



A Public Justification Framework for Healthy Eating Policies and the Problems with Institutionalising it

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Abstract

In their book *Healthy Eating Policy and Political Philosophy: A Public Reason Approach*, Matteo Bonotti and Anne Barnhill defend a conception of public reason centred on the notion of accessibility and advance an ethical toolkit public health policy makers can use to ensure they are reasoning publicly when designing healthy eating policies. Finally, they propose to institutionalise the process of public reasoning informed by their ethics framework by designing certain procedures of consultation and deliberation. This article focuses on their institutionalisation and raises some doubts and concerns by arguing that the procedures designed by Bonotti and Barnhill may be counterproductive to some of their aims, in particular with respect to citizens' control, epistemic injustice, and the conception of citizens as free and equal.

Keywords Public reason · Healthy eating policies · Experts · Epistemic injustice · Democratic ideals

Introduction

At least since the publication in 1993 of John Rawls's *Political Liberalism* (2005), the normative debate about political legitimacy has been dominated by the idea of public reason, according to which political authority must in some sense rest on the free consent of those subjected to it. However, despite this prominence, the application of the framework of public reason to debates concerning the legitimacy of public health interventions is a relative new

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development.¹ This is because most discussions about public reason concern the normative and conceptual underpinnings of the theory and remain at a high level of abstraction, focusing on the specific structure that different accounts of public reason should display—their particular components and rationales. As Williams (2017, 1) rightly points out, “Philosophical investigation into the implication of public reasoning for concrete political questions remains surprisingly rare”. Matteo Bonotti and Anne Barnhill’s *Healthy Eating Policy and Political Philosophy: A Public Reason Approach* (2022) stands out for attempting to overcome this scarcity. Indeed, the book represents without doubt the most developed and rich attempt to use public reason to explore a specific policy area within the domain of public ethics, namely that of healthy eating. Thus, their work is particularly interesting for a two-fold reason: they offer and defend a specific account of public reason, one grounded in the notion of accessibility, and at the same time they do not shy away from assessing the results of applying the account to the policy domain they care about. In this sense, their aim is also to test whether the results of applying their account of public reason are acceptable and palatable. This does not mean that Bonotti and Barnhill’s account delivers ultimate and definitive solutions to the problem of establishing healthy eating policies. Like all accounts of public reason, their framework is meant to filter out policy efforts that do not satisfy the standards of public justification and thus should be rejected as illegitimate, rather than identifying the correct, best-suited, or most acceptable ones. However, differently from other theorists of public reason, their interest in the practical implications of public reason brings Bonotti and Barnhill to elaborate an “ethics framework”, namely an ethical toolkit public health policy makers can use to ensure they are actually reasoning publicly when designing healthy eating policies. Moreover, they propose to institutionalise the process of public reasoning informed by the ethics framework by designing certain procedures of consultation and deliberation. They contend this move is important not only to gather information about the values and convictions of the citizens whose lives may be affected by a certain healthy eating policy but also to empower local communities “to call public attention to those values that are particularly important to them” (2022, 145).

In this article, I question the way in which Bonotti and Barnhill propose to institutionalise the process of public reasoning. In particular, I argue that their characterisation of the process risks misfiring with respect to certain desiderata their theory wants to achieve. The article proceeds as follows: I first convey the main tenets of Bonotti and Barnhill’s account of public reason, their ethics framework, and the way in which they propose to institutionalise it. Second, I criticise the way in which they advance the institutionalisation. Finally, I offer some concluding remarks.

Public Reason and Healthy Eating Efforts in Theory and Practice

According to Bonotti and Barnhill, the debate about paternalism and antipaternalism, the traditional lenses through which to critically assess healthy eating efforts, is limiting and defective for it does not allow us to take into consideration the problem of reasonable pluralism, which deeply affects the analysis and implementation of healthy eating policies. In

¹ Of course, there is disagreement between those who think public reason is a promising line of response to normative disagreement regarding matters of public health (Bonotti and Barnhill 2019; Athmeya and Kates 2021; Nielsen 2022) and those who are sceptical about it (Hafez 2021; Hordern 2021; Campbell 2021).

high-income liberal democratic societies—which are the focus of Bonotti and Barnhill’s analysis—people deeply disagree about the value of food, certain dietary patterns, the way health should be balanced with other values and personal commitments, and more. So, according to their view, if healthy eating policies are to be implemented, they need to be justified with public reasons—that is, reasons that citizens who disagree about these matters can all find, at some level of idealisation, acceptable.

But what reasons should be considered public, respectful of diversity, and thus justificatory? Bonotti and Barnhill (2022, ch. 5) defend an accessibility conception of public reason.² Accessible reasons are reasons that are grounded in common evaluative standards, which are recognised by all citizens as sound, though their content might not be shared. Shared evaluative standards concern guidelines of inquiry, principles of evidence, factual propositions, and values that can be safely assumed to be common and broadly accepted by democratic citizens, though citizens’ interpretation and conclusions may differ.

For example, science and the scientific method can be considered shared evaluative standards because, even if laypeople might not understand them, their validity is generally accepted by the public. Or at least they could be accepted in principle by moderately idealising citizens so that, if they had the time and energy, they would be able to understand and accept science and the scientific method as valid (2022, 151–54). This means that, although citizens may disagree about a specific scientific proposition, the proposition can still count as a public reason insofar as “no gross epistemic error” has been made to formulate it and thus it is not an instance of “bad science” or “pseudoscience” (2022, 155–56). Similarly, since the principle of equality of opportunity is generally accepted and considered common within a liberal democratic society, it is possible to invoke it in public justification. Indeed, although there is deep disagreement on how the principle should be conceptualised and what policies it entails, it is reasonable to assume that all democratic citizens share the idea that caste hierarchy is wrong.

The point is that it is possible to use controversial evidence and distinct interpretations of public values to ground a policy insofar as no gross epistemic error was made in establishing that evidence and insofar as the values appealed to are not sectarian—grounded, for example, in religious traditions or beliefs. However, this does not mean that any policy that can be justified by accessible reasons is publicly justified. The accessibility conception requires that policies reflect a reasonable balance of political values, a balance that neither overly neglects nor unduly prioritises some political values over others (Bonotti and Barnhill 2022, 140–45).

Finally, given that it is possible to provide accessible reasons to justify policies that have a discriminatory impact on those subjected to it, public justification requires us to take into consideration how the burdens and benefits of a policy will be distributed when implemented. In this sense, a policy that places an unreasonable cost on someone or obstructs her

² Bonotti and Barnhill (2022, 130–38) examine and reject two other conceptions of justificatory reasons: intelligibility and shareability. According to the former, public reasons are those that citizens accept as valid based on their particular sets of beliefs. In this conception, for a certain policy to be justified it is not necessary that reasons or evaluative standards be shared but that each citizen have a reason, consistent with their set of beliefs, to recognize the policy as valid. For Bonotti and Barnhill, intelligibility allows too great a space to oppose healthy eating policies, which would be very difficult to implement. Shareability, on the other hand, requires using in public justification both evaluative standards and reasons that are shared by all citizens. Bonotti and Barnhill consider shareability too restrictive and unable to take into account the complexity of the trade-offs among values that citizens face when it comes to healthy eating.

ability to pursue her life plan is not publicly justified.³ In the end, the core of public reason is the idea that political decisions should somehow be impartial with respect to citizens' personal values and experiences. Such impartiality should concern not only the credentials but also the effects of political decision-making.

In sum, healthy eating efforts are publicly justified when they (a) are grounded in sound epistemic evidence, (b) are rooted in political values that are commonly recognised as valid, (c) strike a reasonable balance of those political values, and (d) do not disproportionately burden certain groups of citizens. To ensure that these four conditions are satisfied, and thus to help citizens and decision-makers with the process of public justification, Bonotti and Barnhill propose an ethics framework for assessing healthy eating policies, one which starts from multiple broad ethical principles, and allows to consider how the policies should be applied and balanced. The ethics framework is constituted by a series of questions one should pose to oneself when reasoning about and assessing a healthy eating effort. The user of the framework should not consider such questions only from her point of view but engage in counterfactual reasoning to explore and imagine alternative perspectives and responses to them that may be offered by experts in the field of healthy eating, fellow citizens who may be affected by the policy, and individuals with different moral outlooks, worldviews, and ideologies in general (Bonotti and Barnhill 2022, 195).

However, counterfactual reasoning is difficult, and we may fail to take into consideration a crucial perspective because our epistemic ability to construct imaginary responses is limited. Bonotti and Barnhill (2022, 187) aim at contributing to the implementation of efficient healthy eating policies by taking into account citizens' needs, interests, and values. For these reasons, they propose to institutionalise their framework via consultation and deliberative procedures to be set up at the local level. Such consultation and deliberative institutions and practices, which are meant to both advise policy makers and contribute to the making of policies, should take place alongside forms of public reasoning within governments and legislatures. The idea is that by providing all the participants an outline for discussion, it is possible to arrive at a decision on a certain policy in a way that ensures that the criteria of public reasoning are satisfied and that all the relevant voices are heard in the process.

Public Officials, Disadvantaged Groups, and Fair-Minded People

Bonotti and Barnhill's model is attractive for many reasons. In particular, it nicely meets both the demands of epistemic correctness and those of inclusion by assigning a privileged status to science within public reason and by taking into consideration those who could be excessively burdened by a policy. However, I fear that this attractiveness scores higher in theory than in practice and that the institutionalisation they propose is insufficient and should be reconceptualised to be truly effective.

To appreciate this claim, consider who should be involved in the processes of consultation and deliberation envisioned by Bonotti and Barnhill (2022): public health officials, ordinary citizens, advocacy groups, community organisations, other representative bodies that relate to the particular healthy eating effort that is under discussion, and a "fair-minded group of people trying to reach agreement" (200). I think this characterisation—and the discussion offered by Bonotti and Barnhill on how the deliberation or consultation should

³ Bonotti and Barnhill (2022, 172) ground this requirement in Rawls's idea of the "strains of commitment".

take place—raises problems regarding the role of public health officials, their relation with disadvantaged groups, and the task assigned to the fair-minded group.

Focusing on the Supplemental Nutrition Assistance Program's policy of prohibiting participants from using the programme to purchase sugary drinks, Bonotti and Barnhill (2022, 198–215) show how the deliberating actors are supposed to interact and discuss issues among themselves. In particular, public health officials consider a policy, identify the possible aims it may achieve, and throughout the consultation and deliberation processes offer evidence concerning its efficacy. In this characterisation, it seems that public health officials can and should be considered disinterested, neutral actors who provide data and evidence that command unquestioning approval. However, matters are actually more complicated. First, public health officials are in a position of authority, have a political agenda, and cannot be considered perfectly neutral actors (Niskanen 1971; Lee and Raadschelders 2008; Demir 2009). In this sense, it is not a flight of fancy to think that public officials engaged in deliberation based on the public reason framework may offer only the scientific and moral considerations that resonate best with their policy preference. Second, the framework has little to say about the duties that public officials have when they address their interlocutors and provide them with scientific evidence about the policy. The public officials are the policy experts, and the risk arises that if the framework is implemented in the way envisaged by Bonotti and Barnhill, citizens will blindly defer to their suggestions and reasoning. This is a problem because democratic citizens ought to retain control and should not be required or expected to submit their judgement to the decisions of others.

To appreciate this point, consider another deliberative institution aimed at gathering citizens to reason together about an issue of public concern: minipublics. In particular, consider the role policy experts have in the most widely tested form of minipublic, namely John Fishkin's (2018) "deliberative pooling". Participants in deliberative pools receive balanced briefing materials prior to deliberating, and their deliberation is interwoven with plenary sessions during which they can question panels of experts. Within deliberative pools, as in Bonotti and Barnhill's model, the discussion with experts concerns the policy alternatives' consequences and costs and the trade-offs they may entail, among other things. However, differently from Bonotti and Barnhill, deliberative pools require the participation of *panels of experts*, and not just one public official. Indeed, "given that the answers are generally debatable. . . it is important that the panelists represent a balanced set of perspectives" (Fishkin and Luskin 2005, 288). Since evidence, trade-offs, and judgements about the policy may vary across political viewpoints, it is necessary to have a panel on which policy experts with different views can discuss, disagree, and reason with citizens. If there is no such panel, the sole policy expert may well control the process. Given that in Bonotti and Barnhill's institutionalised model the only policy expert is the public official who is to decide about the policy, the risk is real and should not be discounted.

Another problem with the institutionalisation proposed by Bonotti and Barnhill concerns the way in which those that may be excessively burdened by the enactment of the policy are included in the deliberation and consultation procedures. As already mentioned, Bonotti and Barnhill (2022, 170–73) rightly argue that it is wrong to neglect potential economic, social, and psychological effects of healthy eating efforts. Indeed, healthy eating efforts that fail to take into account such effects are unreasonable under their conception of public reason. The problem is complex because the potential negative side effects stemming from a healthy eating effort often concern disadvantaged groups, as the effort may reinforce prejudices and

fortify inequalities based on gender, ethnicity, or social background. This is because policy making does not happen in a vacuum, and some people's experiences may be overlooked or devalued. In this sense, as Bonotti and Barnhill (2022, 171) acknowledge, there is a problem of "epistemic injustice" in healthy eating policy making.

The notion of epistemic injustice was introduced by Fricker (2007, 20) to refer to "a kind of injustice in which someone is wronged specifically in her capacity as a knower". Fricker identifies two types of epistemic injustice: *testimonial* (when a speaker is given an unfair credibility assessment) and *hermeneutical* (when members of a social group lack the conceptual resources to understand and describe particular social experiences). In both cases, the problem boils down to identity prejudice, or prejudice against someone because of their social identity. Bonotti and Barnhill consider actual cases of epistemic injustice within healthy eating policy making—for example, neglecting or discounting the fact that women are generally more involved in the preparation and organisation of meals and thus are more burdened by policies that incentivise families to consume more homemade meals. Similarly, healthy eating efforts, such as Supplemental Nutrition Assistance Program, risk stigmatising those participating in the effort, in turn reinforcing race-based and class-based social injustice.

However, despite the great merit of pointing to the problem of epistemic injustice in theory, Bonotti and Barnhill's framework is elusive in this respect in practice. The procedures of deliberation and consultation they propose are meant to include and give voice to minorities that may be harmed by the policy, but they do not say much about the environment that should be fostered to enable those minorities to reason about their condition and express their views. Of course, I am not arguing that an institution for discussing healthy eating efforts should be the place for minorities to construct alternative discourses on society and raise consciousness about the problematic aspects of certain standardised ways of thinking about social groups. Rather, I am arguing that to alleviate the problem of epistemic injustice, it is not enough for the model to simply include in the discussion disadvantaged groups. Indeed, prejudices tend to be deeply entrenched in people's minds, and they operate automatically, unconsciously, and more rapidly than conscious thought (Fiske 1998, 364–65). They are difficult to control and may cause discriminatory attitudes in people who sincerely and wholeheartedly reject them (Gaertner and Dovidio 2000). In this sense, without a tool in place to alleviate the problem, it may be difficult to not neglect the experiences of women with the preparation and organization of meals or to not underrate the problem of stigmatisation of minorities when discussing a healthy eating effort. Following Elizabeth Anderson's (2012) blueprint, structural remedies could be envisaged to anticipate and prevent prejudicial behaviours. In her article, Anderson (168) cites the employment context as an example in which structural remedies have been used to prevent discrimination. A similar case, though with different remedies, could be made for the institutionalisation of the model proposed by Bonotti and Barnhill to eliminate the risk of epistemic injustice and thus prevent certain healthy eating efforts from imposing an excessive burden on particular social groups.

Maybe Bonotti and Barnhill can reject my suggestion by appealing to their model's inclusion of a "fair-minded group of people trying to reach agreement". Maybe, since these people are fair-minded, they are not subject to the cognitive bias and distortions that usually prevent individuals from assessing the experiences of others, and they may even have a better grasp of the social circumstances of disadvantaged groups. I think Bonotti and

Barnhill would resist this overly idealized characterisation of the fair-minded group. But it is important to understand why their model includes the group and what their function is. The fair-minded group enters the discussion when a dead end is reached, namely when disagreements arise among the parties participating in public reasoning. They have the task of assessing and weighting different and potentially conflicting perspectives and claims that fall within the boundary of public reason. In this sense, they are somehow neutral and do not have a political agenda besides wanting to reach an agreement, and thus their pronouncements can be accepted by the parties involved. One problem with including the fair-minded group concerns feasibility. It seems difficult to understand how the members of the group should be selected and recognised as fair-minded, given that they do not have a special kind of reputation, skill, or knowledge, unlike, for example, experts. In this sense, if the model cannot work without the fair-minded group, it is doubtful that the conditions for its enactment could ever be satisfied. But the problem runs deeper. Leaving aside questions of feasibility, it seems that, given their adjudicative role, the fair-minded group are the ones actually deciding upon the policy. Within the deliberation and consultation procedures envisaged by Bonotti and Barnhill, the parties are just presenting their points of view and convictions, whereas the fair-minded group functions as umpire and delivers the most reasonable solution consistent with public reason. But if this is the case, institutionalised public reasoning risks becoming a form of epistocracy, with a group of individuals who know better being called upon to resolve disagreements. This upshot seems difficult to accept for a Rawlsian-flavoured approach which demands that citizens be regarded as free and equal.

Conclusions

In this article I cast some doubts upon the way in which Bonotti and Barnhill propose to institutionalise their ethics framework, grounded in the idea of public reason, for assessing healthy eating efforts. I contended that their model raises problems regarding the role of public health officials, their relation with disadvantaged groups, and the task assigned to the “fair-minded group of people trying to reach agreement”. These problems show that the way in which Bonotti and Barnhill envisage the institutionalisation of their model may be counterproductive to their aims, in particular with respect to the issues of citizens’ control, epistemic injustice, and the conception of citizens as free and equal.

Despite such problems, it is important to recognize Bonotti and Barnhill’s great merit of applying their theory of public reason in practice, by concentrating on the concrete political problem of justifying healthy eating efforts and developing a normative tool to help policy makers design and implement legitimate and effective policies. As Rawls himself acknowledged, “whether ... public reason is acceptable can be decided only by examining the answers it leads to over a wide range of the more likely cases” (2005, 254). Bonotti and Barnhill’s work represents one of the most important attempts to truly investigate the practical implications of public reasoning and to provide actual guidance to policy makers.

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