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State Neutrality

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Abstract

State Neutrality

by János Kis

There is a widespread agreement in modern democracies that a state should not force its citizens to lead lives they do not endorse themselves. It is also generally agreed that state acts should not be justified by appealing to the authority of religious books. Such claims are often reformulated as holding that state action should be neutral with respect to the ideals of the good life, or that the justification of state acts should be neutral with respect to basic beliefs. But does the use of the term "neutral" add anything important to the original wording? Does it point to a common principle – a principle of state neutrality (PSN) – that unites such judgments? If it does, what normative work PSN is supposed to do? What is its basis? What are the things towards which it requires the acts of the relevant type to be neutral? Such questions call for a theory of neutrality.

The theory of neutrality has its natural home in the liberal tradition. Liberalism had a neutralist bent since its beginnings. But a systematic account of PSN was not laid out before the 1970s and '80s when John Rawls and others restated the foundations of liberal theory.[1]

While particular neutrality judgments are widely accepted, the general conception of liberal neutrality elicited strong critical reactions. Some of the critiques took liberalism's commitment to neutrality as evidence that the liberal view of the individual, society, and politics is deeply flawed.[2] Others attacked liberal neutrality as reflecting a mistaken interpretation of what liberalism really is about.[3] The debate subsided in the last decade or so, without settling, however, on a standard view. State neutrality remains a controversial idea. This article tries to spell out its main tenets and to explain how they hang together. It examines the central objections, and explores revisions that may enhance the theory's defensibility.

Keywords: State action, principle of state neutrality, liberal neutrality, liberalism, theory of neutrality

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[1] See John Rawls, A Theory of Justice, revised edition (1999); John Rawls, Political Liberalism (1993); Bruce Ackerman, Social Justice in a Liberal State (1980); Ronald Dworkin, A Matter of Principle (1985); Charles Larmore, Patterns of Moral Complexity (1987).

[2] See Michael Sandel, Liberalism and the Limits of Justice (1982); Alasdair MacIntyre, After Virtue (1985).

[3] See William Galston, Liberal Purposes (1992); Stephen Macedo, Liberal Virtues (1992).

I. Preliminaries

Neutrality is a distinctly political principle. Personal morality does not require its subjects (human individuals) to be neutral in the way political morality requires its subject (the state acting through public officials). It does not prohibit, for instance, that we assist others in carrying out their projects we deem admirable while, at the same time, denying assistance to projects we do not value.

Neutrality is a relational attribute. Acts cannot be neutral simpliciter. When an act is neutral, it is neutral between different things, say, between X and Y.

X and Y cannot stand for just anything. A principle requiring state acts to be neutral towards everything would be self-defeating. First, it would itself be a member of the class of things with regard to which states are required to be neutral. In order to satisfy PSN, a state would have to remain neutral between the claim that it is required to satisfy PSN and the opposite claim that it is not so required. That is incoherent.

Furthermore, neutrality is not the only principle that states must satisfy. Satisfying PSN must be consistent with satisfying the other principles. Therefore, PSN cannot apply to the latter. It cannot hold, for instance, that states ought to be neutral between the requirement of treating citizens as equals and the denial of this requirement.

Does PSN apply to everything else? That would not affect its consistency. But it would make it overbroad. PSN should be understood as a principle identifying specific types of non-neutrality as objectionable. The question is, then, under what conditions is non-neutrality morally objectionable.

A further question is related to the aspects of the relevant public acts on which PSN focuses. It may focus on the outcomes of state action or on its underlying reasons. An act is outcome-neutral between X and Y if it leaves the relative positions of X and Y unaffected. An act is reason-neutral between X and Y if the reasons for taking it rely on no evaluative ranking of X and Y. Outcome-neutrality is an implausible requirement. Many believe that a law that excludes openly gay people from military service is objectionably non-neutral. Suppose now that, as a response to the demand of neutrality towards the sexual orientation of servicemen, the ban is repealed. Very likely, the proportion between straight and gay servicemen will change as a consequence, so the legislative change would violate outcome-neutrality. This would count, however, in favor of the amendment, rather than against it.

An act can be required to be reason-neutral in two interesting ways: the requirement may apply to the reason actually proposed by the agent or to the best reason that could be provided to it under certain idealized conditions. We can speak, in the first case, about neutrality of intent, while in the second, about justificatory neutrality. Neutrality of intent means that a policy benefiting A more than B is not in fact justified by a judgment of comparative value about the basic beliefs or lifestyles of A and B. Justificatory neutrality means that a policy distributing advantages between A and B unequally could be provided with a plausible justification that does not rely on a judgment of comparative value about the basic beliefs or lifestyles of A and B.

The actual aim of particular legislators is often difficult to reconstruct, and there may be no unique way to combine the individual aims into a collective aim of the legislature. More importantly, the intent's failure to satisfy PSN need not compromise a law which lends itself to a plausible neutral justification. So the advocates of PSN tend to settle on justificatory neutrality.[4]

Sometimes, however, the actual intent matters on its own account. It matters, e.g., when it is made explicit by the wording of the preamble of a law. In such cases, the intent may compromise the law even if its regulatory content could be given a non-objectionable justification. One way of dealing with such cases is for a Court empowered to subject it to constitutional review not to strike down the law but to instruct the lower courts to disregard its preamble.

Finally, we should say something about the theoretical status of PSN. Some authors take PSN to be a foundational principle. According to Bruce Ackerman, for instance, the principles of justice result from conversations among citizens. For the process of conversation to yield determinate and morally acceptable outcomes it must be constrained in a certain way: the permissible arguments must satisfy the condition of neutrality (Ackerman 1982: 11).[5] It is, thus, a fundamental commitment to neutrality that binds legitimate states to adopting a particular conception of equality, toleration, and individual rights. Ronald Dworkin, on the other hand, insists that neutrality properly understood is a derivative principle; it relies on the deeper principle that states should treat their citizens as equals (Dworkin 1985: 205).

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[4] Will Kymlicka, 'Liberal Individualism and Liberal Neutrality', in (1989) Ethics 99, 883.

[5] Charles Larmore, too, advocates making neutrality "the primary ideal of liberalism" (Larmore 1987: 46). But, not fully consistent with this proposal, he also suggests that, rather than taking their commitment to neutrality to be foundational, liberals should make sense of it in terms of a more basic principle of equal respect (ibid, 59ff).

The foundationalist view is unappealing: it raises the suspicion that neutrality is based on ethical skepticism, that it is a principle for people with no convictions. And it deprives PSN of the conceptual tools for distinguishing between values towards which a state is permitted or even required to be non-neutral manner and those with which it is required to deal in a neutral manner.

This paper will take it for granted that PSN is a derivative principle. It will assume that the main principle underlying PSN is the one according to which states should express equal concern and respect for each citizen both in the way they treat them and in the way they speak to them and about them. It will accept, furthermore, as a main factual assumption, that citizens of modern democracies are divided by deep, pervasive and protracted disagreements. The disagreements are deep in the sense that they revolve around basic – religious, metaphysical, epistemological, ethical – beliefs and around general ideas on how to live well. Liberal neutrality as developed in the 1970s and '80s argues from these main premises for a two-pronged PSN. First, state acts that discriminate between citizens on the ground of (controversial) value judgments regarding their "conceptions of the good" are objectionably non-neutral. Second, a state act is objectionably non-neutral if its actual or possible justification appeals to reasons that some citizens cannot be expected to share.

Sections II-III discuss these two requirements. Section IV present the main objections leveled to liberal neutrality. Sections V-VI offer a revision of PSN in the light of those objections. Section VII addresses the specific issue of religious neutrality.

II. Neutrality as Non-Discrimination

Advocates of liberal neutrality often identify the paradigm of objectionably non-neutral state action with the coercive imposition of valuable ways of life or coercive prevention of the pursuit of lifestyles that are worthless. But when they explain why trying to make people's lives better by coercive means is morally impermissible they often appeal to a principle other than neutrality. Coercion is not a proper way to improve peoples' lives, Ronald Dworkin argues, because "someone's life cannot be improved against his steady conviction that it has not been" (Dworkin 2000: 283). What this argument objects to is forcing people to lead their lives in ways they do not endorse, and this is precisely what we understand by paternalism. At least on one occasion, though, Dworkin proposes a different account of PSN: "People have the right not to suffer disadvantage in the distribution of social goods and opportunities, including disadvantage in the liberties permitted to them

by the criminal law, just on the ground that their officials or fellow-citizens think that their opinions about the right way for them to lead their lives are ignoble or wrong" (Dworkin 1985: 353). What makes a state act objectionably non-neutral, on this account, is that it disadvantages people just on the ground of a judgment about their ways of life. The disadvantage may but need not be inflicted by way of coercively restricting of the options open to those people. So understood the neutrality principle requires states not to favor or disfavor anyone on the ground of an official judgment about their conception of the good life.

This is a principle of non-discrimination, a principle outlawing discriminations of a special kind. As a contrast, consider racial discrimination. Race is not a proper object of evaluative assessment. So when people are advantaged or disadvantaged in virtue of belonging to a social group constructed on the basis of real or alleged racial characteristics, the discrimination is either arbitrary, having no reason at all, or it is prejudice-based, having for reason false value attributions. Advantaging or disadvantaging someone on the basis of her religious outlook, for instance, is different. A person's religious outlook submits to value judgments. Of course, those judgments may be prejudiced. But they need not be. PSN does not presuppose that the official judgment is prejudiced or that it is mistaken in some innocent way. Even if the disadvantaged person's conception of the good life is in fact worthless, disadvantaging him on the basis of a controversial official judgment is morally objectionable. What is wrong with it?

Let us see first what is wrong with paternalist state action. Paternalism is wrong because and when it usurps an individual's responsibility and right to be the one who decides what to make of her life. The wrong of non-neutral state action, as defined in the previous paragraph, is also related in some way to denying this right and responsibility, although in a more complicated manner. When everybody are allowed to lead their lives in their own light, the cost, for each individual, of reaching his aims is fixed as a function of the choices of others. My supreme goal may be that of erecting a huge temple in honor of my god. The more people are dedicated to the same goal, and the less costly it will be for me to achieve it, and vice versa. If my religious community shrinks below a critical level, the costs become prohibitive. In general: as long as people are free to choose their lifestyles, plans, and projects, the costs of an individual's preferred pursuits vary with the choices of others. Suppose that the distribution of resources against which I and the other members of my society form our preferences is deeply unjust. Or suppose the formation of preferences is subject to coercion or manipulation. Then morality disapproves of the structure of

preferences in my society and the resulting structure of the costs, for different individuals, of reaching their personal aims. Other things being equal, state intervention aiming to rectify the distribution of resources or to eliminate manipulation and coercion is, therefore, morally permissible. But state intervention aiming to encourage the pursuit of valuable projects or to discourage the pursuit of projects of low or negative value is morality tainted: it makes the structure of the costs of personal pursuits depart from what it would be if it were determined by autonomous choices adopted under the circumstances of justice. Suppose the government decides to co-fund the temple building project on the ground that honoring God is of utmost importance. In so doing, it lowers the cost of building the temple for those committed to this aim by making others not so motivated contribute as tax-payers. It either violates the requirement of treating individuals with appropriate respect for their right and responsibility to lead their lives in the light of their own best judgment or it violates the requirement of treating individuals with equal concern for their flourishing, or both.

The scope of PSN is both wider and narrower than that of the anti-paternalist principle (APP). It is wider, since it applies to state acts that disadvantage certain individuals without coercively restricting their options. It is narrower since it is restricted to political communities as they act through their state, while the APP is a principle of both personal and political morality. As Dworkin puts it, "[N]o one can improve another's life by forcing him to behave differently, against his will and his conviction."[6] But we can improve, as private individuals, the lives of others by contributing to their projects, without being embarrassed by the possibility that assisting projects we deem admirable while not assisting projects in which we take no interest may affect, at least to some small degree, the relative costs of different pursuits.

III. Neutrality as Shared Reasons

The debate on liberal neutrality has been framed by John Rawls's seminal works, A Theory of Justice (TJ) and Political Liberalism (PL), even though the term itself does not appear at all in TJ, and crops up only occasionally in PL.

TJ argues for neutrality as non-discrimination. "[T]he principles of justice cover all persons with rational plans of life, whatever their content", it insists (Rawls 1999: 223). They

[6] Ronald Dworkin, 'Foundations of Liberal Equality', in Stephen Darwall, ed., Equal Freedom (1995), 304.

regulate the distribution of the all-purpose "social primary goods", leaving it to the individuals to form, revise, and pursue their particular life-plans, within the limits of their just share in those goods. "Systems of ends are not ranked in value" by the principles of justice (Rawls 1999: 17), nor do these principles reflect any bias in favor of particular plans of life or conceptions of the good (Rawls 1999: 222). Hence PSN as discussed in Section II: States should not disadvantage anyone merely on the ground of a (controversial) value judgment about their conception of the good life. So understood, PSN requires states to be neutral among (controversial) conceptions of the good.

PL adds two important considerations to this. First, it distinguishes controversies dividing reasonable persons–persons seeking fair terms for their cooperation, conscious of their own fallibility, and taking seriously the arguments of the other side–from controversies where at least one of the parties is not reasonable in this sense, and it restricts the scope of neutrality as non-discrimination to conceptions of the good subject to reasonable disagreement. It also provides an open-ended list of the sources of "reasonable disagreement" (it calls these the burdens of judgment): the evidence bearing on controversial cases is hard to evaluate; even if one agrees on the relevant considerations, one tends to disagree about their weight; our concepts in general and especially our moral concepts are vague and they are subject to hard cases, and so on (Rawls 1993: 56-57). Second, PL insists that justifying a state act by an appeal to reasons that are controversial among reasonable people is morally objectionable whether or not the act in question results in an unequal distribution of advantages. This is so because such justifications violate what we could call the liberal legitimacy principle (LLP). LLP holds that no one may be subjected to a political organization's coercive power without providing him with a justification that that organization has a right to monopolize such power. For a state to have legitimate monopoly of coercive power, it is not sufficient that it in fact has the right to monopolize coercive power. In other words, it is not sufficient that its claim to have such a right is true. It is also necessary that its claim can be justified to all its subjects, severally. The assumption of a pervasive fact of "reasonable disagreement" poses a difficulty to LLP. Justifying the claim of legitimate monopoly of power to someone presupposes that the justification is provided in terms of reasons that they can be expected to share (Rawls 1993: 243). But if the reasons figuring in the justification are subject to intractable disagreement among reasonable persons, then they cannot be expected to be shared by everyone.

In order to resolve this difficulty, PL proposes to distinguish "political conceptions" from "comprehensive doctrines". A doctrine is more or less comprehensive if it entails normative and factual assumptions regarding non-political matters: assumptions belonging to the domain of theology, metaphysics, epistemology, personal morality, ethics, and so on. A conception is narrowly political if it has for its subject the basic structure of society – roughly speaking, its coercive institutions (ibid: 10-11). Comprehensive doctrines tend to be subject to reasonable disagreement. The narrowly political reasons can be expected, however, to be beyond reasonable controversy. Therefore, justifications of state acts satisfy LLP if they are neutral towards the diversity of comprehensive doctrines. It must be given in narrowly political terms.

But if liberalism requires the state to be neutral in this way, how can the justification of this requirement succeed? Arguably, it must itself meet the standard which it sets for other justifications: it must be based on reasons all reasonable citizens can share. But, traditionally, liberalism is understood as a comprehensive doctrine, its political tenets relying on a particular conception of personal autonomy and of human flourishing. "Comprehensive liberalism" is a controversial view, so it cannot provide the required justification. In order to avoid being "just another sectarian doctrine", Rawls concludes, liberalism must apply PSN to itself. It must set aside the metaphysical, epistemological, ethical etc. foundations of its own political principles and justify the latter by appealing to nothing else but "ideas implicit in the public political culture of a democratic society" (ibid: 8, 13f). Restated as a narrowly political theory, liberalism will occupy a higher ground relative to the conflicting "comprehensive doctrines", or so Rawls hopes. It does not compete with them. It rather enables a democratic citizenry to remain divided by controversial basic beliefs and ways of life, and yet to co-exist in mutual respect.

Earlier we said that the truth of a conception that justifies the claim of monopoly of coercive power is not sufficient for that claim to command legitimacy. Rawls wants to say more. According to him, truth is not even necessary for legitimacy. Citizens may be skeptical about truth altogether and still agree "political liberalism" as a set of principles which individuals seeking fair terms of cooperation can each accept. Thus, "The political conception does without the concept of truth" (Rawls 1993: 94).

To take stock: treating citizens as equals involves, according to PL, a two-pronged PSN. The first prong outlaws discrimination based on judgments regarding the comparative worth of basic beliefs and ways of life on which reasonable citizens disagree. The second rules out justifications of claims of legitimate coercive power that rely on "comprehensive views",

failing to provide reasons that all citizens can be expected to share. The domains of the two prongs are disjunct. Neutrality as non-discrimination applies to the way the state treats its citizens. Neutrality as shared reasons applies to the way the state speaks to them and about them.

IV. Objections to Liberal Neutrality

Liberal neutrality provoked huge debates, the main criticisms coming from two corners: communitarian (Sandel 1982; MacIntyre 1985) and perfectionist (Haksar 1979; Raz 1986; Sher 1997). For our present aims, it is not necessary to enter into the history of the controversy. It will suffice to reconstruct the main arguments that seem to call for a serious revision of PSN.

Consider first the core objection to neutrality as non-discrimination. To recall: the non-discrimination prong of PSN entails that political communities, acting through their states must not interfere with social interaction on the basis of controversial judgments regarding the comparative value of individual preferences. The argument underlying this conception tacitly assumes that the preferences themselves are fixed prior to social interaction: it is only the costs of their satisfaction that vary with changes in the patterns of the latter. But individuals do not form their conceptions of the good out of nothing: they draw on the cultural forms and practices available in their social environment. Changes in the patterns of interaction change the environment; changes in the environment do not involve changes in the costs of personal pursuits only: they give occasion to changes in the preferences themselves. and so it simply does not make sense to claim that an individual is disadvantaged by the state's action because, prior to it, he held preferences that the institutional agents judged not worthy of support. To be sure, if the change in preferences is induced coercively or by means of manipulation, the state's action can be correctly criticized on that account. But that criticism is not neutrality-based. If, on the other hand, the adjustment of preferences is left to the individuals' autonomous agency, it does not seem morally objectionable, for a democratically authorized government to divert collective resources for promoting valuable pursuits. To conclude, states are morally permitted to engage in action characterized and rejected by Rawls as perfectionist, i.e., action aiming to promote "human excellence in the various forms of culture" (Rawls 1999: 22).

Let us turn now to neutrality as shared reasons. Rawls's proposal of a "freestanding" political theory relies on the tacit assumption that reasonable persons whom the "burdens of judgment" prevent from reaching agreement on matters of comprehensive nature are nevertheless capable of reaching agreement on the political principles of justice. But the "burdens of judgment" (insufficient evidence, conceptual vagueness, etc.) are not specifically related to comprehensive doctrines. If they give rise to passionate disagreements over non-political ideals, then they are likely to give rise to passionate disagreements over political principles, too.[7]

At first blush it seems as if PL had an answer to this objection: the reasonable comprehensive doctrines allowed to flourish by the liberties characteristic of constitutional democracies, diverging as they should be as to their non-political content, converge on the same political principles, PL maintains. This is what Rawls famously calls the "overlapping consensus" (Rawls 1993: 39f). If the claim of overlapping consensus holds, then the "burdens of judgment" are safe for "political liberalism". The pervasive fact of "reasonable disagreement" leaves the domain of the political unaffected.

But the belief that the content of the political principles–as an object of general agreement–can be neatly separated from "comprehensive" views–as objects of disagreement–seems to ignore the fact that the relevant political principles command something like a consensus only as long as they are formulated at a very high level of abstraction. It is not a mere historical accident that the basic principles of the great constitutions are drafted in an abstract language. This is what allows citizens of the same as well as of successive generations to live under a shared constitution that each can regard as their own, notwithstanding of their deep disagreements. But the consensus secured by abstract wording comes at a price. Abstract 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. They need to be interpreted in the light of that question, and the interpretation cannot proceed without involving further premises, not entailed by the abstract principles. It must show that the controversial reading is consistent with other normative commitments and factual beliefs one wants to uphold, commitments and beliefs that have their natural home in "comprehensive doctrines".[8]

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[7] For a similar argument see Simon Caney, 'Liberal Neutrality, Reasonable Disagreement, and Justice', in Bellamy and Hollis: 1999, 22 ff.

[8] For instance, the question whether a woman's right to control her own body entails a right to early abortion cannot be answered without taking sides on the moral status of the fetus.

As a consequence, the strategy to seek a higher ground for "political liberalism", to raise it above the plurality of "comprehensive conceptions", is doomed to fail. Liberals must not defend their theory as an impartial arbiter in the conflicts of the so many "sectarian doctrines" but rather as a controversial view that claims to be true.[9]

If so, then LLP and, together with it, neutrality as shared reasons must either be abandoned or revised.

V. Neutrality as Non-Discrimination Revisited

To remind: the objection to neutrality as non-discrimination holds that states can engage in creating valuable opportunities without discriminating between persons on the basis of a judgment concerning the relative value of their conceptions of the good life. This is because the conceptions of the good life themselves are responsive to the changes in the social and cultural environment.

The non-discrimination prong of PSN as it was reconstructed in Section II entails that perfectionist state action is always morally impermissible. The objection implies that it is never impermissible, at least on the assumption that different individuals respond to new opportunities similarly, irrespective of the variations in their cultural background and personal capacities/dispositions.

Once that–rather implausible–assumption is dropped, the claim of a general permissibility of perfectionist state action loses its persuasiveness. If people with different cultural endowments etc. are unequally responsive to new opportunities, then some will be advantaged on the ground of a judgment regarding preferences they are more likely to make their own than others. Neutrality as non-discrimination comes back, in a slightly modified form.

The perfectionist argument can be rescued, however. Its proponents may concede that state action aiming to promote particular lifestyles is objectionably non-neutral. But, then, they can add that perfectionist state action may be justified by a more abstract aim. Rather than aspiring to promote this or that particular way of life, or project, or goal, it may aspire to improve people's sense of the significance of the choices they face, and to facilitate more reflective choices (by making programs of ethics part of public education, for instance). Or it may aim at protecting and increasing the richness and complexity of the general

[9] See Larry Alexander, 'Liberalism, Religion, and the Unity of Epistemology', in (1993) San Diego Law Review 30, 763.

cultural environment against the background of which the personal choices are made (by, for instance, supporting the arts). If so, then even if it aims to forward "human excellence in the various forms of culture", perfectionist state action is not objectionably non-neutral among particular conceptions of the good.

As restated in this form, the argument does not imply that perfectionist state action is always permissible. It upholds neutrality as non-discrimination, and condemns perfectionist state action whenever it is justified by the aim of promoting particular conceptions of the good. But it does imply that perfectionist state action is not always impermissible: it is consistent with neutrality as non-discrimination when a state act's justifying aim focuses on promoting deep and reflective choices taken against the background of a rich and complex cultural environment.[10]

However, even in this form, the argument raises hard questions. Consider the funding of the arts. The artistic genres and forms as such are not biased for or against particular conceptions of the good life: they rather enrich the language and the models in terms of which people can form and reflect upon their own conceptions. True, only a minority of citizens–and mostly those with better education and higher income–go to opera, visit exhibits, or read novels. But they are not the only beneficiaries of the flourishing of artistic practices. "High culture" is not separated by a Chinese wall from "mass culture": it provides "mass culture" with reference, style, tropes, and much else. So it indirectly benefits almost everyone (Dworkin 1985: 229).

But the funding does not go to the arts in general. It is always extended to particular artistic ventures and given the limited amount of resources a community can divert to the arts, it necessarily involves choices. The argument discussed above suggests that the choice is not objectionably non-neutral if it is based on a judgment on the likelihood of competing artistic ventures to increase the richness and complexity of the general cultural environment. It is not clear, however, how this judgment would be separated from judgments on the content of the particular competing ventures. For instance, were we not to think that a new production of Hamlet is going to provide an original interpretation of the tragedy, one that links Shakespeare's text to the present in an innovative way, we would not believe that it has the potential to enrich the general cultural environment.

[10] For a similar claim, see Stephen Wall, 'Neutralism for Perfectionists: The Case of Restricted State Neutrality'. In (2010) Ethics 120, 232. Wall, however, proposes a case for a limited neutrality principle that actually defends the APP rather than PSN. He says that coercing people to adopt a particular lifestyle undermines their sense of equal worth, and so even perfectionists must reject it. That is true, but it is not an argument in favor of a separate neutrality principle.

The interdependence between the judgment on the impact of a particular artistic venture on the general cultural environment and the judgment on its intrinsic value makes the distinction between perfectionist state action consistent with neutrality as non-discrimination and one incompatible with it open to reasonable disagreement. A funding decision that, for its advocates, is neutral towards the ranking of different artistic currents and traditions may raise the suspicion of objectionable non-neutrality in the eyes of its opponents.[11] This means, however, that neutrality as non-discrimination lacks criteria for deciding issues to which it purports to apply. It must be amended.

I suggest that we look at the concept of "reasonable disagreement" with a fresh eye. Rawls identifies "reasonable disagreement" with intractable disagreement among reasonable people. This characterization allows for two readings. It can be understood as applying only to controversies between persons who in fact treat their disputes in a reasonable manner. Or it can be understood as also covering controversies the parties to which may not actually be reasonable but would not be able to settle their disagreement even if they were. There is an important parallel between the two readings, and there are significant differences as well. They are similar in assuming that the parties lack the epistemic resources necessary for achieving reasoned consensus. But they make different assumptions regarding the way the parties respond to the insufficiency of epistemic resources.

The first reading takes the parties to be trying to make as good a case for their position as they can, other things being equal. The second allows for the possibility that some of the parties (or all of them) are reluctant to do so. Such reluctance is particularly onerous on the part of those who have the power to enforce a state act against the judgment and will of its opponents: it casts doubt on whether making and enforcing that act treats everyone with equal concern and respect.

Suppose advocates and opponents of a state act disagree on whether it satisfies PSN. Suppose their disagreement rests on a deeper disagreement on what neutrality, correctly interpreted, requires. Suppose, finally, that the two sides lack the epistemic resources necessary for resolving their disagreement, and consider a case when those responsible for defending the act make a good-faith attempt to track the correct interpretation and tailor the act to that interpretation. By hypothesis, they have no proof for their position, such that the opponents of the act, if reasonable, couldn't but accept it. But they give evidence

[11] See Harry Brighouse, 'Neutrality, Publicity, and the State Funding of the Arts, (1995) Philosophy and Public Affairs 22, 35.

that they take seriously the moral taint the act would incur if it violated PSN. This is the best they can do, under the circumstances, in order to make sure that the act satisfies the principle of equal concern and respect (to the extent that this depends on whether the act is neutral in the relevant sense). The act's opponents may think in good faith that it reflects a defective interpretation of what PSN requires. This is not a sufficient ground, though, for them to claim that the act expresses contempt for their (or for anyone else's) status and interests.

Consider, now, a case when those with a responsibility to defend the act disregard their duty to support it by a plausible enough conception of state neutrality. That is evidence that they do not take seriously the consequences of violating PSN. Thus, even if the opponents of the act cannot prove beyond controversy that it violates PSN correctly interpreted, the disregard for the duty to support the act by a plausible enough conception of state neutrality counts, decisively under the circumstances, against the act.

To sum up: A state act with an impact of redistributing advantages among people who pursue different conceptions of the good is permitted by PSN if the underlying value judgment refers to how the redistribution affects the overall cultural environment rather than particular cultural forms and practices belonging to it. On the other hand, whether the real basis of the act is such a holistic judgment or a judgment regarding particular cultural forms and practices may be a controversial matter, the parties to the disagreement lacking the epistemic tools to resolve it. In such cases–in cases of reasonable disagreement–the belief of the critics that the act is objectionably non-neutral is not a sufficient ground for treating it as illegitimate if the advocates of the act make a good-faith attempt to justify their contrary belief, while the same judgment is a sufficient ground for treating it as illegitimate if those responsible for defending the act refuse to take their justificatory duty seriously.[12]

One might object: the question whether a state act reflects a serious attempt to satisfy the neutrality requirement is as open to "reasonable disagreement" as the question whether it in fact achieves that aim, the only difference consisting in that the latter question divides defenders and critics of the act while the former emerging between different critics.

What a reasonable critic may see as an act issued from a good-faith–even if failed–attempt to satisfy the correct interpretation of PSN, other, no less reasonable critics may see to be

[12] This is a further reason why, as I mentioned in Section I, the early advocates of liberal neutrality were mistaken to think that the neutrality requirement applies only to the reasons that can possibly be marshaled in favor of it ("justificatory neutrality"), and never to the reasons actually appealed to ("neutrality of intent").

an outright rejection of the very requirement of neutrality. So we need more refined tests capable of dealing with this further disagreement.

Here are two examples for such tests. The first asks whether a particular state act charged with violating neutrality as non-discrimination receives a justification that faces up to the moral gravity of the criticism. This test–call it the adequacy test–rests on the idea that citizens have a right of equal respect to publicly object to their state's acts and to have an answer that takes their objections seriously. The adequacy test does not fail a state act for lacking a knock-down proof of its neutrality; by hypothesis, no such proof is available. But it fails the act if those having the power to make and enforce it simply ignore their duty to meet objections of non-neutrality adequately, and not to dismiss them without due consideration. It also fails the act which, while being claimed in principle to satisfy neutrality as non-discrimination, appeals to specific judgments on the comparative value of competing pursuits (as when a government, while declaring its intention to support the arts with the neutral aim of maintaining a rich and complex cultural environment, takes at the same time the blasphemous character of certain artistic works as a reason to deny eligibility for support to those works).

A second test that I would call the outcome test asks whether a putatively neutral act is characterized by strong outcome bias. Its question does not rest on mistakenly taking outcome neutrality for a plausible neutrality principle.[13] It rather rests on the assumption that strong outcome bias is a reason for suspecting that the allegedly neutral justification of the controversial act is not forwarded in good faith. The outcome test fails an act that, while claiming neutrality towards competing views on how to live well, rigs the distribution of burdens and benefits against a particular view.[14]

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[13] For the implausibility of interpreting neutrality as neutrality of outcomes, see Section I.

[14] Consider an individual in the grip of a terminal illness. Suppose she thinks that a life in debilitating pain and dependence undermines her dignity, and asks for medical assistance to discontinue it. And suppose the law makes voluntary euthanasia a punishable crime. The legislator says, however: Euthanasia is an insult to God and to the order of nature, but this judgment does not figure among the reasons for its prohibition. We prohibit it because we have to take the interests of other terminally ill patients, too: those who think that by successfully resisting the temptation to precipitate death they will achieve their life's greatest victory or want to live on for some other reason. Permitting euthanasia would deliver them to the arbitrary will of their relatives, tired of assisting them or desirous to inherit their property. Such a reasoning is not entirely groundless. There is no legal regulation of end-of-life decisions that would maximally fit the interests of both types of terminally ill people. Any regulation must be suboptimal at least from the point of view of one group of them. But placing the whole burden of regulation on one of the groups–especially if its interests do not carry the sympathy of the legislator–raises the suspicion that the actual motivation for the act is not neutral between the conflicting decisions.

VI. Neutrality as Shared Reasons Revisited

To recall: The pervasive fact of "reasonable disagreement" raises a difficulty for LLP. The question is, how can a justification that is controversial among reasonable citizens appeal to each of them. Rawls proposes "political liberalism" as a solution to this difficulty. This solution is not workable, however: the "burdens of judgment" underlying the facts of "reasonable disagreement" are not specific to "comprehensive doctrines". Members of modern, democratic societies tend to disagree on pretty much everything, including the political principles of justice, freedom, equality, and toleration. Thus, the shared reasons prong of PSN must either be abandoned or revised.

I suggest that we follow the strategy of revision explored in the previous section. Suppose the shared reasons available to citizens of a democratic republic are insufficient for allowing those with a responsibility to defend a state act to provide a compelling argument in terms of reasons their opponents can be expected to share. And suppose that these people take seriously their obligation to try to provide an argument in terms of such reasons. Then, the critics must understand the controversial act as resulting from a good-faith–even if unsuccessful–attempt to work from a conception of legitimacy that rests on reasons each citizen can be expected to share. In this case, given the fact of "reasonable disagreement", they are not justified to see the act as denying equal respect to those who disagree with it. Suppose now that those with a responsibility to defend the act disregard their duty to provide everyone with reasons they can be expected to share. Then, again given the fact of reasonable disagreement, the critics are justified to suspect that the act fails to treat with equal respect those who disagree with it.

LLP as amended requires political communities seriously to try to provide each citizen with reasons they can be expected to share; its verdict does not hinge on the success of the attempt. Non-neutrality in the shared reasons sense violates LLP, and is therefore morally objectionable, if and only if it reflects a failure to make the requisite effort to justify the controversial act in terms of reasons each citizen can be expected to share.[15]

However, the question whether a state act reflects a serious attempt to provide a justification each citizen can be expected to share is as open to "reasonable disagreement" as the very content of the justification. So the distinction, as the previous section suggested in the context of a similar problem, needs more elaborate tests. Here are, again, two examples for such tests.

The first was widely discussed in the debates about liberal neutrality; it is of an epistemic character. Call it the accessibility test. The accessibility test draws a line between two different ways a reason may be ineligible for being a shared reason. Sometimes a person cannot be expected to share a reason because it is inconsistent with her other views. She examines the proposed reason against the backdrop of the views she already holds, and ends up rejecting it as unsuitable for being integrated into the web of those views. When, on the other hand, a reason is inaccessible to her, such an examination cannot even start off. How to make sense of this claim?

In a paper from the late '80s, Thomas Nagel suggests that for a reason to be publicly accessible, "it must be possible to present [it] to others..., so that once you have done so, they have what you have".[16] In reply, Joseph Raz argues that the proposed criterion is too demanding: it rules out reliance even on everyday observations of fact. Suppose I am the only eyewitness of an accident, and I report to you what I have seen. Under certain conditions, you would take my report as the basis of your judgment on what happened. But you would not have what I have. My sensory perceptions and memories would not become yours.

Is it possible to resolve this difficulty by relaxing Nagel's criterion? Raz's answer is: no. Suppose you know that the accident could not happened the way I describe it, or you have your doubts about the reliability of the visual perception and memory of eyewitnesses in general. Then, you have reasons for not trusting my report. And yet you would agree that if my story were not grossly implausible, and if my memory were not distorted by hearsay and newspaper comments, etc., then my report would be acceptable as evidence of what has happened. If you don't trust my report, you and I do not have shared beliefs concerning the accident. But my report is accessible to you since it would make perfect sense for you to rely on it if the requisite conditions obtained, and you and I agree on what those conditions are.

Unfortunately, relaxed in this way, the criterion becomes too week, Raz goes on to argue. Certain types of reasons that Nagel would want to rule out as lacking public accessibility would pass it: "Others may doubt whether the Centurion saw Jesus rise from his grave. But they agree that if he did, it is evidence ... of the Resurrection."[17] On the relaxed test, there

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[15] See Ronald Dworkin, Justice for Hedgehogs (2011), 322.

[16] Thomas Nagel, 'Moral Conflict and Political Legitimacy', in (1987) Philosophy and Public Affairs 16, 215, 232.

[17] Joseph Raz, 'Facing Diversity: the Case for Epistemic Abstinence', in (1990) Philosophy and Public Affairs 19, 3, 40.

seems to be no difference between the epistemic status of the Centurion's account of what he saw as eyewitness of the miracle of Resurrection and my account of what I saw as eyewitness of an accident.

The conclusion doesn't seem to follow, though. For a religious audience, the report on what the Centurion saw has a deeper meaning than that of an evidence for an empirical fact. It involves them into the mystery of the presence of the supernatural in the world. For people with a secular outlook, mystery is but an unresolved intellectual problem calling for further inquiry or explanation. For a religious person, the fact that mystery defies rational explanation is not a defect to be superseded but rather a gift of grace that allows one to get initiated into the presence of the divine in the world. The sense of awe accompanying the belief in religious facts such as the resurrection of Jesus is not a further belief people with a secular outlook do not hold true being able to agree, at the same time, that if it were true it would be evidence for the fact of resurrection or for other religious claims such as the one holding that Jesus was the son of God. It is rather a personal experience of encountering something greater than man, greater even than humanity.[18] And yet, it secures an exalted status to the underlying beliefs that radically distinguishes them from ordinary secular beliefs and is experienced as a warranty to their truth. Beliefs of such exalted status are inaccessible to non-believers. If someone with a secular outlook would find the eyewitness report on the Resurrection to be reliable, then, he would take it as evidence not for an exalted fact but rather for an ordinary fact that calls for an explanation in terms of his ordinary beliefs.

Justifying a legitimacy claim by reasons that are inaccessible to some people in this way amounts to denying equal respect to this people, and so it is failed by the accessibility test

Does this mean that all religious reasons are inaccessible to non-believers? I will argue in Section VII that it does not: actually, religious reasons are likely to pass the accessibility test significantly more often then to be failed by it. But this doesn't mean that the accessibility test cannot be given consistent interpretation or that it is empty for some other reason. It means only that it is a test with a relatively limited power.

The early advocates of liberal neutrality paid much less attention to the second test I want to consider now. This is regrettable since, as I will try to show in the next section, this test–I would call it the recognition test–is much more powerful than the accessibility test. Here is how it goes.

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[18] See Tim Crane, 'Mystery and Evidence', in The Opinionator, The New York Times, September 5, 2010. http://opinionator.blogs.nytimes.com/2010/09/05/mystery-and-evidence/.

Reasons for adopting and enforcing a state act sometimes make explicit or implicit reference to the social identity of the community in whose name the act is made and applied. When they do, and when the group identified in this way is less inclusive than the citizenry as a whole, then some citizens cannot but see themselves as being denied the recognition as full members of the citizenry. The recognition test fails such reasons because people whose status is degraded in this way cannot accept the reasons in question without resigning of their sense of full citizenship. Thus, the recognition test is indeed a test of neutrality as shared reasons. It is similar to the accessibility test in that it is a consequence of the requirement of equal respect. But it is dissimilar to that test in the way it is linked to equal respect. The accessibility test is linked to equal respect indirectly, through an assessment of the epistemic status of the controversial reasons. The recognition test is linked to it directly, through the examination of the scope of the group identified with "we the people".

It is not only reasons in the strict sense of the word that are proper objects of the recognition test. States may adopt group-specific symbols which are not provided as reasons for adopting and enforcing an official act but which submit themselves to the question whether their adoption is consistent with attributing full status to each and every citizen. Think of hanging the crucifix in classrooms of public schools or in courts of justice. There are good grounds to presume that the display of the crucifix conveys the message that the state belongs to the community of Christian believers and that, as a consequence, non-Christians and non-believers are at best marginal citizens. That presumption is open to rebuttal, but it marks the default option, and given the threat to the status as citizens for some, really strong reasons are needed for the rebuttal to succeed.

I conclude this section by a remark on the relationship between neutrality as non-discrimination and neutrality as shared reasons. I said, towards the end of Section III, that the two prongs of PSN have separate domains: the first applies to the way the state treats its subjects while the second applying to the way it speaks to them and about them. The discussion of the recognition test reveals, however, that although separate, the two prongs are closely related. Once we see that mere symbolic expressions fall within the scope of the recognition test, it is a small step to discover that discriminating between citizens on account of a judgment about their basic beliefs or lifestyles may carry a symbolic message, one that is condemned by the recognition test. Acts that violate neutrality as non-discrimination may, by the same token, also violate neutrality as shared reasons by conveying the judgment that "we" – the people in whose name the act is made – are not

like this. Judgments that fail the recognition test may, on their turn, serve as a basis for distributing advantages and disadvantages in a way condemned by neutrality as non-discrimination.

VII. Religious Neutrality

The problem of the place of religion in a liberal state is at the heart of the conception of state neutrality. PSN originally emerged as a response to this problem, in order to be gradually generalized over the history of constitutional debates and struggles in modern democracies. Even as it grew more and more general in scope, the way it handles religion remains a major test for its accuracy.

PSN would prove grossly inadequate if it would rest on a bias for or against religion. Does this mean that it must treat all conflicts based on disagreements between people of religious versus secular outlooks in the same way as it treats conflicts based on disagreement between secular-minded people or on disagreement between religious people? It does not since the tests of neutrality may not be equally satisfied by reasons of religious and secular character.

Consider neutrality as shared reasons first, beginning by the accessibility test. There seems to be no secular counterpart to miracles and revelations. The special attitude towards mystical experience we have described in the previous section seems to be constitutive of the religious outlook and largely alien from the secular one. Thus, secular reasons are unlikely to be failed by the accessibility test, while it is not difficult to see how a religious reason may be failed by it.

This claim must be treated with caution. Religious reasons are not reducible to reports of mystical experience. Their body entails a large set of claims–ethical, moral, prudential, metaphysical, and empirical–that non-religious individuals are fully capable of assessing against their own background beliefs. Theologians often rely on nothing but "natural" reasons, i.e. reasons available to the ordinary human mind, unaided by divine revelation.[19]

Here is an example: "Human persons are equal since God has created all of us to His own image". Such propositions are not rendered inaccessible to non-believers in virtue of their religious connotation. Actually, much of the modern, secular moral theory emerged from translations of Judeo-Christian moral theology and from a critical engagement with it. So if it is the inaccessibility test that fails religious claims, then PSN does not disqualify

religion-based reasons as such. It rather cuts across the domain of religious reasons, ruling out a relatively small part of them.

The recognition test seems to have more far-reaching implications. Religions are not exhausted by sets of beliefs. They typically constitute a community, setting apart insiders from outsiders. Religion tends to define social identity in a way secular belief systems do not. This difference has momentous consequences.[20]

To recall, the state speaks in the name of "we the people". Explicitly or implicitly, its pronouncements say something about who "we the people" are. Respect for the equal status of citizens requires the state not to attribute to "we the people" a social identity that is less inclusive than the citizenry as a whole. Imagine a law starting with this preamble: "Whereas God has given the earth to humankind for common use". The text of the preamble echoes a thesis of Christian theology. Combined with the implicit claim of speaking in the name of the people, it implies that "we the people" are a community of Christian believers. It signals to non-Christians and non-believers that they are not full members.

There are, thus, serious grounds for assuming that neutrality as shared reasons fails religious reasons significantly more often than it fails secular reasons. It always judges as inappropriate for a state act to appeal to religious reasons, but it does not necessarily judge official appeals to controversial secular reasons to be inappropriate. It mandates the avoidance of religious language not because religious claims are false or otherwise problematic; it does so because of the social identity-related implications of its use by official state acts. According to Charles Taylor, to have a legislative clause: "Whereas Kant said that the only thing good without limits is a good will", or "Whereas Marx said that religion is the opium of the people", would be as improper as having a legislative clause appealing to some religious tenet.[21] But the appeal to the Kantian dictum would have no consequences for the social identity of "we the people". The Marxian clause would, since it identifies the community in the name of which the law speaks as opposed to religion. Anti-religious language is ruled out by neutrality as shared reasons on the same ground on which religious language is, while secular language as such is not.

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[19] See Raz, art. cit., 40.

[20] There are exceptions. Marxism in the early periods of its history was one.

[21] Charles Taylor, 'How to Define Secularism'. Paper presented at the Colloquium on Legal, Political, and Social Philosophy, New York University Scool of Law, November 11, 2010. http://www.law.nyu.edu/ecm_dlv3/groups/public/@nyu_law_website___academics___colloquia___legal_political_and_social_philosophy/documents/documents/ecm_pro_067143.pdf

Those insisting that PSN is biased against religion because its shared reasons prong disqualifies them more often than it disqualifies secular reasons should consider how the non-discrimination prong deals with the difference between religious and secular reasons. If the shared reason prong expresses an anti-religious bias, then the non-discrimination prong is loaded by a reverse–anti-secularist–bias.

To explain: there are special cases when neutrality as non-discrimination allows giving privileged treatment to people committed to basic beliefs or pursuing ways of life of a particular kind. The property of the beliefs or lifestyles that justifies privileged treatment in such cases is that they involve special obligations that may conflict with the obligation to obey the law. Consider a conscript committed to a religious creed that prohibits taking arms. Neutrality permits granting an exemption to such a person, since the exception clause need not rely on a comparative judgment about his views on how one should live and the views held by others. It rather rests on the judgment that enforcing the law against a person's sincerely held ethical convictions is an affront to moral integrity–whether or not those convictions are correct.

To be sure, for the exemption to fit neutrality as non-discrimination, the class of the beneficiaries of the exception clause must coincide with the class of those whom the requirement to obey the law would implicate in a serious conflict of conscience. All sorts of radical pacifists, religious or not, face the same conflict when called to the army. Thus, narrowing the justification of the exception clause to holders of a religious system of belief would unjustly discriminate against pacifists with a secular outlook.[22]

No such discrimination is involved, however, by exemptions that honor the ritual code of certain religions. As an example, think of the permission to Sikh men driving a motor car to wear their turban rather than a safety helmet. Such exemptions are special to particular religions; they have no application to people committed to some secular system of belief. This is because religions, unlike secular creeds, constitute nomic communities: they set conventional norms of conduct that the faithful are expected to comply with. Nomic communities regulate activities which may also be subject to legal regulation. Coincidences of the two codes–the religious and the political one–tend to give rise to conflict of conscience similar to the one inflicted upon radical pacifists by military conscription. No such conflicts are likely to emerge for people with a secular outlook.

[22] On when legal exemptions are and are not objectionably non-neutral, see Appiah 2003: 88-99.

Thus, the exception is properly restricted to people belonging to certain religious groups: neutrality as non-discrimination endorses this rather than condemning it.[23]

In sum, if PSN deals with religion in a special manner, the special restrictions and exemptions are not due to bias but rather to the special characteristics of religion as a belief system and as a social institution.

Philosophers and legal scholars with a religious background insist that, on the contrary, PSN does not give appropriate consideration to the special character of religion. The requirement to bracket out religious reasons silences citizens whose views on matters of policy are motivated by faith and, by assuming that their concerns can be exhaustively rendered in secular terms, it trivializes their deepest convictions.[24]

Is this complaint against liberal neutrality well-founded? Clearly, liberal neutrality requires the law to use a secular language. But, for the complaint to hold, it must be the case that liberal neutrality requires the public discourse about the law to use a secular language, too. Does it entail such a requirement? Not necessarily, since not all participants of public deliberation speak in the name of "we the people", and when they do not, their language does not determine the political status of those disagreeing with them nor is it subject to the requirement of state neutrality on any other ground.

When citizens participate in the informal processes of public deliberation, they speak in their own name, and so PSN does not bear on their discourse. Judges speaking in the court are at the opposite extreme, since they give authoritative interpretation of the law. Legislators are somewhere in-between: while not speaking in their own name, rarely do they speak, as individual members of the legislature, in the name of the legislative body–and, therefore, the citizenry–as a whole. Their pronouncements contribute to public deliberation in a pluralistic society including many particular perspectives. Typically, they speak from one of the many perspectives of which the religious perspectives represent one legitimate family. So PSN leaves some latitude for legislators to give voice to religious reasons.[25] How wide is that latitude?

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[23] See Jeremy Waldron, 'One Law for All?', in 59 Washington & Lee Law Review (2002) 3-34.

[24] See Stephen L. Carter, 'The Religiously Devout Judge', (1989) Notre Dame Law Review 64, 932; Michael W. McConnell: 'Religious Freedom at a Crossroads', (1992) The University of Chicago Law Review 59, 115.

[25] Habermas insists that, nevertheless, religious discourse must be kept out even from legislative debates: the Speaker of the Parliament must have the power, he says, to delete from the protocols religious statements and justifications. It is unclear why this should be the case. See Jürgen Habermas, 'Religion in der Öffentlichkeit', in Habermas, Zwischen Naturalismus und Religion (2005), 137.

In PL, Rawls argues that the duty of civility binds citizens to explain their position to others in terms of public reason (Rawls 1993: 217ff). If that is true about ordinary citizens, it is doubly true about their representatives, especially when they speak in the legislature, as participants of the process of legislation. But Rawls also mentions two considerations that may override the presumption. In both cases, religious reasons are additive to the reasons presented in secular language. They may be added, according to Rawls, either as evidence of the sincerity of a religious legislator's commitment to a particular political position, or with the aim of giving strength to the political conception (ibid: 247, 251).

One could cite further considerations. When the political argument seems to run out, religious ideas may be introduced into the debate in the hope of providing the non-religious party with fruitful metaphors that may help unblocking the controversy. Ironically, the non-religious side may also find an interest in making the religious background of the opponent's position explicit. They may want to show that that position is not implied by the underlying religious views: one can adopt a different political position without being compelled to give up those views.

To conclude, PSN–including neutrality as shared reasons–requires strict exclusion of religious from the language of the state's acts and their official justification; its requirements become less stringent when the speaker does not speak in the name of the state and, through it, the citizenry. Liberal neutrality, properly understood, has no impact of silencing people with deeply held religious beliefs.

To be sure, religious language is not part of the shared language of a pluralistic community, and it is appropriate to presume that representatives–unlike ordinary citizens–ought to stick to the shared language. Rawls invokes, in PL, the ideal of civility in support of such a presumption.

BIBLIOGRAPHY

Ackerman, Bruce. Social Justice in a Liberal State. New Haven, Yale University Press 1980.

Appiah, Kwame Anthony. The Ethics of Identity. Princeton, Princeton University Press 2003.

Audi, Robert. Religious Commitment and Secular Reason. Cambridge, Cambridge University Press 2000.

Bellamy, Richard and Martin Hollis, eds. Pluralism and Liberal Neutrality. London, Frank Cass 1999.

Dworkin, Ronald. A Matter of Principle. Cambridge, Harvard University Press 1985. Chapters 8, 9, 11, 17.

Dworkin, Ronald. Sovereign Virtue. Cambridge, Harvard University Press 2000. Chapters 3, 6.

Goodin, Robert and Andrew Reeve, eds. Liberal Neutrality. London, Routledge 1989.

Habermas, Jürgen. Zwischen Naturalismus und Religion. Frankfurt, Suhrkamp 2005.

Haksar, Vinit. Equality, Liberty and Perfectionism. Oxford, Oxford university Press 1979.

Klosko, George and Steven Wall, eds. Perfectionism and Neutrality. Essays in Liberal Theory. Lanham, Rohman and Littlefield 2003.

Larmore, Charles. Patterns of Moral Complexity. Cambridge, Cambridge University Press 1987.

Lecce, Steven. Against Perfectionism. Defending Liberal Neutrality. Toronto, University of Toronto Press 2008.

MacIntyre, Alasdair. After Virtue. A Study in Moral Theory. London, Duckworth 1985.

Perry, Michael J. The Political Morality of Liberal Democracy. Cambridge, Cambridge University Press 2010.

Rawls, John. A Theory of Justice. Revised edition. Cambridge, Harvard University Press 1999.

Rawls, John. Political Liberalism. New York, Columbia University Press 1993.

Raz, Joseph. The Morality of Freedom. Oxford, Clarendon 1986.

Sandel, Michael. Liberalism and the Limits of Justice. Cambridge, Cambridge University Press 1982.

Sher, George. Beyond Neutrality. Perfectionism and Politics. Cambridge, Cambridge University Press 1997.

Wall, Steven. Liberalism, Perfectionism, and Restraint. Cambridge, Cambridge University Press 2006.

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