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RESEARCH ARTICLE

Public Reason Requirements in Bioethical Discourse

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Abstract

This paper analyzes the use of public reason requirements in bioethical discourse and discusses when such requirements are warranted. By a "public reason requirement," I mean a requirement that those involved in a particular discourse or debate only use reasons that can properly be described as public reasons. The first part of the paper outlines the concept of public reasons as developed by John Rawls and others and discusses some of the general criticisms of the concept and its importance. The second part then distinguishes between two types of public reason requirements in bioethics. One type is what I will call the orthodox public reason requirement since it hews closely to the original Rawlsian conception. The second is what I will call the expansive public reason requirement, which departs quite radically from the Rawlsian conception and applies the requirement not to policy discourse or policymaking, but to the actions of individuals. Both types of requirements will be analyzed, and some problems in applying public reason requirements in bioethics will be identified. It will be argued that the expansive public reason requirement is misguided. The concluding part argues that requirements of civic civility and what Rawls terms an "inclusive view" of public reason should be important in bioethical discourse.

Keywords: metaphysics; overlapping consensus; public reason; Rawls; religion

Introduction

The purpose of this paper is to analyze the use of public reason requirements in bioethical discourse and to discuss when such requirements are warranted. By a "public reason requirement," I mean a requirement that those involved in a particular discourse or debate only use reasons that can properly be described as public reasons.

The first part of the paper will briefly outline the concept of public reasons as developed by John Rawls and others and discuss some of the general criticisms of the concept and its importance. The literature on public reason requirements is vast since it has been a core area of contestation in political philosophy. The initial outline will therefore necessarily be selective.

The second part will then distinguish between two types of public reason requirements in bioethics. One type is what I will call the orthodox public reason requirement since it hews closely to the original Rawlsian conception and the later developments of that conception. The second is what I will call the expansive public reason requirement, which departs quite radically from the Rawlsian conception. Both types of requirements will be analyzed, and some problems in applying public reason requirements in bioethics will be identified. It will also be argued that one of the reasons put forward by Rawls for why we should all accept public reason requirements, that is, we all have reason to adhere to civic civility in public political debates, seems to be missing in some bioethical writing.

The concluding part will argue that requirements of civic civility and what Rawls terms an "inclusive view" (Rawls 1996, p. 247) of public reason are justified in bioethical discourse.[1]

Rawls on public reason

The idea that public policy debates should be conducted purely in terms of public reasons has been proposed by many philosophers and political theorists and for a number of different reasons. Some, like Rawls, argue for this view as a question of political philosophy, whereas others, like the well-known Christian philosopher Robert Audi, argue for a slightly stricter "secular reasons" view on moral grounds (see also the discussion in Audi & Wolterstorff).[2] The *locus classicus* for a public reason requirement that is most often referred to in bioethics and political philosophy is, however, undoubtedly John Rawls' development of the idea in Lecture VI of "Political Liberalism."[3] Rawls takes it as a basic fact of modern societies that there are irresolvable value differences that are rooted in the different comprehensive worldviews held by the citizens in these societies and that this is a permanent feature of these societies that is not going to be resolved. Policy, however, still must be developed and implemented, including basic constitutional policies and policies where the state uses its coercive power to achieve specific policy goals. Rawls argues that in public debates about these types of policies the participating citizens should engage in the debates using public reasons only and that voters, politicians, and judicial decisionmakers should only make decisions based on public reasons. The scope of the Rawlsian public reason requirement is limited in two ways. It only applies to some policies, and it only applies to public discussions and voting and to decisionmaking by public authorities. It does explicitly "… not apply to our personal deliberations and reflections about political questions, or to the reasoning about them by members of associations such as churches and universities […] But the ideal of public reason does hold for citizens when they engage in political advocacy in the public forum …."[4]

And it only applies to a sub-class of political questions "… involving what we may call 'constitutional essentials' and questions of basic justice. […] Many, if not most political questions do not concern those fundamental matters, for example, much tax legislation and many laws regulating property …."[5]

How do we decide whether a particular reason put forward by a participant in public discourse counts as a public reason? There are several approaches suggested in the literature. The Rawlsian approach is to investigate the justificatory basis of the reason and discount reasons that are based on a person's specific comprehensive worldview. This approach, for instance, labels religiously based reasons as "non-public" since every religion holds a specific comprehensive worldview that is not shared by citizens who belong to other religions, or who are non-religious. However, there are many comprehensive worldviews that are not religious worldviews. A Marxist holds a specific comprehensive worldview that is not shared, as does the committed communitarian or libertarian. The same is of course true of comprehensive ethical worldviews. A committed Christian will have an ethical worldview based on a particular Christian moral theology, which ultimately will be based on a specific interpretation of scripture, tradition, and authority. Some elements of this ethical worldview will not be shared by adherents of other religions, or by agnostics and atheists. However, philosophically grounded ethical worldviews also contain elements that are not shared and are potentially incommensurable. The consequentialist lives in a moral universe where rights are not fundamental and where, at the limit, human rights are "nonsense upon stilts," whereas the rights theorist lives in a different moral world where rights are basic and some of them are potentially absolute.[6] It is easy to identify non-public reasons based on a specific comprehensive worldview if the participants in the discourse accompany their arguments with clear "comprehensive worldview-derived" markers, that is, if the proposition put forward is of the form "Based on comprehensive worldview C I assert X," for example, "Based on a Marxist analysis of exploitation, the buying of organs should be prohibited." However, many arguments put forward in bioethics do not come with such markers, and the underlying comprehensive worldview is often well hidden.[7] This makes it difficult to assert with certainty whether a particular reason should count as a public reason, since a demarcation criterion based on a problematic justificatory connection to a non-shared comprehensive worldview is difficult to operationalize unless we analyze all reasons offered through a radical hermeneutics of suspicion.

It has therefore been suggested that instead of looking for problematic justificatory connections to comprehensive worldviews we should instead look to metaphysics and define any reason justified by a

particular metaphysical belief as a non-public reason. This line of argument can also be traced back to Rawls. In the paper "The Idea of an overlapping Consensus," he implies that it would be problematic if some of our fundamental intuitive political ideas were metaphysical:

> "What is important is that, so far as possible, *these fundamental intuitive ideas are not taken for religious, philosophical, or metaphysical ideas.* For example, when it is said that citizens are regarded as free and equal persons, their freedom and equality are to be understood in ways congenial to the public political culture and explicable in terms of the design and requirements of its basic institutions. The conception of citizens as free and equal is, therefore, a political conception, the content of which is specified in connection with such things as the basic rights and liberties of democratic citizens."[8]

Excluding reasons based on metaphysical beliefs may initially sound like an attractive demarcation criterion for public reasons and easier to operationalize than the original Rawlsian comprehensive worldview criterion but is on reflection problematic because a very large number of reasons are at least partly based on particular, non-shared metaphysical views. This is, for instance, true of any reason referring to causation.[9] A Humean and a non-Humean hold completely different metaphysical views about the structure of the world, for example, about whether the world contains "causes" and therefore different views on what, if anything we discover by causal inference. These metaphysical differences have downstream consequences for moral questions, for example, how to understand moral and legal causation and responsibility.[10] Similarly, there is a metaphysics of modality, so any reason explicitly or implicitly relying on modal operators like possible or necessary or on any system of modal logic will be relying on specific metaphysical beliefs about what modal operators refer to and potentially quite different views of reality.[11] It might be argued that religious metaphysical commitments differ from non-religious metaphysical commitments, but unless reasons can be given for making the distinction and for its importance the argument does not look promising. Religious and non-religious metaphysical commitments do not systematically differ in relation to their justificatory structure, their role in further argument, their potential radical implications, or the fervor by which they are held. It is also noteworthy that Rawls in the quote above wanted to exclude not only religious or metaphysical ideas but also philosophical ideas; the exclusion of philosophical ideas from bioethical discourse would obviously radically undermine the whole activity of bioethics.

A different approach to how to decide whether a reason is a public reason is to focus not on the justification of the reason as such, but on whether the reasons and its justification are intelligible to every participant/citizen engaged in the relevant discourse. The basic idea here is that although two participants in the discourse may not share a comprehensive worldview or the same metaphysics, a reason put forward based on one worldview could still be intelligible from the perspective of the other worldview. This is a much weaker requirement because a reason that is intelligible to a participant in the discourse may not have any justificatory force for that participant. It is perfectly intelligible that a Muslim may base a particular moral view in the teachings of Allah in the Holy Quran, but it will for many non-Muslims not have any justificatory force. So, a mere intelligibility criterion sets the bar for public reason quite low. We could set the bar higher and require not only intelligibility but also accessibility, that is, at a minimum that the whole justificatory structure of your reasoning is available to me and that I can make it mine. In a highly cited paper, Thomas Nagel expresses this requirement in the following way:

> "Public justification in a context of actual disagreement requires, first, preparedness to submit one's reasons to the criticism of others, and to find that the exercise of a common critical rationality and consideration of evidence that can be shared will reveal that one is mistaken. This means that it must be possible to present to others the basis of your own beliefs, so that once you have done so, *they have what you have*, and can arrive at a judgment on the same basis. That is not possible if part of the source of your conviction is personal faith or revelation-because to report your faith or revelation to someone else is not to give him what you have, as you do when you show him your evidence or give him your arguments."[12]

Kevin Vallier has argued that this approach is also problematic because it is exceedingly difficult to determine the right standard to apply in accessibility judgments.[13] Vallier, for instance, points out that arguments from natural theology are perfectly accessible in that they are purely philosophical arguments and that arguments based on religious testimony are closely analogous to arguments based on moral testimony.

The orthodox public reason requirement in bioethics

In bioethics, it is possible to distinguish two different types of applications of public reason requirements. The first application is the orthodox application of public reason requirements to public policy discourse and public political or judicial decisionmaking. In bioethics papers on abortion, assisted dying, and many other topics, it is possible to find arguments along the lines of "policies restricting the liberties of citizens can only be justified by public reasons, the reasons put forward for restrictive policies by this philosopher or this group of people are not public reasons (typically because they are labelled as religious reasons), therefore we can discount these reasons in our policy discussion or show that a particular policy or policy proposal is illegitimate because it is based on these non-public reasons." This orthodox use can be found in many papers. It is impossible to give a complete overview here, but see, for instance, in relation to abortion,[14] in relation to clinical ethics consultation,[15] and in relation to the right to healthcare.[16] There is some evidence that religious participants in public debates in some countries have moved away from using religiously based arguments to using arguments that conform to public reason requirements.[17] There is also some evidence that explicitly religious arguments are less successful than secular arguments in policy contexts.[18]

If the Rawlsian and other arguments for requiring only public reasons to be put forward in public debates about policies that are within the scope of the public reason requirements are sound, then this type of use is unobjectionable as long as it is applied to all reasons identified by the criterion used, that is, all reasons based on a non-shared comprehensive worldview or all reasons based on non-shared metaphysical beliefs. There is a large literature arguing that the requirement is not in fact applied equitably to all reasons in policy debates, but that it is primarily used to (summarily) reject religious reasons.[19] I tend to think that this is true in bioethics as well, but it is in the final analysis an empirical question and an exploration of this issue are outside the scope of this paper.

In relation to bioethics itself, this orthodox use of a public reason requirement raises an interesting question about whether published and thereby public academic bioethical arguments should themselves adhere to the public reason requirement. Let us for the moment bracket the issue that some bioethical arguments are so esoteric that even if they are intended as an intervention in a public policy debate they are likely to be ineffective and ask are all bioethical arguments an intervention in a public policy debate about policies falling within the scope of the requirement?

Some public bioethical arguments are clearly and explicitly intended to be an intervention in a policy debate about constitutional matters or the state's use of coercive force and will therefore fall within the scope of the public reason requirement. In other cases, the situation is less clear, because it is not a trivial issue to decide when a particular piece of academic writing should count as being part of a public policy debate. The first complication is that it is not always obvious whether a particular piece of writing is aimed at the public or at a group sharing the same comprehensive worldview as the author. The Marxist analyzing exploitation in the gestational surrogacy market may be writing solely to enlighten fellow Marxists, or they may be trying to influence policymaking around commercial surrogacy. Unless the piece of writing itself clarifies whether it is "political advocacy in a public forum," there may still be uncertainty about whether public reason requirements apply.

The second complication concerns the status of arguments that are explicitly limited to analyzing the ethical value of particular individual actions or state of affairs brought about by individual actions. It is a platitude in most jurisprudential theories that there is no one-to-one correspondence between what is morally bad and what should be legally prohibited or between what is morally good and what should be promoted by state policy. Adultery might be harmful and therefore ethically problematic, but that does

not automatically entail that adultery should legally be a crime. So, arguing that a particular action is morally abhorrent has no necessary connection to advocating a particular public policy in relation to that type of action. However, even if there is no necessary connection between a public moral evaluation of a particular kind of action and advocating for a public policy, there is undoubtedly a discursive implicature. This is particularly complicated when a particular ethical issue is also a matter of current public policy debate. The bioethicist might still claim that they are only presenting an ethical argument and are not advocating for a particular policy. Their intention is to do pure philosophy and not sully their hands with practical policy consideration. It might, for instance, be argued that publishing an argument that infanticide is not intrinsically wrong or an argument for the opposite conclusion is not an intervention in a public policy debate, simply because there is no current real public policy debate about whether the criminal prohibition of murder should be changed to allow infanticide. If that is accepted, it would then lead to the conclusion that at least some bioethical writing about the ethical status of infanticide is exempt from public reason requirements. Using the question of infanticide as a case study, Malcolm Oswald has argued that ethicists and editors of ethics journals should label any papers with policy implications as either "green" or "white".[20] The green/white distinction that Oswald advocates is based on the distinction made by the UK government between green papers that outline a particular policy question and consider options and white papers that state the government's preferred policy. It is, however, not obvious that the green/white distinction will work in an area of current public contestation. There are debates where even a paper that is intended to be, and is labeled as, "green" and not advocating for a policy will nevertheless naturally be understood as an intervention in the policy debate. The distinction that might work for discussions of infanticide is obviously much more difficult to sustain in relation to, for instance, elective abortion, euthanasia, or resource allocation in healthcare, where there are currently vigorous public policy debates in many countries.

The expansive public reason requirement in bioethics

The second application of the public reason requirement in bioethics is expansive and goes far beyond what Rawls and others envisaged. This use of the requirement is particularly common in debates about conscientious objection of individual healthcare professionals in relation to abortion and assisted dying.[21] The public reason requirement is here not applied to whether a society should have a policy allowing for conscientious objection in certain circumstances, but to the reasons by which individual conscientious objectors explain or justify their objection when they want to avail themselves of a legally recognized right to object to performing a particular act. That this use of public reason requirements departs from the orthodox use is recognized by some authors,[22] but it is rarely if ever recognized how radical that departure is. If a policy has been put in place based on a political or judicial decisionmaking process that adheres to the orthodox public reason requirement, and if that policy allows citizens to make choices that are based on their sincerely held beliefs, then it is perverse to require individual citizens to justify their choices in terms of values that are not their values. If a society allows the existence of secular, atheist, and religious schools and offers parents a free choice among them, it would be extremely odd to require them to justify their choice in terms that did not refer to their comprehensive worldview. The reason for choosing the atheist school is precisely that it is atheist, and not merely secular or religious. And, closer to the issue of conscientious objection in healthcare, if a society allows conscientious objection to military service for those who can demonstrate that they hold pacifist beliefs, or if conscientious objection to military service is recognized judicially as a human right,[23] then it would be perverse to require an adherent of Jainism or a Quaker to give a non-religious justification for why they are pacifist. They will be pacifist primarily or perhaps even exclusively because their understanding of their religious scriptures and traditions requires them to be pacifist. In the case of the average religious person, even their religious understanding may be limited in the sense that a Jain monk or a Quaker moral theologian may be able to give a fuller and more detailed justification for the pacifist stance of the religion, but that does not entail that the objection of the ordinary religious pacifist can be discounted.

The most detailed exploration of the expanded view in the literature is in a section of McConnell and Card's paper in the context of arguing that imposing a public reason requirement in relation to actions by individuals is not specifically demanding for religious objectors. It is worth looking at this in more detail:

> "A physician refuses to participate in hastening an incapacitated patient's death via active euthanasia as this is a form of killing. The grounding reason for the physician's objection is based upon the religious belief that such an action is always sinful because it is only within the power of God to determine another person's lifespan. Since this justification contains reasons that are incomprehensible to non-theists or to theists who accept a conception of God on which mercy killing is allowable, it will not meet a pro tanto public reason condition. This physician might then consider whether her reasons against participation have publicly reasonable correlates. Suppose she considers her reasons and arrives at the core idea that she does not possess the knowledge and wisdom to be certain that this is what this incapacitated patient would have wanted, even though there is some evidence from his family that this course of action comports with his wishes. Her central reasoning is that she doubts the competence of any patient to predict that he would wish to be killed in advance of the circumstance in which he cannot speak for himself. She would consider doing so only for a patient who is judged to be competent and can speak for himself.
>
> […]
>
> So, this objector traces her religiously inspired belief that it is wrong to hasten an incapacitated patients' death to another belief that, in such a case, neither she nor the patient himself can be sure that hastening his death is in fact what he would want, what he would give informed consent to do. In this latter belief, the physician has arguably arrived at a public reason with pro tanto weight. If it is uncertain that incapacitated patients who cannot speak for themselves would in fact want their deaths hastened, then all reasonable persons could be expected to agree that it is best to not engage in active euthanasia until compelling evidence is found to support this course of action.
>
> […]
>
> Just as in the secular case, the grounds for the religiously motivated objection have to be disconnected from the objector's personal comprehensive conception.
>
> […]
>
> … many personal religious comprehensive conceptions lend themselves to being described in such a way that reasonable people can see their moral weight."[24]

Let us first note that it is not strictly true that the original reasons given are incomprehensible to the non-theist. The non-theist does not share some of the central premises relied on by the physician and may believe them to be actually false (e.g., if the non-theist is not merely agnostic but atheist), but that does not make the position or the reasons given incomprehensible. And even if the reasons given were both non-public and incomprehensible, it still does not show why the physician should not rely on them if not participating in euthanasia falls within the scope of conscientious objection. Her reasons are not idiosyncratic or particularly strange, and she could just have stated that killing the innocent is always morally wrong and that that as a public reason was the reason for her objection.

Second, the claim that the grounds for the objection must be disconnected from the objector's personal comprehensive concept shows the conflation already pointed out above. The issue of whether society should allow conscientious objection in a particular area of practice should be decided based on public reason, but the individual objector does not need to evince public reasons. The individual objector just must be sincere and within the scope of the societally determined allowable area of objection.

Third, the secularizing re-description process described by McConnell and Card is rather odd and leads to a position that the physician is highly unlikely actually to endorse. The physician is left by the authors with only enough public reason to object to euthanasia of the incompetent. McConnell and Card explicitly state that as part of the re-description process, she reaches the conclusion "She would consider doing so [performing active euthanasia] only for a patient who is judged to be competent and can speak for himself." But anyone who "… refuses to participate in hastening an incapacitated patient's death via active euthanasia as this is a form of killing," which is the starting point, is highly likely to hold the view that active euthanasia *tout court* is a form of ethically problematic killing, not only active euthanasia of the incompetent. If the physician was forced to find public reasons, she would be much more likely to choose public reasons that actually supported her religiously based conclusions about euthanasia as killing, and not some other conclusions.

Fourth, the final part of the quote either shows a lack of precision or a quite breathtaking arrogance. Earlier, the authors seemed to elide what is a public reason with what is publicly reasonable. A public reason, for example, one not based on a particular comprehensive worldview, can still be a very unreasonable reason. A similar elision may be at play in the claim that "… many personal religious comprehensive conceptions lend themselves to being described in such a way that reasonable people can see their moral weight." It may of course also be that the authors actually believe that only the non-religious are reasonable.

The role of civic civility

One of Rawls' justifications for a public reason requirement is, as mentioned above, the idea that public policy debates ought to be conducted under conditions of "civic civility." Every citizen participating should treat other citizens as equals and show them respect. Rawls expresses this idea in the following way:

> "And since the exercise of political power itself must be legitimate, the ideal of citizenship imposes a moral, not a legal, duty – the duty of civility - to be able to explain to one another on those fundamental questions how the principles and policies they advocate and vote for can be supported by the political values of public reason. This duty also involves a willingness to listen to others and a fairmindedness in deciding when accommodations to their views should reasonably be made."[25]

Perhaps paradoxically the discursive use of public reason requirements can undermine this goal. Seeing and pointing out the mote of non-public reason in the eye of my interlocutor but not the beam of non-public reason in my own will be perceived as disrespectful and are unlikely to support future constructive engagement in the policy discourse or any overlapping consensus in relation to the policy decision. This is further supported by two ancillary considerations. First, there is no agreement on the criterion for public reason among public reason theorists and therefore no agreement on the exact demarcation of reasons. Second, adherents of certain comprehensive worldviews or holders of certain metaphysical beliefs are much more likely to realize that these are not shared by other citizens, and some are more likely than others to include comprehensive worldview/metaphysics markers in their policy interventions. Immediately excluding clearly marked non-public reasons from the discourse is thus likely to be problematic, because it will systematically disadvantage those citizens who acknowledge the potentially non-shared basis for their views in the competition for influence on policy in comparison with other citizens who are unaware that their views have a non-shared basis or do not acknowledge this explicitly.

This indicates that instead of rushing to judgment about whether a reason or reasons put forward by others are sufficiently public or not when engaged in actual policy discourse, we are more likely to reach a policy decision acceptable to all if we initially suspend that judgment and engage in polite civil discourse about their reasons and our own. This will allow us to understand what is really at stake for others and for ourselves. This approach will also enable everyone to identify those participants in a particular discourse who are unwilling or unable to move away from fundamental aspects of their particular comprehensive

worldview and to identify those whose reasons can be reformulated as sufficiently public reasons.[26] Those who have particular skills in argumentation, such as philosophers, may well have a particular obligation to help those who are less skilled in such reformulation, even in those cases where the conclusion that is drawn from a particular set of public reasons is not the one supported by the "argumentation expert" themselves. It is also a part of civic civility that we all help each other out in public policy discourse. This does not entail that policies about issues of basic justice or the state's use of coercion should be made based on reasons that are not properly public, but that there should be room for participants in the debate to talk from their actual, deeply held beliefs without being immediately shut down by a cry of "non-public reason." This would apply particularly when individual citizens and not pressure groups or organizations participate in public discourse.

It is perhaps also worth noting that many important policy decisions in the bioethics area are not based on an overlapping consensus reached through public reason but are more accurately described as incompletely theorized agreements.[27] This should be obvious to most bioethicists, since at least one of the major frameworks used in bioethics can itself best be described as an incompletely theorized agreement. As [28] Sunstein points out, "People may agree on a mid-level principle but disagree both about the more general theory that accounts for it and about outcomes in particular cases." This seems like an apt description of Tom Beauchamp and James Childress' Four Principles of Biomedical Ethics and is also one of the ways in which the principles are derived in the first edition of the "Principles of Biomedical Ethics."[29] The four principles are mid-level, because they mediate between moral theories, on which we disagree, and concrete judgments on which we often concur. Each of us has our own, specific, theoretical justification for endorsing a principle like "respect for autonomy," and if we dug deeper, we would find that we were in disagreement about the justification of the principle and therefore possibly also about the exact scope of the principle.[30] One of the features that distinguishes Sunstein's incompletely theorized agreements from Rawls' overlapping consensus is that there are no restrictions imposed on what kinds of considerations that are brought to the table in trying to reach an agreement. If a society is considering its policy on the protection of animals, citizens are free to put forward a proposal based on their own comprehensive worldview; for example, the Jain can offer a religious justification for why no animal should ever be killed and harmed and the preference consequentialist can argue that animals have interests that should be protected. However, each of them can also at the same time put forward what they consider as a realistic compromise. They can say something like "you may not agree with my argument or my position, but at least we can agree that …". If an agreement on policy is reached in such a process, it may reflect a consensus, but it may also simply be a compromise.

Conclusion

This paper has argued that there are two distinct applications of public reason requirements at play in bioethics. The orthodox use of public reason requirements is warranted in bioethics if the general public reason arguments in political philosophy are sound. There are, however, three problem areas for the application of the requirement in bioethics. The first is the general problem of deciding a criterion for whether a reason should count as a public reason. The second is the equally general problem of applying the chosen criterion for public reason consistently across all reasons given in public debates. The third is more specific to bioethics in that it is not always clear whether a particular piece of bioethical writing is a contribution to a public policy debate, a pure philosophical argument without (intended) policy implications, or both. This means that it is not always clear whether the public reason requirement applies in a specific case.

The other application is the expansive use of public reason requirements where they are applied not to public policy discourse and policymaking, but to the justification of individual actions. This use was analyzed, and it was argued that it primarily rests on a rather odd conflation of reasons for policy and reasons for actions that a particular policy allows.

The last part of the paper argued for the importance of civic civility in public policy debates and that civility may best be achieved if we do not rush to judgment about whether the reasons put forward by our fellow citizens and interlocutors are public reasons as defined by our own favorite criterion.

Competing interest. The author declares none.

Notes

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22. See note 21, McConnell, Card 2019, at 627, footnote 20.
23. The Grand Chamber of the European Court of Human Rights, for instance, in 2011, recognized a human right to conscientious objection to military service in the case of *Bayatayan v. Armenia* (Application No. 23459/03)
24. See note 21, McConnell, Card 2019, at 629–30, footnotes removed.
25. See note 1, Rawls 1996, at 217.
26. To give an example, most Catholics who oppose the use of contraception probably do so merely because the Catholic Church holds that the use of contraception is illicit. However, even this core example of a non-public reason can plausibly be reformulated as a conclusion of a philosophical argument. If the sexual act of intercourse has two natural functions, a procreative function and a unitive function, and if Aristotle is right that it is wrong to frustrate the proper functions of an act, then the conclusion that the use of contraception is wrong may follow as a philosophical conclusion. The argument could probably be made valid, but for those who thought that one or more of the premises was false it would be unsound. There is nothing that marks this line of argument as non-public. The argument might still count as a non-public reason, but that cannot be because a Catholic can accept it, or might put it forward; it would have to be because the Aristotelean framework that supports the argument constitutes a comprehensive world view or perhaps more plausibly includes metaphysical assumptions about functions. But if the public reason problem is with the Aristotelean framework and its specific view of (natural) functions, then it has wide-ranging implications. The business ethicist Elaine Sternberg, for instance, bases her whole ethics on the Aristotelean-inspired basis that every organization has one and only one function and that the function of "the firm" is to maximize shareholder value. Pursuing other goals such as environmental or social goals thus becomes wrong as does the state imposing such goals on firms. Many, including me, disagree with Sternberg, but I am not aware that anyone has claimed that her arguments do not meet a Rawlsian public reason requirement. Sternberg E. *Just Business: Business Ethics in Action*. Boston: Little, Brown; 1994.
27. Sunstein CR. Incompletely theorized agreements. *Harvard Law Review* 1995;**108**(7):1733–72.
28. See note 27, Sunstein 1995, at 1739.
29. Beauchamp TL, Childress JF. *Principles of Biomedical Ethics*. New York: Oxford University Press; 1979.
30. Holm S. Not just autonomy--The principles of American biomedical ethics. *Journal of Medical Ethics* 1995;**21**(6):332–8.

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