

The asymmetry objection to political liberalism: evaluation of a defence

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Abstract. This paper evaluates Jonathan Quong's attempt to defend a version of political liberalism from the asymmetry objection. I object that Quong's defence relies on a premise that has not been adequately supported and does not look as if it can be given adequate support.

1. Introduction

In *Political Liberalism*, John Rawls proposes a theory for when the exercise of political power is legitimate within a liberal society. According to this theory, the exercise of political power within such a society is legitimate only when it is compatible with a certain kind of constitution: a constitution whose essentials are justifiable to all reasonable citizens (1993: 137). In other words, to be legitimate the exercise of political power must not violate the principles specified by this kind of constitution. The essentials of some possible constitutions are not justifiable to all reasonable citizens. They involve commitments that it is reasonable for some citizens to reject. Rawls thinks that the essentials of a constitution within a liberal society should be based on judgments about social justice: judgments about how rights, duties and the benefits of social cooperation should be distributed in order to achieve a fair society (1993: 139-140). Amongst other things, they should not be based on judgments that some kinds of life or some pursuits within life are of less worth than others, even if they do not violate requirements of social justice, because it is reasonable for citizens to disagree with one another about such judgments.

But cannot reasonable citizens also disagree about what is required in order for there to be social justice? The thought that they can leads to the asymmetry objection to Rawls's political liberalism. What social justice requires can be subject to reasonable disagreement as much as the judgments which Rawls excludes from the constitution's essentials, so there are no grounds for treating judgments about social justice differently from other judgments in the way that Rawls does. To treat them in the same way is to treat them symmetrically, we can metaphorically say, hence this objection is referred to as the asymmetry objection. It says that Rawls lacks grounds for treating them asymmetrically.

In a book chapter, which is based largely on an earlier article (Quong 2005), Jonathan Quong aims to show that Rawls's political liberalism can be defended against this objection. The purpose of this paper is to evaluate his defence. Before doing so, there are some terms involved in Rawls's theory of legitimacy that are in need of clarification, such as a liberal society and a reasonable citizen. The second part of this paper provides the necessary clarifications. The third part presents a more detailed statement of the asymmetry objection, distinguishing two versions of it. The fourth part introduces Quong's defence while the later parts reveal that it does not succeed.

2. Clarification of Rawls's theory of legitimacy

In *Political Liberalism*, Rawls does not aim for a theory of when the exercise of political power would be legitimate within any society, rather he focuses on when it would be legitimate within a liberal society. A liberal society, as this concept will be understood below, is a society in which the state regards adult members, bar exceptional cases, as capable of forming plans and projects for their own life, and capable of responding to moral considerations; in which the state does not treat some such members as natural superiors to

others; and in which the state provides such members with basic rights and liberties, including freedom of thought, freedom of expression and association, freedom from assault, and a right to private property (see Quong 2011: 14-15). For the exercise of political power within a liberal society to be legitimate is for the state to have the moral right to command citizens of that society and to use some degree of coercion to ensure that its commands are followed.

A theory of legitimacy which Rawls rejects is that the exercise of political power within a liberal society is only legitimate if it is compatible with a constitution the essentials of which are justifiable to all actual citizens (1993: 39). The kind of justification that Rawls is interested in is one that appeals to premises that citizens already accept. A justification involves saying that, given this acceptance, consistency requires that citizens accept the essentials of the constitution. But if one tries to achieve a constitution whose essentials are justifiable in this way to all actual citizens, one may well have to take into account belief systems that are profoundly immoral (Quong 2005: 304). For example, if there are a minority of actual citizens who embrace a neo-Nazi ideology, one would have to consider whether there are premises that this minority accept which can be appealed to in order to justify the essential commitments of the constitution. Any essential commitment which fails to meet this requirement should not be there, on this theory of legitimacy which Rawls rejects. Instead of expecting the essentials of a liberal constitution to be justifiable to all actual citizens, which would probably generate a requirement to justify them to citizens with profoundly immoral belief systems, Rawls proposes that the essentials of the constitution should be justifiable to all reasonable citizens. But who are reasonable citizens?

Rawls does not use 'reasonable' in the ordinary sense of the word. Reasonable citizens, according to him, are citizens who accept two points (1993: 54). I read 'accept' as another word for believe. Here are the two points:

- (i) Political society should be a fair system of social cooperation arranged for mutual benefit between free and equal people.
- (ii) There is such a thing as the 'burdens of judgment,' which gives rise to the fact of reasonable pluralism.

Both of these points require further explanation. Regarding (i), Rawls writes of equal people, but how are people equal because it does not seem that they have equal abilities? That they are even equal in moral abilities has been contested (Williams 1973: 234). Rawls's response is that adult members of society, except for some adults suffering from extreme psychological disorders, have a capacity for a sense of justice and a capacity for a conception of the good – for forming a conception of what kind of life would be good – and that the presence of these two capacities makes people worthy of equal treatment (1993: 19). This statement of Rawls's thinking can be subject to further elaboration, but we can leave aside the task of elaborating it here.

According to point (ii), reasonable citizens accept something that Rawls refers to as the burdens of judgment and the accompanying fact of reasonable pluralism. The burdens of judgment are the obstacles to achieving consensus on moral, religious and metaphysical questions (1993: 56-57). Rawls identifies six obstacles:

- (a) empirical and scientific evidence may be complex and conflicting;
- (b) people may disagree about the relative weight that different considerations should carry;
- (c) all concepts are to some extent inherently vague and subject to hard cases;

- (d) the way in which we assess moral and political values is inevitably shaped to some degree by our total life experience;
- (e) there are often different kinds of normative considerations on both sides of a question which fully rational people may not agree how to place;
- (f) social institutions are limited in the number of values they can incorporate, which will sometimes necessitate difficult choices.

Owing to these burdens, Rawls thinks that in a liberal society there will inevitably be disagreement over moral, religious and metaphysical questions. Consensus is perhaps possible through oppression, but it would not occur in a liberal society, given the freedoms this kind of society grants citizens and the burdens of judgment (1993: 4). To accept this point is to accept the fact of reasonable pluralism.

Rawls holds that the exercise of political power within a liberal society is only legitimate if it accords with a constitution the essentials of which can be justified to all reasonable citizens. So far we have considered what the legitimate exercise of political power is, what a liberal society is, who reasonable citizens are and what kind of justification is of interest. But that still leaves the idea of a constitution's essentials. For the sake of simplicity, let us suppose that Rawls's theory holds that the entire constitution within a liberal society should be justifiable to all reasonable citizens, rather than distinguishing between an essential and a non-essential part. This distinction might matter for evaluating other defences against the asymmetry objection, but it can be overlooked here.

3. Two versions of the asymmetry objection

We can distinguish two versions of the asymmetry objection, which I shall refer to as the general version and the perfectionist version. Rawls thinks that the constitution in a

liberal society should be based on judgments about when there would be social justice (1993 139-140), such as the judgment that there would only be social justice if slavery is prohibited. There are a wide range of other judgments on which it should not be based, because it is inevitable that there will be disagreement over the truth of these judgments in a liberal society (1993: 140), owing to the burdens of judgment. For example, it should not be based on the metaphysical doctrine of idealism: that everything is a mind or is mind-dependent. For another example, it should not be based on the Christian doctrine that Jesus is the son of God. For it is a consequence of the burdens of judgment that, even if some reasonable citizens accept these doctrines, in the conditions of a liberal society not all will. The general version of the asymmetry objection says that the burdens of judgment make it inevitable that reasonable people will disagree with one another over when there is social justice as well, so there is no reason to treat these judgments differently from the judgments that Rawls prohibits appeal to.

The perfectionist version of the asymmetry objection does not make a comparison between Rawls's treatment of judgments regarding social justice versus all the judgments he prohibits appeal to, in order to point out that the situation with the former set of judgments is no different. Rather it focuses on a small subset of all the judgments he prohibits appeal to: judgments concerning which kinds of life, or pursuits within life, would be good and which kinds less good – judgments about the good, for short. An example of such a judgment is a parent's judgment that it would be good if their child became a lawyer, if their child became a doctor or if their child became an engineer, but it would not be so good if their child became a writer of vampire novels. Such a life would have less value. Owing to the burdens of judgment, even if some reasonable citizens endorse this judgment, other reasonable citizens are bound to disagree with it. The perfectionist version of the asymmetry objection says that

the same is true of the judgments about social justice which Rawls thinks the constitution can be based on, so there is no reason for Rawls to treat these judgments differently.

The reason why I have called this the perfectionist version is because it is discussed as an objection that a perfectionist may well make or actually does make (Chan 2000: 21-22). Perfectionism in political philosophy is the view that it is morally permissible for the state to act on judgments regarding which kinds of life, or pursuits in life, would be good and which kinds less good. The asymmetry objection is sometimes solely evaluated in its perfectionist version (Waldron 1999; Chan 2000: 21-22; Quong 2011). I also focus on this version below.

4. Quong's defence

Quong's defence against the asymmetry objection concedes that reasonable citizens may disagree about the requirements of social justice. But he thinks that these disagreements can be resolved by appealing to the commitments shared by such people, commitments without which they would not qualify as reasonable citizens by Rawls's definition (2011: 204). If two positions are involved in a disagreement about social justice and one position is incompatible with these commitments, the incompatible one is mistaken. If both are incompatible, then both are mistaken. (What if both are compatible? The process of resolution can be more complicated, involving voting and allowing for the state to act on one of the positions without showing the other to be mistaken. I am using the term 'resolution' to cover this situation as well, because a decision is made regarding which position to act on and all reasonable citizens should abide by this decision. The nature of my objections means that more complex processes of resolution can be overlooked.) However, when reasonable citizens disagree about the good, there is a significant chance that there are no shared commitments which provide a way of resolving the disagreement, because the commitments

which all reasonable citizens share will not enable a resolution. Both positions in the disagreement are compatible with these commitments, in which case the commitments do not reveal which position is mistaken. Furthermore, they do not enable any more complex process of resolution. In this case, Quong characterizes the disagreement as a foundational disagreement:

Foundational disagreements are disagreements characterized by the fact that the participants do not share any premises which can serve as a mutually acceptable standard of justification... Reasonable disagreements about the good life are not necessarily justificatory and will almost certainly be foundational. (2011: 204)

Quong thinks that the constitution of a liberal society can be based on judgments that reasonable citizens disagree on, but only if the two commitments which reasonable citizens share provide a way of resolving these disagreements, in other words only if the disagreements are not foundational. Judgments about social justice supposedly meet this requirement, but judgments about the good supposedly do not.

Quong's argument for not appealing to judgments about the good can be reconstructed as follows:

- (1) If a reasonable citizen makes a judgment and it is possible for another reasonable citizen to disagree with that judgment and for the disagreement to be a foundational disagreement, then the constitution of a liberal society should not be based on that judgment.
- (2) For any judgment that a reasonable citizen makes about the good – about which kinds of life, or pursuits in life, are good and which kinds less good – it is possible for

another reasonable citizen to disagree with that judgment and for the disagreement to be a foundational disagreement*.

Therefore:

(3) For any judgment that a reasonable citizen makes about the good, the constitution of a liberal democracy should not be based on that judgment*.

Next to both premises (2) and (3) I have placed a ‘*’ to indicate that Quong allows for a narrow set of exceptions: a narrow set of judgments about the good that all reasonable citizens should be committed to, in virtue of their reasonableness. This narrow set consists of judgments about the good that are implied by Rawls’s political liberalism, such as that a life of relating to fellow citizens on fair terms is better than a life of not doing so. Quong does not think that this is a significant concession, because authors who identify themselves as perfectionists in the academic literature permit the state to act on judgments beyond this narrow set (2011: 215).¹ Henceforth the ‘*’ symbol will be used to indicate that there is this narrow set of exceptions.

Quong asserts that, in contrast to disagreements about the good, disagreements between reasonable citizens about what social justice requires are resolvable and, if that is the case, the constitution can be based on some such judgments. Quong’s defence against the asymmetry objection is a combination of the argument reconstructed above and this assertion (2011: 204). When disputing Quong’s defence, I will not focus on this assertion, only on the argument above for excluding judgments about the good. There is an example which Quong gives in order to help readers understand his notion of a foundational disagreement, but I will only introduce this example after presenting some objections to Quong’s defence.

¹ This strikes me as a significant concession because it leads to the question of whether there is any principled distinction between Rawlsian political liberals and perfectionists.

5. An inadequately supported premise

My objections to Quong's defence concern premise (2) of the argument from him that I have reconstructed: the premise that for any judgment that a reasonable citizen makes about the good – about which kinds of life, or pursuits in life, are good and which kinds less good – it is possible for another reasonable citizen to disagree with that judgment and for the disagreement to be a foundational disagreement*. Why accept this premise?

Quong does not articulate the premise in quite the way I have (2011: 204), but he needs this premise to prevent judgments about the good from being included in or implied by the constitution. By appealing to this premise and to a prohibition on involving potential objects of foundational disagreement between reasonable citizens, one can exclude judgments about the good. But the premise is not self-evident, and it is not clear from Quong's article or his book chapter what exactly the argument for it is. As far as I can see, the relevant section of his book consists of unsupported assertions (2011: 206-207), as does the relevant section of his article (2005: 313-314). At present premise (2) is inadequately supported.

Although Quong does not explicitly state his reason for endorsing premise (2), my impression is that his reason consists of two propositions:

- (2a) If one is able to do the following three things, then there can be a foundational disagreement between reasonable citizens about a certain judgment: (i) one is able to conceive of a reasonable citizen making that judgment; (ii) one is able to conceive of another reasonable citizen who disagrees with that judgment; and (iii) one is able to conceive of the details of the disagreement in such a way that one cannot see how to resolve the disagreement by appealing to commitments shared by the parties to it.

(2b) One is able to do these three things for any judgment about the good that a reasonable citizen might make*.

In this section, I will object to (2a). The later sections dispute the evidence that can be extracted from Quong's texts in favour of (2b). Although Quong's defence against the asymmetry objection looks promising, I cannot see how to salvage it from these objections.

There are at least two objections to (2a). The first objection is that, even if no one can at present see how to do so, it does not follow that there is no way of resolving the disagreement by appealing to the shared commitments of reasonable citizens. Many arguments that proceed by making inferences from shared commitments are difficult to anticipate beforehand. For example, a person who accepts the axioms of Euclid's geometry may well not be able to deduce the theorems. Similarly, perhaps there are difficult-to-anticipate arguments from the commitments shared by reasonable citizens and perhaps some of these arguments will serve to resolve disagreements about the good.

Here it is worth noting that Rawls himself makes an argument from these commitments that is difficult to anticipate. His argument is that given the two commitments of reasonable citizens, it follows that the original position is a suitable method for determining the principles of a liberal society (1993: 24), and the application of this method reveals two principles which the major institutions of a liberal society should be organized to realize. The first principle is that each person has an equal right to a fully adequate scheme of equal basic liberties which is compatible with a similar scheme of liberties for all (1993: 291). The second principle is that social and economic inequalities are to satisfy two conditions: they are to be attached to offices and positions open to all under conditions of fair equality of opportunity; and they are to be to the greatest benefit to the least-advantaged members of society (1993: 291). It is not necessary to explain the principles more fully here

or the original position as a method for deriving them. The likelihood of this argument occurring to someone who is presented with the two commitments that define reasonable citizens but who has not learnt Rawls before, and has never encountered anything like this argument, is very low.

This observation serves to reinforce the first objection. Advocates of Rawls's argument believe that the shared commitments of reasonable citizens are consistent with foundational disagreement about the good, because they cannot see how these commitments would allow one to resolve disagreements about the good. However, given the likelihood that they would never have realized Rawls's argument by themselves, they should be doubting their ability to detect the full range of entailments from these commitments, which means they should not place such weight on their inability to see.

The second objection to (2a) is that one cannot appeal to it when defending Rawls's political liberalism, in light of Rawls's prohibition on appealing to metaphysical doctrines. Metaphysical doctrines are, for the most part, doctrines about the general nature of reality. Some doctrines of this type concern themselves with possibility, for example the doctrine that what is conceivable is possible. This doctrine cannot be appealed to when defending political liberalism. Proposition (2a) is not as general as this doctrine. It lacks the generality that is normally associated with a metaphysical doctrine. But it does not make sense to endorse this specific proposition without endorsing some more general theory of possibility, presumably some qualified version of the doctrine that what is conceivable is possible. Quong's way of explaining to reasonable citizens why a liberal constitution cannot be based on any of their judgments about the good therefore implies this more general theory. Since appeal to this general theory is prohibited, appeal to (2a) should be prohibited as well.

What about (2b)? All that there is to support this proposition in Quong's texts is a single example. In the next two sections I shall dispute the adequacy of this example.

6. A problem with the example

Quong tries to provide us with a fictional example of a foundational disagreement over the good between two reasonable citizens. One of the persons involved is called Mike:

Mike believes recreational drug use is immoral because it involves seeking pleasure for pleasure's sake—it follows from a hedonistic view of what makes a good human life. Mike thinks this view of human life is completely mistaken. He thinks human life is created by God and thus the proper function of every human life is not the pursuit of pleasure, but devoted service to God's commandments. (2011: 204-205)

As Quong interprets his example, Mike's standard for evaluating judgments about the good is whether or not such judgments follow from or are at least consistent with God's commandments. The other person involved in the disagreement is Sara. I will not refer much to her below. Briefly, Sara's standard for evaluating judgments about the good involves the following commitment: if an action that a person does has no effect on anyone else, then it cannot be subject to moral evaluation. She thinks that using recreational drugs does not have an effect on others, so she denies that it can be subject to moral evaluation (2011: 205).

Quong says that this is a foundational disagreement because "there is no deeper standard of justification that both Mike and Sara accept that could serve as a basis for adjudicating their dispute." (2011: 205) There are numerous questions that can be raised about the details of this example. The question I shall raise is this: is Mike a reasonable citizen? If not, then we have not been provided with an example of a foundational

disagreement between two reasonable citizens. Quong asserts that Mike, as he is described above, could be a reasonable citizen (2011: 206). To challenge this assertion I shall adapt a famous Old Testament story.

Imagine that Mike has a son and one day perceives that God commands him to sacrifice his son. Mike prepares to do so. Is Mike a reasonable citizen? One thing that might be said is that he is simply not a reasonable citizen, by Rawls's definition, even before preparing to sacrifice his son, because he accepts the following commitment: if God commands me to sacrifice my son, I should do this. For it is doubtful that such a commitment is consistent with the commitments that define Rawlsian reasonable citizens. Presumably, an advocate of Rawls's political philosophy would agree that there is an inconsistency. Perhaps though it will be said that Mike is reasonable while the commands he interprets God as giving are reasonable, but as soon as he interprets God as giving unreasonable commands, then he is unreasonable.

From imagining this situation, we can see that either Mike is not a reasonable citizen, owing to what he is prepared to do if God commands it, or else he is a very tricky case of a reasonable citizen – further argument is needed to establish that he is reasonable. Consequently, Quong does not put us in a position to say that there can be foundational disagreements between reasonable citizens, because it is just not clear that the example he gives is an example of a disagreement between two reasonable citizens.

7. Another problem with the example

Even if both parties in Quong's example somehow qualify as reasonable, it is open to doubt that what he presents is a foundational disagreement. Rawls can only justify the principles of his proposed constitution to all reasonable citizens by implying statements of the

form “If you accept X, you should accept Y, because Y follows from X.” It seems then that Rawls understands reasonable citizens as sharing more than just the two commitments that we have explicitly drawn attention to. They also share a commitment to valid reasoning as a criterion by which to evaluate arguments.

In light of this point, if both parties in Quong’s example are reasonable, then there is a shared commitment which allows Sara to object to Mike’s standard for evaluating what is good. Recall how Quong describes Mike:

He thinks human life is created by God and thus the proper function of every human life is not the pursuit of pleasure, but devoted service to God’s commandments. (2011: 204-205)

The word ‘thus’ here is Mike making an inference: from the premise that human life is created by God, he infers the conclusion that the proper function of every human life is devoted service to God’s commandments. But from this premise alone, the conclusion does not follow (Hume 1739: 3.1.1.27; Kelsen 1959: 108). For it is no violation of logic to accept the premise yet reject the conclusion. Sara can therefore say to Mike that his standard for evaluating what is good should not be accepted by any reasonable citizen, at least on the basis of Mike’s argument, because it is the result of invalid reasoning. His standard is the result of an inference which does not follow. Consequently, it is unclear whether this really is a foundational disagreement. If both parties are reasonable, then they both accept valid reasoning as a criterion by which to evaluate arguments, and this commitment is something that Sara can appeal to in order to object to Mike’s standard.

Quong’s defence against the asymmetry objection is based on the idea that if a judgment is made by a reasonable citizen and another reasonable citizen might disagree with that judgment and the disagreement could potentially be a foundational disagreement – a

disagreement where there is no common standard to resolve it – then the constitution should not be based on that judgment. Judgments about the good are supposed to fit this description. But, in addition to the objections identified two sections ago, it is unclear whether even the example Quong gives of a reasonable yet foundational disagreement about the good really is a foundational disagreement. Logical problems are common in moral disagreements and I do not know what replacement to offer.

References

- Chan, J. (2000) ‘Legitimacy, Unanimity, and Perfectionism,’ *Philosophy and Public Affairs* 29: 5-42.
- Hume, D. (1739) *A Treatise of Human Nature: Being An Attempt to introduce the experimental Method of Reasoning into Moral Subjects*, London: John Noon. Accessed on 18th August 2017 from: <http://www.davidhume.org/texts/thn.html>
- Kelsen, H. (1959) ‘On the Basic Norm,’ *California Law Review* 47: 107-110.
- Quong, J. (2005) ‘Disagreement, asymmetry and liberal legitimacy,’ *Politics, Philosophy and Economics* 4: 301-330.
- Quong, J. (2011) *Liberalism without Perfection*, Oxford: Oxford University Press.
- Rawls, J. (1993) *Political Liberalism*, New York: Columbia University Press.
- Waldron, J. (1999) *Law and Disagreement*, Oxford: Clarendon Press.
- Williams, B. (1973) ‘The idea of equality,’ in *Problems of the Self: Philosophical Papers 1956-1972*, Cambridge: Cambridge University Press.