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Policing the borders of bioethics – "Rawlsian" public reason as a disciplinary tool

– Søren Holm –

Abstract: This paper discusses the use of public reason requirements as a tool for boundary work within academic philosophical bioethics. The concept of "public reason" as a requirement for legitimate interventions in policy debates in liberal democracies has been received into bioethics from political philosophy. The version of public reason requirements that is most often referred to in bioethics is the version developed by John Rawls. However, the concept that has been received, its scope, and the way in which it is applied have arguably changed through the reception process. The relation between the original Rawlsian concept, and the "Rawlsian" concept that is used in bioethics is therefore not straightforward. The paper first analyzes some of the changes that have happened in the reception process and then moves on to a discussion about the use of public reason as a boundary setting tool demarcating proper bioethics activity. It is argued that this boundary setting is problematic philosophically, since it relies on a misapplication of the public reason requirements as they have been developed in political philosophy; and that it is also performatively self-defeating in any context where religious arguments *de facto* play a role in public, democratic policy-making discourse.
Key terms: bioethics, boundary work, discipline, political philosophy, public reason, Rawls

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> The focus is on *boundary-work* of bioethicists: their attribution of selected characteristics to the institution of bioethics (i.e. to its practitioners, methods, stock of knowledge, values and work organization) for purposes of constructing a social boundary that distinguishes some intellectual activities as "non-bioethics". Boundary-work is analyzed as a rhetorical style common in "public bioethics", in which bioethicists describe bioethics for the public and its political authorities, sometime hoping to enlarge the material and symbolic resources of bioethicists or to defend professional autonomy.[1]

> Bioethics as a field of inquiry has many parents, its writers come from a wide variety of academic disciplines. What they all have in common, whether they are historians, lawyers, philosophers or social scientists, is an understanding that the arguments presented must be a variety of public-reason based arguments.[2]

Søren Holm
Centre for Social Ethics and Policy, Department of Law, School of Social Sciences
University of Manchester
soren.holm@manchester.ac.uk

[1] Modified from Gieryn (1983): 782, references removed.
[2] Schüklenk (2018).

Introduction

The concept of "public reason" as a requirement for legitimate interventions in policy debates in (liberal) democracies has been received into bioethics from political philosophy. As will be shown below, the concept of public reason that is primarily used in bioethics has been derived from the writings of John Rawls. However, the concept that has been received, its scope, and the way in which it is applied have arguably changed through the reception process. These changes mean that the relation between Rawls' original conception of public reason, and the "Rawlsian" public reason that is often appealed to in bioethical writing is complicated. In this paper I will first analyze some of the changes that have occurred in the bioethical reception history of "public reason." I will then discuss the role of the concept as a disciplinary tool in the boundary work of the nascent and developing field of bioethics. A tool which allows its users to distinguish between what they conceptualize as proper bioethics and other, for them problematic forms of "bioethics" that should be excluded. I will argue that some of the current uses of the concept in bioethics are problematic because they have unjustifiably narrowed the criterion used to identify non-public reasons and/or have misrepresented the nature and role of non-public reasons and the scope of the kind of activities that are subject to the public reason requirement. Grossly simplified, "public reason" has been interpreted to be co-extensive with "secular reason," and the scope of public reason requirements has been extended from interventions in public policy debates to all of philosophical bioethics and all of moral argument between what Engelhardt termed "moral strangers."[3] I will further argue that the boundary in question is in many cases performatively self-defeating in the sense that it hampers the boundary setting bioethicists' ability to engage effectively in public debates as they are actually conducted in non-ideal liberal democracies.

The focus of the paper is primarily on academic philosophical bioethics, i.e., the kind of academic work that is presented at bioethics conferences and published in bioethics journals. Public reason requirements are plausibly different when a bioethicist advocates for a particular public policy in the public forum, or when a bioethicist in an official role, e.g., as member of a bioethics council or an ethics committee provides policy advice as part of what we could call "official bioethics."

Public reason requirements are also plausibly different in policy discussions of what treatments a health care system should offer, or on whether persons in important publicly defined roles, e.g., health care professionals should be allowed to express their personal normative views in their work with patients and clients or should be allowed to let those personal views influence their decision-making.

[3] Engelhardt (1996).

Public reason

The idea that there are boundaries around the kind of reasons that can be presented when citizens engage in policy debates or when political or judicial decision-makers make decisions has a long history in political philosophy. Many political philosophers have developed versions of this idea, but the one that has mainly been appropriated into English-language bioethics is the version (or versions?) propounded by John Rawls. This may be because Rawls' magisterial earlier work on justice has played a major role in bioethics and have provided Rawls with name recognition within the field. That Rawls in particular is central to discussions of public reason in bioethics can be illustrated by a simple bibliometric analysis of which philosophers are mentioned in bioethics work referencing "public reason." Figure 1 shows a Venn diagram of mentions of John Rawls, Gerald Gaus and Jonathan Quong in articles published containing the phrases "bioethics" and "public reason" (Google Scholar searches 31.10.24). The main point to note is the large number of articles containing a mention of Rawls only, and that Rawls is almost always mentioned alongside one of the later prominent public reason theorists. Similar results are found if the analysis is performed with other public reason theorists as a contrast to Rawls, or with modifications of publication dates criteria (data not shown). This indicates the centrality of Rawls and Rawls' arguments to this discussion within bioethics specifically, and the relative lack of engagement with more recent scholarship on public reason in political philosophy. The lack of engagement with recent scholarship in relevant fields of philosophy outside of bioethics is not specific to the "public reason" debate, but also occurs in other areas of bioethics scholarship, although an exploration of this more general phenomenon, its causes, and consequences is outside the scope of this paper.

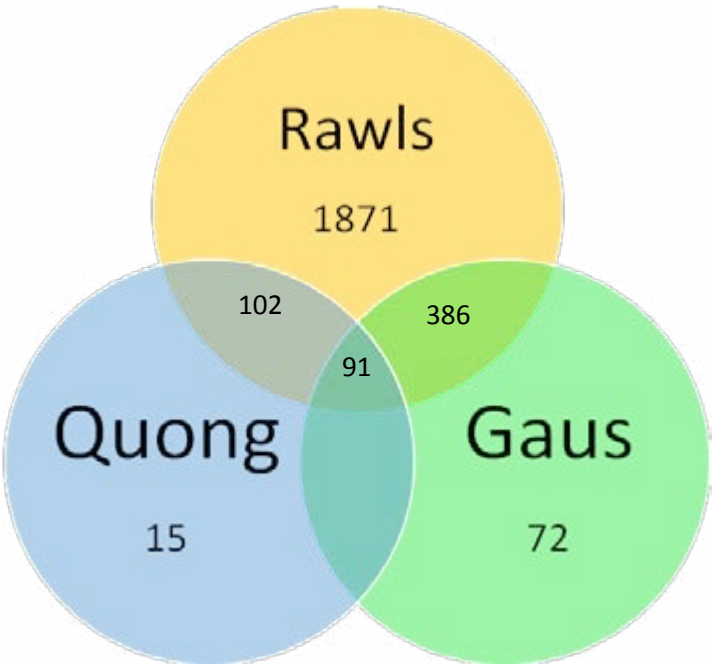

Figure 1 Frequency of reference to public reason theorists in bioethics

Rawls develops the idea of public reason as a response to an identification and analysis of a fundamental problem in modern, democratic, multi-cultural societies. In such societies we have groups of citizens with mutually incompatible comprehensive worldviews, but we need to be able to agree on policies, including policies that involve coercive state power, that apply to all citizens and which can be justified to all citizens. Rawls' solution is to require those who participate in the policy discourse to act purely in their role as citizens and use only "public reasons," that is reasons that can be justified with premises exclusively drawn from the overlapping consensus between comprehensive worldviews.[4] Rawls is explicit that these comprehensive worldviews can be religious or secular.[5] He is, however, not completely consistent regarding the demarcation between public and non-public reasons. In places he explicates the distinction not in relation to overlapping worldviews, but in relation to whether a reason is based on a particular, potentially disputable basis, be it religious, philosophical or metaphysical:

> What is important is that, so far as possible, these fundamental intuitive ideas are not taken for religious, philosophical or metaphysical ideas. For example, when it is said that citizens are regarded as free and equal persons, their freedom and equality are to be understood in ways congenial to the public political culture and explicable in terms of the design and requirements of its basic institutions. The conception of citizens as free and equal is, therefore, a political conception, the content of which is specified in connection with such things as the basic rights and liberties of democratic citizens.[6]

It would clearly have significant implications for philosophical bioethics if it had to be conducted solely in terms of public reason, and if that entailed that the analysis and argument had to exclude "religious, philosophical or metaphysical ideas" and only analyze and use "political conceptions." When philosophical bioethicists discuss the proper analysis and application of such concepts as autonomy, moral responsibility, coercion, exploitation, rights, or moral status, to name a few, they are not usually starting from or confining themselves to the political understanding of those concepts, but are conducting a philosophical analysis of philosophical notions, some of which also involve metaphysical ideas. We could of course exclude all of this activity from bioethics and require bioethicists to stick to public reason in their argument, but no one seems to suggest that as a feasible way forward. It would require us to cut all connections between bioethics and substantive moral theories. A similar problem would occur if we apply Rawls' other criterion and define public reason in terms of not relying on any particular comprehensive worldview, but only on what is in the overlapping consensus between worldviews. As an example, applying that criterion to bioethics would plausibly exclude any arguments relying directly on libertarian or communitarian ideas since both philosophical schools of thought involve a comprehensive worldview. It is definitely an apt description to say that Robert Nozick and Charles Taylor hold different, although both secular worldviews.

[4] Rawls (1996): 133–172.
[5] Rawls (1987; 1996; 1997).
[6] Rawls (1987): 7.

Conducting philosophical bioethics solely in terms of the political conceptions of ideas under consideration would also have the unfortunate side-effect that bioethics would become balkanized and relativized. The political conceptions are not universal but specific to a particular society at a particular time, so, to use Rawls' own example, any bioethical analysis referring to individual freedom or equality of persons would be relative to the "public political culture" and the "requirement of [the] basic institutions" of a particular society and would not necessarily be transferable to any other society, or even to the same society in a different time period.

The main focus of this paper is public reason requirements in relation to work in philosophical bioethics, but it is worth briefly noting that the application of public reason requirements to bioethical interventions in public policy debates also raises interesting questions.[7] In a recent book Leonard Fleck applies a fairly orthodox reading of Rawls' public reason requirements to bioethical policy issues from abortion to voluntary euthanasia.[8] As an orthodox Rawlsian, Fleck both does not want to exclude non-public reason from *philosophical* bioethics, and he acknowledges that many secular, philosophical arguments count as non-public reasons which as such should therefore be excluded from *public discussions* about public policy:

> It is hard to imagine Kantians or utilitarians or Thomists engaging in any violent form of political behavior. However, it is easy to imagine Kantians and utilitarians and Thomists having very different views with respect to the ethical or political legitimacy of physician aid-in-dying. This might result in vigorous argumentation at philosophy conferences or other public settings where such issues might be debated. Various religious voices could be part of these debates as well. In all these cases Rawls would not be insisting that participants in these cases bracket their comprehensive views and only speak with the voice of public reason. The primary reason for this broad permissiveness is that no specific piece of legislation is "on the table" for serious consideration, either legislatively or administratively. Consequently, participants in these public discussions are under no obligation to refrain from appealing to their comprehensive positions. However, it is a very different matter when very specific legislation is being considered for possible enactment. In that situation, participants are legitimately expected to speak as citizens, that is, with the voice of public reason, not from within any comprehensive framework. Certainly, this is the expectation Rawls has for individuals in legislative or judicial or public administrative roles, including staff connected to these policymakers. Further, if there are public hearings, then individuals invited to testify, perhaps representing some relevant expertise, would also be expected to offer their contributions as citizens, not as advocates from within some comprehensive doctrine. What about broader public engagement? What is the role of rational democratic deliberation with regard to very specific pieces of proposed legislation? I would argue that to the extent such deliberations have a formal character tied in some specific way to a particular piece of legislation parti-

[7] I owe the impetus to discuss Fleck's work to an anonymous reviewer.
[8] Fleck (2022), see also Fleck (2023; 2025).

> cipants ought to be speaking as citizens with the voice of public reason. This would be in contrast to less formal public discussions that might be randomly organized.[9]

Some pages later at the end of the book he then states the following conclusion:

> The question we raised at the beginning of this Element was whether religious arguments could provide a reasonable, justified basis for restrictive (coercive) public policies with respect to a broad range of innovative, albeit ethically and politically controversial, medical interventions and technologies, such as research with human embryos, PGD, or the use of artificial wombs. With Rawls, we would give a negative answer to this question. A positive answer would not be congruent with the fundamental values of a liberal, pluralistic society committed to equal concern and respect for all. A positive answer would necessarily involve coercively imposing restrictive policies justified by religious reasons that would not be accessible or acceptable to those who did not share that religious perspective.[10]

This is, again, a conclusion that is fully justified by Rawls' conception of public reason. However, as Fleck is clearly aware (see the first quotation above), a very similar conclusion must follow if the term "religious arguments" is replaced by "bioethical arguments that do not fall within the scope of public reason." And there are many of those since Fleck's list of "Kantians or utilitarians or Thomists" is expandable to any bioethicist committed to, or any argument relying on, a substantive moral theory; as well as to any arguments using premises that are outside the overlapping consensus. We would have to insist on a strict separation of what can be argued in philosophical bioethics, and what can be argued in "public policy bioethics." Given that many bioethicists have known philosophical and comprehensive worldview commitments, there is also a risk that this would lead to a widespread application of a "hermeneutics of suspicion" to any policy interventions made by bioethicists to discover whether these interventions are really or fully "public reason" interventions, or whether they are just reformulations of the underlying worldview in public reason-looking terms (see Blackford & Schüklenk for such an application of suspicion in relation to bioethicists with religious worldviews).[11]

It is important to note that these problems will be exacerbated if bioethicists use conceptions of what counts as "public reason" that are stricter than Rawls' as the basis for public reason requirements. If, for instance, Quong's sincerity requirements were taken as the correct analysis of what counts as a public reason, almost all moral theory-based arguments in bioethics would be excluded as relying on non-public reasons.[12] Quong defines the "principle of justificatory sincerity" in the following way:

[9] Fleck (2022): 21.
[10] Ibidem: 61.
[11] Blackford & Schüklenk (2021).
[12] Quong (2011).

> Assuming that sincerity is a requirement of public reason, how should it be formulated? Suppose we have a political constituency of only two persons, A and B, and they face a choice as to whether or not to endorse proposal X. A *principle of justificatory sincerity* (PJS) requires that A may only endorse X if the following are true (and vice versa for B):
> 1. A reasonably believes he is justified in endorsing X.
> 2. A reasonably believes that B is justified in endorsing X.
>
> Furthermore, following Rawls's duty of civility,
> 3. A may only (in the political domain) offer arguments in favour of X to B that he reasonably believes B would be justified in accepting.[13]

But, although a consequentialist and a rights' theorist may both agree that there should be, say, "a right to property," their basic understanding of what "a right to" means will be different as will the arguments they can put for the existence of such a right from their respective theoretical backgrounds. Or, in Quong's terms, A and B could not fulfil the PJS, because they would have a fundamental disagreement about what the correct analysis of X is, even though they are at a superficial level both endorsing it.

The scope of public reason requirements

To what kind of activities do public reason requirements apply? Fortunately (!) Rawls does not apply the public reason requirement to philosophy, but only to the policy-making discourse in democratic societies. According to Rawls, the public reason requirement only applies in certain contexts and only to a sub-set of political decisions. He writes that it does:

> … not apply to our personal deliberations and reflections about political questions, or to the reasoning about them by members of associations such as churches and universities […] But the ideal of public reason does hold for citizens when they engage in political advocacy in the public forum …[14]

and that it only applies to a sub-set of political questions:

> … involving what we may call "constitutional essentials" and questions of basic justice. […] Many, if not most political questions do not concern those fundamental matters, for example, much tax legislation and many laws regulating property …[15]

Both of these qualifications of the requirement seem to have been somewhat lost in the reception of public reason requirements in bioethics (see below). There is undoubtedly work in academic bioethics that is best understood as being "political

[13] Ibidem: 266, footnotes removed.
[14] Rawls (1996): 215.
[15] Ibidem: 214.

advocacy in the public forum" by providing arguments for or against certain policies, and sometimes having the explicit goal of influencing the outcome of current policy debates.[16] But there is also a lot of work in academic bioethics which it would be very odd to characterize as "political advocacy in the public forum," in some cases because it is far too esoteric to count as any kind of advocacy in the public forum, and in others because although the work might have implications for policy now or in the future, its primary target is to analyze important concepts. When Derek Parfit provides an analysis of the non-identity problem or the repugnant conclusion in *Reasons and Persons* it is not primarily to influence the regulation of assisted reproduction or population policy.[17] The analyses are performed because they can illuminate important philosophical questions about the nature of, and criteria for personal identity, and some important problems in relation to aggregation in consequentialist ethics.

This means that whereas Rawlsian public reason requirements apply to what we could call "public advocacy bioethics" they do not apply to the whole field of academic bioethics. But, as we shall see later, they are often used in boundary setting as if they applied to the whole field.

The other restriction which is often ignored in bioethics is the restriction on policy scope. Rawls argues that public reason requirements apply to "constitutional essentials" and questions of basic justice, but not to all or perhaps even most policy questions. The requirement to use only public reasons apply to policy discourse about fundamental matters, only. This directly entails that individuals do not have to provide public reasons for their individual actions, except if those actions are voting or decision-making in an official capacity. If Jewish parents with a Jewish comprehensive worldview decide to send their child to a Jewish school, they do not have to provide a reason that does not refer to their Jewishness. It also, and perhaps more importantly for bioethics in general, directly entails that there are many areas of bioethics where it is perfectly acceptable to use reasons that are, in Rawls' sense, non-public. When we, for instance, discuss resource allocation in health care there is no "public reason problem" in referring to Proverbs 14:31 "He that oppresseth the poor reproacheth his Maker: but he that honoureth him hath mercy on the poor" or in the development of this Biblical injunction into the concept of "the preferential option for the poor" in Catholic liberation theology.[18] Resource allocation in health care is not a question of constitutional essentials, and there are many specific resource allocation questions that do not raise any unsettled questions about basic rights.

It might be objected that Rawls' own work on justice has been used extensively in bioethics to analyze questions about resource allocation in health care and that this shows that the public reason requirement extend further than it seems from the quotes above.[19] The Rawlsian framework developed in *A Theory of Justice* has been applied, either by extending the framework to health care, intergenerational health justice, and public health as done in detail by Norman Daniels in a number of books,[20] or by simply

[16] Oswald (2013).
[17] Parfit (1984).
[18] Carroll (1982); Gutiérrez (2009).
[19] I owe this objection to one of the anonymous reviewers.
[20] Rawls (1971); Daniels (1985; 1988; 2007).

applying Rawls' "Difference principle" directly to priority setting decisions. However, this application and extension of the Rawlsian framework does not necessarily entail any commitment to the public reason requirements for actual political debate that Rawls developed subsequently to *A Theory of Justice*. A commitment to justice as fairness in ideal theory is not in itself a commitment to public reason requirements in actual discourse. This is most obvious in relation to the direct application of the difference principle. Using the difference principle as a premise in an argument does not in itself create a commitment to a specific view on public reasons. If we take Daniels as the most sophisticated exponent of an extension Rawls' framework to issues relating to health, it is also the case that his work does not proceed within a specific public reason framework. Neither "public reason" nor "religion" nor "secular," for instance, occur in the index of Daniels' seminal *Just Health Care*, and none of Rawls' publications developing his public reason doctrine are referenced in the book (for the very simple reason that they are all published after Daniels' book).[21]

For another objection, some public reason theorists argue that public reason requirements have a much wider scope than what Rawls states; which supposedly indicates that public reason restrictions of wide scope in philosophical bioethics are justifiable.[22] Quong, for instance, argues for a wide scope where "…the ideal of public reason ought to be applied, whenever possible, to all political decisions where citizens exercise coercive power over one another."[23] And Gaus advocates for a scope including "… the set of social-moral rules that require or prohibit action and so ground moral imperatives that we direct to each other to engage in, or refrain from certain lines of conduct"[24] (although he then immediately slightly restricts the scope again by stating that "Much of what we call "ethics" – including visions of the good life and conceptions of virtue and vice – lies outside social morality so understood"[25]). Such extensions of public reason requirements will, when applied to philosophical bioethics, only deepen the issue mentioned above, i.e., because public reason criteria exclude a wide range of both secular and religious reasons from being "public," a very significant part of current bioethics activity would have to be excluded, and a lot of what looks like perfectly reasonable philosophical arguments would have to be reconfigured. No one could legitimately raise an explicitly Marxist or Libertarian argument in a discourse about a policy potentially involving coercion, and Kantians and Consequentialists would have to reconfigure their disputes in terms that did not involve any commitments to moral theory when discussing social morality.

Public reason as a boundary setting tool

In bioethics one common use of public reason is as a boundary setting tool, delimiting the boundaries of proper bioethics and explicitly excluding religious bioethics from the field. The much debated 2018 editorial by Udo Schüklenk, the editor in chief of the journal *Developing World Bioethics,* is perhaps the clearest example of this. Schüklenk writes that:

[21] Daniels (1985).
[22] I also owe this objection to one of the anonymous reviewers.
[23] Quong (2004): 233.
[24] Gaus (2010): 2.
[25] Ibidem: 2–3.

> Bioethics as a field of inquiry has many parents, its writers come from a wide variety of academic disciplines. What they all have in common, whether they are historians, lawyers, philosophers or social scientists, is an understanding that the arguments presented must be a variety of public-reason based arguments.[26]

And draws the conclusion that:

> After much thought we have decided to more significantly limit exclusively religious contributions published in the journal, precisely because they do not actually contribute to the conversations and dialogues that continue apace in our field. We will continue to publish such content, but for it to pass muster its arguments will have to have broader significance, beyond the followers of a particular religion.[27]

It is perhaps worth noting in passing that Schüklenk extends his boundary setting back in time, by enumerating the parents of the field as "historians, lawyers, philosophers or social scientists," thereby erasing the significant "parenting" role of moral theologians in early bioethics.[28]

Similar boundary setting using public reason requirements as a tool to exclude all religious bioethics and religiously based arguments from philosophical bioethics proper is relatively common.[29] Sometimes there is a nod to the fact that an interpretation of public reason requirements that allow the exclusion of religious reasons *tout court* actually entails that a lot of secular bioethics should also be excluded, but somehow the authors never quite get round to performing that exclusion. A typical example is the following footnote:

> Clearly some moral reasons can be sectarian. For instance, the notion of desert in distributive and retributive justice is sectarian. The same goes for straightforwardly utilitarian, Kantian, and atheist considerations. In the interests of simplicity though, in this paper moral reasons should be understood as public-reason approved moral reasons.[30]

But excluding religious reasons while only noting that other reasons should also be excluded without actually excluding them is essentially hypocritical. As noted above, taking the view – *contra* Rawls – that public reason requirements apply to all of bioethics and not only to bioethical interventions in policy debates has very radical consequences, but that cannot be a reason only to apply these requirements to one type of comprehensive worldviews and not to other types, or to one type of "religious, philosophical or metaphysical ideas" and not to others.

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[26] Schüklenk (2018).
[27] Ibidem.
[28] Shelp (1985); Jonsen (2003); Evans (2012); Ferber (2013); Campbell (2002).
[29] See e.g. Brock (1992); Savulescu (1998); Murphy (2012a&b); Blackford and Schüklenk (2021); Brummett (2021a&b); and for further examples Goss and Bishop (2021).
[30] Greenblum (2018): 207, reference removed.

Expanding the scope of public reason requirements from the political to the personal

The restrictions on the scope of public reason requirements developed by Rawls and others are often forgotten or elided when they are used to set boundaries in bioethics. As explained above, Rawls and other public reason theorists argue that public reason requirements apply when a person participates as a citizen in debates about public policy, especially policies that involve the coercive powers of the state. But in bioethics public reason requirements have been expanded far beyond this scope. In the following I will provide an analysis of a particular example of this expansion in order to illuminate why it happens, and why it is philosophically unwarranted.

In recent debates about conscientious objection in health care, a number of bioethicists have argued for the view that public reason requirements should apply not only to our societal discussions about if and when we should legally protect conscientious objection, i.e., to a policy decision, but also to the reasons that individual conscientious objectors who act within the legal framework for conscientious objection put forward for why they are objecting.[31] Greenblum, for example, writes that:

> Conscientious objectors relying on solely religious considerations cannot in theory offer their reasons to citizens from different backgrounds (whether from different religions or secular backgrounds); their reasons are in this sense purely private. Because religious considerations are not public considerations, only properly moral reasons can legitimately be offered to justify conscientious objection. Conscientious objection based on purely religious considerations is therefore not deserving of protection.[32]

Let us briefly note that the distinction between "religious considerations" and "properly moral reasons" is rather odd. It seems to entail that most people at most times in history have not been talking with each other about moral questions using "properly moral reasons" because they have not distinguished between religious reasons and other moral reasons. They have consistently offered each other reasons that, on Greenblum's view, cannot legitimately be offered.

A similar argument has been put forward by McConnell and Card:

> A physician refuses to participate in hastening an incapacitated patient's death via active euthanasia as this is a form of killing. The grounding reason for the physician's objection is based upon the religious belief that such an action is always sinful because it is only within the power of God to determine another person's lifespan. Since this justification contains reasons that are incomprehensible to non theists or to theists who accept a conception of God on which mercy killing is allowable, it will not meet a pro tanto public reason condition.[33]

[31] For an overview of such arguments see McConnell (2025) and for a more extended criticism of those arguments see Holm (2025).
[32] Greenblum (2018): 207, footnote removed.
[33] McConnell and Card (2019): 629.

As I have argued elsewhere, this is initially problematic because:

> … it is not strictly true that the original reasons given are incomprehensible to the non-theist. The non-theist does not share some of the central premises relied on by the physician, and may believe them to be actually false (e.g. if the non-theist is not merely agnostic but atheist), but that does not make the position or the reasons given incomprehensible. And even if the reasons given were both non-public and incomprehensible, it still does not show why the physician should not rely on them if not participating in euthanasia falls within the scope of conscientious objection. Her reasons are not idiosyncratic or particularly strange, and she could just have stated that killing the innocent is always morally wrong, and that that as a public reason was the reason for her objection.[34]

But then the whole line of argument pursued by Greenblum and by McConnell and Card is odd from a public reason perspective. The individual conscientious objector is not engaging in political advocacy in the public forum and is not involved in a policy debate about constitutional essentials or basic rights, or even in any kind of policy debate. They are just acting individually within an established legal framework. They are in the same position as a rambler who, after a legislation that makes it legal to walk on private land (a so-called "right to roam" legislation) is passed, decides to go on a particular walk. Their walk would previously have been a trespass but is now legally protected, and if they meet the landowner he or she cannot demand a reason from them to be there. Even if we decided to implement a law that allowed landowners to request a reason from ramblers who walked on their land, that reason would not have to be a public reason. The reason "I walk towards the holy, healing spring on the hill over there" would be a perfectly adequate and reasonable reason to give, although it might not count as a public reason.

There are good reasons to apply public reason requirements to the policy debate about whether conscientious objection should be allowed in certain contexts, but once the policy is settled there a no good reasons to apply such requirements to the individuals who act within the parameters and constraints of the policy.

We may, of course, want to ascertain that the reasons for objection are genuinely held and not just adopted in order to object, but that is not a question of whether the reasons are public or non-public in Rawls' sense. Both public and non-public reasons can be held and put forward authentically and non-authentically. As noted in the quote from my previous paper above, a non-public reason is not necessarily "private" in the sense that other citizens cannot understand it.[35] Even Greenblum can presumably understand (in the cognitive sense) maybe not the commitment itself, but at least the committed quaker who provides an account of quaker theology and how that theology and his religious commitments mean that he must object to military service. That is, the reasons put forward are fully intelligible to everyone, although some of them are not

[34] Holm (2025): 79.
[35] Ibidem.

shared by everyone.[36] As Greenblum himself points out in the footnote quoted above, on his account Kantian views are sectarian and non-public. That seems to entail that a Kantian philosopher, or perhaps even Kant himself, cannot refer to Kantian arguments in justifying an objection to killing another innocent, rational person, even though these arguments are fully philosophically explicable. So, Kant's objection would not be deserving of protection.

Something is clearly going wrong here, and what is going wrong is arguably two interrelated issues in the reception of the public reason requirement. The first is that restricting the scope to policy discourses about fundamental issues seems to have been lost in translation from political philosophy to bioethics, and the second is that the function of the public reason requirement seems to have been transformed. Rawls and other public reason advocates in political philosophy do not advocate that all of our moral discourse should be conducted in terms of public reason, and they do not advocate that for two reasons. The first is that conducting moral discourse in terms of shared "political conceptions" conflates two qualitatively distinct activities, and the second is that what can be stated in terms of public reason is a very impoverished subset of our extensive network and vocabulary of moral resources. It may be that it is only through public reason that I can present arguments that you, as a moral stranger, are compelled to accept,[37] but moral discourse is so much more than that. When we interpellate each other morally, there is no reason only to do that in terms of public reasons, and it is simply wrong to claim that only public reasons are "properly moral reasons." Even if we accept Rawls in full, we only get to the claim that public reasons are the exclusively proper political reasons only in policy debates about fundamental matters. Relying instead on the public reasons conceptions of Quong or Gauss would, as noted above, increase the scope of public reasons requirements, but not to an extent in which moral discourse always had to be conducted in such terms.

Is the boundary setting performatively self-defeating?

A further problem with setting a boundary for proper academic bioethics activity that excludes religious arguments is that it is potentially performatively self-defeating. That is, by setting and enforcing such a boundary, bioethics becomes less able to participate effectively in public policy debates as they actually occur in existing democracies.

Let us imagine a bioethicist who is convinced that public reason requirements should govern policy debates in democracies, including the particular jurisdictions that are the main targets or audience for bioethical argument. Should such a person also seek to exclude analysis and arguments that contain non-public reason from academic bioethics discourse and publishing? It is arguable that there are many circumstances where that would be performatively self-defeating if (one of) the goals of bioethics is to influence and support good public policy.[38] If our imagined bioethicist is working in a context where the public reasons requirement is not applied to the policy discourse as

[36] Vallier (2011).
[37] Engelhardt (1996).
[38] For a similar, but more general argument see Carey (2018).

it is actually conducted in their society, then excluding bioethical arguments containing non-public reasons from academic bioethics may be counterproductive. Such arguments are *de facto* part of the public discourse and effective intervention in the policy debate will not only require valid and sound public reasons, but also convincing counterarguments to the non-public reasons being put forward. Sometimes that counterargument can simply be "this is a religious argument and is irrelevant for agnostics and atheists," but in many contexts that is not a winning strategy, e.g., when many citizens identify as religious or *de facto* accept some religious arguments as sound and valid. As a matter of empirical fact it is simply false in many contexts that "…ultimately only views that can be defended within the analytical frameworks of public-reason based arguments can succeed in secular societies,"[39] unless the modifier "ultimately" is understood as a temporal modifier pointing to an end state where actual public discourse conforms fully to the ideals of liberal political philosophy, or alternatively "secular society" is understood as a completely secular society and not just a society that has a secular constitution. In many existing societies where non-public reasons matter, counterarguments will have to engage with the actual substance of the non-public reason being put forward. Simply continuing to insist that the arguments are non-public and therefore should not be made is very unlikely to be an effective discursive strategy. But an engagement with the non-public reason requires an understanding of that reason in terms of the underlying argument. This may require a reconstruction of that argument, or access to an extant, explicated version of that argument. This places our imagined boundary setting and exclusionary bioethicist in a quandary, because they will have to be able to reconstruct the argument underlying the non-public reason or access a reasonably authoritative explication of that argument in order to develop a compelling counterargument showing which step in the argument is invalid or which premise is unsound. This will obviously be much easier if the bioethicist is already reasonably well acquainted with the most common non-public reasons being put forward in the public policy-making discourse and with the general structure of the underlying arguments. Anyone who is, for instance, completely unfamiliar with Catholic moral theology, the processes for reaching ethical judgments in Orthodox Judaism, or the methods of Islamic jurisprudence, will have to face a very steep learning curve when first trying to develop a convincing counterargument to a non-public reason based in any of these comprehensive worldviews and may fall prey to some of the common cultural misperceptions of the respective faith communities.[40]

But if our imagined bioethicist is a boundary setting exclusionist when it comes to academic bioethics, they will also have excluded themselves from contact with and knowledge of the moral traditions that are at the same time part of and based on comprehensive worldviews. Why should they read work that in Schüklenk's words "do not actually contribute to the conversations and dialogues that continue apace in our field." Setting the boundary in this way means that they will be unable to engage effectively with arguments and reasons that may be very important in the public discourse. Or

[39] Schüklenk (2018).
[40] Eberl (2009).

to put it differently, in many societies setting the boundaries of bioethics in a way that excludes everything that is not definitely within "public reason" will be a performatively self-defeating strategy since it will decrease the ability of the boundary setter to participate effectively in the actually occurring public debate and thereby their ability to influence public policy.

One particular response to non-public reason in public debate is what Schwartzman calls "reasoning from conjecture" elaborating an idea first proposed by Rawls in his 1997 paper "The Idea of Public Reason Revisited."[41] Reasoning from conjecture involves presenting arguments that are based in a different comprehensive doctrine than your own, to those who hold that doctrine:

> … those who engage in conjecture – call them *conjecturers*, for lack of a better term – offer arguments based on premises they do not accept. They argue from within comprehensive doctrines, *other than their own*, for the purpose of justifying a reasonable political conception. For example, if A conjectures that C should endorse justice as fairness, what she says to C is, "You should agree with Rawls' principles of justice because your comprehensive doctrine commits you to endorsing them. I don't happen to agree with your comprehensive doctrine. As I see it, I'm committed to justice as fairness for different reasons. But given what you believe, I think we are both committed to the same conception of justice." Those who reason from conjecture must make clear that, as Rawls says, "we do not assert the premises from which we argue." This is, in part, to reassure others of our sincerity. In making this clarification, however, we are also asking others to take our arguments seriously on the ground that these arguments are based on premises to which we believe they are committed.[42]

This can be an effective discursive strategy, and it can also, argues Schwartzman, be done with sincerity and proper epistemic authority. However, as pointed out above, providing reasons that are based in the comprehensive worldview the discursive opponent accepts requires genuine knowledge of that worldview and possibly also knowledge of the typical argumentative forms used in moral and political debate within that worldview. This is knowledge that we will not get unless we engage with the non-public arguments of others.

Another area of bioethical activity where applying a public reason requirement or similar devices to exclude religious arguments is performatively self-defeating is in bioethics education. Bioethics is taught, both as a subject in its own right and as part of professional education, most prominently in courses leading to health professional qualifications such as nursing or medicine. It has been suggested that bioethics educators in professional courses should "sidestep religion" in order to avoid "a breakdown in communication and then a standoff,"[43] and similar views can be found in other bioethics textbooks.[44] This is again showing bioethics boundary work in action, limiting proper

[41] Rawls (1997); Schwartzman (2012). I owe this observation to one of the reviewers.
[42] Schwartzman (2012): 528.
[43] Ridley (1998): 6–7.
[44] E.g. Barry (2012).

bioethics to secular bioethics. In contexts where many or all of the students are religious it is not clear whether this is a good strategy if the aim of the teaching is to make the students able to reflect on the ethical questions they are going to encounter in their professional practice. Some students may reject outright to engage, and for others excluding their views *a* priori from discussion may put them off bioethics as a subject of relevance to them and their professional practice. As Campbell points out:

> … students with religious convictions may come to see bioethics as primarily about procedures for reaching consensus, but otherwise substantively shallow and spiritually vacuous.[45]

The approach arguably also serves secular students badly because:

> Students who are educated that religious thought generates impasses in communication are not challenged to find modes of common ground that can be inclusive of religious views that inescapably emerge in controversies outside the classroom.[46]

From a philosophical point of view there is also a more fundamental issue at stake, since this way of drawing the boundaries of the proper bioethics that should be taught risks obscuring the large fundamental differences in ethical theory and corresponding worldviews. *Pace* the later Parfit in *What Matters*, it would be very odd to teach a course in moral philosophy where the main aim was to avoid a standoff between deontologists, consequentialists, and virtue theorists by attempting to show that they could all be harmonized and shown to support the same ethical conclusions.[47] There are fundamental differences between the main ethical theories, and it is a peculiar feature of bioethics that it to some degree elides these differences in order to perform bioethical argumentation.[48] But it is only this obscuring of the fundamental differences in secular ethics that creates a context where a boundary setting excluding religious bioethics seems natural and warranted from the educational perspective.

Conclusion

In this paper I have analyzed the use of "Rawlsian" public reason requirements as a boundary setting tool delimiting the boundaries of proper academic philosophical bioethics, and excluding religious arguments, religious bioethics, and religious bioethicists. I have further argued that this boundary setting is problematic philosophically, since it relies on a misapplication of the public reason requirements as they have been developed in political philosophy. It misconstrues the criterion for whether something is a public reason, by bracketing the full implications of the criterion and applying it to religious reasons only. "Public reason" is thus explicitly or implicitly re-defined as "secular

[45] Campbell (2019): 259.
[46] Ibidem.
[47] Parfit (2011).
[48] Moreno (2005); Holm (2024).

reason." In some puzzling cases authors explicitly note that many secular reasons are non-public, but then continue to focus solely on the exclusion of the religious ones. In some contexts there is also a change in the scope of the application of the criterion, and it is applied to contexts that do not involve any form of policy-making or policy debate.

The boundary setting is not only philosophically problematic, it is also performatively self-defeating in any context and society where religious arguments *de facto* play a role in public, democratic policy-making discourse. Excluding religious arguments from academic bioethics will often have the consequence that the non-religious bioethicist becomes unable to provide discursively convincing counter-arguments in public debates, because they do not (fully) understand the non-public reason arguments that are put forward.

How can the issues identified in the (mis-)use of public reason restrictions in bioethics be rectified? A full discussion of this is outside the scope of this paper, but two tentative suggestions can be made. The first is a return to the original Rawlsian scope of the public reason restriction and applying it to public debates about public policy. There is a large amount of academic bioethics activity that is not within this scope and where the restriction therefore does not apply.[49] The field should acknowledge that and let a 1000 comprehensive and normative worldviews bloom. Second, applying public reason requirements, if occurs, has to be done properly in the sense that all non-public reasons must then be excluded, not only one sub-class of them.

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[49] Fleck (2022).

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