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Liberal Justification: A Typology

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Contemporary liberalism exhibits a broad agreement among its proponents as to its content but widespread disagreement on what fundamental values justify its principles. This paper provides a typology of ways in which liberals approach the task of justifying liberalism. It sets out a four-fold typology for categorising different liberal theories by distinguishing between the various reasons why liberals reject or accept neutrality. Such a typology is helpful in showing exactly how and where liberal theories differ in their approaches to the issues of justification, neutrality and pluralism, and in showing where their strengths and weaknesses lie.

While contemporary liberalism exhibits a broad agreement among its proponents as to what its practices and content are, there is increasingly widespread disagreement on how these practices are justified. The values of freedom and equality underlying liberal practices are open to an increasing variety of competing interpretations. Moreover, the criteria of what constitutes a satisfactory interpretation of these principles has changed over time. The appeal, for example, to natural law foundations or to some form of anthro-

pologically-based teleology now seems unpersuasive. This has prompted some, such as Alasdair Macintyre to argue that liberal beliefs are no longer coherent outside these traditional, often theistic frameworks.

The search for foundations constitutes a significant challenge for liberals in light of the fact that liberals place great emphasis on respecting persons' reason and rationality. To impose principles on people who do not, or are not capable of understanding or accepting them is a particularly serious breach of respect. A fundamental problem facing liberals is that the attempt to ensure that principles can be justified to others might conflict with the attempt to preserve the liberal content of the principles themselves, especially when we consider the pluralistic and multi-cultural nature of many societies. The task of justifying liberalism, especially to non-liberals has probably never seemed more daunting.

In so far as the project of justifying liberalism is still considered valid, the debate in modern liberal philosophy tends now to revolve around what systematic interpretations of core liberal values best capture our intuitions about them. This paper addresses the issue of liberal justification by attempting

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to clarify the different ways in which liberals try to furnish systematic justifications for liberal practices. It identifies these different approaches through exploring two kinds of distinctions commonly found in liberal theory: the distinction between perfectionist and anti-perfectionist sources of liberal principles, and the distinction between neutrality and non-neutrality. In exploring the relationships that obtain when liberal theories are categorised by these two distinctions, the paper provides a roadmap of several current liberal theories which highlights the weaknesses and shows what directions of argument proponents of different approaches are likely to pursue to further their appeal.

The historical challenge to tyranny, paternalism and arbitrary rule which liberalism represented established the liberal doctrines of limited government, the rule of law and the protection of certain fundamental freedoms of the individual. The liberal convictions that underlie our acceptance of these practices can be thought of as having two distinct sources of appeal, which are better thought of as constituting the ends of a spectrum rather than as mutually exclusive sources of justification. One source of liberal values justify liberal freedoms and practices primarily in term of an ideal of the autonomous and self-determining individual. It is an instance of perfectionist justifications of the state based upon comprehensive ideals of individual well-being. From this ideal we can derive and justify certain political arrangements which secure the conditions such as basic freedoms and social justice necessary to the individual's pursuit of a variety of ends.

Liberalism's antecedents in political history on the other hand, suggest a different method of derivation for its practices which relies more closely on political experiences. The experience of arbitrary and despotic government and political oppression appears to be significant in explaining some of our strongly felt convictions about liberal political practices in a manner not wholly reducible to concerns about individual autonomy. The state, its coer-

cive force and our relationship to it constitutes a set of considerations which must be taken into account when we deliberate on what the role of the state is. As a result, *anti-perfectionists* tend to restrict the way that we appeal to ideals of well-being in politics. They typically utilise a distinct and more narrow account of persons' basic interests, such as that offered by Judith Shklar, in which the importance of some 'political' goods or values such as the legitimacy or accountability of the state outweighs the political pursuit of other, non-political goods. (Shklar, 1989) This gives rise to a distinct 'political' morality for the state in which a more stringent standard of justification for the state's actions than that we would expect from a human moral agent is required.

Clearly, what the two sources of values have in common is a respect for individual freedom which rules out the imposition by the state of a particular religion or way of life. However, those who view liberal practices as deriving from the first source endorse a justification which appears to be at odds with those who see the same practices as stemming from more political sources of value. Some liberal theories which make a strong appeal to the value of legitimacy, such as Rawls' political liberalism, explicitly rule out any appeal to comprehensive values of the good. Anti-perfectionists might therefore differ in their policy recommendations with liberals who want, for example, to implement an education system which encourages the development of individual autonomy and social experimentation, or those think that the arts should be publicly funded because exposure to them makes peoples' lives better or more worthwhile.

Liberal neutrality

Another debate which frequently occurs within liberalism is often posed in terms of whether liberalism should endorse the doctrine of neutrality. The doctrine of neutrality

holds that the state should refrain from promoting or discouraging certain ways on life or conceptions of the good on the basis of their intrinsic worth. While the stance of neutrality appears to encapsulate the liberal attitude that the state should leave individuals to choose their own life-plans and to decide on what a good life is, it is a strictly political doctrine in that it applies only to the state and not to individuals. For this reason, neutrality is often associated with anti-perfectionist view that the state should be regulated by a distinct political morality.

Neutrality is often thought to embody a self-evident conception of fairness or equal treatment. (Ackerman, 1980) This view is mistaken for two reasons. First, neutral policies could not be considered fair to those conceptions of the good which are adversely affected by them and secondly, state actions invariably have differential effects on different groups in society. To attempt to equalise the effects of any state action would be overly-demanding and undesirable, if not impossible. This gives substance to the familiar charge that liberalism cannot be neutral between persons or conceptions of the good because some will inevitably be helped and others hindered by a policy of neutrality. One way of salvaging this fairness-based conception of neutrality is to say that unequal treatment does not violate neutrality, since it is not neutrality of consequence or effect, but rather neutrality of aim or justification for an action which liberals espouse. However, this qualification gives us even less reason to think that being neutral is being, in some self-evident way, fair. Certain forms of non-neutrality, such as the proceduralist theories examined below, can make an equally compelling appeal to fairness.

Neutrality is therefore not a self-justifying doctrine on the grounds that it constitutes fairness. However, fairness is not the only grounds on which neutrality is justified. There is no unanimous agreement on what justifies neutrality, and adherents can be found among both liberals who endorse justifications grounded in comprehensive ideals as well as

liberals who support a more politically-grounded morality for the state.

A typology of liberal theories

The distinction between pro-neutrality and anti-neutrality liberal theories does not correspond to the above distinction between those who believe that liberals should appeal to comprehensive values of the good and those who think liberalism should abstain from invoking any such values. The divide between advocates and opponents of neutrality cuts across the above distinction between what I called *perfectionist* and *anti-perfectionist* versions of liberalism. Although the term ‘anti-perfectionism’ is often identified with neutrality, I believe that they can be usefully distinguished from each other. Neutrality is best thought of as a stance or an attitude which the state takes up towards the conceptions of the good in society. This attitude is reflected in the reasons that the state gives for its actions. Anti-perfectionism, however, applies to a deeper level of justification for it refers to the justification for or against the stance of neutrality itself.

We can obtain a better typology for categorising different liberal theories when we take into consideration the various reasons why liberals reject or accept neutrality. Such a typology will be helpful in seeing exactly how and where liberal theories differ on the issue of justification. The scheme below proposes

	Perfectionism	Anti-perfectionism
Non-neutral	Raz’s perfectionist liberalism	Proceduralism: (Gutmann, Barry, Larmore) ¹
Neutral	Dworkin’s ethical liberalism Kymlicka’s defence of neutrality ²	Rawls’ political liberalism

that modern liberal theories be categorised along two axes, and provides in each box examples of certain well-known liberal theories.

The two axes or distinctions which liberal theories can be categorised along are: whether the principles which a theory espouses are neutral between different conceptions of the good and whether the justification for those principles draws upon any conception of the good.

Autonomy

An influential kind of liberalism represented by theories in the bottom left-hand box views neutrality to be a doctrine entailed by comprehensive liberal ideals; most commonly and prominently, by the ideal of individual autonomy. Its concern is with how individuals come to choose and pursue their conception of the good, and it holds that neutrality is necessary for the protection of autonomous choice. The state should be neutral between conceptions of the good because people are better able to pursue their conception of the good in the right way without state interference.

This attractive way of defending liberalism is sometimes described as a *consequentialist* defence of neutrality, in which a means-based strategy of argument is used to support neutrality. The arguments for neutrality are generally grounded in the unsuitability of political power or force as a means of promoting the good of autonomy. One kind of argument to this effect says that the state's coercive character is unsuited to furthering individuals' interests in autonomy because foisting a way of life on individuals will not elicit the kind of authentic and reflective endorsement that autonomy requires. This line of argument is traceable to the Lockean idea that toleration is justified because religious belief is involuntary and cannot be generated by force. Another kind of argument says that if the state favours one conception of the good

over another, it undermines and distorts the process of reflection and evaluation by attempting to guide choice on what should be non-relevant grounds from the viewpoint of autonomy, i.e. what the state believes to be good. The state should not further its own assessment of what the best way of life is, but should instead secure the conditions necessary for the exercise of reflective choice.

Razian perfectionism

Consequentialist defences of neutrality have, however, been subjected to decisive objections. (Caney, 1991, Hurka, 1995, Raz, 1988) Not only is the neutrality that it professes limited to neutrality among conceptions of the good which endorse the value of autonomy, but as Raz has argued, it is unclear why valuing autonomy should lead to neutrality. Raz thinks that it is relatively uncontroversial that we regard autonomy to be valuable only if it is exercised in pursuit of good ways of life. Critical reflective endorsement of one's ends is a necessary, but not sufficient condition of leading a good life, and therefore there seems to be no *principled* reason why the state should limit itself to protecting individuals' interest in autonomy, with no regard for their wider well-being. While perfectionist neutralists above say that the state's attempt directly to impose belief through coercion is self-defeating and may contribute to undermining individual autonomy, Razian perfectionists point out that some non-coercive methods of promoting and discouraging certain conceptions of the good can be successful and effective in furthering individuals' well-being without significantly affecting their autonomy. If this is true, then the state may actively seek to preserve good options, and, perhaps more ominously, to limit or minimise bad ones; it need not be neutral between them. It is thus difficult to see why the state should be neutral if it can, as Razian non-neutral perfectionists think, act to guide people towards good ways of life. Perfec-

tionist neutralists must find some way to counter this by either persisting with the argument for a blanket ban on non-neutral measures on a case by case basis or by dropping neutrality as a stringent requirement of state action.

Raz's liberal perfectionism is not, however, a problem-free alternative. Apart from concerns about the practical consequences of implementing a perfectionist state, there is also the issue of how closely Raz's liberalism corresponds to traditional views of what liberalism is about. Under Razian liberal perfectionism, toleration would be more limited than many liberals have generally argued for. There may not always be a case for allowing bad or mistaken ways of life to exist, thereby limiting the scope of individual choice. This in turn raises the issue of whether such practices can be regarded as liberal. Razian perfectionists must address liberal concerns about the potentially paternalistic nature of their measures if they are to succeed in presenting their conception of liberalism as an appealing one.

Proceduralism

Both Razian perfectionists and neutralist liberals concerned about autonomy share the view that the state should promote comprehensive liberal ideals but differ on the best means of doing so.³ They are both perfectionist as they believe that the justification for liberal practices is grounded in comprehensive ideals grounded in individuals' moral well-being. In contrast, anti-perfectionist liberal theories make no reference in their justification of liberalism to comprehensive moral ideals. They do not base liberalism on any pre-political view of ultimate human good because of the fact that we cannot foresee or expect agreement in society on what human good consists in. This is because they endorse a view of justification characterised by the idea that whatever cannot be acceptable to all cannot be a legitimate reason for political authority

to act upon. The idea of legitimacy central to this view of justification may be seen as stemming from respect for individuals' reason and agency, or from democratic fairness. Anti-perfectionism thus demands what Thomas Nagel calls a 'higher-order impartiality' requiring individuals to abstract from their views of what makes a person's life good. (Nagel, 1990)

Anti-perfectionists, however, need not hold that the state should be neutral in its actions between different conceptions of the good, and certain kinds of procedural theories can be thought of as non-neutral, anti-perfectionist theories. Many theories of deliberative democracy and dialogue-based theories of liberalism are examples of procedural theories which belong to the upper right-hand box in the figure above. Brian Barry's theory of justice as impartiality may also be put in this category. Although some deliberative democrats see themselves as offering an alternative to liberalism, others see themselves as working within the liberal tradition. Most of these theorists would consider a theory which cannot account for many liberal practices and for the usual scheme of liberal freedoms defective.

These theories are anti-perfectionist for they hold that the fact of pluralism imposes constraints upon political justification in such a way that prevents people from imposing their conceptions of the good on others who do not share them. However, none of these theorists believe that this commits them to the doctrine of neutrality. Indeed, they claim that the principle of legitimacy is fulfilled when persons' conceptions of the good, or if their concrete and particular interests are reflected in public justification. What these theories seek are justifications and political principles produced by interaction between existing conceptions of the good. This does not, however lead to perfectionism because what fundamentally validates the principles is the procedure, rather than the independently good reasons for those principles.

Dialogical and deliberative theories hold

that the state's actions should proceed on the basis of reasons which all can accept, and prescind from reasons which do not command consensus. As a consequence, however, the content of political principles is largely determined by whatever holders of specific conceptions of the good currently existent in society can agree upon, or in Barry, cannot reasonably reject. This is a source of concern for the following reasons: apart from the minimal freedoms necessary for deliberation to take place, there is no guarantee that the consensual principles will have any liberal content. Secondly, even if they do turn out to be liberal principles, the fact that they are contingent upon agreement is disturbing, especially for those who believe in comprehensive liberal ideals. It is hard to see how purely procedural rules can guarantee that principles have liberal content. Further, can principles be considered truly normative if they are justified by whatever people happen to agree to? After all, freedom and equality have traditionally been revolutionary concepts, justified independently of, and prior to any decision-making procedures. In Dworkin's words, liberal principles should possess categorical force in addition to consensual promise. Proceduralists must find some way of preserving the content of liberal principles without sacrificing the procedural element so important to their approach.

Political Liberalism

Rawls' position in the lower right-hand side of the figure distinguishes him from the three other liberal approaches to justification. Rawls' political liberalism is both anti-perfectionist and neutral and is thus described as a deontological theory; that is, one which 'specifies the right independently of the good.' (Rawls, 1971, p30) The principles are anti-perfectionist because they do not appeal for their justification to any particular pre-political ideal of the good, and they endorse neutrality in that they do not allow the state to act on

reasons deriving from a particular conception of the good. While the proceduralist theories mentioned above incorporate deontological elements in the constraints that they place on justification, they do not result in a set of principles of right whose content is defined independently of the good. Only political liberalism is a thorough-going deontological theory in that the justification, as well as the content of the political principles, does not reflect any ideas of the good.

Rawlsian political liberalism is often confused with its non-neutralist, proceduralist counterparts in its emphasis on gaining consensus. Unlike proceduralist theories, however, the liberal content of Rawls' principles has validity in a way which does not depend solely on whether they are accepted. This is achieved through a two-stage process of theory construction. At the first stage, principles are constructed which draw upon normative ideas latent in the public culture. While the appeal to public culture exhibits a concern with consensus, the content of the principles is not determined by existing particular conceptions of the good. The normative ideas with which Rawls constructs his principles are those of society as a scheme of social co-operation, and of individuals as rational and reasonable. At the second stage, the principles are assessed for whether they can be what Rawls calls the focus of an overlapping consensus; that is whether they can find a deeper justification in different comprehensive conceptions of the good that people hold in society. The fundamental idea here is that people can draw upon comprehensive ideals in justifying liberal beliefs while at the same time observing the constraint of legitimacy where disagreement about comprehensive conceptions of the good exists. This is possible in an overlapping consensus, in which parties affirm the same fundamental ideas and the same principles of justice, but justify them on different comprehensive conceptions of the good.

It is the aim of reaching an overlapping consensus which explains why political liber-

alism is a thorough-going deontological theory. As the political principles are neutral between different conceptions of the good, individuals with different conceptions of the good can come to accept the same principles of justice. Such allegiance can then prompt a reconsideration of how people's ideas of the good relate to their political convictions, and can eventually lead people to adjust their comprehensive ideals to be in line with, and supportive of their political convictions. In this way, Rawls hopes that a convergence on the same principles of justice from different comprehensive ideals will develop.

It might be said, however, that political liberalism does not provide any actual justification for liberal principles. Some commentators think that Rawls' deontological approach appeals to reasonableness. However it is not clear that reasonableness has sufficient weight to be a fundamental value on which to justify liberal principles, if indeed, it is possible to identify the independent appeal of reasonableness in the first place (Brouwer, 1994). Ultimately, the liberal content of his principles derives from the public culture from which Rawls draws his fundamental ideas of society and the person. This implies that the public culture is already liberal, and that these ideas are already justified in the first place. Rawls himself suggests that if these ideas were not independently justified (that is, if the public culture were not liberal), the political liberalism he advocates would not be valid. The ultimate justification of liberal practices and beliefs lies in grounds which political liberalism cannot provide. What political liberalism can allow people to do is to draw upon both pre-political comprehensive ideals, and to reconcile them with more narrowly political concerns in justifying liberal principles. It does not however, succeed in providing a ground-up, or fundamental justification of liberalism. Seen in this light, Rawls' project is saved from redundancy only at the price of limited applicability. It applies only to societies which already accept some liberal convictions.

Conclusion

This paper has attempted to set out a typology of the various ways in which liberal theories approach the issues of justification, neutrality and pluralism. In distinguishing anti-perfectionism from neutrality, two terms often confused, we are able to obtain a four-fold distinction between different liberal theories, and a sense of their strengths and weaknesses.

Those who see neutrality as justified by the promotion of individuals' interests in autonomy are categorised as perfectionist neutralists whose arguments depend on the assumption that the state cannot effectively promote autonomy. Razian perfectionists however, believe that this assumption is faulty, and consequently, that neutrality is a misguided way of promoting people's well-being. This kind of perfectionism, however, raises concerns about the state's legitimacy in a society in which such ideals are controversial and unlikely to command consensus. Proceduralist theories therefore hold that consensus on political principles must be attained through a process of collective debate and deliberation. This approach however, risks sacrificing liberal content for agreement. Rawlsian political liberalism attempts to side-step this problem by positing a two-stage process of justification which can reconcile categorical force with consensus. However, this solution can work only in societies whose public culture are already infused by certain liberal understandings. The task of justifying liberalism to non-liberals, from the ground up, ultimately appears to be an eclectic one.

Notes

1. Examples of such theories are found in Ackerman (1980), Gutmann and Dennis Thompson (1990), Gutmann, (1993) and Larmore, (1987). It should be noted that some of these theories, such as Ackerman's and Larmore's are often described as theories of neutrality.

2. For example, Dworkin, (1989) and Kymlicka, (1989).
3. Raz (1988) notes that it is 'merely a more radical restriction of the employment of means through which one may pursue conceptions of the good.'

References

- Ackerman, B. (1980), *Social Justice in a Liberal State*. New Haven: Yale.
- Brouwer, B. (1994), 'The limits of public reason' *Journal of Philosophy*, 151:1, pp. 5–26.
- Caney S. (1991), 'Consequentialist defences of neutrality' *Philosophical Quarterly*, 41:165, pp. 457–477.
- Dworkin, R. (1989), 'Foundations of liberal equality' *Tanner Lectures* Cambridge: Cambridge.
- Gutmann A. and Thompson D. (1990), 'Moral conflict and political consensus'. *Ethics* 101, pp. 63–88.
- Gutmann, A. (1993), 'The disharmony of democracy' in *Democratic Community*. New York: Nomos XXXV, pp. 126–162.
- Hurka, T. (1995), 'Indirect perfectionism: Kymlicka on liberal neutrality'. *Journal of Political Philosophy* 3:1, pp. 36–57.
- Kymlicka, W. (1989), 'Liberal individuality and liberal neutrality'. *Ethics* 99.
- Larmore C. (1987), *Patterns of Moral Complexity*, New York: Columbia.
- Nagel, T. (1990), 'Moral conflict and political legitimacy' in *Authority* ed. J. Raz Oxford: Oxford.
- Rawls J. (1971) *Theory of Justice* Cambridge: Harvard.
- Raz J. (1988), 'Autonomy, toleration and the harm principle' in *Justifying Toleration*, ed S. Mendus.
- Shklar J. (1989), 'The liberalism of fear', in N. Rosenblum ed. *Liberalism and the Good Life* Cambridge: Harvard.