IN DEFENCE OF INTELLIGIBLE REASONS IN PUBLIC JUSTIFICATION

By Kevin Vallier

Mainstream political liberalism holds that legal coercion is permissible only if it is based on reasons that all can share, access or accept. But these requirements are subject to well-known problems. I articulate and defend an intelligible reasons requirement as an alternative. An intelligible reason is one that all suitably idealized members of the public can see as a reason for the person who offers it according to that person's own evaluative standards. It thereby permits reasons into public justification that all cannot share, access, or accept, and so contrasts with standard approaches to public justification. The intelligible reasons requirement also has two striking implications. First, it severs the connection between public justification and principles of deliberative restraint. Secondly, it pushes political liberals to appeal to other political processes to publicly justify law, specifically bargaining, adjudication and social evolution.

Keywords: political liberalism, public reason, justificatory liberalism, public reason liberalism, shared reasons.

I. INTRODUCTION

Mainstream political liberals hold that legal coercion is permissible only if it is based on reasons that all can share, access or accept. That is, the *public justification* of coercion must consist in shared, accessible or acceptable reasons. But these requirements are subject to numerous, well-known problems. Shared reasons standards often excessively restrict the scope of reasonable pluralism, accessibility requirements are vague or redundant and acceptability requirements tie public justification too closely to potentially erroneous and biased acceptance (Eberle 2002: 198–208; Vallier 2011).

In this paper, I develop a fourth conception of justificatory reasons, the *intelligible reasons* requirement (IRR). A's reason R_A is *intelligible* for member of the public P if and only if P regards A as epistemically entitled to affirm R_A according to A's evaluative standards. The IRR, then, holds that A's reason R_A can figure in a justification for (or rejection of) a coercive law *L* only if it is intelligible to all members of the public. To qualify as justificatory, intelligible

reasons need only be those that members of the public can see *as reasons* for those who advance or rely upon them, as opposed to mere utterances and expressions of irrational bias. To put it more provocatively, A's intelligible reasons can figure into a public justification for a law even if others regard such reasons as *unacceptable* for them given their own evaluative standards. Therefore, a successful public justification may *entirely consist* of reasons that are *unacceptable* to all but the agent who offers them. IRR in this way allows public justifications to be *patchworks* of private reasons, without appeal to a shared fund of justificatory reasons.

To this point, while some have discussed the idea of intelligible reasons, the IRR has not been sufficiently spelled out to serve as a viable alternative to mainstream conceptions of justificatory reasons (Gaus and Vallier 2009; Vallier 2011). While Gerald Gaus (2011: 286) has examined the standard in some detail, he does not think that the intelligibility requirement will generate 'a great practical difference' from a model that requires shared evaluative standards. But Gaus acknowledges that rooting justificatory reasons in shared standards allows some members of the public to prevent an agent from appealing to reasons that only her evaluative standards recognize as reasons. I believe that this veto power is potentially damaging to the project of mutual public justification because it allows members of the public to veto the *social worlds* that members of the public endorse, namely their social ontologies about what exists or not. Given Gaus' most recent work on social worlds pluralism in public reason, we have good reason to think that intelligibility will yield distinct verdicts that respect social ontological differences integral to his project (Gaus and Hankins 2016). So this paper goes beyond Gaus' work on intelligibility.

This paper also goes beyond my previous work on intelligibility by examining closely the question of when a member of the public is permitted to veto the reasons and evaluative standards of others (Vallier 104: 103–44). I speak of reasons being justified for members of the public based on their diverse evaluative standards. But this formulation is ambiguous between cases where some reason is *uniquely* justified for a member of the public on some issue or whether she has multiple justifiable endorsements given her evaluative standards. This matters because it gives members of the public veto power if they think that some reason is not uniquely justified by the evaluative standards of some member of the public. Instead, I shall speak in terms of belief *entitlement*, where a reason can enter into public justification so long as members of the public regard the person in question as *entitled* to affirm the reason given her evaluative standards (Wolterstorff 2014: 86–117).

I should stress at the outset that any conception of justificatory reasons must be coupled with a conception of idealization, where members of the public accept or acknowledge or reject reasons given some degree of rationality and information. While it is important to set a level of idealization for a conception of justificatory reasons, I will not set a level here. But the level

of idealization will be important for determining how and when conceptions of justificatory reasons generate different recommendations. For instance, if fully idealized members of the public agreed on evaluative standards and reasons, then intelligibility, accessibility and shareability requirements would identify the same set of reasons as justificatory. But given the public reason liberal's commitment to pluralistic reasoning, I do not think that this level of idealization can be justified.[1]

Given the above, my refinement of the intelligibility requirement will focus on the notions of agent-relative evaluative standards and reasons, along with the moral component of the standard, which rules certain evaluative standards and reasons as outside the purview of moral justification.[2] I set idealization aside.

My primary aim in this essay is to define the IRR and provide two novel arguments that the IRR is the best conception of justificatory reasons for public reason liberalism. I first claim that respect for individual liberty and integrity favours a relatively lax set of restrictions on which reasons count as justificatory. I then claim that the recognition of reasonable pluralism favours reasons requirements that assign justificatory force to reasons that many rationally and reasonably reject. Along the way I will rebut some criticisms of the IRR, in particular concerns that the IRR will leave public justification indeterminate and impossible to discern.

I divide the paper into eight further sections. Section II introduces the idea of public reason and explains its adherents' tendency to endorse shared, accessible and acceptable reasons requirements. Section III reviews some criticisms of these standards. Section IV defines the IRR and Sections V–VII outline some intricacies in developing the standard. Section VIII rebuts two objections to intelligibility: that it makes public justification too indeterminate and too hard to discern. Section IX concludes by drawing out two striking upshots for political liberals. First, intelligibility severs the connection between public justification and principles of deliberative restraint. Secondly, it pushes political liberals to appeal to and study other political processes that can bring about a public justification, such as bargaining, adjudication and social evolution.

II. POLITICAL LIBERALISM

To review, political liberalism presents a standard of legitimacy that determines when state coercion is justified or permitted. The theory is liberal because it

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[1] There are other reasons to resist full or radical notions of idealization (Gaus 2011: 244–51; Vallier 2014: 145–81).

[2] In this paper, I also set aside the issue of whether reasonable evaluative standards are those that are in fact sound or are ones members of the public *take* to be sound. I thank Robert Audi for pressing me on this point.

holds that coercion cannot be justified to abrogate the traditional litany of liberal rights, including civil rights like freedoms of speech, press and religion and democratic rights, such as the right to vote. The theory is *political* because it holds that coercion is only permissible when each member of the public has some sufficient, rationally comprehensible reason to accept it. So, for John Rawls, liberalism is political when state coercion is justified in accord with reasons that members of the public share as part of a political conception of justice (Rawls 2005: xlv). It is for this reason that political liberalism is often called *public reason* liberalism because it holds that coercion is justified in accord with the reasons of the public. We thus arrive at the political liberal ur-claim that a coercive law L is justified only when each citizen has some sufficient reason to comply with L. Versions of the ur-claim are sometimes called *public justification principles* because they base coercive law on the fact that such law can be justified to members of the public (Gaus 2011: 263–6).[3]

Central to political liberalism is the idea of a justificatory reason. For simplicity, let us say that a reason to Φ is a consideration that counts in favour of Φ-ing. A justificatory reason is any reason that can figure into a public justification for a law—the reason can play a role in the justification for state coercion. A justificatory reason to Φ is *sufficient* if it can justify Φ-ing despite countervailing considerations. Given these definitions, we can say that a law is only publicly justified when each person has sufficient justificatory reason to accept the law. The definitive restriction on justificatory and sufficient reasons is that they must be *public* reasons, though the sense of 'public' is often ambiguous and unclear. There are at least four related views (Vallier and D'Agostino 2013).[4] Some say that a reason is public just when it is *shared* (Schwartzman 2011: 378). This means that a reason is public when it is a reason for each member of the public. Others say that a reason is public just when it is *shareable*, a reason that is shared under the right conditions (typically via an idealization of members of the public). On this looser requirement, a reason is public when each member of the public, suitably idealized, will affirm the reason as her own. A still looser view holds that a reason is public when it is *accessible* or when members of the public take the reason to be justified according to common or shared evaluative standards, even if some deny that the reason in question is justified based on those standards (Eberle 2002: 255–9; Vallier 2011: 369). An example of an accessible reason might be one derived from a scientific theory,

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[3] Importantly, some public justification principles are restricted to constitutional essentials, such as Rawls (2005: 227–31) and sometimes public reason liberals include laws that aren't coercive, such as Bird (2014). In fact, in the Gaus text cited, Gaus is addressing the public justification of moral authority. These variations are not consequential for my purposes.

[4] Some of the arguments for these restrictions are based on arguments against relaxing these restrictions. Consider Jonathan Quong's sincerity-based criticism of convergence conceptions of justificatory reasons in Quong (2011: 266). I lack the space to reply to Quong's objection here, but I have done so in Vallier (2014: 121–4).

which is based on shared evidence but that some members of the scientific community reject. The fourth view is that a reason is public when members of the public can or do find it *acceptable* (Bowman and Richardson 2009). On this conception, a public reason is one that persons will actually affirm given sound evaluative standards and considerations. Acceptability is voluntaristic since a reason counts as acceptable whenever members of the public choose to affirm it, even if they affirm it for no reason at all. In other words, the acceptability requirement is less a *normative* standard and more an *empirical* or *volitional* standard (D'Agostino 1996: 31). It dubs a reason public based on what members of the public *do* accept rather than what they have most reason to accept.

So on political liberalism, a reason is justificatory and sufficient only when it is public, and it is public only when it is shared, shareable, accessible or acceptable in some sense or another. We must now ask why political liberals endorse these standards. I believe that the idea goes like so. If our aim is to ensure that state coercion is used in a respectful manner, to coerce persons while treating them as free and equal, coercion should be based solely on reasons that are public. In other words, the reasons must be rooted in what members of the public share or accept as valid, because they endorse the rationales in question or would endorse them were they suitably idealized. If we justify coercion by appealing to other sorts of reasons, we in effect demand that persons be coerced on the basis of reasons they reject, which is sectarian (Rawls 2005: 126) and disrespectful (Larmore 2008: 143).

Past this point, the arguments become less clear. Sometimes public reason liberals tie the idea of public justification to the use of shared or shareable reasons via normative, non-empirical claims. Consider Jonathan Quong (2011: 256):

> The idea of public reason entails a particular version of *democratic deliberation*, one where citizens and public officials only support political decisions when they sincerely believe those decisions can be justified by appeal to considerations that each person can reasonably endorse in their capacity as a free and equal citizen, that is, that they only support laws that can be justified by appeal to *public reasons*.

So on Quong's view, the idea of public reason as a normative standard implies that citizens and public officials reason on the basis of shared considerations, or at least considerations that they can be reasonably expected to share. What it means to reason publicly is to appeal to shared or mutually endorsed reasons.[5]

Other attempts to specify a conception of justificatory reasons draw an empirical connection between the ideal of public reason and the need to speak in shared terms. Consider Micah Schwartzman (2012: 533):

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[5] Quong (2011: 257) is careful to note that the entailment requires careful defence.

> For reasons of feasibility, social unity, completeness and transparency, we ought to justify
> our collective decisions by appealing to public values that we share with others in virtue
> of our common citizenship.

For Schwartzman, reasoning with public reasons helps to promote important political values, such as feasibility and social unity. Only the exchange of public reasons can produce the relevant benefits.

III. AGAINST STANDARD RESTRICTIONS ON JUSTIFICATORY REASONS

Two arguments make trouble for accessible and shareable reasons requirements—an argument based on *respect for integrity and individual liberty* and an argument based on *recognizing reasonable pluralism*. The first argument holds that shareability and accessibility requirements excessively restrict the liberty of members of the public and impair their ability to live lives of integrity (Audi and Wolterstorff 1997: 105). The core point is that if citizens are only allowed to act upon and offer accessible or shared reasons for their political positions that they will have to violate the moral duties prescribed by their comprehensive doctrine. For instance, a person of faith might believe that God wants her to support a ban on abortion services, but an accessibility or shareability requirement would prohibit her from offering her religious reasons in favour of the ban because these reasons can be neither accessed nor shared. Consequently, political liberalism will appear to require that those citizens violate their duties to God. I have explored these criticisms of accessibility and shareability requirements elsewhere (Vallier 2014: 111–24), so I will not belabor the point. But many of political liberalism's critics take integrity and liberty-based considerations to count against such reasons requirements. Further, given that the liberal tradition has always been committed to the protection of individual freedom and integrity, political liberals should be wary of imposing such requirements on citizens (Vallier 2014: 85–90). Perhaps we should follow Rawls (2001a: 44) and embrace a presumption against coercion. At the least, then, concerns about liberty and integrity serve as modest rebutting considerations. So in lieu of a satisfactory argument to the contrary, we should reject shareability and accessibility requirements because they restrict liberty and integrity, all else equal.

A second reason to reject shareable reasons and accessible reasons requirements is that they fail to adequately manifest a commitment to reasonable pluralism. As Rawls (2005: xlvi) said, one reason to endorse political liberalism is that it recognizes that reasonable people will tend to disagree about what matters most in life. A liberal political theory should, for this reason, acknowledge the diversity of justificatory reasons to which citizens appeal. Rawls, to

his credit, gave comprehensive reasons an increasingly central role in the justification of the political order, and other political liberals have followed his lead (Rawls 2001b; Reidy 2000; Schwartzman 2012). By restricting the use of diverse reasons, accessible and shareable reasons requirements seem in tension with the spirit of political liberalism, then. So the recognition of reasonable pluralism can also count against accessibility and shareability, again in the absence of countervailing considerations.

The key worry about acceptability requirements is that they root public justification in what people actually accept instead of what they *reasonably and rationally should* accept. People can accept reasons based on any number of considerations, some of which seem irrelevant from a moral point of view. For instance, someone could accept a reason based merely on a whim or based on her irrational hatred of some social group (D'Agostino 1996: 31; Gaus 1996: 130–6). Most political liberal views count such acceptances as unreasonable. Further, if political liberalism is to be based on public *reason*, then what counts as acceptable should probably be limited to what is *rationally* acceptable, that is, what reasons persons must acknowledge on pain of irrationality. I submit that once we begin to depart from a mere acceptability requirement, we are pressed to go further. For once we acknowledge that what people actually accept carries little normative weight by itself, then we will be led to emphasize elements of an acceptability requirement that detail what counts as a *rational and reasonable* acceptance, removing acceptance from the driver's seat of the requirement. We may well be left with a requirement based merely on what rational persons would accept, removing the distinctive voluntarist element from acceptability requirements altogether.

In sum, then, the foundational values of political liberalism provide us with prima facie reasons to reject shared reasons, accessible reasons and acceptable reasons requirements.[6] Again, political liberals and their critics have already provided sufficient reason to worry about these requirements, so I will not attempt to replicate their efforts. My aim has rather been to briefly revisit concerns about such requirements in order to motivate the IRR and to identify tools by which we can spell out the requirement in detail.

IV. THE INTELLIGIBLE REASONS REQUIREMENT[7]

The IRR expands the set of justificatory reasons to its outer limit. That is, it counts as justificatory any reason that can be recognized as such by members of

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[6] In the same vein, we should also reject attempted additions to such principles of restraint, such as the intellectual modesty requirement advanced in Leland and Wietmarschen (2012).

[7] I should note that the notion of intelligibility here is technical, and not meant to draw too heavily on the ordinary meaning of 'intelligible' where reasons with no epistemic credentials are potentially intelligible.

the public. If R_X can be seen as a reason for X to act, then it can potentially play a justificatory role, so long as R_X is relevant and not overridden or undercut by another justificatory reason. That is, R_X can figure into a public justification if it is relevant and sufficient.[8]

I take a reason R_X to be relevant just in case it counts in favour or against some proposed legislation that members of the public are presently evaluating. For example, John's reason to refine his ability to pitch a fastball does not speak to whether his country should adopt a lax or strict immigration policy. Similarly, Sarah's reason to go on a bike ride neither supports nor undermines the case for a law regulating the sale of narcotics. Further, as we have already noted, reasons must be sufficient in the sense that they are not rebutted or undercut by other reasons. They must be sufficient reasons to justify action and belief. Sufficient reasons are those that remain undefeated, in that they are neither rebutted nor undercut. An important implication of the defeater power of intelligible reasons is that, while intelligible reasons are allowed into public deliberation, many other intelligible reasons may override the intelligible reasons that support the law by defeating the law in question. In the absence of a successful justification, the default action is *state inaction*, which suggests that intelligibility will make state coercion much harder to justify.[9] Intelligibility is permissive with respect to which reasons enter into public justification, but demanding about which reasons may eventually justify coercion.

Qualifications made, we can now define the IRR in terms of the property of intelligibility:

> *Intelligibility:* A's reason R_A is intelligible for member of the public P if and only if P regards A as entitled to affirm R_A according to A's evaluative standards.[10]

The IRR counts all and only intelligible reasons as justificatory.

> *Intelligible Reasons Requirement:* A's reason R_A can figure in a justification for (or rejection of) a coercive law L only if it is intelligible to all members of the public.

Intelligibility has four elements that call out for comment: (i) the idea of members of the public, (ii) the idea of regarding an individual as entitled to affirm a reason, (iii) the idea of an individual's evaluative standards and finally (iv) the moral restrictions on what count as a justificatory reason.[11] In the remainder of this section, I will expand on (i), and cover the next three elements in the next three sections.

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[8] I expand on the idea of sufficient reasons in terms of entitlements to believe below.

[9] Lister (2013: 1) provides a good contrast with this sort of approach, which he terms a 'coercion' model in contrast with the mainstream 'reasons for decisions' model.

[10] I here modify the closely related formulation of intelligibility in Vallier and D'Agostino (2013).

[11] There is also an additional issue, which is that different members of the public can advance the 'same' reason. But for purposes of exposition, I index reasons to agents, such that reasons can have the same content but be distinct depending on whose reason they are.

Regarding (i), members of the public are rational representations of the reasons of citizens on whom laws are imposed. Thus, John is represented among members of the public as an idealized version of himself, one that only affirms reasons based on sound information and valid inference. John is said to have a reason on this view if he would affirm it in light of adequate information and reasoning. In this way, John is characterized as a reason-*possessor* by the appropriate level of idealization. John *has* the reasons and idealization identifies this fact (Gaus 2011: 232–58). As a group, then, members of the public are the set of all reason possessors on whom laws are imposed, and so whose endorsements bear on the justification of a coercive law or policy.

The definition of intelligibility refers to a single member of the public, whereas the IRR refers to all members of the public. What accounts for the difference? In the former, we're merely trying to define the property that makes a reason intelligible. This means that the intelligibility of a reason is agent-relative in *two* senses. First, the agent who advances the reason, call her Reba, must endorse it based on her own evaluative standards; secondly, the person assessing the reason must judge Reba entitled to hold it.[12] The result is that the extent to which a reason is intelligible to the public is a matter of degree, which is understood in terms of how many members of the public regard the agent in question as entitled to affirm a reason. In contrast, the IRR holds that reasons may only enter public justification when *all* members of the public judge the reason to be intelligible.

While it may seem overly restrictive to require that all members of the public regard a reason as intelligible to enter public justification, appearances are somewhat deceptive. First, recall that members of the public are *idealized*, so no one can prevent a reason from entering public justification based solely on the fact that she dislikes the reason or the person who offers it or because she is making a blatant inferential error in dismissing the reason. Secondly, the stringency of the IRR will vary considerably based on the conception of idealization with which it is combined. Moderate conceptions of idealization will allow some reasons into public justification that are based on limited informational or rational errors of some sort, whereas radical conceptions will not. Yet radical conceptions may embrace reasons based on lofty and complex forms of reasoning, unmoored from real-world individuals' concerns, and so may prove permissive in their own way. Either way, though, idealization may prevent a unanimity requirement from being excessively restrictive.

The reason the IRR requires unanimity is that, unless members of the public see the reason as intelligible, it is hard to understand how they can see it as a *reason* at all. If members of the public cannot even regard the reason as

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[12] Importantly, Reba does not need to actually develop an idealized model of herself, Reba*, and then check whether Reba* endorses the reasons. She does not need to know about Reba*'s endorsements herself. I thank an anonymous referee for this point.

having epistemic credibility based on the evaluative standards of the *person who offers it*, then they cannot regard it as even minimally epistemically credible, and so cannot ascribe it normative force.[13] Further, without epistemic credentials, it is hard to determine whether the reason is held sincerely or, perhaps, even genuinely affirmed at all. If we weaken the intelligible reasons requirement to allow, say, a majority to regard the reasons as justified, then reasons can enter into public justification even if some members of the public cannot ascribe them epistemic credibility. This means that they will allow themselves to be coerced and their legal order shaped by considerations that they cannot *in any sense* regard as normatively effective.[14] This permission does not comport with taking the diverse *reasons* of members of the public seriously.

V. ENTITLEMENT, REASONS AND JUSTIFICATION

Regarding element (ii), we now turn to explain what it means for a member of the public P to regard an agent A as *entitled* to affirm the reason based on A's evaluative standards. Remember first that P is idealized in accord with a here-unspecified notion of idealization, so the notion of regard is epistemic, not factual.[15] An *idealized* member of the public determines whether the agent is entitled to affirm the proposed reason. What, then, does entitlement come to? The notion of epistemic entitlement in epistemology is historically tied to the notion of one having a *right* or *permission* to believe a claim versus the idea that one has an epistemic *duty* to believe a claim. Many entitlement theorists also hold that one can have an epistemic right to believe something for which one has no articulable or specifiable or recognizable evidence (Wolterstorff 2014: 86–117). Infants are presumably epistemically entitled to trust their perceptions, even if they are not cognitively sophisticated enough to make themselves aware of any justification or evidence for their views. There is no attached requirement in holding the belief that one be able to engage in 'some sophisticated mental exercise' (Altschul 2011).

Some notions of entitlement are connected to reliabilist accounts of knowledge where one is entitled to a belief just when one's faculties reliably track

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[13] It is possible, however, that John could regard Sarah's reason as epistemically credible on Reba's evaluative standards but not Sarah's evaluative standards, and so might allow the reason into public justification on that basis. But in this case, we would not truly allow Sarah's reason into public justification, but the reason of another member of the public, Reba, for whom the reason is justified.

[14] A referee raises the question of why one should allow herself to be coerced on the basis of intelligible rather than, say, shared reasons. Why shouldn't she demand more restrictions on the reasons that could justify coercing her (the receiver, not the proposer of the coercion)? But allowing intelligible reasons *into* public justification does not imply that these reasons will successfully justify coercing someone else if he has sufficient intelligible reason to reject it.

[15] For this reason, I use the terms 'entitlement' and 'epistemic entitlement' (and their respective grammatical variations) interchangeably throughout the paper.

the truth of some set of propositions. In my view, public reason accounts of epistemic credence should not endorse a theory of knowledge, as knowledge is a truth concept that public reason genetically tries to eschew. Further, I believe that political liberals should avoid externalist notions of epistemic justification simply because this makes the process of public justification too sensitive to what is metaphysically true, undercutting the ability of a conception of epistemic justification to remain neutral among various worldviews (Gaus 1996: 26).

My aim is simply to appropriate the idea of epistemic entitlement as a way of relaxing the requirement of epistemic justification such that one can have a reason to Φ simply in virtue of being permitted or entitled to affirm proposition p rather than being *required* or having a *duty* to affirm p.[16] If we employ the notion of epistemic justification, we may be tempted to hold that a justificatory reason is one that an agent is rationally or epistemically *required* to affirm. If so, we run into two avoidable problems. First, we will rule out of public justification reasons that one lacks decisive considerations to accept or endorse, and this seems too strong. Our epistemic situation is often one that permits a variety of attitudes towards what we have reason to do. Many considerations present themselves to us, along with many courses of action. The notion of epistemic entitlement or permission comports better with this recognition. Secondly, if we do not rely on epistemic entitlement, then members of the public will be able to veto reasons from entering into public justification solely based on the fact that the person who offers the reason is not rationally required to endorse the reason, and this seems too strong as well. We can imagine a case where an atheist thinks that a theist is not epistemically required to believe in God, but that may be epistemically entitled to do so. As a result, the theistic agent's God-based reasons can enter into public justification if the atheist employs entitlement but not if he employs a stronger notion of justification. By employing entitlement, we better embody a commitment to recognizing reasonable pluralism.

Importantly, entitlement suggests that someone can be coerced based on a reason that she is merely entitled to affirm rather than one she is rationally required to affirm. This may seem to set the bar for coercing individuals too low, as we are entitled to affirm all sorts of considerations as reasons for us. Not so. If an individual at the right level of idealization has sufficient reason to reject a proposal, then this will override the presence of other reasons she is entitled to affirm. She also cannot be coerced on the basis of reasons she is entitled to affirm but rationally rejects.

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[16] This, I admit, permits an agent to affirm different beliefs in response to her evidence, beliefs that may well be incompatible. In that case, in pursuing the idealization, we must admit that her endorsement is indeterminate.

Consider now a harder case, where an agent is entitled to affirm a number of different reasons that are jointly inconsistent, but none of the reasons are defeated by other considerations. An agent's evidence may not uniquely favour one of several rationales for incompatible policies. In this case, I suggest that we regard the proposal as inconclusively justified. By stipulation, there is no defeater reason, a reason that defeats the alternatives. Thus, the theorist can represent the proposal as optionally justified, and perhaps further justified in virtue of being chosen by publicly justified decision procedures.[17] The agent could (and, if feasible, should) be consulted on the matter. As long as the reasons she cites are in the set of intelligible reasons, then those expressly chosen reasons will be the ones relevant to justification.[18]

Public justification principles can place further restrictions on the public justification of laws. If a standard of justificatory reasons sets the bar too low for coercion, a stringent public justification principle could be used to make justifying coercion more difficult. All the principle must do is specify that coercion can only be justified for John in cases where he has sufficient reason to endorse the coercion in question and is not entitled to affirm any reasons to the contrary. So opening the set of justificatory reasons through entitlement does not necessarily lead to easing the justification of coercion.

VI. EVALUATIVE STANDARDS, PRESCRIPTIVE AND DESCRIPTIVE

On to (iii), evaluative standards. Recall that evaluative standards figure into the IRR as those held by the subject of justification. An evaluative standard is a set of prescriptive and descriptive standards or beliefs that a member of the public takes to justify her reason affirmations and that enables her to order her moral and political proposals. Consider Roman Catholicism as providing a set of evaluative standards. Roman Catholic social thought is rooted in complex notions of natural law and the common good, which has led to a variety of unique social and political positions, many of which are hard to classify politically along traditional left-right spectra. Pope Francis (2015) has argued both against abortion and for restrictions on carbon emissions based on doctrines at the core of the Catholic social thought. He sees no tension between the two views but rather a substantial unity. Catholic evaluative standards, then, are partly modes of prescription–moral and political considerations that lead Catholics to make certain proposals, reject others and generally order

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[17] I thank a referee for encouraging me to make this case explicit.
[18] In the case where the reasons one is entitled to hold support multiple proposals, we can regard the proposals as inconclusively justified for the agent, so long as no defeater reasons are present.

their political priorities. But notice that Catholic doctrine also has a *descriptive* component. Catholics believe that God imbues fetuses with souls at conception, or more accurately, that in the act of the creation of a human person, God creates a being with both substantial form (the soul) and matter. Catholics, thus, rely heavily both on theism and Aristotelian metaphysics as descriptive standards, most often in the combination developed by Thomas Aquinas. So Catholics develop and order their moral and political proposals not merely in accord with their values but by their beliefs about the nature of the social world, which for Catholics includes God and the unborn. In fact, much of Catholic opposition to abortion is arguably not based on their unique *moral* evaluative standards, but rather their descriptive standards. It is because human fetuses are *persons* that it is wrong to kill them. Everyone agrees that innocent persons should not be killed without a good reason, but in the Catholic *social world*, fetuses are persons, hence the moral and political prohibition on abortion.[19]

Ordinary public reason views require that evaluative standards be shared.[20] For Rawls, a political conception of justice includes shared standards of reasoning, evaluation and judgement, what he calls 'guidelines of inquiry' (Rawls 2005: 24). What sets the intelligibility requirement apart is that it employs *agent-relative* evaluative standards by permitting evaluative standards to differ among members of the public.[21] For a simple illustration, consider the reasons affirmed by Christian and Muslim members of the public. Christians and Muslims believe in sacred, divinely inspired texts that provide them with a great many reasons for action. As a result, they both acknowledge divine revelation as an evaluative standard, in sharp contrast with secular members of the public. Since Christians and Muslims affirm the divine inspiration of contradictory religious texts, they have distinct evaluative standards, as does the secular citizen who rejects both texts as sources of reasons. Thus, Christians, Muslims and secularists have distinct and irreconcilable evaluative standards. The IRR allows reasons supported by one of these agent-relative evaluative standards *alone* to figure into a public justification for a law. So while a secularist will reject divine revelation as an evaluative standard, she can still count considerations derived from the Bible and the Koran as reasons for those who

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[19] Of course, Catholics typically insist that the right to life of the fetus outweighs the right of bodily autonomy for the mother, and that difference may be traceable to moral differences. But political liberals sometimes acknowledge that it is not unreasonable to hold that the life of a child has more moral weight than nine months of the mother's autonomy. Rawls (2005: liii–iv, ft. 31) famously admitted as much.

[20] I also believe that, in practice, persons share a great many evaluative standards, so in many cases, intelligibility requirements will identify a set of justificatory reasons that shares many elements with the set of justificatory reasons fixed by an accessibility requirement. I thank Colin Bird for raising this point.

[21] Note that reasons as such may still be essentially agent-neutral even if to be justificatory, they must be epistemic commitments of specific members of the public, and so agent-relative in another sense.

justifiably believe that they are inspired. Thus, reasons based solely on a Christian's interpretation of the Bible (or a Muslim's interpretation of the Koran) can figure into a public justification.

The IRR allows both normative *and* descriptive evaluative standards to vary and so to generate variable reasons. Returning to our Catholic example, descriptive evaluative standards can yield different verdicts on pressing social issues without much aid from prescriptive evaluative standards. As a result, there are two sources of variation—prescriptive and descriptive—that can lead different members of the public to affirm different reasons as applying to an agent, but that other members of the public can see as justified according to that agent's evaluative standards. So again, shared *standards* views (themselves much weaker than shareable *reasons* views) will not be extensionally similar to diverse evaluative standards views like the intelligible reasons requirement. Shared standards views will have difficulty in allowing social worlds, that is, social ontologies, to vary among members of the public. Consequently, a major source of diversity among members of the public will be defined out of bounds as a foundation for justificatory reasons (Gaus and Hankins 2016).

VII. MORAL LIMITS ON REASONS AND THE IDEA OF THE REASONABLE

Finally, we should focus on (iv), the intuitive *moral* limits on what reasons count as relevant to some justificatory question. Gaus puts the general idea like so: 'Certainly we must exclude . . . evaluative standards that disvalue the very idea of morality, value immoral acts qua immoral acts, disvalue conformity to justified moral rules, or value forcing people to conform to unjustified moral rules' (Gaus 2011: 282). The question is on what *basis* we may do so and still respect diversity among members of the public. The traditional weapon in the public reason armoury is the idea of reasonableness, where reasonable parties are interested in the moral enterprise of building a cooperative order with others, who have a functioning sense of justice, who affirm the value of reciprocity, and recognize the depth of reasonable pluralism. But appeals to reasonableness run afoul of a dilemma. The only way that reasonableness can give us a *basis* for excluding some evaluative standards from public justification is if it has some intuitive content, such that it is more than a mere term of art. Otherwise reasonableness only has force by stipulation. But public reason liberals build a great deal of content into the idea of the reasonable, which means that it derives its normative force from its substantive content. Accordingly, uses of reasonableness are torn between the intuitive notion, which lacks specific and substantive content, and the technical notion, which cannot explain reasonableness's normative force. Rawlsians maintain that the notion of the reasonable is both an intuitive notion and that it can be fleshed

out in specific ways. But I submit that this is a challenge that few have been able to meet.

The best alternative, in my opinion, is to work with a more deflated or thin notion of reasonableness that, while less able to rule out certain evaluative standards as immoral, will prevent much of the coercion we regard as unjustified. Consider, as an illustration, the ethical egoism advanced by followers of Ayn Rand's Objectivism. Rawlsians could maintain that Objectivism is not a genuinely moral view, as it has no built-in notion of other concern. But the Objectivist position is in fact close to familiar forms of eudemonism, but holds that a life devoted solely to commercial or artistic creativity and ingenuity is a form of human flourishing (Badhwar and Long 2012). Rawlsians may worry that Objectivists are not interested in developing a common, co-operative, public framework for social life. But Objectivists are friendly to the voluntary formation of complex social orders based on positive sum games and innovation. So Objectivists have a *different conception* (even if false and ultimately unjustified) of what it means to form a cooperative order, rather than no conception. I think that it is rather difficult, then, to show that Objectivists are unreasonable in any but the technical sense, which, again, doesn't get us very far.

I think that the deeper Rawlsian concern is that allowing Objectivist reasons into public justification would generate injustice or illegitimate social and political arrangements. But remember that permitting reasons into public justification does not imply, or even render probable, that members of the public will be coerced solely on the basis of those reasons. If Objectivists insist on the coercive implementation of strong rights of private property, then whatever their reasons, Rawlsians will have their own reasons to object, in which case the Objectivist proposal is defeated. As a result, even if we allow Objectivist evaluative standards to count as reasonable, we are a far cry from being stuck with a publicly justified Objectivist legal order.

While a deflationary notion of reasonableness rules out few evaluative standards, our intuitive notion of the reasonable prevents obviously defective evaluative standards from generating justificatory reasons. At the least, being reasonable requires being prepared to propose reciprocal terms of cooperation. If John insists on getting his own way and is unwilling to compromise in the formation of social institutions, then it is perfectly natural to say that John is unreasonable. As a result, evaluative standards that imply the permissibility of such demands are unreasonable and can be ruled out of bounds. Similarly, and more generally, reasonable persons are interested in having moral relations with others. They see others as ends and not to be used as mere means. So, reasonable evaluative standards recognize that people are interested in moral relationships with one another. In this way, we can rule out deeply egoistic evaluative standards as unable to generate justificatory reasons. We can rule out sadistic and masochistic evaluative standards on the same basis, as both

value the destruction of value for its own sake, either for others or for the agent in question. Sadistic and masochistic evaluative standards are unreasonable too.

Beyond the forgoing, the intelligible reasons requirement cannot further constrict the set of justificatory reasons. One may reasonably worry that given IRR's permissiveness, the set of justificatory reasons has grown too large. I take it the main reason to worry about a large set of justificatory reasons is the risk that coercion could be based on too many kinds of considerations, such as immoral or wicked proposals. But, an IRR-based public reason liberalism provides many opportunities to defeat coercion that will be ruled out by *tighter* evaluative standards, since intelligible reasons can also *defeat* coercion as well as justify it. If immoral and wicked proposals are permitted to enter public justification, surely some members of the public will have intelligible reasons that defeat those proposals.

VIII. THE DETERMINACY AND DISCERNMENT OBJECTIONS

If the arguments for more restrictive justificatory restrictions can be rebutted, then there are two significant objections to the intelligibility requirement. The first objection holds that allowing all intelligible reasons into public justification will generate indeterminate recommendations about which laws are publicly justified. The second objection is that by allowing so many diverse reasons into public justification that it will be hard to identify what is publicly justified, given the flood of reasons available for justification. Call these two objections the *determinacy* and *discernment* objections.

I understand the determinacy objection as follows. Given that intelligibility ties an agent's reasons to her particular environment and perspective, her reasons will differ substantially from those affirmed by her fellow citizens. If so, her reasoning may not converge with the reasoning of other agents, in which case the agents may be unable to secure agreement on critical political matters. Consequently, a political order capable of securing the gains of social cooperation cannot be justified to free and equal persons. To answer the objection, we must appeal to multiple social mechanisms to converge upon a proposal within an eligible set of proposals. Mainstream political liberals and deliberative democrats often claim that reflection on shared political values combined with adequately regulated political deliberation will generate determinate evaluations of laws and policies (Cohen 1989; Habermas 1997). But this will not be so given the intelligibility requirement, as people will permanently and deeply disagree on many matters given their diverse perspectives and limited reasoning power. Consequently, we should appeal to three other mechanisms for generating a convergence of judgement: bargaining,

adjudication and evolutionary convention formation.[22] I have developed accounts of these mechanisms elsewhere (Vallier 2014, 104: 164–70), so I will only review them here. Bargaining should be familiar from the Hobbesian contractarian literature. David Gauthier (1986: 113–56), for instance, holds that agents can agree on terms of social cooperation by selecting moral rules as fair bargains that minimize the maximum relative concession agents make to others. Even purely self-interested agents can converge on moral rules because their self-interest dictates that they should act to induce other bargainers to cooperate. While members of the public are not pure instrumental reasoners like Gauthier's agents, they will bargain so long as bargaining does not violate publicly justified rules. The second alternative method, adjudication, generates convergence when a third party, such as a referee or judge, resolves a disagreement between two or more members of the public. Members of the public will appeal to adjudication when they need a determinate law or policy but anticipate that further deliberation or bargaining will not lead to agreement. Thus, a decision procedure can be publicly justified based on the mutual need for a solution (Gaus 1996: 258–74). Finally, members of the public, on the intelligibility requirement, can converge on common judgements through a spontaneous order process, where they can come to coordinate on a publicly justified law or norm through imitation and replication (Skyrms 1996; Gaus 2011: 389–423). While these mechanisms raise questions of their own, members of the public now appear to have several viable options for jointly selecting laws despite their deep disagreements.

One may nonetheless worry that even these methods of convergence fail to preserve most potentially justified proposals from defeat. We can somewhat allay this concern by appealing to Gaus' notion of a socially eligible set of proposals, a set of proposals that no members of the public have defeaters for but that includes proposals that many regard as morally suboptimal (pp. 321–5). To successfully generate publicly justified laws, methods of convergence need not lead to agreement on a proposal that all regard as best. Instead, members of the public need merely converge on some element of the socially eligible set, a set of proposals that, by definition, are regarded as superior to no proposal regulating the issue, even if the eligible elements are not the favourite of *any* members of the public. Accordingly, there are potentially many more endorsable objects of convergence than may initially appear.[23]

The discernment objection holds that those attempting to determine whether a law is publicly justified lack the information to discern the

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[22] For the sake of simplicity, I set aside the complex matter of how decision procedures themselves are publicly justified, and when they need to be. For an examination of these matters, see Gaus (2011: 391–2).

[23] On the reasons for decision conception of public justification, indeterminacy is a more pressing problem, as there are fewer opportunities to defeat laws, but I focus on the coercion frame here. I thank Andrew Lister for this point.

diverse, intelligible reasons of members of the public. One attraction of radical idealization and shared reasons standards is that they normalize agents to the point where theorists can identify publicly justified laws largely by checking the outputs of their deliberative model. But in lieu of radical idealization and shared reasons views producing sufficient normalization, more modest and diversity-friendly idealizations will leave members of the public with severe disagreements based on a plurality of concerns. Discerning what can be publicly justified is harder in these cases. To see our way around this problem, note that we can conceive of the aim of public justification in two ways. The first attempts to construct principles of justice and constitutional essentials a priori. One might interpret the Rawls of *Theory* like this. The second view employs public justification as a method of resolving conflicts as they arise. The early Rawls (1951) arguably held this view. Gaus calls his related position 'The Testing Conception' where we use the public justification apparatus to test norms as they are challenged, and not to provide a rational reconstruction of the entire social order (Gaus 2011: 424–8). The second view poses a less insuperable epistemological problem, for we need only evaluate laws in a piecemeal fashion when complaints are raised. I take the second approach, though I cannot defend that choice here.

Specific methods of assessment are available to those who take the second approach. These methods apply to real-world citizens to help theorists discern what their reasons are and what those reasons favour. The most obvious method is public deliberation, since by encouraging information and argument sharing, along with correction and revision by others, real-world dialogue can sometimes approximate the reasoning of members of the public. Similarly, media culture often reflects the public evaluation of norms, policies and laws, as media figures come to prominence in part because they represent popular points of view. A healthy media culture can lead members of the media to approach higher levels of idealization when disparate media personalities interact. Another method might involve documenting the evolution of social norms and laws in one's society as potential expressions of converging moral judgement. And while pure political theory's role in discerning citizens' reasons is limited by the epistemic implications of the IRR, it still has its uses.

IX. THE IMPLICATIONS OF INTELLIGIBILITY

This piece has developed the intelligible reasons requirement, an account of justificatory reasons that expresses great respect for the liberty and diversity of free and equal persons. The IRR relies on the idea of intelligibility, which I defined as follows:

> *Intelligibility:* A's reason R_A is intelligible for member of the public P if and only if P regards A as entitled to affirm R_A according to A's evaluative standards.

A reason is intelligible when members of the public can see the person who offers the reason as entitled to affirm it given that person's own evaluative standards. Intelligibility is distinguished from other conceptions of justificatory reasons because it not only allows reasons to vary among members of the public, but allows evaluative standards to vary as well. Thus, even if a member of the public rejects John's evaluative standard (suppose atheist Sarah rejects John's appeal to the Bible), she can acknowledge that John is epistemically entitled to affirm those reasons given his evaluative standards and thereby allow his reasons into the process of public justification.

The IRR employs the idea of intelligibility to illustrate that a public justification can consist entirely of intelligible, unshared reasons. The IRR:

> *Intelligible Reasons Requirement:* A's reason R_A can figure in a justification for (or rejection of) a coercive law L only if it is intelligible to all members of the public.

The IRR does not permit A's intelligible reasons to justify coercing B if B has intelligible reason of her own to object. The point of the IRR is rather to permit public justifications to consist in *patchworks* of diverse reasons via a convergence of diverse judgements, without requiring a core of shared reasons and ideas. The IRR thus stands in stark contrast to accessible and shareable reasons requirements. It also contrasts with the acceptability requirement because it specifies the conditions under which real-world agents rationally should affirm or are permitted to affirm certain reasons for belief and action. A reason is rationally acceptable just when it is intelligible for an agent. We have a conception of justificatory reasons that is *unacceptable.*

The contrast has important implications, for if political liberals adopt the IRR, they must be prepared to alter their research programme. First, they should set aside their preoccupation with generating ethical principles regulating public discourse. Great philosophical energy should only be expended on this matter if some shareability or accessibility requirement holds, since both may require that citizens speak in certain terms to ensure that public justification proceeds in accordance with those requirements. But, the IRR allows immensely more reasons to enter into public dialogue and so figure into public justifications for laws. If so, then there is little or no case for deliberative restraint (Eberle 2002: 68–71).[24] Freed up from developing principles of restraint, political liberals can see the value in ecumenism about which processes can produce publicly justified law. Deliberation remains one valid process, but bargaining, adjudication and evolution are also important. Political liberals

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[24] While it is true that the IRR is still a restriction on reasons, and so may generate a principle of restraint, the principle promises to be much weaker than those in the literature. I thank Andrew Lister for pressing me to make this point explicit.

should study how *all* of these methods generate the public justification of laws. In sum, we should dramatically broaden political liberalism's study of social processes. We may need them if we are to treat persons as free and equal.[25]

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