

Conjecture and the Division of Justificatory Labour: A reply to Clayton and Stevens

Introduction

The question of how the religiously unreasonable should be treated has increasingly become a subject of concern for political philosophers. In a recent article, “When God Commands Disobedience: Political Liberalism and Unreasonable Religions”, Matthew Clayton and David Stevens (2014) argue that political liberals should offer religious arguments to show why the religiously unreasonable are mistaken. However, politicians and political philosophers should not be the ones offering religious arguments. Rather, there should be a *division of justificatory labour*. The duty to offer theological arguments should be delegated to religious citizens who share the same faith with those who are religiously unreasonable. I agree with Clayton and Stevens that religious responses should be offered. Yet I disagree with the division of justificatory labour. I shall argue that the importance of conjecture, a form of discourse that involves non-public reason, is overlooked. Conjecture is a promising method for political philosophers and politicians to persuade the religiously unreasonable.

The division of justificatory labour

In their paper, Clayton and Stevens criticize the non-engagement response, in which political liberals should say nothing to the religiously unreasonable in addition to political values. Rather, they propose a *religious response*, in which political liberals should offer theological arguments to the religiously unreasonable, arguing that their religious view is mistaken. If they truly understand “gods—either their existence or the nature of the duties they impose on [them]” (Clayton and Stevens 2014, pp. 78-79), then they should endorse a political conception. Only direct engagement with religious views can fully explain why the religiously unreasonable should refrain from non-compliance when their faith conflicts with the demands of citizenship.¹

However, Clayton and Stevens are aware that “bad consequences might arise” (Clayton and Stevens 2014, p. 79) when political liberals give a religious response. If political liberals are committed to a certain standpoint in religious debates, then their claim inevitably alienates some sects of citizens, which means that their claim relies on philosophical views or ethical ideals that would not be affirmed by every reasonable citizen. Clayton and Stevens use an example of three citizens to illustrate the problem of alienation. Suppose Ian favours legal enforcements of his religious convictions, because he believes the enforcements are divine commands. Donald believes these are divine commands as well, but also believe the commands include the doctrine of free faith. Richard rejects the divine command theory and endorses liberal democracy, due to independent considered reflection on political morality. If political liberals argue that the divine command theory is mistaken when they engage with Ian, then their response will alienate Donald. If political liberals acknowledge the divine command theory but argue that Ian misunderstands the command, then this will alienate Richard. From this example, Clayton and Stevens contend that any commitments made by political liberals in the public justification could alienate a certain number of reasonable citizens.

Political liberals can offer a conditional religious response instead. They refuse to make a commitment, but rather argue that *if* one accepts the divine command theory, then one should endorse a political conception. This response avoids the problem of alienation, but it “appears disingenuous, because the political liberal’s motivation for engaging with the unreasonable religious adherent is to persuade him to embrace liberal conclusions” (Clayton and Stevens 2014, p. 80). Political liberals have a hidden agenda during their persuasion. This will tend to put off the religiously unreasonable. Hence, political liberals face a dilemma: either they commit to certain religious convictions and alienate some citizens, or they avoid making a commitment, which renders the engagement disingenuous.

¹ It should be noted that Clayton and Stevens are not discussing whether a liberal state is legitimate to coerce the religiously unreasonable, since the state is not committed to offer a justification that is acceptable to everyone, including the religiously unreasonable. Rather, the focus of discussion is why the religious unreasonable should be engaged in the public domain and what kind of speech should be used, given that coercion is inevitable. I appreciate the anonymous reviewer for clarifying this point.

Clayton and Stevens believe this dilemma can be avoided by a division of justificatory labour. They discuss three kinds of political liberals: political philosophers, politicians and religious citizens. Political philosophers and politicians (hereafter called *PP*), as a set of citizens who do not share religious doctrines with the religiously unreasonable, should not perform the task of engagement since they may “jeopardize the prospects of achieving an overlapping consensus of reasonable comprehensive views” (Clayton and Stevens 2014, p. 81). The task of offering religious responses should be delegated to suitable religious citizens who share the same faith with the religiously unreasonable. For example, the task of engaging with unreasonable Muslims should be delegated to Muslim scholars, like Abdullahi Ahmed An-Na’ism, who interprets Islamic Shari’a law to be compatible with constitutional democracy (Rawls 1999, p. 590). By delegating this duty, religious responses are offered to the religiously unreasonable without sacrificing the stability of overlapping consensus.

Conjecture as a conditional response

Clayton and Stevens are insightful in discovering the crucial role religious arguments can play in political liberalism. Yet I believe that the division of justificatory labour cannot withstand scrutiny. Similar to religious citizens, *PP* should participate in the task of engagement. Clayton and Stevens are reluctant to make this claim due to a dilemma between alienation and disingenuousness. I shall argue that, if *PP* were to conjecture appropriately, this dilemma could be resolved.

Conjecture is a form of discourse among citizens in public discussion suggested by Rawls. It is used as a way of responding to citizens who believe their comprehensive doctrines cannot square with the demands of public reason. During conjecture, citizens begin the public justification from “other people’s basic doctrine, religious or secular, and try to show them that, despite what they might think, they can still endorse a reasonable political conception that can provide a basis for public reasons” (Rawls 1999, p. 594). The purpose of conjecture is to persuade other citizens to endorse a political conception by giving them non-public reasons that are convincing from within their own comprehensive doctrine.

The authors seem to accept that conjecture should be used when religious citizens engage with the religiously unreasonable (though, surprisingly, the word “conjecture” itself is not mentioned). However, should *PP* do the same? I believe so. A reason is that, by conjecture, they can offer theological arguments without alienating any reasonable citizens. Alienation happens when *PP* claim that certain religious doctrine is true or false. Yet conjecture is merely a hypothetical response. When a politician engages in conjecture with a Muslim, what the politician means is that “if I *were* a Muslim, then I *would* endorse a certain law”. It does not mean the politician *is* a Muslim. In conjecture, I do not think that *PP* need to affirm or deny any doctrines, and thus alienation should not occur. Take the case of Ian, Donald and Richard. *PP* can persuade Ian to accept certain laws by appealing to reasons within the divine command theory. Yet *PP* neither affirm nor deny the divine command theory. They only evaluate from a neutral perspective and discover certain reasons within the divine command theory that Ian might have unfortunately overlooked. It does not alienate Donald, since *PP* do not claim the divine command theory is false. It does not alienate Richard either, since *PP* do not claim that it is true.

Conjecture as a sincere response

The authors might rebut this by claiming that conjecture is a kind of “conditional religious response” that is discussed in their paper. A conditional religious response makes *PP* appear disingenuous, and gives rise to doubt in other reasonable citizens. But why are they disingenuous? It is because *PP* are “predisposed to read [religious texts] in a way that is supportive of liberal conclusions; to find an interpretation that fits [their] pre-existing view” (Clayton and Stevens 2014, p. 80). A clarification is needed, since having a pre-existing view *itself* is not necessarily a disingenuous behaviour. It is common to have a pre-existing view in public discussions. One is disingenuous when he *conceals* his pre-existing view. For example, he pretends to be a Christian indifferent to liberalism, but in fact firmly upholds a secular, liberal view. This two-faced attitude is disingenuous, which causes other reasonable citizens to suspect his credibility.

However, I believe that proper conjecture by *PP* can avoid this problem. It is unclear why *PP* should conceal their true thoughts. On the contrary, according to Rawls’s requirement, citizens who engage in conjecture should be sincere and disclose their true thoughts:

[I]t is important that conjecture be sincere and not manipulative. We must openly explain our intentions and state that we do not assert the premises from which we argue, but that we proceed as we do to clear up what we take to be a misunderstanding on others' part, and perhaps equally to ours." (Rawls 1999, p. 594)

When PP engage with the religiously unreasonable, they should not pretend that they share the same religious beliefs. Rather, PP should openly disclose their beliefs. The intention of conjecture is to contribute their efforts to clarify misunderstandings in other people's perspectives, or describe alternative ways to interpret certain religious texts. Acknowledging being an outsider could weaken the persuasive power of these arguments. Despite this, PP should honestly explain their intention for the sake of displaying their sincerity. Given that PP are sincere in their conjecture, I see no reason that they will necessarily appear disingenuous.²

Clayton and Stevens might argue that, even though PP sincerely disclose their liberal views, they are still disingenuous because they pretend to be open-minded, but are in fact predisposed to the liberal views. They do not listen to the opinions of the religiously unreasonable, and merely want to impose their liberal views on others. Again, I do not think this is true. During conjecture, PP should be open-minded to accept that they might make errors in reasoning or overlook evidence in religious texts. As Rawls stated in the aforementioned paragraph, misunderstanding "perhaps equally" happens in our view. PP should always be ready to revise their arguments in response to the religiously unreasonable. Clayton and Stevens might claim the revision is inevitably limited, since PP will never give up their liberal views. Yet this assumes that PP are dogmatic. PP need not deny the possibility that they may give up their liberal views after engagement. What reasonable citizens have is only a "reasonable faith in the possibility of a just constitutional democracy" (Rawls 2005, p. 172), but not a fixed, unchangeable standpoint. PP can let their faith be tested in dialogues with the religiously unreasonable. If the religiously unreasonable can give strong reasons that PP feel they can no longer uphold their liberal views, then PP are free to abandon those views.³ In short, on condition that PP sincerely acknowledge their position and are open-minded to others' viewpoints, they will not necessarily appear disingenuous.

A conjectural engagement by Bernie Sanders

Clayton and Stevens agree with Rawls that everyone has a natural duty to promote justice and thus, to persuade the religiously unreasonable. Why PP should delegate this duty to religious citizens is because of the dilemma between alienation and disingenuousness. While I argue in the last two sections that this dilemma can be resolved, it implies that PP are similar to religious citizens. They should be "permitted—perhaps even morally required in certain circumstances—to explain to" the religiously unreasonable (Clayton and Stevens 2014, p. 81).

Some might argue this is a too optimistic viewpoint of the communications between PP and other citizens. In the real world, the acts of PP, especially politicians, are easily suspected and distorted by citizens. As Clayton and Stevens describe, the engagement of politicians may "cause suspicion over their motives and legitimate authority" (Clayton and Stevens 2014, p. 81). However, this is not always the case. In September 2015, Vermont Senator and Democratic presidential candidate, Bernie Sanders, delivered a speech at the Liberty University, a leading evangelical Christian university. Addressing an audience of approximately 12,000, Sanders, a secularized Jew, claimed that "it is vitally important for those of us who hold different views to be able to engage in a civil discourse".⁴ Sanders described income inequality as "the great moral issue of our time" and argued that, from the Christian perspective, such vast inequality should be intolerable. During his speech, Sanders quoted several Bible verses, such as Matthew 7:12 ("So in everything, do to others what you would have them to do to you, for this sums up the law and the prophets") and Amos 5:24 ("But let justice roll on like a river, righteousness like a never-failing stream"), to support a liberal claim that people should treat everyone "with respect and

² For a more detailed discussion on how conjecture can be sincere and respectful, see Schwartzman 2012, pp. 529-534.

³ I agree with Quong's claim that citizens have no right to be unreasonable. A state should not protect citizens' pursuit of unreasonable objectives (Quong 2011, pp. 290-314). However, I do not think this normative claim implies a factual claim that it is impossible for a liberal citizen to become illiberal.

⁴ Sanders's full speech is in C-SPAN (2015). All quotations are from this video clip.

dignity” and put themselves in the shoes of the poor. Furthermore, Sanders aligned his view with Pope Francis, who advocated “a need for financial reform along ethical lines that would produce in its turn an economic reform to benefit everyone. Money has to serve, not to rule.”

In the words of Rawls, Sanders’s speech is a kind of conjecture. Sanders attempts to seek Biblical grounds for justice. His speech serves as a good example of a conditional and sincere response. It is conditional, since Sanders reasoned from a Christian perspective without affirming or denying Christianity. It is sincere, since Sanders confessed in his speech, “I am not a theologian, I am not an expert on the Bible”. Despite disagreements on controversial issues, such as abortion, he believes that both Christians and liberals should see economic inequality as a serious injustice. In a short speech, it was difficult to move the conservative views of most students. However, a number of students appreciated his sincerity, and agreed that different parties should “engage in more civil discourses” (Roberts 2015). Some students even changed their views and became a supporter. As one student said, “I liked almost everything he said.....his calls to help address childhood poverty and hunger resonated” (Corasaniti 2015). The positive interactions between Sanders and some conservative students showed that the overlapping consensus is not necessarily jeopardized by the religious response of politicians.

Conclusion

Although the religious unreasonable are entitled to freedom of speech, their dissent is largely ignored and the coercive political power is exercised in a way that is unjustifiable to them. While the coercion is inevitable, what should political liberals *say* to these religious unreasonable? The usual reply is that political liberals should offer them public reasons that would be acceptable to reasonable citizens. If the religious unreasonable do not accept these public reasons, then political liberals need not turn to offer non-public religious reasons. The state owes these religious unreasonable a justification for the exercise of power, but it is not obligated to ensure that this justification must be accepted by these religious unreasonable (Macedo 2000, p. 186; Quong 2011, pp. 312-314). This reply is criticized as too restrictive by other philosophers. The dissent of the religious unreasonable should be taken more seriously. Non-public religious reasons should be included in the public debate and justification. If a particular law or policy is rejected by the religious unreasonable due to these reasons, then it is illegitimate (Gaus and Vallier 2009, p. 63). The contribution of Clayton and Stevens is their discovery of a third way: despite the rejection of the religious unreasonable, the exercise of political power is legitimate given that it is justified by public reasons, but non-public religious reasons should be offered in the direct engagement with the religiously unreasonable. However, they are too pessimistic about the engagement of PP and thus propose a division of justificatory labour. In this reply, I agree with their third way, but argue that it is unnecessary for PP to delegate the duty of engagement to religious citizens, on condition that PP are themselves able to provide proper conjectural arguments. As reasonable citizens who have a natural duty of justice, PP should be permitted, or perhaps even required, to listen to the voices of the religiously unreasonable and offer conditional and sincere religious responses.

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