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Liberal Neutrality, Legitimacy and Autonomy

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In this paper I plan to give a partial defence of liberal legitimacy which is closely related to that of Rawls. A central feature of the account defended here is the claim that the state must be neutral towards controversial conceptions of the good. More specifically, neutrality is required because the exercise of political power should be justified on terms that reasonable citizens can be expected to accept, or so I will argue. The paper is inspired by the work of János Kis, and while he will disagree with the arguments and conclusions I reach, I hope he will see this as a tribute to his friendship, encouragement and generosity. The paper delivers a partial defence of political liberalism because most of the arguments are sketchy.¹ The paper has a broad scope and touches upon several topics instead of focusing on only a few. Political liberalism has been subjected to several criticisms over the last years, and I hope that the paper suggests some ways in which it can be developed further.

In the first section, I distinguish between the different understandings of the term ‘neutrality’ and suggest that many of its critiques are misplaced because of a failure to understand what liberal neutrality is about. The second section develops an account of Rawlsian liberalism arguing that coercion is only legitimate when it can be justified to reasonable citizens, that is, to people who accept that society is a fair system of social cooperation between free and equals, and who accept the ‘fact of reasonable pluralism’ and the ‘burdens of judgment’. Section three addresses with three objections that Kis recently put forward. I argue that political liberals can respond to them successfully. The following section contrasts the structure of political liberalism with a perfectionist position. I argue that liberal neutrality must be understood as an exclusionary reason not to make judgments about the intrinsic merits of conceptions of the good. As such, political liberal need not be sceptical about issues of value. The last section explores the

¹ I will use ‘political liberalism’ and ‘Rawlsian liberalism’ interchangeably.

role of autonomy within an anti-perfectionist liberalism and appeals to a partially comprehensive, yet anti-perfectionist account of political morality.

I Liberal Neutrality

Neutrality has been criticised in a number of ways, and some of these criticisms stem from a failure to understand what liberal neutrality is about. There are two significant interpretations of neutrality. One claims that liberal policies should affect everyone to the same degree (Raz 1986: 115). ‘Impact neutrality’ is the view that, because government must treat all its citizens as equals, its policies must also affect everyone’s life prospects equally. According to this version of neutrality, ‘[o]ne of the main goals of governmental authority, which is lexically prior to any other, is to ensure for all persons an equal ability to pursue in their lives and promote in their societies any ideal of the good of their choosing’ (Kymlicka 1989, 883). Liberals, such as Rawls (1996), Dworkin (1978) and Nagel (1991), reject neutrality in this sense; they acknowledge that policies will affect people differently, and they think this is not a cause for concern. A scheme of basic liberty will make some lifestyles more difficult to lead than others. Consider Bob a person who likes playing baseball but now that he lives in Hungary, he finds that it is easier to get participants for a game of football than baseball. The ‘cultural’ market has a different impact on his life than it has in Wayne’s life, who is an avid football player. Nevertheless, Bob cannot claim unfair treatment by the government (for instance, by demanding compensation) just because his lifestyle is not as easy to pursue as Wayne’s. Even more clearly, speed limits on highways burden those who want to drive fast but do not affect those who do not drive. On the liberal view the different impact of these policies is not, by itself, objectionable.²

Another sense in which neutrality can be understood is as a means of justification: governments cannot ground policies on the intrinsic merits of controversial conceptions of the good. This is the sense in which most liberals use the term neutrality (Dworkin 1978; Dworkin 2000, pp. 153-5, 281-2; de Marneffe 1990; Nagel 1991; Rawls 1996, pp. 190-1). Governmental policies must be independent from comprehensive doctrines.³ For instance, governments can fail

² In some circumstances, unequal impact might raise the suspicion that the policy in question is (partly) motivated by prejudice or bias (Kis 2012).

³ Rawls uses the term ‘doctrine’ to refer to ‘comprehensive views of all kinds’ (Rawls 1996, xxxvii-xxxviii n. 2). ‘Comprehensiveness’ refers to doctrines or conceptions which ‘include [...] what is of value in human life, and ideals of personal character, as well as ideals of friendship and of familial and associational relationships, and much else that is to inform our conduct, and in the limit to our life as a whole’ (Rawls 1996, 13).

to be neutral by subsidising religious schools on the belief that religious lives are better than non-religious ones. It is possible to make a further distinction within the justificatory senses of neutrality. A policy might satisfy neutrality if there is a possible neutral justification for it, or we might require that the actual justification given by the government is neutral. It is possible that there is a neutral justification supporting that the state does not subsidise football clubs. This is compatible, however with government officials giving a non-neutral justification: for instance by saying that football is a worthless activity. As Kis argues, in these cases, the law might remain, but the justification needs to be changed (Kis 2012: 319-20). There is an epistemic problem with justificatory neutrality since we can never be sure about legislators' and officials' sincerity. Liberal legitimacy assumes that justification is offered in good-faith even though we can never be completely sure that this is the case.⁴

Although sometimes a principle of neutrality is assumed to be fundamental (Gaus 2009), a more plausible view holds that neutrality is only derived from a more general set of requirements (Kis 2012; Patten 2012). The justification of neutrality comes from other values or principles that are not, themselves, neutral. As I will argue later, neutrality follows from the requirement that coercion must be publicly justified. This should diffuse a common charge against neutrality according to which it is logically inconsistent. The idea is that neutrality must be neutral regarding itself, that is, liberalism must be neutral towards neutrality and non-neutrality, and this is self-contradictory. Liberalism, it is argued, cannot claim both neutrality and non-neutrality at the same time. This charge, however, misconstrues the nature of *liberal* neutrality as a derivative value. Liberalism does not need to be neutral on every issue, and certainly not towards neutrality itself. Nor it does need be neutral towards its own conception of justice and associated values. Liberals believe these are important, and that institutions must be organised in order to pursue them. Neutrality is not a nihilist position. For Rawls the core of liberalism is the idea of society as a fair system of social cooperation between free and equal citizens (Rawls 1996, 3).⁵ Rawls believes that citizens have two fundamental interests: to develop and exercise an effective sense of justice, and to be able to form, revise and rationally to

⁴ Even if state officials were never sincere there would be some value in requiring that they offer neutral justifications. At least they would need to find plausible neutral grounds for their preferred policies, even if those grounds played no role in their motivation.

⁵ Although this description is pitted at a great level of abstraction, it is still able to differentiate liberalism from other positions such as communitarianism, conservatism and libertarianism

pursue a conception of the good (Rawls, 1996, 81-86). Political institutions are to be organised in a way that that promote those interests. Liberals need not be neutral about this either.

The core of liberalism

Reasonable pluralism

The starting point of a liberal view are the ideas of society are fair system of social cooperation between free and equals. Citizens living in a liberal society are assumed to have two moral powers that reflect their status as free and equals: the ability to have an effective sense of justice, and the ability to form, revise, and rationally pursue a conception of the good (Rawls 1996, 19). Furthermore a liberal society is characterised by the fact of ‘reasonable pluralism’. It is assumed that under liberal institutions people will endorse a plurality of incompatible conceptions of the good (Rawls 1996, xviii). They will disagree about religion, virtue, philosophy, the meaning of life, our place in the universe, and so on. Moreover, liberals must accept that reasonable pluralism ‘is the normal result of the exercise of human reason within the framework of the free institutions of a constitutional democratic regime’ (Rawls 1996: xviii). This fact is neither a historical accident nor something to be regretted; it is the natural outcome of practical reason used under conditions of freedom. Reasonable pluralism is a fact about liberalism rather than an external fact that needs to be accommodated (Quong 2011, 6).

How can we explain this fact? Rawls argues that when we contemplate, say, the existence of God, the meaning of life, the values of friendship and love, there are many different considerations that must be taken into account. People come to have different views about these matters because the evidence is hard to assess, judging the relative weight of those considerations, and ranking them is difficult. Concepts are vague and interpreting them is a continuous process (Dworkin 2011). Notwithstanding these difficulties, our personal history also shapes (to a greater or lesser extent) our conclusions. Rawls calls these the ‘burdens of judgment’ (Rawls 1996: 54-8). They, along with the free exercise of reason explain pluralism.

Reasonableness

Pluralism needs to be qualified. Liberals aim to be neutral only towards a plurality of conceptions of the good held by reasonable citizens. Reasonable persons have two essential features. On the one hand, reasonableness involves a dimension of reciprocity between free and

equal citizens, according to which people are willing to engage in practices the rules of which no one could reasonably reject. In Rawls's words, '[p]ersons are reasonable [...] when, among equals say, they are ready to propose principles and standards as fair terms of cooperation and to abide by them willingly, given the assurance that others will likewise do so' (Rawls 1996: 49). In this sense, reasonableness demands that citizens forego some gains in their self-interest because they also seek, for their own sake, cooperation with others on terms they can accept. On the other hand, reasonable persons also accept the burdens of judgment. They accept that others disagree with them in good faith, and are willing to respect their beliefs (even if they think they are mistaken). Reasonable persons also give priority to the liberal values when pursuing their conceptions of the good. Liberal toleration is grounded not on the inability to convert everyone to one's view, but on the recognition that disagreement is a natural outcome of the free exercise of reason, and on the assumption that fair cooperation can only be secured if others exercise their reason freely.

The demands of reasonableness are derived from a view of citizens as free and equal and correspond to the fundamental moral powers that citizens are described to possess. These powers entail the development and exercise of critical and deliberative capacities that are necessary in order to exercise a sense of justice and to develop, affirm and revise a conception of the good.

Coercion and public justification

This account of liberalism gives a specific reply to the question that Rousseau formulated 250 years ago. In *Du Contract Sociale*, he suggests that the fundamental problem for political philosophy is to 'find a form of association which will defend and protect with the whole common force the person and goods of each associate, and in which each, while uniting himself with all, may still obey himself alone, and remain as free as before' (Rousseau 1993: 191). Rawls argues that coercion can be compatible with citizens' moral status as free and equals only when the former is justified to them in terms they can be reasonably expected to accept (Rawls 1996, 137). This is the core of Rawls's principle of liberal legitimacy. The principle of liberal legitimacy, then establishes that 'our exercise of political power is fully proper only when it is exercised in accordance with a constitution of which all citizens as free and equal may reasonably be expected to endorse in the light of principles and ideals acceptable to their common human reason' (Rawls 1996, 137). The fundamental insight of this account is that the

when a person endorses the constraints that apply to her, she can regard herself as free. Acts of coercion that fall short of public justification are illegitimate; they reflect only a sheer exercise of power.

This account of public justification offers the hope of reconciliation. It makes it possible for citizens to understand and accept without regret the value of living in a society in which everyone is treated as free and equal despite the ‘profound and irreducible differences’ between them (Rawls 2001: 3). The ideal of public justification establishes the terms in which we can all decide together how to live together (Cohen 2009, 7-8).

In order to understand how Rawls limits the scope of neutrality to conceptions of the good, it is necessary to distinguish between the idea of a ‘political conception of justice’ and the idea of a ‘comprehensive conception of the good’. State institutions and policies must be justified by appealing to a *political* conception of justice. On Rawls’s view, a conception of justice is political if it satisfies three conditions.⁶ First, it must be worked out for a specific domain, namely, for political, social and economic institutions. It should cover guidelines and principles of distribution, entitlements, burdens, benefits and conduct that apply only to those institutions, not to other spheres of life. Second, a political conception is justified in a particular manner: it is presented as a ‘freestanding’ view. Its justification is neither derived from nor dependent on comprehensive doctrines. In contrast with other comprehensive conceptions, such as Kant’s, Mill’s, Aquinas’s or Aristotle’s, a political conception does not appeal to matters of personal virtues, nonpolitical values, religious beliefs or metaethical theories. This does not mean that it cannot be supported by comprehensive doctrines; rather that this is not necessary⁷. Third, a political conception derives its content from implicit ideas present in the public political culture of democratic societies; it takes the liberal values of liberty, equality and fairness as the building blocks of a shared understanding between reasonable citizens. A political conception of justice is neutral towards comprehensive doctrines, then, in the sense that it is presented and can be justified independently of any of those doctrines.

Despite the plurality of comprehensive doctrines, a political conception of justice can bridge all reasonable citizens because it is independent of any of the doctrines about which they

⁶ For what follows see Rawls, 1996, 11-15.

⁷ Cf. ‘[A]...political conception can be seen as part of a comprehensive doctrine but it is not a consequence of that doctrine’s nonpolitical values’ Rawls 1996, 155.

disagree. Insofar as citizens are reasonable they will have reasons to support the conception and will be able to offer public justification for political institutions and policies. A political conception of justice, then, provides basis for an ‘overlapping consensus’ between reasonable citizens (Rawls 1996, 9-10).

Three objections to liberal neutrality

A number of authors have criticised Rawls’s strategy by challenging the alleged asymmetry between disagreements about matters of justice and matters of the good life (e.g. Waldron 1999; Kis 2012). For instance, János Kis argues that ‘the ‘burdens of judgment’ [...] are not specifically related to comprehensive doctrines. If they give rise to passionate disagreements over non-political ideals, then they are likely to give passionate disagreements over political principles, too’ (Kis 2012, 325). This is commonly known as the ‘asymmetry objection’

A related criticism to the Rawlsian holds that ‘in order to secure an overlapping consensus about justice the political values need to be formulated in very abstract terms’. The problem for Rawls is that ‘[a]bstract principles do not, in themselves, provide *determinate* answers to the question whether they are satisfied by specific institutional rules and procedures or in particular contexts’ [emphasis added]. The interpretation of political principles requires judgments that are ‘not entailed by the abstract principles’. These judgments need to be consistent with ‘other normative commitments and factual beliefs that have their natural home in ‘comprehensive doctrines’’ (Kis 2012, 325).⁸

If I understand correctly, Kis presents two different challenges to Rawls’s political liberalism. The first one is that the political values of freedom, equality and fairness do not provide specific answers to the arrangements of political institutions and state policies. Call this the ‘indeterminacy objection’. The second challenge is that the interpretation of political values cannot be presented independently of comprehensive doctrines. Call this the ‘dependency objection’. These objections can be presented as a dilemma. Because disagreement is pervasive, either it is possible to formulate the basis for a consensus that covers both, questions of justice and questions of the good, or, if we cannot find such a basis, we should give up the hope for a

⁸ To be sure, Kis does not think that the ‘shared reasons’ account of neutrality plays no role in liberal legitimacy. He rather concludes that, in virtue of these problems, neutrality as shared plays a limited role and has a reduced scope.

consensus about justice. In this sense, disagreement is symmetrical. I am not convinced that these challenges are fatal to Rawls.

Indeterminacy

First, the indeterminacy challenge can be addressed by pointing out that legitimacy is compatible with having a family of reasonable conceptions of justice. That is, the overlapping consensus does not pick up a single conception, but rather obtains within a variety of reasonable (liberal) views (Rawls 1996, xlvi, 226). Imagine that Ana thinks that socio-economic inequalities can be only permissible whenever they are maximally beneficial to the worst-off. She offers a justification based on the values of freedom, equality, and fairness. Imagine that Peter disagrees with her because he thinks that inequalities might be fair if they track people's ambitions, but not their unchosen circumstances⁹. Since both positions are reasonable, both Ana and Peter can accept that the government implements any of them even if they think that their own view is correct. Which of these conceptions is actually implemented will depend on democratic politics.¹⁰

Asymmetry

The reason it is legitimate to implement any of these conceptions despite Ana and Peter's disagreement takes us to the asymmetry objection. In order to rebut the objection, we might distinguish between two kinds of disagreements.¹¹ First, some disagreements are 'foundational' in the sense that people do not share any justificatory standards. In such cases, people disagree not only about substantive issues, but also about what count as a reason for a claim. Imagine that Eva and Mark discuss the morality of procreating children. Eva argues that whether one decides to have children or not depends on one's ambitions and projects. She thinks that it is permissible to bring about a child (providing that the child is appropriately taken care of), but that there is nothing wrong with being childless. Failure to procreate is permissible because it makes no harm. On the other hand, Mark argues that being childless is morally wrong because God told us to multiply. Since he thinks that God's commands are authoritative, it follows that failure to bear

⁹ These two views are, of course, modelled after Rawls's 'difference principle', and Dworkin's liberal equality (Rawls 1999; Dworkin 2000).

¹⁰ Of course the implementation of a conception of justice might need to satisfy other conditions.

¹¹ The following argument follows Quong (Quong 2011, 204ff.).

children is a moral wrong.¹² Eva and Mark's disagreement is foundational because 'they disagree at the level of ultimate convictions or principles [...] [T]here is no deeper standard of justification that [they] both accept that could serve as a basis for adjudicating their dispute' (Quong 2011, 205). In this case, they disagree about whether God is a source of moral valid commands or not. In general, reasonable disagreements about the good are likely to take this form.¹³

Second, 'justificatory' disagreements obtain when there is a shared framework for adjudicating claims (Quong 2011, 207). People might share standards about the kind of reasons that are valid reasons, and the kind of considerations that are permitted to play a role in a dispute. Now imagine that Eva discusses with Adam whether hate speech should be protected. Adam thinks that the interest citizens have in expressing freely their ideas, not matter how abhorrent they are, trumps the targets' interest in being treated with equal dignity. Eva disagrees. She thinks that that the interest we have in a setting up social environments in which no one's status is demeaned in the basis of race or sex trumps whatever interest people have in expressing racist or sexist views. In contrast with the previous example, Eva and Adam share an account about what kind of considerations are appropriate for justifying disputes. They both accept that justifications need to appeal (only) to the values of equality, fairness, and freedom. Their disagreement is about exactly what practices realise any of those values, or about how to balance the values when they conflict.

The reply to the asymmetry objection builds on this distinction. Since disagreements about justice obtain between reasonable citizens, and reasonable citizens accept the liberal values and their priority, by definition disagreements about justice are justificatory (Quong 2011, 204). Disagreements about the good are not filtered in the way that justificatory disagreements are, and this means that the parties lack any shared standard of justification. This argument does not imply that disagreements about justice are less deep than disagreements about the good. The distinction has nothing to do with the strength or depth of the disagreement, but only with the availability of shared standards. Crucially, this argument is also compatible with some level of indeterminacy.

¹² Mark is a reasonable person and he thinks that the state should not enforce God's commands.

¹³ Dworkin (2006) argues that many disagreements about the good life between religious and non-religious persons can be bridged. An evaluation of his arguments will need to wait for another occasion. Suffice to say that Rawls's argument is more ecumenical since it can remain agnostic about this possibility.

Dependency

According to the 'dependency objection', Rawls's liberalism is unable to account for the fact that the interpretation of abstract political values must fit into a mesh of convictions and judgements that include comprehensive values. Although I believe that it is true that comprehensive political values must cohere with other, comprehensive values, I do not think this is problematic for political liberals. When Rawlsians argue that a political conception of justice needs to be freestanding from comprehensive doctrines, they do not mean that citizens have no comprehensive reasons to accept those values. Political conceptions are continuous with citizens' comprehensive views. The requirement of Rawlsian liberalism is only that the justification of coercion appeals exclusively to political values, regardless of the reasons each of us have to endorse the values of society as a fair system of social cooperation between free and equals. Imagine that two good friends, Mark, a devout Catholic, and András, an atheistic but avid football fan, want to go on holidays together. After some deliberation they decide to go to Rome. The reason they want to go on holidays is because they value their friendship and companionship. Now, Mark also wants to visit Rome because he, as a Catholic, wishes to visit the Vatican. András, on the other hand, desires to see A.S. Roma play and has no interest in visiting the Vatican. Notice that for each of them realising their friendship is a sufficient reason to go to Rome; they can offer a sincere justification to each other on shared grounds. However, they need not agree on the further reason each of them has to travel there. It would be unreasonable from Mark to demand that András accepts that visiting the Vatican is a reason to go to Rome. The Rawlsian liberal argument works very much in the same manner: although everyone has a non-public reason to support the political shared values, it is enough that everyone supports those values. It would be unreasonable for a person to expect that others share the non-public grounds that justify her allegiance to the political values. Because Rawlsian liberalism assumes that reasonable citizens accept the core values of freedom, fairness and equality, it up to citizens to be able to accommodate their allegiance to those values into their own comprehensive views. How does the political values fit into one's convictions is a question that each reasonable citizen must respond by herself. As Quong argues, Rawlsian liberalism 'passes the buck' to citizens on this question (Quong 2011: 226).

Perfectionism and Anti-Perfectionism

Perfectionism

Now contrast the view defended above with a perfectionist position: perfectionism is the view that ‘there is no fundamental principled inhibition on governments acting for any valid moral reason’ (Raz 1989, 1230). According to Raz, this is a natural view. Once a person identifies a valuable aspect of the good life, the fact that it is valuable is a reason for bringing it about. The government has a duty to make citizens comply with reasons that apply to them independently if by following when government’s directives citizens are more likely to comply with those reasons than when following their independent judgment.¹⁴ If there is a valuable course of action, then it is the duty of government to bring it about. This is the core of the naturalness of perfectionism. As Chan argues, ‘people care about the quality of their lives and have an interest in leading a good life. If the state’s existence is to help citizens to pursue their interests, it seems natural that the state should assist citizens by promoting [them]’ (Chan 2000, 5-6). This position does not exclude any valid moral reason: all moral claims are ‘fair play’ for governments.

Perfectionism does not need to be committed to the enforcement of the good life in all cases. It acknowledges that there are strategic reasons for not using power for promoting of the good (Wall 2009). In some cases, the value of an activity is conditional upon it being done freely. For instance, it is likely that a person’s prayers have religious value only if she believes that praying is a worthwhile activity. If this is so, then the government should not make praying compulsory. The reason is strategic: even if there was nothing morally wrong with enforced prayers, making this compulsory would be self-defeating.

Another consideration that perfectionists might have is that the enforcement of some valuable action might diminish the value of autonomy, given that the latter requires endorsement. Imagine a frustrated painter who thinks that all his pictures lack quality. Imagine also that, contrary to his opinion, we think his pictures are very good and artistically valuable. Should the government force him to keep painting for the sake of art, or should he be allowed to drop the pursuit? From a perfectionist perspective the answer depends on the balance between the value

¹⁴ The normal justification thesis claims that ‘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 (other than the alleged authoritative directives) 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 which apply to him directly’ (Raz 1986, 53).

of art and the value of autonomy. Perhaps the value autonomy is outweighed by his masterful creations; perhaps it is not. Some might make the stronger claim that autonomy is a *condition* of the good. For instance, Kymlicka asserts that ‘no life goes better by being led from the outside according to values the person does not endorse. My life goes better if I am leading it from the inside according my beliefs about value’ (Kymlicka, 1990, 203-4).¹⁵ Imagine that listening to Sibelius is better than listening to Stravinsky, but pursuing one’s autonomous preference for Stravinsky might be better than listening to Sibelius under coercion.

Although some of these considerations present important obstacles to perfectionism, it might be responded that it still has the resources to overcome them. For instance, Hurka argues that, instead ‘of forcing people into a single best activity’, perfectionists might go the milder option ‘of forbidding a single worst activity’. Or even for the still weaker possibility of ‘giving subsidies to good activities or heavily taxing worse ones’ (Hurka 1995, p.44, 47, 49 respectively). Which of these options is chosen depends on strategic reasons and calculations.

With the practical issues circumvented perfectionists must then fully commit to the promotion of valuable ways of life. Citing principled reasons for not bringing about value is not an option open to them. In this respect the idea of ‘modest perfectionism’ is puzzling. For instance, Chan argues that modest perfectionism is ‘local, noncoercive, mixed and multicentered’ (Chan 2000, 16). This version of perfectionism, however, must provide an explanation of why, if one accepts the perfectionist claim at all, we should not opt for the more extreme version or some other middle-ground. It could be that modest perfectionism is appealing, but its appeal might be generated by anti-perfectionist reasons.

The structure of anti-perfectionism

Liberal neutrality, on the other hand, cites principled reasons to refrain from acting on the validity of comprehensive views. As such, neutrality has a peculiar structure. The principle of liberal legitimacy provides an exclusionary reason to refrain from acting on valid reasons dependent on controversial conceptions of the good. Raz distinguishes between first- and second-order reasons. The former are reasons that appeal directly to certain states of affairs. The latter are ‘any reason[s] to act for a reason or to refrain from acting for a reason’ (Raz 1990, 39).

¹⁵ Notice however that it is not clear whether Kymlicka’s arguments support perfectionism. Kymlicka thinks that his view supports liberal neutrality, while Hurka (1995) argues that they can lead to an indirect perfectionism. See also Wall 2009.

A particular type of second-order reasons is exclusionary reasons, which demand we refrain from acting for a reason. Raz argues that in cases in which first-order reasons conflict, this should be resolved by assessing the relative strength of both reasons, and opting for what we have most reason to do. So, if I have a reason to go to the cinema tonight but also a reason to meet some friends at the pub, what I should do depends on which of those two reasons is stronger. On the other hand, when conflict arises between a first-order reasons and an exclusionary reason, ‘such conflicts are resolved not by the strength of the competing reasons, but by a general principle [...] which determines that exclusionary reasons always prevail’ (Raz 1990, 40). In this respect exclusionary reasons are reasons for not acting on the balance of reasons. Raz gives the example of Ann who is trying to decide how to invest her money. One night, a friend phones offering her the chance of a good investment. The decision, however, must be taken immediately. Ann had a horribly tiring day at work and does not feel in the mood to make important decisions, so she declines the offer. Her state of mind and her tiredness are reasons not to make a decision, rather than a reason to decline the offer *per se*. She explains that ‘she is [refusing] the offer not because she thinks that the reasons against it override those in its favour but because she cannot trust her own judgment at the moment’ (Raz 1990, 37). In this respect, she has a reason not to act on the merits of other reasons. Notice though that exclusionary reasons do not imply that the excluded reason has no force; they do not nullify or cancel it. It is merely that the latter cannot outweigh the former.

Construed as an exclusionary reason, anti-perfectionism means only that the government cannot be motivated by certain considerations derived from comprehensive doctrines. Anti-perfectionism is not committed to the view that comprehensive doctrines have no merit, or are false (Raz 1994). This should dismiss the claim that anti-perfectionists are sceptical about the good. For example, Hurka thinks that ‘Rawls’s defence of liberal neutrality combines the defeatist assumption that political philosophy cannot aim at true political principles’ (Hurka 1995, 56). Given what has been said here, this criticism does not stand. Political principles do not aim at the good because there is a reason not to act from the validity of comprehensive doctrines of the good, not because political liberals think the good cannot be deciphered or attained (Rawls 1996, xxxix). As Raz writes, ‘exclusionary reasons are reasons for not being motivated in one’s action by certain (valid) considerations’ (Raz 1990, 185): they do not deny the truth of the reasons excluded.

Autonomy and anti-perfectionism

In this section I want to consider briefly whether it is possible to accommodate a thicker version of autonomy than the one Rawls's advocates within an anti-perfectionist framework. Rawls distinguishes between fully and partially comprehensive doctrines; the former 'covers all recognized values and virtues within one rather articulated system', the latter 'comprises a number, but by no means all nonpolitical values and virtues and is rather loosely articulated' (Rawls 1996, 13). Is it possible to argue for a non-perfectionist liberalism which gives weight to autonomy?

The problem of autonomy

The problem arises because political liberalism's view of autonomy is incomplete. First, notice that the second moral power involves already some concerns for autonomy. It requires that citizens have the ability, resources and opportunities to form, revise, and pursue a reasonable conception of the good. As stated, this view is implausibly thin. To see why, think about how Rawls's view is incomplete regarding freedom of speech. Many liberals believe that free speech is a distinctive principle that goes beyond the general presumption of liberty (Schauer 1982, 7). A principle of free speech holds that 'there will be cases in which acts of expression are held to be immune from legal restriction despite the fact that they give rise to undoubted harms which would in other cases be sufficient to justify such restriction' (Scanlon, 2003, 9-10). Why should we accept the principle of free speech? The most plausible (and popular) defence is grounded on the value of autonomy (Dworkin 1996; 2000, Brison 1998). The problem is that a thin sense of autonomy fails to give sufficient guidance to even relatively uncontroversial problems involving speech.¹⁶ We can understand the second moral power in a thin sense as only requiring independence from the will of others. On this view, a person is autonomous whenever she is not subject to unjustified coercion or manipulated (Raz 1986, 377-378).

Imagine that we want to decide whether tobacco advertisement on TV should be protected. We can distinguish between the different parties involved and consider how their autonomy is affected or promoted by the regulation in question (Cohen 1993). First, from the

¹⁶ The problem is not that Rawls's view of autonomy is not conclusive about free speech controversies, but rather that the level of indeterminacy undermines a basic liberal institution like free speech.

point of view of an audience, it is not clear that autonomy (as non-coercion) gives a plausible answer. For, in what sense is an audience more or less coerced by the possibility of watching tobacco ads on TV? Regarding audience's autonomy regulations on advertisement (or its protection) does not seem to make a difference

Second, restrictions on advertisement certainly affect would-be speakers. It is clear that those who wish to advertise their products on TV are coerced (and to that extent less autonomous) if not allowed to. Nevertheless, this response fails to capture some of our intuitions about both coercion and free speech. It is plausible that some degree of coercion is acceptable for the sake of speech (Fiss 1996). Imagine that TV companies decide to broadcast only chat shows on the basis that they maximise profits. The government might, for instance, legitimately force them to broadcast some programs on political campaigns, on the grounds that citizens have an autonomy-based interest in being informed on political controversies (say, in order to develop their sense of justice). Notice, though, that audiences are neither more nor less coerced when the regulation is in place than when it is not. If autonomy (as absence of coercion) were the basis of free speech, then the government would be wronging TV companies. Moreover, sometimes it is acceptable to impose some coercion in order to warrant fair access to speech (Dworkin 2000, 351-85; Scanlon 2003, 103-4). For instance, governments might force broadcasters to give some airtime to unpopular or disfavoured views, which would not have access to speech otherwise.

These remarks suggest that coercion is not a bad thing *per se*. It is acceptable when it brings about certain outcomes (for instance, a robust debate on important political issues, or the dissemination of controversial lifestyles) and when it is justified in certain ways (for instance through public, democratic procedures, or by reasons no one could reasonably reject). If these remarks are plausible, then autonomy as non-coercion cannot be the benchmark of free speech. These remarks suggest, though, that the initial appeal of the absence of coercion is due to a thicker notion of autonomy, one that is captured by the conditions briefly sketch below.

Conditions of autonomy

A thicker version of autonomy requires the satisfaction of several conditions.¹⁷ Autonomy requires some preconditions: an autonomous agent must have the agential competencies that grant moral personality. First, the mental states of an autonomous person must be consistent: her

¹⁷ This view of autonomy is further developed in Moles 2007.

convictions should explain her actions qua reasons for action (even if other factors have a causal effect on her behaviour too). Moreover, consistency should obtain between her lower- and higher-order mental states; a person must not only endorse her desires, but also she should wish she had those desires. Second, her mental states should be formed in right way. Although it is difficult to give a theory about the right processes of belief and desireformation, it is not so hard to identify some cases in which the processes go astray: weakness of will and adaptive preferences are obvious examples (Colburn 2011). Third, autonomy includes a disposition towards critical reflection (Christman 2009). In addition to conceiving a plan of life and endorsing a conception of the good, autonomy requires that an agent reflects critically on her commitments in the light of pertinent new information. A person who enters into a monastery and is not disposed to subject her plan of life to scrutiny even if things changed dramatically is, for that reason, non-autonomous. Fourth, a liberal conception of autonomy needs to be content-neutral. Autonomy ‘should not contain conditions that allow the imposition of a particular value conception [...] into the lives of otherwise competent, authentic adults’ (Christman 2003). The last condition of autonomy is external. Following Raz, autonomy requires a varied, adequate range of options (Raz 1986, 372). It does not require a maximal range of options. This would make autonomy unattainable: every instance of coercion would jeopardise autonomy. Liberals need not accept that restricting one from harming others is in any way bad for autonomy.

Autonomy and anti-perfectionism

In order to accommodate (this certainly controversial view of) autonomy consider the following distinction. We can have an *inclusive* idea of neutrality, according to which the government must be neutral towards different conceptions of the good, but also towards different conceptions of the relation between a person and her conception of the good (Clayton 1993). On the other hand, we can also have a *restricted* view of neutrality, which applies only to conceptions of the good, and not to the way in which a person forms, revises and pursues them. While the former demands neutrality towards the idea of autonomy, the latter does not; it allows liberals to attach moral significance to how a person forms her attachments and goals. Restricted neutrality appeals to the value of autonomy in a manner consistent with the second moral powers of citizens. It acknowledges that forming, developing and pursuing a conception of the good requires the satisfaction of certain conditions.

This is a controversial claim, for someone might reject the assertion that autonomy forms part of her well-being. Despite accepting that autonomy is controversial, a partially comprehensive liberalism insists that autonomy is valuable. Nevertheless, it rejects perfectionism by citing *principled reasons* for not promoting certain (valuable) aspects of a person's life¹⁸: we can invoke some part of the truth about nonpolitical values for justification, but not the whole truth. We can appeal to part of the controversial value of autonomy, while still maintaining principled limits regarding what the government can appeal to.

Contrast this view with Rawls's position. Rawls distinguishes between two forms of the identity of persons. On the one hand, qua citizens we have an institutional, public identity, which is not tied to any particular conception of the good. In relation to this identity we have, as citizens, an interest in being able to revise and detach ourselves from the particular conception we endorse. On the other hand, we have a noninstitutional identity, which specifies our deeper attachments and goals (Rawls 1996, 30). In some cases, these two identities can conflict. Rawls gives the example of the person who changes his faith. As a follower of a different religion he might think he has become a different person, but for public matters his institutional identity has not changed: he is still bound by the duties and obligations he was prior to changing his faith. In this sense, Rawls thinks that, by defending a purely political conception of the person, a political conception of justice will generate the necessary agreement for an overlapping consensus.

This is relevant to the distinction between inclusive and restricted neutrality in the following way. Imagine Paul, a person who thinks that he is better off by not subjecting his faith to critical analysis. He thinks that there are many temptations in the world, and that it is likely that he will be misguided into believing falsehoods. As a believer, he thinks that it is in his interest not to be able to revise his conception of the good, or in other words, he rejects that he has an interest in developing his second moral power. Why should he affirm, qua citizen, that he has an interest which, qua person, he rejects? As Clayton argues, 'it is unclear why those who reject the comprehensive claim that they have an interest in being able rationally to reflect on, and revise, their conception of the good should accept that they have such an interest as citizens' (Clayton 2006, 25). Think about Betty, a fellow believer of Paul's who, after subjecting her faith to critical scrutiny, remains strongly convinced of it. From an inclusive sense of neutrality we must remain indifferent to Paul's and Betty's cases. If, in contrast, we affirm a restricted sense of

¹⁸ As I have argued, this option is not available to perfectionists.

neutrality, we can perceive differences between them. Under this interpretation, we affirm that Betty takes the right course of action, by establishing a direct link between her moral autonomy and her political autonomy. To be sure, this view is controversial (in virtue of being partly comprehensive), but it is, nevertheless, more plausible than the alternative. A restricted sense of neutrality unites our intuitions regarding the value of autonomy with an anti-perfectionist political morality.

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