

The Values of Freedom
and the Moral Foundations of Freedom-Centred Justice

Pietro Intropi

Nuffield College

Thesis submitted in partial fulfilment of the requirements for the degree of DPhil in Politics
in the Department of Politics and International Relations at the University of Oxford

January 2019

84554 words

The Values of Freedom
and the Moral Foundations of Freedom-Centred Justice

Pietro Intropi, Nuffield College

Thesis submitted in partial fulfilment of the requirements for the degree of DPhil in Politics

January 2019

Abstract

What role should freedom play in a theory of justice? In this thesis I defend the view that freedom has *non-specific* value (i.e. that there is value in having freedom *as such* and not only in having certain specific valuable freedoms), and I examine the *moral foundations* of freedom-centred justice (i.e. of a theory of justice that is concerned with distributing *freedom as such*). The main contribution of this thesis consists in offering an in-depth examination of two distinct classes of reasons that justify attributing non-specific value to freedom: axiological reasons that appeal to the good, and deontic reasons that appeal to the right.

Good-based accounts include the views that interpret the value of freedom in person-affecting terms – especially, the *Benefit View*, which attributes personal value to freedom – as well as views that claim that it is impersonally good that persons have freedom. I focus then on examining the different senses in which people benefit from having freedom (*Benefit View*), since freedom is objectively valuable for the achievement of wellbeing, agency, autonomy, and human excellence. I also put forward a critique of the perfectionist foundations of freedom-centred justice, and I examine whether the moral foundations of freedom-centred justice can appeal exclusively to the *Benefit View*, or whether freedom-centred justice must (also) appeal to deontic reasons.

I put forward a critique of moralised accounts of the value of freedom, and I defend a non-moralised interpretation of the *Status View* – i.e. the view that interprets the value of freedom in deontic terms and that appeals to the value of refraining from interfering with people's freedom in recognition of people's moral status as agents. In particular, I argue that interference with people's freedom is pro tanto disvaluable, including when it is directed at preventing people from performing severely wrong actions, if in ideal theory we take people's lack of disposition to act immorally as parametric (i.e. if we assume full compliance). Finally, I argue that distinguishing between the *Benefit View* and the *Status View* has implications for the conceptual analysis of freedom, shedding light on debates concerning the relations between freedom and ability: freedom is an interpretative concept and different ways of *valuing* freedom inform, and can actually *determine*, what freedom *is* (i.e. the definition of freedom).

Contents

Acknowledgements	vii
-------------------------	------------

Introduction: The Values of Freedom and the Moral Foundations of Freedom-Centred Justice.	1
--	----------

Part I: Two Values of Freedom

Chapter 1: Two Values of Freedom.	12
--	-----------

1.1 The Good and the Right. Introduction.	12
1.2 Two Values of Freedom.	14
1.3 Two Values of Republican Freedom, and Mill's <i>On Liberty</i> .	24
1.4 The Non-Specific Value of Freedom.	30
1.5 The Values of Freedom and the Definitions of Freedom.	34
1.6 Conclusion.	42

Part II: The Value of Freedom and the Good

Chapter 2: Freedoms and Persons: The Personal Value of Freedom and the Good.	43
---	-----------

2.1 The Value of Freedom and the Good.	43
2.2 The Personal Value of Freedom.	47
2.3 Value-for-Others.	49
2.4 The Impersonal Value of Freedom.	57
2.5 Can Freedom Have Intrinsic Value?	62
2.6 The Contributory Value of Freedom.	67
2.7 Conclusion.	70

Chapter 3:	
The <i>Benefit View</i>:	
Agency, Autonomy, Human Excellence, and Wellbeing.	73
3.1 Introduction.	73
3.2 Qualifying the Non-Specific Value of Freedom.	74
3.3 Subjective Value.	82
3.4 Subjective Value. The Experience-Based Account.	88
3.5 The Human Need for Freedom.	91
3.6 Subjective Wellbeing.	97
3.7 Objective Wellbeing.	103
3.8 Perfectionist Ideals.	111
3.9 Mill's Persons of Genius Argument.	120
3.10 The <i>Benefit View</i> as Moral Foundation of Freedom-Centred Justice.	125
3.11 Conclusion.	133

Part III: The Moralised Values of Freedom. A Critique

Chapter 4:	
Moralising the <i>Benefit View</i>?	135
4.1 Moralising the Value of Freedom?	135
4.2 Moralising the <i>Benefit View</i> ?	137
4.3 Benefits, Harms, and Moralised Freedom.	141
4.4 The Critique of the Moralised <i>Benefit View</i> Recanted and Reaffirmed.	147
4.5 Rescuing the Moralised <i>Benefit View</i> ? A Hybrid (Unduly Concessionary) Strategy.	150
4.6 Conclusion.	155

Chapter 5:	
Moralising the <i>Status View</i>? On Deontic Reasons, Trust, and Freedom.	157
5.1 Introduction. The <i>Status View</i> .	157
5.2 Freedom, Respect, and the Moral Authority of Persons.	160
5.3 The Moralised <i>Status View</i> Versus the Non-Moralised <i>Status View</i> .	166
5.4 The Critique of the Moralised <i>Status View</i> .	173
5.5 The Argument from Trust.	178
5.6 Ideal Theory and the (Non-Moralised) <i>Status View</i> .	184
5.7 Conclusion.	187

Part IV: Non-Interference, Freedom, and Ability

Chapter 6:	
Non-Interference, Freedom, and Ability.	
How the Values of Freedom Can Determine What Freedom Is.	189
6.1 Introduction. The Values of Freedom and the Conceptual Analysis of Freedom.	189
6.2 Freedom and Ability. Can the Value of Freedom Determine What Freedom Is?	192
6.3 Theories of Social Freedom: Engendered Human Constraints as Necessary for Unfreedom.	197
6.4 Bivalence and the <i>Status View</i> .	202
6.5 The Problem of Infinite Degrees of Freedom/Unfreedom, and the Causal Responsibility View.	210
6.6 Deontic Reasons, Freedom, and Rights.	219
6.7 When Are Persons Involved in Social Relationships? The Critique of Bivalence.	225
6.8 Trivalence, Deontic Reasons, and Freedom.	236
6.9 The <i>Benefit View</i> , Abilities, and the Value of Freedom.	243
6.10 Conclusion.	251
 Chapter 7:	
Conclusion.	253
 Bibliography	258

Acknowledgements

First, I wish to thank my supervisor, Zofia Stemplowska, and my college advisor, David Miller. David has taken on supervision at various stages during the DPhil, and Zofia has supervised me since Michaelmas 2016. I am immensely grateful to David and Zofia for their constructive feedback on the structure and the content of the thesis. Before Michaelmas 2016 I was supervised by Daniel McDermott.

Second, I owe special thanks to two people who have played a crucial role during my DPhil: the Senior Tutor at Nuffield College, Eleni Kechagia-Ovseiko, and Ian Carter. I am grateful to Eleni for the academic and personal support that I have received throughout the entire DPhil, and for being a constant source of encouragement, when it was much needed. Ian has provided written feedback on various drafts of my Chapters, and his works on freedom have inspired my research since I was a student in Pavia. My intellectual debt to Ian will be apparent to any reader of the thesis.

Third, I wish to thank the institutions that have financially supported my DPhil: Nuffield College, the Clarendon Fund, and the Institute for Humane Studies. During the DPhil I have been a recipient of the Clarendon Scholarship, of the Nuffield College Graduate Scholarship, and of the PhD Studentship awarded by the Institute for Humane Studies.

Fourth, I wish to thank those who have read my work and provided written feedback. In particular: Andrew I. Cohen, Ian Carroll, Simon Caney, Gideon Elford, Felix Krawatzek, Andreas Schmidt, and Annette Zimmermann. Previous drafts of the Chapters of the thesis have been presented at seminars and workshops at the University of Graz, the Seminari del Collegio del Maino (Pavia), and the IHS Graduate Colloquium at the University of Towson. I am very grateful for the comments I have received on those occasions.

Fifth, I am very grateful to the examiners of the thesis – Daniel Butt and Serena Olsaretti – for their detailed written comments and constructive feedback, which have greatly improved the final quality of this work. I am also very thankful to Simon Mussell for proof-reading the final version of this thesis.

Doing a DPhil is a transformative, challenging, and humbling experience, and I owe a huge debt of gratitude to those who have supported me and who have been on my side during these years: my friends in Oxford, my wonderful family, and Paola.

Introduction:
The Values of Freedom and the Moral Foundations
of Freedom-Centred Justice

Justice and Opportunities.

According to Amartya Sen, every theory of justice is in some sense *egalitarian*. Every theory of justice offers a distinct interpretation of a shared value: the fundamental equality of persons.¹ Analogously, we can say that every theory of justice is *opportunitarian*: if freedom is understood as an *opportunity concept* – as an ideal of *possibilities* to act or become, rather than the *realisation* of such possibilities –² I take it that every theory of justice should be committed to protecting or promoting a sphere of individual liberty.³ As Ian Carter claims:

‘[...] an account of the good is of course incomplete if it refers only to actual achievements. The aim is not to *force* people to function well.’⁴

The value of freedom plays a crucial role in every theory of justice, and there are different reasons that concur to justify the claim that justice is not concerned *exclusively* with people’s

¹ Amartya Sen, *Inequality Re-Examined* (Oxford: Clarendon Press, 1992), Ch. 1, §§1.1-1.4; see also Will Kymlicka, *Contemporary Political Philosophy*, 2nd edn. (Oxford: Oxford University Press, 2002), pp.3-5. On basic equality, see Uwe Steinhoff, (ed.), *Do All Persons Have Equal Moral Worth? On ‘Basic Equality’ and Equal Respect and Concern* (Oxford: Oxford University Press, 2014).

² Charles Taylor, indeed, distinguishes between freedom as an opportunity concept and freedom as an exercise concept in Taylor, ‘What’s Wrong with Negative Liberty’, in Alan Ryan (ed.), *The Idea of Freedom* (Oxford: Oxford University Press, 1979), pp. 175-194. For a discussion of freedom as an exercise concept, see Gideon Elford, ‘Reclaiming Two Concepts of Liberty’, *Politics, Philosophy, and Economics*, Vol. 12, no. 3, 2014, pp. 228-246.

³ In the thesis I shall use the terms ‘freedom’ and ‘liberty’ interchangeably. Debates about freedom have been prominent in political philosophy, following the publication of Isaiah Berlin’s seminal essay ‘Two Concepts of Liberty’ (1969 [1958]), reprinted in Berlin, *Liberty*, ed. by Henry Hardy (Oxford: Oxford University Press, 2002), pp. 166-217. For context on contemporary debates on freedom, see Ian Carter, Matthew Kramer, and Hillel Steiner (eds.), *Freedom: A Philosophical Anthology* (Oxford: Blackwell, 2007); David Schmidtz and Carmen Pavel (eds.), *The Oxford Handbook of Freedom* (New York: Oxford University Press, 2018).

⁴ Ian Carter, ‘Is the Capability Approach Paternalist?’, *Economics and Philosophy*, Vol. 30, no. 1, 2014, pp. 75-98, at p. 82.

achievements,⁵ but also with protecting or promoting a sphere of opportunities. First, in so far as people are different and only the individuals themselves can have epistemic access to their own good, there is no such thing as a complete theory of the good that can be applied to the specificities of each individual person.⁶ Second, if there is a plurality of incommensurable and valid forms of life, there is value in protecting or promoting people's freedom to endorse a variety of lifestyles.⁷ Third, the state would be a source of oppression if coercion were used to directly force people to *function well* in a great number of cases (e.g. if the state forces people to undertake regular physical exercise in order to be in good health). Indeed, justice may well require guaranteeing that people have certain freedoms to *misfunction* (i.e. to refrain from achieving the good), alongside the freedoms to function well. And, as David Miller explains, 'between having access to a good and experiencing the well-being that may result there often stands a personal decision':⁸ for example, 'a person may simply choose not to avail himself or herself of the opportunity to enjoy a good' (e.g. a disabled person may refuse to accept the benefits to which she is entitled as compensation for being disadvantaged).⁹ In this thesis I want to disentangle and examine the reasons why justice should be concerned with protecting or promoting individual freedom: what role should the value of freedom play in a theory of justice? This very general question motivates the research of my thesis.

⁵ Nor with the direct enforcement of morality.

⁶ This argument is famously made by John Stuart Mill in *On Liberty*, [1859], reprinted in Mill, *On Liberty and Other Essays*, ed. by John Gray (Oxford: Oxford University Press, 2008), pp. 1-128, at pp. 84-85.

⁷ See Joseph Raz, *The Morality of Freedom* (Oxford: Clarendon Press, 1986).

⁸ David Miller, *Principles of Social Justice* (Cambridge MA: Harvard University Press, 1999), p. 7.

⁹ Ibid.

Freedom-Centred Justice.

Which freedoms have value? Do only certain *specific* freedoms have value (e.g. the freedom to eat vegetables, or the freedom to visit museums), or is it possible to attribute value to freedom *as such* – as a ‘quantifiable attribute’,¹⁰ as a distributive good – abstracting from the content of the freedom(s) in question? Most theories of justice assume that justice requires to promote or protect only certain *specific* (types of) liberties deemed to be particularly valuable (such as a range of ‘basic capabilities’ to function well).¹¹ John Rawls, for example, claims that for ‘justice as fairness’ what matters is the protection of those basic liberties (freedom of speech, freedom of movement, the political liberties, etc.) that are essential for the realisation of the two moral powers (i.e. the sense of justice and the capacity to form and revise a conception of the good), and that *those liberties*, rather than *liberty as such*, have lexical priority over the second principle (which is concerned with distributing the benefits that accrue from cooperation so as to maximise the prospects of the worst-off).¹² According to Rawls:

‘[...] no priority is assigned to liberty as such, as if the exercise of something called ‘liberty’ had a preeminent value and were the main, if not the sole, end of political and social justice.’¹³

¹⁰ Ian Carter, *A Measure of Freedom* (Oxford: Oxford University Press, 1999), p. 14.

¹¹ Sen *Inequality Re-Examined*; Sen, *The Idea of Justice* (Cambridge MA: Harvard University Press, 2009); Martha Nussbaum, *Frontiers of Justice. Disability, Nationality, Species Membership* (Cambridge, MA: Harvard University Press, 2006).

¹² John Rawls, *Justice as Fairness. A Restatement* (Cambridge, MA: Harvard University Press, 2001).

¹³ Rawls, *Justice as Fairness. A Restatement*, p. 44. In previous writings Rawls sometimes assumes a freedom-centred position: for example, he asserts that persons have a right to ‘the most extensive liberty compatible with a like liberty for all’ (Rawls, ‘Justice as Fairness’, *The Philosophical Review*, Vol. 67, No. 2, pp. 164-194, 1958, p. 165). Herbert Hart objects that this formulation seems to assume that liberty *as such*, rather than a list of *specific basic liberties* is the object of Rawls’s first principle of justice: Hart, ‘Rawls on Liberty and Its Priority’, in Norman Daniels (ed.), *Reading Rawls. Critical Studies on Rawls’ A Theory of Justice* (Stanford: Stanford University Press, 1989), pp. 230-252. In response to Hart’s objection, Rawls modifies his views on the value of freedom in *Justice as Fairness. A Restatement*. For a discussion of this point and self-respect, see Carter, *A Measure of Freedom*, p. 60.

Or, consider the following claim by Joseph Raz:

‘Not surprisingly, few believe in the simple view that the doctrine of liberty consists in the justification of a right to liberty. Such a right, if it exists, cannot capture our concern for liberty because it is indiscriminate. It protects equally the liberty to eat green ice-creams and to religious worship.’¹⁴

Contra Rawls and Raz, in this thesis I defend an approach to justice that is *freedom-centred*: that is, according to which justice should be concerned with distributing, promoting, or protecting people’s freedom *as such*, rather than exclusively certain specific freedoms.¹⁵ More formally, according to freedom-centred justice:

Freedom-Centred Justice: A theory of justice is freedom-centred iff it is committed to distributing *freedom as such* rather than (exclusively) certain specific freedoms.¹⁶

Freedom-centred justice considers freedom a distributive good and the *currency* of justice. It adopts a freedom-centred metric to assess the comparative levels of individual advantage, by

¹⁴ Raz, *The Morality of Freedom*, p. 246.

¹⁵ Carter, *A Measure of Freedom*, Ch. 2; Kramer, *The Quality of Freedom*, (Oxford: Oxford University Press, 2003), pp. 240-245. See also Ian Carter, ‘The Independent Value of Freedom’, *Ethics*, Vol. 105, No. 4, 1995, pp. 819-845. Contemporary approaches to justice that can be classified as freedom-centred are: Stanley Benn, *A Theory of Freedom* (Cambridge: Cambridge University Press, 1988); Hillel Steiner, *An Essay on Rights* (Oxford: Blackwell, 1994); Philippe Van Parijs, *Real Freedom for All. What, if Anything, Can Justify Capitalism?* (Oxford: Oxford University Press, 1995); Kramer, *Liberalism with Excellence* (Oxford: Oxford University Press, 2017).

¹⁶ In *A Measure of Freedom* Carter adopts the terminology of ‘freedom-based liberals’ and ‘freedom-based liberalism’ to capture what I call ‘freedom-centred justice’. See for example, Carter, *A Measure of Freedom*, p. 68.

asking: ‘How much *freedom* does this distribution of goods provide to the recipient(s) of the goods in question?’ Depending on which stance one takes on issues concerning the *measurement* of freedom, different currencies and ways of implementing distributive principles will be ranked according to how much freedom they provide.¹⁷

The Moral Foundations of Freedom-Centred Justice.

It is possible to justify a distributive concern for freedom *as such* only if there is value in having (a measure of) freedom as such: that is, only if freedom has what Carter calls *non-specific value*. Non-specific value is the value that freedom has *qua freedom*, independently of the content of each *specific* freedom – that is, independently of what each specific freedom allows an individual to do.¹⁸ I offer an in-depth examination of the notion of freedom’s non-specific value in Chapter 1 (§1.4). Moreover, following Carter and Kramer, in this thesis I use the expressions ‘freedom’s value *as such*’ or ‘*qua freedom*’ to capture the idea of non-specific value.¹⁹ Further, since only non-specific value can justify a distributive concern for freedom as such, I shall define the ‘*moral foundations*’ of freedom-centred justice as follows:

The Moral Foundations of Freedom-Centred Justice: The moral foundations of freedom-centred justice consist in the reasons to value freedom non-specifically.

¹⁷ Carter argues that freedom-centred justice favours a resourcist approach (over, say, a capability approach), since resources are *open-ended means* to achieve a variety of ends, thereby granting more freedom. See Carter, *A Measure of Freedom*, Ch. 10. See also Van Parijs, *Real Freedom for All*, Ch. 2, §2.4; and Karl Widerquist, ‘The Physical Basis of Voluntary Trade’, *Human Rights Review*, Vol. 11 No. 1, 2010, pp. 83-103, at pp. 97-100. On the debate between resourcist and capability approaches, see Thomas Pogge, ‘A Critique of the Capability Approach’, in Harry Brighouse and Ingrid Robeyns, (eds.), *Measuring Justice, Primary Goods and Capabilities* (Cambridge, Cambridge University Press, 2010), pp.17-60.

¹⁸ Carter, *A Measure of Freedom*, Ch. 2.

¹⁹ Ibid.; and Kramer, *The Quality of Freedom*, pp. 240-245.

The overall aim of the thesis is to shed light on the moral foundations of freedom-centred justice, by offering an analysis of distinct reasons to value freedom non-specifically.²⁰ The main contribution that I wish to make to debates concerning the value of freedom consists in distinguishing between two classes of reasons that can serve as moral foundations of freedom-centred justice, and which justify attributing two distinct types of (non-specific) value to freedom. Freedom can have value in virtue of reasons concerning the *good* – for example, because it is *good for persons* to have freedom since freedom contributes to the achievement of personal wellbeing and autonomy –²¹ or in virtue of reasons concerning the *right*, which pertain to the normative sphere of what people have reason to do or ought to do. As far as reasons that appeal to the right are concerned, I shall examine the view that justifies the value of freedom by appealing to the value of *refraining from interfering with people's freedom* as the appropriate response to the moral status of persons as agential beings. In Chapter 1 I shall further clarify the distinction between ‘the good’ and ‘the right’ with reference to distinct ways of valuing freedom (non-specifically). In what follows I indicate the questions that motivate the research conducted in this thesis and I provide an outline of the content of the Chapters of the thesis.

Research Questions

There are some general questions that I wish to address in this thesis, and that can be summarised as follows. How is freedom (non-specifically) valuable for the achievement of

²⁰ I shall build on Carter's and Kramer's seminal contributions on the value of freedom, applying debates in value theory (e.g. on personal value, final value, impersonal value, etc.) to the value of freedom: Carter, *A Measure of Freedom*; Kramer, *The Quality of Freedom*. On the value of freedom, see also, Martin Van Hees, *Legal Reductionism and Freedom* (Dordrecht: Kluwer Publishers, 2000).

²¹ As I further clarify in Ch. 1, it can also be *impersonally* good that *persons* have freedom, if promoting or maximising people's freedom contributes to the achievement of some collective goal (e.g. progress and the advancement of human civilisation) that can be valued impersonally.

personal goods, like agency, wellbeing, and autonomy? In other words, how is it *good for persons* to have freedom (i.e. what is the *personal* value of freedom)? Can freedom have intrinsic value, or is freedom valuable as an enabling condition to achieve other valuable goods (such as wellbeing and autonomy)? Moreover, can freedom have impersonal value, and can impersonal reasons to value freedom ground freedom-centred justice? Can perfectionist reasons to value freedom ground freedom-centred justice? Is there value in having the freedom to perform (severely) impermissible actions (like killing an innocent)? What is the relationship between freedom and respect for persons? What is the relationship between the *value(s)* of freedom and the *definition* (of the constraints) of freedom? Can the value of freedom contribute to determine what freedom *is* (i.e. the definition of the constraints on freedom)?

Outline of the Chapters of the Thesis.

Part I: Two Values of Freedom

In the first part of the thesis (Chapter 1: ‘Two Values of Freedom’), I set the stage for the discussion that follows in the next Chapters. In particular, I argue that there are two general and distinct ways of valuing freedom, depending on whether the value of freedom is justified by appealing to reasons concerning ‘the good’, or, alternatively, to reasons concerning ‘the right’. *Good-based views* appeal to reasons concerning the good, and the good-based view upon which my discussion in the thesis mainly revolves is the *Benefit View*. The *Benefit View* (1) interprets the value of freedom in *person-affecting* terms, claiming that people *benefit* from having freedom (as such) (because they desire freedom, or because freedom contributes to the achievement of goods like personal wellbeing and autonomy), and (2) attributes *personal value* to freedom, holding that having freedom (as such) is *good for* the person who has freedom.

Furthermore, the *Benefit View* should be distinguished from other good-based views: for example, from views that attribute *impersonal value* to freedom by claiming that it is impersonally good *that persons* have freedom, since promoting or maximising people's freedom contributes to the achievement of an impersonally valuable end (e.g. to the advancement of human civilisation).²²

In Chapter 1 I also showcase the relevance of distinguishing between good-based views and interpretations of the value of freedom that appeal to reasons concerning the right – i.e. to how persons should be treated (rather than to the *goodness* of (having) freedom). In particular, I introduce the *Status View*, which justifies the value of freedom by appealing to a reason to abstain from interfering with the freedom of persons as something that is owed to persons in response to their moral status as agential beings. The following Chapters then centre mainly on analysing the *Benefit View* and the *Status View*, and the implications of distinguishing between these two views for debates concerning freedom and the role that freedom should play in a theory of justice.

Furthermore, in Chapter 1 I introduce the non-specific value of freedom and discuss a number of issues of conceptual analysis concerning the constraints on freedom (i.e. concerning which kind of obstacles can generate unfreedom). And I qualify the sense in which I understand freedom as an 'interpretative' concept, since I believe that disagreements about the *definition* of freedom should be meaningfully interpreted as informed by more fundamental disagreements about different ways of interpreting the *value* of freedom. A full-blown defence of this view is offered in the final Chapter of the thesis (Chapter 6).

²² As I clarify in Ch. 1, 'impersonal value' is not reducible to considerations concerning personal wellbeing, and, more broadly, to the interests that people have in agency and autonomy.

Part II: The Value of Freedom and the Good

Part II (Chapters 2-3) digs deeper into the analysis of good-based views of the value of freedom. Chapter 2 clarifies the sense in which the *Benefit View* attributes *personal value* to freedom, elucidating the distinction between the *Benefit View* and good-based views that attribute what I call ‘value-for-others’ to freedom (and according to which the freedom of an individual person *A* has value for someone else *B*) and good-based views that attribute impersonal value to freedom. Further, on the *Benefit View*, most plausibly the value of freedom is not intrinsic, and freedom has value in so far as it contributes to the achievement of other valuable goods, such as wellbeing and autonomy: freedom has contributory value. Chapter 2 introduces what I call the ‘connective analysis’²³ of the value of freedom, which analyses how freedom is connected with other values (e.g. wellbeing and autonomy), and which is fully developed in Chapter 3.

Chapter 3 is devoted to the analysis of the *Benefit View* by examining how freedom is *non-specifically* connected to personal goods like wellbeing, agency, autonomy, and human excellence. I also claim that having a sufficient degree of freedom as such is a human need. Moreover, in Chapter 3 I critically discuss the *subjectivist* interpretations of the *Benefit View* – according to which having freedom is good for persons because people desire freedom or because they enjoy the experience of having freedom – and I argue in favour of an *objectivist* interpretation of the moral foundations of freedom-centred justice. Finally, I offer a critique of the *perfectionist* foundations of freedom-centred justice, and I question whether a freedom-

²³ I borrow this terminology from Peter Strawson, *Analysis and Metaphysics. An Introduction to Philosophy* (Oxford: Clarendon Press, 1992), Ch. 2.

centred theory of justice can plausibly be grounded *only* on reasons to promote people's freedom because it is *good for* persons to have freedom (i.e. only on the *Benefit View*), or, alternatively, whether freedom-centred justice should (also) appeal to the value that freedom has in virtue of reasons concerning the right – i.e. to the value that freedom has in virtue of a reason to refrain from interfering with the freedom of persons as something that is owed to persons in recognition of their status as agents.

Part III: The Moralised Values of Freedom. A Critique.

Part III of the thesis is concerned with the question of whether the value of freedom should be *moralised*. In examining the *Benefit View* and the *Status View* in the thesis, one recurrent theme that runs through the Chapters is whether there is value in having the freedom to perform morally impermissible actions, including actions that are severely wrong (such as killing an innocent). Attributing non-specific value, indeed, implies attributing value also to the freedoms to perform morally impermissible actions. And the aim of Part III is to defuse a number of versions of the objection that asserts the implausibility of attributing value to the freedoms to perform morally impermissible actions. There is no systematic discussion of this issue in the literature, and the thesis aims to fill this gap by rejecting moralised interpretations of the value of freedom. I shall first defend the non-specific value of freedom by arguing in favour of a non-moralised interpretation of the *Benefit View* in Chapter 4, offering then a non-moralised interpretation of the *Status View* in Chapter 5. In Chapter 5 I also offer an analysis of the relationships between freedom and respect for persons.

Part IV: Freedom, Ability, and the Values of Freedom.

The overall aim of Part IV (Chapter 6) is to show that distinguishing between the *Benefit View* and the *Status View* has implications for a number of issues of conceptual analysis concerning the definition of freedom. I shall focus in particular on questions concerning ability and the definition of the constraints on freedom. Further, I argue that the (non-specific) value of freedom *shapes* what freedom *is*, and that therefore freedom should be understood as an interpretative concept. This Chapter also examines the *Status View* as a moral foundation of freedom-centred justice, discussing the value of freedom in Hillel Steiner's theory of justice, and offering an internal critique of Steiner's bivalent theory of freedom as mere absence of interference from other human beings.²⁴ The upshot of such an analysis consists in the defence of a trivalent ability-based theory of freedom (according to which one can be 'free' or 'unfree' with respect to the actions that one is able to do – while one should be considered 'not-free' to do the actions that one is unable to do). Finally, I shall argue that endorsing the *Benefit View* is conducive to endorsing a bivalent theory of freedom as pure ability to act.

²⁴ Steiner, *An Essay on Rights*.

Part I

Chapter 1:

Two Values of Freedom

1.1 The Good and the Right. Introduction.

1.1.1 Structure of the Chapter.

In this Chapter I introduce the analysis of two very general ways of valuing freedom (non-specifically), which freedom theorists have failed to carefully distinguish, and which constitute distinct moral foundations of freedom-centred justice (§1.2). In §1.3 I further illustrate the relevance of this distinction for the analysis of the value of freedom in Mill's *On Liberty* and in the republican literature on freedom as non-domination. The Chapter also makes a number of preliminary clarifications concerning the non-specific value of freedom (§1.4) and the conceptual analysis of the constraints on freedom (§1.5). Overall, in this Chapter I want to set the stage for the discussion that unfolds in the next Chapters, especially for the analysis of the *Benefit View* and of the *Status View* as distinct moral foundations of freedom-centred justice. §1.6 concludes.

1.1.2 The Good and the Right.

The very general aim of this Chapter is to introduce the analysis of two very general ways of valuing freedom (non-specifically). To make this point, I should start by explaining the distinction between *the good* and *the right*, which most philosophers assume as a central feature

of ethical theorising.¹ Many things (objects, events, states of affairs) can be considered ‘good’. Spectacles, for instance, are *instrumentally* good as a means to enhance the vision of short-sighted persons. Human happiness is *intrinsically* good, and it is *good for* persons to be happy – i.e. happiness has *personal* value for those who are happy. By contrast, ‘wild nature, untouched by human beings’² can be considered *impersonally* valuable, if its value is not entirely reducible to the contribution of wild nature to the wellbeing of persons, or, more broadly, to furthering people’s interests.³ Some of these differences in value are examined in greater detail below and in the following Chapters. For now, I wish to highlight that there is a variety of senses of ‘goodness’. Moreover, in value theory the term ‘*axiology*’ is generally taken to capture the domain of the good and I shall understand ‘axiological reasons’ as reasons that justify believing that something (in particular: ‘freedom’) has value in virtue of considerations concerning the good.⁴ Furthermore, deeming something to be good consists in positively evaluating the thing in question, and it justifies holding certain positive attitudes (i.e. pro-attitudes) towards it (e.g. having reason to bring about, preserve, or promote what is good).⁵ By contrast, the domain of *the right* pertains to people’s actions and to the requirements of morality or justice: that is, to what people *ought* to do – their duties and obligations – or to what they have reason to do.⁶ The term ‘*deontic*’ is generally taken to capture the domain of

¹ For example, Derek Parfit, *On What Matters, Vol. 1*, ed. by Samuel Scheffler (Oxford: Oxford University Press, 2011), Ch. 10; John Rawls, *A Theory of Justice*, 1st edn. (Cambridge, MA: Harvard University Press, 1971), Ch. 1, §§5-6.

² Toni Rønnow-Rasmussen, *Personal Value* (Oxford: Oxford University Press, 2011), p. 1.

³ I further clarify the distinction between wellbeing and the more general notion of ‘people’s interests’ (which can be interpreted objectively or subjectively) below.

⁴ For this understanding of axiological reasons, see Matthew Kramer, *Liberalism with Excellence* (Oxford: Oxford University Press, 2017), Chs. 5 and 6; Francesco Orsi, *Value Theory* (London and New York: Bloomsbury, 2015), pp. 6-8.

⁵ For context on value theory, see Iwao Hirose and Jonas Olson (eds.), *The Oxford Handbook of Value Theory* (New York: Oxford University Press, 2015); Orsi, *Value Theory*. I shall also draw from Richard Rowland, *The Normative and the Evaluative: The Buck-Passing Account of Value* (Oxford: Oxford University Press, 2019).

⁶ While purely consequentialist theories of morality or justice (e.g. welfare utilitarianism) define the right in terms of the good – i.e. as that which maximises, promotes, or realises the good – deontological theories face the question of how to tackle possible contrasts between the right and the good. Rawls,

the right.⁷ And ‘deontic reasons’ concern how persons should be treated or how people have reason to treat each other. Moreover, deontic reasons can justify believing that something (freedom) has value in virtue of considerations concerning the right (rather than the good). Distinguishing between the right and the good allows us to identify two ways of valuing freedom (non-specifically) – and two corresponding foundations of freedom-centred justice – depending on whether the (non-specific) value of freedom is justified by appealing to axiological reasons (concerning the good) or to deontic reasons (concerning the right).⁸

1.2 Two Values of Freedom.

1.2.1 Good-Based Views.

Let us start by introducing the analysis of views that justify attributing value to freedom in virtue of axiological reasons concerning the good (i.e. good-based views). Good-based views hold that it is *good* if persons have (more) freedom (rather than less), and it is *bad* if people’s freedom is restricted. Since there is a multiplicity of plausible senses of goodness, ‘good-based views’ is a very broad category, which groups together quite different understandings of freedom’s value. It is useful then to draw some distinctions.

for example, famously claims that ‘in justice as fairness the concept of the right is prior to that of the good’ (Rawls, *A Theory of Justice*, 1st edn., p. 31), which entails that both individual conceptions of the good and collective ends (e.g. economic growth) can be pursued only within the limits imposed by the principles of justice (i.e. by the right defined independently from the good). For example, justice as fairness rules out as impermissible attempts to promote economic growth by limiting the political liberties (e.g. the right to participate in democratic elections) to which citizens are entitled as a matter of right. Rawls’s views on the priority of the right are expounded in *A Theory of Justice*, Ch. 1, §§5-6. A useful commentary is provided by Robert Taylor, *Reconstructing Rawls. The Kantian Foundations of Justice as Fairness* (University Parks, PA, Pennsylvania State University Press, 2011), pp. 115-121.

⁷ Ralf Bader claims that deontic reasons justify a kind of value – ‘moral value’, as Bader puts it – that is distinct from the kind of value that is entailed by reasons concerning the good. Bader, ‘Kantian Axiology and the Dualism of Practical Reason’, in Hirose and Olson (eds.), *Value Theory*, pp. 175-201.

⁸ As indicated in the Introduction of the thesis, the reasons to value freedom non-specifically constitute the moral foundations of freedom-centred justice.

The Benefit View and Person-Affecting Reasons

To start with, consider the following statement by Carter. According to Carter, freedom is valuable as:

‘*a good-making property of people’s lives.*’ We are interested in measuring the degrees to which individuals are free, I thought, *because freedom is (for whatever reason) a good thing, either for the individuals who possess it or for society as a whole.*’⁹ (emphasis added)

For Carter the value of freedom is a kind of *value for* persons. That is, for Carter freedom is valuable in *person-affecting* terms: as something that *benefits* people, as a measure of *advantage*. Something is valuable in person-affecting terms if it contributes to the flourishing of persons and to furthering people’s interests (e.g. the interests that people have in wellbeing, and also, more broadly, in agency and autonomy).¹⁰ Moreover, if Carter’s claim that freedom is valuable ‘for the individuals who possess it’ is interpreted as meaning that ‘the freedoms possessed by an individual *A* benefit *A herself* (rather than, for instance, someone else ‘*B*’), according to Carter freedom has *personal* value.¹¹ If freedom has personal value, freedom is valuable in person-affecting terms and the benefits of *A*’s freedom accrue to *A herself* (rather than to someone else ‘*B*’). I shall call the good-based view that interprets the value of freedom in person-affecting terms and that attributes personal value to freedom ‘the *Benefit View*’. The *Benefit View* as moral foundation of freedom-centred justice is examined in Chapter 2 and in

⁹ Ian Carter, ‘Respect for Persons and the Interest in Freedom’, in Stephen De Wijze, Matthew H. Kramer, and Ian Carter (eds.), *Hillel Steiner and the Anatomy of Justice* (London: Routledge, 2009), pp. 167-184, at p. 167.

¹⁰ For context on person-affecting reasons, see Nils Holtug, *Persons, Interests, and Justice* (Oxford: Oxford University Press, 2010), Ch. 6, §6.3. Ch. 2 and Ch. 3 of the thesis for a further analysis of the *Benefit View*.

¹¹ For an analysis of personal value, see Rønnow-Rasmussen, *Personal Value*; Orsi, *Value Theory*, Ch. 4.

Chapter 3. In Chapter 2 I distinguish the *Benefit View* from alternative good-based views that interpret the value of freedom in person-affecting terms, without assuming that freedom has personal value (e.g. from views that claim that someone's freedom has value because it benefits *someone else*, rather than the person who has freedom).¹² In his writings on the value of freedom, Carter clearly interprets the value of freedom in person-affecting terms (without unequivocally assuming the *Benefit View*). As Carter claims:

‘Liberal theories of justice tell us how to distribute burdens and benefits in a society, and they should, and often do, assume freedom to be one of the relevant benefits. [...] Thus, in order to demonstrate an interest in measuring freedom, *we need to show that freedom is indeed one such benefit. We need to know why it is better to have more freedom than to have less* [...].’¹³

Impersonal Value and the Good

At various points in this thesis (e.g. §2.4; §5.4) I shall look at claims that assert that freedom has (non-specific) *impersonal value*. Certain things (e.g. wild nature, the existence of life on Earth) can be (also) considered as valuable period – i.e. impersonally valuable – if their value is not entirely reducible to the value they have *for persons* – i.e. to the positive contributions they make to personal wellbeing, or to furthering the interests of persons.¹⁴ Freedom too can have impersonal value: freedom has impersonal value, iff it is possible to attribute value to freedom abstracting from whether freedom contributes to the personal wellbeing of persons,

¹² See Ch. 2, §2.3.

¹³ Carter, ‘Respect for Persons and the Interest in Freedom’, p. 167. See also Carter, *A Measure of Freedom*, Ch. 2.

¹⁴ For this understanding of impersonal value, I draw from Jeffrey Blustein, *Care and Commitment: Taking the Personal Point of View* (New York: Oxford University Press, 1992), Ch. 3; Gideon Elford, ‘Survey Article: Relational Equality and Distribution’, *Journal of Political Philosophy*, Vol. 25, No. 4, 2017, pp. e80-e99. See also Orsi, *Value Theory*, Ch. 4.

and, more broadly, to furthering people's interests. One relevant sense in which freedom can be considered impersonally valuable appeals to axiological reasons concerning the good: it can be good *that persons* have freedom because guaranteeing or promoting people's freedom contributes to the attainment of an end to which it is possible to attach impersonal value. For instance, in Chapter 2 (§2.4) I shall examine the claim that maximal freedom of research for scientists is valuable instrumentally as a means to the advancement of human civilization, to which, in turn, it is possible to attach impersonal value. Crucially, accounts of the value of freedom of this type abstract from whether freedom is valuable *for persons* (i.e. from person-affecting reasons to value freedom), and emphasise the impersonal goodness of promoting people's freedom in order to bring about states of affairs that are considered impersonally valuable. Furthermore, as I clarify below, also *deontic* reasons entail attributing impersonal value to freedom, though they derive the value of freedom from considerations concerning the right, rather than the good.

1.2.2 The Value of Freedom and the Right

Freedom as Independence

It would be misleading to think that good-based views capture all possible ways of valuing freedom: it can be valuable to have freedom in virtue of *deontic* reasons concerning the right, rather than the good. To illustrate this point, consider the following remarks by Arthur Ripstein on the value of freedom in Kant's political theory:

‘Kant conceives of equal freedom differently. *It is not a matter of people having equal amounts of some benefit*, however it is to be measured, but of *the respective independence of persons from each other*.’¹⁵ (emphasis added)

For Kant freedom consists in the ‘independence from being constrained by another’s choice,’¹⁶ and independence should be interpreted as the absence of constraints that subject an individual’s will to the wills (or choices) of others.¹⁷ Though, as Andrea Sangiovanni notices, there is a degree of indeterminacy in Kant’s notion of freedom as independence,¹⁸ instances of coercion or of using physical force to make someone doing something, count as very plausible candidates for actions that subordinate an individual’s will to the wills of others (thereby generating unfreedom).¹⁹ What matters is that for Kant the disvalue of having one’s own freedom (as independence) restricted by others consists in a *dignitary harm* associated with having one’s purposes being subject to the purposes of others.²⁰ That is, the disvalue of *unfreedom* (as lack of independence) is justified by appealing to the wrongness of being subject to interferences that compromise freedom as independence. And, according this Kantian view, the type of wrongness in question consists in a failure to treat others according to their moral status, to the worth (or ‘dignity’) that they have as rational beings endowed with certain agential

¹⁵ Arthur Ripstein, *Force and Freedom. Kant’s Legal and Political Philosophy* (Cambridge MA: Harvard University Press, 2009), p. 33.

¹⁶ Immanuel Kant, in *The Metaphysics of Morals*, [1797], in Kant, *Practical Philosophy*, ed. and trans. by Mary J. Gregor, (Cambridge: Cambridge University Press, 1996), pp. 353-604, at p. 393.

¹⁷ Ripstein, *Force and Freedom*, Ch. 2.

¹⁸ According to Sangiovanni, ‘it is striking that there is little sustained discussion of the concept of subjection in *Force and Freedom* (let alone the *Doctrine of Right*).’ Sangiovanni, ‘Rights and Interests in Ripstein’s Kant’, in Sari Kisilevsky and Martin Stone (eds.), *Freedom and Force: Essays on Kant’s Legal Philosophy* (Oxford: Hart, 2017), pp. 71-91, available at: http://andrea-sangiovanni.org.uk/Main/publications_files/Rights%20and%20Interests%20in%20Ripstein%27s%20Kant%20-%20Kisilevsky%20-%20print.pdf, at p. 5.

¹⁹ On the notion of freedom in Kant’s political philosophy see also Louis-Philippe Hodgson, ‘Kant on the Right to Freedom: A Defence’, *Ethics*, Vol. 120, No. 4, 2010, pp. 791-819.

²⁰ On the notion of ‘dignitary interests’ of persons, see Frances Kamm, *Intricate Ethics. Rights, Responsibilities, and Permissible Harm* (New York: Oxford University Press, 2007), Ch. 8, p. 246.

capacities – as setter of ends or as ‘self-authenticating sources of valid claims’, as Rawls would put it.²¹

The Status View and Freedom as Opportunity

Interpretations of the value of freedom that justify attributing value to freedom in virtue of reasons concerning the right – in particular, concerning how persons should be treated or concerning how we have reason to treat persons in response to their moral status of agents – can be classed as *Status Views*. For example, Kant’s interpretation of the value of ‘freedom as independence’ introduced in the previous paragraphs represents a version of the *Status View*. That being said, since in this thesis I shall focus on examining the value of ‘freedom as opportunity’, henceforth I shall apply the term *Status View* exclusively to the deontic interpretation of the value of freedom *as opportunity* (leaving aside the analysis of freedom as independence). So defined, the *Status View* captures the value that freedom (as opportunity) has in virtue of deontic reasons that appeal to the value of refraining from interfering with people’s freedom. Not being interfered with by others – in the relevant sense of non-interference introduced below (§1.5) – can be valuable in axiological or in deontic terms.²² For instance, on one version of the value of freedom that appeals to axiological (and person-affecting) reasons, the absence of obstacles imposed by other human beings (i.e. non-interference) has personal value and contributes to making people’s lives go well in so far as non-interference is necessary for enabling people to achieve their own ends and to attain the good. On the other hand, in deontic terms, on the *Status View* the value of non-interference is derived from a deontic reason concerning how persons should be treated (or how we have

²¹ John Rawls, *Political Liberalism*, 2nd edn. (New York: Columbia University Press, 2005), p. 32.

²² As I further explain in Ch. 6, on the *Status View*, the value of non-interference is *relational*: it is the value attributed to a relationship in which an individual agent *A* refrains from interfering with *B*’s freedom.

reason to treat persons) in recognition of their status as agents.²³ More specifically, persons are defined by their purposiveness: they are rational beings endowed with the capacity to set ends,²⁴ and they have a kind of worth – or ‘dignity’ – in virtue of possessing a given set of agential capacities.²⁵ And, as I shall argue at greater length in the thesis (see especially Chapter 5), acknowledging the moral status of persons as agential beings entails having at least *some* reason (i.e. a ‘pro tanto’ reason)²⁶ to refrain from interfering with the opportunities that persons have to exercise their will: it entails having a (pro tanto) reason to refrain from interfering with the freedom of persons.²⁷

So, to summarise the main upshot of my analysis concerning two ways of valuing freedom in this Section (§1.2), the value of freedom as opportunity can be justified either by appealing to reasons concerning the good (axiological reasons), or to reasons concerning the right (deontic reasons). Furthermore, on the *Status View*, freedom has impersonal value. And it should be noticed that, crucially, such a value is distinct from the *personal* value that freedom has

²³ Qualifying as an agential being is necessary but may not be sufficient to ground a pro tanto reason to refrain from interfering with the freedoms of the agent in question. In Ch. 6 I examine cases in which an agent *A* is free to do an action *X* but lacks the ability to *X*, and I question whether a deontic reason to refrain from interfering with *A*’s freedom to *X* holds in cases of this type.

²⁴ For instance, they are capable of making plans that stretch into the future and of devising the means to attain such plans. In the context of the thesis, I shall leave aside the discussion of exactly which type and level of agential capacities is necessary to qualify as a person. For context, see George Sher, ‘Why We Are Moral Equals’, in Steinhoff (Ed.), *Do All Persons Have Equal Moral Worth? On ‘Basic Equality’ and Equal Respect and Concern*, Ch. 2.

²⁵ On the notion of dignity as equal status, see Jeremy Waldron, *Dignity, Rank, and Rights* (New York: Oxford University Press, 2012). As Waldron himself notices, his interpretation of dignity is distinct from the Kantian notion of ‘priceless worth’ that, according to Kant, humanity has in virtue of possessing the capacity to act morally. On this point, see Waldron, *Dignity, Rank, and Rights*, Lecture I, §6; and Benn, *A Theory of Freedom*, pp. 103-109.

²⁶ On this interpretation of ‘pro tanto’ I follow Rowland, *The Normative and the Evaluative*, p. 14.

²⁷ On this point, see Benn’s illuminating discussion in *A Theory of Freedom*, Ch. 1, Ch. 5 and Ch. 6. As Benn argues, an individual’s claim to not being deprived of the freedom to pursue a project *X* (i.e. to non-interference with the doing of *X*) is grounded on the recognition of the individual in question as a project maker – as an agent – rather than, for example, on the quality of the project itself. In Benn’s own words, ‘[o]ne may believe the other’s project quite worthless in itself. Its claim to respect rests not on its being valuable and worthy of one’s concern, or even on one’s interest in or benevolent concern for its author *but simply on its being a person’s project*’ (emphasis mine, and in this context ‘respect’ can be replaced with ‘non-interference’), p. 107.

according to the *Benefit View*: i.e. from the value that having freedom has in virtue of contributing to the wellbeing and to furthering the interests of the individuals who have freedom. It is also distinct from the kind of impersonal value that freedom has in virtue of axiological reasons to promote people's freedom in order to attain an impersonally valuable end (such as, the advancement of human civilisation (see §1.2.1)), since on the *Status View* the value of freedom is derived from a deontic reason concerning how persons should be treated – i.e. a pro tanto reason to refrain from interfering with people's freedom – rather than from the goodness of bringing about a state of affairs (such as, the advancement of human civilisation) that it is possible to value impersonally.

1.2.3 Distinct Attitudes Towards the Value of Freedom: Promoting Freedom Vs. Respecting Freedom.

In the literature, the distinction between axiological and deontic reasons has been applied to qualify also the value of autonomy or the disvalue of coercion.²⁸ Moreover, the relevance of such a distinction can be further illustrated by thinking about two kinds of positive attitudes (pro-attitudes) towards freedom: respectively, *promoting* versus *respecting* freedom.²⁹ Following Thomas Scanlon, 'to value something is to take oneself to have reasons for holding certain positive attitudes toward it and for acting in certain ways in regard to it.'³⁰ And Scanlon claims that 'understanding the value of something is not just a matter of knowing *how valuable* it is, but rather a matter of knowing how to value it – knowing what kind of actions and attitudes

²⁸ Stephen Darwall, 'The Value of Autonomy and Autonomy of the Will', in Darwall, *Morality, Authority, and Law: Essays in Second-Personal Ethics I* (Oxford: Oxford University Press, 2013), pp. 114-131. Darwall distinguishes between autonomy as a benefit and autonomy as a demand. Michael Garnett, 'Coercion: The Wrong and the Bad', *Ethics*, Vol. 128, No. 3, 2018, pp. 545-573.

²⁹ In distinguishing between promoting versus respecting value I draw from Thomas Scanlon, *What We Owe to Each Other* (Cambridge, MA: Harvard University Press, 1998), Ch. 2; Parfit, *On What Matters*, Vol. 1, Ch. 10; Benn, *A Theory of Freedom*, Ch. 1 and Ch. 6; Philip Pettit, 'Consequentialism and Respect for Persons', *Ethics*, Vol. 100, No. 1, 1989, pp. 116-126.

³⁰ Scanlon, *What We Owe to Each Other*, p. 95.

are called for.’³¹ So, how should we respond to the value of freedom? What is the right thing to do with people’s freedom? I wish to draw a distinction between two kinds of attitudes towards freedom: promoting people’s freedom and abstaining from interfering with people’s freedom.

In illustrating this dichotomy, I shall draw from Philip Pettit’s critical discussion of Stanley Benn’s distinction between ‘value-centred’ versus ‘person-centred’ reasons in *A Theory of Freedom*, which I take to mirror the distinction between axiological versus deontic reasons examined above.³² If something is valuable in virtue of axiological reasons, the right attitude to have towards it is to promote it – i.e. to bring about a state of affairs in which there is *more* of the thing in question. Indeed, Pettit clarifies that axiological reasons ‘direct[s] my attention to a property [...] which is hailed as desirable and worth promoting.’³³ For instance, if the property in question is ‘freedom’ – and there is something *good* (either personally or impersonally) in having freedom – it is at least in one respect ‘better to have more freedom than to have less.’³⁴ This clarifies that good-based views entail a normative reason to promote people’s freedom. As Richard Rowland explains, normative reasons are reasons ‘that *count in favour of* or *make the case for*’ performing a certain action (or for holding a certain attitude).³⁵

³¹ Scanlon, *What We Owe to Each Other*, p. 99. In this context I shall not take any stance on Scanlon’s buck-passing account of value: Scanlon’s quotations should be merely taken to express the view that valuing something also entails having a reason to treat the object of value in certain appropriate ways.

³² Pettit, ‘Consequentialism and Respect for Persons’, pp. 116-126. As Benn claims, value-centred reasons, or ‘reasons of concern look primarily to the good consequences of an action, to whether it will bring about or preserve some valued and valuable state of affairs, sustain some valued and valuable activity, or promote the survival and well-being of some valued and valuable object. Such objects, which I call *axiotima* (things to be valued), may be animate or inanimate. [...] Value-centred reasons require that we optimize – that we make the world as good as it can be made.’ On the other hand, ‘persons-centred reasons have to do with principles, such as freedom, justice, equal respect for persons’ rights, and fidelity to truth, inasmuch as we are committed to these principles in our dealings with any other person, simply by virtue of that subject’s being a person, and quite irrespective of the outcomes of our conforming to or departing from these principles.’ (emphasis in original), Benn, *A Theory of Freedom*, pp. 7-8.

³³ Pettit, ‘Consequentialism and Respect for Persons’, p. 123.

³⁴ Carter, ‘Respect for Persons and the Interest in Freedom’, p. 167.

³⁵ Rowland, *The Normative and the Evaluative: The Buck-Passing Account of Value*, p. 3.

And good-based views entail a reason to move from a state of affairs in which persons have less freedom to a state of affairs in which persons have more freedom. Of course, such a reason may not be decisive – it may not be an ‘all things considered’ reason – since the value of freedom may conflict with other values, and the balance of reasons may ultimately strike in favour of refraining from promoting freedom. So, we should interpret good-based views as entailing a *pro tanto* reason (or ‘some’ reason) to promote people’s freedom.³⁶ Moreover, depending on *why* freedom is deemed to be valuable, promoting people’s freedom may be further interpreted as maximising people’s freedom or as increasing people’s freedom up to a point of satiation.

On the other hand, as Pettit explains, since deontic reasons concern how persons should be treated, they do not ‘direct me in the first place to a property I should promote *but rather to an action I should perform*’³⁷ or that I have reason to perform. This clarifies that, if freedom is valuable in deontic terms, the value of freedom is derived from the value attributed *to the action* ‘abstaining from interfering with people’s freedom.’ Hence, from the *Status View* it follows that the appropriate attitude to have towards freedom is to refrain from restricting people’s freedom – in other words, to *respect* people’s freedom – rather than to promote it. A number of caveats should be added. First, in the context of this Chapter ‘respecting people’s freedom’ is merely a placeholder for ‘abstaining from restricting people’s freedom,’ and captures the kind of attitudes towards freedom that is associated to the *Status View*. But, of course, ‘respect for persons’ is a much more loaded expression in normative ethics, and the things that are

³⁶ Furthermore, *how much* freedom is provided by additional units of freedom will depend on how freedom is to be measured.

³⁷ Pettit further explains that axiological reasons ‘direct[s] me also of course to an action I should perform but it does so via directing me to a feature I should promote.’ On the other hand, deontic reasons ‘direct[.] me to an action I should perform without specifying such a property to be promoted,’ Pettit, ‘Consequentialism and Respect for Persons’, p. 123.

worthy of respect (in this stronger sense) really are ‘persons’, rather than their freedoms. I shall explore further the relationships between respect for persons and the value of freedom captured by the *Status View* in Chapter 5 of the thesis. Second, in that Chapter I shall ask whether there is a deontic reason to refrain from interfering with certain *specific* freedoms of persons – the freedoms to perform the actions that one has the right to do – or whether there is also a reason to refrain from interfering with people’s freedom *as such*, including with the freedoms to perform morally impermissible actions. And I shall argue in favour of a pro tanto deontic reason to refrain from interfering with people’s freedom as such.

1.3 Two Values of Republican Freedom and Mill’s *On Liberty*.

In the previous Section (§1.2) I have argued that distinguishing between the right and the good sheds light on two ways of valuing freedom (as opportunity). I want now to lend further credence to this claim by first arguing that there are two ways of valuing republican freedom *as non-domination*. I shall then showcase the relevance of the distinction between the right and the good in Mill’s treatment of the value of freedom in *On Liberty*.

1.3.1 Two Values of Republican Freedom.

Neo-Republicans interpret freedom as non-domination.³⁸ Non-domination obtains when an individual *A* is not exposed to the unchecked (or arbitrary) power of another individual *B*. Domination, conversely, is a social relationship in which *B* has the power to interfere *at whim* with a range of *A*’s choices – without having to track the *A*’s interests.³⁹ I wish to point out that

³⁸ For Pettit’s original definition of non-domination, see Philip Pettit, *Republicanism. A Theory of Freedom and Government* (Oxford and New York: Oxford University Press, 1997), Chs. 1-3.

³⁹ As Pettit explains, the power of the dominator ‘is not exercised on terms imposed by *A*: it is not exercised in a direction or according to a pattern that *A* has the influence to determine’, Philip Pettit, *On the People’s Terms* (Cambridge: Cambridge University Press, 2012), p. 50. While for liberals every prevention counts as a source of unfreedom, for republicans 1) only those interferences that are instances of domination are sources of unfreedom, and 2) domination can obtain even without interference. Thus, there can be 1) domination without interference, and 2) interference without

republicans oscillate between interpreting the value of non-domination as ‘a crucial condition of human flourishing (along with health, education and care, sufficient material goods, cultural membership, and so on)’ – as claimed by Frank Lovett – or as something that is *owed* to people in response to their (moral) status as persons or citizens.⁴⁰ The former view appeals to reasons concerning the good, the latter to reasons concerning the right. The two views are compatible, and often intertwined in the writings of neo-republican authors, but they should be kept analytically distinct.

The former view claims that non-domination is *good for* persons, and that it is ‘an instrumental good: a good that generates other benefits for the individual who enjoys it.’⁴¹ And domination is bad because it exposes those subjected to it to ‘an ongoing sense of insecurity’ that ‘has both material and psychological consequences’⁴², since the subjects of domination need to ingratiate the dominating agent(s), and thereby they ‘additionally suffer from psychological anxiety and a sort of paralytic sense of helplessness.’⁴³ Thus, the benefits associated with non-domination make it a tangible source of advantage, a Rawlsian ‘primary good’, which everyone would want to have in order to achieve one’s own plans.⁴⁴ This understanding of the value of non-domination appeals to reasons concerning the good.

domination. To illustrate point (2): republicans argue that *A*’s mere exposure to *B*’s uncontrolled power counts as a source of unfreedom (as domination), even if *B* is a benevolent master and does not (intend to) exercise his superior power over *A* – in so far as *B* retains his capacity to interfere – thereby also creating an incentive for *A* to modify his own behaviour so to meet *B*’s expectations. As an illustration of point (1): republicans claim that power that is not exercised arbitrarily does not count as a source of domination: for example, for republicans the law counts as a source of unfreedom only if it ‘compromises’ people’s freedom; only if it fails to meet a test of procedural (i.e. democratic) and/or substantial legitimacy, thereby being a source of domination. On this point, see Pettit, *Republicanism*, Part I.

⁴⁰ Frank Lovett, *A General Theory of Domination and Justice* (Oxford: Oxford University Press, 2010), p. 130.

⁴¹ Pettit, *Republicanism*, p. 83.

⁴² Lovett, *A General Theory of Domination and Justice*, p. 132.

⁴³ *Ibid.*, p. 133.

⁴⁴ Pettit, *Republicanism*, Ch. 3.

At the same time, domination constitutes also a failure to recognise the equal standing of persons. As Pettit claims, ‘the association of freedom with subjective and often intersubjective status’⁴⁵ is a commonplace in the republican tradition. And non-domination consists in:

‘being able to look the other in the eye, confident in the shared knowledge that it is not by their leave that you pursue your innocent, non-interfering choices [...]. You are a somebody in relation to them, not a nobody. You are a person in your own legal and social right’⁴⁶.

This view abstract from considerations concerning the good and from the contribution of non-domination to human flourishing, deriving the value of non-domination from considerations concerning how persons should be treated in virtue of having equal standing as persons. Hence, according to republican justice, ‘people should have a publicly established and acknowledged status in relation to others; only this could enable them to walk tall and look others in the eye.’⁴⁷ Moreover, since the value of non-domination is eminently *relational*, republican justice is best described as a version of *relational* and civic egalitarianism: the view of an ideal society in which persons treat one another according to their status of equals.⁴⁸

1.3.2 Mill on the Values of Freedom.

⁴⁵ Pettit, *Republicanism*, p. 71.

⁴⁶ Ibid.

⁴⁷ Pettit, *On the People’s Terms*, p. 83.

⁴⁸ On this point, see Marie Garrau and Cecile Laborde, ‘Relational Equality, Non-Domination, and Vulnerability’, in Carina Fourie, Fabian Schuppert, and Iwo Wallimann-Helmer, (Eds.), *Social Equality: On What It Means to Be Equals* (New York: Oxford University Press, 2015), pp. 45-64. On the distinction between relational egalitarianism and distributive egalitarianism, see Elford, ‘Survey Article: Relational Equality and Distribution’; Fourie, Schuppert, Wallimann-Helmer, *Social Equality*’.

John Stuart Mill's defence of the Harm Principle in *On Liberty* offers a paradigmatic illustration of two ways of valuing freedom. The Harm Principle establishes an almost absolute protection from social intervention of the freedom to perform 'self-regarding' actions that do not harm others. In Mill's own words:

‘the only purpose for which power can be rightfully exercised over any member of a civilised community, against his will, is to prevent harm to others.’⁴⁹

For example, while the state should prevent *B* from pouring alcoholic beverages down *A*'s throat without *A*'s consent, there is no legitimate reason to interfere when *A* himself indulges in excessive drinking at the pub, thereby causing harm *to himself*. As commentators have noticed, the Harm Principle should be understood as discriminating between *reasons* for limiting and for refraining from limiting individual freedom.⁵⁰ It can also be understood as illustrating two distinct values of freedom.

Mill appeals mainly to axiological reasons concerning the good, claiming that it is *good* for persons to have freedom, or for society as a whole that people have freedom.⁵¹ For example, having freedom has value for individual persons in that having freedom contributes to individuality as a component of human flourishing. As Mill argues, human beings are not like machines ‘to be built after a model, and set to do exactly the work prescribed for it’, but are like ‘tree[s], which require to grow and develop itself on all sides, according to the tendency of the inward forces which make [them] a living thing.’⁵² Since Mill praises individuality as

⁴⁹ Mill, *On Liberty*, p. 14.

⁵⁰ See, for example, Chin L. Ten, *Mill on Liberty* (Oxford: Clarendon Press, 1980), pp. 40-41; Ben Saunders, ‘Reformulating Mill’s Harm Principle’, *Mind*, Vol. 125, No. 500, 2016, pp. 1005-1032.

⁵¹ See especially Chapter III (‘On Individuality, as One of the Elements of Wellbeing’) of *On Liberty* as the main source for this line of argument in Mill.

⁵² Mill, *On Liberty*, p. 66.

self-direction – which requires deciding for oneself what is best in life, and how to direct one's own life according to the values that one holds dear⁵³ – and since human ends are not predeterminate, one needs freedom in order to develop one's own talents and to conduct 'experiments in living',⁵⁴ which contribute to the attainment of self-realisation and to the achievement of human flourishing. The free development of individual personalities also leads to benefits *for society* as a whole, in so far as it contributes to create a dynamic and open society in which the flourishing of each can promote social progress.

Yet, Gerald Dworkin detects also a non-axiological line of argument in Mill's defence of the Harm Principle. As Dworkin argues:

'There is also a non-contingent argument which runs through *On Liberty*. When Mill states that "there is a part of the life of every person who has come to years of discretion, within which the individuality of that person ought to reign uncontrolled either by any other person or by the public collectively" he is saying something about what it means to be a person, an autonomous agent. It is because coercing a person for his own good denies this status as an independent entity that Mill objects to it so strongly and in such absolute terms.'⁵⁵

Mill justifies the Harm Principle also by appealing to reasons concerning how persons should be treated: to 'what it means to be a person, an autonomous agent.' In particular, he appeals to

⁵³ Mill's theory of individuality has influenced contemporary theories of autonomy. For a discussion of this point, see Ben Colburn, *Autonomy and Liberalism* (London: Routledge, 2010), pp. 12-19.

⁵⁴ Mill, *On Liberty*, p. 66.

⁵⁵ Gerald Dworkin, 'Paternalism', *The Monist*, Vol. 56, No. 1, 1972, pp. 64-84, at pp. 74-75.

deontic reasons concerning the right, and to the value of refraining from interfering with people's freedom, since 'coercing a person for his own good denies his status as an independent entity.' These are the sentences of *On Liberty* in which Mill stresses the stringency of the antipaternalist prescriptions that follow from the Harm Principle.⁵⁶ Mill, for example, argues that:

'the only part of anyone, for which he is amenable to society, is that which concerns others. In the part in which merely concerns himself, *his independence is, of right, absolute. Over himself, over his own body and mind, the individual is sovereign.*'⁵⁷

If the individual is 'a small scale sovereign' (Hart)⁵⁸ – and should be allowed to have full control over her body and mind – the freedom of persons should be protected because persons are purposive agents, and there is value in not interfering with the opportunities that persons have to exercise their purposiveness, abstracting from whether people ultimately *benefit* from having freedom. For the purposes of this Chapter, what matters is that, following Gerald Dworkin, we can detect in Mill's defence of the Harm Principle two ways of valuing freedom, which diverge depending on whether the value of freedom is justified by appealing to reasons concerning the good or to reasons concerning the right. In Dworkin's own words:

⁵⁶ Indeed, Gerald Dworkin introduces the analysis of deontic reasons to refrain from interfering with people's freedom while discussing whether Mill can satisfactorily defend the antipaternalist implications of the Harm Principle without appealing to deontic reasons. See Dworkin, 'Paternalism', pp. 74-76.

⁵⁷ Mill, *On Liberty*, p. 14. emphasis added.

⁵⁸ Herbert Hart, *Essays on Bentham: Studies in Jurisprudence and Political Theory* (Oxford: Clarendon Press, 1982), p. 183.

‘[...] there are two strains of argument in Mill—one a straight-forward Utilitarian mode of reasoning and one which relies not on the goods which free choice leads to but on the absolute value of the choice itself.’⁵⁹

1.4 The Non-Specific Value of Freedom.

After having introduced the distinction between two ways of valuing freedom in the previous Section (§1.3), in this Section (§1.4) I wish to further elucidate the notion of freedom’s non-specific value. A freedom-centred theory of justice – i.e. a theory that recognises a distributive concern for freedom *as such* – is premised on the non-specific value of freedom (see Introduction): indeed, only if having a measure of freedom as such is valuable, it is possible to justify an interest in distributing freedom as such. And, according to Carter, if freedom has non-specific value, then ‘freedom itself, and not merely the freedom to do this or that specific thing, has value.’⁶⁰ The idea is that ‘we attach value to our freedom not only because of the specific things it allows us to do, but also because of the mere fact of our having freedom.’⁶¹ More formally:

Non-Specific Value (1): ‘A phenomenon has non-specific value if the value of that phenomenon cannot be described exclusively in terms of a good that is brought about or contributed to by a specific instance (or set of specific instances) of that phenomenon.’⁶²

⁵⁹ Dworkin, ‘Paternalism’, p. 76.

⁶⁰ Ian Carter, ‘The Metric of Overall Freedom: Its Ethical Importance, and Its Value-Neutrality’, p.3, unpublished trans. of Carter, ‘La Métrique de la Liberté Globale: son Importance Éthique et sa Neutralité par rapport aux Valeurs’, *Raisons Politiques*, Vol. 43, No. 3, 2011, pp. 11-33. I am grateful to Carter for forwarding the English translation of this paper.

⁶¹ Carter, *A Measure of Freedom*, p. 34.

⁶² Ibid.

To illustrate this point, Carter introduces an analogy between the value of freedom and the value of gold. As Carter claims, gold has non-specific value because it is possible to ascribe value to gold *as such*, not just because or when gold takes certain specific forms (e.g. a gold ring, a gold bracelet, etc.).⁶³ Indeed, there is value in having a measure of gold irrespectively of whether it is instantiated in the form of a gold bracelet or a gold knob, and this is why we ‘take an interest in “how much gold” we have.’⁶⁴ Notice that to establish the non-specific value of gold, we do not need to assume that gold has exchange value in monetary terms (we don’t need to deny it either). We only need to assume that ‘*the substance*’⁶⁵ gold has non-specific value, independently of the existence of a convention that sees gold as valuable as a means of exchange. Gold, indeed, can be valuable in virtue of its physical properties – it glitters, it cannot be easily destroyed, it is malleable at high temperatures – which make gold a metal that can be forged into a wide range of valuable objects (to which in turn it is possible to attach, for example, aesthetic value).⁶⁶

The gold example aims to show that there is value in having gold independently of the value of gold *instantiated* in specific golden objects: that is, independently of what a specific golden object (say, a golden fork) allows us to do. Hence, as Kramer claims, non-specific value is a form of *content-independent* value: it is detached, or *independent*, from the value attributed to

⁶³ Ibid.

⁶⁴ Ibid.

⁶⁵ Ibid., p. 51, emphasis added.

⁶⁶ Part of the reasons why gold has aesthetic value is culturally contextual, and there can be cultures that do not attach any aesthetic value to gold. However, besides noticing that gold’s non-evaluative intrinsic properties (i.e. it glitters, it is difficult to destroy, etc.) can be part of the reasons why gold has through time acquired aesthetic value, the point that it is common to attach aesthetic value to gold merely reinforces the argument that gold has non-specific value; it is not an essential feature of it. Indeed, we can merely assume that it is valuable to have a measure of gold because of gold’s physical properties that render it a malleable and resistant metal. If so, we can attribute value to (having a measure of) gold in a cross-cultural and context-independent fashion.

(the goods brought about/contributed to by) specific instantiations of the good in question.⁶⁷

Analogously, if freedom has non-specific value, such a value is independent of the value attributed to what *specific freedoms* allow us to do. Thus, we can infer that:

Non-Specific Value (2): if freedom has non-specific value, then *every instance* of freedom (i.e. every specific freedom) has some value *qua freedom*.

Non-specific value *ranges over every instance of freedom*. This is an important implication of attributing non-specific value that resurfaces at many points in the next Chapters. At this stage, I wish to emphasise that it is also a potentially controversial implication, in that it entails that also having the freedom to perform morally impermissible actions (say, the freedom to kill, or to steal) has (at least some) value *qua freedom*. In Chapter 4 and 5 I shall argue that there is value in having the freedom to perform morally impermissible actions, building on Kramer's distinction between the (dis)value of performing an action versus the value of freedom: indeed, though *performing* a morally impermissible action is *disvaluable*, nonetheless this does not exclude the possibility of arguing that there is value in having the *freedom* to perform the action in question.⁶⁸ By analogy, consider the plausibility of distinguishing between the (dis)value of performing a *self-regarding* action and the value of freedom. For example, though *A* may attribute subjective negative value to going to metal concerts, this does not imply that *A* utterly disvalues *being free* (to choose) to go to metal concerts. Indeed, if the government prevented *A* from attending metal concerts, *A* would certainly have reason to feel outraged by the existence of this unfreedom: by closing off this opportunity, the state illegitimately interferes

⁶⁷ Kramer, *The Quality of Freedom*, pp. 240-245. In a footnote of *A Measure of Freedom* Carter claims that, though 'in previous work I have used a different term to refer to non-specific value, namely "independent value" [...] 'I now prefer the term "non-specific value"' [...] 'while continuing to believe that the term "independent value" captures much of what I have in mind', Carter, *A Measure of Freedom*, p.33, fn. 4.

⁶⁸ Kramer *The Quality of Freedom*, pp. 240-245.

with *A*'s choices, arbitrarily exercising its power over *A*.⁶⁹ Thus, having the freedom to do an action can have value *even if one does not perform nor intend to perform the action in question*.

Moreover, asserting freedom's non-specific value does not deny that freedom also has *specific value*. As Kramer explains, part of the value of freedom is indeed *content-dependent*. The content-dependent value of freedom is the value that specific instances of freedom have in virtue of their 'particular content'.⁷⁰ For example, the content-dependent value of the specific freedom to eat an apple consists in the part of the value of freedom that is derivative upon the value of doing the action 'eating an apple': eating apples contributes to having a healthy diet and therefore to the achievement of personal wellbeing. Hence, also being free to eat apples has content-dependent value. Moreover, as Kramer explains, 'the sizeableness of the value of doing *X* entails the sizeableness of the [content-dependent, - P. I.] value of being free-to-do-*X*':⁷¹ that is, if eating apples were detrimental for the achievement of wellbeing, also the content-dependent value of eating apples would also be negative, or negligible. The content-dependent value of freedom varies depending on the contribution that performing the action that one is free to do has for the achievement of other goods (such as personal wellbeing, happiness, or autonomy).

⁶⁹ In this case, what justifies the value of freedom is an appeal to deontic reasons concerning the right and the disvalue of interfering with people's freedom.

⁷⁰ Kramer, *Liberalism with Excellence*, p. 203.

⁷¹ Kramer, *The Quality of Freedom*, p. 242.

1.5 The Values of Freedom and the Definitions of Freedom.

So far, I have defined freedom simply as an opportunity concept: but which *constraints* can limit people's opportunities, their *freedoms*? A number of questions of conceptual analysis have greatly exercised political philosophers in the past decades. For example: which kind of obstacles can render people *unfree*? Do only obstacles imposed (or non-removed) *by other human beings* count as sources of unfreedom? Or can also self-inflicted inabilities, and natural obstacles – such as sea storms that prevent the sailing of boats from the coast – render people unfree? Freedom theorists can be divided in two camps: *social freedom* theorists who believe that freedom is a *social relationship*, and therefore that only obstacles for which other human beings are (causally or morally) responsible can render people unfree,⁷² and those who believe that it is irrelevant to discriminate between humanly engendered and natural constraints, since both types of constraints should count as sources of unfreedom, as long as they interfere *in the relevant way* with the constrained individual's *ability* to perform a certain action (or set of actions).⁷³

Notice that, crucially, for both sides of this debate it is essential to address a number of questions concerning the *strength* of the constraint – as Andreas Schmidt puts it – that is, concerning how a (humanly engendered or natural) obstacle must *impact* on the *abilities* of the

⁷² Authors classifiable as social freedom theorists are Berlin, 'Two Concepts of Liberty'; Carter, *A Measure of Freedom*; Friedrich Von Hayek, *The Constitution of Liberty* (London: Routledge, 1976 [1960]); Kramer, *The Quality of Freedom*; David Miller, 'Constraints on Freedom', *Ethics*, Vol. 94, No. 1, 1983, pp. 66-86; Felix E. Oppenheim, *Dimensions of Freedom, An Analysis* (New York: St. Martin's Press, 1961); Hillel Steiner, 'Individual Liberty', *Proceedings of the Aristotelian Society*, Vol. 75, No. 1, 1975, pp. 33-50; Steiner, *An Essay on Rights*.

⁷³ Theorists of freedom as pure ability are Gerald A. Cohen, 'Freedom and Money' in Cohen, *On the Currency of Egalitarian Justice and Other Essays in Political Philosophy*, ed. by Michael Otsuka (Princeton NJ: Princeton University Press, 2011), pp. 166-192; Lawrence Crocker, *Positive Liberty* (The Hague: Nijhoff, 1980); Van Parijs, *Real Freedom for All*, Ch. 1; Sen, *Inequality Re-Examined*.

individual(s) interfered with, in order to count as a source of unfreedom.⁷⁴ For example: do only obstacles that render physically impossible the doing of an action render someone unfree, or can obstacles that render less eligible, more difficult, or costly, the doing of an action (e.g. threats), also render a person unfree? That is, at the heart of the conceptual analysis of freedom there are questions concerning *the relationship between freedom and ability*. And such questions have at least two dimensions: 1) is freedom a social relationship or is it a purely ability-based ideal? (the debate introduced in the previous paragraph); 2) how should a constraint on freedom limit the abilities of an individual in order to count as a source of unfreedom (i.e. the question concerning the strength of the constraint, introduced in this paragraph)?

In Chapter 6 of I shall argue that distinguishing between the *Benefit View* and the *Status View* contributes to advance the contemporary debates concerning whether freedom should be understood as a social relationship or as a purely ability-based concept: as I explain in what follows, the value of freedom in my view shapes the *definition* of freedom. Further, throughout the thesis, I shall *assume* a determinate answer regarding the issue of the strength of the constraints on freedom. In the remainder of this Section I elaborate in greater detail on these two points.

⁷⁴ Andreas Schmidt, 'Freedom and Its Distribution', DPhil Thesis, University of Oxford, Oxford, 2014, Ch. 4. On freedom and abilities, see also Andreas Schmidt, 'Abilities and the Sources of Unfreedom', *Ethics*, Vol. 127, No. 1, 2016, pp. 179-207.

1.5.1 Freedom as an Interpretative Concept.

In Chapter 6 I argue that freedom should be understood as ‘an interpretative concept’:⁷⁵ that is, that definitions of freedom are *value-dependent*,⁷⁶ since they are justified by appealing to a more fundamental commitment to value freedom in axiological or deontic terms. In particular, in Chapter 6 I showcase the relevance of this point by arguing that different implications for the definition of freedom follows depending on whether one endorses the *Benefit View* or the *Status View*. This methodological approach is well captured by the following remarks by Bernard Williams:

‘I do not think that we should be interested in definitions. [...] In the case of ethical and political ideas, what puzzles and concerns us is the understanding of those ideas – in the present case, freedom – *as a value for us in our world*. [...] Whatever our relations may be with others in our world who do or do not share our conception of freedom, we will not understand our own specific relations to that value *unless we understand what we want that value to do for us*.’⁷⁷

I take Williams to be claiming that in defining freedom we should not be interested *just* in definitions: we should be interested in definitions of freedom and unfreedom that *fit* with more fundamental commitments about why freedom has a certain value and why unfreedom has disvalue. In my view, we should understand the ‘correctness’ of a definition of an ethical-political concept like freedom in terms of the *fittingness* of such a definition with, as Ronald

⁷⁵ Ronald Dworkin, *Justice for Hedgehogs*, Ch. 8.

⁷⁶ Ian Carter, ‘Value-Freeness and Value-Neutrality in the Analysis of Political Concepts’, in David Sobel, Peter Vallentyne, and Stephen Wall (eds.), *Oxford Studies in Political Philosophy, Vol. 1* (Oxford: Oxford University Press, 2015), pp. 279-306.

⁷⁷ Bernard Williams, ‘From Freedom to Liberty: The Construction of a Political Value’, *Philosophy and Public Affairs*, Vol. 30, No. 1, 2001, pp. 3-26, at p. 3.

Dworkin claims, ‘the best justification of the role it plays for us.’⁷⁸ More specifically: as I argue in Chapter 6, depending on whether one endorses the *Benefit View* or the *Status View*, different implications will follow for understanding whether freedom should be understood as a social relationship or as a purely ability-based notion. The main claim that I defend in Chapter 6 is that the value of freedom *shapes* what freedom *is*.

That said, although authors like Raz are correct in claiming that an appeal to ordinary language and linguistic analysis cannot solve disagreements about freedom or about political concepts in general, since such disagreements are ultimately about different *values* rather than about *definitions* as such, the method of conceptual analysis maintains an essential ancillary role in political theorising.⁷⁹ The role is ancillary because, in my view, definitions of freedom are *grounded* on the value of freedom, and therefore the discussion of what can be called ‘the evaluative basis’ of a concept should be assigned a foundational primacy.⁸⁰ But, crucially, only by means of conceptual analysis can the internal coherence of a concept be defended, and one prove its logical consistency or analyse the relationship between such a concept and other concepts. So, both value theory and conceptual analysis are in their own terms essential to good political theorising. The remarks on the *strength* of the constraints that follows in this Section exemplify this approach and the value of doing conceptual analysis.

⁷⁸ Dworkin, *Justice for Hedgehogs*, p. 158.

⁷⁹ Raz, *The Morality of Freedom*, Ch.1 §6.

⁸⁰ Hence, the methodological view on the conceptual analysis of freedom that I endorse in the thesis is *foundationalist* rather than adopting Rawls’s coherentist approach of reflective equilibrium. On freedom and reflective equilibrium, see Carter, *A Measure of Freedom*, Ch. 4.

1.5.2 Pure Negative Freedom and the Strength of the Constraints.

Much ink has been spilled on the issue of the strength of the constraints on freedom, and in the following Chapters I shall simply assume that only obstacles that render *physically impossible* the doing of an action *X* render one *unfree* (to *X*). This position is generally labelled the ‘pure negative freedom’ view, and it is put forward by Hillel Steiner, and further refined by Carter and Kramer.⁸¹ In what follows I reconstruct the views of pure negative freedom theorists on the issue of the constraints on freedom. Such remarks are essential for framing the discussion of the next Chapters.⁸²

First, in the thesis I shall use the words ‘interference’ to mean ‘relevant interference’, and as a synonym of ‘prevention’: that is, both interference and prevention are taken to mean ‘constraints that render physically impossible’ the doing of *X*. Second, a constraint can deprive an individual of a *specific* freedom (i.e. of the freedom to do a specific action *X*), or it can also diminish the level of *overall freedom* enjoyed by such an individual, where, following Carter, ‘overall freedom’ is the total sum of freedom available to an individual and is counted by somehow aggregating over specific freedoms and unfreedoms.⁸³ Questions concerning the measurement of freedom can be safely left aside in this context.⁸⁴ Third, the main argument in favour of endorsing the pure negative freedom view is that, denying that only obstacles that render physically impossible the doing of *X* can render one unfree (to *X*) has the counterintuitive implication that one can end up *doing X*, while being judged as *unfree* to *X*,

⁸¹ Steiner, ‘Individual Liberty’; Steiner, *An Essay on Rights*, Ch. 2; Carter, *A Measure of Freedom*, Ch. 8; Kramer, *The Quality of Freedom*.

⁸² Note that also the definition of the strength of the constraints on freedom is informed by considerations concerning the *value* of freedom. I shall leave the discussion of this point aside in this context.

⁸³ For the distinction between specific freedom and overall freedom, see Carter, *A Measure of Freedom*, Ch. 1.

⁸⁴ See Carter, *A Measure of Freedom*, Chs. 7 and 10; Kramer, *The Quality of Freedom*, Ch. 5.

since, by definition, an action that is physically possible may end up being performed. And pure negative freedom theorists emphasise that it is implausible to describe someone as unfree to *X*, when the person in question in fact *did X*. This point speaks to the linguistic plausibility of the purely negative freedom view.⁸⁵

Fourth, an objection that is often moved to pure negative freedom is that such a view cannot recognise that threats limit individual freedom, since threats do not render physically impossible the doing of the action of not-complying with the threat. For example, pure negative freedom theorists deny that *A* is unfree to *X* (not handing over the wallet to the robber), when the robber convincingly threatens *A* to shoot him dead, since the robber does not render physically impossible (but only extremely less eligible) the doing of *X* (i.e. the action of not-complying with the threat).⁸⁶ And the verdict reached by the pure negative freedom view can be judged as counterintuitive.⁸⁷ As Carter has argued, this objection misfires, since pure negative freedom theorists can recognise that standardly threats result in a reduction of an individual's degree of *overall* freedom, even if threats do not remove the *specific* freedom of not complying with the threat. Indeed, credible threats interfere by preventing the threatened individual from not complying with the threat while at the same time not suffering the consequences that result from the execution of the threat.⁸⁸ For instance, in the example of the robbery introduced above, the individual who is threatened with being killed is prevented from not handing over the wallet without avoiding the consequence of being killed, which in turn results in a great reduction in the individual's degree of overall freedom: both because, 1) if the individual does not hand over the wallet, being killed precludes *every* option to him,⁸⁹ and

⁸⁵ See Ian Carter, 'Introduction', in Stephen De Wijze, Matthew Kramer, and Ian Carter (eds.), *Hillel Steiner and the Anatomy of Justice* (London: Routledge, 2009), pp. xiii-xiv.

⁸⁶ Steiner, 'Individual Liberty'; Steiner, *An Essay on Rights*, Ch. 2.

⁸⁷ For example, see Miller, 'Constraints on Freedom', p. 76.

⁸⁸ This point is also acknowledged by Miller, 'Constraints on Freedom', pp. 76-77.

⁸⁹ Less severe sanctions (say, being non-fatally injured rather than being killed) correspondingly imply comparatively less severe reductions of an individual's degree of overall freedom.

because 2) if the individual hands over the wallet for the sake of preserving his life, he is nonetheless deprived of those many freedoms that he could have availed himself of by keeping the wallet (e.g. the freedom to use the money contained in the wallet). So, the pure negative freedom view offers a convincing explanation of the freedom-reducing nature of threats that maintains, on the one hand, that threats do not prevent an individual from not-complying with the threatener's commands, while, on the other hand, acknowledging the reduction in people's degrees of overall freedom that results from the issuing of threats.⁹⁰

Fifth, we should interpret the pure negative freedom view as claiming that interference can be *actual* or *counterfactual* (or, *subjunctive*), and that both result in unfreedom. It is important to emphasise the counterfactual dimension of ascriptions of unfreedom: in particular, throughout the thesis I shall assume that *A* is unfree to *X* 1) when *A* is *actually* constrained by the presence of a (relevant type of) obstacle (*actual interference*), but also 2) when *A* would be *counterfactually* subject to the relevant type of obstacle(s) (that would prevent *A* from doing *X*), if *A* attempted to *X* (*counterfactual* or *subjunctive interference*).⁹¹ That is, the mere fact that *B* is *disposed* (or inclined) to interfere with *A*'s doing of *X* is sufficient to generate a corresponding reduction in *A*'s level of overall freedom, if it is true that *B* *would* interfere if *A* attempted to *X*.

To clarify this point, notice that pure negative freedom theorists adopt *extensional* descriptions of freedoms/unfreedoms. As Steiner claims, freedom is 'the personal possession of physical

⁹⁰ Steiner's view that threats result in a reduction in the threatened individual's degree of overall freedom at the time of their *execution* (Steiner, *An Essay on Rights*, pp. 22-32), has been criticised by Carter, Kramer, and Serena Olsaretti. See Carter, *A Measure of Freedom*, pp. 224-232. On threats and pure negative freedom, see also: Kramer, *The Quality of Freedom*, pp. 194-209; Serena Olsaretti, *Liberty, Desert, and the Market*, (Cambridge: Cambridge University Press, 2004), pp. 143-144.

⁹¹ For a clear explanation of this point, see Kramer, *The Quality of Freedom*, pp. 185-186.

objects',⁹² and every specific freedom consists in the absence of the relevant types of constraints on the use of (external and internal) resources (including the individuals' own bodies) in a spatio-temporally defined portion of the world. In particular, as explained by Kramer, the extensional descriptions of freedoms involve the use of 'two temporal indexes: one pertaining to the time(s) at which the ascribed freedom exists, and the other pertaining to the time(s) at which the action or event covered by the freedom is to occur.'⁹³ For example, *A*'s freedom to *X* (to eat an apple) consists in *A*'s being unprevented from the relevant types of constraints (e.g. from *B*'s interfering actions) in the use of those resources (*A*'s own body, the apple; the space between *A*'s body and the apple; etc.) that are necessary for doing *X*. And, *A*'s freedom to *X* can be further temporally qualified as the freedom that *A* has now (at time *t*₀) to do *X* (eat the apple) later this afternoon (at time *t*₁); or the freedom that *A* had yesterday (at time *t* - 1) to eat the apple now (at *t*₀), etc. This analysis contributes to clarify the counterfactual dimension of ascriptions of freedom. Indeed, if it is true that *B* would interfere at time *t*₁ with *A*'s attempt to *X* at *t*₁ (e.g. that *B* is already disposed now to interfere with *A*'s attempt to *X* at *t*₁), this results in a reduction of *A*'s degrees of overall freedom already *now*, when *A* does not attempt to *X*. Indeed, *A* should be described as unfree *now* (at time *t*₀) to do *X* at *t*₁, if it is true that *A* would be prevented by *B* to *X* at *t*₁.⁹⁴

⁹² Steiner, 'Individual Liberty', p. 48.

⁹³ Kramer, *The Quality of Freedom*, p. 76.

⁹⁴ Or that *A* would be prevented from doing *X* at *t*₁ by the existence of a natural obstacle, if one does not adopt a definition of freedom as a social relationship. On the counterfactual dimension of freedom, see Kramer, *The Quality of Freedom*, pp. 76-91, pp. 185-240. See also the exchange between Keith Dowding, Van Hees, Carter, and Kramer. Keith Dowding and Martin Van Hees, 'Counterfactual Success and Negative Freedom', *Economics and Philosophy*, Vol. 23, No. 2, 2007, pp. 141-162; Ian Carter and Matthew Kramer, 'How Changes in One's Preferences Can Affect One's Freedom (and How They Cannot): A Reply to Dowding and Van Hees', *Economics and Philosophy*, Vol. 24, No. 1, 2008, pp. 81-96.

1.6 Conclusion.

In this Chapter I have introduced the distinction between two ways of thinking about the value of freedom, depending on whether the value of freedom is justified by appealing to reasons concerning the good (axiological reasons) or to reasons concerning the right (deontic reasons). I have also made a number of clarifications concerning the non-specific value of freedom and the conceptual analysis of freedom that are essential for the discussion that unfolds in the next Chapters. Part II of the thesis (Chapter 2 and Chapter 3) is concerned with examining axiological reasons that justify attributing (non-specific) value to freedom, and with providing an exhaustive analysis of the *Benefit View*.

Part II:
The Value of Freedom and the Good

Chapter 2:
Freedoms and Persons:
The Personal Value of Freedom and the Good

2.1 The Value of Freedom and the Good.

In the previous Chapter, I have argued that there are two distinct ways of valuing freedom, depending on whether the value of freedom is justified by appealing to reasons concerning ‘the good’, or, alternatively, to reasons concerning ‘the right’. The overall aim of Part II (Chapter 2 and Chapter 3) is to offer an in-depth analysis of good-based views (i.e. of interpretations of the value of freedom that appeal to reasons concerning the good).

This Chapter focuses on introducing some very general features of the *Benefit View* and on distinguishing the *Benefit View* from alternative good-based views. The analysis of good-based views carried out in this Chapter will revolve around examining the personal value of freedom, the impersonal value of freedom, the contributory value of freedom, and the possibility of attributing intrinsic value to freedom. I introduce these different types of values below (§2.1.1). The next Chapter (Chapter 3) focuses exclusively on the *Benefit View*: I shall examine how freedom can have subjective value (because people desire freedom or because people enjoy having freedom) and how having a measure of freedom as such is objectively valuable for the achievement of wellbeing, agency, autonomy, and human excellence.

2.1.1 Good-Based Views and the Values of Freedom: Overview and Structure of the Chapter.

I wish to start by introducing some very general features of the *Benefit View*. As mentioned in the Introduction, the *Benefit View* (1) interprets the value of freedom in person-affecting terms, and (2) attributes *personal value* to freedom. (1) On the *Benefit View* people have ‘an interest in freedom’¹ and freedom is ‘a good-making property of people’s lives.’² In other words, on the *Benefit View* people *benefit* from having freedom, since having freedom contributes to furthering the interests of persons (e.g. the interests that persons have in wellbeing or autonomy).³ Furthermore, (2) the *Benefit View* assumes individual persons as fundamental units of moral concern,⁴ and it attributes personal value to freedom. The latter feature distinguishes the *Benefit View* from alternative good-based views that interpret the value of freedom in person-affecting terms without attributing personal value to freedom. The *Benefit View* claims that, if an individual person *A* is free to do a specific action *X*, or if *A* has a certain degree of overall freedom, it is *good for A* to be free to *X* (i.e. to have the freedom to *X*), or to have a certain degree of freedom. In other words, freedom has personal value if the value of freedom is interpreted in person-affecting terms *and* the person who is benefited by freedom is *A herself* (rather than someone else).

¹ Carter, *A Measure of Freedom*, p. 33.

² Carter, ‘Respect for Persons and the Interest in Freedom’, p. 167.

³ For an explanation of persons-affecting reasons, see Nils Holtug, *Persons, Interests, and Justice*, Ch. 6, pp. 156-162.

⁴ This does not exclude that freedom can also be valuable in person-affecting terms for groups of people, such as nations or peoples. On group freedom, see Frank Hindriks, ‘The Freedom of Collective Agents’, *Journal of Political Philosophy*, Vol. 16, No. 2, 2008, pp. 165-183; Carter, *A Measure of Freedom*, Ch. 9.

As Joel Feinberg explains, benefiting has to do with furthering people's interests, while, conversely, harming has to do with setting back people's interests.⁵ And the *Benefit View* does not claim that one is *all things considered* benefited by having more freedom (see Chapter 3, §3.2). Rather, on the *Benefit View* *A* is *pro tanto* harmed when *A*'s freedom is restricted, and *A* is *pro tanto* benefited when *A*'s freedom is promoted.⁶ Claiming that *A* is (pro tanto) *harmed* when *A*'s overall freedom is restricted simply means that *A*'s interest in freedom is set back: we need not associate harm only with physical or psychological harm. And, since on the *Benefit View* people have an interest in freedom, they have an interest in having their freedom *promoted*. That is, on the *Benefit View* 'it is better to have more freedom than to have less.'⁷ The *Benefit View* can be combined with the thesis that freedom has non-specific value or with the thesis that only certain specific freedom-types (i.e. freedoms to do certain specific actions) have value. In the former case, it follows that it is good for people to have *a measure of freedom as such*, and that people have *an interest in having a measure of freedom as such*.⁸

In §2.2 I distinguish between good-based views that attribute personal value to freedom (i.e. the *Benefit View*) and the good-based views that interpret the value of freedom in person-affecting terms without attributing personal value to freedom. In particular, I discuss the possibility that someone's freedom benefits someone else (independently of the benefits that freedom generates for the individual who has freedom) – and I call this freedom's 'value-for-others', which is further discussed in §2.3. In §2.3 I also question the plausibility of justifying a certain distribution of freedom (e.g. maximising the freedom of a group of individuals) by

⁵ Joel Feinberg, *The Moral Limits of the Criminal Law, Vol. 1: Harm to Others* (Oxford and New York: Oxford University Press, 1987), Ch. 1.

⁶ I investigate this point further in Ch. 3.

⁷ Carter, 'Respect for Persons and the Interest in Freedom', p. 167. See Ch. 1 (§1.2.3) for the analysis of two distinct attitudes towards the value of freedom (respecting vs. promoting freedom).

⁸ See Carter, 'Respect for Persons and the Interest in Freedom'.

appealing exclusively to value-for-others reasons, without appealing (also) to the value that freedom has for those who have freedom.

Both the *Benefit View* and the good-based view that appeals to freedom's value-for-others claim that freedom is valuable in person-affecting terms (i.e. that freedom is *good for persons*). In §2.4 I contrast these views with the good-based view that attributes impersonal value to freedom. Freedom has impersonal value, iff freedom has value independently of the value that freedom has *for persons* – i.e. abstracting from whether freedom is valuable in person-affecting terms.⁹ After having distinguished the *Benefit View* from alternative good-based views in §§2.2-2.4, in §2.5 I then return to the analysis of the *Benefit View*, questioning the possibility of attributing intrinsic value to freedom. I offer two distinct definitions of intrinsic value. In particular, the intrinsic value of freedom is the value that freedom has *in itself*: either exclusively in virtue of freedom's internal properties or abstracting from the relationships between freedom and other valuable goods (i.e. abstracting from whether freedom contributes to the achievement of other valuable goods). And I argue that, most plausibly, on the *Benefit View* freedom has what I call 'contributory value' – i.e. that freedom is valuable as an enabling condition for the achievement of other valuable goods (e.g. wellbeing, and autonomy). §2.6 further examines freedom's contributory value, distinguishing between instrumental value (the value that freedom has as a means to achieving some further end) and constitutive value (the value that freedom has as a necessary but insufficient component of something else of value). §2.7 concludes.

⁹ In particular, I shall look at the good-based view which claims that promoting people's freedom contributes to the attainment of an end (e.g. the achievement of human progress), to which it is possible to attach impersonal value.

2.2 The Personal Value of Freedom.

As we have seen in §2.1, the *Benefit View* (1) interprets the value of freedom in person-affecting terms (i.e. as something that contributes to making people's lives go well) and (2) attributes personal value to freedom.¹⁰ In ordinary language this can be expressed by claiming that, according to the *Benefit View*:

P1. Freedom has value *for individual persons*.

And, since the *Benefit View* interprets the value of freedom in person-affecting terms, we should interpret P1 as meaning that (on the *Benefit View*) it is *good for persons* to have freedom. In value theory 'value for' and 'good for' are indeed expressions that are generally taken to capture the idea of personal value.¹¹ That said, it is important to further qualify P1. Indeed, we should disambiguate two different interpretations of P1, only the first of which captures the personal value of freedom. According to the first interpretation, if an individual person *A* is free to do a specific action *X* or has a certain degree of overall freedom, then the person who benefits from having freedom is *A herself*, rather than someone else. On the *Benefit View* freedom has personal value for *A* because it is *good for A* to have freedom: attributing personal value to freedom, indeed, means that having freedom contributes to make *A's* life go well for her. On the other hand, on the second interpretation, the fact that *A* has freedom can have value because it benefits someone else (*B*): that is, it can be *good for B* that *someone else (A)* has

¹⁰ Personal value can also capture the value of an object that has special significance for a particular person (e.g. the house of my grandmother for me): see Toni Rønnow-Rasmussen, *Personal Value* (Oxford: Oxford University Press, 2011). For context, see also: Toni Rønnow-Rasmussen, 'Analysing Personal Value', *Journal of Ethics*, Vol. 11, No. 4, 2007, pp. 405-435; and Michael Zimmerman's analysis of 'good for': Michael Zimmerman, 'Understanding What's Good for Us', *Ethical Theory and Moral Practice*, Vol. 12, No. 4, 2009, pp. 429-439.

¹¹ See, for instance, Orsi, *Value Theory*, Ch. 4.

freedom. I shall call this ‘freedom’s *value-for-others*’, to distinguish it from the personal value of freedom. To clarify freedom’s value-for-others, consider the following example:

Prisoner. I keep you in jail for a year. At some point, I liberate you. But I don’t open the door of your cell because I wish to benefit you – in fact, I would want to keep you in jail for another year or two – but because I wish to benefit my friend, who strongly desires that you are free.

By setting you free I also certainly *pro tanto* benefit you, because now you have acquired all these new freedoms and you can take advantage of them. But, from my perspective, this is just a collateral consequence of my action: my act of liberating you is not motivated by the acknowledgement that freedom has personal value *for you*; it is motivated by my desire to benefit someone else, and by the fact that by liberating you I fulfil my friend’s desire. Your freedom certainly has personal value for you. But, of course, it can also have value for others that you are free:¹² someone’s having freedom can also generate benefits for others. In addition, we can have *consequentialist* reasons to promote someone’s freedom in order to benefit someone else. The interpretation of the *Benefit View* that I adopt in this thesis captures *exclusively* reasons to attribute personal value to freedom. Kramer implicitly assumes this perspective, when he claims that:

¹² In order to offer an exhaustive analysis of *Prisoner*, we should distinguish between my *act* of liberating you, which sets you free (i.e. causes your freedom), and your *freedom*, the fact that you are free. My act of liberating you is instrumentally valuable for me, because it is the means through which I satisfy my friend’s desire, which is what I really wish to attain. It is also instrumentally valuable for my friend, who wishes for you to be free. On the other hand, your freedom is what *constitutes* the content of my friend’s desire: therefore, we can say that your freedom has *constitutive* (rather than instrumental) value for my friend. I introduce the notion of constitutive value below. Notice that my friend may be moved by a concern that your life goes well, in which case – since he wishes to benefit *you* – he recognises the personal value that freedom has for you. And both me or my friend may be moved by mixed motives: we can recognise that freedom benefits you and at the same time that your freedom benefits me and my friend.

‘the importance of the freedoms of any person *P* is evaluated *by reference to her interests rather than by reference to the interests of her society or the interests of humankind*. We are asking how beneficial the freedoms are *for her*, rather than how beneficial her possession or exercise of those freedoms is for other people.’¹³ (emphasis added).

2.3 Value-For-Others.

Freedom theorists mainly focus their analysis on the personal value that freedom has for the individuals who have freedom.¹⁴ However, surely (1) freedom can have value-for-others; and (2) the value of freedom can be *detached* from the value that freedom has *for persons* (i.e. freedom can have value independently of whether it is valuable in person-affecting terms), since freedom can contribute to the achievement of an impersonal end: it can have *impersonal* value (see §2.4). In this Section I focus on illustrating the contrast between personal value and value-for-others, drawing from Raz’s justification of journalistic freedom, and Hayek’s discussion of (maximal) freedom and human progress. I shall look at freedom’s impersonal value in §2.4.

¹³ Kramer, *The Quality of Freedom*, p. 435.

¹⁴ For example, Kramer, *The Quality of Freedom*; Carter, ‘Respect for Persons and the Interest in Freedom’.

2.3.1 Raz and Hayek on Freedom's Value-For-Others.

Freedom's value-for-others (for *B*; *C*; *D*; ...) can serve as justificatory reason for protecting the interest of an individual (*A*) in having a degree of freedom. For example, Raz claims that the primary reason why we ought to protect or to promote 'journalistic freedom' – which is a component of the freedom of the press, and which includes the freedom of journalists to keep secret their sources, to dig up controversial matters, etc. – is because having independent and good journalistic enquiries serves the interest of the general public, rather than primarily because journalistic freedom benefits the journalists themselves. Raz, indeed, endorses a version of the interest theory of rights – according to which rights (and correlative negative and positive duties) are justified by appealing to interests that are sufficiently weighty – ¹⁵ and he introduces the example of journalistic freedom to show that the interest of individual journalists to have maximal freedom in conducting journalistic enquiries is not sufficiently weighty to ground a corresponding right. On Raz's view, such a right can be justified only by appealing to the interest of the general public in having a free press: that is, to the value that the freedom of journalists has for the general public.¹⁶

Value-for-others reasons can also play a role in justifying a distribution of freedom among the members of a given society. Consider Hayek's views on freedom and social progress. Hayek argues that maximising people's freedom has instrumental value as a means to the achievement of societal progress and to the advancement of human civilisation.¹⁷ As Carter notes, in making this argument Hayek assumes the non-specific value of freedom: given that the ends of progress

¹⁵ See Raz, *The Morality of Freedom*, Ch. 7.

¹⁶ I thank David Miller for suggesting this example, which draws from Raz, *The Morality of Freedom*, pp. 247-248.

¹⁷ Hayek, *The Constitution of Liberty*, Part I.

are necessarily indeterminate and that we cannot know with certainty *now* in what directions progress will take us in the future, granting to people the greatest degree of freedom *as such* will be most likely to boost the potential of the society in question to innovate, and to explore novel possibilities of advancement for the human condition.¹⁸

Crucially, Hayek also claims that, in a society that adopts the principle of maximal freedom, the benefits that freedom generates for an individual person are mostly the benefits derived from the fact that *others* have freedom, in so far as people cooperate with one another and use their freedoms productively, thereby contributing to the advancement of the society in question. As John Gray notices, Hayek puts forward a consequentialist justification of the principle of maximal freedom, which ‘does not, then, depend on the assumption that most people want liberty for themselves, or [...] that most people recognize its beneficial effects in their lives’.¹⁹ Rather, according to Hayek, the aggregated effects of maximising everyone’s freedom lead to the achievement of progress as ‘a social goal’.²⁰ This interpretation is confirmed by the following quotation from Hayek:

‘The benefits I derive from freedom are thus largely the result of the uses of freedom by others, and mostly of those uses of freedom I could never avail myself of. It is therefore not necessarily freedom that I can exercise myself that is most important for me. [...] What is important is not what freedom I personally would like to

¹⁸ Carter, *A Measure of Freedom*, pp. 46-47. Hayek, moreover, assumes a definition of negative freedom as absence of coercive interference – especially by the state – which leads him to equate maximising people’s freedom with minimising the role of the state in interfering with people’s lives. See also Andrew Gamble, ‘Hayek and Liberty’, *Critical Review*, Vol. 25, No. 3-4, 2013, pp. 342-363.

¹⁹ John Gray, ‘Hayek on Liberty, Rights, and Justice’, *Ethics*, Vol. 92, No. 1, 1981, pp. 73-84, at p. 74.

²⁰ Carter, *A Measure of Freedom*, p. 46.

exercise but what freedom some person may need in order to do things beneficial to society. *This freedom we can assure to the unknown person only by giving it to all.*'

²¹ (emphasis added)

I take this quotation as exemplifying the view that freedom has value-for-others: on Hayek's account, the fact that many in my society have maximal freedom has value *for me*.²² Now, in a Millian fashion, of course Hayek's overall argument is that we *all ultimately reciprocally benefit* from the fact that each of us has freedom. But, suppose that we separate those who have freedom from those who are said to benefit, as in the following hypothetical scenario of intergenerational distributions of freedom:

Freedom across Generations: the people of Generation 1 (G1) have considerable freedom. This plays a key causal role in the societal (economic; technological) progress achieved by G1, and from which the people of the Subsequent Generation (G2) will benefit.²³

Suppose that the reason why we maximise the freedom of the members of G1 is *exclusively* because we want to benefit the members of G2. Surely, this rationale for maximizing freedom should not be acceptable to the members of G1, since the interests of the members of G1 are

²¹ Hayek, *The Constitution of Liberty*, p. 32.

²² Value-for-others reasons are also emphasised in the following quotation by H. B. Phillips with which Hayek opens Part I of *The Constitution of Liberty*: '[...] freedom of action is granted to the individual, not because it gives him greater satisfaction but because if allowed to go his own way he will on the average serve the rest of us better than under any orders we know how to give'. Hayek, *The Constitution of Liberty*, p. 9.

²³ In this chapter I shall bracket off the discussion of issues that arise from the non-identity problem; that is, from considering that the decisions taken by the members of G1 may affect which future individuals are brought into existence as members of G2. See Derek Parfit, *Reasons and Persons* (Oxford: Clarendon Press, 1984), Ch. 16.

not taken into consideration, and do not figure in the justification for why their freedom is maximised. To clarify this point further by way of analogy: consider *Prisoner* (introduced in §2.2). If we tell you that we have only *indirect* reasons to liberate you, we bypass the value that you have as a person. We fail to address you with reasons that appeal to the interest that you have in advancing your own good. We tell you: we *use* your freedom to achieve a further end, and your freedom has value only in so far as it benefits someone else. That is, arguments that justify promoting *A*'s freedom exclusively in order to benefit someone else (i.e. by appealing exclusively to value-for-others reasons) do not justify why *A* has freedom by appealing to *A*'s interests, but only to the interests of those who benefit from the fact that *A* has freedom. Morally speaking, this is problematic, in so far as the distribution of benefits and the imposition of burdens ought to be reasonably acceptable *for the recipients of the benefits or burdens in question*. What can be called 'the formal aspect of a principle of reasonable acceptability' requires that benefits and burdens are justified *to those who receive them*.²⁴

2.3.2 Value-For-Others and the Separateness of Persons.

Surely, the imposition of *burdens* should be justified to those who receive them. This thought can be expressed by referring to 'The Separateness of Persons Objection' (henceforth, SPO). According to SPO, it is morally objectionable to request sacrifices from an individual *A* on grounds that someone else *B* benefits or will benefit, if overall *A*'s sacrifices go

²⁴ On the principle of reasonable acceptability: Samuel Freeman, 'Constructivism, Facts, and Moral Justification', in Thomas Christiano and John Christman (eds.), *Contemporary Debates in Political Philosophy* (Malden, MA: Wiley-Blackwell, 2009) pp. 41-60. Both the imposition of burdens and the distribution of benefits require to be justified to the recipients of the burdens/benefits in question. Notice that, even if *as a collateral effect* of a freedom-enhancing policy the members of G1 are benefited, they have reason to complain that their freedom is *used* to benefit someone *else*. We cannot just say to the members of G1: 'We wish to benefit someone else, and this is why we want to maximise your freedom; but you don't have reason to complain, since *as a by-product of our decision to benefit others*, you will also benefit by having maximal freedom.'

uncompensated.²⁵ As David Brink claims:

‘The normative separateness of persons involves the distributional constraint that sacrifice requires compensation (SRC) [...] *Compensation requires that benefactors be beneficiaries, and for compensation to be automatic benefactor and beneficiary must be the same.*’²⁶
(emphasis added)

Following Rawls, while *intrapersonal* balancing can be a plausible principle for individual choice – a person can legitimately sacrifice *her own* enjoyment of current benefits for the sake of a future good – at the level of *interpersonal* morality sacrifices and benefits are distributed across persons, and it cannot be morally acceptable that the good of some is systematically sacrificed for the sake of benefiting others.²⁷ Now, it is instructive to draw a parallel between SPO and value-for-others reasons. First, both SPO and a critique of value-for-others target the aggregative aspect of consequentialist interpersonal reasoning. But, crucially, while SPO applies to the interpersonal distribution of burdens, the critique of value-for-others reasons applies to the distribution of something (freedom) that is more immediately identifiable as a benefit: on the *Benefit View*, one is pro tanto benefited by having more freedom. For example, consider *Prisoner*: other things being equal, we benefit you by liberating you. Or, *Freedom Across Generations*: we pro tanto benefit the members of G1 by maximising their freedom. So, it seems that the ‘benefactors’ (those whose freedom has value or produces good consequences

²⁵ For the relevance of SPO in Nozick’s and Rawls’s theories, see Matt Zwolinski, ‘The Separateness of Persons and Liberal Theory’, *The Journal of Value Inquiry*, Vol. 42, No. 2, 2008, pp. 147-165.

²⁶ David Brink, ‘The Separateness of Persons, Distributive Norms, and Moral Theory’, in Raymond G. Frey and Christopher Morris, (eds.), (*Value, Welfare, and Morality*, Cambridge: Cambridge University Press, 1993), pp. 252-289, at p. 255; see also Dennis McKerlie, ‘Egalitarianism and the Separateness of Persons’, *Canadian Journal of Philosophy*, Vol. 18, No. 2, 1988, pp. 205-225.

²⁷ Rawls, *A Theory of Justice*, 1st edn., p. 27; cf. p. 29.

for others) are also the ‘beneficiaries’ (they benefit from having freedom), and that SPO does not apply to arguments premised on value-for-others reasons.

In what follows I wish to argue that SPO *does* also apply to distributions of freedom motivated by value-for-others reasons. Suppose that the fact that the members of G1 benefit from having freedom figures in the justification for maximising their freedom, and that such a fact is as relevant as the fact that the members of G2 will benefit in turn. That is, suppose that *both* value-for-others reasons and personal reasons figure as justificatory reasons for maximising the freedom of the members of G1. This move meets the formal aspect of the reasonable acceptability requirement. However, it still leaves open whether it is *just* to maximise the freedom of the members of G1: morally speaking, what matters is whether the members of G1 have reason to complain on grounds of justice. In fact, the right question to ask is whether by maximizing the freedom of the members of G1 the interests of the members of G1 are *adequately* (and not merely formally) taken into consideration, where the criterion for adequacy is justice.

If so, then notice that, although the members of G1 *pro tanto* benefit from having freedom, counterfactually they (or some among them) could *all things considered* benefit *more* by having less freedom. For example, suppose that having less than maximal freedom leads to more wellbeing (for some of the members of G1). Suppose that in a laissez-faire economy with little regulation of the labour market the working conditions of those with the lowest salaries are worse compared to the conditions of those with similar jobs in a system of welfare economy. If so, while overall the laissez-faire economy may be more efficient and prosperous in the long run, the personal wellbeing of the worst-off of G1 is negatively affected (e.g. in terms of more alienating working conditions, or detrimental effects on psychological wellbeing and family relations). In a laissez-faire economy the worst-off of G1 have reason to voice their

complaint as follows: ‘although we pro tanto benefit from having maximal economic freedom in our society, we (the worst-off employed workers in G1)²⁸ would benefit more by having less freedom and more wellbeing. We should not be asked to *sacrifice* our current wellbeing for the sake of creating a more affluent society, that will in turn benefit the future members of G2.’

Now, abstracting from the substantive issue of how to balance intergenerational trade-offs of efficiency with wellbeing, what matters is that the complaint raised by the worst-off of G1 is recast in terms of *sacrifices* being made by them (the worst-off of G1) for the sake of benefiting future people (the members of G2). That is, SPO applies also to interpersonal distributions of freedom. Indeed, although everyone pro tanto benefits from having more freedom (including the worst-off of G1), some may be better off in a counterfactual scenario in which they would have less freedom (but more wellbeing). An analogous reasoning applies also to Hayek’s original argument concerning the instrumental value of freedom for the achievement of progress: although maximising freedom contributes to generating progress, and society as a whole benefits from progress, whether *everyone* all things considered benefits from maximal freedom crucially depends on how the benefits of progress are distributed *among the members of the society in question*. Implicit to Hayek’s argument on freedom and progress is the trickle-down view that everyone benefits from progress: but trickle-down arguments rely on a good deal of empirical premises, and they are tricky to assess. Conversely, if the worst-off have reason to believe that they would benefit more by having less freedom, they can question Hayek’s claim that maximising everyone’s freedom has great value *for them* (i.e. for the worst-

²⁸ Rawls can be interpreted as identifying the worst-off as the *employed* workers with the lowest levels of primary goods. For a critical analysis of this point, see Van Parijs, ‘Why Surfers Should Be Fed: The Liberal Case for an Unconditional Basic Income’, *Philosophy and Public Affairs*, Vol. 20, No. 2, 1991, pp. 101-131.

off), formulating their complaint in terms of sacrifices that they are asked to make compared to a benchmark of ideal justice.²⁹

In conclusion: this discussion has shown, first, that a freedom-enhancing policy should be justified by appealing to reasons that adequately address the interests of all those who are subject to the policy in question, where the criterion of adequacy is ‘justice’. Second, justifications that appeal *exclusively* to value-for-others reasons fail to meet the formal aspect of a test of reasonable acceptability. Third, since on the *Benefit View* people pro tanto benefit from having (more) freedom, whether justice requires to promote people’s freedom crucially depends on the potential conflict between freedom and other values (such as, wellbeing). This latter point is examined in-depth in the next Chapter (see especially §3.10).

2.4 The Impersonal Value of Freedom.

After having discussed the distinction between personal value and value-for-others in the previous Section, in this Section I wish to introduce the analysis of the impersonal value of freedom, illustrated by the following quotation by Larry Temkin:

‘Freedom might be either a personal or an impersonal ideal, depending on whether its value lies solely in the extent to which freedom is good *for* people (that is, promotes individual well-being), or whether it

²⁹ Although Hayek rejects the idea of social justice, classical liberals like Jason Brennan, and John Tomasi, have recently argued for a Rawlsian interpretation of Hayek, according to which a Hayekian society – more generally, a free market society – is best equipped to maximise the material conditions of the worst-off in virtue of its capacity to generate economic growth over time, thereby *indirectly* realising Rawlsian justice. See Jason Brennan, ‘Rawls’ Paradox’, *Constitutional Political Economy*, Vol. 18, No. 4, 2007, pp. 287-299; John Tomasi, *Free Market Fairness*, (Princeton NJ: Princeton University Press, 2012). For a critique, see Samuel Arnold, ‘Right-Wing Rawlsianism: A Critique’, *Journal of Political Philosophy*, Vol. 21, No. 4, 2013, pp. 382-404.

sometimes contributes to the goodness of outcomes

beyond the extent to which is good *for* people.³⁰

Reasons to attribute personal value and reasons to attribute value-for-others have one thing in common: they both claim that freedom has value *for persons* (i.e. they both interpret the value of freedom in person-affecting terms). But freedom can also have impersonal value. Impersonal value is necessarily objective, since an object or a state of affairs is impersonally valuable when it is valuable from *anyone's* perspective rather than from someone's perspective *in particular*.³¹ Something has impersonal value if its value is not reducible to the value that it has *for persons*: i.e. independently of whether the good in question is valuable in person-affecting terms. For example, many believe that it is impersonally valuable that criminals are punished for their crimes, even if it is not *good for* criminals to be punished (i.e. even if being punished does not contribute to make the criminals' lives go well).³² Now, freedom has impersonal value if freedom is valuable independently of the value that freedom has *for persons* – i.e. abstracting from whether freedom is valuable in person-affecting terms. And I wish here to consider a good-based view that claims that it is (impersonally) good *that* people have freedom, such that some impersonal end is achieved or promoted. For example, let's reconsider Hayek's views on freedom and progress examined in the previous Section (§2.3). Why is progress valuable? Hayek mainly justifies the achievement of progress in persons-affecting terms, by arguing that

³⁰ Larry Temkin, 'Egalitarianism Defended', *Ethics*, Vol. 113, No. 4, 2003, pp. 764-782, at p. 778.

³¹ And such an object or state of affairs perhaps would be valuable even in a world in which there are no subjects who could experience the kind of value attributed to it: 'the existence of life on earth' is something that can have impersonal value in this sense. On this point, see Jeffrey Blustein, *Care and Commitment*, Ch. 3.

³² This view is not necessarily shared by all political philosophers: in this context, what matters is that it illustrates the contrast between personal and impersonal value. On this point, see Temkin, 'Egalitarianism Defended', pp. 776-782.

people ultimately benefit from progress.³³ But he also attributes impersonal value to progress. For example, Hayek claims that there is value in achieving progress even if ‘progress’

‘[...] is a term that says little about whether the new state will give us more satisfaction than the old. The pleasure may be solely in achieving what we have been striving for, and the assured possession may give us little satisfaction. The question whether, if we had to stop at our present stage of development, we would in any significant sense be better off or happier than if we had stopped a hundred or a thousand years ago is probably unanswerable.’³⁴

This quotation hints towards an interpretation of progress as impersonally valuable.³⁵ Now, suppose that our reason to maximise people’s freedom is motivated *exclusively* by the value that freedom has for the achievement of progress, and that progress is impersonally valuable. On these assumptions, the value of freedom would be completely *detached* from the value that freedom has *for persons*: it would be impersonally valuable *that persons* have freedom (such that an impersonal end (progress) is achieved or promoted), rather than *for persons* to have freedom (i.e. independently of whether maximising people’s freedom benefit them). Furthermore, notice that the achievement of an impersonal end can conflict with what is valuable in person-affecting terms (e.g. with the wellbeing of persons). For instance, consider the following scenario: suppose that granting maximal freedom of research to scientists is

³³ Hayek, *The Constitution of Liberty*.

³⁴ Hayek, *The Constitution of Liberty*, p. 41.

³⁵ For example, certain advancements of human civilisation – like the first landing on the moon (July 1969) – can have impersonal value, even if no immediate benefits follow for persons.

instrumentally valuable for increasing the potential for making technological advances, and that the impersonal value of progress gives us a reason to maximise freedom of research for scientists. If so, there is value in maximising freedom even when, predictably, rapid technological progress can lead to harm for persons (e.g. even if superintelligent androids have the potential to dominate human society).³⁶ That said, notice that, since most plausibly progress does not have *unconditional* value – i.e. since most plausibly we should not achieve progress *at any cost*, independently of the consequences; and since the value of achieving progress should not always be given priority over other values (e.g. the wellbeing of persons) with which progress can come into conflict –³⁷ the impersonal value of progress should be balanced with reasons to protect the wellbeing of persons. The analysis of this Subsection has clarified the contrast between the good-based views premised on the impersonal value of freedom and good-based views premised on person-affecting reasons (i.e. the *Benefit View* and the value-for-others view).

2.4.1 Freedoms and Persons.

As we have seen, the *Benefit View* claims that freedom has personal value. Notice that this also implies *that persons are the subjects for whom freedom has or can have value*. This claim has at least two important implications. First, many authors emphasise that freedom is valuable (in person-affecting terms) for persons because persons are the kind of beings that can benefit from having freedom, in that persons are characterised by possessing a certain degree of agential

³⁶ See Nick Bostrom, *Superintelligence: Paths, Dangers, Strategies* (Oxford: Oxford University Press, 2014).

³⁷ On unconditional value, see Carter, *A Measure of Freedom*, §2.2. As Carter clarifies, '[a]n unconditionally valuable thing has more value than any other thing *regardless* of the value of its consequences, and is thus good *in any possible world*. Another way of putting this is by saying that an unconditionally valuable thing is "lexically prior", in value, to merely intrinsically valuable things', p. 37.

capacities that enable them to choose how to lead their lives.³⁸ Miller, for example, claims that a distributive principle that prescribes to distribute freedom among persons ‘may reflect a very general fact about human beings, namely their capacity, in normal cases, to make self-conscious choices as to how to live.’³⁹ That is, freedom is valuable for persons because persons are *agents*, and only agents can benefit from having freedom.

Secondly, if freedom has personal value, there is also no sense in which we can assert the value of freedom abstracting from *someone’s* having freedom. This may seem a rather obvious point; in fact, it is essential to grasp the sense in which good-based views that interpret the value of freedom in person-affecting terms (e.g. the *Benefit View*) ascribe to freedom a kind of *value for* (persons), and for understanding whether it is possible to attribute *intrinsic* value to freedom. As I further clarify below, on one influential interpretation of intrinsic value pioneered by G. E. Moore, intrinsically valuable objects are valuable exclusively in virtue of their internal properties. As Moore argues, ‘[t]o say that a kind of value is “intrinsic” means merely that the question whether a thing possesses it, and in what degree it possesses it, depends solely on the intrinsic nature of the thing in question.’⁴⁰ Moore also thought that, in order to ascertain whether certain goods have intrinsic value, we should judge whether, if such goods ‘existed *by themselves*, in absolute isolation, we should yet judge their existence to be good.’⁴¹ Now, leaving aside in this context the discussion of the validity of Moore’s ‘isolation test’,⁴²

³⁸ In this context we can set aside the question of what exactly are these capacities.

³⁹ David Miller, *Justice for Earthlings* (Cambridge: Cambridge University Press, 2015), p. 23. Schmidt has recently argued that it can be valuable also for non-human animals to have freedom. See Andreas Schmidt, ‘Why Animals Have an Interest in Freedom’, *Historical Social Research*, Vol. 40, No. 4, 2015, pp. 92-109; and Andreas Schmidt, ‘Persons and Property. Freedom and the Legal Status of Animals’, *Journal of Moral Philosophy*, Vol. 15, No. 1, 2018, pp. 20-45. For a contrasting view on this point, see Kramer, *The Quality of Freedom*, pp. 156-157.

⁴⁰ George E. Moore, *Principia Ethica*, ed. by Thomas Baldwin (Cambridge: Cambridge University Press, 1993 [1903]), p. 286.

⁴¹ *Ibid.*, p. 236.

⁴² For a discussion of Moore’s isolation test, see Rønnow-Rasmussen, *Personal Value*, Ch. 1.

what matters is that clearly it makes no sense to ask whether freedom can be valuable in ‘absolute isolation’, independently of *someone’s* having freedom, since freedom (like ‘pleasure’ or ‘wellbeing’) obviously always comes with a subject attached to it: the person who has freedom.⁴³ That is, an unqualified version of Moore’s test cannot be adopted to ascertain whether freedom has intrinsic value. That being said, and assuming that the object of our enquiry is the freedom *of persons*, can people’s freedom have intrinsic value? This is the question that I wish to address in the following Section.

2.5 Can Freedom Have Intrinsic Value?

Can freedom have intrinsic value? There is a longstanding debate in the literature on how to interpret the notion of intrinsic value.⁴⁴ In what follows, I shall present two definitions of intrinsic value, and I shall argue that, on the *Benefit View*, most plausibly freedom has what I call ‘contributory value’ (§2.6). As we have already seen in §2.4.1, the first interpretation is due to Moore’s seminal contributions to value theory: Rønnow-Rasmussen labels it ‘the supervenience approach’, and I shall call it *Definition 1* (henceforth D1). This approach (D1) analyses intrinsic value in terms of ‘the nature of the value-making features of the value-bearer.’⁴⁵ On this view, a good has intrinsic value if and only if the value of the good in question supervenes exclusively on the value-bearer’s internal properties – ‘on the intrinsic nature of the thing in question,’⁴⁶ as Moore would put it – rather than on the value-bearer’s extrinsic

⁴³ Noah Lemos moves an analogous objection to Moore’s isolation test, using the concept of ‘happiness’. See Noah Lemos, *Intrinsic Value. Concept and Warrant* (New York: Cambridge University Press, 1994), p. 37.

⁴⁴ For context, see Toni Rønnow-Rasmussen, ‘Intrinsic and Extrinsic Value’, in Iwao Hirose and Jonas Olson (eds.), *The Oxford Handbook of Value Theory* (Oxford: Oxford University Press, 2015), pp. 29-43. See also Orsi, *Value Theory*, Ch. 2, §§2.1-2.3.

⁴⁵ Rønnow-Rasmussen, ‘Intrinsic and Extrinsic Value’, p. 29.

⁴⁶ Moore, *Principia Ethica*, p. 286. Leaving aside in this context the exact definition of supervenience relations, I shall adopt this term to merely indicate that ‘values are properties which objects have in virtue of having other (natural) properties’, Rønnow-Rasmussen, ‘Intrinsic and Extrinsic Value’, p. 30.

relational properties (i.e. rather than on some relation that the good in question has with other objects of value).⁴⁷

This brings us to a second and intertwined definition of intrinsic value: I shall call it *Definition 2* (henceforth D2). According to D2, an intrinsically valuable good is valuable *as an end in itself*: i.e. (1) independently of its relations with other valuable goods, and therefore (2) its value ‘is not reducible to the value of any other phenomenon.’⁴⁸ First, assuming D2, an intrinsically valuable good is valuable independently of whether it positively contributes to the achievement of other valuable goods – i.e. independently of whether such a good has what I call ‘contributory value’ (see §2.6 for my analysis of contributory value). Second, we can express the idea that the value of a given good is not reducible to the value of anything else also by claiming that the good in question has *final value*. The ‘finality sense’⁴⁹ of intrinsic value (assuming D2) captures the idea that the good in question is valuable *for its own sake* and that its value lies at the end of a justificatory chain of values, since there would be no point in asking further *why* the good in question has value.⁵⁰

⁴⁷ Extrinsic value supervenes upon the external (relational) properties of the object in question.

⁴⁸ Carter, *A Measure of Freedom*, p. 41. As Carter claims in his article ‘Is the Capability Approach Paternalist?’ (p. 81), ‘I shall assume here that the intrinsic value of a phenomenon is the value it has as an end in itself, and that its extrinsic value is the value it has in virtue of its relation to some other valuable phenomenon.’

⁴⁹ Rønnow-Rasmussen, ‘Intrinsic and Extrinsic Value’. Goods like justice, wellbeing, and pleasure, have final value. On the other hand, injustice, pain, disadvantage, are examples of things that have final disvalue.

⁵⁰ We have reason to keep the definition of intrinsic value distinct from the definition of final value – and therefore to apply the notion of ‘final value’ to things that are valuable for their own sake and to define intrinsic value as something that is valuable exclusively in virtue of its intrinsic properties (i.e. to assume D1 as definition of intrinsic value) – in order to allow for the possibility that a good can have final value in virtue of its *extrinsic* properties. As recent developments in value theory have contributed to clarifying, there is such a thing as final extrinsic value. Certain objects can be worth preserving in virtue of their extrinsic properties: for example, the bus where Rosa Parks remained seated when asked to give up her seat to a member of the white community can be worth preserving in virtue of the symbolic value of what happened *on* that bus (that is, in virtue of the relation between the physical components of the bus and the people who were on the bus on that day), rather than in virtue of the intrinsic properties *of* the bus. In this context, we can safely leave aside the discussion of these recent contributions to debates surrounding the notion of intrinsic value. See Rønnow-Rasmussen, *Personal Value*, Ch. 1; Orsi, *Value Theory*, Ch. 2; Christine Korsgaard, ‘Two Distinction in Goodness’, *The*

In what follows I shall assume both interpretations of intrinsic value (D1 and D2): indeed, a good that is valuable exclusively in virtue of its intrinsic properties (i.e. that has intrinsic value according to D1) is also valuable as an end in itself (i.e. it has intrinsic value according to D2), since the value of the good in question does not depend on the good's *extrinsic* (relational) properties – i.e. it does not depend on the relations between the good in question and other valuable goods.⁵¹ Both definitions (D1 and D2) contribute to shed light on the plausibility of attributing intrinsic value (in either of the two senses indicated above) to freedom, as I argue in what follows, and as I have argued in §2.4.1.

Consider how the analysis of the previous paragraphs applies to the value of freedom. Suppose that someone asks you: 'Why do you value having freedom (to have a measure of freedom as such or to have the freedom to do a specific type of action)?' And that you reply: 'It is just *good* to be free!' Or: 'It is just *good* to have freedom'. Such answers would attribute intrinsic value to freedom (both assuming D1 or D2). And, as Carter notices, one can *just desire* to have freedom with no further reason in mind⁵² – i.e. as an end in itself (independently of whether freedom positively contributes to the attainment of other valuable goods) (D2) or exclusively in virtue of freedom's intrinsic properties (D2) – and this can speak to the possibility of freedom's having intrinsic value. So, we should not entirely rule out this possibility. However, when someone is asked why she values having certain specific freedoms (say the freedom to go to church, or freedom of movement), it is reasonable to expect that this person replies by claiming that she values doing certain actions that freedom allows her to do (go to church, or

Philosophical Review, Vol. 92, No. 2, 1983, pp. 169-195; Shelly Kagan, 'Rethinking Intrinsic Value', *The Journal of Ethics*, Vol. 2, No. 4, 1998, pp. 277-297.

⁵¹ However, notice that, as many value theorists have argued, something can be valuable as an end in itself *in virtue of its extrinsic properties*. I have clarified this point in fn. 50 of this Chapter.

⁵² Carter, *A Measure of Freedom*, p. 41.

travelling) or that she values having the choice to refrain from doing certain actions (to refrain from going to church, or from travelling). In other words, even statements that purport to show that freedom is valuable for its own sake (i.e. assuming D2), often implicitly rely on an interpretation of the value of freedom that appeals to what freedom allows us to do and choose – i.e. to the contributory value that freedom has for *agency*, or to the value of having a certain degree of freedom for *exercising* our capacity of choice – rather than to the value that having freedom has in itself.⁵³ Properly interpreted, and assuming D2, these statements fail to show that freedom has intrinsic value. To illustrate this point, consider the following quotation from Miller's book *Justice for Earthlings*:

‘Assume that the principle [of liberty] asserts the *intrinsic* value of liberty, within the designated limits – it is *intrinsically* valuable for humans to enjoy liberty of thought and action provided they do not infringe the equal liberty of others, or harm others' interests, as the case may be. Now consider how this principle may reflect a very general fact about human beings, namely their capacity, in normal cases, to make self-conscious choices as to how to live. This fact differentiates humans from the rest of the animal kingdom, and explains why liberty is *intrinsically* valuable for humans but not for other animals. So what we can call, for short, the fact of human self-consciousness grounds the principle of liberty.’⁵⁴

⁵³ Conversely, if the person says ‘I just value having the freedom to go to church’ with no further justification, this would speak to the plausibility of attributing final value to freedom, but such a response seems unmotivated. Notice that, either assuming D1 or D2, one can attribute intrinsic value to *specific freedoms* or to *having a measure of freedom as such*. Indeed, as Van Hees remarks, ‘it is not clear why he [Carter] does not discuss the notions of freedom's possible unconditional-specific value or its possible intrinsic-specific value’. Van Hees, *Legal Reductionism and Freedom*, p. 157.

⁵⁴ Miller, *Justice for Earthlings*, p. 23.

I agree with Miller that freedom is valuable *for* persons because persons are agents (see §2.3.1). Moreover, if ‘the fact of human self-consciousness grounds the principle of liberty’ then the principle of liberty is *fact-dependent*, as Miller claims in the paragraphs that follow the quotation above. We can imagine, in fact, that persons would not need much freedom, if they were brains floating in a tank. Or, imagine someone who chooses to connect himself to a Nozickian experience machine for the rest of his life, being completely detached from reality and experiencing only the (virtual) bliss of virtual reality:⁵⁵ how could it be valuable for *this* person to have more real (i.e. non-virtual) freedom, rather than less? Surely, it would be valuable for her to have more *virtual* freedom – say, the freedom to choose which virtual experiences to have among a range of options – but there would be no value in increasing the degree of freedom that the individual in question has in the external world. Persons are *embodied* beings with a will and material interests, and these factual premises justify the value that freedom has *for persons* (who are not attached to experience machines).

That said, Miller goes slightly astray in inferring that freedom has intrinsic value from the fact that persons are the kind of beings for which it is valuable to have freedom. To start with, the argument of this paragraph assumes D2. Now, it can be valuable *for persons* to have more freedom because by having freedom persons can exercise choice: they can have the opportunity to do more things, or to refrain from doing things. This is the kind of value that Miller attributes to freedom. As Miller claims, ‘it is *intrinsically* valuable for humans to enjoy liberty of thought and action [...] this principle may reflect [...] the] capacity, in normal cases, to make self-conscious choices as to how to live.’⁵⁶ But, crucially, this is *not* the intrinsic value that freedom

⁵⁵ Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974) pp. 42-45.

⁵⁶ Miller also fails to distinguish between the value of having the freedom to do a specific action *X* and the (dis)value of performing *X*. Indeed, one does not *harm* others by merely having the *freedom* to perform actions that ‘infringe the equal liberty of others, or harm others’ interests’: such harms occur when one takes advantage of the freedom to harm others by *performing* the relevant actions that generate the harm. So, merely having the freedom to *X* does not harm other people’s interests, it is

has in itself, independently of the value that freedom has for the achievement of other goods. If having freedom and freedom of choice is valuable because it is valuable to *exercise* the faculty of choice that defines persons, then having freedom is valuable because personal agency, or autonomy, are valuable, and having freedom contributes to achieve such other values. That is, assuming D2, Miller's claims on the value of freedom *deny* that freedom has intrinsic value. They rely, instead, on the view that having freedom is valuable because freedom contributes to the achievement of other valuable goods (e.g. agency, autonomy). They assume that freedom has contributory value.

2.6 The Contributory Value of Freedom.

Assuming the *Benefit View*, most plausibly freedom is valuable as an enabling condition for the achievement of other valuable goods (e.g. wellbeing and autonomy). In other words, freedom has *contributory value* for the achievement of other valuable goods. I shall define contributory value as follows:

Contributory Value: a phenomenon *X* has contributory value iff *X* contributes to the achievement of other valuable goods (*Y*; *Z*; ...).

Both 1) instrumental value and 2) constitutive value are kinds of contributory value.⁵⁷ With reference to freedom, the idea of contributory value captures the value that freedom has for the achievement of other valuable goods (e.g. wellbeing, autonomy). A phenomenon *X* has

performing X that can harm other people's interests. I have introduced the distinction between the value of freedom and the disvalue of performing morally impermissible actions in Ch. 1.

⁵⁷ Furthermore, contributory value is coextensive with extrinsic value.

instrumental value if it contributes to the realisation of another phenomenon *Y* in a *causal way*: that is, if *X* is a means to the realisation of *Y*. For example, in the discussion of Hayek in §2.3 we have seen that having freedom is valuable as a means to generating progress. And this captures the instrumental value of freedom. On the other hand, *X* has constitutive value if *X* contributes to the achievement of *Y* in a non-causal way: as being an analytically necessary – though insufficient – component of *Y*.⁵⁸ For example, as Carter remarks, having the freedom to do a specific action *X* is analytically necessary for doing *X*: the freedom to *X* has constitutive rather than instrumental value because one does not *bring about* an action *X* merely by having the freedom to *X*. Rather, having the freedom to *X* is one of the necessary conditions for doing *X*.⁵⁹ Crucially, assuming the *Benefit View*, examining the contributory value of freedom means tracing connections between freedom and other goods that are valuable in person-affecting terms (e.g. wellbeing, autonomy). This involves engaging in what Peter Strawson calls an exercise of ‘connective analysis’. According to Strawson:

‘Let us imagine, instead, the model of an elaborate network, a system, of connected items, concepts, such that the function of each item, each concept, could, from the philosophical point of view, be properly understood only by grasping its connections with the others, its place

⁵⁸ Carter, *A Measure of Freedom*, Ch. 2. In the article ‘Is the Capability Approach Paternalist?’, Carter uses the notion of contributory value to capture freedom’s constitutive value, while I refer to contributory value as encompassing *both* freedom’s instrumental and constitutive value. This point is semantic, but the reason why I am using a broader notion of contributory value is because both instrumental and constitutive value are kinds of *extrinsic* value. Also Korsgaard defines what she calls ‘contributive value’ as encompassing only constitutive value: Korsgaard, ‘Two Distinctions in Goodness’, p. 172.

⁵⁹ See Carter, *A Measure of Freedom*, pp. 55-56. Other conditions can be: having the ability to *X*, and the willingness to do *X*.

in the system – perhaps better still, the picture of a set of interlocking systems of such a kind.’⁶⁰

In *Analysis and Metaphysics* Strawson applies the connective analysis to the analysis of concepts.⁶¹ But an analogous exercise can be done with *values*: if analysing the contributory value of freedom means tracing connections between freedom and other goods that are valuable in person-affecting terms, we can imagine a complex network of values connected to freedom in a causal or non-causal way. And analysing the value of freedom according to the *Benefit View* means analysing the role that freedom plays in such chains of values. For example, in the next Chapter (Chapter 3), I examine how freedom can be non-specifically valuable for the achievement of wellbeing, agency, and autonomy. Engaging in an exercise of connective analysis means establishing relationships of *evaluative grounding*: it means justifying the value of freedom *in virtue of* the contributory value that freedom has for the achievement of other valuable goods (such as wellbeing, agency, or autonomy). Such other valuable goods can in turn have final value – they can be at the end of a justificatory chain of values – or they can themselves have contributory value for the achievement of other valuable goods that have final value.

Clarifying this point matters for understanding the role that the value of freedom can play in a theory of justice – it matters for examining the *Benefit View* as a *moral foundation* of freedom-

⁶⁰ Strawson, *Analysis and Metaphysics*, p. 19.

⁶¹ Indeed, Strawson lamented that analytical philosophers were excessively focused on engaging in exercises of ‘reductive’ (conceptual) analysis, attempting to reduce complex phenomena (ideas, concepts, etc.) to their simpler components, until the analysis eventually reaches subcomponents that are not further divisible. Freedom theorists adopt this type of approach when they aim to understand the necessary and sufficient conditions for describing someone as free or unfree to do specific actions (i.e. what makes someone free/unfree to do *X*).

centred justice.⁶² To illustrate this point, let us assume that freedom has contributory value for attaining autonomy: that it is valuable to have freedom in order to be autonomous (however autonomy is defined).⁶³ On this assumption, autonomy is what justifies attributing value to freedom. Now, if autonomy *grounds* the value of freedom, then – from the point of view of justice – most plausibly, autonomy should be assigned a certain priority when promoting people’s autonomy is in contrast with promoting people’s freedom. For example, such a reasoning can potentially justify paternalistically restricting people’s freedom when having freedom can lead to jeopardising people’s capacity for autonomy – such as when taking advantage of the freedom to consume hard drugs leads in the long run to the deterioration of mental and cognitive faculties that are prerequisites for making and sticking to autonomous decisions. The question of the limits of paternalism is beyond the scope of this Chapter:⁶⁴ what matters is that, if the (final) value that freedom contributes to achieve should be assigned a certain priority in our moral thinking, this consideration will play a role when we decide how freedom should be distributed among the relevant members of a given society, and whether we should allow restrictions of people’s freedom in order to achieve autonomy (or other values).

2.7 Conclusion.

This Chapter has distinguished the *Benefit View* from alternative good-based views. We have seen that the *Benefit View* interprets the value of freedom in person-affecting terms, claiming that people benefit from having freedom, because people desire freedom or because freedom contributes to the achievement of goods like wellbeing, agency, and autonomy. Furthermore,

⁶² I have introduced the notions of freedom-centred justice and of the moral foundations of freedom-centred justice in the Introduction to the thesis.

⁶³ I discuss at length the relationships between the value of freedom and autonomy in Ch. 3.

⁶⁴ For context, see Gerald Dworkin, ‘Defining Paternalism’, in Christian Coons and Michael Weber, eds., *Paternalism. Theory and Practice* (Cambridge: Cambridge University Press, 2013), pp. 25-38; Jonathan Quong, *Liberalism Without Perfection* (Oxford: Oxford University Press, 2011), Ch. 3.

the *Benefit View* attributes personal value to freedom: it assumes that the person who is benefited by freedom is the individual who has freedom (rather than someone else). We have seen that freedom can also have ‘value-for-others’ – i.e. that someone’s having freedom can (also) benefit someone else, rather than (just) the person who has freedom. The value-for-others view interprets the value of freedom in person-affecting terms without assuming that freedom has personal value.⁶⁵ Furthermore, while both the *Benefit View* and the value-for-others view claim that it is *good for persons* to have freedom (i.e. that freedom is valuable in person-affecting terms), we have seen that it is also possible to claim that freedom is impersonally valuable – i.e. that it is possible to attach value to freedom abstracting from the value that freedom has *for persons* (i.e. from freedom’s contributions to the achievement of personal goods like wellbeing, agency, and autonomy). And we have discussed the good-based view which claims that it is (impersonally) good *that* people have freedom, such that some impersonal end (e.g. human progress) is achieved or promoted. Focusing then on the *Benefit View*, I have questioned the plausibility of valuing freedom as an end in itself (i.e. of attributing intrinsic value to freedom) – merely in virtue of freedom’s intrinsic property and/or independently of freedom’s contributions to the achievement of other valuable goods. And I have argued that, most plausibly, on the *Benefit View* freedom should be interpreted as having contributory value – i.e. as having instrumental value (as a means to the achievement of something else of value) or constitutive value (as a necessary but insufficient component of something else of value) for the achievement of goods that are valuable in person-affecting terms (e.g. wellbeing, agency, autonomy).

⁶⁵ In §2.3 I have also questioned the possibility of justifying a certain distribution of freedom (e.g. maximising the freedom of a group of individuals) by appealing exclusively to value-for-others reasons, without (also) appealing to the value that freedom has for those who have freedom.

Chapter 3:
The *Benefit View*:
Agency, Autonomy, Human Excellence, and Wellbeing

3.1 Introduction.

The aim of this Chapter is to offer an in-depth examination of the *Benefit View*. I shall focus on examining the subjectivist interpretations of the *Benefit View* (according to which having freedom is valuable because people desire freedom or because people enjoy having freedom) and on showing how having a measure of freedom as such is objectively valuable for the achievement of wellbeing, agency, autonomy, and human excellence. The Chapter starts by clarifying the sense in which promoting people's freedom is valuable *ceteris paribus*, and up to a satiating point (§3.2). In §3.2 I also question whether it can be harmful to have *more* freedom. In §§3.3-3.4 I examine the distinction between the subjective value and the objective value of freedom: in particular, I argue that the moral foundations of freedom-centred justice must appeal to the *objective* value of freedom, and that the *subjective* value of freedom plays a role in fulfilling the stability requirement of freedom-centred justice. The remaining Sections of the Chapter examine the objective (non-specific) value of freedom.

In particular, in §3.5 I argue that having a measure of freedom as such is a human need. §§3.6-3.7 are devoted to examining how freedom is non-specifically valuable for the achievement of wellbeing, interpreted subjectively as desire satisfaction (§3.6) or objectively as the achievement of certain valuable functionings (§3.7). Carter endorses a subjective account of wellbeing, and in §3.6 I critically examine Carter's argument concerning the non-specific instrumental value of freedom for the attainment of individual desires. In §3.7 I derive a

justification of non-specific value from Serena Olsaretti's argument concerning the endorsement condition of wellbeing. §§3.8-3.9 then move to examining perfectionist reasons to value freedom non-specifically, focusing on the value of freedom for agency and autonomy in §3.8; and for the attainment of human excellence in Mill's 'Persons of Genius Argument' (§3.9). In §3.10 I complete the discussion of the *Benefit View* as a moral foundation of freedom-centred justice, 1) by offering a critique of perfectionist foundations (autonomy-based, agency-based) of freedom-centred justice, and 2) by arguing that a freedom-centred theory of justice that is grounded on reasons to believe that freedom has objective contributory value for the achievement of perfectionist ideals (agency, autonomy) or of wellbeing (objectively interpreted as the attainment of certain functioning levels) would converge with alternative liberal views that recognise only the value of certain specific liberties on protecting or promoting only certain *specific* and valuable freedoms (rather than freedom as such),¹ *unless such a theory also appeals to deontic reasons to refrain from interfering with people's freedom as such*. §3.11 concludes.

3.2 Qualifying the Non-Specific Value of Freedom.

3.2.1 The '*Ceteris Paribus* Clause.'²

In this Section I introduce a number of qualifications concerning the claim that people *benefit* from having (more) freedom, that is central to the *Benefit View*. Both Carter and Kramer clarify that having (more) freedom as such is good *ceteris paribus*, that is, 'other things being equal.' If freedom is valuable *ceteris paribus*, then one is *pro tanto* benefited by having more freedom,

¹ See, for example, Rawls's and Raz's quotations mentioned in the Introduction.

² Carter, *A Measure of Freedom*, pp. 61-63.

and there is a *pro tanto* reason to increase people's freedom as such. This does not warrant that one is benefited all things considered, and that therefore increasing people's freedom is *always* what we ought to do. It depends on whether other values are compromised. As Kramer reminds us:

‘Carter’s arguments about the content-independent value of freedom are not meant to suggest that we should always try to expand each person’s overall liberty (at least up to some very high level). Rather, they are simply meant to reveal that any assessment of new combinations of conjunctively exercisable freedoms will be inadequate unless it takes into account the contributions of those new combinations to the content-independent value of a person’s overall liberty.’³

Indeed, sometimes things are not equal, and we may not have an all things considered reason to increase people's freedom. By way of illustration, consider the potential contrast between freedom and equality. Some egalitarians may have reason to level down, if they prioritise equality over promoting people's freedom, and perhaps even if not-levelling down is a pareto-superior solution (in persons-affecting terms): that is, even if no one would be worse off without levelling down and some would be better off.⁴ If so, we can have an all things considered reason to refrain from promoting people's freedom, even if by having more freedom people are more likely to achieve what they consider valuable. Consider the following example:

³ Kramer, *Liberalism with Excellence*, p. 206.

⁴ Derek Parfit, 'Equality and Priority', *Ratio*, Vol. 10, No. 3, 1997, pp. 202-221.

Egalitarian Values: two individuals (*A* and *B*) live in an egalitarian commune with others (*C*; *D*; *E*; ...), with whom they share egalitarian and communitarian values. Promoting *A*'s and *B*'s degrees of overall freedom by granting *A* and *B* access to goods that are foreclosed to others, while at the same time keeping constant the equal levels of freedom of all the other individuals (*C*; *D*; *E* ...), is likely to create inequalities of status which can in turn jeopardise the sense of solidarity upon which the life in the commune is built.

Egalitarian Values shows that pure egalitarians can value maintaining equality (in order to maintain the communitarian ethos of the commune) over promoting people's freedom, thereby also showing that people are pro tanto benefited when their freedom is promoted, and that having more freedom is ceteris paribus *good for* persons (i.e. that it benefits them in person-affecting terms).

3.2.2 Freedom, Money, and Harm.

Since on the *Benefit View* one pro tanto benefits from having more freedom, can it ever be possible that one is *harmed* when one's freedom is promoted? Can it be harmful to have *more* freedom? One straightforward sense in which it *is* harmful to have more freedom is if one interprets the value of freedom *subjectively*, depending on an individual's subjective positive attitude (e.g. a desire) towards freedom. Thus, having more freedom *harms* one's interests, subjectively interpreted, if one loathes having freedom: for example, suppose that one believes that having freedom is sinful, and that it is better to live locked in a small cell rather than having

one's own freedom promoted. That being said, consider the following reasoning by Richard Arneson:

Freedom, Wellbeing, and Money: 'With some money, I go to the opera and play football and have a good life. With more money, and cocaine legally available, I indulge too often, and lead a worthless life. In such a case, denying me access to extra cash or prohibiting cocaine use can lower my capability to function in ways that constitute well-being but raise my functioning levels that constitute well-being. In such a case, justice principles should look beyond capability to the functioning levels it generates.'⁵

Arneson draws an analogy between freedom (as capability to function well) and money. First, the analogy is valid, since, like freedom, money is an open-ended means which allows us to achieve a variety of ends. Second, standardly the fact that people can squander their money or can use money to do things that are bad for them would not generally be considered a valid objection to the claim that 'having (more) money' *pro tanto* benefits people. Indeed, if someone tells you: 'Having (more) money does not benefit people because people can squander their money or they can use money to do bad things', standardly we would not consider claims of this type as undermining the pre-theoretical judgement that having money should count as a *benefit* and a measure of *advantage*. Of course, with more money available people can choose to do things that are bad for them (like becoming heavily addicted to cocaine in Arneson's example), or having more money can have bad effects on people's psychology (it can make people greedier or more self-absorbed).⁶ And these may count as valid reasons for refraining

⁵ Richard Arneson, 'Distributive Justice and Basic Capability Equality', in Alexander Kaufman (ed.), *Capabilities Equality* (New York: Routledge, 2006), pp. 17-43, at p. 33.

⁶ It can also allow people to be *less* greedy and less self-absorbed, if it frees persons from the burden of struggling to make ends meet, thereby also allowing people to devote time to help others with the pursuit

from giving people more money. That is, there may be a variety of weightier countervailing reasons why in certain contexts giving people (more) money is not what we ought to do all things considered. But this does not invalidate the claim that having money benefits people; it simply entails that people are *pro tanto* benefited by having more money, and that having more money is valuable *ceteris paribus*.

An analogous reasoning holds for freedom: the claim that people *pro tanto* benefit from having freedom does not exclude that there can be weightier reasons in favour of refraining from promoting people's freedom (as argued in §3.2.1). For example, in *Freedom, Wellbeing, and Money*, paternalistically refraining from promoting people's freedom (as capability to function) can be an effective means to protect people's functioning levels. Of course, paternalistic moves are very controversial:⁷ in this context what matters is that asserting the existence of a *pro tanto* reason to promote people's freedom does not exclude the possibility of having all things considered (paternalistic) reasons to refrain from promoting people's freedom. In light of these remarks, consider that having more freedom is *not pro tanto* harmful. What is harmful is *performing* the action(s) that freedom allows us to do, when such actions are bad for us, because they are detrimental to our wellbeing, or because they somehow thwart our plans. As illustrated in Chapter 1 (§1.4), the value of the freedom to perform a specific action *X* is distinct from the (dis)value of *performing X*, and there can be (content-independent) value in having the freedom to *X*, even if performing *X* has little or no (content-dependent) value. Claiming that having more freedom is *pro tanto* harmful is mistaken, in that it confuses the disvalue of performing actions that have detrimental effects on people's wellbeing with the value of freedom.

of their goals. On capitalism, money, and positive altruistic behaviours, see Hillel Steiner, 'Greed and Fear', *Politics, Philosophy, and Economics*, Vol. 13, No. 2, 2014, pp. 140-150.

⁷ See Quong, *Liberalism Without Perfection*, Ch. 3; David Birks, 'How Wrong Is Paternalism?', *The Journal of Moral Philosophy*, Vol. 15, No. 2, 2018, pp. 136-163.

The argument put forward in the previous paragraph applies to the freedom to perform *actions*. We should ponder whether it holds for what Kramer calls ‘undergoings’:⁸ that is, the freedoms to passively undergo certain processes. In particular, the freedom to *undergo* harm necessarily leads to harm *when the individual cannot escape being harmed*. Consider the following example:

Lions’ Cage: In Situation 1 (S1) *A* can see the lions roaming around in a locked cage. In Situation 2 (S2) *A* acquires the freedom to interact with very hungry lions when *B* electronically opens the cage via remote.

Typically, the freedom to interact with hungry lions is the freedom to be eaten by the lions, if the lions cannot resist the natural impulse to attack *A* after days of fasting. The lesson that we can draw from *Lions’ Cage* is that 1) the freedom to *undergo* harm leads to harm, if one cannot avoid the harm; that is, if one is deprived of the freedom to choose *not* to undergo harm. However, 2) notice also that *Lions’ Cage* confirms the point highlighted above that, while undergoing harm is of course harmful, the freedom to undergo harm is not harmful. Indeed, the freedom to undergo harm does not necessarily lead to harm if *A* has also the freedom not to undergo harm: whether *A* is harmed would depend on whether *A* chooses to undergo harm. This point illuminates that the crucial feature of *Lions’ Cage* is that *A* lacks *control* over whether to undergo harm: in so far as one has the freedom to (choose to) refrain from undergoing harm, having the freedom to undergo harm does not necessarily lead to harm.

⁸ Kramer criticises Carter for classifying only ‘actions’ and not also ‘undergoings’ as things to which freedom can be said to pertain. See Kramer, *The Quality of Freedom*, pp. 156-169.

Moreover, in order to have the freedom to undergo harm without having the freedom to refrain from undergoing harm, one's degree of overall freedom is restricted, rather than *promoted*.⁹

3.2.3 Points of Satiation.

It is plausible to believe that beyond a very high level people would benefit little from further increases in their degrees of overall freedom. Hence, there may be reason to promote people's overall freedom only up to a satiating point,¹⁰ beyond which having more freedom has more non-specific disvalue than non-specific value – thereby being non-specifically disvaluable on balance – for example, if the costs associated with processing the additional relevant information in order to make a reasoned choice outweigh the benefits of having additional freedoms.¹¹ This argument emphasises the costs of choice: let us call it 'The Costs of Choice Argument' (henceforth TCCA).

One way of interpreting the argument illustrated above is that, although having more freedom standardly benefits people (i.e. it has non-specific value), beyond a high level it can also harm people (i.e. it has non-specific disvalue), if it is psychologically or cognitively burdensome for people to process a considerable amount of relevant information in order to make a reasoned

⁹ In her provocative book, *Against Autonomy*, Sarah Conly argues that, given that recent developments in behavioural economics and social psychology have systematically challenged the picture of the rational economic individual and that 'failures to reason well are pervasive, as normal a part of psychology' (p. 1), there should be much broader scope for justified coercive paternalism in a theory of justice, in order to protect people from the reasoning mistakes that they will almost inevitably make. Conly says that 'we should, for example, ban cigarettes; ban trans-fat; require restaurants to reduce portion sizes to less elephantine dimensions; increase required savings, and control how much debt individuals can run up' (p. 1). Now, in so far as one buys the picture of human psychology described by Conly, and people lack control over their choices in the cases described, then the freedom to undergo harm almost necessarily leads to harm, as in *Lions Cage: mutatis mutandis*, the lions have irresistible desires to engage in harmful conduct. Sarah Conly, *Against Autonomy. Justifying Coercive Paternalism* (New York: Cambridge University Press, 2013).

¹⁰ Carter, *A Measure of Freedom*, §2.6.

¹¹ Carter, *A Measure of Freedom*, pp. 61-63.

choice. Notice that, *in itself*, having more options from which to choose is not necessarily burdensome: the eventual harm is not *inherent* to having freedom, it is generated by what freedom can do to people's psychological attitudes towards having freedom. One can make all sorts of daily choices without bothering to carefully assessing the comparative merits of each of the options available, and one may need only assess *some* of the options available in order to make a reasoned choice (those that are relevant to the choice in question).¹² Yet, it is plausible to experience the burden of choice, for example, in the case in which one has a great many options from which to choose, and the impact of the choice in question on the life of the individual or of others is considerable, as in the case in which a prospective undergraduate student has to choose to which university to apply to and which course to pursue. Processing all the relevant information in order to make a reasoned choice can be burdensome, though, all things considered, the student could be *worse off* if he had fewer options from which to choose (e.g. if he were prevented from applying to universities in Scotland, or to Law degrees), even if with fewer options it would be less burdensome for him to choose.

More generally, TCCA is premised on the empirical assumption that an average human being can adequately process only a certain amount of information,¹³ and that, therefore, the level beyond which the costs of choice outweigh the benefits of having more freedom varies across persons. Indeed, how people differently react to the challenges of choice depends on their individual psychological traits. Thus, it should be noted that the non-specific disvalue that overall freedom has beyond a certain high level is not inherent to freedom itself: it depends on a factual assumption about the average range of cognitive capacities possessed by a human being. If we drop such an assumption – for instance, by assuming a human person with

¹² Further, one may not require to have *complete* information even about the restrict number of options that are relevant for the choice in question, since some information can just be irrelevant.

¹³ I thank Carter for clarifying this point to me.

extraordinary mental capacities comparable to those of a sophisticated calculator – the level of overall freedom beyond which freedom outweighs the benefits *for this person* would be much higher than for the average human being (on the assumption that the calculator is capable of easily processing an elevated amount of information).

3.3 Subjective Value.

3.3.1 Subjective Value Versus Objective Value.

The personal value of freedom captured by the *Benefit View* can be interpreted in a subjective or in an objective way: it can be *good for A* to have freedom either because having freedom is subjectively valuable for *A* or because it is objectively valuable. If freedom has subjective value, the goodness of freedom is justified by appealing to the positive attitude (e.g. a desire) that *A* has towards freedom. Subjective value is indeed *value for* specific individuals, it is value perceived and validated by an individual's *desire* for the good in question, or by the positive mental states (such as pleasure, appreciation, etc.) associated with the *experience* of such a good.¹⁴ Thus, having freedom can be subjectively *good for persons* because people desire having freedom or because people enjoy the experience of having freedom: these, respectively, constitute the desire-based account and the experience-based account of the value of freedom. I shall examine the desire-based account in this Section (§3.3), and the experience-based account in the next Section (§3.4).

¹⁴ I draw from James Griffin, *Wellbeing. Its Meaning, Measurement, and Moral Importance* (Oxford: Oxford University Press, 1988), Chs. 1-3. See also Adriaan Peperzak, 'Values: Subjective – Objective', *The Journal of Value Inquiry*, Vol. 20, No. 1, 1982, pp. 71-80.

On the other hand, if freedom is objectively valuable, it is good for *A* to have freedom even if *A* does not desire to have freedom, and independently of *A*'s individual mental states associated with having freedom or experiencing freedom. If so, even if a Tibetan monk is perfectly content with his ascetic life of meditation in a cell that cannot be opened from the inside, the monk would benefit if someone were to open the door of the cell, increasing the freedoms available to him. This is because if freedom is objectively valuable, there is a sense in which it would be good for the monk to have more freedom: his life would go better, even if he never intends to take advantage of the newly acquired freedoms. Note that freedom can be *one* of the goods that matter, objectively speaking. On such a pluralist view, there can be different reasonable ways of balancing the goods that have objective value (including freedom).¹⁵ While subjective value is validated by the attitudes of *specific persons* for the good in question; objective value captures what is good (in person-affecting terms) *for persons*, independently of whether specific persons perceive the good in question to have value for them.¹⁶

Attributing both subjective value and objective value to freedom is compatible with the thesis that freedom has non-specific value and with the thesis that the value of freedom is entirely specific. That is, if freedom has subjective non-specific value, *A* can desire having a measure of freedom as such (and not just certain specific freedoms). On the other hand, if freedom has only subjective specific value, only those specific freedoms that are actually desired or that the individual is likely to desire in the future are valuable. If freedom has objective value, it can be objectively good for persons to have certain specific freedoms, or also to have a measure of freedom as such. Further, recall from Chapter 2 that on the *Benefit View* people have an interest

¹⁵ For example, it can be perfectly reasonable for the Tibetan monk to sacrifice freedom for other values (like austerity and a life of solitude) that allow him to achieve perfection in a life of contemplation.

¹⁶ As Griffin efficaciously explains: while 'desire accounts focus on a person in all his individuality; objective accounts focus on an index of goods that are good to everyone, regardless of the differences between them': Griffin, *Wellbeing*, p. 56.

in having (more) freedom (rather than less): if freedom has subjective value, *A* has a subjective interest in freedom; if freedom is objectively valuable, people have an objective interest in having freedom, independently of whether they desire to have freedom. In examining the desire-based account and the experience-based account below, I shall focus mainly on arguments that purport to show that freedom has *non-specific* value, since only reasons to value freedom non-specifically can ground freedom-centred justice.

3.3.2 The Desire-Based Account.

On the desire-based interpretation of the *Benefit View*, an individual *A* benefits from being free (to do a specific action *X*) if *A* desires to be free (to *X*): in other words, it is *good for A* to be free, if *A* desires to be free. Notice that *A* can desire freedom for its own sake and with no further reason in mind,¹⁷ or because *A* believes that freedom is a means to achieve something else of value. Let us assume that *A* desires freedom in virtue of freedom's contributory value for the achievement of other valuable goods (e.g. agency, wellbeing, or autonomy) and that *A* desires to attain such goods or that *A* believes that attaining such goods is objectively valuable. And that *A*'s desire for freedom is well-informed and motivated by the right type of reasons: that is, that *A* knows and correctly assesses that having more freedom contributes to the attainment of personal values, like wellbeing, agency, and autonomy – i.e. we should assume an *informed* desire-based account.¹⁸

¹⁷ Following Carter, a desire for freedom as an end in itself (or exclusively in virtue of freedom's internal properties) does not 'prove' that freedom has intrinsic value, though it 'affect[s] the plausibility' of believing that freedom can have intrinsic value (Carter, *A Measure of Freedom*, p. 41). To prove that freedom has intrinsic value one would need to show the reason why freedom has value as an end in itself (i.e. independently of freedom's positive contributions to the achievement of other valuable goods) or exclusively in virtue of its internal properties. I have discussed freedom's intrinsic value in Ch. 2, §2.5.

¹⁸ We should also assume that *A*'s desire for freedom does not conflict with other desires. It could be, indeed, that a first-order desire for freedom conflicts with a second-order desire, as in the case in which someone desires freedom while at the same time desiring that the desire for freedom is frustrated.

Having introduced the desire-based interpretation of the *Benefit View*, I want now to criticise it as a potential basis for freedom-centred justice. A theory of justice that is premised on the desire-based interpretation of the *Benefit View* would, in fact, have to be committed to a (more general) desire-based account of benefiting, according to which people benefit from having what they *desire* (or from having their desires fulfilled). Indeed, being committed to the view that *desiring* freedom is what makes having freedom valuable (the desire-based interpretation of the *Benefit View*) – i.e. that desiring freedom is the necessary condition for benefiting from having freedom – is conducive to thinking that what makes having a certain good *X* valuable, and the reason why one benefits from having *X*, is that one desires *X*, whatever *X* may be (the desire-based account of benefiting). And, assuming that the desire-based account of benefiting should inform the principles of justice (and the distribution of goods that the principles of justice aim to regulate) means assuming that justice should be sensitive to people's desires: i.e. that justice should be *desire-based*.

Notice that, although the primary aim of a desire-based account of justice is to fulfil people's desires¹⁹ rather than necessarily to give people freedom (as freedom-centred justice would prescribe), a desire-based account of justice can be *freedom-centred*, if giving people freedom as such is, *objectively* speaking, the best or preferable way to attain people's desires (i.e. to allow people to attain their desires). For example, in §3.6 I shall defend a version of Carter's argument according to which having (more) freedom (rather than less) is instrumentally valuable for the attainment of people's desires. Indeed, assuming that there is an ineliminable degree of indeterminacy in the nature of an individual's future ends, it is valuable to have more

¹⁹ Assuming that the theory in question has a method for solving conflicts of desires concerning the allocation of scarce resources.

freedom *as such* rather than less, in that this will increase the likelihood that within the range of freedoms that the individual has now there are also those *specific* freedoms that will serve her future (yet unknown) ends.²⁰ Crucially, arguments of this type are premised on the *objective* (rather than *subjective*) value that having a measure of freedom as such has for the attainment of individual desires, and so they constitute *objectivist* interpretations of the *Benefit View* and of the moral foundations of freedom-centred justice.

Furthermore, if one assumes the *subjectivist* interpretation of the *Benefit View* (i.e. the desire-based interpretation of the *Benefit View*), freedom-centred justice's concern for giving people freedom would become contingent on people's desiring freedom. Indeed, since in a given society not everyone may desire having (more) freedom (rather than less) – some, for example, could desire to have less freedom but more personal safety or a more direct attainment of wellbeing – and that we should treat people's desires equally (refraining from satisfying only the desires of some people, but not those of others), since justice requires to treat people impartially, we would still not have reason to promote everyone's freedom – as a freedom-centred approach would prescribe – but only the freedom of those who desire to have (more) freedom.

So, I have put forward two lines of arguments why the desire-based interpretation of the *Benefit View* cannot provide the right type of support to a freedom-centred approach. First, adopting the desire-based interpretation of the *Benefit View* really gives us reason to adopt a desire-based account of benefiting and to endorse a desire-based approach to justice. And, although there

²⁰ Carter, *A Measure of Freedom*, pp. 43-45. Furthermore, if human judgement is fallible, there is value in having at present more freedom as such rather than less, and rather than just those specific freedoms that one at present thinks will serve one's own future ends, since one can be mistaken about which specific freedoms will serve one's own future ends.

are reasons why desire-based justice can also be freedom-centred, such reasons crucially appeal to the *objective* value that freedom has for the achievement of wellbeing (subjectively interpreted as the satisfaction of people's desires). In the next Sections we should then examine whether reasons to attribute *objective* value to freedom as such (because freedom contributes to the achievement, for example, of wellbeing, or autonomy) can provide the right type of support to a freedom-centred approach. Second, assuming the desire-based account of the *Benefit View* as a basis for freedom-centred justice would make freedom-centred justice's concern for giving people freedom contingent on people's desiring freedom.

That said, note that there is an important ancillary role that the desire for freedom can play in a freedom-centred approach to justice. If the desire for freedom as such is widespread in the population, this should be taken as a plausible indication that there is something objectively *good* in having freedom, and that this is why many people desire having freedom. Conversely, it would be problematic if there were objective reasons to adopt freedom-centred justice, while the desire for freedom as such were not widespread. Freedom-centred justice would lack people's *allegiance* to the principles of justice. More specifically, we can agree with political liberals that a society is stable 'for the rights reasons' when the people subject to the principles of justice can *endorse* them; that is, when (nearly) everyone in the society in question can be committed to such principles and can be self-motivated to abide by them.²¹ Hence, if *endorsing* the principles of justice is essential to the stability of a given society through time, then the fact that people desire having a measure of freedom as such (in virtue of freedom's contributory value for the achievement of the good) is essential to show that a version of freedom-centred justice that is premised upon the *Benefit View* can be supported by people's allegiance to its

²¹ For context, see Kevin Vallier, 'Three Conceptions of Political Stability: An Agent-Based Model', *Social Philosophy and Policy*, Vol. 34, No. 1, 2017, pp. 232-259.

principles. So, a desire for freedom as such plays a role in fulfilling the stability requirement of a freedom-centred justice. Before moving to the analysis of reasons to attribute objective value to freedom, in the next Section I first want to examine an alternative version of the subjectivist interpretation of the *Benefit View*: the experience-based account.

3.4 Subjective Value. The Experience-Based Account.

‘My cousin, he took me out on a sled,
And I was frightened. He said, Marie,
Marie, hold on tight. And down we went.
In the mountains, there you feel free’²²

In *A Measure of Freedom* Carter sometimes appeals to the intuition of ‘the love of liberty’, or of ‘how a prisoner feels on suddenly being released, or of the sentiment of a people on overthrowing an oppressor’ to make the case that freedom has non-specific value.²³ These examples hint towards an interpretation of freedom’s non-specific value that is not, strictly speaking, desire-based. Indeed, it is one thing to claim that having freedom is valuable because *A* desires to be free, but it is another to say that having freedom is valuable because this produces positive ‘feelings’, ‘emotions’, or ‘sentiments’ in *A*. If freedom has subjective value, people have individual positive attitudes towards freedom, and such attitudes may not be expressed through a form of deliberate volition, but through the positive (e.g. pleasant) experience or the inner feelings for freedom. And there is such a thing as the experience of freedom: Jean-Paul Sartre describes it as the distinctively human experience of sensing the

²² T.S. Eliot, *Selected Poems* (London: Faber and Faber, 2009), p. 41.

²³ Carter, *A Measure of Freedom*, p. 32.

number of possibilities that are open to us and among which we will necessarily have to choose.²⁴ And Carter's examples point in the direction of accessing the value of freedom through the positive *experience* of freedom.²⁵

The experience of freedom can also be described as having objective value (rather than just subjective value), if one has reason to believe that it is objectively good for persons to have such an experience. For example, *feeling* the number of combinations of possibilities open to us – realising that depending on the choice we make, the course of the events will take a different turn and will affect the fate of other people – can contribute to making us more aware of the responsibility that we bear as free agents who have an impact in the world. If so, the subjective experience of freedom can be objectively valuable for persons, since it makes people more aware of the consequences of their agency. Indeed, Carter's example of 'how a prisoner feels on suddenly being released', can be interpreted as a case in which the experience of suddenly regaining freedom makes the individual fully aware of the *objective* value of freedom. More precisely, we can interpret Carter as claiming that the *subjective* experience of regaining freedom allows the prisoner to have privileged epistemic access to the *objective* value of freedom (i.e. to the contributory value that freedom has for the achievement of the good), since the prisoner can appreciate how valuable it is to have freedom if one wants to realise one's own ends. In this case, the value that the prisoner perceives through his subjective experience is the objective value of freedom, rather than the subjective value attached to experiencing freedom as such.²⁶

²⁴ Jean-Paul Sartre, *Jean-Paul Sartre: Basic Writings*, ed. by Stephen Priest (London: Routledge, 2001), Ch. 9.

²⁵ Carter's examples count as instances of what Griffin calls the 'enjoyment' account of wellbeing: Griffin, *Wellbeing*, p. 19.

²⁶ I am grateful to Ian Carter for suggesting this alternative interpretation.

That being said, let us consider the case in which the experience of freedom is treated as being *subjectively* valuable for an individual person *A*. We can have two possibilities: 1) *A* can attribute subjective value to experiencing freedom without necessarily having a desire for such an experience. For example, maybe the prisoner of Carter's example enjoys freedom after being suddenly liberated, while at the same time not having a desire for freedom, since he had lost any hope of regaining freedom due to a very long period of detention. Or 2) the experience of freedom can be subjectively valuable because one *desires* to have such an experience: for example, the prisoner may desire having freedom when he has the experience of regaining freedom.²⁷

Nonetheless, notice that the desire-based account and the experience-based account are distinct: deriving subjective value from freedom because one *desires* freedom is distinct from *enjoying* the *experience* of freedom (the thrill of choice, or the sense of possibilities open to the individual). One can indeed desire to do something that produces *bad* feelings and emotions. And it is also possible to desire to have freedom even if one perceives the experience of freedom as a bad experience. Consider the following example:

Experiencing Freedom: Adam is locked in a cell of a monastery. All that Adam desires to do is to follow the wishes of Brenda, a religious leader. One day Brenda wishes that Adam experiences a life of freedom: for a few months Adam should leave the monastery, move to the city, and experience the many opportunities available to him. Furthermore, Adam has to *really wish* a life of freedom: this is Brenda's command. The experience of freedom will be

²⁷ Of course, if one *enjoys* the experience of freedom, this contributes to making such an experience desirable.

incredibly painful for Adam, but Brenda's view is that experiencing freedom is necessary for Adam to truly understand how bad it is to live freely: it is a sin to live freely and to desire freedom, and Adam should have the experience of sin. Hurtfully, Adam leaves the community, and starts a new life in the city. He now wholeheartedly desires to experience a life of freedom (since this is Brenda's command), but such an experience is also very painful to him.

Experiencing Freedom shows that, although the experience of freedom is very painful for Adam (it is the source of bad feelings and emotions), nonetheless, Adam desires to experience freedom, because this is what Brenda commands him to do. Thus, though it is most intuitive to assume that a desire for freedom is associated with good feelings and emotions for a life of freedom, the experience of freedom can be a *bad* experience or be the source of *bad* feelings and at the same time be the object of the individual's desire. Namely, it is possible that people desire to experience something that is the source of bad feelings.²⁸

3.5 The Human Need for Freedom.

Why can it be objectively good to have freedom? We can appeal to different criteria: 1) human needs; 2) wellbeing; and 3) perfectionist ideals. I shall introduce and examine these criteria in

²⁸ Possibly, in *Experiencing Freedom* what gives value to (Adam's desire for) freedom is *the fact that Brenda orders Adam to desire a life of freedom*. This would be an additional interpretation of the subjectivist account of the value of freedom, according to which the positive value that the individual attributes to a certain good (or to the doing of a certain action) has nothing to do with the content of the good in question (nor with the content of the action commanded), but is derived from a command that descends from an authority that the individual perceives to be legitimate by the individual. This is a plausible interpretation of *Experiencing Freedom*. Note that this interpretation captures the subjective value of freedom because Adam justifies the value of freedom in virtue of a command that he *perceives* or that he *thinks* is legitimate. If, on the other hand, we have reason to believe that the authority in question *should* be perceived as legitimate *by everyone*, this would justify attributing objective value to the experience of freedom.

this and the following Sections, starting from investigating the connections between freedom and needs in this Section.

3.5.1 The Human Need for Freedom.

The value of freedom can be justified by appealing to the notion of human needs. Appeals to needs are sufficientarian in nature: they pick up certain conditions that, as Miller remarks, must be satisfied in order to ‘allow people to lead a minimally decent life in their society.’²⁹ Such conditions can also be thought of as *requirements of a dignified existence*. Before proceeding further, I wish to make a point of clarification regarding the interpretation of ‘dignity’ that is relevant to this Section. In Chapter 1 I have introduced a Kantian inspired notion of dignity: on such an account, the dignity of persons consists in the worth that persons have in virtue of being purposive beings endowed with the capacity to set ends (Ch. 1, §1.2).³⁰ This kind of agential dignity should be kept distinct from a different sense of dignity – which can be labelled ‘human dignity’ to distinguish it from the Kantian sense of dignity examined in Chapter 1 – and which should be interpreted in person-affecting terms: i.e. in terms of the conditions that allow human beings to live a minimally good life. Martha Nussbaum, for instance, interprets such conditions as the enjoyment of certain core human capabilities (e.g. being well-nourished, being in good-health, being able to use language and express emotions, etc.).³¹ This Section is

²⁹ Miller, *Principles of Social Justice*, p. 210. Miller also has a contextualist understanding of needs, which explains why his quotation suggests that the definition of needs will vary depending on the society in question.

³⁰ In Ch.1 I have also argued that acknowledging the moral status of persons as agential beings entails having a pro tanto (deontic) reason to refrain from interfering with the opportunities that persons have to exercise their will – i.e. with their ‘freedoms’. And that, on the *Status View*, freedom has value in virtue of such deontic reasons.

³¹ Nussbaum, *Frontiers of Justice*. On the conception of dignity as status recognition, see Waldron and Dan-Cohen, *Dignity, Rank, and Rights*. For an analysis of Nussbaum’s notion of dignity, see Rutger Claassen, ‘Human Dignity in the Capability Approach’, in Marcus Düwell, Jens Braarvig, Roger Brownsword, and Dietmar Mieth (eds.), *The Cambridge Handbook of Human Dignity. Interdisciplinary Perspectives* (Cambridge: Cambridge University Press, 2014), pp. 240-249.

concerned with the latter sense of dignity (human dignity), and with examining the relationships between the value of freedom and human needs. I further develop my analysis of the former sense of dignity and the value of freedom in my discussion the *Status View* in Chapter 5 and in Chapter 6.

Since the notion of basic needs should be interpreted as going beyond the mere conditions of biological survival,³² having the opportunity to exercise a minimal degree of control over one's life should be understood as a human need and as a condition for leading a dignified existence. Indeed, the capacity for agency is a distinctive characteristic of human persons, and having 'a guaranteed minimum of freedom'³³ is a necessary requirement for exercising agency, which crucially entails having some degree of control over one's own life.³⁴ Namely, I wish to argue that having a minimum of freedom *as such* should be included in the list of objective conditions for a dignified existence. On such a view, a minimum of freedom has *constitutive* value as one of the components of a dignified existence. It is worth emphasising that, from the point of view of justice, different reasons to attribute value to freedom will correspondingly affect the definition of the principles of justice. As Carter insightfully remarks:

‘Our *choice* of distributive principles will depend, among other things, on the *reasons* we have given for saying that freedom is [...] valuable, and – what is in part the same thing – on the *kind* of [...] value we have attributed to freedom.’³⁵

³² Miller, *Principles of Social Justice*, Ch. 10.

³³ Carter, *A Measure of Freedom*, p. 83.

³⁴ For a view of human rights grounded on agency and freedom, see James Griffin, *On Human Rights* (Oxford: Oxford University Press, 2008), Ch. 2; Laura Valentini, ‘Human Rights, Freedom, and Political Authority’, *Political Theory*, Vol. 40, No. 5, 2012, pp. 573-601.

³⁵ Carter, *A Measure of Freedom*, p. 74.

Reasons that connect the value of freedom to needs represent a clear illustration of this point: if it is good for people to have a minimum of freedom because this allows them to exercise some control over their lives, the principle of justice that follows is a sufficientarian principle with a low threshold,³⁶ one which guarantees that everybody meets the agency threshold of a dignified existence. That is, objective reasons that connect the value of freedom to need are moral foundations of a sufficientarian interpretation of freedom-centred justice. Therefore, a basic needs approach cannot ground the more ambitious claim that justice requires to promote people's freedom beyond the sufficientarian threshold: such a claim can be grounded on other values (like wellbeing, agency, autonomy), examined in the next Sections of this Chapter.

3.5.2 The Human Need for a Minimum of Freedom as Such.

Before moving on to discuss freedom and wellbeing in §§3.6-3.7, note that the protection of a personal sphere of freedom can be understood as guaranteeing the enjoyment of certain specific freedoms (for example, of certain 'basic capabilities') or also the enjoyment of a sufficient level of freedom *as such*. One may think that what people really *need* is to be protected only in the exercise of certain basic liberties, and hence that talk of a minimum level of freedom as such is misplaced. For example, one can argue that, at a minimum, people need to be protected in their bodily integrity – what Rawls calls the 'freedom of the person' and which includes 'freedom from psychological oppression and physical assault' –³⁷ that they need to have some degree of freedom of movement such that they are not confined in very small spaces (like animals in cage) or in small bordered areas of the world (though, perhaps, they do not need to be free to move everywhere around the planet), or, depending on how demanding is the

³⁶ Sufficientarian principles can alternatively also entail a high threshold. See Paula Casal, 'Why Sufficiency Is Not Enough', *Ethics*, Vol. 117, No. 2, 2007, pp. 296-326. Carter acknowledges this point in *A Measure of Freedom*, pp. 84-85.

³⁷ Rawls, *A Theory of Justice*, rev. edn. (Cambridge MA: Harvard University Press, 1999), p. 53.

sufficientarian threshold, that they need to be protected in the familiar and more extensive list of Rawlsian basic liberties (including the political liberties).

This argument attempts to reduce the need for freedom to the need of having a sufficient level of certain *specific* types of freedoms. However intuitive, this approach seems to me deeply mistaken. Think of the paradigmatic example of someone whose level of overall freedom falls below the sufficientarian threshold: the case of a convicted criminal who conducts a life confined behind the bars of a prison cell. Prolonged incarceration is bad,³⁸ not just because it deprives prisoners of specific freedoms – prisoners live in confined spaces, they have to abide by strict rules that regulate the use of their bodies, etc. – but also because they can exercise a very limited degree of agency *as such*: the variety of options available in prison is very limited, and the prisoners' lives are so minutely regulated and monitored that they have very little opportunity to exercise their faculty of free choice in everyday life. And this is, in itself, a source of harm.

In Rawlsian terms, being deprived of a minimal degree of opportunities for agency endangers the sense of one's own worth as a human being, and having a minimum of freedom can be understood as one of the Rawlsian 'social bases of self-respect'.³⁹ Undermining the social bases of self-respect by restricting an individual's level of freedom below the relevant sufficientarian threshold does not only constitute a failure to recognise the moral status of persons, it is also likely to have a damaging effect on the individual's wellbeing, if the prisoner's sense of self-worth is affected by the fact that, due to the severe agency limitations to which the prisoner is exposed, she cannot plan on forming and pursuing a fulfilling conception of the good life. To reinforce this line of argument, consider the following example:

³⁸ Though it may be all things considered justified. I shall not take a stance on this point.

³⁹ Rawls, *A Theory of Justice*, 1st edn., p. 440.

Unspecific Unfreedoms: *A*'s predicament is rather peculiar: a microchip that has been implanted *A*'s brain intervenes in *A*'s neurological system by preventing *A* from doing a great number of things every day. The microchip works with an algorithm that activates the paralysing functions of the implanted device *at random*: that is, *A* knows that every day she will face a great number of unfreedoms, without knowing which *specific* actions the chip will prevent her from performing.

A is *unspecifically* prevented from doing a great number of things every day and her opportunity to exercise agency *as such* and to exercise control over her life is correspondingly greatly reduced. The fact that *A* does not know which specific actions she will be prevented from doing is likely to have detrimental psychological effects for *A*: this is an additional harm that follows from the peculiar features of *Unspecific Unfreedoms*. *Unspecific Unfreedoms* shows that a minimum of freedom *as such* is an essential component of human flourishing and of a dignified existence, since there is something particularly *bad* in being prevented from exercising a degree of agency as such, and in lacking the opportunity to control what happens to us and the environment around us. To sum up the main findings of this Section: having a measure of freedom as such is a human need, and an appeal to need justifies a sufficientarian principle that prescribes the protection of a minimum of freedom as such for each human being.

3.6 Subjective Wellbeing.

How is freedom valuable for the achievement of wellbeing? Can freedom be *non-specifically* valuable for the achievement of wellbeing? Wellbeing is a metric of advantage: it can be interpreted objectively – as the achievement of certain objective goods (e.g. the attainment of a certain level of functionings, or of perfectionist ideals) – or subjectively, as the fulfilment of one's (informed) desires, or as a mix of subjective and objective components.⁴⁰ In this Section I wish to examine whether freedom is non-specifically valuable for the achievement of wellbeing, *subjectively interpreted*, as desire satisfaction. In doing so, I shall critically engage Carter's views on this point. Further, note that adopting a subjective standard of wellbeing does not entail claiming that freedom is *subjectively* valuable for wellbeing: freedom can be objectively valuable for the achievement of wellbeing, subjectively interpreted as desire satisfaction. This is indeed the view that can be imputed to Carter and that I examine in this Section.

3.6.1 Freedom and Desires.

Consider the following argument, put forward by Carter, according to which having a measure of freedom as such is instrumentally valuable for the achievement of *our individual ends* – i.e. for the attainment of our desires, whatever they may be:

Future Desires (henceforth FD): As individuals, we are necessarily uncertain about the nature of our future ends. Therefore, there is value in having now more freedom *as such* rather than less, because this will increase the likelihood that

⁴⁰ See Griffin, *Wellbeing*, Ch. 3.

within the range of the freedoms that we have now there are also those *specific* freedoms that will serve our future, yet unknown, ends.⁴¹

The value of freedom in FD is *instrumental non-specific value*, in that having a measure of freedom as such is valuable as *a means* to the achievement of individual future desires: the more freedom people have, and the greater the likelihood that this will causally contribute to the satisfaction of people's future desires. FD can be challenged on empirical grounds: although we cannot know with absolute certainty which situations we may face or which desires we may have in the future, surely we are not entirely ignorant as to which specific freedoms are more valuable. Indeed, we can reasonably assess which *specific* freedoms are more likely to contribute to the realisation of the ends that we have *now* and that we think are not likely to change in the future.⁴² That said, acknowledging this point does not invalidate FD, since, even if we can make at least rough (cardinal or ordinal) comparisons between the content-dependent value of different specific freedoms, this does not deny that every instance of freedom has at least some value *qua freedom*, in virtue of our ineliminable, though only partial, ignorance of the future. I elaborate further on this point in what follows.

Granting that certain specific freedoms typically have little content-dependent value – since persons standardly would want to refrain from taking advantage of such freedoms – does not invalidate that every instance of freedom has some value *qua freedom*, and therefore that freedom has non-specific value.⁴³ For example, although the freedom to eat a poisonous apple

⁴¹ Carter, *A Measure of Freedom*, pp.43-45.

⁴² Kramer presses a version of this point. As Kramer claims: 'Nobody has ever denied that some particular freedoms are qualitatively more important than others, nor has anyone denied that we can frequently know with a high degree of confidence which freedoms are especially valuable. What Carter aptly emphasizes is the fallibility of our judgements about qualitative significance; to underscore that fallibility, however, is not to suggest that people suffer from outright ignorance in these matters' Kramer, *The Quality of Freedom*, p. 434.

⁴³ As explained in Ch. 1, non-specific value ranges over every instance of freedom (§1.4).

that contains a quantity of venom sufficient to paralyse the facial muscles of the person who eats it typically has little content-dependent value, having such a freedom may turn out to be valuable in exceptional circumstances. For instance, if eating the poisonous apple is overall less bad than the consequences that would ensue from not-eating the apple – as in the case in which a dissenter would prefer to eat the apple compared to revealing the names of her companions when the secret police raids her apartment with the intent of torturing her. Or, if one may wish to *risk* eating the poisonous apple because the prospective pay-offs that result from taking the risk are appealing – as in the case in which one is offered a great sum of money in exchange for choosing to eat one apple from a basket that contains 200 apples, one of which is the poisonous apple. If, even in such extreme cases there is content-independent value in having freedom (in virtue of there being a degree of ineliminable ignorance about the future), then even more so there is value in having freedom in less extreme cases, since people are more likely to disagree about the (content-dependent) value of the specific freedoms in question. We should conclude then that FD is a valid argument.

3.6.2 Wellbeing, Freedom, and Desires.

Consider the implications of assuming FD as a moral foundation of freedom-centred justice: in particular, as providing a justification for a distributive concern for freedom as such, because freedom has non-specific value for the achievement of personal wellbeing, subjectively interpreted as desire satisfaction. Though Carter does not explicitly commit himself to a subjectivist account of wellbeing, a subjectivist and desired-based account underpins FD and Carter's discussion of wellbeing in *A Measure of Freedom*. Indeed, Carter does not put a condition on what *should* be the nature of an individual *A*'s future ends: what is *good for A* (his

wellbeing) crucially depends on what *A* thinks is good for him. As Carter claims, in his discussion of personal wellbeing:

‘Since we cannot be sure of our future desires or needs, we do not value freedom merely as one of the necessary means to our doing *x*, *y*, and *z*, but rather, as one of the means by which we may satisfy whatever our needs and desires may be. Once again, the value of liberty turns out to be reducible *only in a generalized sense* to that of the ends it serves.’⁴⁴ (emphasis in original)

Now, an unqualified version of FD cannot plausibly serve as a moral foundation of freedom-centred justice. This is because I take it that, as far as justice is concerned, we should apply some form of idealisation to wellbeing: following a broadly political liberal view,⁴⁵ we should exclude *unreasonable views* (that do not recognise the freedom and equality of persons) from informing the (idealised) account of wellbeing that can inform the principles of justice. Moreover, we should also exclude sadistic conceptions of the good that claim that there is value in severely harming others because one can (sadistically) derive pleasure from severely harming others. We should then deny that someone can benefit from having the *freedom* to severely harm others (or to perform *other-regarding* morally impermissible actions like torturing or killing an innocent), if the reason why one would benefit is that such a freedom would contribute to the achievement of a morally distorted conception of the good (and the person in question *desires* to *perform* the action of severely harming others). Of course, for a sociopath, who gets a kick out of torturing others, the freedom to torture contributes to the realisation of his distorted ends, thereby having personal value *for him*. But, from the point of

⁴⁴ Carter, *A Measure of Freedom*, p. 51. See also Carter’s remarks on the instrumental value of freedom, ignorance and wellbeing on p. 45.

⁴⁵ Rawls, *Political Liberalism*.

view of justice, a distributive concern for freedom as such cannot be plausibly justified by appealing to the value of *performing* actions that severely harm others, and, therefore, of realising twisted conceptions of the good.⁴⁶

The argument illustrated in the previous paragraph denies that there can be value in having the freedom to severely harm others – when such a value is derived from the value of *performing* the actions of severely harming others – because a desire for severely harming others can figure only in a twisted conception of the good. Notice that, although it is inherently difficult to define exactly which desires can be classified as unreasonable, surely *some* desires (e.g. the desire to torture an innocent for fun), are unreasonable, and, from the point of view of justice, the value of freedom cannot be justified by appealing to the fact that having freedom allows the *attainment* of such desires. Further, in §3.6.1 we have seen that there can be value in having the freedom to perform *self-regarding* actions (like eating a poisonous apple) that are bad in persons-affecting terms because in some very exceptional cases one can have reason to perform the actions in question (as in the case in which eating a poisonous apple does the least harm). The same argument applies here to other-regarding actions: we cannot categorically exclude the possibility of having to confront the moral dilemma of choosing between, say, killing or torturing a human being, and saving many people from painful death. But conceding the possibility of moral dilemmas does not undermine the point that we should practice some form of idealisation to the notion of wellbeing, excluding certain views about personal wellbeing as unreasonable.⁴⁷

⁴⁶ I am here implicitly assuming that the constituency of people to whom a justification of the principles of justice is owed is formed only and exclusively by reasonable people who accept the values of freedom and equality among persons. See Quong, *Liberalism Without Perfection*, Ch. 10.

⁴⁷ Carter can bite the bullet and reply that the content-dependent *disvalue* of such freedoms outweighs their content-independent value. This is indeed the strategy that he adopts in *A Measure of Freedom*, pp. 64-65. But, in so far as the value of freedom is defined in person-affecting terms (according to the *Benefit View*), it cannot be *good for* a morally decent person to have the freedom to severely harm others, if such a value is derived from the value that severely harming others has in a sadistic conception

Hence, since the non-specific value of freedom ranges over *every* instance of freedom as such (see Chapter 1, §1.4), does the argument presented in this Section undermine the possibility of grounding freedom-centred justice on the (non-specific) value that freedom has for the achievement of wellbeing? In the following Section (§3.7) I put forward a series of arguments that show that freedom is non-specifically valuable for wellbeing, objectively interpreted as the achievement of certain valuable functionings. According to such arguments, though it is of course disvaluable *to perform* morally vicious actions, there is value in *having the freedom* to perform such actions (while at the same time maintaining the absolute intention to *refrain* from perform such actions), since there is value in *choosing to refrain* from performing such actions.⁴⁸ These arguments emphasise the *value of the choice* to refrain from performing morally impermissible actions. Further, notice that a *qualified* version of FD is a powerful argument in favour of a freedom-centred version of anti-perfectionism. For example, if one holds a Millian view that people are the best judges of their interests (i.e. that they are epistemically privileged to know what is good for them),⁴⁹ FD vindicates a reason to promote people's freedom *as such* – rather than certain specifically valuable freedoms – if the range of freedoms under consideration is narrowed down to the *freedoms to attain reasonable conceptions of wellbeing*.⁵⁰ On this interpretation, FD justifies attributing value to a very expansive set of freedoms (which includes, for example, also the freedoms to perform self-regarding actions that can be harmful, like indulging in the consumption of recreational drugs),

of personal wellbeing, since justice requires to adopt an idealised account of wellbeing that excludes unreasonable conceptions of the good.

⁴⁸ Recall that the kind of value in question is the personal value (interpreted in person-affecting terms) that freedom has for the individuals who have freedom.

⁴⁹ Mill, *On Liberty*, pp. 64-65.

⁵⁰ Carter's argument can be contrasted with Raz's version of liberal perfectionism, according to which the value of freedom is limited to a plurality of specific freedoms that have value for the achievement of the good (interpreted according to an objective standard). See Raz, *The Morality of Freedom*, Chs. 13-14. For a freedom-centred critique of Raz's liberal perfectionism, see Kramer, *Liberalism with Excellence*, Ch. 5.

assuming what can be labelled the *narrow* definition of freedom's non-specific value, which does not range over the freedoms to attain unreasonable views of wellbeing (like the freedom to severely harm others), while at the same time complying with an idealised account of wellbeing that can fit with the purposes of a liberal theory of political morality.

3.7 Objective Wellbeing.

In this Section I wish to investigate the connections between freedom and objective wellbeing: can having a measure of freedom as such be valuable for the achievement of wellbeing, objectively interpreted as the attainment of certain functioning levels? If, most plausibly, there are a *plurality* of reasonable conceptions of the good, then there is value in having the freedoms *to function well*, where the notion of 'functioning' would be expansive enough to encompass all the things that are valuable according to a plurality of valuable conceptions of the good.⁵¹ Pluralism about the good indeed justifies attributing value to a range of *specific valuable freedoms to function well*, while at the same time excluding that *misfunctioning* can be valuable.⁵²

That said, the main question that I wish to address in this Section is the following: since the value of freedom is distinct from the (dis)value of *performing* (self-regarding) disvaluable actions (i.e. from the disvalue of misfunctioning), can there be value in having *the freedom* to misfunction? Is it possible to justify the *non-specific* value of freedom (which attributes value also to the freedom to misfunction) from the point of view of assuming an objective standard

⁵¹ See Raz, *The Morality of Freedom*, Chapters 14-15.

⁵² An objective standard of wellbeing is indeed distinct from subjective accounts precisely because it discriminates between *functionings* and *misfunctionings* (i.e. objectively valuable and objectively disvaluable or worthless ends).

of wellbeing? In addressing this question, I shall look at Olsaretti's argument concerning the endorsement condition of wellbeing (ECW), which, as I will argue, justifies attributing value to the freedom to malfunction.⁵³ While in the next Section I shall discuss *perfectionist* accounts of the good, which define the good by appealing to *essentialist* arguments and to a full-blown theory of human nature, in this Section I assume that it is possible to arrive at a political conception of advantage upon which reasonable people who endorse different comprehensive doctrines (i.e. different set of values and beliefs about what is worth aiming at in life) can converge.⁵⁴ Further, while retaining the procedural aspect of Rawls's theory – the political conception of the good – I shall assume, following Nussbaum, a capabilitarian metric of advantage, which singles out a range of capabilities to function (e.g. to be in good health, to maintain good personal relationships with others, to be able to use language and express emotions etc.) as essential to achieving different conceptions of the good.⁵⁵ Olsaretti herself appeals to a capabilitarian metric, and, in any case, the thrust of the argument that follows in this Section is not affected by adopting an alternative interpretation of advantage.⁵⁶

3.7.1 Freedom, Endorsement, and Wellbeing.

According to Olsaretti, assuming that in a just society the state is concerned with guaranteeing that people have reasonable opportunities to live well, the individuals are better placed to endorse the choices they make when they are not forced to malfunction. Indeed, 'the

⁵³ Serena Olsaretti, 'Endorsement and Freedom in Amartya Sen's Capability Approach', *Economics and Philosophy*, Vol. 21, No. 1, 2005, pp. 89-108.

⁵⁴ Rawls, *Political Liberalism*, esp. Lectures IV and V.

⁵⁵ See Martha Nussbaum, 'Perfectionist Liberalism and Political Liberalism', *Philosophy and Public Affairs*, Vol. 39, No. 1, 2011, pp. 3-45; Martha Nussbaum, *Creating Capabilities. The Human Development Approach* (Cambridge, MA: Harvard University Press, 2012); Martha Nussbaum, 'Political Liberalism and Global Justice', *Journal of Global Ethics*, Vol. 11, No. 1, 2015, pp. 68-79.

⁵⁶ Moreover, while in §3.5 the appeal to capabilities served to capture a sufficientarian threshold of human dignity, here I take a more expansive notion of capabilities as offering a metric of interpersonal advantage

endorsement of valuable functionings’ is in itself ‘constitutive of wellbeing’,⁵⁷ where ‘endorsement’ means ‘having ‘a positive evaluative attitude, or proattitude, which may take the form of desiring, wanting, holding dear, thinking agreeable, and so on’ (henceforth I shall call the endorsement condition of wellbeing ECW).⁵⁸ For example, ‘being an active participant in community life, being a parent, having intimate relationships, developing one’s talents’ are objectively valuable, ‘but they must be endorsed’ too in order to fully attain wellbeing: in Olsaretti’s view, both the objective and the subjective aspects of wellbeing equally contribute to making people’s lives go well.⁵⁹

According to Olsaretti, people’s motivations for acting may change depending on whether they are *forced* to function well: one may indeed not endorse the choice to function well if one is *forced* to function well because the choice to malfunction is rendered unacceptable (for example, if it is particularly costly) or if it is foreclosed to the individual in question.⁶⁰ As Olsaretti frames it, her argument is mainly about the value of *voluntariness*, rather than of *freedom simpliciter* (i.e. of the freedom to *X*). ‘Voluntariness’, indeed, should be contrasted with instances of ‘forcing’. And, as Olsaretti defines voluntariness in her book, *Liberty, Desert, and the Market*:

‘a choice is voluntary if and only if it is not made *because* there is no acceptable alternative to it. Conversely, a claim that a person was forced to do *x* (she did *x* non-voluntarily)

⁵⁷ Olsaretti, ‘Endorsement and Freedom in Amartya Sen’s Capability Approach’, p. 98.

⁵⁸ Ibid.

⁵⁹ Ibid., p. 99. In Olsaretti’s view one’s life does not necessarily go well when someone *wholeheartedly endorses* the choice to malfunction, since making objectively valuable choices is essential to wellbeing as it is endorsing the choices that one makes. That is, ECW applies only to objectively valuable options.

⁶⁰ Olsaretti, ‘Endorsement and Freedom in Amartya Sen’s Capability Approach’, p. 99.

means that she did x because she had no acceptable alternative to it.’⁶¹

Olsaretti, moreover, adopts an objective standard of basic needs to qualify the acceptability of alternative options.⁶² To illustrate the claim that being forced not to misfunction can change people’s motivation for acting, thereby undermining ECW, consider the following example:

Flight Attendant: It is objectively good for A to do physical exercise every week. A is a flight attendant and the reason why A exercises every week is because she would be taken off flights if she were to gain too much weight. In addition, if the airline did not have such strict requirements about the physical appearance and weight of their flight attendants, A would do physical exercise anyway (perhaps a bit less, say, twice rather than three times a week): in this counterfactual scenario A would fully endorse the choice of doing physical exercise, since she would be motivated exclusively by considerations concerning her own personal wellbeing, rather than by the fact that she is coerced by the airline.

The fact that A has no reasonable alternative but to do physical exercise affects A ’s motivation for acting, and not being forced to do physical exercise every week would allow A to be

⁶¹ Olsaretti, *Liberty, Desert, and the Market*, p. 139.

⁶² Ibid., Ch. 6.

motivated only by considerations concerning her own good and personal wellbeing, thereby fulfilling ECW.

Although Olsaretti's argument is mainly about voluntariness, it can be extended also to capture the value of the freedom *simpliciter* to malfunction. On a pure negative definition of freedom, forcing *A* to *X* by means of coercion – for example, by threatening to punish *A*, if *A* does not-*X* – does not deprive *A* of the freedom to *X*, since it does not render the doing of *X* physically impossible: coercion ‘only’ affects people’s motivations by rendering the doing of not-*X* ineligible or less eligible (according to an objective standard of wellbeing).⁶³ That said, *preventing* someone from malfunctioning *a fortiori* can undermine ECW, if the prevention adversely affects the motivational structure of the individual in question. For example, suppose that physically preventing *A* from escaping family meetings at Christmas – by locking *A* in the room where such meetings happen – has the effect of undermining *A*’s endorsement of family values. Or, less fancifully, that preventing people from accessing recreational drugs has the effect of undermining the endorsement of the choice to refrain from indulging in the consumption of such drugs (e.g. because it romanticises the experience of infringing the culturally accepted norm and the law). In both cases, assuming that being committed to family values and not indulging in the consumption of drugs figure as instances of functioning well, the mere fact of preventing someone from malfunctioning can have the effect of undermining ECW by rendering the option of malfunctioning more attractive or the option of functioning well less attractive. The old refrain that prohibitionist measures are ineffective applies here.

⁶³ I have clarified this aspect of the pure negative freedom view in Ch. 1 (§1.4.2). Furthermore, as Gerald A. Cohen argues, forcing *A* to *X* requires that *A* is free to *X*, since *A* could not do what she is forced to do if she is not free to *X*. Gerald A. Cohen, ‘Are Disadvantaged Workers Who Take Hazardous Jobs Forced to Take Hazardous Jobs?’, in Gerald A. Cohen, *History, Labour and Freedom* (Oxford: Clarendon Press, 1988), pp. 239–254.

Thus, in so far as depriving people of the freedom to malfunction can undermine ECW, there is value in having the freedom to malfunction. That said, consider the following set of exceptions acknowledged by Olsaretti: in those cases in which people are *in any case* motivated to choose well even when they are rendered unfree to malfunction (or when they are forced to function well) the freedom to malfunction does not positively contribute to the fulfilment of ECW, since people would choose to function well anyway. For example, if standardly people would continue to endorse the choice of going to work, even if they were not forced to have a job by the contingency of having to earn a living, coercing them into functioning well would not have the effect of undermining ECW.⁶⁴ That said, how can *the state* access people's motivations? As Olsaretti remarks, it is possible to offer a further *epistemic* explanation of why it is valuable *from the point of view of the state* that people have the freedom to malfunction: on the assumption that the state does not have the capacity to gather the relevant information regarding whether people really endorse their choices to function well or that the state is not entitled to do so (e.g. because it would be too intrusive to collect the relevant information), one way in which the state can *know* that those who choose to function well do so because they *endorse* the choice to function well is by guaranteeing that people are not prevented from malfunctioning (i.e. that people have the opportunity to malfunction).⁶⁵ This argument appeals to the *epistemic value* of granting to people the freedom to malfunction.

⁶⁴ This example assumes, for the sake of argument, that working is *good* for persons, which is of course a controversially perfectionist claim.

⁶⁵ The cost of this strategy is that there will be some who end up lowering their functioning levels in virtue of having chosen to malfunction, while we can be assured that those who have chosen to function well endorse their choice.

3.7.2 The Freedom to Misfunction and Non-Specific Value.

In the context of this Chapter, the discussion of Olsaretti's argument matters especially because, if *any* instance of misfunctioning has value, then it is possible to derive a justification of non-specific value that overcomes the problem discussed in §3.6, which, to recall, is the problem of deriving the value of freedom from the (dis)value of *performing* disvaluable actions (like actions that severely harm others). On the other hand, Olsaretti's argument points to the value of having the freedom to *X*, because there is value in choosing to *refrain* from *X*: this move opens up the possibility of attributing value to the freedom to perform disvaluable actions, while at the same time maintaining that there is no value in *performing* such actions.

I wish to arrive at a justification of non-specific value with an argument by generalisation. Capabilities are *freedom-types*: they are general categories that group together specific freedoms to perform actions of the same type.⁶⁶ And, however the good is defined, there is value in having the freedom to *misfunction* in order to satisfy ECW. For example, one can have reason to believe that it is good for persons to practice a religious creed, be it Islam, Buddhism, or Christianity. But, to best ensure that people fully endorse their religious choices (abstracting from which *specific* religion they may believe in), there is value also in refraining from preventing people from cultivating non-religious beliefs, for example, by refraining from preventing people from attending the meetings of atheist societies. Or, if it is a good thing to stay alive, there is value in granting people the freedom to commit suicide.⁶⁷ Or, if there is value in the very general category of having the freedom to 'act', there is value also in having the freedom to 'not-act' or to 'omit to act'. Etcetera. We can repeat this argument for every

⁶⁶ The notion of 'freedom-type' comes from Carter, *A Measure of Freedom*, pp. 63-64.

⁶⁷ Rather than depriving people of the freedom to do so: e.g. suppose that the state implants micro-chips that paralyse people's actions as soon as people are willing to commit suicide.

general class of actions that one believes to be valuable in person-affecting terms (and that are *good for* persons according to an objective standard of wellbeing). And the general point that follows from Olsaretti's argument is that, *however the good is defined*, in so far as there is value in *attaining the good*, there is also value in having the opportunity to *not attain the good*.⁶⁸

The argument put forward in the previous paragraph overcomes the problem concerning non-specific value illustrated in §3.6, since it shows that there is value in having *any* opportunity, including the opportunity to perform morally impermissible actions, in order to attain ECW. Indeed, if there is value in fully endorsing the rules of morality or the principles of justice, we can extend Olsaretti's reasoning and argue that there is also value in refraining from depriving people of the freedom to perform morally impermissible actions or to act against the principles of justice. For example, to be able to fully endorse the maxim of 'not stealing', there is also value in having the freedom to steal (for example, by removing shoplifting devices from the exits of clothing shops), without of course denying the *disvalue* of *performing* the action of 'stealing'.⁶⁹ The picture of freedom-centred justice that emerges from Olsaretti's argument is grounded on the non-specific value of freedom for the achievement of wellbeing: in particular, while justice should be primarily concerned with guaranteeing that people have reasonably good opportunities to achieve wellbeing (i.e. to function well), at the same time justice also acknowledges the value of refraining from depriving people of the freedom to malfunction.⁷⁰

⁶⁸ This discussion is conducive to a freedom-centred interpretation of the capabilities approach, as a theory of justice that incorporates the non-specific value of freedom. See Carter, 'Is the Capability Approach Paternalist?', pp. 94-97.

⁶⁹ I develop this argument further with reference to the deontic reasons captured by the *Status View* in Ch. 5. In addition, the fact that in the circumstance in which obstacles to stealing were removed some people would take advantage of the freedom to steal – they would actually perform the action of 'stealing' – can be a sufficient reason to persist with the use of shoplifting devices in place.

⁷⁰ Notice that the state has no reason to promote *disvaluable* options for the sake of allowing people to fully endorse the choice to function well.

3.8 Perfectionist Ideals.

Perfectionist reasons attribute objective value to freedom. Indeed, first, they can conflict with a subjective interpretation of value: there can be perfectionist reasons to attain a perfectionist good *X*, even if an individual does not desire to attain *X*. Second, the attainment of perfectionist goods can be in contrast with other objectively valuable goods, like wellbeing: it can be *good* to attain a perfectionist good even if this might risk undermining personal wellbeing, as in the case in which it may be good (in the perfectionist sense) for an athlete to strive to attain excellence, even if living a very disciplined life may entail putting a strain on personal relationships.⁷¹ I shall focus on two distinct perfectionist understandings of the good: the *human essence* account and the *human excellence* account. The human essence account claims that there is such a thing as the ‘good human life’,⁷² and that ‘the human good rests somehow in human nature.’⁷³ Thomas Hurka is a proponent of this view: he suggests that the ‘well-rounded’ human life is a life in which humans develop and exercise their physical capacities that allow them to function well as living beings, as well as the capacity for practical and theoretical rationality, which is what properly distinguishes them as humans. The agency-based and the autonomy-based account of the value of freedom discussed below are versions of the human essence account. On the other hand, the ‘Persons of Genius Argument’ – analysed in the next Section (§3.9) – that Mill develops in *On Liberty* appeals to the human excellence account.

⁷¹ As Thomas Hurka puts it, ‘in my view, perfectionism should never be expressed in terms of wellbeing. It gives an account of the good human life, or of what is good in a human, but not of what is “good for” a human in the sense tied to well-being’, Thomas Hurka, *Perfectionism* (Oxford: Oxford University Press, 1993) pp.17-18.

⁷² Ibid., p. 16.

⁷³ Ibid., p. 4.

3.8.1 The Human Essence Account: Freedom and Agency.

I shall start by analysing the connections between agency and the value of freedom, assuming Carter's understanding of agency. For Carter, freedom is non-specifically *constitutively* – rather than instrumentally – valuable for agency, and having freedom is a logical condition for the achievement of agency.⁷⁴ While arguments premised on the instrumental value of freedom are challengeable on empirical grounds, asserting the constitutive value of freedom means establishing an *analytical* or *conceptual* connection between freedom and the value in question (in this case, agency). In order to clarify the relationship between freedom and agency, we need to analyse the conceptual relationships between freedom, agency, and a third term: freedom of choice. Let us distinguish between 'freedom *simpliciter*' – the freedom to do an action *X* – and 'freedom of choice', which is the possibility of engaging in a deliberative process that leads to the '*reasoned* selection' of an option 'on the basis of a reason'.⁷⁵ Further, Carter defines the value of agency as follows:

The Value of Agency: The value of agency consists in 'our ability to make an impact on the world, by intervening in the causal chains which bring about events and states of affairs.'⁷⁶

⁷⁴ Carter, *A Measure of Freedom*, §2.5.

⁷⁵ Ian Carter, 'Choice, Freedom, and Freedom of Choice', *Social Choice and Welfare*, Vol. 22, No. 1, 2004, pp. 61-81, see pp. 66-67, emphasis in original. Notice that this leaves entirely open the *kind* of reason that can inform a choice. So, bad choices and good choices (i.e. choices for the wrong or right type of reasons) both qualify as choices. Carter also claims that standardly the choice of an option is the choice of doing *an action*, or it is a choice that involves the doing of an action. For example, the choice between two types of food is typically a choice concerning which food *to eat*. Therefore, an individual performs certain actions as a consequence of what she has chosen. It is plausible to think of exceptions to this latter claim – one can make a reasoned selection of what is the best restaurant in town without necessarily intending *to go* to such a restaurant – but to keep things simple we should focus on choices to perform actions or that involve the performance of actions.

⁷⁶ Carter, *A Measure of Freedom* p. 42.

Freedom simpliciter is constitutively valuable for what can be called *valuable freedom of choice* (henceforth v-freedom of choice), the kind of freedom of choice that has contributory value for agency. Indeed, we should concede that one can be free to choose to perform an action that one would anyway be *unfree* to do: for example, I can make a reasoned selection among the food options on a menu, and then discover that the restaurant has run out of the particular food option that I have selected. If so, freedom simpliciter is *not* necessary for freedom of choice.⁷⁷ However, having a degree of freedom simpliciter is constitutively valuable for v-freedom of choice: the kind of freedom of choice that has contributory value for agency is the freedom to choose between options that one is free to do, since being free to do *X* is necessary to have the possibility to make a causal impact on the world. So, although freedom simpliciter is not strictly speaking necessary for freedom of choice, it is necessary for v-freedom of choice. Moreover, *having a degree of freedom simpliciter and of v-freedom of choice* is constitutively valuable for the kind of agency that can make an impact on the world (henceforth v-agency). Indeed, to make an impact on the world one needs the *freedom to choose and to do otherwise*, since agency has an impact when things could have gone differently, and one needs *a degree of freedom and of v-freedom of choice* in order to contribute to determine the course of the events. As Carter claims, the more choice we have, the greater is our potential for having an impact on the world:

‘we value having *more* choice rather than *less*. The more times we are able to say no [to bringing about or contributing to bringing about certain events], the more impact we will have on the world when we *do* choose, and hence the more value there is in our situation.’⁷⁸

⁷⁷ Olsaretti observes this point in *Liberty, Desert, and the Market*, p. 141.

⁷⁸ Carter, *A Measure of Freedom*, p. 43, emphasis in original.

Since for Carter there is value in agency when agency has an impact in the world, in cases of overdetermination in which an individual contributes to bringing about certain events *without contributing to changing the course of the events* (since the event would have occurred anyway), agency lacks the kind of value that Carter attributes to it.⁷⁹ For example, if the falling of a boulder perching on the edge of a cliff would have occurred anyway even without *A*'s kicking of the boulder, since a gust of wind that blew exactly when *A* kicked the boulder was sufficient to remove the boulder from where it was standing, then *A*'s action of kicking the boulder lacks the kind of value that Carter attributes to agency, since it did not contribute to having an *impact* on the causal chain of events by changing its natural direction. That said, notice that it is possible to adopt an *alternative* account of the value of agency, one according to which, the action of an individual agent (*A*'s kicking of the boulder) is an expression of valuable agency in virtue of being the causal *source* that brings about the event (the removal of the boulder), even in cases of overdetermination (i.e. even if the event would have occurred anyway).⁸⁰ However, since the arguments of this Section are internal to Carter's theory of agency, I shall not explore this alternative account further.

Since constitutive value establishes analytical connections between values, a relationship of transitivity holds between values connected by relationships of constitutive value, since each value is a *component* of something else of value. In particular, if *A* has constitutive value for *B*, and *B* has constitutive value for *C*, *A* has constitutive value for *C*. This basic point bears some significance for understanding the relationship of value between freedom (of choice) and

⁷⁹ For a discussion of overdetermination and freedom, see Kramer, *The Quality of Freedom*. Ch. 4.

⁸⁰ Indeed, this is the account of the value of agency that one can infer from Harry Frankfurt's seminal essay 'Alternate Possibilities and Moral Responsibility', *Journal of Philosophy*, Vol. 66, No. 23, 1969, pp. 829-839.

agency. In particular, it is correct to say that having a degree of freedom simpliciter has constitutive value for v-agency, because having a degree of freedom simpliciter is a necessary component of v-freedom of choice, which in turn has constitutive value for v-agency. This point reminds us that, although it is correct to say that freedom simpliciter has constitutive value for (*valuable*) agency, what we really mean is that freedom simpliciter is an analytical component of v-freedom of choice, which is in turn a component of valuable agency. In other words, there is a middle term – freedom of choice – that we can omit in common parlance, but that is essential to understand the nitty-gritty of the connective analysis of values, when the values in question are freedom and agency.

3.8.2 Agency and the Non-Specific Value of Freedom.

Does freedom have non-specific value for v-agency (henceforth simply ‘agency’)? One may think that, since agency is valuable only when it is directed towards the pursuit of valuable ends, there is value in having only those freedoms that allow an individual to pursue valuable ends, however ‘valuable’ is defined. Now, focusing on the issue of the value of having the freedom to perform morally impermissible actions (like actions that severely harm others), although the *performance* of severely wrong actions is of course disvaluable, there can be value in having the *freedom* to perform severely wrong actions. In particular, having a degree of freedom of choice that includes the *freedom* to choose to refrain from performing a severely wrong action, as well as the freedom to perform a severely wrong action, is constitutively valuable for agency, since one makes a considerable impact on the world by refraining from performing a severely wrong action. When we refrain from severely harming others, our choice has considerable impact, since things could have gone otherwise, and others (or their interests) could have been harmed. That said, of course, there can be a number of valid

reasons why the value of freedom can be overridden and that justify depriving someone of the freedom to perform a severely wrong action, which crucially include the fact that someone may indeed intend to perform the action in question. As illustration of the argument introduced in this paragraph, consider that the non-specific value of freedom is apparent in cases of heroism in which an individual is asked to perform a morally impermissible action under conditions of duress, as in the following example:

Captured Soldiers: Soldiers *A* and *B* are captured by guerrilla members, one of whom (*C*) orders *A* to stab *B* to death, or *A* will be shot dead, since only one of the two soldiers will be allowed to remain alive. *A* is given one hour to think about the decision. After the hour passes, *A* refuses to execute the order, and is thereby killed by *C*.

A's refusal to kill *B* can be plausibly described as a supererogatory act under conditions of duress, which crucially requires that *A* is free to refrain from killing *B* (as well as the freedom to kill *B*). *Captured Soldiers* shows that there is value in having the freedom to perform severely wrong actions, since there is of course value in refraining from performing such actions. Such a value is indeed apparent in cases in which one is forced to commit a hideous crime and refuses to do so, bearing the consequences of the decision to act rightly. We should, therefore, conclude that it is possible to derive the non-specific value of freedom from the value of agency, since non-specific value ranges over any instance of freedom (see Chapter 1, §1.3), and having a degree of freedom to perform morally impermissible actions, as well as morally permissible actions, has constitutive value for agency.

3.8.3 Autonomy and the Non-Specific Value of Freedom.

Autonomy is an ideal of self-government:⁸¹ it can be interpreted as a *local property* – as a property of choices or desires – or as a *global property* – as a cross-temporal attribute of people’s lives and as a trait of people’s personality, which encompasses certain behavioural attitudes (such as spontaneity or individuality). The ‘hierarchical’ models of autonomy, according to which autonomy consists in a harmonious ordering of the individual’s desires, are prominent examples of autonomy as a local property. On such models, an *autonomous* desire aligns with the individual’s higher-order desires (the desires over his first-order desires).⁸² To illustrate this view, a classic example is the case of the unwilling drug consumer, who cannot refrain from taking drugs (i.e. from acting on his first-order desire), thereby failing to be motivated by his second-order desires for getting rid of his addiction.

Now, if autonomy is understood as a property of choices, having a degree of freedom as such is constitutively valuable for autonomy: as Kramer emphasises, autonomy requires not only the freedom to choose the good – the course of action that maximises the individual’s own good – but also the freedom to choose badly, to choose courses of actions whose attainment would be detrimental for the realisation of the individual’s own good. An individual has *more* opportunities for autonomy not just when the individual’s freedom to choose among a range of valuable options is increased, but also when the individual is free to choose courses of actions that turn out to be detrimental for the realisation of the individual’s own conception of the good. Although this does *not* entail a reason for the state to *create* or to promote disvaluable

⁸¹ For context, see James Stacey Taylor (ed.), *Personal Autonomy. New Essays* (Cambridge: Cambridge University Press, 2005).

⁸² Gerald Dworkin *The Theory and Practice of Autonomy* (Cambridge: Cambridge University Press, 1988); Harry Frankfurt, ‘Freedom of the Will and the Concept of a Person’, *The Journal of Philosophy*, Vol. 68, No. 1, 1971, pp. 5-20.

options, it does entail a reason to leave the individuals free to choose *badly*, to choose courses of actions that are detrimental for the individuals' own wellbeing.⁸³ Conversely, when an individual chooses in a context of limited options, the autonomy of the person in question is correspondingly impaired. Indeed, as Kramer remarks, in such circumstances:

‘although *ex hypothesi* [the individual in question] has persistently arrived at apposite decisions for solid reasons, she has not been in a position to decide against following many contrary paths. She has not enjoyed a substantial set of opportunities to exert herself as a choosing agent with an ample degree of control over what she does and what happens to her.’⁸⁴

That said, Carter's remarks on autonomy in *A Measure of Freedom* align with a conception of autonomy as a global property. For example, Carter quotes Lawrence Crocker, according to whom the ‘autonomy complex’ requires certain types of attitudes such as ‘many acts of risk taking, holding to principle, sacrificing, compromising, admitting mistakes, and struggling through’,⁸⁵ and Mill, according to whom among the constitutive elements of autonomy figures ‘individual spontaneity’, a personal trait that Mill argues has ‘intrinsic worth ... deserving ... regard on its own account’.⁸⁶ While, if we interpret autonomy as a local property there is value

⁸³ The implicit target of this argument is Raz, *The Morality of Freedom*. See Kramer, *Liberalism with Excellence*, Ch. 5.

⁸⁴ Kramer, *Liberalism with Excellence*, p. 203.

⁸⁵ Carter, *A Measure of Freedom*, p. 59.

⁸⁶ Cited by Carter in *A Measure of Freedom*, p. 59. As Ben Colburn argues, global conceptions can acknowledge that ‘to be an author of one's own life one must, in practical terms, strive to bring one's first-order attitude in line with one's higher-order attitudes’ (Colburn, *Autonomy and Liberalism*, p. 13). That is, even on a global conception of autonomy we can ask which conditions render a deliberative process sufficiently autonomous.

in having the freedom to perform (severely) wrong actions because there is value in *refraining* from choosing to perform severely wrong actions, an analogous argument does not apply to an account of autonomy as a global property.

As a global property, it is hard to believe that there can be value in having the freedom to perform severely wrong actions such that an agent can attain the behavioural components that characterise the autonomy complex, like committing mistakes, struggling through, etc. Surely, when it comes to severely wrong actions, what matters is that people (autonomously) reach the right decision, and the eventual value of struggling through reaching the right decision should be balanced with the risk of committing mistakes by choosing the wrong course of actions that leads to the infliction of severe harms to others. The argument from autonomy as a global property is indeed better applied as a justification for the value of freedoms to perform *self-regarding* actions, including the freedoms to perform actions that are bad in persons-affecting terms for the individual's own good. There is indeed value in having the freedom to perform actions that are bad in persons-affecting terms because the behavioural components of the autonomy complex (spontaneity, making mistakes, struggling through, etc.) are essential to building an autonomous personality that strives to attain the good in a personal way.⁸⁷ The best interpretation of the argument from the autonomy complex is an interpretation of the value of freedom that assumes the *narrow* definition of freedom's non-specific value that ranges over the freedoms to perform *any self-regarding actions* that directly affects the interests of the individual in question (see §3.6).

⁸⁷ Nonetheless, there is something to be said about the argument from autonomy as a global property, in so far as the behavioural components of autonomy are valuable to build the moral character of a person who refines through everyday moral choices her capacity to exercise her moral judgement and to reach autonomous deliberations.

3.9. Mill's Persons of Genius Argument.

Consider the human excellence account, which emphasises the value of developing the best human faculties. In particular, in this Section I wish to examine perfectionist reasons to value freedom in Mill's *On Liberty*, focusing on Mill's Persons of Genius Argument (henceforth PGA), and questioning its elitist nature.

3.9.1 Mill's Persons of Genius Argument.

According to PGA, there is an objective reason to grant to *everyone* (i.e. every adult member of a given society) the greatest degree of freedom because this creates the best conditions *for some* – a restricted minority of persons of genius – to flourish. In Mill's own words:

Mill's Persons of Genius Argument (PGA). 'Persons of genius, it is true, are, and are always likely to be, a small minority; but in order to have them, it is necessary to preserve the soil in which they grow. Genius can only breathe freely in an *atmosphere* of freedom.'⁸⁸ (emphasis in original).

A number of clarifications are in order. First, of course for Mill there are decisive reasons to maximise people's freedom to perform self-regarding actions that are *independent* from whether maximising freedom also allows persons of genius to flourish. Indeed, maximising people's freedom is for Mill the best way to promote general utility,⁸⁹ and Mill ultimately justifies PGA in consequentialist terms: with a trickle-down argument that emphasises that persons of genius will greatly contribute to societal advancement, thereby creating benefits for

⁸⁸ Mill, *On Liberty*, p. 72.

⁸⁹ For example, because each individual is the best judge of their own interests.

everyone.⁹⁰ That said, I shall take PGA at face value – as providing reasons to maximise people’s freedom *exclusively* because this allows the persons of genius to flourish. Second, since Mill’s argument justifies the maximisation of people’s freedom to perform self-regarding actions that are compatible with the Harm Principle, it should be taken to be premised on what I have called ‘the narrow version of non-specific value’ (§3.6). Third, in order to analyse the value of freedom for the achievement of excellence, I wish, first, to situate PGA within Mill’s more general perfectionist framework.

In *On Liberty* Mill famously praises excellence and individuality. And ‘persons of genius’ are individuals who excel in the creative and autonomous development of their talents and of the best human faculties. It can be asked whether Mill adopts a narrow interpretation of excellence, which is possible to achieve in the exercise of a *specific* set of intellectual talents (e.g., philosophical talent, artistic talent, mathematical talent). Abstracting from questions of exegesis, I shall adopt a broader and pluralist interpretation of ‘genius’ that leaves *unspecific* the definition of the kinds of activities in which human genius expresses itself, and which is faithful to the spirit of *On Liberty*.⁹¹ For example, according to a contemporary pluralist definition of genius that fits well with Mill’s views in *On Liberty*, persons of genius are ‘talented individuals who have shown extraordinary originality and dedication in their creative pursuits and a marked capacity for self-direction.’⁹² The open-ended nature of a pluralist definition is in keeping with the spirit of *On Liberty*, since it allows to capture the number of

⁹⁰ Moreover, the contribution of persons of genius to societal progress is far greater than the contribution of the ordinary man, and that persons of genius succeed at realising at the highest level the best human faculties, which is in itself a valuable achievement in Mill’s overall perfectionist outlook.

⁹¹ For example, Mill remarks that ‘there is always need of persons not only to discover new truths, and point out when what were once truths are true no longer, but also *to commence new practise, and set the example of more enlightened conduct, and better taste and sense in human life*’, Mill, *On Liberty*, p. 71, emphasis mine.

⁹² I draw this definition from the website of the MacArthur Foundation: <https://www.macfound.org/programs/fellows/strategy/>.

ways in which single individuals can excel, innovate, and make exceptional contributions to the progress of human society.

3.9.2 Is Mill's Persons of Genius Argument Elitist?

PGA can be challenged on empirical grounds, by arguing that maximising people's freedom is *not* the most efficacious way of attaining excellence: maybe, in a Platonist vein, an intense programme of forced education for a restricted group of highly skilled individuals fares better at promoting excellence in a given society.⁹³ I shall not challenge PGA on these grounds: I shall take at face value Mill's claim that persons of genius need the 'soil' of freedom to creatively use their talents and to fully develop their personalities.⁹⁴ Instead, my question is the following: why is there a reason to maximise *everyone's* freedom if only 'a small minority' of persons of genius will flourish? Is Mill's PGA an *elitist* argument? Addressing such a question means investigating the *justificatory grounds* of PGA.

If PGA is an elitist argument, then maximising everyone's freedom is justified because persons of genius can flourish only in 'an atmosphere' where *everyone* has maximal freedom: this would entail maximising everyone's freedom for the sake of benefiting a small minority of persons of genius.⁹⁵ And promoting the freedom of those who are not persons of genius would be justified as having value-for-others (i.e. because it benefits a small minority of persons of genius). In Chapter 2, I have examined the problematic nature of value-for-others reasons, when such reasons are taken as moral foundations of freedom-centred justice. Moreover, analogously to the analysis conducted in Chapter 2, as far as PGA is concerned, there can be

⁹³ Plato, *The Republic*, ed. by G. R. Ferrari and trans. by Tom Griffith (Cambridge: Cambridge University Press, 2000).

⁹⁴ Moreover, for Mill, *autonomously* attaining excellence, without being forced to do so, is also constitutive of excellence.

⁹⁵ I have introduced the distinction between value-for-others and personal value in Ch. 2 (§§2.2-2.3).

some people who could all things considered benefit *more* if they had less freedom, even if everyone pro tanto benefits from having (maximal) freedom. To illustrate this point, consider the following example: maximal freedom in the financial market, including the freedom to make risky financial operations, may allow talented brokers to flourish and to fully express their talent, but also expose those who are less endowed with the analytical skills necessary for handling the complexities of financial markets to the risk of economic harm. If so, in a society in which everyone's freedom is maximised there would be some (i.e. those who are less endowed with the required analytical skills) who could *all things considered* benefit more by having less economic freedom, and who could have reason to complain of being rendered worse off in a system in which everyone's freedom is maximised and market regulations are lifted. Moreover, such persons may legitimately press the point that they do not see why everyone's (economic) freedom should be maximised for the sake of allowing a small minority of talented persons to develop their analytical skills (in the financial market).

That being said, in what follows I want to develop further my analysis of PGA, and to question whether PGA should necessarily be interpreted as an elitist argument. In order to do so, we should render explicit that PGA, in my view, relies on an unexpressed premise: the *ex ante* ignorance of who will be in the restricted group of people that can become persons of genius. In fact, if we (or the state) cannot *know* in advance who will succeed in becoming a person of genius, there is value in granting to everyone the greatest degree of freedom, in order to have the largest pool of candidates who can become persons of genius: since we cannot determine *ex ante* who will become a person of genius, we can discover it *in fieri* by seeing – as in a chemical reaction – who most positively reacts with the reagent 'freedom'.⁹⁶

⁹⁶ Notice that, if one instead adopts a narrower interpretation of genius that ranges over some specific intellectual talents (e.g. mathematical talent, artistic talent, etc.), it can be possible to determine that

Given these premises, it is possible to identify two readings of PGA: 1) an elitist reading, and 2) a non-elitist reading. 1) On the *non-elitist* reading of PGA, and assuming the pluralist definition of genius indicated above, *almost everyone* has the potential to become a person of genius but only a few will succeed (for example, due to it being very hard to achieve excellence).⁹⁷ If so, then maximising everyone's freedom is justified because everyone *can* achieve excellence. In other words, this version of PGA is premised upon the *personal value* that having maximal freedom has for everyone, since everyone has the potential for excellence (even if only a small minority will actually succeed).⁹⁸

On the other hand, 2) on the alternative *elitist* interpretation of PGA, maximising *everyone's* freedom is justified even if only *some* have the potential to become persons of genius: that is, even if only some have the right mix of motivational attitudes, innate creativity, and perseverance to attain excellence. On such a reading, the reason why everyone's freedom should be maximised is because it is impossible to know *ex ante* who possesses/lacks the relevant mix of skills and dispositions.⁹⁹ The elitist interpretation is premised upon the recognition of the value that maximising everyone's freedom has *only for those who have the potential to become persons of genius* – a restricted minority of people who can attain excellence. This interpretation justifies maximising everyone's freedom even if only some can actually attain excellence, and it is therefore objectionable on grounds that maximising

some people do not possess the relevant level of mathematical or artistic capacities, and, if so, the pool of initial potential candidates will be smaller.

⁹⁷ And/or that the right type of external circumstances (including a degree of good luck) need to concur as essential ingredients for making possible such an achievement.

⁹⁸ Furthermore, the achievement of excellence can be interpreted in *relative* rather than *absolute* terms: that is, even if not everyone can acquire the high level of perfection achieved by persons of genius, everyone can aim to the fullest development of one's own talents, thereby aiming to achieve a level of excellence relative to one's initial talents.

⁹⁹ Given our present technology, or because the state would be intrusive or act disrespectfully if it attempted to measure people's 'potential for genius'.

everyone's freedom *exclusively* for the sake of benefiting only a restricted minority (those who can become persons of genius) does not take into account the interests of those who do not have the potential to become persons of genius, thereby also failing to address to everyone why everyone's freedom should be maximised.¹⁰⁰

3.10 The *Benefit View* as Moral Foundation of Freedom-Centred Justice.

In the final Section of this Chapter I aim to complete the discussion of the *Benefit View* as a moral foundation of freedom-centred justice, which is the unifying theme of this Chapter. I shall first present a critique of grounding freedom-centred justice on perfectionist foundations (§3.10.1), before examining whether freedom-centred justice can be grounded exclusively on the kind of axiological reasons captured by the *Benefit View* – i.e. reasons to value freedom non-specifically because freedom has contributory value for the achievement of goods that are valuable in person-affecting terms (e.g. wellbeing, autonomy, agency, human excellence).

3.10.1 A Critique of the Perfectionist Foundations of Freedom-Centred Justice.

The arguments that connect the value of freedom to agency, autonomy, and excellence, examined in §§3.8-3.9, represent perfectionist foundations of freedom-centred justice: they offer reasons to promote freedom in order to attain a perfectionist ideal of the good life (variously interpreted, as the autonomous life, as the ideal of a life of agency, or of excellence). In criticising the perfectionist foundations of freedom-centred justice I draw on the arguments put forward by political liberals and anti-perfectionists who reject the perfectionist foundations of political morality on grounds of *neutrality of justification*. The principle of neutrality of

¹⁰⁰ See my discussion of value-for-others reasons in Ch. 2, §2.3

justification claims that state action – and therefore also the implementation of the principles of justice –¹⁰¹ cannot be validly justified by appealing to reasons that fail to meet a test of neutrality among reasonable conceptions of the good.¹⁰² This view is endorsed, for example, by Brian Barry and Rawls.¹⁰³ The neutralist critique claims that justifying the use of the coercive power of the state by appealing to perfectionist reasons entails imposing the judgement that the good life aims at attaining perfectionist goods (e.g. autonomy, agency) also on those who can reasonably disagree and who endorse a non-perfectionist conception of the good. From the point of view of justice, this is morally problematic, since, as Rawls claims, reasonable disagreement about the good and about matters of ethical significance is a fact that characterises complex modern societies and is justifiable, given the burdens of judgement.¹⁰⁴ In particular, on such a view it would be *disrespectful* for those who do not endorse a perfectionist view of the good life if state action were justified by appealing to perfectionist reasons.¹⁰⁵ As Brian Barry puts it, ‘at the point where basic principles and rules are being drawn up, no conception of the good should be given a privileged position.’¹⁰⁶

¹⁰¹ Simon Caney notices that neutralists like Barry and Rawls confine the role of neutrality to the justification of state action in so far as the principles of justice are concerned. This is compatible with *not* endorsing ‘full neutralism’, which would instead extend the role of neutrality to other domains of political morality, such as ‘to enact legislation protecting beautiful landscapes, promoting the arts, and preserving ancient buildings since none of these concern matters of justice’: Simon Caney, ‘Impartiality and Liberal Neutrality’, *Utilitas*, Vol. 8, No. 3, 1996, pp. 273-293, at p. 274. It is debatable whether art promotion, the protection of cultural heritage, etc. do not pertain to the domain of justice. However, what matters is that, for the purposes of this chapter, I confine the role of neutrality to the justification of the principles of justice.

¹⁰² Neutrality of justification is distinct from neutrality of effects: the same policy can be justified on different grounds while always reaching the same effects.

¹⁰³ Brian Barry, *Justice as Impartiality* (Oxford: Oxford University Press, 1995); Rawls, ‘Introduction’ in Rawls, *Political Liberalism*, pp. xiii-xxxiv. For a discussion of Rawls’s transition from *A Theory of Justice* to *Political Liberalism*, see Simon Caney, ‘Anti-Perfectionism and Rawlsian Liberalism’, *Political Studies*, Vol. 43, No. 2, 1995, pp. 248-264.

¹⁰⁴ That is, given the intractable nature of ethical issues (such as, the permissibility of abortion) that cannot be solved by appealing to contrasting empirical evidence, or given the legitimacy of pluralism about the good and about different ways of balancing conflicting values. On Rawls and the burdens of judgement, see Rawls, *Political Liberalism*, pp. 54-58.

¹⁰⁵ If neutrality is justified on respect-based grounds, it endorses a second-order level of neutrality: a neutral justification of neutrality among reasonable conceptions of the good. See Charles Larmore, *The Autonomy of Morality* (New York: Cambridge University Press, 2008), Ch. 6.

¹⁰⁶ Brian Barry, *Justice as Impartiality*, p. 160.

The respect-based objection illustrated in the previous paragraph can be applied to the perfectionist foundations of freedom-centred justice. If freedom-centred justice is premised on perfectionist reasons to value freedom because freedom has contributory value for the achievement of agency or autonomy, freedom-centred justice fails to meet a test of neutrality of justification, which anti-perfectionists like Barry and Rawls derive from a more fundamental principle of respect for persons. Indeed, the autonomy-based and the agency-based moral foundations of freedom-centred justice purport to show that *a life of freedom* is *the good life*, since such a life allows people to attain autonomy – to direct one’s life according to the values that one holds dear – or because it allows people to exercise their agency by making choices that have an impact in the world. Now, appealing to axiological reasons of this type is non-neutral among different reasonable conceptions of the good, since people can disagree about whether the good life is the autonomous life or a life of agency. For example, suppose that someone rejects the agency-based account of the good on grounds that human agency is *disvaluable* (rather than valuable) on balance, because, from the point of view of the equilibrium of the ecosystem, humans do more harm than good (e.g. they contribute to severely compromising the planet’s biodiversity). Someone who endorses this reasonable view can favour restricting (rather than promoting) people’s freedom, for the sake of minimising the detrimental effects of human agency on the environment (while perhaps also caring that people reach a sufficient level of objective wellbeing). The main point that matters is that the agency-based moral foundation of freedom-centred justice fails to meet a test of neutrality of justification, since it is a foundation of freedom-centred justice that privileges *a life of freedom and of agency* as the good life, and thereby can be rejected on grounds that it fails to respect the views of those who do not hold an agency-based account of the good life. Analogously, consider the autonomy-based moral foundations of freedom-centred justice: in particular,

suppose that someone holds a conception of the good that favours sticking to traditional communitarian values (e.g. family values, religious values, etc.) rather than to a life where positive value is attributed to choosing which religion to believe in, which partner to marry, etc. Justifying freedom-centred justice by appealing to the autonomy-based account would entail failing to adequately justify the principles of justice to those who do not hold an autonomy-based conception of the good.¹⁰⁷ Hence, we should conclude that the perfectionist foundations of freedom-centred justice should be rejected.

3.10.2 Does the *Benefit View* Need to Appeal to Deontic Reasons?

It is possible to ground freedom-centred justice on the *Benefit View* (i.e. on the claim that it is *good for* persons to have freedom) without failing to meet a test of neutrality of justification. For example, if it is possible to arrive at a *political* justification of wellbeing and the endorsement of valuable functionings is a component of wellbeing (Olsaretti's argument examined in §3.7), or if having a measure of freedom as such is valuable for the achievement of wellbeing, *subjectively* interpreted as the satisfaction of people's desires (Carter's argument examined in §3.6). Indeed, if having a measure of freedom as such is valuable for the attainment of people's desires, *whatever they may be*, then *every* conception of the good can converge on acknowledging the objective value of having freedom, since having freedom is a condition for realising *any* conception of the good. And, thus, the moral foundation of freedom-centred justice premised on the non-specific value of freedom for the achievement of people's desires meets the test of neutrality of justification.

¹⁰⁷ An analogous argument can be made for Mill's PGA (and, more generally, for Mill's views on the value of freedom in *On Liberty*), in so far as a perfectionist foundation of freedom-centred justice premised on PGA can be reasonably rejected by those who do not endorse a view of the good life as the attainment of personal excellence.

That said, the final point that I wish to make in this Chapter is that, unless one endorses an entirely subjective account of wellbeing as the satisfaction of people's desires, a freedom-centred theory of justice that is grounded on versions of the *Benefit View* that claim that freedom has objective contributory value for the achievement of perfectionist ideals (agency, autonomy) or of wellbeing objectively interpreted as the attainment of certain functioning levels, justifies having all things considered reasons to protect only certain *specific* and valuable freedoms, *unless such a theory also appeals to deontic reasons to refrain from interfering with people's freedom as such*.¹⁰⁸

Since, according to the *Benefit View*, having freedom has value in virtue of freedom's contributory value for the achievement of other valuable goods, such other valuable goods ground, morally speaking, the interest in freedom (see Chapter 2, §§2.5-2.6).¹⁰⁹ Now, from this it follows that a freedom-centred theory of justice that is premised upon the kind of reasons captured by the *Benefit View* is necessarily *pluralist*, since it must encompass at least the value of freedom and the value that freedom non-specifically contributes to achieve (e.g. wellbeing, autonomy, etc.). Indeed, as Carter claims:

‘The ideal of freedom need not of course be the *only* object of a freedom-based theory of justice. Such a theory must, however, be based on that ideal among others. Thus, a freedom-based theory of justice can also be, say, utility-based,

¹⁰⁸ As Kramer claims, ‘consequentialist considerations about the goodness of states of affairs for individuals are not in themselves *sufficient* to support a robustly liberal position on the matter of the proper limits of law [...]’, Kramer, *Liberalism with Excellence*, p. 252.

¹⁰⁹ I have indeed introduced Strawson's connective analysis in Ch. 2 (§2.6).

as long as it contains some rule for weighing or ranking the competing claims of freedom on the one hand and utility on the other.¹¹⁰

Notice that, if freedom-centred justice is pluralist, then it needs to identify some way of weighing up different values.¹¹¹ In particular, if having freedom is valuable *for the sake of* attaining other valuable goods, such valuable goods (i.e. the goods that freedom contributes to achieve) should be given a certain *priority* in the balancing of values that informs the principles of justice. And, in principle, *paternalistic restrictions* of people's freedom can be justified for the sake of attaining or not compromising the goods that freedom contributes to achieve.

For example, consider the argument that connects the non-specific value of freedom to the achievement of wellbeing, objectively defined as the attainment of certain functioning levels (Olsaretti's argument examined in §3.7). As we have seen, in so far as the endorsement of valuable functionings is also a component of wellbeing, there is value in allowing people the freedom to malfunction. However, if we have reason to believe that, if people have the freedom to consume hard drugs, many will indulge in the consumption of drugs and will consequently compromise their functioning levels,¹¹² surely one aspect of wellbeing – *attaining* certain functioning levels (such as, being in good health) or not compromising such an attainment (such as, not compromising one's cognitive abilities) – has priority over the *endorsement* component of wellbeing, and there can be paternalistic reasons to restrict people's freedom (i.e. to deprive people of the freedom to malfunction) in order to attain the functionings in question. This is a case in which the attainment of two distinct components of the good that freedom

¹¹⁰ Carter, *A Measure of Freedom*, pp. 68-69.

¹¹¹ The fact that we do not find a discussion of how to adequately balance freedom with other values in Carter's writings on freedom is, I think, telling of Carter's failure to distinguish between axiological and deontic reasons to justify the value freedom in *A Measure of Freedom*.

¹¹² Assuming that indulging in the consumption of hard drugs qualifies as malfunctioning.

contributes to achieve (i.e. (1) a functioning attainment and (2) endorsement) conflict, which, can in turn justify having an all things considered reason to paternalistically restrict people's freedom.¹¹³

The main point of this discussion is that an account of freedom-centred justice that is premised on an *objectivist account of the good* – and, in particular on reasons to believe that freedom has objective value for the attainment of agency, autonomy, and wellbeing (objectively interpreted) – can be pluralist: but, in so far as on the *Benefit View* one only *pro tanto* benefits from having freedom, this can justify having all things considered reasons to paternalistically deprive people of the freedom to malfunction for the sake of ensuring that people attain – or refrain from compromising – the objectively valuable good that freedom contributes to achieve.

If so, first, notice that this argument does not apply to an exclusively subjectivist account of wellbeing as desires satisfaction. Second, if the arguments presented in the previous paragraphs are correct, a freedom-centred theory of justice that is premised *exclusively* on the kind of reasons indicated above (i.e. reasons to believe that freedom has objective contributory value for the achievement of perfectionist ideals or of wellbeing objectively interpreted as the attainment of certain functionings) would converge with alternative liberal views that recognise only the (content-dependent) value of certain specific liberties on prescribing to protect or promote only certain specific and valuable liberties, rather than freedom as such.

¹¹³ Note that an analogous point also applies to the perfectionist foundations of freedom-centred justice, rejected in §§3.8-3.9. For example, consider the contributory value that freedom has for the achievement of autonomy: there can be paternalistic reasons to restrict people's freedom to consume hard drugs, if performing the actions that freedom allows to do (i.e. consuming hard drugs) in the long run has detrimental effects on the cognitive and mental capacities that are prerequisites for autonomy.

Notice that such freedom-centred approaches *are* distinct from alternative theories that assign only *specific* value to freedom (and which classify certain freedoms as worthless or disvaluable), since freedom-centred justice is grounded on the assumption that freedom has non-specific value. However, if paternalistic restrictions on people's freedom can be all things considered justified in order to ensure that people attain or refrain from compromising the objectively valuable goods that freedom as such contributes to achieve (e.g. wellbeing, autonomy), then freedom-centred justice would lose much of its grip, since it would be incapable of offering *decisive* (i.e. all things considered) reasons to promote freedom as such, *rather than only certain specific and objectively valuable liberties*, in those instances in which protecting the freedom to misfunction risks of compromising the attainment of the valuable good(s) that freedom contributes to achieve (e.g. wellbeing, autonomy). Under such circumstances, the freedom-centred approaches considered above would converge with alternative liberal views that recognise only the (content-dependent) value of certain specific liberties on prescribing to protect or promote only certain specific and valuable liberties (rather than freedom as such).

I conclude that freedom-centred approaches that are premised on reasons to value freedom because freedom contributes to the achievement of perfectionist ideals or of an objectivist account of wellbeing cannot provide the right type of support to freedom-centred justice's commitment to distribute and promote freedom as such, unless such approaches *also* appeal to *all things considered* deontic reasons to refrain from interfering with people's freedom, since only such reasons can be decisive in neutralizing the freedom-restricting effects of paternalism. I examine deontic reasons to value freedom in Chapter 5 and Chapter 6 of this thesis.

3.11 Conclusion.

In this Chapter I have offered an in-depth examination of the *Benefit View* as a moral foundation of freedom-centred justice. The *Benefit View* claims that people are benefited by having (more) freedom, because having freedom is *good for* persons. The Chapter has clarified the sense in which people are pro tanto benefited by having (more) freedom, and it has examined the many senses in which it can be good for persons to have freedom. In particular, I have argued that a freedom-centred theory of justice that assumes the *Benefit View* as its moral foundation should appeal to the objective value of freedom – i.e. to the contributory value that freedom has for the achievement of wellbeing, human excellence, agency, and autonomy – and that the subjective value of freedom plays a role in fulfilling the stability condition of freedom-centred justice. Second, I have put forward a critique of the perfectionist foundations of freedom-centred justice. Third, I have argued that a freedom-centred theory of justice that is premised on reasons to believe that people are pro tanto benefited by having (more) freedom because freedom has contributory value for the achievement of wellbeing (objectively interpreted as the attainment of certain functionings) or of perfectionist ideals cannot provide the right type of support to freedom-centred justice's commitment to distribute and promote freedom as such – since such a theory would justify depriving people of the freedom to malfunction in those cases in which having the freedom to malfunction would risk compromising people's attainment of wellbeing or autonomy – unless such a theory *also* appeals to *all things considered* deontic reasons to refrain from interfering with people's freedom as such.

Part III:
The Moralised Values of Freedom. A Critique

Chapter 4:
Moralising the *Benefit View*? A Critique

4.1 Moralising the Value of Freedom?

After having examined the *Benefit View* in Part II of the thesis, the aim of Part III is to provide a systematic rejection of *moralised* interpretations of the value of freedom. According to moralised accounts, there is value only in having the freedom to perform actions that are morally permissible, while the freedoms to perform actions that are morally impermissible (such as killing an innocent) have no value or negative value. Freedom-centred justice is premised on the assumption that there is value also in having the freedom to perform morally impermissible actions, since freedom has non-specific value, and the value of freedom ranges over any freedom as such:¹ hence, the rejection of moralised accounts of the value of freedom is a central task of the thesis. In this Chapter, I aim to reject the moralised interpretation of the *Benefit View*, while in Chapter 5 I seek to reject the moralised interpretation of the *Status View*. Thus, if my arguments set out in Chapter 4 and Chapter 5 are correct, there are compelling reasons to reject moralised interpretations of the value of freedom *tout court*.

¹ In Ch. 3 I have argued that there is value in having the freedom to perform morally impermissible actions: see, for example, my discussion of the value of freedom and agency, autonomy, and the endorsement condition of wellbeing.

4.1.1 Structure of the Chapter.

The target of this Chapter is the moralised *Benefit View*, which slips into the accounts of the value of freedom of political theorists like Dworkin, Nozick, and Raz.² According to the moralised *Benefit View*, one is benefited only when one has the freedom to perform actions that are morally permissible, and one is not harmed when one is deprived of the freedom to perform morally impermissible actions. In this Chapter I shall argue that moralising the *Benefit View* entails assuming an account of harming and benefiting that cannot fit the purposes of political morality. I shall proceed by first introducing the main features of the moralised *Benefit View* in §4.2. In §4.3 I criticise the moralised *Benefit View* by extending the objections that freedom theorists have levelled against the moralised *definition* of freedom to a moralised interpretation of the *value* of freedom that appeals to axiological (and person-affecting) reasons (i.e. the moralised *Benefit View*). In §4.4 I consider one possible rejoinder available to the moralised *Benefit View*, which rests on a modified interpretation of the moralised *Benefit View*. Upon closer scrutiny, such a reinterpretation is untenable, and I argue that it should be rejected. That being said, there is one way to rescue the moralised *Benefit View*, which involves adopting a trivalent *definition* of freedom: I explore this possibility in §4.5. However, I argue that recurring to the kind of trivalence that can potentially rescue the moralised *Benefit View* explored in §4.5 concedes a lot to the non-moralised interpretation of the *Benefit View*, and the only way to defend the plausibility of the moralised *Benefit View* is to adopt a hybrid account that embraces essential aspects of the non-moralised *Benefit View*. §4.6 concludes.

² These authors endorse very different theories of justice: nonetheless, they can all be interpreted as endorsing the moralised *Benefit View*.

4.2 Moralising the *Benefit View*?

It is possible to adopt a *moralised* interpretation of the *value* of freedom. Moralised theories of freedom can moralise *either* or *both* 1) the *value* of freedom and 2) the *definition* of freedom. The ‘definition’ of freedom are the conditions under which someone can be considered free/unfree to perform a specific action *X*. A theory of freedom can moralise the value of freedom by asserting that there is no value in having the freedom to perform morally impermissible actions. And/or it can moralise the definition of freedom by asserting that the opportunities to perform morally impermissible actions do not qualify as ‘freedoms’ at all. The moralisation of the definition of freedom and unfreedom can be motivated by an assumption concerning the value of freedom: indeed, if one believes that there is no value in having the freedom to perform morally impermissible actions, such opportunities may not count as ‘freedoms’ at all. However, while it is plausible to believe that what motivates the endorsement of a moralised definition of freedom is a commitment to a certain view about the value of freedom, a moralised theory can consistently claim that having the freedom to perform morally impermissible actions has no value (or has negative value), while at the same time maintaining that the opportunities to perform morally impermissible actions qualify as ‘freedoms’. That is, endorsing a moralised account of the value of freedom does *not* necessarily entail moralising also the definition of freedom. I shall examine the relationship between the value of freedom and the definition of freedom more closely in Chapter 6 with reference to debates concerning freedom, ability, and the constraints on freedom.³ In this Chapter I shall mainly focus on a moralised account of the *value* of freedom.

³ A ‘fully moralised theory’ of freedom moralises the value and the definition of freedom. In particular, it moralises the *definition* of freedom and the definition of unfreedom by restricting the domain of the actions that one can be considered free or unfree to do only to the actions that one has the right to do (according to the broad interpretation of ‘rights’ introduced below). On such a view, an individual *A* is free to do a specific action *X* when *A* is not prevented from doing *X* and *X* is an action that *A* has the right to do. Conversely, *A* is unfree to *X* only if *A* is prevented from *X* and *X* is an action that *A* has the

4.2.1 Rights and the Moralised *Benefit View*.

The notion of ‘rights’ is central for understanding what is entailed by moralising the value of freedom. I assume that ‘having a right to *X*’ covers both the range of Hohfeldian liberty rights and the range of Hohfeldian claim rights: that is, that it covers both the range of the actions that one is morally at liberty to do but with respect to which others have no duties not to interfere (i.e. liberty rights) and the range of actions protected by claim rights that correlate with other people’s (negative or positive) duties. Of course, the domain of ‘rights’, broadly conceived, covers also the Hohfeldian second-order normative positions, *viz.* the Hohfeldian powers. The Hohfeldian powers are essential components of a vocabulary of rights: they express the normative ability (the Hohfeldian power) that the right-holder has to alter his first-order rights, or the immunity against such altering on the part of others (the Hohfeldian immunity). To give a concrete example of a Hohfeldian power: the right-holder’s ability to transfer his rights to someone else, or to extinguish other people’s correlative duties, are instances of Hohfeldian powers. For example, private property rights confer to an individual certain control rights concerning the use of external resources as the individual sees fit (which may include also the right to destroy the resources in question, or to disassemble them into their material components). They also standardly include the right to sell one’s own property to someone else, which constitutes the exercise of an Hohfeldian power, since when *A* sells something to *B*, *A* transfers her control rights over the resources in question to *B* (thereby also waiving *B*’s

right to do. In the case in which *A* is either prevented or unprevented from doing an action that she has no right to do, the individual should be considered *not-free* to do the action in question: namely, with respect to such actions the question of whether one is free to do them does not arise.

correlative duties not to interfere with *A*'s use of such resources).⁴ This analysis serves as introduction to the notion of 'rights' as employed by moralised theories of freedom.

Now, consider the implications of analogously moralising the *value* of freedom according to the *Benefit View*: henceforth, I shall refer to this account as 'the moralised *Benefit View*'. We should distinguish two theses that characterise the moralised *Benefit View*, as follows:

Moralised Benefits: *A* benefits from having (certain specific) freedom(s) iff such freedom(s) are freedom(s) to perform actions that *A* has the right to do (which include liberty rights as well as claim rights, and second-order powers, see above).

Moralised Harms: *A* is harmed by freedom removal iff *A* is prevented (by the relevant type of constraints)⁵ from performing the actions that *A* has the right to do.

We should take the moralised *Benefit View* to be composed of two claims: 1) no freedom-related harm occurs when someone is prevented (by the relevant type of constraints) from doing an action that the person in question has no right to do, and 2) people benefit only when they are free to perform actions that they have the right to do.

⁴ For a discussion of the relevance of second-order Hohfeldian instances, see Steiner, *An Essay on Rights*, Ch. 3. On the relation between the alienability of rights and the Hohfeldian powers, see Hillel Steiner, 'Directed Duties and Inalienable Rights', *Ethics*, Vol. 123, No. 2, 2013, pp. 230-244.

⁵ See Ch. 1, §1.5.

Notice that the moralised *Benefit View* does not need to assume an unduly sectarian, strict, or restrictive view of morality: it is compatible with value pluralism about the existence of a number of reasonable conceptions of the good life. We should also assume that the moralised *Benefit View* acknowledges the existence of reasonable disagreement about the requirements of morality. Nonetheless, for the moralised *Benefit View* to represent a distinctive account of the value of freedom, it is essential that certain opportunities are deemed to be ‘worthless’ (i.e. as having no value) or disvaluable (i.e. as having negative value) from a moral point of view. For example, Raz’s theory of freedom as autonomy can be considered as exemplifying the moralised *Benefit View*: although Raz endorses value pluralism, for Raz ‘autonomy requires a choice of goods’, which entails that people should have the opportunity to choose among a reasonable variety of acceptable options, while at the same time the ideal of autonomy ‘supplies no reason to provide, nor any reason to protect, worthless let alone bad options.’⁶ Raz, indeed, approvingly quotes Benn and Weinstein, according to whom ‘our conception of freedom is bounded by our notions of what might be worthwhile.’⁷ Raz interprets the value of freedom in person-affecting terms (Raz’s theory of autonomy is a conception of personal wellbeing),⁸ while at the same time relying on a moralised interpretation of the value of freedom, which excludes the possibility that there is value in having the freedom to perform *bad* options, where ‘bad’ covers both options included in conceptions of the good that have little or no value (objectively speaking), as well as morally impermissible actions, broadly conceived. How plausible is the moralised *Benefit View*?

⁶ Raz, *The Morality of Freedom*, p. 411.

⁷ Ibid., p. 379. The quotation comes from Benn and Weinstein’s paper, ‘Being Free to Act and Being a Free Man’, *Mind*, Vol. 80, No. 318, 1971, pp. 194-211, at p. 195.

⁸ Raz, *The Morality of Freedom*, Chs. 14-15.

4.3 Benefits, Harms, and Moralised Freedom.

4.3.1 Harming and Wronging.

To start with, I take it that we should want to distinguish between ‘wronging’ and ‘harming’, since there are harms that do not wrong and there are wrongs that do not harm.⁹ A discussion of third-party beneficiary cases will serve as illustration of this point. The typical third-party beneficiary scenario describes cases in which the promisee is not the recipient of the benefits of a promise. For example, I may stipulate a contract with you to take care of your disabled sister: though the primary beneficiary of the contract – the person who has an interest in being taken care of – is your sister, you are the person to whom my duties are directly owed. Indeed, you may have the right to rescind the contract against the will of your sister and to find someone else to replace me. These are cases in which the person who directly benefits from the performance of someone else’s duties is not the right-holder.¹⁰ Now, consider the reverse case in which the breaching of a promise to take care of your disabled sister does not directly harm you, the right-holder, but your sister who has an interest in being taken care of.¹¹

Examples of this type show that someone can be wronged without being directly harmed.¹²

Furthermore, there are harms that are not sources of wrongdoing. Permissible punishment is a

⁹ See Feinberg, *The Moral Limits of the Criminal Law. Harm to Others*, Chs.1 and 3.

¹⁰ Third-party beneficiary cases are indeed generally considered as objections to the interest theory of rights. See Frances Kamm, ‘Rights’, in Jules Coleman and Scott Shapiro (eds.), *The Oxford Handbook of Jurisprudence and Philosophy of Law* (Oxford: Oxford University Press, 2004), pp. 476-513.

¹¹ Of course, in so far as *you* have an interest that your sister is taken care of, you are harmed. But you are not directly harmed, in so far as the person who has a primary interest in being taken care of is your sister.

¹² Victor Tadros notices that additional wrongs that do not harm are *attempts* to harm: attempts to harm by definition do not harm, but they can be a source of wrong. See Victor Tadros, ‘What Might Have Been’, in John Oberdiek (ed.), *Philosophical Foundations of the Law of Torts* (Oxford: Oxford University Press, 2014), pp. 171-192.

case in point: inflicting harm – for example, restricting someone’s liberty by confining the individual in question to jail – can be justified as a form of punishment for past wrongdoing. Thus, in light of these premises, the first desideratum of a theory of benefiting/harming is that such a theory should allow us to distinguish between *wrongful* instances of benefiting and *legitimate* inflictions of harm: in other words, we want a non-moralised definition of *pro tanto* harming/benefiting. As far as this Chapter is concerned, the general question that I wish to address is the following: does this entail that we should also adopt a non-moralised interpretation of the *Benefit View*? Moreover, what are the implications of moralising the *Benefit View*?

4.3.2 The Critique of the Moralised *Benefit View*.

In a number of seminal contributions, authors like Carter, Cohen, Kramer, and Olsaretti have put forward powerful objections against moralised *definitions* of freedom.¹³ In the wake of these arguments, my discussion in this Section aims to offer a critique of the moralised *Benefit View* of the *value* of freedom.

Consider the standard counterexample against moralised theories of freedom: the justly convicted prisoner. Cohen criticised Nozick’s moralised theory of freedom on grounds that, if we adopt a moralised definition of freedom, we are led to conclude that a justly convicted prisoner is not rendered unfree when she is put in jail, since she has no right to do the actions

¹³ Carter, *A Measure of Freedom*, pp. 69-74; Gerald A. Cohen, ‘Capitalism, Freedom, and the Proletariat’, in Gerald A. Cohen, *On the Currency of Egalitarian Justice and Other Essays in Political Philosophy*, ed. by Michael Otsuka (Princeton, NJ: Princeton University Press, 2011), pp. 147-165; Gerald A. Cohen, *Self-Ownership, Freedom, and Equality* (Cambridge: Cambridge University Press, 1995), pp. 60-65; Kramer, *The Quality of Freedom*, pp. 100-103; Olsaretti, *Liberty, Desert, and the Market*, Ch. 5, see esp. pp. 116-119. See also David Zimmerman, ‘Taking Liberties: The Perils of “Moralizing” Freedom and Coercion in Social Theory and Practice’, *Social Theory and Practice*, Vol. 28, No. 4, 2002, pp. 577-609.

that she is prevented from doing.¹⁴ This point concerns the *definition* of freedom/unfreedom. An analogous point applies to the moralised interpretation of the *value* of freedom: on the moralised *Benefit View*, the prisoner suffers no freedom-related harm due to her confinement, since she is prevented only from doing the actions that she has no right to do.¹⁵ This conclusion follows from *Moralised Harms* and it is very counterintuitive, since instances of imprisonment represent paradigmatic cases of harm and of unfreedom. Indeed, one way of interpreting the intuitive appeal of Cohen's objection is that, by denying that the justly convicted prisoner is rendered unfree, moralised theories of freedom also deny that the person in question suffers a freedom-related harm, in the face of compelling pre-theoretical intuitions about harm. The very general problem is that the moralised *Benefit View* does not allow us to recognise that someone can suffer a freedom-related harm when the freedom of the individual in question is legitimately or justly restricted.¹⁶

Now, consider the following possible justification of the moralised *Benefit View*: one may hold the view that the prisoner's life – or, *mutatis mutandis*, the tax evader's life – cannot go well unless the prisoner or the tax evader have paid their debts to society by serving a sentence in prison or by paying the relevant fine, and hence that it would not be really be *good for*¹⁷ the prisoner to be out of prison nor to have those freedoms of which he is deprived by being in prison. Nor would it be good for the tax evader to buy a house in the mountains that he could not have afforded had he paid the fine (and perhaps also served a sentence in prison). If so, it is in the prisoner's good to be in prison, and it is actually in his interest that he should be in prison, and it is in the tax evader's interest to pay the fine. Moreover, even if the prisoner

¹⁴ Cohen, *Self-Ownership, Freedom, and Equality*, p. 60.

¹⁵ For a discussion of the right-based account of harm in Nozick's libertarianism, see Olsaretti, *Liberty, Desert, and the Market*, pp. 113-116.

¹⁶ Ibid.

¹⁷ In the sense of 'good for' explained in Ch. 2.

manages to escape from prison and lives a happy and comfortable life on a Caribbean island, his life would not go well until he expiates his debts to society. Indeed, we should recall (Chapter 2) that the *Benefit View* is about people's *interests*, and therefore the moralised *Benefit View* has a moralised account of interests.

Now, the 'Socratic' view sketched in the previous paragraph, which purports to show the unity of value – of the good life as a morally virtuous life –¹⁸ entails a paternalistic and moralistic (rather than just *moralised*) justification of incarceration and of punishment. Now, even if such a view is implausible, it is important to introduce it here, since, if adopting the moralised *Benefit View* entails that no freedom-related harm occurs when people's freedom to do impermissible actions is restricted, theorists who endorse a moralised account of the value of freedom should also be able to explain why people would not *benefit* from having such freedoms. And, while it is more intuitive to justify the moralised view in the extreme cases, for example, of people being deprived of the freedom to rape and kill (since it is intuitive to attribute no value to the content of such freedoms), it is harder to explain why justly convicted criminals would not *unjustly benefit* from having the freedoms¹⁹ of which they are deprived by the appropriate form of punishment that is inflicted or that should be inflicted on them.²⁰ Hence, the major problem

¹⁸ Socrates believed in the unity of value, and that a good life is also a life of virtue, and of knowledge. He was also committed to the view that committing a wrong act is bad in persons-affecting terms, in that it damages the soul of the wrongdoer. So, acting morally contributes to make one's life go well and committing wrongdoing is bad for the wrongdoer. See Thomas Brickhouse and Nicholas Smith, 'Socrates on How Wrongdoing Damages the Soul', *Journal of Ethics*, Vol. 11, No. 4, 2007, pp. 337-356.

¹⁹ Or 'opportunities' (rather than 'freedoms'), if the theory in question moralises also the definition of freedom and the opportunities to perform morally impermissible actions do not qualify as freedoms.

²⁰ For example, Dworkin claims that 'we use "liberty" in its normative sense [...] to describe the ways in which we believe people *ought to be free*' (p. 5) (emphasis added), and his view entails a conflation of the good with the right. Dworkin endorses a moralised interpretation of the value of freedom, which leads him to claim that we should favour an account of liberty 'which will not count every constraint on the freedom of citizens to act as they might wish as an invasion of their liberty' (p. 7). And he justifies the value of freedom mainly in axiological terms (i.e. according to the *Benefit View*). For example, he claims that 'we think lives led under circumstances of liberty are *better lives* just for that reason' (p. 2) (emphasis added). He also believes that the ideal of liberty does not conflict with equality,

with the moralised *Benefit View* is that it does not allow us to make sense of the harm associated with just or legitimate restrictions of people's freedom, and that people may benefit from unjust increases in their degrees of overall freedom. In what follows I further elaborate on this point.

There are a number of reasons why it is normatively important to be able to make sense of the claim that people can unjustly benefit from increases in their levels of overall freedom and that they can be justly harmed for decreases in their levels of freedom. I shall mention a few. Consider, for example, a type of retributivist argument according to which a wrongdoer should compensate the victim of an act of wrongdoing proportionately to the unfair advantage gained by illegitimately harming (e.g. by subtracting resources to) someone else.²¹ If we moralise the *Benefit View*, it is impossible to argue that the wrongdoer gains an unfair *advantage* – that she benefits from taking away resources from someone else – since one can benefit only from having those freedoms to which one is legitimately entitled.²² Of course, this would not invalidate the claim that the victim is harmed – the victim is indeed illegitimately interfered with in the domain of her rights – but from *Moralised Benefits* it follows that the wrongdoer does not benefit. It is unclear then who is supposed to benefit, and why the wrongdoer acted as she did, if, objectively speaking, it was not in her interests.

in particular with *his* ideal of equality, since 'if we accept equality of resources as the best conception of distributional equality, liberty becomes an aspect of equality rather than, as it is often thought to be, an independent political ideal potentially in conflict with it' (p. 1). The value of liberty is the value of having those freedoms that are protected in a liberal egalitarian society in which the distribution of advantages is regulated by the principle of equality of resources: 'equality of resources' – Dworkin explains – 'provides a more convincing explanation of our intuitive convictions about *the importance of liberty*' (p. 3) (emphasis added). All quotations in this footnote are from Ronald Dworkin, 'What Is Equality? Part III: The Place of Liberty', *Iowa Law Review*, Vol. 73, No. 1, 1987, pp. 1-73.

²¹ For context on retributivism, see Daniel McDermott, 'Debts to Society', *The Journal of Political Philosophy*, Vol. 10, No. 4, 2002, pp. 439-464.

²² It is possible to think of a *freedom-based* retributivist view, according to which harms and benefits are measured in terms of freedom.

Moreover, consider that a form of punishment that restricts people's freedom can be justified or criticised *because* it brings about a freedom-related harm. Punishment *is* harming, and the (freedom-related) harm inflicted by punishment can play an essential role in the justification or the qualified critique of the form of punishment in question. For example, imprisonment involves a severe restriction of people's freedom, and it can be justified *because* inflicting a freedom-related harm is the appropriate form of punishment for certain crimes, and wrongdoers deserve to be harmed that way. But adopting the moralised *Benefit View* entails denying that depriving someone of the freedoms (or opportunities) to perform actions that one has no right to do generates a freedom-related harm, and so it also renders it impossible to claim that justified imprisonment is the appropriate form of punishment for certain crimes *on grounds that* it generates a freedom-related harm. Further, it renders it impossible to challenge someone who endorses the moralised *Benefit View* and believes in the moral appropriateness of imprisonment as a legitimate form of punishment, by *objecting* to imprisonment on grounds that it generates a freedom-related harm.²³

In light of these remarks, consider the rhetorical appeal of moralised theories of freedom detected by Cohen.²⁴ Cohen's point is about the moralised *definition* of freedom. Cohen claims that, since moralised definitions of freedom deny that one is rendered unfree when a person is interfered with the actions that one has no right to do, Nozick can claim that the distribution of private property rights that ensue from voluntary market transactions in a capitalist society does not render non-owners unfree to use the resources appropriated by the legitimate owners of the resources in question. For example, it follows from Nozick's moralised view that a landowner

²³ See Kramer, *The Quality of Freedom*, pp. 100-103. Of course, imprisonment consists also of other types of harm, but in this context, I focus on freedom-related harms. We have seen in Ch. 3 that having a guaranteed minimum of freedom is conceivable as a human need (§3.5).

²⁴ Cohen, 'Capitalism, Freedom, and the Proletariat'; Cohen, *Self-Ownership, Freedom, and Equality*, pp. 60-65.

does not render a passer-by unfree to walk on the land that the landowner legitimately owns, since the passer-by has no right to do so. Hence, Nozick can conclude that in a capitalist society everyone is perfectly free, since it is a society in which nobody suffers unfreedom (provided that everyone acts within his rights). Now, notice that this argument can be understood as pointing to the fact that non-owners suffer no freedom-related *harm* from being excluded from the use of the resources that others legitimately possess. But, if, as I have argued in this Section, one should conversely adopt the non-moralised *Benefit View* and believe that the institution of private property generates a freedom-related harm for non-owners, who are deprived of the freedoms to use external resources legitimately owned by others, then it is possible to conclude that Nozick's adoption of a moralised theory of freedom serves the rhetorical function of hiding the degree of non-moralised harm (and unfreedom) that characterises the condition of non-owners in a capitalist society in which resources are privately owned.

4.4 The Critique of the Moralised *Benefit View* Recanted and Reaffirmed.

In this Section and the next, I wish to explore two possible rejoinders available to defenders of the moralised *Benefit View*. A supporter of the moralised *Benefit View* can reinterpret it in the following way: 'someone can benefit from having the opportunity to do the actions that one has no right to do – for example, clearly the prisoner would benefit from having the opportunity to be out of prison – the moralised *Benefit View* doesn't deny this. Rather, what the moralised *Benefit View* aims to emphasise is that, when a person is prevented from having the opportunity to do actions that she has no right to do, no freedom-related harm is involved.'²⁵ There is some intuitive appeal to this interpretation of the moralised *Benefit View*. By analogy, consider the following scenario introduced by Nozick:

²⁵ Indeed, we have seen that on a moralised definition the wrongdoer suffers no unfreedom.

Marriage Opportunities: if everybody acted within his rights by voluntarily choosing whom to marry, the person who is left with a limited choice of partners – and, let's assume with Nozick, that the remaining potential partners are comparatively less endowed with attractive qualities – is not harmed by the choice of everyone else, since all the other people acted within their rights.²⁶

Now, one could add the following modification to Nozick's example: even if the person who ends up with a limited freedom (of choice) of whom to marry is not harmed by the choices of others, of course the individual in question would benefit if he had the opportunity to marry more attractive partners, even if he illegitimately acquired such an opportunity (for example, even if he acquired such an opportunity through coercing someone else to marry him after forcing the individual in question to divorce).

This revisionary interpretation of the moralised *Benefit View* rests on a simple mistake. First, if one benefits from *illegitimately* acquiring the opportunity to marry an attractive partner, then we should conclude that one would benefit from acquiring such an opportunity *independently* of whether the opportunity is acquired legitimately or illegitimately, that is: on such a view, whether the opportunity is acquired through legitimate/illegitimate means is irrelevant to settle whether the person benefits from having the opportunity in question. This clarifies that the

²⁶ Nozick, *Anarchy, State, and Utopia*, p. 263. As Olsaretti shows in her discussion of Nozick's example, Nozick assumes a moralised definition of 'voluntariness': Olsaretti, *Liberty, Desert, and the Market*, pp.119-136. But the example can also serve to show Nozick's adoption of a moralised account of harm. Indeed, Olsaretti claims that Nozick adopts a moralised account of harm. Olsaretti, *Liberty, Desert, and the Market*, pp. 113-119.

revisionary interpretation of the moralised *Benefit View* relies on a *non-moralised* notion of pro tanto benefiting, while at the same time maintaining a moralised notion of harm. However, relying on a non-moralised notion of benefiting is not compatible with at the same time adopting a moralised notion of harm, for the simple reason that, if the person would benefit from illegitimately acquiring a new opportunity, it necessarily follows that he would also be *harmed* if he is deprived of such an opportunity, even if he is legitimately deprived of it. That is, we cannot claim 1) that an individual *A* benefits from having an opportunity *and* at the same time also claim 2) that *A* does not suffer a freedom-related harm when *A* is deprived of the opportunity under consideration: assuming the interpretation of the value of freedom that characterises the *Benefit View*, this involves what we may call an axiological contradiction, since the negation of furthering an individual's interest in freedom (i.e. of benefiting *A* by increasing *A*'s freedom) is setting back *A*'s interest in freedom (thereby decreasing *A*'s degree of overall freedom, and pro tanto harming *A* in that respect).

In light of the argument put forward in the previous paragraph, I conclude that either one does not suffer a freedom-related harm when other people act within their rights thereby limiting the individual's range of choice of partners, *or* that such an individual would benefit from illegitimately acquiring the opportunity to choose among a larger pool of potential partners. Thus, if we wish to claim that an individual would benefit from illegitimately acquiring the choice to marry more attractive partners, we should also be ready to acknowledge that the person who ends up with a limited choice of partners in *Marriage Opportunities* is correspondingly and pro tanto harmed, in that such an individual's range of opportunities is limited by the actions (and dispositions to act) of other individuals already married. And, on a non-moralised interpretation of the *Benefit View*, this is indeed the correct interpretation of *Marriage Opportunities*. The discussion conducted in this Section shows that it is not possible

to revise the moralised *Benefit View* by maintaining a non-moralised account of benefiting *and* a moralised account of harm: this middle ground is not tenable.

4.5 Rescuing the Moralised *Benefit View*? A Hybrid (Unduly Concessionary) Strategy.

There is one final and more powerful rejoinder available to defenders of the moralised *Benefit View*. In order to illustrate this point, we should explore the possibility of moralising the *definition* of freedom (see §4.2). Ralf Bader has recently argued in favour of a moralised definition of freedom, according to which one is rendered *unfree* only when the relevant type of constraints interferes with an individual's opportunity to perform an action the individual has the right to do, and that one can be considered free only to do the actions that one has the right to do and that one is unprevented (or not interfered with by the relevant type of constraints) from doing. Crucially, with respect to the actions that the individual has no right to do, *the question of whether the individual is free or unfree* does not arise, and so the individual should be considered as *not-free*.²⁷ That is, moralising the definition of freedom entails adopting *trivalence*, which is the view that ascriptions of freedom and unfreedom are not mutually exclusive, since there can be a third term 'not-freedoms' that applies to those opportunities that do not fall in the freedom/unfreedom domain.²⁸

²⁷ See Ralf Bader, 'Moralizing Liberty', in David Sobel, Peter Vallentyne, and Stephen Wall (eds.), *Oxford Studies in Political Philosophy, Vol. 4* (Oxford: Oxford University Press, 2018), pp. 141-166.

²⁸ I shall examine trivalence in depth in Ch. 6. Trivalence is endorsed by Kramer, *The Quality of Freedom*. See also Schmidt, 'Abilities and the Sources of Unfreedom'.

4.5.1 Conceptual Clarifications.

Bader points out that, on a moralised definition, freedom is understood as an opportunity-concept (rather than as an exercise-concept).²⁹ Indeed, on a moralised definition, though the justly convicted prisoner is not rendered unfree, she is *less free* than someone else who is out of prison, since the sheer number of morally permissible actions that are available to the prisoner is much smaller than the number of permissible actions available to the person who is out of prison. As Bader aims to show, this point moves in the direction of defusing the prisoner objection levelled by Cohen against moralised theories of freedom by showing that moralised definitions can account for the prisoner's decreased levels of overall freedom.³⁰ Bader, I think, has a point. But notice that on a moralised definition both the justly convicted prisoner and the non-prisoner are *equally maximally free*, since their (comparatively different) levels of freedom cannot be increased more, if also the non-prisoner suffers no unfreedom and is not prevented from doing what she is morally permitted or entitled by right to do. This shows that, on a moralised definition of freedom, promoting people's freedom by removing the obstacles that are sources of unfreedom (i.e. those obstacles that prevent the individual from taking advantage of morally permissible actions) is a *satisfiable principle* that is *equally maximally satiated* whenever all obstacles that create unfreedom are removed. That is, both the prisoner and the non-prisoner are equally maximally free if they are both equally unprevented from doing what they have the right to do.³¹ That being said, it remains the case that the moralised *Benefit View* cannot account for the non-moralised and freedom-related harm inflicted on the prisoner. And,

²⁹ Bader, 'Moralizing Liberty', §3. I have introduced the distinction between interpreting freedom as an opportunity concept or as an exercise concept in the Introduction of the thesis.

³⁰ Bader, 'Moralizing Liberty', §3.

³¹ Bader adopts a moralised interpretation of the *Status View*. Hence, my critique of the moralised *Benefit View* in this Chapter does not directly apply to Bader's views. For my critique of the moralised *Status View*, see Ch. 5.

as we have seen in §4.3, this is problematic from the point of view of a theory of the value of freedom that can serve the purpose of fitting into a broader theory of political morality.

4.5.2 A Substantive Move: Value-Ladening the Not-Freedom Domain.

There is one way out available to the moralised *Benefit View*, which involves acknowledging that the prisoner suffers a freedom-related harm, while at the same time maintaining the normative focus on moralised freedom by claiming that the harm in question is a lesser evil, in that it does not *violate* the prisoner's freedom and it is not sufficiently weighty to generate unfreedom. This entails moralising the *definition* of freedom, by adopting an interpretation of trivalence that is different from Bader's view: while according to Bader, the not-freedom domain captures the range of opportunities with respect to which the question of whether someone is free or unfree to do them does not arise (i.e. the opportunities to perform the actions that one has no right to do), on the alternative interpretation of trivalence examined in this Section, the not-freedom domain encompasses the opportunities to perform actions whose performance is precluded by the presence of obstacles that 1) prevent the individual from taking advantage of such opportunities but that 2) at the same time are not *freedom-violating* and thereby *do not count as sources of unfreedom*. The distinction between different types of freedom-related harms can be captured by Judith Jarvis Thomson's distinction between *infringement* and *violation*, which Thomson applies to the domain of 'rights'. Analogously, within the context of the *Benefit View*, we can say that obstacles that render *not-free* without rendering *unfree* identify a lesser harm, and therefore are *freedom-infringing* without being *freedom-violating*, while obstacles that render unfree are freedom-violating.³²

³² See Judith Jarvis Thomson, *The Realm of Rights* (Cambridge, MA: Harvard University Press, 1990). I am grateful to Andrew I. Cohen for suggesting to introduce the adoption of this distinction.

Pettit, for example, adopts this strategy:³³ according to Pettit, while only instances of domination generate unfreedom, republicans should acknowledge that also interferences with people's negative freedom that do not at the same time expose the individuals to domination (i.e. instances of non-dominating interferences) are *bad* and that, though not sufficient to generate unfreedom – indeed they do not 'compromise' freedom (as non-domination) – they are 'conditioning factors' that limit the areas in which people can freely exercise their capacity for 'undominated choice',³⁴ and should thereby be classified as not-freedoms and as producing a freedom-related harm.³⁵ Since, on this view, not-freedoms capture a lesser type of freedom-related harm (less bad than domination), Pettit can then claim that, though republican states should seek primarily to diminish or eradicate domination, they should also strive to remove obstacles to people's negative freedom (as mere absence of interference), when this is compatible with attaining the end of realising non-domination, and when it is aimed at promoting people's degree of undominated choice.³⁶ Hence, this interpretation of the not-freedom domain establishes a sort of ranking of different freedom-restricting interferences, assigning a certain priority to relieving people from unfreedom (as domination) rather than to attending to the removal of any obstacle to people's opportunities as such.

³³ I have introduced the republican account of freedom as non-domination in Ch. 1 (§1.2.1).

³⁴ Pettit, *Republicanism*, p. 106.

³⁵ As Pettit claims: 'As we may say that someone is unfree so far as their freedom is compromised by domination, so we may say that they are not free in this or that respect – they are not-free, though not strictly unfree – insofar as their freedom is subject to certain conditioning factors', Pettit, *Republicanism*, p. 76.

³⁶ For example, even if *A* and *B* both do not suffer from any instance of domination, *A*'s predicament can be improved if *A* has fewer opportunities of undominated choice than *B*. As Pettit claims: 'The aim assigned to the state will be to do all it can to increase the intensity with which people enjoy non-domination and then, having achieved that goal, to look to the permissive and expansive means whereby it may increase the extent of undominated choice', Pettit, *Republicanism*, p. 106. Of course, one problem is what type of priority should be assigned to removing unfreedom-generating obstacles over promoting people's opportunities as such. On this point, see Lovett, *A General Theory of Domination and Justice*, Chs. 5-8.

I shall now examine how this conceptual move fares at rescuing the moralised account of the *Benefit View*. First, on the revised trivalent interpretation of the moralised *Benefit View*, a (subjunctive or actual) prevention counts as unfreedom only when people are prevented from doing a morally permissible action or an action that they have the right to do. On the other hand, when people are prevented from doing an action that they do not have the right to do such a prevention counts as a source of not-freedom, which in turn captures the idea of a limitation of people's freedom that is not freedom-violating, but only freedom-infringing. Now, asserting that the prisoner is 'not-free' – in the sense specified above – certainly goes in the direction of meeting the objections to moralised theories of freedom discussed in this Chapter, by acknowledging the freedom-related harm involved in being confined to prison, though such a harm is a lesser evil. However, this move also betrays the main motivation that underpins the adoption of a moralised definition of freedom and interpretation of the value of freedom, as long as the adoption of a moralised theory of freedom is motivated by the intuition that there is *no value* in having the freedom to do actions that are morally impermissible. Moreover, adopting the revised interpretation entails abandoning a purely moralised interpretation of the *Benefit View* for a *non-moralised* interpretation of the value of freedom that distinguishes between qualitatively differently freedom-related harms *on moralised grounds*. That is, since the revised interpretation of the moralised *Benefit View* counts instances of not-freedom as involving a freedom-related harm, it follows that it is in the person's *interest* to have the opportunities in question, and that such an individual would *benefit* from having the opportunities in question, which is exactly what moralised theories of freedom aim to deny by claiming that the ideal of freedom, properly understood, does not attach any value in having the freedom to do morally impermissible actions. In conclusion, the revised interpretation of the moralised *Benefit View* is a 'hybrid' view, which concedes much ground to non-moralised accounts in order to meet the objections raised by theorists who endorse a non-moralised

interpretation of (the value and definition of) freedom. We should conclude that the hybrid strategy illustrated in this Section can succeed only at the price of retracting the main motivation that justifies the adoption of a moralised interpretation of freedom: the claim that the ideal of liberty, properly understood, assigns value only to the freedom to do morally permissible actions (i.e. the actions that an individual has the right to do).

4.6 Conclusion.

The main conclusion that results from the arguments presented in this Chapter is that, in its purest form, the moralised *Benefit View* ought to be abandoned, since it does not offer an account of freedom-related benefits and harms that can adequately fit with the purposes of a theory of political morality. This Chapter also concludes the examination of the various aspects of the *Benefit View* started in Chapter 2. In the next Chapter I examine an alternative account of the value of freedom – the *Status View* – which justifies the value of freedom in deontic (rather than axiological) terms. In Chapter 5 I shall also reject the moralised interpretation of the *Status View*, thereby concluding that moralised interpretations of the value of freedom should be rejected *tout court*.

Ch. 5

Moralising the *Status View*?

On Deontic Reasons, Trust, and Freedom

5.1 Introduction. The *Status View*.

Consider the following dialogue between Hans Castorp, the protagonist of Thomas Mann's masterpiece *The Magic Mountain*, and Lodovico Settembrini, a colourful Italian character:

‘Hans Castorp [...] said: “You are late for the concert, Herr Settembrini; it must be nearly over. You don’t care for music?” “Not to order,” responded Settembrini. “Not by the calendar week. Not when it reeks of the prescription counter and is doled out to me by the authorities for the good of my health. I cling to my freedom – or rather to such vestiges of freedom and personal dignity as remain to the likes of us. [...].’¹

In Part II of the thesis (Chapters 2 and 3) I have explored the kind of axiological reasons (captured by the *Benefit View*) why it was *good for* Settembrini to have the freedom to attend (and to not attend) the concert. In this Chapter I wish to focus on the kind of deontic reasons captured by the *Status View*, and which can be introduced by considering an alternative interpretation of Settembrini's enunciations. Between the lines, Settembrini criticises the attitude of the patients of the Berghof sanatorium to let *others* – ‘the authorities’ (the doctors,

¹ Thomas Mann, *The Magic Mountain* (London: Vintage, 1999 [1924]), p. 110.

the nurses, etc.) – decide what is *good* for them and minutely regulate the patients’ lives.² And there is value in ‘clinging’ to freedom – also to the freedom to refrain from attending the concert – in order to affirm the value of *individual dignity*. Notice that Settembrini is not *unfree* to abstain from abiding by the rules of the sanatorium – nobody is indeed preventing him nor the other patients from leaving the sanatorium or from acting as they please. But such rules and the social pressure of communal life exercise a degree of conditioning on the minds of the patients, and, in contrast with the unwritten norms of the sanatorium, Settembrini foregoes the potential benefits of attending the concert in order to express his will and the dignity that he has as an agent. Perhaps Settembrini is also hoping to awake Hans Castorp from the slumber of the aboulie life in the sanatorium. As far as this Chapter is concerned, Settembrini’s choice speaks to a kind of value that is not good-maximising or good-enhancing, and that has its source in the fact that persons are beings endowed with a will. If there is value in being a person and persons are characterised by having a will, then there is also value in the fact that persons have the *freedom* to exercise their will. And this can ground a deontic reason *to abstain from interfering with people’s freedom*. The *Status View* justifies the value of freedom by appealing to such a reason and the analysis of the value of freedom captured by the *Status View* is the main theme of this Chapter.

5.1.1 Structure of the Chapter.

In §5.2 I introduce the analysis of the *Status View* by examining the relations between freedom, dignity, respect, and the authority of persons. I argue in §5.2 that deriving the value of freedom exclusively from respect entails moralising the value of freedom captured by the *Status View*.

² Indeed, a central theme of the novel is that the shared norms of a particular social environment can be very effective at nudging someone into making certain choices.

I introduce then in §5.3 two additional alternative interpretations of the *Status View* – the moralised and the non-moralised accounts of the *Status View* – which are premised upon *pro tanto* reasons to refrain from interfering with people’s freedom. The moralised *Status View* has been recently endorsed by Bader: such a view contends that there is no disvalue in being deprived of the opportunity to perform morally impermissible actions. In the remainder of the Chapter I argue that the moralised *Status View* is mistaken: *arguendo*, my critique of Bader’s account paves the way for a defence of the non-moralised *Status View*. My critique of the moralised *Status View* and defence of the non-moralised *Status View* unfolds in §§5.4-5.6. In §5.4 I criticise Bader’s moralised *Status View* because it fails to properly take into account the distinction between the value of freedom versus the (dis)value of performing an action.³ I contend that, in so far as Bader overlooks the importance of this distinction, he is also less keen to recognise that the freedom to perform morally impermissible actions has value. In §5.5, drawing from Kramer’s recent discussion of the value of freedom in *Liberalism with Excellence*, I put forward an additional supporting argument that lends further credence to the non-moralised *Status View*: the ‘Argument from Trust’.⁴ I argue that interference with people’s freedom to act impermissibly is *pro tanto* morally objectionable when it is motivated by a lack of trust in people’s capacity to act morally. In §5.6 I look at the implications of the argument from trust for the ideal/non-ideal theory debate, and I interpret the argument from trust as part of a more general anarchist outlook on questions of political morality. §5.7 concludes.

³ Kramer, *The Quality of Freedom*, pp. 240-245.

⁴ Kramer, *Liberalism with Excellence*, Ch. 5.

5.2 Freedom, Respect, and the Moral Authority of Persons.

The change of perspective of this Chapter – from the *Benefit View* to the *Status View* – is explained by thinking about two kinds of values.⁵ The first type of value is attributed to goods that contribute to making people's lives go well. These goods (like welfare, being in good health, friendship, etc.) are valuable in person-affecting terms: their value is justified by appealing to reasons concerning the good of persons. The second type of value has its source in the fact that persons are beings endowed with a will. Having a will – being capable of making (autonomous) decisions – confers to persons a certain kind of value, the *agential dignity* that, in broadly Kantian terms, we can associate with personhood. Indeed, when we think of what matters in being a person, we can see persons from two distinct points of view: as embodied beings with an interest in having a life that goes well and in having those goods that contribute to making such a life go well (e.g. wellbeing, autonomy, etc.) – or as *setters of ends*. In the latter case, the value of persons is the agential dignity that persons have as originators of ends, as 'self-authenticating sources of valid claims', as Rawls would put it.⁶ As we know from Chapter 1 (§1.2), freedom too can be interpreted as one of those goods that make people's lives go well, or as deriving its value from deontic reasons concerning how persons should be treated in virtue of having the moral status of agents. And, according to the *Status View*, freedom is valuable because there is value in *abstaining from interfering with people's freedom*, as something that is owed to persons in recognition of their moral status of agents.

Acknowledging that persons are agential beings certainly requires to *treat* persons in ways that take into proper consideration their agential nature. This can be compatible with a wide set of

⁵ See my discussion of this point in Ch. 1, §1.2.

⁶ Rawls, *Political Liberalism*, p. 32.

concrete moral prescriptions, which may also include positive duties to provide persons with some of those goods that contribute to making people's lives go well (e.g. concrete opportunities for wellbeing).⁷ In the context of this Chapter I shall not comment on whether acknowledging the agential dignity of persons entails positive duties. Instead, I shall focus on reasons to *abstain* from interfering with people's freedom. In particular, it is possible to interpret deontic reasons as stemming from a duty of *recognition respect* for persons, interpreted as a duty *to recognise the moral authority* of persons.⁸ The aim of this Section is to examine the relationship between the value of freedom captured by the *Status View*, moral authority, and respect for persons. In the following Section (§5.3) I shall argue that there are alternative ways of justifying the value of freedom captured by the *Status View* that do not directly appeal to the principle of respect.

5.2.1 Freedom, Respect, and the Moral Authority of Persons.

Fairly uncontroversially, there is a range of personal choices with respect to which people's decisions should be held as *morally authoritative*: this is the range of choices that ought to be *respected*. There can be considerable disagreement about the extension of such a range, and its exact definition need not detain us here, since even a defender of hard paternalism would recognise that there is a plurality of reasonable conceptions of the good, and that one should be allowed to choose among a range of valuable options.⁹ Moral authority is *legitimate* authority, and generates reasons to obey: the issuing of a directive by *A* is morally authoritative when all those who have the corresponding moral obligation to obey have reasons *to do as A*

⁷ See Robin Dillon, 'Respect and Care: Toward Moral Integration', *Canadian Journal of Philosophy*, Vol. 22, No. 1, 1992, pp. 105-132.

⁸ For the notion of recognition respect, see Darwall, 'Two Kinds of Respect', *Ethics*, Vol. 88, No. 1, 1977, pp. 36-49.

⁹ Raz, for example, endorses perfectionism *and* moral pluralism: Raz, *The Morality of Freedom*, Ch. 14.

says *because A says it*, rather than in virtue of the content of *A*'s decision.¹⁰ In this sense, authoritative decisions are content-independent. To illustrate this point, consider the following example: a sergeant can order the members of the troop to do *Y* and the soldiers have to do *Y* because it is the sergeant's decision, rather than because of the content of the decision (within the boundaries of what is in the sergeant's authority to ask the soldiers to do).¹¹ Indeed, typically, exercises of authority involve the issuing of directives that prescribe others to *do* something. However, since in this Section we are interested in examining the relationship between respect, authority, and freedom, we should focus on examining a different set of cases: those cases in which the moral authority of persons generates *negative duties*, 1) to abstain from interfering with *A*'s freedom to choose between *X* and *Y*, as well as 2) to abstain from preventing *A* from doing *X* (or *Y*) once *A* has chosen to do *X* (or *Y*).¹²

I shall interpret the duty of respect for (the moral authority of) persons as follows: we respect persons when we respect the *claim rights and second-order powers* of persons (i.e. the moral authority that persons have to exercise such powers and rights), and we respect the rights (and powers) of persons when we *refrain from interfering with the freedoms to which people are entitled as a matter of right*. Notice that, while in Chapter 4 (§4.2) I have defined 'rights' as encompassing also liberty rights (or privileges), the notion of rights that is relevant for the discussion that follows in this Chapter is the stronger notion of rights as claim-rights (and second-order powers).¹³ Thus, it is possible to analyse the relationship between respect, moral

¹⁰ It is therefore to be distinguished from *de facto* authority (i.e. pure exercises of power that lack legitimacy). Moral authority is a kind of practical authority, in that it directs the actions of others by generating reasons for actions. And it is therefore to be distinguished from epistemic authority, which generates reasons to believe (e.g. in virtue of having superior knowledge of the matter at hand). See Raz, *The Authority of Law, Essays on Law and Morality* (Oxford: Clarendon Press, 1979), Ch. 1; Raz, *The Morality of Freedom*, Ch. 2; Darwall, *Morality, Authority, and the Law*, Chs. 8-9.

¹¹ For example, the sergeant has no authority to ask the soldiers to kill an innocent passer-by.

¹² Rather than positive duties to provide *A* with certain goods.

¹³ I introduce the discussion of liberty rights in the Subsection below.

authority, and the value of freedom captured by the *Status View* as follows: if *A* has the (claim) right to choose between two options (*X*; *Y*),¹⁴ we respect *A*'s right by refraining from interfering with *A*'s moral authority to choose between *X* or *Y*, and a behavioural component of respect for *A*'s moral authority consists 1) in refraining from interfering with *A*'s *freedom* to choose between *X* and *Y*. That is, we respect *A*'s moral authority by refraining from rendering *A* *unfree* to do *X* or *Y*. Second, 2) we respect *A*'s moral authority also when we respect *A*'s *choice* to do *X* (or *Y*), when *A* makes the choice to do *X* (or *Y*). In the present context, this analysis matters because it allows us to derive the value of freedom from a more fundamental duty of respect for (the moral authority of) persons: we respect *A*'s moral authority to do an action that *A* has the right to do when we refrain from interfering with *A*'s *freedom* to do such an action, and such a freedom has value because *A*'s decision of whether to perform the action in question should be held as morally authoritative.

5.2.2 Freedom and Respect.

In the previous paragraphs I have argued that it is possible to derive the value of freedom captured by the *Status View* from a more fundamental duty of respect for (the moral authority of) persons. In particular, not interfering with the freedoms to which people are entitled as a matter of right has constitutive value as a behavioural component of respect for persons.¹⁵ There are two points of this argument that need to be clarified. First, if the value of freedom is derived from a duty of respect, then the kind of reasons that ground it are *all things considered* reasons: they are *decisive* reasons to refrain from interfering with the freedoms to which people are entitled as a matter of right. Duties are indeed action-guiding, as is respect: it determines

¹⁴ We should assume that *X* and *Y* are two actions.

¹⁵ I have introduced the notion of constitutive value in Ch. 2, §2.6.

the conduct of the duty-bearer(s) to not interfere with the legitimate freedoms of the right-holder(s). Second, the freedoms that are worthy of respect – those that should not be interfered with – are *the freedoms to which people are entitled as a matter of right*. That is, if we derive the value of freedom from respect, then the value of freedom is necessarily *moralised*: it ranges only over the freedoms to perform the actions that one is entitled to do as a matter of right.

The moralising implications of deriving the value of freedom from respect can be clarified with an example: there is an *all things considered* reason to refrain from interfering with *A*'s freedom to grab an apple from an apple tree only if *A* is the legitimate owner of the tree (and of the apple), but not if the tree is owned by someone else (*B*); in which case, other things being equal, *A* should not interfere with *B*'s freedom. That is, if the value of freedom is derived from respect, there is value in having the freedom to *X* because *A* has a right that correlates with other people's duty to refrain from interfering with *A*'s freedom to *X* (i.e. because *A* has a right to *X*): such a right grounds an *all things considered* reason to refrain from interfering with *A*'s freedom to *X*. Crucially, the freedoms that fall beyond the domain of an individual's claim rights are not 'worthy of respect', by which we should mean that there are no decisive reasons to refrain from interfering with such freedoms.

If the analysis put forward in the previous paragraphs is correct, the freedoms protected by an individual's *naked liberty rights* – which include those freedoms to perform actions that are morally permissible, but with respect to which an individual has no claim right to non-interference – fall beyond the domain of the freedoms that are 'worthy of respect'.¹⁶ To illustrate this point with an example: suppose that both *A* and *B* are *at liberty* to grab the apple

¹⁶ I draw here from Steiner's discussion of 'naked liberties' in *An Essay on Rights*, see esp. pp. 75-76. I have introduced the notion of liberty rights in Ch. 4.

from the tree: that is, that the apple (and the tree) has no legitimate owner, and that both *A* and *B* can acquire ownership over the apple by simply grabbing the apple from the tree.¹⁷ If it is morally permissible for both *A* and *B* to grab the apple (i.e. both *A* and *B* are at liberty to do so), then neither *A* nor *B* have a duty to refrain from interfering with each other's freedom to grab the apple: liberty rights indeed correlate with no-duties. So, if we assume that the *Status View* derives the value of freedom from respect, the freedoms protected by naked liberty rights *do not have value*, since liberty rights do not justify an all things considered reason to abstain from interfering with people's freedom (while respect entails an all things considered reason to abstain from interfering with people's freedom to exercise their (claim) rights).

In the context of this Chapter, the analysis developed in the previous paragraphs matters because, if the value of freedom is derived exclusively from all things considered reasons of respect for persons, freedom has *only specific* value, that is, there would be value only in having the freedoms to which one is entitled as a matter of right. To further clarify this point: recall that the non-specific value of freedom ranges over *any* specific freedom (§1.3), and deriving the value of freedom from respect invalidates the thesis that freedom has non-specific value, since it entails denying that there is value in having the freedoms that do not fall in the domain of an individual's claim rights (and second-order powers). Thus, assuming that the *Status View* derives the value of freedom exclusively from reasons of respect is incompatible with also assuming the non-specific value of freedom. One central aim of this Chapter is to reject the incompatibility of non-specific value with the *Status View*. In what follows I shall defend an interpretation of the *Status View* that does not derive the value of freedom directly from the

¹⁷ Perhaps we are in the state of nature and external resources can be appropriated according to a first-come-first-served rule.

principle of respect, and according to which freedom *as such* – not only the freedoms to which people are entitled as a matter of rights – has value.

5.3 The Moralised *Status View* Versus the Non-Moralised *Status View*.

In the previous Section I have considered the possibility of deriving the value of freedom captured by the *Status View* from respect, and that this entails denying the non-specific value of freedom. I want now to clarify that, in my view, the move that justifies asserting the plausibility of a kind of non-specific value that appeals to deontic reasons to refrain from interfering with people's freedom consists in weakening the strength of such reasons: we can interpret them as *pro tanto* reasons rather than *all things considered* reasons. Arguing that there are *pro tanto* deontic reasons to refrain from interfering with people's freedom seems very plausible, since surely there is at least some value in not being deprived of the freedoms to do the actions that we are *at liberty* to do (i.e. that constitute the domain of an individual's naked liberty rights), which is something that we cannot claim if we derive the value of freedom from respect (§5.2).¹⁸ However, it is also a potentially controversial move: indeed, assuming the *Status View*, and since the non-specific value of freedom ranges over every instance of freedom, are there deontic reasons to refrain from interfering with people's freedoms to perform severely wrong actions (e.g. killing an innocent)? Is being deprived of such freedoms *pro tanto* disvaluable *on deontic grounds*?

¹⁸ For example, there is value in not being interfered with the freedom to grab an apple from an apple tree, even if one has no right to not being interfered with (and others have no duty not to interfere).

5.3.1 The Non-Moralised *Status View*.

Crucially, an interpretation of the *Status View* that appeals to deontic pro tanto reasons to refrain from interfering with people's freedom needs to address the following question (I shall call it *The Question*):

The Question: Is interference (at least pro tanto) *always* morally objectionable? Is there *inherent* disvalue in interference *as such*?

Assuming that the deontic reasons to which the *Status View* appeals are pro tanto reasons, there are two ways of addressing *The Question*. We can answer *The Question* affirmatively, claiming that interference with the freedom to do *any* action is at least pro tanto disvaluable, including when interference (or disposition to interfere) deprives¹⁹ an individual of the freedom to perform actions that are either (1) objectively detrimental for the individual's own wellbeing – such as making a prolonged use of hard drugs – or (2) morally wrong, including (3) those actions that are *severely* wrong and morally repugnant – such as torturing, raping, or killing an innocent person.²⁰ I shall call this the *non-moralised* interpretation of the *Status View* (premised on pro tanto reasons), since on such a view *every* opportunity has value *qua freedom* independently of the content of the freedom in question. In this Chapter I defend the non-moralised *Status View*, which entails that freedom has non-specific value. More formally, according to the non-moralised *Status View*:

¹⁹ Or would deprive if a disposition to interfere with other people's freedom is activated.

²⁰ Notice that actions of type (3) are a subset of actions of type (2), since severely wrong actions are a subset of morally impermissible actions in general. This categorisation exclusively serves explanatory purposes in the context of this Chapter, and it is not systematic, since there is overlap between actions of type (1) and of types (2) and (3) in so far as an action that is good or bad in persons-affecting terms can also be either morally permissible or (severely) morally impermissible.

The Non-Moralised Status View: There is a pro tanto deontic reason to refrain from interfering with any opportunity to *X*, independently of the content of *X*. Therefore, *any opportunity* (to *X*) is valuable, independently of the content of the opportunity in question.

In the context of this Chapter I shall bracket off the issue of whether there is value in having the freedom to make *self-regarding* choices that are bad in persons-affecting terms (i.e. actions of type (1)).²¹ The reason for this move is that, although arguing that it is valuable to have the freedom to *harm oneself* is far from being uncontroversial, many arguments have been put forward and widely explored in the literature on anti-paternalism in support of this view, and I shall not enter this debate in the present context.²² Indeed, it is surely more controversial to contend that there is value in not being interfered with the freedom to perform other-regarding actions that are morally wrong because they harm others (categories (2) and especially (3)). In addition, I take it that, if one shows that it is valuable to have the freedom to perform actions that are severely wrong (type (3)), *a fortiori* there is also value in having the freedom to perform actions of type (2), which are less seriously wrong or less harmful. That is, excluding actions of type (1), my attempt to address *The Question* and to defend the non-moralised *Status View* will focus on the freedoms to perform actions of types (2) and (3), with a special attention for the freedoms to perform actions of type (3).

²¹ I use the distinction between self-regarding and other-regarding actions merely for explanatory purposes.

²² On the wrongness of paternalism, see Quong, *Liberalism Without Perfection*, Ch. 3.

5.3.2 Bader's Moralised *Status View*.

The alternative way of answering *The Question* holds that there is no deontic pro tanto reason to refrain from interfering with people's opportunities to perform actions of types (2) and (3). Assuming this answer to *The Question*, the *Status View* assigns no value to the opportunities to perform morally impermissible actions: I shall call this view the *moralised* interpretation of the *Status View*. Bader can be interpreted as assuming the moralised *Status View*, as I show in what follows.²³ First, according to Bader, the value of freedom does not range over the opportunities to perform morally vicious or repugnant actions (type (3)). Second, Bader also endorses a *fully moralised* account of the value of freedom, arguing that the value of freedom covers only the freedoms to perform *morally permissible* actions, which are the freedoms to perform the actions that cover one's Hohfeldian liberties (or privileges), claim rights, and second-order powers. And third, since on Bader's account, there is no deontic pro tanto reason to refrain from interfering with people's opportunities to perform morally impermissible actions (of type (2)) (not only actions of type (3)), the opportunities to perform actions of type (2) do not have value. More formally, according to the moralised *Status View*:

The Moralised Status View: There is a deontic pro tanto reason to refrain from interfering with someone's opportunity to *X*, only iff *X* is a morally permissible action.

²³ Ralf Bader, 'Moralizing Liberty'. Bader does not explicitly use the language of the *value* of freedom, since he uses the language of reasons in favour of or against interfering with people's freedom. But, substantively speaking, his view amounts to a theory of the value of freedom.

Notice that Bader's view is more expansive than the view introduced in §5.2, since on Bader's interpretation of the *Status View*, the freedoms that fall in the domain of the Hohfeldian liberties are valuable in deontic terms (i.e. there is a deontic reason to refrain from interfering with such freedoms). In the following citation Bader offers his interpretation of how we should go about answering *The Question* with respect to opportunities to perform morally repugnant actions (type (3)). Bader's reasoning also shows that endorsing the moralised *Status View* entails rejecting the *non-specific value* of freedom, since on the moralised *Status View* the value of freedom is restricted only to actions that are morally permissible.²⁴ According to Bader:

‘As soon as the freedom to torture, to rape, and to murder classify as genuine freedoms (as they do on a non-moralized account), it is evident that considerations of freedom do not as such constitute *pro tanto* reasons. There will be some freedoms that are good and not to be infringed, as well as some that are bad and to be restricted, whilst yet others are neutral. [...] As a result, freedom loses intrinsic normative significance, i.e. it will not be the case that there is something that speaks in favour of freedom, as such, but only that there are various things that speak in favour of *specific* freedoms.’²⁵
(emphasis added)

²⁴ Since Bader interprets the value of freedom in deontic terms, ‘good’ and ‘bad’ in the quotation are to be interpreted as capturing the domain of moral permissibility.

²⁵ Bader, ‘Moralizing Liberty’, p. 157.

Bader insightfully points out that what is at stake in the dispute between the moralised and the non-moralised interpretations of the *Status View* is the correct understanding of the value of freedom in a theory of justice. According to Bader,

‘[...] the moralized account has intrinsic *normative significance* built into the concept, which guarantees that infringements of freedom are morally problematic. The moralized account in this way underwrites *the presumption of liberty*, insofar as we have at least pro tanto reason to protect liberty and to avoid infringements thereof. In particular, the presumption of liberty is [...] a normative commitment insofar as it amounts to recognizing a pro tanto reason against interference. This ensures that the moralised notion of liberty is suitable for playing a justificatory role in political theorizing.’²⁶
(emphasis added)

Contra Bader, I contend that interference is inherently and at least pro tanto morally objectionable with respect to the opportunities to perform *any* action. If so, pace Bader, and assuming the *Status View*, the non-specific value of freedom is vindicated and freedom as such ‘is suitable for playing a justificatory role in political theorizing.’ This would in turn allow us to assert that the non-moralised interpretation of the *Status View* is a plausible moral foundation of freedom-centred justice.

²⁶ Bader, ‘Moralizing Liberty’, p. 157.

Furthermore, in this Section and in the following critique of Bader's account I shall use the language of 'opportunities' to perform morally impermissible actions (rather than 'freedoms'), since Bader derives from a moralised interpretation of the *value* of freedom a moralised *definition* of freedom (i.e. of the conditions under which someone can be considered free, unfree, or not-free, to perform a specific action *X*). In particular, according to Bader, since there is no value in having the opportunity to perform morally impermissible actions, such opportunities *are not freedoms at all*. On Bader's account, the opportunities to perform morally impermissible actions are outside the semantic range of application of the concept of freedom: they constitute the domain of 'licence', rather than of freedom properly understood.²⁷ More formally, Bader adopts a trivalent understanding of freedom, according to which an individual cannot be considered free or unfree to perform a morally impermissible action and interferences with morally impermissible actions do not count as sources of unfreedom (i.e. they do not render the individual unfree). Rather, an individual should be considered not-free (i.e. neither free nor unfree) to perform such actions, where the category of 'not-freedom' indicates that ascriptions of freedom and unfreedom do not apply to the opportunities to perform morally impermissible actions.

²⁷ Bader is inspired by Locke's moralised understanding of freedom, which Locke expounded in §6 of John Locke, *The Second Treatise of Government*, ed. by Peter Laslett (Cambridge: Cambridge University Press, 1988 [1689]).

5.4 The Critique of the Moralised *Status View*.

5.4.1 Bader on Freedom and Respect for Persons.

Starting from this Section, I mount a number of objections against the moralised *Status View*. First, Bader argues that non-interference is valuable on respect-based grounds. As Bader claims:

‘Preventing someone from doing something that a person has a right to do is objectionable *on the grounds that it does not respect that person’s moral status*. Liberty, understood in this sense, is not something to be maximised or promoted, but something to be respected.’²⁸

This quotation illustrates Bader’s endorsement of the *Status View*. Bader is right in claiming that on the *Status View* ‘respecting freedom’ is the appropriate kind of attitude to have towards freedom (see Chapter 1, §1.2). However, the quotation can also generate confusion. As evidenced by Bader’s quotation above, Bader derives a reason to refrain from interfering with people’s freedom from the principle of respect for persons. However, as explained in §5.2, from the principle of respect for persons follows an *all things considered* deontic reason (to refrain from interfering with the freedoms protected by claim rights), while in ‘Moralizing Liberty’ Bader at the same time also acknowledges the existence of *pro tanto* deontic reasons (to refrain from interfering with the freedoms that fall in the domain of an individual’s liberty

²⁸ Bader, ‘Moralizing Liberty’, p. 159.

rights), and such reasons cannot be directly derived from the principle of respect for persons.²⁹ So, it is not entirely clear how Bader can ground the kind of deontic reasons to refrain from interfering with people's freedom that characterise the *Status View* on respect for persons, while at the same time also acknowledging the existence of *pro tanto* reasons of such a type.

Leaving this point of exegesis aside, it seems plausible to speculate that Bader's failure to realise that there is value in having the freedom to perform morally impermissible actions may stem from conflating the value of having the opportunity to *X* with the (dis)value associated with the *doing* of *X*.³⁰ Recall from Chapter 1 that we should distinguish between the value/disvalue of *doing X* and the value of the *opportunity* to *X* (see Chapter 1, §1.4). First, we should of course acknowledge the disvalue of doing *X*, when *X* is a morally impermissible action. Second, we should also of course acknowledge the existence of *decisive* reasons to prevent someone from *performing* a seriously wrong action (like killing), when the person in question is disposed to do so. But, crucially, this does not entail that there is no value in the *opportunity* to perform a morally impermissible action. Indeed, as I have argued in Chapter 1, opportunities have content-dependent as well as content-independent value. And, while it is plausible to attribute negative content-dependent value to the opportunity to perform a morally impermissible action – in so far as *performing* a morally impermissible action has negative value and the corresponding opportunity may just have content-dependent *disvalue* – asserting non-specific value means asserting that *every* opportunity also has value *qua opportunity*, including the opportunities to perform morally impermissible actions.³¹ Indeed, the whole point of asserting non-specific value is that such a value is content-independent: it is *independent of*

²⁹ See, for example, the quotation from Bader mentioned in §5.3.2.

³⁰ Indeed, in the quotation above Bader confusingly shifts from the *doing* of an action to the *liberty* of doing an action.

³¹ Moreover, variations in the content-dependent value of different specific freedoms can be reflected in the measurement of an individual's degree of overall freedom: see Kramer, *The Quality of Freedom*, Ch. 5.

the content of the opportunity in question, and therefore also of the *moral quality* of such an opportunity.

In light of these clarifications, I argue that there is a pro tanto deontic reason to refrain from interfering with people's opportunities to perform morally impermissible actions (including seriously wrong actions). The inherent disvalue of interference *as such* (i.e. including of the interference with the opportunity to perform impermissible actions) can be asserted *only* if, in ideal theory, we assume 1) that *A* (the would-be-interfered individual) is a competent moral person (i.e. that *A* has a sense of justice)³² and 2) that *A* is *not disposed to perform a morally impermissible action*: that is, 'strict compliance'³³ with the requirements of justice and morality.³⁴

Granted these assumptions, what justifies attributing disvalue to an interference with the opportunity to perform a morally impermissible action *X* is the fact that, when *A* is deprived of the opportunity to *X*, *A* is deprived of the opportunity to make 'an impact on the world'³⁵ by *refraining from acting immorally when things could have gone differently* – that is, when *A* could have acted immorally (by doing *X*), which crucially requires having the *opportunity* to act immorally (i.e. the opportunity to *X*). In other words, *A* is deprived of an opportunity to exercise her agency in a way that is valuable because it has an impact on the world: i.e. because it determines the course of events *when things could have gone differently*.

³² The sense of justice is one of the two moral powers that, according to Rawls, qualify reasonable citizens. The other moral power is the capacity to form and revise a conception of the good. Rawls, *Political Liberalism*, p. 19

³³ Rawls, *Justice as Fairness. A Restatement*, p. 13.

³⁴ If we relax such an assumption, there are decisive reasons to deprive the individual in question of the freedom to kill, if she is disposed to kill.

³⁵ Carter, *A Measure of Freedom*, p. 42.

The argument presented above assumes that exercises of agency are valuable when they can contribute to causally determine the course of events ‘by intervening in the causal chains which bring about events and states of affairs’ (on the value of agency, see §3.8).³⁶ And it should be recalled that having a degree of freedom simpliciter (i.e. of opportunities to act) has constitutive value for *effective* agency (i.e. the kind of agency that can make a causal impact on the world): having the opportunity to do a specific action *Y* has constitutive value for effective agency when one could have chosen and could have done otherwise (i.e. when one could have done not-*Y*), which crucially requires that one also has the opportunity to not-*Y*. Thus, while ‘acting morally’ of course has value³⁷ and ‘acting immorally’ has corresponding disvalue, having the *opportunity* to act immorally is constitutively valuable for effective agency when one also has the opportunity to act morally. Therefore, granted that an individual has no disposition to act immorally, I conclude that interference with the opportunity to act immorally (when one has the opportunity to act morally) is pro tanto disvaluable because it deprives an individual of an opportunity to exercise effective agency.

Two points of clarifications are in order. 1) First, we should be clear on distinguishing between two kinds of values attributable to agency – and, consequently, to *opportunities* for (effective) agency – depending on whether the value of (opportunities for) agency is justified by appealing to axiological reasons concerning the good, or, alternatively, to deontic reasons concerning the right. In the former case, agency is valuable in person-affecting terms and has personal value: in other words, on such an account, attaining one’s agency goals is valuable *for* the person who exercises agency, and people have an interest in exercising their capacity for agency, since this contributes to furthering their interests and to making their lives go well. Consequently, on this

³⁶ Carter, *A Measure of Freedom*, p. 42.

³⁷ It is indeed a valuable exercise of agency.

interpretation, also the value of *opportunities* for agency is explained in person-affecting terms. This is the interpretation of the value of agency that appeals to axiological (person-affecting) reasons concerning the good that I have examined in Chapter 3 (§§3.8.1-3.8.2).

By contrast, the kind of value attributable to agency (and to opportunities for agency) that is relevant to this Chapter is one which has its source in reasons concerning the right – i.e. concerning how persons have reason to treat one another. Persons have a kind of worth, or ‘dignity’, in virtue of possessing the moral status of agents, and this grounds a pro tanto reason to abstain from interfering with people’s opportunities for (effective) agency. In other words, on the (non-moralised) *Status View* persons have a pro tanto reason to refrain from interfering with one another’s opportunities for agency in recognition of their moral status as agents.

So, on the (non-moralised) *Status View*, freedom has value in virtue of a deontic pro tanto reason to refrain from interfering with the freedom of persons. Crucially, on such an account of the value of freedom, it is valuable *that persons* refrain from interfering with one another’s opportunities for agency, rather than *for persons* to have opportunities for agency. In other words, on the (non-moralised) *Status View*, freedom has *impersonal* rather than *personal* value, in that the (non-moralised) *Status View* justifies the value of freedom abstracting from whether it is *good for* persons to have freedom: freedom has value in virtue of a reason concerning how persons have reason to treat one another in response to their status as agents. And, as I have argued in this Chapter, there is a pro tanto reason to refrain from interfering with *any* opportunity for agency (i.e. with any ‘freedom’), including with the opportunities to perform morally impermissible actions.

Second, in this Section I have assumed strict compliance with the principles of justice and with the rules of morality:³⁸ if we relax the condition of strict compliance, and we instead assume the possibility of a disposition to act immorally, the likelihood that an individual would act immorally can be a sufficient reason to prevent her from acting immorally.³⁹ I discuss this point further in the following Sections.⁴⁰

5.5 The Argument from Trust.

In the previous Section I have criticised the moralised account of the *Status View*, on grounds that, assuming strict compliance, it cannot recognise the pro tanto disvalue of interfering with people's opportunity to perform morally impermissible actions (including seriously wrong actions). I wish now to support such a critique with a further line of argument, which draws from Kramer's discussion of the value of freedom in *Liberalism with Excellence*, and which can be summarised as follows:

Sense of Justice: Assuming strict compliance, there is a pro tanto reason against depriving *A* of the opportunity to perform a morally impermissible action *X* because *A* can regret being interfered with the doing of *X* on grounds that interference can be motivated by a failure to recognise *A*'s capacity to act morally (*A*'s sense of

³⁸ Notice that Rawls applies the distinction between ideal and non-ideal theory specifically to the value of justice: Rawls, *Justice as Fairness. A Restatement*, p. 13.

³⁹ Much depends on a combination of considerations, which include the gravity of the immoral or unjust act under consideration, the likelihood that the disposition in question is activated, and the costs associated with issuing interference.

⁴⁰ Indeed, as I have argued in §5.3, reasons that justify refraining from interfering with *A*'s opportunities are pro tanto reasons, and therefore can be outweighed by moral considerations of a more stringent nature.

justice), which in turn fails to acknowledge *A*'s intention to *refrain* from doing *X*.⁴¹

For instance, to illustrate *Sense of Justice*:

Free to Murder *A* and *B* are a married couple. At night, they sleep in the same bed. However, they are each free to attempt to each other's lives when the partner is sleeping, since nothing (i.e. no physical obstacle) prevents each of them from doing so.⁴²

Separate Rooms *C* and *D* are a married couple. At night, they sleep in separate rooms, because *C* locks himself up in a room, rendering *D* unfree to enter the room and to attempt to *C*'s life.⁴³

Other things being equal, something goes wrong in a marriage in which one partner locks himself in a room, in order to prevent the other partner from having the opportunity to become a murderer (as in *Separate Rooms*). Conversely, it is not morally problematic if *A* and *B* sleep

⁴¹ The argument from trust draws from Kramer's objection to Raz's liberal perfectionism. Kramer applies the argument from trust to vindicate the value of the freedoms to perform self-regarding actions of type (1) as well as morally impermissible actions (of type (2) and (3)). See Kramer, *Liberalism with Excellence*, Ch. 5. For example, Kramer claims that '[...] one's retention of the physical freedom and the legal freedom to consume hallucinogens is of considerable value because it is a product of one's being trusted to reach sensible decisions about one's own life. Somebody resolutely disinclined to avail herself of the freedom to consume such drugs should nonetheless resent being deprived of that freedom by her system of governance, since the deprivation treats her as if she cannot be trusted to look after her own good' (emphases added), Kramer, *Liberalism with Excellence*, pp. 211-212.

⁴² I owe to Ian Carter the suggestion to use a version of this example.

⁴³ Let us assume that it is physically impossible for *D* to break into *C*'s locked bedroom.

together, *even if* they each have the opportunity to take their partner's life as they sleep (as in *Free to Murder*). In fact, people happily sleep together without fear of being killed when they *trust* each other. If we trust the person with whom we sleep – and if our trust is well founded – we would have no reason to be worried that our partner has the opportunity to kill us while we sleep, since we can be assured that she is not going to take advantage of such an opportunity. In fact, we may regret if a third agent (the state) interfered with our partner's opportunity to kill us while we lie dormant.

Free to Murder and *Separate Rooms* highlight the value of expressing trust – under ideal conditions of assurance of full compliance – in *interpersonal* relationships, by refraining from depriving another individual of the opportunity to perform a morally impermissible action. Such an argument can be extended also to the value of trust *between the state and its citizens*.⁴⁴ For example, we can think of the somehow fanciful example in which the state can implant microchips into *A*'s and *B*'s brains, such that, if *A* or *B* attempt to kill their respective partner, they are immediately prevented from doing so by the activation of the chips that intervene in the functioning of *A*'s and *B*'s neurological systems by paralysing their actions.⁴⁵ It is plausible

⁴⁴ Indeed, Kramer's discussion of the value of freedom and self-regarding actions is framed in terms of the relationships between the state and its citizens. Kramer, *Liberalism with Excellence*, Ch. 5, for example at p. 236. Notice that in *Separate Rooms* when *C* locks himself in his room, thereby also depriving *D* of the opportunity to kill *C*, *C* also deprives *D* of *additional opportunities* (e.g. the opportunity to sleep in the same room with *C*, the opportunity to hold the hand of *C* while sleeping etc.). This is because, depriving someone of the opportunity to do a specific action *X* by rendering physically impossible for the individual in question the doing of *X* consists in removing access to the physical components of *X*, which in turn has the indirect effect of removing additional opportunities: the opportunities to do the actions whose performance requires the use of the physical components of *X* (on freedom as the '*personal possession of physical objects*', see Steiner, 'Individual Liberty', p. 48.) Thus, although depriving someone of the opportunity to *X* typically also deprives the individual in question of additional opportunities – and this may indeed play an important role in justifying the regret that can follow from being rendered unfree – in fact this is an *indirect* reason to regret interference. And, we should put aside considerations concerning the disvalue brought about by removing additional opportunities, focusing instead on the existence of *direct* reasons to regret interference.

⁴⁵ The micro-chip example is also used by Kramer to highlight the value of the freedom to perform self-regarding actions that are detrimental to an individual's own wellbeing. See Kramer, *Liberalism with Excellence*, p. 234.

to believe that the two partners (or one of them) would regret the existence of such an instance of state interference, assuming that there are no reasons to believe that *A* and *B* intend to make an attempt on the other's life. The argument presented in this Section – which I call *The Argument from Trust* (henceforth AFT) – can be summarised as follows:

The Argument From Trust (AFT): Whenever the state, or indeed any other agent, deprive people of the opportunity to perform morally impermissible actions (or is disposed to do so) in order to prevent the performance of such actions, the imposition of the constraints (or the disposition to interfere), is pro tanto morally objectionable if it is motivated by a lack of trust in people's capacity to *refrain* from performing the actions in question.

When lack of trust is unmotivated, it is morally objectionable. And lack of trust is morally objectionable when there are no reasons to assume people's failures to live up to the requirements of justice or of interpersonal morality. Of course, in reality there may well be reasons why we shouldn't trust people's capacities to live up to the standards of morality, and which could therefore justify interference. But, notice that this crucially entails dropping strict compliance: conversely, if we assume strict compliance, and people are capable and motivated to comply with the principles of justice and with the principles of interpersonal morality, interferences with the opportunities to violate such principles are pro tanto objectionable when they are motivated by 1) a lack of trust in people's capacity to abide by the principles of justice

and of morality (motivational failure) or 2) by a lack of trust in the moral competence required for having a sense of justice (epistemic failure).

5.5.1 Clarifications on the Scope of AFT.

Some intermediate conclusions are in order. AFT is sufficient to debunk the moralised interpretation of the *Status View*, since it shows that interference with morally impermissible actions is pro tanto morally objectionable when it is justified by an unmotivated lack of trust in people's capacity to act morally. Crucially, however, this shows that *only unmotivated interference* is morally objectionable. It is instructive to clarify this point with an example:

High Walls Mildred is the legitimate owner of a tract of land, and she encloses the land with a very high wall (say, 15m. high), merely because she likes building walls, and not because she is worried that Noah may want to steal fruits from her orchard.

Mildred is entitled to build the wall, and her interference with Noah's opportunity is not motivated by a lack of trust in Noah's sense of justice or capacity to act morally. Hence, Noah cannot complain that his status as a moral person is not adequately recognised by Mildred: Mildred has built the wall for her pleasure, rather than to keep Noah off the orchard. Although Mildred's imposition of a constraint is not morally objectionable on these grounds, this point does not invalidate the arguments put forward in §5.4, according to which, on the non-moralised interpretation of the *Status View*, there is a pro tanto deontic reason to refrain from interfering with *any* instance of freedom (or opportunity): it would indeed be valuable for Noah

to be unprevented from accessing Mildred's orchard. These clarifications shed light on the scope of AFT as *a supporting but non-decisive argument* in favour of the non-moralised *Status View*. The decisive argument in favour of the non-moralised *Status View* has been developed in §5.4.

Moreover, recall that Bader claims that it is implausible to believe that the freedom to perform seriously wrong actions (like 'the freedom to torture, to rape, and to murder')⁴⁶ has value. Now, if AFT is correct, this is false. Indeed, in such cases it can be *especially* regrettable to be prevented from having the opportunity to perform seriously wrong actions, when prevention is justified by an unmotivated lack of trust in the interfered individual's lack of ability or willingness to act morally, since this would entail judging the individual in question as potentially disposed to perform morally repugnant actions. Furthermore, if there is value in having the opportunity to perform morally repugnant actions (of type (3)), a considerable breach will have been opened in the moralised *Status View*, since *a fortiori* we will have also shown that there is value in having the opportunity to perform morally impermissible but less seriously wrong actions (actions of type (2)). Now, this is true in the sense that, when AFT is applied to actions of type (2) – morally impermissible actions that are less morally vicious than, say, committing torture (for example, stealing at the supermarket) – it can be less counterintuitive to claim that there is value in having the opportunity to perform actions of this type. However, since actions of type (2) are less morally repugnant, we should also account for the potentially increased likelihood of failures to live up to the standards of morality, which can in turn count as a sufficient reason for interfering with people's freedoms to perform actions of type (2).

⁴⁶ Bader, 'Moralizing Liberty', p. 157.

5.6 Ideal Theory and the (Non-Moralised) *Status View*.

Should the arguments of this Chapter be taken to have direct policy implications? For example, do they justify a reason, grounded on the value of freedom captured by the *Status View* and illustrated in this Chapter, to object to state use of coercive power? Or to object to the use of police force to patrol the territory? Should shop-lifting devices be removed from clothing shops? The answer is that, though we should grant that a disposition to act immorally can justify interference with people's opportunity to act immorally, if we are assured that people are uninclined from acting immorally, *there are no reasons to deprive people of the opportunity to perform morally impermissible actions of type (2) or (3)*. Moreover, AFT illustrates the value of freedom in a society *of mutual trust* between persons, where such a trust is grounded on the reasonable assurance that people are morally competent and motivated to refrain from performing morally impermissible actions that infringe the principles of justice for the sake of obtaining personal gains (or for any other reason).⁴⁷ As Miller notices, this is the depiction of human nature that informs the writings of anarchist thinkers, and from which anarchists derive a critique of the coercive force of the state grounded on the values of freedom and trust among persons. Consider the following quotation by William Godwin, cited in Miller's book:

‘It is earnestly to be desired that each man should be wise enough to govern himself, without the intervention of any compulsory restraint; and, since government, even in its best state, is an evil, the object principally to be aimed

⁴⁷ This is a depiction of human nature that at least since Plato's example of 'the ring of Gyges' has been dubbed as utopian or unrealistic. See Plato, *The Republic*, ed. by G. R. F. Ferrari (Cambridge: Cambridge University Press, 2000), pp. 39-40.

at is that we should have as little of it as the general peace
of human society will permit.⁴⁸

The arguments presented in this Chapter can be taken to support a *philosophical anarchist* outlook on questions of political morality. Philosophical anarchists deny that the state has the moral authority to coercively impose rules that interfere with the autonomy of individual persons, while at the same time also rejecting to actively oppose *existing* states for a number of reasons, including because existing states are a solution to coordination problems or because greater injustice would be brought about by attempting to actively destabilise the state.⁴⁹ And the gap that philosophical anarchists trace between theory and practice can be interpreted as a gap between ideal and non-ideal theory,⁵⁰ in so far as the critique of the coercive nature of the state in ideal theory (i.e. assuming strict compliance) does not necessarily lead to a recommendation to actively oppose existing states, if there is reason to believe that states serve an essential role in bringing about justice in non-ideal conditions.⁵¹

Of course, crimes do happen in our societies, and therefore we want the police to patrol our neighbourhoods, when necessary. What kind of reasons justify interference, assuming *non-ideal* theory? Now, if we take our societies *as they are*, depending on the seriousness of the

⁴⁸ Cited by David Miller, *Anarchism* (London and Melbourne: J. M. Dent, 1984), p. 20.

⁴⁹ For context, see John Simmons, 'Philosophical Anarchism', in *Justification and Legitimacy. Essays on Rights and Obligations* (Cambridge: Cambridge University Press, 2001), pp. 102-121; Robert Paul Wolff, *In Defense of Anarchism* (New York: Harper and Row, 1970).

⁵⁰ Following Rawls, while ideal theory assumes that certain optimal conditions obtain – i.e. 1) there is strict compliance and 2) favourable social and economic circumstances – non-ideal theory works out how the requirements of ethical-political prescriptions change in sub-optimal conditions: for example, if we drop strict compliance (where, in turn, the reasons that vitiate strict compliance can be of various types). See Rawls, *Justice as Fairness. A Restatement*, p. 47. For context, see Zofia Stemplowska and Adam Swift, 'Ideal and Non-Ideal Theory', in David Estlund (ed.), *The Oxford Handbook of Political Philosophy* (Oxford: Oxford University Press, 2012), pp. 373-389.

⁵¹ Notice that from AFT it does not follow a reason to object to the moral power of the state to punish crimes ex-post.

wrong associated with the freedom to perform morally impermissible actions – i.e. depending on whether the actions in question belong to type (2) or type (3) – the reasons that justify refraining from fully putting in practice the radical implications of AFT are distinct. Consider, first, AFT applied to the freedoms to perform actions of type 3 (severely wrong and morally repugnant actions). At the level of ideal theory, an ‘achievable and desirable recommendation’⁵² that AFT has to offer is to reduce the use of police forces to patrol the territory in order to prevent crimes like murder, rape, and torture.⁵³ If we assume that the subjects of a theory of justice are morally competent, surely we should also assume that it is not *demanding* to comply with principles that require to refrain from performing morally repugnant actions (like raping or torturing). That is, a concern for demandingness is not the reason to adopt non-ideal theory. Rather, what justifies adopting non-ideal theory is the factual assumption that in complex societies there will be *some* individuals who are inclined to perform morally repugnant actions.⁵⁴ We have a completely different picture when AFT is applied to the freedoms of type (2), which are linked to actions that are morally wrong (e.g. stealing a book from the bookshop), but perhaps less repugnant than the actions associated with the freedoms of type (3). Here issues of motivational failure play a crucial role and undermine full compliance: in so far as human persons are likely to fall prey to temptations to breach the laws of morality and the principles of justice in order to gain personal advantage in morally impermissible ways – AFT, for example, would recommend dismantling anti-shoplifting devices, since they deprive people of the opportunity to exit the shop without being checked – the recommendation that follows from AFT to refrain from preventing people from performing

⁵² I adopt this terminology from Zofia Stemplowska, ‘What’s Ideal About Ideal Theory’, *Social Theory and Practice*, Vol. 34, No. 3, 2008, pp. 319-340, §2.

⁵³ Notice that, assuming ideal theory, this end is both an achievable – there are no problems of feasibility with putting into practice the recommendation in question – and desirable end.

⁵⁴ As Rawls defines the requirements of strict compliance, ‘(nearly) everyone strictly complies with [...] the principles of justice’ (emphasis added): Rawls, *Justice as Fairness. A Restatement*, p. 13. Thus, he assumes *in ideal theory* that in a well-ordered society some individuals fail to comply with the principles of justice.

morally wrong actions are more likely to be undesirable (since it is unrealistic to assume full compliance). That is, with respect to freedoms to perform actions of type (2), what undermines full compliance are issues of motivational failures.

5.7 Conclusion.

If the arguments presented in this Chapter are correct, the non-moralised interpretation of the *Status View* is vindicated: interference is pro tanto disvaluable *as such*, and every opportunity has value *qua* freedom, including the opportunities to perform morally impermissible actions. In the next Chapter, I examine the implications of distinguishing between the *Status View* and the *Benefit View* for questions concerning the *definition* of freedom.

Part IV:

Non-Interference, Freedom, and Ability

Chapter 6

Non-Interference, Freedom, and Ability:

How the Values of Freedom Can Determine What Freedom Is

6.1 Introduction. The Values of Freedom and the Conceptual Analysis of Freedom.

The central question that I wish to address in this Chapter is the following: how should we go about *defining* freedom? How should we theorise about what freedom *is*? I shall argue that freedom is an interpretative concept,¹ and that therefore the (non-specific) value of freedom *grounds* the definition of freedom (i.e. the conditions under which someone can be described as free/unfree to do a specific action *X*). Disagreements about different definitions of freedom should be interpreted as motivated by more fundamental disagreements about different ways of interpreting the *value* of freedom (depending on whether one endorses the *Benefit View* or the *Status View*). So far, we have assumed that freedom is an ‘opportunity concept’ and that only obstacles that render physically impossible the doing of an action can count as sources of unfreedom (Chapter 1, §1.5). Making these assumptions permits us to anchor our enquiry on broad background intuitions about what freedom is.² But, as illustrated in Chapter 1 (§1.5), there is a cluster of questions concerning freedom and ability that have remained unanswered in the thesis: is freedom the mere absence of constraints imposed (or non-removed) by others,

¹ Dworkin, *Justice for Hedgehogs*, Ch. 8.

² I have introduced the distinction between freedom as an opportunity concept and freedom as an exercise concept in the Introduction of the thesis. The distinction comes from Taylor, ‘What’s Wrong with Negative Liberty’.

or is it the pure ability to act? In addition: do only obstacles imposed (or non-removed) by others render one unfree? Or can natural obstacles also render one unfree? This longstanding controversy has generated debates that have evolved in increasingly more technical directions, somehow losing sight of what is at stake in defining freedom in the first place.³ What is at stake, I shall argue, is how disagreements about the value of freedom (in a theory of justice) shape definitions of freedom. This Chapter aims to contribute to debates concerning freedom and ability by investigating the relationships between the value(s) of freedom – captured by the *Benefit View* and the *Status View* – and the definition of freedom.

6.1.2 Structure of the Chapter.

I shall proceed by first introducing the debate on freedom and ability in §6.2. In §6.3 I argue that, if one endorses the *Status View*, then one also *necessarily* endorses a theory of freedom as *social freedom*. §§6.4-6.8 then examine how the *Status View* can inform or determine the definition of freedom. The discussion unfolds by examining the value of freedom in Steiner's theory of justice. In particular, I argue in §6.4 that Steiner's assumption of a bivalent theory of freedom as mere absence of human interference is motivated by an interpretation of the value of freedom that appeals to deontic reasons (i.e. to the *Status View*), in that Steiner negatively infers the value of freedom from the *absence of a certain disvalue*: the *relational* disvalue of interference as such (where interference is deemed to be disvaluable in deontic terms: in virtue of a reason to refrain from interfering with the freedom of persons). §6.4 also clarifies that there are two distinct ways of interpreting the non-specific value of freedom, depending on whether one endorses the *Benefit View* or the *Status View*.

³ See Carter, *A Measure of Freedom*, Ch. 8; Kramer, *The Quality of Freedom*, esp. Ch. 4; Ronen Shnayderman, 'Causal Tests in Subjunctive Judgements About Negative Freedom', *Res Publica*, Vol. 20, No.2, 2014, pp. 183-197; Schmidt, 'Abilities and the Sources of Unfreedom'.

Then, §§6.5-6.8 unpack a number of critiques that can be moved to Steiner's bivalent theory of freedom. In particular, starting from §6.7 I want to show that, remaining faithful to Steiner's own interpretation of the *relational* nature of the deontic reasons captured by the *Status View*, the *Status View* is conducive to endorsing a theory of freedom according to which an individual *A* can be considered free/unfree to do an action *X*, *only provided that A stands in the relevant social relationship with B with respect to X*. The upshot of this analysis is that assuming the *Status View* gives us reason to endorse a trivalent theory of freedom (rather than Steinerian bivalence). I devote §6.7 to the task of identifying what is the relevant relationship that matters for ascriptions of unfreedom, while in §6.8 I extend the argument to ascriptions of *freedom*. Furthermore, my argument in §§6.7-6.8 assumes that the kind of constraints that generate unfreedom are those that other human beings have causally contributed to generate (or are disposed to causally contribute to generate) (i.e. the 'causal responsibility view') (§6.5). And, as I clarify in §6.6, the argument of §§6.7-6.8 holds with the exception of cases in which *A* is free to *X*, *unable* to *X* (even in the absence of human constraints), and has a negative right that others refrain from interfering with her freedom to *X*: in such cases there are indeed *symbolic* deontic reasons to refrain from interfering with *A*'s freedom to *X*.

In §6.9 I then move to examining the relationships between the *Benefit View* and definitions of freedom, arguing that, if one endorses the *objectivist* interpretations of the *Benefit View* discussed in Chapter 3 (§§3.5-3.9), then freedom should be understood as the *ability* to act (rather than as the mere absence of human interference). §6.10 concludes. The main aim of this Chapter, therefore, is to tease out the implications that assuming either the *Status View* or the *Benefit View* has for the definition of freedom and of unfreedom.

6.2 Freedom and Ability. Can the Value of Freedom Determine What Freedom Is?

6.2.1 Freedom and Ability.

The question concerning whether freedom should be equated with the ability to act is one of the most debated in the literature on freedom. ‘Ability’ is typically understood as ‘ableness’:⁴ on this view, *A* is free – and therefore able – to *X* when *A* has 1) the required physical and mental abilities necessary to *X*, as well as 2) the material means necessary to *X*.⁵ For example: *A* is free to drive a car when *A* is in possession of the relevant driving skills and has access to a functioning car. Moreover, ‘ability’ is standardly interpreted as *counterfactual success*, and *A* is able to *X* when *A* would (be likely to) succeed in doing *X*, if *A* tried to *X*.⁶ I shall call the theories that define freedom as the ability to act ‘ability-based freedom’ (henceforth ABF).

Those who do not endorse ABF are in agreement with Berlin, who argued that ‘mere incapacity to attain a goal is not lack of political freedom’.⁷ What may justify abstaining from equating freedom with the mere ability to act is the endorsement of a view of freedom *as social freedom* (henceforth SF), according to which *A* can be free to *X*, even if *A* is unable to *X*, provided that *A* is not subject to constraints *for which other human beings are (causally or morally) responsible*, and that would prevent *A* from doing *X*.⁸ Miller, for example, argues that ‘in any social system [...] there will be some people with physical handicaps who are (as we should say) unable, though free, to act in various ways.’⁹ To clarify further this point with additional

⁴ Peter Morriess, *Power. A Philosophical Analysis*, 2nd edn. (Manchester: Manchester University Press, 2002 [1987]).

⁵ This view is assumed by Kramer, *The Quality of Freedom*; Hindriks, ‘The Freedom of Collective Agents’, pp. 166-167.

⁶ See Dowding and Van Hees, ‘Freedom as Counterfactual Success’.

⁷ Berlin, ‘Two Concepts of Liberty’, p. 169.

⁸ Recall, indeed, from Ch. 1 (§1.5) that only obstacles that render physically impossible the doing of *X* generate unfreedom.

⁹ Miller, ‘Constraints on Freedom’, p.70.

examples: on SF, if *A* is unable to run the marathon in less than two hours, or if *A* is unable to perform a very complicated mathematical calculus, *A* is merely *unable* – but not *unfree* – to do so, provided that other human beings do not interfere by imposing (or by non-removing) the obstacles that prevent *A* from attaining the ends under consideration. Notice that SF is *not* necessarily hostile to ABF: Kramer, for example, argues that, in order to be free to *X*, one should be unprevented by others *as well as able* to *X*.¹⁰ What matters is that the assumption that freedom is not immediately equivalent to the ability to act stems from assuming SF.

As clarified in Chapter 1 (§1.5), SF theorists think 1) that there are reasons to distinguish between obstacles generated or non-removed by other human beings and natural obstacles (such as physical disabilities, fears, cognitive impairments, natural disasters, for which other human beings are not causally or morally responsible), and 2) that only constraints imposed or non-removed by other human beings can count as sources of unfreedom. On what grounds can it be justifiable to maintain the distinction between humanly engendered and natural obstacles? Should only constraints imposed/non-removed by other human beings count as sources of unfreedom? Or, alternatively, do also natural obstacles generate unfreedom?

6.2.2 Sen and Cohen on Freedom and Ability.

I wish to contribute to the debates concerning freedom, ability, and the *source* (natural or humanly engendered)¹¹ of the constraints on freedom with a discussion of the *value* of freedom, which can be introduced with the following quotations by Sen and Cohen. According to Sen:

¹⁰ Kramer, *The Quality of Freedom*.

¹¹ Carter distinguishes between questions concerning the (natural or humanly engendered) *source* of the constraints on freedom and questions concerning what I have called the *strength* of the constraints (see Ch. 1, §1.4): Ian Carter, ‘Positive and Negative Liberty’, *The Stanford Encyclopedia of Philosophy*, (2018), <https://plato.stanford.edu/entries/liberty-positive-negative/>.

Real Freedom (1): ‘If we really do think it is important that a person should be able to lead the life that he or she would choose, then it is the general category of positive freedom with which we have to be concerned.’¹²

Positive freedom, in this context, should be understood as ABF (or, better, as freedom as *capability*).¹³ Indeed, for Sen:

Real Freedom (2): ‘freedom [is concerned] with the *real opportunity* that we have to accomplish what we value.’¹⁴ (emphasis in original)

While Sen’s quotation is about freedom as ability, the following quotation by Cohen is about negative freedom as mere absence of interference from other human beings (SF). The implicit target of Cohen’s argument is Jonathan Wolff’s interpretation of freedom.¹⁵ Wolff distinguishes between ‘freedom’ and ‘liberty’, and we should read ‘Wolffian liberty’ as meaning *freedom as permissibility* or *freedom as lack of interference with the actions that one has the right to do*; that is, as referring to a moralised account of negative freedom. And we should read the word ‘freedom’ in the quotation as meaning *real freedom*, or ABF. Here is Cohen’s quotation:

(Moralised) Freedom as Non-Interference: ‘Wolffian liberty [i.e. moralised freedom as non-interference] matters, in my view, [...] in that it is as *insult to*

¹² Sen, *Inequality Re-Examined*, p. 31, cited by Van Parijs in *Real Freedom for All*, Ch. 1, fn. 45.

¹³ Sen’s notion of ‘capability’ is not immediately definable as coextensive with ableness, in so far as capabilities are abilities to achieve *valuable* functionings. On this point, see Carter, ‘Is the Capability Approach Paternalist?’, pp. 77-81.

¹⁴ Sen, *Inequality Re-Examined*, p. 31.

¹⁵ Jonathan Wolff, ‘Freedom, Liberty, and Property’, *Critical Review*, Vol. 11, No. 3, 1997, pp. 345-357.

the status of persons when certain acts are forbidden to them, whether or not the permissibility of those acts would generate a corresponding freedom [i.e. real freedom] for those persons. Thus, for example, suppose that I have, and will continue to have, no desire to travel to Australia, and suppose, further, that I lack the money to do so. I would nevertheless consider it an insult if I were forbidden by a state to travel to Australia [...].'¹⁶ (emphasis in original)

The two quotations from Sen and Cohen can be read as exemplifying the view that the *definition* of freedom should be informed by considerations concerning the *value* of freedom. Consider *Real Freedom* (1) and (2). According to *Real Freedom* (1), if you justify the value of freedom in person-affecting terms – in other words, if you endorse the *Benefit View* – then you should care about ABF. The implicit target is negative freedom as absence of interference: *Real Freedom* (1) claims that you should care about ‘real freedom’, rather than about negative freedom as mere absence of interference. Now, suppose that we further claim:

P1: if you endorse the *Benefit View* – i.e. if you value freedom in persons-affecting terms – then you should endorse *a definition* of freedom as ABF, rather than a definition of freedom as mere absence of interference.

This is a conclusion in itself worth pondering. P1 tells us that certain reasons to *value* freedom *determine*, *lead to*, or *are conducive to*, adopting a certain definition of freedom: if our aim is to *define* freedom, we should look at the *value* of freedom.¹⁷ In §6.9 I shall claim that some

¹⁶ Cohen, ‘Freedom and Money’, p. 191.

¹⁷ ‘Determine’, ‘lead to’, ‘are conducive to’, are meant to capture different possible ways in which the value of freedom can intervene in shaping the definition of freedom. The value of freedom *determines* the definition of freedom, if a certain conception of freedom (or a certain aspect of such a conception) *necessarily follows* from valuing freedom in a certain way. On the other hand, ‘lead to’ and ‘are conducive to’ entail a weaker connection between the value of freedom and the definition of freedom:

version of P1 is indeed correct, and that the *Benefit View* is conducive to endorsing a definition of freedom as ABF. Notice that the questions that should guide our enquiry in testing the truth of P1, are the following: how can it be that what freedom *is* is defined by the *value* of freedom? Shouldn't we rather move in the other direction? Shouldn't we first define freedom and *then* determine whether freedom is valuable, and in case what is the value of freedom? In addition: does the *Benefit View* lead to endorsing a definition of freedom as ABF? Couldn't the *Benefit View* lead to a definition of freedom as non-interference?

Consider then *(Moralised) Freedom as Non-Interference*. Cohen targets Wolff's *moralised* interpretation of negative freedom: even if *A* is unable and does not desire to *X* (to go to Australia), there is value in having the freedom to *X*, on grounds that *it would be an insult to A's status as a person* to be deprived of the freedom to *X*, where freedom means 'mere absence of interference' and *X* is a morally permissible action or an action that *A* has the right to do. We know from Chapter 5 that the value of freedom captured by the *Status View* (which justifies the value of freedom in deontic terms) ranges over *any* instance of freedom as such, including over the freedoms to perform morally impermissible actions.¹⁸ Hence, even if being deprived of freedom *as such* (i.e. of any freedom unspecifically) may not be *insulting* – since, it is insulting only to be deprived of those freedoms to which one is entitled as a matter of right – nonetheless it is *pro tanto disvaluable* to be interfered with freedom as such. Given these premises, what (if anything) follows for the definition of freedom? Should we infer from *(Moralised) Freedom as Non-Interference* that, if one endorses the *Status View*, then freedom *is* the mere absence of humanly engendered interference, rather than the real opportunity to act? In the remainder of this Chapter, I shall focus on addressing questions concerning the

these expressions capture the idea that assuming a certain view about the value of freedom entails *having a reason* to endorse a certain definition of freedom.

¹⁸ The discussion of this point is the main theme of Ch. 5.

Status View and the definition of freedom (§§6.3-6.8), moving then to the discussion of the *Benefit View* and the definition of freedom in §6.9.

6.3 Theories of Social Freedom: Engendered Human Constraints as Necessary for Unfreedom.

6.3.1 Conceptual Clarifications: Freedom, Bivalence, and Trivalence.

On the one hand, we have (1) *definitions* of freedom and (2) of unfreedom; and, on the other, (3) the *value* of freedom and (4) the *disvalue* of unfreedom. Definitions of (1) freedom and of (2) unfreedom identify the necessary and/or sufficient conditions under which an individual person can be considered respectively free or unfree to do a specific action *X*. And the general question that is addressed in this Chapter concerns *whether* and, if so, *how* (3) the value(s) of freedom contribute to determine (1) the definition of freedom, and whether/how (4) the disvalue(s) of unfreedom contribute to determine (2) the definition of unfreedom. Notice that we should keep separate the discussion of the relationship between freedom's value and the definition of freedom from the discussion of unfreedom's disvalue and the definition of unfreedom: indeed, it is one thing to ask 'What is the value of freedom?', and another to ask 'What compromises the value of freedom (i.e. what is the disvalue of unfreedom)?'.¹⁹

Further, an essential point of clarification for understanding the arguments that follow in this Chapter is that a theory of freedom can be either bivalent or trivalent.²⁰ A bivalent theory of

¹⁹ On this point, I draw from Schmidt, 'Abilities and the Sources of Unfreedom', pp. 190-191.

²⁰ The distinction between bivalence and trivalence is not in itself a bivalent distinction, since, in theory there can also be quadrivalent (or n-valent) theories of freedom. I do not discuss this point in the Chapter.

freedom is made only of freedoms and unfreedoms. More formally: endorsing bivalence means asserting that, if *A* is not free (to do a specific action *X*), then *A* is *necessarily* unfree (to *X*). It means claiming that *A* can be either free or unfree (to *X*), and *tertium non datur*. Bivalence is not the only possibility on offer: we know from Chapter 4 that we can make the conceptual move of introducing the category of *not-freedom* (see §4.5). This would entail endorsing *trivalence*. Trivalent theories deny that freedom and unfreedom are mutually exclusive categories. On such views, a) ‘not being free (to *X*)’ does not necessarily entail ‘being unfree (to *X*)’ and b) ‘not being unfree (to *X*)’ does not necessarily entail ‘being free (to *X*)’: *A* can be *neither free nor unfree* (i.e. not-free) to *X*.²¹ For example, according to a desire-based trivalent theory of freedom, the categories of ‘freedom’ and ‘unfreedom’ apply only to the opportunities to perform actions that *A desires* to do, while *A* should be considered not-free (neither free nor unfree) with respect to those opportunities (or lack thereof) to perform actions that *A does not* desire to do. Notice that not every theory appeals to trivalence, but it is a conceptual possibility.²²

6.3.2 Social Freedom: Engendered Human Constraints as Necessary for Unfreedom.

Let us then explore the possibility of deriving the definitions of freedom and/or of unfreedom from the *Status View*. I shall defend the following claim:

P2: if one endorses the *Status View*, then *necessarily* one should endorse some version of SF (the social freedom view).

²¹ In Ch. 4 trivalence was introduced in the context of my critique of the moralised *Benefit View*.

²² The theorist who has pioneered the discussion of bivalence and trivalence applied to freedom is Steiner, see ‘Freedom and Bivalence’, in Ian Carter, and Mario Ricciardi, *Freedom, Power, and Political Morality* (London: Palgrave Macmillan, 2001), pp. 59-68. Trivalence is endorsed by Kramer, *The Quality of Freedom*; Schmidt, ‘Abilities and the Sources of Unfreedom’; and Bader, ‘Moralizing Liberty’.

Recall that, according to SF:²³

Social Freedom: an obstacle is a source of unfreedom if it is imposed, created, or non-removed, *by other human beings*.

SF emphasises the distinctiveness of *human agency* as necessary for generating *unfreedom*.

Miller illustrates what motivates SF as follows:

‘We use the notion of freedom [read: *unfreedom*] [...] when in the subclass of cases where the presence of an obstacle can be attributed to the action of another human being or beings, *and we do so in order to draw attention to that fact*. There are, in other words, numerous instances which can equally properly be described as cases of unfreedom or of inability, and our choice of terms will depend on whether we want to emphasize the human source of the obstacle. If, in example 1 above, I wish merely to lament the fact that a pleasurable activity is no longer open to me, I may well say that I am unable to walk on the river bank; but *if, in addition, I want to draw attention to the human agency responsible for the deprivation, I shall use the language of freedom* [i.e. read: of unfreedom].’²⁴ (emphasis mine)

Now, if one interprets the value of freedom in deontic terms, appealing to a reason against interfering with people’s freedom – i.e. if one endorses the *Status View* – then *one of the*

²³ The authors who endorse SF are Berlin, Carter, Hayek, Kramer, Miller, Oppenheim, Steiner. See Ch.1, §1.4.

²⁴ Miller, ‘Constraints on Freedom’, pp. 68-69.

necessary conditions for ascriptions of unfreedom is that a constraint on freedom is generated or non-removed by other human beings: that is, if the value of freedom is compromised when one is (either actually or subjunctively) constrained by others, then unfreedom *is* a *social relationship* between persons. This shows that P2 is valid, in that a necessary condition for ascriptions of unfreedom – i.e. that the constraint should be imposed/non-removed by other human beings – can be derived from endorsing the *Status View*. While discussing SF, Miller implicitly agrees with this point. As Miller claims:

‘The question about the origins of an obstacle *is closely linked to a question about justification*. Our language embodies the presumption that humans should not obstruct one another’s activity.’²⁵ (emphasis mine)

Miller suggests that *justificatory reasons* of a certain type – in fact, deontic reasons to refrain from interfering with people’s freedom – influence the language of (freedom and) unfreedom. Indeed, Miller claims that the definition of the conditions for ascriptions of unfreedom are ‘closely linked to a question about justification’. With insight, we can now claim that, if one endorses the *Status View*, then one should *necessarily* endorse some version of SF. And this finding lends credence to the view defended in this Chapter that freedom is an interpretative concept (see Chapter 1, §1.5): in particular, that the *disvalue* of unfreedom contributes to define what *unfreedom is*.

²⁵ Miller, ‘Constraints on Freedom’, p. 69.

6.3.3 Methodological Clarifications.

Before proceeding further with the analysis, let us look more closely at P2. P2 infers a necessary condition for ascriptions of unfreedom from the *Status View*. Now, couldn't we instead start with the *definition* of freedom as SF and *then* draw the implications for the value of freedom? Consider P3 (which reverts the factors of P2):

P3: if one endorses (some version of) SF, then one *necessarily* endorses the *Status View*.

First, from a substantive point of view, P3 can be wrong: while, if one endorses the *Status View* then one necessarily endorses a version of SF (i.e. P2 is valid), the reverse may not necessarily hold, since the absence of constraints imposed/non-removed by other human beings (i.e. SF) could be justified in *axiological* rather than deontic terms (for example, in so far as it can be *good for* persons to be unobstructed by others): I shall examine this point in §6.9.²⁶ Second, from a methodological point of view, there is nothing wrong with first endorsing a definition of freedom and *then* justifying it by appealing to the value of freedom (as implied by P3): if a theory of freedom is internally coherent, it doesn't matter from which corner one accesses it, either by first addressing the value of freedom or, alternatively, the definition of freedom. Yet, the arguments presented in the following Sections of this Chapter are *foundationalist* in nature: they aim to show that, if freedom has non-specific value, a commitment to valuing freedom in a certain way (i.e. either by appealing to reasons concerning the good or to reasons concerning the right) *grounds* and *determines* the choice of a certain definition of freedom over possible alternatives. So, one can certainly start with a robust pre-theoretical intuition in favour of, say,

²⁶ I discuss this point in §6.9.

endorsing a certain theory of freedom as SF; but, crucially, the appropriateness of endorsing such a theory should be tested against the background of one's more fundamental beliefs concerning the *value* of freedom.²⁷ In the next Section I examine how the (non-specific) and deontic value of freedom can determine a bivalent theory of freedom as mere absence of interference (Steiner).

6.4 Bivalence and the *Status View*.

As argued in §6.3, endorsing the *Status View* necessarily *entails* (some version of) SF: it entails being committed to the view that the value of freedom is compromised by social relationships in which human beings constrain one another's freedoms. This may not suffice to yield a complete definition of freedom and of unfreedom: the condition that the constraint is generated or non-removed by other human beings is just *one of a set of necessary conditions* for ascriptions of unfreedom. For example, as we know from Chapter 1 (§1.4.2), a constraint needs to have a certain *strength*: I have argued that it should render physically impossible the doing of an action. Furthermore, SF theorists should also define whether other human beings need to be *causally* or *morally* responsible for the imposition (or non-removal) of the constraints, for the constraints to count as sources of unfreedom.²⁸ As I explain at greater length in §6.5, the

²⁷ Indeed, if it can be shown that the endorsement of a given definition of freedom or unfreedom (as SF) is *incompatible* with a commitment to valuing freedom in a certain way (say, in axiological terms), *and* one also endorses such a way of valuing freedom (or disvaluing unfreedom), then one should reject either the commitment to valuing freedom in such a way or the definition of freedom in question. However, it is crucial to note that *both* possible moves can be plausibly motivated only by appealing to the *value* of freedom. Indeed, if one decides to change the definition of freedom/unfreedom, such a move is justified by realising that the initial definition is not compatible with a certain way of valuing freedom. Conversely, if one sticks to the initial definition, such a move can be justified only by showing how the definition in question is compatible with an *alternative* way of valuing freedom, unless the choice of the definition faces the charge of being entirely *arbitrary*.

²⁸ While Kramer endorses the causal responsibility view, Miller, Kristjánsson, and Shnayderman, endorse the moral responsibility view. See Kramer, *The Quality of Freedom*, Ch. 4; Miller, 'Constraints on Freedom'; Kristján Kristjánsson, *Social Freedom. The Responsibility View* (Cambridge: Cambridge

arguments of the next Sections assume Kramer's version of the causal responsibility view. For now, what matters is that, even if the abovementioned questions regarding the constraints on freedom are successfully addressed, a definition of freedom and unfreedom is still incomplete until we clarify whether we endorse bivalence or trivalence. In this Section, let us assume bivalence and that our theory is made only of freedoms and unfreedom. If so, *the necessary conditions for ascriptions of unfreedom are sufficient to determine also the conditions for ascriptions of freedom*, since according to bivalence freedom is just the absence of constraints. In what follows I argue that the assumption of bivalence is grounded on an interpretation of the value of freedom that appeals exclusively to deontic reasons concerning the value of refraining from interfering with people's freedom.

Bivalence is explicitly defended by Steiner.²⁹ According to Kramer, Steiner 'classifies mere inabilities as freedoms'³⁰: on this interpretation, Steiner endorses a bivalent non-ABF theory of freedom, according to which, if others do not render *A* unfree to *X*, *A* is *free* to *X*, even if *A* lacks the ability to *X*. It is actually a matter of interpretation whether Steiner is fully consistent in his endorsement of bivalence.³¹ Nonetheless, leaving this interpretative point aside, I shall henceforth assume that Steiner endorses non-ABF bivalence. And the aim of this Section is to show how Steiner's bivalent theory of freedom is motivated by Steiner's assumption of the *Status View*.

University Press, 1996); Shnayderman, 'Social Freedom. Moral Responsibility, Actions and Omissions', *The Philosophical Quarterly*, Vol. 63, No. 253, 2013, pp. 716-739.

²⁹ Steiner, 'Freedom and Bivalence'.

³⁰ Kramer, *The Quality of Freedom*, p. 361.

³¹ Steiner, in fact, never really explicitly thematises the relationships between freedom and ability in his writings, and his main critique of trivalence is targeted against *evaluative* versions of trivalence (e.g. moralised theories, desire-based theories) that relegate less worthy/unworthy actions in the *not-freedom* domain (excluding them from ascriptions of freedom/unfreedom). I shall leave aside the discussion of this interpretative point in this context.

6.4.1 Steiner on Justice and the Value of Freedom.

To understand the kind of value that justifies the endorsement of Steiner's bivalent (non-ABF) theory of freedom as mere absence of interference (by other human beings), it is useful to introduce some preliminary clarifications regarding Steiner's more general views on justice. In particular, Steiner adopts a distinctive methodological approach: for Steiner, if we share the assumption that rights are essential components of justice, we can derive a full-blown theory of justice from the *conceptual* analysis of what justice *is*, simply by carefully examining which sets of beliefs can be consistently held together.³² Thus, Carter argues that, although for Steiner justice has 'intrinsic and non-derivative value',³³ Steiner does not need to claim 'that freedom itself is valuable [...] in order to say what justice is', since freedom is simply analytically derived from what rights *are*, and 'rights prescribe interpersonal distributions of pure negative liberty'.³⁴ Notice that, although Steiner does not need to claim that freedom has value in order to say what justice *is*, the view that having an equal measure of freedom as such has *constitutive* value for justice is implicit in Steiner's theory.³⁵ Indeed, if rights are 'the elementary particles of justice', and entitle one to an equal measure of negative freedom, then having (an equal measure of) freedom as such is constitutively valuable for justice.³⁶ Carter, I believe, is blind to this point because he assumes the *Benefit View*:³⁷ since for Carter the value of freedom is justified by appealing exclusively to axiological considerations concerning freedom's contribution to the achievement of personal goods (such as wellbeing and autonomy), he cannot

³² Steiner, *An Essay on Rights*, Ch. 3. For example, one such belief is that rights must be logically compossible. Carter criticises Steiner's methodological views in 'Respect for Persons and the Interest in Freedom'.

³³ Steiner, *An Essay on Rights*, p. 1.

³⁴ *Ibid.*, p. 57.

³⁵ I have introduced the notion of constitutive value in Ch. 2, §2.6.

³⁶ What Steiner needs to justify substantively is his commitment to an *equal* distribution of freedom. See Carter, 'Respect for Persons and the Interest in Freedom', pp. 178-179.

³⁷ On this point, see Ch. 1, §1.1.

see that, even if Steiner never says that it is *good* for persons to have freedom, this does not imply that Steiner does not tell us how freedom is valuable. For Steiner, freedom is valuable in *deontic* terms. As Steiner claims:

‘We unavoidably *restrict one another’s freedom*. And *justice is about how those restrictions ought to be arranged*. What it’s *not* about are the ends which might be achieved by that arrangement. *Questions of justice arise precisely where the moral permissibility of one person’s restricting another’s freedom* is not determined by the comparative merits of the ends to which they are respectively committed.’³⁸ (emphasis added)

The Kantian pedigree of Steiner’s view is apparent. For Kant the only innate right that persons have is the right to freedom.³⁹ Such a right is pre-institutional, and, as Ripstein remarks, for Kant the (equal) right to freedom ‘is not a matter of people having equal amounts of some *benefit*’, it is a right to an equal sphere of freedom as independence.⁴⁰ Now, Steiner does not endorse Kant’s definition of freedom *as independence* (from subjection to the wills of others).⁴¹ Instead, he interprets the Kantian right to equal freedom as a right to an equal measure of pure negative freedom as absence of (actual or subjunctive) interferences that render physically impossible the doing of specific actions (*X; Y; Z; ...*). And Steiner justifies the value of freedom in deontic rather than axiological terms. For example, Steiner does *not* claim that persons are entitled to equal freedom because they are entitled to a good (freedom) that contributes to making people’s lives go well. Rather, the right to equal freedom entitles one to an equal degree

³⁸ Steiner, *An Essay on Rights*, pp. 1-2.

³⁹ Kant, *The Metaphysics of Morals*, p. 393

⁴⁰ Ripstein, *Force and Freedom: Kant’s Legal and Political Philosophy*, p. 33, emphasis mine.

⁴¹ I have introduced the analysis of Kant’s notion of freedom as independence in Ch. 1, §1.1.

of *unpreventedness*, and justice is about ‘arranging’ the restrictions on people’s freedom, requiring that ‘no one is *more* prevented than others’.⁴²

6.4.2 Bivalence and Value Judgements.

The foregoing analysis contributes to clarifying the kind of reasons that motivate the adoption of non-ABF bivalence. Bivalence and trivalence are not just logical categories, they are motivated by value judgements. As Steiner claims,

‘Most trivalent conceptions [...] are evaluative ones. For them, actions which get into the ‘neither-free-nor- unfree’ category do so because they are of a type which lacks positive eligibility on some scale of evaluation.’⁴³

Evaluative trivalent theories (moralised theories, desire-based theories) exclude less worthy/unworthy actions from the freedom/unfreedom domain. But notice that also bivalence can be motivated by value judgements: indeed, abstaining from informing a definition of freedom/unfreedom with judgements concerning the moral quality/eligibility/goodness of the actions in question can be motivated by a commitment to the value of *neutrality* among the relevant set of evaluative disputes. As Carter argues, a definition of freedom that is *value-free* – that does not make the definition of freedom/unfreedom depend on the moral quality/eligibility/goodness of opportunities – need not be *value-independent*: it can be *value-dependent*, for example, if it is justified by appealing to a more fundamental commitment to value neutrality.⁴⁴ And such an appeal to neutrality is indeed what motivates Steiner’s endorsement of bivalence: for Steiner justice requires to arrange people’s reciprocal restrictions

⁴² Steiner, *An Essay on Rights*, p. 226.

⁴³ Steiner, ‘Freedom and Bivalence’, pp. 62-63.

⁴⁴ Carter, ‘Value-Freeness and Value-Neutrality in the Analysis of Political Concepts’.

of freedom in an egalitarian fashion, abstaining from judging what freedom can be used for. As Steiner claims, quoting Kant:

‘the concept of justice does not take into consideration the matter [*content*] of the will, that is, the end that a person intends to accomplish by means of the object that he wills’⁴⁵

Since Steinerian justice abstracts completely from *any* claim concerning the good of persons – thereby making the *right* completely detached from the *good*– justice abstracts also from claiming that *it is good for persons* to have freedom: so, while Chapter 3 examines the *Benefit View* as moral foundation of freedom-centred justice, the analysis of the value of freedom in this Section offers an interpretation of the *deontic* foundations of freedom-centred justice.⁴⁶ As Kant claims, justice pertains *to the relationships between the wills of persons*. Consider the following quotation by Kant mentioned by Steiner in *An Essay on Rights*. According to Kant:

‘Instead, in applying the concept of justice, we take into consideration only the form of the relationship between the wills, in so far as they are regarded as free, and whether the action of one of them can be conjoined with the freedom of the other in accordance with a universal law.’⁴⁷

What matters, for the purposes of this Chapter, is that we have arrived at a justification of Steiner’s non-ABF bivalence that appeals exclusively to deontic reasons (i.e. to the *Status View*), and that negatively infers the value of freedom from the *absence of a certain disvalue*: the *relational* disvalue of interference as such. For Steiner, freedom is just the absence of

⁴⁵ Steiner, *An Essay on Rights*, p. 211, emphasis added in *An Essay on Rights*.

⁴⁶ Therefore, Steiner’s freedom-centred justice that is premised upon deontic foundations is a deontological theory of justice.

⁴⁷ Steiner, *An Essay on Rights*, p. 211.

interference *because* the *value* of freedom is just the absence of the disvalue of interference. Indeed, if interference as such is pro tanto disvaluable, *nothing compromises the value of freedom when human interferences (of the relevant type) are lifted*. And this justifies describing *A* as free to *X* and attributing value to *A*'s freedom to *X*, when *A* is unprevented by others from *X* (even if *A* is *unable* to *X*).

6.4.3 Bivalence, the *Status View*, and the Non-Specific Value of Freedom.

I have argued that Steiner's adoption of an interpretation of the value of freedom in deontic terms (i.e. the *Status View*) justifies his endorsement of a non-ABF bivalent theory of freedom. In what follows I comment on the relational nature of the deontic reasons to which the *Status View* appeals.

Before moving to that, consider a possible objection to the analysis introduced in the previous paragraphs: one can consistently claim 1) that freedom is just the absence of the relevant type of interference (bivalence), while also maintaining 2) *that there is no value in having certain freedoms* – for example, in having the freedoms to do the actions that one is unable to do. This view counts as an objection to my claim that the value of freedom *grounds* and *fully determines* what freedom *is*, since it shows that it is possible to maintain that some freedoms have no value, while still calling them 'freedoms'. However, such an objection misfires, if one adds the premise that freedom has *non-specific* value, and that therefore the value of freedom ranges over any specific instance of freedom (see Chapter 1, §1.4). Moreover, notice that if one interprets the value of freedom exclusively in terms of the absence of the disvalue of human interference, one is *drawn* to the conclusion that freedom has non-specific value: indeed, in so far as human interferences are lifted, every opportunity unobstructed by others has some value *qua freedom* (including the opportunities to perform unworthy actions, etc.), in so far as one's purposiveness is unobstructed by the actions of others. If so, freedom *is* just the absence of the

relevant type of interference, and the (non-specific) value of freedom *fully determines* what freedom is. Thus, Steiner can claim that ‘liberty is a social relation, a relation between persons’,⁴⁸ *because* the value of freedom is relational.

The analysis of the previous paragraphs identifies a kind of ‘*non-specific relational value*’. First, such a value is *relational* because it is attributed to a relationship in which two individual agents (*A* and *B*) do not interfere with one another’s freedom. Second, relationships can be valuable in person-affecting, as well as in deontic, terms. For example, in so far as relationships like friendship and love are valuable as being *good for persons*, their value is justified in person-affecting terms.⁴⁹ On the other hand, the value that Steiner attributes to relationships of non-interference is explained in deontic terms: by appealing to the right (rather than the good), and specifically to how persons should be treated in virtue of possessing the moral status of agents.⁵⁰ Third, we know from Chapter 1 (§1.4) that non-specific value is *content-independent*. But, crucially, we can now see that there can be at least *two ways* of interpreting content-independence, which derive from assuming either the *Benefit View* or the *Status View*.

Recall that negative freedom theorists adopt *extensional* descriptions of actions: *A*’s freedom to *X* should be spatio-temporally described as *A*’s opportunity (lack of interference or ability) to use certain objects (including *A*’s body) in a certain portion of space and time. Now, if one assumes the *Benefit View*, the non-specific value of freedom is non-relational: it is the *personal* value that having a portion of space and time *as such* can make to the achievement of *A*’s own good. In this sense, the value of freedom is non-specific in that having *any* spatio-temporally

⁴⁸ Steiner, ‘How Free: Computing Personal Liberty’, *Royal Institute of Philosophy Supplement*, Vol. 15, 1983, pp. 73-89, p. 74.

⁴⁹ For an illuminating discussion of different values that can be attributed to relationships, see Zoltan Miklosi, ‘Varieties of Relational Egalitarianism’, in David Sobel, Peter Vallentyne, and Stephen Wall (eds.), *Oxford Studies in Political Philosophy*, Vol. 4 (Oxford: Oxford University Press, 2018), pp. 110-136.

⁵⁰ Indeed, as we have seen in the quotation above, Kant claims that justice ‘take[s] into consideration *only the form of the relationship between the wills*’, rather than the *content* of the wills.

defined portion of the world is valuable for *A*'s achievement of the good. On the other hand, on the *Status View*, non-specific value is *completely content-independent*, since freedom is valuable in virtue of a relational property – i.e. absence of human interference – which is extrinsic to the material components of freedom. Thus, we can think of different types of values attributable to freedom: 1) *specific value* is the value that freedom has in virtue of its *specific* content (as the freedom to do this or that thing). And two kinds of non-specific value: 2a) one premised on *axiological* reasons that connect the value of freedom non-specifically to the good, and which is the value that freedom has in virtue of having *any* content (i.e. independently of whether it is the freedom to do this or that thing). And 2b) another kind of non-specific value premised on *deontic* reasons, which is the value that freedom has abstracting *from the content* of freedom: merely in virtue of the absence of the relational disvalue of unfreedom (i.e. independently of what people can *do* with freedom).

6.5 The Problem of Infinite Degrees of Freedom/Unfreedom, and the Causal Responsibility View.

In the previous Section (§6.4) I have argued that Steiner's non-ABF bivalent theory of freedom is grounded on the *Status View*. Therefore, the analysis conducted in §6.4 contributes to validate the theses defended in this Chapter: that freedom is an interpretative concept, and that the value of freedom *determines* the definition of freedom. Starting from this Section (§§6.5-6.8), I critically examine the plausibility of endorsing Steiner's non-ABF bivalent theory.

There can be external or internal critiques of the kind of bivalence endorsed by Steiner. Consider, first, *external* critiques: 1) one can justify the value of non-interference (by other

human beings) in *axiological* (rather than deontic) terms. For instance, not being interfered with can be said to be *good for* persons, because people benefit from not being obstructed in what they choose to do. Further, 2) there can be bivalent theories of freedom that are not premised on the *Status View*. For example, one can endorse an ability-based bivalent theory premised on the *Benefit View*. According to such a theory, *every* constraint (humanly engendered or natural constraint) on someone's ability counts as a constraint on freedom, and freedom is coextensive with ability, since diminutions of ability correspond to diminutions of freedom. For now, I shall leave aside the discussion of external critiques, as I examine the relationship between the *Benefit View* and the definition of freedom in §6.9.

In this and the following Sections (§§6.5-6.8) I wish to examine two types of *internal* critiques. The first, raised by Kramer and others, is 'The Problem of Infinite Degrees of Freedom/Unfreedom'. I discuss it in this Section (§6.5). The second concerns the relationships between freedom and ability: such a critique is examined in the following Sections (§§6.6-6.8), and can be introduced here with the following example:

Mountain Adam is a hermit and lives in a mountain cave isolated from society.

Adam is also physically unable to climb to the top of the mountain. Beatrix has enclosed the summit of the mountain with electric fences that prevent anyone (including Adam) from climbing beyond a certain altitude.

As an *internal* critique of Steiner's bivalent theory, one can wonder whether there can be value in not being interfered with the actions that one is *unable* to do: that is, if one assumes the *Status View*, is the value of freedom compromised when Adam is prevented by Beatrix from

reaching the summit of the mountain?⁵¹ In my critique of Steinerian bivalence that unfolds in the following Sections I shall argue that, assuming the *Status View*, and except for cases in which *A*'s freedom to *X* is protected by a negative right (that entitles *A* to other people's forbearance from interfering with *A*'s freedom to *X*), there is no value in having the freedom to *X*, if *A* is unable to *X*. This will entail transitioning from (Steiner's account of) bivalence to a trivalent ability-based (ABF) account of SF (§6.8), according to which *A* can be considered free or unfree to *X* only if *A* is able to *X* or would be able to *X* in the absence of the human constraints, while the category of *not-freedoms* applies to the range of opportunities to perform actions that *A* is unable to do (even in the absence of the humanly engendered constraints). Before moving to the critique of Steiner's account of bivalence (§§6.6-6.8), in the remainder of this Section I introduce 'The Problem of Infinite Degrees of Freedom/Unfreedom', and I clarify my assumption of the 'Causal Responsibility View'. Such clarifications are indeed relevant for the discussion that unfolds in the next Sections.

6.5.1 The Problem of Infinite Degrees of Freedom/Unfreedom.

As Kramer argues, Steiner's bivalent theory leads to asserting that one's degree of overall freedom is infinite.⁵² Indeed, according to bivalence *A* is free to do all the actions that *A* is *not unfree* to do, including those actions that *A* would be unable to do even in the absence of the humanly engendered constraints (i.e. the domain of 'mere inabilities'). 'Mere inabilities' are indeed infinitely numerous: for example, they include the freedoms to perform technologically impossible actions (like flying around Andromeda), or perhaps also the freedoms to perform nomically impossible actions – i.e. the actions whose performance would contravene the laws

⁵¹ As an *external* critique, one can wonder how can it be *good* for the hermit to be unprevented from reaching the summit of the mountain? I discuss this issue in §6.9.

⁵² Kramer, *The Quality of Freedom*, Ch. 2.

of nature (like performing actions that contravene the law of gravity).⁵³ Furthermore, Shnayderman notes that from bivalence also follows that *A*'s degrees of overall *unfreedom* can be infinite, whenever *A*'s unfreedoms to *X* (e.g. to exit the cell of a prison) also prevent *A* from doing an infinite number of technologically impossible actions (like flying around Andromeda).⁵⁴

This feature of bivalent theories has considerable problematic implications. Indeed, if people are *equally* infinitely free/unfree, it makes no sense to make interpersonal comparisons of individual degrees of overall freedom. And this in turn undermines also the plausibility of supporting freedom-centred justice's main claim that justice is about fairly distributing freedom as such (for example, by increasing or by restricting people's degrees of freedom as such).⁵⁵ Shnayderman's suggested solution to this problem is to exclude the opportunities to perform logically, nomically, and (perhaps also) technologically impossible actions from the freedoms/unfreedom domain – i.e. from the range of opportunities to which ascriptions of freedom and unfreedom can be said to pertain: since this solution implies labelling such opportunities as *not-freedoms*, it implies trivalence. Intuitively, this sounds very plausible.⁵⁶ However, besides appealing to intuitions, Shnayderman does not tell us what justifies, normatively speaking, the exclusion of the opportunities to perform (logically, technologically, and nomically) impossible actions from the freedoms/unfreedom domain: in the next Sections (see especially §6.7.3) I offer a justification for excluding (logically, technologically, and

⁵³ Kramer, *The Quality of Freedom*, pp. 52-53.

⁵⁴ Shnayderman, 'Causal Tests in Subjunctive Judgements about Negative Freedom', pp. 192-194.

⁵⁵ For example, it would make little sense to *increase* someone's freedom, or to *diminish* someone's freedom, if people's degrees of overall freedom are already, and in any case, equal.

⁵⁶ Shnayderman, 'Causal Tests in Subjunctive Judgements about Negative Freedom', p. 194. Shnayderman does not directly argue in favour of excluding also the opportunities to perform technologically impossible actions, but he considers it as a possibility. I shall not delve further into this point in the present context.

nominically) impossible opportunities, which follows from an analysis of ability and deontic reasons to value freedom non-specifically.

6.5.2 The Causal Responsibility View.

As already mentioned (see §6.4, fn. 31), SF theories need to clarify whether the individual(s) who interferes with someone else's freedom should be *causally* or *morally* responsible for (contributing to) imposing or non-removing the obstacle(s) in question. The critique of Steiner's bivalence that follows in the next Sections (§§6.6-6.8) assumes *the causal responsibility view* (henceforth CRV), according to which the constraints that count as sources of unfreedom are those that human beings have causally contributed to generate.⁵⁷ More formally:

The Causal Responsibility View: *A* is rendered unfree to *X* if other human being(s) causally contribute to the existence of a constraint that renders the doing of *X* physically impossible.

In *The Quality of Freedom* Kramer develops a very sophisticated account of CRV.⁵⁸ The salient aspect of Kramer's version of CRV is the following: for Kramer *A* is rendered unfree to *X* when the constraint on freedom (that others have causally contributed to bring about) prevents *A* from doing an action that *A* would have been *able* to do in the absence of the constraint.

⁵⁷ In this context I shall leave aside the assessment of the comparative merits of CRV versus the moral responsibility view endorsed by Kristjánsson, Miller, and Shnayderman, partly because a careful analysis of the moral responsibility view would divert us too much from the main issues discussed in this Chapter, and partly because the adoption of CRV is in line with the pure negative freedom theorists' (Carter, Kramer, Steiner) *physicalist* understanding of freedom as the absence of humanly engendered constraints that actually or subjunctively obstruct the activities of the individual(s) interfered.

⁵⁸ Kramer, *The Quality of Freedom*, Ch. 4.

Conversely, if *A* is unable to *X* even in the absence of the humanly engendered constraint, the imposition of the constraint should not count as a source of unfreedom, and *A* should be consequently described as merely *unable* rather than unfree to *X*. My discussion of deontic reasons and social relationships in §6.7 will offer an explanation of why a constraint that other human beings have causally contributed to generate should not count as a source of unfreedom when the individual so interfered would be unable to do the actions obstructed by the constraint even in the absence of the interference. To further illustrate this aspect of Kramer's version of CRV consider cases of overdetermination,⁵⁹ like the following:

Boulder: The falling of a boulder that was perching on the edge of a cliff blocks the passage of *A* (a tourist) in the canyon below. Both (1) *B*'s shoving the boulder and (2) a strong gust of wind that hit the boulder simultaneously to *B*'s shoving were sufficient to remove the boulder by making it falling below.

According to Kramer, in *Boulder* *A* should be considered as merely *unable* rather than unfree, since the boulder would have fallen even in the absence of the humanly engendered constraint, thereby preventing *A* from continuing on his path in the canyon below. Indeed, Kramer adopts the so-called 'but-for test' to identify the relevant type of causal contribution that makes a certain event (*C*) one of the causes of another event (*E*): on the but-for test, we need to ask 'whether the occurrence of *C* was *necessary in the prevailing circumstances* for the occurrence of *E*. Under the prevailing circumstances and the applicable causal laws, would the non-occurrence of *C* have entailed the non-occurrence of *E*?'⁶⁰ In *Boulder*, *A* should be considered

⁵⁹ Ibid., pp. 295-309.

⁶⁰ Ibid., p. 278, emphasis mine.

as merely unable rather than unfree, because the boulder would have fallen even in the absence of human interventions (i.e. even without *B*'s shoving).

Notice that Kramer's version of CRV sanctions a great number of inabilities as unfreedoms: all those inabilities that other human beings have causally contributed to generate.⁶¹ Indeed, as long as a humanly engendered causal contribution meets the requirements of the but-for test – thereby being necessary for the existence of the constraint – neither the salience, nor magnitude, nor distance in time, of the human intervention bear on whether the constraint should count as a source of unfreedom. Consider the following example, versions of which are discussed by Kramer in *The Quality of Freedom*:

Egyptian Obelisk: a sudden earthquake causes an Ancient Egyptian obelisk to fall from a cliff on a walking path in the canyon below, preventing a tourist from proceeding further.

In *Egyptian Obelisk*, according to Kramer's version of CRV the time and salience of the human intervention are irrelevant: even if the earthquake is the most salient triggering cause of the constraint, and even if the obelisk was built many centuries ago with no intention of diminishing the freedom of future tourists, in so far as the building of the obelisk is due to the actions of other human beings and is necessary for the existence of a constraint on the freedom

⁶¹ For example, I should not be classifiable as merely *unable* to be richer than I am, but as *unfree*, in so far as others are disposed to interfere with my attempts to access *their* money, or in so far as the very sophisticated safes where people store their gold are built by other human beings and render it (almost) impossible for me to access the gold without knowing how to unlock the safes, etc. As Kramer claims, '[...] the dispositions of officials and proprietors to keep impoverished people from gaining possession of sundry assets are sources of unfreedom for those indigent people. Of course, the unfreedom of poor people hardly derives exclusively from owners' and officials' *dispositions*. Multitudinous outright *actions* and products of actions, such as fences and walls, are likewise involved in blocking access to any number of resources and in thus giving rise to unfreedoms.' Kramer, *The Quality of Freedom*, pp. 321; see also Cohen, 'Freedom and Money'.

of the tourist, on CRV the tourist should be considered as unfree rather than as merely unable to proceed further on his path.⁶² Miller finds this aspect of CRV implausible, since it entails that *any* human contribution that is necessary to the existence of a constraint – however distant in time and however minuscule – is sufficient to generate unfreedom. In support of this claim, Miller asks us to consider the following example:⁶³

Picnicker: A picnicker, accidentally tosses away the core of an apple. Over the years, one of the seeds eventually grows into a tree, which perches on the edge of a cliff. The tree is struck by lightning and falls down, trapping an explorer into a cave below.

Miller claims that in *Picnicker*, although the human contribution is necessary for the existence of the constraint, surely it is too small, distant in time, and mixed up with natural causes, to count as sufficient to generate unfreedom. Notice that the picnicker example does *not* count as an internal critique of CRV: Miller himself acknowledges that the tossing of the apple is necessary for the existence of the constraint, and therefore that the explorer would not have been trapped in the cave, had the picnicker not tossed away the apple many years before.⁶⁴ Further, besides noticing that intuitions can lead in different directions, consider the following modified version of Miller's example, which in my view lends further credence to Kramer's interpretation of CRV:

⁶² Kramer, *The Quality of Freedom*, Ch. 4.

⁶³ David Miller, 'Reply to Oppenheim', *Ethics*, Vol. 95, No.2, 1985, pp. 310-314, at pp. 312-313. See Kramer's discussion of Miller's example in *The Quality of Freedom*, pp 337-341.

⁶⁴ Miller, 'Reply to Oppenheim', p. 312.

Radioactive Apples: On a pristine area of a forest, an explorer tosses the core of an apple. Over the decades, the seeds of the apple eventually grow into apple trees that colonize the area. Somehow, the chemical composition of the terrain is such that the fruits produced by the apple trees are naturally radioactive. The apples that progressively rot on the ground increase the radioactivity of the area, preventing the local tribes from safe access to the area for hundreds of years (they render it physically impossible to breathe clean air and to enter the area without risking immediate death or incurring into debilitating illnesses).

The aim of *Radioactive Apples* is to challenge Miller's critique by suggesting that in cases in which a small causal contribution distant in time is a source of great harm for many (future) people it is not implausible to consider such a contribution as sufficient to generate unfreedom, if, absent the intervention, the harm would not have occurred. Indeed, note that in *Radioactive Apples*, although in a loose sense of the term the explorer should be considered *answerable* for having for having tossed away the apple – and therefore, strictly speaking, Miller's account of moral responsibility can be said to apply to the case under consideration –⁶⁵ the salient feature of the example really is the (unintended, minimal, and unforeseeable) *necessary causal* contribution of the explorer to an event (the increased radioactivity of the area for hundreds of years) that affects people's degrees of freedom/unfreedom for a considerable period of time.

⁶⁵ Indeed, Miller claims that to 'be responsible for something is to be answerable for it; it is not necessarily to be blameable. [...] Responsibility [...] opens the door to questions of praise and blame without deciding them', Miller, 'Reply to Oppenheim', p. 313.

6.6 Deontic Reasons, Freedom, and Rights.

Having introduced the Problem of Infinite Degrees of Freedom/Unfreedom and CRV in the previous Section (§6.5), in this Section (§6.6) I wish to start the critical examination of the bivalent theory of freedom grounded on the *Status View* that, as I have argued in §6.4, is attributable to Steiner. In order to develop my critique of Steiner's account of bivalence, in §§6.6-6.8 I shall focus on questioning whether there can be value in having the freedom to do the actions that one is unable to do.

More specifically, in this Section (§6.6) I shall analyse the relationship between negative rights, lack of ability, and freedom. Negative rights entitle the right-holder to other people's forbearance from interfering with the freedoms protected by the right in question. And, assuming the *Status View*, in this Section I shall discuss whether there is value in not being interfered with the freedom to do an action that one is in any case unable to do and that is protected by a negative right.⁶⁶ Furthermore, this Section develops further the analysis of Chapter 5 concerning the relationship between rights and the deontic reasons captured by the *Status View*. To recall, in Chapter 5 I have argued that there is a pro tanto deontic reason to refrain from interfering with people's freedom *as such* – including with the freedom to perform morally impermissible actions – and not just with the freedoms to perform the actions that one has the (claim) right to do or that one is at liberty to do. And in this Section I add an additional layer to the analysis of deontic reasons and rights by examining whether there is value in not being interfered with the freedom to do an action that one is in any case unable to do and that is protected by a negative right. In the next Sections (§§6.7-6.8) I shall then move to analysing cases in which someone is unable to *X*, and has no claim right that others refrain from

⁶⁶ I shall leave aside the discussion of positive rights.

interfering with the freedom to X, arguing that, assuming the *Status View*, in such cases there is no value in having the opportunity to *X*, and that this entails a critique of Steiner's bivalence.

6.6.1 Negative Rights and the Symbolic Disvalue of Interference.

Consider a modified version of Cohen's example introduced in the quotation mentioned in §6.2.2 (*(Moralised) Freedom as Non-Interference*):

Australia: *A* is severely disabled: she is bedridden, and her body is almost entirely paralysed due to a genetically inherited condition. *B* (the state) justifies rendering *A* unfree to travel to Australia by appealing to the fact that *A* lacks the physical ability to travel to Australia.

In *Australia*, being deprived of the freedom to travel to Australia can be described as an '*insult to the status of persons*'⁶⁷ because being deprived of the corresponding (negative) *right* (to travel to Australia) is insulting. We should interpret *Australia* as a case in which *A*'s government establishes a restriction on *A*'s freedom of movement (on *A*'s right to travel to Australia), on grounds that *A* is physically unable to travel to Australia. And in *Australia* being deprived of the *right* to travel to Australia crucially entails being deprived also of the *freedom* to travel to Australia (since, after the issuing of the relevant state's directive, the border police would be ordered to physically prevent *A* from travelling to Australia, if *A* attempted to do so).⁶⁸ Given these qualifications, I want to ask the following questions: (1) is it insulting to be

⁶⁷ Cohen, 'Freedom and Money', p. 191.

⁶⁸ That is, the relevant state officials would be *disposed* to prevent *A* from travelling to Australia, and, as we know from Ch. 1 (§1.5), the interferences that generate unfreedom can be actual or subjunctive (i.e. counterfactual).

deprived of a negative right, if one is in any case unable to do the actions protected by the right in question? And, assuming the *Status View*, (2) is there any value in not being interfered with the freedom to do an action that one is unable to do and that is protected by a negative right?

Concerning question (1), it can be argued that it is insulting to be deprived of a certain right (e.g. freedom of movement in *Australia*) *on grounds that one is unable to exercise it*. This is especially true if applied to civil and political rights that should be granted to persons merely in virtue of their nature as persons or as citizens:⁶⁹ for example, the Rawlsian basic liberties⁷⁰ should be granted to everyone independently of the individual characteristics of persons (sex, religion, etc.), including also of the ability to exercise the rights in question. Furthermore, notice that also *assessing* (or revealing) a citizen's/person's lack of ability to exercise a basic right can be plausibly judged as an insult to the status as person/citizen: how dare the state assess my (lack of) ability to travel to Australia and to judge me as a *lesser* person/citizen on grounds of such an assessment? And, while in *Australia* *A* is *physically* unable to travel to *Australia*, my answer to question (1) can be extended also to cases in which an individual lacks the *means* (i.e. the external resources) to exercise a given right. For example, it would be insulting for *A*, if the state cancelled or revoked *A*'s passport – i.e. if the state established a restriction on the basic liberties enjoyed by *A* (on *A*'s freedom of movement) – *on grounds that A lacks the means* (e.g. the money) to travel abroad.⁷¹

⁶⁹ The natural rights that persons have qua persons may not overlap entirely with the rights that persons have qua citizens: certain pre-institutional natural rights ground some rights possessed by citizens (e.g. the right that citizens have against being physically assaulted is grounded on a corresponding right of persons); while other rights (e.g. the political liberties in a democratic society) can be conceived only by assuming a particular (e.g. democratic) institutional setting. I shall not discuss further in this context the distinction between pre-institutional (natural) rights of persons and the rights of citizens.

⁷⁰ On the basic liberties, see Rawls, *Political Liberalism*, Lecture VIII, pp. 354-434.

⁷¹ Notice that the exercise of the right to travel is conditional upon having the resources that are necessary for travelling: e.g. upon having the money to buy an airfare ticket. And, following Cohen, lack of money generates interference (see Cohen, 'Freedom and Money'). Indeed, the border police would prevent someone from boarding on the plane – thereby also preventing such an individual from travelling – if the individual in question does not have a ticket. And it may well *not* be an insult to one's

Concerning question (2), it is possible to appeal to *symbolic* reasons that justify the value of the *freedom* to do an action that one is unable to do and that is protected by a negative right. Consider the political liberties: one should not be deprived of the freedom to attend party meetings, even if one is in any case physically unable to participate in such meetings. To illustrate this point, consider the following hypothetical scenario:

Party Meetings: In order to open the door of the room where party meetings are held one necessarily has to scan one's fingerprints, and the party (or the state) decides to remove access to party members who are in any case physically unable (e.g. due to an incapacitating illness) to attend the meetings, by erasing the memory of their fingerprints from the door lock. The mechanism perfectly tracks changes in people's physical abilities, and the memory of the fingerprints of 'unable members' would be restored immediately, if such members (re)acquire the ability to attend the meetings, thereby also immediately regaining the freedom to access the room.

In *Party Meetings*, even if the mechanism of the door lock perfectly tracks changes in people's physical abilities and party members would immediately regain their freedom once they become able to attend the meetings in question, I take it that it is a *dignitary harm*⁷² to be deprived of the freedom to exercise a political liberty, even if one is physically unable to

status as a person to be prevented from accessing a good without having the money to pay for it, though it is insulting if the state establishes a restriction on someone's basic liberties (e.g. on someone's freedom of movement) by revoking or cancelling the passport of the individual in question *on grounds that* such a person lacks the means (e.g. the money) to travel abroad.

⁷² On the notion of 'dignitary interests', see Kamm, *Intricate Ethics*, Ch. 8, p. 246.

actively contribute to the life of the party. Such a ‘dignitary harm’ is an affront or an insult to the status of persons, and it can be explained by appealing to *symbolic reasons*.

Let me explain the nature of such symbolic reasons. As I further clarify in the following Section (§6.7), in those cases in which an individual’s freedoms are *not* protected by a negative right, the kind of deontic reasons to refrain from interfering with people’s freedom to which the *Status View* appeals are triggered in contexts in which one or more individual agents have the ability to interfere with the opportunities for *agency* of other agents: that is, with the freedoms to perform actions that other agents are *able* to do.⁷³ If so, when an individual *A* lacks the ability to perform an action *X*⁷⁴ (and *A* has no claim to other people’s forbearance from interfering with the freedom to *X*), *there seems to be no deontic reason to refrain from interfering with A’s freedom to X*, since interfering would not compromise *A*’s opportunities for agency, it would not change *A*’s situation *vis-à-vis* the number of opportunities that *A* has for exercising her will.

That said, in cases in which *A* is unable to *X* and *A*’s freedom to *X* is protected by a negative right, I want to single out a special class of deontic reasons (reasons to refrain from interfering with *A*’s freedom to *X*) – which I shall call ‘symbolic reasons’ – that justify refraining from interfering with *A*’s freedom to *X*. I shall call such reasons ‘symbolic’, to capture the idea that interfering would count as a dignitary harm and an affront to *A*’s moral status as a person (as in *Party Meetings*) – since, by definition, interfering constitutes an infringement of *A*’s negative right, and rights’ infringements are insulting – even if *in fact* interfering would not affect the

⁷³ In this sentence ‘ability’ – both the ability of the interfering agent and of the agent interfered with – should be understood as ‘ableness’ (i.e. as requiring both the physical ability and the means to perform a relevant action).

⁷⁴ either because *A* lacks the means to *X*, or because *A* is physically unable to *X*.

opportunities that *A* has for exercising her will (since *A* is in any case unable to *X*).⁷⁵ Symbolic reasons capture what I shall call the ‘symbolic value’ of freedom as non-interference, and they apply to those cases in which one has a negative right that others refrain from interfering with the freedom to perform an action that the individual in question is in any case unable to do (even in the absence of the interference).

6.6.2 ‘Claiming’ and the Value of Non-Interference.

One further line of argument that justifies attributing value to not being interfered with the freedom to do an action that one is unable to do and that is protected by a negative right can be developed by considering that (claim) rights are *normative relationships* between persons: they are relationships in which the right-holder (*A*) is entitled to the provision of some goods on the part of someone else *B* (positive rights) or to *B*’s forbearance from interfering with *A*’s sphere of action (negative rights). Let me explain. *A*’s negative right correlates with *B*’s duty to forbear from interfering with *A*’s freedom to *X*: that is, the existence of a negative right *directs* *B*’s conduct by creating a reason to refrain from interfering with *A*’s freedom to *X*.⁷⁶ Now, according to Joel Feinberg, the value of having a right has to do with ‘the activity of claiming,’⁷⁷ and the act of ‘claiming’ can be interpreted as valuable in virtue of constituting an expression of the moral authority of *A* to issue a directive that in the case of negative rights generates a decisive reason for *B* to refrain from interfering with *A*’s freedom to *X*. And, since

⁷⁵ This discussion draws from Benn’s treatment of symbolic reasons in *A Theory of Freedom*, pp.15-16. For context on symbolic value, see Andrew Sneddon, ‘Symbolic Value’, *Journal of Value Inquiry*, Vol. 50, No. 2, 2016, pp. 395-413.

⁷⁶ This answer is especially appealing to the Will Theory of rights, since it is distinct from the Interest Theory exactly because it conceives of rights as impositions of the wills of persons, rather than as protection of weighty interests. On the will theory of rights, see Herbert Hart, ‘Are There Any Natural Rights?’, *Philosophical Review*, Vol. 64, No. 2, 1955, pp. 175-191; Steiner, *An Essay on Rights*, Ch. 3. On the interest theory, see Raz, *The Morality of Freedom*, Ch. 7.

⁷⁷ Joel Feinberg, ‘The Nature and Value of Rights’, *Journal of Value Inquiry*, Vol. 4, No. 4, 1970, pp. 243-260, at p. 249.

A is *entitled* to claiming that *B* refrains from interfering with her freedom to *X*, *B* acknowledges *A*'s moral authority by refraining from interfering with *A*'s freedom to *X* (i.e. by respecting *A*'s right to non-interference), and therefore *A*'s freedom to *X* is valuable in deontic terms, even if *A* is unable to *X*.

To illustrate this point, consider private property rights, which entitle one to the non-interference of others with respect to the use of the right-holder's external resources (i.e. they generate duties in others to refrain from using the resources in question without the right-holder's permission), even when the right-holder is unable to use the resources in question.⁷⁸ For example, *A*'s property right over a house in Australia generates duties in others to refrain from using *A*'s property without *A*'s permission, even if *A* is unable to travel to Australia (as in *Australia*) and to make use of her own property.⁷⁹ Now, since there is value in 'claiming' as asserting one's own moral authority, there is value in refraining from interfering with *A*'s freedom to use her own property, even if *A* is unable to take advantage of such a property.

6.7 When Are Persons Involved in Social Relationships? The Critique of Bivalence.

Rights raise special considerations. Consider now the case in which an individual *A* is unable to do an action *X*, and has no claim right to not being interfered with the freedom to *X*: would there be any *disvalue* if *A* were deprived of the freedom to *X*? Would the value of *A*'s freedom be compromised? And, is there any *value* in having the freedom to *X*? Assuming the *Status View*, in this Section (§6.7) I shall address the issue of the (relational) disvalue of unfreedom

⁷⁸ For context, see Jeremy Waldron, *The Right to Private Property* (Oxford: Clarendon Press, 1988), Ch. 2.

⁷⁹ Standardly, such an imposition can be *successful* when it is backed up by a coercive system of legal enforcement of property rights, as we can safely assume for the purposes of this Chapter. For a discussion of negative freedom and the law, see Kramer, *The Quality of Freedom*, pp. 60-65.

and (lack of) ability, moving on to discussing the issue of the value of freedom and (lack of) ability in the next Section (§6.8). In particular, in this Section I argue that there is no loss of value in being deprived of the freedom to X – when A has no right to X and is unable to X – since, under such circumstances, A and potential interferers (B ; C ; D ; ...) *are not in a social relationship*, in the relevant sense of ‘social relationship’ defined below. To introduce this discussion, consider the following examples:⁸⁰

Aliens: The aliens protect their planet with a shield that prevents spaceships from entering the atmosphere. Only the aliens are able to deactivate the shield, thereby preventing also *us* (the terrestrials) from landing on the distant planet.

Incas: In the 13th century (much before the arrival of the Spanish conquerors) the Incas and the Europeans were unaware of each other’s existence. The inhabitants of medieval Europe (had no intention of doing so, but *in fact*) prevented the Incas from entering the European towns at night, when the gates of the towns were shut after sunset.

6.7.1 Deontic Reasons and Social Relationships.

Aliens and *Incas* have in common that neither us in *Aliens* nor the Incas in *Incas* are able to do the actions prevented by others (respectively: by the aliens; by the Europeans). In my view, assuming the *Status View*, if the freedoms in question are not protected by a negative right, there is no disvalue in being (actually or subjunctively) deprived of the freedom to do an action that one is in any case unable to do, and the value of freedom is not compromised in *Aliens* and

⁸⁰ Consider also *Mountain*, introduced in §6.5.

in *Incas*.⁸¹ As I argue in this Section, this entails a critique of Steiner's bivalent theory of freedom, since the individuals interfered with in *Aliens* and *Incas* should not be judged as *unfree* (nor as free): they should be judged as *not-free*, which entails introducing trivalence.

As we have seen in Chapter 1 (§§1.1-1.2), deontic reasons pertain to how we should *treat* each other, rather than to the inherent goodness or badness of states of affairs.⁸² Hence, such reasons are inherently *relational*: they apply only *when people stand or can stand in the relevant type of relationship*. More precisely, the fact that *A* and *B* stand (or can stand) in the relevant type of relationship triggers deontic reasons of reciprocal treatment – i.e. reasons that the agents involved in such a relationship have to treat one another in certain ways – that would *not* apply if the relationship in question was not (or cannot be) in place.⁸³ Now, recall that on Steiner's bivalent theory of freedom analysed in §6.4 the value of freedom is *relational* – it is the value of not being interfered with – since, as Steiner claims, 'liberty is a social relation, a relation between persons.'⁸⁴ In this Section I wish to look at the implications of endorsing the *Status View* and a relational account of the value of freedom for the definition of *unfreedom* (see §6.8 for the implications for the definition of *freedom*). In particular, if deontic reasons are triggered

⁸¹ Nor in *Mountain*, introduced in §6.5.

⁸² For an influential explanation of this point, see Parfit, 'Equality and Priority', pp. 207-210.

⁸³ I indicate below the relevant sense of 'social relationship' assumed by the *Status View*. For completeness, notice that the domain of deontic reasons is not exhausted by the kind of reasons (to refrain from interfering with people's freedom) captured by the *Status View*: there can be *other* kinds of social relationships that trigger *other* (types of) deontic reasons of reciprocal treatment. For example, according to Rawls, the fruits of cooperation ought to be distributed fairly among co-operators (i.e. among those who have contributed to the social product), because reasons of reciprocity are triggered when people enter into cooperative relationships with others (and reciprocity entitles co-operators to share equally in the social product); while also maintaining that there are no egalitarian reasons to share the fruits of cooperation with those who have not made a contribution to the social product. For an explanation of such a view, see Jonathan Quong, 'Left-Libertarianism: Rawlsian, Not Luck-Egalitarian', *The Journal of Political Philosophy*, Vol. 19, No. 1, 2011, pp. 64-89, esp. pp. 78-83; see also Stuart White, *The Civic Minimum: On the Rights and Obligations of Economic Citizenship* (Oxford: Oxford University Press, 2003). Notice that claiming that there are no *egalitarian* reasons (of reciprocity) that justify entitling non-cooperators (e.g. those who lack the ability to cooperate) to share in the social product does not exclude that non-cooperators should be entitled to a share of the goods produced in society *on other grounds* (e.g. on humanitarian grounds).

⁸⁴ Steiner, 'How Free: Computing Personal Liberty', p. 74.

by the existence of the relevant type of social relationship, there cannot be relational disvalue *when the relevant type of relationship cannot be in place*, and consequently one should not be considered *unfree* (i.e. interference does not generate unfreedom). To illustrate this point, we should clarify what is then the relevant sense of ‘social relationship’ that triggers the kind of deontic reasons captured by the *Status View*.

Aliens, and *Incas* represent Divided World scenarios⁸⁵ in which it is technologically impossible for the agents interfered with to do the actions prevented by the interfering agents: that is, in *Aliens* and *Incas* the agents interfered with lack the (technological) ability to do the relevant set of actions that they are prevented from doing in the examples. Crucially, this entails that the agents interfered with and the interfering agents are not *in the relevant sense* of ‘social relationship’ that matters in this context.⁸⁶ First, I shall assume CRV (see §6.5): I shall assume that the kind of constraints that are necessary to generate unfreedom are those that other human beings have causally contributed to bring about (and that render physically impossible the doing of an action), or that they are disposed to bring about.⁸⁷ Second, an individual agent *A* stands in the relevant type of social relationship (that triggers deontic reasons to refrain from interfering with *A*’s freedom) with *B* (the interfering agent) when two further conditions obtain:

- (1) *B* (the interfering agent) has the ability to causally contribute to generate a constraint that would interfere with *A*’s opportunity to *X* (i.e. that would render the doing of *X* physically impossible).

⁸⁵ The terminology of ‘divided world’ scenarios comes from Parfit, ‘Equality and Priority’, p. 206.

⁸⁶ For context, see Lovett, *A General Theory of Domination and Justice*, Ch. 2.

⁸⁷ If the agent that would be interfered with attempts to perform the action with respect to which the interfering agent is disposed to interfere. Recall, indeed, that ascriptions of unfreedom have a counterfactual dimension. See Ch. 1, §1.5.

Assuming condition (1) (i.e. that *B* is able to interfere with *A*'s opportunity to *X*), we should then further analyse condition (2) distinguishing between (2a) the case in which *B* interferes (or is disposed to interfere) with *A*'s opportunity to *X* – i.e. as far as ascriptions of *unfreedom* are concerned – and (2b) the case in which *B* does not interfere and is not disposed to interfere with *A*'s opportunity to *X* – i.e. as far as ascriptions of *freedom* are concerned. In both cases, condition (2) captures the idea that *A* is *able* or would be able to *X*:

(2a) Ascriptions of *freedom*: *A* is able to *X*;

(2b) Ascriptions of *unfreedom*: *A* would be able to *X* in the absence of *B*'s interference (actual interference); or *A* is able to *X* and *B* is disposed to interfere with *A*'s opportunity to *X*, if *A* attempted to *X* (subjunctive interference).

Since in this Section we are interested in looking at the implications for the disvalue of unfreedom, condition (1) is self-explanatory: *A* can be deprived of the freedom to *X* only if *B* is able to make *A* unfree – i.e. to causally contribute to generate a constraint that would render the doing of *X* physically impossible for *A*, if *A* tried to *X*. Asserting condition (2) (2a and 2b) is certainly more controversial. In my view, assuming the *Status View*, the relevant sense of social relationship that matters for the purposes of identifying the disvalue of unfreedom is one in which *B*'s actions – the actions of the interfering agent – make⁸⁸ a necessary causal contribution to the existence of a constraint that *affects* *A*'s opportunities for exercising her will (or opportunities for agency) by rendering physically impossible for *A* the doing of actions that *A* would have been *able* to do in the absence of the constraint.⁸⁹ Indeed, the existence of a

⁸⁸ Or *would* make, if *B* is *disposed* to interfere with *A*'s attempt to *X*.

⁸⁹ Or that *A* is able to do, and with respect to which *B* is disposed to interfere.

constraint that prevents *A* from doing an action that *A* would be in any case unable to do cannot *affect* what *A* can do: it cannot reduce *A*'s effective opportunities for exercising her will (opportunities for effective agency). And, in so far as *B*'s actions do not 'enter in contact' with what *A* *can do* – with the sphere of *A*'s opportunities for exercising her will (as in Divided World scenarios) – they should not be considered part of a relationship with *A*.

Consider *Aliens*: since it is technologically impossible for us to reach the shielded distant planet, the fact that the aliens impose a constraint on a technologically impossible action does not affect our opportunities for purposiveness (the range of the earthlings' effective opportunities for exercising their will). Hence, we cannot be described as standing in the relevant type of social relationship with the aliens. Now, consider how this argument is conducive to an internal critique of Steiner's account of bivalence. If the disvalue of unfreedom is exclusively relational, a pro tanto reason against interfering with people's *freedom cannot subsist when people do not stand in the relevant type of social relationship* (i.e. when preventions cannot affect the opportunities for purposiveness available to the agents interfered with), as in *Aliens*. Therefore, since the value of freedom is not compromised in *Aliens*, we (the earthlings) should not be considered as *unfree*. Nor it is plausible to consider ourselves as *free*: we should be considered as *not-free* – where the category of *not-freedom* expresses that interference does not generate *unfreedom*s, since the value of freedom is not compromised.

Thus, through a discussion of the disvalue of unfreedom we have arrived at a justification of *trivalence*. There is indeed (a deontic and relational) reason to appeal to the language of trivalence with reference to those (actual or subjunctive) preventions that deprive *A* of opportunities to perform actions that *A* would be in any case unable to do, in the absence of the human constraint. Furthermore, the analysis of this Section offers a justification of *Kramer's*

version of CRV (see §6.5). To recall, according to Kramer the constraints imposed by others that prevent *A* from doing an action that *A* would be in any case unable to do do not generate unfreedom. In this Section I have argued that the explanation of this aspect of Kramer's version of CRV is that under the circumstances described above *A* and the interfering agent(s) *are not in the relevant type of relationship*, since the interfering agent(s) do not *causally contribute* to reducing *A*'s opportunities for exercising her will.

A couple of additional clarifications are in order. First, my argument so far has concerned mainly ascriptions of *unfreedom*: I discuss the relationship between the value of freedom and (lack of) ability in the next Section (§6.8). Second, introducing a number of variations of the examples discussed would not change the verdict of the argument put forward in this Section. Consider *Aliens*: suppose that we and the aliens are aware of each other's existence. If so, a number of implications would follow: 1) nothing of what I have claimed in this Section denies the possibility of there being *symbolic* reasons that can justify the disvalue of being deprived of the opportunity to visit the aliens' distant planet, even if we are unable to do so, given the current state of human technology. Imagine, for example, that the aliens consider any other race of living beings as inferior, and that this is why they shield their planet: following the analysis of symbolic disvalue adopted in §6.6.1, in so far as the existence of the planetary shield can be interpreted as expressing an insult to any other race of living beings, there would be symbolic disvalue in the existence of the constraint (even if, in fact, such a constraint does not restrict the earthlings' opportunities for exercising their purposiveness). Furthermore, 2) imagine that it is technologically possible to communicate with the aliens by sending radio signals. And suppose that the planetary shield renders physically impossible our attempts to communicate with the aliens, since it prevents also radio signals from penetrating the atmosphere of the planet. Under these circumstances, and assuming the account of 'social

relationship' adopted in this Section, it follows that *we would be* in a social relationship with the aliens with respect to the action 'communicating with the aliens', and that we should be correctly described as unfree to send radio signals that reach the aliens.⁹⁰ Now, this point confirms what I have argued in this Section: ascriptions of unfreedom are limited to (actual or subjunctive) preventions that (would) deprive us of the freedom to perform actions that we are able to do (i.e. technologically possible actions). Indeed, while with respect to the action 'sending radio signals that can reach the aliens' we would be in the relevant social relationship with the aliens, we could not be described as being in any relevant relationship with the aliens *with reference to the actions that remain technologically impossible for us* (like landing with spaceships on the distant planet).

6.7.2 Implications for Social Freedom.

The analysis of Divided World scenarios sheds light on various aspects of SF. Recall Shnayderman's point concerning the problem of infinite degrees of unfreedom, discussed in §6.5: preventing a prisoner from leaving his cell renders it impossible for him also to do all the infinitely numerous technologically impossible actions that the prisoner would be in any case unable to do (like flying around Andromeda). Given the arguments presented in this Section, the prisoner should not be described as *unfree* to perform an infinite degree of technologically impermissible actions, since the prisoner's gaolers (or those who are causally responsible for the individual's imprisonment) do not stand in the relevant social relationship with the prisoner *with respect to those actions that remain technologically impossible* for the prisoner even in the absence of the constraint. That is, the argument presented in this Section offers a

⁹⁰ We should not be described as unfree to send radio signals *tout court*, since we are not prevented from *sending* them. We are prevented from sending signals that can penetrate the atmosphere of the distant planet and *reach* the aliens.

justification for why preventions that deprive someone of the opportunity to perform technologically impossible actions do not generate unfreedom, thereby contributing to offer a solution to the problem of infinite degrees of *unfreedom* introduced in §6.5. In addition, consider how the suggested understanding of the disvalue of unfreedom offers a coherent and unified explanation of the verdict reached by CRV. Recall *Egyptian Obelisk* (introduced in §6.5): the main purpose of *Egyptian Obelisk* is to show that the variable ‘distance in time’ is irrelevant for judging ascriptions of unfreedom. The argument presented in this Section offers an explanation of this feature of CRV: because the Egyptians who built the obelisk thousands of years ago can be described as *standing in the relevant relationship* with the tourist, in so far as the actions of the Ancient Egyptians relevantly affect the tourist’s *current* opportunities for purposiveness, even if the Egyptians are by now long dead and the relationship between the tourists and the Egyptians *is not a strategic one*, since none of the tourist’s actions can affect any of the past actions of the Egyptians.⁹¹

⁹¹ For an analysis of strategic situations, see Lovett, *A General Theory of Domination and Justice*, p. 34. Furthermore, the argument of this Section can be relevant for clarifying additional features of SF discussed by freedom theorists. A widely shared assumption among SF theorists is that self-inflicted diminutions of freedom (like chopping off one’s own fingers, which deprives one of the freedom to play the violin) should be classified as mere inabilities rather than as unfreedoms. Now, this assumption turns out to be mistaken if there is reason to endorse a reductionist account of personal identity according to which personal identity ‘just consists in the existence of a brain and body and the occurrence of a series of interrelated physical and mental events’ (Parfit, *Reasons and Persons*, p. 211), rather than the traditional unitary self that spans over the course of the individual’s biological existence, since on the reductionist model the previous selves can be in the relevant type of social relationship with later selves – in so far as the previous selves can relevantly affect the opportunities for agency of the later selves – thereby also generating unfreedom when such opportunities are restricted as a result of actions performed by the previous selves. That is, freedom should be understood as an *intrapersonal*, as well as interpersonal, social relationship. On self-inflicted inabilities and SF, see Kramer, *The Quality of Freedom*, pp. 349-351.

6.7.3 Objections Defused.

Before discussing the relationship between the value of freedom and (lack of) ability in the next Section (§6.8), we should examine potential objections to the main argument presented in this Section. Consider the following example:

Anna Karenina: *A* is unable to read, and he is prevented from accessing the online version of *Anna Karenina* on his laptop, when he attempts to do so.

Is there any disvalue in preventing *A* from reading *Anna Karenina*? The answer is that in *Anna Karenina* the value of *A*'s freedom *is* compromised when *A* is prevented from accessing the online version of the book. This is because preventing *A* from accessing *Anna Karenina* deprives *A* not only of the freedom *to read* the book, but also of a great number of additional freedoms: those freedoms to do the actions that *A* is able to do when he accesses *Anna Karenina*, like starting *to learn* how to read, browsing the pages of the book, or pretending to read. This point reminds us that, if we stick exclusively to an *intensional* description of freedoms/actions – which classifies actions/freedoms according the *quality* of the freedoms/actions in question (e.g. the freedom *to read*, *to walk*, etc.) – we can lose sight of the *extensional* dimension of freedoms/actions: that is, of the fact that the physical components necessary for exercising a certain freedom can be used to achieve a great number of ends. Thus, when we deprive *A* of the freedom to read *Anna Karenina*, we also deprive *A* of the freedom to use the physical components of the action in question in a variety of alternative ways.⁹²

⁹² For the distinction between intensional and extensional descriptions, see Steiner, *An Essay on Rights*, p. 36.

A second class of potential exceptions arises from considering that unattainable ends can function as regulative ideals, and that aiming to achieve such unrealizable ideals can motivate us to overcome our limits (like aiming to be a literally impeccable parent, a saint, a world-class pianist, etc.).⁹³ Consider the following example:

Swimmer: *A* is a very good swimmer: when she is properly self-motivated, *A* can swim continuously for up to 9-10km, and, given her physical condition, 10km is her upper limit. In order to motivate herself to constantly improve her performances and to reach 10km, *A* needs to aim for an impossible target (say, swimming for 15km).⁹⁴ *A* knows that, after 10km from the only point of the lake where she can start swimming, the state has now put a barrier, which deprives *A* of the freedom to swim beyond it. Moreover, the existence of the barrier also prevents *A* from being motivated by the impossible aim of swimming for 15km. As a result, *A*'s performances are now less good, and she can realistically swim continuously 'only' for 7-8 km.

If *A* would be in any case unable to swim continuously for more than 10km, is the value of *A*'s freedom compromised by the existence of the barrier? The answer is a qualified 'Yes'. First, note that the barrier does not render *A* unfree to swim for more than 10km, since *A* would be in any case unable to do so, even in the absence of the constraint. That is, the state and *A* are *not* in the relevant type of social relationship with reference to *A*'s lack of freedom to swim for more than 10km: so, besides symbolic disvalue, *A*'s freedom is *not* compromised in this regard.

⁹³ The discussion of this paragraph is inspired by Kimberley Brownlee's article 'Reasons and Ideals', *Philosophical Studies*, Vol. 151, No. 3, 2010, pp. 433-444.

⁹⁴ Let us assume that, given *A*'s physical condition, she would be physically unable to swim continuously for 15 km.

Nonetheless, *A*'s freedom *is* compromised, if the existence of the barrier renders it physically impossible for *A* to be motivated to attain the impossible goal of swimming for 15km, due to a psychological constraint that prevents *A* from releasing the extra physical power that would allow *A* to do better and get closer to her upper limit (10km). If so, then the existence of the barrier renders *A* *unfree to swim beyond the point that she can reach without the extra motivation* (say, beyond 7-8 km) and up to 10km (her upper physical limit). In this sense, the existence of the barrier limits *A*'s opportunities for exercising her will by affecting *A*'s capacity for self-motivation, and therefore *A* and the state are in the relevant type of social relationship. That is, we should concede that, when the existence of a constraint generates *indirect effects* that are in themselves necessary to create a (further) constraint that renders physically impossible the doing of certain actions, then such indirect effects and the original constraints should be classified as sources of unfreedom.⁹⁵

6.8 Trivalence, Deontic Reasons, and Freedom.

The discussion in the previous Section (§6.7) has assumed the *Status View* and has focused on understanding the *disvalue of unfreedom*. Since, in my view, preventions that deprive someone of the opportunities to perform actions that an individual would be in any case unable to do do not generate unfreedom,⁹⁶ they can be plausibly labelled as *not-freedoms*. Hence, the argument of §6.7 introduces the language of trivalence for ascriptions of unfreedom. Assuming the *Status View*, I wish now to examine the possibility of extending trivalence also to the *value of freedom*, in the ways explained below. In particular, we should now examine the case in which the first

⁹⁵ Notice that the mere existence of indirect effects is not sufficient to generate unfreedom: they need to render physically impossible the doing of the actions in question. On psychological constraints and lack of freedom, see Kramer, *The Quality of Freedom*, pp. 264-271.

⁹⁶ I have also argued that we should account for eventual symbolic disvalue and the possibility that the indirect effects of a constraint on freedom relevantly affects the purposiveness of the agent interfered with.

of the two conditions (condition (1)) that qualify the kind of relationship that triggers the deontic reasons captured by the *Status View* does not hold (see §6.7.1), focusing on cases in which *B* – the interfering agent – *lacks the ability* (ableness) to interfere with *A*. Is there value in *A*'s *freedom*, under such circumstances? Consider the following example:

Robinson Crusoe: After a nuclear disaster, Robinson Crusoe is the only surviving member of the human species on Earth. He manages to survive on a small island that is still inhabitable. The aliens live on a distant planet, and they are unaware of Robinson Crusoe's existence. Moreover, it is technologically impossible for the aliens to reach the Earth and affect Robinson Crusoe's opportunities for agency.

Cases like *Robinson Crusoe* pose a problem for Steiner's bivalent definition of freedom (discussed in §6.4). Recall that, on such a theory, the value of freedom is justified in deontic terms and it is *relational*: it is the value attributed to the absence of interference. However, how can freedom have relational value if Robinson Crusoe's opportunities for exercising his will cannot be affected by the actions of others (who lack the ability to interfere with Robinson Crusoe's opportunities), and therefore no relevant relationship can obtain between Robinson Crusoe and other agents (as in *Robinson Crusoe*)? The problem discussed in §6.7 resurfaces with reference to the definition of *freedom*. There are two plausible ways of solving this problem: 1) the first one consists in sticking to an exclusively relational interpretation of the value of freedom *and* to reject bivalence. I discuss this possibility in §6.8.1. The second one 2) consists in rejecting an exclusively relational interpretation of the value of freedom as well as rejecting bivalence. I discuss this possibility in §6.8.2. A third option – 3) keeping bivalence – is not plausible, as I explain in what follows.

6.8.1 Trivalence and the Relational Value of Freedom.

Let us assume that the value of freedom is exclusively relational: I argue that this most plausibly entails rejecting bivalence. The ‘exclusively relational’ view entails attributing value to freedom only *in social settings* in which the relevant type of social relationship introduced in §6.7 subsists. On such a view, there is value in having freedom only when *A* is in the relevant relationship with *B*: that is, only when *A* is able to *X* (or would be able to *X*) and *B* *can* prevent *A* from *X*. If we assume the view that asserts that freedom has exclusively relational value, then the opportunities open to Robinson Crusoe in *Robinson Crusoe* have no *relational* value at all, due to Robinson Crusoe’s state of complete isolation.

Furthermore, consider the implications that follow for the definition of freedom. In addressing this point, we should ask the following question: even if Robinson Crusoe’s opportunities have no relational value, can they nonetheless be labelled as *freedoms*? Answering affirmatively entails maintaining bivalence, since it entails claiming that Robinson Crusoe is *free*, even if his freedoms *have no value* (due to lacking relational value in *Robinson Crusoe*). First, notice that maintaining bivalence *and* adopting an exclusively relational account of the value of freedom entails claiming that, although Robinson Crusoe’s degree of freedom is very high (it is indeed infinite), his freedoms have no value at all, which speaks to the implausibility of such a move. Moreover, bivalence comes with a price: the rejection of the non-specific value of freedom. Indeed, non-specific value ranges over every instance of freedom (see Chapter 1, §1.3), and maintaining bivalence entails denying that there is value in the freedoms that cannot be interfered with by others. So, if the value of freedom is exclusively relational, we cannot both maintain bivalence and the non-specific value of freedom: one of the two must be dropped.

Moreover, if one sticks to an exclusively relational interpretation of the value of freedom *and* to the non-specific value of freedom, then cases like *Robinson Crusoe* show that one has reason to endorse a *trivalent theory of freedom*, according to which the opportunities available to Robinson Crusoe cannot be labelled as ‘freedoms’, but should be described as ‘not-freedoms’ (neither freedoms nor unfreedoms).

How plausible is such a view? How plausible is it to endorse a trivalent theory of freedom *on deontic grounds* and to maintain that Robinson Crusoe’s opportunities fall beyond the semantic domain of ascriptions of freedom? One may plausibly think that part of the value of freedom is non-relational, and that there is a reason to describe Robinson Crusoe as *free*: I discuss this point in §6.8.2. Nonetheless, I also think that the kind of trivalence examined in this Section can be interpreted as an illustration of Bernard Williams’s view that ‘freedom is a *political* value’, and that the language of freedom and unfreedom applies in the context of social relationships.⁹⁷ If so, the definition of freedom is a ‘construction’ that expresses the ‘quite basic human phenomenon’ of having the opportunity to act unobstructed by others when interference by others *is* possible. A phenomenon that, as Williams claims, ‘already points in the direction of politics’,⁹⁸ since it raises the question of how to handle disagreement concerning the reciprocal limits of individual freedom. Conversely, when no relationships between persons can obtain – as in *Robinson Crusoe* – perhaps also the need to adopt the language of freedoms and unfreedoms disappears.

⁹⁷ Williams, ‘From Freedom to Liberty: The Construction of a Political Value’, p. 5.

⁹⁸ *Ibid.*, p. 11.

6.8.2 Trivalence and Freedom as an Interpretative Concept.

The trivalent theory of freedom premised on the deontic reasons captured by the *Status View*, and therefore on a relational account of the value of freedom concludes the critique of Steiner's adoption of bivalence started in §6.7. I have shown that, *if* one endorses an exclusively relational account of the value of freedom *and if* one assumes the non-specific value of freedom, then one should adopt a trivalent theory of freedom, rather than Steiner's bivalent theory. According to such a trivalent theory, the language of ascriptions of freedom and unfreedom applies only when two (or more) individual agents (*A* and *B*) stand in the relevant type of social relationship outlined in §§6.7-6.8. By contrast, the language of freedom/unfreedom does not apply if *A* and *B* do not stand in the type of relationship in question: under such circumstances *A* and *B* should be described as *not-free* (rather than 'free' or 'unfree').

Notice that, since on such a view the domain of ascriptions of freedom is *defined* as ranging only over the opportunities that have relational value (i.e. when *B* is able to interfere with an action that *A* is able to do), any instance of freedom has (relational) value qua freedom, and therefore such a *definition* of freedom is *entailed* by assuming that freedom has non-specific (relational) value.⁹⁹ This further clarifies the nature of freedom as an 'interpretative concept' introduced in Chapter 1 (§1.5), and the foundationalist approach to the conceptual analysis of freedom endorsed in this Chapter. We have already seen in §6.3 that, if one endorses the *Status View*, then one *necessarily* should endorse some version of SF (P2): that is, the disvalue of unfreedom *determines* a certain aspect of definitions of unfreedom. In this Section I have

⁹⁹ Moreover, I have argued in §6.4 that, if one assumes that the value of freedom is exclusively deontic, then one is *drawn* to endorsing the non-specific value of freedom.

argued that, assuming the *Status View*, an exclusively relational account of the value of freedom is conducive, and actually *determines*, the assumption of a trivalent theory of freedom (if one endorses the premise that freedom has non-specific value), since such a trivalent theory reflects the *role that*, if we assume an exclusively relational account of the value of freedom, *freedom should play for us*.

The circularity of this reasoning is virtuous, rather than problematic, since it shows how freedom can be understood as what Dworkin calls an ‘interpretative concept’,¹⁰⁰ rather than as a ‘natural-kind’ concept. Natural-kinds concepts, ‘are things that have a fixed identity in nature, such as a chemical compound or an animal species’.¹⁰¹ The concept of freedom is rather different: definitions of freedom are *value-dependent*,¹⁰² they are informed by the *value* that freedom has in the moral discourse and by the role that freedom should play in a theory of justice.¹⁰³ Therefore, since people reasonably disagree about the value of freedom (for example, about whether freedom has axiological or deontic value), they disagree also about what freedom *is*, about the *definition* of freedom, and disagreement about the definition of freedom can be illuminated only by referring to a more fundamental disagreement about the *value* of freedom. In particular, the arguments presented in this Section should be interpreted as expressing a *foundationalist* approach to the conceptual analysis of freedom: as showing how definitions of freedom can be *determined by* (rather than just being *dependent on*) the value of freedom.

¹⁰⁰ Dworkin, *Justice for Hedgehogs*, Ch. 8.

¹⁰¹ *Ibid.*, p. 159.

¹⁰² I have introduced Carter’s notion of value-dependency in Ch.1 (§1.4).

¹⁰³ Indeed, as Dworkin claims, ‘We share an interpretative concept when our collective behavior in using that concept is best explained by taking its correct use to depend on the best justification of the role it plays for us’, *Justice for Hedgehogs*, p. 158.

6.8.3 Trivalence and the Non-Relational Value of Freedom.

To conclude the arguments of this Section, I wish to consider the view that the value of freedom is *not* entirely relational, and that therefore, if we consider *Robinson Crusoe*, Robinson Crusoe should be judged as *free*, in that there is value in having freedom in cases like *Robinson Crusoe*.¹⁰⁴

I have argued in §6.7 that deontic reasons to refrain from interfering with people's freedom arise when the relevant type of social relationship can obtain. However, notice that this is compatible with claiming that, although deontic reasons are triggered when people are in the relevant type of relationship, what *grounds* the existence of such reasons is a *non-relational* property, namely the non-relational value attributed to freedom. Crucially, such a value is *not* the personal value that freedom has *for* Robinson Crusoe – in virtue of freedom's contribution to the attainment of Robinson Crusoe's own good or to furthering Robinson Crusoe's interests (the *Benefit View*). Rather, it is the *impersonal goodness* attributed to freedom as an opportunity that an agent has to exercise her will. Let me explain. If the existence of agents (or of wills that are able to set ends) has *impersonal* value – if such an existence is valuable abstracting from the person-affecting value that existing has for the agents who exist – the fact that agents have opportunities to exercise their will is also impersonally valuable (abstracting from whether such opportunities are valuable in person-affecting terms for the agents who have them). Now, on this interpretation of the non-relational impersonal goodness of the fact that agents have opportunities to exercise their wills,¹⁰⁵ there is (impersonal) value in the fact that Robinson

¹⁰⁴ That is, suppose that we exclude that one can be free, while at the same time holding that freedom has no value. As I have argued, this would entail denying the non-specific value of freedom.

¹⁰⁵ In the language of Ch. 1, this view would qualify as a good-based view of the (impersonal) value of freedom.

Crusoe has freedom, in so far as there is value in Robinson Crusoe's existing as an agent who is capable of setting ends.

Notice that, if the value of freedom is (also) partly non-relational, there is value in having an opportunity to *X*, even if *A* does not stand in the relevant relationship with *B*, but, crucially, *only if A is able to X*, since the purposiveness of an individual's will is limited to what the individual is able to do.¹⁰⁶ This clarifies that assuming that the value of freedom is partly non-relational grounds a *trivalent ability-based (ABF) definition of freedom as the opportunities to do the actions that A is able to do*, and the opportunities to do the actions that *A* (e.g. Robinson Crusoe) is unable to do should be classified as not-freedoms (independently of *A*'s being in the relevant relationship with *B*). Furthermore, if part of the value of freedom is non-relational, then freedom has non-relational impersonal value *also when people enter into the relevant type of relationship* with others.

6.9 The *Benefit View*, Abilities, and the Value of Freedom.

After having examined the implications for definitions of freedom that follow from assuming the *Status View* (§§6.4-6.8), this Section concludes the analysis of the relationship between the value of freedom, definitions of freedom, and (lack of) ability, by exploring the implications that follow from assuming the *Benefit View*. To recall, we want to test the validity of P1 (see §6.2), according to which, if one endorses the *Benefit View*, then one should endorse a version of ABF (ability-based freedom) according to which freedom is *coextensive* with ability, in that freedom amounts to the *mere ability* to act. On such a view, diminutions of people's freedom correspond to diminutions of abilities, and promoting people's freedom just means promoting

¹⁰⁶ On this point see Ripstein, *Force and Freedom*, Ch. 2, esp. pp. 33-35; 40.

people's abilities. We should frame the analysis by distinguishing 1) the relevance of the *Benefit View* for ascriptions of *unfreedom* from 2) the relevance of the *Benefit View* for ascriptions of *freedom*.

6.9.1. The *Benefit View* and the Disvalue of Unfreedom.

Let us start with the definition of *unfreedom*s. The first point that I wish to make is that endorsing the *Benefit View* entails denying that the distinction between humanly engendered and natural constraints should have any significance for determining ascriptions of unfreedom. Since, according to the *Benefit View*, freedom is valuable in person-affecting terms and has personal value for the person who has freedom, from the point of view of the *Benefit View* it is irrelevant to discriminate between different *sources* of the constraints (human or natural),¹⁰⁷ since what matters is exclusively the way in which a constraint affects the abilities of the individual, thereby also affecting the personal value that freedom has for the individual in question.¹⁰⁸ Both natural and humanly engendered constraints can relevantly impact on the abilities of an individual (by rendering physically impossible the doing of certain actions), and, from the point of view of the *Benefit View*, *this is the only thing that matters*. To clarify this point, consider the following example:

Paralysing Virus: the individuals of equally sized *Group A* and *Group B* are equally affected by the same disease that paralyses the use of their legs, thereby also depriving them of the freedom to walk. The individuals of *Group A* have naturally contracted the disease by hiking in a contaminated forest; whereas the

¹⁰⁷ On the source of the constraints, see Carter, 'Positive and Negative Liberty'.

¹⁰⁸ I have introduced the notion of the 'strength' of the constraints in Ch. 1, §1.5.

individuals of Group B have contracted the disease in a hospital where the virus was injected in their veins by a malicious doctor.

A theory of freedom that is premised on the *Benefit View* should judge the individuals of the two groups as unfree, without discriminating whether they have contracted the disease by walking in the forest or by entering in contact with a malicious doctor who is (causally and morally) responsible for the existence of the constraint, since what matters is exclusively the *personal* disvalue incurred by contracting the virus, rather than the *interpersonal* or *relational* disvalue of being prevented by others. Indeed, suppose that a vaccine is available but that there are only enough doses to cure the members of one of the two Groups. If comparative assessments of individual degrees of unfreedom should play *any* role in situations of this type, on the *Benefit View* there is no reason to prioritise the individuals of *Group B* (nor are they more unfree than *Group A*) in the administration of the vaccine, since what matters is only *the fact that* the virus affects the abilities of the individuals involved, thereby restricting their freedom and consequently impairing the individuals' opportunities to attain personal goods like autonomy and wellbeing (rather than there being something particularly relevant about the origin of the constraint).¹⁰⁹

Assuming the *Benefit View*, consider then the following objection that can be moved to SF. Defenders of a theory of 'freedom as pure ability' can challenge SF theorists by questioning why they think it should matter to discriminate between humanly engendered and natural constraints, since *both* types of constraints can equally affect people's abilities, thereby endangering the personal value of freedom. This is a consistent position for theorists who

¹⁰⁹ Indeed, a fair procedure could be to choose who should be administered the vaccine randomly among the members of the two groups.

endorse the *Benefit View*, and a powerful rejoinder against SF. SF theorists can rebut this objection only by illustrating that, crucially, the disvalue of unfreedom has an *interpersonal* (or relational) dimension – along the lines discussed in the previous Sections (§§6.4-6.8) – and that, therefore, whether the personal value of freedom is compromised is not the only thing that matters in assessing ascriptions of unfreedom. This analysis lends further credence to the general claim defended in this Chapter, that it is misleading to reduce debates about the conceptual analysis of freedom to mere disagreements about *definitions*: instead, such disagreements acquire meaning only if we interpret them as entailing more fundamental disagreements about different ways of interpreting *the value of freedom (or the disvalue of unfreedom)*.

6.9.2 The *Benefit View* and the Value of Freedom.

Consider ascriptions of *freedom*. How can the *Benefit View* shape the definition of freedom? As we have seen in the previous Sections (§§6.4-6.8), the absence of human interference can be considered valuable in *deontic* terms. In this Section I wish to examine whether non-interference is (also) valuable in person-affecting terms. In particular, since preventions obstruct human activity by rendering physically impossible the doing of the actions interfered with, the absence of human interference is *necessary* for enabling an individual to achieve the good.¹¹⁰ This is true, but it may not capture all that matters for ascriptions of freedom grounded on the *Benefit View*: much depends on whether in order to achieve the good (in particular, personal goods like wellbeing and autonomy) one also needs the *ability* to perform the actions that one is unprevented by others from doing. That is, it depends on whether non-interference is also *sufficient* for achieving the good. In what follows I examine whether, assuming the

¹¹⁰ Recall that preventions can be actual or subjunctive:

Benefit View, there is value in being unprevented from doing *X*, if one lacks the ability to *X*. Can it be *good for* someone to be unprevented from doing an action that one is in any case unable to do?

We need to distinguish between whether freedom is described as having *subjective* or *objective* value (Chapter 3). In this Section I shall focus on the objective value of freedom, since, as I have argued in Chapter 3 (§3.3), only reasons to believe that freedom is objectively valuable for the achievement of goods like wellbeing, agency, and autonomy, can provide the right type of support to freedom-centred justice's commitment to distribute freedom as such.¹¹¹ And, I shall argue that, if one assumes an objectivist interpretation of the value of freedom, although the absence of human interference is a necessary condition for achieving the good, it is not also a *sufficient* condition, since one also needs the ability to do the actions that one is unprevented (by others) from doing. I shall conclude, therefore, that, if one assumes an objectivist interpretation of the *Benefit View*, the absence of human interference has no value when one is unable to do the actions that one is unprevented by others from doing.

¹¹¹ That said, consider the implications that endorsing the *subjectivist* interpretations of the *Benefit View* has for the definition of freedom. Recall from Ch. 3 (§§3.3-3.4) that freedom has subjective value 1) if one desires to have freedom (for the sake of having freedom or for the sake of achieving wellbeing, autonomy, etc.) (the desire-based account), or 2) because one enjoys the experience of having freedom (the experience-based account). Now, assuming the desire-based account or the experience-based account implies claiming that non-interference is valuable in person-affecting terms (i.e. that someone benefits from not being interfered with) *even if one ultimately lacks the ability to do the actions that one is unprevented by others from doing*, 1) in so far as one *desires* to be unprevented by others (the desire-based account), or 2) in so far as one *enjoys* the experience of freedom as absence of interference (the experience-based account). Under such conditions, the absence of human interference is necessary *and sufficient* for the achievement of the good, and it has value in person-affecting terms, even if one is in any case unable to do the actions that one is unprevented from doing.

Wellbeing

Let us start by examining the arguments that show that freedom is non-specifically valuable for wellbeing. Consider, for example, an *objectivist* account of wellbeing: if the good is objectively interpreted as the attainment of certain functionings (e.g. walking, being in good health, cultivating good personal relationships, etc.), the mere absence of interference is necessary but insufficient for the attainment of the good, and one does not benefit from not being interfered with, if one lacks the *ability* to attain the relevant functionings even in the absence of interference. Consider then arguments that attribute objective value to freedom in virtue of freedom's contributory value for the attainment of wellbeing, subjectively interpreted as desire satisfaction: i.e. Carter's argument examined in §3.6, according to which having freedom is non-specifically valuable for the achievement of individual desires, whatever these may be. Crucially, on this view, the absence of interference is necessary but *insufficient* for the attainment of the good. Indeed, if the good is interpreted subjectively as desire satisfaction, attaining the good requires not just the absence of interference, but also the *ability* to attain one's desires. Hence, in this case the absence of human interference is valuable only if the individual who is not interfered with is able to perform the self-regarding actions that she is unprevented by others from doing. And, if one endorses Carter's argument concerning freedom's non-specific instrumental value for the satisfaction of people's desires, it cannot be *good for A* to not be interfered with by *B*, if *A* is in any case unable to perform the actions that *A* is unprevented from doing, since crucially attaining the good entails *realising* one's desires (recall that Carter's argument is premised on what I have called 'narrow non-specific value').

Perfectionist Goods

Consider, then the (perfectionist) arguments that connect freedom with the value of agency and autonomy (§3.8). Although I have rejected the perfectionist moral foundations of freedom-centred justice in Chapter 3, in this context I am interested in examining perfectionist reasons to value freedom as informing a definition of freedom as the ability to act. For example, recall that, according to Carter, freedom has non-specific constitutive value for agency, where the value of agency is the value of making ‘an impact on the world, by intervening in the causal chains which bring about events and states of affairs.’¹¹² Thus, if one assumes the *Benefit View* and Carter’s account of the value of agency, there is value in being unprevented by others from bringing about an event *E* *only if one is able to causally contribute to the occurrence of E*. And, therefore, it follows that there is no value in being unprevented from doing an action that one is in any case unable to do.

Furthermore, this argument entails a critique of the bivalent theory of freedom as mere absence of human interference endorsed by Steiner (§6.4). Since non-specific value ranges over every instance of freedom, and the absence of human interference has no value (for agency) when the individuals in question lack the ability to do the actions that they are unprevented by others from doing, then Steiner’s bivalent theory of freedom as mere absence of human interference is incompatible with also assuming the non-specific value of freedom (for agency). Thus, one has reason to reject Steiner’s theory, *if* one endorses the non-specific value of freedom.

Consider then the interpretation of autonomy as a *global* property (§3.8.3). Since on such a view autonomy requires not just deciding which values are worth pursuing in life, but also

¹¹² Carter, *A Measure of Freedom*, p. 42.

pursuing them, and sticking to such values in the face of adversity, one does not benefit from not being interfered with, if one in any case lacks the ability to pursue the values that one holds dear (since under such circumstances not being interfered with does not make a positive contribution to the achievement of the good). The absence of human interference is necessary but insufficient for the attainment of the good. Instead, if autonomy is a property of *choices* (§3.8.3), then, it should be conceded that, in so far as one's deliberative process is not impeded, there *is* value in making a choice even if one is unable to realise the choice in question (or indeed even when one is *prevented* from realising such a choice), but it is hard to believe that the value of autonomy so conceived can play any decisive role in a theory of justice. Though there is no decisive argument here, if, most plausibly, exercises of autonomy are considered valuable because it is valuable to autonomously choose which actions one has most reason to do,¹¹³ then 1) choosing autonomously is valuable and contributes to the good of persons only if one has the ability to *perform* the actions that one has chosen to do, and therefore 2) the absence of human interference is not valuable in person-affecting terms when one is unable to perform the actions that one has chosen to do.

The Benefit View, and Freedom as Ability

Taken as a whole, the arguments put forward in this Section (§6.9) claim that, if one endorses the *Benefit View*, and freedom is valuable in persons-affecting terms, then 1) one should care about freedom *as the ability* to act, and 2) one should endorse an ability-based *definition* of freedom. Moreover, 3) as we have seen in §6.9.2, endorsing the *Benefit View* entails having a reason to question SF theorists' distinctive focus on interferences imposed by other human

¹¹³ Either because such actions are good for the person in question (i.e. because they contribute to her wellbeing), or because they are morally good (e.g. morally required).

beings, given that natural obstacles can also compromise the value that freedom has for persons (for their achievement of the good). And, indeed, 4) the definition of freedom that is entailed by endorsing the *Benefit View* is a *bivalent ability-based theory of freedom as pure ability*, according to which every constraint (humanly engendered or natural) that limits an individual's ability by rendering physically impossible the doing of an action should count as a source of unfreedom. Thus, P1 is vindicated (§6.2).

6.10 Conclusion.

This Chapter contributes to debates concerning the conceptual analysis of freedom and ability, both methodologically and substantively. Methodologically, it argues that freedom is an interpretative concept, and that, therefore, disagreement about different definitions of freedom should be interpreted as being motivated by more fundamental disagreements about different ways of interpreting the value of freedom. In particular, I have shown that, if one assumes that freedom is non-specifically valuable – and that therefore the value of freedom ranges over every specific instance of freedom – then the value of freedom *determines* what freedom is, and different implications follow depending on whether one endorses the *Benefit View* or the *Status View*.

Chapter 7:

Conclusion

The value of freedom as opportunity plays a role in every theory of justice (Introduction), and in the thesis I have defended the view that freedom has non-specific value, that freedom (as such) is the currency of justice, and that justice requires to distribute, protect, or promote freedom *as such*, rather than (exclusively) certain specific and valuable liberties (freedom-centred justice) (Chapters 1-6). The thesis's central idea is that the (non-specific) value of freedom can be justified by appealing to two distinct kinds of reasons: axiological reasons that appeal to 'the good' and deontic reason that appeal to 'the right'. While good-based views justify the value of freedom by appealing to the benefits that having freedom has *for persons* (i.e. they interpret the value of freedom in person-affecting terms, claiming that it is *good for* persons to have freedom) or to the impersonal goodness attributed to promoting people's freedom for the sake of achieving an impersonally valuable end (e.g. human progress), views that derive the value of freedom from the right appeal to reasons concerning how persons should be treated: the *Status View*, in particular, appeals to the value of refraining from interfering with the freedom of persons as something that is owed to persons in recognition of their moral status as agents (Chapter 1).

Good-based views have been examined in Part II of the thesis (Chapter 2 and Chapter 3), focusing especially on the analysis of the *Benefit View*. The *Benefit View* interprets the value of freedom in person-affecting terms – it claims that people benefit from having freedom (because people desire freedom or because freedom contributes to the achievement of personal goods, like agency, autonomy, and wellbeing) – and it attributes personal value to freedom, claiming that freedom has value for the person who has freedom. In Chapter 2 I have

distinguished the *Benefit View* from alternative good-based views that either interpret the value of freedom in person-affecting terms without attributing personal value to freedom (the ‘value-for-others view’), or attribute impersonal value to freedom. I have also questioned the plausibility of attributing intrinsic value to freedom.

Then, in Chapter 3 I have offered an in-depth examination of the different senses in which, according to the *Benefit View*, people benefit from having freedom. The main findings of Chapter 3 are the following: 1) freedom-centred justice should be grounded on *objective* reasons to value freedom non-specifically, and considerations concerning the *subjective* value that individual persons attribute to freedom – either because they *desire* to have freedom, or because they *enjoy* the experience of freedom – play a role in fulfilling the stability requirement of freedom-centred justice. Hence, I have then examined the reasons to attribute objective value to freedom. In particular, 2) having a measure of freedom as such should be considered a human need, and from the argument premised on need it is possible to derive a *sufficientarian* foundation of freedom-centred justice. Moreover, 3) the perfectionist foundations of freedom-centred justice (agency-based; autonomy-based) should be rejected, since they fail to meet a test of neutrality of justification, privileging a life of freedom *as the good life* (since freedom has contributory value for agency and autonomy), and thereby also failing to respect the reasonable views of those who do not hold an agency-based or an autonomy-based account of the good life.

Finally, 4) having freedom is objectively valuable for wellbeing, which in turn can be interpreted 4a) subjectively (as desire satisfaction), or 4b) objectively (as the attainment of valuable functionings). I have argued that, if 4a), freedom has ‘narrow non-specific value’ (which does not range, for example, over the freedoms to attain distorted conceptions of the

good that include a desire for severely harming others). If 4b), freedom-centred justice is pluralist, and the value of freedom should be balanced with wellbeing. Crucially then, if 4b) (or, if freedom-centred justice is grounded on perfectionist reasons), freedom-centred justice must appeal (also) to deontic reasons to value freedom non-specifically. Indeed, I have argued that, a freedom-centred approach grounded *exclusively* on reasons to believe that people are pro tanto benefited by having (more) freedom because freedom has contributory value for the achievement of wellbeing (objectively interpreted as the attainment of certain functionings) or autonomy would end up justifying paternalistic restrictions on people's freedom to malfunction in those cases in which allowing people to malfunction would risk undermining people's attainment of wellbeing or autonomy. Under such circumstances, such freedom-centred approaches would converge with alternative liberal views that recognise only the value of certain specific and valuable liberties on prescribing to protect or promote only certain specific liberties (rather than freedom as such). And only *all things considered* deontic reasons to refrain from interfering with people's freedom can neutralise the freedom-restricting effects of paternalism.

In Part III of the thesis I have rejected the moralised version of the *Benefit View* (Chapter 4) and the moralised version of the *Status View* (Chapter 5), offering in such a way an exhaustive critique of the moralised value of freedom. In particular, in Chapter 4 I have argued that it is implausible to endorse a purely moralised account of the *Benefit View*, since such a view clashes with an account of benefiting and harming that can adequately fit into a theory of political morality. Then, in Chapter 5 I have introduced the discussion of the deontic foundations of freedom-centred justice, showing that it is pro tanto valuable to be unprevented by others from performing actions that are morally wrong, even severely wrong (while, of course, maintaining the disvalue of performing wrong actions), in particular, when interference

is motivated by a lack of trust in people's capacities to act morally, and assuming in ideal theory that people are capable and motivated to act morally. In Chapter 5 I have also examined the relationship between the *Status View* and respect for persons.

The final Chapter of the thesis (Chapter 6) has examined the implications that distinguishing between axiological and deontic reasons to value freedom (non-specifically) has for issues of conceptual analysis concerning the definition of freedom, unfreedom, and (lack of) ability. I have argued that freedom should be understood as an interpretative concept, and that the (non-specific) value of freedom informs – and can actually *determine* – the definition of freedom (i.e. what freedom is). I have therefore adopted a foundationalist approach to issues of conceptual analysis, with reference to debates concerning freedom and (lack of) ability. As a further line of research, it should be noted that the foundationalist approach can be potentially adopted also for understanding the relations between the moralised/non-moralised value of freedom and *moralised/non-moralised definitions of freedom*. Chapter 6 also completes the analysis of the deontic foundations of freedom-centred justice, offering an interpretation of the value of freedom in Steiner's theory of justice and an analysis of the kind of non-specific value captured by the *Status View*. Furthermore, in Chapter 6 I have put forward an internal critique of Steiner's bivalent and non-ability-based theory of freedom as mere absence of interference (from other human beings), and, assuming the *Status View*, I have offered an interpretation of the conditions under which persons are in the relevant type of social relationship (as *causal* relationships) that generates unfreedom. Finally, I have argued that endorsing the *Benefit View* is conducive to endorsing a bivalent ability-based definition of freedom.

Bibliography

Arneson, Richard, 'Distributive Justice and Basic Capability Equality', in Alexander Kaufman, (ed.), *Capabilities Equality*, (New York: Routledge, 2006), pp. 17-43.

Arnold, Samuel, 'Right-Wing Rawlsianism: A Critique', *Journal of Political Philosophy*, Vol. 21, No. 4, 2013, pp. 382-404.

Bader, Ralf, 'Kantian Axiology and the Dualism of Practical Reason', in Iwao Hirose and Jonas Olson (eds.), *The Oxford Handbook of Value Theory* (Oxford: Oxford University Press, 2015), pp. 175-201.

Bader, 'Moralizing Liberty', in David Sobel, Peter Vallentyne, and Stephen Wall, (eds.), *Oxford Studies in Political Philosophy, Vol. 4* (Oxford: Oxford University Press, 2018), pp. 141-166.

Barry, Brian, *Justice as Impartiality* (Oxford: Oxford University Press, 1995).

Benn, Stanley, and W. Weinstein, 'Being Free to Act and Being a Free Man', *Mind*, Vol. 80, No. 318, 1971, pp. 194-211.

Benn, Stanley, *A Theory of Freedom* (Cambridge: Cambridge University Press, 1988).

Berlin, Isaiah, 'Two Concepts of Liberty' (1969 [1958]), in Berlin, *Liberty*, ed. by Henry Hardy (Oxford: Oxford University Press, 2002), pp. 166-217.

Birks, David, 'How Wrong Is Paternalism?', *The Journal of Moral Philosophy*, Vol. 15, No. 2, 2018, pp. 136-163.

Blustein, Jeffrey, *Care and Commitment: Taking the Personal Point of View* (New York: Oxford University Press, 1992).

Bostrom, Nick, *Superintelligence: Paths, Dangers, Strategies* (Oxford: Oxford University Press, 2014).

Brennan, Jason, 'Rawls' Paradox', *Constitutional Political Economy*, Vol. 18, No. 4, 2007, pp. 287-299.

Brickhouse, Thomas, and Nicholas Smith, 'Socrates on How Wrongdoing Damages the Soul', *Journal of Ethics*, Vol. 11, No. 4, 2007, pp. 337-356.

Brink, David, 'The Separateness of Persons, Distributive Norms, and Moral Theory', in Raymond G. Frey and Christopher Morris, (eds.) (*Value, Welfare, and Morality*, Cambridge: Cambridge University Press, 1993), pp. 252-289.

Brownlee, Kimberley, 'Reasons and Ideals', *Philosophical Studies*, Vol. 151, No. 3, 2010, pp. 433-444.

Caney, Simon, 'Anti-Perfectionism and Rawlsian Liberalism', *Political Studies*, Vol. 43, No. 2, 1995, pp. 248-264.

---, 'Impartiality and Liberal Neutrality', *Utilitas*, Vol. 8, No. 3, 1996, pp. 273-293.

Carter, Ian, 'The Independent Value of Freedom', *Ethics*, Vol. 105, No. 4, 1995, pp. 819-845.

---, *A Measure of Freedom* (Oxford: Oxford University Press, 1999).

---, 'Choice, Freedom, and Freedom of Choice', *Social Choice and Welfare*, Vol. 22, No. 1, 2004, pp. 61-81.

---, Matthew Kramer, and Hillel Steiner (eds.), *Freedom: A Philosophical Anthology* (Oxford: Blackwell, 2007).

---, and Matthew Kramer, 'How Changes in One's Preferences Can Affect One's Freedom (and How They Cannot): a Reply to Dowding and Van Hees', *Economics and Philosophy*, Vol. 24, No. 1, 2008, pp. 81-96.

---, 'Respect for Persons and the Interest in Freedom', in Stephen De Wijze, Matthew Kramer, and Ian Carter (eds.), *Hillel Steiner and the Anatomy of Justice* (London: Routledge, 2009), pp. 167-184.

---, 'The Metric of Overall Freedom: Its Ethical Importance, and Its Value-Neutrality', unpublished trans. of Carter, 'La Métrique de la Liberté Globale: son Importance Éthique et sa Neutralité par rapport aux Valeurs', *Raisons Politiques*, Vol. 43, No. 3, 2011, pp. 11-33.

---, 'Is the Capability Approach Paternalist?', *Economics and Philosophy*, Vol. 30, No. 1, 2014, pp. 75-98.

---, 'Value-Freeness and Value-Neutrality in the Analysis of Political Concepts', in David Sobel, Peter Vallentyne, and Stephen Wall (eds.), *Oxford Studies in Political Philosophy, Vol. 1* (Oxford: Oxford University Press, 2015), pp. 279-306.

---, 'Positive and Negative Liberty', in Edward N. Zalta (ed.), *The Stanford Encyclopedia of Philosophy*, (2018), URL = <<https://plato.stanford.edu/archives/sum2018/entries/liberty-positive-negative/>>.

Casal, Paula, 'Why Sufficiency Is Not Enough', *Ethics*, Vol. 117, No. 2, 2007, pp. 296-326.

Claassen, Rutger, 'Human Dignity in the Capability Approach', in Marcus Düwell, Jens Braarvig, Roger Brownsword, and Dietmar Mieth (eds.), *The Cambridge Handbook of Human Dignity. Interdisciplinary Perspectives* (Cambridge: Cambridge University Press, 2014), pp. 240-249.

Cohen, Gerald A., 'Are Disadvantaged Workers Who Take Hazardous Jobs Forced to Take Hazardous Jobs?', in Gerald A. Cohen, *History, Labour and Freedom* (Oxford: Clarendon Press, 1988), pp. 239-54.

---, *Self-Ownership, Freedom, and Equality* (Cambridge: Cambridge University Press, 1995).

---, 'Freedom and Money' in Gerald A. Cohen, *On the Currency of Egalitarian Justice and Other Essays in Political Philosophy*, ed. by Michael Otsuka (Princeton NJ: Princeton University Press, 2011), pp. 166-192.

---, 'Capitalism, Freedom, and the Proletariat', in Gerald A. Cohen, *On the Currency of Egalitarian Justice and Other Essays in Political Philosophy*, ed. by Michael Otsuka (Princeton NJ: Princeton University Press), pp. 147-165.

Colburn, Ben, *Autonomy and Liberalism* (London: Routledge, 2010).

Conly, Sarah, *Against Autonomy. Justifying Coercive Paternalism* (New York: Cambridge University Press, 2013).

Crisp, Roger, *Reasons and the Good* (Oxford: Oxford University Press, 2006).

Crocker, Lawrence, *Positive Liberty* (The Hague: Nijhoff, 1980).

Darwall, Stephen, 'Two Kinds of Respect', *Ethics*, Vol. 88, No. 1, 1977, pp. 36-49.

---, *Morality, Authority, and Law: Essays in Second-Personal Ethics I* (Oxford: Oxford University Press, 2013).

De Wijze, Stephen, Matthew Kramer, and Ian Carter (eds.), *Hillel Steiner and the Anatomy of Justice* (London: Routledge, 2009).

Dillon, Robin, 'Respect and Care: Toward Moral Integration', *Canadian Journal of Philosophy*, Vol. 22, No. 1, 1992, pp. 105-132.

Dowding, Keith, and Martin Van Hees, 'Counterfactual Success and Negative Freedom', *Economics and Philosophy*, Vol. 23, No. 2, 2007, pp. 141-162.

Dworkin, Gerald, 'Paternalism', *The Monist*, Vol. 56, No. 1, 1972, pp. 64-84.

---, *The Theory and Practice of Autonomy* (Cambridge: Cambridge University Press, 1988).

---, 'Defining Paternalism', in Christian Coons and Michael Weber (eds.), *Paternalism. Theory and Practice* (Cambridge: Cambridge University Press, 2013), pp. 25-38.

Dworkin, Ronald, 'What Is Equality? Part III: The Place of Liberty', *Iowa Law Review*, Vol. 73, No. 1, 1987, pp. 1-73.

---, *Justice for Hedgehogs* (Cambridge, MA: Harvard University Press, 2013).

Elford, Gideon, 'Reclaiming Two Concepts of Liberty', *Politics, Philosophy, and Economics*, Vol. 12, No. 3, 2014, pp. 228-246.

---, 'Survey Article: Relational Equality and Distribution', *Journal of Political Philosophy*, Vol. 25, No. 4, 2017, pp. e80-e99.

Eliot, T.S., *Selected Poems* (London: Faber and Faber, 2009).

Feinberg, Joel, 'The Nature and Value of Rights', *Journal of Value Inquiry*, Vol. 4, No. 4, 1970, pp. 243-260.

---, *The Moral Limits of the Criminal Law, Vol. 1: Harm to Others* (Oxford and New York: Oxford University Press, 1987).

Frankfurt, Harry, 'Alternate Possibilities and Moral Responsibility', *Journal of Philosophy*, Vol. 66, No. 23, 1969, pp. 829-839.

---, 'Freedom of the Will and the Concept of a Person', *The Journal of Philosophy*, Vol. 68, No. 1, 1971, pp. 5-20.

Freeman, Samuel, 'Constructivism, Facts, and Moral Justification', in Thomas Christiano and John Christman (eds.), *Contemporary Debates in Political Philosophy* (Malden, MA: Wiley-Blackwell, 2009) pp. 41-60.

Gamble, Andrew, 'Hayek and Liberty', *Critical Review*, Vol. 25, No. 3-4, 2013, pp. 342-363.

Garnett, Michael, 'Coercion: The Wrong and the Bad', *Ethics*, Vol. 128, No. 3, 2018, pp. 545-573.

Garrau, Marie, and Cecile Laborde, 'Relational Equality, Non-Domination, and Vulnerability', in Carina Fourie, Fabian Schuppert, and Iwo Wallimann-Helmer (eds.), *Social Equality: On What It Means to Be Equal* (New York: Oxford University Press, 2015), pp. 45-64.

Gray, John, 'Hayek on Liberty, Rights, and Justice', *Ethics*, Vol. 92, No. 1, 1981, pp. 73-84.

Griffin, James, *Wellbeing. Its Meaning, Measurement, and Moral Importance* (Oxford: Oxford University Press, 1988).

---, *On Human Rights* (Oxford: Oxford University Press, 2008).

Hart, Herbert, 'Are There Any Natural Rights?', *Philosophical Review*, Vol. 64, No. 2, 1955, pp. 175-191.

---, *Essays on Bentham: Studies in Jurisprudence and Political Theory* (Oxford: Clarendon Press, 1982).

---, 'Rawls on Liberty and Its Priority', in Norman Daniels (ed.), *Reading Rawls. Critical Studies on Rawls' A Theory of Justice* (Stanford: Stanford University Press, 1989), pp. 230-252.

Hindriks, Frank, 'The Freedom of Collective Agents', *Journal of Political Philosophy*, Vol. 16, No. 2, 2008, pp. 165-183.

Hirose, Iwao, and Olson, Jonas (eds.), *The Oxford Handbook of Value Theory* (New York: Oxford University Press, 2015).

Hodgson, Louis-Philippe, 'Kant on the Right to Freedom: A Defence', *Ethics*, Vol. 120, No. 4, 2010, pp. 791-819.

Holtug, Nils, *Persons, Interests, and Justice* (Oxford: Oxford University Press, 2010).

Hurka, Thomas, *Perfectionism* (Oxford: Oxford University Press, 1993).

Kagan, Shelly, 'Rethinking Intrinsic Value', *The Journal of Ethics*, Vol. 2, No. 4, 1998, pp. 277-297.

Kamm, Frances, 'Rights', in Jules Coleman and Scott Shapiro (eds.), *The Oxford Handbook of Jurisprudence and Philosophy of Law* (Oxford: Oxford University Press, 2004), pp. 476-513.

---, *Intricate Ethics. Rights, Responsibilities, and Permissible Harm* (New York: Oxford University Press, 2007).

Kant, Immanuel, *The Metaphysics of Morals*, [1797], in Immanuel Kant, *Practical Philosophy*, ed. and trans. by Mary J. Gregor (Cambridge: Cambridge University Press, 1996), pp. 353-604.

Knight, Carl, and Zofia Stemplowska (eds.), *Responsibility and Distributive Justice* (Oxford: Oxford University Press, 2011).

Korsgaard, Christine, 'Two Distinction in Goodness', *The Philosophical Review*, Vol. 92, No. 2, 1983, pp. 169-195.

Kramer, Matthew, *The Quality of Freedom* (Oxford: Oxford University Press, 2003).

---, *Liberalism with Excellence* (Oxford: Oxford University Press, 2017).

Kristjánsson, Kristján, *Social Freedom. The Responsibility View* (Cambridge: Cambridge University Press, 1996).

Kymlicka, Will, *Contemporary Political Philosophy*, 2nd edn. (Oxford: Oxford University Press, 2002).

Larmore, Charles, *The Autonomy of Morality* (New York: Cambridge University Press, 2008).

Lemos, Noah, *Intrinsic Value. Concept and Warrant* (New York: Cambridge University Press, 1994).

List, Christian, and Laura Valentini, 'Freedom as Independence', *Ethics*, Vol. 126, No. 4, 2016, pp. 1043-1074.

Locke, John, *The Second Treatise of Government*, ed. by Peter Laslett (Cambridge: Cambridge University Press, 1988 [1689]).

Lovett, Frank, *A General Theory of Domination and Justice* (Oxford: Oxford University Press, 2010).

MacArthur Foundation (website): <https://www.macfound.org/programs/fellows/strategy/>.

Mann, Thomas, *The Magic Mountain* (London: Vintage, 1999 [1924]).

McDermott, Daniel, 'Debts to Society', *The Journal of Political Philosophy*, Vol. 10, No. 4, 2002, pp. 439-464.

McKerlie, Dennis, 'Egalitarianism and the Separateness of Persons', *Canadian Journal of Philosophy*, Vol. 18, No. 2, 1988, pp. 205-225.

Miklosi, Zoltan, 'Varieties of Relational Egalitarianism', in David Sobel, Peter Vallentyne, and Stephen Wall (eds.), *Oxford Studies in Political Philosophy, Vol. 4* (Oxford: Oxford University Press: 2018), pp. 110-136.

Mill, John Stuart, *On Liberty*, [1859], reprinted in John Stuart Mill, *On Liberty and Other Essays*, ed. by John Gray (Oxford: Oxford University Press, 2008), pp. 1-128.

Miller, David, 'Constraints on Freedom', *Ethics*, Vol. 94, No. 1, 1983, pp. 66-86.

---, *Anarchism* (London and Melbourne: J. M. Dent, 1984).

---, 'Reply to Oppenheim', *Ethics*, Vol. 95, No.2, 1985, pp. 310-314.

---, *Principles of Social Justice* (Cambridge MA: Harvard University Press, 1999).

---, *Justice for Earthlings* (Cambridge: Cambridge University Press, 2015).

Moore, George, E., *Principia Ethica*, ed. by Thomas Baldwin (Cambridge: Cambridge University Press, 1993 [1903]).

Morriss, Peter, *Power. A Philosophical Analysis*, 2nd ed. (Manchester: Manchester University Press, 2002 [1987]).

Nozick, Robert, *Anarchy, State, and Utopia* (New York: Basic Books, 1974).

Nussbaum, Martha, *Frontiers of Justice. Disability, Nationality, Species Membership* (Cambridge MA: Harvard University Press, 2006).

---, 'Perfectionist Liberalism and Political Liberalism', *Philosophy and Public Affairs*, Vol. 39, No. 1, 2011, pp. 3-45.

---, *Creating Capabilities. The Human Development Approach* (Cambridge, MA: Harvard University Press, 2012).

---, 'Political Liberalism and Global Justice', Vol. 11, No. 1, 2015, pp. 68-79.

Olsaretti, Serena, *Liberty, Desert, and the Market* (Cambridge: Cambridge University Press, 2004).

---, 'Endorsement and Freedom in Amartya Sen's Capability Approach', *Economics and Philosophy*, Vol. 21, No. 1, 2005, pp. 89-108.

Oppenheim, Felix, *Dimensions of Freedom. An Analysis* (New York: St. Martin's Press, 1961).

Orsi, Francesco, *Value Theory* (London and New York: Bloomsbury, 2015).

Parfit, Derek, *Reasons and Persons* (Oxford: Clarendon Press, 1984).

---, 'Equality and Priority', *Ratio*, Vol. 10, No. 3, 1997, pp. 202-221.

---, *On What Matters, Vol. 1*, ed. by Samuel Scheffler (Oxford: Oxford University Press, 2011).

Peperzak, Adriaan, 'Values: Subjective – Objective', *The Journal of Value Inquiry*, Vol. 20, No. 1, 1982, pp. 71-80.

Pettit, Philip, 'Consequentialism and Respect for Persons', *Ethics*, Vol. 100, No. 1, 1989, pp. 116-126.

---, *Republicanism. A Theory of Freedom and Government* (Oxford and New York: Oxford University Press, 1997).

---, *On the People's Terms* (Cambridge: Cambridge University Press, 2012).

Plato, *The Republic*, ed. by G. R. Ferrari and trans. by Tom Griffith (Cambridge: Cambridge University Press, 2000).

Pogge, Thomas, 'A Critique of the Capability Approach', in Harry Brighouse and Ingrid Robeyns (eds.), *Measuring Justice, Primary Goods and Capabilities* (Cambridge, Cambridge University Press, 2010), pp. 17-60.

Quong, Jonathan, 'The Rights of Unreasonable Citizens', *Journal of Political Philosophy*, Vol. 12, No. 3, 2004, pp. 314-335.

---, *Liberalism Without Perfection* (Oxford: Oxford University Press, 2011).

---, 'Left-Libertarianism: Rawlsian, Not Luck-Egalitarian', *The Journal of Political Philosophy*, Vol. 19, No. 1, 2011, pp. 64-89.

Rawls, John, 'Justice as Fairness', *The Philosophical Review*, Vol. 67, No. 2, 1958, pp. 164-194.

---, *A Theory of Justice*, 1st edn. (Cambridge, MA: Harvard University Press, 1971).

---, *A Theory of Justice*, rev. ed. (Cambridge, MA: Harvard University Press, 1999).

---, *Justice as Fairness. A Restatement* (Cambridge, MA: Harvard University Press, 2001).

---, *Political Liberalism*, 2nd edn. (New York: Columbia University Press, 2005 [1993]).

Raz, Joseph, *The Authority of Law, Essays on Law and Morality* (Oxford: Clarendon Press, 1979).

---, *The Morality of Freedom* (Oxford: Clarendon Press, 1986).

Ripstein, Arthur, *Force and Freedom. Kant's Legal and Political Philosophy* (Cambridge, MA: Harvard University Press, 2009).

Rowland, Richard, *The Normative and the Evaluative: The Buck-Passing Account of Value* (Oxford: Oxford University Press, 2019).

Rønnow-Rasmussen, Toni, 'Analysing Personal Value; *Journal of Ethics*, Vol. 11, No. 4, 2007, pp. 405-435.

---, *Personal Value* (Oxford: Oxford University Press, 2011).

---, 'Intrinsic and Extrinsic Value', in Iwao Hirose and Jonas Olson (eds.), *The Oxford Handbook of Value Theory* (Oxford: Oxford University Press, 2015) pp. 29-43.

Sangiovanni, Andrea, 'Rights and Interests in Ripstein's Kant', in Sari Kisilevsky and Martin Stone (eds.), *Freedom and Force: Essays on Kant's Legal Philosophy* (Oxford: Hart, 2017), pp. 71-91.

Sartre, Jean-Paul, *Jean-Paul Sartre: Basic Writings*, ed. by Stephen Priest (London: Routledge, 2001).

Saunders, Ben, 'Reformulating Mill's Harm Principle', *Mind*, Vol. 125, No. 500, 2016, pp. 1005-1032.

Scanlon, Thomas, *What We Owe to Each Other* (Cambridge (MA): Harvard University Press, 1998).

Andreas Schmidt, 'Freedom and Its Distribution', DPhil Thesis, University of Oxford, Oxford, 2014, Ch. 4.

Schmidt, Andreas, 'Why Animals Have an Interest in Freedom', *Historical Social Research*, Vol. 40, No. 4, 2015, pp. 92-109.

---, 'Abilities and the Sources of Unfreedom', *Ethics*, Vol. 127, No. 1, 2016, pp. 179-207.

---, 'Persons and Property. Freedom and the Legal Status of Animals', *Journal of Moral Philosophy*, Vol. 15, No. 1, 2018, pp. 20-45.

Schmidtz, David, and Carmen Pavel (eds.), *The Oxford Handbook of Freedom* (New York: Oxford University Press, 2018).

Shnayderman, Ronen, 'Social Freedom. Moral Responsibility, Actions and Omissions', *The Philosophical Quarterly*, Vol. 63, No. 253, 2013, pp. 716-739.

---, 'Causal Tests in Subjunctive Judgements About Negative Freedom', *Res Publica*, Vol. 20, No. 2, 2014, pp. 183-197.

Sen, Amartya, *Inequality Re-Examined* (Oxford: Clarendon Press, 1992).

---, *The Idea of Justice* (Cambridge MA: Harvard University Press, 2009).

Sher, George, 'Why We Are Moral Equals', in Uwe Steinhoff (ed.), *Do All Persons Have Equal Moral Worth? On 'Basic Equality' and Equal Respect and Concern* (Oxford: Oxford University Press, 2014), Ch. 2.

Simmons, John, 'Philosophical Anarchism', in John Simmons, *Justification and Legitimacy. Essays on Rights and Obligations* (Cambridge: Cambridge University Press, 2001), pp. 102-121.

Sneddon, Andrew, 'Symbolic Value', *Journal of Value Inquiry*, Vol. 50, No. 2, 2016, pp. 395-413.

Steiner, Hillel, 'Individual Liberty', *Proceedings of the Aristotelian Society*, Vol. 75, No. 1, 1975, pp. 33-50.

---, *An Essay on Rights* (Oxford: Blackwell, 1994).

---, 'Freedom and Bivalence', in Ian Carter, and Mario Ricciardi (eds.), *Freedom, Power, and Political Morality. Essays for Felix Oppenheim* (London: Palgrave Macmillan, 2001), pp. 59-68.

---, 'Directed Duties and Inalienable Rights', *Ethics*, Vol. 123, No. 2, 2013, pp. 230-244.

---, 'Greed and Fear', *Politics, Philosophy, and Economics*, Vol. 13, No. 2, 2014, pp. 140-150.

Steinhoff, Uwe (ed.), *Do All Persons Have Equal Moral Worth? On 'Basic Equality' and Equal Respect and Concern* (Oxford: Oxford University Press, 2014).

Stemplowska, Zofia, 'What's Ideal About Ideal Theory', *Social Theory and Practice*, Vol. 34, No. 3, 2008, pp. 319-340.

Stemplowska, Zofia, and Adam Swift, 'Ideal and Non-Ideal Theory', in David Estlund (ed.), *The Oxford Handbook of Political Philosophy* (Oxford: Oxford University Press, 2012), pp. 373-389.

Strawson, Peter, *Analysis and Metaphysics. An Introduction to Philosophy* (Oxford: Clarendon Press, 1992).

Tadros, Victor, 'What Might Have Been', in John Oberdiek (ed.), *Philosophical Foundations of the Law of Torts* (Oxford: Oxford University Press, 2014), pp. 171-192.

Taylor, Charles, 'What's Wrong with Negative Liberty', in Alan Ryan (ed.), *The Idea of Freedom* (Oxford: Oxford University Press, 1979), pp. 175-194.

Taylor, James Stacey (ed.), *Personal Autonomy. New Essays* (Cambridge: Cambridge University Press, 2005).

Taylor, Robert, *Reconstructing Rawls. The Kantian Foundations of Justice as Fairness*, (University Park PA, Pennsylvania State University Press, 2011).

Temkin, Larry, 'Egalitarianism Defended', *Ethics*, Vol. 113, No. 4, 2003, pp. 764-782.

Ten, Chin, *Mill on Liberty* (Oxford: Clarendon Press, 1980).

Thomson, Judith Jarvis, *The Realm of Rights* (Cambridge, MA: Harvard University Press, 1990).

Tomasi, John, *Free Market Fairness* (Princeton, NJ: Princeton University Press, 2012).

Valentini, Laura, 'Human Rights, Freedom, and Political Authority', *Political Theory*, Vol. 40, No. 5, 2012, pp. 573-601.

Vallier, Kevin, 'Three Conceptions of Political Stability: An Agent-Based Model', *Social Philosophy and Policy*, Vol. 34, No. 1, 2017, pp. 232-259.

Van Hees, Martin, *Legal Reductionism and Freedom*, (Dodrecht: Kluwer Publishers, 2000).

Van Parijs, Philippe, 'Why Surfers Should Be Fed: The Liberal Case for an Unconditional Basic Income', *Philosophy and Public Affairs*, Vol. 20, No. 2, 1991, pp. 101-131.

---, *Real Freedom for All. What, if Anything, Can Justify Capitalism* (Oxford: Oxford University Press, 1995).

Von Hayek, Friedrik, *The Constitution of Liberty* (London: Routledge, 1976 [1960]).

Waldron, Jeremy, *The Right to Private Property* (Oxford: Clarendon Press, 1988).

---, *Liberal Rights: Collected papers, 1981–1991* (Cambridge: Cambridge University Press, 1993).

---, and Meir Dan-Cohen, *Dignity, Rank, and Rights* (New York: Oxford University Press, 2012).

White, Stuart, *The Civic Minimum: on the Rights and Obligations of Economic Citizenship* (Oxford: Oxford University Press, 2003).

Widerquist, Karl, 'The Physical Basis of Voluntary Trade', *Human Rights Review* Vol. 11 No. 1, 2010, pp. 83-103.

Williams, Bernard, 'From Freedom to Liberty: The Construction of a Political Value', *Philosophy and Public Affairs*, Vol. 30, No. 1, 2001, pp. 3-26, at p. 3.

Wolff, Jonathan, 'Freedom, Liberty, and Property', *Critical Review*, Vol. 11, No. 3, 1997, pp. 345-357.

Wolff, Robert Paul, *In Defense of Anarchism* (New York: Harper and Row, 1970).

Zimmerman, David, 'Taking Liberties: The Perils of 'Moralizing' Freedom and Coercion in Social Theory and Practice', *Social Theory and Practice*, Vol. 28, No. 4, 2002, pp. 577-609.

Zimmerman, Michael, 'Understanding What's Good for Us', *Ethical Theory and Moral Practice*, Vol. 12, No. 4, 2009, pp. 429-439.

Zwolinski, Matt, 'The Separateness of Persons and Liberal Theory', *The Journal of Value Inquiry*, Vol. 42, No. 2, 2008, pp. 147-165.