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Rescuing Public Justification from Public Reason Liberalism

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Public reason liberals from John Rawls to Gerald Gaus uphold a principle of public justification as a core commitment of their theories. Critics of public reason liberalism have sometimes conceded that there is something compelling about the idea of public justification. But so far there have not been many attempts to elaborate and defend a comprehensive liberalism that incorporates a principle of public justification.¹ In this article, I will spell out how public justifiability could be integrated into a comprehensive liberalism and I will defend the claim that what is worthwhile about public justification can be extracted from public reason liberalism.

I proceed in three steps. First, I explain what I take to be at stake between public reason liberals and comprehensive liberals, and why the burden of proof is on public reason liberals (section 1). Second, I explain what role public justification could play in a comprehensive liberalism, and I give two examples (section 2). Third, I present four objections against the possibility of freeing public justification from public reason liberalism without losing what is worthwhile about public justification: that it disables public reason (section 3), that the point of public justification is lost outside public reason liberalism (section 4), that public reason liberalism's distinctively meta-level perspective is lost in comprehensive liberalism (section 5), and that comprehensive liberalism becomes schizophrenic when introducing public justification (section 6). I try to rebut all four objections.

As a caveat, I should point out what I will not (be able to) do in this article. First, I will not try to defend a particular rationale for public justification. I presuppose that there is something attractive about public justification and I argue that we can have all that is attractive about public justification without endorsing public reason liberalism. This is the main point of the article. However, when dealing with the objection that the point of public justification is lost outside public reason liberalism, I will at least sketch some arguments why we should care about public justification. Second, I will not defend and spell out a particular version of a comprehensive liberalism that incorporates public justification. The article moves on a more abstract level, arguing that public justification could be incorporated in all kinds of comprehensive liberalism.

1. Public Reason Liberalism

Public reason liberalism is a family of views that form one of the dominant schools of thought in contemporary political philosophy. It is a family of views, and so there are many disagree-

¹ Eberle 2002, Lott 2006, Ebbels-Duggan 2010 and Wall 2016 may count as exceptions.

ments among proponents of public reason liberalism (and not all of them might even endorse the label ‘public reason liberalism’).

Nonetheless I think it is fair to say that the core commitment of public reason liberalism is a commitment to a *principle of public justification*. This principle sometimes comes in disguise; in John Rawls’s work, for example, it is called a ‘liberal principle of legitimacy’. The principle of public justification requires the public justifiability of *something*, and public reason liberals differ in their views about the proper subject of public justification. It could be laws, constitutional essentials, political decisions, coercion, claims to authority, moral rules, or something else.² For the sake of simplicity, I will here work with a principle of public justification that applies to laws, but my arguments should also apply to principles of public justification that apply to different things. Readers who prefer to apply the principle of public justification to something else may replace ‘laws’ with whatever they regard as the proper subject of the principle of public justification.

As a general formula, laws are publicly justifiable when all members of the relevant ‘public’ have sufficient reason to accept them, whereby ‘having sufficient reason’ is taken to be relative to the individuals’ values and beliefs, not relative to some external standard. Steven Wall thus contrasts public justification with correctness-based justification.³ While the former aims to provide reasons that actually speak to the relevant parties, the latter aims to provide reasons that are simply based on the facts and sound moral principles. Of course this formula still allows for many different interpretations of public justification. Proponents of public justification also have different views about who is to constitute the relevant public, about whether public justification requires public reasons (i.e. reasons that are accessible to all members of the public) or allows for a convergence of non-public reasons, and about other details. I am going to skip over all these issues.

Let me provide two paradigmatic examples for principles of public justification as they have been advocated by public reason liberals. Rawls’s ‘liberal principle of legitimacy’ requires that ‘the basic structure and its public policies are to be justifiable to all citizens’.⁴ And Gerald Gaus’s ‘public justification principle’ says, in one version, that a ‘coercive law *L* is wrongful unless each and every member of the public *P* has conclusive reason(s) *R* to accept

² For different views about the subject of public justification, see, for example, Nagel 1987: 223, 1991: 159, Larmore 1990: 348-349, 1999: 607–608, Rawls 1993/1996: 214, 2001: 91, Gaus 2011a: xiv, 2, Quong 2011: 273-287, Bird 2014.

³ Wall 2002: 386, 2010: 126-127, 133, 136-137. In a similar vein, Eberle distinguishes between ‘rational’ and ‘public’ justification (2002: 61-66).

⁴ Rawls 1993/1996: 224. The more official statement of the ‘liberal principle of legitimacy’ says that ‘our exercise of political power is fully proper only when it is exercised in accordance with a constitution the essentials of which all citizens as free and equal may reasonably be expected to endorse in the light of principles and ideals acceptable to their common human reason.’ (1993/1996: 137, see 1993/1996: 217).

*L.*⁵ Later, in his book *The Order of Public Reason*, Gaus uses the term ‘not authoritative’ instead of ‘wrongful’, and applies the principle not only to laws, but also to moral rules.⁶

What is special about public reason liberalism is not just that it advances a principle of public justification. That principle also has a very special status. For Rawls, it is a principle of ‘legitimacy’, and for Gaus it determines whether a rule or law is ‘authoritative’. So the principle of public justification gives laws an important moral status. Without satisfying the principle of public justification, they are not ‘legitimate’ or ‘authoritative’. So let us say that the core commitment of public reason liberalism is the following principle:

(P₁) Laws are legitimate only if they are publicly justifiable

To be illegitimate or not authoritative is certainly not a minor moral worry about a law, whatever precise meaning may be given to those terms.⁷ It arguably implies that the law ought not to be enacted and enforced. As a principle of legitimacy, (P₁) cannot be outweighed by competing other moral considerations, and hence it is not conceived as a mere ‘pro tanto’ principle.⁸ Neither does it allow for exceptions, and hence it is not a mere ‘prima facie’ principle. It specifies a strictly necessary condition for legitimacy.

But this is not yet sufficient to characterize public reason liberalism. Let me take Rawls’s and Gaus’s versions as paradigmatic examples again. For Rawls, public reason liberalism (he speaks of ‘political liberalism’) not only advances a principle of legitimacy, but also a theory of justice. And, as is well-known, a conception of justice is to be compatible with a plurality of reasonable ‘comprehensive doctrines’ and hence has to avoid taking a stance on moral, philosophical, and religious issues that are disputed among reasonable comprehensive doctrines. Rawls speaks of a ‘method of avoidance’.⁹ A conception of justice has to be ‘freestanding’ and fit like a module into different comprehensive doctrines.¹⁰ Although Rawls’s own conception of ‘justice as fairness’ is his favorite one, he emphasizes that there are other political conceptions of justice, and that ‘in any actual political society a number of differing liberal political conceptions compete with another.’¹¹

How do justice and the principle of legitimacy relate in Rawls’s account? Because the principle of legitimacy requires the public justification of constitutional essentials and matters of basic justice, it requires that constitutional essentials and matters of basic justice conform

⁵ Gaus 2010a: 21.

⁶ The ‘basic principle of public justification’ says: ‘A moral imperative “ ϕ !” in context *C*, based on rule *L*, is an authoritative requirement of social morality only if each normal moral agent has sufficient reasons to (a) internalize rule *L*, (b) hold that *L* requires Φ -type acts in circumstances *C* and (c) moral agents generally conform to *L*’ (2011a: 263).

⁷ ‘Legitimacy’ is often associated with the right to rule. Thus states and governments are legitimate when they have the right to rule. But laws are not the kind of thing that could have rights, and so ‘legitimate’ must have some other, albeit related meaning here.

⁸ In Dancy’s parlance, it is an ‘absolute’ principle, not a mere ‘contributory’ principle (2004: 5-6).

⁹ Rawls 1985: 231, 240 n. 22, 1987: 12.

¹⁰ Rawls 1985: 230-231, 1987: 3-4, 7-8, 1993/1996: 9-10, 12, 40, 2001: 182-183.

¹¹ Rawls 1993/1996: xlviii, see 1993/1996: xlix, 223, 226, 1997: 770, 774-775.

to *a* political conception of justice, but not to a particular one. (All political conceptions of justice are publicly justifiable). In that sense, ‘legitimacy’ (the principle of public justification) is ‘weaker’ than justice, yet ‘related’ to justice, as Rawls says.¹² And both theories of justice and legitimacy are to abstain from controversial moral truths and hence remain in the sphere of what is publicly justifiable. A law can be unjust (or not fully just) and at the same time legitimate, but a law cannot be just and at the same time not legitimate.

Just like Rawls wants to free his political theory from controversial philosophical, religious and moral issues, Gaus wants to theorize independently from controversial moral truths and from the question of what reasons ‘there are’ (in contrast to what reasons ‘people have’).¹³ One of the main differences to Rawls’s public reason liberalism is that he gives the principle of public justification a much wider scope. It applies not only to constitutional essentials, but to all laws and also moral rules. Moreover, he assumes an ‘order of justification’ and applies the principle of public justification to abstract rights, first of all.¹⁴ These rights then determine what laws and rules are publicly justifiable. Gaus allows a pluralism of moral standards including standards of justice among the ‘members of the public’ to whom moral rules and laws must be justifiable.¹⁵ Some of the members of the public are classical liberals, others are egalitarians and so forth. All members of the public will have to accept less than what they regard as optimal or perfectly just, when the principle of public justification does its work: ‘[W]hen engaging in collective justification about a common framework for living, we have reason to endorse common rules even when they do not align with our convictions about what is optimal.’¹⁶ It is not perfectly clear, though, whether Gaus would be willing to say that one of the members of the public could be *right* about justice,¹⁷ since he sometimes suggests that justice *is* whatever set of common laws and rules are publicly justifiable.¹⁸

So public reason liberalism not only advances a principle of public justification, it also excludes all other moral considerations from political theorizing and in particular from theorizing about legitimacy. So there is a second core claim of public reason liberalism:

(Q) Moral considerations beyond public justifiability are irrelevant for the legitimacy of laws

(Q) does *not* imply that public reasons liberals have to declare public justifiability a necessary *and sufficient* condition for the legitimacy of laws, as in the following principle:

¹² Rawls 1993/1996: 427-428, see also Freeman 2007: 377-379. Similarly, according to Quong, laws are to be publicly justifiable because there is reasonable disagreement about justice (2011: 131-135, 137, 219).

¹³ Gaus 2011a: 229-235.

¹⁴ Gaus 2011a: 275, 387, 510-511.

¹⁵ Gaus 2011a: 2, 277-278, 445, 548.

¹⁶ Gaus 2011a: 502-503, see 2016: 215.

¹⁷ See Gaus 2011a: 429, 445-446, 2016: 15, 183, 208, 216, 249-250.

¹⁸ Gaus 1996: 121, 2010b: 237, 239. In his recent book, *The Tyranny of the Ideal*, he argues that an ‘Open Society’ that provides a framework for a plurality of ‘perspectives on justice’ is needed to even understand one’s own ideal of justice (2016: 243, ch. 2).

(P₂) Laws are legitimate if and only if they are publicly justifiable

This is so because there can be other *non-moral* necessary conditions for a law's legitimacy or authoritativeness, for example that the law is actually in place and recognized as such. Thus I will work here with (P₁), not (P₂).

Of course one can imagine political theories that endorse (P₁) while rejecting (Q). Public justifiability would then be regarded as a necessary condition for legitimacy, but some other moral qualities would be taken as necessary as well. But public reason liberalism, as I want to understand it here, is committed to *both* (P₁) and (Q). I will call liberal political theories that reject both (P₁) and (Q) 'comprehensive' forms of liberalism, for lack of a better term. Liberal political theories that endorse (P₁), but reject (Q) are hybrids and will be ignored here.

Critics of public reason liberalism have often targeted specific versions of public reason liberalism, like, most prominently, John Rawls's 'political liberalism', but there have also been attempts to refute public reason liberalism as a whole. Thus it has been argued that the principle of public justification is self-defeating.¹⁹ And it has been argued that there is no coherent reason to idealize the constituency within public reason liberalism and that therefore public reason liberalism leads to anarchism (contrary to public reason liberals' intentions).²⁰

But one need not find a defeating argument against public reason liberalism in order to defeat it. The burden of proof lies on the side of public reason liberals. *They* have to show that we have to make public justification an absolute principle of legitimacy and disregard all other moral considerations when thinking about laws' legitimacy, i.e. that we should endorse (P₁) and (Q). They bear the burden of proof because, at first sight, many different kinds of moral considerations seem to matter for politics in general and for the legitimacy of laws in particular: considerations about justice, fairness, liberty, equality, peace, stability, autonomy, democracy, economic growth, public health, culture, art, the environment, and so on. At first sight, at least, it seems that we certainly should rely on the 'full light of reason and truth'.²¹ We need a strong argument to convince us to disregard all moral considerations beyond public justifiability in our thinking about the legitimacy of laws. I will engage such arguments *for* public reason liberalism only indirectly in this article. I will try to work the other way around and show that we can rescue all that is worthwhile and plausible about public justification without committing us to public reason liberalism. If that is right, then it seems fair to say that public reason liberalism will hardly be able to meet the burden of proof it has.

2. How to Uphold Public Justification outside Public Reason Liberalism

Critics of public reason liberalism have sometimes remarked that there is something compelling about the principle of public justification, even though public reason liberalism has to be

¹⁹ Wall 2002, 2013b, Enoch 2013: 170-173.

²⁰ Enoch 2013: 164-170, 2015.

²¹ Raz 1990: 31.

rejected as a whole. There indeed is something worrisome about non-publicly justifiable laws.²² But how could we integrate public justification into a comprehensive liberalism?

Comprehensive forms of liberalism, like all normative political theories, contain normative and evaluative claims about the realm of politics. Such claims can be formulated as ‘principles’ (and sometimes it is convenient to do so). Some principles may be absolute principles, other principles may be pro tanto principles, i.e. sometimes outweighed by other principles, and other principles may be prima facie principles, i.e. holding merely as rules of thumb, but knowing exceptions.²³ Principles may invoke a great variety of categories. They may use the vocabulary of good and bad, right and wrong, legitimate and illegitimate, may and may not, or refer to justice and many other specific moral categories.

It is easy to see, then, that a comprehensive liberalism, while rejecting (P₁) and (Q), could endorse some principle of public justification that is weaker than (P₁).²⁴ There are several possibilities. Here are four:

- (P₃) Laws are legitimate if they are publicly justifiable
- (P₄) The public justifiability of laws contributes to their legitimacy
- (P₅) It is a desideratum of legitimacy that laws are publicly justifiable
- (P₆) Public justifiability is a good-making quality of laws

(P₃) is a principle of legitimacy that takes public justifiability as a sufficient condition for legitimacy, but allows for the existence of legitimate, but not publicly justifiable laws. It does not regard public justifiability as a necessary condition for legitimacy. Because laws may be legitimate for other reasons but their public justifiability, accepting (P₃) is compatible with a rejection of (Q). (P₄) still is a principle of legitimacy, but public justifiability is presented as neither a necessary nor sufficient condition for legitimacy, but as one of several factors that can contribute to the legitimacy of laws. (P₅) is somewhat similar, but holds that, no matter what other factors contribute to legitimacy, it is always a desideratum of legitimacy to have publicly justifiable laws.²⁵ (P₄), in contrast, allows for perfectly legitimate laws that are not

²² See Raz 1998: 51, Wall 2010: 137, 2013a: 488, Enoch 2015: 138-140. What they want to rescue may in the end not be public justifiability, though, but ‘non-subjugation’ (but see also Wall 2016). Non-subjugation is the ideal of not forcing people to act against conscience, not subjecting them to one’s directives. In contrast to public justification, it does not work with any idealization of persons. I think that there is something valuable about public justification *and* about non-subjugation, but I concentrate on the former in this article. On non-subjugation see Wendt 2017.

²³ Particularists like Dancy (2004) hold that there are no ‘principles’ in ethics, but they need not reject loose prima facie principles that allow for exceptions. Their point is that every property that usually makes a positive contribution can in certain contexts make a negative contribution to one’s overall evaluation of something.

²⁴ In my book I usually say that public justification should not be conceived as a strict principle, but as one value among others (Wendt 2016: 8, 124-125, 144-146, 155-157, 173-175). This should not be understood as a rejection of principles like (P₃), (P₄), (P₅), or (P₆).

²⁵ Wall points out that one need not understand Rawls’s principle as a strict necessary condition for legitimacy; one could also understand it as a mere desideratum (Wall 2014: 417). This would make Rawls’s theory a hybrid.

publicly justifiable. To make sense of the idea of a ‘desideratum of legitimacy’ in (P₅), legitimacy has to be conceived as a gradual notion that allows for degrees of legitimacy. There may be a threshold of legitimacy that laws have to pass if they are to be permissibly enacted and enforced, but even laws above that threshold can fail to meet all desiderata of legitimacy and hence differ in their degrees of legitimacy. Principles (P₃) and (P₄), in contrast, are compatible with a non-gradual view of legitimacy, where legitimacy is pure all-or-nothing matter. (P₆), finally, is not a principle of legitimacy at all. It just states that public justifiability is a good-making quality of laws, neither necessary, nor sufficient, nor contributory for legitimacy, nor a desideratum of legitimacy. It just says that whether laws are publicly justifiable or not matters morally, among other things. Obviously, (P₆) is a weaker principle than for example (P₃), and so a comprehensive liberalism that incorporates (P₃) is in a certain sense closer to public reason liberalism than a comprehensive liberalism that incorporates (P₆). But what distinguishes all forms of comprehensive liberalism from public reason liberalism is their rejection of (P₁) and (Q).²⁶

Let me now provide two more concrete examples for how a principle of public justification like (P₃), (P₄), (P₅), or (P₆) could figure in a comprehensive liberalism. Take natural rights libertarianism. For a natural rights libertarian, central principles of justice are principles about people’s natural rights. These natural rights are self-ownership rights as well as rights to appropriate external resources, maybe subject to some sort of Lockean proviso. These principles of justice, cashed out in terms of natural rights, may be based on deeper principles that may have to do with respect for persons, or with an ideal of persons as project pursuers, or with human rationality or happiness. Further, they will imply less deep principles about what state institutions ought to do and what they ought not to do, etc. How could public justifiability be integrated into natural rights libertarianism? I do not think it would make much sense to add it to the libertarian theory of *justice*. But libertarians may not only endorse a theory of justice, but also care about other values, like peace, friendship, and, indeed, public justifiability, and so they could endorse a principle of the form of (P₃), (P₄), (P₅), or (P₆). That principle may rest on other foundations than the libertarian principles of justice, but it may also rest on the same foundations. And, together with libertarian justice, it may co-determine the less deep principles about what the state ought and ought not to do, and it might also co-determine verdicts about the legitimacy of laws, if it is (P₃), (P₄), or (P₅). So understood, public justifiability will not be part of libertarianism understood as a theory of justice, but it will be part of the canon of values a libertarian can and should endorse.

As a side-note: I often speak of ‘values’ in a rather loose sense. Libertarian justice can be taken as a ‘value’, even though it is formulated in terms of people’s rights, not values. I think

²⁶ Note that (P₃), (P₄), (P₅) and (P₆) do not specify how we ought to deal with conflicts between public justifiability and other values. Therefore, they are all compatible with the view that justice always trumps public justifiability (and maybe all other values) in cases of conflict, but they are also compatible with the view that public justifiability always trumps justice and all other values in cases of conflict. Of course they are also compatible with the more plausible view that no value always trumps all other values.

it is convenient to speak of ‘values’ as sets of considerations that apply to evaluative and normative reasoning and have some common core or common rationale.

Now take, as another example, a liberal perfectionist theory. That theory does not start with people’s rights, but gives the notion of the good center stage. Although there is a great variety of perfectionist theories, let us here assume that it is a theory that formulates a list of what is objectively good, like autonomy,²⁷ pleasure, knowledge, love, appreciation of art, development of excellences, etc. All these claims about what is good can be formulated as principles again (if convenient). Liberal perfectionism will also uphold some principles about how promoting the good is (pro tanto or prima facie) right. And it will uphold a principle saying that political institutions should (pro tanto or prima facie) be designed such that they promote the good for all citizens (although some liberal perfectionists may also hold that active political promotion of some goods is self-defeating). Justice may be conceived as the set of distributional principles that apply to the political promotion of the good. Thus a perfectionist may uphold a prioritarian constraint on how the good may be politically promoted, saying that the worst-off have a certain priority. How could public justifiability be added to such a perfectionist theory? As principle (P₆), it could function as another item on the list of objectively good things. As (P₃), (P₄), or (P₅), it could work as a principle that constrains how the good may be politically promoted, a principle that allows public justifiability and perfectionist values to co-determine the legitimacy of laws.

These are just two examples for comprehensive forms of liberalism. Whatever you think is morally right and good, you can (and probably should) add public justifiability in one way or another. This is easy and plausible. So why should one go with public reason liberalism and exclude all moral considerations beyond public justifiability from assessments of the legitimacy of laws, as (Q) requires? I will now discuss several objections against the possibility of just extracting public justification from public reason liberalism. These objections all come from the perspective of public reason liberals and basically state that what is worthwhile about public justification is lost outside public reason liberalism. If these objections are convincing, then public reason liberals make a big step towards overcoming their burden of proof. But I will argue that the objections fail and that hence we can and should reject public reason liberalism with its claims (P₁) and (Q) and instead endorse a more modest principle of public justification within a comprehensive liberalism.

3. First Objection: No Public Reason

The first objection is that public reason liberalism is obviously not only about public justification, but also about *public reason*, and that one loses the idea of public reason when public justification is embedded in a comprehensive liberalism. Public reason is to be distinguished from public justification; it is a concept that is important to formulate norms for public reasoning and public debate (‘duties of civility’). In Rawls’s version of public reason liberalism (‘political liberalism’), public reason basically is a set of ideas; its content is given by the

²⁷ Great emphasis on autonomy makes for the ‘liberal’ character of a perfectionist theory.

family of political conceptions of justice.²⁸ Because political conceptions of justice fit into all reasonable comprehensive doctrines, the content of public reason are *public reasons*, reasons that are common ground for all reasonable doctrines: ‘Public reason [...] specifies the public reasons in terms of which [particular] questions are to be politically decided.’²⁹ So in the end, public reason simply is the set of public reasons. The Rawlsian duty of civility, then, is a moral duty that applies to judges, legislators, state officials and, under certain circumstances, to citizens, and requires to present and act upon public reasons.³⁰ Duties of civility are central to Rawls’s public reason liberalism and, with modifications, to many other public reason liberals. Andrew Lister, for example, argues that they are essential if we are to have some sort of community in pluralist societies.³¹

Now why should we lose the idea of public reason, and relatedly, the idea of duties of civility, when public justification is extracted from public reason liberalism? Once we reject (Q) and so allow all kinds of moral considerations in our thinking about the legitimacy of laws, there is no realm of political inquiry where only public reasons ought to prevail. Citizens will often regard moral considerations that are not translatable into public reasons as relevant for their assessment of laws, and comprehensive liberalism allows this. Because this is so, one cannot plausibly ask citizens to only rely on public reasons when arguing with others about political matters. Hence public reason and the duty of civility presuppose (P₁) and (Q), and we cannot save them when we give up public reason liberalism in favor of a public justification-friendly form of comprehensive liberalism. A little bit more formally, the argument is:

- (1) Public reason presupposes some realm where only public reasons ought to prevail
- (2) In comprehensive liberalism, there is no such realm
- (3) Therefore, there is no place for public reason in comprehensive liberalism

To answer this objection, one should emphasize, first of all, that not all public reason liberals endorse an idea of public reason. Some public reason liberals allow for a convergence of non-public reasons in public justification.³² When public justification does not require public reasons, while public reasons are what constitutes public reason, then there is no space for public reason within a public reason liberalism that works with a conception of public justification that allows a convergence of non-public reasons. Of course, in such forms of public reason liberalism there is no space for a duty of civility to present public reasons in public, too. There could be other duties of civility, for example duties not to vote for laws one be-

²⁸ Rawls 1993/1996: lii-liii, 217, 226, 241, 1997: 773-774, 2001: 92. Maybe the content of public reason is not *only* constituted by the family of political conceptions of justice, but also by other ‘political values’ besides justice. See Rawls 1997: 776, Freeman 2007: 388-390.

²⁹ Rawls 1993/1996: liii.

³⁰ The duty does not apply when talking privately (in the ‘background culture’), though. According to what Rawls calls the ‘wide view of public reason,’ citizens are always allowed to present private reasons as long as they present public reasons in due course. Rawls 1993/1996: li-iii, 1997: 783-785, 2001: 90.

³¹ Lister 2013a: ch. 5.

³² Gaus 2011: 283-287, Vallier 2014: ch. 4.

believes not to be publicly justifiable, but public reason liberals of the convergence brand are usually rather skeptical about such duties as well, at least with regard to citizens.³³

But this is not yet an answer to the objection. *If* one cares about the idea of public reason, then it would be a worry if a public justification-sensitive comprehensive liberalism could not preserve the idea of public reason. But, as far as I can see, one can quite easily make room for public reason outside public reason liberalism, just like one can make room for public justification outside public reason liberalism. Once you have a moderate principle of public justification like (P₃), (P₄), (P₅), or (P₆), one has all one needs to generate a set of ideas to call ‘public reason’. Assuming that public justification is interpreted as requiring public reasons, in this moderate principle of public justification, one can simply refer to public reason as the set of public reasons. And once one has the idea of public reason, one can of course also formulate a duty of civility to present public reasons when publicly debating issues of public concern. In other words, the first premise of the above argument is false: public reason does not presuppose some realm where only public reasons ought to prevail. It does not presuppose (Q). It just presupposes that there is some principle of public justification that requires public reasons.

Now this may seem a little too easy. The objection was that the idea of public reason presupposes a realm of normative inquiry where non-public moral considerations are to be excluded. It may be technically possible to construe some sort of public reason outside public reason liberalism, but the objector could insist that it lacks a rationale when there is no realm where only public reasons ought to prevail. I think this is wrong. Once one acknowledges the value in public justifiability, one can also acknowledge the importance of presenting public reasons in public. What is this value in public justifiability? Some will argue that public justifiability serves stability and helps to build mutual trust, others will argue that it is an expression of respect, still others will say that it constitutes some sort of community (more on these reasons to care about public justification in section 4). The same considerations may ground the ideas of public reason and duties of civility. This does not imply that duties of civility have to be conceived as ‘absolute’. In fact it is much more plausible that other moral considerations matter as well, and that hence the duty of civility can sometimes (maybe rarely) be outweighed by other moral considerations. This is acknowledged by some public reason liberals like James Boettcher and Andrew Lister.³⁴

4. Second Objection: Public Justification Loses Its Point

The second objection is that public justification loses its point when it is extracted from public reason liberalism. I cannot discuss all the points public justification could be said to have, of course. I will focus on three I find most convincing. I will try to show that public justification can be integrated into a comprehensive liberalism without any loss. In fact, it is more plausibly integrated into a comprehensive liberalism.

³³ Gaus 2010a, Vallier 2014: ch. 6.

³⁴ Boettcher 2007: 233, 2012: 168-170, Lister 2013a: 109-110, 128-129.

A first rationale for public justification is stability. In modern pluralist societies, where deep disagreements and conflicts are normal and pervasive, publicly justifiable laws have a stabilizing effect. This is so for two reasons. First, when laws are publicly justifiable, they are acceptable for all citizens. Acceptability is not by itself stabilizing, because laws can be acceptable without actually being accepted, when people fail to see that they are justifiable to them. But at least it seems more *likely* that publicly justifiable laws will sooner or later actually be accepted because, after all, everyone has sufficient reason to accept them. And actually accepted laws certainly serve stability and peace, since they do not give rise to resentment and anger.³⁵ Second, public justifiability could also serve stability because it allows people to rely on public reason in public debates (at least when public justification is conceived as requiring public reasons).³⁶ Everyone wants to have laws that are justifiable to him or her, and when others publicly signal that they care about public justifiability, this can help to foster trust and cooperation, which can obviously have a stabilizing effect.

Now why should public justification lose its stabilizing effects when integrated into a comprehensive liberalism? Because allowing non-public moral reasons in people's deliberations about the legitimacy of laws is a threat to peace already. It is a threat to peace because morality 'does not fax its demands down from above', as Gaus puts it,³⁷ and so allowing non-public moral reasons in people's deliberations means that different people's views about moral truth will clash. People will try to push each other around in the name of what they regard as right and good. For that reason, we have to strictly bracket controversial convictions about moral truth in order to achieve stability. So the argument goes something like this:

- (1) According to comprehensive liberalism, one has to consider all kinds of moral reasons when assessing the legitimacy of laws
- (2) Because people often deeply disagree about moral issues, it leads to conflicts and instability when people consider all kinds of moral reasons in their assessment of the legitimacy of laws
- (3) To avoid these conflicts and instability, we have to exclude non-public moral reasons from the assessment of the legitimacy of laws, i.e. endorse public reason liberalism with its principles (P₁) and (Q)

Thus formulated, it is at first an argument about how people should assess the legitimacy of laws, not about how people may debate the legitimacy of laws. It is about people's thinking, not their talking. But one could easily formulate a derivative argument that makes the same statements about the latter. It should also be noted that the conclusion presupposes a principle of public justification that requires public reasons and does not allow for a convergence of non-public reasons.

³⁵ See also Wendt 2016: 139-144.

³⁶ For discussion of the stabilizing effect of public reason see Weithman 2011: 327-335, Gaus 2011b, Hadfield and Macedo 2012, Thrasher and Vallier 2015, Klosko 2015, Weithman 2015.

³⁷ Gaus 2011a: 11.

There are three replies to the argument. First, even if we concede that premise (2) is (more or less) correct, (3) does not follow. We do not have to *maximize* stability and do everything we can to avoid any conflicts and instability. Endorsing a weaker principle of public justification, like (P₃), (P₄), (P₅), or (P₆), together with related duties of civility, may be sufficient to achieve *sufficient* stability, even if not maximal stability.

Second, one should not overestimate the impact of people's thinking about legitimacy for the stability of a society. Premise (2) may not be straightforwardly wrong, but it should be put in perspective. There are so many other things that contribute to a society's stability. A political culture of civility, respect and toleration can also be maintained among citizens who do not give much weight to public justifiability and who do not refrain from assessing laws' legitimacy in light of all kinds of moral considerations. Citizens may simply believe that fostering attitudes of civility, respect and toleration is the morally right way to deal with disagreements and conflicts. There may well be a correctness-based justification for civility, respect and toleration. It is a mistake to believe that a commitment to comprehensive liberalism leads to people trying to impose their views on others by force. Moreover, besides political culture, there are many other factors that contribute to stability. Sophisticated *modus vivendi* arrangements and checks and balances are important for stability.³⁸ Community ties are relevant for stability, as well as economic development and economic interdependencies. Claudia Mills argues that a common history of living together is more important than shared principles, Bernard Dauenhauer points out how a shared religion as well as linguistic and cultural heritages can increase stability, and Joseph Raz suggests that 'affective and symbolic elements may well be the crucial cement of society.'³⁹ How people think about legitimacy may indeed have some effect on stability, but it would be exaggerated to conclude that therefore public justifiability has to be all that matters for the legitimacy of laws. Too many other factors contribute to stability as well.

Third, a simple point: what academic philosophers think about the legitimacy of laws and about how people ought to think about the legitimacy of laws will unfortunately have little effect on how people actually think about it. So in contrast to what (3) says, adopting public reason liberalism in academic philosophy will be of little help with the practical problem of stability. What matters for stability is that publicly justifiable laws are acceptable to all and thus make actual acceptance more likely. There is no reason to assume that this effect cannot be had if we adopt a comprehensive liberalism.

For all three reasons – because stability is not the only thing that matters, because other things beyond people's way of thinking about legitimacy contribute to stability, and because the little effect of academic philosophy –, the stability rationale for public justification can be maintained in comprehensive liberalism. Indeed it is more plausibly maintained in comprehensive liberalism, because other values beyond stability are given their due, and because the impact of public justifiability (and public reason) on stability is acknowledged, but not exaggerated.

³⁸ Hershovitz 2000: 224-225.

³⁹ Mills 2000: 192, 194, 197-203, Dauenhauer 2000: 212, Raz 1990: 30-31.

A second reason to care for public justification may be that it is an expression of respect for persons.⁴⁰ Both the public justifiability of laws and people's reliance on public reason or caring about public justification can be regarded as expressions of respect for persons. I will here work with the former version: the fact of a law being publicly justifiable is taken as an expression of respect for all persons subject to it. One may well ask *whose* respect could be expressed by publicly justifiable laws, but I cannot go deeper into this issue here. I will also not try to answer the question of *what* is respected in persons. It could be their reason, their integrity, or something similar.⁴¹

Why should publicly justifiable laws not be able to express respect for persons in comprehensive liberalism? After all, we envisage a comprehensive liberalism that does include a principle of public justification – a principle like (P₃), (P₄), (P₅), or (P₆). So why should we adopt public reason liberalism, once the burden of proof is on public reason liberals? The answer probably is that respect for persons is so important that it should be made an 'absolute principle', not possibly outweighed by other moral considerations. The argument could go roughly like this:

- (1) Publicly justifiable laws are an expression of respect for persons
- (2) If publicly justifiable laws are an expression of respect for persons, then not publicly justifiable laws are disrespectful
- (3) Respecting persons is extremely important and should not possibly be outweighed by other moral considerations in assessing the legitimacy of laws
- (4) Therefore, laws can only count as legitimate if they are publicly justifiable, as expressed in public reason liberalism's core principle (P₁)

The problem with comprehensive liberalism and its rejection of (P₁) is that it allows for disrespectful, but at the same time legitimate laws, and so the respect rationale for public justification cannot be preserved in comprehensive liberalism.

One line of response to this objection is to reject premise (2). To have publicly justifiable laws may be an expression of respect for persons, but this does not imply that not publicly justifiable laws are disrespectful. There may be other ways to express respect for persons, too.⁴² Following Christopher Eberle, one could argue that it is an expression of respect for persons to care about whether laws are publicly justifiable, and to actively pursue public justification in public, but that it is not disrespectful to have laws that are not publicly justifiable,

⁴⁰ Macedo 1990: 47, Nagel 1991: 159, Larmore 1999: 607-608, 610, Rawls 2001: 91, Neufeld 2005: 284-287, Boettcher 2007: 230-233, Gaus 2011a: 17, 19, Nussbaum 2011: 18-20, Vallier 2014: 31-33, Wall 2016. Following Darwall, respect for persons should be regarded as a form of recognition respect, not appraisal respect (1977)

⁴¹ See Larmore 1999: 607-608, Eberle 2002: 87-88, 94, Boettcher 2007: 228-233, Freeman 2007: 330, 343-344, 411, Vallier 2014 : 85-90, Wendt 2016: 152-154.

⁴² For a related argument see also Lott 2006: 87-89 and the replies in Boettcher 2012: 170 and Wendt 2016: 155-157.

when there is a correctness-based justification for them.⁴³ If that is right, it would not only rebut the objection, but also speak in favor of integrating public justification into a comprehensive liberalism.

Another line of response is to reject premise (3). Maybe respect is not so important that it should not possibly be outweighed by other moral considerations in our assessment of the legitimacy of laws. First of all, one should note that not all morally required treatment of persons is a matter of respect. Not to murder an innocent person is not an expression of respect, just like it sounds odd to say that murder is ‘disrespectful’. Murder is wrong not because it is disrespectful, but because it is a serious violation of a basic moral right. What is ‘disrespectful’ is failing to do things that one owes persons, but that one owes them not as a matter of their basic moral rights.⁴⁴ Because this is so, respect for persons should not be regarded as the most important moral imperative. Justice and people’s rights may well be regarded as more important. Values like peace and stability may also be regarded as more important. If that is so, respect for persons is a moral consideration that can indeed sometimes be outweighed by other moral considerations in the assessment of the legitimacy of laws. But then the same holds for public justification as an expression of respect for persons: it can also sometimes be outweighed by other moral considerations, be it considerations of justice and people’s moral rights, considerations about peace, or something else. Second, sometimes a law may not be publicly justifiable and hence disrespectful even though its purpose is to fight disrespectful treatment of persons, and even though it achieves its purpose. It is not evident that such a law could never be morally justified, all things considered.⁴⁵ Thus premise (3) is false.

To put it the other way around: it is a worry about public reason liberalism that it does *not* allow for trade-offs between public justifiability and other values, since rights, justice, peace, etc. can sometimes be more important than respect for persons as it is expressed in publicly justifiable laws. Public reason liberals may deny that there could be such conflicts between respect and public justifiability on the one hand and justice and moral rights on the other hand. Rawlsians may say that (Rawlsian) justice is always publicly justifiable, since it fits like a module in all comprehensive doctrines (see above). Gausians may say that basic moral rights are themselves a subject of public justification.⁴⁶ But public reason liberals usually concede that there could be moral truths. And if a theory of justice like luck-egalitarianism or natural rights libertarianism should turn out to be true, there certainly could be claims of justice that are not publicly justifiable.

⁴³ Eberle 2002: chs. 4-5, see also Lott 2006 and Ebbels-Duggan 2010. One could go one step further and argue that having publicly justifiable laws is not an expression of respect for persons at all. It is just the *caring* about public justification and *pursuing* of public justification that is an expression of respect for persons.

⁴⁴ Things are more complicated if you think that persons have a basic moral right against being treated disrespectfully. If people have such a right, then we should say that what is ‘disrespectful’ is not to do things that we owe persons, but that we owe them not as a matter of other basic moral rights besides the right against being treated disrespectfully.

⁴⁵ Wall 1998: 86-87, Lister 2013a: 72, 2013b: 324-325.

⁴⁶ Gaus 2011a: chs. 17-18. Elsewhere, I argue that treating rights as the subject of public justification lacks a coherent rationale in Gaus’s theory (Wendt 2016: 176-177).

I conclude, then, that the respect rationale for public justification – if sound – can well be maintained outside public reason liberalism. In fact it is more plausibly maintained in comprehensive liberalism, because respect can indeed be outweighed by other moral considerations.

A third possible rationale for public justification is that publicly justifiable laws are needed if we are to have a community of mutual moral authority. This is what Gaus argues. In a somewhat Wittgensteinian manner, he wants to provide an ‘internal’ foundation for the principle of public justification, showing that, on reflection, a commitment to public justification is internal to our everyday moral practice.⁴⁷ One central aspect of our moral practice is that we hold each other responsible for what we do, and that we blame others when they do wrong, and accordingly feel moral emotions like indignation. Yet when a person cannot understand why her action was wrong, then we do not think that blame and indignation are appropriate.⁴⁸ In that sense, we do not claim moral authority in such cases. This is also why, for example, we do not blame little children, animals, or psychopaths for what they do.⁴⁹ Gaus concludes that we presuppose the following principle in our moral practice: ‘A moral prescription is appropriately addressed to Betty only if she is capable of caring for a moral rule even when it does not promote her wants, ends or goals and she has sufficient reasons to endorse the relevant rule.’⁵⁰ It is easy to see that the second part of this principle is a principle of public justification. When a moral rule (or, in our context, a law) is not justifiable to a person, then we cannot blame that person for not acting in accordance with that rule, and it would be inappropriate to feel indignation. The point of the principle of public justification is to constitute a moral community, a community of mutual moral authority, where it makes sense to hold each other responsible and to blame those who violate rules or laws.

As with stability and respect, I here grant that this indeed is a rationale for public justification.⁵¹ The objection is that this rationale cannot be preserved in a public justification-sensitive comprehensive liberalism. The reason is that comprehensive liberalism allows all kinds of moral considerations to determine the legitimacy of laws, and so we can end up with legitimate laws that are not publicly justifiable, and hence upset our moral community by destroying relations of mutual moral authority. If public justification is the cement of our moral community, then a little bit of public justification will not do. We have to make it a strictly necessary condition of legitimacy, as public reason liberalism’s principle (P₁) does. So the argument goes as follows:

- (1) It is highly important to have a community with relations of mutual moral authority

⁴⁷ Gaus 2011a: 226.

⁴⁸ Gaus 2011a: 184, 258.

⁴⁹ Gaus 2011a: 210.

⁵⁰ Gaus 2011a: 222. He calls it the ‘principle of moral autonomy.’

⁵¹ Against this rationale for public justification, one may argue that external reasons and hence correctness-based justifications *are* ‘accessible’ to persons in the sense that is relevant for blame. I cannot debate this here.

- (2) Not publicly justifiable laws upset a community with relations of mutual moral authority
- (3) Therefore, laws can only count as legitimate if they are publicly justifiable, as expressed in public reason liberalism's core principle (P₁)

In response, one can doubt premise (2). One can doubt that a moral community with relations of mutual moral authority requires that *all* laws are publicly justifiable. Arguably a person can stay a member of the moral community even when *some* moral rules are not justifiable to him or her. It might be the case that one cannot claim moral authority over that person with regard to some moral rules or laws, but membership in the community need not be defined so narrowly. The person can stay a member as long as most laws are justifiable to him or her. This more flexible view of community membership will probably also be supported by stability concerns. Hence a community of mutual moral authority can be maintained without (P₁).

Second, having a moral community of mutual authority is, like stability and respect, not all that matters, even if it is highly important. In particular, while having a community of mutual moral authority is highly important, it is much less important to have *everyone included* in that community. Therefore, one can deny that (3) follows from (1) and (2). Sometimes other values, like peace, justice, and rights, indeed are more important than having everyone included in a community of mutual accountability. This is (implicitly) conceded by Gaus, when he says that some people cannot be members of the moral community.⁵² He does not explicitly present moral arguments for this claim, but there *are* moral arguments for it.

Because other values besides moral community matter, the moral community rationale is *better* maintained in a public justification-sensitive comprehensive liberalism that rejects (P₁) and (Q), and hence explicitly acknowledges that there are important moral considerations beyond public justifiability. This has some further welcome side-effects. First, acknowledging moral considerations beyond public justifiability makes it possible to say that sometimes people do *wrong* even though we cannot blame them (according to Gaus's account of what is required for adequate blame).⁵³ Second, rejecting (P₁) and (Q) helps to explain why there is no 'blameless liberty to act as we see fit' with regards to psychopaths and others outside the moral community.⁵⁴ We have laws with regard to psychopaths, animals, and other creatures outside our community of mutual moral authority, and their legitimacy depends on moral values beyond public justifiability.

I conclude that the moral community rationale for public justification *can* be maintained outside public reason liberalism, and that it *should* be maintained outside public reason liber-

⁵² Gaus 2011: 282-283, 2014: 566, 2016: 222.

⁵³ See Eberle 2002: 133, Wall 2010: 144, Enoch 2013: 163, May 2013: 561.

⁵⁴ That there is such a blameless liberty is affirmed in Gaus 2011a: 463. Enoch takes this as a *reductio ad absurdum* of Gaus's theory (2013: 170). That one may coerce persons without public justification when making no claims to moral authority is affirmed in Vallier 2014: 41 n. 6, Gaus 2014: 571-574, 2016: 222, Van Schoelandt 2015: 1043 n. 45.

alism, since we cannot escape the fact that moral considerations beyond having a moral community of mutual relations of authority matter for the legitimacy of laws.

5. Third Objection: Public Reason Liberalism Works on a Different Theoretical Level

Another objection to the viability of public justification outside public reason liberalism is that public reason liberalism works on a different theoretical level than comprehensive liberalism, and that hence public justification cannot keep the same function when it is transferred from public reason liberalism to comprehensive liberalism.

This is the picture: while traditional political theories inquire into what the objectively best laws would be, public reason liberalism asks how we can get along given that we (reasonably) disagree about what the best laws would be. Because fighting about what the best laws would be leads to all kinds of troubles, public reason liberalism moves to a meta-level and refuses to be another party in the battlefield. Instead, it tries to find ways to contain the first-level fighting in ways that are acceptable to all. Hence public reason liberalism wants to play a different role: instead of being a sectarian party, to use Rawls's expression,⁵⁵ it wants to be something like a mediator.⁵⁶ As Gaus puts it, public reason liberalism is not concerned with uncovering 'moral truth,' but with finding a self-sustaining 'moral constitution,' i.e. a 'shared moral framework *all can live with* in a social world where our understandings of moral truth clash.'⁵⁷ Public justification is the core idea within this meta-level project, and we lose this meta-level when we move back to a comprehensive liberalism, since comprehensive forms of liberalism are players in the first-level battlefield. This is why we cannot preserve what is worthwhile about public justification when we extract it from public reason liberalism. So the core of the objection is roughly this:

- (1) Political philosophy should engage in second-level moral reasoning and search for a shared framework all can live with
- (2) The principle of public justification is a principle in second-level moral reasoning
- (3) Comprehensive liberalism engages in first-level moral reasoning
- (4) Therefore, the principle of public justification can no longer work as a principle in second-level reasoning when it is integrated in comprehensive liberalism

The answer to this objection is that comprehensive liberalism can (and should) make a distinction between two different levels in the moral evaluation of laws.⁵⁸ On the first level, we try to determine what the best laws would be, on the second level we determine what laws would be acceptable given that other people disagree with us about what the best laws would be. A comprehensive liberal need not endorse the principle that it is permissible to simply impose one's view on others. A comprehensive liberal can happily endorse premise (1) and be highly sensitive to the moral dimension in dealing with conflicts and disagreement. A com-

⁵⁵ Rawls 1985: 246, 1987: 20, 1993/1996: 129, 180.

⁵⁶ This is perceptively described in Enoch 2015: 134-137, also 2013: 174-176.

⁵⁷ Gaus 2010b: 244, 2014: 564, see 2016: 178, 181, 183. The term is from Rawls 1980: 539.

⁵⁸ For an elaboration and defense of the distinction between two levels see Wendt 2016: ch. 3.

prehensive liberal can also see the importance and value in a ‘moral constitution’. So premise (3) is wrong (or at least incomplete): comprehensive liberalism can engage in *both* first- and second-level moral reasoning. What is more, on the second level values like public justifiability come into play, and so the principle of public justification can *stay* on the second level of moral thinking when it is embedded in a comprehensive liberalism. This means that conclusion (4) is wrong, too. Public justification can stay on the same level of moral thinking in both public reason liberalism and comprehensive liberalism.

What public reason liberalism needs, is an argument as to why political philosophy should *only* engage in second-level moral reasoning. I already mentioned one such argument: that it should only engage in second-level moral reasoning in order not to become one sectarian party in the moral and political conflicts we face. But one may continue asking why it is so important to avoid sectarianism. This is basically equivalent to asking for a rationale for public reason liberalism with its core claims (P₁) and (Q). Now when public reason liberals try to provide such a rationale for public reason liberalism, they have to point to the importance of stability, respect, moral community, or something else. As soon as they do this, they seem to provide a correctness-based justification for public reason liberalism (as is conceded by some public reason liberals⁵⁹). But then it seems that public reason liberalism cannot be completely ‘unsectarian’, and hence cannot live up to its own standards. And when non-sectarianism is not an option anyway, one may well continue making first-level evaluations of laws and stick to a comprehensive liberalism. In reply, Charles Larmore argues that the respect rationale for public reason liberalism is merely ‘minimally moral’ and as such compatible with all reasonable comprehensive doctrines; it does not make public reason liberalism another sectarian doctrine.⁶⁰ But, in reply to Larmore, one may well argue that the respect rationale cannot be so minimal and unsectarian if it is to ground the quite radical claims (P₁) and (Q).⁶¹

Some public reason liberals refuse to provide a rationale for public reason liberalism, following the mentioned ‘method of avoidance’, and so they may indeed be able to avoid ‘sectarianism’. But the question why we should endorse public reason liberalism is a pressing one for public reason liberals. (P₁) and (Q) are far from self-evident, after all. Some Rawlsians delegate the answer to comprehensive doctrines (and hence out of political philosophy). Rawls writes that a ‘reasonable judgment of the political conception must still be confirmed as true, or right, by the comprehensive doctrine.’⁶² In a similar vein, Jonathan Quong argues that public reason liberals should see it as the task of comprehensive doctrines to ultimately find the right reasons to accept the public reason project. Public reason liberalism ‘passes the buck’ to reasonable citizens.⁶³ But this just means that we have no argument to engage with, when

⁵⁹ Larmore 1999: 608-611, Neufeld 2005: 287, Quong 2011: 2, 56, 159, 313. This would mean that Raz is right that public reason liberalism cannot be epistemically abstinent (1990: 14-15). It is also related to Wall’s insistence on the primacy of the first-person standpoint in moral reasoning (2010: 136-140). Gaus concedes that primacy (2011a: 225-226, 228-229).

⁶⁰ Larmore 1999: 623-624, see also 1990: 353-354, 1994: 61, 1999: 600, 605, 608.

⁶¹ Wall 2002: 390-391, Quong 2013: 272.

⁶² Rawls 1997: 801, see also 1993/1996: 128-129. This dependency from comprehensive doctrines is criticized by Habermas (1996/1998).

⁶³ Quong 2011: 226-242, 2013: 274-275.

asking for a reason why we should endorse public reason liberalism. And as long as we do not have an argument, we may well work with a comprehensive liberalism, given that the burden of proof is on the side of public reason liberalism.

A second strategy to argue for the claim that we should *only* engage in second-level reasoning could be to defend skepticism about first-level moral reasoning.⁶⁴ The main difficulty for this strategy would be to explain why sound second-level moral reasoning should nonetheless be possible. But anyway, as explained earlier, most public reason liberals do not want to make this move and stay agnostic about the existence of moral facts and moral truths and the possibility of sound first-level moral reasoning.⁶⁵ Thus, for the time being, we may well endorse a public justification-sensitive comprehensive liberalism, and conclude that everything worthwhile about public justification can be enjoyed outside public reason liberalism.

6. Fourth Objection: Schizophrenia

It has sometimes been argued that Rawlsian public reason liberalism is unattractive because it conceives persons as schizophrenic about politics (in a certain sense). As private persons, persons adhere to a comprehensive doctrine that is inaccessible to others and yet structures their views on many moral and philosophical matters, but as citizens they adhere to a political conception of justice and rely on public reasons only, ignoring their comprehensive views. Depending on whether they take their private or their public viewpoint, they evaluate laws differently, and in that sense they have a split personality. I cannot discuss whether this critique of public reason liberalism (or specifically of Rawls) is on target.⁶⁶ The problem, if it is a problem, is certainly dissolved in a comprehensive liberalism that includes a principle of public justification, since comprehensive liberalism does not ask people to ignore any moral considerations when thinking about the legitimacy of laws.

But one may try to formulate a different schizophrenia objection for the type of theory envisaged here. While public reason liberalism asks people to employ two different normative perspectives in public and in private, public justification-sensitive comprehensive liberalism asks citizens to employ *two* different perspectives in public (at the same time): one perspective that aims at public justifiability, and a one that aims at correctness. These two different aims stand in constant tension with each other, and this arguably leads to some kind of split personality.

Here is a brief reply. Accommodating different considerations and viewpoints is an essential part of moral thinking, and this does not lead to any identity problems or schizophrenia. Let us for the moment imagine a comprehensive liberalism that does not include a principle of public justification. In that theory, we still have to accommodate different moral

⁶⁴ This is not exactly what Barry does, since he defends skepticism about the good, but not justice, and justice is a first-level value (1995a: 168-173, 1995b: 902-903).

⁶⁵ See Nagel 1987: 227-231, Rawls 1987: 12-13, 1993/1996: 62-63, 150, Larmore 1994: 79, Quong 2011: 243-254, also Gaus 2011a: 229, 233, 2016: 183; for arguments why public reason liberalism cannot avoid skepticism see Wenar 1995: 41-48, Wall 1998: 91-94, McCabe 2000: 320-324.

⁶⁶ See Wenar 1995: 53. For a defense of Rawlsian public reason liberalism against the schizophrenia charge see Daniels 2000, for example.

considerations that stand in tension with each other, since every plausible moral-political theory should acknowledge that there is a plurality of values to be considered.⁶⁷ When assessing a law, we can ask how just it is, how effective it is, and so on. All these different considerations have to be taken into account before we can come to an all things considered judgment about the law. This makes moral thinking complicated, of course, and the issue of comparability of values is a serious one, but it does not lead to a split personality in any meaningful sense. Now the point is that public justifiability does not make moral thinking more difficult than it already is. It is just another consideration that is to be taken into account. The dichotomy between public justification and correctness-based justification stresses that there are two very different forms of justification, but this obscures the fact that public justifiability functions as one consideration among many other considerations *within* correctness-based justification, when it is integrated into a comprehensive liberalism. Here is the picture: on the first level in the evaluation of laws (see section 5), we engage in correctness-based justification and evaluate laws in terms of their justice, fairness, efficiency etc., and we determine what the best law would be in light of these values. On the second level we take into account that others disagree about what the best law would be, and thus we consider moral values that become relevant under such circumstances of disagreement.⁶⁸ Here, public justifiability comes into play as one such second-level moral value, and so public justifiability co-determines what the *all things considered* best law is within a correctness-based justification.⁶⁹ Because public justifiability is just another moral consideration to be taken into account, it does not introduce any form of schizophrenia to our moral thinking. We can safely endorse a comprehensive liberalism and incorporate a principle of public justification.

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⁶⁷ Even if the plurality of values should in the end prove to be a merely superficial plurality, at least on the level of moral phenomenology we have to deal with a plurality of values.

⁶⁸ Some *foundational* values for public justification are relevant on the first level of moral evaluation: stability and respect matter not only under circumstances of disagreement, of course, but determine what the best laws would be. Public justifiability, on the other hand, is a pure second-level value; it does not matter when there is no disagreement about what the best laws would be.

⁶⁹ Of course publicly justifiable (and all things considered best) laws will often not be the best laws from the perspective of the first level of moral evaluation. This is the contrast one usually has in mind when contrasting public and correctness-based justification.

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