

Abstract

In this chapter I present a distinct account of neutrality in which the acceptability or justice of policies or public actions can only be established ‘holistically’, requiring an all-things-considered assessment in which the neutrality of those policies is never by itself definitive. Instead, neutrality is a definitive constraint only on the justification of principles/theories of justice. I first set out a proper understanding of the value behind neutrality, defending this value from autonomy-based objections to neutrality. I then use that account to show how the value engages with policies and public actions. I also respond critically to views that see neutrality as a standard to be established separately to theories of justice. Finally, I argue that the value of neutrality with its proper scope and object in place can explain how to address cases of claimed exemption on the basis of burdens of conscience by people with ‘deeply’ held convictions.

Keywords

neutrality; justification; principles of justice; burdens of conscience; theories of justice

On the *Scope* and *Object* of Neutrality

Policies, Principles, and ‘Burdens of Conscience’

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In this chapter I argue that the neutrality of a public policy is not a consideration that ever, by itself, recommends that policy, nor is lack of neutrality in itself a reason for rejecting a policy. Rather policies must be judged in the light of a number of considerations arising from standards of justice. This is not because neutrality does not matter; it does. However, it serves only as an absolute constraint for *principles* of justice designed to guide public authorities. As I shall argue, its relationship to policies is more complicated.

In Section 10.1, I challenge a misunderstanding about the *scope* of neutrality and explain why neutrality reflects a morally important distinction between personal life aims and political aims. In 10.2, I argue that the *object* of neutrality as a constraint cannot be individual state policies and laws, the acceptability of which requires a holistic, all-things-considered judgment; policies can be non-neutral but just and neutral but unjust. The standard distinction between outcome and justificatory neutrality is unhelpful here as neither option captures why neutrality matters for political morality. In 10.3, I defend a principle-neutrality view in which neutrality works as a constraint on principles of justice at two levels: equal respect and equal concern. I then pose a dilemma for ‘free-standing’ accounts of the value of neutrality. In 10.4, I show how the account in 10.3 addresses the ‘burdens of conscience’

problem (claims for accommodation where people bear certain personal burdens due to their ‘deeply held’ beliefs).

10.1. NEUTRALITY AND ESTABLISHMENT

What matters morally about any policy is whether and how it affects people’s social rights and obligations. By imposing socially recognized rights and duties political authorities shape people’s cooperative relationships, which makes the exercise of such authority liable for moral evaluation. So, what is of moral concern when states adopt a religious stance (‘establishment’), then, is the imposition of such rights and duties on a religious basis. I will for this reason focus on establishment as the permission or requirement that public institutions configure the arrangement of social rights and duties in a society according to religious priorities for people’s lives. For example, adopting laws allowing planning-permission decisions to be decided according to religious evaluation of the priorities by which people guide their own lives is a form of establishment.

Neutrality, by contrast, focuses on principles for guiding public authorities and our judgment of them when they arrange social rights and duties. In formulating such principles, we should exclude appeal to certain considerations as an inappropriate framework for justice. Framing principles to reflect judgments of people’s ends and priorities in terms of how valuable these are for an individual life would mean incorporating obligations that systematically show disrespect to people’s exercise of their own capacity to choose ends and priorities for their own lives. Such judgments are therefore excluded. This version of neutrality does not, by itself, tell us which considerations should be *included*. However, as a matter of *scope*, it does not imply

an exclusion of all moral beliefs or all moral values. It itself reflects the moral value of *political respect and concern* for people in adopting values and aims that they choose to pursue as life priorities. On that conception of neutrality, principles incorporating judgments about individual life priorities are inappropriate for guiding the cooperative relationship-arranging powers of political institutions. They may reasonably feed into principles guiding other agents, such as friends and family, under conditions where people are open to advice.

Principles of justice for political agents must give no weight to considerations based on judgments of this personal life-evaluating kind if they are to show equal concern and respect. Religious grounds exhibiting judgments about the value of personal salvation and hedonistic grounds containing judgments about the superiority of a life of pleasure, would both be inappropriate considerations to build into principles that guide public institutions in their imposition of socially recognized rights and duties.

It may seem from the above that any degree of establishment is incompatible with neutrality, especially if one adopts an ideal of neutrality in the justifications that can be publicly offered for a policy. By definition policy decisions and resulting policies arrived at through processes involving establishment would violate this aim. However, as I aim to show, neutrality and policy judgments involving establishment can differ in their object, allowing the two to be surprisingly compatible on some issues and in some cases.

For now, I will focus on the *scope* (rather than *object*) of neutrality. Principles for guiding public institutions that are based on evaluating the commitments individuals adopt and prioritize as *guides for their personal lives*, are not neutral. Institutions can be guided by principles that involve an evaluation of people's life ends on other

grounds, such as where pursuing these ends implies actively disrespecting others in their own choices and priorities. Consider people who prioritize pursuing coercive personal or political power in order to challenge others' own personal life commitments. A principle that allowed sanctions on such pursuits could still count as neutral because it does not imply judgment of those person's ends on the grounds of their value in guiding an individual life. The grounds for the evaluation is their disposition to respect others prioritizing and pursuing their own ends. Similarly, neutrality does not exclude favouring certain *civic virtues*, say through educational endorsement, as part of a personal moral life.¹ Given the contribution of those virtues to a society that shows equal respect and concern to citizens. The scope of neutrality, then, distinguishes between evaluation of ends as personal life guiding versus evaluation of how they impinge on protections for others' ability to pursue their own ends. The version of neutrality I set out excludes evaluations of the former, but not latter kind.

In what follows I shall refer to this scope restriction for neutrality as a constraint that accounts of justice should not be based on evaluations of people's *personal life* commitments, priorities, or aims by which I will mean commitments and priorities for a person to guide her life (her actions, plans, and choices) rather than say for institutions to guide theirs.²

¹ This explains why Rawls can be a neutralist in this sense and yet favour certain civic virtues (e.g. civility and tolerance) as part of his theory (1993: 194). I am thankful to Veronique Munoz-Dardé for a useful discussion on this point.

² This is therefore an *agency-based* interpretation of Rawls' distinction between a political conception and a comprehensive moral doctrine (1993: 13, 125).

Is there indeed a moral value in avoiding the evaluation of commitments, priorities, and pursuits for a personal life when proposing institution-guiding principles? Some authors have argued for principles that endorse promoting life aims for people that are objectively good (Sher 1997: chapters 3 and 4). However, in forming attachments, developing commitments, and pursuits, and priority orderings between them in our lives it matters absolutely that our pursuits, and priority orderings, are arrived at by us. As valuable as it might be that a given activity ‘is pursued’ in general, my life must be lived by me and I must be able to stand up for my ends *and* the way I have arrived at, and arranged them—integrated them—as mine. If someone else decides what matters for my life, however plausible it may be, this will sideline my experimenting, getting things wrong along the way to getting them right, discovering what truly moves me out of all the valid options and possibilities available, and my knitting of these together into some coherent notion of a life and of the person that pursues it. Some theorists object that just because I need to acquire a commitment to be able to stand by it, that is not a reason for others to avoid using non-rational means (including institutional power) to get me to adopt it as mine, if that is best for me.³ These views fail to consider the ‘*path dependent*’ version of the claim I set out above: that it matters *how* I integrate a commitment as mine—it matters that it is through the exercise of my capacity to integrate, rather than someone else’s decisions about my rightful exercise of that capacity, and that exercise determines whether an end is indeed right for me.

For these reasons, I take it that there is a special value in having others recognize and respect my sovereignty over the exercise of my capacity to integrate

³ Sher (1997: 88, 100) criticizes Dworkin (1983) for this claim.

commitments into my life in various ways, within the constraints of my respecting theirs. That value *constrains* the value we can place on other ends and pursuits we might recognize as objectively worthy—their inclusion in a person’s life is only morally valuable and worthy of political recognition if this self-sovereignty value is respected. Institutions empowered to arrange our political rights and duties should not impose duties on individuals to guide their own lives by prescribed ends. Any personal life ends required of us are, as a result, tainted. The political requirement that we adopt or prioritize these ends challenges the sovereign exercise of our capacity to integrate and prioritize our own ends—it fails to respect what I shall from now refer to as *self-sovereignty*.

10.2. HOLISM IN JUDGING POLITICAL ACTION

The literature on neutrality commonly distinguishes between neutrality of effect and neutrality of justification for policies (Kymlicka [1987](#): 884; Sher [1997](#): 4; Larmore [1987](#): 75–6, 130; Patten [2012](#)). The former proposes that public institutions should not make policies that have the effect of favouring the pursuit of one conception of the good, set of commitments, or priority ordering of ends over others. It is clearly an implausible notion of neutrality because any policy is likely to have differential outcomes for people with different life commitments (Ibid.). Political agents cannot pursue policies whilst remaining neutral on this account. What ends up being non-neutral here also has nothing inherently to do with the content of the conceptions of the good affected by the policies. Justificatory neutrality is more plausible as it focuses on how policies are justified in our public deliberation—excluding as non-neutral those policies justified by reference to promoting some particular conception

of the personal good, or thwarting others. This version has trouble with policies that seem compatible with principles of justice even if they are publicly justified on non-neutral grounds. Public institutions might support a certain personal virtue on the grounds that it serves a given religious conception, yet that virtue might be highly valuable in promoting social stability and civility. By contrast, however, I propose a different focus for neutrality altogether, with a different object of neutrality to policy effects and policy-justification views, thus avoiding their respective problems. This is a *neutrality of principles* account.

This account is not designed to characterize the justice or injustice of individual public institutional actions and policies. It focuses instead on principles of justice and how we go about justifying and shaping those principles. Full and consistent political justice would be where institutions act according to the right principles. However, when it comes to the justice of particular institutional decisions, actions, and policies, the view is *holistic*. It allows that a policy may be non-neutral if justified by reference to an evaluation or ranking of different commitments as part of the personal good, but may be consistent with justice. It also allows that a policy may be perfectly neutral and yet unjust.

Road traffic policies that promote safe driving might be publicly justified as encouraging personal kindness and virtue throughout people's lives. This could involve compulsory classes on consideration and kindness for drivers as part of their driver training. The policy is not necessarily unjust or wrongful in itself even if its justification is mistaken in assuming that public judgments of people's personal life commitments and priorities are acceptable. It is the right policy pursued for the wrong reasons. These publicly offered reasons would be wrong if framed as a principle because that principle would be non-neutral and thus fail to show respect for self-

sovereignty. The policy upshot is right insofar as it is consistent with principles of justice grounded in appropriately neutral reasons.⁴ Alternatively, consider a policy that has positive social effects in improving the condition of the worst off in society, but justifies this by reference to a religious conception of the personal good. For example, a government might justify giving a significant grant to a church which at that time is solely equipped to carry out certain public works and assistance to the poor but do so on the grounds that it will inspire piety. Yet this would achieve a great deal towards improving the condition of the least advantaged. These are non-neutral *grounds* for a policy that is at least compatible with social justice. So, whilst non-neutral reasons inherently violate equal respect when they shape and justify principles of justice, they do not necessarily do so when justifying policies.

Consider also cases where a policy is publicly justified by a mixture of reasons (as is usually the case) with no one reason being given a decisive weight. For example, a government might propose an additional consumption tax on alcoholic beverages, over and above standard consumption taxes on healthy soft drinks. This might be motivated both by reasons of public health (and social costs) *and* by religious reasons, such as the promotion of a way of life judged to be more pious. In such cases we might plausibly say the action is compatible with principles of justice whilst one of its public grounds is wrong.

⁴ Cf. [Patten](#), who criticizes justificatory neutrality because it ends up calling even state policies that favour a religious perspective ‘neutral’ if they are justified non-religiously, when they are not neutral in his view ([2012](#): 255–6). A *neutrality of principles* account avoids this because it can say that whilst public justification for the policies might indeed lack neutrality, the principles the policy serves or with which it is consistent are neutral. There is no inconsistency between the two claims.

Some policies may be neutrally justified yet unacceptable for other reasons, say their negative effects on the worst off, for example giving an excessively free hand to the market solely as a tool for distributing social opportunities. Note that the neutrality of the policy does not even make it *pro tanto* just versus all-things-considered unjust (as it might in a case where justice conflicts with the value of averting social instability or catastrophe). In fact, it is unclear how we can even begin to assess a policy purely in terms of its neutrality, before other considerations are introduced. Neutral institutions can be entirely indifferent to people's health, security, or other facets of their lives that they ought to care about in their treatment of citizens. Without adding information of this kind, there is no obvious sense in which a policy is even *pro tanto* recommended simply because it is neutral.

Furthermore, one cannot actually tell what is right or wrong about many policies when by them individually. The justice of making alcohol consumption more difficult both for public health reasons and pious reasons depends on context; as part of a programme of policies that lead to social stigma for non-Muslim ways of life, however, it tips over into injustice despite its positive features. For these reasons policies must be judged holistically, given that they can exhibit a number of features that should be taken into account. The contribution of neutrality in judging an action will vary with other features of the action, including what else there is to recommend it in an overall assessment.

Non-neutral considerations are inherently bad, but not because they have a one-to-one relationship with bad policies. The reasons-policy relationship is more complex. Rather they represent bad reasons either when they directly require interference with self-sovereignty (in which case it is not their non-neutrality that is inherently wrong), and they are bad reasons when they require us to incorporate non-

neutrality into the design of *principles* of justice. This is because general principles are designed to guide how institutions should arrange social rights and duties. If such principles favour one set of guiding aims and priorities for people's lives they will guide institutions to impose duties on people that give support to those following personal priorities that are not their own.

Some actions and policies are always *pro tanto* unacceptable because they incorporate a rejection of citizens' self-sovereignty, such as policies that punish people's commitment to a certain end, or repress the expression of such a commitment. Non-neutral considerations can form the rationale for such actions by demanding that we act in ways that reject a person's self-sovereignty because of an evaluation of her life choices and priorities, on religious grounds say. But what categorically rules out these actions is not lack of neutrality, as non-neutral reasons can motivate individual policies that respect self-sovereignty. Rather, it is when non-neutral reasons require policies that challenge self-sovereignty. Imposing costs, such as punishment, on chosen ends or life priorities because they are the 'wrong' priorities for an individual life is one way to disrespect self-sovereignty. Another way would be to punish beliefs because the priorities of a government in cementing support, by punishing dissent, are important enough to override allowing individuals to devise their own priorities.

However, *principles* of justice designed to promote commitments and priorities on the basis that they are valuable aims for a person's life are inherently wrongful principles. They are excluded by the value of respect for self-sovereignty introduced above: our respect for people's exercise of their ability to *pursue a life of their own* by integrating different commitments into it and determining their own order of priority for those commitments and how they pursue them within their lives. Respect for

people's *moral sovereignty* over that process rules out theories or principles of justice that incorporate judgments and evaluations of people's ends as more or less worthy priorities for their lives.⁵

Contrast this notion of equal respect with a view based on autonomy. Autonomy is not just being treated as sovereign over the exercise of a capacity but also the achievement of a certain quality of the capacity itself—a disposition that can be promoted or induced in people. Some accounts see this as an individual's responsiveness to objective reasons or to genuine values (Sher 1997: chapter 3). This means favouring institutional arrangements that foster or facilitate people being more rather than less responsive to those objective reasons in their lives. For some theorists this justifies a non-neutral political philosophy, one that might even require interference with people's commitments and priorities (Sher 1997: 61). Autonomy is, on this view, compatible with promotion by such interventionist means.⁶

The value of respecting self-sovereignty, however, is not the value of *promoting* self-sovereignty for people in their personal lives. Rather it is the value of treating others *as* self-sovereigns, worthy of exercising the capacity to integrate personal life-guiding commitments and priorities without public judgment. If the value of

⁵ Religious views that adhere to principles that respect self-sovereignty, even for religious reasons (e.g. because it safeguards our souls) and broach no religion-based exception to this respect, would be examples of religious reasoning underpinning neutrality of principles. I thank Cécile Laborde for prompting this clarification.

⁶ Viz. Sher's claim that if we want to increase the likelihood that people respond to real reasons (the value in certain activities), even incentives, threats, or coercively imposed 'laws can make eventual responses to that (potential) value more likely' (Sher 1997: 69). Individuals can thus be helped to be more autonomous.

autonomy is compatible with, and indeed requires, maximizing the likelihood that each individual will respond to commitments that are objectively valuable, the value of respect for self-sovereignty rejects this aim as a political ideal.⁷

10.3. TWO LEVELS OF NEUTRALITY

The value of respect for self-sovereignty rules out principles of justice that incorporate requirements or permissions to challenge self-sovereignty. It also rules out policies that directly challenge self-sovereignty in action, whether for non-neutral considerations or otherwise. However, this value also rules out principles that incorporate evaluations of the personal good when guiding how institutions should distribute resources, even where these principles do not endorse interference with the adoption or prioritization of personal commitments. A principle can respect basic self-sovereignty by ruling out interference but nevertheless endorse social advantages for individuals pursuing certain ends and priorities for their lives. Here non-neutral considerations based on evaluations of people's life choices frame principles for determining how social benefits and burdens are distributed.

Social distributive justice sets standards for institutions with the special power to distribute social advantages and disadvantages through the allocation of socially recognized rights and duties. This power allows institutions to establish special social-cooperative relationships between citizens in which some are given social burdens for

⁷ Sher considerably inflates the body of considerations that we can 'respond' to as reasons whilst still acting autonomously to include even our 'desires and aversions [and] past decisions and psychological makeup' can be values grounding reasons to which we can 'respond' (1997: 52).

the sake of providing others with social benefits.⁸ The benefits of property, for example, are assigned in the form of property rights with corresponding duties assigned to respect these rights. Similarly, rights to enjoy services and opportunities depend on publicly recognized duties to permit and facilitate those services and opportunities, including legal access duties and tax duties to resource these opportunities. The authority to do this, the legitimacy of public institutions, depends on fulfilling certain moral conditions for a political community. Minimally that authority requires equal respect, given that no political set up can genuinely claim to represent its citizens if those citizens' self-sovereignty is in jeopardy. That is the first level of the neutrality constraint discussed above.

However, different accounts of distributive justice are compatible with this minimal constraint. A form of public policy utilitarianism is conceivable that does not interfere with individuals' self-sovereignty whilst promoting those that act in line with utility. More to the point, a form of perfectionism could be pursued by public institutions that gives more opportunities to certain conceptions of the good or imposes disadvantages on others, whilst refraining from directly challenging self-sovereignty. Justice is not, on this view, a condition of legitimacy but legitimacy is indeed a condition of justice. This is because there are plausible grounds on which institutions can act and get it wrong about justice in terms of distributive arrangements, yet do not violate basic self-sovereignty, but there are no conditions in which institutions violating self-sovereignty act justly.⁹

⁸ See elaboration of this at [Meckled-Garcia \(2016\)](#).

⁹ Possible accounts of non-fully-just legitimacy in the literature include: [Rawls \(1999: 65–7\)](#), where Rawls allows for the reasonableness of well-ordered (but not liberal) societies for the purposes of international legitimacy. Cf. [Cohen \(2004: 213\)](#). There is controversy as to

However, even above this legitimacy threshold, principles can direct distributive decisions on the basis of rankings or evaluations of priorities for individuals' lives. Such principles do not require institutions to engage in the illegitimate activity of directly challenging people's self-sovereignty. Rather, they fail to respect self-sovereignty in a slightly different way. They will direct, or at the very least permit, institutions to impose burdens on some for the sake of promoting a particular set of priorities for an individually good life. Whether or not they might be committed to those choices, or might come to not be committed to them, this is disrespectful because it effectively treats people as instruments employed *for the sake* of this end. Given the inherently cooperative character of public institutions mentioned above, any arrangement of socially recognized rights and duties will configure social cooperation in a particular way. Non-neutral principles require institutions to configure this cooperation in a way that fails to treat all citizens with equal concern or fairness in adopting and pursuing their priorities. Rather, institutions acting on such principles will consistently give or allow advantages to some personal life priorities over others. Adopting principles that require or allow taxes to be diverted to supporting a particular kind or religious lifestyle is not the same level of wrong as direct interference with people's self-sovereignty by, say, requiring them to change their personal ends and priorities. But it does imply consistently treating people with different priorities as living lives less worthy of public concern, given that principles will permit or require institutions to place their ends at a *de facto* disadvantage. For that reason, it is wrong to incorporate non-neutrality into principles for distribution.

whether legitimacy requires democracy or less stringent consultation mechanisms; see

Meckled-Garcia ([2014](#)).

10.3.1. A Dilemma for Policy-Focused Accounts of Neutrality

I have emphasized that the value of neutrality can only apply to theories of justice, as a constraint, rather than directly to state actions and policies. It is, in that sense, something that must be incorporated into those principles. Is there an alternative? To think so, one would need an account of the kind of actions and policies that are recommended in terms of their neutrality. The only way to provide this, without falling back on a comprehensive theory of justice, is with some account of even-handedness or similar accommodation of people's different conceptions of the good, distinct from the principles of justice themselves. Without a distinguishable theory of positive neutral actions, a theory will be forced to rely on a comprehensive account of distributive justice to determine what kinds of policies can be recommended. Neutrality will have no independent role in judging policies as *pro tanto* acceptable or unacceptable. However, as I will show, accounts of policy neutrality that are supposedly separate from, but additional to, a comprehensive account of justice have trouble finding a distinct role for a moral value of neutrality. I will illustrate this using Alan Patten's account of neutrality.

On Patten's view neutrality is additional to, but separate from, principles of distributive justice. Institutions that are otherwise just must also be 'equally accommodating of rival conceptions of the good' in the sense of always 'equalizing inputs' with foreseeable likely outcomes (such as levels of taxation on items required for pursuing a conception or equalizing rights and duties across conceptions), if there is to be any input at all (Patten 2012: 257). His examples of 'inputs' include the creation of public sports facilities, taxation on sports activities, and the extension of

marriage rights. So, can these notions of ‘equal accommodation’ or ‘equalizing inputs’ be defined in a policy-focused way, applying not to the formulation of principles but rather directly to policies?

Consider Patten’s example of a government taxing people who play lacrosse in order to fund other legitimate aims, such as education. This is non-neutral, and so *pro tanto* wrong, on his view because it: ‘denies lacrosse enthusiasts a fair opportunity for self-determination’ (2012: 264). But what does the non-neutrality claim add to the claim that this is unfair? Many different kinds of policies can be said to be unfair (on Patten’s or alternative versions of fairness). A random selection, say by lottery, of a section of the population to pay the extra taxes would also constitute a denial of ‘fair opportunity for self-determination’ for the unlucky ones. For neutrality to play a distinctive role, something special must be said about why the lacrosse players are singled out, given one could pick out this group for reasons that have nothing inherently to do with lacrosse. For example, it might be the most lucrative way to tax leisure or it might be the easiest or most efficient way to do so, given patterns of participation in this society. The choice is wrong, if it is wrong, in each case for the same reason: the unfair impact on the opportunities of the persons affected. A description of what is wrong here need make no special mention of lacrosse or its value for a conception of the good. This is a similar problem to one we identified with neutrality-of-effect views: the negative impact of a policy on a people with a particular conception of the good need not be necessarily connected to the content of that conception.¹⁰ Consider also cases where a policy, say promoting Christian

¹⁰ In fact, Patten’s view, though he says otherwise, is a type of neutrality-of-effects view. It is just that the effect he focuses on is impact of policies on opportunities.

kindness towards fellow citizens, does not foreseeably conflict with fair opportunity for self-determination but rather protects civic order. On this view the policy is neutral. Yet that is accidental given it aims to promote behaviour by reference to its religious status. To introduce non-neutrality considerations proper, as opposed to merely showing policies are compatible with fair or unfair impact on the opportunities of a group, one would seem to need to link the choice to impact this group with something evaluative about that group's conception of the good. The mere fact that opportunities are or are not impacted for them is enough to talk about fairness but not enough to talk about neutrality. But as we saw, focusing on motivation alone reintroduces the problems that justifications and individual policies have a complex relationship, as I have explained above. Rather, it seems, neutrality as a moral ideal does not match up neatly with assessing individual policies; it must instead focus on principles.

10.4. THE BURDENS OF CONSCIENCE

A growing body of literature has posed a problem for liberal neutrality (e.g. [Seglow 2010](#); [White 2012](#)). This is that, apparently, some requirements of liberal policy will impose excessive burdens on people with deeply held personal beliefs of the kind exemplified by religion (but not necessarily restricted to religion).¹¹ For example, one might consider observant Sikh police officers who are committed to wearing a turban yet faced with police rules about uniform helmets, traditional religious practices that use narcotics in the context of drug laws, conscientious observers facing state

¹¹ See [Laborde \(forthcoming, chapter 6\)](#).

demands for military service, or Catholic doctors required to give advice on abortions. Some authors think the burdens of abiding by neutral laws in such cases pose a special problem because it seems reasonable to accommodate at least some of the individuals involved on the grounds of their consciences. Yet we can only say that from a non-neutral stance of judging holders of these types of beliefs as having claims worthy of special consideration and accommodation (compared to other lifestyle choices, such as recreational narcotic use).

It is useful to parse how the neutrality constraints I have introduced bear on this problem. Public institutions do not act legitimately if they impose burdens on people that challenge self-sovereignty. So a policy, or a principle that endorses a policy, that imposes burdens on conscience directed at altering people's commitments and priorities based on a hierarchy of the personal good will fail this minimal test, regardless of its other merits. Principles that permit such policies are wrong; imposing the policies is illegitimate. But this test is not sufficient for distributive justice and two questions remain about principles that pass it.

Firstly, can or should considerations relating to burdens of conscience be incorporated as considerations in an account of distributive justice? Secondly, for matters of public policy where a choice of policy that might burden someone's conscience does not directly derive from principles of justice, is some accommodation required? I am assuming that some policy choices might not be unjust, even if they do not derive directly from principles of justice. So choosing a certain kind of uniformly applied safety rule for required motorcycle headgear, say a hard helmet, might not derive directly from any principle of justice. Yet it is not obviously unjust. The question here is whether people whose conscience is burdened by such a policy have any further claims to special consideration.

Taking the first question, a great deal turns on the nature of the ‘depth’ of the deeply held beliefs that can give rise to special burdens of conscience. If depth is defined in terms of how desirable it is that people should have this commitment as part of their conception of the personal good, then neutrality indeed rules this out from reasoning about acceptable principles of justice. For example, a view might say that a certain range of convictions (religious ones included) are of special value and so the social burdens faced by people with such convictions should be taken into account in our principles. But that approach proposes principles for distributing benefits and burdens that favour those convictions whereas they might not favour other commitments (say a commitment to a life of hedonism or to the being a socialite). In principle, if not in practice, this effectively permits us to define whether burdens on certain commitments are excessive or not for people in a way that favours certain conceptions of the good, because their followers have those commitments, whilst the followers of other conceptions have different commitments, the burdening of which is not defined as excessive. To that extent this approach will frame principles that allow us to treat people who might adopt, alter, develop, or prioritize different personal commitments throughout their lives as instruments for giving advantages to people with the favoured convictions.

To avoid using people as instruments while still taking into account burdens of conscience, principles for burden distribution would need to invoke neutral grounds for treating these burdens of conscience as weighty considerations. That means reasons not based in evaluating commitments for the personal good. But that seems implausible if we are to recommend protecting people with such convictions from resulting social burdens. A raw psychological account of commitment strength will not do, as it would not explain a duty to especially accommodate these commitments

in our principles. Psychological force, and discomfort, might be debilitating and so ground a claim for medical assistance or rehabilitation. But without an argument for why the psychological discomfort is a moral reason for treating *the preferences* of the sufferer as a valid claim, then we have no reason to give any weight to the burdens of conscience. Each person's psychological attitudes to her beliefs have no moral authority in deciding what justice requires from us. The only sense in which burdens of conscience might be normatively, rather than psychologically, relevant is if we accepted that holders of the commitments are already worthy of protection from resulting burdens. But that is simply special pleading for this class of beliefs on the basis of non-neutral considerations, imposing as it does burdens on people who exercise their self-sovereignty to pursue different notions of the personal good life, for the benefit of those with the favoured beliefs. It thereby fails to show them equal concern in social cooperative arrangements.

Now, where a policy choice is not itself a requirement of distributive justice but is not unjust, a case can be made that some impacts of this policy should be ameliorated by accommodations. Allowing the choice of Sikh turbans versus standard issue police helmets (assuming the increased risk is not overwhelming) seems a reasonable signal of society's commitment to opportunity for diverse groups. This is an all-things-considered assessment of the pros and cons of the policy, taking into account compatibility with justice, differential impact, feasibility, complexity for implementation, and social signalling. The acceptability of a policy is, as I have said, a holistic matter and the desirability of allowing these kinds of permissions for one group (assuming they are not unjust) depends on the balance of reasons in their favour. But importantly, such assessments require a prior account of principles of justice and such principles must be grounded in neutral consideration.

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