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Public Reason and Perfectionism: Comments on Quong's *Liberalism Without Perfection*

Abstract *Liberalism Without Perfection* elaborates a generally Rawlsian conception of public justification in order to defend antiperfectionist liberalism. This critical response raises questions about the link between the two parts of the project. On the hand, it is possible to reject that demand that reasons for political decisions pass a qualified acceptability requirement even if one is strictly opposed to paternalism. On the other hand, the commitment to public justifiability does not rule out all perfectionism, if there are some claims about the good that are not reasonably rejectable.

Keywords: liberalism, political liberalism, public reason, public justification, neutrality, perfectionism

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1. Introduction

Jonathan Quong's *Liberalism Without Perfection* has two connected purposes: to reject perfectionism, and to defend a public-justification model of political liberalism. Perfectionism, broadly speaking, is the view that it is legitimate for us to exercise political power in order to promote the leading of truly good lives. Perfectionism therefore rests on claims about what constitutes human flourishing, beyond simply avoiding death, pain, and other obvious evils. Perfectionism is not necessarily antithetical to liberalism, for if one's conception of flourishing gives pride of place to values such as autonomy and individuality, one will likely support familiar liberal rights (conscience, speech, education, etc.). It is even possible, on the basis of a liberal conception of flourishing, to argue that the state ought not favour or disfavour other, more specific conceptions of the good. Quong agrees with Thomas Hurka, George Sher, Steven Wall and Joseph Chan, however, that attempts to ground neutrality on a liberal conception of the good don't end up being fully neutral, because they must permit gentle, pluralistic perfectionism.¹ Unlike Hurka et. al., Quong maintains that this lack of neutrality is a problem.

¹ Thomas Hurka, "Indirect Perfectionism: Kymlicka on Liberal Neutrality," *The Journal of Political Philosophy* 3 (1995): 36-57; George Sher, *Beyond Neutrality: Perfectionism and Politics* (Cambridge: Cambridge University Press, 1997); Steven Wall, *Liberalism, Perfectionism and Restraint* (Cambridge, England ; New York: Cambridge

Even if it doesn't permit violations of basic rights and generally supports neutrality, a liberalism grounded in a liberal conception of the good will involve paternalism, and such paternalism is inconsistent with recognition of one's fellow citizens' moral status as free and equal persons.²

The main alternative to a liberalism that begins from a liberal theory of the good is some form of "political liberalism," which rules out appeals to controversial, i.e. reasonably contestable conceptions of the good as the foundation for liberal principles. While acknowledging the existence of "modus vivendi" and "value pluralist" forms of political liberalism, LWP defends a Rawlsian version of political liberalism based on the idea of public justifiability. No one disputes that the exercise of political power should have to be justified in public. The Rawlsian principle of public justification is distinctive and controversial, however, because it holds that the exercise of political power must be justifiable *to all* those subject to that power, where "justifiable to A" means something like "would be acceptable to A, if A took the necessary time to think about it, without A having to give up the reasonable religious or philosophical doctrine A currently espouses." Justification to each of A, B, C... therefore involves a partly idealized unanimity standard, or what following David Estlund I will refer to as a qualified acceptability requirement.³ The exercise of political power must be such as to receive unanimous approval on the part of all reasonable or otherwise qualified perspectives.

This idea of unanimous idealized acceptability may be met with scepticism. Who is to say who counts as reasonable? Isn't it dubious to argue that because you *would* agree with me if you were reasonable I don't have to ask for your consent, and can simply impose my views? As Quong argues in Chapter 10 of LWP, such objections are wrong-headed, because they misunderstand the scope and point of the principle. Of course everyone gets a say, reasonable or not; everyone gets to vote and run for office. The idealized unanimity criterion is not a social decision procedure intended to replace ordinary democratic processes (based on a franchise limited to card-carrying late-Rawlsians). It is a moral principle that is meant to identify when and how the exercise of political power

University Press, 1998); Joseph Chan, "Legitimacy, Unanimity, and Perfectionism," *Philosophy and Public Affairs* 29, no. 1 (2000): 5-42.

2 Jonathan Quong, *Liberalism Without Perfection* (Oxford: Oxford University Press, 2011), 23-6, 97-107. Henceforward I will refer to this work as "LWP", with page references in parentheses in the text.

3 David M. Estlund, *Democratic Authority: A Philosophical Framework* (Princeton, NJ: Princeton University Press, 2008), 3-5, 40-65.

is legitimate, a principle citizens themselves are meant to apply in deciding how to exercise their democratic rights. Everyone is part of the actual voting constituency, but only some are part of the “constituency of public justification” (292), the “constituency of reasonable persons” (143, 261) to whom the grounds of our political decisions must be unanimously acceptable. Perhaps some political liberals are guilty of drawing the justificatory constituency too narrowly. Yet those who reject the requirement of public justifiability cannot complain about this, for they draw this constituency narrower still. Those who reject public justifiability accept what Steven Wall calls a “correctness” standard of justification.⁴ Correctness justification can be viewed as a degenerate case of public justification; it is simply public justification when the circle of qualification (the justificatory constituency), is reduced to one. People who think that reasons for political decisions don’t have to be acceptable to *any* other points of view, just true, are not in a good position to complain that political liberals require acceptability to *too few* points of view.

Quong’s version of public justification liberalism is generally Rawlsian, but with some important differences. It is Rawlsian first because it requires that political decisions be justifiable in terms of reasons that pass the qualified acceptability requirement; it is not the principle that state action must pass the qualified acceptability requirement otherwise we default to inaction.⁵ In the latter formulation, as a constraint on state action directly, the principle of public justification would permit laws that are *not* justifiable on the balance of public reasons *if* the total balance of reasons of each reasonable comprehensive doctrine favoured the law (although such unanimous convergence is likely to be rare). The direct application of the qualified acceptability requirement

4 Steven Wall, “Is Public Justification Self-Defeating?,” *American Philosophical Quarterly* 39, no. 4 (2002): 385-94. A correctness-based justification ‘demonstrates that a conclusion is correct, irrespective of whether all persons can reasonably accept it’ (386).

5 Here is how Quong put this point in an earlier article: “The standard of liberal legitimacy, after all, is not (or should not be) reasonable rejection... Rawls’s standard of liberal legitimacy asserts that the state should not act on grounds that citizens cannot ‘reasonably be expected to endorse’. There is all the difference in the world between these two conditions... As Rawls says, ‘reasonable political conceptions of justice do not always lead to the same conclusion, nor do citizens holding the same conception always agree on particular issues. Yet the outcome of the vote is to be seen as reasonable provided all citizens of a reasonably just constitutional regime sincerely vote in accordance with the idea of public reason;’ Jonathan Quong, “Disagreement, Asymmetry, and Liberal Legitimacy,” *Politics, Philosophy, Economics* 4, no. 3 (2005), 316; citing John Rawls, *Political Liberalism* (New York: Columbia University Press, 1996), lvi. The analogous passage in LWP does not contain this statement, but I do not think Quong’s position has changed; see p.210 of LWP.

to state action would also permit a negative total balance of reasons on the part of just one reasonable comprehensive doctrine to trump a positive balance public reasons (a scenario that is more readily imaginable). The idea of public justification via convergence without consensus has recently been defended by Gerald Gaus and Kevin Vallier, but Quong rejects this model, insisting on Rawls's shared reasons requirement (265-273).⁶ The second Rawlsian aspect of Quong's position is that ordinary citizens as well as designers of political institutions are to apply the principle of public justification. It is conceivable, even if one might think unlikely, that we could do better, in terms of the goal of enacting publicly justifiable laws, by deliberating and voting on the basis of our various comprehensive doctrines, within the context of institutions designed to maximize public justifiability. Again, the model here would be Gaus and Vallier's indirect model of public justification. Quong sticks with Rawls' view that public justifiability is something we should all aim for, not just something we should hope ends up happening.

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Quong deviates from Rawls in two important respects. Rawls claimed that that the principle applied only to (or at least in the first instance to) so-called "constitutional essentials" and "matters of basic justice."⁷ In contrast, Quong believes that the principle applies to all exercises of political power (273-287). His political liberalism is therefore more broadly antiperfectionist than Rawls's. Also, the idea of "overlapping consensus" plays a different role in Quong's theory than it did in Rawls. For Rawls, there were two stages of justification. First, we articulate a free-standing defense of a political conception of justice, one meant to be acceptable to all reasonable moral points of view. Then we check to see if that conception might become the object of an overlapping consensus of reasonable comprehensive doctrines. A number of Rawls's critics took issue with this two-fold structure of justification.⁸ If the first stage

6 Gerald F. Gaus, and Kevin Vallier, "The Roles of Religious Conviction in a Publicly Justified Polity: The Implications of Convergence, Asymmetry and Political Institutions," *Philosophy and Social Criticism* 35, no. 1-2 (2009): 51-76. For further discussion of the differences between "convergence" and "consensus" modes of public justification, see Kevin Vallier, "Convergence and Consensus in Public Reason," *Public Affairs Quarterly* 25, no. 4 (2011): 261-80 and Andrew Lister, "Public Justification of What? Coercion Vs. Decision as Competing Frames for the Basic Principle of Justificatory Liberalism," *Public Affairs Quarterly* 25, no. 4 (2011): 349-67.

7 As Quong notes, Rawls' position is ambiguous; compare Rawls, *Political Liberalism*, 215; John Rawls, and Erin Kelly, *Justice as Fairness: A Restatement* (Cambridge, Mass.: Harvard University Press, 2001), 91, note 13.

8 See in particular Brian Barry, "John Rawls and the Search for Stability," *Ethics* 105 (1995): 874-915; Jurgen Habermas, "Reconciliation Through the Public Use of Reason: Remarks on John Rawls's Liberalism," *Journal of Philosophy* 92, no. 3 (1995): 109-31.

argument is correct, all reasonable comprehensive doctrines ought to accept the political conception of justice, or some similarly liberal political conception. Requiring that the political conception of justice (or the liberal family of conceptions) receive support from doctrines that reject this argument would seem to make the political conception hostage to the unreasonable (167). Quong's solution is to argue that overlapping consensus is the starting point for the freestanding argument, not a second-stage test with independent justificatory force. By definition, reasonable comprehensive doctrines accept certain basic ideas: that society is a fair scheme of cooperation, that there are burdens of judgment, and thus a fact of reasonable pluralism, and that therefore the exercise of political power ought to be publicly justifiable. This convergence of reasonable doctrines on the fundamental elements of political liberalism holds because acceptance of the ideas in question is one of the criteria of reasonableness.

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Quong therefore insists, rightly in my view, that political liberalism is not a theory intended to justify liberalism to the non-liberal. Quong distinguishes what he calls the "external" and the "internal" conceptions of political liberalism, and defends the latter (138-160). The main difference between the two concerns the constituency of public justification. The external conception holds that political principles, as well as (decisions about) laws and policies, are justifiable to all when they are acceptable to all of the real citizens in current societies who are reasonable a weak sense, e.g. being willing and able to reason sincerely and live cooperatively with others. Citizens who are reasonable in this sense need not share any basic liberal commitments, let alone a commitment to the principle of public justification. In contrast, the internal conception counts as qualified only those points of view that recognize the existence of burdens of judgment, accept the fact of reasonable pluralism, (hence) conceive of society as a fair scheme of cooperation between free and equal moral persons (summarizing 140 and 143-4). Fully reasonable points of view also accept the principle of public justification (207), a fact that will be important to Quong's response to the so-called "asymmetry" objection, discussed below. This more highly idealized standard of qualification makes the internal view's account of the justificatory constituency more restrictive, and so makes the unanimity requirement easier to satisfy than it would otherwise be. At the same time, the internal model requires acceptability to all possible views that meet these criteria, not just the subset of qualified views currently existing in a particular society. This hypothetical aspect of the internal view broadens

the justificatory constituency, making the unanimity standard harder to satisfy than it would otherwise be. These differences in the two model's standards of qualification reflect deep differences about the purpose or point of public justification, I believe. On the external conception, with its weak conception of reasonableness and its focus on actually-existing views, public justifiability is closely connected with stability. On the internal conception, with its more strongly idealized and hypothetical constituency, public justifiability is meant to be a consequence of respect for persons' equal moral status, and a way of constituting a relationship in which this mutual respect is manifest.

In my comments, I want to focus on the connection between the two sides of Quong's argument, the critical and the positive. I want to question whether one needs the principle of public justification in order to be a strict anti-perfectionist, and also whether if one does accept the principle one will end up being as strictly anti-perfectionist as he claims. In short, I want to suggest that public justification is neither necessary nor sufficient for a strict anti-perfectionism. I will argue that one could be firmly opposed to all perfectionism that involves paternalism, but still reject the requirement of public justifiability, and also that one could endorse public justification while permitting perfectionism on the basis of claims about the good that are not reasonably rejectable.

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2. Two (or more) Questions about the Good

Quong distinguishes two questions about the role of conceptions of the good in (liberal) political philosophy:

- “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?” (12)

Question 1 distinguishes “comprehensive” from “political” theories, while question 2 distinguishes “perfectionism” from “antiperfectionism”, yielding four possible views. The two questions differ in their objects, first of all: the principles that compose a political philosophy, for question 1, as opposed to laws, policies and other state actions, in for question 2. They also differ in the role played by conceptions of the good: sources

of justification, in question 1, as opposed to objects of promotion as well as sources of justification, for question 2.⁹ And they differ finally in the nature of the question being asked. Question 1 asks about possibility, Question 2 about permissibility. According to Quong, political liberals assert and comprehensive liberals deny that liberal principles can be derived from nonliberal religious and philosophical doctrines, as well as from liberal ones. I don't think that is the right way to draw the comprehensive-political contrast. One certainly hopes that political liberals are right that it is possible to accept liberal political principles on the basis of non-liberal religious and moral doctrines, that one does not have to be a Millian or a Kantian to accept freedom of conscience, representative democracy, and other familiar liberal rights. However, there is no reason for comprehensive liberals to deny that such broad liberal principles are endorsable from multiple points of view. Comprehensive liberals also hope that philosophical liberals and philosophical nonliberals will converge on some general set of liberal rights and freedoms. There will be disagreement about the specification and ranking of these freedoms, as well as about which rights are included, and so too about the laws, policies, and institutions they require or permit. The comprehensive liberal maintains that in debating and deciding on these matters, there is nothing wrong with making up one's mind based on the full set of reasons one accepts, including reasons based on what one takes to be truths about human flourishing, even if reasonably contestable. In contrast, the political liberal maintains that there is something wrong with making these decisions on nonpublic grounds. We all hope that generic liberal principles can be accepted by people from diverse backgrounds. But if we find ourselves disagreeing about political decisions because

9 Question 2 refers to promoting activities or ways of life on the grounds of their inherent goodness, not just to promotion in general. There are two ways that we could promote conceptions of the good without making any claim about their inherent goodness. First, we might promote a conception of the good because its general adoption would have beneficial consequences unrelated to its goodness, consequences such as social stability. Establishing a religion on grounds of avoiding religious war would fit into this category. Establishing one religion to avoid civil conflict could in principle be an effective policy motivated by the familiar public consideration of maintaining peace; Richard Arneson, "Neutrality and Utility," *Canadian Journal of Philosophy* 20, no. 2 (1990): 215-40; Alan Patten, "Liberal Neutrality: A Re-interpretation and a Defence," *Journal of Political Philosophy* 20, no. 3 (2012): 249-72. Second, we might find ways of promoting human flourishing that don't presuppose any specific account of what flourishing consists in. One might argue that providing education and requiring courses in world religions and philosophies would promote the leading of good lives without making any particular claim about what the good life is. However, views that answer "yes" to Question 2 permit the promotion of specific conceptions of the good *on grounds of the claim that they are true*.

of religious or philosophical differences that lead us to accept different principles of justice or different rights and duties, political liberals claim that we must decide on public grounds, while comprehensive liberals recognize no such duty of restraint on the part of citizens, nor any fundamental criterion of legitimacy involving qualified acceptability.

We could therefore modify Question 1 to focus on permissibility:

- lb) *May* liberal political philosophy be based in some particular ideal of what constitutes a valuable or worthwhile human life, or other metaphysical beliefs (i.e. is it permissible to base liberal principles on a liberal conception of the good)?

This formula is not satisfactory either, because if it turns out that people can converge on general liberal principles from diverse religious and philosophical perspectives, there is clearly nothing wrong with their doing so. When we talk about “basing” liberal principles on controversial comprehensive doctrines, our concern is not with convergence on shared principles (i.e. overlapping consensus), but with specifying principles, and making decisions based on these principles, in the context of disagreement. The question is what happens when citizens disagree about the nature, meaning, scope, or implications of principles of justice. Is it permissible at that point to advocate and vote for policies that one thinks justified according to the true principles, which are based on one’s own distinctive conception of the good, even if others can reasonably reject these conceptions?

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We might reformulate Question 1 so as to focus on political decisions:

- lc) Is it permissible to base political decisions on some particular ideal of what constitutes a valuable or worthwhile human life, or other metaphysical beliefs?

Framed in this way, Questions 1 and 2 would not be independent. If political decisions may *never* be based on conceptions of the good, then the state may not promote conceptions of the good *on the grounds of their goodness*.¹⁰ We want to leave space for a negative answer to the first question but a positive answer to the second, yielding political perfectionism in one of two forms. First, one might think that although

¹⁰ Comprehensive antiperfectionism would still be a possibility, so long as there are ways that conceptions of the good can figure in the justification of decisions that do not involve attempts to promote those conceptions, permitting us to answer “yes” to Question 1c but “no” to Question 2.

decisions about some class of basic political rules such as basic rights and liberties must not draw upon conceptions of the good, it is permissible to promote conceptions of the good so long as one does so in ways that do not violate these rules. Second, one might think that although political decisions may not draw upon controversial conceptions of the good, they may draw upon claims about the good that are not reasonably contestable. To allow for these positions, we should reformulate Question 1 so as to focus on decisions about basic matters, and we should indicate that both questions can be asked with respect to conceptions of the good in general, or just reasonably contestable ones.

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- 1d) Is it permissible to base decisions about basic political rules (e.g. basic liberties) on (reasonably contestable) claims about what constitutes a valuable or worthwhile human life, or other (reasonably contestable) metaphysical beliefs?
- 2b) Is it permissible for a liberal state to promote or discourage some activities, ideals, or ways of life on (reasonably contestable) grounds relating to their inherent or intrinsic value, or on the basis of other (reasonably contestable) metaphysical claims?

Because each question now embeds two separate questions, depending on whether or not one includes the “reasonably contestable” limitation, there are now more than 4 possibilities, but for simplicity’s sake I will persist in using a 2 x 2 framework. Taking into account these revisions, clarifications, and simplifications, and allowing for some abbreviation, we have the following possibilities:

		Question 1: <i>May decisions about basic policies be based on (controversial) conceptions of the good?</i>	
		Yes	No
Question 2: <i>May the state promote (controversial) conceptions of the good on the grounds of their goodness?</i>	Yes	Comprehensive Perfectionism	Political Perfectionism
	No	Comprehensive Antiperfectionism	Political Antiperfectionism (aka Political Liberalism)

With these modifications, the two questions are once again independent.

3. Two Kinds of Comprehensive Antiperfectionism

With this exercise in classification out of the way, I want to turn to Quong's critique of comprehensive antiperfectionism (CAP). CAP maintains (in my formulation) that decisions about our basic rights and liberties may be based on a liberal conception of the good, but that the state may not promote conceptions of the good (at least not on grounds of their goodness). The tradition Quong has in mind here runs from Mill through Dworkin to Kymlicka, particularly as Kymlicka is interpreted by Hurka. If autonomous individuality is crucial to leading a good life, but otherwise there are lots of different good lives to lead, concretely specified, and if the state must act via general rules backed by coercion based on limited information, and if valuable activities don't make someone's life go better unless that person recognizes and endorses their value¹¹, then the best rule of thumb for state action may be a policy of neutrality with respect to conceptions of the good. According to this way of thinking, the fundamental criterion for assessing the exercise of political power is the promotion of human flourishing, but because the truth about human flourishing is liberal, then, at least as a general rule, we can best promote human flourishing by not trying to. The state should remain neutral between specific conceptions of the good, limiting itself to enforcing individual rights and securing the other social conditions that permit people to formulate and pursue their own view of the good life – and this, all because of the truth of the liberal claim about the importance of autonomy and / or individuality.

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Quong argues that comprehensive antiperfectionism cannot yield a consistent antiperfectionism.¹² He illustrates his case with the example of Mike and Sara, who disagree about the value of recreational drug use, and hence also about whether it should be legally permitted. Mike

11 Even if theatre is better than monster trucks, my life isn't improved by attending the theatre if I just sleep or grumble my way through the show, without seeing the point of it all. Kymlicka calls this the "endorsement constraint;" Will Kymlicka, *Contemporary Political Philosophy: An Introduction* (Oxford: Clarendon Press, 1990), 203-04. It is a kind of feasibility constraint; use of coercion to promote ways of life that are truly valuable may be futile or backfire, because of the need for endorsement. 12 Quong says that he doesn't directly confront comprehensive antiperfectionism, apart from a few brief pages in Chapter 1 (22-25). However, it seems to me that Chapter 3's critique of paternalism applies to comprehensive antiperfectionism as well as to comprehensive perfectionism. Chapter 3 argues that all attempts to promote conceptions of the good on the grounds of their goodness involve an objectionable element of paternalism. If we assume that comprehensive antiperfectionism à la Mill and Dworkin isn't strictly antiperfectionist, however, then Chapter 3's argument that perfectionism involves paternalism also applies to comprehensive antiperfectionism.

thinks not, because he believes that seeking pleasure via intoxication is a perversion of human nature. Sara believes drug use should be permitted because she rejects Mike's perfectionism. If she bases her rejection of perfectionism on the value of autonomy, however, she runs into trouble. If she says that the reason it is wrong to coerce someone for his own good "has to do with autonomy, the importance of being the author of your own decisions and your own life" (23), Mike will deny that autonomy is so important that it always trumps other considerations. Sara can insist that autonomy really is always more important, but Mike will claim that she is drawing on a controversial view of the good, just like he is. Since it is grounded in the goal of promoting a controversial liberal conception of human flourishing, comprehensive antiperfectionism can't coherently object to the perfectionism of views that aim to promote other conceptions of human flourishing; at best, it can claim that they are promoting the wrong conception of the good. "Sara's objection to the criminalization of drug use is no less perfectionist than Mike's judgment in favour of criminalization," Quong concludes.

Furthermore, even if Mike were persuaded that autonomy is more important, with respect to the legal permissibility of drug use, he would insist that autonomy is not the only value state policy ought to promote. Comprehensive antiperfectionism must permit pluralistic, non-coercive promotion of good lives, since such promotion will not undermine people's autonomy (25). This kind of liberal perfectionism still involves objectionable paternalism, which Quong regards as involving disrespect for people's status as free and equal moral persons (100-6). The label "comprehensive antiperfectionism" ends up being misleading, because the state ends up acting for controversial perfectionist reasons anyway, in so far as it is committed to autonomy, and it is permitted to act perfectionistically with respect to other aspects of the good, so long as it does so in ways that don't undermine autonomy, e.g. via taxes and subsidies. Quong acknowledges that his criticisms target a specific form of CAP, not the family as a whole, but nonetheless concludes that his argument "suggests that comprehensive liberalism cannot yield a consistent anti-perfectionism" (25). This is the first main claim I want to challenge.

Quong effectively traces the limits of the consequentialist form of comprehensive liberalism. There is an alternate, deontological form of comprehensive liberalism, however. This kind of comprehensive liberalism denies that it is ever just to use the state to promote one reasonably contestable conception of the good over another simply on the grounds

that the people who accept the correct conception will lead better lives. Yet it insists that when it comes to determining what rights and duties individuals have with respect to one another, as a matter of justice, we may appeal to conceptions of human flourishing. Once someone has passed a minimal threshold of cognitive and practical capacity, we must respect the choices they make about how their own lives should go, even when these choices are wrongheaded, rather than trying to second-guess them, substituting our judgment for theirs about what is after all their life. However, when it comes to determining what we owe each other – what rights and duties people have, how to define “harm,” how to set the metric of distributive justice, or the boundaries of moral status – we should aim at the truth full stop, without qualification or limitation by any principle of unanimous reasonable acceptability. For example, to identify an appropriate scheme of basic liberties, we would normally make judgments about the relative importance of the different opportunities that different schemes will make available, or preclude – that is, we would do so if we were not restricted by a principle of public justifiability. Similarly, to determine what the relevant metric of equality is, in debates about social justice, we would normally need to know what resources are necessary for leading a good life. There is a crucial difference between deciding what is just *on the basis of* views about the good life, and deciding what is just *so as to promote the adoption of* those views. Not only does the latter view involve an objectionable form of paternalism, it subordinates the fundamental value of justice to a quite different goal, which is maximizing aggregate human excellence, or perfection. The suggestion that we should define “justice” to as to produce the greatest amount of individual or aggregate excellence involves treating the lives of some as mere tools for the achievement of greatness on the part of others. Defining justice on the basis of relevant claims about the content of human flourishing involves no such subordination of justice to perfection, but simply the insistence that we ought to figure out and enact true justice, even if in doing so we make reasonably contestable claims about the good.

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To illustrate the possibility of deontological comprehensive liberalism, let us return to the disagreement between Mike and Sara about recreational drug use. Sara can argue that the reason it is wrong to coerce someone for their own good is that it is paternalistic, and disrespects another person’s autonomous agency. This reason “has to do with” autonomy, but the claim is not that the state ought to act so as to promote human flourishing (which happens to include autonomy as one of its

central components). The claim is rather that once a person passes some threshold of rational functioning, her choices about her own life merit respect, even if they are mistaken and have the consequence that her life will be less worthwhile or successful. It is her life, and she ought to be able to make her own mistakes; I should not substitute my judgment for hers even if I am right that my judgment is better, because her capacity for making choices is good enough such that her judgment merits respect. The claim that Sara's position is 'no less perfectionist' than Mike's rests on an equivocation between the promotional and justificatory senses of perfectionism. Sara's position is staunchly antiperfectionist in the promotional sense, since she denies that it is legitimate to use political power to promote controversial conceptions of human flourishing, just because the people who end up adopting these ways of life will thereby lead better lives. Sara is strongly opposed to paternalism, particularly when coercive, but also when non-coercive (for, as Quong rightly argues, paternalism can exist without limitation of liberty).¹³ Sara's position is justified on the basis of reasonably rejectable claims about the value of autonomy, however, and about the proper form of our relationship to this value (respect, not promotion). This second, merely justificatory sense of perfectionism does not necessarily involve any taint of paternalism. Sara thinks that justice forbids paternalism (once people pass the threshold of cognitive and psychological capacity), but acknowledges that this claim depends upon controversial claims about the good. Drawing on controversial conceptions of the good in this way, in order to identify and specify the rights and duties we have as a matter of justice, does not in any way legitimate perfectionist *imposition* of controversial conceptions of the good. We identify justice based on claims about the good; we do not define "justice" *so as to promote* the favoured conception.

Later Quong labels this kind of position as "perfectionist justice" (29; see also 85).¹⁴ He argues that theories of perfectionist justice cannot "practically distinguish" themselves from non-perfectionist theories.

13 Quong offers the following example of an option-expanding but paternalistic offer: "My girlfriend asks me whether I will finish that conference paper I am meant to be working on this afternoon or succumb to temptation and watch the football match instead? I assure her I am perfectly capable of applying myself to work this afternoon, but she does not believe me, and so offers to take me out to my favourite restaurant (which she dislikes and generally would not go to) as an incentive to make sure I sue my afternoon appropriately" (75).

14 He calls perfectionist justice a "stronger" thesis, noting that contemporary perfectionists are typically committed to the "weaker" thesis that regardless of how principles of justice are derived, perfectionist reasoning constitutes legitimate

He makes this argument with respect to principles of distributive justice. Quong provides two different statements of the perfectionist position on distributive justice:

- 1) “[Th]e metric or currency of distributive justice must be defined by reference to perfectionist considerations” (85).
- 2) “[E]ach person’s fair share of resources or advantage should be determined by how much each person needs to flourish to the appropriate degree, as specified by the correct conception of the good life” (122).

The first defines perfectionism about distributive justice as the view that the metric of distribution depends on reasonably rejectable claims about human flourishing; the second adds that shares should depend on individual needs, so as to achieve equal levels of flourishing. Quong thus says that perfectionist justice “will distribute resources unequally in order to give each person the amount they need to achieve the same level of flourishing, whereas the non-perfectionist theory merely aims at an equal distribution of resources (122-3). Equality of flourishing must be both plausible and remain distinct from equality of resources in its practical implications, Quong claims, if it is to constitute a real alternative. Quong denies that it can be both (123-26). I agree with Quong’s criticisms of the principle of equality of flourishing, but don’t think they tell against perfectionism about justice. We ought to set aside once and for all the sleight of hand Dworkin used to define equality of resources. Those who reject neutrality and think that the question of human flourishing is relevant to the principle of distributive justice do not believe in enforcing equality of flourishing regardless of the choices people make, any more than Dworkin believed in equality of resources regardless of the choices people make.¹⁵ Dworkin’s metric was defined in terms of the total amount of resources devoted to a

grounds for political action (30). However it is not clear why one is stronger than the other, as opposed to just being different.

15 Arneson argued that there are two independent distinctions: “(1) straight equality versus equal opportunity and (2) welfare versus resources as the appropriate basis for measuring distributive shares.” I would simply add that we should also consider human flourishing, objectively characterized, as well as effective functioning as a citizen under question 2. Arneson goes on to point out that given his two binary questions there are four positions to consider. “On the issue of whether an egalitarian should regard welfare or resources as the appropriate standard of distributive equality, it is important to compare like with like, rather than, for instance, just to compare equal opportunity for resources with straight equality of welfare.” Dworkin’s “What is Equality?” is “marred,” Arneson says by “a failure to being these four

person's whole life, as determined by the prices generated by all of the choices they and everyone else make in an ideal market.¹⁶ A more perspicuous formulation of his position would be "equal opportunity to acquire resources as defined by everyone's aggregate preferences."¹⁷ Perfectionists can agree that justice requires equal opportunity, not equality of outcome, but they believe that the relevant opportunity is opportunity to flourish, as defined by an objective account of well-being, not equal opportunity to obtain resources as defined by average preferences. The fundamental question highlighted by the p.85 definition but not the p.122 and 123 definitions is how we determine the metric of distributive justice: resources as identified by aggregate preferences (Dworkin), resources necessary for exercise and development of capacities of free and equal citizens (Rawls), or resources necessary for human flourishing. The perfectionist position may be wrong, but it is a legitimate contender, and it is practically distinct.

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4. Political Perfectionism

According to political perfectionism, decisions about basic political rules e.g. rights and liberties may not be based on reasonably contestable conceptions of the good life, but they may be made based on claims about the good that are not reasonably contestable, and / or the state may promote conceptions of the good even if reasonably contestable, so long as it does so in ways that respect these basic rules, e.g. within the scope permitted by basic liberties.¹⁸ LWP offers two responses to

distinct positions clearly into focus" Richard Arneson, "Equality and Equal Opportunity for Welfare," *Philosophical Studies* 56 (1989), 88.

16 R. M. Dworkin, "What is Equality? Part 2: Equality of Resources," *Philosophy and Public Affairs* 10, no. 4 (1981), 307, 310.

17 Elizabeth Anderson points out that the difference between welfare and resource egalitarians does not consist in the fact that one attributes a role to subjective preferences and the other does not. "They differ only in that for welfare egalitarians, the claims a person makes are dependent on her tastes, whereas for resource egalitarians, they are a function of everyone's tastes" Elizabeth Anderson, "What is the Point of Equality?," *Ethics* 109, no. 2 (1999), 295. On this account, Rawls would not count as a resource egalitarian, since his social primary goods are not defined in terms of preferences at all, but based on what is necessary to function as a free and equal citizen.

18 See, for example, Taylor's discussion of two kinds of liberalism in his essay "Shared and Divergent Values," Charles Taylor, *Reconciling the Solitudes: Essays on Canadian Federalism and Nationalism* (Montréal: McGill-Queen's University Press, 1993), 156-86. Taylor distinguishes a bad, American form of liberalism based on neutrality, which he associates with Dworkin, and then a good, capacious form of liberalism that permits pursuit of collective (perfectionist) goals within the constraints of basic individual rights. If Taylor accepts that our basic rights and liberties must be identified and justified based on a limited set of public reasons rather than on the basis of specific religious doctrines, then the gap between Taylor and Rawls is very small.

political perfectionism. First, even if some goods are reasonably non-rejectable, state promotion of them will involve paternalism and / or unequal treatment, and so will be wrong even if not a violation of any basic liberty. That health and pleasure are good other things equal is not reasonably rejectable, let's assume; still, one might think that it would be paternalistic for the state to discourage smoking on grounds that smokers are making a mistake about the relative importance of health and pleasure.¹⁹ Quong's discussion of paternalism merits a longer discussion. Here, I want to limit myself to questioning the role that the principle of public justification plays in this argument. Even if we accept that it is paternalistic for the state to promote one ranking of reasonably-non-rejectable goods over another simply because this is the correct ranking and people's lives would go better if they adopted this ranking, it is not the principle of public justification that is doing the work in this case. The problem with the policy of discouraging smoking on grounds that health is more important than pleasure is not that it is animated by non-public reasons, values or convictions that some people will not unreasonably view as being fundamentally alien. The problem that the policy is paternalistic.

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To illustrate the fact that the demand for public justification goes beyond the rejection of paternalism, I would point out that not all anti-smoking laws based on an assessment of the relative importance of smoking and pleasure are paternalistic.²⁰ Judgments about the relative importance of health and pleasure can figure in justifications of decisions about social policy in two ways: as the object of promotion, or as the basis for determining the scope of the rights and duties we have as a matter of justice. Consider the question of the boundaries of our duty not to harm, in relation to second-hand smoke. On the one side of the debate, we have the legitimate concern of protecting people's health from the harmful effects of other people's smoking. On the other side of the debate, we have the legitimate concern that others take pleasure in smoking. If the latter did not count as a public reason, we could simply ban smoking across the board. That we do not do so suggests that

19 On this point, see Daniel Weinstock's case for mildly coercive policies intended to discourage smoking, and Gerald Gaus' critical response Daniel M. Weinstock, "Neutralizing Perfection: Hurka on Liberal Neutrality," *Dialogue* 38 (1999), 55; Gerald F. Gaus, "Liberal Neutrality: A Compelling and Radical Principle," in *Perfectionism and Neutrality: Essays in Liberal Theory*, ed. Stephen Wall, and George Klosko (New York: Rowman & Littlefield, Inc., 2003), 157-58.

20 This paragraph draws on Andrew Lister *Public Reason and Political Community* (Bloomsbury, 2013), Chapter 2, Section 3.

we think that the fact that some people like to smoke deserves some weight, in our decision about where to draw the boundaries of the right to smoke (airplanes? restaurants? doorways to buildings? patios?). Unless restricted in scope, the principle of public justification rules out appeals to controversial conceptions of the good in decisions about such policies, even though they are not paternalistic.

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It might be said that the value on the other side of the equation is not pleasure but simply liberty. Yet liberty as such, in the descriptive sense (absence of moral obligation or legal duty to refrain from doing X) does not have a fixed value, independent of what “X” is. Other things equal, liberty should be the default, I grant. But if “X” = murdering my neighbour, then this liberty has no moral value. Second-hand smoke is a long way from murder, of course. But the the bare, pro tanto value of lack of restriction is not going to answer the question of how important the liberty to smoke is, when it comes at the expense of harm, or risk of harm, to others. In setting the boundaries of people’s liberties, so as to make them consistent, we must draw upon judgments about the urgency of the various interests people have. Measurements of liberty will depend on qualitative assessments of the significance of the opportunities people have available to them, and will therefore normally depend upon judgments about the good, unless reasonably contestable and hence excluded by the principle of public justifiability. The case for exclusion of reasonably contestable conceptions of the good with respect to “perfectionist justice” cannot piggyback on the strength of the case against paternalism.

Even if one can be an anti-paternalist without accepting public justification (as my earlier discussion of the deontological variant of comprehensive antiperfectionism was meant to show), it may be that the principle of public justification provides a plausible reason for rejecting paternalism. If all or nearly all conceptions of the good are reasonably rejectable, public reason would by itself rule out all or nearly all perfectionism (unless its scope of application were restricted). The idea that no conceptions of the good will be agreed upon by all reasonable persons is certainly true if one takes “conception of the good” to refer to a body of evaluative or philosophical claims that forms a whole, one whose adherents consciously identify it as a system, or in other words a philosophy of life. Reasonable unanimity that one such system is best is extremely unlikely. As Joseph Chan has argued, however, it is more plausible to think that there can be reasonable unanimity on

single, local judgments about the value of particular activities or relationships.²¹ A life involving friends, family, and meaningful work is better than a life of loneliness and drudgery. Such judgments might pass the test of qualified acceptability, and thus constitute a legitimate basis for political decision-making, it seems.

Quong offers a partial response to this objection in his answer to what he calls the “asymmetry” objection, in Chapter 7. If reasonable disagreement about the good life makes conceptions of the good illegitimate as reasons for state action, why does reasonable disagreement about justice not make conceptions of justice illegitimate as the basis for state action?²² One answer would be that there is no reasonable disagreement about justice, but the view that there is this sharp epistemological asymmetry between the right and the good is implausible. Quong’s response is to distinguish fundamental from non-fundamental or “justificatory” disagreement, and to argue that reasonable disagreement about justice is necessarily justificatory, while disagreement about the good life is “almost certainly” going to be foundational (193). To illustrate the distinction, Quong contrasts Mike and Sara’s debate about the morality of recreational drug use, which is foundational, with Sara’s disagreement with Tony about discrimination, which is justificatory, or non-foundational (205). The question at stake between Sara and Tony is whether the Catholic Church should be allowed to hire only male priests. Tony thinks it should, because it is a private, voluntary association. Sara believes that it should not, because private organizations have to respect all kinds of laws, and nondiscrimination in hiring is just one of these. This disagreement is non-foundational because Sara and Tony accept a range of reasons that they agree are relevant to the case at hand, but simply interpret or apply them differently. They conceive of society as a fair scheme of cooperation between free and equal persons, they recognize the burdens of judgment and reasonable pluralism, they accept the principle of public justification, and so on. They arrive at different conclusions about the application of shared reasons in specific (perhaps disputed) factual circumstances, but these judgments do not count as non-public, in Quong’s (and Rawls’s) view. Public justifiability

21 Chan, “Legitimacy, Unanimity, and Perfectionism,” 13-14.

22 Many people have made this objection, but see in particular Michael Sandel, *Liberalism and the Limits of Justice, 2nd Edition* (Cambridge: Cambridge University Press, 1998), 202-10 and Simon Caney, “Liberal Legitimacy, Reasonable Disagreement and Justice,” in *Pluralism and Liberal Neutrality*, ed. Richard Bellamy, and Martin Hollis (Ilford, Essex: Frank Cass Publishers, 1999).

requires that we make political decisions based on public reasons, not that the decision to put in place a common rule be invulnerable to reasonable rejection. Thus if Sara thinks that the balance of public reasons favours a broader antidiscrimination law and Tony a narrower antidiscrimination law they may each advocate and vote for their preferred position, despite the fact that each conclusion (about where the balance of public reasons lies) is reasonably rejectable. Quong is not applying the idea of qualified acceptability to state action directly with a default of inaction, but to general reasons for political decisions, with a default of exclusion, and the stipulation that judgments about the application, interpretation, and ranking of public reasons do not necessarily count as non-public.

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The main question about this argument is why reasonable disagreements about the good life don't get to qualify as justificatory in the same way that reasonable disagreements about justice count as justificatory, which is to say by definition. Reasonable disagreements about justice are justificatory because if they weren't they wouldn't count as reasonable. To qualify as reasonable, disagreements about justice must be disagreements between intellectual positions that accept the basic beliefs or values that are criterial for reasonableness, and they must accept the principle of public justifiability itself. Reasonable disagreements about justice are non-foundational because if they were foundational, they would involve appeal to non-public reasons, contrary to the principle of public justifiability, acceptance of which is necessary for reasonableness. Reasonable disagreements about justice are therefore necessarily – by definition – disagreements about the interpretation, application, and ranking of public reasons. Why can't we make the same argument about reasonable disagreements about the good? Reasonable points of view share the commitment to public justification. Therefore any disagreements about the good that arise in the course of political deliberation must be disagreements about the interpretation or application of shared views about the good. Consider the case of Sara and Matthew. Sara and Matthew agree that autonomy is an important aspect of the good life. For this reason Sara thinks that recreational drug use should be legal. Matthew disagrees, on the grounds that some recreational drug use compromises autonomy, because it generates addiction, and reduces people's powers of reasoning. Matthew and Sara are not having a foundational disagreement, it seems to me, but a justificatory disagreement – a non-foundational disagreement about the good.

But autonomy is controversial, some will say; it is not invulnerable to reasonable rejection, and it is not simply an interpretation of some meaningfully shared higher-order value that is invulnerable to reasonable rejection. For some definitions of autonomy, this is true. Suppose I claim that what gives human beings their dignity, raising us above animals and giving us a special place in the universe, is our ability to act for reasons rather than on mere impulse, and that we must accept no beliefs or commitments as valid reasons except those that we have subjected to critical scrutiny, and that I must consider myself my own final authority on what counts as a reason. I take it that many religious people will reject this view. Yet if what is at stake is just the claim that it is bad to become addicted to crack cocaine, because (among other things) this undermines one's ability to recognize and act on reasons, it seems to me that there is no reasonable disagreement. To be sure, there is disagreement about whether it is more important to respect or protect / promote autonomy, and about the importance of autonomy relative to other values. But such disagreement could be seen as disagreement about the interpretation and application of a shared value.

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Autonomy in this weak sense is not the only value reasonable views share. Friendship is good; music is good. I grant that it is not unreasonable to be a hermit, who enjoys solitude and silence. Yet the reasonableness of this choice doesn't undermine the claim that it is unreasonable to deny that friendship and music have value, and are pro tanto goods (relationships or activities that make a life go better, in a constitutive sense, other things equal). There are, I take it, lots of values one could realize in one's life. Yet no one can realize all values, and some people can't realize specific values, because of their emotional and psychological make-up. Moreover, there may be values whose realization precludes the realization of other values. These ethical commonplaces mean that reasonable choice of one activity or way of life over another need not involve any disagreement with the claim that other activities or ways of life are good, and have value. Perhaps there are special states of consciousness available only to those who isolate themselves from others in order to commune with nature; perhaps a commitment to great art requires a single-minded devotion that is incompatible with family and friendship. It would nonetheless be unreasonable to maintain that friendship is not a good.

In order to establish the necessary asymmetry between the right and the good, Quong would have to argue that we have no way of knowing

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for sure whether any particular claim about the good is not reasonably rejectable, whereas we know for sure that some claims about justice are not reasonably rejectable. The reason for this asymmetry is that the idea of reasonableness is constructed out of specific kinds of ideas – that of society as a scheme of cooperation between free and equal persons, for example. Whether all reasonable persons agree that friendship is a good is an empirical question, a question that can only be answered by canvassing the beliefs of all reasonable points of view. But they necessarily accept that persons are free and equal, because otherwise they wouldn't count as reasonable. Suppose all presently existing reasonable doctrines accept that friendship is a good; still, we don't know that all must, not for sure, whereas we do know that all reasonable doctrines accept free and equal citizenship, *because we have made such acceptance one of the criteria for being counted as reasonable*. The asymmetry between the right and the good in political liberalism is definitional, a matter of construction rather than a discovery, so to speak.

Whether or not the definitional nature of the asymmetry between the right and the good is a problem for Quong's political liberalism, I am not sure. The issue depends on who we should count as reasonable, or otherwise qualified, which in turn depends on why we should care about qualified acceptability of our reasons for political decisions. These kinds of question are always tricky to answer for a political liberal because 'the' justification of political liberalism must always at some point rest on (convergent) non-public grounds, as Quong's argument about the internal conception and overlapping consensus shows. My own view is that public justification makes possible a relationship of civic friendship across deep moral disagreement. I don't think Quong would disagree, but he would I think insist that public justification is in the first instance a condition of legitimacy or justice, not simply a matter of political community.

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Endrju Lister

Javni um i perfekcionizam:

komentari na Kvongovu knjigu *Liberalizam bez savršenstva*

Apstrakt

Liberalizam bez savršenstva razrađuje opšte Rolsovsko shvatanje javnog opravdanja sa svrhom odbrane antiperfekcionistačkog liberalizma. Ovaj kritički odgovor postavlja pitanja o vezi između dva dela projekta. S jedne strane, moguće je odbiti zahtev da razlozi za političke odluke prođu kvalifikovani zahtev prihvatanja, čak i ako je neko striktno protivan u odnosu na paternalizam. S druge strane, zalaganje za javno opravdanje ne obara svaki perfekcionizam, ako postoje neki zahtevi o dobru koji se ne mogu razložno odbijati.

Ključne reči: Liberalizam, politički liberalizam, javni um, javno opravdanje, neutralnost.