

Liberal Neutrality on the Good: An Autopsy

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Should government be neutral "on the question of the good life, or of what gives value to life"?¹

Some political theorists propose that governmental neutrality is a core commitment of any liberalism worth the name and a requirement of justice. For them, neutrality is the appropriate generalization of the ideal of religious tolerance. The state should be neutral in matters of religion, and neutral also in all controversies concerning the nature of the good or the ways in which it is valuable and worthwhile to live.

Opposed theorists find neutrality on the good to be not only wrong-headed but obviously and definitively wrong-headed. A reviewer of a recent book attacking the neutrality doctrine chimes in with the confident belief that "the period of neutralist liberalism is now over."²

The dispute about neutrality on the good breaks down into several different disputes, because what some authors defend under the heading of neutrality is not the same as what others attack. An interpretation of the neutrality ideal must answer at least the following questions: (1) Is it the political government alone that is bound by the neutrality ideal, or is there a version of neutrality that applies to civil society institutions and individual persons as well? (2) How should one draw the line between matters that fall under the concept of the good, concerning which some entities are supposed to be neutral, and matters that do not fall under the good and hence are not bound by the neutrality constraint? (3) What is a neutral policy or framework?

Before tackling these questions, I want to emphasize the limited character of this dispute. The issue is sometimes framed as one between liberals and their opponents. Liberals are thought to be for wide individual freedom of action and limited governmental interference in the conduct of individual lives, and neutrality is thought to be part of the moral argument that justifies these stances. Ronald Dworkin once ventured the interesting suggestion that liberalism is distinguished from rival left-wing and right-wing doctrines by upholding a conception of equality that is neutral on the good, whereas conservatives and radicals alike favor a nonneutral conception of equality and aspire to use state power to establish a virtuous society where the true good prevails.³ There is no point in quarreling over the use of the term “liberal,” which has meant many different things to different people. Dworkin is free to use the term as he likes. But the obvious point should be noted that political views that uphold wide individual freedom of action and limited governmental interference in the conduct of individual lives can appeal to people who are not at all attracted by neutrality or neutral conceptions of equality. John Stuart Mill in a famous essay argued that the goal of maximizing human good—when human good is rightly understood—requires strict conformity to his liberty principle that tightly limits the proper grounds for coercive interference in individual liberty of action.⁴

Mill’s utilitarianism is one example of a nonneutral political morality, one that proceeds by taking a stand on the nature of human good, that in its nonneutral way supports wide individual freedom of action and limited governmental interference in the conduct of individual lives and various other policies often associated with the ideals of liberalism. There are other examples of nonneutral political moralities that support liberal policies. Within the nonneutralist camp, this brand of liberalism has its critics. In

this essay I want to stand aside from these intramural disputes. My aim is to attack the neutrality doctrine.

1. THE IDEA OF NEUTRALITY

Discussions of the neutrality doctrine usually distinguish three versions of neutrality and repudiate one of them as not belonging to a defensible neutrality ideal.⁵

The three versions are:

(1) *Neutrality of aim* requires that no actions or policies pursued by the state should aim at promoting one controversial way of life or conception of the good over others.

(2) *Neutrality of effect* requires that the policies pursued by the state should not bring it about that any controversial way of life or conception of the good is advantaged over others. Nor should state policy bring it about that adherents of any controversial conception of the way of life good are advantaged by comparison with adherents of other ways and conceptions.

(3) *Neutrality of justification* requires that any policies pursued by the state should be justified independently of any appeal to the supposed superiority of any way of life or conception of the good over others.

Once these distinctions among types of neutrality are made, it is immediately clear that nobody who wants to defend neutrality on the good would really want to defend neutrality of effect.⁶ To see this point, consider that basic religious tolerance straightforwardly violates neutrality of effect. If the state guarantees that all its members are free to practice the religion of their choice and proselytize freely on behalf of any religious belief they care to defend, the effects of this policy of religious toleration will be

nonneutral. Some religious doctrines are implausible and cannot withstand public scrutiny and open debate. If the implausible doctrine sect must defend its creed in freewheeling debate, the sect loses adherents, but if religious proselytizing were prohibited, the sect might well thrive, or at least retain members for many generations. Sects espousing plausible doctrines (doctrines that will find willing adherents in free and open religious debate) will be advantaged in the sense of gaining more adherents under a regime of freedom of religion than under a no-poaching regime in which adherents of rival sects are not permitted to attempt to persuade others to convert to their own sect. But most friends of the neutrality ideal would regard neutrality in any relevant sense as satisfied not violated by the regime of freedom of religion including religious free speech no matter what sects gain and what sects lose under this regime.⁷

Beyond this agreement, one finds the ideal of neutrality bifurcating. One ideal is neutrality of justification alone, interpreted to require that the ultimate justification for all state policies should avoid reliance on controversial ideas of the good. This ideal allows as consistent with neutrality that the state might conceivably be justified in pursuing policies that are nonneutral in aim. To take a simple example, one might adopt a policy that aims to promote Roman Catholicism over other religions in a case where this policy has a sound neutral justification, say the achievement of civil peace.

A quite different neutrality ideal results if the neutrality advocate starts with the idea that given the correct understanding of human good, along with other elements of a reasonable political morality, the adoption of policies by the state that are nonneutral in either justification or aim is unjustifiable. On this view neutrality is identified with neutrality of aim plus neutrality of justification qualified by the idea that the adoption of

this package ideal is itself ultimately justifiable partly on the basis of an ideal of human good. One might put the point in this way: Given the nature of human good, the state should never aim to promote any controversial ideals of the good and its policies (except for this very doctrine being proposed) should not be such as to be justifiable only by appeal to the claim that some ideal of the good is superior to any other.

2. THE *STATE* SHOULD BE NEUTRAL CONCERNING *CONTROVERSIAL* IDEAS OF THE *GOOD*

Neutrality of justification is usually held to apply to the state and not to private citizens or other nonstate agencies. The question arises, why the neutrality doctrine should take this particular shape.

The state routinely coerces its subjects and typically claims the legitimate authority to act in the name of all members of the nation. Some theorists claim that these attributes of the state constrain what can qualify as morally acceptable state policies and that neutrality is among these constraints. Perhaps we need not be concerned to show that the neutrality applies to the state and only to the state. If advocates of neutrality can demonstrate that it should constrain state policy, it may not be problematic that the appropriate scope of neutrality might extend farther.

As characterized so far, neutrality of justification exhibits an odd asymmetry. We are told that government should not pursue policies that are justifiable only by appeal to controversial conceptions of the good. If this is sound advice, one wonders whether it applies more broadly. In the same spirit of neutrality, should government refrain from pursuing policies justifiable only by appeal to controversial conceptions of the right? For that matter, a generalized neutrality policy would forbid a government from pursuing

policies justifiable only by appeal to controversial empirical claims such as the theory of evolution or the theory that AIDS is a sexually transmitted disease.

The last extension clearly would go too far for neutrality advocates. But then why should neutrality have just the scope that its advocates claim for it? This essay canvasses two distinct responses. One is that the nature of the good happens to require neutrality. This would be so whether or not claims about the good were controversial. Sections 3 and 4 pursue this response. A quite different response is that "principles of justice [political morality] are objective and interpersonally recognizable in a way that conceptions of the good are not."⁸ Sections 5-8 explore this response.

A further preliminary question is what qualifies a conception of the good as controversial. Neutrality theorists sometimes treat this as a descriptive issue: a conception is controversial just in case people actually dispute it. With controversiality interpreted in this way, the neutrality doctrine would then hold that the policies pursued by the government ought to be actually acceptable to all citizens. Charles Larmore indicates that this is how he construes the ideal of neutrality that he espouses. Political neutrality, he writes, "does not require that the state should be neutral with respect to all conceptions of the good life, but only with respect to those actually disputed in the society."⁹ If everyone happens to agree that some way of life or conception of the good is superior to others, the neutrality ideal allows state policy to be based on this shared judgment.

This does not seem to be an attractive interpretation of neutrality. It is both too strong and too weak. Too weak: Even if everyone in society happens to agree that Roman Catholicism is correct, basing state policy on the judgment that Catholicism is

superior to other religions and worldviews or making Catholicism the established state religion seems to be a bad idea, and not just because someone in the future might well disagree with Catholicism. Too strong: A claim can be controversial just because people actually dispute it, even though there are no good grounds for disputing it. Why does an otherwise acceptable governmental policy become unacceptable just because someone or some number of citizens objects to it even if they have no good reasons to object to it?

One reason that state establishment of Roman Catholicism should strike us as a bad idea even in a society composed entirely of devout Roman Catholics is that there are many good reasons to raise skeptical doubts about the claimed superiority of Catholicism over other versions of Christianity, the claimed superiority of Christianity over other religions, and for that matter about the claimed superiority of religious as opposed to nonreligious worldviews. State coercion deployed to prop up a religion to which reasonable people might well object is unacceptable even if no one actually objects.

The point could be made by stating that if we are trying to interpret a norm against coercive state imposition of what is controversial as sympathetically as possible, whether a claim or doctrine is controversial should be a normative issue, not a sociological issue. The question should not be whether the claim is actually disputed but whether it ought to be disputed, whether there are sufficiently strong grounds that warrant raising objections.

3. THE NATURE OF THE GOOD RULES OUT STATE ACTION TO GAIN IT

In a statement that may merit canonical status, Ronald Dworkin writes that "the government must be neutral on what might be called the question of the good life." He glosses this remark as follows: "political decisions must be, so far as is possible,

independent of any particular conception of the good life, or of what gives value to life."¹⁰ No mention is made here of what is controversial or should be controversial. Instead the contrast is between claims about the nature of the good life and other moral claims. In particular, let us roughly distinguish claims about what we owe to others and are owed by them by way of conduct and terms of interaction and claims about what is valuable or worth seeking in human lives. In a slogan, we distinguish claims about what is good and claims about what is right (moral, fair, just), and neutrality is supposed to be an ideal that applies to the former category of claims only. But the basis for this restriction on the scope of neutrality is not that all claims about the good are uncertain or undecidable and (some) claims about what is right are objectively decidable. Rather the idea is that something about the good renders it an unsuitable basis for determining state policy and an improper goal for state policy.

There are at least two claims to consider that connect the appropriateness of state neutrality with the nature of the good. One claim is that each individual has a special and nondelegable moral responsibility to decide what is to count as a good life for her and to try to bring it about by her own agency that her life qualifies as a good life by this self-chosen standard. Some actions that would violate the neutrality ideal wrongfully interfere with the special responsibility that each individual has to pursue her own good and are improper for that reason. If you have a special nondelegable moral responsibility to mow the grass on your parents' lawn, then no one else should do it for you and no one should interfere with your carrying out this responsibility, other things being equal. Each person's relation to her own good is like that, so there is to this extent a moral underpinning for state neutrality.

The other claim to consider is that for each person the good life has to be an achievement and cannot be a benefit that is conferred on her. State action that violates the neutrality ideal renders what would be the attainment of the good life for an individual an achievement of the state rather than an achievement of the individual and such state action is thus always self-defeating, as though one tried to help one's son walk on his own by "helping" him in ways that guarantee that his movements will not qualify as walking on his own.

It may be worth pausing to notice that the two arguments for state neutrality just given do not rely on anything like skepticism about the possibility of knowledge about the good. Nor is there any reliance on any claim to the effect that only the individual can ever be in a position to know what is the good life for that very individual. To use a very simple example, suppose that there is just one life choice that Smith might make--to be a rancher or a music composer, and there is no doubt that the life of a music composer is superior to the life of a rancher. The responsibility claim is that Smith has a special nondelegable responsibility to make her life a good one and this implies that Smith alone should make the choice to be a rancher or composer and that it would be wrong for anyone to use state power to preempt her choice, manipulate it, coerce it, or otherwise interfere with her freedom to choose. This moral requirement could hold even if such state action would produce the better state of affairs, the one in which Smith becomes a composer and lives better. The self-defeating claim is that the nature of the good is such that Smith's life goes better if she freely chooses it even if she chooses badly than her life would go if she were prevented from choosing freely (or simply did not choose freely) even if the forced choice or preempted choice leads to a way of life that, taken by itself in

abstraction from consideration of the process by which she got to it, would be better. In other words, the self-defeating claim is that interference with an individual's living her life as she chooses in order to improve the quality of that life is inherently self-defeating.

This articulation of the state neutrality ideal has a certain charm. The case for neutrality is interwoven with traditional liberal views concerning the sovereign moral urgency of allowing individuals to lead their own lives as they choose within constraints set by rights of others reasonably understood. Neutrality in this vision is the comrade of anti-paternalism.

The responsibility argument and the self-defeating argument can be made, and have been made, in more sophisticated ways than the crude rendering that I have given. But my rendition contains flaws that (so I would claim) plague any version one might devise, however sophisticated. The arguments do not provide sound support for neutrality of justification.

Suppose a government deems opera to be a valuable enterprise and provides subsidies to opera productions in order to provide every citizen a cheap opportunity to become a member of the audience of a live first-rate production of a fine opera. The justification of this policy is the judgment that the classic repertoire of operas are splendid music and theatre and superior in quality to other forms of entertainment that are likely to be popular among citizens. The policy then straightforwardly violates the neutrality ideal. But if we try to wheel out the responsibility and self-defeating arguments to defend the neutrality ideal in this application, we are stymied. All that the state has done is offer a sample of a good to the individual. This action, reasonable or not, could not be thought to trench on the responsibility the individual has to choose her

own conception of the good and fashion a life plan to achieve it. The state provides an opportunity to undergo a certain experience (and let us say provides an accurate description of it so that the offerees have a reasonably clear idea what it is they are accepting or rejecting) and does not force anyone to have that experience. The opportunity enables one who takes it to form in this regard better informed preferences than one would have had absent the experience. Remaining free to take or leave the offered experience, and, if she takes it, to form her own judgment on it and to be moved or left cold by the experience, it is hard to see how the individual's responsibility for her own good is anything but intact.

One might object that the nonneutral state that subsidizes opera productions out of the conviction that this form of entertainment is more excellent than others must fund the scheme somehow, there being no free lunch, and hence must ultimately take money from its citizens' pockets to pay for the scheme. This is money the citizen might have used for any purpose she chooses, including sampling experiences that would tend to form her preferences in ways that diverge from state priorities. Hence there is nonneutral tampering with the individual's pursuit of her own good in her own way. I confess this seems to me to stretch the idea of interference beyond good sense. And anyway, we can imagine that the state finds itself with a nonconvertible windfall, so it can either subsidize opera (at no cost to taxpayers) or not but cannot put the windfall to alternative uses, and decides to subsidize opera, the justification being its (correct, we can assume) judgment of the superiority of the operatic conception of the good to others. Neutrality is still violated in the example but the responsibility argument provides no support at all for neutrality in this application.

Nor does the self-defeating argument help the neutralist cause. Whatever view we should take of the best process for forming values, ambitions, and preferences, simply offering the opportunity to someone to sample a good she might find to be valuable cannot fall in the category of acts that aim to enhance another's good but are self-undermining.

This example might be claimed to be of the wrong sort to challenge neutrality. The claim would be that a neutral justification can be given of state policies that aim to encourage people to adopt a conception of the good deemed specially valuable (or to reject a conception of the good deemed specially lacking in value) and do this merely by offering individuals the opportunity to experience the favored conception. Such policies merely expand people's freedom, it might be thought.

One might wonder whether expanding freedom on some particular construal of freedom is itself neutral, but just assume for the sake of the argument that some neutral justification for this could be found. Still, the line of thought to this point does not justify state policy that expands individuals' freedom by subsidizing experiences of opera or Shakespearean drama rather than some of the many forms of low-grade and nearly worthless activities that for some reasons are not fashionable in society at present. The justification for expanding freedom by subsidizing opera rather than cockfighting or roller derby must appeal to the claimed superiority of opera.

Another possibility worth discussing is that the responsibility argument and the self-defeating argument, even if they do not amount to a defense of neutrality as so far conceived, might carve out a position that is defensible and in the neighborhood of neutrality.

This possibility seems unlikely. Suppose we accept that each person has a special responsibility to fashion for herself a life that has meaning and worth. This leaves it entirely open that society, the rest of us who could do something to improve that person's life, might have a back-up responsibility in this regard. For example, even if we think that addictive recreational drugs might play a positive role in the lives of some people, for most of us, the use of such drugs is bad for us, and we have a duty to avoid them. I have a duty to myself to avoid addiction to hard drugs, but it is reasonable to suppose that society has a duty to assist me to avoid addiction, and a coercive ban on the recreational use of certain addictive drugs might well be an all things considered sound policy. Such a policy would be justified in part by the judgment that addiction to certain drugs worsens the lives of most addicts.

I do not here mean to enter into the complex issue of whether a coercive ban on the use of certain recreational drugs would be good law in actual circumstances of a particular society. My point is that it might well be, and that the assertion of the special responsibility of each individual to fashion her own good life does not tell against the proposal. Left to my own devices, I might make bad choices and lead a worthless life. Nudged by some coercive laws and a social culture that discourages some of the worst life choices and encourages a range of better choices, I would live better. The mere fact that I would benefit from state action that promotes the good does not suffice to justify such state action. To decide that question, one would have to weigh the overall costs and benefits—some state policies that would benefit me and others like me might exact too high a cost from other people and be indefensible all things considered. But just as the special responsibility of parents to care for their own children is fully compatible with

there being a strong obligation on the part of society to provide for the care and nurturance of children if parents fail in their responsibilities, and equally compatible with there being a strong obligation on the part of society to supplement the efforts even of responsible parents to ensure that all children enjoy a satisfactory level of care, the special responsibility of the individual to fashion her own good life is fully compatible with the responsibility of other people to boost her prospects of attaining the good.

The self-defeating argument, once placed under scrutiny, fares no better than the responsibility argument. It does not get us anywhere near the neutrality doctrine. Many elements of the good life of an individual require intentional pursuit of that element by that very individual. But nothing so far rules out the possibility that nonneutral state prompting might promote individuals' intentionally acting in ways that achieve important goods to a greater extent than would have occurred absent the state prompting. The good of skiing is not achieved unless putative skiers intentionally move their limbs in certain ways, but a state policy that subsidizes skiing and so encourages people to ski rather than to watch television might still succeed in its own terms. The attainment of goods of friendship and love involve the formation of subtle mental states and delicate patterns of reciprocal behavior, so that a third party can do little directly to orchestrate the actions that transform acquaintances into friends and lovers. But a third party can be a matchmaker, or more generally can act so as to place people in situations that render the formation of friendship and love more likely. A society, dismayed by the outcomes of individual romantic choice, might deliberately introduce the custom of arranged marriages and arranged friendships. This might well be bad policy for many reasons, but there is no reason to think it is inherently self-defeating. Genuine love can develop

between Harry and Sally even if they are thrown together against their will by practices fostered by nonneutral state policy.¹¹

4. DWORKIN'S VIEWS

In many situations, it makes sense to think that X is valuable but that forcing or manipulating a person to get X does not enhance the person's life. In part, the disvalue of the forcing or manipulating outweighs whatever value X has. Also, the forcing or manipulating taints X and lowers its value, perhaps to nothing or less than nothing.

Ronald Dworkin tries to extend these claims. He writes, "my life cannot be better for me in virtue of some feature or component I think has no value."¹² Call this the *endorsement constraint*. Nothing is noninstrumentally good for a person unless that very person endorses it.¹³

By itself, the endorsement constraint does not rule out strong paternalism, restricting a person's liberty against her will for her own good in order to attain a goal the person has not adopted. I might value X, but not enough to warrant adopting X as a goal, and someone might think I am underestimating the value of X and force it on me. The endorsement constraint is satisfied here. Also, by itself, the endorsement constraint does not rule out any paternalism that coerces one to attain something for one's own life that one now finds valueless provided the coercion brings it about that one comes to value the imposed good. The endorsement constraint can be interpreted so it is quite weak, if any endorsement however faint counts as endorsement and if any endorsement of a feature or component of one's life at a time at any time in one's life suffices to satisfy the constraint. The *any-time any-amount endorsement constraint* would allow that if I believed for one moment as a small child that birthday parties have slight value then

bringing it about that I get a birthday party any time in my life can enhance the value of my life even if I loathe birthday parties passionately and steadily after that one childhood moment.

To restore the endorsement constraint as a normative bulwark against paternalism, first note that endorsement must be a genuine doing of the endorsing individual, not a state that she falls into through trickery or coercion or manipulation. If Simon Legree paternalistically forces Tom to eat strawberry jam and intimidates him into liking it, the endorsement constraint is not satisfied.

Next, require that endorsement must be simultaneous or retrospective. One might also construe endorsement as a sliding scale constraint, so that no feature or one's life can have value unless one values it, and no feature can have greater value than the value the person herself attributes to it.

Dworkin pushes the endorsement constraint idea by asserting "the priority of ethical integrity."¹⁴ Suppose that the ways that a particular person might live can be ranked from best to worst objectively. The priority of ethical integrity insists that the value of living any of these lives is only fully achieved if the life satisfies integrity. Moreover, no life a person might live that fails to achieve integrity, no matter how wonderful it might be in all other respects, is a better life than any life she might live that does achieve integrity. In the overall ranking of ways a person might live her life, the value of ethical integrity takes strict priority. Dworkin asserts, "Someone has achieved ethical integrity, we may say, when he lives out of the conviction that his life, in its central features, is an appropriate one, that no other life he might live would be a plainly better response to the parameters of his ethical situation rightly judged."¹⁵ When

someone contemplates acting to enhance the quality of another person's life, that person's settled convictions about what sort of life would be best for her to live strongly limit the possibilities that coercion or manipulation or inducement might improve the person's life. The priority of ethical integrity proposes that one cannot improve a person's life by bringing it about that she leads a life that lacks ethical integrity if the life she would have lived absent one's interference would have satisfied ethical integrity.

Dworkin situates the endorsement constraint and the priority of ethical integrity within a discussion of a way of conceiving of the good life that he calls the "challenge model" and believes to be widely embraced in contemporary societies.¹⁶ The challenge model regards a good life as a skillful or admirable performance that is produced in response to the challenge posed by the fact that one has a life to live. Of course, an individual could respond in an admirable way to the challenge posed by horrific life conditions without living what anyone would regard as a life that was good for him. So the account is qualified by the stipulation that a good life is an admirable performance that is a response to a challenge constituted by favorable life conditions. Dworkin introduces an important distinction between two kinds of life conditions, "limits" and "parameters."¹⁷ For an example of the distinction at work, suppose you are born with enormous potential artistic talent and a strong propensity to form artistic ambitions. These life circumstances might plausibly be viewed not as features that limit the extent to which one can achieve a good life but rather as features that partly define the challenge of one's life, responding well to which would be, for one, living well. In contrast, such life circumstances as that one suffers from chronic allergies that make it difficult to practice art and that one is impoverished and has no money for paint brush and easel are limits. A

further complexity in Dworkin's challenge model of the good life is that to some degree it is up to the individual to decide which features of her life are to count as challenge-defining parameters and which are to count as limits--aids or obstacles that facilitate or hinder her achievement of her good. Living well is in part doing well at this fundamental task of interpreting and thereby constituting the nature of the challenge posed by one's life circumstances. Another bit of complexity is that some parameters are normative, not simply descriptive. Some parameters just occur or not. It may be partly definitive of my life challenge that I am a Roman Catholic boy from Minnesota, but I could just as well have been a Lutheran boy from Iowa. But there are some features or possible features of an individual's life that ought to be parameters of it and others that ought not to be parameters.

The bearing of this discussion of challenge on the priority of ethical integrity and the impossibility of (certain kinds of) successful paternalistic coercion is supposed to be straightforward. The priority of ethical integrity does not straightforwardly rule out coercive paternalism because it is conceivable that one might force someone to sample a good that they then come to appreciate and to value for its merits, this good then being integrated in a life of integrity that is objectively better than what the individual would have had without suffering the coercion. Also, in some cases, a person is not leading a life of ethical integrity, and would not do so absent paternalistic coercion, so the priority of ethical integrity does not in that sort of case rule out paternalism as inadmissible. It might even turn out that via coercive paternalism a person comes to be pushed toward a way of life that she comes to value and affirm as best for her, whereas without the

paternalism she would have led her life drifting from one set of goals to another without really affirming and endorsing the goals she seeks.

Nonetheless the priority of ethical integrity united to the challenge model of the good life is a strong bar to many kinds of what might have seemed attractive paternalism. If Smith values the life of religious monasticism one cannot improve her life by coercing or manipulating her into a life of politics which she continues to regard as less good than the monastic alternative.

Dworkin's accounts of the challenge model, the endorsement constraint, and the priority of ethical integrity raise many questions. Consider one. One might for the sake of the argument go along with much that Dworkin says but still resist the claim that a life that lacks ethical integrity cannot be better than one that has it. Recall that Dworkin makes no appeal to the claim that what is really good for a person is subjectively fixed by her preferences and attitudes. An advisor who judges that Smith would lead a better life if she were wholeheartedly devoted to politics than she would if she were wholeheartedly devoted to monasticism may be correct, Dworkin concedes. So it might seem that if we load up one life with large amounts of objectively great goods, but stipulate that the person leading the life underestimates these goods and thinks an alternative life she might have lived would have been better, and contrast it with another life for that person in which through overestimation of the quality of the goods she gets, the person achieves ethical integrity, but imagine the actual character of the life as progressively worse, at some point we should say that the achievement of ethical integrity in the second life is outweighed by the superior quality of the goods achieved in the first, so the first life is overall better, even though it lacks ethical integrity.

This line of doubt can perhaps be stretched further. Dworkin presents ethical integrity as though one either has it or lacks it, period, but one might insist that ethical integrity as Dworkin conceives it must come in degrees. One can be more or less confident that the life one leads is better than any alternative one might have led. One can believe that the life one leads is better by a long or by a short chalk mark than the next-best life one might have led. If one does not believe the life one is leading is the best among the alternatives, one might be more or less confident of this judgment, and one might believe one's actual life falls short of the best by a smaller or by a greater amount. One can still assert that these various judgments of degree are cut by a sharp line that separates having ethical integrity and lacking it. One might say that if one is just barely more inclined than not to accept the judgment that the life one actually is leading is the best one could lead, one achieves ethical integrity. But then the objection suggests itself: Why should the slight difference between suspended belief and a bare tilt toward acceptance of the belief that constitutes ethical integrity make the enormous ethical significance that Dworkin attributes to it? A lot of weight, so far as determining the quality of a person's life is concerned, is being made to rest on not much. A closely related objection would claim that even if ethical integrity is conceded to be important for the good life, it should not be deemed to have lexical priority over all other constituents of the good life.

Dworkin illustrates how (as he sees it) the challenge model of the good life supports the priority of ethical integrity by imagining bad defenses of coercive critical paternalism that try to launch themselves within the challenge framework. For example, one might propose paternalistic legal prohibition of some bad ways of life, in the

expectation that with these bad ways no longer options, people will pick among the remaining better options and will by and large be attracted to the ones they select by a sound appreciation of their good qualities. If this desirable scenario unfolds, the advocate of paternalism holds, paternalism will be compatible with the challenge model of ethics, the endorsement constraint, and the priority of ethical integrity. Dworkin demurs. His ground for objecting is that we bowdlerize the challenge a person faces in his life when we narrow the range of options among which he chooses just in order to prevent his selection of a bad option. This manipulation and narrowing of the choice set of competent adults must make the challenge they face a worse one, so we cannot really be improving their lives as the paternalist advocate had hoped.

Dworkin puts a further rejoinder in the mouth of the paternalist: if we can bring it about that a person has a better chance of choosing and achieving a truly valuable life if we put in place restrictions on his choice set, why isn't that improving the quality of the challenge posed by his life. Dworkin responds, "That reply misunderstands the challenge model profoundly. . . .It assumes that we have some standard of what a good life is that transcends the question of what circumstances are appropriate for people deciding how to live, and so can be used in answering that latter question." But, says Dworkin, the assumption is false. "On the challenge view, living well is responding appropriately to circumstances rightly judged, and that means that the direction of argument must go in the other way."¹⁸ For the case at hand, that means we would have to have "some independent reason for thinking it is better for people to choose in ignorance of lives other people disapprove," and we conspicuously have no such independent reasons.

These objections and replies provided by Dworkin improve our understanding of his challenge model of ethics but also give us good reasons to reject it, so any support that challenge might give to the endorsement constraint or the priority of ethical integrity will finally evaporate under scrutiny. The problem is just that we do have a standard of what makes for a good life that is independent of any specification of a desirable challenge for life circumstances to pose for an individual. A life that has lots of pleasure, especially when this comes by way of enjoyment of what is truly excellent, a life that includes sustained and deep relationships of friendship and love, a life that includes significant achievement in art or culture or systematic scientific understanding, a life that includes significant and sustained meaningful and interesting work--these features of a life inherently make it a better one for the one who lives it. One responds well to the challenge posed by one's life, so far as prudence (gaining a life that is good for oneself) goes, insofar as one brings it about that one gets more rather than less of these and whatever other objectively valuable goods there are.

5. SKEPTICISM ABOUT KNOWLEDGE AS THE BASIS FOR NEUTRALITY

Dworkin's conception of the neutrality ideal (and related ideals) takes a stand on the nature of the good and deduces that given the nature of the good, a policy of state neutrality concerning it is morally required.

Another line of thought that leads to state neutrality begins with claims about moral epistemology. Whatever the nature of human good, the relevant starting point for thinking about state policy on the good is that claims to knowledge in this domain are inherently uncertain and controversial. The point does not have to be that all claims about what is intrinsically good have this status, just that some do. A popular version of

the neutrality constraint construes it as prohibiting only pursuit by the state of policies justifiable (if at all) only by appeal to a claim that some controversial conception of the good is superior to another. According to this version of neutrality, if in a particular society it is uncontroversial that ice cream is good, state policies favoring the production and consumption of ice cream do not qualify as objectionably nonneutral.

It is not plausible to suppose that in the general case, it is wrong for individuals to act in ways whose justification is controversial. Some controversial claims are true, and others are reasonable to believe in the circumstances even if untrue. Faced with a grim epidemic, it may be empirically unclear what strategies of response have a good chance of success, so any state health policy to combat the epidemic will be controversial. But if state officials act for the best as they see it after reasonable attempts to figure out what will ensue if the various candidate epidemic-fighting strategies are pursued, state policy is not faulty just on the ground that it is controversial.

Defenders of the neutrality constraint do not rest their case on the claim that no one should ever do what is controversial. The claim they defend is more limited. The neutrality constraint actually defended rules out not any policy based on a controversial justification but those that appeal to controversial conceptions of the good, and moreover not such policies pursued by anyone but only such policies pursued by the state. The neutrality constraint bars the pursuit by the state of policies justifiable only by appeal to the claim that some controversial conception of the good is superior to another.

Among defenders of the neutrality constraint, something approaching a consensus has formed around a further limitation on the intended scope of neutrality. The constraint applies not to each and every policy the state pursues, but only to constitutional essentials

and basic justice, or the principles that regulate the basic structure of society. Defenders of neutrality deliberately leave open the possibility that the legislation and regulatory policies of a state might be nonneutral but not objectionably nonneutral because they do not concern the basic-set-up of social arrangements.

In this spirit, John Rawls writes, “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.”¹⁹ Brian Barry asserts, “nobody is to be allowed to assert the superiority of his own conception of the good over those of other people as a reason for building into the framework for social cooperation special advantages for it.” Explaining the same idea, he states, “at the point where basic principles and rules are being drawn up, no conception of the good should be given a privileged position.”²⁰ The contrast being drawn by these authors is between basic rules of society, which are to be justified by neutral principles, and non-basic rules of society, which need not be. One might also draw the contrast between the constitution that sets the political decision-making rules and particular policies adopted under these rules. Only the former must satisfy the neutrality constraint. Or rather, within a neutral constitutional framework, laws are passed by a majority that might suppose its enactments are justified by the superiority of its conception of the good, but what renders these laws acceptable to all is that they became law by way of a fair procedure that is neutrally justifiable.

Barry provides a clear statement of the claim of moral epistemology that underpins liberal neutrality: “no conception of the good can justifiably be held with a

degree of certainty that warrants its imposition on those who reject it.’’²¹ The position then is that at the level of constitutional essentials, the principles that justify the basic political set-up should themselves have a neutral justification—a justification that does not appeal to any claim that one controversial conception of the good is superior to another. The appeal to one’s own controversial conception of the good may be adequate to justify how one conducts one’s private life and also one’s pursuit of public policies (under a neutral constitution) that dovetail with that conception, but it can never justify the basic terms of social cooperation.

For the moment, leave aside the limitation of the neutrality constraint to the determination of constitutional essentials. This limitation represents a significant and not clearly motivated concession by neutrality advocates to their opponents. I take up neutrality on constitutional essentials in the next section. The present question is whether skepticism or uncertainty that one’s current conception of the good is correct could justify the position that appeals to such a conception to justify one’s own conduct of life can be acceptable but that appeals to it to justify coercive uses of state power are morally unacceptable.

Disagreement about the good is rife in modern societies. Intelligent, noncrazy people show no discernible tendency over time to converge in beliefs about religion or more generally what is valuable and worthwhile in human life. At least, this is so in societies that allow wide freedom of discussion and self-regarding action. Given these evident facts, any individual should be doubtful that her own conception of the good is really superior to what others profess. In this situation, acting on one’s own conception

can still be reasonable but imposing it on others coercively must be unreasonable. So goes the argument.

The difficulty with this argument is that shifting from the private action context to public action simply increases the stakes. The possible costs and benefits of action and also of inaction are usually magnified when the issue is public policy rather than how one individual should conduct her own life. But the argument under review does not appeal to blanket skepticism about knowledge of the good or claim that in this domain there is no such thing as knowledge. But if, even knowing that my current beliefs about the good are fallible, it can still be rational all things considered to act on them, then there will be situations in which just that modest degree of confidence in the truth of one's beliefs about the good will justify coercive uses of state power (if one could get one's hands on state power).

Compare uncertain factual belief. My engineering knowledge is weak, let us say, but the value to me of having a bridge over a small stream on my property renders it reasonable to try to build a bridge despite knowing that errors in my understanding might result in a bridge that collapses. But then there will be some balance of expected costs and benefits such that my fallible engineering knowledge justifies me in extending a public highway via a bridge across a large river despite the risk that the bridge will be badly constructed and collapse owing to some mistaken engineering beliefs I hold. Moving from the private decision to the public decision magnifies the stakes but this increases the possible costs and benefits of both inaction and action and so cannot uniquely counsel inaction. The same goes for fallible and uncertain ethical beliefs.

In the face of pluralism of belief, according to the neutrality advocate it is supposed to be the case that it can be reasonable for an individual to conduct her life according to her own view of the good even though others disagree, but never reasonable to impose her view on others who disagree.²² If one is nonnegligently ignorant either of the existence of others who disagree with one's views or the grounds for their disagreement, one will not be epistemically at fault in ignoring the challenge their views pose to one's own. But once one is aware, or should be, that others disagree for certain reasons, then one cannot proceed as though there is no challenge. Either it is the case that the others' objections to one's views neutralize or defeat them or not. If the latter, then one is reasonable to continue to believe in the superiority of one's own views. But then one's own views, rationally deemed superior, are available to justify both the conduct of one's life and choice of public policy. If the former, then I do not see how a rational person could continue to insist on the superiority of her own views. If any reasons I have to support Christianity are countered by equally strong reasons another can give to support Hinduism, then I cannot continue to believe Christianity is uniquely correct doctrine. I should give up my belief in the unique correctness of Christianity and believe that either Christianity or Hinduism might be correct or that neither one is. If the arguments for my own view are tied or bettered by arguments for opposing views, I have no basis for trying to bring it about that state power is put behind my view and against the others. But equally I have no basis for regarding my own view as superior and acting on it when what is at issue is how to conduct my own life.

6. NEUTRALITY ON CONSTITUTIONAL ESSENTIALS

Some theorists claim that neutrality on the good becomes more plausible and attractive if the scope of required neutrality is limited to basic matters—to constitutional essentials or to matters of basic justice.²³ Is this so?

In the absence of an account that specifies what is constitutionally essential or falls under the heading of basic justice, it is hard to answer this question decisively. But there are grounds that tilt toward a negative answer. Neutrality on constitutional essentials is an unstable position. If there are good grounds for neutrality, they extend beyond constitutional matters, and if there are good grounds for adopting nonneutral policies, they press beyond legislative policies to constitutional essentials or alternatively beyond policies concerning nonbasic matters to policies affecting basic justice.

To illustrate this possibility, suppose that a majority of religious fundamentalists might vote for a local public school curriculum that entrenches a conservative view of the value of sexual expression. On this view, sex outside of marriage is valueless and so is nonheterosexual sexual activity. If the content of a local public school curriculum is regarded as left open by constitutional essentials and basic justice, then the neutrality doctrine, applying only to the essentials and the basics, does not condemn this public policy specifying the school curriculum. But if neutrality ever looks plausible, this sort of case should be its home ground. In the example imagined, some citizens are putting state power behind a conception of the good that is sectarian in the sense that many other citizens will reject it and be perfectly reasonable in doing so. Surely this sort of thing should qualify as objectionably nonneutral if anything does.

The neutrality advocate who favors restricting its scope to the essentials and the basics may have in mind the thought that beyond this restricted sphere it is acceptable for

those who favor different views of the good to compete in the democratic process to try to enact policies they favor. Those who win will have won in a fair democratic competition.

But this appeal to democratic process is a red herring. Let us assume that democracy suitably defined is a fair political procedure and that democratically enacted policies are procedurally fair. This leaves it entirely open whether democratically enacted state policies are substantively fair or just. Neutrality is supposed to be a constituent of a substantive conception of the just state.

Some who endorse restricting the scope of neutrality to the essentials and basics suggest that no coherent system of legislation could conform to neutrality.²⁴ On this view, restricted neutrality is achievable; neutrality with expanded scope is not. But this claim is false. Neutrality with expanded scope is surely feasible. A government might limit itself to the enforcement of Lockean libertarian rights, which are taken to be morally fundamental. Such a government would not be in the business of pursuing policies that could only be justified by the claim that some controversial conception of the good is superior to another. It might or might not be desirable for a government to refrain from basing its policies on controversial views about the good, but it is feasible.

Brian Barry writes that “decisions about what the publicly run schools are going to teach must obviously involve a view about the value of learning some things rather than others, and that for this reason “it would be absurd to suggest that there is some way of determining a curriculum that is neutral between all conceptions of the good.”²⁵ The setting of a public school curriculum is proposed as just one example of the impossibility of requiring that not only constitutional essentials but all legislation and public policy be

neutral on the good. But what Barry suggests is absurd seems to me entirely possible. Given that what we have in mind is not neutrality of effect but neutrality of justification, we can fix a school curriculum by appealing only to neutral conceptions of people's individual rights coupled with uncontroversial ideas of the good. If everyone agrees that basic literacy and mathematical competency is good, we can appeal to the idea that it is fair that every person have fair opportunity to attain some reasonable threshold level of literacy and mathematical competence, and run public schools on this basis.

Barry might be intending to assert not that strict adherence to the neutrality ideal in the formation of public policy would be impossible but that its predictable results would be very undesirable. With this claim I would of course have no quarrel. The question would then be whether this is the opening wedge toward admitting that the neutrality ideal should be rejected.

We return to the question, why neutrality on the good might be deemed desirable, but only when limited to the essentials and basics. Suppose that constitutional essentials include a specially protected set of rights that are regarded as morally important, likely to be threatened by majority rule in some circumstances when the rights pinch majority interests, and effectively protectable if insulated to some extent against the immediate will of the majority of voters. I see no principled objection against including among the set of constitutionally protected rights, rights defined in terms of controversial conceptions of the good. For example, each citizen might be guaranteed a right to education for autonomy: each citizen has a right to an education that induces in her the ability and disposition to live according to values endorsed after reflective scrutiny. For another example, a constitution might declare that apart from instances of unrelievable

pain or anguish or loss of intelligent consciousness, continued human life is always a good opportunity for an individual, even if the individual thinks otherwise, so there should be no general legal entitlement to suicide at the individual's discretion.

I do not claim that it would necessarily be a good idea to entrench autonomy or the value of life as a constitutional right. A constitution is supposed to be an instrument for securing several moral aims over the long run in the context of a particular people or group of peoples with a particular history. The appropriate aims that a constitution should serve might also vary with the historical context. What provisions should go into a constitution in a particular setting will obviously depend on complex arguments that vary from case to case. The exploration of this topic lies beyond the scope of this essay. My suggestion is merely that if it is thought legitimate that a constitution should give special protection to certain individual rights that unchecked majority rule (or unchecked minority rule for that matter) is likely to threaten, then some of these individual rights may be rights to controversial aspect of good. Nothing per se in the shift from ordinary legislative and administrative politics to constitutional politics supplies any reason to eschew controversial claims about human good.

7. THE PRINCIPLE OF LIBERAL LEGITIMACY

Neutrality of justification can be regarded as a special case of a broader principle that has been called the principle of "liberal legitimacy."²⁶ A *legitimate government* is one that does not act toward its members in ways that can be justified (if at all) only by appeal to principles that someone could reasonably reject. The policies pursued by a legitimate government have justifications available to any reasonable member of society.

Neutrality of justification is weaker than liberal legitimacy. Some policies forbidden by the latter are not forbidden by the former. For example, a government might impose on its citizens a conception of distributive justice that is controversial and reasonably rejectable. But the appeal is to a controversial conception of justice or fairness, not to a controversial conception of the good, so neutrality of justification does not object. However, any policy that is condemned by neutrality of justification will also be condemned by liberal legitimacy.

At least, this is so if the terms "controversial" in the statement of neutrality of justification and "reasonably rejectable" in the statement of liberal legitimacy are interpreted as equivalent in extension, so whatever counts as controversial also counts as reasonably rejectable.

One can obviously set the reasonable rejectability standard high or low. At one limit, all candidate principles and norms are reasonably rejectable unless they are best or tied for best along the dimension of being supported by morally relevant reasons.

If one sets the bar of reasonable rejectability lower, some of these principles that are best supported by reasons will still qualify as reasonably rejectable because someone who is reasonable enough though not fully reasonable would reject them. The weaker the standard of reasonable rejectability, the more demanding is the principle that one should not impose policies on people that are not justified by principles they cannot reasonably reject.

A principle is weakly reasonably rejectable when it can be rejected by a person who is being somewhat reasonable, but making some mistakes, reasoning in confused ways, or failing to appreciate some reasons at their true value. But so far as I can see the

only version of the liberal legitimacy principle that is acceptable is one that incorporates the notion of maximally reasonable rejectability. If principle X is best supported by relevant moral considerations all things considered, why is it wrong to act on the basis of X just because some people would reject it for less than fully adequate reasons?

Moreover, those who propose the liberal legitimacy principle incorporating some notion of weakly reasonable rejectability do not attend to the possibility that there are no principles and policies that pass the test of liberal legitimacy so construed. Maybe every principle is rejectable from some weakly reasonable perspective. People sometimes write as though it were obvious that some “lowest common denominator” principles will be acceptable to anyone who is at all reasonable, but this neglects the possibility that acting on the basis of putative lowest common denominator principles is itself objectionable from some weakly reasonable standpoints.

The notion of being reasonable and acting on reasons is inherently a maximizing ideal.²⁷ It is not fully reasonable to be moved by some reasons while ignoring or misunderstanding stronger ones. A fully reasonable agent identifies all relevant reasons for action and assigns each its correct weight and acts on the basis of the resultant—what it is most reasonable to do all things considered. Hence the liberal legitimacy norm is either unacceptable or reduces to the prescription that one should be (maximally) reasonable.

This dismissal of liberal legitimacy may be too swift. A strand in liberal theories holds that a legitimate government is one that secures the actual consent of the governed—not their hypothetical ideally rational consent. Expressing this idea, Jeremy Waldron asserts that “the liberal individual confronts his social order *now*, demanding

respect for the existing capacities of his autonomy, his reason, and his agency.”²⁸

William Nelson interprets political liberalism as committed to the ideal that “principles are adequate only if they should be accepted by all reasonable persons on the basis of beliefs and values they *already hold*” (rather than on the basis of beliefs and values they would hold after ideal critical reflection with full information).²⁹ Charles Larmore has suggested that liberal legitimacy interpreted in this way is supported by a Kantian ideal of respect for persons.

8. EQUAL RESPECT FOR PERSONS

The connection between equal respect for persons and liberal legitimacy is supposed to run as follows:

1. If one uses force or the threat of force against another person in ways (in accordance with principles) that she could reasonably reject, one uses the other person as a mere means, and fails to treat her with the respect that is due to all persons.
2. One ought always to treat persons with the respect that is due to all persons.
3. One ought never to use force or the threat of force against another person in ways (in accordance with principles) that she could reasonably reject.

In this argument the notion of what one could reasonably reject is to be interpreted as weak reasonable rejectability. Notice that the argument condemns all forcing of persons in ways they could weakly reasonably reject, and not merely forcing people through the agency of the state.

The problem with the argument from equal respect is that on no plausible interpretation of the norm of respecting other persons will it turn out to be the case that imposing on persons coercively in the name of principles they "reasonably" reject has to

be failing to treat them with the equal respect owed to all persons. Premise 1 in the argument above is incorrect. On nonmaximal notions of reasonable rejectability, one may "reasonably" reject a principle by making a mistake in reasoning or failing to weigh properly the force of the relevant reasons. But one does not exhibit disrespect for a person by treating her in accordance with principles that she actually rejects, but that she would accept if she were fully rational. The principles that fully rational persons would accept may be imputed to all rational agents including imperfectly rational agents. When I exercise my practical reason, I seek to find what is truly rational, not just what looks to me to be rational. Interacting with others, I have a right to be treated according to rational principles, the principles most strongly supported by practical reason. If my actual exercises of practical reason go off the track, and I end up affirming, for example, racist principles, you do not treat me with disrespect by treating me in accordance with rational nonracist principles that I actually reject but would accept if I were fully rational.

The norm of treating persons with equal respect tends to be associated with the Kantian principle that one should treat humanity, whether in oneself or another, always as an end and never merely as a means. The idea of humanity at the center of this principle is the idea of rational agency capacity, the power to appreciate reasons and to be moved to action by one's judgment of the balance of reasons impinging on one's decision. To respect a person is to abide by the principle of humanity and thus to respect her rational agency capacity. But again, the question arises, what respect for rational agency capacity requires. Notice that treating people with respect for their rational agency cannot require treating them always only according to principles they actually accept, because one might face a situation where one's action will inevitably affect two people and they accept

conflicting principles, so that treating a according to the principles she accepts is ipso facto treating B according to principles he does not accept. But one might hold that one should so far as is possible always treat people only according to principles they actually accept.

Consider cases in which an agent must act in some way or other that will affect persons A and B and all parties correctly agree that the case falls under moral duty: the agent is duty-bound to treat A and B in a particular way. A, B, and the agent disagree as to what way this is, what moral duty requires in these circumstances. Suppose the agent is correct in her judgment of what duty requires, and A and B are both incorrect. Then it would not really accord with the will of A and B if the agent alters her course of action away from what duty requires and toward what A and B incorrectly think duty requires. As moral agents, A and B want action to be done that actually accords with moral requirements, not action that accords with their opinions about what is morally required if those opinions are wrong. (Suppose this is not so. A and B want above all to be treated according to morality as they see it, regardless of what moral requirements as they bear on the case really specify. Then what A and B want is not morally acceptable and failing to treat them as they want, in case morality as they see it diverges from objective moral requirements, is not plausibly regarded as failing to accord them the respect that morality demands.)

9. CONCLUSION

I have argued that sound conceptions of human good, even if they are controversial within a society, contribute nonredundantly to the justification of the state policies and constitutional essentials that ought to be followed in any given society. This

argument might reduce to paper-shuffling for all practical purposes if no sound yet controversial conceptions of human good can be identified.

Identifying such ideas of human good and defending them is the topic for another essay. In conclusion I simply want to point toward the kinds of claims that would fill this bill. Advocates of the neutrality doctrine often seem to have in mind state establishment of religion as the paradigm of nonneutral state policy. In this way of thinking conceptions of good tend to be either controversial religious doctrines such as Roman Catholicism or Hinduism or controversial philosophical theses about the nature of good such as hedonism (pleasure and pleasure alone is intrinsically good) or narrow perfectionism (what is intrinsically good is developing to a high degree the essential human capacities, the properties that make humans human).

But the opponent of neutrality can readily concede that there are many claims about human good that are contentious and uncertain and unlikely to figure in any successful argument concerning what state policy should be. To defend nonneutrality in practice one must only hold that there are some sound yet controversial conceptions of good that should figure in justification. The most likely candidates are common-sense and perhaps humdrum notions.

Consider this list of candidate human goods:

1. Pleasureable experience and especially enjoyment of the excellent.
2. Satisfaction of reasonable life aims.
3. Relationships of friendship and love.
4. Intellectual and cultural achievement.
5. Meaningful work.

6. Athletic excellence..
7. Living one's life according to autonomously embraced values and norms.
8. Systematic understanding of the causal structure of the world.

The claim is that these are objective human goods and that the more of them an individual gains over the course of her life, the better her life goes for her.³⁰ The state ought to promote these goods, or rather some function of these goods that political morality selects as fair and right. Moreover, the full moral justification of the policies the state ought to pursue will incorporate the premise that these putative goods are genuine, intrinsic goods. Hence, state policy should be nonneutral.

It will be objected that the conception just described is too banal and indeterminate. At this high level of abstraction, it is uncontroversial that the items on the list are genuinely good. But at more fine-grained levels of description, these putative goods become genuinely controversial. To serve as nontrivial guides to policy, one would need to have on hand principles that weight these goods against each other and assign them comparative values.³¹ But reasonable people will disagree about these matters.

In response: I submit that something in the neighborhood of the proposed list of goods is sound yet controversial, and that even in the absence of quantitative comparative ranking principles, the conception amounts to a substantive component of the justification of morally acceptable state policies. Regarding comparison and measurement, one should expect to find partial commensurability. For many possible mixtures of goods, there may be no fact of the matter as to which package is best. But acceptance of partial commensurability is not acceptance of neutrality; quite the contrary.

¹ . Ronald Dworkin, "Liberalism," reprinted in Dworkin, *A Matter of Principle* (Cambridge: Harvard University Press, 1985), pp. 181-204.

² . Thomas Hurka, reviewing George Sher's book *Beyond Neutrality: Perfectionism and Politics* in *Ethics*, vol. 109, no. 1 (October, 1998), p. 190. The last sentence of the book reads "As one finishes his [Sher's] book it is hard not to believe that the period of neutralist liberalism is now over."

³ . Ronald Dworkin, "Liberalism," p. 191.

⁴ . John Stuart Mill, *On Liberty*, reprinted in Mill, *Collected Works*, ed. , vol 17 (Toronto: University of Toronto Press,). John Skorupski defends a nineteenth-century, broadly Millian conception of the relation between the theory of the good and political morality against contemporary doctrines of neutrality on the good in his *Ethical Explorations* (Oxford: Oxford University Press, 1999, chapters IX-XI.

⁵ . The versions are distinguished in Charles Larmore, *Patterns of Moral Complexity* (Cambridge: Cambridge University Press, 1987). See also Richard Arneson, "Neutrality and Utility," *Canadian Journal of Philosophy* vol. 20, no. 2 (June, 1990), pp. 215-240.

⁶ . Joseph Raz tends to think that neutrality should incorporate neutrality of effect, but he is a critic not a supporter of neutrality. See Joseph Raz, "Facing Diversity: The Case of Epistemic Abstinence," *Philosophy and Public Affairs*, vol. 19, o. (1990), pp. 3-46.

⁷ . Although neutrality of effect is certainly not the sort of neutrality pro-neutralists favor and should not be the target of anti-neutralist attack, theorists often slip into the posture of assuming that neutrality of effect is the core commitment that neutrality advocates should make.

For example, in his book on multicultural citizenship Will Kymlicka argues that the policy of separation of ethnicity and state, modelled on the policy of separation of church and

state, is incoherent. His idea is that while it is possible for the state to be neutral on matters of religion, it cannot in a similar way be neutral in matters of ethnicity, because government business must be conducted in some language or other, and any choice inevitably non-neutrality favors the ethnic members of society who share that language and disfavors those ethnicities that speak other languages. When the government carries out its ordinary functions, it inevitably gives a boost to some group of language-users in the society, so in this way (and perhaps in others as well) the state cannot be neutral on ethnicity as it can perhaps be neutral on religious matters.

What sort of neutrality are we talking about here? Suppose Canada contains French speakers and English speakers and a decision is made that government business will be conducted solely in English, the language of the majority. The grounds for the decision are to save the administrative costs of conducting public business simultaneously in two languages and to encourage all Canadian citizens to learn English so that there is a language, shared by all, in which national democratic discussion can be conducted. This may be good or bad, fair or unfair, policy--that is not at issue. The stated policy on language does not aim to promote , so neutrality of aim is not violated. Even more clearly, the justifications for the policy do not appeal to any judgment that one ethnicity or culture or linguistic group in society is superior to any others, so neutrality of justification is not violated. If one is to claim that the stated policy is non-neutral, one must have in mind neutrality of effect as the pertinent neutrality ideal.

⁸ . This quote is from Thomas Nagel's characterization of Rawls's view in "Rawls on Justice," reprinted in Norman Daniels, ed., *Reading Rawls: Critical Studies of 'A Theory of Justice'* (New York: Basic Books, 1975), p. 9.

⁹ . Charles E. Larmore, *Patterns of Moral Complexity*, p. 67.

¹⁰ . Ronald Dworkin, "Liberalism," p. 191.

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- ¹¹ . The responsibility argument and the self-defeating argument are criticized in George Sher, *Beyond Neutrality: Perfectionism and Politics* (Cambridge: Cambridge University Press, 1997), chapters 3-4. See also Steven Wall, *Liberalism, Perfectionism, and Restraint* (Cambridge: Cambridge University Press, 1998), chapters 6-8.
- ¹² . Ronald Dworkin, *Sovereign Virtue: The Theory and Practice of Equality* (Cambridge: Harvard University Press, 2000), p. 268.
- ¹³ . Good criticisms of the endorsement constraint deployed as an argument for liberal neutrality on the good are made in Thomas Hurka, "Indirect Perfectionism: Kymlicka on Liberal Neutrality," *Journal of Political Philosophy*, vol. 3, no. (1995), pp. 36-57. I discuss the endorsement constraint in "Human Flourishing versus Desire Satisfaction," *Social Philosophy and Policy*, vol. 16. No. 1 (Winter, 1999), pp. 113-142. Dworkin's views on this topic appeared earlier in his "Foundations of Liberal Equality," in Grethe Peterson, ed., *The Tanner Lectures on Human Values*, vol. 11 (Salt Lake City: University of Utah Press, 1990), pp. 1-119.. For criticism, see Arneson, "Cracked Foundations of Liberal Equality," written in 1994 for a volume of essays on Dworkin and His Critics that has so far not been published.
- ¹⁴ . Dworkin, *Sovereign Virtue*, p. 270.
- ¹⁵ . Dworkin, *Sovereign Virtue*, p. 270.
- ¹⁶ . On the challenge model of ethics, see Dworkin, *Sovereign Virtue*, pp. 250-254.
- ¹⁷ . Dworkin, *Sovereign Virtue*, pp. 260-263.
- ¹⁸ . Dworkin, *Sovereign Virtue*, p. 273.
- ¹⁹ . John Rawls, *Political Liberalism*, revised ed. (New York: Columbia University Press, 1996), p. 137.
- ²⁰ . Brian Barry, *Justice as Impartiality* (Oxford: Oxford University Press, 1995), p. 160. Also Charles Larmore, "The Moral Basis of Political Liberalism," *Journal of Philosophy*,

vol. 96, no. 12 (December, 1999), pp. 599-625; also Larmore, *The Morals of Modernity* (Cambridge: Cambridge University Press, 1996), chapters 6 and 7.

²¹ . Barry, p. 169. For criticism, see Richard Arneson, "The Priority of the Right over the Good Rides Again," *Ethics*, vol. 108, no. 1 (October, 1997), pp. 169-196.

²² . For discussion, see Richard Arneson, "Rawls versus Utilitarianism in the Light of *Political Liberalism*," in Clark Wolf and Victoria Davion, eds., *The Idea of a Political Liberalism: Essays on Rawls* (Lanham, Md.: Rowman and Littlefield, 2000).

²³ . For an argument for this view, see Peter de Marneffe, "Liberalism, Liberty, and Neutrality," *Philosophy and Public Affairs*, vol. 19, No. 3 (Summer, 1990), pp. 253-274.

²⁴ . See Barry, *Justice as Impartiality*, p. 161.

²⁵ . Ibid.

²⁶ . For criticism of the liberal legitimacy principle deployed to support the neutrality doctrine, see Wall, *Liberalism, Perfectionism, and Restraint*, chapters 3-5; also Sher, *Beyond Neutrality*, chapter 6; also Joseph Chan, "Legitimacy, Unanimity, and Perfectionism," *Philosophy and Public Affairs*, vol. 29, no. 1 (Winter, 2000), pp. 5-42.

²⁷ . A maximizing ideal does not presuppose full commensurability. With respect to a standard of choice and a set of alternatives, one maximizes if one chooses an alternative that is not worse than any other alternative according to the standard. One can do this even if some choice is no better than some other, not worse than this other, and not exactly as good as the other.

²⁸ Jeremy Waldron, "Theoretical Foundations of Liberalism," reprinted in Waldron, *Liberal Rights: Collected Papers 1981-1991* (New York: Cambridge University Press, 1993), p. 62.

²⁹ . William Nelson, "Liberal Theories and Their Critics," in Robert L. Simon, ed., *The Blackwell Guide to Social and Political Philosophy* (Malden, Massachusetts and Oxford: Blackwell Publishers, 2002), pp. 197-217; see p. 212.

³⁰ . Similar lists of objective goods are proposed by Derek Parfit in *Reasons and Persons* (Oxford: Oxford University Press, 1984), "Appendix: What Makes Someone's Life Go Best?", and by George Sher in *Beyond neutrality*, chapter 9; and by Martha Nussbaum, *Women and Human Development: The Capabilities Approach* (Cambridge: Cambridge University Press, 2000), pp. 78-80. (Nussbaum proposes a list of freedoms or capabilities for the good, which should be secured for all individuals. Whether or not the capabilities are exercised or fulfilled is not, according to her, the business of the state.)

³¹ . Chan has an interesting discussion of this issue in "Legitimacy, Unanimity, and Perfectionism,," pp. 10-20.