

The Moral Foundations of Liberal Neutrality

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Section 1 of this essay explicates the concept of neutrality. Section 2 provides two arguments supporting a conception of *Liberal Moral Neutrality*. Given a certain understanding of moral and rational persons, I argue, moral neutrality is a fundamental and inescapable commitment. Section 3 shows how liberal moral neutrality leads to *Liberal Political Neutrality*. Fully grasping the nature of this liberal political neutrality, I argue in section 4, has radical implications for our understanding of the proper limits of government.

1. THE CONCEPT OF NEUTRALITY

For the last few decades political theorists have vigorously debated whether liberalism is committed to some doctrine of "neutrality," and whether neutrality provides a plausible constraint on legitimate laws and policies. In my view, this long-running controversy has been disappointing: theorists tend to stake their claim as advocates or critics of neutrality, yet the precise contours of the concept and its justification remain vague. To be sure, we have witnessed some important advances. Discussions of neutrality are now careful to distinguish: (i) the idea that a *justification* (say, of a policy) should be neutral; (ii) the claim that the *aims* of policymakers should be neutral; (iii) the claim that the *effects* of policy should be neutral.¹ Yet interpretations of neutrality are far more diverse than most analyses recognize.² Neutrality is sometimes understood as a doctrine about: constraints on legislation or legislators,³ the proper functions of the state,⁴ the prohibition of the state

“taking a stand” on some issues,⁵ the prohibition of the state enforcing moral character,⁶ or the requirement that the state take a stance of impartiality.⁷ Alternatively, neutrality can be understood as a requirement of a theory justice rather than state action.⁸ There are also differences about whether neutral states (or theories of justice, or legislators) are supposed to be neutral between conceptions of the good,⁹ controversial conceptions of the good,¹⁰ conceptions of the good that citizens may rightfully adopt,¹¹ comprehensive doctrines and conceptions of the good,¹² particular sets of ends,¹³ particular or substantive conceptions of the good,¹⁴ ways of life,¹⁵ or final ends.¹⁶ And it is unclear whether every principle of neutrality is inherently one of liberal neutrality, or whether liberal neutrality is a specific sort of neutral principle.¹⁷

To make a start at clarifying just what the debate is about, I propose the following general definition-schema:

A's ϕ -ing is neutral between *X* and *Y* concerning *X's* and *Y's* difference *D* iff ϕ does not treat *X* and *Y* differentially on the basis of *D*.

The definition-schema is, I think, fully general about claims concerning neutrality. It must be stressed that the definition-schema is not intended to resolve substantive disputes about the proper interpretation of neutrality; the aim is to get clearer about the variables around which controversy centers. Each conception of neutrality provides a different interpretation of the variables. The most familiar controversy, which I mentioned above, concerns the proper interpretation of “treatment.” Varying conceptions proffer different explications: those who think that neutrality requires *neutrality of effect* hold that unless *A's* ϕ -ing has the same effect on *X* and *Y* with respect to *D*, *A's* ϕ -ing treats them differently; those who

uphold *neutrality of justification* maintain that A treats X and Y the same when A has a justification for ϕ that does not appeal to D .

To better see how the definition-schema is to be applied, consider the classical case of a government that is neutral between two combatants. The government (A) is neutral between the combatants (X and Y) concerning the differences in their war aims (D) when A 's decision, say, about shipments of arms or war-related matters (ϕ) does not treat X and Y differentially on the basis of their war aims, alliances, etc. Note a few points. (i) The range of ϕ — what sorts of actions must be neutral — is in dispute between different notions of state neutrality in war (just as it is in liberal neutrality). In 1914 President Wilson insisted that "The United States must be neutral in fact, as well as in name... We must be impartial in thought, as well as action, must put a curb upon our sentiments, as well as upon every transaction that might be construed as a preference of one party to the struggle before another."¹⁸ But that is an extreme interpretation of ϕ (and was not lived up to). The Swedish Government in 1941 declared that "Neutrality does not demand that nations not participating in an armed conflict should be indifferent to the issues of the belligerents. The sympathies of neutrals may well lie entirely with one side, and a neutral does not violate his duties as long as he does not commit any unneutral acts that might aid the side he favors."¹⁹ Adopting this, let us call ϕ such acts by the state. (ii) Notice that the Swedish doctrine explicitly allows that A (the neutral government) need not always refrain from different treatment of X and Y on the basis of their war aims (D): A 's public schools might still favor X 's aims, and treat X and Y differently in its curriculum, but this would not impair A 's neutrality regarding ϕ — e.g., arms shipments or war materials. (iii) Note also

that the definition-schema does not require a neutral A to always treat X and Y the same when ϕ -ing. Suppose A sells arms to both X and Y , but X has paid and Y has not (international law allows neutrals to sell arms). Then A may treat X differently than Y even regarding ϕ , because the difference in treatment is not grounded on D (their war aims), but on whether payment has been made.

Moving a little closer to our concern, think about a neutral umpire. The neutral umpire (A) does not treat the players (X and Y) differentially with regard to what team they are on or whether she personally likes them (D), when making calls in the game (ϕ). But, of course, A does treat them differentially in making calls in the game (ϕ) depending on whether one has violated the rules. And A can still be a neutral umpire if, when buying Christmas presents, she selects her hometown team's jersey, so does sometimes base her differential treatment on D (but not when ϕ -ing).²⁰

Philosophy differs from mystery writing: in philosophy we can give the ending away without ruining the story. It may help to give a general description of the conceptions of neutrality that I defend here.

Liberal Moral Neutrality: A [a free and equal reasonable moral person] making ϕ [a moral demand] addressed to Y [a free and equal reasonable moral person] must be neutral between X and Y [where A is also person X ; that is where A is one of the relevant parties]: the justification of A 's moral demand must not treat Y and A differentially based on the differences (D) in their evaluative standards.

Liberal Political Neutrality: A [an agent of the state] when ϕ -ing [exercising coercion on citizen X who is also a free and equal reasonable moral person, or participating in the authorization of such coercion] must be neutral between X and Y [where Y =any other rational citizen/moral person]: the justification of A 's coercion must not appeal to X 's and Y 's differences (D) in their evaluative standards.

Liberal Moral and Political Neutrality, as I explicate them, are not concerned with neutrality between conceptions of the good (or, more broadly, what I will call “evaluative standards”). Liberalism, I shall argue, is neutral between *persons*, and this neutrality requires not treating them differentially on the basis of their differing evaluative standards (or, loosely, conceptions of the good). Liberalism is not concerned with neutrality between conceptions of the good, as if conceptions of the good themselves had claims to neutral treatment. It is only because citizens hold such conceptions that neutrality between citizens has consequences for the way conceptions of the good can enter into moral and political justification. This might seem to be a distressingly pedantic point, but, I think, it helps us avoid confusion. Suppose at time t_1 there are two conceptions of the good in society, C_1 and C_2 but at time t_2 , everyone has come to embrace C_1 . It would seem that, if liberalism is really committed to neutrality between conceptions of the good per se, then even at t_2 , it must be neutral between C_1 and C_2 . But this seems implausible. As I understand liberal neutrality, since it is a requirement to be neutral between persons, appealing at t_2 to C_1 does not run afoul of neutrality, since there are no differences of citizens on this matter. So it is not in itself non-neutral to appeal to conceptions of the good; it all depends on the differences that obtain among moral persons and citizens.

2. LIBERAL MORAL NEUTRALITY

2.1 *Free and equal moral persons*

I take as my starting point the supposition that we conceive of ourselves and others as (i) moral persons who are (ii) free and equal. Although these features are assumed in this essay, we should not suppose that that these assumptions cannot themselves be defended.

John Rawls rightly argues that this general conception of moral persons is implicit in our public culture.²¹ In much the same vein, I have argued that our commitment to the public justification of our moral demands on each other follows from our present conception of ourselves and others.²² Let me briefly explain each of these two fundamental characteristics.

A moral person is one who makes, and can act upon, moral demands. Moral persons thus conceive of themselves as advancing moral claims on others. Alternatively, we can say that moral persons understand themselves to be owed certain restraints and acts.²³ Not all humans — not even all functioning adult humans — are moral persons: psychopaths do not appear to understand themselves as pressing moral claims on others that demand respect, nor do they see others as moral persons.²⁴ As well as advancing moral claims, moral persons have the capability to act on justified moral claims made on them. In this sense moral persons are not solely devoted to their own ends; they have a capacity to put aside their personal ends and goals to act on justified moral claims. Moral persons, then, are not simply instrumentally rational agents;²⁵ they possess a capacity for moral autonomy. Insofar as moral autonomy presupposes the ability to distinguish one's own ends from the moral claims of others, the idea of a moral person presupposes some cognitive skills.²⁶

In the *Second Treatise* John Locke held that "The natural liberty of man is to be free from any superior power on earth, and not to be under the will or legislative authority of man, but to have only the law of Nature for his rule."²⁷ To conceive of oneself as morally free is to understand oneself as free from any natural moral authority that would accord others status to dictate one's moral obligations. This is not at all to say that one sees oneself as unbound by any morality; as Locke suggests, we may have the law of nature as our rule. Although we are by no means committed to a natural law conception of morality, the

crucial point, again one in the spirit of Locke, is that free moral persons call on their own reason when deciding the dictates of moral law. A free person employs her own standards of evaluation when presented with claims about her moral liberties and obligations. A free person, we can say, has an interest in living in ways that accord with her own standards of rightness, value and goodness. At a minimum, to conceive of oneself as a morally free person is to see oneself as bound only by moral requirements that can be validated from one's own point of view.²⁸ This conception of freedom has much in common with Rawls's notion of the rational autonomy of parties to the original position, according to which "there are no given antecedent principles external to their point of view to which they are bound."²⁹

Now to say that moral persons are equal is to claim, firstly, that qua moral persons they possess the minimum requisite moral personality so that they are equal participants in the moral enterprise and, secondly, that each is morally free insofar as no one is subjected to the moral authority of others. The equality of moral persons is their equality qua free moral persons: it is not a substantive principle of moral equality but is a presupposition of the practice of moral justification insofar as it defines the status of the participants in moral justification. While a modest conception of moral equality, it rules out some conceptions of moral justification. Rawls not only conceives of moral persons as advancing claims on each other, but stresses that they view themselves as "self-authenticating sources of valid claims."³⁰ It would seem, and apparently Rawls agrees, that those who understand themselves as authenticating their own claims would not see themselves as bound to justify their claims on others — they would not suppose that only claims justified to others are valid.³¹ But to advance a self-authenticating claim on others is not to respect their moral

freedom, for others are bound only by moral claims that they can validate through their own reason: "there are no given antecedent principles external to their point of view to which they are bound." The supposition of equal moral freedom thus requires that one's moral claims can be validated by those to whom they are addressed.

Many have advanced stronger conceptions of moral equality. Some have claimed, for example, that the very practice of morality presupposes an "equal right of each to be treated only with justification."³² In a similar vein S.I. Benn and R.S. Peters defended the principle that "The onus of justification rests on whoever would make distinctions....Presume equality until there is a reason to presume otherwise."³³ Such a principle of moral equality does not simply require us to justify our moral claims to others: it requires us to justify all our actions that disadvantage some. Now, leaving aside whether some such presumptive egalitarian principle could be morally justified,³⁴ this conception of moral equality is not presupposed by the very idea of a justified morality among free and equal moral persons. If I accept this principle, I claim that others act wrongly if they disadvantage me without good justification. But unless this non-discriminatory principle itself can be validated by others, I disrespect their moral freedom, as I am making a moral claim on them to non-discriminatory action that is not validated by their own reason.

Validation from the rational and reflective perspective of another, however, is not the same as her actual consent. To treat another as a free and equal moral person is to accept that moral claims must be validated from her perspective when she employs her rational faculties in a competent manner and reflects upon them. Now, although as John Stuart Mill noted, there is a strong presumption that each knows her own perspective best, this is not necessarily so.³⁵ Just as others can make sound judgments about a person's beliefs and

principles, and be correct even when the person disagrees, so can others be correct, and the moral agent wrong, about what is validated from her perspective when she reflects on it. Knowledge of oneself is generally superior to others' knowledge of one, but it is not indefeasible. People may withhold assent for a variety of reasons, including strategic objectives, pigheadedness, confusion, manifestly false beliefs, neurosis, and so on. Nevertheless, respect for the equal moral freedom of another requires that the presumption in favor of self-knowledge only be overridden given strong reasons for concluding that she has misunderstood what is validated from her own point of view. Suppose that Alf and Betty reasonably disagree about whether some moral principle P is validated from Betty's rational and reflective perspective. Say that Alf has good reasons to conclude that Betty has misunderstood what is validated from her point of view: P , he says, really is validated from her point of view. Betty has reason to insist it isn't. For Alf to insist that his merely reasonable view of Betty's commitments override her own reasonable understanding of her moral perspective constitutes a violation of her moral freedom, for Alf is claiming authority to override her own reasonable understanding of her moral commitments with his merely reasonable view.³⁶ Crucial to moral freedom is that, over a wide range of deliberative competency, that one's moral deliberations lead you to conclude α authorizes you to believe α .³⁷

2.2 *Morality as giving others reasons*

We can reach much the same conclusion by a different route. Rather than relying directly on respecting the equal moral freedom of others, we can appeal to a theory of *moral reasons*. Morality is inherently a rational and practical enterprise insofar as addressing moral claims

to others is to give them reasons to comply. To say that I have valid moral claims but these give others — even rational others — no reason to comply with them seems to undermine the point of advancing moral claims. If we are not simply concerned with calling others names — criticizing them for “doing wrong,” “being guilty,” “violating the rights of others,” and so on — what is the point of advancing moral claims that do not appeal to their rational nature? To be sure, views of morality that attenuate its practical or rational nature in this way are often defended. Some see moral judgments as essentially descriptive and so not essentially practical (“ ϕ is best described as a right action”). And some understand moral statements as a way express disapproval at what others are doing, and so are not essentially rational (“Boo to ϕ !”, “I disapprove of ϕ and you should too!”). Such views do not capture the crux of moral practice: it is a way for us to relate to each other as rational agents, who can give each other reasons to perform, or refrain, from actions of certain types.

If we accept that morality is necessarily about giving reasons to others, then our understanding of moral justification will be deeply influenced by our understanding of what constitutes a reason. We cannot enter here into the complexities of different accounts of reasons; consider, however, a plausible view. To give someone a reason is to give her a consideration to ϕ that, if she employs her rational faculties in an informed, careful, competent, and reflective way, she can see as counting in favor of ϕ . Suppose Alf claims that R is a reason for Betty to ϕ , but Alf admits that even were she to be fully informed about information that is relevant, and she carefully and competently reflects on R , she still could not see how R is a consideration in favor of ϕ -ing. It is hard to see in what way Alf

can say that R is a reason for Betty to ϕ ; he has admitted that it really cannot be grasped by her reflective deliberation, and given that, it cannot be a reason *for her* to do anything. The idea of a reason that is unable to play a role in deliberation is surely odd. Perhaps it would be good for Betty to ϕ , but it seems implausible to say that *she* has *any* considerations that counts in favor of ϕ .

If we accept this plausible view of what it is to give another a reason, combined with our practical and rational conception of the moral enterprise, we are again led to the view that, for Alf to make a valid moral claim on Betty that she ϕ s, this claim must be validated from Betty's perspective: there must be a reason *for her*.

2.2 Liberal Moral Neutrality

Given the requirements for treating others as free and equal moral persons and the requirements of moral justification, the task of publicly justifying a moral principle P requires that P be validated from the perspective of each rational and reflective free and equal moral person. To publicly justify a moral principle is to justify it to all rational and reflective free and equal moral persons within some public, who confront each other as strangers.³⁸ I shall assume that the relevant public here is something like a society; we could also define the public in terms of all persons (a universalistic cosmopolitan morality) or a smaller community. As our main concern is with morality insofar as it relates to political justice, focus on the notion of a society's morality is appropriate.

Abstracting from the notions of goods, values, moral "intuitions" and so on, let us provisionally say that Σ is an evaluative standard for moral person Alf if and only if

holding Σ , along with various sound beliefs about the world, is a reason for or against a purported moral principle, etc. from Alf's rational and reflective point of view.³⁹ So a person's evaluative standards are to be distinguished from justified moral requirements. Suppose, then, that Alf attempts to justify some moral principle P on the basis of his evaluative standard Σ_a , which is not shared by Betty. He clearly has not justified P . For P to be justified it must be validated from Betty's viewpoint. Thus, appealing to an evaluative standard about which Alf and Betty rationally and reflectively disagree cannot be justificatory: if Betty's careful and rational reflection cannot endorse Σ_a as a consideration in favor of P , then P has not yet been justified as a moral principle at all. Even if a careful, rational and reflective Betty can see Σ_a as a consideration in favor of P , this is still not enough to show that P is validated from her view. She might also have reason to embrace Σ_b and that may be a consideration against P ; the matter then turns on which consideration defeats the other in her overall ranking of evaluative standards.

It is crucial to appreciate that this argument does not show that Alf has a moral obligation to justify his claims on Betty.⁴⁰ One such a view, although Alf may have a moral obligation not to insist on P without justification, he might have an overriding moral obligation to act on P even if it cannot be justified to her. On the account I have articulated here, unless P is validated from Betty's perspective, it is not a moral principle at all, and so cannot ground *any* moral reasons. Its status as a reason-giving moral principle applying to society depends on its validation from the public perspective. Morality supposes impartiality, and impartiality requires that the principle be validated by all members of the moral public.

If Alf is to respect others as free and equal moral persons and provide them with genuine moral claims, he is committed to:

Liberal Moral Neutrality: Alf's moral demands addressed to Betty must be neutral between his and Betty's evaluative standards: the justification of Alf's moral demands must not rely on relevant differences between his and Betty's evaluative standards.

Let us consider more carefully why Alf is committed to Liberal Moral Neutrality.

(i) We are supposing that Alf is committed to treating others as free and equal moral persons, and is he is a moral person committed to making moral demands on others. If this is so, he must advance moral demands on others, and for these to be valid moral demands (i.e., to actually be moral demands) they must be justified to those others.

(ii) Liberal Moral Neutrality does not require that Alf present, or even be aware of, the justifications for his moral demands — he may be unable to articulate arguments about what others have reason to accept. But for his moral demands to be genuine, they must provide considerations for all reflective and rational others. Now given this, it cannot be the case that their justification either favors his evaluative standards or theirs on a relevant difference between them. If there is a relevant difference (a difference that affects the justification of *P*), then if Alf is biased towards his own evaluative standards he will not be providing Betty with adequate reasons; should for some reason he favor Betty's, then the moral demand would not be validated from his view: it would not provide him with a sufficient reason. Note that if their evaluative standards converge on *P*, then the justification of the demand may be based in their different evaluative standards because it would not then be exploiting a difference between them, but appealing to their commonality. This is important. Public justifications may be based either on consensus or convergence of evaluative standards.⁴¹ A consensus justification maintains that *P* is justified

because everyone has grounds to endorse it on the basis of the same evaluative standard; a convergence justification maintains that P is justified because Alf has grounds to endorse it on the basis Σ_a , Betty on the basis of Σ_b , etc. Now a consensus justification is perfectly neutral: the justification does not rely on our disagreements about evaluative standards but, instead, on our agreement about the implications of our standards. Thus we must reject the plausible idea that liberal neutrality prohibits appeal to “controversial conceptions of the good”; we see here that in some cases such appeals treat all as free and equal moral persons to whom we owe reasons.

(iii) It should be clear why “treatment” is to be understood in terms of justification. The reason we are led to Liberal Moral Neutrality is a conception of free and equal moral persons who are committed to making moral demands on others that provide reasons from everyone’s perspective. The grounding of morality is impartial treatment qua moral justification. Any more robust requirement of non-differential treatment — say, that every state policy should equally impact each conception of the good life — would have to be justified *within* the moral or political enterprises. Such robust conceptions of non-differential treatment are surely not presuppositions of the moral enterprise itself.

3. LIBERAL POLITICAL NEUTRALITY

3.1 *The Non-coercion Principle*

I deem this conception of moral neutrality “liberal” because it starts from the quintessentially liberal conception of moral persons as free and equal, rational and reflective, agents. It is not, however, liberal in any more substantive sense. In order to move toward Liberal Political Neutrality we must first make a basic, and I think fairly

uncontroversial, claim *within* morality. If any claim can be justified within the constraints of Liberal Moral Neutrality, it is surely:

The Non-coercion Principle: (i) It is *prima facie* morally wrong for Alf to coerce Betty, or to employ force against her. (ii) With sufficient justification, Alf may have a moral right to use of coercion or force against Betty.

Almost every liberal political philosopher has understood the Non-coercion Principle as a basic moral commitment of liberal political philosophy. The principle's core claim is that, other things equal, the use of force or coercion against another is wrong. To show that other things are not equal, and so that the use of force and coercion is morally permissible, a moral justification is required.⁴²

It is hard to see a plausible case against the Non-coercion Principle.⁴³ Whatever one's evaluative standards, so long as one has any reason to act on them, and be so be an agent, one must have strong reason to object when others exercise force or coercion to thwart one's agency. Someone who seeks to coerce you (without justification) to make you do as he wishes is attacking your fundamental interest in acting on your own evaluative standards. The wrongful coercer supplants your evaluative standards with his own as the grounds for your action. Jeffrey Reiman aptly describes this as a case of "subjugation": i.e., "the judgment of one person prevails over the contrary judgment of another simply because it can and without adequate justification for believing it should."⁴⁴ As Reiman suggests, the "suspicion of subjugation" can be dispelled — we can distinguish "might from right" — if there is adequate justification:⁴⁵ to say that coercion is "prima facie" wrong is to say that reasons can be provided to vindicate some instances of coercion. Suppose someone denies this: she says that coercion can never be justified: she accepts part (i) of the principle but denies (ii). Such an objector must, then, see self-defense as always wrong: in response to the

wrongful force by another, it would still be wrong for her to employ force to resist. Though some have advanced such extreme pacifist views, the claim that one is never justified in employing any degree of coercion to repel any wrongful aggression against oneself is highly counterintuitive; I will not pause to consider it further. If our agency is of fundamental importance to us, then we must accept that, at least in some cases, we have reason to endorse a principle that allows coercion — at the very least, to counter coercion against us.

3.2 The moral claims of, and constraint on, liberal governors

Government officials participate in the authorization of coercion; unjustified coercion is wrong, so if officials are not to act wrongly their coercion must be justified. Consider first the two-person case: official Alf is coercing citizen Betty, say, by imposing a law. So, at a minimum, Alf must have a justified moral liberty to coerce Betty: it must be, morally, not wrong for him to coerce her.⁴⁶ And, of course, this justification must meet the demands of Liberal Moral Neutrality: he cannot favor his own evaluative standards. But for the same reason, the justification cannot favor the evaluative standards of some third party, Charlie, when coercing Betty. Now take any law that applies to both Betty and Charlie: the justification of the law Alf cannot exploit differences in Betty and Charlie's evaluative standards, since then one of them will have inadequate reason to accept that Alf has a moral right to impose the law. So Alf's act of imposing the law is only morally permissible if there is a justification for the imposition that meets Liberal Political Neutrality.⁴⁷

This all supposes that the Non-coercion Principle applies to governments and its agents (qua agents). This is not entirely uncontroversial; a recurring view in the history of

political philosophy insists that the “normal” moral restraints that apply to individual actors do not apply to the state; “the State, as such, certainly cannot be guilty of personal immorality, and it is hard to see how it can commit theft or murder in the sense in which these are moral offenses.”⁴⁸ More generally, what has been called “political realism” insists that the constraints of “ordinary” morality are not applicable to politics. As Machiavelli famously observed, “A man who wishes to make a profession of goodness in everything must necessarily come to grief among so many who are not good”⁴⁹ If governors have a duty to protect the interests of their citizens, it has seemed to many that in the unpredictable and morally lax environment in which politicians often operate, they must ignore the normal precepts of everyday morality and look to promote the good of their people. As the realist sees it, to insist that the Non-coercion Principle applies to those in government fails to appreciate the distinctive character of the political.

We need to distinguish three different conceptions of the special nature of politics.⁵⁰

(i) The “realist” insists that there is an “ineluctable tension between the moral command and the requirements of successful political action.”⁵¹ On this conception successful politics requires immorality: one must often have morally “dirty hands” to be a successful politician. The liberal tradition in politics rejects such realism: politics is neither above nor outside the claims of morality. (ii) The first view is puzzling: why should the fact (if it be a fact) that political success requires immorality be a reason to ignore morality rather than to forgo political success? If a trade union official told us that success for the union requires immorality, we would hardly think that this excuses her immorality. A moral plausible view is that while morality applies to the government, it is an entirely different morality: the state, we are told by some, cannot be guilty of personal immorality — it is held

accountable to a higher morality: “successful political action” is “itself inspired by the moral principle of national survival,” and so politicians have no “moral right” to sacrifice their state in the pursuit of fidelity to the principles of individual morality.⁵² This special “morality of the state” is also rejected by the liberal tradition: there is not one morality for persons and a different one for states, as if states were not composed of individuals with commitments to respect the moral personality of others. (iii) However, to deny that there is a special morality of the state is not to deny that the special circumstances of politics may allow for justifying acts that otherwise would be wrong. Liberals (although not perhaps libertarians) accept that the conditions under which the agents of the state can justifiably employ coercion differ from the conditions under which private individuals may. This, of course, is the fundamental concern of political philosophy: how does the state come to be authorized to employ coercion (such as to punish) while private individuals are not so authorized? To accept that the agents of the state are justified in employing coercion when non-state agents are not does not mean that the Non-coercion Principle fails to apply to governors: the liberal claims that there are arguments that meet the test of Liberal Moral Neutrality that, in some cases, allow only agents of the state to justifiably coerce.

The upshot is that unless we wish to join the realist in withdrawing politics from the purview of morality, or allow that the state is subject to its own special morality of national interest, the actions of those who are agents of the state must conform to requirements of morality, specifically the Non-coercion Principle, and the only way to overcome the presumption against coercion is through a justification that conforms to the demands of Liberal Moral Neutrality. We thus have:

Liberal Political Neutrality: An agent of the state when coercing a citizen, or participating in the authorization of such coercion, must be neutral between that citizen and any other citizen: the justification of the state official's coercion must not treat differentially reasonable and reflective citizen's differences in their evaluative standards.

Notice that we have switched our focus from *moral persons* to *citizens*. For the most part, I shall leave open the relation between these two classes. We do need to suppose that all member of the class of citizens are also free and equal moral persons, since the moral foundations of Liberal Political Neutrality lie in Liberal Moral Neutrality. Perhaps *all* moral persons residing within a jurisdiction should be considered as citizens (I am certainly sympathetic to this proposal); however, I shall leave open the possibility that that some moral persons within a jurisdiction (i.e., resident aliens) might be excluded from the class of citizens. This is an important issue in political theory, but we cannot pause to discuss it here. Nothing I say in what follows turns on this point.

3.3 *The coercive nature of the state*

Does Liberal Political Neutrality apply to all, or only some, action by state officials? John Stuart Mill distinguished authoritative from non-authoritative interventions by government; while the former take the form of a command backed by enforcement, the latter gives advice and information, or establishes an agency to deal with a problem while allowing others to compete.⁵³ Although the government threatening drug users with prison sentences is indeed an act of coercion, drug education programs, on Mill's view, would not be coercive. George Sher makes much of this point. In order to promote certain aims, governments might offer rewards, engage in economic policies that favor the aim, fund

educational programs, and so on.⁵⁴ If these policies are not coercive, then they do not fall under the Non-coercion Principle.

What is sometimes called the “libertarian” response must be right here: each of the supposedly non-coercive measures is only possible because of a prior act of coercion, be it threats associate with the tax code, threats that back up banking regulations (relevant, say, to setting interest rates), and so on. The action “conduct an educational program” presupposes the action “raise via taxation the revenues to conduct the program.” Assuming the former is impossible without the latter, it is inappropriate to separately evaluate them. An act that depends on having certain resources or powers cannot be evaluated without consideration of the legitimacy of obtaining those resources or powers. Here at least is a case where the dictum that “He who wills the end must also will the means” is appropriate: to insist that there is nothing coercive about the end, when the only way to achieve the end is through a coercive means, is disingenuous. To say that it is not coercive to spend your money, even though I must use coercion to get my hands on it, hardly seems convincing. The object of evaluation should be the complex act {raise revenues through taxation & spend them on an educational program}. That the complex should be the focus of evaluation is by no means simply a libertarian view: the American Civil Liberties Union sues public authorities that use tax money to advertise religion (say, by using public workers to erect signs saying “Jesus is Lord”).⁵⁵ The idea is that this is not a mere educational measure that does not impose burdens on some; it does impose burdens that must be born by dissenting citizens because of threats of punishment by the Internal Revenue Service.

It can, though, plausibly be maintained that some state actions are less coercive than others. Just as a threat of a short prison sentence is less coercive than threat of a long one, and threat of a small fine is less coercive than threat of a moderate jail term, so too the coercion involved in an extra one percent marginal tax rate is typically less coercive than the threat of jail.⁵⁶ Thus, if we concern ourselves with the strength of the justifications required to legitimate the coercion, then a distinction between stronger and milder forms of coercion will be relevant.⁵⁷ But that distinction is not relevant to the Non-coercion Principle, which concerns the set of actions that require justification.

4. THE IMPLICATIONS OF LIBERAL POLITICAL NEUTRALITY

4.1 The demanding nature of Liberal Political Neutrality

To paraphrase Robert Nozick, so strong and far-reaching is Liberal Political Neutrality that it raises the question of what, if anything, the officials of the state may do.⁵⁸ It is unclear whether much in the way of public policy survives the neutrality test. Since we have seen that whenever state officials act they participate in a coercion-authorizing process, to implement any such policy would require a justification that does not exploit differences in the evaluative standards of reasonable and reflective citizens — i.e., is neutral between them. Some may think that this is not terribly demanding. It is reasonable to suppose that, after all, citizens do share many evaluative standards. Although we may not have consensus on a full-fledged conception of the good, we might still identify “a public conception of the good”: there might be substantive shared values that are a matter of overlapping consensus of everyone’s conceptions of the good — say, health, security and happiness.⁵⁹ Suppose, for example, that some evaluative standard Σ is shared by all. Then it

would seem that an appeal to Σ in a justification for policy P would not run afoul of Liberal Political Neutrality: implementing policy P treats all citizens neutrally since the justification for it does not appeal to their reasonable differences in evaluative standards. But this moves too quickly, for we need to take account of different citizens' rankings of their evaluative standards. R does not justify a policy consistent with neutrality unless it would be accepted by all fully rational and reflective citizens. Now although a rational Betty might reject R as a reason because it appeals to an evaluative standard that she does not share, she will also reasonably reject it as a good reason in favor of P when it appeals to a ranking of evaluative standards that she does not share; R may be *a* reason in favor of P , but it is overridden in her ranking by R^* , which is a reason against P . According to Milton Rokeach, a psychologist, Americans agree in affirming a set of thirty-six values; what they differ on is "the way they organize them to form value hierarchies or priorities."⁶⁰ If so, our main disagreements are not about what is of value (what is an evaluative standard), but the relative importance of our evaluative standards. Even if everyone agrees, say, that smoking causes cancer and that this is *a* reason for a policy discouraging smoking, rational people clearly do disagree about whether the pleasures are worth the risk of death. Given that rational people weigh the relative values of pleasure and safety differently, coercive acts that can only be justified on the grounds that the pleasure does not outweigh the risk to health fail to provide a neutral case. Thus, although the badness of ill health caused by smoking can be invoked in a neutral justification, that its badness outweighs the goodness of the pleasure of smoking cannot; and without that, no state policies discouraging smoking will be justified. This has direct relevance to United States drug policy, which is based on

certain middle class value rankings, and which results in policies that place inordinate costs on the poor.⁶¹

This fundamental point deserves emphasis. Political philosophers are usually insensitive to what economists call “opportunity costs”: the cost of getting one thing you value is that you must forgo something else you value.⁶² It is often assumed that once we recognize a shared value, we have the basis for a neutral policy: but everything depends on whether achieving this shared value requires that some give up something of greater value. If it does, then for those citizens pursuing this shared value is irrational: they are giving up something more important for something they prize less. So it does no good to simply point to shared value: we must point to a shared ranking of values, so that all rational and reflective citizens will agree that achieving this value is more important than any other values that might be achieved. But this is a daunting task: rational and reflective, free and equal persons appear to disagree deeply on the rankings of their evaluative standards (what is a “conception of the good” but a scheme in which values are weighted?). It looks as if almost any collective pursuit of values will involve some citizens being coerced into pursuing a value that is less important to them than a value they had to give up (say, because they were taxed for the collectively pursued value).

Some try to blunt the radical implications of Liberal Political Neutrality by restricting the range of the neutrality principle (the class of cases covered by ϕ) to a small set of basic political matters.⁶³ Rawls, for example, appears to restrict ϕ to constitutional issues or matters of basic justice: unless an issue concerns a “constitutional essential” neutrality does not apply — apparently non-neutral justifications can be employed in everyday (non-constitutional) politics. Can they? Suppose that we have a neutral justification of a

constitution, and now are advocating policy *P*, which is not itself about a constitutional matter. There are two possibilities. It might be that the constitution which is, *ex hypothesi* neutrally justified, authorizes *P*. In this case *P* does have a neutral justification insofar as it is justified through the constitution which is neutrally justified. The issue, though, is whether a constitution with extensive authorizations of this sort *could* be neutrally justified. It seems doubtful indeed that, for example, a constitution that allows the government to use taxation to discourage smoking, encourage a healthy life-style, regulate drugs, fund the arts, go to war to spread democracy, seek to advance human flourishing, protect the family, or promote community, is capable of neutral public justification. Given what has been said above, there is a strong presumption that all coerced citizens could not be given impartial reasons of the requisite sort for granting the state authority over these matters. The other alternative is that the constitution is neutrally justified, but only the constitution; there is no indirect neutral justification via the constitution for policy *P*. The case for *P* is another matter entirely, outside of the scope of Liberal Political Neutrality. But this implies that *P* is a coercive act without adequate justification and, so wrong. Neutrality cannot be restricted to a certain "level" because the Non-coercion Principle is fully general principle, applying to all coercive acts.

4.2 The specter of anarchism?

If Liberal Political Neutrality is *that* demanding, is any law justified? Do we end up with anarchism? Everything I have thus far said about public policies that seek to advance values such as health would seem to apply to matters of basic political justice, such as a regime of property rights. While every rational and reflective citizen may agree that some

system of property rights is better than none (for then we avoid the state of nature, where there is no “mine and thine”), no argument for a specific system of property can function as a neutral justification of the requisite sort, as it will be rationally rejected either by some. Some will, say, rank a libertarian system of property higher than a welfare state system, while others will have evaluative standards that lead them to the reverse ranking. The difference between the smoking case and the property rights case lies in where the option “no policy at all in this matter” is on each rational citizen’s rankings. Suppose that all rational citizens endorse or prefer systems of property $\{Pr_1, Pr_2, Pr_3\}$ over no system of property rights, but some prefer no system of property rights over $\{Pr_4, Pr_5\}$. If so there is a Liberal Political Neutralist justification for selecting from the set of $\{Pr_1, Pr_2, Pr_3\}$; our evaluative standards converge on the conclusion that any member of that set is better than no property regime at all. What is required next — and this is where democracy enters in — is a justified procedure to select from that set.⁶⁴ If we have such a procedure, then we will have a fully justified system of property rights despite the disagreements about what is the best system — disagreements on the relative merits of $\{Pr_1, Pr_2, Pr_3\}$. In contrast, in the typical public policy case, at least over a very wide range of issues, for *each and every* policy P in the set of options, a number of citizens rank P as inferior to “no policy at all on this matter.” No policy whatsoever will be preferred, first, by those who prefer no policy to every policy, and so rank P and all other policies behind no policy at all (e.g., classical liberals regarding pornography regulation). Second, P will also be ranked worse than no policy at all by those who prefer some other policy P^* to no policy at all, but prefer no policy at all to P .⁶⁵ Thus on issues where some rational citizens fall into one of these two groups no public justification of P can be advanced. Of course, if there is a public

justification for *some policy* on this matter (for example, regarding a public good such as pollution control), and *P* is in the set of admissible policies, then we move to a case like that of property rights. It is very likely, though, that once we take account of comparative judgments, Liberal Political Neutrality precludes a great deal of contemporary legislation.

4.3 Liberal Political Neutrality: critical or apologetic?

Liberal Political Neutrality is a radical principle: it expresses a suspicion that coercion threatens subjugation and, based on our understanding of others as free and equal moral persons, advances a demanding test to overcome this suspicion. *Pace* almost all contemporary advocates of Liberal Neutrality, I have argued that Liberal Political Neutrality is genuinely liberal in the sense that it is suspicious of all coercion and drastically limits the scope of government. Many of the things that contemporary states do fail the test of Liberal Political Neutrality — which is to say that contemporary states are not genuinely liberal. Some advocates of “liberal neutrality” see this conclusion as a *reductio ad absurdum*.⁶⁶ To these liberals, any adequate conception of liberal neutrality *must* show that most of what contemporary governments do is justified. Thus some tell us that if a conception of liberal neutrality excludes, say, public school classes in drama and music, it is shown to be an absurd conception.⁶⁷ This common view presupposes what liberals must question: that state coercion is justified. I see no good reason to accept what amounts to conception of political philosophy as an apology for the current state. To appropriate a contemporary if not pellucid term, in the eyes of liberals the state is problematic. That is why the classic social contract theories begin with the state of nature — a condition without any government — and seek to show that construction of a limited government is consistent with moral

principles. Current advocates of neutrality work the other way around: they start with government as we know it and test moral principles by showing that they justify it.

Even supposing it is true that “daily politics is irretrievably perfectionist” — that the aim of politics is to make people more autonomous, or healthier, or wiser, or more family-oriented, or more God-fearing — this would by no means show that anti-perfectionism is absurd or misguided.⁶⁸ If compelling moral claims show that most state coercion is unjust, then the loser is state coercion, not these fundamental moral convictions. Liberal moral principles are indeed “self-stultifying”⁶⁹ when what is being stultified is unjustified coercion of some by others. Morality stultifies a host of things that we may wish to do, including making others more perfect in our own eyes.

NOTES

¹See Charles Larmore, *Patterns of Moral Complexity* (Cambridge: Cambridge University Press, 1987), pp. 43ff; Will Kymlicka, "Liberal Individualism and Liberal Neutrality," *Ethics*, vol. 99 (July 1989): 833-905; Simon Caney, "Consequentialist Defenses of Liberal Neutrality," *The Philosophical Quarterly*, vol. 41 (January 1991): 457-477.

²The most careful discussion is George Sher, *Beyond Neutrality: Perfectionism and Politics* (Cambridge: Cambridge University Press, 1997), ch. 2.

³See Jeremy Waldron, "Legislation and Moral Neutrality" in his *Liberal Rights* (Cambridge: Cambridge University Press, 1993), pp. 149ff.

⁴Peter Jones, "The Ideal of the Neutral State" in *Liberal Neutrality*, edited by Robert E. Goodin and Andrew Reeve (London: Routledge, 1989), p. 9; Govert Den Hartogh, "The Limits of Liberal Neutrality," *Philosophica*, vol. 56 (1995): 59-89 at p. 61.

⁵Colin M. MacLeod, "Liberal Neutrality or Liberal Tolerance?" *Law and Philosophy*, vol. 16 (Sept. 1997): 529-559 at p. 532; Paul Rosenberg, "Liberal Neutrality and the Social-Democratic Project," *Critical Review*, vol. 8 (1994): 217-234 at p. 218.

⁶Wojciech Sadurski, "Theory of Punishment, Social Justice and Liberal Neutrality," *Law and Philosophy*, vol. 7 (1988/89): 351-374 at p. 371.

⁷See Jones, "The Ideal of the Neutral State," p. 9.

⁸See Philippe van Parijs, *Real Freedom for All* (Oxford: Oxford University Press, 1995), p. 28.

⁹Bruce A. Ackerman, *Social Justice in the Liberal State* (New Haven, CT: Yale University Press, 1980), p. 11.

¹⁰Larmore, *Patterns of Moral Complexity*, pp. 53ff.

¹¹ Robert Talisse, *Democracy After Liberalism* (London: Routledge, 2005), p. 33.

¹²See John Rawls, *Justice as Fairness: a Restatement*, edited by Erwin Kelly (Cambridge, MA: The Belknap Press of Harvard University Press, 2001), p. 152.

¹³Jones, "The Ideal of the Neutral State," p. 9.

¹⁴See Brian Barry, *Justice as Impartiality* (Oxford: Clarendon Press, 1995), pp. 139-145; Ronald Dworkin, "Liberalism" in his *A Matter of Principle* (Cambridge: Harvard University Press, 1985), p. 191; Roger Paden, "Democracy and Liberal Neutrality," *Contemporary Philosophy*, vol. 14 (no. 1): 17-20.

¹⁵Kymlicka, "Liberal Individualism and Liberal Neutrality," p. 886.

¹⁶J. Donald Moon, *Constructing Community: Moral Pluralism and Tragic Conflicts* (Princeton: Princeton University Press, 1993), p. 55.

¹⁷ See Barry, *Justice as Impartiality*, pp. 125ff. Robert E. Goodin and Andrew Reeve, "Liberalism and Neutrality" in their edited collection, *Liberal Neutrality*, pp.1-8.

¹⁸ Woodrow Wilson, *Message to Congress, 63rd Cong., 2d Session, Senate Doc. No. 566* (Washington, 1914), pp. 3-4.

¹⁹ <http://lawofwar.org/Neutrality.htm>

²⁰ This assumes that expressive stances are a form of treatment. On this see Christi Dawn Favor, "Expressive Desert and Deserving Compensation," in *New Essays on Philosophy, Politics, and*

Economics, edited by Gerald Gaus, Christi Dawn Favor and Julian Lamont (Stanford: Stanford University Press, 2009).

²¹ See John Rawls, "Kantian Constructivism in Moral Theory," in *John Rawls: Collected Papers*, edited by Samuel Freeman (Cambridge, MA: Harvard University Press, 1999), pp. 303-358, esp. 305ff. This is not to say that Rawls and I advance precisely the same conception of free and equal moral persons, as shall become clear in what follows.

²² See my *Value and Justification* (Cambridge: Cambridge University Press, 1990), pp. 278ff.

²³ See here J.R. Lucas, *On Justice* (Oxford: Clarendon Press, 1980), p. 7. For a development of this conception of morality, see Thomas Scanlon, *What We Owe Each Other* (Cambridge, MA: Belknap Press of Harvard University Press, 1998), esp. pp. 177ff.

²⁴ I argue this in *Value and Justification*, pp. 281ff.

²⁵ See John Rawls, *Political Liberalism*, paperback edition (New York: Columbia University Press, 1996), p. 51.

²⁶ I argue for this claim in "The Place of Autonomy in Liberalism," in *Autonomy and the Challenges to Liberalism*, edited by John Christman and Joel Rogers (Cambridge: Cambridge University Press, 2005), pp. 272-306.

²⁷ John Locke, *Second Treatise of Government* in *Two Treatises of Government*, edited by Peter Laslett (Cambridge: Cambridge University Press, 1960), §21.

²⁸ It also provides the basis for understanding morality as self-legislated. I develop this idea further in "The Place of Autonomy in Liberalism."

²⁹ Rawls, "Kantian Constructivism," p. 334.

³⁰ Rawls, *Justice as Fairness*, p. 23. The importance of the idea of self-authentication is easily overlooked in Rawls's thinking. It first appeared in his 1951 paper on an "Outline of a Decision Procedure for Ethics," which conceived of ethics as adjudicating the claims of individuals, which he clearly saw as self-authenticating. See section 5 of that paper in Rawls's *Collected Papers*, ch. 1.

³¹ Hence, because of this, parties to Rawls's original position are not required to advance justifications for their claims. Rawls argues this in "Kantian Constructivism," p. 334.

³² Hadley Arkes, *First Things: An Inquiry into the First Principles of Moral and Justice* (Princeton: Princeton University Press, 1986), 70. Italics omitted.

³³ S.I. Benn and R.S. Peters, *Social Principles and the Democratic State* (London: George Allen and Unwin, 1959), 110.

³⁴ I argue that it cannot in *Justificatory Liberalism* (New York: Oxford University Press, 1996), 162ff.

³⁵ J.S. Mill, *On Liberty*, in *On Liberty and Other Essays*, edited by John Gray (New York: Oxford University Press, 1991), pp. 84-5 (ch. IV, para. 4). Mill also was aware that this assumption does not always hold true. See his *Principles of Political Economy*, in *The Collected Works of John Stuart Mill*, edited by J.M. Robson (Toronto: University of Toronto Press, 1963), vols. II and III, Book V, ch. xi, § 9.

³⁶ I deal with this complex question more formally in *Justificatory Liberalism*, Parts I and II.

³⁷ Again, I recognize the complexities of this matter. I try to shed a little more light on it in "Liberal Neutrality: A Radical and Compelling Principle," in *Perfectionism and Neutrality: Essays*

in *Liberal Theory*, edited by Steven Wall and George Klosko (Lanham, MD: Rowman & Littlefield, 2003), 136-165, at pp. 150ff, and *Value and Justification*, pp. 399-404.

³⁸ On the concept of the public, see S.I. Benn and G.F. Gaus, "The Liberal Conception of the Public and Private," *Public and Private in Social Life*, edited by S.I. Benn and G.F. Gaus (New York: St. Martin's, 1983), pp. 31-66.

³⁹ I leave aside here whether Σ is itself a belief about the world, as ethical naturalists would have it. It is important to stress that nothing in my account precludes moral realism as a metaethical or metaphysical thesis; the epistemic constraint on moral reasons is the crucial principle on which the analysis rests.

⁴⁰ This interpretation is advanced by Christopher Eberle, *Religious Convictions in Liberal Politics* (Cambridge: Cambridge University Press, 2002), ch. 3.

⁴¹ On convergence as a mode of justification, see Fred D'Agostino, *Free Public Reason: Making It Up As We Go* (New York: Oxford University Press, 1996), pp. 30-31.

⁴²In order to simplify, I will henceforth refer to "coercion" rather than the more cumbersome "force and coercion."

⁴³ I have considered some possible objections in "Liberal Neutrality: A Radical and Compelling Principle."

⁴⁴ Jeffrey Reiman, *Justice and Modern Moral Philosophy* (New Haven: Yale University Press, 1990), p. 2.

⁴⁵ Ibid.

⁴⁶ According to Wesley Hohfeld, Alf has a liberty to ϕ if and only if Betty has no claim against Alf that he not ϕ . For Hohfeld's classic analysis, see his "Some Fundamental Legal Conceptions as Applied in Judicial Reasoning," *Yale Law Review*, vol. 23 (1913): 16-59.

⁴⁷ Note that should the law not apply to some other party, the law would not have to be justified to him: a law might apply to only a "section of the public." Think, for example, of a law that regulates motorcycle use: it may not require justification to some class of citizens (say, those who do not drive). Stanley Benn and I explore the idea of a "section of the public" in "The Liberal Conception of the Public and Private."

⁴⁸ Bernard Bosanquet, *The Philosophical Theory of the State* in *The Philosophical Theory of the State and Related Essays*, edited by Gerald F. Gaus and William Sweet (Indianapolis: St. Augustine Press, 2001), p. 285. Even Bosanquet, however, insisted that, while the state as such could not be guilty of immorality, "if an agent, even under the order of his executive superior, commits a breach of morality, *bona fide* in order to do what he conceives to be a public end desired by the State, he and his superior are certainly blamable...." (p. 284)

⁴⁹ Niccolò Machiavelli, *The Prince* in *The Prince and the Discourses* (New York: Modern Library, 1950 [1515]), p. 56.

⁵⁰ I consider these issues in more detail in "Dirty Hands" in *The Blackwell Companion to Applied Ethics*, edited by R. G. Frey and Kit Wellman (Oxford: Basil Blackwell, 2003), pp. 169-179.

⁵¹ Hans J. Morgenthau, *Politics Among Nations*, fifth edition (New York: Alfred A. Knopf, 1973), p. 10. See also Reinhold Niebuhr, *Moral Man and Immoral Society* (London: Student Christian Movement Press, 1963).

⁵² Morgenthau, *Politics Among Nations*, p. 10. Note that Morgenthau seems to advocate both positions (i) and (ii). It is often difficult to know whether “realists” are arguing against applying moral considerations to politics, or are arguing for a special political morality.

⁵³ Mill, *Principles of Political Economy*, Book V, Chapter XI.

⁵⁴ Sher, *Beyond Neutrality*, pp. 34-37.

⁵⁵ *The Times-Picayune* (New Orleans), Sunday February 24, 2002, Metro Section, p. 1

⁵⁶ See Daniel M. Weinstock, “Neutralizing Perfection: Hurka on Liberal Neutrality,” *Dialogue*, vol. 38 (1999): 45-62.

⁵⁷ I explore the problems of degrees of coercion and strength of justification in “Coercion, Ownership, and the Redistributive State,” *Social Philosophy & Policy* (2010).

⁵⁸ Nozick, *Anarchy, State and Utopia*, p. ix.

⁵⁹ Weinstock, “Neutralizing Perfection,” p. 55.

⁶⁰ See Milton Rokeach, *The Nature of Human Values* (New York: The Free Press, 1973), p. 110; Milton Rokeach, “From Individual to Institutional Values,” in his *Understanding Values* (London: Collier Macmillan, 1979), p. 208.

⁶¹ See J. Donald Moon, “Drugs and Democracy” in *Drugs and the Limits of Liberalism*, edited by Pablo De Greiff (Ithaca: Cornell University Press, 1999), pp. 133-155.

⁶² George Klosko is something of an exception. He acknowledges that people disagree in their rankings, but he insists that somehow this is not a problem for justification. Thus he tells us that it is not “forbidden that government policy priorities reflect some conceptions more than others. Neutrality requires only that public policies be intended to realize nonsectarian values and that

the relevant means be similarly defensible.” [“Reasonable Rejection and Neutrality of Justification” in *Perfectionism and Neutrality: Essays in Liberal Theory*, edited by Steven Wall and George Klosko (Lanham, MD: Rowman & Littlefield, 2003), pp. 167-189 at p. 178.] Klosko’s position seems to be that so long as policy (is justified on “non-sectarian” grounds, it is neutrally justified, even if the policy “reflects” some citizens’ ranking over others. I cannot see the motivation for restricting justification to the kinds of reasons advanced but not their importance; unless a more complicated account is offered, a person has no reason to accept a policy that is based on a ranking of evaluative criteria that she reasonable rejects. Klosko thus defends motorcycle helmet laws as “neutral” even though he admits that they presuppose rankings of values that are rationally rejected by some citizens. Klosko’s main motivation, I think, is simply to ensure that liberal neutrality does not have radical implications; see §4.3 below.

⁶³Weinstock, “Neutralizing Perfection,” p. 54.

⁶⁴I have argued that constitutional democracy is such a procedure in *Justificatory Liberalism*, Part III.

⁶⁵I explore this problem in much more depth in “The Legal Coordination Game,” *American Philosophical Association’s Newsletter on Philosophy and Law*, vol. 1 (Spring 2002): 122-128

⁶⁶ See, e.g., Klosko, “Reasonable Rejection and Neutrality of Justification,” pp. 175ff. Weinstock, “Neutralizing Perfection,” p. 47

⁶⁷ See Klosko, “Reasonable Rejection and Neutrality of Justification,” p. 175. Klosko is reporting, but apparently concurring with, the views of Richard Kraut.

⁶⁸Den Hartogh, “The Limits of Liberal Neutrality,” p. 59.

⁶⁹ This term is Weinstock's.