. The liberal state, being a coercive institution, should thus not act for perfectionist reasons because formulating its policies because this would infringe some people's autonomy.

Quong directs four arguments against this position (pp. 23-26). First, no motivation is offered for thinking that autonomy is so important that it must always trump other considerations. Second, even if we grant that it *is* that important, what we're granting is a view of the good life that is 'just as controversial' as its rivals; so, Quong says, acting on reasons to do with autonomy will be 'no less perfectionist' than the sort of policies which the defender of comprehensive antiperfectionism seeks to rule out. In light of this, Quong considers that the defender of comprehensive antiperfectionism might concede, and say that she is in fact arguing for antiperfectionism

⁴ It is worth noting that Quong's positive case for political liberalism doesn't depend on this argument against comprehensive antiperfectionism, just his attempt to close off theoretical territory available his rivals (p. 22).

about everything *except* autonomy, thus modifying the conclusion of the above argument to read:

4*. The liberal state, being a coercive state, should thus not act for perfectionist reasons, except considerations to do with the value of autonomy, when formulating its policies.

Quong's third line of attack is to argue that this position is now on the same footing as 'any version of perfectionism', since *any* perfectionist will think that the state ought to act on some, but not all, putative perfectionist values (hence, trivially, be an antiperfectionist about the rest).

I don't propose to address these parts of Quong's argument here. For one thing, I think I have said things elsewhere which allow the comprehensive antiperfectionist to address them.⁵ For another, Quong's fourth argument seems to me the most powerful and interesting. It runs as follows: even if he concedes the pre-eminence of an uncontroversial value of autonomy, that doesn't preclude the liberal state also pursuing other perfectionist values, so long as it does so in a way that doesn't damage autonomy. Quong says that this leaves the comprehensive antiperfectionist unable consistently to oppose non-coercive perfectionist policies like subsidy, advertising and other incentives; and although he concedes that quite how much perfectionism must be permitted depends on the conception of autonomy at issue, he thinks it impossible to rule out all such action (p. 25). Hence, he concludes, '[o]nce liberalism is tied to some specific views about the good life, the liberal state will unavoidably be acting for perfectionist reasons'. Effectively, this poses the following dilemma:

The Antiperfectionist's Dilemma: The comprehensive antiperfectionist liberal cannot sustain her comprehensive commitment to autonomy without violating her commitment to antiperfectionism.

⁵ See my "Forbidden Ways of Life," *The Philosophical Quarterly* 58 (2008): 618-629; "Autonomy and Anti-Perfectionisms" *Analysis* 70 (2010): 247-256 (hereafter 2010a); and *Autonomy and Liberalism* (New York: Routledge, 2010): chapters 2 and 3, (hereafter 2010b). The gist of my arguments is that we should think autonomy pre-eminently valuable – at least in political contexts – because any argument to the contrary presupposes as much, in light of which autonomy's being a controversial value doesn't matter much; and that being a perfectionist about autonomy and an antiperfectionist about everything else is as close as one can get to wholesale antiperfectionism, in light of the fact that a commitment to promoting autonomy is the only credible motivation for any consistent and coherent version of antiperfectionism on the market.

In Section 3, I show how the comprehensive antiperfectionist can respond to this dilemma by adopting a particular conception of autonomy. Before I do so, however, I turn to Quong's argument against comprehensive perfectionism.

II

The Perfectionist's Dilemma

Joseph Raz, in his book *The Morality of Freedom*, gives the most significant elucidation and defence of comprehensive perfectionist liberalism. Raz's position combines comprehensive foundations – a particular view of human flourishing with autonomy at its heart – with what Quong calls the Liberal Perfectionist Thesis:

It is at least sometimes legitimate for a liberal state to promote or discourage particular activities, ideals, or ways of life on grounds relating to their inherent or intrinsic value, or on the basis of other metaphysical claims (p. 46).

Raz allows such action because he believes that autonomy (which he understands as an ideal of 'self-authorship') is good for individuals, but good only when exercised in pursuit of genuinely valuable ends.⁶ One might think, in light of this, that Raz's state should coerce people into pursuing only such ends, and disbar them from pursuing worthless or bad ends. In fact, Raz thinks not, because he thinks that concern for autonomy implies a version of John Stuart Mill's Harm Principle, that coercion can be used only to prevent people harming others (p. 51). This forbids the state to use coercion to make people pursue only valuable options, but doesn't rule out using other non-coercive means like the promotion or discouragement mentioned in the Liberal Perfectionist Thesis.

Raz's endorsement of his Harm Principle is very important for his view: his claim to be defending a form of *liberal* perfectionism depends on his combining that perfectionism with a general injunction against coercive interference. Quong argues that this combination is untenable.

On Quong's reconstruction, Raz's argument runs as follows:

⁶J. Raz, *The Morality of Freedom*, 378 et seq.

- (Normative premise) We should not reduce people’s ability to autonomously choose the good in order to prevent them from choosing badly.
- (Factual premise) There is no practical way for the state to use coercion to prevent people’s pursuit of repugnant options without this coercion also preventing people’s autonomous pursuit of the good (p. 54).⁷

Therefore:

- Raz’s Harm Principle: [It] is wrong to coerce people in order to prevent them from pursuing bad options, but ... it is not wrong to use coercion to force people to fulfil the moral duty they have to help provide others with good options (p. 53).

This allows coercion to ensure that individuals have an adequate range of options, because such a range is needed for autonomy, and (says Raz) failing to secure the necessary preconditions for autonomy constitutes harm; but it forbids coercion of an individual just for perfectionist reasons applying to her. The label ‘coercive perfectionism’ usually applies only to the latter type of case, where coercion is applied solely for the sake of the individual herself, and not for any third party reasons. All coercive perfectionism is ruled out by Raz’s harm principle.

Quong’s objection is that the second (factual) premise is empirically contingent ‘on the wrong sort of factual considerations’ (p. 54-5). For that reason, he thinks that Raz’s argument ultimately fails, because (contrary to its stated ambitions) his harm principle applies only in those cases where the factual conditions hold, rather than generally. Quong argues that this is a much smaller set of cases than Raz thinks: sufficiently well-focussed coercion could impede our choice of bad options without having any effect on our ability to choose good ones, and Raz’s harm principle would not rule out coercion in such cases.

One might seek to defend Raz by arguing that there’s something autonomy-impeding about coercion *per se*: even if only bad options are precluded, coercion changes the character of our pursuit of good options in a way which undermines our autonomy anyway. Quong considers several possible defences of this sort, each identifying some autonomy-impeding

⁷ This is in fact a concatenation of several smaller steps. For the details, see J. Quong, *Liberalism Without Perfection*, 53 and J. Raz, *The Morality of Freedom*, 418-19.

feature of perfectionist coercion: that it ‘expresses a relation of domination’, constitutes disrespect, ‘shows a lack of trust in some people’s status as rational agents’ or makes one’s will ‘subject to the will of someone else’, and concludes that no such manoeuvre will work (pp. 57-60). Either they don’t actually rule out coercive perfectionism (for example, if we’re confident that the option being ruled out is a bad one, there’s no reason to think that coercive prevention shows disrespect); or it will do so only at the cost of ruling out the non-coercive encouragement of valuable goals which is also integral to Raz’s position (pp. 57-9, 60-67, 70-1).

The question is important for Raz. For reasons noted above, his claim to be defending a liberal theory depends on combining his comprehensive perfectionism with a robust injunction against coercive interference. Moreover, Quong thinks that that this argument generalizes to all liberal comprehensive perfectionists, because there is no conception of autonomy that can do all the work that they require (pp. 71-72). Autonomy might be construed in a way that can deliver a principled injunction against perfectionist coercion (for example by taking it to be precluded by relations of domination); but so construed, it will likely rule out the apparently more innocuous practices (‘subsidies, incentives, and other means of manipulating citizens into making good choices’) which characterize liberal *perfectionism*. Or, autonomy might be construed in a way which is consistent with such manipulation; but on such an understanding it will be unable to sustain a general rule against coercion, thereby bringing into question whether this perfectionism can be recognizably *liberal*. That is, the comprehensive perfectionist faces her own dilemma:

The Perfectionist’s Dilemma: No comprehensive position can consistently be both liberal (by ruling out coercive perfectionism) and perfectionist (by permitting non-coercive manipulation).

III

Autonomy and Responsibility

Quong’s two arguments don’t prove that no stable and attractive comprehensive liberalism is possible, as he himself acknowledges (p. 72 n. 72). Taken together, however, they do indicate just how narrow is the theoretical space left for such a position. The Antiperfectionist’s Dilemma

poses us a choice between preserving our antiperfectionism at the cost of dropping the comprehensive commitment to autonomy, or retaining the latter at the cost of permitting at least some non-coercive perfectionism; the Perfectionist's Dilemma then shows that one cannot consistently permit non-coercive perfectionism without also, at least in principle, permitting coercive perfectionism. So, putting the dilemmas together, Quong poses comprehensive liberals the following problem:

The Master Dilemma: No theory can consistently be both comprehensive (by retaining its commitment to autonomy) and liberal (by ruling out coercive perfectionism).

To defend comprehensive liberalism we must find a conception of autonomy which responds to this dilemma. In what follows I argue that Raz's conception of autonomy – or one extremely like it – has the resources to do that, when we realise the central role that responsibility plays in the autonomous life.

The conception of autonomy Quong has in mind is the ideal sketched by Raz, who conceives of autonomy as an ideal of self-authorship or 'self-creation':

The ruling idea behind the ideal of personal autonomy is that people should make their own lives. The autonomous person is a (part) author of his own life. The ideal of personal autonomy is the vision of people controlling, to some degree, their own destiny, fashioning it through successive decisions throughout their lives.⁸

What makes a view like Raz's unusual is its emphasis on success. It is necessary, but not sufficient, that someone has appropriate mental abilities and options, and identifies with her goals and projects.⁹ In addition, one must successfully pursue those goals: 'the autonomous person is the one who makes his own life'.¹⁰ To think otherwise, says Raz, would be to mischaracterize what really matters: one values the capacities involved in autonomy only because they can be successfully exercised.¹¹

How do we analyse what is meant by saying that the autonomous person *makes* her life go in accordance with what she decides is valuable? It can't

⁸ Raz 1986, 369-70; and see Quong 2011, 16, 23, 45, and 47-50.

⁹ Contrast, for example, Gerald Dworkin, on whose view autonomy consists just in one's desires being structured in a certain way, regardless of whether they are satisfied. See *The Theory and Practice of Autonomy* (Cambridge: Cambridge University Press, 1988): esp. Chapters 1 & 2.

¹⁰ J. Raz, *The Morality of Freedom*, 375.

¹¹ *Ibid.*, 372.

simply be that her life happens to follow the pattern she values, because that could happen purely by chance, or because of benevolent external management. To capture the additional requirement that *she* makes her life, I propose that we incorporate a responsibility condition. Assuming that she endorses her values in the right way, someone's life is autonomous to the extent that her life goes in accordance with those decisions, and she is responsible for the fact.

There are two different ways in which someone might be responsible for how her life goes.¹² One – which we might call *explanatory responsibility* – picks out her having a certain causal role in bringing about a state of affairs. For example, this article's existence is causally attributable to me (in part) because of my sitting down and writing it: I am in this descriptive sense responsible for it. For present purposes, I assume that one is explanatorily responsible for all and only the things that counterfactually depend on one's free intentional actions: that is, which happened because of those actions, and which (all else equal) wouldn't have happened if one had acted otherwise. So, with regard to autonomy, someone's life is not autonomous unless it goes in accordance with her decisions about value as a result of her freely and intentionally making it so: a life must be attributable to an individual for it to be autonomous.

The second sense of responsibility is *evaluative responsibility*. This is a normative concept, picking out a relation between an individual and a state of affairs which grounds some normative upshot: some normative claims about what the individual must, may, or may not do or demand are true *because* the relation obtains, and *ceteris paribus* wouldn't be true if the relation didn't obtain. So, for example, I am evaluatively responsible for this article's existence in at least two ways: my having agreed to write it has placed an obligation on me to make it exist, such that the editors of this journal would have a legitimate complaint against me if that state of affairs hadn't obtained; and my having successfully written it means that I am properly held to account for its content, being praised, blamed, or sued for libel, depending on how things go.

¹² Other philosophers have also distinguished between two conceptions of responsibility. Most importantly, Thomas Scanlon distinguishes between 'attributive' and 'substantive' responsibility, and Ronald Dworkin distinguishes between 'causal' and 'consequential' responsibility. To some extent, my theory is an attempt to improve on those important but somewhat ill-drawn distinctions. See T. Scanlon *What We Owe to Each Other* (Cambridge, Mass.: Harvard University Press, 1998), 65, and R. Dworkin *Sovereign Virtue* (Cambridge, Mass.: Harvard University Press 2000), 278-8.

Whether or not someone is evaluatively responsible is, as will be clear, not a unitary matter: there are many co-existent conceptions of evaluative responsibility, because there are many different normative upshots that we can be concerned with: praise, blame, reward, punishment, compensation, liability, and so on. Each of these might be grounded in a different relation between an individual and a state of affairs. With respect to some normative upshots, being explanatorily responsible might be sufficient. Maybe freely choosing to perform an action is enough to render one liable for praise or blame, for example. With respect to others, we might need something more. For instance, following G.A. Cohen we might think that my freely choosing (without overt coercion) to enter hazardous employment is insufficient to render me wholly liable for any injuries or illness that come about, but that I must in addition be fully informed and not motivated by the prospect of serious economic hardship if I don't take up the job. With respect to praise or blame, free choice (hence explanatory responsibility) is sufficient for evaluative responsibility; with respect to bearing the burdens of asbestosis, it isn't.¹³

Evaluative responsibility is also an important part of autonomy, because Raz's appeal to the value of 'self-authorship' requires more than just explanatory responsibility. The word 'author' indicates not only the 'cause' of a thing authored, but also the person who has authority and stands in a certain normative relation to the thing authored. The self-authored life is one where the individual makes it go a certain way, and also bears the consequences. The concept of evaluative responsibility captures this further element. What matters is not just that someone causes her life to be a certain way, but that she does so in a way makes it appropriate to give her praise, blame, punishment, liability, reward and so on.

To summarise: one of the distinctive things about a conception of autonomy like Raz's is its inclusion of a success criterion, and that criterion is best construed as indicating that explanatory and evaluative responsibility are necessary for a fully autonomous life, and that diminutions of responsibility in either sense diminish one's autonomy.

This lets us reply to Quong's Master Dilemma, which stated that no theory can consistently be both comprehensive (by retaining its commitment to autonomy) and liberal (by ruling out coercive perfectionism). This is

¹³ G. A. Cohen, "Are Disadvantaged Workers who take Hazardous Jobs Forced to take Hazardous Jobs?" in his *History, Labour and Freedom* (Oxford: Clarendon, 1988): 239-254.

incorrect: we can be comprehensively committed to autonomy while still endorsing the general injunction against coercive perfectionism that Quong requires, because coercion always damages autonomy. The argument runs as follows:

1. Successful coercion always diminishes an individual's responsibility for how her life goes;
2. Actions that diminish an individual's responsibility for how her life goes undermine her autonomy;
3. Coercive perfectionism constitutes successfully coercing an individual for no third-party reasons;
4. A comprehensive commitment to autonomy precludes actions that undermine an individual's autonomy for no third-party reasons;
5. (from 1 & 2) Successful coercion always undermines an individual's autonomy;
6. (from 3 & 5) Coercive perfectionism always undermines an individual's autonomy for no third party reasons;

Hence

7. (from 4 & 6) A comprehensive commitment to autonomy precludes coercive perfectionism.

So, Quong's dilemma fails. The comprehensive commitment to autonomy doesn't force one into (illiberally) permitting coercive perfectionism; in fact, the opposite is true.

I have already justified Premise 2. Premise 3 is just the definition of coercive perfectionism I gave above. Premise 4 should be uncontroversial: a comprehensive commitment to autonomy probably involves more than just avoiding actions that undermine autonomy for no third-person purpose, but it must involve *at least* that. This bare minimum commitment is all that I need for present purposes.

So, it remains to explain Premise 1, which states that successful coercion always undermines responsibility: to the extent that her being coerced features in an individual's performing a given action, her responsibility for that action is diminished.¹⁴ Different theories of coercion will say different

¹⁴ I talk of 'successful' coercion to sidestep the question whether coercion is successful by definition. There exist those who argue that coercion doesn't always undermine

things about what sorts of responsibility are damaged, and how. Perhaps the effect of coercion is to curtail or eliminate free choice;¹⁵ in that case, coercion diminishes both explanatory and evaluative responsibility, because it reduces the relevance of our individual agency to both the explanation and the normative consequences of our actions. Or, one might think that coercion (unlike strict physical compulsion) operates not by constraining the range of one's options, but by changing their nature to make all but one unacceptable to the chooser.¹⁶ On that theory, the coerced individual is still explanatorily responsible for her action, but lacks evaluative responsibility.

These disagreements don't matter for present purposes. On any plausible theory, if someone acts as they do because of coercion, their responsibility for that action is impaired in at least one of the two senses distinguished above. So, responsibility for how one's life goes is diminished to the extent that it is composed of coerced actions, and Premise 1 is true: these judgements come in degrees, but responsibility is necessarily diminished, though not always precluded entirely, by successful coercion.

So, there is a way out of Quong's Master Dilemma. If one accepts a conception of autonomy like the one entertained here, one can (indeed must) be both comprehensively committed to autonomy and also have a firm general injunction against coercive perfectionism, because the latter necessarily undermines autonomy.

responsibility, but they do so on the basis that coercion can be unsuccessful, or that an act which would be a piece of successful coercion applied to one victim fails to be so (but perhaps invisibly) when applied to another; hence, they offer no reasons to reject Premise 1, which stipulates that the coercion has been successful. See e.g. C. Carr "Coercion and Freedom," *American Philosophical Quarterly* 25 (1988): 59-67.

¹⁵ E.g. J.R. Lucas, *The Principles of Politics* (Oxford: Clarendon, 1966), 57; H. Frankfurt "Coercion and Moral Responsibility," in T. Honderich ed. *Essays on Freedom of Action* (London: Routledge Kegan Paul, 1973): 63-86, at 75; and G. Yaffe, "Indoctrination, Coercion, and Freedom of Will," *Philosophy and Phenomenological Research* 67 (2003): 335-356.

¹⁶ e.g. R. Nozick, "Coercion," in P. Lazlett & W. Runciman (eds.), *Philosophy, Politics, and Society*, 4th series (Oxford: Blackwell, 1967), 101-135; J. Feinberg, *Harm to Self* (New York: Oxford University Press, 1986): 192-4; Carr 1988; and S. Olsaretti, *Liberty, Desert and the Market* (Cambridge: Cambridge University Press, 2004), 141-148.

IV

Conclusion

Quong is right that many comprehensive liberals will be unable to respond to his dilemmas. The argument given above depends upon accepting a conception of autonomy that incorporates a responsibility condition. While such a conception seems to me attractive both as an elucidation of Raz and on its own terms, I haven't argued for it here.¹⁷ So, my conclusion is conditional: my argument rescues the comprehensive liberal only if she thinks of autonomy like this.

In addition, there are further theoretical costs to be borne by both the antiperfectionist and the perfectionist liberal, if they are to be able to use my argument. To conclude, I set those costs out.

First, the antiperfectionist must complete the task I set aside earlier, of refuting the first parts of Quong's argument against comprehensive antiperfectionism. Only if we can satisfactorily give reasons to think autonomy pre-eminently important, and can defend the element of perfectionism inevitably implied by autonomy itself, does the truth of that position hang on Quong's dilemma.

Second, the fate of the perfectionist's view now clearly depends on our substantive theories of responsibility, and what they say about the non-coercive perfectionist techniques – manipulation, persuasion, encouragement, subsidy, and so on – which the perfectionist liberal like Raz wants to permit.¹⁸ If the liberal perfectionist can argue that only coercion systematically diminishes responsibility, then her position looks tenable. But if at least some such techniques do systematically diminish responsibility, because they erode the extent to which actions are attributable to individuals, or make it less appropriate to hold individuals accountable for those actions' consequences, then my argument will be little succour. In the

¹⁷ More argument is provided in Colburn 2010b.

¹⁸ We might, of course, think there are further problems for those techniques, because they undermine autonomy by diminishing the extent to which an individual decides for herself what is valuable. These considerations seem to be sufficient to condemn perfectionism and vindicate comprehensive antiperfectionism, but I leave the point aside here. For further discussion see R. Crisp, "Persuasive Advertising, Autonomy, and the Creation of Desire," *Journal of Business Ethics* 6 (1987): 413-18, Colburn 2010b: 26-31, and Colburn "Autonomy and Adaptive Preferences," *Utilitas* 23 (2011): 52-71.

end, she must probably concede to Quong (though for different reasons) that her ‘account of personal autonomy cannot simultaneously ground the harm principle while also permitting many of the policies that liberal perfectionists favour.’¹⁹

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¹⁹ Quong in this volume, 2.

SYMPOSIUM
POLITICAL LIBERALISM VS. LIBERAL PERFECTIONISM



POLITICAL AUTHORITY AND
PERFECTIONISM: A RESPONSE TO QUONG

JOSEPH CHAN

Political Authority and Perfectionism: A Response to Quong

Joseph Chan

Jonathan Quong's *Liberalism Without Perfection*¹ is a powerful restatement and defense of Rawlsian political liberalism. The book develops its case by arguing against its chief intellectual opponents in recent years, namely, liberal perfectionists. The book has many virtues—it is clearly and rigorously argued; it gives a fair hearing to the recent arguments of liberal perfectionists; and it presents new challenges to them. The book makes an important contribution to the debate between political liberalism and liberal perfectionism.

In this commentary I will focus on what Quong regards as the most decisive challenge to liberal perfectionism in the book, which concerns the legitimacy of the perfectionist state.² Perfectionists argue that it is wrong for liberals to categorically exclude the promotion of the good life from the state's legitimate tasks. On the contrary, under certain conditions, it is legitimate for the state to promote conditions that help people pursue valuable conceptions of the good life. In the literature on perfectionism, there are at least two ways of justifying the authority of the perfectionist state. One way is what I would call independent justification. An independent justification gives a direct, independent reason for the authority of the perfectionist state. An example is Joseph Raz's service conception of authority and its normal justification thesis, which argue that the very rationale of authority is to help people act in accordance with practical reasons that apply to them, and the pursuit of what is objectively valuable and good for their lives is one such reason. The other way is what I would

¹ Jonathan Quong, *Liberalism Without Perfection* (New York: Oxford University Press, 2011).

² The challenge is presented in Ch.4

call conditional justification, which takes up whatever justifications of state authority *liberals* regard as sound and uses them for the authority of the perfectionist state. For instance, I have argued that the higher-order unanimity argument that liberal philosophers use to justify the state's pursuit of controversial goals in matters of justice or education can also be used to justify state pursuit of controversial perfectionist goals.³

In this commentary I shall focus on Quong's challenge to Raz's normal justification. My main interest lies not in Raz's justification itself, still less in defending it here. Rather, I am interested in the more general philosophical point Quong raises in his critique of Raz. For Raz, a person has authority over another person if the alleged subject would better conform to reasons for action that apply to her by following the alleged authority's commands, than by following those reasons directly. Quong calls this the "practical reason model" of authority, because authority is established by its alleged ability to help the subject conform to practical reason. Quong believes that liberal perfectionism precisely subscribes to this model in justifying the authority of the perfectionist state, for perfectionism claims that to lead as valuable a life as we can is indeed a practical reason to which we should conform; and if state action "enables citizens to lead more flourishing or valuable lives than they would in the absence of the state's rules and institutions," (120) then, according to this practical reason model, the state would have authority in undertaking perfectionist state action.

Quong rejects the practical reason model of authority. He argues that better conformity with practical reason does not provide any reason for authority, for it fails to explain "why the brute fact that I have reason to do something should affect what rights you have with regard to me." (115) The mere fact that I have a good reason to go on a trip to Peru does not imply that any experienced, trustworthy travel agent can claim authority over me as to what I should do about the trip.⁴ Quong argues that you have authority to

³ See Joseph Chan, "Legitimacy, Unanimity, and Perfectionism," *Philosophy & Public Affairs*, 29 (2000): 5-43.

⁴ There is, however, some problem with this example, as noticed by Quong. He is aware that Raz does not take conformity with practical reason as a sufficient condition for authority. For Raz, such conformity only grounds a legitimate claim of authority provided that the alleged subject cares more about acting rightly than acting autonomously. Quong does not think that Raz's autonomy constraint can answer his challenge. Since I do not

issue and enforce command over me with regard to a certain domain of issues only if I am, in the first place, under a duty of justice to others regarding that domain. His example is the duty to aid the victims of an accident—if the best way I can fulfill this duty is to obey the medical commands of a surgeon who happens to be on the scene, then the surgeon has authority over me, i.e. he has the right to issue and enforce medical commands over me. Quong writes:

Your authority over me in the example derives not from the fact that what I have most reason to do is rescue the victims, but rather from the fact that I have a duty of justice to help the victims which means, by definition, that I lack the right to refuse to help them. All the normative work is thus done by our views regarding who holds which rights and who is under which duties: the allocation of legitimate authority is simply parasitic on our beliefs about the distribution of rights and duties. Call this the duties-not-reasons objection to all practical reason views of legitimate authority. The objection declares that the focus on what we have most reason to do is misleading. Legitimate authority does not track what we have reason to do, it tracks what rights we have, and what duties we may be under. (116)

I doubt if the surgeon example can show that the surgeon has authority. It may be right to think that the surgeon is morally justified to coerce me to do things she sees as necessary to help victims. It may even be possible to think that I am morally obligated to comply with the surgeon's medical instructions. But does it show that the surgeon has authority over me, in the sense that she has the status or standing to command my obedience? I do not think it does. If a person has authority over me, then presumably within certain limits, he has the right to command me and I am obligated to obey him, even if the content of his command is highly controversial or mistaken.⁵ No authority in this sense exists in the surgeon case. My obligation to comply with the surgeon's instruction is confined to a narrowly defined *ad hoc* task, namely to save the victims; my compliance is conditional upon the successful execution of the task. If I reasonably disagree with the instruction or seriously doubt whether my compliance would lead to the successful execution of the task, the force of my obligation will quickly weaken; and if the surgeon's instruction is in fact mistaken, then certainly I have no obligation to comply. An authoritative relationship may be partially

want to dispute with Quong on this point here, I will not discuss the autonomy condition in Raz's defense of his service conception of authority.

⁵ For this point see Andrei Marmor, "The Dilemma of Authority," *Jurisprudence* 2 (2011): 128.

justified by the authority's expertise or ability to coordinate collective action to ensure justice, but this cannot be the whole story—the ability of the alleged authority does not, by itself, show that she has, as Thomas Christiano puts it, “a valid claim on us to respect the status of the decision maker even when we disagree with the substance of the decision.”⁶

I suspect what is missing in both the travel agent case and the surgeon case is that the persons who claim to have authority are private individuals who, despite their expertise and ability, have no valid claim or normative power over others to regard them as authoritative decision makers. In a more recent article, Raz recognizes that the alleged authority's ability to help the subject better conform to reason (whether practical or obligatory) seems not sufficient to explain what it means to have practical authority. Practical authorities have normative powers over people. They impose duties on the subjects and grant rights to them. The mere fact that they can perform their tasks well *if given* the authority to perform those tasks does not show that they in fact possess the authority to impose duties and grant rights. “[N]o one is a prime minister or a teacher just in virtue of the fact that they can perform the task well. Something else has to happen to give them the task, to make it their task.”⁷ Raz argues that his service conception of authority can go some way to fill the gap between ability and authority—one way to show that a putative authority has the ability to do the tasks well is that she in fact possesses *de facto* authority, that her *de facto* authority is recognized and followed by the subjects. Raz illustrates this with the case of political authorities. We know, he says, that a major part of their role is to improve public services, protect personal security, enforce contracts, facilitate collective action, and so forth. Now, the fact that a group of individuals has the ability to perform these functions well is necessary, but not sufficient, to establish authority. “Only bodies that enjoy *de facto* authority (i.e., that are in fact followed or at least conformed with by considerable segments of the

⁶ Thomas Christiano, *The Constitution of Equality: Democratic Authority and Its Limits* (New York: Oxford University Press, 2008), 241-242.

⁷ Joseph Raz, “The Problem of Authority: Revisiting the Service Conception,” *Minnesota Law Review* 90 (2006): 1032. In *The Morality of Freedom*, Raz gives a similar view: “[I]n most cases the normal justification cannot be established unless the putative authority enjoys some measure of recognition, and exercises power over its subjects. There is a strong case for holding that no political authority can be legitimate unless it is also a *de facto* authority.” (Oxford: Clarendon Press, 1986), 56.

population) can have legitimate authority over all these matters. Hence there cannot be an unknown political authority.”⁸

For a person to have authority, then, she has to be widely recognized as having *de facto* authority to command others.⁹ This line of thought, I believe, points to the right direction in understanding authority. One could go farther than Raz’s point about *de facto* authority by viewing practical authority as primarily an institutional or practice-based phenomenon. To be a *de facto* authority is to be known, recognized, and complied with by its subjects. Such recognition is often based on the fact that the *de facto* authority takes up certain roles or positions in an institution or social practice that grant her a standing to impose duties on people who participate in that institution and share its rules or norms. Recently, some legal theorists have advocated this understanding of authority. Scott Hershovitz holds that “[a]uthority is a feature of roles embedded in practices.”¹⁰ “To say that one person has *de facto* authority over another is to say that both participate in a practice whose roles are such that the first person has a right to rule and the second an obligation to obey.”¹¹ Similarly, Andrei Marmor writes, “what it takes to have practical authority is determined by some social or institutional practice.”¹² He argues that A has authority over B if and only if A has the normative power to unilaterally change the normative situation of B (by imposing duties or granting or withholding rights) within a certain defined range of options. Such normative powers, if they are relatively stable and complex, can only be granted by “power-conferring norms” that are “practice-based or institutional in nature.”¹³

I find this institutional or practice-based perspective on authority attractive. But given the limited space of this commentary, I cannot go into the details of such a perspective, let alone defend it. Instead, I will use this

⁸ Joseph Raz, “The Problem of Authority: Revisiting the Service Conception,” *Minnesota Law Review*, 90 (2006): 1036.

⁹ John Finnis holds a similar view too. See his *Natural Law and Natural Rights* (Oxford: Clarendon Press, 1980), 245-252.

¹⁰ Scott Hershovitz, “The Role of Authority,” *Philosopher’s Imprint* 11, 7 (March 2011): 11.

¹¹ *Ibid.*, 12

¹² Andrei Marmor, “An Institutional Conception of Authority,” *Philosophy & Public Affairs* 39 (2011): 238.

¹³ *Ibid.*, 241.

perspective to formulate an initial response to Quong's challenge to the authority of the perfectionist state. Quong uses the travel agent example to show that a person's mere ability to help people better conform to reason does not grant that person any authority. This is true, but I don't think it is necessary to appeal to Quong's duty-based conception of authority to understand why this is so. An alternative explanation is that the travel agent is a stand-alone individual who does not operate with any power-conferring institutional norms or rules of practice. There are no shared rules or norms that can enable the travel agent to make a valid claim to certain authoritative standing vis-à-vis her potential customers. In other words, the travel agent is simply not a recognized *de facto* authority that can impose duties on others in the domain of travelling and tourism. For the same reason, the surgeon is not a *de facto* authority (although he may possess theoretical authority). So the travel agent and the surgeon do not have *legitimate* authority because they do not possess *de facto* authority. Practical authority operates against the background of a common life governed by institutional norms or rules of practice. Quong's examples simply lack this critical background.

This is not to say that the travel agent would have legitimate authority over her customers if she did operate with power-conferring norms that grant her *de facto* authority. This is because those norms can be morally problematic or unjustifiable, and if that is the case her *de facto* authority would lack legitimacy. As Hershovitz and Marmor separately suggest, the institutional or practice-based perspective on authority takes a two-step approach to the question of legitimate authority. First, we have to determine whether a putative authority does possess *de facto* authority conferred by some institutional norms or rules of practice. Second, we ask whether these norms or rules can be justified to the participants in those institutions or practices.¹⁴ The travel agent example may simply not be able to pass the second step. Generally speaking, participants may simply not see any good reason for participating in power-conferring norms that impose duties on them regarding their travel decisions.

¹⁴ Hershovitz, "A person with *de facto* authority also has legitimate authority if the practice and their participation in it is, in some sense, justified." "The Role of Authority," p.12; Marmor, "[W]hat it takes to have practical authority is determined by some social or institutional practice. And then the legitimacy of the relevant authority is bound to depend on the kind of practice it is and the terms of participation in it." "An Institutional Conception of Authority," 238-239.

We are now in a position to respond to a question Quong raises with certain force. Legitimate authorities impose duties on their subjects, but, Quong asks, “if, prior to the authority’s demands, I owed no one any duties, to whom do I own the duties that the authority imposes on me?” (116) Quong’s question, in short, is: What could possibly justify my duties to obey if I owe no one any duties in the first place? An answer could be given from the two-step approach. In the first step, arguments will have to be provided to justify the duty to obey as an *institutional* duty. Just as the authority’s power to impose duties on its subjects are conferred by certain institutional or practice-based norms, the subjects’ duty to obey also arises from the same norms. These norms specify at once the power to command and the duty to obey. In the second step, arguments will have to be provided to *morally* justify the subjects’ institutional duty to obey, by giving a moral justification of the norms of the institution in which the authority and subjects participate. If these norms can in fact be morally justified, then the subject’s duty to obey is a *moral* duty as well as an institutional one. This duty to obey is owed not so much to the person in authority but to all the people who participate in the institution and its norms.

Quong continues to argue that “[a]ll the normative work is... done by our views regarding who holds which rights and who is under which duties: the allocation of legitimate authority is simply parasitic on our beliefs about the distribution of rights and duties...” (116) I am not sure this is right. A possible reply from the two-step approach would be this: Institutional norms allocate or confer people the powers to command and duties to obey, and these norms could be justified by many reasons. Although the subjects’ duty of justice is an important reason, it may just be one of them. The modern state is a complex institution performing many different functions. It is very plausible that there are different reasons at work in shaping and justifying the various functions and rules of this kind of institution. Later I shall say more on this reply. For now, to see why the duty of justice does not exhaust the normative work in justifying political authority, I shall comment on Quong’s duty-based conception of authority.

First, it is not clear whether the duties in his conception of authority refer only to duties of justice or to some other kinds of duties as well. In a few

places, Quong appears to be saying that the duty of justice is the only possible source of political authority. For example, he says that the answer to “Who has the legitimate authority to decide what I must do?” depends on our answer to “What does justice require me to do.” But elsewhere, in talking about the duties that generate authority, Quong says he focuses “only on duties of justice and not other kinds of duties,”¹⁵ which seems to imply that he allows other kinds of duties to be playing some role in justifying authority and its various functions. What other duties would that be? This is an important issue, since it is an open question whether perfectionist state action could be justified by these other duties. It might be the case that other duties can be used to support a perfectionist state. This brings me to my second point.

In another place, Quong does explicitly say that his duty-based conception of authority “does not claim the appeal to duty is the *only* way to establish that one person has legitimate authority over another.” “I do not here deny,” Quong continues, “that consent, fair-play, associative duties, or other arguments might under certain conditions ground claims of legitimate authority.” (128) By “appeal to duty” I think Quong must refer to the narrow duty *of justice* rather than to a broad notion of duties, since fair-play and associative duties clearly are some kinds of duties, though they are not ones of justice. Now, since Quong allows that fair-play and associative duties could justify legitimate authority, it opens the possibility of justifying the perfectionist state on these grounds.

My strategy to open up space for the authority of the perfectionist state would be two-fold: (1) to argue that the duty of justice, as Quong understands it, is not sufficient to explain and justify the many functions of the state and citizens’ duties that many people accept today, and (2) to show that other normative resources needed for justifying the state’s legitimate functions do not necessarily exclude perfectionist goals. Again, space does not allow me to develop these two points in any length or consider possible objections. My purpose is here is just to outline a possible argument.

¹⁵ Footnote 21 on page 116.

Quong draws on Rawls in elaborating on the duty of justice as the ground of political authority. Quong writes, “I assume, following Rawls, that each person is under a natural duty of justice which ‘requires us to support and comply with just institutions that exist and apply to us. It also constrains us to further just arrangements not yet established, at least when this can be done without too much cost to ourselves.’” (128) It should be noted that, for Rawls, natural duties, including the duty of justice, are those that have “no necessary connection with institutions or social practices,” and which “hold between persons irrespective of their institutional relationships.”¹⁶ Understood this way, it is not clear if natural duties can impose significant costs on people. In fact, Rawls makes it clear that the natural duty of mutual aid, which is similar to Quong’s notion of the duty of justice to aid victims of an accident, is a relatively weak one, accompanied with a proviso of not “imposing excessive risk or loss to oneself.”¹⁷ Understood as a weak duty, the natural duty of justice may not be robust enough to ground the state’s authority to impose heavy taxes, conscription on its citizens, or other significant duties that involve substantial costs to citizens.¹⁸

There is, however, a more fundamental problem with Quong’s use of Rawls’s idea. There is an important difference in the ways Quong and Rawls make use of the idea of the natural duty of justice. Quong wants to use this idea to argue against the legitimacy of perfectionist state action. He takes the duty of justice to be the moral foundation of legitimate authority. He claims that authority is parasitic on people’s prior duties of justice, and so if people have no prior duties of justice to do X, it follows that the state does not have authority to decide on matters concerning X. What follows, Quong argues, is that perfectionist reasons, which are practical reasons rather than reasons of justice, do not fall within the scope of legitimate authority. However, Rawls’s idea of the natural duty of justice does not carry this negative implication on perfectionist state action. The natural duty of justice “requires us to support and to comply with just institutions that exist and apply to us.” So Rawls’s idea is about the duty to comply with institutions that are just and not about defining the conditions of legitimate authority.

¹⁶ John Rawls, *A Theory of Justice* (Cambridge, Mass.: Harvard University Press, 1971), 114-115.

¹⁷ *Ibid.*, p.114.

¹⁸ Here I draw on George Klosko’s critique of Rawls’s natural duty of justice in his “Multiple Principles of Political Obligation,” *Political Theory* 32 (2004): 801-824

The idea certainly does not say that institutions are just *only if* they help people fulfill their natural duties of justice. Other than the goal of achieving justice, institutions may advance the economy, provide education, secure national defense, protect the environment, or promote the good life. If institutions pursue these goals in a just way (i.e. without violating procedural or substantive principles of justice), then Rawls would tell us that people who live under these institutions have the natural duty to support and comply with them. Therefore, Rawls's idea of the natural duty of justice does not have any implication as to whether perfectionist state action is legitimate or not. Rawls may reject perfectionist state action on other grounds, but the natural duty of justice is not one of them.

If the above line of argument is correct, then the natural duty of justice is not a duty weighty enough to ground a wide range of substantial state functions. We need other reasons or duties (such as fair-play and associative duties) to justify state authority and functions. Moreover, neither the duty of justice nor the other duties necessarily exclude the possibility of perfectionist state action. Fair-play and associative duties could ground citizens' duty to support perfectionist state action, if such action is judged to be justifiable to members of a political community. How, then, could perfectionist state action be justified? In light of the two-step approach, the question amounts to: What are the reasons that could justify power-conferring institutional norms in the domain of the good life? The answer, very briefly put, is that people care about living lives that are valuable or worthwhile, and the purpose of living together in a complex community is precisely to enable people to pursue a better life in material, social, and cultural terms. In the course of pursuing better lives, no doubt justice needs to be observed—physical security needs to be protected, opportunities distributed fairly, and rights respected—but we should not lose sight of the fundamental point that people live together not for justice but for pursuing better lives. If the state, as the agency of its citizens, is to help citizens pursue better lives, it seems natural that it should assist citizens by promoting valuable conceptions of the good life, just as it should assist the lives of citizens by promoting the economy, offering education and health services, and protecting their rights and justice.

No doubt there are arguments against power-conferring norms regarding the good life. Typical ones are that these norms undermine personal autonomy, that they show disrespect for people as equals, or that they create unfairness to those who disagree with perfectionist state decisions. Many liberal perfectionists have tried to rebut these arguments. I myself have developed a position of moderate perfectionism to deal with these challenges and advanced arguments to show why reasonable disagreements on conceptions of the good life need not make perfectionist state action illegitimate.¹⁹ The debate can continue. Whatever is the final verdict, however, the case for or against state perfectionism will be won or lost in the pros and cons—or the overall justifiability—of power-conferring norms on the good life, not in the duty-based conception of authority that Quong tries to use in rejecting perfectionism.

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¹⁹ Chan, “Legitimacy, Unanimity, and Perfectionism.”

SYMPOSIUM
POLITICAL LIBERALISM VS. LIBERAL PERFECTIONISM



LIBERALISM, CONTAINMENT, AND EDUCATION

MICHELE BOCCHIOLA

Liberalism, Containment, and Education

Michele Bocchiola

Jonathan Quong's *Liberalism Without Perfection* is a remarkably clear and sophisticated contribution to contemporary political philosophy.¹ Quong presents a genuine political understanding of liberalism, distinguishing his view from comprehensive and perfectionist variants of liberalism. His approach is deeply Rawlsian in spirit, but it introduces novel and important differences. I agree with Quong's compelling perspective on almost every point he makes in the book, and to critically engage with his work is not an easy enterprise. Here I do not work out my (minor) disagreements, but rather try to push Quong into saying something more on what I take to be one of the thorniest questions for liberal thinkers, namely the question of education in liberal democratic institutions. In particular, I shall focus my attention on what Quong calls the 'containment of unreasonable doctrines' (Ch. 10). The case of education is particularly interesting from Quong's non-perfectionist liberal perspective: Quong needs to provide the grounds on which political institutions can interfere with and censure illiberal or unreasonable beliefs and practices, without violating the very tenets that underpin his approach.

I proceed as follows. In § I, I briefly illustrate the problem of liberal education in pluralist societies as I see it, and then I introduce Quong's view of liberal containment of unreasonable doctrines. In § II, I point out some difficulties for Quong's view when containment is applied to education.

¹ Jonathan Quong, *Liberalism Without Perfection* (Oxford: Oxford University Press, 2011). Unless otherwise specified, parenthetical references refer to this text.

I

In contemporary societies characterized by a plurality of religious views and cultural diversity, there is a growing discussion about whether and how liberal democratic institutions should accommodate ways of life other than liberal. This problem becomes particularly manifest when we have to elaborate norms regulating the provision of education.² Most liberals agree that the state should provide and sustain an educational system, but it is not clear what ideal should govern such a system. Some liberals support a Millian ideal of teaching programs that reflects the complexity and diversity of contemporary societies, and provides people with the tools for choosing between different ways of life.³ Others argue against this idea, claiming that such an open system could disrespect people's religious belief and cultural traditions.

The objection runs as follows: making young people believe that there exist different possible religious views or, more generally, a great variety of ways of living might cast aspersions on the truth of one's family values. For instance, the teaching of things like sex education or civics touches upon fundamental parts of one's identity and cannot be taught from a neutral point of view, as liberals claim. Catholic students, for example, could be induced to believe that there is nothing wrong with pre-marital sexual intercourse, or that constitutional essentials do not necessarily need to respond to God's will. Religious believers do not deny the fact that some members of a society are liberal and could prefer a liberal education (or might have been raised in another persuasion, thus preferring another kind of education); they rather say that, first, the way the educational system is set up—characterized by certain embedded values—has a deep impact on people's lives; since behind the alleged neutrality of liberalism there are substantive values like freedom and equality, which are not content-free ideals and are at least sometimes incompatible with some religious teachings, a liberal educational process cannot be imposed on non-liberal religious believers. The problem is that, sometimes, non-liberal educational systems embed values which deny liberal fundamental tenets. How should liberals address this problem?

² On the issue of liberal education see Eamonn Callan, *Creating Citizens: Political Education and Liberal Democracy* (Oxford: Oxford University Press, 1997); Amy Gutmann, *Democratic Education: With a New Preface and Epilogue* (Princeton (NJ): Princeton University Press, 1999).

³ John Stuart Mill, *On Liberty and other writings* (Cambridge: Cambridge University Press, Chapter 5).

In his book, Quong takes on the question of liberal education in the last chapter (§10.3), while dealing with the problem of unreasonable citizens. According to Quong, unreasonable people either do not see a society as a fair cooperative enterprise among free and equal citizens holding different reasonable comprehensive views of what constitutes a good life, or accept these ideals but do not assign them priority when deliberating about important political matters. In both cases, they reject the idea that a public justification of political power is due to people insofar as free and equal, thus “directly contradict[ing] the fundamental political values of a liberal democratic regime” (p. 291).⁴ Quong is clear that being unreasonable (namely, denying either of the above stated ideals) does not deprive somebody of the liberal rights and entitlements given to all others, but only excludes her from “the constituency that determines what those rights and benefits will be” (ibid.).⁵ And what if unreasonable people claim special social arrangements that match their cultural roots or religious beliefs but deny (at least some) liberal values? Can the state infringe the rights of unreasonable persons and contain their illiberal ideals?

Following Rawls,⁶ Quong thinks that the “*primary intention* [of containment] is to *undermine or restrict the spread of ideas* that reject the fundamental political values, that is, (a) that political society should be a fair system of social cooperation for mutual benefit, (b) that citizens are free and equal, and (c) the fact of reasonable pluralism” (p. 299, *emphasis in the original*). And containment is justified by stability considerations (p. 300). Quong argues that it is “essential that doctrines which deny the freedom and equality of persons, or the idea of society as a fair system of cooperation, not become so prevalent that they threaten to undermine the fundamental ideals of a well-ordered liberal regime” (ibid.), since without stability “a just

⁴ Quong presents these ideas throughout the book, and sums them up at the beginning of Chapter 10.

⁵ Quong restricts constituency for the justification of political institutions to reasonable people and defends this idea in Chapter 5. See also his précis published in this issue.

⁶ Rawls says that the fact “[t]hat there are doctrines that reject one or more democratic freedoms is itself a permanent fact of life, or seems so. This gives us the practical task of containing them—like war and disease—so that they do not overturn political justice.” J. Rawls, *Political Liberalism* (New York: Columbia University Press, 1996, 64 n. 19). Quong quotes this passage at 290 n. 1 and 299 n. 28 in his book.

constitutional regime [cannot] generate its own support” and so “avoid decay and decline” (ibid.).⁷

As an illustration of the containment of unreasonable doctrines, Quong imagines a private school where “a core component of the private schooling the children receive is the belief that their religious group is superior to all others” (p. 302). Notwithstanding the excellent level achieved by students in all other subjects and their high performance in general examinations, this sort of education is clearly unreasonable. In Quong’s words,

the goal of containing unreasonable doctrines might justify an apparent infringement of unreasonable citizens’ rights, in this case the parents’ right to educational choice. The ethos of the community’s schools needs to be altered, or if this proves impossible to achieve, the schools would have to be closed on the grounds that they are failing to teach children the fundamental political values of a liberal democracy. It is a clear instance of containment in that preventing the spread of unreasonable ideas is the primary objective of state interference in this case. There are no ‘external’ individual rights that require protection from the private schooling of the community: the only reason to interfere is the long-term goal of containment (p. 302).

Quong is right in saying that such education is unreasonable, but I have some reservations about whether it ought to be contained. More specifically, I have two sets of doubts about whether a containment strategy can be consistently deployed from a liberal perspective, without incurring objections similar to the charge of paternalism Quong presses against perfectionists’ views. In the next section I try to elaborate on these points.

II

A first set of difficulties concerns the criteria of application of containment. Without certain and definitive criteria regulating state intervention for containing unreasonable doctrines, the application of containment might entail a violation of the very liberal tenets containment is meant to protect. Containment ought to be applied if (i.) certain unreasonable doctrines—endorsed by some of the members of a given society—deny liberal values, and (ii.) the spreading of these ideals constitutes a real threat to the stability of such a society. If this reconstruction of Quong’s view is correct, I am afraid that if disjunctively applied, (i.) might be

⁷ Quong invokes Rawls’s argument from “stability for the right reasons” presented in *Political Liberalism*, Lecture IV.

too broad and (ii.) too vague; if conjunctively applied, the criteria might be too permissive.

Taken alone, (i.) might include unreasonable beliefs that do not properly form an unreasonable doctrine. I try to clarify this point with the following example. Imagine a school where female teachers cover their heads, motivating this practice on the ground that women ought to respect a code of modesty that does not apply to men.⁸ No manipulation takes place here: every year teachers affirm their free choice to adhere to a cultural tradition that assigns different roles on the basis of gender. From a liberal perspective the idea underlying such practice—that there is a fundamental difference between genders that makes them unequal in some respects—might violate the fundamental liberal value of equality. But is this enough to close a school?

(ii.), on the other hand, seems to be too vague since it is actually difficult to say when a threat is real. Quong admits to lacking a principled defense for this criterion, and he suggests that an unreasonable doctrine represents an effective threat to stability only when a relevant number of active members of a given society engage in illiberal practices prescribed by such a doctrine (pp. 303-5). Moreover, Quong takes this line of criticism as “pragmatic” and not “principled” (p. 303): it is clear what the state ought to do (contain unreasonable doctrines), but when and to what extent containment applies is determined by facts of the matter about a given society. Nevertheless, an excessive degree of vagueness remains; and this might undermine the plausibility of containment when we try to offer a principled solution to the question of how many unreasonable schools a liberal state should tolerate.

A possible way out for Quong could be to admit that both criteria should be met at the same time. But in this case containment could be less effective, leaving out too much. Suppose that the unreasonable school teaches, among other things, that people ought to be discriminated against on the basis of their skin color, that homosexuality is an abomination and that slavery is just an efficient economic system of production, but the number of students is 0.001% of the total student body of the country and it never grows. In a case like this, (i.) but not (ii.) is met. Should we exempt this school from containment?

⁸ This example does not concern the Islamic veil only, as most people tend to think: it could be the case of a Catholic nun, or of a Jewish woman wearing a *tichel*.

Even if containment survives these objections, a final preoccupation concerns a possible (pragmatic) outcome of its application. Containment might indeed result in closing a number of unreasonable religious schools in many countries, with the consequence of denying education to children. Conservative religious parents might decide that no education or home-schooling is better than any liberal education whatever. In this case, the decision to withdraw children from school would be an unreasonable judgment (since it is grounded on an unreasonable conception of good life) and cannot constitute the basis for the state to restrain from intervention. But in such cases containment or state intervention it is no contribution to the development of people's moral powers, an important pillar of Quong's liberalism (pp. 304-5).

Another difficulty concerns the grounds on which containment is invoked and justified in the case of education. Quong takes an action to be paternalistic if

1. Agent A attempts to improve the welfare, good, happiness, needs, interests, or values of agent B with regard to a particular decision or situation that B faces.
2. A's act is motivated by a *negative judgement* about B's ability (assuming B has the relevant information) to make the right decision or manage the particular situation in a way that will effectively advance B's welfare, good, happiness, needs, interests, or values. (p. 80, *emphasis in the original*).⁹

Now, is the state's containment of schools teaching that a "religious group is superior to all others" paternalistic? Quong's answer is almost certainly 'no': containment here is neither justified by considerations concerning the possible improvement in "the welfare, good, happiness, needs, interests, or values" of children attending unreasonable schools, nor by a negative judgment about the ability of parents and teachers "to make the right decision." Therefore, it cannot be defined as paternalistic. Two things justify containment: (i.) these schools are "failing to teach children the fundamental political values of a liberal democracy" (p. 302), and, more generally, (ii.) it is fundamental that doctrines denying fundamental liberal values do not "become so prevalent that they threaten to undermine the

⁹ This is the bald definition of paternalism. I cannot enter here into the subtleties of Quong's view for reasons of space. The simplification here required should suffice.

fundamental ideals of a well-ordered liberal regime” (p. 300). My worry here is that (i.) is not strong enough and (ii.) is paternalistic.

(i.) might be too weak: those who deny liberal values might not accept it. This is true not only in the case of the adherents of unreasonable doctrines in Quong’s example, but also for the (possibly) reasonable religious believers I mention in § 1: they might contest liberal schools that embed fairness, freedom and equality, which are liberalism’s fundamental values, and leave out all those values that diverge in a significant way from them. Since an educational system impinges on people’s early life and development, the values embedded in liberal schools could induce children to believe in values which deny religious truths (assuming that at least some of these religious beliefs are unreasonable). And when unreasonable doctrines spread out to the point of threatening stability they must be contained, Quong argues. But, without offering reasons that unreasonable people could accept, wouldn’t this be an illiberal move?

Quong’s view cannot be criticized because it does not give reasons to unreasonable people. Throughout the book (and, in particular, in Ch. 5) he makes quite clear that the constituency of justification is restricted to reasonable people, already accepting certain liberal values. The task to convince unreasonable people is set for an “external” form of liberalism, which is different from Quong’s “internal” view of liberalism. Moreover, the disagreement between unreasonable doctrines denying liberal values and political liberalism is “foundational” and not “justificatory” (§ 5.3): there are no shared premises from which different valid conclusions can be drawn, but rather a deeper disagreement about the very grounding ideals that should model institutions such as educational systems. I do not want to challenge Quong’s view on this point (I think he is right), but I wonder whether the containment of unreasonable education could be paternalistic in a different sense.

There is a sense in which the state is acting on a negative judgment not about the religious believers’ ability to make the right decision, but about the liberal citizens’ capacity to reject illiberal, unreasonable or fanatic doctrines. Indeed, containment is deployed to “*undermine or restrict the spread of ideas that reject the fundamental political values*” (p. 299): it is supposed to protect liberals from non-liberals. This might conceal paternalistic judgments of the second kind envisioned by Quong.¹⁰ It is true that Quong takes paternalism

¹⁰ I owe this point to a discussion with Gianfranco Pellegrino.

to be only “presumptively wrong” and he does not “deny that it may be possible to justify paternalistic policy all things considered” (p. 102). I guess it could be useful to know something more about whether containment is justifiably paternalistic and when, more generally, paternalism could be possibly justified.

III

The containment of unreasonable doctrines is a very complex issue, and it is worth considering since its application clarifies the extent to which Quong’s political liberalism can be consistently realized without violating its own foundations. But if its application is ungrounded or needs further assumptions, then Quong’s view might be less plausible than appears at first glance.¹¹

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¹¹ I am grateful to Joseph Chan, Ben Colburn, and Jerry Gaus for having accepted my invitation to participate in this discussion on Quong’s book. I should like to thank the Editors of *Philosophy and Public Issues* for the opportunity to guest-edit this symposium. Finally it remains for me to thank Jonathan Quong for his generous contribution to this volume.

SYMPOSIUM
POLITICAL LIBERALISM VS. LIBERAL PERFECTIONISM



LIBERALISM WITHOUT PERFECTION
REPLIES TO GAUS, COLBURN, CHAN, BOCCHIOLA

BY JONATHAN QUONG

*Liberalism Without Perfection: Replies to Gaus, Colburn, Chan, and Bocchiola**

Jonathan Quong

I am very grateful to the contributors to this symposium for their thoughtful and challenging comments on my book: it's flattering to be the subject of such generous philosophical attention. Each contributor has given me a lot to think about, and though I make an effort to respond to each essay here, I don't claim that the replies I offer are comprehensive or adequately address the full range of issues raised by the different contributors.¹

I

Reply to Gaus

As Gaus says at the outset of his contribution, we share a belief in the importance of the public reason project, though he is too generous in describing us as simply fellow participants in this project: Gaus is the leading philosopher of public reason in the world today, and along with many others, I have been heavily influenced by his incredible body of work. But, as he goes on to say, some of our disagreements are sharp precisely because we agree about the importance of the project. Most importantly, he worries that that the version of political liberalism I develop and defend in my book is just another form of sectarianism—another theory that ultimately favours the imposition of a controversial set of values, or judgements about value trade-offs, by some members of the political community on others, even

* For comments on a previous draft, I am very grateful to Tom Porter, Zofia Stemplowska, and Rebecca Stone.

¹ All parenthetical page references in the main text refer to the contributions in this symposium. All other references are in the footnotes.

though the latter group cannot endorse these values or trade-offs. If this is true, then how is my account of political liberalism fundamentally different than the perfectionist theories I criticize and reject? As Gaus puts it, ‘It looks like Quong’s political liberalism is not an opponent of sectarianism, but of perfectionist sectarianism, willing to replace it with a Rawlsian sectarianism. Isn’t the Church of Perfection simply replaced with that of High Rawlsianism?’ (p. 9).

Although Gaus presents this worry as a single query, I think it’s helpful to separate the worry into two, related, objections. The first objection is something like this: my account of political liberalism assumes that a certain set of liberal values or ideals are the shared basis from which to begin the project of public reason, and thus my account of political liberalism is, like any perfectionist theory, sectarian in the sense that it begins with a set of commitments whose normative authority is taken as prior to, or beyond the reach of, the test of public reason. Let’s call this *the tu quoque objection*. It purports to show that one of the main objections against perfectionist theories applies with equal force to my own theory. The second objection makes a more specific allegation that follows from the tu quoque objection, namely, that my version of political liberalism favours a sect of left liberals or High Rawlsians. As Gaus puts it, ‘Quong’s liberal exclusionary view systematically favors the moral attitudes of those on the left while discriminating against those on the right’ (p. 12). Let’s call this *the political bias objection*. Below I address each objection in turn.

In my book, I make the following suggestion: the overlapping consensus should represent the first stage, not the final stage, in the justificatory structure of political liberalism. On this view, we do not begin with what Rawls calls a freestanding conception of justice,² and then subsequently check to see if that conception can be the subject of an overlapping consensus amongst reasonable persons or comprehensive doctrines. Doing so, I argue, would either make the overlapping consensus superfluous (since reasonable people would by definition accept the conclusions of the freestanding conception), or else it would allow those who hold illiberal or unreasonable doctrines to reject the liberal conclusions of the freestanding conception. Instead, I suggest that the overlapping consensus represents the first stage in the justificatory process. We begin by identifying the common ground that reasonable citizens would share in an ideal, well-ordered liberal

² For Rawls’s description of what it means for a view to be freestanding see John Rawls, *Political Liberalism* (New York: Columbia University Press, 1996), 12-13.

society regardless of their other differences. These shared values or commitments—freedom, equality, fairness, and acceptance of the fact of reasonable pluralism—represent the overlapping consensus. We use these shared values or commitments to construct a freestanding argument for a general liberal conception of justice, and then citizens use that general liberal conception to develop their own more specific conceptions of justice.

On this revisionary account of political liberalism, the core ideas of freedom, equality, fairness, and reasonable pluralism are assumed to ground a commitment to public reason and a liberal conception of justice, but the core ideas are not themselves subject to any test of public justification, nor do we check to see if these values can be the subject of an overlapping consensus amongst *real* citizens here and now. Moreover, I also suggest that reasonable persons, by definition, must give deliberative priority to the requirements of political justice derived by appeal to these ideas.

In what sense, then, is my account of political liberalism vulnerable to the *tu quoque* objection? It might seem that my theory allows a ‘liberal sect’—those who endorse the political values of freedom, equality, and fairness—to impose rules on members of the population who reject these values. Isn’t this structurally indistinguishable from perfectionism, which allows members of the perfectionist sect—those who endorse the correct theory of human flourishing—to impose rules on members of the population who reject these values? The answer is yes: my account of political liberalism shares this structural similarity with perfectionism. But I don’t think this is anything to be embarrassed about. As Gaus admits, any set of moral or political principles is bound to be sectarian—in the sense just described—with regard to *some* members of the community (p. 9). Psychopaths will not endorse any moral principles, Nazis or other racists will not endorse the value of equality, and so on. Should we liberals be troubled by the fact that our conceptions of justice are sectarian with regard to these groups? The answer is clearly no. The mere fact that my view of political liberalism is sectarian in one sense—that it rests on values not endorsed by all members of the political community—is not sufficient to think it is relevantly similar to perfectionist theories. The important difference between political liberalism and perfectionism is that the latter, but not the former, is sectarian with regard to some *reasonable* members of the political community. All reasonable people will endorse the political ideas of freedom, equality, and fairness, and will be willing to comply with the requirements of public reason and a political conception of justice, but any particular claims about human flourishing or

the good life will be rejected by some reasonable persons. Perfectionist theories are thus sectarian with regard to some reasonable persons who embrace the core political values and are committed to living with others on fair terms. For political liberals, this is what makes perfectionism *objectionably* sectarian, and thus for the tu quoque objection to succeed, it would have to show that my account of political liberalism is sectarian in this objectionable sense—that it fails to be justifiable to some people whom we should identify as reasonable, and thus people to whom our political principles ought to be justifiable.

In §3 of his contribution, Gaus presses an argument that I understand to be a version of this charge. He says that while it might appear ‘that everyone who is committed to the moral life is part of...[Quong’s] liberal sect...I do not think that the rest of the analysis bears this out. In the end, I believe that the liberal sect excludes a great many good-willed and sensible people. Quong’s liberal sect, I fear, is just another illiberal sect’ (p. 10). Gaus thinks this is true because my account doesn’t merely require that all reasonable persons endorse the political values of freedom, equality, and fairness—my account states that ‘*this group must also hold that these basic liberal norms, along with the idea of shared public reason, are sufficient for justification*’ (p. 11). That is, my account requires that reasonable persons consult *only* the political values in determining what political rules are justified, and reasonable people must accord the conclusions of this process of public justification deliberative priority over their other comprehensive or nonpublic beliefs. Gaus’s worry is that a person who endorses the relevant political values, but *also* wants to consult her nonpublic beliefs in deciding what rules are justified, is thus excluded from the constituency of public reason on my account. As he says:

Surely we have now excluded large swaths of the population on the grounds that they are “unreasonable” and hold “unjust” views. And this, even if they are good willed, wish to live with others on mutually acceptable terms, and concur that the argument from the original position gives us pro tanto reasons! Can Quong plausibly criticize perfectionists for being sectarian while deeming unreasonable and unjust anyone who thinks that her views on moral philosophy or religion are relevant to whether the conclusions of the rather austere freestanding Rawlsian argument are acceptable? (p. 12)

Whether we find this charge troubling depends on how we understand the role of public reason in political philosophy. Suppose, following Gaus, we were to expand the constituency of public reason—the group of people the theory deems reasonable—to include those who endorse the political

values, but who do not accord any deliberative priority to the political conception of justice, and simply balance reasons of justice against their comprehensive or nonpublic reasons when deciding whether a given rule is justifiable. Let's call people who fit this description All Things Considered Reasoners (ATCRs). Gaus's suggestion, I think, is that only if ATCRs are included in the constituency of public reason can political liberalism avoid being objectionably sectarian in the manner of perfectionist theories.

But I think there are decisive reasons to resist the proposal that ATCRs be included in the constituency of public reason. No theory can include ATCRs in the constituency of public reason—the constituency of people to whom our political rules and principles must be justified—and yet also guarantee that the content of the theory will remain suitably *liberal*. Consider an ATCR named Anna. Anna endorses the core political values of freedom, equality, and fairness, but she doesn't place too much weight on these political values in comparison to the values of her religious doctrine. Suppose that any plausible balance of the political values yields a right against religious discrimination in employment with an exception, let's suppose, for jobs within religious associations. The right in question thus forbids religious discrimination when hiring employees in non-religious contexts such as shops, factories, government agencies, and so on. Anna accepts that this is what is entailed when we consider the political values alone. But when she consults the full set of her views, including her religious doctrine, she arrives at the all things considered judgment that the right against such discrimination is not justified, because the requirements of her religion take precedence on this matter, and those requirements direct Anna to discriminate against non-believers when making employment decisions.

If Anna is included in the constituency of public reason, then our theory will no longer be able to deliver what I take is uncontroversially accepted as a liberal right. And of course the story about Anna can be repeated with regard to any liberal right: it is always possible, in principle, to imagine an ATCR who, though endorsing the political values, does not accord those values sufficient weight in her deliberations such that she will not endorse basic rights prohibiting murder, theft, rape, assault, employment discrimination, and so on. This is why I exclude ATCRs from the constituency of public reason, and instead restrict that constituency to those who are willing to accord deliberative priority to the political values.

I appreciate why this move might seem troubling to some political and justificatory liberals. It might look as if I'm just assuming what needs to be shown, namely, that particular liberal rights and principles are justifiable and have deliberative priority for the members of our political community. This is a charge that has also been levelled against Rawls by many of his critics. But I think this charge makes sense only if we adopt a substantially different view of the place of public reason or public justification within the larger justificatory structure of political liberalism. On my view (and also, I believe, on the best interpretation of Rawls's view) public reason is not a foundational principle of moral or political philosophy. That is, we do not begin with a commitment to public justification, and then only accept or endorse subsequent principles once we are satisfied they meet the test of public reason. Rather, we begin with certain fairly substantive commitments—to the idea of persons as free and equal, to a view of society as a fair system of social cooperation, and to the fact of reasonable pluralism—and these commitments lead us to understand that a certain subset of our moral rules must meet the test of public reason if they are to have normative authority over those whom they purport to bind.

But the person who finds my exclusion of ATCRs from the constituency of public justification troubling must have, I think, a different conception of public reason's role in mind. To find the exclusion of such persons troubling, I think the critic must accord public justification a more fundamental or foundational role: he must believe that the point of moral or political philosophy is to show how that all our moral or political claims can be justified to some independently defined constituency of persons (defined independently of the substantive commitments that are to be justified). But I don't think this is the best way to conceptualize public reason's place within moral and political philosophy. We ought to care about what can be justified to some idealized constituency of persons—the constituency of public reason—only if that constituency has been defined in a way that makes normative sense: there's no reason to believe we should get normatively authoritative rules out of a constituency that has been defined in non-normative terms. For this reason, among others, political and justificatory liberals should not be troubled by the restriction of the constituency of public reason to those who endorse and are willing to accord deliberative priority to core liberal ideals.

But Gaus also presses a second, related, complaint: the political bias objection. He thinks that, by restricting the constituency of public reason in

the way I do, my theory ‘does not simply exclude the marginal: it is essentially a sect of the left’ (p. 13). He supports this claim by drawing on Jonathan Haidt’s work, which purports to show that left-leaning liberal people tend to endorse one, restricted, set of values or ideals: (1) liberty/oppression and (2) care/harm. People with more conservative political views, on the other hand, tend to rely on a wider set of moral ideals or intuitions which, in addition to those already mentioned, include: (3) fairness/cheating, (4) loyalty/betrayal, (5) authority/subversion, and (6) sanctity/degradation. Because people with more conservative views tend to rely on some additional ideals that are not modeled in the Rawlsian original position (4-6 from the list above), and are not included in my list of fundamental liberal ideas, my approach ‘systematically favors the moral attitudes of those on the left while discriminating against those on the right’ (p. 12).

To understand the force of this objection, we need to know how to measure the charge of bias. To know when some theory or set of principles is biased or discriminatory, we need some benchmark or baseline; a standard from which departures can (absent further justification) be described as biased or discriminatory. So what’s the standard? It cannot be the existing political views of conservative citizens, since then people with more liberal views could, with equal plausibility, complain that this standard discriminates against them. Perhaps the benchmark should be some mid-point between the existing political views of liberals and conservatives? But this would, as Rawls says, make our theory ‘political in the wrong way’.³ Political liberalism is not just a compromise point among existing positions in the political landscape.

So how do we know that my account discriminates against people with more conservative moral and political views? I think for the charge of bias to be plausible, the critic must have in mind the view of public reason that I described and rejected above: the view that accords foundational importance to the process of justifying values or principles to a constituency of persons who are identified independently of any substantive normative commitments. If rules must be justified to all existing members of our political community as we find them (or some moderately idealized version of all existing members), then maybe my account of political liberalism is biased against some existing members of our political community. But, as I indicated in the earlier discussion of ATCRs, I don’t think this is the right

³ Rawls, *Political Liberalism*, 40.

way to conceptualize the public reason project. The political rules that govern our shared public life ought to be justified by appeal to reasons that all reasonable persons can share. But all reasonable persons do not share, for example, the same beliefs about degradation and sanctity. The fact that some members of our political community find the idea of homosexuality degrading is not a reason we should take into account when deciding if some people can be exempt from laws that prohibit discriminating against job applicants on the basis of sexual orientation. If, as I believe, public reasons must be reasons that all citizens can—at some level of idealization—share, then the fact that the constituency of public reason is defined in a way that precludes appeal to certain political values or ideas more associated with conservative political viewpoints is not evidence of morally troubling bias.⁴

Of course there's much more that needs to be said in response to Gaus's important challenge. All I can do here is conclude by emphasizing that I don't think there's a coherent and morally attractive alternative to my, admittedly, sectarian form of political liberalism. We can have a theory of public reason that won't be sectarian, but then we can't be sure it will be a liberal theory. Insofar as the public reason project is a distinctively liberal project, a certain amount of sectarianism is both unavoidable and, indeed, desirable.

II

Reply to Colburn

Ben Colburn's incisive and challenging essay builds on his important work on autonomy and liberalism. Colburn aims to defend the coherence of comprehensive liberalism from an alleged dilemma that it faces, a dilemma that Colburn reconstructs by combining two arguments from my book.

To begin, it will be helpful to clarify some of the relevant terms. *Comprehensive liberals* are those who answer 'yes' to the following question: must liberal political philosophy be based in some particular ideal of what constitutes a valuable or worthwhile human life, or other metaphysical

⁴ It's true that Gaus and I disagree about whether public reasons must be shared reasons, but engaging in this debate is beyond the scope of this reply. For my position on this issue, see *Liberalism Without Perfection*, 261-73, and "What is the Point of Public Reason?" *Philosophical Studies* (forthcoming).

beliefs? Comprehensive liberals believe there is a particular view of the good life, usually one that gives personal autonomy a central role, which grounds or justifies our liberal principles and rights. Comprehensive liberals can be either *perfectionists* or *antiperfectionists*, that is, they can answer either ‘yes’ or ‘no’ to the following further question: is it permissible for a liberal state to promote or discourage some activities, ideals, or ways of life on grounds relating to their inherent or intrinsic value, or on the basis of other metaphysical claims? *Comprehensive perfectionists* answer yes: the state may permissibly aim to promote the good life and discourage citizens from making disvaluable choices. *Comprehensive antiperfectionists*, on the other hand, believe that there is a distinct view of the good life that grounds a form of liberalism where the state is required to remain neutral between competing conceptions of the good life or human flourishing.

In chapter 1 of my book, I suggest that comprehensive antiperfectionism is, ultimately, an unstable philosophical position. I deploy several arguments in support of this conclusion, but the one Colburn focuses on here is the claim that even if autonomy is, as many comprehensive liberals insist, of preeminent importance in leading a flourishing life, this ‘doesn’t preclude the liberal state also pursuing other perfectionist values, so long as it does so in a way that doesn’t damage autonomy’ (p. 19). If this claim is true, this leads to what Colburn calls, ‘The Antiperfectionist’s Dilemma: The comprehensive antiperfectionist liberal cannot sustain her comprehensive commitment to autonomy without violating her commitment to antiperfectionism’ (p. 19).

On Colburn’s reconstruction, this represents the first horn of a dilemma for the comprehensive liberal: it rules out comprehensive antiperfectionism as a viable position. The second horn of the dilemma then arises as a result of a different argument I mount against comprehensive perfectionists, in particular against the position of Joseph Raz. I claim that Raz’s conception of personal autonomy cannot ground a principled prohibition against coercive forms of perfectionism while also allowing the non-coercive perfectionist policies that such philosophers usually favour (taxes, subsidies, and other incentive schemes designed to induce people to make valuable lifestyle choices). If the perfectionist wants to permit such non-coercive forms of perfectionism, she will have to countenance some forms of coercive perfectionism as well, thus threatening to undermine the liberal credentials of her theory. My argument, roughly, is this: incentive schemes aimed at inducing people to make better choices can threaten individual

autonomy (as defined by Raz) in the same way coercion can because such policies can be forms of manipulation. If this claim is sound, then this gives us what Colburn calls, ‘The Perfectionist’s Dilemma: No comprehensive position can consistently be both liberal (by ruling out coercive perfectionism) and perfectionist (by permitting non-coercive manipulation)’ (p. 22).

Colburn then puts these two dilemmas together to yield ‘The Master Dilemma: No theory can consistently be both comprehensive (by retaining its commitment to autonomy) and liberal (by ruling out coercive perfectionism)’ (p. 23). His aim is to show there is a way out of this master dilemma; that liberals can consistently ground their liberalism in the comprehensive value of autonomy while rejecting coercive perfectionism.

Before I consider Colburn’s solution to the master dilemma, there is a preliminary point I’d like to make. The master dilemma is not one I present in the book: Colburn derives this dilemma by combining two separate arguments I make at different points. Of course that is not, in itself, any sort of objection to Colburn’s reconstruction: if two arguments in the book entail the master dilemma, then that’s what they entail, and if the master dilemma is true, then that would be very important, since it would show political liberalism’s only plausible rival within the liberal tradition is untenable. But the master dilemma—as Colburn formulates it—is too strong, because it derives a very general dilemma from a more restricted argument. The argument I present against Raz’s liberal perfectionism in chapter 2 is exactly that: an argument that purports to show that Raz’s account of autonomy cannot ground a principled prohibition on coercive perfectionism while also allowing for various forms of non-coercive perfectionism. As Colburn notes (p. 22), I did not say that it was impossible to construct a different version of autonomy-based liberalism that might evade the charge I press against Raz’s position, and I think it’s clear that there’s conceptual space for such arguments. One could, for example, simply define the value of individual autonomy in such a way that it can only be threatened or diminished by coercion. Whether this conception would be plausible is a separate question, but it would clearly evade the charge I press against Raz’s view. So it’s not that I doubt there is conceptual space for such arguments, and that’s partly why I am reluctant to claim ownership the master dilemma; it cannot, strictly speaking, be derived from the two arguments I present, since the second argument identified by Colburn does not purport to be exhaustive.

I'm also reluctant to endorse the master dilemma since it might create the misleading impression that comprehensive liberalism, including a commitment to the importance of individual autonomy, can play no part in political liberalism. But this isn't the case. Here's what I say about comprehensive liberalism in the book:

Political liberalism, by definition, entails a rejection of comprehensive liberalism, but it is important to be clear regarding the precise point at which comprehensive and political liberals diverge. Comprehensive liberals claim that there is a particular conception of the good life, usually one based on an ideal of personal autonomy, and that this ideal can justify fundamental liberal principles or practices. About this claim political liberalism can remain silent. Whether or not a given comprehensive doctrine supports or justifies liberal principles is something for the adherents of that doctrine to work out for themselves, and is not an issue on which political liberalism must speak as a theory. Political liberalism parts company with comprehensive liberalism when the strong claim is made that the only way to successfully justify liberal principles is via reference to some particular liberal view regarding human flourishing. This is what many comprehensive liberals affirm and political liberals deny. Political liberalism thus has no aspiration to disprove the weaker claim that liberal principles can be justified by appealing to certain views about human flourishing.⁵

So I don't want to deny that one can coherently be a comprehensive liberal in the weak sense, that is, to believe that certain key liberal principles, for example, the right to freedom of expression, can be justified by appeal to claims about the good life. What I doubt, however, is that we can get a version of liberalism that is resolutely antiperfectionist purely via this method—that is, the method of appealing to particular claims about human flourishing—without also relying on the sorts of arguments that political liberals make; in particular, the claim that state action must be publicly justifiable in order to be legitimate.

But even though I don't endorse the master dilemma exactly as Colburn has presented it, this doesn't do that much to reduce the disagreement between us. Colburn believes that 'Raz's conception of autonomy – or one extremely like it,' (p. 23) has the resources to justify a version of liberalism that precludes coercive perfectionism, but I disagree. Colburn's argument in support of his conclusion is as follows (p. 26):

⁵ *Liberalism Without Perfection*, 22. For similar remarks see *Ibid.*, 316.

1. Successful coercion always diminishes an individual's responsibility for how her life goes;
2. Actions that diminish an individual's responsibility for how her life goes undermine her autonomy;
3. Coercive perfectionism constitutes successfully coercing an individual for no third-party reasons;
4. A comprehensive commitment to autonomy precludes actions that undermine an individual's autonomy for no third-party reasons;
5. (from 1 & 2) Successful coercion always undermines an individual's autonomy;
6. (from 3 & 5) Coercive perfectionism always undermines an individual's autonomy for no third party reasons;

Hence

7. (from 4 & 6) A comprehensive commitment to autonomy precludes coercive perfectionism.

I have some doubts about whether the version of autonomy Colburn offers is actually very similar to the one Raz presents, but I won't pursue this exegetical question here. Instead I want to raise some worries about premises 1 and 4 above, both of which strike me as false.

Let's start with the first premise. Here are three apparent counterexamples:

- Albert is about to cross a bridge that he does not know is unsafe, and the only way Betty can stop him—and thereby save him from serious harm—is to use coercion. It seems to me that if Betty successfully uses coercion in this instance, she does not diminish Albert's responsibility for his own life in any morally salient way.⁶

⁶ Colburn might protest that Albert's *explanatory* responsibility is clearly diminished in this example (see p. 24), that is, Albert's causal role in what happens is diminished. In response I would make two points. To begin, I don't think we should care about mere causal responsibility. An act which alters the causal roles played by different agents, but leaves all evaluative forms of responsibility unchanged would have no interest for moral and political philosophy: explanatory responsibility is only interesting insofar as it affects some form of evaluative responsibility. I thus ignore the issue of explanatory responsibility in the main text. Second, setting the first point aside, the second counterexample appears to be a case of coercion without any diminution of Carl's explanatory responsibility.

- The government tells Carl, ‘if you murder anyone, we will imprison you for forty years,’ but Carl never had any intention to murder anyone. On one plausible view of coercion—what Scott A. Anderson calls the enforcement approach—Carl is subject to coercion, but I would deny that his responsibility for how his life goes is diminished in any way.⁷
- Dina decides to recklessly go cliff-diving in a dangerous area. She is not an experienced diver, and Eric (a very experienced diver) realizes she is very likely to suffer life-threatening injuries if she jumps off this particular cliff, but she refuses to listen to his pleadings that she refrain from jumping: she wants the thrill and decides Eric is being unduly cautious. Eric uses coercion to prevent her from jumping which, as a matter of fact, saves Dina’s life. She goes on to live a flourishing, autonomous life, comprised of many responsible choices. Eric’s single act of coercion does not, I submit, diminish Dina’s *overall* responsibility for how her own life goes.

Let’s consider how someone might respond to these purported counterexamples. With regard to the first case, I think the most plausible response is to concede this is an instance of coercion that does not diminish individual responsibility in any morally salient way, but then modify Colburn’s first premise to accommodate such cases. The modified premise would be something like this: successful coercion always diminishes an individual’s responsibility for how her life goes, unless the subject of the coercion would, if suitably informed and competent, consent to, or subsequently endorse, the act of coercion. This modified premise will not rule out all coercive perfectionism, but it seems as if it will preclude (in conjunction with the other premises of the argument) the most important cases: coercive perfectionism imposed against the informed and competent wishes of the subject.

But this conclusion may be too hasty, depending on how ‘suitably informed and competent’ is defined. Some perfectionists might insist that

⁷ Scott A. Anderson, “The Enforcement Approach to Coercion,” *Journal of Ethics and Social Philosophy* 5 (2010): 1-31. We could also imagine a variant of this case where a person intends to perform an action that he is also coerced into performing: e.g. a Nazi soldier who kills a Jewish family may wholeheartedly intend to perform this act regardless of the fact he is also threatened with punishment by his commanding officer if he refuses to perform this act.

suitably informed and competent people would, by definition, make correct choices about the good life, and would endorse perfectionist coercion aimed at those who fail to make correct choices about the good life. If this were true, Colburn's argument would not preclude coercive perfectionism.

This implication can probably be resisted by tweaking the premise: we replace the phrase 'suitably informed and competent' with 'minimally informed and competent', and then we can insist that minimally informed and competent people will disagree about perfectionist claims, and thus coercive perfectionism will always diminish individuals' responsibility for how their lives go. But notice that even with these modifications in place, Colburn's argument no longer precludes coercive perfectionism in cases where the state correctly believes people are not minimally informed or competent.

In any case, these modifications don't address our second and third cases: both Carl and Dina are minimally informed and competent. I think the best way for a proponent of Colburn's argument to deal with the second example is to define coercion in a specific way (or to limit the scope of the argument to this different conception of coercion). On this alternative conception, a person is only coerced when the threat made by the coercer puts pressure on the will of the subject, that is, when the threat is one of the essential reasons why the subject of the threat chooses to act as he does. Let's call this the *pressure definition* of coercion.

There are at least two problems with this solution to the second counterexample. First, it ties Colburn's argument to a specific and controversial conception of what coercion is, one which I believe is ill-suited to political philosophy. But setting this aside, there's a second, more important, worry. If something only counts as coercive when the threat puts pressure on the will of the subject of the threat, then the victory Colburn's argument delivers for autonomy-based liberalism looks hollow. Even if it precludes "coercive" state perfectionism, it will not preclude many liberty-limiting actions undertaken for perfectionist reasons. Suppose the government suppresses information about the harmlessness of certain recreational drugs for perfectionist reasons: if people found out these drugs were harmless, they would want to do what they currently don't want to do, namely, take the drugs recreationally, even though this would be, on the state's view, a disvaluable lifestyle choice. This is not coercive on the pressure definition, but it looks like a case of liberty-limiting perfectionism that ought to trouble liberals. More generally, even if a state used the threat

of criminal punishment as part of a prohibition against a range of activities, and did so for perfectionist reasons, this does not necessarily make what the state does “coercive” according to the pressure definition. If all the citizens comply with the law out of a sense of civic duty—that is, because they believe they are morally required to obey the law even when they disagree with it—and not out of any fear of punishment, then this is not coercive on the pressure definition, and not precluded by this interpretation of Colburn’s argument.

What about Dina, the reckless cliff jumper? I assume a proponent of Colburn’s argument will be tempted to insist that Eric does diminish Dina’s responsibility for her own life. But I think this is an odd position to take, insofar as responsibility is valuable because of the way it’s embedded in a theory of personal autonomy. If Eric doesn’t coerce Dina, she dies, and will never be responsible or autonomous again. If he coerces her, she goes on to live an autonomous life filled with responsible decisions. It seems clear that by coercing Dina, Eric increases her overall responsibility and autonomy, when compared to the scenario where he does not coerce her. And if this form of coercion doesn’t diminish responsibility, then there are all kinds of coercive perfectionist policies the state can pursue provided those policies can be shown to increase individual responsibility in the long-run.

There seem two ways to resist this conclusion. One would be to insist on a conception of responsibility that is non-diachronic, that is, one where there is no way to measure a person’s global degree of responsibility: all we can do is examine a particular time-slice and ask whether a person’s responsibility has been diminished relative to some counterfactual version of that time-slice. This is a possible view of responsibility, but it strikes me as implausible. The second response would be to concede that Eric does increase Dina’s overall or global responsibility across her whole life, but that this is morally irrelevant. The moral salience of individual responsibility is such that it operates like a side-constraint: any act that diminishes an individual’s responsibility at t_1 for non-third party reasons is impermissible, no matter how much this act increases the subject’s responsibility for her own life over the long-term. Again, this is a possible view, but it doesn’t look very plausible, and seems particularly difficult to defend if one cares about responsibility because of the role it plays in promoting and sustaining valuable, autonomous lives.

Given what I’ve said above, it should be clear why I also think premise 4 is false. I cannot see why a comprehensive commitment to autonomy, on its

own, grounds a general prohibition against acts that diminish an individual's autonomy, if 'diminish' is defined to include actions that only diminish a person's local autonomy, while increasing her global autonomy. If what we care about is helping people lead autonomous, flourishing, lives, shouldn't we care about promoting people's autonomy across the whole of their lives, rather than one single moment of their life? How can someone whose aim is to ensure Dina has a flourishing, self-authored life believe Eric is prohibited from temporarily diminishing her autonomy, even though the alternative means she will never be autonomous again?

In sum, although Colburn mounts an impressive defence of an autonomy-based liberalism that aims to prohibit coercive perfectionism, I think his argument faces a serious (I believe fatal) dilemma. On the one hand, we can admit that coercion can sometimes increase, rather than diminish, a person's overall or global responsibility and autonomy, in which case a wide range of coercive forms of state perfectionism are not prohibited by the argument. Or else responsibility and autonomy can be construed in some non-diachronic sense; the value of these ideals could be construed as side-constraints on coercion, but this view seems very implausible when these ideals are considered important because of their constitutive role in a flourishing, individual life.

III

Reply to Chan

Joseph Chan is an innovative and leading proponent of liberal perfectionism, and in his insightful contribution to this volume he aims to rebut one of the main objections I press against liberal perfectionism, namely, that a perfectionist state will not be *legitimate*. A legitimate state is widely thought to be an entity that has the moral right to issue and coercively enforce directives against the population living within its territory with regard to a wide range of issues.

The most influential and plausible account of legitimacy to which liberal perfectionists can appeal is Joseph Raz's service conception of authority and its associated normal justification thesis. According to this thesis, 'the normal way to establish that a person has authority over another person involves showing that the alleged subject is likely better to comply with

reasons which apply to him...if he accepts the directives of the alleged authority as authoritatively binding and tries to follow them, rather than by trying to follow the reasons that apply to him directly'.⁸ Put simply, we ought to do what we have most reason to do, and if we can best do this by following the directives of some alleged authority, rather than by trying to figure things out for ourselves, then the alleged authority can be a legitimate authority.⁹ If, as many perfectionists plausibly insist, the reasons that apply to each of us often have to do with the importance of leading a flourishing or valuable life, then it's clearly possible that a liberal perfectionist state can be legitimate. If, for example, in some domains the best way to comply with the reasons that apply to us is to follow the perfectionist commands of the state rather than reason things through for ourselves, then the state's perfectionist commands can be legitimate.

Raz's service conception grounds the legitimacy of a purported authority in the normative force of practical reason. That is, a purported authority is a legitimate authority when, and because, complying with its directives is the best way to do what you have most reason to do. My objection to Raz's service conception, and indeed to all practical reason approaches to legitimate authority, is simple: the fact that Albert ought to do what Betty has directed him to do doesn't suffice to tell us anything about whether Betty has the moral right to issue and enforce that directive. Albert might have most reason to go on a trip to Peru, or get his hair cut, or become an endocrinologist, but it seems unlikely that anyone has the legitimate authority to command Albert to do these things simply because he ought to do them, let alone enforce these commands.

Legitimate authority, I suggest, is not grounded in an account of *all* the reasons that apply to us: reasons of comedy, love, financial gain, aesthetic beauty, and so on. But legitimate authority can be grounded in a particular sub-set of reasons: duties of justice. Whether or not Betty has the moral right to issue and enforce commands over Albert depends *not* on whether this is the best way for Albert to comply with all the reasons that apply to him, but rather can depend on whether this would be the best way for Albert to comply with the duties of justice he owes to others. Absent consent or some other possible ground of legitimate authority, only if Albert

⁸ Joseph Raz, *The Morality of Freedom* (Oxford: Clarendon Press, 1986), 53.

⁹ Raz's account of legitimate authority also includes an autonomy or independence condition. But Chan's objection to my view does not depend on this further condition, and so I will follow him here in setting it aside.

is already (i.e. prior to any claims about legitimate authority) under a duty of justice with regard to some domain or possible set of actions, could it be the case that Betty has the moral right to issue and enforce directives over Albert with regard to that domain. I thus offer, as an alternative to Raz's normal justification thesis, the *duty-based conception of legitimate authority*: 'one way to establish that a person has legitimate authority over another person involves showing the alleged subject is likely better to fulfil the duties of justice he is under if he accepts the directives of the alleged authority as authoritatively binding and tries to follow them, rather than by trying to directly fulfil the duties he is under himself'.¹⁰ The liberal perfectionist state is unlikely to be legitimate, on this account, since we are not under duties of justice to promote distinctive perfectionist policies.

Chan offers two main objections, and I'll address each one in turn. First, he suggests that '[f]or a person to have authority...she has to be widely recognized as having *de facto* authority to command others' (p. 35). He draws on arguments made by Scott Hershovitz and Andrei Marmor, among others, in support of the view that legitimate authorities are those that are recognized as such: 'as Hershovitz and Marmor separately suggest, the institutional or practice-based perspective on authority takes a two-step approach to the question of legitimate authority. First, we have to determine whether a putative authority does possess *de facto* authority conferred by some institutional norms or rules of practice. Second, we ask whether these norms or rules can be justified to the participants in those institutions or practices' (p. 36). If this account is correct, this undermines one of the central examples I use in support of the duty-based conception of legitimate authority: a case where a doctor happens to be present at the scene of an accident and, I suggest, has the legitimate authority to issue commands to you, since following the doctor's commands is the best way for you to fulfil your duties of justice to the victims of the accident.¹¹ Because there is no widely accepted practice or institution that accords the doctor authority in this example, Chan doubts the doctor is a legitimate authority over you. More generally, if *de facto* authority is a necessary condition for legitimate authority, this renders the duty-based conception false, since the duty-based conception does not include this condition in its account of a legitimate authority.

¹⁰ *Liberalism Without Perfection*, 128.

¹¹ Chan also uses the appeal to *de facto* authority to cast doubt on the some of the counterexamples I press against Raz's normal justification thesis.

Unlike Chan, I believe the doctor at the scene of the accident does have authority over you, regardless of whether there is an existing social practice or institution that grants him *de facto* authority. The doctor, *ex hypothesi*, has a degree of medical expertise that you lack, and as a result you are more likely to successfully help the victims of the accident by following his directives than you are if you try and work things out for yourself. Under these conditions, I am puzzled as to how you could plausibly deny the doctor has the moral right to direct your behaviour: you owe a duty of justice to the victims, and if you refuse to follow the doctor's directives, you will be significantly decreasing your ability to fulfil that duty. About this case Chan says the following:

If a person has authority over me, then presumably within certain limits, he has the right to command me and I am obligated to obey him, even if the content of his command is highly controversial or mistaken. No authority in this sense exists in the surgeon case. My obligation to comply with the surgeon's instruction is confined to a narrowly defined *ad hoc* task, namely to save the victims; my compliance is conditional upon the successful execution of the task. If I reasonably disagree with the instruction or seriously doubt whether my compliance would lead to the successful execution of the task, the force of my obligation will quickly weaken; and if the surgeon's instruction is in fact mistaken, then certainly I have no obligation to comply (p. 33).

But nothing Chan says here, as far as I can see, undermines the argument in favour of the doctor's authority. The doctor's alleged authority is restricted to the task at hand, but this does not show that he is not a legitimate authority. The domain of a legitimate authority is always restricted to some set of actions or area of behaviour: employers' authority over employees is limited to behaviour that is relevant to their terms of employment; a captain's authority over his officers is limited to the periods when the officers are on duty; and a state's authority over its citizens does not extend to certain domains (e.g. no state can command two people to have sex). I also believe it is misleading to speak of the potential that you may 'reasonably' disagree with the doctor's commands. You have no medical expertise, and so if the doctor says 'we must do X to save these victims,' it's not clear in what sense your disagreement with this directive would be reasonable. Of course, if the doctor is intoxicated or otherwise clearly incompetent, his authority dissipates, but that is no challenge to the duty-based conception, since it would then no longer be true that you can best fulfil your duties of justice by following the doctor's directives. It's also not

true that if some particular directive issued by the doctor is mistaken, then he lacks authority to issue that particular directive. So long as it remains true that, on the whole, you can best fulfil your duties of justice to the victims by following the doctor's orders, then it does not matter if one particular order is, as a matter of fact, mistaken. Similarly, if the best way to fulfil my duties of distributive justice to my fellow citizens is to follow the directives of the government regarding how much tax to pay, it does not matter if the government's directives regarding taxation are objectively mistaken; the question is whether I can best fulfil my duties by following some agent's directives, not whether those directives are objectively or maximally correct.

But my disagreement with Chan is broader and deeper than the disagreement over this particular example. I do not believe that *de facto* authority is a necessary condition for legitimate authority, provided the term legitimate authority is used the way I use it in my book, that is, to describe the moral right of one agent to issue and enforce commands over some other person or group. Whether *de facto* authority exists is an empirical question that is settled, presumably, by looking to existing patterns of behaviour, practices, and beliefs. But the empirical fact that some person is not recognized as an authority is often going to be irrelevant to the moral question of whether that person has the moral right to issue and enforce commands. Suppose, for example, that we live in a society where there is a widespread norm that accords doctors authority in emergency situations of the sort described in the example above, but with a twist. We live in an ethnically homogenous society, one that is also racist. As a result, when foreign doctors from different ethnic groups visit our country, they are not accorded the same *de facto* authority in emergency medical situations. If *de facto* authority is a necessary condition for legitimate authority, then the foreign doctors lack the moral right to issue commands to you in emergency medical situations. This seems an unacceptable result. The more general problem is this. If *de facto* authority is a necessary condition for legitimate authority, then the alleged subjects of an authority can, simply by wrongfully disregarding the alleged authority's claims to authority, make it the case that the alleged authority is not legitimate. If A has the moral right to rule over some group B, it seems perverse to suppose B can deprive A of this moral right by wrongfully refusing to recognize A's authority, thereby depriving A of her *de facto* authority.

All this is not to deny that *de facto* authority can *sometimes* be a necessary condition for legitimate authority. Imagine, for example, two different

institutions claim authority to tax my income and distribute it in accordance with the requirements of distributive justice (this is something I can't do very successfully on my own, since I lack the relevant information and coordination capacities). Suppose both institutions hold broadly the same, correct, view of distributive justice, however only one of these institutions has *de facto* authority in my society, whereas the other is not perceived by anyone to be an authority. Let's also suppose neither institution has any other claim (apart from its capacity to effectively establish a just distribution) to be a legitimate authority. Clearly, the institution with the *de facto* authority is the one that is likely to be the legitimate authority on the duty-based conception, since only if many others regard the institution as legitimate will it have the requisite coordination and distribution capacities to successfully implement a conception of distributive justice. Thus, it's often going to be true, particularly when coordination and reciprocal obligations are involved, that an alleged authority will need to have *de facto* authority in order for it to be the case that complying with the alleged authority's demands is the best way to fulfil one's duties of justice. But this is a contingent fact—it's not an essential property of legitimate authority. Whether you can best fulfil your duties of justice by following the directives of an alleged authority will sometimes depend simply on whether you (or a group to which you belong) choose to follow the directives of the alleged authority.

I therefore deny that *de facto* authority is a necessary condition for legitimate authority. To maintain otherwise is to allow a very special sort of empirical premise to play a decisive role in any argument about a putative authority's actual authority. It's a special empirical premise because it is the alleged subjects of authority who can sometimes make the premise true or false. On this issue I am in agreement with a point made by G.A. Cohen. Cohen is considering the case of someone who argues that justice requires a lower rate of income tax on wealthier citizens by appeal, in part, to the empirical premise that wealthy people will not work as hard and be as productive at a higher rate of tax (and thus the least-advantaged will be worse off if the higher rate is imposed). Cohen imagines this argument—including the appeal to the empirical premise about what wealthy people will do at the different tax rates—being made by a wealthy person, and says the following: 'a person who makes, or helps to make, one of its [an argument's] premises true can be asked to justify the fact that it is true. And sometimes he will be unable to provide a satisfying explanation'.¹² Cohen concludes that

¹² G.A. Cohen, *Rescuing Justice and Equality* (Cambridge: Harvard University Press, 2008), 39.

when that someone cannot provide a satisfactory explanation of why she has chosen (perhaps in conjunction with others) to behave in a manner that makes the empirical premise true, this undermines the argument which the premise supports.¹³ The fact that the subjects of an alleged authority refuse to recognize the alleged authority as an authority cannot be the sort of fact, on its own, that can justify the conclusion that the alleged authority is not a legitimate authority, precisely because the subjects may not be able to justify their refusal to recognize the alleged authority as legitimate.¹⁴

Chan's second objection focuses on whether my duty-based conception in fact precludes perfectionist policies. Chan says:

Other than the goal of achieving justice, institutions may advance the economy, provide education, secure national defence, protect the environment, or promote the good life. If institutions pursue these goals in a just way (i.e. without violating procedural or substantive principles of justice), then Rawls would tell us that people who live under these institutions have the natural duty to support and comply with them. Therefore, Rawls's idea of the natural duty of justice does not have any implication as to whether perfectionist state action is legitimate or not. Rawls may reject perfectionist state action on other grounds, but the duty of natural justice is not one of them (p. 40).¹⁵

I have two brief things to say in response. First, although I do appeal to Rawls's natural duty of justice in the course of developing my position, I do not purport to be engaged in Rawls exegesis—to be explicating what Rawls would say regarding the implications of his natural duty of justice. The duty-based conception of legitimacy that I propose is my own, and indeed, its structure is deliberately similar to Raz' normal justification thesis, except I have replaced the reference to reasons with duties of justice. Unlike Rawls's natural duty of justice, the duty-based conception tells us that following the alleged authority's directives must be a better way for us to fulfil our duties of justice in order for the alleged authority's directives to be legitimate, not

¹³ More precisely, Cohen claims the argument fails the interpersonal test, one which Cohen believes is required if we want to live in a justificatory community with others. See *Ibid.*, 44.

¹⁴ Note that the second part of the two step approach to determining whether an authority is legitimate that Chan describes—where 'we ask whether these norms or rules can be justified to the participants in those institutions or practices'—does nothing to defuse this objection since this requirement only applies to rules or practices that ground *de facto* authority, they do not apply to rules or practices that *fail* to ground *de facto* authority.

¹⁵ As an aside, I do not concede that the objectives (apart from promoting the good) listed by Chan in the first sentence of the quoted passage are not, as the sentence seems to imply, part of a conception of justice.

merely that the alleged authority is doing various things in a just way. As Chan rightly notes, I do leave open the possibility that there may be other ways of grounding legitimate authority under certain circumstances.¹⁶ However, I do not believe these alternative possible arguments (e.g. consent or associative obligations) are likely to do much to explain political legitimacy under normal conditions, and I certainly do not think any of these alternative arguments can successfully ground the legitimacy of any realistic perfectionist state, though I don't try and establish either of these conclusions in the book, partly because I would have simply been rehearsing arguments from the literature on political legitimacy that are already well-worn.

Second, I deny that the state can pursue distinctively perfectionist policies in a just manner. To pursue perfectionist policies, the state requires resources. Can the use of these resources to fund perfectionist policies be consistent with the requirements of justice? Why not, as I ask at several points in the book, simply ensure that each citizen has his or her fair share of resources, and then allow each person to use his or her share to pursue the good life? Why does the state need some portion of each person's resources in order to pursue perfectionist policies? In chapter 3, I suggest that it will be very difficult for the perfectionist to answer this question in a manner that avoids the charge of paternalism, and paternalism is, at least with regard to adult citizens, presumptively wrong. In chapter 4, I offer reasons to doubt that there is a distinctive account of perfectionist justice—that is, an account of what constitutes a fair share of resources justified directly by appeal to perfectionist considerations—that can be plausible, suitably responsibility-sensitive, and yet also differ from the major existing non-perfectionist accounts of distributive justice. I don't say these arguments are decisive, but I do think they provide us with strong reasons to doubt that perfectionist policies can be pursued by the state in a just way.

¹⁶ As I say in the book, the duty-based conception is meant to provide a way of explaining cases of legitimate authority when consent cannot be the basis of legitimacy. *Liberalism Without Perfection*, 128.

IV

Reply to Bocchiola

I am grateful to Michele Bocchiola for his careful and thought-provoking essay, and for giving me the chance to say something further about a difficult issue: the containment of unreasonable doctrines, particularly as applied to the case of children's education.

Unreasonable citizens are those who explicitly deny at least one of the following ideas: that citizens are free and equal; that society is a fair system of social cooperation for mutual benefit; or the fact of reasonable pluralism (or else fail to accord these ideas deliberative priority). In chapter 10 of my book, I make two main claims about unreasonable citizens. First, I argue that although such persons are rightfully excluded from the constituency of public justification, they are nevertheless entitled to the same package of rights and liberties as any other citizen. Second, I argue that there can be circumstances where a liberal democratic state may permissibly pursue a policy of containment to restrict the spread of unreasonable doctrines. Policies of containment are those whose primary intention is to undermine or restrict the spread of ideas that reject the fundamental political values. I argue that the importance of achieving 'stability for the right reasons' can sometimes be sufficient to justify policies of containment even in cases where these policies constitute an infringement of the rights of some citizens. In particular, I suggest that the liberal state might permissibly infringe the rights parents have to make important educational decisions for their children if parents choose to educate their children in a manner that promotes the spread of unreasonable ideas, even if the education provided does not disadvantage the children according to certain metrics of advantage (e.g. test scores, employment opportunities, etc...).

As I emphasize in the book, the argument in favor of containment is pitched at the level of principle; as a matter of moral and political principle, I maintain the state can sometimes be justified in taking steps to restrict the spread of unreasonable doctrines. But in practice, there are powerful reasons to worry about the exercise of state power to suppress or prohibit the expression of certain ideas, and nothing I say here, or in the book, is meant to minimize the very real dangers of state power being wrongly exercised or abused.¹⁷

¹⁷ See *Liberalism Without Perfection*, 305.

Bocchiola raises several different worries about my position on containment, and I will try and say something about each of his points. First, he asks an important question about the criteria for the application of a policy of containment. He notes that I identify two conditions that are relevant for containment. One condition requires the existence of ‘certain unreasonable doctrines—endorsed by some of the members of a given society—[which] deny liberal values,’ and the second condition states that ‘the spreading of these ideals [the unreasonable doctrines] constitutes a real threat to the stability of such a society’ (p. 46). The question is this: are these jointly necessary conditions for containment to be permissible, or can containment be permissible if only the first condition is met? He worries that the former answer may make my position too ineffective in combating the spread of unreasonable doctrines, whereas the latter answer may make my position too vague and too broad (p. 46-7).

I envision the application of a policy of containment as follows. The first condition is a necessary one for any instance of containment to be justifiable. If this condition is met, then whether any given policy of containment is justifiable depends on a variety of further considerations, one of which is the extent to which a given group poses a threat to stability. The greater the threat to normative stability posed by some unreasonable group, other things being equal, the more vigorous the state can be in pursuing a policy of containment. So, if the threat to stability is serious, the state may be justified in infringing non-trivial individual rights (e.g. parents’ rights to make educational decisions for their children), whereas if the threat to stability is very low, the argument for containment may not be weighty enough to justify infringing individual rights.

We can now consider some of the cases that Bocchiola raises. Would my proposed policy of containment apply to a school where all the female teachers voluntarily cover their heads as part of a broader doctrine that requires more modesty from women than men? I don’t think so. It’s not clear that this belief conflicts with the idea of citizens as free and equal. It conflicts with a much broader social idea: that the same principles of modesty should apply to men and women, but denying this idea seems perfectly compatible with a belief that men and women are equal citizens

with the same set of civic rights and duties, and so I do not see the idea of containment as applicable in a case like this.¹⁸

Another case Bocchiola asks us to consider is one where a school is clearly teaching unreasonable beliefs—for example, that racial discrimination and slavery are acceptable—but the number of students influenced is a tiny fraction of the population and it never gets any bigger (p. 47). Here it seems the threat to stability is negligible, bordering on non-existent, and hence it might look like containment cannot be a weighty enough reason to justify closing down the school and thereby infringing the rights of the parents to make educational choices for their children. I don't think this is actually a difficult case, at least not as Bocchiola describes it. The school is teaching material that directly contradicts basic principles of political justice (e.g. that racial discrimination and slavery are acceptable), and no school can be allowed to teach falsehoods about the nature of political rights and duties. Because parents do not have a right to teach their children falsehoods about key features of political justice—the right to make educational choices for children does not protect such choices—we don't need a policy of containment to justify the requirement that the school's teaching curriculum be altered or else the school shut down: teaching the fundamental rights and duties of citizenship is something that is owed to every child to help them develop and exercise their two moral powers.

But we could modify Bocchiola's example to make it more difficult. Suppose the school is not teaching anything false about political justice, but it is nevertheless teaching children 'that nonbelievers are of less moral worth, even lesser beings, than members of their own community. The students are taught that the wider society in which they live is not a valuable moral project, but rather an undesirable compromise with heretics, one that is only tolerated until the political situation becomes more favourable'.¹⁹ Although these claims do not, strictly speaking, involve any falsehoods about political justice—the students are not told anything false about the *content* of political justice, that is, they are not anything false about what people's political rights and duties are—they are nevertheless unreasonable because they stand in tension with the fundamental political ideas of a liberal

¹⁸ This is not to deny that there may be more extreme cases of gendered norms of modesty—for example ones which state that women are not permitted in public, or not permitted to hold jobs where they will have to interact with men—which do threaten the idea that women are equal citizens.

¹⁹ *Liberalism Without Perfection*, 302.

democratic society. But suppose we keep the other premise from Bocchiola's example: the number of students who are taught these views represent a tiny fraction of the population, and this fraction never increases.

Should the state pursue a policy of containment in a case like this, perhaps by closing the school down even though (let's assume) the children are otherwise being given a perfectly acceptable educational experience? Whether the costs (an infringement of the parents' rights to make educational choices,²⁰ the psychological costs to the children of closing their school, and the difficulty of ensuring the children are all given an adequate education elsewhere²¹) are worth paying in light of the fact that the threat to stability is negligible is not something that looks amenable to philosophical judgement from an armchair. Public officials on the ground would need to exercise their judgement based on their best understanding of the facts of the particular case. This might seem to provide support for Bocchiola's worry that the criteria for applying the policy of containment are too vague, but I am less troubled by this concern. It seems unavoidable that certain political principles or doctrines are vague, and lack precise criteria of application. That does not mean the principles or doctrines are mistaken or ought to be rejected; it may simply mean they can only be applied once a great deal of contextual information is available, and contextual judgement is required to decide the relative weight of different considerations.

Let's suppose that a suitably informed committee of public officials decide that the school should not be shut down: the threat to stability is so small that it cannot justify closing down the school. This might well be the right decision in the circumstances, but this does not mean there are no tools of containment remaining that the state can use to try and restrict the spread of unreasonable doctrines. The state may, for example, attempt to combat the spread of unreasonable doctrines via informational campaigns about racial equality, or by commemorating civil rights leaders who have fought for racial justice, or by denouncing and rebutting those who deny the fact of reasonable pluralism. These are all more moderate mechanisms of

²⁰ My view as to whether the parents' rights are actually infringed is more complex than I have the space to explain here, and depends on the extent to which the aims of parents are at least partially reasonable. See *Ibid.*, 302, 311.

²¹ And as Bocchiola rightly notes, a related risk of the school being shut down is that the parents might choose to home-school their children, with the result that the children are educated in an environment where they will be exposed to a much greater extent to unreasonable views, and which might further jeopardize the development and exercise of their two moral powers.

containment where the state can use its expressive capacities to promote fundamental political ideas without infringing any individual rights, and political liberals should endorse such forms of state expression when used to promote key public or political values.²²

But Bocchiola worries that some reasonable religious citizens might object to the state's promotion of political values. In particular, teaching children the ideas of freedom, equality, fairness, and reasonable pluralism may unintentionally undermine some beliefs that are central to reasonable religious doctrines; by exposing children to other views and teaching them that such views are at least reasonable and entitled to political protection, children may come to doubt the more conservative or orthodox doctrines espoused by their parents (pp. 44, 49). My response to this worry is unoriginal: I think Rawls is right when he says '[t]he unavoidable consequences of reasonable requirements for children's education may have to be accepted, often with regret. I would hope the exposition of political liberalism in these lectures provides a sufficient reply to the objection'.²³ Political liberalism does not, and should not, aspire to achieve neutrality of effect or outcome with regard to the different reasonable comprehensive doctrines that might exist within a given society. The most it can and should aim at is justificatory neutrality: the reasons for state action should be public and must not depend on claims about the good life over which reasonable persons are assumed to disagree. Even if it is true that certain ways of life are less likely to flourish and succeed in a society where children are taught the fundamental political ideals of a liberal democratic society, this is not a sufficient reason to refrain from teaching those ideals. Our liberal society is not a mechanism of compromise to ensure that everyone's doctrine gains the same number of adherents. It is, rather, a justificatory community grounded in certain shared political ideals that form the basis of public reason, and the state may permissibly promote those ideas since they constitute the normative framework of our shared political life.²⁴

Bocchiola raises one final worry about the policy of containment when applied to education, namely, that it might be vulnerable to the charge of paternalism. I define paternalism as any act where:

²² Corey Brettschneider argues in favour of the state using its expressive capacities in this way to combat hate speech in his book, *When the State Speaks, What Should it Say? How Democracies Can Protect Expression and Promote Equality* (Princeton: Princeton University Press, 2012).

²³ Rawls, *Political Liberalism*, 200.

²⁴ See *Ibid.*, 190-95.

1. Agent A attempts to improve the welfare, good, happiness, needs, interests, or values of agent B with regard to a particular decision or situation that B faces.
2. A's act is motivated by a negative judgement about B's ability (assuming B has the relevant information) to make the right decision or manage the particular situation in a way that will effectively advance B's welfare, good, happiness, needs, interests, or values.²⁵

Bocchiola's worry is this: when the state takes steps to contain the spread of unreasonable doctrines, surely it makes a negative judgement about the ability of citizens to make the right decision and reject unreasonable or hateful doctrines (pp. 49-50)? Isn't the state acting paternalistically by trying to protect liberal citizens from the spread of these ideas, when it could instead trust citizens to reject these unreasonable doctrines without any help from the state? I think this is an important objection, and I take the charge of paternalism to be a serious one. But two points seem sufficient to defuse the worry. First, although I do claim, in chapter 3, that paternalistic policies are presumptively wrong, this claim is restricted to policies aimed at sane adults,²⁶ and so is not applicable to policies of containment aimed at the education of children. Second, and more importantly, even when a policy of containment is aimed at adults, its rationale is not to protect people from themselves—from their own inability to sensibly reject unreasonable doctrines. Rather, the aim of containment is to protect our liberal democratic society as a whole from the potentially destabilizing spread of unreasonable doctrines, and more specifically to protect vulnerable members of our political community who might be the victims of discrimination or other injustices if unreasonable doctrines were to become more prevalent.²⁷ In other words, containment policies are justified by the aim of protecting most of us, or some sub-set of us, from those who might adopt and act upon unreasonable doctrines. Such policies do not aim to protect certain people from themselves, and so they are not paternalistic.

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²⁵ *Liberalism Without Perfection*, 80.

²⁶ *Ibid.*, 86, 101.

²⁷ *Ibid.*, 300.

SYMPOSIUM
POLITICAL LIBERALISM VS. LIBERAL PERFECTIONISM



AUTONOMY AND ANTI-PERFECTIONISM

SEBASTIAN NYE

Autonomy And Anti-Perfectionism

Sebastian Nye

Anti-perfectionism and autonomy are important ideas for much contemporary political theory. However many – including Jonathan Quong – claim that a commitment to autonomy is in tension with a commitment to anti-perfectionism. In his recent book *Autonomy and Liberalism*, however, Ben Colburn argues that these commitments are not only compatible but mutually supporting. His arguments rest on the distinction between first- and second-order values. Anti-perfectionism, he thinks, only requires a prohibition of the state’s promotion of the former, and autonomy is an instance of the latter. After discussing attempts by John Rudisill and Thomas Porter to undermine Colburn’s arguments, I offer my own critique of the distinction between first- and second-order values. Following that, I try to offer three alternative characterisations of the distinction, all of which attempt to redress the inadequacies of Colburn’s formulation, and argue that all of those fail. Finally, I try to diagnose this failure, and suggest that my arguments help to vindicate the idea – held by Quong and others – that there is a deep tension between the promotion of autonomy and anti-perfectionism.

Many liberals think that the state should not promote ways of life that are believed to be valuable. Such liberals endorse anti-perfectionism. Moreover, many liberals think that individual autonomy is valuable, and that it should be promoted by the state. A person is autonomous, very roughly, if they are the author of their own life.¹ These two commitments are often thought to

¹ See: B. Colburn, *Autonomy and Liberalism* (New York and Abingdon: Routledge, 2010), 4-20; G. Dworkin, *The Theory and Practice of Autonomy* (Cambridge: Cambridge University Press, 1988); J. Raz, *The Morality of Freedom* (Oxford: Clarendon Press, 1986), 369-378 and S. Wall, *Liberalism, Perfectionism and Restraint* (Cambridge: Cambridge University Press, 1998), 127-144.

be in tension. Jonathan Quong suggests as much in *Liberalism Without Perfection*.² Liberal perfectionists, he says, endorse the following thesis:

It is at least sometimes legitimate for a liberal state to promote or discourage particular activities, ideals, or ways of life on grounds relating to their inherent or intrinsic value, or on the basis of other metaphysical claims.³

The view that autonomy is valuable and should be promoted by the state, therefore, simply is a variety of liberal perfectionism, and therefore opposed to anti-perfectionism. Indeed, Quong suggests that such autonomy-minded liberalism is a paradigmatic instance of liberal perfectionism. ‘If there is a distinctively liberal conception of the good life’ which could be used to underscore a perfectionist political morality, he says, then ‘many philosophers believe that the ideal of personal autonomy must play that role.’⁴

This tension strikes many as obvious, perhaps even trivial. However, in *Autonomy and Liberalism*, Ben Colburn attempts to turn this supposed tension on its head. He argues that these commitments are not only compatible but mutually supporting. He defends the ‘equivalence thesis,’ which claims that ‘the state ought to promote autonomy if and only if anti-perfectionism is true.’⁵ According to Colburn and contrary to Quong, liberals can and should be both autonomy-minded and anti-perfectionist. The appearance of a conflict between a commitment to autonomy and anti-perfectionism can be resolved, Colburn claims, by distinguishing between two types of values. Anti-perfectionism, he argues, should be understood as an opposition to the state promotion of only one of these types of values, and autonomy is an instance of the other type. If Colburn is correct, then this is an extremely exciting result for liberal theory. One of the main reasons why liberals resist anti-perfectionism – namely, because of a commitment to autonomy – *and* one of the main reasons why liberals resist autonomy – namely, because of a commitment to anti-perfectionism – can be countered. So, Colburn’s arguments may help to vindicate both anti-perfectionism and autonomy. Many liberals find both the value of autonomy and anti-perfectionism extremely intuitive. If Colburn is right, then liberals do not have to choose

² See J. Quong, *Liberalism Without Perfection* (Oxford: Oxford University Press, 2011), 45-72.

³ *Ibid.*, 27.

⁴ *Ibid.*, 45.

⁵ B. Colburn, *Autonomy and Liberalism*, 44.

between these commitments. Liberals can have their cake and eat it. This shows that Colburn's arguments are well worth considering.

Quong's arguments in *Liberalism Without Perfectionism* offer scant ammunition for ruling out the particular form of autonomy-minded anti-perfectionism which Colburn defends. However, I shall argue that Colburn's strategy ultimately fails to offer a way of occupying the logical space which Quong claims is untenable. Colburn's formulation of anti-perfectionism is unsatisfactory. Moreover, I argue that it is unlikely that another formulation can do the work that Colburn requires. Before offering these arguments I shall outline Colburn's position, and also examine some recent criticisms of it from Thomas Porter⁶ and John Rudisill.⁷

I

Colburn's strategy turns on distinguishing between two types of values. Anti-perfectionism, he claims, should be understood as an opposition to the promotion of the first type of values, and autonomy is an instance of the second. The distinction is between first- and second-order values.⁸ Second-order values are a kind of content neutral value. A value is content neutral if, in order to specify which state of affairs satisfies the value, we need some further piece of information. For instance, the value claim 'it is good to satisfy one's desires' is a content-neutral because, in order to know whether some state of affairs actually satisfies a given person's desires, we need to know what their desires are.

Now, second-order values are content neutral in the following way. The state of affairs that satisfies a second-order value cannot be specified without a *de dicto* reference to a judgement of value. In order to know what state of affairs satisfies the value we must know some further judgement about what is or is not valuable. For instance, consider the claim 'what is

⁶ T. Porter, "Colburn on Anti-Perfectionism and Autonomy," *Journal of Ethics and Social Philosophy* (2011).

⁷ J. Rudisill, "Avoiding the Whiff of Paradox in the Liberal Promotion of Autonomy," *Journal of Philosophical Research* 37 (2012), and J. Rudisill, "Some Further Concerns With Colburn's Autonomy-Minded Anti-Perfectionism," *Journal of Philosophical Research* 37 (2012).

⁸ Colburn uses 'value' and 'value claim' fairly interchangeably. For simplicity, I shall assume that this slight looseness in terminology is harmless and follow his use of these terms.

valuable in life is to do what your parents value.⁹ This is a second-order value claim because, to find out whether a particular person satisfies this value claim we must find out what their parents actually value. Importantly, the reference to a judgement of value is *de dicto* rather than *de re*. So, according to the claim that I just mentioned, it is valuable to do what your parents value *simply because your parents value it*. This differs from other value claims which contain references to value judgements but only as a way of picking something out, where that something is taken to be valuable. The reference in such cases is *de re*. For example, the claim ‘your parents know what is valuable; so to pursue a valuable life do what your parents think is valuable’ references a value judgement, but this reference could be replaced by simply specifying what way of life is valuable. This would not significantly alter the claim. The appeal to parental judgement is only meant to serve as a reliable guide to what is valuable. Second-order values contain a *de dicto* reference to a judgement of value. First-order values, by contrast, do not contain a *de dicto* reference to a judgement of value.

Another way in which Colburn describes the distinction is as follows. Sometimes there is a variable in the specification of a value claim. When this variable ranges over judgements of value, it is a second-order variable. Second-order values contain second-order variables. First-order values, by contrast, do not contain any second-order variable. They may contain variables that range over states of affairs, such as ‘it is valuable to do what you desire’. They may, that is, be content neutral. However, crucially they do not range over judgements of value.¹⁰

Anti-perfectionism, Colburn argues, should be understood as a prohibition on the state’s promotion of first-order values. Anti-perfectionism should be understood as *first-order* anti-perfectionism. This renders it compatible with autonomy, he claims, since the latter is a second-order value. Someone is autonomous, he argues, if she decides for herself what is valuable and lives her life in accordance with that decision.¹¹ Hence we cannot establish whether a person is autonomous, on Colburn’s definition, without knowing what they judge to be valuable. Colburn argues that – contrary to Quong – we can believe both that the state should promote autonomy and endorse anti-perfectionism.

⁹ This example is taken from B. Colburn, *Autonomy and Liberalism*, 54.

¹⁰ For greater elaboration on the distinction between first and second-order values, see *ibid.*, 50-57.

¹¹ See *ibid.*, 21-42.

However, why should we understand anti-perfectionism as *first-order* anti-perfectionism? Two reasons for thinking this can be extrapolated from Colburn's work. First, he says that opposing first-order values *is* what anti-perfectionist liberals tend to be concerned with, so his understanding is in line with the current literature. He claims that

most people who endorse anti-perfectionism have the state promotion of first-order values...as their target...For example, in *Political Liberalism* (p. 37) Rawls gives three examples of comprehensive doctrines which the state should not promote: orthodox medieval Catholicism, utilitarianism, and the 'liberalisms of Kant or Mill,' based on ideals of individuality or reason. That which Rawls identifies as impermissible in each case is a commitment to values which are first-order.¹²

Second, Colburn defends his first-order understanding of anti-perfectionism in part by arguing that a commitment to anti-perfectionism implies a commitment to autonomy. For anti-perfectionism to be defensible, therefore, it must be consistent with autonomy, which suggests that it should be understood as first-order anti-perfectionism.¹³

In addition to these two reasons Colburn offers a defensive manoeuvre against some counter-examples to the claim that anti-perfectionism should be understood as first-order. He concedes that anti-perfectionists and, indeed, autonomy-minded liberals will oppose some second-order as well as first-order values. The value claim, 'it is valuable to live the life of a slave except for one day a year when one should do as one deems valuable,' for instance, indicates an objectionable second-order value.¹⁴ However, he claims that an autonomy-minded liberal can reject these values on a case-by-case basis. Being a slave for three-hundred-and-sixty-four days a year can be opposed as autonomy-undermining. So, the autonomy-minded anti-perfectionist will not claim that such values should be promoted. However, they will not oppose them on the grounds of a general commitment to (first-order) anti-perfectionism.¹⁵

¹² Ibid., 57 and 140.

¹³ See *ibid.*, 60-67 and B. Colburn, "Anti-Perfectionisms and Autonomy," *Analysis* 70 (2010), 254.

¹⁴ *Ibid.*, 253.

¹⁵ See *ibid.*, 253-254.

II

Thomas Porter and John Rudisill both argue, in different ways, that the distinction between first- and second-order values is problematic. Although I agree with their conclusion, I will explain why I do not think that they do enough to establish it. Considering both, however, serves to highlight some important weak points in Colburn's strategy.

Rudisill raises a number of objections to Colburn's arguments, most of which are adequately dealt with by Colburn.¹⁶ However, there is one criticism worth discussing here. Colburn's distinction between first- and second-order values, Rudisill claims, is merely 'structural' and, as a result of this, it fails to do any interesting work for Colburn. 'The merely structural distinction,' he says,

carries with it none of the normativity that is required to explain why all the values that have the structural features that make them first-order are also values that we ought to be anti-perfectionist with respect to.¹⁷

Rudisill suggests that the first-/second-order distinction could instead be 'a useful tool for identifying (when in doubt) whether a value can or cannot permissibly be promoted by the state.'¹⁸ However, as Rudisill points out, by Colburn's own admission the distinction does not map this. There are some second-order values that an autonomy-minded liberal should reject. Given this, Rudisill concludes that the distinction 'does no vital work for him [Colburn] and could be jettisoned with no cost.'¹⁹

Rudisill is correct that this distinction performs neither of the roles he suggests. However, in one sense at least, it does seem to do important work for Colburn. The point of the distinction, for Colburn, is to characterise the category of values opposed by liberal anti-perfectionism. First-order anti-perfectionism is supposed to be – at least broadly – in line with the contemporary anti-perfectionist literature. Most anti-perfectionists, Colburn thinks, have first-order values as their target. Given his clarification, Colburn

¹⁶ See B. Colburn, "Autonomy-Minded Anti-Perfectionism: Novel, Intuitive and Sound," *Journal of Philosophical Research*, 37 (2012).

¹⁷ J. Rudisill, "Some Further Concerns with Colburn's Autonomy-Minded Anti-Perfectionism," 245.

¹⁸ *Ibid.*

¹⁹ *Ibid.*

is able to argue that anti-perfectionism is consistent with a commitment to autonomy, contrary to both common suspicion and Quong. This paves the way for his defence of the equivalence thesis (that the state ought to promote autonomy if and only if anti-perfectionism is true). This seems to show that the distinction is important for Colburn. It gives him the resources to win over liberals to his favoured version of liberalism. However, Rudisill draws attention to an important point. Although Colburn's distinction is 'merely structural' it must generate a good characterisation of anti-perfectionism. If the characterisation is poor, then demonstrating its compatibility with autonomy, with a view to showing equivalence between them, is not a convincing defence of autonomy-minded liberalism. Defending a connection between autonomy and anti-perfectionism is pointless if anti-perfectionism is a thesis that nobody cares about and has no reason to care about. I argue below that Colburn does not offer a good characterisation of anti-perfectionism, not least because the distinction is merely structural.

Thomas Porter recognises that Colburn's characterisation of anti-perfectionism is central to the latter's defence of autonomy-minded liberalism. However, it is, Porter argues, an inadequate characterisation of anti-perfectionism. He distinguishes between two types of second-order values. Some second-order values have first-order characteristics, others do not. The value claim, 'What is valuable is to follow your parents' values and enjoy a pleasurable brain-state,' for instance, contains a second-order variable ('follow your parents' values') but also a first-order specification of what is valuable ('enjoy a pleasurable brain state'). He then claims that anti-perfectionism should be understood as an opposition to the promotion of first-order values *and* second-order values with first-order characteristics. Since Colburn's conception of autonomy is a second-order value with first-order characteristics, the tension between autonomy and anti-perfectionism remains. Quong's position has been vindicated.

Porter defends his position by responding to both of Colburn's reasons – sketched in §I – for understanding anti-perfectionism as first-order. Against Colburn's claim that anti-perfectionists have first-order values as their target, Porter argues that second-order values with first-order characteristics – such as 'what is valuable is joyfully to follow the values of the Great Leader' – are just as likely to be opposed by anti-perfectionists as first-order ones.²⁰ Colburn's second reason is that, since anti-perfectionists are committed to

²⁰ T. Porter, "Colburn on Anti-Perfectionism and Autonomy," 4.

autonomy, anti-perfectionism had better be first-order. In response, Porter argues that even if anti-perfectionists are committed to autonomy, this is not necessarily a reason to think that anti-perfectionism must be first-order. Rather, if we presuppose Porter's conception, it is a reason to reject anti-perfectionism, since it both presupposes and is in tension with a commitment to autonomy.²¹

Porter also considers Colburn's defensive manoeuvre, which suggests that some second-order values should be opposed on grounds other than a general commitment to anti-perfectionism. Porter agrees that this manoeuvre may satisfy our intuitions about what values should and should not be promoted. But, he claims, it fails to show that Colburn's understanding of anti-perfectionism is adequate, since it is plausible that the best explanation of these intuitions against second-order values is a general commitment to anti-perfectionism.²² Anti-perfectionists are likely to think that their opposition to some second-order value *is* rooted in a general commitment to anti-perfectionism rather than, for instance, a commitment to autonomy.

Now, there are two ways to read Colburn's arguments. First, he could be understood as attempting to describe, as accurately as possible, the notion of anti-perfectionism found in the current literature. Second, he could be understood as offering a charitable reconstruction of the notion of anti-perfectionism, found in the current literature. Colburn can be read either way. At times he leans towards the first, at other times the second. However, by far the most charitable way to interpret Colburn is along the lines of the second. This interpretation is entirely compatible with Colburn's aims. The equivalence thesis is not undermined if it is understood as suggesting that a commitment to anti-perfectionism – understood in as plausible a way as interpretation of the current literature permits – leads to a commitment to autonomy. Anti-perfectionists should still endorse autonomy (as well as the best interpretation of anti-perfectionism), and those committed to autonomy should still endorse anti-perfectionism.

Moreover, on this understanding it seems possible to respond, on Colburn's behalf, to Porter's arguments. In support of Colburn's first reason, we may agree that some values that are opposed by *actual* anti-perfectionists will not be covered by Colburn's characterisation of anti-

²¹ See *ibid.*, 5.

²² *Ibid.*

perfectionism. If Colburn was only concerned to give a descriptively adequate account, then this would be problematic. But on the second interpretation it need not be. If Colburn is offering a charitable reconstruction of anti-perfectionism, it may well turn out that that characterisation does not exactly match up with some actual instances of anti-perfectionism in the literature. Moreover, we can also reinforce Colburn's defensive manoeuvre. Some actual anti-perfectionists may indeed be motivated to oppose some second-order values by a general commitment to (their understanding of) anti-perfectionism, rather than autonomy. But so what? If we are concerned with the most plausible interpretation of anti-perfectionism, and Colburn's arguments are correct, then all this shows is they are motivated by a poor understanding of anti-perfectionism. Colburn's arguments turn on a better one, and it is that conception which is of concern.

In response to Colburn's second reason, Porter supposes that the question of whether anti-perfectionism is best motivated by a commitment to autonomy is separate from the issue of how anti-perfectionism should be characterised. Colburn may be right that anti-perfectionists should endorse autonomy, Porter claims, but this could simply lead us to reject anti-perfectionism as inconsistent rather than claim that it is best understood as first-order. The commitments of anti-perfectionists, therefore, do not cast light on how anti-perfectionism is best characterised. However, on the reading of Colburn that I have suggested, these are not entirely separate issues. Since Colburn is offering a charitable reconstruction of the notion of anti-perfectionism, one of the criteria for characterising anti-perfectionism is, 'which characterisation makes the endorsement of anti-perfectionism most plausible?' We should endorse Colburn's characterisation of anti-perfectionism in part because this will avoid a *reductio* of anti-perfectionism. In the context of Colburn's project, the reason we should understand anti-perfectionism as he does, rather than as Porter does, is because the former is more charitable.

Now, if it turns out that anti-perfectionists are frequently concerned with second-order values, or that they do not care much about first-order ones, then this would be a big problem for Colburn's characterisation. On my reading, he is offering a charitable reconstruction of the literature, so his conception must be rooted in the literature. If it is not, then that is a

problem for his strategy.²³ This might be correct, but Porter does not offer the textual evidence that would make this charge stick.²⁴ What this discussion highlights, however, is that Colburn is best understood as trying to offer a charitable reconstruction of the literature on anti-perfectionism, rather than one that is faithful to it in every detail.

III

Despite the shortcomings discussed above, Porter and Rudisill are right to identify the first-/second-order distinction, and the related characterisation of anti-perfectionism, as a weak point in Colburn's arguments. The problem with Colburn's position which I will focus on stems from the fact, highlighted by Rudisill, that the distinction is based upon a structural feature of values – the presence or absence of a second-order variable – which does not give us a substantial difference in the *content* of values which can and cannot be opposed. Because of this, I will argue, first-order anti-perfectionism is not, in fact, much of a threat to perfectionists. Perfectionist values can be re-construed, without any significant change of content, to contain second-order variables. Since first-order anti-perfectionism does not, in fact, cause much problem for perfectionists, first-order anti-perfectionism is an uninteresting thesis for anti-perfectionist liberal theory. Because of this, I take it that first-order anti-perfectionism is not what liberals who endorse anti-perfectionism have in mind. Moreover, since it is a version of anti-perfectionism which lacks any bite, it is not the characterisation that liberals *should* have in mind. Unlike Porter, I am not suggesting that there may be some outlying values, opposed by anti-perfectionists, which is not covered by first-order anti-perfectionism. Rather, my point is that first-order anti-perfectionism is a complete straw man, and so no anti-perfectionist should accept – or, indeed, be charitably interpreted as accepting – first-order anti-perfectionism as a characterisation of their position. This cannot, therefore, form the basis for a defence of Colburn's autonomy-minded liberalism.

²³ Colburn could develop an alternative conception of anti-perfectionism which is not rooted in the literature, give us good non-question-begging reasons to endorse it, and then show that it is equivalent to a commitment to autonomy. However, this is a completely different approach to that of *Autonomy and Liberalism*.

²⁴ See T. Porter, "Colburn on Anti-Perfectionism and Autonomy," 4-5.

The fact that the first-/second-order distinction turns on a structural feature of values causes problems for Colburn since it is relatively easy to re-construe any given first-order value to make it a second-order value without any significant change in the content of the value. What the value claim is actually about and the substantial political implications of that value claim will remain basically unchanged by the insertion of a fairly trivial second-order variable into a first-order value claim. For instance, the first-order value claim ‘people should learn to play Bach’s cello suites flawlessly’²⁵ can be re-construed, without any significant change in content, to the second-order value claim ‘people should learn to play Bach’s cello suites flawlessly, starting with the one they value the most.’ Similarly, the first-order value claim, ‘drinking coffee is valuable,’ can be re-constructed as the second-order judgement ‘drinking coffee – in a cup or a mug depending on which you value most – is valuable.’ Further, any perfectionist state policies designed to promote the first-order version of either value (for instance, for the Bach example, free cello lessons or propaganda campaigns to promote the greatness of Bach’s Suites) would surely be basically the same as state policies designed to promote the second-order counterpart.

It seems that any first-order perfectionism can be re-construed, with only the slightest change of content, to make a second-order perfectionism, since the first-/second-order distinction itself does not turn on any distinction in the content of values or value claims. Consequently, claiming that states should not promote first-order values, while leaving open the possibility that they may promote second-order ones, is an almost completely hollow thesis; any given first-order value is a marginal adjustment away from a second-order value.

It might be argued that the *possibility* of re-construing a first- into a second-order value is not sufficient to undermine the importance of first-order anti-perfectionism; what is important is that perfectionisms as they are actually presented *are* first-order, not that they *could be* second-order. As a quick response, it should be emphasised that whether anti-perfectionism is an interesting notion depends, at least in part, upon its capacity to oppose perfectionisms. If the categorisation of objectionable perfectionist values leaves open such an easy counter-move for the perfectionist, then first-order anti-perfectionism clearly does not cause problems for the perfectionist (at best it causes a minor inconvenience). Even if Colburn’s anti-perfectionism can refute actual perfectionisms, this is only a temporary victory.

²⁵ This example is taken from B. Colburn, *Autonomy and Liberalism*, 51.

As a longer response, it is possible to go beyond the idea I have been pushing so far and claim that many actual perfectionisms which appear first-order may be implicitly second-order to begin with. Statements of perfectionisms may exclude explicit references to second-order variables. However this need not imply that they are absent. They may go unstated merely because they are not particularly important. Further laborious cashing out of every requirement of a given perfectionist theory may uncover unimportant, but nonetheless present, second-order variables. My suspicion that it will come from the basic point that second-order variables are cheap; at some point any given perfectionism will stop dictating the details of how a particular value is to be realised and will, at that point, leave some detail to individual taste. To use Rawls's example quoted in §I, even the values that underlie medieval Catholic orthodoxy may contain second-order variables that go unmentioned in official dogma, simply because they are hardly worth stating. Devotional prayer may be demanded, but whether prayer is offered to an icon or using a rosary is presumably left to the tastes of the worshipper. Failure to explicitly state a lurking second-order variable is not, I presume, grounds for discounting it as a second-order perfectionism.²⁶ So, many perfectionisms seem to be second-order to begin with. It seems, therefore, that anti-perfectionism should not be understood as first-order anti-perfectionism.

IV

Colburn does not deliver on his promise. Liberals should not understand anti-perfectionism as he does. He fails to show that it is possible to occupy the logical space that Quong claims is untenable; he does not establish that liberals can be autonomy-minded and anti-perfectionist. However, perhaps it is possible to succeed where Colburn has failed. In this section I shall develop three alternative ways to characterise the distinction between first- and second-order values. Each attempts to redress the problems of Colburn's original proposal and thereby vindicate his claim that the state promotion of autonomy is not in tension with, and may even be equivalent

²⁶ If it is grounds for discounting it, then this seems to introduce tacitly an evaluative dimension to the discussion of second-order variables. We would presumably think that variables which go unmentioned are not important enough to be categorised alongside values such as autonomy. I will discuss this suggestion shortly.

to, a commitment to anti-perfectionism. These alternatives are the best I can think of, but each is ultimately unsuccessful. In the next section, I will suggest that these failures allow us to draw some conclusions about the tension between autonomy and anti-perfectionism.

The root cause of the problem outlined in §III is that the first-/second-order distinction is merely structural and unconcerned with the substantial content of values. This diagnosis may point towards a way out for Colburn. He could characterise his anti-perfectionism as a prohibition on the promotion of values that do not have a *significant* second-order variable. Given that the second-order variable seems to play a significant role in the value of autonomy, Colburn would have the distinction he needs to affirm both autonomy and anti-perfectionism.

There are three immediate concerns with this approach. Firstly, to be plausible it requires some characterisation of the *significance* of a second-order variable, and it seems hard to say what this really amounts to. Does it mean that the variable has a significant practical upshot in realising the value? Or that the range of options given by the variable is greater than for other values? Or that the variable is the aspect of the value that is most controversial or salient? Or perhaps a combination of the above? One of these suggestions may work, but there is no obvious answer.

Secondly, even if we can articulate a dimension (or set of dimensions) along which some second-order variables are more significant than others, in many cases we still have to draw some sort of line in the sand to say which variables are and which are not significant. We must establish how significant a variable has to be to be significant *enough*. It is difficult to see, however, how this can be done without being somewhat arbitrary. Given that Colburn's aim is to establish the consistency (and, ultimately, the equivalence) of a commitment to autonomy and anti-perfectionism, such arbitrariness is worrying.

Thirdly – and perhaps most importantly – such a move begins to look extremely ad hoc. It seems to amount to little more than characterising anti-perfectionism so as to render autonomy consistent with, rather than in order to align it to, the tradition of anti-perfectionism in liberal theory. Colburn may be right to suppose that a charitable reconstruction of anti-perfectionism should take into account the fact that it is motivated by autonomy. But such an obvious act of ad hoc gerrymandering makes Colburn's position appear extremely suspect.

The best way to respond to the first and second problems that I can think of turns on a slightly more detailed characterisation of the precise role of a second-order variable in a value. A particular second-order value varies along two dimensions: one that specifies the *source* of the second-order variable (for instance: what *I* value; what *my parents* value and so on), the other specifies the *breadth of options* that the second-order variable covers (for instance: what *sort of life* I lead; which *Bach cello suite* to play first; whether I drink from a *mug or cup*, and so on). We might think that the significance of a second-order variable should be characterised, at least in part, through the latter axis. So, a second-order variable is more significant if the nested judgement of value covers a broad variety of options. I shall grant the adequacy of this characterisation for the sake of argument. Unlike many values, this line of thought goes, autonomy allots a particularly large breadth for the second-order variable. A person can decide for themselves what kind of *life* is valuable, rather than merely what kind of drinking vessel or which Bach cello suite is valuable. Autonomy is distinctive, therefore, because it occupies an extreme position on the breadth axis. Hence, in response to the second problem raised above, *wherever* we draw the line in the sand, autonomy can be distinguished from other values in virtue of the breadth of the second-order variable.

This response is mistaken. There is plenty of space for values that allow more breadth for the second-order variable than autonomy (understood, following Colburn, as deciding for oneself what life is valuable and living one's life in accordance with that decision). I will draw out one reason why this is the case. If I am to be autonomous, then I must choose to value a life that I *can* live in accordance with. My choice, in other words, is constrained by the lives that it is possible for me to lead. The alternative value claim 'decide for yourself what sort of life is valuable and then live your life in whatever way you see fit' does not have this constraint. As a result, it leaves a much broader variety of options for the second-order variable than Colburn's characterisation of autonomy. An example may help to clarify this point. According to Colburn's characterisation, I cannot lead a fully autonomous life if I decide that living a valuable life consists in being the author of *Autonomy and Liberalism* (because I am not and cannot be the author of *Autonomy and Liberalism*). However, this is a choice that I can make whilst satisfying the alternative value claim that I sketched above. I could decide that being the author of *Autonomy and Liberalism* is valuable, but given that I cannot be the author go on to lead my life as I see fit.

Now, I am not claiming that this alternative value claim is either more or less plausible than autonomy. My point is merely that the alternative offers a considerably broader variety of options for the second-order variable than autonomy. The attempt to forge a distinction between autonomy-promoting and therefore defensible perfectionism on the one hand, and objectionable perfectionisms on the other by understanding the significance of a second-order variable in terms of the breadth of options on offer fails. There is also nothing special about the breadth of options allotted by autonomy to the second-order variable. It is merely at one point, somewhere between extremes, on a spectrum.

I will now move on to a second way of recasting the first-/second-order distinction to salvage Colburn's strategy. His characterisation of second-order values – as essentially a type of content-neutral value that has a nested judgement of value – is perhaps not what we might expect 'second-order value' to refer to. The well known idea of a second-order desire, for instance, refers to a desire to (or not to) desire something else. We might reasonably expect a second-order value, therefore, to be a value which is in some sense contained within or concerning another value. For example, the claim 'we should value artworks that express a morally valuable message' might be understood as a second-order value in this sense. By contrast, Colburn's characterisation requires that a *judgement of value*, rather than a *value*, is nested within a second-order value.

Now, the fact that Colburn does not use the term 'second-order value' as we might expect is not a criticism. He is entitled to define terms as he wishes. However, the more natural reading of 'second-order value' is important because it may offer a solution to the problem raised in §III. If in recasting a first- into a second-order value we need to insert a further value rather than merely a further unspecified judgement about what is valuable, then the move from a first- to second-order value is not a trivial move. For example, the second-order value judgement 'it is valuable to drink coffee, in a mug or a cup depending on which you like best' must, on the current interpretation of second-order values, claim *both* that it is valuable to drink coffee *and* that choosing a drinking vessel, a mug or a cup, *is itself* a valuable thing to do. Now, the first-order counterpart, which claims that drinking coffee is valuable, is only committed to the former. Accepting the second-order counterpart is, therefore, to accept a distinct (and disputable) value claim, namely that choosing either to drink coffee out of a mug or a cup is valuable. Such a move is not, therefore, a trivial re-casting. So, on this

alternative understanding of second-order values the problem of §III does not arise.

Now, for this approach to be successful a lot of work needs to be done to clarify what exactly it means for one value to be ‘contained within’ another. However, even without such clarification, this alternative understanding of first-order anti-perfectionism still does not seem to make it a thesis worth caring about. Any perfectionism that sought to promote two or more values could avoid such anti-perfectionism, simply by re-construing the value claims. For instance, suppose a perfectionist thought that pleasure and engaging with art were independently valuable. As it stands, these two value claims are first-order. However, the value claim: ‘one should live a life of pleasure that involves engagement with art’ is, on the current characterisation, second-order since one value claim (that one should engage with art) is specified in the context of another (that one should lead a life of pleasure).²⁷ Of course, first-order anti-perfectionism may still oppose perfectionisms that only endorse one value. However, only opposing such perfectionisms is along way from how anti-perfectionism is usually understood in the literature. More importantly, it has limited bite in criticising many paradigmatically perfectionist doctrines, and so does not seem to be a very plausible variety of anti-perfectionism. Why, we might ask, should we oppose the state’s promoting one value but not two?

A third possible response develops the strategy of the previous suggestion – namely, that the move from first- to second-order values is not trivial because what must be added to make a value or value claim second-order must, itself, be valuable – by combining it with the idea in Colburn’s original characterisation that second-order values contain a *de dicto* judgement of value. According to the characterisation that I shall now consider, a judgement is second-order if it contains a *de dicto* judgement of value, and if that *de dicto* judgement is itself *valuable*. This gets around the problem of §III in the same way as the second strategy that I have considered. (That is, the move from a first-order value to a second-order counterpart is not trivial, since the move adds something that is purportedly

²⁷ Granted, this second-order value can be broken down into components (i.e. pleasure and art) that a perfectionist will find valuable in themselves, whereas this does not appear to be the case with autonomy. Deciding for oneself what is valuable may not be a valuable thing to do if one cannot live one’s life in accordance with that decision. However, this difference merely turns on the way in which I described the motivation in the case offered and the motivation that advocates of autonomy tend to have. It is difficult to see, therefore, why this is an important difference between two kinds of values.

valuable.) However this strategy does not suffer from the same difficulty as the previous one. On the current suggestion, we cannot merely conjoin any two first-order value claims to get a second-order one. A second-order value must contain a *de dicto* judgement about what is valuable and that judgement must be valuable.

This approach distinguishes first- and second-order values through the presence or absence of a substantial feature. Essentially, a value on this account is second-order if importance is attributed to value judgements that people make. Once we rule out a few values that are entirely uninteresting for contemporary liberal political philosophy – such as ‘do whatever your parents think is valuable’ – this amounts to the claim that a value is second-order if it is somewhat like autonomy. Put another way, I emphasised that the problem of §III arose because the first-/second-order distinction turned on a structural feature of values rather than the content of those values. This alternative way of understanding the first-/second-order distinction, by contrast, does seem to turn on the *content* of values. More specifically, it turns on the idea that some values attribute importance to the value judgments that people make, while others do not.

The problem with this approach is that if first-order values are understood as little more than ‘values other than autonomy (and autonomy-like values),’ then first-order anti-perfectionism implies little more than an opposition to values other than autonomy (and autonomy-like values). In this case, Colburn’s promise to show, first, that autonomy is consistent with anti-perfectionism and, second, that a commitment to one is equivalent to a commitment to the other, becomes a cheap trick. Of course the two commitments are consistent: promoting autonomy is obviously consistent with an opposition to the promotion of values (other than autonomy and autonomy-like values). Moreover, given the obvious fact that promoting autonomy tends to conflict with promoting many other values, of course a commitment to autonomy will invite anti-perfectionism (and vice versa). However, like all cheap tricks, it does not show anything important. To point out the obvious, we could make the promotion of *any* value consistent with anti-perfectionism if we characterised the latter in such a way that it exempts our favoured value.

In response to this, Colburn might say that all he is doing is offering a charitable reconstruction of the notion of ‘anti-perfectionism’, which suggests that an exemption should be made for autonomy and autonomy-like values. True, this charitable reconstruction may come as a great surprise

to many actual anti-perfectionists. But, we might think, this is no different to the case discussed earlier when Porter argued that many actual anti-perfectionists would say that their opposition to second-order values is rooted in their anti-perfectionism rather than a commitment to autonomy. In both cases, a charitable reconstruction may differ slightly from the concerns of actual anti-perfectionists. The problem with this response, however, is that the ‘reconstruction’ here is colossal. If the most charitable ‘reconstruction’ ends up making this ad hoc move to give autonomy an exemption, then it seems to deviate too far from the literature to really constitute a charitable reconstruction of it. Two points draw this out. First, as I mentioned at the outset, anti-perfectionism is standardly thought to be in tension with a commitment to autonomy. Colburn himself acknowledges this. He suggests that autonomy-minded anti-perfectionism is ‘little discussed’ in the literature because it is considered to have a ‘whiff of contradiction’.²⁸ The ‘opposition-to-values-except-autonomy’ characterisation of anti-perfectionism, therefore, seems a long way from the current literature. Second, I also mentioned that Quong claims that autonomy-based liberalism is a paradigm instance of liberal perfectionism. He rightly says that many liberals concur on this point. If Colburn wants to endorse this conception of anti-perfectionism, therefore, he is no longer employing a conception that is a recognisable reconstruction of that found in the current literature. Claiming that autonomy is consistent with anti-perfectionism – on the understanding that I am currently considering – does not engage with the thought from Quong and others that the two are incompatible.

V

My attempts to find an alternative characterisation of the first-/second-order distinction, which can do the work that Colburn requires, have been unsuccessful. Porter and Rudisill were certainly right to be suspicious of the distinction. This vindicates the suspicion, of Quong and others, that there is a deep tension between the claim that the state should promote autonomy and that the state should not promote any value. It is worth trying to offer a diagnosis of these failed attempts to pursue Colburn’s strategy of distinguishing between two types of values in order to make anti-

²⁸ B. Colburn, “Anti-Perfectionisms and Autonomy,” 248.

perfectionism consistent with autonomy. It seems that the attempts were caught between two pitfalls. On the one hand, we might try to distinguish between different types of values by appealing to a structural feature of those values. Colburn's original characterisation did just this. However, this approach faces a pitfall. It is difficult to see why there is anything about the *structure* of the value of autonomy that could not be trivially incorporated into other values. Any characterisation of anti-perfectionism which turns on a structural feature, therefore, is not likely to have much bite against anti-perfectionists. They can merely re-cast their values to incorporate the required structural feature. On the other hand, a distinction between the types of values could turn on the content of those values. For instance, we might assert that autonomy, unlike other values, attributes significance to people's judgements about what is valuable. However, this approach faces another pitfall. The characterisation of anti-perfectionism that we end up with begins to look like an ad hoc move merely designed to give an exemption to autonomy, which takes it too far from the understanding of anti-perfectionism in the current literature. This dual diagnosis should make us pessimistic about the possibility that this strategy could render autonomy consistent with anti-perfectionism. Since the content and structure of values are the two obvious ways of forging a distinction between different values, and both are liable to pitfalls, it seems that the tension between autonomy and anti-perfectionism is unlikely to be overcome by this strategy. The tension runs deep in contemporary liberal theory.²⁹

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SYMPOSIUM
POLITICAL LIBERALISM VS. LIBERAL PERFECTIONISM



NEGATIVE PERFECTIONISM

JEPPE VON PLATZ

Negative Perfectionism

Jeppe von Platz

In this essay I defend a variety of political perfectionism that I call negative perfectionism. Negative perfectionism is the position that if some design of the basic structure of society promotes objectively bad human living, then this should count as a reason against it. To give this hypothetical some bite, I draw on Rousseau’s diagnosis of the maladies of his society to defend two further claims: first, that some human lives are objectively bad, and, second, that some designs of the basic structure promote objectively bad human living. It follows that we should avoid such designs of the basic structure, which means that negative political perfectionism presents true requirements of justice.

I

Introduction

The debate about political perfectionism has been centered on a disagreement between neutralists, who argue that the state should not aim to favor or promote any particular conceptions of the good,¹ and perfectionists, who argue that it should.² The shared assumption of this

¹ E.g. Jonathan Quong, *Liberalism Without Perfection* (Oxford: Oxford University Press, 2011); Steven Lecce, *Against Perfectionism: Defending Liberal Neutrality* (Toronto: University of Toronto Press, 2008); Gerald Gaus, “Liberal Neutrality: A Compelling and Radical Principle,” in Steven Wall and George Klosko (eds.), *Perfectionism and Neutrality* (Lanham: Rowman & Littlefield Publishers, Inc., 2003), “The Moral Foundations of Liberal Neutrality” in Thomas Christiano & John Christman (eds.), *Contemporary Debates in Political Philosophy* (Oxford: Wiley-Blackwell, 2009).

² E.g. George Sher, *Beyond Neutrality: Perfectionism and Politics* (Cambridge: Cambridge University Press, 1997); Steven Wall, *Liberalism, Perfectionism, and Restraint* (Cambridge: Cambridge University Press, 1998); “Perfectionism in Politics: A Defense,” in T. Christiano

debate is that political perfectionism is defined by the claim that the state should aim to promote one or some particular conceptions of the good at the expense of others.³ I think that this assumption is mistaken and that the debate about political perfectionism, therefore, has centered on the wrong question. In this essay I argue that, once we clear this mistake, the case for political perfectionism is strong.

More precisely, I defend a variety of political perfectionism that I call negative perfectionism. Negative political perfectionism is the position that we should avoid designing the basic structure of society so that it promotes objectively bad ways of human living. I also argue that some ways of life are objectively bad, and that some designs of the basic structure promote these objectively bad ways of life. Taken together, these claims support the conclusion that we have reasons of justice to avoid those designs of the basic structure that promote objectively bad ways of human living.

To set the stage for my argument I begin (section II) by clarifying why I think that the debate about political perfectionism is not well understood in terms of the pros and cons of the doctrine of state neutrality. Next, I introduce two needed distinctions (sections III & IV) and present the main argument (section V). I then use Rousseau's philosophy to show why we should accept the premises of the main argument (sections VI-VIII).

Before I begin, a word about my use of Rousseau. I use Rousseau for two reasons. First, Rousseau fills a gap in my argument. Without a theory of objectively bad human living, the variety of perfectionism that I defend is formal and incomplete. Alas, I cannot articulate and defend such a theory in this essay. This essay thus defends the claim that we should embrace negative political perfectionism, but it does not articulate or defend any particular conception of negative political perfectionism. To make up for this gap, I use Rousseau's diagnosis of the maladies of his society to offer an example of such a theory of objectively bad human living. I use Rousseau's theory to make plausible, first, that there is such a thing as objectively bad human living and, second, that this moral category does not reduce to the categories of right action or subjective well-being. Second, I think Rousseau does a marvelous job of identifying ways in which poorly designed political and economic institutions can have detrimental effects on the personalities

& J. Christman (eds.), *Contemporary Debates in Political Philosophy*. I should add that both Sher and Wall in various ways anticipate some of the arguments I offer in this essay.

³ C.f. S. Wall and G. Klosko's "Introduction" to *Perfectionism and Neutrality* as well as the selections and essays in this volume.

of the members of society. Furthermore, Rousseau's analysis brings out how these detrimental effects on personality underwrite additional adverse effects on the morality, happiness, and moral freedom of the members of society. Rousseau's philosophy thus illustrates two sorts of perfectionist worries about political and economic institutions: first, that poorly designed institutions can lead to objectively bad human living, and, second, that poorly designed institutions can make impossible the realization of a set of necessary ends, namely, virtue, happiness, and moral freedom.

II

Political Perfectionism and State Neutrality

Political perfectionism is a division of perfectionism. Perfectionism is a species of consequentialism. Consequentialism is the family of moral theories according to which the rightness and wrongness of an action (or policy, or law, or so on) are either wholly or in part determined by the value and disvalue of its consequences. Perfectionism is the species of consequentialism that defines value and disvalue in terms of objectively good and bad human living. As such, perfectionism should be contrasted with utilitarianism, which is the species of consequentialism that defines value and disvalue in terms of subjectively good and bad human living. According to the perfectionist, what matters is not merely, or even primarily, what our lives *feel like*; what matters is what lives we are *actually living*. Of course, most perfectionists would further argue that actually living a good life normally is the surest route to happiness, but it is possible that a person could live an objectively good life without being happy, and, conversely, that one could be happy without living a good life. Think of Nozick's experience machine: a person plugged into the experience machine is happy, yet is not living a good life. In short, perfectionism focuses on the life that is lived (objective well-being, flourishing), whereas utilitarianism focuses on the experience of the lived life (subjective well-being, happiness). Political perfectionism is then the division of perfectionism that says that the requirements of justice are determined wholly or in part by what is objectively good and bad human living.

Thus understood, political perfectionism is *not* committed to rejecting state neutrality. Whether or not the state should be neutral between the competing conceptions of the good depends on whether or not neutrality

serves to promote objectively good (or prevent objectively bad) human living. If a neutral state is the best way to promote objectively good human living, then political perfectionism requires state neutrality. Just like a utilitarian might defend state neutrality by arguing that a neutral state is the best way to promote subjective well-being, a perfectionist might defend state neutrality by arguing that a neutral state is the best way to promote objective well-being.

So, if we are concerned with the merits of political perfectionism, the main question is *not* whether the state should or should not be neutral between particular conceptions of the good. The question, rather, is whether considerations about what is objectively good or bad human living wholly or in part present requirements of justice, and thus present reasons we should take into account when we determine what the state should be and do. The question of whether the state should be neutral between competing conceptions of the good is an interesting question, but this interesting question must be discussed and answered in light of our best theories of justice. Political perfectionism is best understood as a candidate theory of justice.

III

Strong and Weak Perfectionism

Next, we need to distinguish between two ways the requirements of justice might be determined by reference to what is objectively good or bad human living.⁴ We might infer requirements of justice from an independent theory of what is objectively good and bad human living. Alternatively, we might identify objectively good and bad living in terms of independently given requirements of justice, and then derive further requirements of justice from this dependent understanding of what is objectively good and bad living. The first kind of political perfectionism is stronger than the second, in the sense that the first takes the value of objectively good and bad human living as prior and independent, whereas the second takes requirements of justice as prior and independent. The stronger kind of political

⁴ This distinction is anticipated by J. Feinberg's distinction between pure and impure legal moralism, see *Harmless Wrong-Doing: The Moral Limits of the Criminal Law, Vol. 4* (Oxford: Oxford University Press, 1987), 8-10 and chapter 30.

perfectionism relies on a theory of objectively good or bad human living that stands free of and at least partly determines what justice requires. The weaker kind does not offer or rely on an independent theory of objectively good or bad human living.

To illustrate: if justice requires *J*, and *J* is impossible where personality types X, Y, and Z are common in society, then, other things equal, justice requires that we avoid a society where personality types X, Y, and Z are common. We can therefore say that personality types X, Y, and Z are objectively bad – in that case we have defined objectively bad personality types by reference to independently given and theoretically prior principles of justice. We can derive further requirements of justice, namely to not do what promotes personality types X, Y, and Z. Such a position is an example of weak political perfectionism. Strong political perfectionism, by contrast, defines objectively bad human living *independently* of what justice requires and, accordingly, claims that there are requirements of justice to promote or prevent objectively bad human living independently of and prior to what justice requires for other reasons.

To further illustrate the difference between weak and strong political perfectionism, take the question of whether inequality in some dimension is unjust. Strong political perfectionism could say such inequality is unjust, if it engenders objectively bad human living. Weak political perfectionism, by contrast, cannot judge the justice of such inequality directly. Instead, weak political perfectionism might relate to questions of inequality in two ways. First, a weak perfectionist claim can mediate between the question of inequality and some other requirement of justice. If, say, some principles of justice are silent about inequality in the relevant dimension, but we can show that a society ordered by these principles is stable only if certain types of personality are not too widespread, and if inequality engenders such types of personality, then we can judge that, as a matter of justice, we should avoid inequality in this dimension, because it engenders objectively bad sorts of human personalities and therewith makes justice impossible. Second, it might be that justice directly requires equality in that dimension, but some types of human living would make inequality in this dimension inevitable. In that case, these personality types are, for that reason and in that sense, objectively bad and we should, as a matter of justice, not promote them.

Examples of weak perfectionism can be found in Mill, Kant, and Rawls. According to Mill, the development and exercise of the higher faculties is objectively good, since their exercise is the source of higher pleasures and

thus necessary to maximize happiness as required by the greatest happiness principle. According to Kant, we have an imperfect duty to develop and increase our powers of reason, understanding, and the body, since their development aids our pursuit of virtue. According to Rawls, stability is a requirement of justice, so when we rank candidate conceptions of justice, we need to take into account whether they engender personalities that tend to support the institutions of a society ordered by these conceptions, and if a conception of justice cannot engender the right sort of personality, this would count as a reason against it.⁵ Mill, Kant, and Rawls could thus say that some types of human personality are objectively good or bad and that we have reasons of morality or justice to promote the good ones and avoid promoting the bad ones.

Weak political perfectionism is still political perfectionism; the requirements of justice are partly determined by reference to a theory of objectively good or bad human living.

IV

Positive and Negative Perfectionism

We also need to distinguish between positive and negative perfectionism. Political perfectionism is traditionally presented as the claim that the state should promote some particular ways of life, because they are the sorts of lives that human beings should live.⁶ Thus understood, political perfectionism presupposes a theory of the good life. Such “positive” political perfectionisms have been criticized for failing on one or more of several counts. First, some such theories rely on a sort of Aristotelian species essentialism that is spurious by modern standards.⁷ Second, there are serious

⁵ Rawls, of course, revised this argument, since he thought that the fact of reasonable pluralism meant that stability for these reasons could not be created without violating the liberal principle of legitimacy, but it still serves as a nice example of weak perfectionism. Moreover, Rawls’s argument might still work if restated in terms of a weak negative perfectionism.

⁶ E.g. S. Wall and G. Klosko *Perfectionism and Neutrality*, 4; J. Quong, *Liberalism without Perfection*, chapter 1.

⁷ Historically, perfectionism went hand in hand with species essentialism. A more recent attempt in this direction is Thomas Hurka’s *Perfectionism* (Oxford: Oxford University Press, 1993). Phillip Kitcher’s criticism of Hurka’s type of perfectionism is quite instructive of the problems with species essentialist sorts of perfectionism, see P. Kitcher, “Essence and

epistemic obstacles to establishing the superiority of any particular ways of life.⁸ Third, in light of reasonable disagreement about what good living is, there is a danger that state coercion grounded in any particular theory of the good life violates the liberal principle of legitimacy, that political authority must be exercised in accordance with principles reasonably acceptable to those subjected to it.⁹

These criticisms have, I believe, been quite devastating to the various attempts at offering a positive definition of the good life that could serve as the objective good in political perfectionism. Yet, one can be a perfectionist without offering a positive account of the good life. Instead of relying on a theory of objectively good sorts of human living, a perfectionist could rely on a theory of objectively bad sorts of human living. In that case, a political perfectionist need not claim that justice requires that laws and institutions be designed to promote objectively good human living, but can instead claim that laws and institutions should be designed so that they prevent (or at least do not promote) objectively bad human living.

Such a negative political perfectionism is less vulnerable to the otherwise devastating criticisms of political perfectionism. First, negative perfectionism need not rely on species essentialism (more on the alternative below). Second, there is an epistemic asymmetry between positive and negative perfectionism. Positive perfectionism needs to show that some particular ways of life are objectively best. Negative perfectionism merely needs to show that some particular ways of life are objectively bad. This asymmetry is related to how, third, negative perfectionism dampens the impact of the challenge that political perfectionism violates the liberal principle of legitimacy. Positive political perfectionism, let us say, attempts to identify a set of good human existences and asserts that we should conduct institutional design and define the ends and limits of government to promote these kinds of existences. The problem with such a position is not that it is inconsistent with the doctrine of state neutrality, for, again, it may be that state neutrality is the way to promote good living. The problem with

Perfection,” *Ethics* 110 (1999), 59-83. For an interesting study of the history of perfectionism and its place in Christian thought, see John Passmore, *The Perfectionability of Man* (Duckworth, 1970).

⁸ What Rawls calls the “burdens of judgment” (John Rawls, *Political Liberalism*, (New York: Columbia University Press 1996), Lect. II) suggest epistemic modesty about the objectively good.

⁹ This line of criticism has been forcefully pressed by J. Quong in *Liberalism without Perfection*, esp. chapters 3-4.

positive perfectionism, rather, is that there are infinitely many ways of life that citizens may reasonably pursue, and that any attempt to design the state to promote a finite set of ways of life, therefore, violates the liberal principle of legitimacy by using the authority of the state in ways that the citizens could reasonably reject. This is one respect in which the utilitarian theory of the good seems superior to the perfectionist theory: the utilitarian leaves it in the hands of citizens to decide for themselves what the good life is; their happiness is of equal value whether it stems from counting leaves of grass or pursuing artistic excellence. By contrast, a perfectionist seems to tell people how they should live their lives and is ready to employ political force to make them do it, which violates their liberty to decide for themselves what life to live. This paternalist tendency is, I believe, the most serious problem for perfectionism. But negative perfectionism does not suffer this problem as severely as positive perfectionism, simply because negative perfectionism does not affirm the superiority of a finite set of ways of life. Instead, negative perfectionism affirms the objective badness of a finite set of ways of life, which leaves infinitely many ways of life for the citizens to choose from. There is thus an asymmetry in the limitation of liberty implied by positive and negative perfectionism: positive perfectionism limits liberty more than negative perfectionism. Consider an analogy: if you have to choose between the numbers two and three, then your options are quite limited. If you instead can choose any number, except for two and three, you have an infinite set of numbers to choose from.

There are, however, at least two objections to the claim that negative perfectionism limits liberty less than positive perfectionism and, therefore, better satisfies the liberal principle of legitimacy.¹⁰ First, even if negative perfectionism limits liberty less than positive perfectionism, it still limits liberty, which means that the conflict with the liberal principle of legitimacy remains. Second, it might be questioned whether negative perfectionism really limits liberty less than positive perfectionism. Historically, the paradigmatic form of an illegitimate limit to liberty has been the legal prohibition of a form of conduct that offended the sensibilities of a majority or ruling class, such as acts of homosexuality or acts that violate religious codes of conduct. If we take both objections together they amount to the problem that the legal prohibition of ways of life deemed bad by some perfectionist standard limits liberty, and that such limitations of liberty

¹⁰ I find the basis of both of these objections in Joel Feinberg's critical discussion of legal moralism in *Harmless Wrongdoing*.

would be legitimate only if conducted for especially weighty reasons such as the harm that such conduct brings to others. If these types of conduct do not harm or violate the rights of others, then it seems that there are no reasons sufficient to justify the use of coercive force to prevent members of society from living bad lives. Thus, legislation justified solely by negative perfectionist reasons would be illegitimate.

This is a serious objection and the full reply must await the introduction of Rousseau's diagnosis of the maladies of modern society that I present in sections VI-VIII. However, we already have the beginnings of a reply at hand. The first thing to note is that, as stated above, weak negative perfectionism is still perfectionism. If some ways of life are likely to increase incidents of harms or rights violations in society, then we would have reason to prevent such ways of life by the standard of justifying reasons relied upon by the objection, which means that the objection is consistent with weak political perfectionism.¹¹ Second, and more importantly, I need to clarify two things about the negative political perfectionism that I defend. First, the *subject of value* of the negative political perfectionism that I defend is *not* act-types or modes of conduct or patterns of behavior. The subject of value, rather, is personality types or configurations of moral psychology, and the claim is that some forms of personalities or configurations of moral psychology are objectively bad and to be avoided (in section VI I use Rousseau to clarify what I mean by objectively bad personalities). Second, and as already indicated, the *subject of requirements* of the negative political perfectionism that I defend is the basic structure of society (in section V I define "basic structure" and specify why it is subject of requirements). Since the subject of value is personality types, and since the subject of requirements is the basic structure of society, the sort of negative political perfectionism that I defend says nothing directly about what sorts of actions or modes of conduct that should be legally permitted, required, or prohibited, and so could not offer direct reasons for prohibiting (or requiring) specific types of conduct. What negative political perfectionism says is that it counts as a reason against some designs of the basic structure that these designs promote objectively bad human living, and that we, therefore, have reasons to avoid such designs.

In sum, there is a sort of political perfectionism which is not directly about state neutrality and is not committed to the claim that particular

¹¹ Feinberg discusses such perfectionist justification of legislation and allows its legitimacy, see *Harmless Wrongdoing*, 133-40, 314-7.

conceptions of the good are superior to others, but instead identifies some ways of life (or types of personality) as objectively bad and to be prevented (or not promoted). This is negative political perfectionism.

In the following I argue that *any* theory of justice should be weakly negatively perfectionist. This conclusion is more dramatic than it sounds: weak negative political perfectionism is still perfectionism. So, if my argument is sound, any theory of justice, and thus any liberal theory of justice, must be perfectionist. I also defend strong negative political perfectionism, but my argument for this position is less conclusive.

V

The Argument for Negative Political Perfectionism

Other things equal, justice requires that we do not build political, legal, and economic institutions that promote objectively bad human living. I call this position negative political perfectionism. It is this position that I defend in this essay.¹²

The argument for negative political perfectionism begins with two premises:

- 1) Some human existences are objectively bad.
- 2) We should avoid promoting what is objectively bad.

¹² Note that “objectively bad” cannot simply mean immoral or unjust, for in that case, negative perfectionism would be the trivial claim that we should not promote immorality or injustice. Perfectionism claims that the categories of objectively good and bad human living are distinct from both the categories of subjectively good and bad human living and the categories of right and wrong actions. In a slogan, if perfectionism is true, there is a difference between being good and good being; being bad and bad being, and what it is to be good or bad is at least partly determined by what good and bad being are. However, we should not overstate the reach of this conclusion: though the category of objectively bad human living cannot reduce to the category of morally wrong, it does not follow that the category of objectively bad human living cannot be related to or even derived from the categories of moral permissibility – in that case we get a variety of weak perfectionism.

These two together imply negative perfectionism as a general normative principle:

- 3) We should avoid promoting objectively bad human existences.

One subject of justice, if not the primary one, is the basic structure of society.¹³ By the basic structure I understand the institutional framework that defines political and judicial offices, powers, and prerogatives, as well as how these are distributed; the economic institutions of property, contract, and rules of transfer; the person and the family as legal categories; and like basic institutions that as a system constitute the legal, political, and economic spheres of society.¹⁴ The basic structure of society, in short, defines the rules and roles of the game by which legally defined political and economic powers and opportunities are generated and distributed.

The basic structure of society is a central subject of justice both in the sense that a theory of justice must guide how we should design the basic structure, and in the sense that the main reasons that should guide our design of the basic structure are reasons of justice. So, a way to move from the general negative perfectionist principle that we should avoid promoting objectively bad human living (if there is such a thing) to negative *political* perfectionism, which tells us that justice requires that we avoid objectively bad human living, is to relate human living to the basic structure. We can do so with the following hypothetical implied by 3:

- 4) If some design of the basic structure promotes objectively bad human existences, then we have reason to avoid it (instantiation of 3).

¹³ Here I bypass the debate between institutionalists, who take the basic structure as the primary subject of justice (e.g. Rawls), and individualists, who take individual persons (and their acts, motives, and relations) as the primary subject of justice (e.g. G.A. Cohen). It should not be controversial that the basic structure is *a* subject of justice (and an important one), even if it is not *the only* or *primary* subject. For Rawls's position, see "The Basic Structure as Subject", *American Philosophical Quarterly*, Vol. 14, No. 2 (Apr., 1977), pp. 159-165; for Cohen's critique, see "Where the Action Is: On the Site of Distributive Justice", *Philosophy and Public Affairs*, Vol. 26, No. 1 (Winter 1997), pp. 3-30.

¹⁴ I mean to follow Rawls's definition of the basic structure as "the way in which the major social institutions fit together into one system and how they assign fundamental rights and duties and shape the division of advantages that arises through social cooperation." (*Political Liberalism*, 258)

Of course, this hypothetical only has bite if the following empirical claim is true:

5) Some designs of the basic structure promote objectively bad human living.

4 and 5 together present the requirement of justice that:

6) Other things equal, we should avoid those designs of the basic structure that promote objectively bad human living.

This conclusion is a perfectionist principle of justice: other things equal, justice requires that we avoid designs of the basic structure that promote objectively bad human living. It follows from this principle that if we want to rank candidate designs of the basic structure on the scale of justice, we must ascertain the extent to which they promote objectively bad human living. If a design of the basic structure promotes objectively bad human living, then this counts as a reason against it. So, if other requirements of justice are equally satisfied by different designs of the basic structure, then we should choose the design that is less conducive to objectively bad human living. If justice presents many requirements (as I believe it does), then we also need to say something about how to rank conceptions of justice that satisfy different requirements to different extents, but I shall not pursue this topic in this essay. In this essay I only try to establish that negative perfectionism presents a requirement of justice.

So, negative political perfectionism offers the following conditional: if a design of the basic structure engenders objectively bad human living, then this counts as a reason against designing the basic structure in that way. This conditional is not in itself much of a defense of political perfectionism – its plausibility derives mostly from the plausibility of interpreting “objectively bad” as “counts as a reason against”. Moreover, the hypothetical is formal and of little interest unless we can establish that there is such a thing as objectively bad human living *and* that objectively bad human living can in fact be promoted by some designs of the basic structure. In the following

sections I hope to make plausible these claims. First (section VI), I use Rousseau’s diagnosis of the maladies of the men and women of his time to defend premise 1, that some ways of human living are objectively bad. Next (section VII), I look at how Rousseau’s diagnosis suggests different negative perfectionist positions. Finally (section VIII), I turn to Rousseau’s discussion of the impact of political and economic institutions to defend premise 5, that some designs of the basic structure promote objectively bad human living.

VI

Some Human Lives Are Objectively Bad

Negative perfectionism is interesting only if there is such a thing as objectively bad living. To illustrate how and why we might think that there is such a thing as objectively bad living, I turn to Rousseau’s analysis of the maladies of the men and women of his time.

Across his philosophical writings, Rousseau argues that the men and women of his society fail at human living. The inhabitants of this society live in an “empire of covetousness,” they are obsessed with the “fantasy of station,” and driven by an insatiable “frenzy to achieve distinction”.¹⁵

¹⁵ Quoted from, respectively: *FD*, Last Reply, 3:93/82; *J*, 2:200/163; *SD*, 3:189/184. The third quote appears almost verbatim in *FD*, 3:19/18 and *Preface to Narcissus*, 2:965/97. All references to Rousseau are first to volume and page number in *Jean-Jacques Rousseau Oeuvres Completes*, edited by B. Gagnebin and M. Raymond (Paris: Bibliotheque de la Pleiade, 1959-1995), and, second, to page number in the translation I consulted. Abbreviations and translations are the following: *C*, *Confessions*; *The Collected Writings of Rousseau, Vol. V*, C. Kelly, R.D. Masters, and P.G. Stillman eds., C. Kelly transl. (Hanover, NE: Dartmouth Press, 1995); *D*, *Rousseau, Judge of Jean-Jacques: Dialogues*; *The Collected Writings of Rousseau, Vol. I*, R. Masters & C. Kelly eds., J.R. Bush, C. Kelly, & R.D. Masters transl. (Hanover, NE: Dartmouth Press, 1990); *DPE*, Discourse on Political Economy, in *Rousseau: The Social Contract and other Later Political Writings*, edited by V. Gourevitch (Cambridge, UK: Cambridge University Press, 1997); *E*, *Emile, or On Education*, A. Bloom ed. and transl. (New York: Basic Books, Inc., 1979); *FD*, Discourse on the Sciences and Art [First Discourse], in *Rousseau: Discourses and other Early Political Writings*, V. Gourevitch ed. (Cambridge, UK: Cambridge University Press, 1997); *J*, *Julie, or the New Heloise: Letters of two lovers who Love in a small Town at the Foot of the Alps*, *The Collected Writings of Rousseau, Vol. VI*, translated by P. Stewart and J. Vache (Hanover, NE: Dartmouth Press, 1997); *Letter to Beaumont*, 1763, in *Rousseau on Philosophy, Morality, and Religion*, C. Kelly ed. (Hanover, NE: Dartmouth College Press, 2007); *ML*, Moral Letters, in *Rousseau on Philosophy, Morality, and Religion*, edited by C.

Believing that happiness lies in having what someone else has and that the way to get it is to mask their true selves, they are driven by an inflated sense of self-worth, mistaken ideas about what would make them happy, and constantly tempted to immorality.¹⁶ Since appearances matter, and since the goods craved are inherently scarce, deceit is the better strategy; such persons “only live together by obstructing, supplanting, deceiving, betraying, destroying one another!”¹⁷ It is impossible to be virtuous in corrupting society.¹⁸ And where virtue is impossible, so is moral freedom: in such a society “all are the slaves of vice.”¹⁹

So, Rousseau thought that the men and women of his time were unhappy, immoral, and unfree. Why? The short answer is: because of inflamed *amour-propre*.²⁰ The same answer stated differently is: because they live objectively bad lives.

We can think of *amour-propre* as a form of self-love that is the source of drives for recognition, respect, and esteem natural to any social human being. As such *amour-propre* is not inherently good or bad, but is good or bad depending on how it is developed in an individual.²¹ Emile illustrates the

Kelly (Hanover, NE: Dartmouth College Press, 2007); *Preface to Narcissus*, in *Rousseau: Discourses and other Early Political Writings*; *Révs*, *Reveries of a Solitary Walker*, translated by P. France (London: Penguin Books Ltd., 1979); *SC*, *The Social Contract*, in *The Social Contract and other Later Political Writings*, edited by V. Gourevitch (Cambridge, UK: Cambridge University Press, 1997), *SD*, *Discourse on Inequality [Second Discourse]*, in *Rousseau: Discourses and other Early Political Writings*.

¹⁶ About the insatiability of the desires of civilized man Rousseau says “after having swallowed up a good many treasures and ruined a good many men, my Hero will end up by cutting every throat until he is sole master of the Universe. Such, in brief, is the moral picture if not of human life, at least of the secret aspirations of every Civilized man’s heart.” (*SD*, 3:203/199)

¹⁷ *Preface to Narcissus*, 2:968/100.

¹⁸ Rousseau’s prescription for avoiding vice is to avoid temptation – his insistence on leaving society can be understood in light of this prescription and the impossibility of avoiding temptation in corrupting society, see *D*, 1:823-824/126-127, 1:855/150-151; *C*, 1:56/47, 1:424/356, 1:468/393.

¹⁹ *Preface to Narcissus*, 2:969/101.

²⁰ For especially stark statements, see *D*, 1:668/9, 1:804-7/112-3; *SD*, 3:219/218; *Political Fragments*, II, 7-11.

²¹ Dent’s description is apt: “*Amour-propre*, in and of itself, may be benign or may be perverse, and must therefore be connected to capacities, concerns, sentiments that can take on a benign or a perverse character, depending on specific factors which affect these in identifiable and explicable ways.” (*Rousseau: An Introduction to his Psychological, Social and Political Theory* [Blackwell Publishers, 1989], 21, see also 54-5). See also Neuhaus *Rousseau’s Theodicy of Self-Love*, 1, 13, 29-37, 44-5, 70-89, 145-6, 222-9; Dent *A Rousseau Dictionary*

healthy development of *amour-propre*. Emile desires and appreciates esteem, and there is no vice or corruption in that want or desire, since the esteem he seeks is for real merit and accorded by those whose judgment is true:

He will have the pride to want to do everything he does well, even to do it better than another. [...] he will be quite gratified to be approved in everything connected with good character. He will not precisely say to himself, 'I rejoice because they approve of me,' but rather, 'I rejoice because they approve of what I have done that is good. [...] So long as they judge so soundly, it will be a fine thing to obtain their esteem.'²²

It is when *amour-propre* becomes inflamed and persons are driven by passions for competitive goods – “wealth, nobility or rank, Power, and personal merit”²³ – that misery, vice, and unfreedom follow. Benign *amour-propre*, on the other hand, is an ingredient in good human relations: love, friendship, and citizenship, all inherently involve interests in being properly valued by others (as a worthy lover, friend, and compatriot).

When *amour-propre* is inflamed, by contrast, illusory needs put persons at odds with one another, and reason is placed in the service of those needs. In topsy-turvy fashion, vicious pursuit of a desire-satisfaction that cannot be had gets priority over virtue that is necessary for real happiness and freedom. Misery, vice, and unfreedom go hand in hand: “we have nothing more than a deceiving and frivolous exterior, honor without virtue, reason without wisdom, and pleasure without happiness.”²⁴

How *amour-propre* develops in an individual depends on “the accidents that modify it and that depend upon customs, laws, ranks, fortune, and our whole human system.”²⁵ So, according to Rousseau, the human moral

(Blackwell, Publishers 1992), p. 34-6; *Rousseau* (New York: Routledge, 2005), 70-2. A similar interpretation was indicated by Kant, see *Religion within the Boundaries of Mere Reason*, A.W. Wood & G.D. Giovanni transl. in *Religion and Rational Theology, The Cambridge Edition of the Works of Immanuel Kant* (Cambridge University Press, 1996), 74-5/Ak. 6:26-7. For different interpretations see Cooper *Rousseau: Nature and the Problem of the Good Life* (Pennsylvania State University Press, 1999), chapter 4; Cohen *A Free Community of Equals* (Oxford University Press, 2010), 25-9; Christopher Brooke “Rousseau’s *Second Discourse*: between Epicureanism and Stoicism” in McDonald and Hoffmann eds. *Rousseau and Freedom* (Cambridge University Press, 2012), chapter 3, pp. 44-57.

²² *E*, 4:671/339. See also *J*, 2:84-5/69 and part 4 letter XII.

²³ *SD*, 3:189/183.

²⁴ *SD*, 3:193/187.

²⁵ *J*, 2:491/403.

psychology develops in and is shaped by social circumstances, and when human beings fail, it is because their moral psychology has been shaped poorly.²⁶

When men and women are brought up and cultivated in a corrupting social system, they acquire a corrupt and dysfunctional moral psychology and, therefore, endure a miserable, despicable, and enchained existence. They fail as human beings.

Rousseau's diagnosis of the maladies of his society exemplifies why we might think that there are objectively bad human lives: if a person's moral psychology is dominated by inflamed *amour-propre*, she lives a life of distrust, deceit, hatred, self-hatred, anxiety, misguided drives for recognition, envy, and so forth. Such a life is bad in itself, but inflamed *amour-propre* also makes virtue, happiness, and moral freedom impossible. Even if we are skeptical of the details of Rousseau's moral psychology, it is hard to deny his basic idea: the human potentials can be realized in a number of ways and some of these ways are objectively bad.

VII

We Should Not Promote Objectively Bad Human Living

Rousseau's diagnosis of the maladies of his society suggests both weak and strong kinds of negative perfectionism. Recall, weak perfectionism establishes that some human lives are objectively bad and to be avoided, because they make the realization of some other good unlikely or impossible. Strong negative perfectionism, by contrast, maintains that some human lives are objectively bad and to be avoided in themselves and not merely because they make the realization of some other good unlikely or impossible. In light of this distinction, we can construct four different negative perfectionist imperatives from Rousseau's diagnosis of the maladies of modernity:

First, and most simply, Rousseau's diagnosis supports the hypothetical imperative that if we want happiness, then we had better avoid creating a society that engenders inflamed *amour-propre*. This imperative leads to a

²⁶ "There is no villain whose inclinations better channeled would not have yielded great virtues." (*J*, 2:563/461)

utilitarian sort of weak negative perfectionism analogous to the one I suggested we find in Mill.

Second, Rousseau's diagnosis suggests the categorical imperative that since we must be moral, we must avoid creating a society that fosters the sort of culture and moral psychology that makes it hard or even impossible for its members to be moral. This suggestion leads to a Kantian sort of weak negative perfectionism.

Third, though I have not gone into the details of it, Rousseau claims that human beings ought to enjoy moral freedom "which alone makes man truly the master of himself."²⁷ For Rousseau, moral freedom is a strong positive perfectionist value: it is an objective good that we ought to achieve, not because it is necessary for happiness, but simply as such. Moreover, since inflamed *amour-propre* makes moral freedom impossible, Rousseau's argument suggests a third sort of weak negative perfectionism nested in the strong positive perfectionist claim about freedom: that since we ought to be morally free, we ought to avoid creating a society that engenders inflamed *amour-propre*.

Finally, Rousseau's diagnosis also suggests the strong negative perfectionist claim that a life dominated by inflamed *amour-propre* is bad, simply as such. A person with inflamed *amour-propre* is prone to jealousy, envy, and anxiety, and to seek recognition in the wrong places and for the wrong reasons: to seek respect without respectability, love without lovability, honor without honorability – such a person lives an objectively bad life. It is also true that we could not be happy or virtuous or free with such a moral psychology, but even if we could be happy, virtuous, and free we would still live an objectively bad life. Of course, to fully capture what the failure is, we have to provide a positive account of the good life – in that case the failure can be characterized by showing how it falls short of a good human life (as Rousseau indeed does with his descriptions of Emile, Sophie, St. Preux, and Julie). But even without a positive description, it still seems that there is something objectively bad about the human life dominated by inflamed *amour-propre*, and that we have reason to avoid promoting such objectively bad human living independently of its effects on happiness, virtue, and freedom.

In any case, if we accept Rousseau's analysis of the corrupting effects of a bad society, we have the argument we need to establish that there are

²⁷ *SC*, 3:364-5/54.

objectively bad types of human existence and that we ought to prevent (or at least not promote) these. Whether we frame this conclusion in terms of strong negative perfectionism, so that some human lives are bad and to be avoided independently of the ends of happiness and morality; or in terms of weak perfectionism, so that some types of human existence are bad and to be avoided, because they make happiness or virtue impossible, the conclusion is the same: we ought not promote such types of human living.

To summarize the argument so far: first I affirmed a hypothetical sort of negative political perfectionism, that *if* some design of the basic structure engenders objectively bad human living, *then* this counts as a reason against it. Of course, for this conclusion to carry any punch we need to establish two further claims: first, that some lives are objectively bad, and, second, that some designs of the basic structure in fact might engender objectively bad human living. In this and the previous section I used Rousseau to show why we might affirm the first of these claims. In the following I again use Rousseau, this time to show why we might affirm the second.

VIII

The Impact of Institutions

In the second part of the *Discourse on Inequality* Rousseau offers a conjectural history of how humanity evolved from a somewhat happy and innocent existence in nascent tribal societies to a miserable and despicable existence in modern societies. At the crucial moments in this story of decline we find political and economic institutions. I shall not go into the details of Rousseau's conjectural story, but I will use his description of the three phases of inequality to exemplify the relation between political and economic institutions and the realization of human potentials – most importantly, how institutions can engender objectively bad human living.

In Rousseau's story, the decline starts with the institution of property. Once the institution of property became accepted, mankind inevitably divided into those who have more (the rich) and less (the poor). The result was, according to Rousseau, the inflammation of *amour-propre*: “consuming ambition, the ardent desire to raise one's relative fortune less out of genuine need than in order to place oneself above others [...] a black inclination to harm one another, a secret jealousy [...] competition and rivalry on one

hand, conflict of interests on the other, and always the hidden desire to profit at another's expense; all these evils are the first effect of property and the inseparable train of nascent inequality."²⁸

A second moment in Rousseau's story of decline is the institution of unequal political authority. In Rousseau's story, the institution of political authority begins with a Lockean social contract, where the people appoint magistrates.²⁹ While this social contract appears legitimate, the Lockean social contract really institutes a system of rulers and ruled patterned on the pre-contractual inequalities of property and threat-advantage.³⁰ The result is a system of inequality of political power, where political authority comes to serve special interests and not the common good of society.

Where political authority serves special interests, a third system of inequality results: the system of masters and subjects. In this system, the offices, conventions, and procedures of political authority are nothing but the masks that hide the reality – a system of subjection:

If we follow the progress of inequality through these different revolutions, we will find that the establishment of the Law and Right of property was its first term; the institution of Magistracy, the second; the conversion of legitimate into arbitrary power the third and last; so that the state of rich and poor was authorized by the first Epoch, that of powerful and weak by the second, and by the third that of Master and Slave, which is the last degree of inequality, and the state to which all the others finally lead.³¹

Rousseau argues that the progress, or regress, from political inequality to the system of masters and slaves is inevitable. Once there are rulers and ruled, the competition for access to power is a fact of life, "political distinctions necessarily bring about civil distinctions,"³² and thus another source of inflamed *amour-propre* is brought about: "inequality of prestige and

²⁸ *SD*, 3:175/171.

²⁹ *SD*, 3:185/180.

³⁰ In Rousseau's caricature: "you need me because I am rich and you are poor; let us therefore enter into an agreement with one another: I will allow you the honor of serving me, provided you give me what little you have left for the trouble I shall take to command you." (*DPE*, 3:273/32)

³¹ *SD*, 3:187/182. Note how Rousseau's story of the progress of inequality mirrors the conjectural story of how societies came to be. Both stories have three stages with intermediate stages of transition.

³² *SD*, 3:188/183. See also Cohen's insightful interpretation of Rousseau's analysis of the dangers of inequality in *A Free Community of Equals*, 113-22.

authority become inevitable [...] they are forced to compare themselves one with the other and, in the continual use they have to make of one another, to take account of the differences they find.”³³ In a sense, inflamed *amour-propre* is both the cause and the effect of injustice: the cause, because inflamed *amour-propre* makes possible the institution of the system of subjection; the effect since a system of subjection further inflames *amour-propre*. Ironically, the creation of Lockean institutions of property and political authority leads to inflammations of *amour-propre* that inevitably turns these same institutions into a system of subjection. Thus, Lockean economic and political institutions create a path from a Lockean state of nature where persons lived good, peaceful, and innocent lives to a Hobbesian state of nature, where persons live bad, violent, and vicious lives:

Here is the last stage of inequality, and the ultimate point that closes the Circle and meets the point from which we set out: Here [...] the notions of the good and the principles of justice again vanish. Here everything reverts to the sole Law of the stronger and consequently to a new State of Nature, different from that with which we began in that the first was the state of Nature in its purity, whereas this last is the fruit of excess and corruption.³⁴

In Rousseau’s diagnosis, the men and women of his day fail as human beings, because they inhabit a society with corrupting political and economic institutions. But it is also the case that they inhabit a society with corrupting institutions, because they fail as human beings. Objectively bad human living, inflamed *amour-propre*, is both the cause and the effect of injustice. Yet, this reciprocal relation between corrupting institutions and corrupted moral psychology brings with it the hope that we can design political institutions that do not engender inflamed *amour-propre* and the vice, misery, and unfreedom that attends it. Thus, Emile is sent into the world to find a just Republic, that is, a Republic structured in accord with the principles identified in the *Social Contract*. If dysfunctional moral psychology is both the cause and effect of injustice, justice might be both the cause and effect of well-functioning human moral psychology.

Rousseau’s diagnosis of the corrupting effects of political institutions, illustrates the two ways in which we can embrace negative political perfectionism. First, Rousseau’s diagnosis supports strong negative political

³³ *SD*, 3:189/183.

³⁴ *SD*, 3:190-1/185-6.

perfectionism: since some designs of the basic economic and political institutions promote objectively bad types of human existence, we have a reason to avoid designing the institutions in this way. Second, Rousseau's description of how a poorly designed constitution engenders personality types that over time will undermine the possibility for a just society illustrates how we can get to weak political perfectionism: some designs of the basic structure are unstable, because they engender personality types that over time undermine the allegiance to the principles of justice that this design of the basic structure is meant to express. If so, we can say that such personality types are objectively bad, and that we have reason to avoid designing the basic structure in this way, because it engenders the sort of personality that makes stability impossible.

To illustrate, if Rousseau is right that political inequality engenders inflamed *amour-propre* and undermines the possibility for a just society, then we have reasons to affirm his conclusion that a fundamental norm of political society should be equality of political standing.³⁵ First, because a system of inequality tends to engender inflamed *amour-propre*, and this result is both bad in itself and the source of misery, vice, and unfreedom. And, second, because a system of inequality tends to engender inflamed *amour-propre*, which undermines the possibility for a just society. In either case, we have negative perfectionist reasons to secure equality of political standing.

Of course Rousseau might be wrong. Political inequality might not be the source of inflamed *amour-propre*. Inflamed *amour-propre* might not be so bad in itself or the source of misery, vice, and unfreedom, and inflamed *amour-propre* might not undermine the possibility of a just society. Yet, even if Rousseau is wrong about these things, the general point remains: what sorts of personalities or moral psychologies a human being acquires is normally to a large extent determined by the economic and political institutions of the society she lives in and the social roles and opportunities that these institutions create and distribute. Some designs of the basic political institutions tend to engender objectively bad types of human living. If they do, we have reason to avoid them.

³⁵ “The fundamental law of your foundation ought to be equality. Everything ought to be related to it, even authority itself which is established only to defend it. All ought to be equal by right of birth. [...] All fiefs, homages, rents, and feudal rights [...] will remain extinct and suppressed on the whole Island.” (*Corsica*, 3:310/130)

IX

Conclusion

If some ways of human living are objectively bad in themselves, or because they make happiness or moral conduct unlikely or impossible, or because they make a stably just society unlikely or impossible; and if some designs of the basic structure tend to promote such types of human living; then we have reasons to avoid these designs of the basic structure. If so, negative political perfectionism is true. I have used Rousseau to illustrate why we might affirm the conjoined antecedents of this conditional: some objectively bad ways of human living are promoted by some designs of the basic political and economic institutions. If Rousseau is right, then justice requires that we avoid those designs of the basic structure, because they promote objectively bad human living. Thus, if Rousseau is right, negative political perfectionism is true. If Rousseau is wrong, negative political perfectionism might still be true, but to show that it is we would need to show that some ways of living are objectively bad and that some designs of the basic structure promote such ways of living.³⁶

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³⁶ I am very grateful to Samuel Freeman for early conversations that provoked me to defend the idea I try to work out in this essay, to Javier Hidalgo for comments on an early draft, and to the anonymous reviewer for *Philosophy & Public Issues* whose comments lead to many needed revisions.

SYMPOSIUM
POLITICAL LIBERALISM VS. LIBERAL PERFECTIONISM



CAN LIBERAL PERFECTIONISM GENERATE
DISTINCTIVE DISTRIBUTIVE PRINCIPLES?

CHRIS MILLS

Can Liberal Perfectionism Generate Distinctive Distributive Principles?

Chris Mills

In his book *Liberalism Without Perfection*, Jonathan Quong challenges liberal perfectionists to show whether their favoured doctrine is capable of generating distinctive distributive principles whilst retaining a valid conception of personal responsibility. In this article I develop this challenge into a dilemma and show that liberal perfectionists can escape by illustrating how arguments for the value of personal autonomy may entail a specific and distinct treatment of choice and responsibility. I develop this claim into a sufficientarian approach to the promotion of autonomy as self-authorship. In doing so I show how differing conceptions of both autonomy and the person employed by liberal perfectionists and political liberals entail different distributive outcomes.

I

Introduction

Within liberal political philosophy two central positions have developed regarding the question of legitimacy and the fundamental purpose of the liberal state. Liberal perfectionists argue that the state can appeal to value claims about what is required to live a flourishing life (a comprehensive justification) to justify the state's promotion of certain valuable ways of life over others (perfectionist state action). Political liberals deny both claims, instead arguing for a form of justificatory neutrality.¹ These two contrasting

¹ See for example Charles Larmore, *Patterns of Moral Complexity* (Cambridge: Cambridge University Press, 1987); John Rawls, *Political Liberalism* (New York: Columbia University Press, 1993); Gerald Gaus, *Justificatory Liberalism* (Oxford: Oxford University Press, 1996); Gerald Gaus, *The Order of Public Reason* (Cambridge: Cambridge University Press, 2011).

views have a rich history and their disagreements have shed a great deal of light on many political problems. However, dialogue between the two positions, particularly on the topic of distributive justice, has been limited. This is in part due to liberal perfectionists' narrow focus on the nature and value of autonomy, which they believe provides the most plausible grounding for liberal principles. This has led them to often neglect some of the more traditional questions of distributive justice.

In his recent book Jonathan Quong has argued that with respect to distributive justice, liberal perfectionists have nothing distinctive to say and consequently their arguments are superfluous to our attempts to answer a number of central questions about justice. Further, the search for distinctive principles is likely to lead liberal perfectionists to embrace an implausible account of personal responsibility. In this paper I respond by developing a plausible and distinctive account of distributive justice that can only be offered by liberal perfectionists.

The argument is structured as follows: In the following section I outline Quong's objections in detail and explain the need for a response. In sections three and four I outline a liberal perfectionist account of distributive justice that develops arguments provided by Joseph Raz, Steven Wall and Ben Colburn. In section five I explain how the suggested position differs from its Rawlsian political anti-perfectionist rival by providing a distinctive outcome (thus escaping the first horn of the dilemma). In section six I assess the plausibility of the perfectionist interpretation of the relationship between personal autonomy and responsibility, illustrating why we should reject the claim that the position suggests an implausible interpretation of responsibility (thus escaping the second horn of the dilemma). Finally I conclude by assessing potential further avenues of research.

II

Why might we require a perfectionist account of distributive justice?

Quong raises his concerns when questioning the legitimacy of a liberal perfectionist state. He argues that Raz's service conception of authority fails at its task in establishing the legitimacy of a perfectionist state.² In exploring

² See for example: "Showing that citizens ought to obey the state's directives about human flourishing does not establish the state as a legitimate authority over this domain." Jonathan

a potential response to this concern, Quong argues that any attempt to appeal to the state's ability to ensure a just distribution to grant legitimacy will require an important further claim; that we should think of social justice in perfectionist terms. If this cannot be proven then we can only establish the legitimacy of non-perfectionist state action, thus fatally undermining the legitimacy of a perfectionist state.

Quong defines a perfectionist account of distributive justice in the following fashion:

Perfectionist Justice: "...the position which claims that each person's fair share of resources or advantages should be determined by reference to how much each person needs to flourish to the appropriate degree, as specified by the correct conception of the good life."³

On this definition, any account of liberal perfectionism that accepts a comprehensive justification⁴ will correspond to this definition, with the perfectionist's favoured account of flourishing acting as the correct conception of the good life. Crucially perfectionist accounts of justice reject the priority of the right over the good required by justificatory neutrality and public justification. Instead the right is thought of in terms of flourishing and the pursuit of the good life: "...though it may be true each person only owes others their fair share of resources or advantages, the idea of fair shares is entirely dependent on our judgements about the good life, and thus any duties associated with achieving this fair distribution should be properly regarded as perfectionist duties, and not simply non-perfectionist duties of justice."⁵ The valid conception of the good life for liberal perfectionists is the life of a sufficiently autonomous individual who is able to develop an authentic life plan and pursue it, thus furthering their own well-being. Autonomy as self-authorship is a thick (and thus controversial) conception of personal autonomy, favoured by liberal perfectionists because of its

Quong, *Liberalism Without Perfection* (Oxford: Oxford University Press, 2011), 120. In response Quong argues for a natural duties account of legitimacy.

³ Ibid., 122.

⁴ This sets aside the question of political perfectionism, which argues for perfectionism negatively (by rejecting public reasoning) rather than positively (by defending the possibility of a comprehensive justification). See Joseph Chan, "Legitimacy, Unanimity and Perfectionism," *Philosophy and Public Affairs* 29 (2000): 5-42; George Sher, *Beyond Neutrality* (Cambridge: Cambridge University Press, 1997).

⁵ J. Quong, *Liberalism Without Perfection*, 122.

global conditions.⁶ This account of autonomy forms the basis of the account of flourishing that liberal perfectionists intend to distribute.

Quong considers two routes to rejecting a perfectionist account of distributive justice. The first is to “deny that flourishing is the right currency of distributive justice.”⁷ However, given the size of the challenge required in arguing against the multiple premises of such a claim, he adopts a simpler approach: “In order for perfectionist justice to practically distinguish itself from non-perfectionist theories of distributive justice, such as Rawls’ or Ronald Dworkin’s theory, it must be the case that the distribution it recommends will differ from the distribution recommended by those non-perfectionist theories.”⁸ I take this challenge for distinctiveness to establish the first horn of the dilemma for liberal perfectionists.

The second horn is developed when Quong assesses the likely explanations from perfectionists for why people require different levels of resources to achieve the same level of flourishing. Quong explores four potential explanations for why this may be the case:⁹

- i) The imprudent behaviour of the agent leading to the loss of resources.
- ii) The existence of some disability (or other personal deficiency that the agent is not responsible for) that makes it more difficult for them to make use of physical resources.

⁶ By global conditions I follow Raz in accepting that the capacity for personal autonomy is determined by the possession of capacities capable of being externally affected and thus dictated by our behaviour against certain background societal (or global) conditions. Selfauthorship has received numerous treatments: Joseph Raz defines it as possessing three conditions: mental abilities, adequacy of options, and independence (Joseph Raz, *The Morality of Freedom* (Oxford: Clarendon Press, 1986), 373.) Steven Wall argues it has four: “(a) the capacity to choose projects and sustain commitments, (b) the independence necessary to chart their own course through life and to develop their own understanding of what is valuable and worth doing, (c) the self-consciousness and vigor to take control of their affairs and (d) an environment that provides them with a wide range of eligible pursuits to choose from” (Steven Wall, *Liberalism, Perfectionism and Restraint* (Cambridge: Cambridge University Press, 1998), 132). Ben Colburn argues that the tradition emphasises individuality and self-governance (Ben Colburn, *Autonomy and Liberalism* (New York: Routledge, 2011), 12-19). At its core, I believe that autonomy as self-authorship has two main conditions: competency and authenticity, where the former is a pre-requisite for the latter.

⁷ J. Quong, *Liberalism Without Perfection*, 122.

⁸ *Ibid.*, 122.

⁹ *Ibid.*, 122-6.

iii) The less efficient conversion of resources into flourishing for an agent because they hold false views about the good life.

iv) The fact that different people may need to pursue different activities in order to flourish, and each set of activities may be exclusive and differ in average cost.

Quong considers the fourth option to be the most plausible before dismissing it. Though he presents the challenge as a single argument, I believe this conclusion establishes a dilemma for the perfectionist. When arguing about distributive justice, liberal perfectionists face a challenge that their doctrine's conclusions will be unable to differentiate themselves from a non-perfectionist (Rawlsian or Dworkinian) scheme of distributive justice. The most likely approach available to differentiate their principles is through adopting a distinctive view regarding personal responsibility, however each of the four potential options that are available to them are (according to Quong) implausible, will fail to produce distinctive outcomes, or will conflict with the importance accorded to personal autonomy within such theories. Thus liberal perfectionists face a dilemma: their distributive principles will either a) be practically indistinguishable from non-perfectionist accounts, or b) rely on a far less plausible treatment of personal responsibility. Distinctiveness thus can only come at the cost of plausibility.

Meeting this challenge is crucial for motivating a broader liberal perfectionist account of political morality. Many perfectionists may be satisfied with generating identical distributive principles to anti-perfectionist accounts of liberalism, but justified according to their favoured metaphysical claims rather than an overlapping consensus of reasonable doctrines. The perfectionist may claim that their argument is a more truthful liberal justification of the shared identical distributive outcomes. Though exploring each contrasting account of the reasoning behind the identical distributive principles may be of academic interest in its own right, this assent will do little to clarify the issue or bridge the divide between the two positions. To further the debate liberal perfectionists must meet the political liberal's challenge of providing *both* a distinctive justification and a distinctive distributive outcome for their position on distributive justice to be considered novel or compelling. If this can be done then the case for the tradition is considerably strengthened.

The challenge is particularly difficult for liberal perfectionists. Non-liberal perfectionists can easily meet this challenge.¹⁰ Yet because liberal perfectionists focus on personal autonomy in their account of flourishing (as opposed to adopting say an Aristotelian account), they restrict the form of flourishing being promoted to a less controversial form. This ensures that the distributive outcomes are much closer to that favoured by liberal anti-perfectionists. The challenge is particularly important because political liberals may argue that the plausibility of principles can only be ensured by public justification. Because perfectionists rely on controversial value claims, in a comparison between perfectionist and non-perfectionist distributive schemes which because generate similar principles, the political liberal may argue that we have a reason to prefer a non-perfectionist scheme (as it is justified in a less controversial fashion). If this is true then the distinctive justification for shared principles offers us little. In response the liberal perfectionist must illustrate why we should prefer their doctrine, even if it requires a controversial justification. This long-term goal cannot be met without first illustrating what is unique or distinctive about the outcome of their view. Beginning this more modest goal is the intention of this article.

I argue that liberal perfectionists who intend to promote a unique currency or *distribuenda* – autonomy as self-authorship – can escape the dilemma and thus prove that a liberal perfectionist account of distributive justice can be both distinctive and plausible. In doing so I will show how the traditional liberal perfectionist argument for the value of personal autonomy may entail a specific and distinct treatment of choice and personal responsibility. Further, differing conceptions of both autonomy and the person employed by each tradition entail different distributive outcomes. Consequently liberal perfectionist principles are committed to promoting a different set of competencies than non-perfectionist principles and will be more likely to intervene to secure a sufficient range of options for citizens.

¹⁰ See for example Richard Arneson, “Welfare Should be the Currency of Justice,” *Canadian Journal of Philosophy* 30 (2000): 497-524; Richard Arneson, “Perfectionism and Politics,” *Ethics* 111 (2000): 37-63.

III

The Possibility of Distinctiveness

As noted above, Quong identifies the most plausible response that liberal perfectionists can give as similar to Tom Hurka's argument that different people may need to pursue different activities in order to flourish, and each set of activities may be exclusive and differ in average cost.¹¹ I believe that this is a misstep by Quong, and in fact the first option he explores (regarding prudent choices) is the most plausible response to the dilemma. The reason Quong dismisses this option appears to be his belief that to differ itself, the perfectionist position must lead the prudent to either always compensate the imprudent, or at least compensate them to an unreasonable degree. If this is the case, then perfectionism derives an implausible conclusion. If this is not the case, then the perfectionist cannot differentiate their position from its anti-perfectionist rivals. His thoughts are summarised as follows:

If perfectionist and non-perfectionist theories recommend different distributions, I do not think it is because perfectionists must be committed to the implausible thesis that justice should be insensitive to considerations of personal responsibility. Moreover, since non-perfectionists can and do disagree amongst themselves regarding the role personal responsibility should play in distributive justice, there is no particular position on this issue which a perfectionist could stake out which would necessarily distinguish perfectionist justice from non-perfectionist theories.¹²

I argue that the last section of the above statement is false. Liberal perfectionists can stake out a particular position on the relationship between responsibility, prudence and distributive justice that is distinct from non-perfectionist positions. The fact that non-perfectionists cannot agree what role responsibility should play within distributive justice does not preclude liberal perfectionists from showing that there is a position that is unique to their doctrine; coherent and plausible only in relation to their theoretical foundations and unique currency.

To see this we need to turn to the work of Ben Colburn. When outlining the distributive obligations of an autonomy-minded liberal state, Colburn describes the efforts a liberal state must go to promote self-authorship. Specifically, Colburn emphasises the roles voluntariness and responsibility may play in such arguments. Colburn explains his position as follows:

¹¹ See Thomas Hurka, "Indirect Perfectionism: Kymlicka on Liberal Neutrality," *Journal of Political Philosophy* 3 (1995): 36-57.

¹² J. Quong, *Liberalism Without Perfection*, 123.

Equal Access to Autonomy: “we should aim for the only inequalities in the actual autonomy of individuals’ lives to be ones for which they themselves are responsible”¹³

The similarities to Dworkin, Arneson and Cohen’s work on luck egalitarianism are obvious and welcomed by Colburn, given that he embraces what Arneson has named *luckism* (that personal responsibility matters intrinsically for social justice), with its source in voluntary choice.¹⁴ On this account voluntarism is a condition of responsibility and helps to ground the permissibility of differences between distributive holdings.

For Colburn, the value of autonomy grounds the liberal state’s requirement to promote self-authorship. There are two limiting factors on such promotion – an independence condition and a responsibility condition.¹⁵ The independence condition mimics Raz’s concern for preventing coercion and manipulation.¹⁶ Both phenomena reduce the authentic nature of our decisions and thus are prohibited as methods of promoting self-authorship. The responsibility condition is suggested as a natural consequence of respecting the autonomous agency of the citizen (and specifically the manner in which Colburn values voluntariness): “...it is not sufficient for autonomy just that an agent’s life goes in accordance with values that she decides upon. She must also be *responsible* for her life going that way...the concept of responsibility I have in mind incorporates both attributability...and substantive responsibility...”¹⁷

Colburn argues that there are four jointly sufficient conditions for holding people substantively responsible for deficits in their autonomy:

1. The deficits in autonomy must come about as a result of voluntary choices.¹⁸

¹³ B. Colburn, *Autonomy and Liberalism*, 84.

¹⁴ Richard Arneson, “Luck Egalitarianism – A Primer”, in C. Knight and Z. Stemplowska (ed.), *Responsibility and Distributive Justice* (Oxford: Oxford University Press, 2011): 24-50, at 36. Arneson contrasts two sources of luckism – choice and desert (only the first is relevant to the promotion of self-authorship).

¹⁵ B. Colburn, *Autonomy and Liberalism*, 84-6.

¹⁶ J. Raz, *The Morality of Freedom*, 377-8.

¹⁷ B. Colburn, *Autonomy and Liberalism*, 85. This distinction was made famous in Scanlon’s work on *attributive* and *substantive* responsibility. The former is taken as the basis of moral appraisal, whereas the latter is required when judgements express claims about what people are required to do for each other. See T.M. Scanlon, *What We Owe to Each Other* (Harvard: Belknap Press, 1998), 248.

¹⁸ Colburn employs Serena Olsaretti’s definition but recognises other may be employed, see B. Colburn, *Autonomy and Liberalism*, 32.

2. People's decisions about what is valuable must satisfy Endorsement and Independence conditions.¹⁹

3. People must also make those decisions against a background of information about the differential costs and payoffs of those decisions.

4. Both people's decisions and their lives must take place against a background of institutions designed, so far as possible, to provide equally the minimal conditions (internal and external) for an autonomous life.²⁰

The fourth condition is interesting for two reasons. The first is that it reinforces the need to ensure the competencies of citizens. As Colburn notes: "...the autonomy-minded state will have a double reason to ensure that they have the basic skills and knowledge required to live autonomously. Such provision will both promote autonomy, and also provide the conditions for people being held responsible for such deficits in autonomy as still remain."²¹ Thus an acceptance of luckism helps to strengthen one of the central distributive commitments of self-authorship, ensuring the decision-making competency of citizens.

The second reason for our interest in the condition is the possibility for people to fall below the minimal conditions for autonomy (in a manner compatible with the first three conditions), and so find themselves unable to live an autonomous life without assistance. Colburn argues that such individuals should be held attributively (but not substantively) responsible for their choices under these conditions. Further, the state has a duty of rescue in such conditions. This conclusion rests on the fact that people can, as a result of their own voluntary choices, find themselves less able than otherwise to authentically decide between potential life goals or to pursue their goals autonomously. Colburn summarises this claim as follows:

My point was that it would be impossible to promote people's autonomy in respect of such decisions: a state system which aimed to make them more autonomous by correcting for these sorts of things would fail to do so, precisely because it would undermine their responsibility (and their lives going in accordance with their decisions about what is valuable would not then contribute to their autonomy). This point does not apply, however, to cases where someone no longer has the minimal conditions for living an autonomous life. In such cases, state action which ignores their attributive responsibility for being in that condition cannot threaten their ability to live an

¹⁹ See *Ibid.*, 25-31.

²⁰ *Ibid.*, 87-92.

²¹ *Ibid.*, 89-90.

autonomous life (as it normally would), for *ex hypothesi* we are talking about cases where the chances of living autonomous lives are gone anyway.²²

Here we see a plausible solution to the tension between promoting autonomy and holding people responsible for their choices. On this account of autonomy-minded liberalism the state has a reason to ensure citizens flourish by enjoying the conditions of self-authorship. One of these conditions is that the state must respect the sovereignty of decisions made by those who enjoy the conditions of responsibility entailed by self-authorship. However, if the citizen authentically chooses to act in a way that will reduce their future autonomy under a threshold required for a decision to be considered responsible (and thus autonomous), the state has a duty of rescue toward the citizen once they fall below the threshold. State action to prevent voluntary decisions of autonomous agents that would (without the interference) lead them to fall below the threshold is thus presumptively wrong and requires (perfectionist) justification.

By recognising a link between autonomy and responsibility the argument supports a threshold that results in a distinctly sufficientarian distribution of the competencies required for autonomy. Above the threshold luckism reigns, below the threshold a prioritarian concern for competency required by the responsibility condition of autonomy is in place.

One way to explain the threshold within Colburn's view is to phrase it in response to a problem posed by Carl Knight and Zofia Stemplowska. They assert that the key problem facing responsibility-sensitive accounts of distributive justice is the following:

Under what conditions, if any, could being agent responsible for finding oneself in a situation in which one suffers a disadvantage (or enjoys an advantage) make one consequentially [substantively] responsible for the (dis)advantage as far as distributive justice is concerned?²³

²² B. Colburn, *Autonomy and Liberalism*, 90-1.

²³ Carl Knight and Zofia Stemplowska, "Responsibility and Distributive Justice: An Introduction" in Knight and Stemplowska (ed.), *Responsibility and Distributive Justice*: 1-23, at 15. This problem relies on the introduction of a third conception of personal responsibility—*agent* responsibility: "To attribute agent responsibility for X we need to find both a causal link between the person and X (i.e. attribute causal responsibility) as well as establish, in addition, that X stems appropriately from that person's agency" (*Ibid.*, p. 12). Agent responsibility is a thin conception of personal responsibility that can act as a necessary condition of attributive or substantive responsibility. It merely identifies what it means for an action to belong, in some sense, to some individual's agency (giving no mention of praise or blame, nor who should bare the costs of such a decision).

This problem clearly shows the interrelation between the conceptions of responsibility and how they relate to distributive justice. As a response to this question Colburn's model is structured as follows:

Colburn's Threshold: The conditions under which being agent responsible for personally enjoying/suffering an (dis)advantage in our capacity for autonomy can make us consequentially responsible for that (dis)advantage if we find a) that the decision is made by an individual who possesses capacities above the relevant threshold of those capacities required for self-authorship, and b) that the decision does not reduce those capacities the individual can bring to bear on future decision to a level below the threshold.

I believe Colburn is right to insist that the threshold that results from the responsibility condition is a natural product of thinking about how the relationship between autonomy and responsibility should impact on the autonomy promoting liberal states' activities. In the same fashion that Dworkin's *Sovereign Virtue* applied personal responsibility to liberal egalitarianism, the arguments in Colburn's *Autonomy and Liberalism* apply personal responsibility to liberal perfectionism in a plausible and compelling fashion. Yet while there is nothing necessarily perfectionist about the combination of luck-egalitarianism and sufficientarianism, the combination of the responsibility condition and the distribution of self-authorship is. To provide a way out of the dilemma, Colburn's arguments do not need to be defended as the best or most plausible view of perfectionist justice. All that needs to be shown is that they are perfectionist and distinctive. As I will show, Colburn's threshold can be defined in a distinctively perfectionist manner and thus it may form the central pillar of a response to Quong's dilemma. To show how we might manage this, it would be prudent to first further explore and develop the structure of a sufficientarian promotion of self-authorship.

IV

Developing the View

In defending a threshold view like Colburn's three questions become pertinent: First, we must show why sufficiency is the natural interpretation of promoting autonomy. Why shouldn't it simply be maximised? Why not

favour equality or priority instead? Second, we must consider the fashion in which autonomy should be promoted below the threshold, resolving some of the indeterminacy within Colburn's arguments. Third, we must explain why the responsibility condition of self-authorship is perfectionist. In this section I will take each question in turn with the intention of developing further Colburn's arguments.

First, why does Colburn favour a threshold based view? Originally his argument begins with a defence of an egalitarian range of distribution, on the grounds of a norm of non-discrimination.²⁴ He is sceptical of a positive argument – the search for some characteristic that is equally shared by all and according to which we all deserve an equal distribution of autonomy. Instead Colburn adopts a negative argument, shifting the burden of proof onto those who deny the claim that if we care about anyone's autonomy we should care about everyone's equally. This is supported by the belief that the differences between each of us are irrelevant to the value of living an autonomous life.²⁵ Therefore according to the non-discrimination argument, equality provides the answer to who the good is distributed to.

However the good that citizens are receiving equal access to (autonomy as self-authorship) has a distinctly sufficientarian character due to its threshold structure. This structure results from the responsibility condition which, alongside the independence condition, is an internally generated requirement on Colburn's account of self-authorship. Respect for the sovereignty of autonomous decisions requires the freedom to responsibly decide to diminish our future autonomy. However there is a lower limit to this freedom. Thus a threshold view is required. Alternative schemes of distribution (such as maximisation,²⁶ strict priority, or strict equality) would not allow citizens this freedom and, as a consequence, would fail to respect

²⁴ B. Colburn, *Autonomy and Liberalism*, 78-82.

²⁵ See for example: "A government policy aiming to promote some such value should aim for that property to be shared equally amongst people *unless* it can point to some relevant difference between them...since there is no difference between people which could be relevant to the value of autonomy, the government should show equal concern for everyone's autonomy" (Ibid., 80).

²⁶ For specific arguments against interpreting perfectionist arguments for the value of autonomy as requiring maximisation see: S. Wall, *Liberalism, Perfectionism and Restraint*, 183-9. Wall claims that: "It should occasion no surprise if some do not need to be as autonomous as others to lead a fully good life. Accordingly, holding that all people have reason to be autonomous does not commit one to the view that all people have reason to be autonomous to the same degree...They only have reason to be sufficiently autonomous, where sufficiency is a variable that is not constant across persons' (Ibid., 184-5).

the sovereignty of autonomous decisions. These schemes would compensate unnecessarily, treating autonomous citizens in a similar manner to non-autonomous citizens. A threshold view allows us to differentiate between those who need the state's aid and those who can be held responsible for their decisions. This requirement of the responsibility condition is provided by a sufficientarian distribution. Thus on Colburn's view we require equal access to sufficient autonomy. Sufficiency, therefore, provides the answer to how much of the good each citizen should receive.²⁷

Contrary to being unstable, Colburn offers this combination as the natural interpretation of a responsibility-sensitive distribution of self-authorship. However accepting the egalitarian application of Colburn's threshold principle does not exhaust the questions that face a sufficiency-based approach to the promotion of autonomy.²⁸ Indeed the adoption of the responsibility condition generates an ambiguity. It is unclear exactly what commitments the perfectionist has to those who fall below the threshold. How should the safety net be arranged? At least two possible distributive schemes are viable candidates. Consider the following:

Absolute Priority – Under this scheme the state should design the safety net to focus resources on aiding those who enjoy the least autonomy (the worst off in terms of self-authorship).

Headcount Sufficientarianism – Under this scheme the state should design the safety net to maximise the number of sufficiently autonomous citizens.²⁹

Each option has potential strengths and weaknesses. I take it that the priority claim is favoured by Colburn, given his stated preference for lifelong

²⁷ This claim differs in nature from Gerald Dworkin's claim regarding the nature of a sufficient range of options. See for example: "...that neither the instrumental nor the noninstrumental value of having choices supports the view that more are always preferable to fewer. In the realm of choice, as in all others, we must conclude – enough is enough" (Gerald Dworkin, *The Theory and Practice of Autonomy* (Cambridge: Cambridge University Press, 1988), 81). This type of argument rests on the claim that after a point (tracking the competency of the individual) an increase to the number of options the individual faces is likely to impair their ability to reflect authentically on the choices they face.

²⁸ For more on sufficientarianism as a distributive ideal see: Harry Frankfurt, "Equality as a Moral Ideal," *Ethics* 98 (1987): 21-43. For criticism, see: Paula Casal, "Why Sufficiency is Not Enough," *Ethics* 117 (2007): 296-326.

²⁹ This is a reformulation of the "Headcount Claim" suggested by Liam Shields. See Liam Shields, "The Prospects for Sufficientarianism," *Utilitas* 24 (2012): 101-117, at 103.

support for the disabled.³⁰ One important sense in which an individual can be severely disabled is due to their lack of the capacities required for autonomy.³¹ Prioritising the care for those furthest from the threshold of sufficient capacities is entailed by absolute priority but not headcount sufficientarianism. However, problematically the prioritarian appears committed to the promotion of autonomy for those who may never exceed the threshold. The reverse is true for the headcount view, which a perfectionist may adopt if he or she believes that what is morally important is ensuring the greatest number of sufficiently autonomous citizens. However such a view may be guilty of condemning the very worst off.

Our decision between the two options will depend on the position we take on the relationship between autonomy and well-being. If we believe that the promotion of autonomy promotes an individual's well-being *regardless* of their proximity to the responsibility threshold, then we think the more important it is to benefit someone the worse off they are in absolute terms. Thus we will favour the prioritarian position. If however, the well-being of citizens is only improved by an individual becoming sufficiently autonomous and then pursuing their authentic life goals, then we should favour the headcount view. On such a view, more autonomy does not necessarily lead to more well-being, what matters morally is that individuals reach the level at which they can be held responsible for their authentic choices.

No simple answer offers itself to this puzzle and my intention here is only to highlight it as the sort of question that would benefit from further argument and reflection. Crucially for us, both positions are compatible with the threshold and adopting either position will further inform the distributive scheme suggested by Colburn.

Exploring the implications of the responsibility condition is instrumental in explaining why the condition is perfectionist. The relevant test to see whether this is the case is to ask whether we can derive the outcomes implied by the responsibility-sensitive promotion of self-authorship without relying on comprehensive or controversial arguments. I claim that we cannot, and thus the responsibility condition of self-authorship is necessarily

³⁰ B. Colburn, *Autonomy and Liberalism*, 95-6.

³¹ See for example Leslie P. Francis, "Understanding Autonomy in Light of Intellectual Disability," in K. Brownlee and A. Cureton (ed.), *Disability and Disadvantage* (Oxford: Oxford University Press, 2009): 200-15.

perfectionist. Because of this, it is a valid candidate for responding to the dilemma.

To show this we must understand why, according to Colburn's arguments, the responsibility condition is a necessary condition of autonomy as self-authorship. It is one of two internally generated principled limitations on how we promote autonomy (alongside the independence condition). The independence condition restricts the forms of state intervention, whilst the responsibility condition restricts the scope of intervention to those who lack the competency for responsibility. This generates the threshold. As noted above, Colburn suggest four conditions of responsibility. The fourth—that both people's decisions and their lives must take place against a background of institutions designed, so far as possible, to provide equally the minimal conditions (internal and external) for an autonomous life—is perfectionist *if* the promotion of autonomy as self-authorship is shown to be perfectionist.

This appears to be a simple task. The promotion of self-authorship as a currency of distribution is only suggested by liberal perfectionists, supported by their particular comprehensive justification. The promotion of self-authorship is comprehensive (and thus controversial) because it relies on one of two arguments. Either we promote self-authorship according to a welfare-based argument,³² or we promote it according to a respect for agency argument.³³ However this task is complicated by Colburn's own insistence of generating a demand for autonomy-minded liberalism in an anti-perfectionist manner.³⁴ Briefly, Colburn is sceptical of the coherence and success of arguments for political anti-perfectionism, believing instead that a comprehensive form of liberalism that is perfectionist with regard to autonomy but anti-perfectionist with regard to other values is the most plausible position to take.

³² On this account the claims that promoting autonomy promotes welfare (the nature of flourishing) and that welfare should be the main consideration of distributive justice (the role of flourishing) are controversial.

³³ These accounts will rely on a Kantian interpretation of the person and related arguments regarding respect for persons as autonomous agents. Such claims are considered controversial by Rawls in his transition between *Theory of Justice* and *Political Liberalism*, necessitating the adoption of the political conception of the person.

³⁴ See Ben Colburn, "Forbidden Ways of Life," *The Philosophical Quarterly* 58 (2008): 618-629; Ben Colburn, "Autonomy and Anti-Perfectionisms," *Analysis* 70 (2010): 247-256; B. Colburn, *Autonomy and Liberalism*, especially chapters 2 and 3.

This specific claim has been subject to criticism.³⁵ However, even if Colburn can successfully prove the coherence of his own claims regarding autonomy and anti-perfectionism, his position will still face a larger challenge posed by Quong who argues that comprehensive liberalism is tied inexorably to some form of perfectionism through its reliance on a controversial justification:

Once liberalism is tied to some specific views about the good life, the liberal state will unavoidably be acting for perfectionist reasons: it will be making decisions about what should be legal and illegal, what is just and what is unjust, based on a particular thesis about what adds inherent or intrinsic value to a human life.³⁶

By this argument, the controversial foundations of the comprehensive liberal state are inseparable from controversial (perfectionist) state action. There is no separation between the two, even if the value appealed to (and promoted) is autonomy:

Appealing to the comprehensive value of autonomy may be a sound way to make the case as to why the state should not, on the whole, engage in coercive paternalism. But liberals should be clear that this sort of argument is itself a form of perfectionism: it is only a sound argument if the value of living autonomously (or the importance of promoting autonomy more widely) outweighs the disvalue of whatever activity is under scrutiny.³⁷

Quong's argument poses a troubling thought for comprehensive anti-perfectionists. On this view comprehensive anti-perfectionists are guilty of confusing the prevention of coercive paternalism as a form of anti-perfectionism. Instead what comprehensive anti-perfectionists establish is a minimal form of perfectionism that prevents coercion for controversial reasons. To see this consider what an appeal to autonomy achieves:

Even if autonomy is of great value, this does not preclude the state from acting for other perfectionist reasons provided it can do so without undermining the autonomy of citizens. Thus, if liberalism is defined by its commitment to the comprehensive value of autonomy, there need be nothing illiberal about certain kinds of perfectionism in politics.³⁸

I believe this observation regarding the tensions inherent to comprehensive anti-perfectionism is convincing. Consequently I suggest that we set aside Colburn's claim that we can generate a commitment to

³⁵ See for example Thomas Porter, "Colburn on Anti-Perfectionism and Autonomy", *Journal of Ethics and Social Philosophy* (2011).

³⁶ J. Quong, *Liberalism Without Perfection*, 25.

³⁷ *Ibid.*, 24-5.

³⁸ *Ibid.*, 25.

promoting self-authorship in an anti-perfectionist manner and progress to explore the distinctiveness of self-authorship and the conception of the individual as self-author.

V

Escaping the Dilemma: The First Horn

So far I have claimed that a distinctive set of liberal perfectionist distributive principles can be conceived of in the form of choice-based responsibility-sensitive sufficientarianism, distributing access to a substantive conception of autonomy. But why are such principles distinctive? It is to this question that I will now turn. The first part of Quong's challenge (that I interpret as the first horn of a dilemma) challenges liberal perfectionists to show that their distributive outcomes are distinct from those suggested by anti-perfectionists.³⁹ I argue that we have good reasons to believe that liberal perfectionism's efforts to distribute self-authorship can achieve this.

There are two major differences that can form the basis of liberal perfectionism's distinctiveness claim. The first difference is the contrasting competency conditions that the perfectionist and non-perfectionist states intend to promote. This is dictated by the different conception of the person that each employs in their distributive model. The second difference is the perfectionist state's willingness to promote some ways of life over others to ensure an adequate range of options for citizens to choose between.⁴⁰ At the root of these differences is the account of flourishing employed as a unique currency of distribution and the perfectionist rejection of the priority of the right over the good required to support such a currency.

³⁹ I take this challenge to imply a contrast with political liberalism. It is true that the contrast between perfectionist and anti-perfectionist principles is less obvious when we shift to consider to Ronald Dworkin's equality of resources. However if we accept Quong's claim that Dworkin's comprehensive anti-perfectionism is really a weak form of perfectionism then the similarities between Colburn and Dworkin do not trouble the distinctiveness claim I defend. It is Rawls's political conception of the person as a free and equal fully cooperating member of society that offers thresholds that differ in *both* character and strength to those proposed by liberal perfectionism. Quong's arguments explain the reason for this – Rawls is an anti-perfectionist, Dworkin is not.

⁴⁰ It is this second difference that invites the second horn of the dilemma (as such promotion may be seen to clash with holding autonomous citizens responsible for their personal choices). Consequently this difference will be discussed in the next section.

The argument for escaping the first horn of the dilemma begins with recognising that liberal perfectionists are distributing a currency different to other distributive principles. This fact relies on employing a distinctive conception of the person, justified by an unrestricted range of moral reasons. Both considerations imply the promotion of a unique set of competencies, resulting in a distinctive resource allocation. This claim may be contested by political liberals who may argue either that non-perfectionist distributive schemes are able to promote autonomy in a similar fashion or that the resulting distribution of resources will not significantly differ. Is this the case?

Rawls conceives of the citizen as a fully cooperating member of society in accordance with the *political* conception of the person as free and equal (due to their possession of the two moral powers).⁴¹ This contrasts with the conception of the autonomous self-author⁴² that liberal perfectionists employ. Rawls lists the basic elements of reason and rationality⁴³ required to be a fully cooperating member of society as follows:

- 1) the two moral powers,
- 2) the necessary intellectual powers of judgement, thought and inference required to make use of these powers,
- 3) a determinate conception of the good interpreted in the light of a (reasonable) comprehensive view,
- 4) the requisite capacities and abilities to be normal and cooperating members of society over a complete life.

The competencies required to be a self-author differ with each of those required to be a fully cooperating member of society as follows:

⁴¹ Briefly the two moral powers are the capacity for a sense of justice and for a conception of the good (J. Rawls, *Political Liberalism*, 19). Rawls employs the political conception of the person as a fully cooperating member of society to simplify the background to his theory and focus on the key questions of political liberalism: “Since we begin from the idea of society as a fair system of cooperation, we assume that persons as citizens have all the capacities that enable them to be cooperating members of society. This is done to achieve a clear and uncluttered view of what, for us, is the fundamental question of political justice: namely, what is the most appropriate conception of justice for specifying the terms of social cooperation between citizens regarded as free and equal, and as normal and fully cooperating members of society over a complete life?” (Ibid., 20). Rawls explicitly sets aside issues regarding: (i) Health Care (including both temporary and permanent disabilities/mental disorders), (ii) Duties to future generations, (iii) Global duties (the so called law of peoples).

⁴² J. Raz, *The Morality of Freedom*, 370.

⁴³ J. Rawls, *Political Liberalism*, 81.

First, because the right is no longer prior to the good (but at least partly constituted by it) liberal perfectionism will require the second moral power to be given primary importance. By making decisions about distributive justice dependent on an account of flourishing based on the ability to autonomously conceive of and pursue our conceptions of the good, the sense of justice that the first moral power relates to will be constituted by our capacity for autonomy (the second moral power). The citizens' capacity to understand, to apply, and to act from "...the principles of political justice that specify the fair terms of social cooperation"⁴⁴ will change to reflect the fact that principles of perfectionist justice calculate the idea of fair shares in a fashion "...entirely dependant on our judgements about the good life."⁴⁵ Accordingly the first moral power is reformulated to reference a form of flourishing related to the second moral power.

Second, due to the importance of personal autonomy, the required intellectual powers will differ because of the greater focus placed on the pursuit of an authentically selected conception of the good. Due to the rejection of the priority of the right over the good, the required powers of judgement, thought and inference may possess a more controversial character in line with the move towards flourishing.

Third, the reference to reasonable conceptions of the good will be redundant. This is because whether a way of life actively fosters (or does not actively restrict) the account of flourishing will replace reasonableness as the test of acceptability for a conception of the good.

Fourth, the reasonable moral psychology required to be a normal and cooperating member of society will also be more demanding, given that self-authorship aims at more than just full cooperation.⁴⁶

⁴⁴ John Rawls, *Justice as Fairness: A Restatement* (Harvard: Belknap, 2001), 19.

⁴⁵ J. Quong, *Liberalism Without Perfection*, 122.

⁴⁶ To be more specific on this last point, the second form of principle-dependent desires outlined by Rawls: those that regulate how a plurality of agents are to conduct themselves in their relations with one another (J. Rawls, *Political Liberalism*, 83) will differ, moving away

In each of these four categories the more demanding view (entailed by perfectionism's promotion of a controversial form of flourishing) differs from those outlined by Rawls. This is due to the stark contrast between how the state conceives of the citizen under either doctrine. For the political liberal, the citizen is free and equal in their possession of the two moral powers. The result of this is that they are free to act as a fully cooperating member of society and pursue a reasonable conception of the good. They can do so while enjoying a just distribution of the primary goods, distributed by the basic structure according to the Rawlsian principles of justice. Under this scheme political liberals treat citizens as if they possess 'full autonomy.'⁴⁷ This is valuable for its role in allowing an individual to be a fully cooperating member of society. However autonomy is meant in a *political*, not *ethical* sense for members of a well-ordered society: "...full autonomy is realised by citizens when they act from principles of justice that specify the fair terms of cooperation they would give to themselves when fairly represented as free and equal persons."⁴⁸ Rawls explicitly contrasts this conception of autonomy with autonomy as an ethical value in the traditional Kantian or Millian sense of the word: "Justice as fairness emphasizes this contrast: it affirms political for all but leaves the weight of ethical autonomy to be decided by citizens severally in light of their comprehensive doctrines."⁴⁹

The liberal perfectionist state rejects this latter option, promoting ethical autonomy to a sufficient level to ensure citizens are capable of flourishing. This differing view of the person prevents the political liberal from promoting a substantive conception of autonomy in the same manner as a liberal perfectionist. Due to these contrasting conceptions of the person and accounts of autonomy, each doctrine requires a different set of capacities to be ensured for citizens. This in turn will entail differing distributions of resources.

from Rawls' focus on fairness and justice subject to a publicity constraint. Its content will not solely be drawn from the democratic ideal, public culture and shared historical traditions (Ibid., 85). The favoured conception of self-authorship will also play a role in working out what rules of agent conduct are acceptable, and where the former conflict with the latter, the liberal perfectionist is committed to prioritising their account of autonomy.

⁴⁷ Ibid., 77-81.

⁴⁸ Ibid., 77.

⁴⁹ Ibid., 78.

Taking liberal perfectionism first, each account will fill out the required competencies in a different fashion and debate amongst perfectionists is certainly worthwhile to this end. However given the substantive nature of each account of flourishing, any liberal perfectionist account of distributive justice is certain to generate a different set of competencies to a Rawlsian account. To illustrate this claim consider what is entailed by the accounts of Raz, Wall and Colburn:

On the Razian account of self-authorship a person's life goes well if they are successful in their pursuit of valuable goals in an autonomous fashion. Due to the social forms of western societies, citizens will fare badly in their lives if their choices are coerced, if they have no choices to make, or if they passively drift through life.⁵⁰ Citizens must possess "...minimum rationality, the ability to comprehend the means required to realise his goals, the mental faculties necessary to plan actions, etc."⁵¹ Alongside this, citizens should enjoy an adequate range of options.⁵² Our decisions should be independent, and thus the state will protect citizens from unjustified coercive and manipulative influences.⁵³ Finally citizens are subject to a range of autonomy-based duties towards one another,⁵⁴ which help to create and sustain an adequate range of options and foster a range of inner capacities required for the conduct of an autonomous life.⁵⁵ Of the latter Raz suggests the following: basic cognitive capacities, emotional and imaginative make-up, health and physical abilities and skills, and the character traits necessary for living a life of autonomy (stability, loyalty and the ability to form personal attachments and maintain intimate relationships).⁵⁶

Steven Wall suggests four basic elements required to promote self-authorship. The first is the general capacities necessary for pursuing commitments, relationships and goals. These consist of the capacity to conceive of alternative projects, to form complex intentions, to plan ahead, and to evaluate the likelihood of success in different courses of action. Further the citizen should be psychologically healthy and various virtues may be fostered (including mental resolve and the strength of character to

⁵⁰ J. Raz, *The Morality of Freedom*, 371.

⁵¹ *Ibid.*, 373

⁵² *Ibid.*, 373-6.

⁵³ *Ibid.*, 377-8.

⁵⁴ *Ibid.*, 407-9.

⁵⁵ *Ibid.*, 408.

⁵⁶ *Ibid.*, 408.

commit to decisions).⁵⁷ The second element is independence from others. This entails freedom from coercion and manipulation, alongside a virtue that Wall names independent mindedness.⁵⁸ The third element is the self-consciousness and vigour to take control of our own affairs. For this we must satisfy two basic awareness conditions. For vigour Wall argues that the absence of certain afflictions will suffice. These include “...world-weariness, emotional distress, depression, laziness and perhaps a growing sense of the meaninglessness of the world and one’s place in it.”⁵⁹ The fourth element is an option requirement that, like Raz, can be satisfied to varying degrees.⁶⁰

Finally Ben Colburn’s suggested conditions for autonomy differ somewhat from those suggested by Raz and Wall.⁶¹ Colburn divides his suggestions into *internal* and *external* conditions. For internal conditions Colburn offers a number of competency conditions including a requirement that citizens are well-informed and knowledgeable about their options and own strengths and weaknesses, that they should possess various cognitive skills, that they should have access to various sources of inspiration, and that they should have the ability to recognise and resist dangers to their independence. Colburn intends for these conditions (and others) to be provided by a comprehensive education system (both child and adult orientated), but acknowledges that this may require a controversial position of upbringing.⁶² Alongside this, his external conditions are a blend of independence, sufficient range of options and equality of opportunity conditions.⁶³

Political liberals, in comparison, may claim that capacities similar to those required for self-authorship could be met under an expansive reading of the primary social goods, under either: a) the basic rights and liberties, because such rights and liberties “...are essential institutional conditions required for the adequate development and full and informed exercise of the two moral powers...”⁶⁴, and the second moral power is the pursuit of our conception of the good; or b) the social bases of self-respect “...understood as those aspects of basic institutions normally essential if citizens are to have a lively

⁵⁷ Wall, *Liberalism, Perfectionism and Restraint*, 132-33.

⁵⁸ *Ibid.*, 133-8.

⁵⁹ *Ibid.*, 139.

⁶⁰ *Ibid.*, 143.

⁶¹ B. Colburn, *Autonomy and Liberalism*, 94-101.

⁶² *Ibid.*, 98.

⁶³ *Ibid.*, 98-101.

⁶⁴ J. Rawls, *Justice as Fairness: A Restatement*, 58.

sense of their worth as persons and to be able to advance their ends with self-confidence.”⁶⁵ A suitably thick account of self-respect or the right to exercise the second moral power may generate the required treatment of autonomy.

However the plausible justification of either substantive option is likely to reference flourishing rather than the more minimal thresholds required for reasonable cooperation. Thus, it is difficult to see how either could achieve the required outcome whilst remaining anti-perfectionist. The less-demanding nature of these thresholds is determined, in part, by the priority of the right over the good. Because of this political liberals are restricted in how they treat differences between citizens. Rawls intends that citizens who differ in their moral and intellectual capacities below a threshold required to be a fully cooperating member of society should be brought back up over the threshold by a combination of fair equality of opportunity and the difference principle.⁶⁶ Those variations that do exist under a just distribution are expected to be above the threshold and thus irrelevant to the principles of distributive justice because they do not prohibit the citizen from being a fully cooperating member of society. This is not the case for the liberal perfectionist, who ties the threshold for acceptable variations much higher and in a range of different capacities. This is because the thresholds are determined by a more substantive account of flourishing or self-authorship.

In a comparison between the conditions a citizen faces under these schemes, the contrast becomes clear. Consider Alice, an individual who has the choice to live in two possible worlds – one governed by Rawlsian principles and one governed by either of the three liberal perfectionist schemes outlined above. Regardless of which choice would be better for Alice, we must recognise that the choice that Alice faces is a *genuine* choice between different alternatives. The duties that she will be subject to as a fully cooperating member of a well-ordered society will differ to those under a Razian scheme. Many of the virtues and psychological conditions that Wall suggests will be beyond the scope of a Rawlsian scheme of distribution. Even Colburn’s information requirement (depending on its demandingness) may be too onerous for a political liberal state.

The possible perfectionist and anti-perfectionist worlds that Alice faces will necessarily distribute their resources in a different fashion. In the

⁶⁵ J. Quong, *Liberalism Without Perfection*, 59.

⁶⁶ See J. Rawls, *Political Liberalism*, 184.

perfectionist society, resources will be expended allowing citizens to flourish and pursue their authentic ends (compatible with the harm principle). In the anti-perfectionist society, resources will be expended allowing fully cooperating, free and equal citizens to employ their just share of primary goods as they wish. The reason these scenarios may appear similar is that both systems are liberal, protecting similar rights and so on. However differences do exist.

It is possible, for example, for Alice to pursue activities that will lead her to slip below the threshold required for self-authorship (and thus require compensation in a perfectionist society) but not below the threshold required for a fully cooperating member of society (and thus not require compensation in a political liberal society). Such activities may include recreational drug use and membership of groups that (although externally reasonable) have strictly enforced internal norms that preclude Alice from a number of important life choices. These choices, though minor, are the source of traditional disagreements between liberal perfectionists and political liberals.

Further, even if Alice finds herself above the threshold required for responsibility-sensitivity, inequalities between herself and other similarly situated citizens may exist on (autonomy-based) grounds that would be impermissible in a Rawlsian society. To see this consider Alice's neighbour Brian. Although Alice is sufficiently autonomous but relatively resource poor,⁶⁷ Brian is far wealthier in terms of resources but lacks the ability to authentically decided how to employ them in the pursuit of his own good. If the disparities grow large enough, we may see compensatory packages of resources flow in opposite directions under either doctrine to benefit either Alice (who is poor in terms of resources) or Brian (who is poor in terms of flourishing). At the societal level, perfectionists may be happier to allow increased inequality of opportunity or resources if doing so secured sufficient autonomy for a wider range of citizens.

The differences between the doctrines are particularly important when we consider the treatment of children. In his treatment of the demands of a liberal education and the educational opportunities children should face, Harry Brighouse distinguishes between an autonomy-facilitating and autonomy-promoting education. A facilitating education is designed to

⁶⁷ It is worth noting that sufficient autonomy requires that many of our basic needs are met to prevent them from undermining our decision-making ability (see J. Raz, *The Morality of Freedom*, 376).

provide the toolset for critical reflection without encouraging an autonomous way of life over others.⁶⁸ Although motivated by scepticism regarding autonomy's relationship to well-being rather than a desire for justificatory neutrality, Brighouse concludes through an instrumental argument (denying intrinsic value claims) that an autonomy-facilitating education scheme is all that is compatible with political liberalism.⁶⁹

Pressure can be pushed on the coherence of Brighouse's distinction between autonomy-facilitating and promoting educations.⁷⁰ Yet regardless of this, his claims illustrate that liberal perfectionism is committed to both controversial intrinsic value claims and the provision of an autonomy-promoting education.⁷¹ A political liberal educational policy is committed to educating students to be fully cooperating reasonable citizens, capable of understanding reasonable pluralism, being able to make use of their moral powers, and capable of treating others as free and equal. Further citizens should not be prevented from pursuing their reasonable ends (in line with Brighouse's autonomy-facilitating education, if proven to be coherent). This contrasts with an autonomy-promoting educational policy, which is committed to ensuring that children develop to be fully able to pursue a sufficiently wide range of valuable options. This requires they possess a wider range of rational faculties and a working knowledge of valuable ways of life, alongside a wider range of opportunities to employ these valuable aspects in order to flourish.⁷²

⁶⁸ Harry Brighouse, *School Choice and Social Justice* (Oxford: Oxford University Press, 2000), 80.

⁶⁹ *Ibid.*, 103-4.

⁷⁰ See for example Randall Curren et al., "Book Symposium: Harry Brighouse, *School Choice and Social Justice*," *Studies in Philosophy and Education* 20 (2001): 387-421. For a stronger challenge to the distinction between comprehensive and political education see Eamonn Callan, *Creating Citizens* (Oxford: Oxford University Press, 2004), especially chapters 1-3.

⁷¹ For more on autonomy and educational policy see Eamonn Callan, *Autonomy and Schooling* (Montréal: McGill-Queen's University Press, 1988), especially chapters 1-2; Donald Kerr, "Teaching Autonomy: The Obligations of Liberal Education in Plural Societies," *Studies in Philosophy and Education* 25 (2006): 425-456; Michael Hand, "Against Autonomy as an Educational Aim," *Oxford Review of Education* 32 (2006): 535-550; Aharon Aviram and Avi Assor, "In Defence of Personal Autonomy as a Fundamental Educational Aim in Liberal Democracies: a Response to Hand," *Oxford Review of Education* 36 (2010): 111-126.

⁷² Important differences will also exist in the scope of parental authority over a child's upbringing under either doctrine. For doubts that neutrality applies to children see H. Brighouse, *School Choice and Social Justice*, 103. For a strict interpretation of justificatory neutrality applied to childhood see Matthew Clayton, *Justice and Legitimacy in Upbringing* (Oxford: Oxford University Press, 2006), especially chapter 3.

The different treatments of both adults and children are clear to see. The above differences in the allocation of resources are a result of the different currencies and related thresholds. The potential Rawlsian response suffers from the fact that the only readings of the primary goods that may capture some of these conditions will be too substantive to be publically justifiable. Further the Rawlsian scheme is only committed to ensuring that individuals are able to pursue reasonable conceptions of the good life with full autonomy in the political, but not ethical sense. Restricted from ensuring citizens can fully flourish autonomously, the political liberal must cede ground to the perfectionist that their principles can evade the first horn of Quong's dilemma. Can it respond to the second as well?

VI

Escaping the Dilemma: The Second Horn

In the previous section I suggested a number of avenues available to liberal perfectionists who want to differentiate their distributive principles from those suggested by political liberals. Achieving this whilst still escaping the latter half of Quong's challenge (that liberal perfectionist principles may be implausible on personal responsibility grounds) remains a challenge. The reason for this is that a responsibility-sensitive account of liberal perfectionism may appear to contain an inherent tension. Critics could argue that to hold someone personally responsible for their choices should be thought to entail substantive responsibility to the extent of holding the individual liable for the full range of costs attached to their decisions. This is clearly at odds with a position that is committed to promoting some ways of life over others, as the state's action to subsidise the costs of certain options may be seen to prevent the individual from being held "fully" responsible for their choice. If we consider responsibility-sensitivity in this fashion, then liberal perfectionism cannot be responsibility-sensitive because holding people responsible will be at odds with the perfectionist aim of promoting certain ways of life.

A strength of the threshold view is that it effectively includes a commitment to choice-based responsibility-sensitivity as a fundamental condition of self-authorship. However even the threshold view faces a form of the responsibility challenge. Are we really holding people responsible for their choices if we provide them with a safety net below the threshold? As

noted above, Colburn argues that we are. The state only intervenes once an individual falls below a threshold and they no longer enjoy the status of an autonomous (and thus responsible) agent. Influencing their life choices appears justifiable on these grounds.

However what of those above the threshold? What of those who possess the relevant capacities to be considered autonomous? Is it incoherent to incentivise certain ways of life and thus affect those who should be considered capable of bearing the costs of their choices? In such circumstances the tension appears to bite. However it is not clear that this tension is so problematic as to prevent liberal perfectionists from escaping the dilemma.

One reason for this is that not all distinctive perfectionist interventions are designed to promote some valid ways of life over others, and thus potentially restrict the substantive responsibility of citizens. Interventions intended to ensure the independence of citizens ensure that individuals can be held responsible for their choices, because the fulfilment of these conditions ensures that citizens' decisions are indeed authentic. For example, by restricting manipulative advertising, the perfectionist state does not reduce the costs born by the citizen for their decisions. The state is ensuring that citizens are making decisions true to themselves and thus worthy of generating responsibility-sensitive obligations. Therefore we can conceive of a sub-section of perfectionist interventions that evade the responsibility challenge.

Yet regardless of how important these activities are to liberal perfectionism, they are not the main class of state actions that we commonly associate with the tradition. More controversial are those activities that promote certain ways of life over others under the auspices of ensuring an adequate range of options. Given the perfectionist nature of promoting self-authorship, liberal perfectionists cannot be fair to all reasonable conceptions of the good, favouring non over each other within that privileged group.⁷³ Nor would perfectionists desire to be. Every perfectionist state will intervene to promote some ways of life over others.⁷⁴ Perfectionist state action will favour those ways of life that coincide with the values and related

⁷³ Indeed Rawls doubts whether political liberalism's intention to be fair in this fashion is possible when it comes to considering the requirements of upbringing (J. Rawls, *Political Liberalism*, 200).

⁷⁴ Consider Raz's reformulation of the Harm Principle (J. Raz, *The Morality of Freedom*, chapter 15).

conceptions of the good required to flourish. Can these activities avoid the responsibility challenge?

The answer to this question depends on clarifying the nature of the challenge. Clearly the liberal perfectionist state cannot (even on a threshold view) allow individuals to bear the *full* costs of their decisions. The state's intention to incentivise some valuable ways of life over others is incompatible with citizens' liability to the full range of costs. However it would be undesirable for any state to hold people responsible to this degree for independent reasons (e.g. such a view will provide little welfare provision at all). This takes luckism too far.

Thus what must be further clarified is the extent to which holding people responsible for their decisions is plausible. The challenge relies on this thought for its grounding, and Quong is right to point out that liberal perfectionism and political liberalism will treat responsibility differently. But if neither doctrine's treatment is implausible or incoherent, then decisions between either treatment may be difficult. I suggest that a complete answer to this question will depend on the success of related claims (e.g. explaining how the view under consideration affects the opportunity costs of various decisions). Following Raz, liberal perfectionists are committed to avoiding coercive and manipulative methods of promoting autonomy and well-being. But even through the use of incentive schemes, the liberal perfectionist state is often criticised as paternalistic or manipulative. The most affective response to these charges will be to explain how an autonomy-promoting state will alter how people decide, and thus the responsibility they bear for their decisions.

On Colburn's view, by recognising a commitment to responsible voluntary choice at the foundational level, both the method (non-coercive/manipulative) and the scope (below the threshold) of autonomy promotion is determined by the theory's commitments. So long as the opportunity costs attached to the decisions made by those who find themselves above the threshold are not significantly restricted, then the conclusion reached appears a valid response to this horn of the dilemma. Coburn's view doesn't require us to drastically alter these costs. His focus is on those below the threshold. The only decisions of those above the threshold that may be affected by state policy are those that run contrary to flourishing in line with self-authorship (e.g. setting up an autonomy denying faith school). If the responsibility challenge is aimed at this claim then it cannot do the work that Quong requires it to because the challenge is

incomplete. For the responsibility challenge to play its proper role it must be supported by a claim doubting the plausibility of tying the costs born of personal decisions to an account of flourishing. If the perfectionist's treatment of responsibility is less plausible than the political liberal it must be because it is tied to an account of self-authorship, and it is something about this connection that makes it a less plausible treatment of responsibility than non-perfectionist accounts. Thus the success of the challenge requires further argument to show that flourishing is a poor currency of distribution. But Quong employs the argument in a shortcut to avoid engaging with exactly this much larger question. Though the treatment of responsibility is likely be a valid consideration for that larger puzzle, the second horn of Quong's dilemma cannot effectively challenge the perfectionist without further clarification and support.

Therefore, though the second horn is compelling in its ability to highlight a potential tension within liberal perfectionism (to what extent can the autonomy-promoting state hold individual's responsible for their decisions), a threshold view like Colburn's appears to provide a credible answer. If citizens voluntarily (and in full possession of the facts and necessary competencies) decide to pursue an act that is likely to diminish their future autonomy the state must provide a safety net for these citizens. Thus the position holds citizens above the threshold substantively responsible by respecting the sovereignty of their decisions. Even if state incentives are shown to restrict a person's ability to take responsibility for their choices, threshold views naturally build in a suitable restriction on what forms of perfectionism can be implemented above the threshold. Yet it is unclear whether such state activity really does reduce responsibility in this fashion. Thus the sufficiency view appears to provide a way through the dilemma by incorporating responsibility and voluntarism at the foundational level of their view. To show that it does not would require further argument from political liberals.

VII

Conclusion

In this article I have developed Quong's challenge against liberal perfectionism into a dilemma and shown how, by adopting the sufficientarian approach to promoting self-authorship suggested by Colburn,

the tradition can prove itself distinctive from non-perfectionist accounts of distributive justice whilst still maintaining a coherent position on personal responsibility. The difficulties encountered reflect the fact that the dilemma is a real one for perfectionists. To the extent that I have answered it, I hope my arguments provide insight to a plausible response based on an understanding of perfectionist arguments regarding autonomy and responsibility. However, my arguments are in part only meant to sketch out a position on the under discussed issue of liberal perfectionism and distributive justice. Much more remains to be said on the relationship between autonomy, flourishing and distribution, and in particular on the link between substantive accounts of autonomy and substantive responsibility. To that end I invite discussion and debate on these topics.

If the argument suggested here is found to be plausible it raises a problem for Quong's critique of liberal perfectionism. Quong originally suggested the challenge as a route to rejecting liberal perfectionist distributive principles that is simpler than denying that flourishing is the correct currency of distributive justice.⁷⁵ If my arguments are successful then political liberals will need to work harder to explain why their view is preferable to liberal perfectionism, and the task Quong originally avoided appears to be the best method of doing so.⁷⁶

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⁷⁵ J. Quong, *Liberalism Without Perfection*, 122.

⁷⁶ My thanks to Jonathan Quong, Liam Shields and two anonymous referees for their thorough comments on an earlier draft of this argument. Thanks also to the audiences at Brave New World 2012 and the Autonomy workshop at the MANCEPT Workshops in Political Theory 2012.

SYMPOSIUM
POLITICAL LIBERALISM VS. LIBERAL PERFECTIONISM



POLITICAL LIBERALISM, THE INTERNAL
CONCEPTION, AND THE PROBLEM OF
PUBLIC DOGMA

THOMAS M. BESCH

Political Liberalism, The Internal Conception, and The Problem of Public Dogma

Thomas M. Besch

According to the “internal” conception (Quong), political liberalism aims to be publicly justifiable only to people who are reasonable in a sense specified and advocated by political liberalism itself. One advantage of the internal conception allegedly is that it enables liberalism to avoid perfectionism. The paper takes issue with this view. It argues that once the internal conception is duly pitched at its fundamental, metatheoretical level and placed in its proper discursive context, it emerges that it comes at the cost of public dogma. The paper examines this problem and argues that a plausible response to this problem is to go beyond the internal conception and adopt a more inclusive, *dynamic* conception. But this calls for a form of perfectionism. Thus, the internal conception of political liberalism, far from showing how liberalism can be had without perfectionism, effectively *calls for* perfectionism as a remedy for its problems.

I

On the “internal” conception, as Quong calls it in his *Liberalism Without Perfection*,¹ political liberalism aims to publicly justify itself only to people who are reasonable in a sense specified and advocated by political liberalism itself. This contrasts with an “external” conception, where the constituency, or, as I shall also say, the scope, of public justification is determined on “external” grounds that do *not* depend on any of the liberal theories that stand in need of public justification, such as Rawls’s *Justice as Fairness* (JF).² A

¹ Jonathan Quong, *Liberalism Without Perfection* (Oxford: Oxford University Press, 2011), 5ff.

² John Rawls, *Political Liberalism* (New York: Columbia University Press, 1993); *Justice as Fairness: A Restatement*, Erin Kelly, ed., (Cambridge, MA: Harvard University Press, 2001);

key advantage of the internal conception, Quong claims, is that it helps to rebut the asymmetry objection.³ One way to put this familiar challenge is this. It is a key objective of political liberalism to establish itself in a way that avoids reasonable disagreement within the scope of public justification—to ensure that it is equally acceptable by all included in that scope. Political liberalism takes it that this rules out premising justice on comprehensive doctrines and conceptions of the good, including especially perfectionism; yet political liberalism takes it, too, that it does not rule out a political and liberal view of justice, e.g., JF. But, this challenge has it, there is no asymmetry here: if there is reasonable disagreement at all, there is such disagreement also about political liberalism. The internal conception rebuts this by claiming that political liberalism aims to be publicly justifiable only to people who pass certain “threshold tests of reasonableness” (Macedo),⁴ while people who pass these tests do not reject political liberalism’s core commitments. Thus, the internality of political liberalism helps to fend off non-political and non-liberal critics, and especially perfectionists, while reconciling political liberalism with its own commitments to public justification and the avoidance of reasonable disagreement.

There is good reason to believe that political liberalism rebuts objections of this kind along such lines—as ably explained by Quong, and as I argued elsewhere myself⁵—but it comes at a high price if it turns on substantive threshold tests of reasonableness. How high that price is depends, amongst other things, on how much content goes into the idea of the reasonable used here. Like others, I believe the price is *too high*—so high, in fact, that the internal conception, far from showing how liberalism can avoid perfectionism, *calls for* perfectionism as a remedy for its problems. With this I refer to perfectionism in its justificatory sense. Perfectionism is often understood as a rejection of neutralism. Substantive perfectionism rejects neutrality of ends or aims. It holds that the state may fund or otherwise support some view of the good at the expense of other such views even if the favored view is reasonably contested and there is no public justification

“Reply to Habermas”, *The Journal of Philosophy*, 92/3 (1995); “The Idea of Public Reason Revisited”, in *University of Chicago Law Review* 64 (1997).

³ Quong, *Liberalism Without Perfection*, 6, 192ff.

⁴ Stephen Macedo, *Liberal Virtues* (Oxford: Clarendon Press, 1991), 47, 71.

⁵ See Thomas M. Besch, *Über John Rawls’ politischen Liberalismus* (Frankfurt: Peter Lang, 1998). Also other political liberals, such as Macedo and Larmore, secure political liberalism against objections of this type by employing special threshold tests of reasonableness. See Besch, *On Practical Constructivism and Reasonableness* (PhD diss., University of Oxford, 2004), 13-60.

for it, or favoring it. Justificatory perfectionism rejects justificatory neutralism (or neutralist public justification), and so does not translate directly into any token variety of substantive perfectionism. It holds that the justification of moral-political principles may invoke some view of the good even if the favored view is reasonably contested and there is no public justification for it, or favoring it. Needless to add, all forms of perfectionism can raise strong validity-claims and take the favored view of the good to be impersonal or agent-neutral, or true, or correct, or authoritative. What I want to suggest here, then, is that while an internal conception of political liberalism is interpretatively adequate, the status of public justification in political liberalism and the content of the idea of reasonableness that public justification builds on lead to a problem of public dogma that calls for justificatory perfectionism.

Before I can outline my argument, I need to distinguish between two roles of public justification in political liberalism. Only one of them matters here. In general, public justification is a constructivist, intersubjective, acceptability-based form of justification. To say that *S* is publicly justifiable to reasonable people is to say that *S* is equally acceptable by them—or, as Rawls also puts it, that they can recognize *S* mutually, or reciprocally, as authoritative. In its most prominent role, this idea is part of Rawls’s model of a well-ordered society—which itself is part of the “second stage” of JF. A well-ordered society is a society of reasonable people that is governed by a reasonable theory of political justice that is “a *mutually recognized* point of view from which citizens can adjudicate their claims of political right on their political institutions or against one another”.⁶ It is a society, moreover, in which the reasonable endorse comprehensive doctrines that are consistent with the demands of reasonableness and the priority of the point of view just referred to.⁷ Within this model, public justification *supposes*, and *is enabled by*, a theory of political justice that is mutually recognized, and that thus is a “public basis of justification”.⁸ And as the reasonable addressees of public justification already accept the principles advanced by such a theory, the job left to public justification is to apply them to matters of basic justice. In the order of justification, it hence is a lower-order, principle-applying exercise that supposes that these principles are shared as authoritative.

⁶ Rawls, *Justice as Fairness*, 9. Emphasis added.

⁷ Rawls, *Justice as Fairness*, 32ff; *Political Liberalism*, 133-68.

⁸ Rawls, *Political Liberalism*, 100f; *ibid.* 143f, 192.

This marks the standard view of the role of public justification, and it best fits to Quong's internal conception. In his view, political liberalism aspires to be publicly justified internally in the sense that it aspires to be equally acceptable by the reasonable citizens of a well-ordered society only, given the conditions characterizing such a society.⁹ However, I submit, this is not the most fundamental way in which political liberalism seeks internal justification. That JF would be widely acceptable in a well-ordered society of the sort prescribed by JF presumably matters only if there are reasons *here and now* to adopt a theory like JF. For if there are no such reasons, the fact that JF is self-selective means little. But why adopt a theory like JF? It is in answering *this* question that public justification has a second role to play. In this role, the standard of equal acceptability by reasonable people marks a constraint a theory of justice must meet to *become* a public basis of justification. And in this role it marks a key reason why Rawls advances JF as a *political* liberalism in the first place (for now, let us take a *political* liberalism to be a theory of justice that meets special constraints regarding its standards of justification, domain of application, content, and so forth).

Consider Rawls's argument from overlapping consensus. For Rawls, political legitimacy is possible only if political power follows moral-political principles that are justifiable by a theory of justice that is a public basis of justification.¹⁰ But to be *public*, such a theory must be the subject of an overlapping consensus between the reasonable comprehensive doctrines that reasonable people accept. This applies, too, *here and now*, to actual liberal regimes that are not well-ordered. Now, Rawls believes that the various traditions of normative theorizing about justice before political liberalism failed to secure such a consensus. Thus, he argues, we *here and now* need a different way of theorizing about justice, namely, one that applies a principle of toleration, or respect for reasonable disagreement, to philosophy¹¹ to thereby secure an overlapping consensus. This leads to the project of a political liberalism. For Rawls, no non-political liberalism can duly respect reasonable disagreement and secure an overlapping consensus. But why does such a consensus matter? It matters that a theory of justice, *T*, is compatible with the doctrines of reasonable people because its *incompatibility* with any such doctrines would entail that it is not equally acceptable by the reasonable people endorsing them. That is, to ensure that

⁹ Quong, *Liberalism Without Perfection*, chapters 5 and 6.

¹⁰ This reflects Rawls's liberal principle of legitimacy; see Rawls, *Political Liberalism*, 217, 143f, 192.

¹¹ *Ibid.*, 9f.

T is the subject of a reasonable overlapping consensus is to ensure *T*'s equal acceptability by the reasonable. But this just is what constitutes *T*'s *public justifiability*. To be a public basis of justification, then, *T* must be equally acceptable by, or publicly justifiable to, the reasonable (and, Rawls argues, this requires *T* to be a political liberalism).¹² In this role, the standard of equal acceptability by the reasonable is a condition theories of political justice must meet to *acquire* the credentials needed to qualify as a public basis of justification.¹³ It thus has *metatheoretical* rank: it (supposedly) orients us away from the tradition of political thought toward the project of a political liberalism. And once we adopt this project, the next step is to select one member within the set of possible political liberalisms. Accordingly, Rawls tries to work out JF as a member of that set that stands out as attractive. The standard in question thereby operates as a standard of theory acceptance and theory construction. Theories that fail that standard are dismissed as unsuitable for the purposes of political legitimacy, while JF is from the start designed to avoid that fate.

It is in this second, fundamental role that I will address the idea of public justification and the idea of reasonableness at its core. I shall argue that once we pitch the theme of a public justification of political liberalism at its metatheoretical level and place it in its proper context, much content must be built into the idea of reasonableness at its core for political liberalism to achieve “internal” justification. But this comes at the cost of public dogma. A plausible response to this problem is to go beyond the internal conception to a more inclusive, *dynamic* conception. This, in turn, calls for a form of perfectionism. Sections 2 and 3 outline political liberalism’s metatheoretical views. Section 2 identifies the content of the idea of the reasonable supposed metatheoretically; section 3 relates this to the idea of reflective equilibrium and the Original Position. Sections 4 and 5 engage the problem of public dogma. Section 4 rejects two lines of thought in political liberalism that might be put forth in response to this problem. Section 5 shows how

¹² For accounts of the argument from overlapping consensus: see Besch, *Über John Rawls’ politischen Liberalismus*, 31-67, and *On Practical Constructivism and Reasonableness*, 22-26, 35-40. See also Stephen Mulhall, Adam Swift, *Liberals and Communitarians* (2nd ed.) (Oxford: Blackwell Publishing, 1999), 175–184.

¹³ In this second role, public justification is part of the *pro tanto* justification of political liberalism as a “freestanding” view. See Rawls, “Reply to Habermas”, 144ff, and *Political Liberalism*, chapter III. Public justification here instantiates restricted trans-individual reasoning: see Gerald F. Postema, “Public Practical Reason: An Archaeology”, in: *Social Philosophy and Policy* 12 (1995), 64ff, and Besch, *On Practical Constructivism and Reasonableness*, 39-43.

Larmore's contextualism allows political liberalism to evade the charge of public dogma, but at a high cost. Section 6 finally suggests that a plausible remedy for the problem of public dogma consists in a justification of the content of reasonableness, and argues that this justification must be perfectionist in form (this argument holds even if we suppose that public justification builds, or should build, on a thinner idea of reasonableness, and so is relevant beyond a discussion of political liberalism).

II

Let me start by considering what, for Rawls, a theory of political justice must be like to provide a basis for political legitimacy. To do so, he argues, it must be equally acceptable by the reasonable. And to achieve this, it must meet several requirements:

RR: *T* must in its entirety be consistent with what it takes to respect reasonable people as free and equal persons (the respect requirement).

TR: *T* must in its entirety respect reasonable disagreement, and so should avoid such disagreement at all levels of argument (the toleration requirement).

CR: *T* must take equal acceptability by reasonable people to be something that genuinely justifies (the constructivism requirement).

There also are requirements of limited scope, political values and of liberal content:

LS: *T* may apply to the domain of the political only.

PV: *T* must contain political values only, i.e., ideas, values, and principles that meet LS and are part of the political tradition of a Western democratic regime.

LC: *T* must prescribe that citizens be allocated basic liberties, rights and opportunities of special priority, and all-purpose means to make use of these things.

These are some of the features of a "political" and liberal theory of political justice that matter now. One way to render Rawls's argument is this. Reasonable people cannot equally accept a theory of justice unless it complies with what it takes to respect reasonable people. But to duly respect

each reasonable person, it must treat equal acceptability by them as a genuine justifier and avoid the reasonable disagreements that exist between them. Now, a theory of justice that meets these constraints can be liberal in content if it is limited in scope of application and contains political values only. At the core of this, then, is an idea of respect that gives rise to a constructivist view of justification and a commitment to avoiding reasonable disagreement. Political liberalism's commitment to liberal content, political values and its limited applicative scope flow from this.

All this depends on how reasonableness is understood. This idea is here *politically basic*: it marks the fundamental standpoint that political liberalism appeals to, and that guides its search for a theory of justice that suits the purposes of political legitimacy. And to meaningfully guide this search, the content of this idea must be at hand as authoritative prior to the adoption of any of the theories that are being assessed in terms of their acceptability by the reasonable—including JF. Now, what content this idea has is contested. Sympathizers tend to argue that it is thin in content and so can be inclusive in scope of application and appeal. Critics often insist that it is thick in content and so is exclusive in scope of application and appeal. Elsewhere, I argue that it is thick, or substantive, and so I side with the critics.¹⁴ Here is why there is reason to see it as substantive.

There is content that Rawls explicitly builds into this idea, and there is further, implicit content that must be part of this idea if political liberalism is not to be self-defeating. As to explicit content, reasonable people maintain a sense of justice and a conception of the good; they are committed to being able to justify their actions and institutions on grounds they and others like them cannot reject, and to follow terms of cooperation that are as acceptable to them as they are to other reasonable people: they recognize the burdens of judgment, respect reasonable disagreement and take this to require that such disagreement be avoided in the justification of moral-political principles; they believe that society should be a fair system of cooperation. The list continues. More important is content of the second, implicit type. Much of what Rawls says builds on the idea that reasonable disagreement rules out equal acceptability by the reasonable: if S is the subject of reasonable disagreement, then S is not equally acceptable by reasonable people. This applies, as well, to the argument from public justification to political liberalism. Now, there is disagreement about the

¹⁴ See Besch, *Über John Rawls' politischen Liberalismus*, 69ff and *On Practical Constructivism and Reasonableness*, section I.14.

ideas reflected in RR–LC. E.g., perfectionists dispute that a theory of political justice must meet CR and TR, comprehensive liberals dispute LS and PV, and anti-liberals reject LC. This disagreement either is reasonable—i.e., disagreement that can arise between reasonable people without impugning their reasonableness—or it is not. If it is, political liberalism will not qualify as equally acceptable by reasonable people. Hence, it would fail its own standard of public justifiability, and so be self-defeating. But Rawls does not conclude this. He takes it that a theory of political justice, if it meets RR–LC, *is* publicly justifiable. But then he must construe such disagreement as *not reasonable*. And this amounts to building a commitment to the ideas reflected in RR–LC into the idea of reasonableness that public justification builds on. Hence, this idea of reasonableness is substantive—it is a thick value concept.

Not least, reasonableness must also be *reflexively stable*. That is, building a commitment to RR–LC into the idea of the reasonable that political liberalism sees as politically basic may not be the subject of reasonable disagreement. Thus, it needs to be supposed that the reasonable accept (i) that equal acceptability by people *who are reasonable in this sense* justifies, and (ii) that *only* such people need to be included on equal footing in the scope of public justification, or the “legitimation pool”.¹⁵ In this sense, reasonableness must be “insular”.¹⁶ (For simplicity’s sake, I shall below refer to this idea of the reasonable as the idea of reasonableness*.)

III

To set the stage for a discussion of the issue of public dogma, to which I shall turn shortly, let me relate the above to the idea of reflective equilibrium and the Original Position. This will indicate how an internal view of political liberalism of the sort suggested here coheres with more general things Rawls says about the acceptability conditions of theories of justice and with JF’s internal justificatory work.¹⁷

¹⁵ See Marilyn Friedman, “John Rawls and the Political Coercion of Unreasonable People” in Victoria Davion, Clark Wolf (eds.), *The Idea of a Political Liberalism* (Oxford: Rowman & Littlefield, 2000), 23.

¹⁶ David Estlund, *Democratic Authority* (Princeton: Princeton University Press, 2008), 55f.

¹⁷ I provide a more detailed account of the issues discussed below in my *Über John Rawls’ politischen Liberalismus*, chapter IV.

Take reflective equilibrium first. It evidently (and prominently) plays a metatheoretical role: JF is from the outset designed to achieve reflective equilibrium. For Rawls, any theory of justice “to be acceptable, must accord with our considered convictions, at all levels of generality, on due reflection, or in what I have called elsewhere “reflective equilibrium.””¹⁸ A theory, *T*, is in reflective equilibrium with a set of views, *S*, only if the members of *S* are well-considered, *S* is internally coherent, and *T* coheres with *S*.¹⁹ How does the criterion of reflective equilibrium (CRE) relate to public justification and the role of the reasonable*? Much here depends on the *standpoint* from which reflective equilibrium is to be sought. Rawls singles out the standpoint of “you and me”²⁰ as the one from which any theory of justice must be assessed. The test of reflective equilibrium accordingly tests how well a theory

as a whole articulates our more firm considered convictions of political justice, at all levels of generality, after due examination, once all adjustments and revisions that seem compelling have been made. A conception of justice that meets this criterion is the conception of justice that, so far as we can now ascertain, is the most reasonable for us.²¹

Now, this oscillates between a reading that undermines political liberalism and a reading that supports it. If “you and me” and “us” refer to truly everyone affected by political liberalism’s principles, including anti-constructivists and anti-liberals, we should conclude that political liberalism will *not* achieve reflective equilibrium with the considered convictions of *each* of “us”. The internal conception of political liberalism would hence *collapse*. But if “you and me” and “us” refer to reasonable* people only, a political liberalism, and perhaps JF, *can* be a reasonable* theory for “us” (and trivially so). Thus, charity asks us to read the above passage as *supposing* reasonableness*. It is from the standpoint of the reasonable*, and so from the point of view of their commitments, that reflective equilibrium is to be sought.

¹⁸ Rawls, *Political Liberalism*, 8.

¹⁹ See Rawls, *Political Liberalism*, 8, 28, 45; *Justice as Fairness*, 30ff; *A Theory of Justice*, 20f, 48-51; Norman Daniels, “Wide Reflective Equilibrium and Theory Acceptance in Ethics”, in *The Journal of Philosophy* 76 (1979); “Reflective Equilibrium and Archimedean Points”, in *Canadian Journal of Philosophy* 10 (1980); “On Some Methods of Ethics and Linguistics”, in *Philosophical Studies* 37 (1980); Joseph Raz, “The Claims of Reflective Equilibrium”, in *Inquiry* 25 (1982); and James Griffin, “How We Do Ethics Now”, in *Royal Institute of Philosophy Supplement* 35 (1993).

²⁰ For this and the quotation below: see Rawls, *Political Liberalism*, 28.

²¹ *Ibidem*.

This suggests we see CRE and public justification as integrated components of Rawls's metatheoretical stand. It is plain why CRE cannot stand alone. The reasonable* can differ in their considered convictions, and so a theory that is in reflective equilibrium for some might not be so for others. In other terms, while meeting CRE might be part of what constitutes *personal* justification—my being justified in accepting *T* might depend, too, on whether *T* coheres with my considered convictions—it does not entail *interpersonal*, public justification. The standard of public justification still reserves a key role for CRE. The view that *T*, to be publicly justifiable, must be equally acceptable by reasonable* people leaves open *in what way* *T* must be acceptable by each reasonable* person for this to count toward the justification of *T*. To have a meaningful degree of determinacy, public justification must build on a view of the conditions of authoritative acceptance. And it seems to be CRE's role to go some way toward providing that. For Rawls, a theory of justice, to be publicly justifiable, must be acceptable by each reasonable* person in a way that meets CRE: reflective equilibrium is a condition of public justification. Accordingly, he takes it that achieving public justification entails achieving reflective equilibrium.²²

Turning now to the Original Position (OP), it introduces two additional ideas of the reasonable. OP is designed to model how reasonable and rational people deliberate on matters of basic justice. JF argues that such deliberators are bound to select a set of substantive principles and values which are then used to specify, amongst other things, an ideal of the good citizen—construed a reasonable and rational person (as supposed by OP) who embraces reasonable principles and values (as arrived at through OP).²³ The first additional idea of the reasonable is the one supposed by OP. It reflects the Kantian idea of a person, seen as a free and equal agent capable and willing to prudently advance her good within the bounds of impartiality. The second additional idea of the reasonable marks an ideal of the good citizen as specified by applying the Kantian idea of the person and the principles and values arrived at in OP. The citizens of JF's well-ordered society are reasonable people in this second, rich sense.

How do these two ideas relate to reasonableness*? I submit they are complementary parts of a reconstruction of the self-conception of reasonable* people. This reconstruction can lead the reasonable* to revise their pre-theoretical views of the implications of reasonableness*. But if they

²² See *Justice as Fairness*, 29 and 31; Rawls, "Reply to Habermas", 141, n. 16.

²³ Rawls, *Political Liberalism*, 11f, 16ff, 22-28, 66-82, 94, 97f.

do not believe that JF captures their self-conception well, it is JF that must be revised if this is what, upon reflection, their self-conception calls for. We saw earlier that Rawls is committed to the view that reflective equilibrium is to be sought from the standpoint of the reasonable*, and thus from the point of view of the commitments of reasonableness*. For Rawls, a theory of justice is acceptable only if it coheres with “our” considered convictions—where “our” refers to the reasonable*. If JF mismatches these convictions, “we” decide from “our” point of view whether to revise them or JF. Thus, if the argument from OP has implications that mismatch the self-conception of the reasonable*, then the reasonable* decide *from the standpoint of their self-conception* whether to revise JF or that self-conception. Revisions here can go both ways, but only if this is consistent with that standpoint and its defining commitments.

If this is so, JF is not a critical, Kantian approach that offers OP as a vantage point from which to critically judge the self-conception of the reasonable*, as some suggested.²⁴ Rather, JF is a reconstructive approach that offers OP to help the reasonable* clarify their self-conception—while any suggested revision of that self-conception is assessed from the standpoint of that self-conception. It is hence tempting to think of the reasonable* here as Aristotelian *phronimoi*. They are entrusted with the expertise to judge when JF is to be revised, and it is their expertise that JF is tasked to reconstruct and to which it must measure up. In this light, Rawls’s metatheoretical stand appears more Aristotelian than Kantian, while his overall approach starts to look like a form of “Aristotelian constructivism”.²⁵

IV

Recall that Rawls’s metatheoretical stand does not suppose a well-ordered society—a society of reasonable people that is effectively governed by a mutually recognized reasonable political and liberal theory of justice. Within

²⁴ See Gerald Doppelt, “Is Rawls’ Kantian Liberalism Coherent and Defensible?” in *Ethics* 99 (1989), and “Rawls’ Kantian Ideal and the Viability of Modern Liberalism” in *Inquiry* 31 (1988). For a discussion of this Kantian reading: see my *Über John Rawls’ politischen Liberalismus*, chapter V.1.

²⁵ See Mark LeBar, “Aristotelian Constructivism”, in *Social Philosophy and Policy* Vol. 25 (2008), especially 192ff. That Rawls’s metatheoretical stand looks Aristotelian (rather than Kantian) once we consider the role and content of reasonableness* and the limits of reflective equilibrium has rarely been seen.

this framework, it might be unproblematic to take it that JF is a basis for political legitimacy if it is equally acceptable by the reasonable*. Things are different in actual contexts, where political liberalism's commitments are contested. But, I suggested, it is to such contexts that Rawls's metatheoretical stand applies. It is here and now that reasonableness* is seen as politically basic and that JF is said to provide a basis for political legitimacy if it is equally acceptable by the reasonable*. But here it *is* problematic to posit reasonableness* as basic and to restrict the scope of public justification accordingly. Intuitively, reasonableness* cannot be treated thus since it is in need of justification, while this justification must be more inclusive in scope than political liberalism allows. Once we place Rawls's metatheoretical stand in its proper context, political liberalism, it seems, turns into public dogma—or, in Campos's terms, a “secular fundamentalism”.²⁶

Political liberalism stands or falls with the problem of public dogma. That it faces this problem has often been noted. Concerns about its justificatory limitations are present from the early stages of Rawls's political turn.²⁷ And yet, political liberalism does not respond to this problem in either of two self-suggesting ways—the first asks for a revision of the project of a political liberalism, the second suspends it. Given that in actual social contexts, *Ca*, many people are unreasonable*, but granting that political liberalism is publicly justifiable to the reasonable*:

A. In *Ca*, a political liberalism *can* provide a basis for political legitimacy: to provide a basis for political legitimacy, a theory of justice (i) needs to be equally acceptable only by people who are right-minded in such matters, and (ii) it can be shown that only reasonable* people are right-minded in such matters.

B. In *Ca*, a political liberalism, despite its equal acceptability by the reasonable*, *cannot* provide a basis for political legitimacy: to provide such a basis in *Ca*, it would have to be equally acceptable by other people, too, but it is not so acceptable.

²⁶ Paul F. Campos, “Secular Fundamentalism,” in *The Columbia Law Review* 94/6 (1994).

²⁷ E.g., see Campos's paper (previous footnote), and Jean Hampton's early criticism of Rawls's political turn, in her “Should Political Philosophy Be Done Without Metaphysics?”, *Ethics* 99 (1989), and Hampton, “The Moral Commitments of Liberalism” in David Copp, Hampton, John R. Roemer (eds.), *The Idea of Democracy* (Cambridge: Cambridge University Press, 1993).

Political liberalism rejects B, seems to endorse A.i, but does not commit to A.ii. To provide the sort of justification A.ii calls for, political liberalism, I take it, must increase in depth and scope: it needs to provide a justification of the content of the reasonable* (depth) that addresses on equal footing at least some unreasonable* people (scope). We have in effect seen in the last section that CRE and arguments from OP cannot provide this as they already suppose the authority of reasonableness* and an accordingly limited scope of public justification. But how else does political liberalism deal with the problem of public dogma? In this and the next section, I shall consider this matter, starting with two ways in which political liberalism suggests to address unreasonable* people.

Rawls concedes that the unreasonable* should be reasoned with, but suggests that this be done by arguing “from conjecture”. Arguments from conjecture are *ad hominem* arguments that pursue a unidirectional aim of convergence. We argue from conjecture if “we argue from what we believe, or conjecture, are other people’s basic doctrines, religious or secular, and try to show them that, despite what they might think, they can still endorse a reasonable political conception that can provide a basis for public reason.”²⁸ Now, such arguments can attach positive value to the acceptability of a political conception by the unreasonable*. Let us grant, too, that they can be part of what, in *some* sense of the word, can be said to “justify” a political conception—at least in a weak, convergence sense of the notion. But Rawls does not claim that JF is a basis for political legitimacy only if is acceptable by the reasonable* *and* can be shown to be acceptable by the unreasonable* by arguing from conjecture. He claims that JF is such a basis if it is equally acceptable by the reasonable*—while its acceptability within wider scopes is valued on other grounds. Arguments from conjecture, then, are not part of the kind of justification through which a political conception earns its credentials as a basis for political legitimacy—namely, public justification (in its metatheoretical role). Thus, if arguments from conjecture do not lead unreasonable* people to accept a reasonable* political conception, this does not provide reasons to reject or revise it. At most, it confirms their unreasonable*ness*.

Next, consider “buck-passing”. As Quong observes, political liberalism does not justify to people who are unreasonable in its sense why their acceptance is not necessary for public justification, but delegates this task to them: it passes the buck of justifying the importance of reasonable*

²⁸ Rawls, “The Idea of Public Reason Revisited”, 786.

acceptability and the corresponding restriction of the scope of public justification, to the unreasonable*.²⁹ Now, buck-passing, as a way of addressing the unreasonable*, is consistent with attaching positive value to the acceptability of a political conception by them. Let us grant, too, that it may in *some* sense of the word be part of what “justifies” a political conception. But, again, it is not part of that kind of justification that a theory of political justice needs to provide to be a basis for political legitimacy: Rawls does not claim that JF is a basis for political legitimacy only if it is acceptable by the reasonable* *and* can be supported by the comprehensive doctrines endorsed by the unreasonable*, as found out through passing the justification buck to them. He claims that JF is such a basis if it is equally acceptable by the reasonable*. Like arguments from conjecture, buck-passing at best is a litmus test for unreasonableness*. If Betty passes the buck to Paul, but his comprehensive doctrine fails to support the importance of reasonable* acceptability, this can only confirm that Paul, or his doctrine, is unreasonable*.

Does this alleviate the problem of public dogma? This is not so. True, these strategies are ways to discursively address the unreasonable*. But the problem at hand, or a key aspect of it, is not that the unreasonable* are not being addressed. Nor is it the problem that no positive value is attached to the acceptability of a political conception by them. Nor is it the problem that the way in which they are being addressed cannot be said to be part of what “justifies” a political conception. Instead, the problem is that the unreasonable* are being accorded a standing that significantly differs from the standing of the reasonable*: the unreasonable* are recipients, but not also authors, of public justification. Let me put this in terms of a distinction between a *constitutive* form and a weaker, consequential, or *derivative* form of discursive standing. In general, where we accord to others discursive standing, we take it that actions, practices, or policies—or (inter)activity, widely conceived—that affect them should be based on grounds they could accept. Different forms of such standing can be distinguished depending on what relationship, if any, we take to hold between the goodness and the acceptability of such grounds. Where Betty accords to Paul constitutive discursive standing, she takes it that activity that affects him should be based on grounds he could accept, but takes it, as well, that the goodness of these grounds is at least partly constituted by their acceptability by Paul. Where she accords to him derivative discursive standing, by contrast, she takes it

²⁹ See Quong, *Liberalism Without Perfection*, 236ff.

that activity should be based on grounds he could accept, but rather than taking their goodness to depend on their acceptability, she takes their acceptability to at least ideally derive from, or be a consequence of, a proper appreciation of their goodness.³⁰ To mark this contrast, let me speak of *discursive respect* where we accord the strong, constitutive form of discursive standing. Applied to the case at hand, then, in political liberalism the reasonable* enjoy discursive respect. The acceptability of a political conception by them constitutes its credentials. But the unreasonable* at most enjoy derivative discursive standing. The acceptability of a reasonable* political conception by them does not count toward its public justification. And where they cannot accept such a conception, this does not count against it, but is taken to reflect their unreasonableness*.³¹

In short, arguments from conjecture and buck-passing strategies do not overcome the problem of public dogma. At most, they shift the issue.

V

There is something else that political liberalism has to offer in response to the charge of public dogma. Larmore has suggested a view of “rational belief” (as he puts it) that makes an often-overlooked contribution in this context.³² It allows political liberalism to deflect the charge of public dogma—yet, we shall find, at an implausibly high cost.

³⁰ Derivative standing is related to “ideal” unanimity: see Thomas Nagel, *Equality and Partiality* (Oxford: Oxford University Press, 1991), 33f. It is also related to “normative consent”, i.e., the consent that, we believe, others should give and would give if they were reasonable. See Estlund, *Democratic Authority*, 10.

³¹ I elaborate on these kinds of discursive standing in Besch, “Diversity and the Limits of Liberal Toleration”, in: Duncan Ivison (ed), *The Ashgate Research Companion to Multiculturalism* (London: Ashgate, 2010) and Besch, “Reflections on the Foundations of Human Rights.” Unpublished manuscript; accessible at <http://philpapers.org/rec/BESROT>.

³² Charles Larmore, *The Morals of Modernity* (Cambridge: Cambridge University Press, 1996), parts I, III. Larmore’s views have a special place in political liberalism. While he continues to hold many of his earlier views on public justification and rational belief, his views seem to have changed to make room for an arguably perfectionist grounding of public justification (or “rational dialogue”, as he calls it, and with it a standard of neutrality) that is more aligned with the sort of revision an internal conception of political liberalism needs, or so I shall suggest. See Larmore, *The Autonomy of Morality* (Cambridge: Cambridge University Press, 2008), parts I, III, and his *Vernunft und Subjektivität* (Frankfurt/Main: Suhrkamp, 2012).

To put this in context, let us begin by considering the structure of dogmatism. As far as reasoning with others is concerned, dogmatism is or involves (culpable and non-accidental) ways of failing to properly respond to challenges (objections, rejections, or other expressions of disagreement or doubt) that are, or are seen to be, *relevant* or *qualified*:

D. Other things being equal, and given opportunity and resources, it is dogmatic not to respond to a challenge to a view we already endorse, *S*, by supporting *S* on the basis of as yet uncontested grounds or by bypassing controversy about *S*, *if* the challenge in question is such that it constitutes positive reasons to doubt *S*, or to put *S* in need of justification.

When are challenges such that they raise a need to justify views that we already endorse (say, in a given context, and given a certain subject matter, opportunity and resources)? Different answers to this question are possible, and they will lead to different views of the conditions of dogmatism. Such differences aside, where we do attribute dogmatism to others, this draws on an answer to this question, albeit often a tacit and rudimentary one. The same holds for the charge of public dogma. On a natural understanding, this charge supposes that disagreement about the content or role of reasonableness* is relevant or qualified to raise a need to justify political liberalism's views on the matter (so that reasonableness* cannot be politically basic and political liberalism must increase in depth). Yet political liberalism might suppose a different view of the conditions of dogmatism. In particular, it might suppose a view of these conditions according to which challenges raise a need to justify reasonable* views only if they already comply with the requirements of reasonableness*. On such a view, unreasonable* challenges do not raise that need. Nor does a rejection of views that are reasonably* non-rejectable (and are known to have this status) put them in this need. But if this need does not arise, public dogma does not occur. This, I submit, signposts how political liberalism deflects the charge of public dogma.

Let us take a closer look at Larmore's "contextualist" view of rational belief. At the core of this view, which he applies to all beliefs, widely conceived, is the following idea:

L1: No existing belief stands as such in need of justification.³³

³³ Larmore, *The Morals of Modernity*, 11, see also 39.

This “key principle” comes together with two “cognitive norms”:³⁴

L2: Any existing belief of ours is in need of justification “only if we uncovered some positive reason, based on other things we believe, for thinking that the belief might be false.”

L3: To justify a proposition “is not simply to give some true premises from which the proposition follows, but instead to give reasons that dispel doubt to the effect that the proposition may be false”

L1 is innocuous: it is plausible to claim that our beliefs are not in doubt, or need justification, just because we hold them. But what puts them in this need? And what does it take to “dispel doubt”? Drawing out an implication of L2, Larmore claims that a “good reason for us to doubt, and so to raise the question of justification, must be one that is good by our own light, for it must be supported by other beliefs of ours.”³⁵ He adds that where we assert things as true, we take them to be true for everyone, but

we can still claim that someone has missed a truth without our having to suppose that we must be able to justify to him the change of perspective that would make this truth accessible to him. In such situations, we then take for granted simply that we have no positive reason (and that is something we ought to judge by the light of our own perspective) to question our standards and take seriously his contrary ones.³⁶

If you object to my belief, *S*, then from my perspective this puts *S* in need of justification only if your reasons to do so are good by *my* standards, or are supported by *my* other beliefs. Otherwise I may browbeat you. This applies to all beliefs,³⁷ including beliefs about justification. Thus, even if you reject my policy on browbeating, I may browbeat you if your reasons to do so are not supported by my other beliefs. But suppose your reasons to reject *S* are supported by my other beliefs. I still do not need to examine whether *S* is justifiable *to you*, but whether *S* is supported by *my* other beliefs.³⁸ Now, one of my other beliefs may be that I owe discursive respect to you in matters regarding *S*. If I believe this, I have reason to respond to your rejection of *S* by examining whether *S* is justifiable to, or acceptable by, you. But if I do not believe this, I do not need to examine whether *S* is justifiable to you. Instead, I may, again, browbeat you.

³⁴ For this and the following: see *ibid*, 59f.

³⁵ *Ibid*, 63.

³⁶ *Ibid*, 208.

³⁷ *Ibid*, 11.

³⁸ *Ibid*, 62.

This view relativizes an agent's epistemic commitments, including reasons to doubt existing beliefs, to the doxastic context of the beliefs held by the agent. And in this sense it is a form of contextualism.³⁹ Let us predicate this on the perspective of reasonable* people, thereby factoring in the content of reasonableness*. The result seems to be this:

L4: Unless challenges to reasonable* views comply with the requirements of reasonableness*, they do not constitute a need to justify reasonable* views.

L5: Where the need to justify reasonable* views arises, reasonable* people do not need to justify these views on grounds and by means that are equally acceptable by the unreasonable* as well.

Two remarks are in place. First, observe how this interlocks with CRE. For Rawls, we have seen, a theory of political justice must be acceptable by the reasonable* in a way that meets CRE. Of course, this applies to matters of theory acceptance rather than discursive interactions with the unreasonable*. But there is an obvious congeniality between CRE and Larmore's view. Larmore would have each reasonable* agent assess the acceptability of a theory of justice by the light of the beliefs and standards actually endorsed by the agent. Rawls, too, relativizes matters to the doxastic context of reasonable* agents, but adds that these beliefs and standards must be well-considered and coherent. Still, both take it that it is from the perspective of the reasonable* that things may be judged.

More important now, Larmore's contextualism allows political liberalism to evade the charge of public dogma. From the standpoint of reasonableness*, a need to justify the content and role of reasonableness* does not arise; from *this* standpoint, it is not dogmatic not to justify these things to the unreasonable*. But this is a pyrrhic victory: while it allows political liberalism to evade that charge, it *compounds* the problem. This contextualism effectively seals off, or immunizes, public justification against all challenges that do not comply with the requirements of reasonableness*. But, it seems, at least some unreasonable* challenges raise a need to justify reasonable* views, especially challenges to those reasonable* views that express the content and the exclusionary role of reasonableness*. For want

³⁹ *Ibid*, 11, 96.

of a better term, we might dub this the problem of the *hermeticity* of public justification.⁴⁰

Larmore's contextualism might not compound matters if it is not premised on reasonableness*. Suppose we replace all references to reasonableness* in L4 and L5 with references to a commitment to consistency. This might render public justification *structurally* hermetic, but not objectionably so. Any practice of reasoning with others needs to abide by some discipline of consistency. Whatever draws the line between commitments that can and that cannot be rejected reasonably, a commitment to consistency is of the second variety. And if we premise Larmore's contextualism on such baseline commitments, this does not seem to lead to a problematic form of hermeticity. Once we move beyond such baseline commitments, however, things quickly change. And we seem to have strayed too far away from baseline commitments if we premise Larmore's contextualism on reasonableness*. For, it seems, some commitments of reasonableness* can be rejected reasonably. Thus, the culprit here is not contextualism, but the idea of the reasonable* that it is premised on.

VI

I take it that it is not a proper remedy for the problem of public dogma to devise new ways of addressing the unreasonable* that do not accord to any of them the discursive respect enjoyed by the reasonable*. Nor is it a remedy to evade the charge of public dogma in ways that lead to problematic forms of hermeticity. If there is a remedy, it seems, it is what is self-suggesting to begin with. Political liberalism needs to subject its idea of the reasonable* to a justification that addresses on equal footing (some) unreasonable* people. Of course, this line of criticism is neither new, nor uncommon. The reason why it matters now is the problem it has in tow. If it is conceded that the commitments of reasonableness* are in need of justification, the door is open for a wide range of possibilities—including public and non-public forms of justification. And there is reason to believe

⁴⁰ As far as I can see, the fact that political liberalism is subject to a problem of hermeticity has rarely been seen. Still, given the content political liberalism builds into reasonableness* and its strategy to deflect the charge of public dogma, this problem directly flows from what Estlund calls the “insularity” of reasonableness*. See Estlund, *Democratic Authority*, 55f.

that political liberalism here needs to invoke non-public, perfectionist considerations.

Suppose we reiterate a commitment to public justification here, while premising public justification on a view of discursive respect that does not restrict that respect to the reasonable*. A *more inclusive* public justification must draw on a *more inclusive* idea of the reasonable, if any: namely, one that is *wider* in scope of application and appeal, and that hence abstracts from, or “brackets”, many commitments that are the subject of controversy within the *then-extended* scope of discursive respect, including the commitments of reasonableness*.⁴¹ Before I consider what content such an idea may have, let us note that this moves beyond an internal conception—without adopting a Quong-type *external* conception.⁴² We do not need to determine the boundaries of public justification’s scope on prior, independent grounds. All that we need now is a justification, public or not, that is *more inclusive* than political liberalism allows and that addresses on equal footing *not only* the reasonable*. This leaves open what boundaries that scope has, and on what grounds it is to be determined; thus, this marks a conception of political liberalism that is not external, but rather *dynamic*.

What content may an idea of the reasonable have that fits the purposes of a more inclusive public justification? It may at least involve what is entailed by the meaning of the word “reasonable” (as it is used in relation to moral-political agents). Following Moore, as far as this meaning goes, reasonable people are committed to a practice of reason-giving, or justification; and they take it that others are worthy of reason-giving and moral consideration.⁴³ Note that this implies little. A commitment to a practice of reason-giving is not a commitment to *constructivist* practice of reason-giving, or justificatory reciprocity, or public justification. And a commitment to showing others moral consideration is not a commitment to according them *discursive respect*, rather than derivative discursive standing. There may be other, similarly trivial commitments that may go into a suitably inclusive idea of the reasonable—they might not be entailed by the word “reasonable”, but are typically present where the word applies. E.g., the reasonable exercise “basic capacities of reason”, seen as involving a

⁴¹ O’Neill elaborates on abstraction as a matter of “bracketing” contested predicates or commitments in *Toward Justice and Virtue* (Cambridge: Cambridge University Press, 1996), 38ff, and “Abstraction, Idealization and Ideology”, in J. D. G. Evans (ed.), *Moral Philosophy and Contemporary Problems* (Cambridge: Cambridge University Press, 1988).

⁴² See Quong, *Liberalism Without Perfection*, 5f.

⁴³ Margaret Moore, “On Reasonableness”, *Journal of Applied Philosophy* 13/2 (1996), 171.

commitment to (some degree of) coherence, reasonability and criticality.⁴⁴ They also possess “executive virtues” that enable us to do as we say and to act in ways aligned with our beliefs.⁴⁵ Less trivial is another element: reasonable people place positive value on agreement. It is not easy to capture this element, but perhaps we may say that the reasonable place positive value on what they see as reasoned convergence in judgment between what they regard as relevant other people. Thus, they tend to prefer solutions that are the subject of such convergence over similar solutions that are not. Again, this entails little. Even together with the other elements of reasonableness, it leaves open what justificatory rank reasonable people accord to agreement, whose agreement they value, how deep the agreement is that they value, or what considerations trump or nullify that value.

Now, any such idea of the reasonable leaves political liberalism in a pickle. Many reasonable people (so conceived) reject the commitments of reasonableness*. We saw earlier that these include commitments to views like the ones below—I shall now state them by using “ ϕ ” to refer to some idea of the reasonable, in this case reasonableness* (e.g., “ ϕ -people” refers to reasonable* people, “ ϕ -views” to reasonable* views, etc.):

- (i) Equal acceptability by ϕ -people justifies and only ϕ -people need be accorded discursive respect for the purposes of public justification: non- ϕ -people may be accorded derivative discursive standing only.
- (ii) Only ϕ -challenges constitute a need to justify ϕ -views; where the need to justify ϕ -views arises, ϕ -people do not need to justify them on grounds and by means that are equally acceptable by non- ϕ -people.
- (iii) ϕ -disagreement should be respected and therefore be avoided in public justification.
- (iv) A theory of political justice should be liberal in content, while only applying to the domain of the political and invoking values that are part of the political tradition.

If “ ϕ ” refers to reasonableness*, (i) cannot coherently be accepted by reasonable people who reject constructivist public justification. (ii) is not acceptable by reasonable people who take it that reasonableness* leads to a problematic form of hermeticity. (iii) is not acceptable by reasonable anti-

⁴⁴ Larmore, *The Autonomy of Morality*, 143.

⁴⁵ Macedo, *Liberal Virtues*, 275.

neutralists. As to (iv), there are, I take it, reasonable forms of comprehensive liberalism, anti-liberalism, and political anti-traditionalism. But if this is so, then (i)–(iv) are not publicly justifiable to reasonable people.

Note that the issue here is not that the idea of the reasonable employed in assessing (i)–(iv) is *too thin*. To the contrary. Its lack of content is part of its virtue, given a more inclusive scope of public justification and the specter of public dogma and the problem of hermeticity. The issue is, rather, that the sphere of commitments within which (i)–(iv) take a normatively selective stand is a sphere of deep and persistent reasonable controversy. Accordingly, any idea of the reasonable that is rich enough in content to allow us to claim with any cogency that (i)–(iv) are equally acceptable by “reasonable” people, or even “reasonably” non-rejectable, brings back a problem of public dogma and a problematic form of hermeticity.

Thus, political liberalism is caught in a web of precarious dependencies. To respond to the problem of public dogma, a justification of the commitments of reasonableness* is called for. If this justification is to be public in form, it must build on a suitably inclusive view of discursive respect. Thus, it must draw on a suitably inclusive idea of the reasonable, one that brackets many commitments that are contested within the then-extended scope of discursive respect—including commitments to constructivism, neutralism, liberal content, and so forth. By bracketing these commitments, this idea will set the bar low enough to qualify many existing controversies about them as “reasonable”. But it will then set the bar low enough, as well, to disable the claim that these commitments, despite existing controversies about them, are equally acceptable by “reasonable” people, or even are “reasonably” non-rejectable. And with this, it disables, too, the claim that these commitments are publicly justifiable. If that is so, a suitably inclusive view of discursive respect calls for an idea of reasonableness that undermines a public justification of the basic commitments of political liberalism. Importantly, this problem is not specific for reasonableness*, or political liberalism for that matter. It is more general in nature: the normative structure described by (i)–(iii) can build on a variety of ideas of the reasonable. A problem of the sort just described arises, as well, if we premise this structure on a less substantive, yet still relevantly contested idea of the reasonable—e.g., one tied to a commitment to constructivist public justification and justificatory neutralism, but not also to liberal content, political values, and so on; or, less substantive still, one tied to constructivist public justification only. Any of these commitments is

the subject of controversies that, on a suitably inclusive notion, can count as “reasonable”. If their public justification builds on a view of discursive respect that calls for a correspondingly inclusive idea of the reasonable, then, they will not be equally acceptable by, or publicly justifiable to, the “reasonable”.

Note that we cannot escape this result by tweaking the standard of public justification in such a way that the commitments of reasonableness* can be said to be publicly justifiable even though many reasonable people cannot accept them. This requires we jettison the demand of *equal* acceptability and (re)calibrate the idea of acceptability. E.g., (i)–(iv) are *acceptable*, or *could* be accepted, by anti-constructivist and anti-neutralists, but in the counterfactual sense that they would not have to reject (i)–(iv) if they abandoned whatever views make (i)–(iv) unavailable to them. But such tweaking holds little promise. First, it re-introduces a two-class system of discursive standing like the one in the background of arguments from conjecture and buck-passing strategies (see above), and so re-iterates the problem of public dogma. Only a subset of the reasonable would here enjoy discursive respect, i.e., those not rejecting (i)–(iv). Everyone else would at most enjoy derivative discursive standing. Second, tweaking cuts both ways. If (i)–(iv) count as publicly justifiable even though reasonable people cannot coherently accept these claims, this hold, too, for their opposites, non-[(i)–(iv)]. And this would effectively render public justification redundant. Finally, third, even if a tweaked standard selects (i)–(iv) and not non-[(i)–(iv)], it is not clear what this accomplishes. Tweaking is either itself reasonable, or it is not. If it is not, a successful application of the tweaked standard to (i)–(iv) achieves nothing. If it is, then whatever makes it reasonable to salvage (i)–(iv) by tweaking that standard, rather than the successful application of the tweaked standard to (i)–(iv), is what grounds (i)–(iv). Again, public justification becomes redundant.

We are now in a good position to consider whether a plausible political liberalism can avoid perfectionist considerations. The above quite trivially suggests that this is not so. Recall here that this refers to justificatory perfectionism. Justificatory perfectionism holds that a justification of moral-political principles may invoke a view of the good even if this view is reasonably contested and there is no public justification for it, or favoring it. Still, justificatory perfectionism can raise strong validity-claims, or take the good in question to be impersonal, agent-neutral in status, or a true, correct, or authoritative good. The above suggests that political liberalism needs to

endorse justificatory perfectionism—nearly by default. It cannot plausibly eliminate from its horizon the task of justifying the commitments of reasonableness*. But, we have seen, a public justification of these commitments is disabled (and this holds, too, for views that are similar in overall form, but treat a less substantive, yet relevantly contested idea of the reasonable as basic). If political liberalism is to avoid the conclusion that the virtue of reasonableness* lacks authority, it needs to concede that these commitments are in need of a *non-public* justification. It needs to concede, that is, (i) that these commitments are the subject of reasonable disagreement and so are not equally acceptable, or publicly justifiable, within an appropriate scope of discursive respect, so that (ii) their authority is not a function of their equal acceptability, but must rest on other, non-public grounds. This rejects (justificatory) neutralism—at this level of justification at least—and it sets the stage for justificatory perfectionism.

What we need, as well, is a sense in which the object of this non-public justification is or involves a view of the good, or a more or less structured set of value judgments about what it is good to be or do. Turning, then, to the most self-suggesting candidate, political liberalism evidently is committed to the view that being reasonable* is a good of some sort or other—again, nearly by default. It is, of course, not obvious on what grounds it may be claimed to be a good, and what type of good it is, or would be—i.e., whether it is an impersonal, moral good, or an instrumental good that serves some purpose or other, or both. But these things mark precisely the kind of considerations that a non-public justification of the basic commitments of political liberalism needs to address. If that is so, then political liberalism quite deeply depends on (justificatory) perfectionism.⁴⁶

I conclude, therefore, that in the world as it is, outside the context of JF's well-ordered society, we should reject a political liberalism that comes

⁴⁶ As an anonymous referee pointed out, it is an open question whether a non-dogmatic variant of political liberalism could still be truly “political”—rather than, say, a liberal view of justice that is *post-political* or *hybrid* in seeking equal acceptability without rejecting all forms of perfectionism. But we may leave the question of labels to political liberals. Larmore's more recent work embraces the possibility of a hybrid view, see his *The Autonomy of Morality*, parts I, III; and there are other, post-political forms of liberalism that seek to avoid reasonable disagreement in political justification but do not shy away entirely from considerations that, in some sense, are perfectionist: see, e.g., Robert Talisse, *A Pragmatist Philosophy of Democracy* (New York: Routledge, 2007), chapter 4, and his *Democracy and Moral Conflict* (Cambridge: Cambridge University Press, 2009), chapter 5.

without perfectionism: for it could be had only at the cost of public dogma and a damaging form of hermeticity.

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