

The liberal theory of justice makes two demands on the state in its dealings with religious groups and individual believers. First, a just state is tolerant of all dogmas and sects, enacting no laws that would violate anyone's right to the "free exercise" of her religion. Second, a just state avoids showing favoritism towards any religious group or endorsing the tenets of any particular religion. A state that in no way penalized non-Christians but still paid for "public service announcements" urging its citizens to read the Gospels daily would not violate "free exercise" but would violate "no favoritism." I shall refer to the twin requirements of free exercise and no favoritism as the principle of "neutral state practice" vis-à-vis religion.¹ Only state *actions* (laws, judicial rulings, speeches by public officials, etc.) can be or fail to be "neutral" in this sense.

This sort of neutrality should not be confused with "neutral justification," or the idea that it's possible and desirable to justify the liberal theory of justice (including its requirement of neutral state practice towards religion) in a way that does not appeal to any nonneutral values or doctrines. This principle too is an injunction, but one addressed to political philosophers rather than public officials. Examples of nonneutral doctrines include: the Millian view that individuality or autonomy is crucial to leading a good life; atheism, religious skepticism, and Roman Catholicism; the view that prostitution and pornography are wrong because degrading; and the view that patriotism is (or is not) an important moral virtue. What makes these doctrines nonneutral is the fact that liberal theory of justice (which is, after all, only a theory of justice, and not a theory about the good life) takes no stand on whether they are correct. On the assumption that conformity to its account of justice defines "moral reasonableness," an equivalent formulation of the criterion is that a doctrine is nonneutral if some morally reasonable people can and do reject it.

Neutral state practices as defined above applies only to religions and religious views, not nonneutral but secular belief systems. We can imagine a broader "free exercise" requirement that forbids the state to restrict the free exercise of both religion and nonreligious "conceptions of the

good,” and a broader “no favoritism” requirement that forbids the state to promote any nonneutral views, religious or secular. These broader neutrality requirements would forbid a public school curriculum intended to promote Millian autonomy, as well as bans on cruelty to one’s own animals, “dwarf tossing” in bars, and prostitution (motivated by the nonreligious belief that the commodification of sex degrades it). Neither the “neutral state practice” nor the “neutral justification” rule as defined above entails these broader “free exercise” and “no favoritism” requirements.²

Challenges to neutral state practice vis-à-vis religion come in many forms from a variety of sources. Nonneutral practices run the gamut from burning unbelievers at the stake, at one extreme, to toleration of all religions together with a mild favoritism that consists merely in the state’s endorsing certain vague, ecumenical religious sentiments, at the other. A rejection of neutral practices can be motivated by the conviction that the state should try to spread the true faith, or by the belief that religion of a certain sort, whether true or false, promotes social stability by reducing violent crime, alcoholism and drug abuse, teenage pregnancy, etc., to mention just two possibilities.

One challenge to neutral practices comes from the “religious fanatic,” by whom I mean someone who claims three things: i) his religion is the one true religion, and everyone should be able to see this on the basis of unaided human reason; ii) only those who accept the true religion are saved; and iii) not just state favoritism towards the true religion, but state intolerance of false faiths, are justified as means of increasing the number of souls that are saved. By virtue of his belief in ii), the fanatic is *theologically* intolerant, and by virtue of his belief in iii), he is *politically* intolerant.³ It’s because of his belief in iii), not i) or ii), that it seems apt to describe him as a morally unreasonable “fanatic.”

How should the liberal respond to the fanatic’s challenge to neutral state practices? My thesis is that if the liberal wants to give an *argument* that shows why the fanatic is morally

unreasonable, one of the premises in that argument will have to be a doctrine like religious skepticism (or atheism, a theologically tolerant theism, etc.). The reason why the fanatic's fellow citizens can "reasonably reject" his proposal is that they can reasonably doubt his insistence that his religion is the true one and the religions he would suppress are false. Since doctrines like religious skepticism are nonneutral, it follows that a "neutral justification" of neutral state practice is impossible.⁴

There are a number of possible nonskeptical or insufficiently skeptical replies to the religious fanatic that I shall review and reject. The replies to be canvassed and rejected include: i) the Lockean argument that coercing unbelievers cannot possibly produce in them a sincere religious conversion; ii) the Millian argument that neutral state practices do a better job of promoting autonomy than nonneutral policies, and autonomy is crucial to a flourishing life; iii) nonneutral practices pursue a goal by means that are forbidden by (absolute) side-constraints; and iv) what the fanatic proposes is unreasonable because a violation of the universalizability requirement. This last reply will lead us to v) Brian Barry's proposal that the fanatic's argument is refuted not by that requirement by itself, but by it together with a weak religious skepticism. Barry argues that the fanatic needs rational certainty that his faith is the true one to be justified in coercing others, but certainty is unattainable on matters of religion, so he can't be justified in coercing others into his religion. I'll argue that Barry is mistaken in thinking that the fanatic needs certainty. Finally, John Rawls apparently would fault the fanatic for not acknowledging what he calls the "burdens of judgment." Rawls insists that the "burdens of judgment" doctrine (BJ), unlike religious skepticism, is a neutral doctrine that all religious people committed to political toleration can accept. I'll argue that (BJ) differs from skepticism only if a "fideist" view about the status of religious claims is true. Since "fideism" is no more neutral than skepticism, it follows that a reply to the fanatic premised on (BJ) is no more neutral than one based on skepticism. In conclusion I'll argue that a nonneutral justification of neutral state practices is not

incompatible with the liberal principle of political legitimacy and that, in spite of one drawback it has, liberal theorists should embrace it rather than no justification of neutral state practices at all or an ersatz neutral one.

Two Consequentialist Replies to the Fanatic

John Locke's most famous argument in his *Letter Concerning Toleration* provides one possible consequentialist reply to the fanatic's argument.⁵ Locke insisted that intolerance *cannot possibly* produce the good consequence alleged by the fanatic's argument—saved souls. The reason why it can't is that even if the religion on behalf of which intolerance is practiced is true and salvation is impossible without belief in it, coercion cannot possibly produce sincere belief. Coercion operates on a person's will, while belief is under the control of one's intellect, not one's will. Threats can at best produce feigned conversions or hypocrisy, not the genuine faith needed for salvation. So if Locke is right, the religious fanatic's coercion produces no increase in the number of saved souls, only deception and misery. Its consequences are entirely negative.

Locke's argument was no doubt historically influential, but it fails as a decisive objection to the fanatic's argument for reasons that have been noted by Brian Barry and Jeremy Waldron, among others.⁶ One of those reasons is that Locke incorrectly assumes that the fanatic's aim in banning the false religion of some group must be to save the souls of the group's *current* members. But it needn't be. The aim could be to save the souls of others, such as those who would be converted to the false religion if the state tolerated its proselytizing efforts. Persecuting false religion might well be an effective means to achieve *that* aim.⁷

Another consequentialist reply to the fanatic is that even if intolerance produced the results he desires, the good of those results would be outweighed by the costs of the coercion involved, making the net effect of the coercion on human welfare negative. Of course there's the

cost in reduced happiness of repressing false religion. But the cost that many liberal political theorists have focused on here is the reduction in people's autonomy. Call this the "autonomy" objection.

What exactly is autonomy, and how does intolerance reduce it? A fully autonomous life, I'll assume, is one in which:

1. One makes one's major life choices oneself, or, if they are made by others, one has given them prior authorization to make them.
2. Those choices reflect and advance the views that one affirms upon due reflection, about what will make one's own life go best, what one's moral duties to others are, what religion (if any) is true, etc.
3. Those views are held "authentically." This requires that they not be the result of brainwashing and the like, that they have been subjected to some degree of critical scrutiny in the past, and that one remains willing to subject them to further scrutiny in the future.

Given some conception of "autonomy" along these lines, legal persecution of a disfavored religion by the state will reduce the autonomy of two different groups in two different ways. First, and most obvious, it reduces the autonomy of followers of the disfavored religion by preventing them from living their lives in accordance with their own deepest religious convictions. Second, it reduces the autonomy of those who accept the favored religion by discouraging critical reflection by them on the correctness of their own beliefs. As John Stuart Mill put this point in chapter two of *On Liberty*, "it is not the minds of the heretics that are deteriorated most by the ban placed on all inquiry which does not end in orthodox conclusions. The greatest harm done is to those who are not heretics, and whose whole mental development is cramped and their reason cowed by the fear of heresy."⁸ The autonomy objection holds that autonomy is a crucial component of any flourishing life and that by reducing our autonomy, a ban

on some religions would harm us or leave us worse off than we would be if all religions were tolerated.

Of course the idea that a flourishing life is impossible without a high degree of autonomy is, as noted earlier, a nonneutral one. Thus, the autonomy objection to the fanatic is not one that anyone seeking a neutral justification of neutral state practices can endorse. But the autonomy objection is unconvincing, and even those who agree that a nonneutral reply to the fanatic is unavoidable should not endorse it. It is a nonneutral reply, but the wrong one.

Will Kymlicka has defended the autonomy objection as the appropriate liberal response to a utilitarian argument (one that places especially high value on social stability) for the intolerant but stable “millet system” of the Ottoman Empire.⁹ The idea is that the costs of such systems in terms of decreased autonomy outweigh whatever benefits they produce in terms of safety and security, increased harmony among rival ethnic and religious groups, economic productivity, and so forth. Whether or not that idea is correct, it is at least plausible. But as a reply to the fanatic’s argument, the autonomy objection seems to have *no* plausibility. Consider those people who came to accept the true, theologically intolerant religion *only because* all of its rivals were banned. In order for intolerance to leave them worse off than they would have been under tolerance, it would have to be the case that one is better off being highly autonomous but not being saved, than having little autonomy but being saved. The claim that autonomy is *that* valuable seems crazy.¹⁰ The fanatic will point out that freedom and autonomy are only temporal goods, and the value of any amount of any temporal good is trumped by the otherworldly good of being saved. Of course, an autonomous life is better than a nonautonomous one, other things being equal. But the fanatic can agree that one is better off having high autonomy and being saved, than having low autonomy and being saved.¹¹

The Prudential Value of Salvation

The fanatic claims that salvation trumps all worldly goods, including autonomy, knowledge, religious freedom, wealth, etc. The claim here is one about what's *prudentially best*: no rational person whose aim is to maximize his own good will prefer any worldly good in any amount to salvation. That, at any rate, is the claim. Is it correct?

Perhaps it depends partly on what salvation and its opposite, damnation, consist in. Suppose that anyone who is not saved is damned, and anyone who is damned suffers eternal torment in Hell. Surely in that case Faust's bargain with the Devil, unlimited knowledge in this life in exchange for an eternity of physical torture in the afterlife, is foolish. It is obviously foolish if hedonism is correct. But it is foolish even if a subjectivist account of the good is correct and Faust holds a "conception of the good" that attaches lexical priority to knowledge over pleasure and the avoidance of pain. The deal might satisfy his *current* "conception of the good," but prudence is a *temporally neutral* virtue. If a subjectivist account of prudential value is correct, then Faust's deal is likely to be good for him in the short run but bad for him in the long run, because it's likely that when he arrives in Hell his "conception of the good" will change and for the rest of eternity he will regret his decision to trade his soul for unlimited knowledge.

Would "damnation" have to consist in eternal torture in order for salvation to trump all worldly goods? Not if a theologically intolerant version of traditional theism—there is a God who is omnipotent, omniscient, just, and benevolent, and He denies salvation to all who, before they died, did not hold the right theological beliefs or failed to engage in the right rituals—is true. Of course a major difficulty confronts anyone who wishes to defend such a view: how could a God who denied salvation to "virtuous heathens" possibly be just? The belief that this difficulty is insoluble is probably the main reason why many believe that any theologically intolerant form of traditional theism *has* to be false. But if we're assuming that some such religion is true, then

we're assuming that there's a solution to the difficulty. Now if God is *omniscient* and *benevolent*, then if he rewards with me "salvation" after I die, it must be the case that "salvation" really is best for me *no matter what it consists in*. Its being best for me is guaranteed by God's omniscience and benevolence. If it turns out to consist in hedonistic bliss, then it follows that hedonism is the correct account of prudential value after all, and those of us who in this life preferred other goods to pleasure simply had a mistaken conception of what's prudentially best for us.

This argument shows that salvation is good even if it consists chiefly in sitting around and listening to angels play harps. But it doesn't prove that it trumps all worldly goods. What needs to be shown is that salvation is infinitely good. The argument for that is simple: if any stage of the life we live after we're saved is necessarily good, and if it has an infinite number of such stages, then it has infinite value for the person living it. Therefore, the value of such a life trumps the value of all finite, worldly goods.¹² Salvation clearly trumps all other goods if everyone who isn't saved is damned and everyone who is damned suffers eternal torment in Hell. It also trumps all other goods even if those who aren't saved don't suffer that horrible fate, but instead are merely deprived of an infinitely long life each stage of which is very good.

It's perfectly reasonable to doubt that traditional theism is true and that the good of salvation is real. It's also reasonable for two people who agree that it's real to disagree on the correct means to achieve it. But if someone concedes that there is an omniscient and benevolent God who rewards all and only "true believers" with "salvation," but he spurns "true belief" as "not worth the price," then the fanatic is right: such a person is prudentially irrational. Whatever "conception of the good" leads him to make such a judgment must be mistaken.

Nonconsequentialist Replies to the Fanatic: Absolute Side-Constraints

From the failure of the Millian reply, we can generalize in a certain way. No doubt the

coercion that the fanatic wants to practice would have many negative consequences. But no matter how severe they are, they will be outweighed by the good of more saved souls, if the coercion produces that good. The only way that a cost-benefit analysis of the coercion could turn out negative is if the fanatic is not allowed to include more saved souls on the benefits side of the analysis. In order to exclude it from the tally, defenders of a purely consequentialist reply to the fanatic have to defend either dogmatism (“coercion on behalf of his religion won’t save souls, because his religion is false”), or religious skepticism (“nobody including the fanatic knows whether coercion on behalf of his religion will save souls”), neither of which is neutral. This is no neutral consequentialist reply to the religious fanatic.

Let’s turn now to some nonconsequentialist replies to the fanatic’s argument. They purport to be able to refute the argument *without* any help from religious skepticism or dogmatism. The first two that we’ll examine claim that even if intolerance on behalf of a theologically intolerant religion did result in a large net increase in the number of souls saved, and it had few if any costs in terms of reduced worldly welfare, it would still be wrong because it violates a side-constraint on morally permissible action. The feature of intolerance in virtue of which it violates the side-constraint is its coerciveness.

Since there are many circumstances in which coercion is morally justifiable—for example, the state’s coercive punishment of murderers, rapists, and robbers—the side-constraint that intolerance is supposed to violate can’t be one that forbids coercion in all circumstances. Libertarians hold that it forbids violating a person’s right to do whatever he pleases as long as he does not violate others’ rights. The punishment of murderers doesn’t violate that side-constraint, because murderers have violated others’ rights. Intolerance of religions thought to be false does violate that side-constraint, because even if some people are persuaded to abandon the true faith in favor of a false one, the harm that they suffer only occurs because of a change of belief for which they alone are responsible. If “that to which one consents does one no wrong,” then

anyone who persuades them to embrace a false faith does not violate their rights.

Kantians give a different characterization of the side-constraint. They claim that intolerance is wrong either because it violates the autonomy of those whom it coerces, or because it violates the autonomy of others. Whose autonomy it violates depends on whether its intent is purely paternalistic (Locke's assumption) or it's meant to prevent harm (spiritual contamination) to others. If it's paternalistic, then it's an attempt to impose on those being coerced a conception of their good that they reject. That makes it "hard" rather than "soft" paternalism, and the Kantian assumes that hard paternalism is always a violation of the intended beneficiary's autonomy.¹³ If it's meant to protect others from spiritual infection, then it violates *their* autonomy by treating them like impressionable children or gullible fools, unlikely to recognize and reject error on their own.

The Kantian and libertarian side-constraints have something in common: they're both absolute. The absoluteness of the side-constraints is the reason why the persecution of false religion is wrong, no matter how much good it does or evil it prevents. One response that the fanatic might make to the Kantian and libertarian objections is to deny that absolute side-constraints of any sort really exist or are valid. If the evil to be averted is catastrophic enough, and the only way to avert it is to use means forbidden by the alleged side-constraint, then those means are morally permissible, after all. Utilitarians are not the only ones who reject all absolute side-constraints. So do nonabsolutist deontologists like W.D. Ross. But are they right to do so? One of the immediate consequences of the World Trade Center bombings appears to have been a sharp increase in church attendance in America. What if the fear created by the bombings led to the conversion of millions to the true, theologically intolerant religion? It does not seem obviously mistaken to suppose that the murder of thousands would remain morally wrong *even if* it made possible the salvation of millions.

I see a slightly different problem with the Kantian and libertarian replies to the fanatic's

argument. The coercion that underlies a regime of intolerance need not employ whips, thumbscrews, or other methods that are lethal or especially cruel. If the aim of the coercion is not to eradicate all false religion but to stigmatize and marginalize it, then legally excluding its followers from political office, certain professions, or admission to the most prestigious universities might be sufficient. Perhaps our fanatic only supports measures like zoning ordinances that exclude their temples from city centers, and small fines for those who proselytize to the public on behalf of such religions. Over a long period of time, relatively mild coercive measures like these might significantly reduce the number of conversions to false faiths and/or defections from the true one, saving many souls. There may well be valid absolute side-constraints that forbid severe measures like torture or burning at the stake no matter how much good they do. It's also plausible to think that there are valid nonabsolute ones that apply to these milder measures (i.e. forbid them when they would produce only slightly greater good than harm). But the claim that due to its coerciveness religious intolerance is forbidden no matter how mild the coercive measures it employs and no matter how much good it does seems to go too far. A side-constraint that forbade a system of small fines for nonbelievers *even if* it had the effect over several generations of saving a multitude of souls seems no less absurd than an absolute side-constraint that forbids lying even when it is the only way to prevent a would-be murderer from achieving his goal.¹⁴

The Universalization Argument; Fideism v. Rationalism; Skepticism and Barry

Another nonconsequentialist reply to the fanatic is that he is guilty of an inconsistency that we can expose by means of a “universalization” argument. Suppose that somebody claims that it's okay for him to drink others' beer but wrong for others to drink his beer, and he believes this on basis of nothing other than egocentric bias. Then his moral judgment is false, because it

violates the requirement of “universalizability.” Satisfying the requirement is a necessary though not sufficient condition of a moral judgment’s being correct. The fanatic is alleged to violate universalizability inasmuch as he believes that it’s okay for him to try to impose his religion on others but not okay for others to try to impose theirs on him. Such a belief may not be logically inconsistent, but it makes him morally unreasonable (whenever he acts on it).

The problem with this objection to the fanatic’s argument is that it attacks a straw man. The fanatic can respond that he wants to impose his religion on others not because of the bare fact that it is *his* religion, but because it is the *true* one. He sincerely says that if he is mistaken in his belief and in fact some rival theologically intolerant religion is true, then he has no objection to others imposing that religion on him.¹⁵ Brian Barry has argued that to defend neutral practices, the liberal has to be able to block this response by the fanatic, and the only way to do that is to insist that the fanatic does not really know that his religion is the true one.¹⁶ The universalizability objection then establishes the fanatic’s moral unreasonableness, but only with the help of religious skepticism.

In fact, however, there is *one* sort of fanatic against whom the universalizability objection is successful without any help from skepticism. As we defined the “fanatic” earlier, we stipulated that he is a “rationalist,” that is, someone who holds that his religion is justified by good evidence and that anyone who rejects it is epistemically unreasonable. But in fact it’s possible to imagine a “fanatic” who is a “fideist” about the justification of his religion, admitting that his belief rests on a “leap of faith” that others may reasonably refuse to take. The universalizability requirement by itself, without any help from religious skepticism, is sufficient to refute *this* fanatic’s argument for intolerance. Of course he too claims that he wants to impose his religion on others not because it is *his* religion but because it is the *true* one. But what can he say to rival fideistic fanatics who want to impose their religion on him because of their faith that theirs is the true one? Both sides in this disagreement want to resolve the question of whose

religion society will impose on everyone by appeal to *their own* faith. It's impossible to eliminate the indexical pronouns "mine" or "ours" from the description of what each side is proposing. That's why the universalizability requirement by itself refutes them. Since this sort of argument is the paradigm of a "neutral" one, we can infer that the liberal *does* have a fully neutral comeback to the argument for intolerance that comes from the *fideistic* religious fanatic.

What about rationalistic fanatics? Is Barry correct in claiming that the universalizability requirement can establish their moral unreasonableness only if religious skepticism of some sort is assumed to be true? What exactly is religious skepticism? Following Barry we can distinguish weaker and stronger versions of it as follows:

(WRS)—there is no religious claim such that it is epistemically permissible to believe that it is true with certainty. No epistemically reasonable person claims to know with certainty what the true religion is.

(SRS)—there is no religious claim such that it is epistemically permissible to believe that it's true either with certainty or even with just the confidence that it's more probable than its negation. Hence, no epistemically reasonable person has any religious beliefs (including atheism). Agnosticism or suspension of judgment is epistemically obligatory.¹⁷

Corresponding to these two grades of skepticism are two kinds of "rationalistic" religion that reject them: those that claim that it's epistemically obligatory to believe with certainty that theirs is the true religion, and those that admit that certainty is unavailable, but justified, probabilistic belief is not, and they claim that it is epistemically obligatory to believe that theirs is the probably true religion.

Barry maintains that (WRS) is all that the liberal needs or should want to rebut the (rationalistic) fanatic's argument. It's all the liberal needs, because if rational certainty is unattainable, then the fanatic cannot be justified in using force to impose his religion on others.

It's all the liberal should want, because it, unlike (SRS), does not undermine religious belief altogether. That is, it does not preclude the level of confidence (weaker than certainty) in the truth of one's religion that is necessary to justify a decision to use it as a source of meaning and value in one's private (nonpolitical) life. That's supposed to make (WRS), unlike (SRS), a neutral doctrine that is not a threat to, not incompatible with, religious belief *per se*. We should examine both of these claims.

Does the Fanatic Need Certainty?

Let's begin with the first one—that (WRS) is all the liberal needs because it rules out the fanatic's having rational certainty, and without rational certainty the fanatic can't be justified in imposing his beliefs on others. Is that correct? Does the rationalistic fanatic need to have certainty before he can be justified in coercing others? Barry does not explain why he thinks that the fanatic does, but here are three possibilities—none of which I think works.¹⁸

The first (and weakest) argument for why the fanatic needs certainty points to the high cost of his being mistaken. If a ban on rivals to the fanatic's religion turns out not to save any souls, then it will have caused a great deal of worldly misery for no good reason. The problem with this argument is that a parallel argument with equal if not greater cogency can be given in support of the fanatic's proposal. The costs are high if the state mistakenly gambles on liberal toleration: all those souls that could have been saved but weren't because false religion was allowed to flourish. Indeed, if it's impossible to say who's more likely to be mistaken here, the liberal or the fanatic, then it's arguable that the principle that ought to govern our choice is *leximin*. We should compare the worst-case outcome possible under the liberal's and fanatic's proposals and choose the one with the best worst outcome. In that case, since the fanatic is only

gambling with worldly goods while the liberal is gambling with souls, we should prefer the fanatic's proposal.

A second possible reason why one might think that probability wouldn't be enough and the fanatic needs certainty stems the principle of expected utility maximization. If the fanatic has rational certainty, then the probability that a *rival* theologically intolerant religion is true is zero. But if he has only reasonable probability and cannot rule out the possibility that one of those religions is true, then the expected utility of intolerance on behalf of his own probably true religion is not positive infinity, but zero. For even if it's highly improbable that a rival theologically intolerant religion is true, as long as the probability is greater than zero, banning it yields an infinitely *negative* expected utility that cancels out the infinitely positive expected utility derived from forcing many conversions to his own, probably true, theologically intolerant religion.

But the fanatic has a good reply to this argument: he can simply deny that he bases his support for intolerance on expected utility maximization. We should reject this decision procedure precisely because it produces wildly counterintuitive results in cases involving infinite utilities. If the expected utility of A is (.99 times $+\infty$, plus .01 times $-\infty$) and B is (.01 times $+\infty$, plus .99 times $-\infty$), then expected utility maximization tells us to flip a coin in choosing between them. But clearly A is the rational choice. As long as the fanatic is correct in thinking that his own theologically intolerant religion is *more likely* to be true than false and that political intolerance on its behalf would increase the number of converts to it, then surely he is right to infer that banning its *probably* false rivals is *likely* to do more good than harm.

A third possible argument for the view that the fanatic needs certainty uses an epistemological principle that J.S. Mill assumed in one of the arguments against censorship that he gave in chapter two of *On Liberty*. Suppose the fanatic were epistemically reasonable in believing that his own religion is the true one and all others are false, and on the basis of this belief, he managed to ban those religions. The argument alleges that *because of* the ban, it is *no longer*

epistemically reasonable for him to believe that his religion is the true one. It relies on the following principle:

A belief that it is epistemically obligatory for one to hold because it is confirmed by the available evidence becomes a belief that one is epistemically forbidden to hold the moment that one ignores or refuses to consider some possible counterevidence to it.¹⁹

The fanatic runs afoul of this principle when he bans other religions, because a ban suppresses possible counterevidence to his belief that his is the true religion. The fanatic's only reply is to insist that he knows with certainty and finality that his religion is true, and thus, that any possible counterevidence to his belief that a ban would suppress must be misleading and is properly ignored. Beliefs that we can hold with reasonable certainty and finality would be exceptions to the above principle. But if (WRS) is true, reasonable certainty and finality are impossible in religious matters. So if (WRS) is true, the fanatic has no good reply to the argument that a ban undercuts one of the epistemic conditions necessary for him reasonably to believe that he knows what the true religion is.

The problem with this argument for why the fanatic needs certainty is that the principle on which it relies is too strong. Would we really no longer be justified in believing that the Earth is round if we banned public advocacy of the flat Earth viewpoint? The fanatic can say that religious debate has continued for centuries and he is already familiar with all of the main objections to his religion. New objectors simply recycle old objections. He admits that he cannot rule out the possibility that a new and devastating objection will be discovered in the future, but the likelihood of its happening seems to him quite low. If he's right and it's low enough, then I do not see why a refusal to be receptive to it has to render his present belief unreasonable. The above principle errs insofar as it makes no provision for *how likely* it is that good counterevidence to the belief in question would emerge, absent a ban on it or a refusal to look for it.

Rawls's Political Liberalism; Why the Fanatic's Proposal Is "Reasonably Rejectable" by Others

If the rationalistic fanatic's argument only needs probability, then it is entirely consistent with the truth of (WRS). So the defender of the objection that the fanatic is unreasonable because he supports policies that violate universalizability will have to invoke either dogmatism of some sort or (SRS) to block the fanatic's reply to that objection. The "political liberalism" of John Rawls, however, insists that the liberal reply to the fanatic can and should avoid appealing to either of those doctrines.²⁰ I turn now to Rawls's argument.

At the heart of "political liberalism" lies what Rawls calls the "liberal principle of political legitimacy." The principle says that laws and policies are just only if they can be justified to all citizens on the basis of reasons that they can all recognize as valid. Slavery fails to satisfy this test because the extreme burdens that it places on the slave make it reasonably rejectable by him. Anyone who supports a law or policy in spite of its being "reasonably rejectable" by others is someone uninterested in living with others under "fair terms of cooperation." Such people are morally unreasonable and properly coerced into abiding by fair terms.

Now there is no doubt that the fanatic *is* morally unreasonable because his fellow citizens *can* reasonably reject his proposal. The question we need to ask is: On exactly what *grounds* can they reject it? It seems to me that there are just two possibilities: i) they can reasonably doubt his claim that his own religion is true and the ones he would suppress are false, or ii) even if they concede that those religions are false and his is true, they can still reasonably object to restrictions on their religious liberty.

The answer that Rawls gives to this question is the first one. The reason why others can reasonably reject the fanatic's proposal is that an *epistemological* doctrine that he calls "the burdens of judgment" (BJ) is true. (BJ) claims that religious disagreement exists not because of logical error, wishful thinking, willful blindness to obvious truths, bias towards the interests of

one's own group, and so forth, but rather, because religious questions are extremely complex, many different sorts of evidence and argument may be relevant to resolving them, and people quite reasonably disagree about how to weigh all that evidence.²¹ (BJ) explains why people disagree about what the true religion is or what constitutes a flourishing life in a way that “does not impugn the reasonableness of those who disagree” about such matters.²²

Rawls denies that (BJ) entails religious skepticism, and in the next section I'll argue that he is right to deny it—*if* “evidentialism” is false and “moderate fideism” is true. But since (as we'll see) “moderate fideism” is no more neutral than skepticism, a reply to fanatic premised on (BJ) turns out not to be neutral at all. The point I want to emphasize now, however, is that if (BJ) is true, then it follows that people can “reasonably” reject the fanatic's proposal because they can “reasonably” doubt his contention that the religions to be suppressed are false and his religion is true. (In the preceding sentence, the first “reasonably” carries a moral sense, while the second one carries an epistemic sense). So it is not the liberal principle of political legitimacy by itself but rather that principle together with (BJ) that implies that the fanatic is morally unreasonable.

If (BJ) turns out to be a nonneutral doctrine (as I'll argue shortly), then the Rawlsian faithful might try to salvage the project of providing a thoroughly neutral justification of neutral practices by arguing that Rawls should drop (BJ) and defend the second possible answer to the question why others can reasonably reject the fanatic's proposal.²³ According to that answer, I can reasonably object to his wish to suppress my religion simply because my religion is crucial to my life plan. The fanatic is morally unreasonable because he wants to restrict my religious liberty.

This construction of the Rawlsian argument would attribute to the fanatic's fellow citizens the following line of thought: “even if I grant that your theologically intolerant religion is true and your coercive methods would eventually draw me to it and thus save my soul, I still object to your methods because they limit my religious freedom; I'd rather be free to worship a false religion even if it results in my eternal damnation.” The problem with this bit of reasoning is that it does

not make a rejection of the fanatic's proposal reasonable. As has already been argued, it is prudentially irrational to prefer any worldly good, including freedom, to salvation.

The Rawlsian will reply that this argument misunderstands the liberal principle of political legitimacy, because reasonable rejectability depends not on which religion, account of prudential value, etc, it is *most rational* to accept (an issue that's philosophically contentious), but on which views about these matters people *in fact* hold. Now I suspect that such an understanding of the liberal principle of political legitimacy makes it indefensible. But assume that it is best way to understand the principle. In that case it's sufficient to note that *nobody actually does* use or endorse the bit of reasoning that the second answer attributes to the fanatic's fellow citizens. Of course, nearly all of us would prefer to be free to worship according to our own lights to being forced to do what *others say* will save our souls. We quite reasonably suspect that the fanatic resorts to coercion rather than persuasion not because we're irrational or benighted but because his arguments and oratory are feeble. But the freedom to do what *others say* will result in our eternal damnation is one thing; the freedom to do what *we ourselves* admit will result in our eternal damnation is quite another. Nobody values the latter, any more than anybody values for its own sake the freedom to kill himself by accident. If the fanatic coerces me with the paternalistic aim of saving my soul, then he is imposing on me "means" to my own ends—means that I reasonably reject because I reasonably doubt that they will achieve my ends. But that makes it "soft" rather than "hard" paternalism, and soft paternalism is quite consistent with the liberal principle of political legitimacy even as the Rawlsian understands it.

What if the fanatic wants to coerce me with the aim of saving the souls of *others*? Can't I reasonably object to such coercion even if I agree that it really will save their souls? As we already noted, the slave can reasonably reject slavery on the grounds that the burdens it imposes on him are too onerous. He can reasonably reject it even if its benefits to the masters are great. But note this difference between the two cases: the slave can acknowledge the benefits of slavery

to the masters and still reasonably object to the heavy burdens that it imposes on him. But I cannot acknowledge that a ban on my faith will result in an increase in the salvation of others without admitting that my own faith is false and the fanatic's true. If I do that then the fanatic will not need to coerce me, because I already believe in his religion.

I conclude that this alternative explanation of why the fanatic's proposal is reasonably rejectable fails. It is not religious coercion *per se* that's reasonably rejectable. Rather (and this is a tautology) it is religious coercion *for which there is no good reason* that is. If epistemically reasonable people had to agree that the fanatic's religion is probably true, then they would have no good reason to reject the coercion that he proposes. In fact, they would have every reason (based on their own deepest value commitments) to support it.

Does (BJ) Entail Skepticism?

Religious skepticism is also an epistemic thesis about religion, but Rawls insists that (BJ) does not entail religious skepticism.²⁴ He seems correct. (BJ) simply denies that epistemically reasonable people must unanimously agree on what the true religious view is. Surely that does not (at least by itself) entail that it is epistemically unreasonable to believe any religious claim—the thesis of (SRS).

But (BJ) should puzzle us. It's easy to see how two epistemically reasonable people can hold conflicting beliefs if their beliefs are based on different evidence—for example, I believe the ball is white, you believe it's green, but I know that the lighting conditions are unusual while you incorrectly but reasonably assume that they are normal. However, (BJ) says that even two people with the *same* public evidence can reasonably disagree about which religion it supports. How is that possible? There seem to be two possibilities. One is that their epistemic situations are different, because even though they both have the same public evidence, one has “nonpublic”

evidence that the other doesn't. The visions that I have are good evidence for me, but since you can't experience them, I can't "give" you what I "have," and that means that you may reasonably dismiss them as nonveridical (e.g. hallucinatory, the product of mental illness, etc.).²⁵ The other possibility is that even though public evidence is all the evidence that there is, reasonable people can hold different views about how it should be weighed.

But both of these possibilities raise their own puzzles. Is the first—that "religious experiences" are good evidence for the person who has them but not for others—even coherent? The problem is that while a vision may be private, the credibility of the person reporting it is something that we can publicly assess.²⁶ If my own credibility is low, then I should not be more impressed by my visions just because I'm the one who had them than I am by the reported visions of someone else with greater credibility. Whether the credibility of a reporter could ever be high enough to overcome the Humean suspicion that it's always more likely that he's either hallucinating or lying may be unclear. Perhaps if hundreds of people with high credibility gave remarkably similar religious experience reports independently of one another, then it would be more likely that their reports are veridical than that they independently had very similar hallucinations. If it is, then one ought to accept their reports as good evidence even if one isn't a member of the group that had the experiences. If it is not, then one shouldn't accept either the reports or the experiences as having much evidentiary value even if one is a member of that group.

The other possibility, that there are equally valid methods of assessing public evidence and they support different conclusions, is probably the one that Rawls had in mind. But it is puzzling too. If I use a method that yields the result that Christianity is probably true, but I admit that your method yielding the result that Islam is probably true is just as valid, and you admit the same about my method, how can either of us claim that ours is the religion best supported by "the evidence"? Wouldn't that be like both of us admitting that the odds of the next coin flip coming up heads are fifty-fifty, but I still believe it will be heads while you believe it will be tails? Aren't both of us

epistemically unreasonable in such a case? Don't we have an epistemic duty to suspend judgment on the question of which way the next coin flip will turn out?

The defender of (BJ) can concede that suspension of judgment is epistemically obligatory in cases like the coin flip. But he will have to argue that religious belief is for some reason different. When a proposition is empirically testable (as is the proposition that the next coin flip will be heads) then the principle of *evidentialism* definitely applies to it:

For any proposition P, one ought to believe it if and only if the total evidence makes P more probable than not. What's more, every proposition is such that, given one's epistemic situation, it is either epistemically forbidden to believe it or epistemically required. There are no epistemic situations such that it is permissible to believe either P or not-P. If the evidence does not make it more reasonable to believe P than not-P, or not-P than P, then it's epistemically obligatory to believe neither. The reasonable person in that situation must suspend judgment.

If evidentialism is true for all propositions, including religious ones, then if there are equally valid methods of weighing the public evidence that support conflicting religious claims, it follows that we have an epistemic duty to be agnostic about religious claims. (BJ) by itself may not entail (SRS), but (BJ) in conjunction with evidentialism does.

To avoid skepticism, then, defenders of (BJ) have to argue that at least as regards religious claims, evidentialism is false. For some reason religious claims fall outside the scope of the evidentialist principle. Instead they fall under what might be called the principle of "moderate fideism":

(MF) For most if not all religious claims P and not-P, the sum total of public evidence (together with the acceptable methods of weighing that evidence) makes it neither epistemically obligatory nor epistemically forbidden to believe one rather than the other. It is epistemically permissible to believe either.²⁷

If (MF) rather than evidentialism is true, then Rawls is right to think that (BJ) doesn't entail (SRS).

Are (BJ) and (WRS) Neutral?

The problem, however, is this: the reason Rawls didn't want (BJ) to entail (SRS) is that (SRS) is nonneutral, and that would make (BJ) nonneutral. But embracing (MF) to avoid skepticism doesn't help with that problem, because (MF) is nonneutral too. Rawls seems to believe that (BJ) is neutral, because:

We say of the rationalist believers [who deny the fact of reasonable pluralism] that they are mistaken in denying that fact; but we need not say that their religious beliefs are not true, since to deny that religious beliefs can be publicly and fully established by reason is not to say that they are not true.²⁸

Barry makes a similar point in support of his contention that (WRS) is neutral. He notes that atheism and Quakerism are first-order claims (about the nature and/or existence of God, the road to salvation, etc.) that compete directly with claims made by rival religions. (WRS), on the other hand, only makes a meta-claim about these claims, namely, that none of them can be known with certainty. Since (WRS) is a view that Quakers and Catholics, atheists and pantheists, can all accept without abandoning any of their first-order claims, that's supposed to make it neutral.

If this were a good argument for the neutrality of (WRS) and (BJ), then it would show that (SRS) is neutral too. Barry thinks that (SRS) is not neutral, because one can't accept it without abandoning one's religious beliefs altogether. Such skepticism, he seems to assume, *requires* agnosticism. But there's no reason why (SRS) too can't be regarded as making only a meta-claim that's consistent with the first-order claims of competing religions. (SRS) does imply that there's an *epistemic* duty to be an agnostic. But one could concede that point and continue to be religious on prudential or moral grounds.

The problem with the argument is that it assumes that a religion is defined only by its first-order claims and that any second-order claims it makes about them are somehow extrinsic to or of secondary importance to it. But that assumption is false. Many “fundamentalist” religious groups, some quite strong in their support for neutral state practices, regard certainty as a pillar of their faith and are unwilling to countenance even the slightest possibility that their beliefs are false. They insist that their dogmas are plainly true and that only people who are unreasonable, because mired in sin or rebellion against God, fail to acknowledge their plain truth. (Both Aquinas and Calvin assign this status to the bare claim of God’s existence). They find (MF)’s claim that others are not unreasonable to reject their religion in favor of a different one just as outrageous as (SRS)’s claim that *they* are unreasonable for believing in their religion. So they reject (WRS), (MF), and (BJ) just as emphatically as they reject (SRS). A reply to the fanatic that’s premised on (WRS) or (BJ) is a reply that *politically tolerant* fundamentalists cannot endorse without abandoning a part of their religious self-understanding. Since they are “morally reasonable” but reject all of these epistemological doctrines, that makes the doctrines nonneutral—even if they are fully compatible with the first-order religious claims that they defend.

Of course, there is an important difference between a (BJ) that assumes (MF), on the one hand, and (SRS), on the other. (MF) only requires the members of rationalistic religions to give up their claim that anyone who rejects their religion is epistemically unreasonable, while (SRS) requires them to give up *both* that claim *and* the claim that it is epistemically reasonable for them to believe in their religion. If (MF) is true, the fanatic’s fellow citizens will be able reasonably to doubt his claim that the religions he wants to suppress are false. In that case (SRS) won’t be needed to prove that his proposal fails to satisfy the liberal principle of political legitimacy.

But (MF) seems *ad hoc* to most believers and all skeptics. Why should we think that religious claims fall outside the scope of the principle of evidentialism? Because they are “empirically untestable”? But the claim that all religious claims are empirically untestable is far

from obvious (isn't Paley's design argument an "empirical" argument for traditional theism?), and many rationalistic religions reject it. Granted, the public evidence for and against the different claims of different religions is very difficult to assess. But that doesn't distinguish the problem of assessing that evidence from the problem that confronts several people each of whom must add the same long column of large numbers by hand, and they obtain different results. In that case we explain their different answers as owing to their shortcomings at arithmetic. *Perfect* arithmeticians will agree on one answer. Most religious believers and all skeptics believe that the same is true of religious questions. Their explanation of reasonable religious pluralism is not that (BJ) and (MF) are true, but that people in the real world are only *imperfectly* reasonable in their assessment of the vast body of public evidence that confronts them.

Is a Skeptical Reply to the Fanatic Better than a Dogmatic Nonneutral Reply?

I have argued that there is no neutral justification of neutral state practices. But if that's right, then isn't liberalism in trouble? Isn't it the case that many religious groups can and do reasonably reject doctrines like (BJ) and (SRS)? If so, then doesn't it follow, given the liberal principle of political legitimacy, that the liberal policy of neutral state practices is reasonably rejectable?

My reply is that being nonneutral does not make (BJ) or (SRS) reasonably rejectable. They would be reasonably rejectable if they applied to themselves, but neither applies to itself. Both are meta-claims about the epistemic status of first-order religious claims. Neither is itself a first order religious claim.

The Rawlsian who thinks that Rawls should jettison (BJ) in order to make his "political liberalism" completely neutral will respond that many morally reasonable people who support neutral state practices believe in a rationalistic religion (perhaps even a theologically intolerant

one) that is incompatible with them. What makes (BJ) and (SRS) reasonably rejectable is the simple fact that many *morally reasonable* people *do* reject them.

This view assumes that the criterion for whether a doctrine is neutral/nonneutral is the same as the criterion for whether a doctrine is reasonably rejectable. The liberal who wants to *justify* neutral state practices and *refute* the fanatic's argument must reply that that assumption is mistaken. The criterion of whether a doctrine is neutral/nonneutral is "what morally reasonable people can reject," where "moral reasonableness" is defined in terms of an acceptance of the liberal theory of justice. But the criterion of "reasonable rejectability" is "what morally *and* epistemically reasonable people can reject," where "moral reasonableness" is understood as requiring not conformity to liberal theory of justice, but something weaker, such as a commitment to weighing everyone's interests equally and impartially. If that's right, then it's arguable that some doctrine like (BJ) or (SRS) is not "reasonably rejectable." Defenders of these doctrines can admit that it is not "morally unreasonable" (in either the weaker or stronger senses distinguished) to reject them, but argue that it *is* epistemically unreasonable to do so. Some doctrine of this sort describes a fact about the epistemic predicament of humans vis-à-vis religious claims a denial of which is simply misguided.²⁹

Of course, there are a number of other possible nonneutral replies to the fanatic, replies that we earlier termed "dogmatic," and a defender of any of those replies can argue that it is the nonneutral doctrine on which it rests, not (BJ) or (SRS), that is not "reasonably rejectable" in the sense just described. These replies include the following:

1. The rationalistic atheist's: Epistemically reasonable people agree that the fanatic's religion is false, because there is no God.
2. The rationalistic, theologically tolerant theist's: Epistemically reasonable people must agree that the fanatic's religion is false, because we know that God exists, and we know

that He neither punishes anyone with eternal torment in Hell nor denies anyone salvation solely on the basis of his or her mistaken theological beliefs.

3. The rationalistic, theologically intolerant but politically tolerant theist's: Epistemically reasonable people agree that the fanatic's religion is mistaken in one respect. Though he's right in thinking that only true believers are saved, he's incorrect in his belief that God permits the use of state coercion as a means of promoting true belief. On the contrary, God forbids it.³⁰

Is there any reason why the liberal should prefer a nonneutral reply to the fanatic based on (SRS) or (BJ) to any of these "dogmatic" nonneutral replies?

My own view is that while there is no reason why the liberal *qua* liberal should prefer the skeptical reply, the skeptical reply is the best one simply because religious skepticism is true.³¹ Obviously many people disagree. There is and can be no neutral argument for why one nonneutral justification of the liberal view is better than the rest. If the reply to the fanatic and the argument for neutral state practices has to be nonneutral, then it has to be nonneutral "all the way down."

Conclusion

One problem with a justification of the policy of neutral state practice that appeals to (SRS) or any of the "dogmatic" nonneutral doctrines is that the policy itself actually forbids the state to publicly endorse that justification. If the state were to proclaim that (SRS), for example, is part of the justification for the policy, it would be endorsing that skepticism and thereby showing favoritism to fideistic religions and disfavor to rationalistic ones. Rawls' contractarianism includes the very attractive idea that the principles of justice should satisfy a "publicity constraint": whatever principles the hypothetical contractors in the original position choose, they must be principles whose implementation would be not hindered or violated by their public

affirmation or by the public affirmation of their justification.³² A policy of neutral state practice justified partly on the basis of religious skepticism unfortunately does not satisfy the publicity constraint.

An alternative to embracing a nonneutral justification of neutral state practices is for the liberal to own up to having *no* justification of neutral state practices—neutral or nonneutral—and no “refutation” of the fanatic’s proposal. A liberalism founded on the doctrine of natural rights accepts this alternative. It holds that the right to the free exercise of one’s religion is a “natural” one that neither requires nor can be given any justification in terms of more basic and certain moral principles. It’s worth noting that the Rawlsian who wants to drop (BJ) and define “reasonable rejectability” in terms of a “moral reasonableness” that is identified with conformity to the liberal theory of justice has opted for the same alternative—even if he does not use the language of “natural rights.” He gives no *argument* to show that the fanatic is morally unreasonable, but instead simply *stipulates* that the fanatic is unreasonable.

As attractive as this alternative might seem, it suffers from a severe drawback: it invites the objection that the liberal’s commitment to neutral state actions is simply dogmatic or question-begging. For that reason I suspect that it’s better for the liberal theorist to embrace an avowedly nonneutral refutation of the rationalistic fanatic, even if it doesn’t satisfy the publicity constraint, than either no refutation at all or an ersatz neutral one.

¹ The term “neutrality” is a mainstay of First Amendment jurisprudence and occurs in many important Supreme Court decisions. For example: “Government in our democracy... must be neutral in matters of religious theory, doctrine, and practice. It may not be hostile to any religion or to the advocacy of no-religion; and it may not aid, foster, or promote one religion or religious theory against another or even against the militant opposite. The First Amendment

mandates governmental neutrality between religion and religion, and between religion and nonreligion.” *Epperson v. Arkansas*, 393 U.S. 97 (1968).

A complete theory of what constitutes neutral state practice would tell us whether it requires or forbids: state financed vouchers for parents who send their children to parochial schools; removal of “In God We Trust” from our money; a ban on student-led prayer at the graduation ceremonies of public schools; exemptions from anti-drug laws for Native Americans who use peyote as part of their traditional religious ceremonies; etc. Such a theory will not be needed here, since the examples of state actions on which we’ll focus clearly and uncontroversially violate “free exercise.”

² For a discussion of the broader requirements, and an argument that Rawls’s political liberalism does not and should not require them, see Walter Schaller, ...

³ Rousseau uses the phrase “theological intolerance” in the final book of *On Social Contract* to describe religions or churches that hold the view that “outside our church there is no salvation.” We can define it more generally in terms of the following two claims: 1) there is a supernatural good whose value trumps the value of all worldly goods, and 2) this good is available only to those who have the right creeds, belong to the right church, or live the right lifestyle. Theological intolerance is not either-or, but comes in degrees. A post-Vatican II Roman Catholicism which holds that all and only Christians are saved is less theologically intolerant than a pre-Vatican II Roman Catholicism that holds that only Roman Catholics are.

⁴ Of course, this thesis is hardly novel. Larry Alexander, for example, has argued “no point of view exists other than religious skepticism from which basing public policy on religious views is unfairly nonimpartial.” [See his “Liberalism, Religion, and the Unity of Epistemology,” *San Diego Law Review*, v. 30, 1993, pp. 763-795]. Defenders of neutral justification include John Rawls, *Political Liberalism* (New York: Columbia Univ. Press, 1993); Ronald Dworkin, “Liberalism,” in *Public and Private Morality*, ed. by S. Hampshire (Cambridge: Cambridge Univ.

Press, 1978); Thomas Nagel, "Moral Conflict and Political Legitimacy," *Philosophy and Public Affairs*, v. 16, no. 3, (Summer 1987), pp. 215-40; Kent Greenawalt, *Private Consciences and Public Reasons* (Oxford: Oxford Univ. Press: 1995); Charles Larmore, *Patterns of Moral Complexity* (Cambridge: Cambridge University Press, 1987); and the Brian Barry of *Justice as Impartiality* (Oxford: Oxford University Press, 1995). Liberal opponents include Vinit Haksar, *Equality, Liberty, and Perfectionism* (Oxford: Oxford University Press, 1977); Joseph Raz, *The Morality of Freedom* (Oxford: Oxford University Press, 1986); George Sher, *Beyond Neutrality: Perfectionism and Politics* (Cambridge: Cambridge Univ. Press, 1997); Will Kymlicka, *Liberalism, Community, and Culture* (Oxford: Oxford Univ. Press, 1989); and the Brian Barry of "How Not to Defend Liberal Institutions," in Bruce R. Douglas (ed.) *Liberalism and the Good* (New York: Routledge, 1990).

⁵ John Locke, *A Letter Concerning Toleration* (Hackett Publishing Co., 1983), p. 27.

⁶ Brian Barry, "How Not to Defend Liberal Institutions," and Jeremy Waldron, *Liberal Rights* (New York: Cambridge University Press, 1993), chapter four ("Locke, toleration, and the rationality of persecution").

⁷ Even if the fanatic wants to convert the very people targeted by his coercion, he needn't take the silly view that it will always instantly produce a genuine conversion. His view can be that it only works sometimes, and only after it has been in place for years (because it takes time for cognitive dissonance mechanisms to kick in).

⁸ J.S. Mill, *On Liberty* (Indianapolis: Hackett Publishing, 1978), p. 32.

⁹ Will Kymlicka, "Two Models of Pluralism and Tolerance," *Analyse & Kritik* 13 (1992), 33-56. The millet system gave each religious group (Christian, Jews, Moslems) legal powers to enforce orthodoxy among its members and forbade members of one group to try to convert members of other groups. It was not a liberal system, because it did not recognize an individual right to freedom of conscience and was hostile to the emergence of new religions. It should be

noted that Kymlicka himself does not endorse the autonomy objection as a good reply to the religious fanatic's argument.

¹⁰ See David Lewis, "Mill and Milquetoast," *Australasian Journal of Philosophy* 67 (1989), pp. 152-71. Lewis makes this point against Henry M. Morris, a creationist who believes that the doctrine of evolution is literally diabolical in its origins and effects. Rather than support a ban on the teaching of evolution in the public schools, Morris claims to support "balanced presentation" of evolution and creationism, because schools that teach only one view become "a hatchery of parrots." Lewis rightly asks, "How can Morris possibly think that the harm of hatching parrots is remotely comparable to the harm done by 'balanced presentation' that spreads evolutionist ideas? How dare he give this feeble Millian reason for tolerating, and even spreading, such diabolically dangerous ideas? Surely, by his own lights, he is doing the Devil's work when he favors balance over suppression" (p. 230).

¹¹ The suggestion that it's possible to have low autonomy and be saved should be unproblematic. While theologically intolerant religions typically agree with Locke's point that one must sincerely believe the true religion in order to be saved, most would reject the stronger claim that the belief can save only if it's held in a highly autonomous manner. It's possible to hold a belief with complete sincerity and conviction while also holding it uncritically—for example, because one defers unreflectively to established religious authority.

¹² Actually, the argument will need to be a little more complicated. Suppose that someone's life is so bleak that he is just barely better off alive than dead. It might well be prudentially reasonable for him to prefer 80 years of excellence and intense satisfaction to an eternity of life that's just barely better than death. More life is better than less only if the quality of that life is high enough. But presumably the quality of life in heaven is very high. The argument that immortality would be a curse—eventually we would become so bored that we would beg for an end to our lives, as do the futuristic humans in the sci-fi movie *Zardoz*—can't be

correct if traditional theism is true. The goodness of immortality would be guaranteed by God's omniscience and benevolence.

¹³ Soft paternalism is restricting the liberty of a competent adult for his own good, where he would consent to the restriction if he were thinking clearly and were well-informed about the empirically demonstrable consequences of acting on his different options. Hard paternalism limits liberty for the same reason, on the grounds that person in question has "mistaken values" (either a mistaken conception of what his prudential good consists in, or a mistaken view about the importance of his good relative to other values). Later I'll dispute the claim that if the fanatic's aim is paternalistic, then it has to be hard paternalism that he's engaged in.

¹⁴ If our fanatic supports state favoritism towards his own religion together with toleration of all false ones, and he supports this only so long as a majority of his fellow citizens agree with him, then it might be argued that he is not morally unreasonable at all. ("True, citizens who reject the favored religion are forced to help subsidize via their tax dollars a cause that they oppose. But the opposition of some taxpayers to birth control is no obstacle to the majority creating publicly financed birth control programs. Why should religion be different?") But if he insists on the same policy in spite of the fact that the majority opposes state favoritism towards his religion, then he certainly is morally unreasonable. Note, however, that such a policy would involve even less coercion of nonbelievers than the small infringements of "free exercise" mentioned above. If such a policy did result in a large increase in the number of saved souls, then it seems even more absurd to insist that it is forbidden by an absolute side-constraint.

¹⁵ The sincerity of his claim suffices to render his proposal consistent with universalizability, *not* to make it morally reasonable. Again: the fact that one's moral beliefs satisfy this purely formal requirement is a necessary but not sufficient condition of one's being morally reasonable. The inability of universalizability alone to refute the fanatic was noted by Thomas Nagel, "Moral Conflict and Political Legitimacy," pp. 225-6.

¹⁶ Barry, *Justice as Impartiality*, chapter seven.

¹⁷ *Justice as Impartiality*, p. 165. My “weak” corresponds to Barry’s “moderate” skepticism, and my “strong” is Barry’s “ancient” skepticism. Also, Barry’s two skepticisms are broader, including within their scope all “conceptions of the good.”

¹⁸ See David Lewis, “Mill and Milquetoast,” pp. 225-226. Richard J. Arneson also criticizes Barry’s contention that the fanatic needs certainty in his review of Barry’s *Justice as Impartiality*. See Arneson’s “The Priority of the Right over the Good Rides Again,” *Ethics* 108 (October 1997): 169-196.

¹⁹ Mill says: “Complete liberty of contradicting and disproving our opinion, is the very condition which justifies us in assuming its truth for purposes of action; and on no other terms can be being with human faculties have any rational assurance of being right.” (*On Liberty*, p. 18).

²⁰ Nagel agrees: “... true liberalism requires that something like Rawls’s view be correct, that is, that exclusion of the appeal to religious convictions not rely on a skeptical premise about individual belief.” (“Moral Conflict and Political Legitimacy,” p. 229).

²¹ *Political Liberalism*, pp. 55-58.

²² *Political Liberalism*, pp. 55.

²³ Leif Wenar argues that the “burdens of judgment” doctrine detracts from the neutrality of “political liberalism” and for that reason should be dropped. See his “Political Liberalism: An Internal Critique,” *Ethics* v. 106, no. 1 (1995): 32-62.

²⁴ Barry argues that Rawls is wrong about this and that (BJ) is tantamount to skepticism (though the weaker rather than stronger version of it). See Brian Barry, “John Rawls and the Search for Stability,” *Ethics* v. 105 no. 4 (1995): 874-915, especially pp. 898-905. Barry in this review essay also accuses of the Rawls of *Political Liberalism* of vacillating between a skeptical response to the fanatic (“others can reasonably doubt that his is the true religion”) and a dogmatic

one (“theologically intolerant religions are false”).

²⁵ Nagel says “... 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.” (“Moral Conflict and Political Legitimacy,” p. 232).

²⁶ See Joseph Raz, “Facing Diversity: The Case for Epistemic Abstinence,” *Philosophy and Public Affairs*, v. 19, no. 1 (Winter 1990) 3-46, especially his discussion of the water diviner on p. 41. See too Richard J. Arneson’s critique of Nagel in his “Neutrality and Utility,” *Canadian Journal of Philosophy* v. 2, no. 2 (June 1990) 215-240, esp. pp. 234-34, and Barry’s critique of Nagel in *Justice as Impartiality*, p. 179.

²⁷ This fideistic view (which I take it William James is defending in “The Will to Believe”) can be contrasted with more extreme (e.g. Kierkegardian) forms of fideism that make no claims about what is and isn’t epistemically reasonable, but instead simply reject epistemic reasonableness as an important value.

²⁸ *Political Liberalism*, p. 153.

²⁹ Barry has an argument for (WRS) in *Justice as Impartiality*, p. 172. I don’t see why a similar argument for (SRS) won’t work.

³⁰ This, I take it, is the view of the Roman Catholic Church today. Locke, too, endorses this nonneutral argument for political toleration of (almost) all religions in his *Letter Concerning Toleration*: “...no Man can be a Christian without Charity, and without that Faith which works, not by Force, but by Love” (p. 23). Note that even if all political intolerance is cruel and violent and that Christianity, the true religion, forbids all cruelty and violence, that still would not give us any argument for the “no favoritism” part of neutral state practices. Locke has another argument

for “no favoritism,” the crucial premise of which is that church and state have different “functions.” Though I’m not sure about this, but I believe that the “official” view of the current Roman Catholic Church is that divine or natural law requires toleration of all religion but permits (perhaps even requires) state favoritism towards the true one.

³¹ The skepticism that I would defend here is “narrow” rather than “wide.” A “wide” version of skepticism includes within its scope all religious claims. A “narrow” version applies only to the distinctive claims of different historical, revealed religions (e.g. Jesus was the Son of God, Mohammed was Allah’s Prophet, the Jews are the “chosen people,” etc.). Hence, a narrow version of (SRS) is compatible with an acceptance of a Paley-like design argument or one of Aquinas’s Five Ways, but will undercut the claim of any fanatic that his theologically intolerant religion is the true one.

³² Rawls, *A Theory of Justice*, pp. 133 and 454.