

FREEDOM AND ITS DISTRIBUTION



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Abstract

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This dissertation develops a new theory of specific and overall socio-political freedom and discusses its role in normative political theory. The aim is to dissolve some of the conceptual confusions that have often beset previous discussions and to develop a theoretical framework with which to approach questions of public policy.

This dissertation consists of three parts.

In the first part, I develop a new account that specifies under which conditions a person is specifically free and when she is unfree to do something. It is shown that republican accounts of freedom are unsatisfactory and that a trivalent liberal account that equates freedom with ability is most plausible. A new analysis of *unfreedom* is defended according to which a person is made *unfree* (as opposed to merely unable) to do something only if she would have this freedom in a better and available distribution that another person could have foreseeably brought about.

In the second part, I discuss how to move from an account of specific freedom and unfreedom to a measure of *overall* freedom. I develop a new and simple aggregation function and argue that the measurement of overall freedom requires both quantitative and evaluative factors.

In the third part, I then discuss what role freedom should play in a theory of distributive justice. Instead of freedom deontologically constraining the reach of distributive justice, freedom should be one of its distribuenda. I will first discuss how best to distribute freedom across a person's lifetime and how this impacts on discussions of paternalistic policies. It will then be shown that we ought not simply maximise freedom between persons, not aim to give everyone enough freedom nor aim at equal freedom. Instead, distributing freedom requires a principle that combines maximisation with a concern for fairness.

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1 Preface

This dissertation develops a new theory of specific and overall socio-political freedom and analyses its role in normative political theory. Two main considerations motivate this research.

First, in mainstream political discourse, freedom is invoked as one of the central normative concepts to justify (or rule out) public policies. Some areas in which freedom is relevant are for example:

Freedom and justice: are freedom and equality compatible? Does a concern for freedom countenance or rule out the redistribution of economic and social goods?

Freedom and paternalism: does a concern for freedom require a broadly anti-paternalist stance? Is it permissible for the state to interfere with individuals' lives in order to make them better off or are such interferences ruled out by a concern for individual freedom?

Freedom in health care: should a patient be free to decide what treatments she receives? Should patients have the freedom to end their own lives?

Freedom and migration: is there a right to free movement? And, if so, does this entail that all borders should be open?

Depending on political agenda, however, the political implications of invoking pre-theoretic notions of freedom and the answers to the above questions can vary drastically. Given this disagreement, I think it is the job of political theorists to analyse the differing meanings such

contested normative terms hold, discuss their respective merits and offer an improved and analytically rigorous conception. So, one of the aims of this research is to develop a theoretical framework with which to dispel some of the disagreements and conceptual confusions that often beset practical discourse about freedom.

Second, most political theorists these days are, in one sense or another, liberals. One would therefore expect freedom to play an important part in their theories of distributive justice. However, I have found that most major approaches to distributive justice have either misconstrued or underspecified the role freedom should play in such theories. Let me shortly mention three ways in which freedom has entered theorising about justice.

Many theorists, particularly of libertarian persuasion, conceptualise freedom as something that deontologically constrains how far we can interfere with individual lives. For libertarians like Robert Nozick for example, the concept of freedom is inherently connected to the idea of *moral rights*.¹ Because moral rights are deontological side-constraints, freedom on such conceptions deontologically constrains the reach of distributive justice. As I will show, such views rest on a mistaken conception of freedom, fail to take account of important intuitions we have about freedom and misconstrue its value.

On the other hand, some liberals (amongst them Ronald Dworkin) believe that liberal theories can do without freedom. Not only are such liberals sceptical about the idea that we can measure overall freedom, they also believe that all normative reasons to care about freedom are accounted for by a theory of equality already. The general challenge is thus to show that we *can* measure freedom and that freedom does have an important normative place in our normative political theorising. But I will also show that Dworkin's more specific arguments to

¹ Cf. Nozick (1977), pp. 153-60.

the contrary rest on too narrow a conception of freedom and, again, misconstrue freedom's value.²

Most liberals, however, think that a normative liberal political theory does need to make reference to freedom in some form or another. Many liberals think the core of liberalism is to see individuals as *free and equal*.³ While there is extensive research on what equality is, a sustained analysis of what role freedom plays in this picture has only recently received the attention it deserves. In important respects, many current liberal theories are underspecified because their account of freedom is *underspecified*.

Recent developments in theorising about freedom, I suggest, give us reason for optimism that we can make progress on both the aforementioned practical questions and freedom's theoretical and practical import in theories of justice. So, we might dissolve at least some of the disagreement on what freedom practically requires and how it should enter our political discourse more generally. Recent efforts to analyse freedom – by theorists such as Hillel Steiner, Ian Carter, Matthew Kramer amongst others – differ in important ways from previous theorising about freedom.⁴ Instead of an inherently moralised view which sees freedom as being connected to moral rights – as has been assumed by libertarians – these theorists have tried to conceptualise freedom as a scalar and non-moralised attribute. Accordingly, individuals can have different levels of freedom and an account of freedom is to be had without previously invoking a theory of justice or rights. Moreover, these theorists believe that we can also develop a metric to measure freedom. If successful, such accounts would allow us to make more fine-grained judgements about a person's freedom which could be employed to tackle the abovementioned practical problems. Moreover, because these accounts avoid commit-

² I will focus on Dworkin (1977).

³ This might be due to the influence of Rawls' theory of justice (1971).

⁴ Cf. Steiner (1974-5), (1977), (1983), (1987), (1994), Carter (1999), Kramer (2003).

ment to specific ‘background theories’ about justice and/or moral rights, disagreement about justice does not conceptually carry over into disagreement about freedom.

This dissertation builds on and further develops these attempts, proposes a range of new answers to specific questions and defends a novel measure of freedom that in many respects is simpler than the ones suggested in the literature.

However, unlike previous accounts, this work emphasises that to be in a position to make any *normative* claims involving freedom, our theorising cannot stop at the level of measuring freedom. We also need to talk about the *distribution* of freedom at all stages. Moreover, these questions are importantly connected in various ways.

First, I will develop a non-moralised account of overall freedom understood as freedom of choice. Unlike libertarian theories, such an account is not built on moral rights or a theory of justice. However, an analysis of what constitutes a person’s *unfreedom* does require an account of the betterness of distributions of freedom between persons. So, while ascriptions of specific freedom are descriptive, ascriptions of unfreedom are not.

Second, it is often held that the state should facilitate that people have free lives and ought not unnecessarily interfere with people’s freedom. I will show that we can only assess such claims when we understand freedom as an attribute that is distributable across an individual’s *lifetime*. So, to assess whether freedom requires anti-paternalism or allows paternalistic interference, we need to discuss how freedom ought to be distributed within lives.

Third, to discuss freedom’s role in a theory of distributive justice – and whether freedom is compatible with ‘equality’ – we need to discuss how freedom ought to be distributed between persons and what, given our best theory of freedom, this implies.

So, this dissertation not only furthers the idea that freedom is a scalar and measurable attribute but also stresses the idea that *all* normative judgements involving freedom require judgements about its intrapersonal and/or interpersonal distribution.

This thesis has a three-part structure where each part builds on the result of previous parts (though many chapters can be read independently and there are short summaries at the end of each part):

In the first part of this thesis, I develop an account of specific freedom and unfreedom. I discuss under what conditions a person is free and under what conditions she is unfree to do something.

In the second part, I will then explain how to aggregate specific freedoms into a measure of overall freedom. I will first discuss over what we aggregate (ch. 7) and then develop a Hybrid theory that combines quantitative with evaluative aspects to measure a person's overall freedom. I will offer a detailed discussion of which values determine the evaluative weighting factors of such a measure. In chapter 10, I will then present my measure of freedom.

In the third part, I will discuss how freedom should enter normative political theory. I will argue for an approach that sees freedom as one of the *distribuenda* of a theory of distributive justice. This marks an important departure from other theories, libertarian ones in particular: instead of freedom deontologically constraining the reach of justice, freedom is one of the valuable goods whose distribution we assess with our theories of distributive justice. I will then discuss how freedom should be distributed within lives (chapter 13) and between persons (chapters 14 and 15). In my last two chapters, I will argue that we should neither maximise societal freedom, nor aim at enough freedom for everyone nor at greatest equal freedom. Instead, I will defend a distributive rule that combines maximisation with a concern for fairness.

Part I: Specific Freedom

2 Introduction to Part I

In this part, I will develop the conceptual and normative groundwork for my theory of freedom. I will analyse what it means to have a *specific* freedom and unfreedom.

Before doing so, I will explain what type of freedom will be the subject of this dissertation and lay out the questions I will answer to fill in my theory of freedom. Note that I will use the term ‘freedom’ in this dissertation, but I intend it to be interchangeable with ‘liberty’. I will sometimes have to use the latter in reference to quotes.

(i) Socio-Political Freedom

This dissertation is concerned with *socio-political freedom*. This is sometimes also called ‘freedom as an opportunity-concept’. I will not be concerned with the following two senses of the term ‘freedom’.

First, I will not discuss *freedom of the will* or *metaphysical freedom*. Whether humans act freely and whether we can ascribe moral responsibility to them is one of the perennial questions of Western philosophy. I do not intend to contribute to this debate. Neither will I try to analyse how ‘freedom of the will’ and ‘sociopolitical freedom’ might relate conceptually.⁵

⁵ Cf. e.g. Pettit (2001).

Second, I will not analyse *deontic freedom*. We could understand ‘Karl is free to spend his days sleeping’ as the deontic freedom: ‘Karl is *morally permitted* to spend his days sleeping’ or as ‘It is not wrong for Karl to spend his days sleeping’.

Having limited ‘freedom’ to socio-political freedom still leaves room for different distinctions. Famously Isaiah Berlin distinguishes between *negative* and *positive* freedom:

‘I am normally said to be free to the degree to which no man or body of men interferes with my activity.’⁶

To be free in the *negative* sense thus requires the absence of constraints or obstacles to my actions. I am free if no one interferes with my actions or would interfere with possible actions. *Positive* liberty, on the other hand, goes beyond mere absence. For me to be free in the positive sense requires ‘self-mastery’:

‘The ‘positive’ sense of the word ‘liberty’ derives from the wish on the part of the individual to be his own master. I wish my life and decisions to depend on myself, not on external forces of whatever kind. I wish to be the instrument of my own, not of other men’s acts of will.’⁷

Berlin also identifies negative freedom with the *area* within which persons are left unconstrained to do what they like. Positive freedom on the other hand, picks out the ‘*source* of control, or interference that can determine someone to do, or be, this rather than that’.⁸ The distinction between positive and negative freedom might either be taken as a distinction between two different *concepts* or as a distinction between two ‘families’ of *conceptions*.⁹

The negative/positive distinction has led to some confusion. To avoid this confusion, I will try to disentangle the ways in which this distinction has been used and then discard the unhelpful positive/negative terminology for the remainder of the thesis. There are various uses

⁶ Berlin (1958), p. 34.

⁷ *Ibid.*, p. 43.

⁸ *Ibid.*, p. 41., my emphasis.

⁹ I am here using Rawls’s distinction in (1971), pp. 5-6.

of the term ‘positive liberty’ in the literature. David Miller notes three ways in which ‘positive freedom’ is used:

Ability-based freedom: freedom goes beyond the mere absence of constraints and obstacles. Freedom is the *capacity* to act or be certain ways.

Republican freedom: freedom as non-domination requires that agents be participants of democratic institutions to regulate and safeguard against other people’s power to interfere arbitrarily.

Idealist freedom: ‘liberty is the condition in which a person’s life is governed by rational desires as opposed to the desires that she just as a matter of fact has.’¹⁰

This dissertation is not concerned with idealist freedom. For a person to be free in the idealist sense she needs to *be* and *act* certain ways. Charles Taylor calls this an *exercise-concept* of freedom.¹¹ This might take various forms. We might care about a person being *autonomous* or about her *having authentic preferences* and so on. Such conceptions are about a person’s psychological states, usually her preferences, and the actions resulting from these. I do not attempt to contribute anything to debates about autonomy and/or authenticity in this dissertation.

The positive/negative distinction is sometimes used to distinguish between, what I will call, the Constraint View and the Ability View. To be free in the former sense requires the absence of interferences. Ability-based freedom, on the other hand, also requires the *ability* to do something. In chapter 3, I will take up this distinction in greater.

Lastly, positive freedom is sometimes understood as republican freedom. I will explain in greater detail what republican freedom means in chapter 5.

¹⁰ Miller (2003), p. 10.

¹¹ Cf. Taylor (1979).

(ii) *What's to Come*

Gerald MacCallum analyses specific freedoms and unfreedoms as triadic relations between a person P , a constraint y and an action (or a state) φ .¹² When we say that ‘Peter the prisoner is unfree to leave his cell’, then this specific unfreedom has ‘Peter’ as its agent-variable P , constraints like the prison-walls or the prison-guards as the constraint-variable y and ‘leaving his cell’ as the specification of variable φ .

To develop my account of specific freedom and unfreedom will require specifying the domain of these variables. I will mainly be concerned with specifying what counts as a freedom-constraint (the y -variable). In the first chapter, I will discuss how a specific freedom relates to ability and from what source interferences need to come to count as freedom-constraints (y -variable). I will call this the *Source Question*.

The second chapter will fill in some more details for the characterisation of freedom-constraints: what strength need an interference have to count as a freedom-constraint? Need it make an act impossible or merely more difficult? I will call this the *Strength Question*.

In the third chapter, I will engage with republican theories of freedom. Such theories have a broader understanding of what constitutes a freedom-constraint (y -variable): I am also made unfree if someone has the *power* to interfere with me even if she does not exercise that power. I will reject this view and defend a *liberal* theory of freedom.

Note that, given limited space, I will not discuss how to specify the φ -variable. So, I will not discuss whether specific freedoms pertain to actions exclusively or include ‘becomings’, mental states etc.? Also, I will not discuss how to specify the P -variable. Who can be free or unfree? We typically apply this concept to human beings and exclude inanimate objects. I have argued elsewhere that we should include non-human animals, but I will not take up this question here.

¹² Cf. MacCallum (1967).

I will now discuss how freedom and ability relate and how to distinguish freedom-constraints from other constraints.

3 Abilities and the Source Question

Amongst political philosophers, economists and development-workers it is quite common these days to believe that freedom, instead of being merely the absence of interference, is about abilities. Amartya Sen's Capability Approach has had a great influence on this development. To be free is to be able to do or be something. To be able to φ , in the *technical* sense in which I will use this expression here, means to have both the internal ability (physical, cognitive etc.) as well the external resources (absence of constraint, monetary resources etc.) to φ .¹³

If this conception of freedom is correct – as I will argue – and freedom really is fundamentally about abilities, then we could refute claims that are sometimes treated as platitudes by those on the economic right. It is often claimed that freedom and equality are conflicting values. 'Equality' is here used as a place-holder for any type of patterned principle of distributive justice. So, say you think the state should use redistributive measures to achieve a roughly egalitarian distribution of goods. Those on the economic right often see measures necessary for this – such as progressive taxation – as infringements of freedom. Therefore, there is a necessary conflict between freedom and patterned principles of justice.¹⁴ However, this claim will

¹³ Here is a selection of examples: Sen (1985), (1988), (1991), (1999), van Parijs (1995), pp. 20-4, Elster (1985), pp. 204-11 and Kramer (2003).

¹⁴ Amongst others, Nozick (1977) and Narveson (1985, 2010) have argued for this incompatibility. See chapter 12 for a discussion.

be refuted in part III of this dissertation. This type of refutation will use an *ability-based* conception of freedom. With such a conception in hand it is easy to show that, rather than being in conflict, redistributive policies often help achieve *better distributions* of abilities and thus freedom. More generally, there is no conceptual conflict between freedom and distributive justice.¹⁵

However, there is a problem for ability-based views. Traditionally, and quite intuitively, we seem to distinguish between a lack of an ability and a source of unfreedom. Not all constraints are freedom-constraints, some are natural. While I seem to be merely unable rather than unfree to run 100 metres under 10 seconds, I am made unfree in the proper sense if you lock me into your basement. If freedom just is ability, how can we distinguish between freedom-constraints that make me unfree and natural constraints that make me merely unable to do something?

In this chapter I will take up this problem. More specifically, I will first argue that being specifically free to φ is equivalent to being able to φ and show why the Constraint View of freedom fails (sec. 3.1). In sections 3.2 and 3.3, I will then discuss ways to distinguish freedom-constraints from natural constraints. I will show why existing views fail and then present a new solution.

Let me start by outlining the difference and relation between freedom, ability, inability and unfreedom.

¹⁵ This of course does not imply that redistributive policies cannot be in conflict with a person's freedom. The point is merely that, on the conceptual level, freedom does not constrain distributive justice. Instead, freedom is one of the distribuenda of distributive justice. Note also that a refutation of the incompatibility thesis (between freedom and distributive justice) does not depend on the truth of the Ability View. See footnote 17 below.

3.1 Freedom and Ability

Under what conditions does a person have a specific freedom to φ and under what conditions is she *unfree* to φ ? Let us start with specific *freedom*.

(i) *Specific Freedom*

One example of specific freedom would be your freedom to read this chapter. The answer I suggest – defended by Matthew Kramer as the ‘F-Postulate’ – holds that being able to φ is both a necessary and sufficient condition for being free to φ .

The Ability View: a person is free to φ if and only if she is able to φ .¹⁶

As indicated in the previous section, ‘ability’ is here used in a wide sense. So to be able to φ requires internal factors such as mental and physical abilities and external opportunities such as economic resources and the absence of constraints. What does ability mean? David Hume attempts to provide an answer:

‘By liberty, then, we can only mean *a power of acting or not acting, according to the determinations of the will*; that is, if we chuse to remain at rest, we may; if we chuse to move, we also may.’¹⁷

In other words:

A. P is able to φ iff if P were to attempt to φ , P would φ .

Note that I use ‘attempt to φ ’ in a sense that it means more than just a vague intention or plan to φ . It is supposed to convey the idea that an agent undertakes actual steps to realise his φ -ing. We can flesh out ability through a probabilistic level:

B. P is able to φ iff there is a sufficiently high probability that if P were to attempt to φ , P would φ .

¹⁶ Cf. Kramer (2003), p. 3 for his F-Postulate.

¹⁷ Hume, *Enquiry*, 8.23, p. 96.

This probability involved here should be interpreted as the probability of a counterfactual rather than a conditional probability (where ‘ $x > y$ ’ stands for ‘if it were the case that x , it would be the case that y ’):¹⁸

C. P is able to φ iff the probability of the counterfactual (P attempts to $\varphi > P \varphi$ s) is sufficiently high.

This characterisation covers most cases of ability but not all. We can imagine situations in which a person is *not able to intend to* φ . Say someone implanted a machine in a person’s brain such that if she were to try to intend to φ it would stop her from intending. In such cases, the simple counterfactual analysis, however, would still judge her to be able to φ .¹⁹ To cover such cases, we could extend our analysis:

D. P is able to φ iff the probability of the counterfactual (P attempts to $\varphi > P \varphi$ s) is sufficiently high and P is able to attempt to φ .

This, of course, is not a reductive analysis of ability anymore. But it gives us a good enough idea under which conditions we describe someone as being able to do something. In the following I will use ‘ability’ as a primitive.²⁰

The Ability View holds that freedom is more than being ‘free from external constraints’. To have a specific freedom thus also requires, amongst other things, internal abilities.

Why not accept the alternative, formal view, according to which the absence of an external constraint is both a necessary and sufficient condition for a specific freedom?

The Constraint View: P is free to φ if and only if no one would constrain P from φ -ing if P attempted to φ .

¹⁸ As, amongst others, Lewis (1976) points out, there is a difference between these two types of probabilities, because conditional probabilities depend on *evidence*. So, if A attempts to φ , then this might be evidence for the belief that φ -ing is possible. The probability of subjunctive conditionals, however, does not include this evidential aspect.

¹⁹ Cf. Lehrer (1968).

²⁰ This does not mean that there is no analysis of ability. Lehrer (1976), for example, provides a possible-world analysis of ability. Also cf. Mele (2002).

On such an account, one can be free to do something without being able to do so. I could be free to φ even if I would never successfully φ no matter how hard I tried. We could on such a view, for example, say that I am free to run 100 metres in less than 10 seconds even if I am unable to do so. Ability – understood in a wide sense – is a sufficient but unnecessary condition of freedom.

We can also characterise the Constraint View through a counterfactual. For this, we need to distinguish between ‘ability’ in a wide sense (on which it includes the ‘external opportunity’) and a merely ‘internal’ sense which means the ‘absence of internal and/or natural constraints’:

The Constraint View: P is free to φ if and only if the probability of the counterfactual (P has the *internal* ability to φ & P attempts to φ > P φ ’s) is sufficiently high.

The idea is simple: if I had the ability to run 100 metres in less than 10 seconds, would I succeed in doing so if I tried or would someone stop me? If no one would constrain me from doing so, I am free to run 100 metres in under 10 seconds on the Constraint View even if I am de facto unable to run that fast.

What type of Constraint View we have depends on how we draw the distinction between freedom-constraints and natural constraints. One version of the Constraint View is to say that only legal constraints are freedom-constraints. But nothing in the Constraint View itself requires such a narrow interpretation of what counts as a freedom-constraint and what as an ability-constraint.²¹ Nonetheless, we have good reason to prefer the Ability View over the Constraint View. Here are three arguments.

²¹ G.A. Cohen has tried to show that if we have a sufficiently broad understanding of what counts as a freedom-constraint, then Constraint Views need not have the ‘libertarian’ or laissez-faire conclusions that some think they have. Is a poor person free to dine at the Ritz? The answer is no if the porter’s intentionally stopping the poor person from entering counts as a freedom-constraint. Cf. Cohen (1979), (1981), (2012). Carter (2011b) also argues that a distinction between ‘merely formal freedom’ (here: the Constraint View) and ‘substantive freedom’ does not map onto the divide between laissez-faire liberals and egalitarianism.

First, there is something counterintuitive – and maybe cynical – about calling a severely disabled person free to do everything as long as she is unconstrained. Imagine a blind person named Harry has a twin brother Henry who is in most respects just like Harry. However, Henry is not blind. It seems to me that through his enlarged set of abilities, Henry has more freedom than Harry. Similarly, imagine the sole inhabitant of a tiny lonely island who has, say, only 50 square meters to move around. On the Constraint View, we would have to say that the person is *perfectly free* because she is totally unconstrained, even though she has next to no options (assuming that the absence of certain options on the island is not a freedom-constraint).

Second, beyond being counterintuitive, there are systematic reasons against the Constraint View. The Constraint View is problematic because it might lead to the judgements that individuals have an *infinite* range of freedoms – an argument developed in detail by Kramer.²² If we allow ‘formal’ freedoms, we can simply conjure up an infinite number of activities that I am unable to do and of which it is true that no one would prevent me from attempting to do them. I could then, for example, be said to be free to fly, free to jump 1000 metres, free to eat the moon etc. For everyone would be free to do all conceivable things such as jumping from the Moon to Jupiter, because no is prevented by other humans from doing so. Therefore, everyone would always have an infinite range of freedom. The idea of ‘infinite freedom’ seems in itself counterintuitive. Moreover, it will greatly limit the possibility of measuring freedom.²³

Lastly, a good conception of freedom should be defensible in a reflective equilibrium.²⁴ Amongst other things, the reasons we have for valuing freedom are relevant to such an equi-

²² Cf. Kramer (2003), pp. 49-53.

²³ I write ‘limit the possibility’, because it does not make measuring freedom impossible. It is sometimes possible to rank sets with infinite members.

²⁴ Cf. Carter (1999), ch. 4 for a discussion of freedom and reflective equilibrium.

librium. In a later chapter, I will discuss in greater detail what makes freedom valuable. Let me here shortly sketch those reasons to value freedom that speak for the Ability View and against the Constraint View. For example, people's preferences and/or likings change over time. Freedom ensures that there are different options available in the future such that you might get what you want even if your preferences change. But if it is important to safeguard such options, then they should not be formal as they are on the Constraint View. Instead, they should be real options that one could actually choose. Another reason, one defended by John Stuart Mill, is that freedom allows us to experiment with different lifestyles.²⁵ A good life – or one that we have reason to believe is comparatively good – requires some experiences with different lifestyles. Again, to be able to experience such lifestyles, one needs real abilities and not merely formal freedoms. Others have argued, in a similar vein, that freedom is necessary for agents to lead an autonomous life. Tom Hurka, for example, argues that making autonomous decisions requires *rejecting options*.²⁶ But one can only meaningfully reject an option if one can also choose it.²⁷ Thus, such options need to be actually available and one needs more than the absence of freedom-constraints. So, while this list of normative reasons is not exhaustive, it shows that some of the standard reasons to value freedom speak for the Ability and against the Constraint View.²⁸

So, the best account of specific freedom equates freedoms with abilities. Let us turn to *unfreedom* now.

²⁵ Cf. Mill (1859), ch. 3.

²⁶ Cf. Hurka (1987).

²⁷ This, of course, does not imply that one cannot be held responsible in so-called Frankfurt-cases, that is, in cases in which one only seemingly had the choice to do otherwise. Cf. Frankfurt (1969).

²⁸ Some but not all of these normative reasons could be accounted for using a Constraint View with a very wide notion of what counts as a freedom-constraint. So, the arguments do not apply equally to all versions of the Constraint View. However, even a very wide interpretation of the Constraint View will be open to the systematic objections mentioned beforehand.

(ii) *Specific Unfreedom*

What does it mean to be unfree to φ ? Am I unfree to fly to the Moon? Am I unfree to live in a castle made of gold? It seems more intuitive to say that I am *merely unable* but not unfree. But why am I made unfree and not merely unable to leave the room if you tie me to a chair? How can we account for the difference? We need an account that tells us the difference between an *ability-constraint* and a *freedom-constraint*.

Before I will offer such an account, note that we should restrict those things a person can be unfree to do to those that she would be *able* to do were she not prevented from doing them. Just as we restricted freedoms to those things one is able to do, we should restrict unfreedoms to those things one would – in the absence of freedom-constraints – be able to do. So, we should hold that

Unfreedom: P is *unfree* to φ iff there is a freedom-constraint that would prevent P from φ -ing if P attempted to φ and, in the absence of all freedom-constraints, P would be able to φ .²⁹

But why should we restrict unfreedoms to, what I will call, *counterfactual abilities*? Why not simply say that if someone would prevent you from doing something, you are made unfree even if you could not do it anyway? The answer is similar to the one above. If we did not have this restriction, then we would get *infinite* unfreedom. Imagine someone being locked into a cell. This person is clearly unfree to go outside, unfree to go to the park and so on. If unfreedom did not imply counterfactual ability, we would also have to say that the prisoner is unfree to jump to the Moon or fly around Venus and so on. In other words, a prisoner would be made *infinitely unfree*. To avoid infinite unfreedom, we should assume counterfactual ability.

²⁹ Cf. also Kramer (2003), p. 3.

Unfreedom is more than the negation of freedom. So, while it is a necessary condition for someone to be unfree to φ that she is not free to φ , not being free to φ is not a *sufficient* condition for someone to be unfree to φ :

$$Unfree \rightarrow \neg Free$$

$$\neg(\neg Free \rightarrow Unfree)$$

There is a class of actions that a person is neither free nor unfree to do but ‘merely unable’.

This idea is called *Trivalence*.³⁰

Now, my account of specific unfreedom features the idea of a ‘freedom-constraint’ in its *definition*. What is this and how is it different from a mere ability-constraint? As explained earlier, it is usually thought that some constraints make one *unfree* whereas others – natural constraints – make one merely unable. What is the difference?

I will first criticise answers suggested in the literature and then develop my own position in section 3.3.

3.2 Intentions, Causation, Moral Responsibility

I will first show why existing accounts to distinguish between freedom-constraints and natural constraints are unsuccessful.

All such positions aim to flesh out that, unlike natural constraints, freedom-constraints are somehow attributable to human agency. Human agency need not refer to just *one* person but covers collective action too. Matthew Braham presents the following case.

‘Suppose, for instance, a society consists of four members, denoted by the set $N = \{a, b, c, d\}$. Suppose further that there is some action φ that for a to perform it, at least two others must not

³⁰ This idea is discussed in J.P. Day (1977) and defended at length by Matthew Kramer (2003).

perform some action inimical to a performing φ . Now, if we apply an individual agent-based definition of specific freedom and unfreedom we find that there is a configuration of agents who together prevent a from performing φ but none of these agents can be said to be doing the “preventing” as such. This is the case when all other agents, i.e. the subset {b, c, d}, perform actions inimical to a φ -ing.³¹

If subset {b, c, d} act in a way that collectively prevents a from φ -ing, then there is no individual agent who individually imposed freedom-constraint. For if an individual agent, say b, decided to act otherwise, the subset {c, d} would still prevent a from φ -ing. The same holds true for c and d. Therefore, an account of freedom-constraints needs to allow for the possibility of more than one person collectively imposing a freedom-constraint.

3.2.1 Intentions and Causality

Here is the first substantive suggestion to flesh out ‘human agency’:

The Intention View: y is a freedom-constraint on P ’s freedom to φ only if there is at least one person who *intends* (intended) to constrain P ’s ability to φ by imposing y .

If I am naturally a bit slow, I am not made unfree to run 100 metres under 10 seconds, because no one *intentionally* prevents me from doing so. Likewise, a tree cannot make me unfree to walk a specific route through the forest, because the tree does not constrain me intentionally. However, there are strong objections to the Intention View.

First, often, humanly imposed constraints will have been placed somewhere unintentionally but carelessly. In such situations, a constraint might still seem like a freedom-constraint. For example:

Closed Door: I am in my room and the wind blows the door (which can only be opened from the outside) shut. The janitor who is responsible for checking the door around that time went on a private errand and forgot about his duties.³²

³¹ Braham (2006), p. 322.

³² Cf. Miller (1983), p. 61.

Despite the lack of intention, we might say that I am made unfree to leave the room.³³

Second, if we believe that there is a distinction between intending an effect and foreseeing and accepting it, then the Intention View is even narrower. Suppose I shoot down an airplane because seeing an airplane light up in the sky gives me great pleasure. I wish this could be done without seriously injuring the passengers, but I accept this as an unavoidable side effect. The passengers survive but are seriously disabled afterwards. Did I make them unfree? If the doctrine of double effect is true, then I did not make these passengers unfree.

The Intention View is too restrictive. The Causal Responsibility, as defended by Kramer for example, is broader. It requires that at least one human being played a merely *causal* role in bringing about the constraint:

The Causal Responsibility View: y is a freedom-constraint on P 's freedom to φ only if there is at least one person whose action(s) is (are) *causally responsible* for y .

The Causal Responsibility View relies on an acts/omissions distinction. If we allowed omissions to be causes, nearly every inability would become an unfreedom. A vast number of human ability-constraints could be removed by making a 'societal effort'. So, for example my inability to live in a golden castle could be turned into a freedom to live in a golden castle if society pooled all its resources to make this possible for me. Because society omits doing so, I do not get this possibility.

While the Causal Responsibility View overcomes the problems that beset the Intention View, it runs into others.³⁴

First, a problem of the Causal Responsibility View is that in long causal chains there can be human influences somewhere in the long distant past. Even if the causal influence was not

³³ Cf. Miller (1983). Kristjánsson (1996), p. 23 presents a similar argument.

³⁴ We should exclude causes such as 'having been born' from the set of possible freedom-constraints. In all cases, 'being born' is both the cause of a person's unfreedom to φ (at t) as well as her (counterfactual) freedom to φ (at t). For a prisoner, for example, having been born is a necessary requirement for her being able, hypothetically at least, to leave her cell as well as being necessary for her being unfree to do so.

too long ago, such causes seem too irrelevant to count as freedom-constraints. Consider the following example:

Autumn Leaves: I am walking down a street on a rainy day in autumn. A wet leaf falls from a tree to the ground. On its way it is deflected by a street lamp so that it changes its course and lands right under my foot. I slip over the leaf and break my ankle. As a result I am unable to play tennis.

On the Causal Responsibility View, the people who built the street lamp made me unfree. This does not seem right. The causal contribution seems too insignificant to count as a freedom-constraint.³⁵

Second, another problem for the Causal Responsibility View results from its invocation of the acts/omissions distinction. Not only is the distinction and its moral importance controversial, it also leads to counterintuitive judgements with respect to freedom.

Trapped Boy: a young boy with speleological interests explores a cave located next to a busy street. A small rock rolls in front of the cave. All the passers-by can see and hear the boy. They could release the boy effortlessly (and they know they could) by simply taking one step to the right onto a button in the ground that activates a machine that would remove the rock. No one decides to step onto the button and the boy languishes in the cave for weeks.

On the Causal Responsibility View, we would hold that no human causal action deprived the boy of his freedom to walk out the cave. Therefore, he is not unfree. However, I think we would intuitively say that people's unwillingness to remove the rock is a source of unfreedom. So, even though there is no act that is causally responsible for the boy's entrapment, there is still unfreedom.

³⁵ Long causal chains also make the Causal Responsibility View too complex in an epistemological sense. If we want to know whether seemingly natural constraints really are natural constraints, we have to include facts about human evolution, ancient history, climate change etc. Working out such complex issues might be possible for an all-knowing God, but it would leave many freedom-constraints forever beyond our ken.

I conclude from my objections that the Causal Responsibility View fails to draw a plausible distinction between freedom-constraints and ability-constraints.

3.2.2 Moral Responsibility

Given the shortcomings of other views, David Miller argues that we should invoke *moral* responsibility to distinguish freedom-constraints from ability-constraints:

The Moral Responsibility View: y is a freedom-constraint on P 's freedom to φ only if there is at least one person who is *morally responsible* for y .³⁶

From my discussion so far, we can extract some reasons for the Moral Responsibility View. It does not rely on an acts/omissions distinction and can thus deal with *Closed Door* and *Trapped Boy*. It does not lead to counterintuitive judgements in cases in which human causal contributions are insignificant as in *Autumn Leaves*.

Note that someone being morally responsible for a constraint does not imply that the person acts wrongly in imposing the constraint. So, even if the gaoler incarcerates a person justly, this person is still unfree to leave. Conversely, moral responsibility does not imply right action.

To make the Moral Responsibility View work, we need an analysis of when it is appropriate to hold someone morally responsible for a constraint. Miller suggests a disjunctive analysis invoking *pro tanto* obligations:

The Obligation Version: y is a freedom-constraint on P 's freedom to φ only if there is at least one person who either imposed y intentionally or negligently or who has a *pro tanto* moral obligation to remove y .³⁷

³⁶ Cf. Miller (1983) and Kristjánsson (1996).

³⁷ Cf. Miller (1983), p. 72. Note that Miller calls such obligations '*prima facie*' instead of '*pro tanto*' obligations. The terminology goes back to W.D. Ross. I prefer '*pro tanto*' over '*prima facie*', because 'it is *prima facie* true that P ' normally suggests that P seems true in light of the evidence available but might change in light of new evidence. '*Prima facie*' is epistemological. A *pro tanto* moral reason, however, is supposed to keep its valence even if overridden by weightier reasons. I think this is what both Ross and Miller mean when using '*prima facie*'.

Such obligations can be overridden by other stronger moral considerations. Now, we need to settle the question as to when someone has such a *pro tanto* obligation to do something. One idea would be to say that a person has a *pro tanto* obligation to φ whenever she has *any pro tanto* moral reason to φ , that is, any moral reason no matter how weak. However, this would make the Obligation Version too broad. We do not want to say that ‘I am unfree to live in a golden castle’. This, however, causes a problem for explaining the obligation in terms of *pro tanto* reasons. Imagine that living in a castle made of gold would increase my overall happiness or would satisfy some of my most important desires. This entails that there is a *pro tanto* moral reason to bring about this situation. Of course, this *pro tanto* moral reason is outweighed strongly by the costs imposed on other people. So, we cannot say that one has a *pro tanto* obligation whenever one has a *pro tanto* moral reason. This is too wide.

Miller does not attempt to solve this problem. He accepts that what one believes to be a *pro tanto* obligation crucially depends on what kind of moral and normative political theory we accept. So, a libertarian who believes in property rights and strictly negative duties will not think that a poor person’s lack of resources counts as a freedom-constraint, because no one has a ‘positive’ duty to help her.³⁸ Someone with an egalitarian view might think that if someone lacks resources to afford the basic necessities, someone else must have failed to discharge her positive duties to help out that person. In the face of persisting moral disagreement, what unfreedom is will drastically diverge depending on background theories of justice. Let us call this the *Moral Disagreement Challenge*. Is there a version of the Moral Responsibility View that meets this challenge?

Kristjan Kristjansson tries to overcome this challenge by analysing moral responsibility through the idea of ‘required justification’:

³⁸ However, when someone tries to steal certain products, she might be constrained from carrying them out of the shop. In this sense, there is a constraint on Miller’s view, because this person would be stopped *intentionally*. So, the disagreement should only cover those cases in which there is no intention to constrain a person.

Required Justification Version: y is a freedom-constraint on P 's freedom to φ only if there is at least one person of whom it is appropriate to request a justification for his imposition or non-removal of y .³⁹

Does this overcome the Moral Disagreement Challenge? First, we need to determine under which circumstances we request a justification for a constraint. Is this purely pragmatic or do we understand 'appropriate to request a justification' as a moral attribute, that is, as 'deserves a justification'? Again, we cannot hold that one is required to justify one's act or omission whenever there has been a *pro tanto* moral reason against it. This would imply judgements such as 'being unfree to live in golden castle'. Kristjánsson's idea is that requiring a justification is coupled with objective reasons: φ -ing deserves a justification if and only if there is an objective reason that satisfies a *minimal criterion of plausibility*.⁴⁰

But how should we understand 'minimal criterion of plausibility'? Again we cannot say the objective reason is simply a *pro tanto* moral reason. Nor can the minimal criterion of plausibility be that the moral reason is *of a type* that is plausible. Certainly, my deriving pleasure (from my golden castle) is a type of reason that is minimally plausible.

Maybe 'minimal criterion of plausibility' means that one can make a case for removing the constraint that is *prima facie* not entirely unreasonable. This might give us the judgement that I am not unfree to live in a golden castle. But this does not get us very far beyond intuitions we have about specific cases and is unlikely to remove disagreement in those cases in which libertarians and those on the left disagree. So, overall, the idea of a 'minimal criterion of plausibility' does not add the precision required to overcome the Moral Disagreement Challenge.

The Moral Responsibility View seemed initially plausible, but we have not found a version that meets the Moral Disagreement Challenge. I will now argue for a new theory that overcomes this problem.

³⁹ Cf. Kristjánsson (1996), pp. 74-6.

⁴⁰ Cf. *ibid.*

3.3 The Distributive Account

The idea that motivates the Distributive Account is that the notion of a freedom-constraint is conceptually linked to *distributions of freedom*. Instead of including all relevant *distribuenda*, we should focus on the distribution of freedom exclusively.

That constraints of freedom are connected to the distribution of freedom is an idea that, implicitly, has been invoked before – though in a different context. When discussing how we should institutionalise a right to freedom, it is often suggested that we should safeguard the greatest amount of equal freedom. Jan Narveson suggests such an account:

‘Proposing to make liberty a right means that we are turning the liberty of each into a constraint on the liberty of others. Only “compossible” liberty will be supported: liberty that is compatible with the “like liberty of all” – to use Rawls’s earlier words, or, in Kant’s terms, “such that it can coexist along with the freedom of the will of each and all in action, according to a universal law.” Or again, in Hobbes’s version, “that every man be contented with so much liberty against other men, as he would allow other men against himself...”’⁴¹

Now, we need not accept the idea of an institutional right to freedom (I think we have good reason not to) nor that everyone always ought to have equal freedom. But the motivation behind this idea – that what freedoms a person ought to have, *ceteris paribus*, is linked to distributional questions of freedom – should not be easily dismissed. I will now show how the Distributive Account invokes the spirit of this idea to characterise sources of unfreedom.

I suggest that something is a freedom-constraint and not a mere ability-constraint only if the imposition or non-removal of the constraint foreseeably leads to a worse distribution of freedom where ‘freedoms’ are understood as abilities. I do not mean a distribution of *all* relevant goods but only a distribution of specific freedoms (identified as abilities). So, a distribution of goods is *pro tanto* better in virtue of its distribution of freedom being better. But it need not be

⁴¹ Narveson (2010), p. 131. References in Narveson’s quote are to Kant, *Rechtslehre*, Part I, Introduction and to Hobbes, *Leviathan*, ch. 14.

better all things considered. We might, for example, think that we sometimes need to trade off freedom with happiness, desert or something else and that the latter should sometimes outweigh the former.

The idea of the Distributive Account is that someone is made unfree as opposed to merely unable only if she is deprived of abilities she would have in a better distribution of freedoms. So, if someone locks you into his basement, you are clearly deprived of freedoms you would have in the distribution of freedom in which you are not locked in a basement. This is the main idea. Let me now fill in some of the details.

(i) Circular?

We might worry about including the distribution of freedom in the *definiens* of a freedom-constraint. Is this not viciously circular? Not so. Remember that above a specific freedom was identified as an ability. So, to determine a specific freedom, we do not need to know what is or is not a freedom-constraint. Someone is free to φ if and only if she is able to φ . From this characterisation of specific freedom, we can then move on to a characterisation of overall freedom. For such an account we would accept that the greater a person's range of specific freedoms, the more free she is.⁴² With this account of overall freedom, we can determine a distribution of freedom across persons. This shows that there is nothing circular about using the distribution of freedom to determine freedom-constraints.

(ii) The Betterness of Distributions

The Distributive Account determines freedom-constraints on the basis of *better distributions* of freedom. What makes a distribution of freedom better than another? Remember that in developing his Moral Responsibility Account, Miller concluded that a distinction between an ability-constraint and a freedom-constraint is not to be had independently of a background

⁴² There are of course other aspects we might want to consider, such as how good and/or diverse these options are and how you can combine them. I will discuss all of these issues in great detail in part II.

conception of justice. So, our disagreements about justice will carry over to disagreements about freedom. We might ask: does the Distributive Account not simply replicate this moral disagreement about a more specific question? What makes a distribution better than another will be discussed in great detail in part III of this dissertation. Here, I will merely mention a few aspects of what makes distributions good that should be acceptable to people with different background views of distributive justice.

Most people think there is something wrong about maximising the sum of individual freedom without taking into account its distribution. For one thing, freedom has *decreasing marginal value*. More of it is not always better in equal degree (I argue for this point in chapter 14). Another reason might be that we find it unjust or unfair to reduce one person's freedom to a very low level to increase the aggregate freedom of others. Such 'justice-considerations' should play a role in the evaluation of the distributions too. *Ceteris paribus*, a distribution is better if it is more equal. As mentioned above, many authors believe that a right to freedom translates into a right to the greatest *equal* freedom. Such an account has been assumed by liberals as well as left and right libertarians. It is shared, arguably, by authors as diverse as Immanuel Kant, John Stuart Mill, Thomas Hobbes, John Rawls, Herbert Spencer, Jan Narveson, Richard Norman and Hillel Steiner.⁴³ These authors disagree of course about the correct conception of freedom. Rawls, for example, limits freedom to 'basic liberties' and Narveson has a libertarian conception of unfreedom. There is, however, widespread opposition to maximising aggregate social freedom and thereby imposing great burdens on individuals.

However, requiring a distribution to be perfectly equal would be going too far in the other direction. Equality should not take lexical priority over all other goals. This would lead to im-

⁴³ In Kant, *Rechtslehre*, Mill, *On Liberty*, Hobbes, *Leviathan*, ch. 14, Rawls (1979), 60 and 302, Spencer, *Social Statics*, p. 35, Narveson (1985), (2003), Norman (1987) and Steiner (1974), (1987) and (1997).

plausible levelling down. So, say we had to choose between the following two distributions D1 and D2:

	D1	D2
Person 1	5 freedoms	1000 freedoms
Person 2	5 freedoms	1005 freedoms

Choosing D1 would involve unnecessary levelling down. I have argued that being specifically free to φ means being able to φ . However, natural abilities will differ to a great extent and not all of these can be offset. Equalising the extent of everyone's specific freedoms would thus require drastic levelling down. So, while a good distribution of freedom involves a concern for equality, it does not require strict equality.

These remarks are of course not sufficient to characterise a full distributive theory of freedom. This will be done later. But, as I will show below, they are enough to yield intuitive judgements in the examples I discussed previously. Also, these remarks are not meant to show that everyone already agrees on what makes a distribution of freedom better. In any case, whether the Distributive Account is correct should not depend on *de facto* agreement about this question. So, even if there is widespread disagreement, the Distributive Account can still be correct and there can still be *one* correct distributive theory of freedom. The point here is merely that even without a systematic analysis of this question, there should already be reasonable agreement on some features that make distributions of freedom better; enough agreement for the Distributive Account to be significantly more precise than the Moral Responsibility View.

(iii) Evidence-relative

Now, we need to be more specific about *who* can bring about the best distribution and thus cause an unfreedom. This will also show how the Distributive Account accommodates the intuitive force that motivated the Moral Responsibility Account. On the Distributive Account

I am not made unfree merely because I am in a distribution of freedom that is not the best distribution possible. There also needs to be at least one person (but often more than one) who could bring about (or could have brought about) a better distribution and has (or had) available evidence about the availability of these distributions. Here is an example.

Boulder: I am on a speleological expedition and get trapped in a cave because a boulder rolls in front of it. The next day a person in a heavy-duty vehicle drives past. The vehicle could be used to remove the rock.

On the Distributive Account I am *neither free* nor *unfree* to leave the cave. Here is why. Even though removing the rock would lead to a better distribution of freedom, the person's omission is not a freedom-constraint. For she did not have accessible evidence to believe that removing the rock would set me free. Of course, had the person removed the rock, I would be much more free. But because she could not have known about this given the evidence available, she did not impose an unfreedom.

This is how the Distributive Account accounts for the intuitive force that motivated the Moral Responsibility View without having to be a version of it. So, a person's acts or omissions can only be sources of unfreedom if enough evidence is available to her about how her acts would effect the distribution of freedom. Therefore, we can only hold her morally responsible for a worse distribution of freedom if she could be expected to foresee the consequences of her own acts or omissions on the distribution of freedom. So, a person imposing a freedom-constraint in the sense of the Distributive Account will usually also be morally responsible, because, first, she is or was in a causal position to effect distributions of freedom and, second, has (or had) enough evidence available about how her acts or omissions would affect the distribution of freedom.

Note also that the imposition or non-removal of a freedom-constraint can happen in the past, the present or the future. We can now put the different elements together to characterise my account:

The Distributive Account: y is a freedom-constraint on P 's freedom to φ only if there is at least one person whose imposition or non-removal of y (in the past, present or future) is *pro tanto* wrong, in an evidence-relative sense and in the absence of disabling conditions, in virtue of the worse distribution of freedom resulting from y .⁴⁴

Note that the Distributive Account is not a version of the Moral Responsibility View. For we use the distribution of freedom and not moral responsibility to define a freedom-constraint. Though this intuitively links up with attributions of moral responsibility, the distribution of freedom is doing the explanatory work.

In the criterion I have included 'in the absence of disabling conditions'. This is to allow for those views which hold that worse distributions of freedom might give us reasons to act in a *holistic* sense. (I do not share this view about distributions of freedom as a moral reason but include it to allow for a broader range of views.) Holism about reasons is the idea that certain features can be moral reasons in some cases without having to be moral reasons (or reasons with the same valence) in others. So, human suffering might be bad. *Deserved* suffering, however, might be morally good. Whether a feature functions as a moral reason depends on other aspects of the situation, particularly on the presence of *disabling conditions*. Here is an example: if we bring about a worse distribution of freedom through imprisoning someone, then if this punishment is deserved, the worse distribution of freedom might not be *pro tanto* wrong. This is why I have included 'in the absence of disabling conditions'. So, all that is required for the Distributive Account is that the worse distribution is *pro tanto* wrong *ceteris paribus*, that is, in the absence of disabling conditions such as 'desert'.⁴⁵

Note also that the Distributive Account is not meant to require 'unreasonable' sacrifice from agents. For most cases, an action that will require great sacrifice on the part of the agent

⁴⁴ This account is *evidence-relative* and not belief-relative. So, if I hold crazy beliefs I do not have evidence to believe, then my actions might be a source of unfreedom even if, say, I falsely believe that they in fact make you more free. Cf. Parfit (2011), pp. 150-4 for the distinction between evidence-relative and belief-relative sense of wrongness.

⁴⁵ Cf. Dancy (2004) for a defence and detailed outline of holism about normative reasons.

might also come with great reductions in freedom. This, however, is not always the case. So, we should allow there to be some ‘agent-centred prerogative’ so that the demands on the agent who can bring about a better distribution are not unreasonable.⁴⁶ Here I will not try to define precisely how much sacrifice is unreasonable.

(iv) Examples

Let us now apply the Distributive Account to the examples previously used as counterexamples to other views. Am I made unfree to live in a golden castle? The answer is no on the Distributive Account, because we would have to pool many resources and thus deprive other people of many freedoms (and most probably more valuable ones) to accommodate my specific freedom to live in a castle made of gold. Am I unfree to run 100 metres under 10 seconds? No, because there is no one whose acts or omissions could bring (or could have brought) about a better distribution of freedom in which I have this ability. Am I unfree to leave the room if you do not do your professional duty as a janitor to let me out? Yes, because the janitor could have easily discharged his duty and there was sufficient evidence accessible to him that I was in the room and, in so doing, would have brought about a much better distribution of freedom: I would have gained many freedoms, he would have lost very few if any. In *Trapped Boy*, in which a boy is trapped into a cave next to a busy street and could be released easily by the people who know of his predicament, we get an intuitive result too. Through their inaction, the people passing by bring about a distribution of freedom that, they have evidence to believe, is worse.

I have argued that the Distributive Account offers the most plausible account to distinguish between ability-constraints and freedom-constraints. I will now discuss an objection to it.

⁴⁶ Cf. Scheffler (1982).

(v) *The Prisoner Case*

So far, I have not applied the Distributive Account to the case of imprisonment which is a bit more complicated. Most theorists – though not all – want to say that usually a prisoner is made *unfree* by incarceration even if this incarceration is justified all things considered.⁴⁷ The Distributive Account would hold that the distribution of freedom that results from incarcerating a person is usually worse, because we deprive one person (the prisoner) of many freedoms whilst other people do not gain any or comparatively few freedoms. The Distributive Account would judge that, usually, prisoners are made *unfree* (but often legitimately so).

There are, however, two objections.

First, the analysis of imprisonment assumes that it is *pro tanto* wrong to reduce a person's freedom to punish her. Retributivists, however, might believe there is nothing wrong even *pro tanto* about making persons less free to punish them. So, my treatment of the prisoner case seems to assume the falsity of retributivist theories of punishment.

There are two replies. Retributivists can consistently hold that reducing someone's freedom as a means of punishing a person is *pro tanto* wrong but that this is overridden by the moral force of another feature of the situation, namely that the situation is one in which people get what they deserve. Alternatively, they can hold that 'bringing about worse distributions of freedom' is a reason that functions holistically. Retributivists can hold that it is usually *pro tanto* wrong to make someone less free but not if this reduction of freedom is a deserved part of a justified punishment. To allow for these holistic reasons, I have changed the formulation of the Distributive Account to 'absent disabling conditions'. This way we preserve the judgement that a prisoner is made unfree if imprisonment results in a worse distribution of freedom.

⁴⁷ Theorists who think it is a source of unfreedom are, amongst others, Carter (1999), Kramer (2003), Steiner (1983) and Miller (1983). Those who think that justified imprisonment need not be a source of unfreedom are, amongst others, Hayek (1960), ch. 9, 10 and Pettit (1997).

There is, however, a second objection. In most cases of punishment, reducing a person's set of abilities through imprisonment will lead to a worse distribution of freedom. Sometimes, however, imprisonment prevents freedom-reducing crime and might thus lead to a better distribution of freedom.

Terrorist: a terrorist is imprisoned, because he would otherwise abduct many people. Imprisonment results in a better distribution of freedom.

Because imprisonment leads to a better distribution of freedom, the imprisoned terrorist is not considered unfree on the Distributive Account. This judgement might be counterintuitive.

However, I do not think this is a problem. The extent to which prisoners would be considered 'unable' as opposed to unfree would be quite limited. Many cases of reducing a person's freedom through imprisonment to increase other people's freedom will be ruled out by the *egalitarian element* discussed above. So, *most* cases of imprisonment will count as sources of unfreedom. For many other cases, a better distribution of freedom would result if, instead of fully imprisoning someone, we focused on taking away more specific abilities such as house arrest or restraining orders. Such interventions might lead to better distributions of freedom. So, the Distributive Account holds that for most cases of imprisonment, being imprisoned not only makes a person significantly less free but is also a source of unfreedom. This is quite intuitive.

Despite these qualifications, cases such as *Terrorism* remain in which imprisonment is not a source of unfreedom. However, I do not think this is too counterintuitive for two reasons. First, remember that because of Trivalence, not being unfree does not entail being free. So, the prisoner on this picture has very little overall freedom even if she does not have many unfreedoms. So, we avoid the judgement that the 'prisoner is free'. Second, the Distributive

Account holds that being made unfree implies there seems something morally amiss.⁴⁸ Understanding judgements of unfreedom as inherently normative makes the idea of imprisonment not necessarily being a source of unfreedom less counterintuitive. Similarly to the imprisoned terrorist, the sole inhabitant of a tiny lonely island, for example, has no unfreedoms. To understand unfreedoms as being inherently normative explains why the lack of freedom in both *Terrorist* and the lonely islander case are similar: either through past actions (moving to a lonely island) or through future intentions (planning to abduct many people and thus bringing about a worse distribution of freedom), these persons have removed their moral claim for more freedom (for the lonely islander) or at least strongly diminished its strength (in the case of the terrorist).

So, the Distributive Account will hold that in most cases imprisonment *is* a source of unfreedom and has a good explanation for those in which it is not.

I have argued that the Distributive Account offers the most plausible account to distinguish ability-constraints from freedom-constraints.

3.4 Conclusions

In this chapter, I presented a number of arguments for the Ability View and against the Constraint View of freedom. In section 3.3, I then argued that the Distributive Account offers the most plausible way to distinguish freedom-constraints from ability-constraints. I also showed how this view reconciles this distinction with ability-based conceptions of freedom: a constraint makes a person unfree only if there is at least one person who has sufficient evidence to believe that her imposition or non-removal of the constraint will lead to a better distribu-

⁴⁸ Given that I have allowed for the qualification ‘absent disabling conditions’, this being ‘morally amiss’ might only be *prima facie* if you think reducing someone’s freedom is a reason that functions holistically.

tion of freedom. In part II, I will show how my Distributive Account helps resolve some problems that have come up in the literature on measuring freedom. What makes distributions better will then be discussed in part III.

4 The Strength Question

In my previous chapter, I answered the Source Question, that is, the question of what source a constraint needs to be to count as freedom-constraint. I will now provide an answer to *the Strength Question*: of what strength need a constraint be to count as a freedom-constraint? Is it enough if it makes a certain action difficult or is it necessary to make this action ‘impossible’?

The discussion here is between, what I will call, the Narrow View and the Broad View.

The Narrow View: if y is a freedom-constraint on P ’s freedom to φ , then, necessarily, y would successfully prevent P from φ -ing if P attempted to φ .

On the Narrow View, the absence of an ability is a necessary condition for unfreedom. If a constraint generates an unfreedom with respect to P ’s φ -ing, then, necessarily, it makes φ -ing impossible. (Remember again that not all interferences produce unfreedoms. Those interferences that make an action impossible but which do not fulfil the Distributive Account, do not produce unfreedoms.) Conversely, a specific ability is a sufficient condition for a specific freedom.⁴⁹

However, many reject the Narrow View and hold that being able to φ is not a sufficient condition for being free to φ . This rejection would entail that an interference (which otherwise

⁴⁹ This view is defended by Hillel Steiner (1974-5), Ian Carter (1999) and Matthew Kramer (2003). I have defined it in a way that covers both Ability and Constraint Views of specific freedom.

qualifies as a freedom-constraint) can make a person unfree to φ even if the person remains able to φ .

The Narrow View is often rejected on the ground that a *threat* can make a person unfree to φ even if the person remains able to φ . So, say a person threatens to beat you up if she finds you eating ice cream (and she is likely to find you). The Narrow View will say that you are free to eat ice cream, because you are still able to eat ice cream. Opponents to the Narrow View hold that you are unfree to eat ice cream under such circumstances. More generally, if I make it very difficult or costly for you to φ , I might make you unfree to φ even if you remain able to φ .

In this chapter, I will defend the Narrow View. For the Ability View to be true, which I defended in my previous chapter, the Narrow View needs to be true too. Here is the Ability View again:

The Ability View: P is free to φ if and only P is able to φ .

The Ability View of course entails:

The Narrow View: if P is able to φ , P is free to φ .

I will start by discussing some proposed alternatives to the Narrow View and show why they fail. I will then develop the Narrow View further so that it accommodates threats as freedom-reducing and avoids some other objections.

4.1 Alternative Views

Views which reject the Narrow View aim to include threats as freedom-constraints. If I threaten to beat you up if you eat ice cream, then I make you unfree to eat ice cream.

However, this leads to the following challenge for such views. Typically, *offers* should not be seen as freedom-constraints. If I offer to pay you £10 if you eat ice cream, then this should

not be seen as a freedom-constraint. But how can we distinguish between offers and threats?⁵⁰ Typically, to distinguish threats from offers, we need some evaluative criterion. So, say Bob says he will put some chocolate in Clare's bag in case she eats ice cream. If Bob has reason to believe that Clare likes chocolate, then this should be seen as an offer. However, imagine Bob knows that the sight of chocolate causes Clare to be anxious. Then, it seems, putting chocolate in her bag seems more like a threat than an offer.

Therefore, we might need to invoke a person's desires (or other types of mental states or dispositions) to determine whether she is unfree to do a specific act. However, an account of specific freedom is preferable if it can do without invoking a person's desires. If we can exclude reference to desires to determine what constitutes a freedom-constraint, then this is an advantage. One of the reasons against invoking desires in a theory of freedom is the *Adaptation Argument*: whether I am free or unfree to φ should not depend on my desires. Otherwise, a person could make herself free simply by changing her desires. But this seems to misconstrue freedom if, as we do here, we understand it as a social relation or an opportunity-concept. Whether someone is free or unfree to φ is independent of her desires.

Let us now discuss different ways in which we might diverge from the Narrow View.

(i) The Ineligibility View

The Ineligibility View holds that a constraint is sufficiently strong to qualify as a freedom-constraint on a person's freedom to φ only if it makes an agent either unable to φ or if it makes φ -ing *ineligible*.⁵¹ But what does it mean for an option to count as ineligible? The Ineligibility View could either use a person's preferences to determine whether an option is eligible or not or it needs an objective account of value. To invoke preferences would render the

⁵⁰ This argument is developed in greater detail in Steiner (1974-5)

⁵¹ Cf. Benn (1988) for an example of the Ineligibility View.

position open to the Adaptation Argument. To use an objective account of value requires axiological assumptions which might be controversial.

The second challenge for the Ineligibility View is to defend an ‘objective’ cut-off line between eligible and ineligible. *Prima facie*, it seems unlikely that there is such cut-off line as it would be controversial on both a preference account as well as an objective account of value.⁵² Moreover, whether a specific option is ineligible – too bad to be chosen – will likely be contextual. So, some option x might not count as an extra freedom if added to a very good and extensive choice-set because it is too bad to be eligible. But if we add x to a choice-set that is very small and very bad, then x might suddenly count as a ‘freedom’ if it is better than the other options.

Now these objections are not necessarily decisive. But they do suggest that the Ineligibility View is only an option if its alternative, the Narrow View, is shown to be implausible. I will show below that this is not the case. Therefore, the objections to the Ineligibility View are strong enough given that there is a more plausible and easier alternative.

(ii) The Moral Responsibility View

A different view, endorsed by Miller and Kristjánsson, holds that moral responsibility is not only a necessary but also a sufficient condition.⁵³ According to this view, the Strength Question is already answered by the Moral Responsibility View. So, no matter how small or great an obstacle, it is a constraint on someone’s freedom *if and only if* there is at least one person who is morally responsible for this constraint.

There are, however, a number of problems.

First, like all views which see threats as freedom-reducing but offers not, the Moral Responsibility View needs to use preferences to distinguish between threats and offers.

⁵² Cf. Kristjánsson (1996), pp. 41-6 for a detailed critique of this view.

⁵³ Cf. Miller (1983), pp. 78-80 and Kristjánsson (1996), pp. 51 et seqq.

Second, the Moral Responsibility View treats all freedom-constraints equally. Kristjánsson denies that specific freedoms, on his account, can come in degrees. This, however, is problematic because different constraints have different degrees of badness. Consider:

Price Increase: a person is morally responsible for the price of a specific good in a monopolistic market where the demand curve is completely inelastic. This person increases the price by £ 0.5 in one case and by £ 100,000 in another.

Here I think we should say that the latter case is a greater constraint on the consumers' freedom. So, if specific freedoms do not come in degrees, the Moral Responsibility View is implausible. If we care about threats and offers, we should also care about *how much* an obstacle interferes with our freedom. This 'how much' is not captured by probabilities. If we accept that the goodness/badness of an option matters, we should take account of how 'weighty' an obstacle is.

Second, as I have argued in my previous chapter, the idea of moral responsibility alone is not enough to determine which types of interferences are freedom-constraints and which ones are not. The correct answer, I argued, is given by the Distributive Account. So, given that the Moral Responsibility View – as defended by Miller and Kristjánsson – did not yield clear answers to the Source Question, we should not expect it to do so for the Strength Question.

Overall, the alternatives to the Narrow View are not promising. Let us now see whether the Narrow View fares better and, in particular, whether it can incorporate the relevance of threats for freedom.

4.2 The Narrow View

4.2.1 The Narrow View and Threats

The Narrow View starts with the intuitive idea that if someone is able to φ , she is free to φ . However, as adumbrated above, this view does not seem to include the relevance of threats. Here is Miller's example.

‘Compare the following cases: in the first, a man is imprisoned in a ten-foot-square cage; in the second, a square of the same size is marked out on the ground, the man is placed inside, and told that moments after he steps out of the square he will be shot (there is ample evidence that the threat is not idle.) On Steiner's view [who defends the Narrow View], the man is free to leave the square in the second case, but not the cage in the first.’⁵⁴

The problem with the Narrow View thus is, according to critics such as Miller, that it would judge that the person is *free* to step outside the square because she is able to do so. This might seem counterintuitive.

However, we can defuse this intuition and solve this problem by turning our attention from specific to *conjunctive* freedoms and to overall freedom. In Miller's second case, the person has the *specific freedom* to step outside the circle. However, the person does not have the *conjunctive* freedom to both step outside the square *and* not get shot. So, even though threats of the form ‘if you φ , I will cause you harm’ do not take away the specific freedom to φ , they do reduce a person's *overall freedom*. Threats normally do not make an action (e.g. leaving the square) impossible but merely take away many other options and their *conjunctive exercisability* (or compossibility). This reduction in overall freedom explains our intuition that threats are relevant for our assessment of freedom. Therefore, the Narrow View can accommodate the role of threats.⁵⁵ In part II, I will explain in detail how we should make judgements about a person's

⁵⁴ Miller (1983), p. 76.

⁵⁵ Cf. Carter (1999), pp. 224-30 for this argument. Note that this argument is not committed to the idea that it is merely the conjunctive exercisability of options in a purely quantitative sense that determines a person's level of overall freedom. As I will argue in part II, we can develop a Hybrid View that combines a quantitative with a qualitative aspect to determine a person's overall freedom.

level of overall freedom. What matters at this stage is that threats usually do involve a reduction in a person's overall freedom whereas offers do not. This does not depend on the person's preferences but on the range of compossible freedoms that are removed when someone issues a credible threat.

However, one might object that, despite all this, the Narrow View does not track our intuitive judgements. If you threaten to beat me if I do not hand over £100, then, according to the Narrow View, I am free to give you the money and I am free not to give you the money. One might still find it counterintuitive to say that I am free to give you the money. However, I think the problem here results from a confusion: being specifically free to φ does not imply that one has a free choice between φ -ing and something else. Nor does it imply that if one φ 's, this act is done freely. We should distinguish 'specific freedom' from 'free choice' and/or 'doing something freely'. If I give you money because you threaten me, then I had the specific freedom to give you money but I did not hand over the money to you *freely*. We might think that 'doing something freely' or 'exercising a free choice' requires more. If I φ freely, then, at the very least, it should be possible for me to not φ and not φ -ing should not result in very bad consequences for me. So, doing something freely might require a genuine choice and thus a *suitable range* of specific freedoms. All of this is perfectly consistent with the Narrow View.

The Narrow View also deals better with *Price Increase* – raising the price of a good either by £0.5 in one case or by £100,000 in another. It judges that, if I have £100,000, I am free to buy the product in both cases. In the latter case, I am, however, clearly less free overall, because buying the good sets me back £99,999.5 – less money, less freedom.⁵⁶

So, if we take account of conjunctive freedoms, the Narrow View can easily accommodate the relevance of threats for freedom, can explain why some interferences are more freedom-

⁵⁶ The claim that 'less money, less freedom' is an implication of my measure of freedom which I will develop in part II. Cf. also Cohen (2012), ch. 8.

reducing than others and does not require a preference-based account to do so. Let us now see whether it can withstand other objections.

First, Kristjánsson argues that offers can never reduce someone's freedom. He then considers the following case:

'If I propose to a girl, it is impossible for her conjunctively to avoid disappointing a suitor and to remain unmarried – which she could beforehand. Consequently, my proposal, ruling out a conjunctive action, will on Day's criterion [the Narrow View] count as a constraint on her freedom.'⁵⁷

Avoiding disappointing a suitor *and* remaining unmarried are not compossible. Kristjánsson therefore concludes that the Narrow View allows offers to be freedom-reducing and thus is too permissive. This conclusion, however, can easily be resisted.

It is not clear that an 'offer' can never have *pro tanto* freedom-diminishing effects, as long as they are *pro tanto*. In Kristjánsson's case, proposing to a girl will add a very large set of compossible freedoms. She can remain unmarried and keep her previous freedoms (minus the freedom of not disappointing a suitor) plus she has all the additional opportunities that might come with married life. The extra opportunities will greatly outweigh the loss of one specific freedom. So, if we take seriously the role overall freedom plays for the identification of threats, we can meet Kristjánsson's objection.

Second, and similarly, Miller argues:

'But this solution [the Narrow View] is too permissive: for any disadvantageous change in the environment can be described as making some conjunction of actions impossible. Thus suppose I have been giving my neighbour some homegrown tomatoes free (out of the kindness of my heart). Finding myself short of cash one week, I offer to sell him some at a reasonable price. No one, I imagine, would argue that this limits his freedom, yet there is now a conjunctive action (having a pound of tomatoes *and* not parting with twenty pence) that it is impossible for him to perform, assuming that he cannot steal the tomatoes or obtain them free elsewhere.'⁵⁸

⁵⁷ Kristjánsson (1996), p. 44.

⁵⁸ Miller (1983), p. 77.

The conclusion of Miller's case is that 'So on the proposal being considered, his freedom would have been reduced'. He believes that this is counterintuitive, because the neighbour is not made *unfree* by the fact that Miller stops giving him tomatoes free of charge. However, contrary to Miller's assertion, the neighbour's level of overall freedom *has* been reduced. The neighbour has *less freedom overall* after Miller starts charging him for the tomatoes. Because he does not have the option 'keep money and have tomatoes', he does have fewer options than he had before. Therefore, it is not counterintuitive to say the neighbour has less freedom overall.

Miller has a number of responses available.

Miller's first response could be that his neighbour now has the conjunctive option 'pay my neighbour for tomatoes' which he did not have before. Therefore, according to the conjunctive exercisability view his overall freedom level has not changed, because one conjunctive option is substituted for another. However, this response fails. Giving away money reduces choices elsewhere. So, having to pay for a product I used to receive for free reduces my purchasing power for other goods and services and thus reduces my overall freedom.

Miller's second response could be that he is not morally responsible for providing his neighbour with free tomatoes. Therefore, he does not make his neighbour *unfree* to get free tomatoes. Invoking positions developed in my previous chapter, there are two responses to this claim.

First, the person who contributes to the imposition of a constraint is not necessarily the person who is morally responsible for the constraint. So, when the shop around the corner charges me more for tomatoes, because, say, there has been a change in the market structure, it is not necessarily the shop that is morally responsible for this increase. It might equally well be the producers, regulators etc.

Second, more importantly, freedom is *trivalent*. Accordingly, Miller's neighbour is neither free nor *unfree* to receive free tomatoes. One can be *not free* to get free tomatoes without being *unfree* to get free tomatoes. This has the result that while Miller's neighbour has less freedom overall, we are not committed to saying that he is *unfree* to receive free tomatoes. This takes the 'counterintuitive sting' out of Miller's example.

Overall, the Narrow View is the most straightforward view, does not invoke preferences to account for threats and deals with objections propounded in the literature. In the next section, I will respond to some new objections to the Narrow View and show how this helps to understand freedom more generally.

4.2.2 The Narrow View and Timing

The first problem will be called the *Inconsistency Problem*. It arises when we combine the Narrow View with the Ability Claim:

The Ability Claim: if P φ s at t , then P is able to φ at t .

The Narrow View: if P is able to φ at t , then P is free to φ at t .

Therefore,

The Hobbesian Dictum: if P φ s at t , then P is free to φ at t .

What I have called the Hobbesian Dictum has been endorsed by Thomas Hobbes and David Hume.⁵⁹ Though it is very intuitive, it seems to clash with intuitive understandings of the Narrow View. Here are two examples:⁶⁰

Monet: At $t+1$, Karl plays the lottery and, surprisingly, wins £3,000,000. Karl uses this money to buy a Monet painting at $t+2$. Winning the lottery was the only way for Karl to make enough money to buy a Monet painting.

⁵⁹ Cf. Hume, *Enquiry*, ch. VIII, Hobbes, *Leviathan*, ch. XXI.

⁶⁰ This example was suggested to me by David Miller.

Should we say in *Monet* that, at t , Karl was free to buy a Monet painting at $t+2$? If we accept our premises above, it holds that Karl *is* able to buy a Monet painting. Therefore, Karl is free to buy a Monet painting. However, winning the lottery was so improbable, it seems counter-intuitive to say that Karl was free to buy the Monet painting. Consider another example, inspired by one of Kramer's examples.⁶¹

Dave's Entrapment: Dave is locked in a cell and there is an electronic device with which he can open the door. For this, Dave needs a code. The probability of finding the right code in one go is 1 to 10,000,000. Dave keys in a random string of numbers which happens to be the right code.

Before knowing that Dave would type in the right code we would say that Dave was *unable* to leave the room. However, because Dave happened to key in the right code, the Hobbesian Dictum seems to say that Dave was free to leave the cell all along.

I will now discuss two ways to dissolve this problem. For this, we need to look at the relation between freedom and time. Specific freedoms and unfreedoms exist at specific times. At time t , person P might have the specific freedom to φ at $t+2$. I will call the time at which a freedom exists – in this case ' t ' – the *existence-time*. So, I am free *now* to buy a coffee in three hours. The time at which P can act on her specific freedom to φ – $t+2$ in this case – will be called the *actualisation-time*. So, in the 'coffee example' the actualisation-time is in three hours. But there might be a third relevant time. Imagine person Q wants to evaluate whether P at t has the freedom to φ at $t+2$. Q evaluates this at time $t+1$. The time at which we ascribe specific freedoms to ourselves or others – in this case $t+1$ – shall be called *ascription-time*.⁶²

Having distinguished between these three times, let me discuss two solutions to the Inconsistency Problem.

⁶¹ Cf. Kramer (2003), p. 80.

⁶² Cf. Kramer (2003), ch. 1.5.1.

The first solution invokes the idea of the ascription-time. In principle, the ascription-time can be before or after the actualisation-time. It can also be at the same time as the existence-time. That is, we often might want to gauge the freedom we have at this specific moment. Now we should ask *from which temporal vantage point* we should ascribe freedoms. Which information should we use in our freedom-judgements?

Carter argues that freedoms should be ascribed on the basis of the information available to the best-informed person at the *existence-time*. So, to judge at $t+1$ that P at t had the freedom to φ at $t+2$ requires using the information available to the best-informed person at t , that is, at the existence-time. I will call this the *Existence-Time-Approach*.⁶³ Kramer disagrees. Rather than using the best-informed person at the existence-time of a specific freedom, we should use the best-informed person existing at the *ascription-time*.⁶⁴ So, to judge at $t+1$ that P at t had the freedom to φ at $t+2$ requires using the information available to the best-informed person at $t+1$, that is, the ascription-time. I will call this the *Ascription-Time-Approach*.

I will here not discuss whether ‘the best-informed person assumption’ is warranted as it does not really matter for the Inconsistency Problem. Should we accept the Existence-Time-Approach or the Ascription-Time-Approach? Carter’s reason for the Existence-Time-Approach is this:

‘[W]e may be interested in comparing the freedom of agents who themselves have different temporal locations. ... where t is some time in the past, then in order to put such assessments of past degrees of freedom on all fours with assessments of present degrees of freedom (so as to allow for valid intertemporal comparisons of freedom), we should disregard any consequences of basic actions about which we have come to know only with hindsight.’⁶⁵

⁶³ Cf. Carter (1999), p. 189

⁶⁴ Cf. Kramer (2003), pp. 422-5.

⁶⁵ Carter (1999), p. 189.

The idea is that if we want to assess my freedom at a specific existence-time, then this assessment should not change along with changes of the ascription-time. Therefore, the Ascription-Time-Approach makes intertemporal comparisons difficult if not impossible.

Kramer's answer to this argument is that comparisons between agents with different temporal locations are only impeded if time itself skews our judgements of overall freedom in a specific direction. Our judgements would be skewed, if we ascribed either more freedoms or more unfreedoms as time passes. Kramer argues that time does not skew our freedom-judgements in a certain direction.

I will not discuss here who is right on this issue. The point I want to make is that if we assume the Ascription-Time Approach, and assume we can avoid Carter's objection, we can solve the Inconsistency Problem. The problem was that the Hobbesian Dictum often conflicts with many *ex ante* judgements about specific freedom. *Monet* and *Dave's Entrapment* showed how. The Inconsistency Problem is resolvable through the distinction between existence-time and ascription-time. If we think about Dave's freedom to leave his cell before he enters the code, we would judge that it is sufficiently unlikely that he can leave his cell. So, if the ascription-time is *before* he enters the code, we would judge that he is unfree to leave his cell. Once he has entered – fortuitously – the correct code, we would say that indeed he was free before to leave the cell. In such a case, the ascription-time has moved and our *ex post* ascription has changed. By tensing the Hobbesian Dictum relative to an ascription-time, we can solve the Inconsistency Problem.

Of course, the idea that the truth of a proposition depends on the time at which we evaluate it might be quite contentious more generally. Moreover, the plausibility depends on whether Kramer's response to Carter's critique of the Ascription-Time works.

Even without the Ascription-Time Approach, I suggest, can we solve the Inconsistency Problem. We do so, by specifying more clearly the existence-time. So, in *Monet* we want to say that

Karl is free to buy the painting at $t+2$ because he is able to buy the painting at $t+2$. But we do not seem committed to saying that Karl was free *at all earlier stages* to buy a Monet at $t+2$. We could say that Karl was not free at t to buy a Monet at $t+2$ but that he was free at $t+1$ and $t+2$ to buy a Monet at $t+2$. So, by specifying the existence-time we can keep the judgement that Karl *at some point* has the freedom to buy a Monet at $t+2$. To keep the Hobbesian Dictum, it is not necessary to say that Karl was free at all stages before $t+1$ to buy a Monet at $t+2$.⁶⁶

An interesting result from this discussion is that the Narrow View accounts for the Hobbesian Dictum while alternatives do not. If, for example, we accept the Ineligibility View, then a person who chooses to do an ineligible action is not free to do that action. Similarly, according to the Moral Responsibility View, a person will often be judged unfree to do what she in fact did. This is counterintuitive. A view that accounts for the Hobbesian Dictum is, *ceteris paribus*, preferable. This gives us another reason to favour the Narrow View.

My solution to the Inconsistency Problem leads us directly to a second problem, the Vagueness Problem. When we say that *ex ante* Dave is unable to leave his cell in Dave's Entrapment, because it is sufficiently unlikely that he will find the right code, then this assumes quite a particular, 'probabilistic' account of ability. I will now say a bit more about the underlying account of ability here.

⁶⁶ This leaves it open for us to say that Karl was in fact free at t to buy a Monet at $t+2$ but that he simply did *not know* about this. So, instead of a probabilistic sense of freedom, we might use an 'objective' sense. We could say that P 's being free at t to φ at $t+2$ does not depend on whether it is sufficiently likely at t that P is able to successfully φ at $t+2$ but solely on non-probabilistic facts about the world. I will here use the probabilistic sense of freedom, because it seems to reflect better how we make ascriptions of freedom in relevant social contexts. Compare Karl's situation with a rich person's situation: the rich person can be certain at t that she will have enough money to buy a Monet at $t+2$, whereas for Karl this is extremely unlikely. The rich person's situation at t is different in terms of freedom from Karl's situation at t and this difference is normatively important. At any rate, dissolving this issue is not necessary to solve the Inconsistency Problem, as we can say on both accounts that, at the very least, Karl was free at $t+2$ to buy a Monet at $t+2$.

4.2.3 Vagueness

The Narrow View relies on an intuitive understanding of ability. The type of ability relevant here is sometimes called *special* ability instead of general ability. A general ability would be something like your ability to read English texts. A special ability is an ability to do something at a particular point in time.⁶⁷ We now need to clarify under which circumstances we can *ex ante* hold that someone has the ability to do something in the future and under which circumstances we can say *ex post* that someone *had* the ability to do something in the past. For reasons discussed in chapter 3, I do not attempt a full reductive analysis of ‘ability’. I will merely sketch some of the necessary criteria of *special* abilities in the sense used here.

I will now further develop some of Kramer’s suggestions. He argues that ‘so long as at least one enabling path of behaviour is indeed available... there exists a freedom’.⁶⁸ What should we mean by ‘enabling path’? An enabling path is an action-path that leads to the realisation of a freedom. For example, Dave’s typing in the correct code is such an enabling path. Now one condition of a course of action being an enabling path should be that choosing and following through on that path makes realisation of the freedom sufficiently likely:

Probability Requirement 1: for any course of action ψ to be an enabling path for a freedom to φ , it needs to be true that choosing and following through on ψ makes φ -ing sufficiently likely.

Here is why we should accept Probability Requirement 1. For nearly all situations, there are external circumstances that, on the face of it, can turn certain actions into enabling paths. Think of *Dave’s Entrapment* again. Let C be any of those circumstances which would free Dave from his cell without Dave having to type in the correct code. C might cover events like a meteorite miraculously opening the door, a bomb that is accidentally dropped in front of Dave’s prison etc. All of these events are very, very unlikely. For all of C , it is true that Dave does not

⁶⁷ Cf. Mele (2002).

⁶⁸ Kramer (2003), p. 82.

have to do anything – the door will just open itself. So, if C holds, any course of action (other than dying) will make Dave free to leave his cell. However, we do not want to say that ‘not doing anything’ is an enabling path. The reason why ‘not doing anything’ is not an enabling path is that the probability of success is too low. So, we need Probability Requirement 1 for an account of enabling paths.

However, Probability Requirement 1 is necessary but insufficient. The probability of Dave finding the right code in *Dave’s Entrapment* is, for all practical purposes, equal to zero. Imagine, however, that someone gives Dave a piece of paper with the correct 100 digits code. Now, Dave just needs to type in this code to be free. So, the probability of Dave typing in the correct code has drastically increased. This gives us the second requirement.

Probability Requirement 2: for any course of action ψ to be an enabling path for a person P ’s freedom to φ , it needs to be true that it is sufficiently likely that P could find ψ and follow through on it.

Whether Probability Requirement 2 is met or not will depend, *inter alia*, on the information that is available to the agent. It should be clear from *Dave’s Entrapment* that knowledge can influence which freedoms and unfreedoms a person has.

So, overall we can summarise the enabling path aspect of special ability as: if at t there exists at least one enabling path for P to φ at $t+1$, then P at t is free to φ at $t+1$. There is an enabling path only if there is a course of action that is sufficiently likely to be found and successfully executed and whose execution is sufficiently likely to realise φ .

Note that the existence of a freedom does not depend on the number of enabling paths. Of course, if there are many enabling paths with high probabilities of being found and being successful, then this will increase the person’s overall probability to realise the freedom. But whether a freedom exists or not is not decided by how many enabling paths there are.

We now understand the probabilistic requirements of the kind of ability invoked in the Narrow View and see what kind of Vagueness Problem might beset it. Invoking probabilities and

using the formulation ‘sufficiently likely’ in one’s account of ability leaves us with vagueness. Because we are dealing with a binary account of free and not free, we are dealing with proper vagueness. Imagine that the probability that Dave finds the right code is 0.000001 at t . Imagine at $t+1$, the probability has risen to 0.00001. Is Dave now free? It seems not. Imagine it then increases to 0.0001 at $t+2$, then to 0.001, to 0.01, to 0.1, to 0.11, to 0.12 and so on. It seems there is no point identifiable at which we would say that Dave moves from ‘unable’ to ‘able’. I will not try to give a metaphysical and semantic account of vagueness here. Instead, I will mention some reasons why proponents of the Narrow View should not be too worried about vagueness.

First, it should not surprise us that freedom is vague ‘around the edges’. There certainly are enough cases in which we will agree about the right level of probability. At any rate, those unlikely freedoms about which there is disagreement will not make – given their probabilistic qualification – a big practical difference in our measure of overall freedom.

Second, the necessity to distinguish between ‘free’ from ‘not free’ only has implications for a measure of overall freedom that includes *unfreedoms*. In chapter 10, I will argue for two types of overall freedom. One type, *Choice Freedom*, simply measures the range of a person’s choices. For such a measure we do not require a cut-off line between freedom and unfreedom. We can simply use specific freedoms with their probabilistic qualifications. The other type of overall freedom – which I will call *Normative Freedom* – includes unfreedoms. Here we require a cut-off point. But we require such a cut-off point only for those freedoms which would, if sufficiently unlikely, count as *unfreedoms*. All those highly unlikely freedoms which would *not* turn into unfreedoms could be included as highly improbable option using probabilistic qualifications. So, if we have, say, 10 ‘clear’ freedoms and one option which has the probability of 0.001, then including the latter does not have drastic implications for the overall measure. So, the Vagueness Problem does not apply to Choice Freedom at all and to a measure of Normative Freedom only for those freedoms that, if impeded, would be unfreedoms.

In any case, vagueness is a greater problem for alternatives to the Narrow View. Therefore, proponents of the Narrow View need not be worried about vagueness.

Take for example the Ineligibility View. On this view an interference counts as a freedom-constraint on P 's φ -ing only if it either takes away P 's ability to φ or makes φ -ing ineligible. Now, such a view still needs to clarify the conditions under which a person is unable to do something. Therefore, it will have to be just as vague as the Narrow View in this respect. But it will incur an additional source of vagueness. An account of ineligibility will be vague too. Imagine I enjoy sitting on a specific bench in my favourite park; a person who exudes an unpleasant body odour sits next to me. This lowers my joy in sitting on the bench. Did the person's lack of hygiene make me unfree to sit on my favourite bench? If so, which level of unpleasantness need the person's smell have to make the option ineligible? It is not difficult to conjure up a scale of 'unpleasantness' and run the Vagueness Problem on it.⁶⁹

Unlike the Narrow View, the Broad View has to deal with *two* types of vagueness. So, the Narrow View is preferable on that account too.

In this chapter, I have addressed the Strength Question: what strength does an interference need to have to count as a freedom-constraint? I defended the Narrow View according to which a person is unfree to φ only if that person is unable to φ . I showed how that view can deal with all objections and avoid many of the problems that beset alternative views.

⁶⁹ This problem is not specific to the Ineligibility View. Other forms of the Broad View will encounter the same problem. The Moral Responsibility View has to clarify under which conditions external influences should count as 'interferences'. Is the man's smell in the park an interference or merely an external irrelevant influence? So, all versions of the Broad View will have to deal with this 'normative' vagueness.

5 Freedom: Liberal not Republican

In my last two chapters, I have developed my own account of specific freedom and unfreedom. This account was liberal. Recently, the idea of *republican* freedom has received a good deal of attention. It has been developed – as an alternative to liberal freedom – most notably by Philip Pettit and Quentin Skinner. In this chapter, I will engage with this idea, particularly with Pettit’s version of it. I will explain why my account of specific freedom and unfreedom does not include republican elements.

I will proceed as follows.

First, I will explain what distinguishes republican from liberal freedom. Liberals sometimes argue that there is no real difference between republican and liberal freedom. Using my probabilistic, counterfactual framework, I will show that indeed there is (sec. 5.1).

Second, I will then discuss how far such an idea can be developed in a coherent and straightforward way (sec. 5.2). I will point out a number of problems and then see how republicanism might be refined to solve these. It will become clear that, if there is a tenable way to develop republicanism, it is significantly more complex than the liberal alternative.

Third, I will then show why Pettit’s arguments for republican freedom and against liberal freedom fail (sec. 5.3). I will argue that all reasons we have for valuing republican freedom are equally fulfilled by liberal freedom alone. Thus, not only will I have shown that republican

freedom is unsatisfactory *on its own* but also that there is no need to supplement liberal freedom with republican elements. Liberal freedom alone can do the job.

Note that in this chapter I will not discuss whether Pettit's and Skinner's interpretations of historical republicans are adequate. This chapter is not intended as a work in the history of philosophy.

5.1 What's the difference?

Critics of republicanism sometimes claim that there is no real difference between republican and liberal freedom. I will show that this is false. I will now outline republican and liberal freedom and pinpoint the exact conceptual difference between the two.

I have in an earlier chapter divided liberal theories of freedom into two groups. Ability-based views accept:

The Ability View: $\mathcal{A}$ is free to φ if and only if $\mathcal{A}$ is able to φ .⁷⁰

In contrast, on Constraint Views:

The Constraint View: a person P is free to φ if and only if no one would impose freedom-constraints if P attempted to φ .

In chapter 3, I argued that we should accept the Ability View and that a specific unfreedom implies that the person would have the corresponding ability in the absence of all freedom-constraints. In this chapter, I will assume liberal freedom to be ability-based. But the arguments I adduce here can be run, *mutatis mutandis*, with a Constraint View (as long as that view does not interpret 'freedom-constraints' too narrowly). Moreover, to make things simpler, I will not discuss unfreedom but will talk about freedoms only.

⁷⁰ This view, or some view similar, is endorsed by Kramer (2003), Sen (1985), (1988), (1991), van Parijs (1995), pp. 20-4, Sugden (1998) amongst others.

As outlined in chapter 3, we can use probabilities to explain the conditions under which a person is able and thus free to do something. I will redub this the Liberal Requirement:

The Liberal Requirement: if P is free to φ , P is able to attempt to φ and there is a sufficiently high probability that if P were to attempt to φ , P would φ .

The probability identified by the Liberal Requirement will be called *Success Probability*:

Success Probability: Probability (P attempts to $\varphi > P \varphi$ s)

So, Success Probability is the probability that if P were to attempt to φ , P would φ .

Let us now characterise republican freedom and see how it differs from liberal freedom. Republicans require that an agent not only be unconstrained or able to φ but also that no one have the arbitrary power to prevent her from φ -ing. I am not fully free to φ if there is someone else who determines whether I can φ or not, even if that person decides not to actually interfere with my ability. Think of slavery, the paradigm case of unfreedom. Liberal freedom holds that a slave is free to do all those things that his master allows him to do (as long as Success Probability is sufficiently high). Republicans, on the other hand, hold that a slave is unfree even if his master allows him to do many things. The master still dominates the slave, because he has the power to constrain the slave even if, in fact, he does not do so.

Initially, we might think that republican freedom simply requires that an agent have a very high Success Probability. Being free from other people's power to impose a constraint might simply ensure that the probability of having a specific freedom is very high. Imagine at t there is a person who determines whether I can leave my room or not. If at $t + 1$, I then take away this person's power, my Success Probability to leave the room increases.

However, the constitutive difference between liberal and republican freedom is not simply a difference in Success Probability. If it were, republicanism – bringing freedom-constraints under personal and/or democratic control – would simply amount to a set of empirical

‘mechanisms’ to ensure liberal freedoms. But then there would be no *conceptual* difference, because liberal freedom does take account of differences in Success Probabilities.

Instead, the disagreement between republicans and liberals is – I suggest – a question about which probabilities are relevant. ‘Republican Control’ is best captured by the idea that an agent could φ even if someone were to try to constrain her from φ -ing. So, instead of Success Probability, republicans focus on the probability that, *conditional* on the intention of other agents to impose a constrain on P ’s attempt to φ , P could φ if P attempted to φ . So, if, in a possible world, person Q would successfully impede P ’s attempt to φ , then this constitutes an unfreedom over and above the probability that this possible world might be realised.

Republican freedom is thus best captured by the probability that P is able to φ given that P attempts to φ and that some person Q or a group of persons attempts to constrain P in his attempt to φ :

Republican Probability: Probability (P attempts to φ & Q attempts to constrain $P > P \varphi$ ’s)

What level does this probability need to have for a person to be free to φ ? Does it need to be 1? This is too strong. If this were required, no one could ever be free. Rather we should go with a more vague version:

The Non-Domination Requirement: if P is free to φ , then P is able to attempt to φ and the Probability (P attempts to φ & Q attempts to constrain $P > P \varphi$ ’s) is sufficiently high.⁷¹

However, the Non-Domination Requirement as presented above is still too general. Philip Pettit holds, for example, that not all forms of power to constrain are sources of domination. Let us look more closely at his suggestion:

⁷¹ Note that ‘ B ’ is meant to cover any agent or a group(s) of agents. Note also that it might sometimes be the case that two or more agents trying to constrain A might cancel each other out.

‘...someone has dominating power over another, someone dominates or subjugates another, to the extent that

1. they have the capacity to interfere
2. on an arbitrary basis
3. in certain choices that the other is in a position to make.’⁷²

What in this context interests us is condition 2.⁷³ Condition 2 stipulates that not all kinds of interferences are sources of domination, only *arbitrary interferences* are. Someone interferes on an arbitrary basis if the procedure (by which to determine whether to interfere or not) is not designed to track the relevant interests of the individual whose freedom is being constrained.⁷⁴ But what does ‘relevant interests’ mean? If, e.g., the state imposes constraints, then

‘... the formula requires that the state be forced to track the common, recognizable, interests of its citizens and to track only those common, recognizable interests.’⁷⁵

Pettit later explains that

‘[n]on-arbitrary interference, according to this gloss, is not a moralized notion like legitimate interference....‘[N]on-arbitrary’ ... is defined by reference to whether as a matter of fact the interference is subject to adequate checking.’⁷⁶

The idea is that your control over my situation can be checked if I or a deputy of mine has adequate control over your decision to interfere. In an ideal case, my respective level of control over the other person will cancel out her level of control. In other ‘approximate’ cases, either myself or a deputy has the power to keep the currently controlling agent in check through the ability to interfere at a later stage. As explained above, a constraint is *non-arbitrary* if it is the result of a decision-procedure designed to track the avowed or avowal-ready interests of the interferee. This decision-procedure will require the ‘checking’ of the power of the

⁷² Pettit (1997), p. 52.

⁷³ Condition 3 shows that Pettit uses an ability-based account of freedom. Condition 1 requires answers to the Source Question and the Strength Question which I am not discussing here.

⁷⁴ This does *not* mean that all non-arbitrary interferences are always in the interest of the person affected by the interference.

⁷⁵ Pettit (2002), p. 290.

⁷⁶ Pettit (2008), p. 117.

interferer.⁷⁷ To keep the criterion simple I will call interferences that do not fulfil these criteria *arbitrary*.⁷⁸ The Non-Domination Requirement now reads:

The Non-Domination Requirement: if P is free to φ , then P is able to attempt to φ and the Probability (P attempts to φ & Q attempts to constrain P and does so *arbitrarily* $> P$ φ 's) is sufficiently high.

The probability used in the Non-Domination Requirement will henceforth be called *Republican Probability*.

The difference between the Liberal Requirement and the Non-domination Requirement shows the conceptual difference between liberal and republican freedom. Whereas P 's specific liberal freedom to φ is concerned with P 's Success Probability, republican freedom uses Republican Probability, i.e. the probability that P successfully φ s in possible worlds in which other people attempt to *arbitrarily* constrain P 's attempt to φ . The difference between *Success Probability* and *Republican Probability* constitutes the conceptual difference between liberal and republican freedom.

5.2 Republican Freedom: more complicated than it seems

The difference between Success Probability and Republican Probability is straightforward. However, when we try to flesh out republicanism it gets more complicated than it initially seems. In this section, I will point to some problems that such a conception encounters. I will not conclude that this means that republicanism is 'impossible' only that it encounters more

⁷⁷ Cf. Pettit (2008), p. 116-7 and Pettit (2012), pp. 55-8.

⁷⁸ Note that Pettit now calls arbitrary power to interfere 'uncontrolled power to interfere', though he states that this is a change in name only. Cf. Pettit (2012), p. 58. To be consistent with the above quotes and with other republicans I will continue using the term 'arbitrary' here.

theoretical challenges than liberal freedom and that it is questionable at best that it can solve all of these.

5.2.1 Killings and Coalitions

Characterising republican freedom with republican probability immediately reveals a problem for republicans. Because the Non-Domination Requirement requires the absence of the possibility of arbitrary interference it seems to have the following counterintuitive implication: in the ‘real world’, we will never be free in the republican freedom sense.

There are two aspects to this problem. The first problem, explored by Keith Dowding, is variable ‘ Q ’ in the requirement.⁷⁹ Variable ‘ Q ’ in the republican probability is meant to cover individual as well as collective agents. But this being so, it is hard to see how anyone can ever have a specific republican freedom. For every specific act I might want to do, we can imagine some people forming a coalition to prevent me from doing it. If we include such possible coalitions in our variable ‘ Q ’ of the Non-Domination Requirement, it seems I will never have any specific republican freedom. Let us call this *the Coalition Problem*.

Besides (potential) coalitions, individuals make the possibility of republican freedom problematic too. For most agents are capable of stopping me from doing nearly everything. A person could simply buy a gun and shoot me or run me over with a car. Killing is an effective way to take away a person’s freedom. If that is true, it seems the Republican Probability will rarely, if ever, be sufficiently low. Let us call this the *Killing Problem*.

Both problems are serious worries for republicans. How should republicans respond? Pettit states that the scope of variable ‘ Q ’ is restricted only to ‘actual’ coalitions, not merely ‘virtual’ ones.⁸⁰ We could stipulate accordingly that the Republican Probability needs to be sufficiently

⁷⁹ Cf. Dowding (2011).

⁸⁰ Cf. Pettit (1997), p. 54.

high in this and other reasonably nearby possible worlds but not in all possible worlds. So, the fact that a far-fetched coalition – say all ginger-haired people ganging up against me – would be able to dominate me in a distant possible world is not a source of republican unfreedom. Which possible worlds qualify as ‘reasonably nearby’? Some aspects of distant possible worlds are that coalitions in them have very different preferences, have a decision-making capacity they lack in the actual world and so on. Let us here assume the republican has a plausible account to distinguish between distant and the relevant nearby possible worlds.⁸¹ But even with this assumption, we still lack a solution to the *Killing Problem*. For in this and reasonably nearby possible worlds, it is still true that if someone were to change their intention, say whilst driving a car, they could easily kill or at least strongly incapacitate me. One line of response to this problem is blocked: we cannot say that we should only take account of interferences to the extent that they are *likely* to be put in place. For this would turn Republican Probability into Success Probability. Republican unfreedom is supposed to exist even in those cases in which others have the power to interfere but no intention to do so at all. So, if we take people’s actual intentions into account, we collapse republican freedom into liberal freedom.

Liberal freedom, on the other hand, does not have the above problems. It does not need to distinguish between nearby and distant possible worlds. Success Probability automatically includes interferers with their respective probability of actually interfering. It thus avoids the Coalition Problem. Similarly, it avoids the Killing Problem as it only includes those freedom-constraints that are likely to be put in place. So, even though many people might be able to kill me, very few if any have the intention to do so. Therefore, unlike republican freedoms, liberal freedoms are easily attainable.

I doubt that republicans can offer a straightforward solution to these problems. I will, however, not explore these questions in greater detail. Instead, I will argue that *even if* the Coalition

⁸¹ Also cf. Dowding (2011) on these and related issues.

Problem and the Killing Problem are solved, we should go with liberal instead of republican freedom.

As I will show now, further complications arise for republicans, because republican accounts need to be combined with liberal freedom.

5.2.2 Combining republican with liberal freedom

I will first introduce a further potential objection to republican freedom and then discuss whether republicans can meet this objection by combining republican with liberal freedom.

Consider the following case:

Harry in Prison: Harry is justly incarcerated in a just society for committing an offence. His twin brother Henry is just like Harry only that Henry has not committed an offence and is not incarcerated.

On a liberal conception, Henry clearly has more overall freedom than Harry. Being in prison makes Harry less free in many respects. However, according to the Non-Domination Requirement, Henry's freedom is not directly compromised by being incarcerated, because he has been imprisoned *non-arbitrarily*. This, however, is counterintuitive. On any account that sees freedom as a social relation or as an opportunity-concept, detention seems the paradigm case of lack of freedom.

Let us see whether republican freedom can be combined with liberal freedom to avoid a counterintuitive judgement in *Harry in Prison*. The first way to connect the two ideals conceptually is:

Weak Republican Freedom: an agent is free to φ if and only if P is not dominated in her opportunity to φ and P has liberal freedom to φ .

According to this version, non-domination is a necessary but insufficient condition for a person's freedom. To be free in the weak republican sense requires having republican *and* liberal

freedom. Weak Republican Freedom holds that Harry is indeed *unfree* to leave his cell and less free overall than Henry.⁸²

Pettit's alternative way to combine republican with 'liberal' freedom is by distinguishing between *compromising* freedom and *conditioning* freedom:

'Even if domination is the only antonym of freedom, ... undominating or nonarbitrary interference – in particular, the interference suffered in living under a coercive but fair rule of law – must count as a secondary offence against freedom. Such a rule of law will not compromise freedom, ... but it will condition freedom ... it will reduce the range or ease with which people enjoy undominated choice.'⁸³

There are two ways in which someone's freedom can be conditioned without being dominated (and thus compromised).

First, freedom can be conditioned by an ability-constraint. I might, for example, break my leg. This is merely an ability-constraint not a freedom-constraint.⁸⁴ Abilities will condition *how many non-dominated choices* I might have, but they are not themselves sources of unfreedom.

Second, freedom can be conditioned by interferences which count as freedom-constraints on liberal theories of freedom but not on republican accounts. Such interferences are *non-arbitrary*. For example, Harry's detention is such a non-arbitrary, conditioning interference.

So, conditioning influences are relevant for freedom, because they determine how many non-dominated choices will be available to a person.

Compromising: a freedom is compromised if and only if it is dominated.

Conditioning: a person's freedom is conditioned only if either (i) the number of her *ability-obstacles* or (ii) of her *intentional but nonarbitrary* obstacles to the enjoyment of undominated choice is diminished in number.⁸⁵

⁸² This, plausibly, might be Skinner's version of republican freedom. Cf. Pettit (2002) for a discussion.

⁸³ Pettit (2002), pp. 342-3.

⁸⁴ Again, the distinction between ability-constraint and freedom-constraint will be determined by an answer to the Source Question.

This move helps with *Harry in Prison*. Having many republican freedoms requires not being in prison. Because the number of *non-dominated choices is reduced* by his incarceration, Harry has less freedom than Henry. His freedom is conditioned by the non-arbitrary constraints of detention.

So, Pettit's difference between conditioning and compromising goes some way towards accounting for our intuition that Harry is less free than Henry.

However, Weak Republican Freedom and Pettit's version – as it stands – run into other problems. Consider this case:

Peter's Move: Peter lives a year in society S1 in which whether he is allowed to do all those things that matter to him or not, depends on the good will of James. But James is benevolent and lets Peter do nearly everything he might want to do, say he gives him 1,000,000 liberal freedoms. Peter then moves to Society S2 in which the possibility of all those activities important to Peter depends on the good will of John who is a misanthrope. Accordingly, John only gives Peter 10 options.

Because Peter is dominated in both societies, the number of non-dominated choices is the same in S1 and S2. Here are the numbers again:

	Number of non-dominated options	Number of dominated options where domination is not exercised
S1	0	1000000
S2	0	10

I think we should say that, *ceteris paribus*, Peter is less free in S2 than he is in S1. Were our theory of freedom to suggest that Peter is simply unfree in both societies, then it would miss something.

⁸⁵ Note that Pettit now distinguishes between 'invading and vitiating hindrances' but, as far as I can see, this is equivalent to the compromising/conditioning distinction. Cf. Pettit (2012), p. 36.

According to *Weak Republican Freedom*, Peter has the same level of freedom in S1 and S2, because he has the same number of choices that are both non-dominated and free in the liberal sense. Peter's Case shows that Weak Republican Freedom is not convincing.

According to Pettit's distinction between compromising and conditioning, Peter has the same overall freedom in S1 and S2. Remember that freedom is only conditioned if it influences the number of a person's non-dominated choices. In Peter's Case, Peter has the same number of non-dominated freedoms in both S1 and S2. So, his overall freedom is the same in both S1 and S2. This, however, is counterintuitive.

Republicanism thus needs to be refined to account for *Peter's Move*. We can say that a case in which I am dominated but where this domination is not exercised is better in terms of freedom than one in which someone exercises dominating power. Therefore, the fact that John uses his power to actually dominate Peter makes him less free than he would be under James reign. So, *Peter's Move* shows that republicans should accept: being dominated and having someone exercise dominating power is worse in terms of freedom than being dominated without having someone exercise dominating power.⁸⁶ In the following, I will use these abbreviations:

LF – Liberally free

ND – Non-dominated

ED – someone exercising domination

And '⋙' denotes 'offers more freedom than'. So, using these abbreviations, republicans should hold:

A: $\{\neg\text{ND}, \neg\text{ED}\} \succ \{\neg\text{ND}, \text{ED}\}$

⁸⁶ Pettit accepts this point, cf. Pettit (2002).

A accounts for *Peter's Move*. However, as I will suggest, republican freedom gets more complex still. Consider a modified version of *Peter's Move*:

Peter's Move 2: in both societies S1 and S2, Peter is fully dominated. Unlike in *Peter's Move*, the dominating person (say James in both societies) now gives him 10,000 options in both S1 and S2. However, out of these 10,000 options, Peter can only use 100 options in S1 whereas he can use 8,000 options in S2. That is, in S1 there are non-arbitrary constraints in place that only give him 100 liberal freedoms, whereas in S2 Peter has 8,000 liberal freedoms. This is so because S1 experiences frequent epidemics. To control these epidemics, very strict, yet justified, policies are in place which is why Peter can only use 100 options. S2, on the other hand, is not threatened by epidemics and thus requires fewer non-arbitrary constraints.

Here are the numbers again:

	Number of non-dominated options	Number of options without exercise of domination	Number of liberal freedoms
S1	0	10,000	100
S2	0	10,000	8,000

In *Peter's Move 2* we would want to hold that Peter has more freedom in society S2 than in S1. So, republicans need to hold that it also matters how many liberal freedoms one has. If republicans want to accommodate *Peter's Move 2*, then they need to hold that

$$\mathbf{B}: \{\neg\text{ND}, \text{LF}\} > \{\neg\text{ND}, \neg\text{LF}\}$$

B is not the same as **A**, because someone not exercising domination might still leave it open whether there might be other *non-arbitrary* constraints that take away liberal freedom.

So, while it is true that ED implies $\neg\text{LF}$, it is not true that $\neg\text{ED}$ implies LF. Therefore, **B** and **A** are different.

Let us now combine ND, ED and LF and rank all possible permutations between these. Being actively dominated (ED) implies not being liberally free ($\neg\text{LF}$) and it implies being domi-

nated ($\neg$ ND). Being liberally free (LF) implies that no dominating power is exercised ($\neg$ ED).⁸⁷ Therefore, we can exclude a number of permutations. We are then left with the following two republican orderings (note that for all those cases in which dominating power is not exercised, I have omitted ' $\neg$ ED', so for the first four pairs it holds that dominating power is not exercised).

Republican specific freedom 1:

$$\{ND, LF\} > \{ND, \neg LF\} > \{\neg ND, LF\} > \{\neg ND, \neg LF\} > \{\neg ND, \neg LF, ED\}$$

So, on this version of republicanism, it is best to be non-dominated and liberally free. Being non-dominated but not liberally free is second best. This is followed by being dominated and liberally free which in turn is better than being dominated and not liberally free. The worst state in terms of freedom is being dominated and the dominator exercising his dominating power.

But we could change this ranking. Republicans could give greater weight to liberal freedom and hold that having dominated liberal freedom $\{\neg ND, LF\}$ is better than being non-dominated without liberal freedom $\{ND, \neg LF\}$. So we would swap the second and third pair:

Republican specific freedom 2:

$$\{ND, LF\} > \{\neg ND, LF\} > \{ND, \neg LF\} > \{\neg ND, \neg LF\} > \{\neg ND, \neg LF, ED\}$$

These rankings show that to account for *Peter's Move* and *Peter's Move 2*, republicans need to complicate the picture significantly.

⁸⁷ That LF implies $\neg$ ED does not mean that if someone is liberally free, then there is someone else who has dominating power over her but does not exercise it. Instead, it means that for any person x it holds that if x is liberally free, then for any person y it holds that if y has dominating power over x , then that dominating power is not exercised.

Remember that these orderings are for specific freedoms. Now to develop an account of *overall freedom*, republicans still need to aggregate these specific freedoms. This gets quite complicated.

If we are considering more than one specific (un-)freedom, non-domination and liberal freedom can conflict. Consider:

Jane: In society S1, James gives Jane – depending on his goodwill – 1000 options. In society S2, Jane’s choice does not depend on James’s goodwill – she is non-dominated – but she can only choose between 10 options. In S1, Jane has more choice. In S2, Jane has fewer options but is not dominated by anyone.

	Number of liberal freedoms	Number of non-dominated options
S1	1000	0
S2	10	10

An account of republican freedom needs to take a stance on whether it is better to have more dominated liberal freedoms or fewer yet non-dominated choices. The refined versions of republican freedom need to show where the indifference curves between ‘non-domination’ and ‘liberal freedom’ run. So, the orderings of the different versions of republicanism cannot be purely ordinal.

Because it needs to account for non-domination, ‘exercising domination’ and liberal freedom, republican specific freedoms are quite complex. But aggregating these specific freedoms into overall freedom gets even more complex still.

5.2.3 Too Complicated?

We have seen that republicans face serious challenges. Even if they manage to overcome the Coalition and the Killing Problem, they will end up with a significantly more complex posi-

tion than liberal freedom. However, this is not a knock-down objection. If our normative reality is that complex, then, alas, these complications are necessary.

This points to a different challenge: republicans need to give reasons why we should incur all those theoretical difficulties and why liberal freedom alone is not enough. Specifically, they need to show that, (i), there are reasons to value republican freedom and that, (ii), these values can only be fulfilled by a position that combines republican and liberal freedom and not by a pure version of liberal freedom. Also, these reasons must be so strong that they outweigh the aforementioned theoretical difficulties that any version of republicanism will encounter.

If (i) and (ii) are not available, as I will show in section 4, there is no reason to prefer a combined republican-liberal version over a conception of pure liberal freedom. So, by responding to arguments for republican freedom, I will show why we do not need to incur all the theoretical difficulties that ensue from republicanism.

5.3 Arguments for Republican Freedom – and where they fail

I will now discuss three arguments for republican freedom presented by Philip Pettit. In the context of my argument, I will argue that the more complex republican theory explained above – that is, one that combines republican with liberal freedom – will not be preferable to a ‘pure’ liberal theory on normative grounds. I will thus show that, even if we can develop a complex theory of the type explained above, the republican elements therein are unnecessary.

(i) The Uncertainty Argument

Pettit argues that republican freedom avoids the ‘extra malaise’ of having uncertainty about one’s freedoms. Thus republican freedom does not, whereas as liberal freedom is likely to produce, a ‘high level of anxiety’:

‘Imagine that we have a choice between leaving employers with a lot of power over employees, or men with a lot of power over women, and using state interference to reduce such power. Maximizing overall non-interference is perfectly compatible with taking the first option. While we do not guard against interference by the stronger under that option, we may not think that it is very likely to occur ... Thus maximizing overall non-interference is perfectly compatible with forcing the individual employee or the individual woman to have to live with much uncertainty.’⁸⁸

But is it really true that republican freedom secures certainty whereas liberal freedom leaves us with a high level of uncertainty?

First of all, the Uncertainty Argument is problematic specifically for Pettit’s own version of republican freedom. Pettit believes that non-arbitrary constraints condition freedom but do not compromise it. So, when I have knowledge of my republican freedom to meet my grandparents, then I know that no one can *arbitrarily* interfere with my freedom to do so but *not* that someone might *non-arbitrarily* constrain me. So, for example, because of important security measures the street might be blocked off by the police and this might be a non-arbitrary decision whose decision-procedure is designed to track my relevant interests. Because liberal freedom alone takes account of both arbitrary and non-arbitrary interferences in probability judgements, it will often turn out that liberal freedom offers a higher Success Probability than republican freedom. If the subjective feeling of ‘certainty’ is, at least partly, a function of Success Probability, then liberal freedom will often result in higher certainty than republican freedom.

However, for a different reason, the Uncertainty Argument is also problematic for the more complicated version of republican freedom I developed in previous sections, that is, a version that combines republican freedom with liberal elements. Above we saw that the constitutive difference between liberal and republican freedom lies in the difference between Success Probability and Republican Probability (or the Liberal Requirement and the Non-Domination

⁸⁸ Pettit (1997), p. 85.

Requirement). Because republican freedom is not conceptually wedded to a higher Success Probability, it is not conceptually linked to a lower level of uncertainty.

If we care about uncertainty, we should worry about Success Probability and not about Republican Probability. For whether I will be able to φ or not depends on whether someone will try to keep me from φ -ing. If we care about uncertainty, we should thus care about Success Probability, not Republican Probability. This shows, again, that there is no need to supplement liberal freedom with republican elements. Liberal freedom alone will account for uncertainty.

Note that this is compatible with holding that we have empirical reason to be concerned with the kinds of institutional safeguards republicans envisage. Human beings have wills and powerful people are not always nice. Therefore, if we want to implement a conception of liberal freedom, this should give us good *empirical reason* to institutionally safeguard certain freedoms. This, however, does not mean that we need to supplement our *theory* of freedom with republican elements.

(ii) The Strategy Argument

Pettit's second argument – henceforth called *the Strategy Argument* – runs like this:

‘A world in which strategic flattery and avoidance is rampant – a world in which women become adept at placating their men folk, for example, or at not crossing their paths – may represent the best prospect for keeping interference as such at a minimum.’⁸⁹

The conclusion being:

‘[I]t is a clear advantage of the ideal of freedom as non-domination that ... it presents a picture of the free life in which the need for strategy is minimized.’⁹⁰

The charge is that a person can have more liberal freedom if she lives in a situation in which she has to ‘placate’ a more powerful person and/or make sure that she does not cross her

⁸⁹ Pettit (1997), p. 87.

⁹⁰ *Ibid.*

path. Because republican freedom safeguards against arbitrary interference, such strategic considerations are not necessary.

Again, we need to show that a theory that combines republican with liberal freedom will be more successful in avoiding the need for strategising. Because the Strategy Argument has been exhaustively addressed by other proponents of liberal freedom, I will here just quickly rehearse the main line of response. Proponents of liberal freedom usually accept that not only do the number of options determine one's level of freedom but that the ways in which one can combine these options do as well (their 'conjunctive exercisability'). So, a woman who can choose between

Option 1: having a child

and

Option 2: pursuing a career

has less overall freedom than a woman who can choose between:

Option 1: having a child

Option 2: pursuing a career

Option 3: pursuing a career and having a child.

Similarly, a person who can do what she wants without strategising has more *liberal* freedom than a person who can *either* not strategise *or* be able to do what she wants to do. Because we do not need the Non-domination Requirement to reduce the need for 'strategising', the Strategy Argument fails.⁹¹

(iii) The Subjective Benefit Argument

Pettit's third argument for republican freedom will be called the Subjective Benefit Argument:

⁹¹ Cf. Kramer (2003), ch. 2, (2008), Carter (1999), chs. 7-8, De Bruin (2009) and Lang (2012) for this argument.

‘...the fact that someone enjoys non-domination is likely to become a matter of common knowledge and to generate associated subjective and intersubjective benefits.’⁹²

Having freedom as non-domination means not being subordinate in status. This, presumably, contrasts with liberal freedom. Even if I have many liberal freedoms, I am still subordinate to others if my freedoms depend on their goodwill. Think about a person whose 1000 freedoms at t depend on the goodwill of James. After an institutional change at $t+1$, her 1000 freedoms do not depend on James’ goodwill any more, she is now non-dominated. Because it is common knowledge that she is now non-dominated, she does not have to feel subordinate to James any more. Republican freedom thus facilitates equality of status. Because liberal freedom just focuses on Success Probability, the difference in status is not taken into account.

However, liberals can respond that, under normal conditions, equal status usually goes together with having more liberal freedom:

The Empirical Connection Thesis: *ceteris paribus*, reducing status inequalities within a society increases the level of overall freedom for the subordinate person(s).

Such an empirical connection should not surprise us. It seems plausible that if a person’s subordination to another person is reduced, then this will typically increase the number of specific freedoms and/or reduce many specific unfreedoms.⁹³ So, if we believe that, empirically, status equality and freedom often come together, we can account for the intuition behind the Subjective Benefit Argument.

However, republicans might now respond to the Empirical Connection Thesis claiming that freedom requires not only an empirical connection but a *conceptual connection* with equality of status. Republicans might claim that freedom is conceptually wedded to the subjective benefit of ‘feeling equal in status to someone else’ in conditions in which domination relations are

⁹² Pettit (1997), p. 87.

⁹³ I will not try to specify the cp-clause in the Empirical Connection Thesis nor will I defend the thesis in greater detail – even though it seems plausible. This thesis is defended to some extent by Carter (2008), De Bruin (2009) and Kramer (2003), (2008).

common knowledge (and in which agents are not ‘psychologically abnormal’). But how plausible is such a conceptual link? I find it rather unconvincing.

First, *prima facie*, I see no reason why a conceptual link should commend itself over an empirical connection.

Second, we should be wary of conceptually inflating freedom. We might, for example, also claim that people who have a high degree of overall freedom are also, under normal conditions, happy. There is an empirical and defeasible link between freedom and happiness.⁹⁴ But it seems implausible to somehow conceptually include happiness in a conception of freedom. Rather, we should allow that freedom and happiness can sometimes be conflicting values. Similarly, we should allow that freedom and ‘status equality’ might sometimes be conflicting values, even though they should be positively correlated empirically.⁹⁵

The methodological worry here is similar to Isaiah Berlin’s critique – leaving aside his ‘political’ arguments that positive freedom is often misused for political oppression – of (many) conceptions of ‘positive’ freedom. Some writers tend to develop certain values along the lines of other things they might find valuable. For example, if a socialist favours societies in which the means of production are in the hands of the workers, then she might conclude that freedom means living in a socialist society. However, we should be wary of such moves. *Ceteris paribus*, it seems we should (i) try to keep a conception of freedom as easy and straightforward as possible, (ii) make it as isomorphic with our intuitions as possible and (iii) develop it such that the conception is conceptually linked only to those benefits that are not more typically connected with other values. As regards as (i), we can safely judge that my conception of freedom will be easier than Pettit’s conception, because we have seen in section 5.2 that republican freedom needs to include liberal elements. What I mean by (iii) is that if we have

⁹⁴ Cf. Layard (2005), pp. 69-70.

⁹⁵ A straightforward empirical way in which freedom can *conflict* with a feeling of equal status is explained by Schwartz (2004), chapter 9.

reasons to value the subjective benefit of being equal to other agents and if this benefit is best fulfilled by, for example, ‘relational equality’, then we should not work this value into freedom. This is particularly so, if this value will sometimes conflict with other reasons for valuing freedom.

So, not everything that is valuable and that empirically tends to come with freedom need itself be part of a conception of freedom.

Republicans might now reply that the reason for a conceptual connection between equality of status and freedom is that our concept of freedom is shaped by the long and eminent tradition of republicanism. So, if we include our intuitions and beliefs that come from this tradition, then there is a reason for such a conceptual connection. Such a reply overlooks, however, that liberal freedom has a long and similarly important tradition as well. So, it is clear that we cannot choose republicanism on the basis of its ‘historical authority’. Independent non-historical arguments are required. These, as I have tried to show, are not available to the republican.

This completes my response to the Subjective Benefit Argument.

I conclude that Pettit’s three arguments for republican freedom are unsuccessful.

5.4 Conclusions

In section 5.2 we saw that it is highly questionable whether there is a way to coherently develop an account of republican freedom. Even if there should be, it will be much more complicated than its purely liberal counterpart. In section 5.3, I showed that there is no independent reason to prefer such a complex republican theory over ‘pure’ liberal freedom. All those reasons brought up in favour of republican freedom equally speak (if not more) for pure liberal freedom.

Therefore, I have shown that when developing a theory of freedom we should, first, prefer pure liberal freedom over pure republican freedom and that, second, there is no need to supplement liberal freedom with republican elements.⁹⁶ Liberal freedom alone can do the job.

⁹⁶ This does not entail that we should reject the kinds of political institutions republicans suggest. We might support such institutions on the basis of different normative concepts.

Summary

In the first part of this dissertation, I have developed my account of specific freedom and unfreedom. In the first chapter, I argued against Constraint views and defended:

The Ability View: P is free to φ iff P is able to φ .

I then analysed what it means to be *unfree* to φ :

Unfreedom: P is *unfree* to φ iff there is at least one freedom-constraint that would prevent P from φ -ing if P attempted to φ and, in the absence of all freedom-constraints, P would be able to φ .

I then argued that a freedom-constraint should be analysed like this:

The Distributive Account: y is a freedom-constraint on P 's freedom to φ only if there is at least one person whose imposition or non-removal of y (in the past, present or future) is *pro tanto* wrong, in an evidence-relative sense and in the absence of disabling conditions, in virtue of the worse distribution of freedom resulting from y .

In some sense, the Distributive Account is incomplete, because I have not yet explained what makes distributions of freedom better or worse. I will do so in the third part of this dissertation.

In my second chapter, I answered the *Strength Question*. Specifically, I defended the Narrow View according to which a constraint makes one not free only if it prevents one from doing something (or, which is equivalent, ability implies freedom). The Narrow View – which needs to be true for the Ability View to be true – has been criticised on the grounds that it seems to exclude threats as freedom-reducing influences. I argued that using the *conjunction* of specific freedoms accounts for the relevance of threats on the Narrow View, further spelled out the temporal and probabilistic aspects of the Narrow View and argued against its competitors.

In my third chapter, I explained what distinguishes liberal from republican theories of freedom and argued against Pettit's republican theory.

Part II: Overall Freedom

6 Introduction to Part II

The aim of the second part is to develop a measure of *overall freedom*. Such a metric will allow us to make comparative judgements involving overall freedom. Here are two examples:

- The average person in the UK is more free than the average person in North Korea
- Someone with a lot of money has, other things being equal, more freedom than someone with less

To give you a structure of this part, I will now present a very simple measure of overall freedom and show a number of its shortcomings. These problems are instructive in that they provide us with the structure for part II.

A very simple measure of overall freedom holds that the more specific freedoms a person has, the more free she is overall. What I will call, *the Cardinality Account*, looks like this:

OF1=number of a person's specific freedoms

So, overall freedom is simply the cardinality of the set of specific freedoms available to a person. This measure has a number of problems.

The first problem, henceforth the *Individuation Problem*, is that the Cardinality Accounts needs to say something about how to individuate the freedoms it aggregates. Say set A consists of {red gummy bear, yellow gummy bear} and set B consists of {small package of gummy bears, large pack-

age of gummy bears}. Simply counting the items in these sets would result in the judgement that *A* and *B* contain the same amount of freedom. This is counterintuitive. At the very least, the items in the sets need to be individuated uniformly across sets. Even then, rankings of sets will sometimes change their order depending on which method of individuation we use. But there is a more general problem if our aim is not simply to order given opportunity-sets but to give an account of *overall freedom*. For such an account seems to imply that we have an account of individuation that results in a *finite* range of freedoms. We need an account of ‘specific freedom’ that gives us units to measure a person’s range of freedoms that avoids the result that everyone is always infinitely free.

The second problem I will call *the Compossibility Problem*. As argued earlier, when we measure for more than one future time period, it might not only matter how many individual freedoms there are in each time-period but also how we can combine them. This was the example used earlier:

- Option 1: having a child
- and
- Option 2: pursuing a career

This offers a woman less overall freedom than a choice between:

- Option 1: having a child
- Option 2: pursuing a career
- Option 3: pursuing a career and having a child.

So, to be plausible, the Summing Account needs to be modified such that it takes account not only of individual options but also of their *conjunctions*.

In chapter 7, I will address *the Individuation Problem* and *the Compossibility Problem*.

The third problem will be called *the Value and Diversity Problem*. The Cardinality Account weights all freedoms equally. However, if I have 10 *really good* options, then that seems to of-

fer more freedom than 10 *terrible* ones. Moreover, if my opportunity-set has 10 distinct but *very similar* options, then this seems to offer less freedom than a set with 10 very *diverse* options.

In chapter 8, I will take up this problem and argue that we need evaluative considerations in our measure. In chapter 9, I will discuss what these considerations are. In both chapters, I will defend a *Hybrid Account* according to which both the quality and the sheer quantity of options matter.

Lastly, the Cardinality Account might be inadequate, because it is too narrow in its focus. If a specific freedom is equivalent to a specific ability, then overall freedom is equivalent to a person's range of abilities. Steiner, for example, argues that such a view

‘...confuses liberty with ability. If this is a proper conception of liberty at all, it is certainly not the one which concerns us as political philosophers. Liberty is a social relation, a relation between persons. [...] For while it is undoubtedly true that the average member of an advanced society is able to do, and unrestrained from doing, many more actions than his counterparts in less advanced societies, it is equally true that he is able to do, but restrained from doing, many more actions than they. That is, there are many more actions which he is *unfree* to do. Simply to ignore them, in estimating the extent of a person's liberty, is to misconstrue the object of such an exercise.’⁹⁷

In my final chapter of part II, I will address this problem. I will show that the Distributive Account defended in chapter 3 allows us to keep the idea that freedom is about abilities without ignoring unfreedoms in our measure of overall freedom. It is in this last chapter that the different strands of my previous analysis come together and I will present my *measure of freedom*.

⁹⁷ Steiner (1982), p. 74.

7 Aggregating What?

What does a measure of overall freedom aggregate? There are two questions in particular.

First, if we aim to ‘add up’ specific freedoms, we need an account of their *individuation*. What I have called the Individuation Problem will be discussed in the first part of this chapter. Answering this problem is important, because some critics think that this problem makes measuring overall freedom a hopeless endeavour.⁹⁸ Addressing the Individuation Problem will thus make an account of overall freedom more convincing.

Second, in the introduction I mentioned that aggregating specific freedoms might lead to, what I called, *the Compossibility Problem*. Thus, we should not only care about how many specific freedoms a person has but also how she is able to combine them. I will discuss this in the second part of this chapter.

7.1 The Physicalist Account

Specific freedoms can have different levels of specificity. For example, I am generally free to drink coffee, I am also free to drink coffee *now*, I am free to drink this particular coffee with a bit of milk now etc. Solving the Individuation Problem does not require finding the ‘objectively correct’ level of specificity for specific freedoms. Instead, it requires individuating spe-

⁹⁸ Cf. O’Neill (1979), p. 50 and Kymlicka (1990), pp. 140-1 for example.

cific freedoms such that it allows us to measure the range of a person's range of abilities. This method of individuation needs to be such that it captures all those things we want to include in our measure of freedom without, however, leading to infinite freedom or unfreedom for everyone. Moreover, once we have such an account it needs to be applied consistently to all those choice-sets under consideration.

Let us now discuss answers to the Individuation Problem. The first account, to be called *the Property-Based Account*, is an extension of the Multiplier Thesis in the philosophy of action. This account of action-individuation holds that an act-token is an exemplification of an act-property through an agent at a time.⁹⁹ So, when we use a specific freedom like 'freedom to play tennis at t ', then this freedom is individuated by the property 'playing tennis' that an agent (would) instantiate.

The alternative, henceforth the *Physicalist Account*, is similar to Donald Davidson's account of act-individuation. According to Davidson, acts are spatio-temporally located particulars.¹⁰⁰ Although their accounts are slightly different Carter and Kramer use a Physicalist Account to individuate freedoms.¹⁰¹ The idea is to divide space-time into equally sized regions to then ascertain 'the sets of spatial regions that can be occupied by his [the freedom-holder's] body and by concomitant objects during some specified span of time'.¹⁰² So, we measure the area an agent can occupy at different times by carving up space-time into equally-sized units.

One might be misled into thinking that the aim of the Physicalist Account is to individuate 'pretheoretical' notions of abilities. But really what the Physicalist Account does, I suggest, is to devise a four-dimensional grid to measure the *area* an agent can occupy at different times.

⁹⁹ Cf. Goldman (1971), p. 771. Note that we might be concerned with more than just actions. The Property-Based Account individuates freedoms on properties more generally, not only act-properties.

¹⁰⁰ Cf. Davidson (1980), chs. 9 and 10.

¹⁰¹ By calling it the 'Physicalist Account' I do not mean to suggest that this account is committed to physicalism in the ontological sense, roughly, the idea that there are only physical properties and that all other properties are reducible to physical ones.

¹⁰² Carter (1999), p. 380.

The area within which an agent can act will be called *ability-space*. The idea is thus to find a *unit* to measure ability-space rather than individuating pre-theoretically given abilities.

7.1.1 Arguments

I will now argue that we should accept the Physicalist Account and reject the Property-based Account, because the Physicalist avoids infinity whereas the Property-Based Account does not. In doing so, I will largely follow Carter's arguments for this claim.¹⁰³ There are three reasons why we might worry about an infinite number of freedoms/unfreedom.

First, Carter discusses, what we can call, the *Infinite Description Problem*.¹⁰⁴ This problem is nicely exemplified by G.E.M. Anscombe:

'[A]re we to say that the man who (intentionally) moves his arm, operates the pump, replenishes the water-supply, poisons the inhabitants, is performing four actions? Or only one?'¹⁰⁵

If we accept that the man did four actions rather than one, it seems that we can simply *enlarge* our level of overall freedom by adding extra descriptions of actions. We might then worry that we are 'inflating' someone's freedom by simply adding descriptions. Ultimately, we might end up with an infinity of freedoms/unfreedom.

Second, even if we have solved the Infinite Description Problem, we also face the problem that actions are divisible into smaller and smaller units.¹⁰⁶ Ultimately, we get infinitely many small freedoms. My freedom to drink coffee now might be subdivided into taking a sip of coffee now and then this sip might again be subdivided into the very atoms of the coffee that get into my mouth etc. Let us call this *the Infinite Divisibility Problem*.

¹⁰³ Cf. Carter (1999), sec. 7.

¹⁰⁴ Cf. Carter (1999), sec. 7.2.

¹⁰⁵ Anscombe (1957), p. 45.

¹⁰⁶ Cf. Carter (1999), sec. 7.3.

The Property-Based Account is open to both objections. First, the Property-Based Account runs into the Infinite Description Problem. When I do one ‘action’, I actualise more than one property. I operate the pump, lift my arm and so on. Therefore, there is more than one act-property instantiated. It seems we could thus inflate freedom if we just use a broad enough range of properties. We could, for example, use all kinds of relational properties. If we count things like being one metre away from a computer or 100 metre away from a tennis court etc., then we will always have infinite freedoms. The same is true for the Infinite Divisibility Problem. Although we do not have the kind of every-day language properties to describe infinitely small freedoms, we can still use mathematical and scientific properties to describe them.

Can the Property-Based Account avoid these problems? To do so, the Property-Based Account could restrict the kinds of properties that can be realised as freedoms. This solution might be relatively successful to avoid the Infinite Divisibility Problem: we only use the ‘smallest’ kind of property that can ever carry freedom-specific value and disregard smaller ones. However, the problem with this is that more sizeable properties would have to be excluded. My freedom to move an atom will always be part of my freedom to hit a tennis ball. So, we need to exclude the latter category to avoid double-counting.

We might now ask what these ‘smallest’ properties should be. To account for bigger properties, we want small-scale properties upon which all other relevant bigger properties supervene. But what are these properties? It seems that we should use small properties that constitute all relevant bigger properties. But this just means using small *physical* properties which collapses the Property-Based Account into the Physicalist Account. Therefore, when trying to solve the Infinite Divisibility Problem, the Property-Based Account collapses into the Physicalist Account.

Also, it is difficult to see how the Property-Based Account might avoid the Infinite Description Problem. Again, we might want to restrict the kinds of properties. We might restrict it only to *intrinsic* properties. But this would exclude some of the important relational properties

that can carry freedom-specific value. Say, the freedom to hit a tennis ball over a fence. Alternatively, we could try to restrict properties only to those properties that we think can ever be normatively important. But what can we exclude on the basis of this criterion? One aspect that is valuable about freedom is that, in the absence of knowledge of what people desire, more freedom is more likely to lead to preference-satisfaction. But what could ever escape this category? Of course, there are properties that *de facto* no one has ever desired. However, the fact that a property has not been desired before does not imply that it never will. So, our intuitions about freedom do not give us enough reasons to rule out certain properties. Therefore, I doubt the Property-Based Account can solve the Infinite Description Problem.

Unlike the Property-Based Account, the *Physicalist* Account avoids these problems.

First, by dividing space-time into equally sized units, the Physicalist Account avoids actions being re-describable and thus multipliable. Thus it avoids the Infinite Description Problem. Second, it also avoids the Infinite Divisibility Problem. By having equally sized space-time units, the Physicalist Account avoids an infinite regress into smaller units. We might go about this like this: if person *P* lives in an 8 m³ cell for one day, then the area that he can occupy is smaller than *Q*'s area who stays in a 16 m³ cell for a day (both cells have the same height). This is so, even if there is an infinity of points in both cells.¹⁰⁷

So, overall it is 2:0 for the Physicalist Account.

7.1.2 Objections

Despite its advantages, there are challenges for the Physicalist Account. Here, I will not discuss the following two objections: first, using only spatiotemporal properties, our account leaves out that some ranges of abilities are more valuable than others. Second, it might also matter how *diverse* the options are that fall into a certain opportunity-space. By focusing on

¹⁰⁷ Note that this example does *not* imply, on the measure I will defend in later chapters (8 and 9), that *P* is twice as free as *Q*.

spatiotemporal properties only, we miss this aspect. I will discuss both points in much greater detail in chapters 8 and 9.¹⁰⁸

Let us now address some other worries.

(i) Objection 1

The Physicalist Account uses types rather than tokens.¹⁰⁹ Let us, for simplicity, discuss *act*-tokens and *act*-types. An act-token is the actualisation of an act-type where an act-type is simply one or more properties that can be actualised by acts. In other words, my typing now is an act-token of the act-type ‘typing’.

However, one might now object that using types collapses the Physicalist Account into a Property-Based Account. After all, act-types are just properties that pertain to acts. If this is the case, then we inherit all the problems that the Property-Based Account encountered.

However, these worries are unfounded. Even though it is true that the Physicalist Account individuates act-types, it individuates these on the basis of *physical* properties, i.e. time and space. The ‘time-property’ for act-types here refers to *stretches* of time. Say the freedom to go the museum between 12 and 1. Now if I go to the museum at 12.59, then this is an act-token of the above type. But aggregating my freedom to go at 12.57, at 12.58 and so on is not required if the relevant unit is ‘between 12 and 1’. This shows that there is no ‘aggregation problem’. Moreover, it shows that the Physicalist Account is markedly different from the Property-Based Account, because it limits the relevant properties to physical ones. Because all other relevant properties supervene on (or are somehow constituted by) physical properties,

¹⁰⁸ Another objection, which I will not discuss here, is that space and time are not absolute but relative to a frame of reference. Let me simply state that this measure is for situations in which the observer’s velocity is sufficiently low. This is also the range of cases to which we should expect our measure to apply.

¹⁰⁹ We should use act-types rather than tokens to avoid the Infinite Divisibility Problem. Cf. Carter (1999), pp. 186–8.

the Physicalist Account can cover all relevant freedoms whilst also avoiding ‘infinite freedom’.¹¹⁰

(ii) *Objection 2*

The second objection is the most straightforward but possibly also the most forceful one. Dividing space and time into very small units, then gauging how agents can move around in them, how they can have causal effects on other objects whilst also looking at how they can combine these freedoms is getting quite complex – too complex for all practical purposes.¹¹¹ If we accept the Physicalist Account, we will never actually be able to measure freedom.

This objection has been addressed by Kramer, so I will simply rehearse his reply. When developing a measure of freedom in a philosophical context, what we are looking for is not so much practical realisability but conceptual coherence. Devising a spatio-temporal grid seems possible in principle, even though we could not do so in practice. Measuring freedom is conceptually coherent on the Physicalist Account and this is what matters.¹¹²

However, Kramer’s reply might raise doubts about the overall *point* of constructing such an ideal measure. Should we not look for an account of freedom that *we can in fact calculate*? Let me make two comments on these worries.

First, developing an ideal, conceptually coherent account of freedom is clearly relevant when we aim to develop a *proxy* of freedom. When devising such a proxy, we need to know what we are approximating. That is why developing an ‘ideal’ measure is relevant.¹¹³

¹¹⁰ Note that we do not have to assume that there are *only* physical properties in this world. We can readily allow that there are *sui generis* non-physical properties. Since we are concerned with measuring freedoms, we can allow such a rich ontology, as long as these non-physical properties are ‘captured’ by their underlying physical properties in a quantitative sense.

¹¹¹ The causal effects on other objects merit a separate discussion which I have not included here. Roughly, Carter (1999), pp. 188-9 argues that causal effects should only be included in the limited sense in which they can be foreseeable.

¹¹² Cf. Kramer (2003), pp. 381-3, see also Carter (1999), sec. 3.4.

¹¹³ Cf. *ibid.*

Second, showing that some ideal is *conceptually coherent* is of value as well. Some critics of freedom-based liberalism argue that an account of overall freedom is not to be had even in principle; one reason for this being that counting specific freedoms is incoherent in principle.¹¹⁴ So, showing that such an account of overall freedom *is* conceptually coherent can thus be important for normative debates, because it shows that freedom is a more attractive ideal than some make it out to be.

Third, there is no ‘objective’ size that the spatio-temporal units need to have. Of course, the more fine-grained our grid, the more precise will be our measure. But, nonetheless, how fine-grained our units need to be depends on the context of enquiry. So, even though the units will be tiny for our ‘ideal’ measure, this does not mean that more practical circumstances require such complexity.¹¹⁵

So, the Physicalist Account can parry all main objections and thus best provides the unit for our metric of overall freedom. Let us now move on to the second challenge: the Compossibility Problem.

7.2 Freedom-sets

The question to be discussed now is: should our measure of ability-space use simple freedoms or sets of compossible freedoms as its unit? Two freedoms are compossible if and only if there is an accessible possible world in which they are actualised together. Steiner suggests counting individual freedoms (and unfreedoms). Carter disagrees and aggregates over sets of compossible freedoms.¹¹⁶ Again, both approaches might be misleading in the idea that we

¹¹⁴ Cf. O’Neill (1979), p. 50 and Kymlicka (1990), pp. 140-1 for example.

¹¹⁵ Cf. Kramer (2003), pp. 381-3.

¹¹⁶ Cf. Steiner (1982) and Carter (1999), pp. 180-3.

‘count’ freedoms. A different way of looking at it is to aggregate compossible freedoms to measure compossible ability-space.

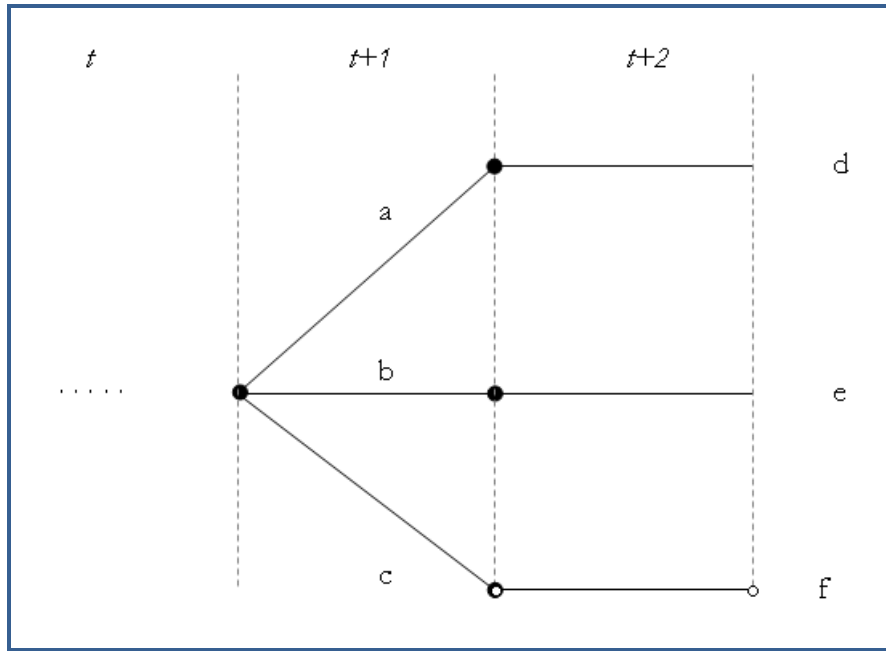
Let us look at an example to understand the difference between, what I will call, the *Individual Approach* (aggregating over individual freedoms) and the *Compossible Approach* (aggregating over sets of compossible freedoms). To keep things simple, I will use a formula according to which a person’s level of overall freedom is the cardinality of the set of her (individual or sets of) present and future freedoms. Note also that in this section, unless stated otherwise, all options are taken to be equally valuable in the freedom-associated sense. For ease of reference, I will call sets of compossible freedoms ‘*freedom-sets*’.

At t person $\mathcal{A}$ has the freedom to do a, b or c at $t+1$ and the freedom to do d, e, f at $t+2$.

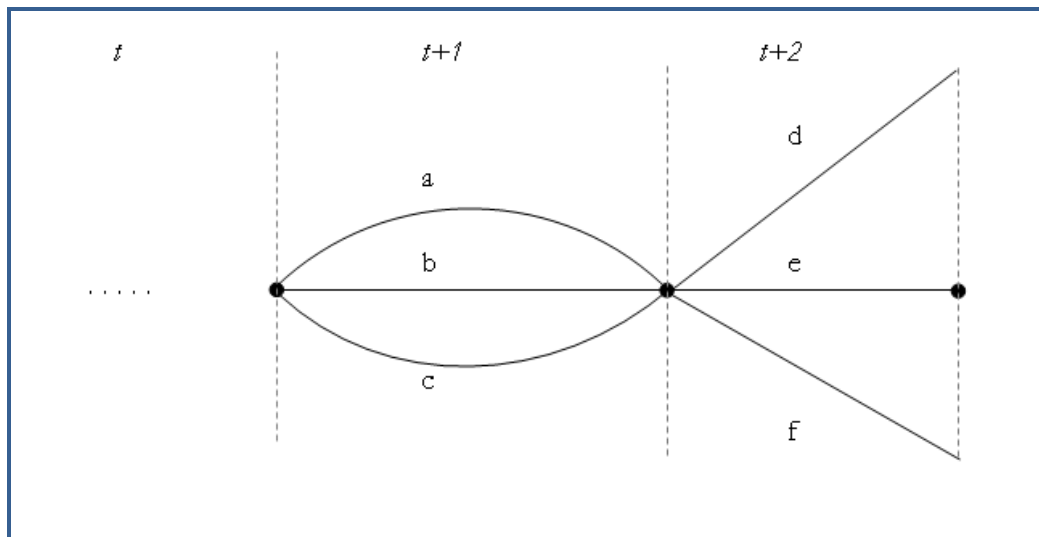
Time	$t+1$	$t+2$
Freedoms at t	$a, b, c,$	d, e, f

According to the Individual Approach, $\mathcal{A}$ has freedom level 6 at t (given the simple counting rule used here).

However, rendering the example more specific shows that aggregating over individual freedoms has counterintuitive results. Imagine two different scenarios. In scenario 1, whether $\mathcal{A}$ can do d, e or f at $t+2$ depends on what $\mathcal{A}$ does at $t+1$ (such that $\mathcal{A}$ can do d at $t+2$ only if $\mathcal{A}$ previously did a and so on):



In scenario 2, $\mathcal{A}$ can do d, e, f at $t+2$ no matter whether she does a, b or c at $t+1$:



If we simply count individual freedoms at $t+1$ and $t+2$, we will get a level of overall freedom of 6 in both scenarios. However, scenario 2 seems to offer more freedom, as it also matters how we can combine different freedoms.

Therefore, the Individual Approach seems to fail and we should accept the Compossible Method which works like this. For scenario 2 we would count:

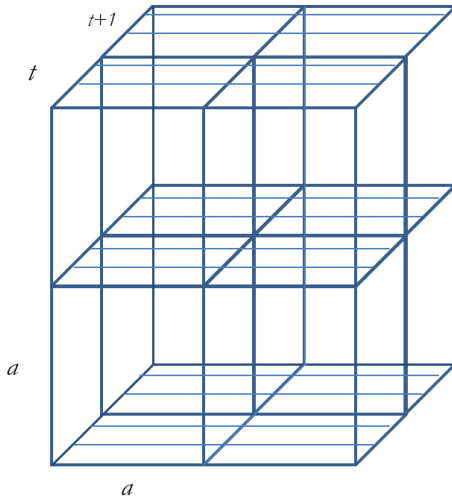
$$\text{OF2} = \{\{a, d\}, \{a, e\}, \{a, f\}, \{b, d\}, \{b, e\}, \{b, f\}, \{c, d\}, \{c, e\}, \{c, f\}\}$$

Thus we get a freedom level of 9 in scenario 2. For scenario 1 we get:

$$\text{OF1} = \{\{a, d\}, \{b, e\}, \{c, f\}\}.$$

So, we get a level of 3 for scenario 1. Focusing on sets results in the correct ranking in this case.¹¹⁷

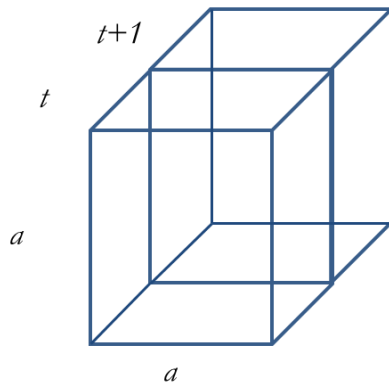
Let me now shortly explain how the Compossible Method and the Physicalist Account (outlined in section 7.1) relate. I explained that the Physicalist Account gives us a *unit* to measure ability-space. But the Compossible Method seems to *count* sets rather than measure ability-space. So, how do the two match up? Let me visualise the idea. Imagine a 2-dimensional space with four squares and then add a third, time-dimension:



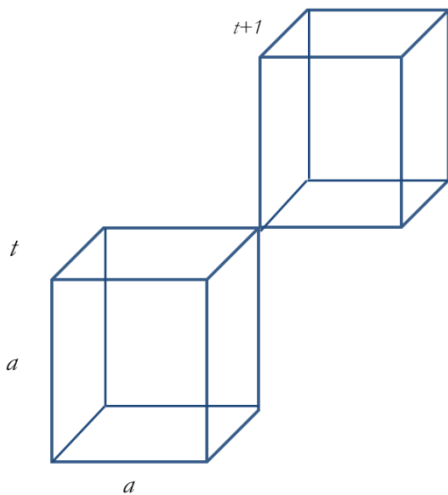
Of course, our measure would use three-dimensional space and then add time as a fourth dimension. To be able to visualise freedom-sets I use the three-dimensional model. So, now

¹¹⁷ Note that the Compossible Method here quantifies over *sets* of compossible freedoms and not over *ordered n-tuples* of compossible freedoms. To measure freedom, it matters not only what you can do but also *when* you can do it. So, if you have the freedom to do *a* now and *b* tomorrow, then this is different from having the freedom to do *a* or *b* now and *a* or *b* tomorrow. So, one might think that we need *ordered n-tuples* of compossible freedoms the elements of which are ordered temporally. If we use ordered pairs, we can distinguish between the first situation offering (a, b) and the second situation offering (a, b) and (b, a) . However, because I use an account that individuates freedoms according to their spatiotemporal properties, simply aggregating over sets is enough. For doing *a* at *t* is a different freedom than doing *a* at *t+1*. Thus, there is no need to order them.

imagine you have the freedom to occupy the top right hand square at t and the same square at $t+1$. Your freedom-set will look like this:



Now, if you have the freedom-set that includes occupying the bottom left-hand square at t and the right-hand top square at $t+1$, then this will look like this:



So, freedom-sets do measure ability-space across time.

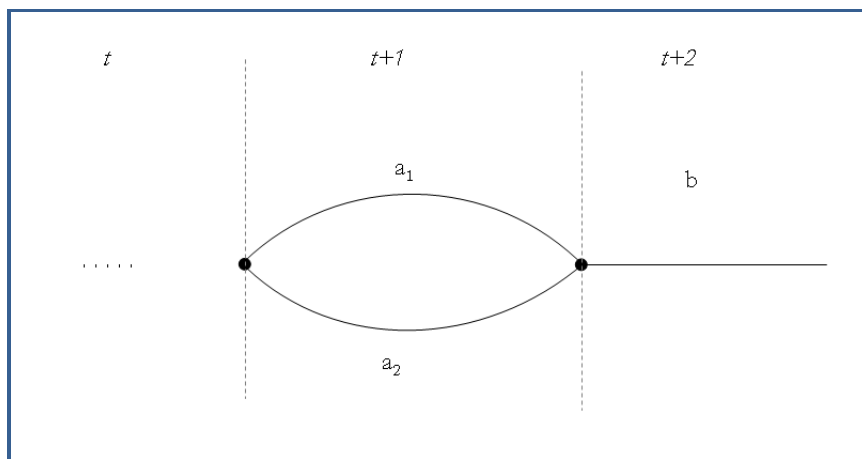
I will now outline two challenges for the Compossible Approach and then offer solutions.

(i) The Many Ways Problem

Carter argues that we should quantify over compossible spatio-temporal freedoms without invoking any *evaluative* criteria. This is, what I will call, the *the Non-Evaluative Approach*. I will discuss this great detail in chapter 8. The important point in this context is that the Non-Evaluative Account tries to accommodate variety-based judgements – that is judgements

about the diversity of a person's set of freedoms – through, what I will call, the *Many Ways Reply*. The idea is the following. Some sets of specific freedoms seem to give a person more freedom than others, because there is more *variety* within the set of freedoms. The more varied a person's set of freedoms, the more freedom she will have, other things being equal. Carter argues that the reason a more varied option-set offers more freedom is that similar options will often be *different ways of doing the same thing*, whereas very different options will offer more opportunities to different things. This way, the Non-Evaluative Account can accommodate variety-based judgements. So, say you have ten types of washing powder in one set and ten different products (washing powder, orange juice, protein powder, red wine etc) in the other set. The reason that the latter set offers more freedom is that the different options allow you to do more things with it.

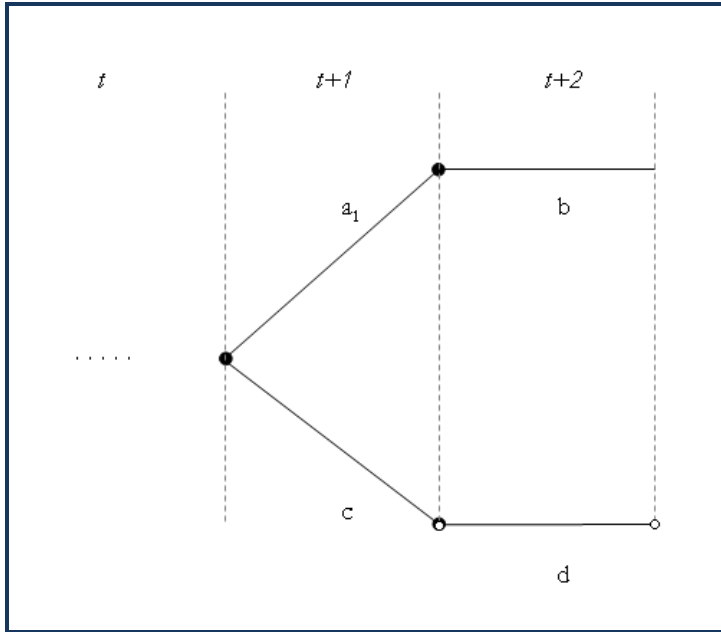
Kramer, however, shows that the Compossible Method and the Many Ways Reply conflict.¹¹⁸ Imagine, for example, you have the freedom to cycle to the swimming pool (a_1) to go swimming there (b). Let us now add the freedom to get to the swimming pool on a different route (a_2).



Compare this with a situation in which you previously had the freedom to cycle to the swimming pool (a_1) to go swimming there (b). Then the freedom to cycle somewhere else (c), say

¹¹⁸ What follows is a slightly modified presentation of Kramer's objection in his (2003), pp. 466-70.

the leisure centre where you can play laser quest (d), is added. This would look something like this:



The reason that adding c seems to offer more variety than adding a_2 is that adding c leads to a new freedom, namely d , whereas a_2 does not.

Kramer argues that the Many Ways Reply conflicts with Carter's own insistence that overall freedom should quantify over freedom-sets. The freedom to cycle on two different routes to the swimming pool $\{a_1, a_2\}$ to go swimming there (b) reads:

$$\mathcal{A} = \{\{a_1, b\}, \{a_2, b\}\}$$

Compare this with choice-set B that offers the freedom to go swimming using route 1, i.e. $\{a_1, b\}$, plus the freedom to cycle to a leisure centre (c) where one can play laser quest (d). So, we get:

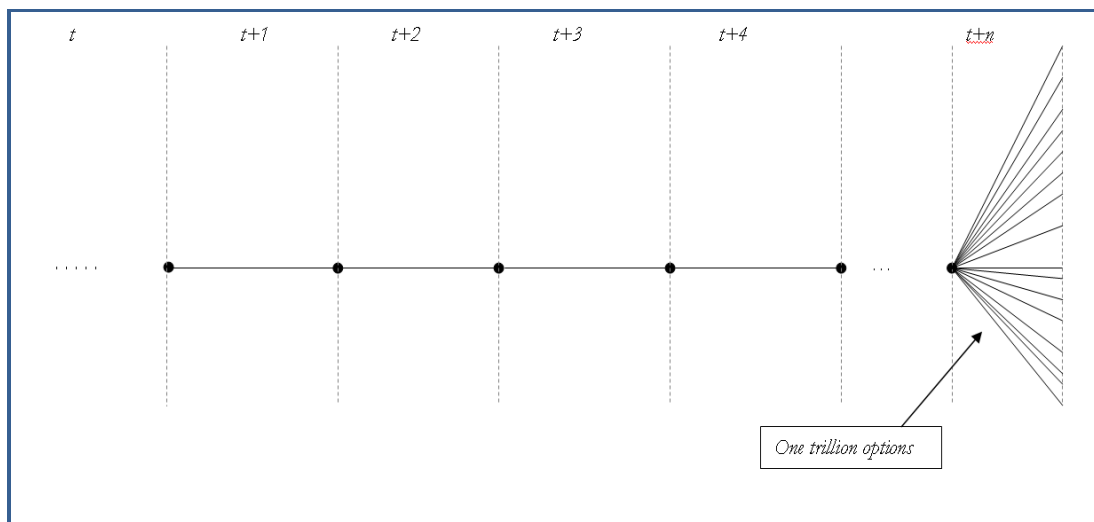
$$B = \{\{a_1, b\}, \{c, d\}\}$$

In this case, combining the Compossible Approach and the Non-Evaluative Account will result in the judgement that $\mathcal{A}$ and B offer the same *level of freedom*. Therefore, Carter's own method of quantifying over freedom-sets conflicts with his claim that the Non-Evaluative Account will account for variety.

Now, there are two ways to go: Carter can either reject the Compossible Approach or accept that the Non-Evaluative View does not account for variety. In an article, Carter suggests the first strategy.¹¹⁹ Can we change the Compossible Approach so as to include the Many Ways Reply?¹²⁰

(ii) The Short Freedoms Problem

There is another objection. Because the Compossible Approach does not take account of the *length* of freedom-sets, it leads to implausible rankings. Imagine three different lives. In the first life L_1 , person P has 80 years of no freedom whatsoever and for the last 2 minutes of her life a trillion options before she dies. So, imagine someone being tied to a bed for 80 years and then being offered a trillion options about how she wants to spend the last two minutes of her life. She is presented with information about these options beforehand such that she can reason about what to choose when the time comes. Somewhat simplified, this person's freedom looks something like this:



¹¹⁹ Cf. Carter (2004), footnote 11.

¹²⁰ Kramer thinks that we cannot and argues that this problem shows that the Non-Evaluative Account is false and that we need evaluative weighting factors.

In L_2 , P has 80 years with a decent number of freedoms distributed nicely over her lifetime such that she has a trillion freedom-sets (and many different decision-knots). On the Compossible Method these two lives are equivalent because they both comprise a trillion distinct sets of compossible freedoms.

However, it seems counterintuitive that L_1 and L_2 should offer the same level of freedom. Even though the person in L_1 is presented with a trillion options she can take only *one* of these options. So, she only takes one decision in her whole life and this decision is not consequential for how she lives her life, it only influences the last two minutes of it. In the other example, the person has control over her life and has the genuine opportunity to determine what kind of life she wants to live.¹²¹

A plausible measure should avoid the Short Freedoms Problem and, if possible, the Many Ways Problem. I will now show that a new version of the Compossible Approach avoids the Short Freedoms Problem and goes some way towards solving the Many Ways Problem.

7.3 The Segment Method

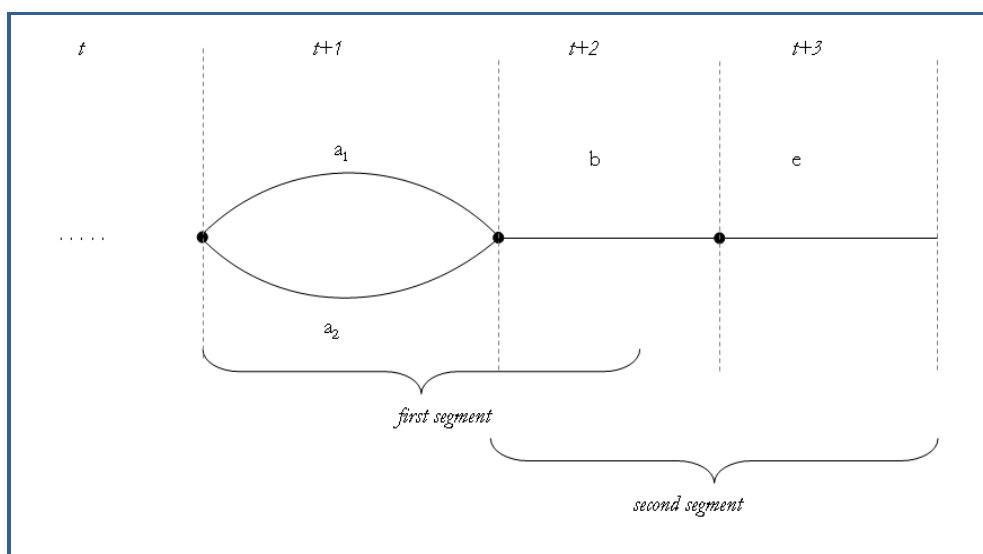
So far, on the Compossible Approach we simply aggregated over freedom-sets irrespective of how long these were. Informally speaking, we just counted branches. Now, a straightforward way to solve the aforementioned problems is to *restrict the length* of freedom-sets instead. That is, we should divide the temporal extension into segments, calculate overall freedom for these

¹²¹ One might object that such examples use pre-theoretic intuitions that are about something other than freedom. For example, because L_2 seems better all things considered than L_1 , we might have the intuition that it is better in terms of freedom. However, this methodological point does not undermine our intuition in this case. Being able to take important decisions about one's life, being able to choose from a number of substantively different lives are aspects that should and do influence judgements about freedom. So, in this case it is factors like these that influence our judgements rather than factors like happiness or welfare.

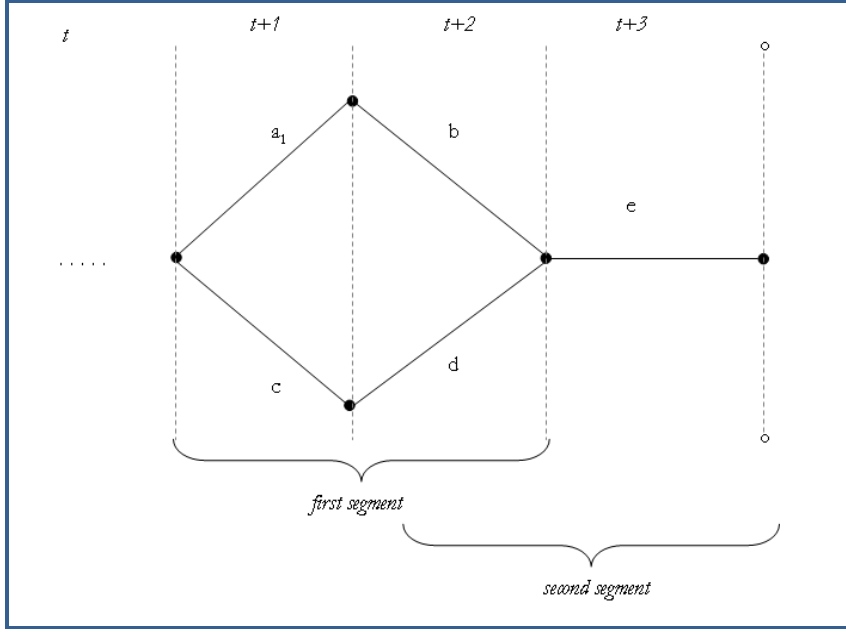
segments and then aggregate these levels of overall freedom across segments. This way we restrict the length of freedom-sets. I will call this the *Segment Method*.

I will now explain this method more fully by discussing a modified version of Kramer's example and show how it helps to solve the Many Ways Problem.

Note that in the two time-period case, the Segment Compossible Method does *not* solve the problem in the swimming pool example. For the smallest length for sets we can use is two periods (otherwise the Compossible Approach becomes the Individual Approach). In a two time-period case, the Segment Compossible Approach will be equivalent to the Compossibility Approach used above. However, does it really make sense to look at the example in such an abstract form, that is, in a two time-period way? Usually, these freedoms will be part of one's life that goes on after having been to the swimming pool. Assume that immediately after the swimming pool (or laser quest) our person is stripped off *all* her freedoms such that she has only one freedom left. Even then, I will show below, will the Segment Method judge that a person who can play laser quest *or* go to the swimming pool has more freedom overall. So, here is an extension of Kramer's swimming pool example that adds one further freedom after the person has been to the swimming pool or laser quest respectively. This is the extended choice-set A^* :



This is set B again expanded for one more period (henceforth B^*):



From the perspective of time t introducing these new time periods does not lead to more overall freedom if we simply count non-identical sets of compossible freedoms, that is, if we use a Non-Segment Compossible Approach:

$$\mathcal{A}^* \text{ at } t = \{\{a_1, b, e\}, \{a_2, b, e\}\}$$

$$B^* \text{ at } t = \{\{a_1, b, e\}, \{c, d, e\}\}$$

However, if we use the Segment Method, we get different results. Let us first calculate overall freedom using the Segment Method for $\mathcal{A}^*$. We proceed by first calculating the level of overall freedom for the first two periods such that

$$\mathcal{A}^* \text{ between } t+1 \text{ and } t+2 = \{\{a_1, b\}, \{a_2, b\}\}$$

Then we go on to calculate a person's overall freedom for the next two periods:

$$\mathcal{A}^* \text{ between } t+2 \text{ and } t+3 = \{b, e\}$$

The first set has freedom level 2 and the second one has freedom level 1. So, if we simply add overall freedom levels for different periods, we get overall freedom level 3.

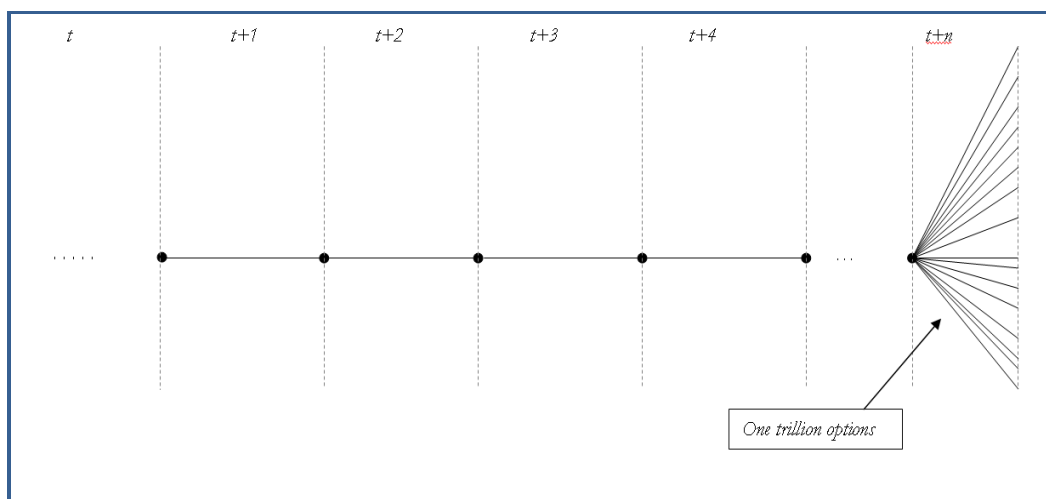
We can do the same for B^* :

$$B^* \text{ between } t+1 \text{ and } t+2 = \{\{a_1, b\}, \{c, d\}\}$$

$$B^* \text{ between } t+2 \text{ and } t+3 = \{\{b, e\}, \{d, e\}\}$$

For B^* we get an overall freedom level of 4. B^* thus offers more freedom than A^* . Therefore, using the *Segment Method* results in an intuitive ranking of A^* and B^* . So, as long as there is at least one freedom following ‘the swimming pool/laser quest option’, the Segment Method can account for variety.

The Segment Method also straightforwardly avoids the *Short Freedoms Problem*. Let us look at our earlier example. We compared two lives: L_1 with 80 years of perfect unfreedom and then 2 minutes of having trillion choices and L_2 , with a trillion sets of compossible freedoms distributed nicely across a lifetime. If we apply the Segment Method here, we get, just like in the Swimming Pool Case, an intuitive ranking such that L_2 offers more freedom than L_1 . Given the size of the numbers involved in that example, I will not demonstrate it numerically. But it should be apparent from the previous example how it works. The Non-Segment Method aggregates over non-identical sets. It does not, however, take account of how long these sets are and thus how many elements these sets share. In L_1 , all sets are the same except for the last freedom:



In L_2 , so is the assumption, a person takes many decisions and can choose between many genuinely different lives. Though she still has 1 trillion non-identical sets, these sets share fewer freedoms; in other words, their respective differences are much greater. In the swimming pool/laser quest example, we saw how the Segment Method takes account of such

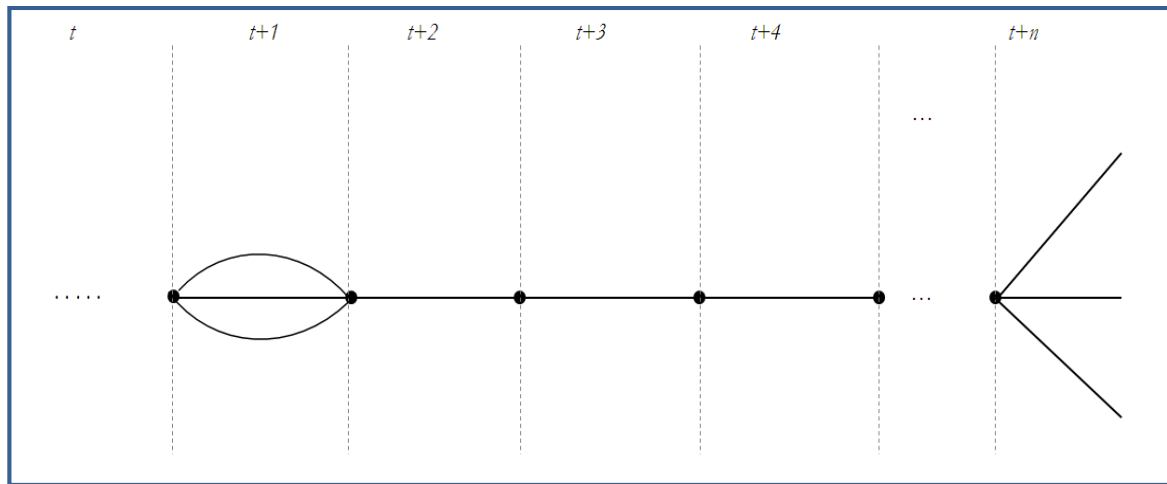
differences. So, the Segment Method avoids the *Many Ways Problem* and the *Short Freedom Problem* and thus is a more plausible way to measure Point Freedom.

Let me now discuss objections directed specifically at the *Segment* version of the Compossible Approach.

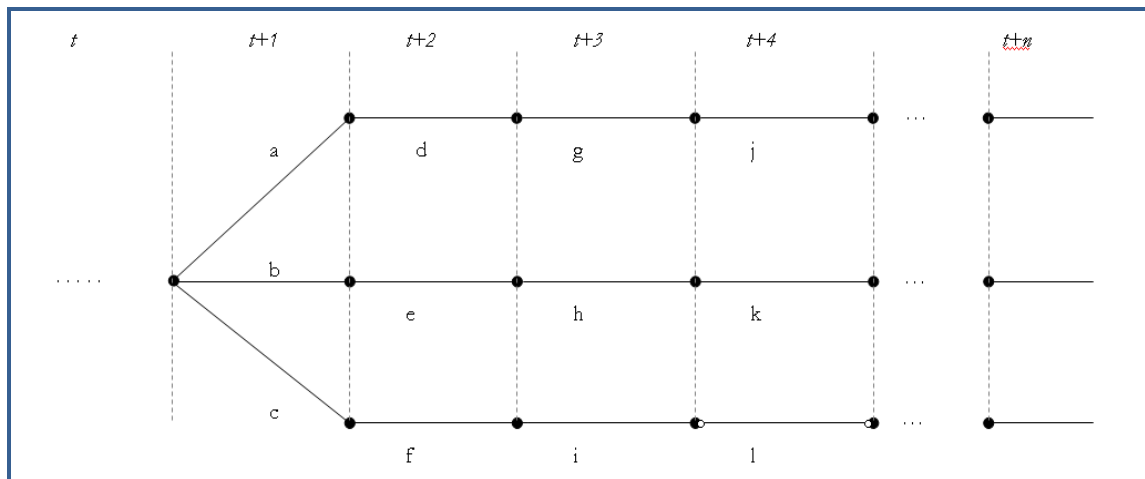
The first objection might be that simply dividing the temporal extension of a person's Point Freedom into segments is arbitrary. The problem is that, even if it helps to get round the Short Freedom Problem and the Many Ways Problem, there is no non-arbitrary way to determine the length of the sets of compossible freedoms. Should they be a thousand time-periods or two?

However, this objection makes it look like the Non-Segment Method is the default view that somehow follows from our concept of freedom, whereas the Segment Method is something that needs a much stronger defence. But I think this is unfair. There is good reason beyond intuitions that we should use the Segment Method. We care about the *length* of sets of freedoms and *how different* they are. So, the Segment Method is not arbitrary as such nor is it merely the result of intuition-pumps. Nonetheless, there is no clear answer to the question as to what length the freedom-sets should have. The minimum number is two elements. But what the upper limit is a practical question. The smaller the sets the more precise will be our measure.

Second, another objection to the Segment Method might be that while it avoids the Short Freedoms Problem, it runs into the opposite problem, namely that long but unfree lives with few decisions are judged to be more free in virtue of being long. Compare L_1 and L_2 . This life is L_1 :



This life is L_2 :



The objection might run something like this: freedom is about being able to take decisions. In L_1 the person takes two decisions, in L_2 the person takes only one. Therefore, it is implausible to say, as the Segment Compossible Method would hold, that L_2 might nonetheless offer more freedom.¹²²

However, the problem with this objection is that it treats all decisions – even those that are inconsequential – equally. The first decision in L_1 would be something like the swimming pool example, so it allows three different routes to get to an unfree life. Similarly, the decision at the end is inconsequential as it has no future repercussion. In L_2 , even though the person takes only one decision, her decision has greater consequences offering her the choice of

¹²² This objection was put to me by Francis Dennig.

three different lives (albeit very unfree lives). This decision has consequences that matter, so it is not implausible to judge that she has more freedom overall. So, freedom is not only about making as many choices as possible, it also matters what *kinds* of choices one can make and what consequences these have.

So far, I have argued that we should aggregate over freedom-sets instead of individual freedoms and that we should do so by using the Segment Method. Let us see how to aggregate *unfreedom*-sets.

7.4 Unfreedom-sets

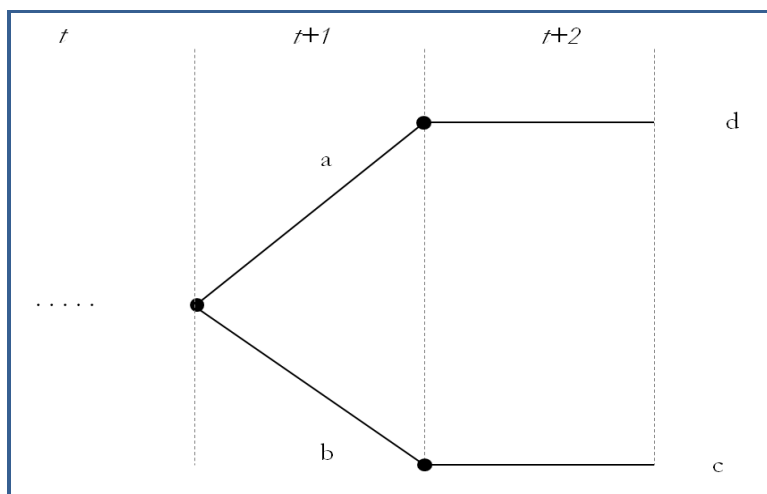
Remember that in chapter 3 I defended Trivalence, i.e. the idea that one can be ‘free to φ ’, ‘unfree to φ ’ but also ‘merely unable to φ ’. I suggested the following account of unfreedom:

Unfreedom: P is *unfree* to φ iff there is at least one freedom-constraint that would prevent P from φ -ing if P attempted to φ and, in the absence of all freedom-constraints, P would be able to φ .

I argued that some y is a freedom-constraint only if there is at least one person whose imposition or non-removal of y is *pro tanto* wrong, in an evidence-relative sense, in virtue of the worse distribution of freedom resulting from y .

Now all of this gives us an account of a *specific* unfreedom. But how exactly do we arrive at *unfreedom-sets*? There are different types of unfreedom-sets. One type of unfreedom-set consists exclusively of specific *freedoms* which are individually possible but not compossible. So, say a woman in a very repressive society is not free to leave the house unpunished. So, she is free to leave the house (albeit only for a while) and she is free not to be punished (if she stays indoors). But she is not free to both leave the house and not be punished. Most legal enforcements take this form. So including this type of unfreedom-set is important. For ease of reference, let us call such unfreedom-sets, *pure unfreedom-sets*.

But which pure unfreedom-sets should we include? We might think that we should simply count *all* sets of *non-possible* specific freedoms as pure unfreedom-sets. Here is an example:



In this situation we might count $\{a, d\}$ and $\{b, c\}$ as freedom-sets and $\{b, d\}$ and $\{a, c\}$ as *unfreedom-sets*, because they are not exercisable together.

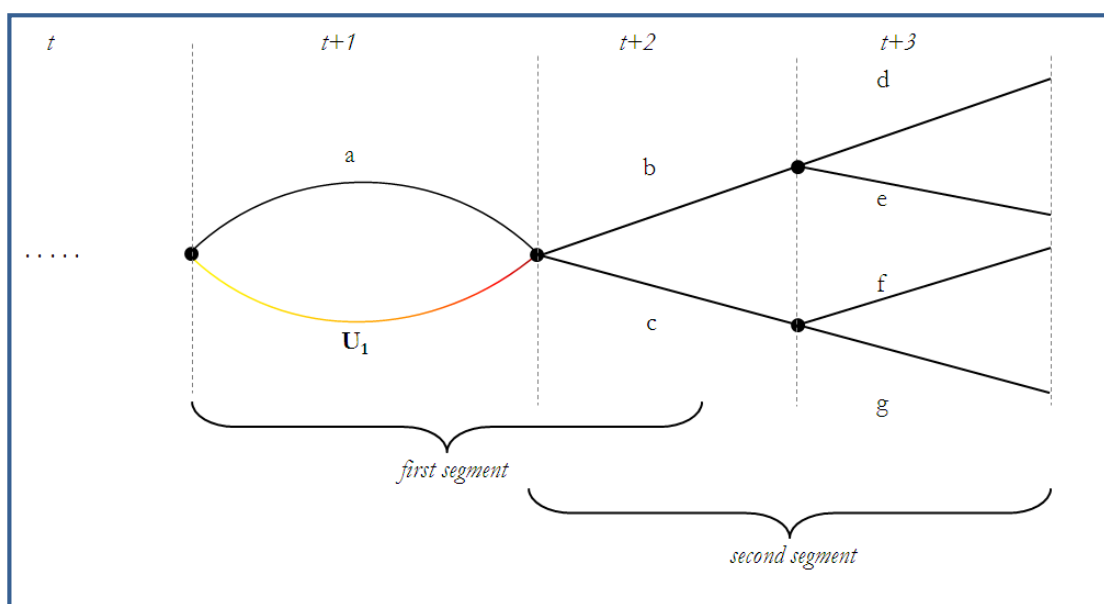
However, we have good reason not to count every set of non-possible freedoms as an (pure) unfreedom-set. Imagine I am free to sing at t and I am free to whistle at t . However, whistling and singing do not go together. So, I am not free to both sing and whistle at t .¹²³ Is this an unfreedom-set? The answer is no. There is no freedom-constraint that impedes my singing and whistling together, the reason I cannot do both at the same time is a natural constraint. So, in the absence of all freedom-constraints, I am not able to do both. Therefore, it is not an unfreedom-set.

So, only some sets of non-possible freedoms count as pure unfreedom-sets. For a set of non-possible freedoms to count as an unfreedom-set for a person P , it needs to hold that, first, the constraint that would prevent P from doing both freedoms counts as an unfreedom-constraint on the Distributive Account and, second, in the absence of these freedom-constraints P would be able to do both things together. These conditions already rule out a number of non-possible freedoms as unfreedom-sets.

¹²³ This is Kramer's (2003) example pp. 406-7.

A different type of unfreedom-set is one that includes at least *one specific unfreedom*. Say I am made unfree to enter a public park because of my skin colour. This might rule out the freedom-set $\{\textit{walking in the park}, \textit{singing}\}$. This unfreedom-set, different from the ones discussed above, contains one unfreedom, i.e. the unfreedom to walk in the park. Let us call such sets *mixed unfreedom-sets*.¹²⁴

The question now is which mixed unfreedom-sets should result from a specific unfreedom. First of all, we should rule out all those combinations of unfreedoms and freedoms that would not be realisable together if all relevant freedom-constraints were absent (such as not being able to whistle and sing at the same time). But this will not rule out enough unfreedom-sets, because it would still leave it open for us to combine every specific unfreedom with *every freedom-set*. However, then we would always have at least as many unfreedom-sets as freedom-sets. Let me show you how this result follows when we use the Non-Segment Method.



In this picture, U_1 denotes an unfreedom. Remember one specific unfreedom merely covers one space-time region, so it might, depending on how finely one carves up specific freedoms and unfreedoms, be very small. So, the unfreedom at $t+1$ might be something like the unfree-

¹²⁴ There might of course also be unfreedom-sets that do not include a specific freedom and consist exclusively of unfreedoms.

dom to move for 10 seconds. On the Non-Segment Method we would have to say that in this example, we have just as many freedom-sets as unfreedom-sets. We have

Freedom-sets: $\{a, b, d\}, \{a, b, e\}, \{a, c, f\}, \{a, c, g\}$

Unfreedom-sets: $\{U_t, b, d\}, \{U_t, b, e\}, \{U_t, c, f\}, \{U_t, c, g\}$

To make the case against the Non-Segment Method stronger, we could imagine that U_t is the *only* specific unfreedom the person in the example will ever have. On the Non-Segment Method, we would then have to say that the person has as many freedom-sets as unfreedom-sets in his entire life just because of one specific unfreedom at $t+1$. Let us call this the *Too Many Unfreedom-sets Problem*.

The Segment-Method avoids this implausible conclusion, because U_t as an unfreedom does not generate an extra unfreedom-set for every freedom-set. Instead, it only counts unfreedom-sets for temporally adjacent freedoms and unfreedoms. So, we will count freedom-sets in the segments in the following way:

Freedom-sets first segment: $\{a, b\}, \{a, c\}$

Unfreedom-sets first segment: $\{U_t, b\}, \{U_t, c\}$

Freedom-sets second segment: $\{b, d\}, \{b, e\}, \{c, f\}, \{c, g\}$

This has the intuitive result that the person in the example has more freedom-sets than unfreedom-sets.

So, dividing the future extension of one's overall freedom into segments gets round the need to couple one specific unfreedom with all freedom-sets. Instead, one's unfreedoms will only be coupled with temporally adjacent or simultaneous freedoms and unfreedoms. So, whereas being unfree to enter the park will create some unfreedom-sets, such as not being free to sim-

ultaneously walk in the park and sing, it will not create unfreedom-sets like being unfree to both walk in the park today (unfreedom) and whistle a song in 50 years time (freedom).¹²⁵

This also has the intuitive result that those unfreedoms which would have a high level of fecundity – that is that would lead to more future freedoms – if they were freedoms will be coupled with more freedoms. Unfreedoms with lower levels of fecundity will, as is the case in the above example, rejoin the other freedom paths earlier and thus result in fewer unfreedom-sets. Thus, on the Segment Method, non-fecund unfreedoms will stop generating new unfreedom-sets earlier than fecund unfreedoms.

The Segment Method is not only better in dealing with aggregating freedom-sets, it also offers a much more plausible way of aggregating unfreedom-sets, because it avoids the Too Many Unfreedoms Problem.

7.5 Conclusions

In the first chapter of Part II, I discussed what goes into our measure of overall Point Freedom. I have argued that we should measure ‘ability-space’ by dividing space-time into equally-sized units.

I then distinguished between the *Compossible Approach* and the *Individual Approach*, the former quantifies over *freedom-sets*, the latter quantifies over specific freedoms. Moreover, I have distinguished between the Segment Method and the Non-Segment Method, the former quantifies over freedom-sets and unfreedom-sets in segments and then aggregates over time whereas the latter simply aggregates over *all* freedom and unfreedom-sets placing no

¹²⁵ Note again that the unfreedom-set as a whole needs to be possible for the agent to realise in the absence of all freedom-constraints. So, say the person is unfree to sing (someone has wired his brain to take away his capacity for singing) but free to whistle. Given the impossibility of both singing and whistling at the same time, we can thus not say that he is unfree to both sing and whistle simultaneously.

restriction on the length of these sets. The Compossible Approach is more plausible than the Individual Approach, because it takes account of the ways in which different options can be combined. I then showed that if we combine the Compossible Approach with the Segment Method, we can avoid the Short Freedom and the Many Ways Problem and we can plausibly integrate *unfreedom-sets* in our measure.

I will now discuss whether, upon aggregating over freedom-sets we need *weighting factors* that capture the quality of a person's freedom-sets.

8 The Hybrid Account 1

In my previous chapter, I discussed how we should measure ability-space. But this does not resolve another problem: it might matter not only how great a person's ability-space is but also how valuable and/or diverse the things are she can do in it. This is the question to be discussed now: do we need evaluative weighting factors or should all freedom-sets have equal weights in our measure? So, if my freedom to φ and my freedom to ψ are such that they cover equally sized space-time regions, should they then have the same weight? Ian Carter, Martin van Hees and Hillel Steiner think so. I will call this:

The Non-Evaluative Account: freedom-sets (or options more generally) should count equally in a measure of overall freedom. Evaluative weighting factors are not necessary.

Other authors, such as Matthew Kramer, Pattanaik and Xu, Amartya Sen, Robert Sugden amongst others disagree.¹²⁶ Typically, these authors hold that how much freedom an option adds to a choice-set should, *inter alia*, be determined by the value of the option.

Before developing my account in detail in chapter 9, let me shortly adumbrate it. One can be free to do things that one does not desire or that are not in some obvious sense valuable. So,

¹²⁶ Cf. Kramer (2003), ch. 5, Sen (1985), (1991), Sugden (1998) and Pattanaik/Xu (1998)

even if a specific freedom is ‘valueless’, it should be included in an account of overall freedom. Here is an informal axiom to characterise this:

Quantity: *ceteris paribus*, adding an option φ to a person’s choice-set makes her more free, no matter whether φ is valuable for her or not.

Nonetheless, we might want to give greater weight to freedoms which are *more valuable*. So:

Quality: *ceteris paribus*, adding an option ψ to a person’s choice-set makes her more free than adding φ to it if ψ is more valuable for her than φ .

Following Carter, I will call an account that accepts both Quantity and Quality a *Hybrid Account*.¹²⁷ The Hybrid Account accepts that sheer *physical* extension is important for determining a person’s overall freedom but denies that it is the only relevant factor. There are different ways to flesh out such a view. In this chapter I will argue for the Hybrid Account and against the Non-Evaluative Account. I will not discuss what determines an option’s value. This I will do in my next chapter.

Let me start by defusing objections to the Hybrid Account.

8.1 Objections

(i) Objection 1

Steiner argues that if we allow positive weighting factors, we need to allow *negative* weighting factors too. If we think that saving a life is a valuable freedom, then, using the same scale, taking someone’s life must be disvaluable. Therefore,

‘...whatever positive value we assign to an act of life-saving, it would not make sense that an act of life-taking be assigned merely a lower positive value. If it were, this would have the ut-

¹²⁷ Cf. Carter (1999), ch. 5.4.

terly absurd consequence that a sufficiently large number of life-taking acts would be equal or greater in value than one life-saving act.¹²⁸

If we allow negative weighting factors, we get counterintuitive results. Say, someone has ten ‘disvaluable’ options. Then we would have to say that she has a negative level of freedom.

If we accept that good options increase overall freedom more than bad ones, we need to accept, so the objection, that really bad options will *decrease* a person’s overall freedom. This is in direct conflict with the Quantity Axiom according to which every option, whatever its value, will increase a person’s overall freedom.

However, this argument fails.

First, as Kramer argues, there is a difference between the value of having the ability to φ and the value of φ -ing.¹²⁹

Second, the value of a person’s freedom to φ is, contrary to what Steiner suggests, not to be determined directly by the *moral* consequences that φ -ing has on other people. While it might be true that a specific freedom to do a very moral deed is more valuable than doing an immoral deed, the same is not true when we compare one moral deed with a very large number of freedoms to do immoral deeds.¹³⁰ Steiner confounds the value the freedom to φ has for the freedom-holder with the ‘moral value of φ -ing’.

Third, Steiner misses the point of the Hybrid Account: by taking account of both the *physical* dimensions of a specific freedom plus its evaluative aspects, ‘valueless’ options can still increase one’s overall freedom. Therefore, there is a non-arbitrary reason not to assign negative weighting factors.

¹²⁸ Steiner (1982), p. 81.

¹²⁹ Cf. Kramer (2003), p. 444.

¹³⁰ Cf. *ibid.*, pp. 444-5.

(ii) *Objection 2*

Ian Carter argues that incorporating value into a freedom-metric conflicts with freedom having non-specific value.

The Non-Specificity Requirement: ‘A phenomenon, x , has non-specific value (is valuable as such) iff the value of x cannot be described wholly in terms of a good brought about or contributed to by a specific instance of x or set of specific instances of x .’¹³¹

So, something is non-specifically valuable if and only if its value is not reducible to the good brought about by a specific instance of it. Freedom can of course also be *specifically* valuable. For example, having a specific choice-set at t might make a person very happy, because she loves freedom and the best option of the choice-set is very much to her liking. But this is different from freedom’s non-specific value. Carter concludes that by introducing evaluative weighting factors, we confound freedom with the specific value it has in individual instances. Freedom would thus only be valuable on account of the goods it brings about in each instance.

However, this is a *non sequitur*. Here are four reasons why the Non-Specificity Requirement does not (together with premises shared by both the Non-Evaluative and Hybrid Approach) entail the Non-Evaluative Account.

First, as argued above, there is a difference between the value of having a freedom and the value of *exercising* it. For example, the value of having the freedom to read is not the same as the value of reading. Though the value of reading will play some part in determining the value of the freedom to read, one is not reducible to the other. Because the Non-Specificity Requirement only requires that the value of an option not be *reducible* to its content, it can allow that the content of an option *partly* determines the value of this option.

¹³¹ Carter (1999), p. 35.

Second, freedom can also be valuable in increasing *expected* overall goodness. This, however, is different from the *actualised* goodness of freedom in each instance. Here is an example: imagine you can influence what choices a person has without knowing her likings. You do, however, know the frequency of certain likings in a society. You do know, for example, that on average people prefer drinking juice over drinking muddy water. Having the opportunity to drink juice rather than muddy water in one's choice-set will increase the probability that a person will get what she likes. Therefore, if you are a benevolent dictator you will, for other people, value a choice-set more highly that, *ceteris paribus*, includes the freedom to drink juice over one that includes the freedom to drink muddy water. The value of the choice-set here is partly determined by the content of the options, but it is not reducible to it. One aspect of freedom-associated value is the *expected* goodness of the options. This is clearly not the same as the value of the best option that the person *actually* realises. Therefore, freedom remains non-specifically valuable even though we take the content of options into account.

Third, and more generally, because the Hybrid Account includes 'valueless' freedoms as well, it avoids that the 'value' of a *choice-set* be reducible to the value of its options.

Fourth, Carter holds that including evaluative considerations into a measure of freedom is to confuse freedom with its value. However, we can distinguish between a choice-set being *valuable all things considered* for an agent and a choice-set furthering those values we associate specifically with freedom (such as autonomy and personal control for example). This allows us to say that it is possible that more freedom might in some situations be worse all things considered. This is because we might sometimes have to balance freedom-associated values (such as autonomy and personal control) with other values such as happiness (more on this later in chapter 9).

(iii) Objection 3

Carter's next objection is aimed directly at the Hybrid Account. As explained above, the Hybrid Account is committed to both the quantity of options as well the quality. It is obvious

that Quantity and Quality can conflict. For example, what makes a person more free, adding one valuable option or 5 valueless options? Carter argues that

‘There is surely no well-grounded, non-arbitrary basis for specifying whether any given number of actions is less than, equals, or outweighs any given action value in terms of freedom... Neither will it do to suggest that one of these two dimensions should have lexical priority over the other... What seems to be lacking... is a reason for assigning lexical priority to one particular dimension, or for saying that it counts for 40 per cent, or 60 per cent, or 10 per cent.’¹³²

We should grant that Quantity and Quality can conflict. But is Carter right that there is no way to develop an account of how the two should be balanced?

We should answer that the method we use to determine how to balance Quantity and Quality should be the same as the one we use for developing an account of freedom more generally.¹³³ Our method here should be to use relevant intuitions, invoke freedom-associated values and aim to develop an account of overall freedom that coheres well with the best theory of specific freedom. This is very similar to the kind of ‘reflective equilibrium account’ that Carter himself uses. This also shows that, if Carter’s argument against the Hybrid Account worked, his own Non-Evaluative Account would be open to a similar attack. For what is the reason that freedom is concerned with purely physical extension? Answers to these questions are not self-evident. They do require considerations based on the kind of reflective equilibrium method that Carter suggests. So, if the Hybrid Account lacks a method to determine the right balance between Quantity and Quality, then we might equally say that Carter lacks a method to back up the idea that physical extensions should always count equally.

Having answered the main objections to the Hybrid Account, let us now look at arguments in favour of it.

¹³² Carter (1999), p. 137.

¹³³ A response to this objection by Carter is also provided by

8.2 Arguments

(i) *Argument 1: Counterexamples*

Sen asks us to compare the following two choice-sets $\mathcal{A}$ and B :

$$\mathcal{A} = \{a \text{ nasty life}, a \text{ terrible life}, an \text{ unspeakable life}\}$$

$$B = \{a \text{ fine life}, an \text{ excellent life}, a \text{ wonderful life}\}$$

According to the Non-Evaluative Account, as Sen understands it, $\mathcal{A}$ and B offer equal freedom as they each contain three elements. This should be counterintuitive.¹³⁴

However, proponents of the Non-Evaluative View should respond that $\mathcal{A}$ and B only offer the same level of overall freedom if they are composed of the same number of sets of compossible equally-sized freedoms such that for each member of set $\mathcal{A}$, there is a member of set B that has the same number of freedom-sets. We saw that the Non-Evaluative Account should be coupled with the Physicalist Account such that freedoms are spatio-temporal particulars. Usually, a fine life will contain more options (and thus more freedom) than a nasty life. So, the intuitive force of Sen's example might dissolve if we apply the Physicalist Account.

However, it is conceivable that, in purely spatio-temporal terms, a wonderful life might offer the same ability-space as an unspeakable life and an excellent life might offer the same ability-space as a terrible life. Usually, this will not be the case but we could imagine such a situation:

Hell: when you enter hell you are given the choice between a nasty life, a terrible life, an unspeakable life. When you enter heaven, you are given the choice between a fine life, an excellent life and a wonderful life. The Devil, a connoisseur of analytical political philosophy, has read Carter's book and – convinced of the Non-Evaluative View – aims to give people in hell just as much freedom as in heaven. He makes all options terrible for everyone (hell is very hot everywhere and incredibly loud etc.) All options are equally sized space-time regions (and combinations thereof). So, if you choose 'a

¹³⁴ Cf. Sen (1991), p. 26.

nasty life' in hell, you get 3,000 terrible options. If you choose a fine life in heaven, you get 3,000 wonderful options and the same for the other possible lives respectively. God does not know all likings, but he has developed a set of options that is so good that it makes everyone well off despite their individual differences.

On the Non-Evaluative View, hell offers just as much freedom as heaven, even though in heaven you have a choice between a fine, an excellent and a wonderful life and they all offer the same number of options as their terrible counterparts in hell. This is counterintuitive. The choice between a fine, an excellent and a wonderful life seems to offer more freedom than a choice between a nasty, a terrible and an unspeakable life.

But there are more counterexamples to the Non-Evaluative Account. Carter himself admits, for example, that on his account, freedom of speech will not by itself increase a person's overall freedom (at all or at least significantly). Of course, freedom of speech might contribute to your overall freedom in allowing you to do other things or to safeguard overall freedom. But by itself, laryngeal movements through which 'freedom of speech' would have to be characterised on the Physicalist Account are negligible compared to other freedoms that, even though they involve more physical movement, seem much less important. Whether the importance of freedom of speech can be accounted for on the Non-Evaluative Account has been extensively discussed by Carter and Kramer.¹³⁵ Let us look at other examples that show systematic problems for the Non-Evaluative Account.

(ii) Argument 2: Volume

The Non-Evaluative Account relies on the Physicalist Account and thus carves up space-time to measure a person's ability-space. The chessboard is a simple two-dimensional model for its spatial dimensions. But to carve up space we need to calculate the volume across time that a person can occupy, thus requiring a 4-dimensional model. So, imagine we use 'cubes' plus some temporal dimension (say 20 min) as our unit. This might lead to counterintuitive results.

¹³⁵ Cf. Carter (1999), pp. 205-7 and Kramer (2003), pp. 456 et seq.

Loneley Astronaut: Jeff is an astronaut who, alone in his futuristic spaceship, has the ability to fly nearly everywhere between our earth and the moon. But it is impossible for him to land anywhere or, indeed, to make contact with any other sentient being.

If we simply measure volume, then Jeff has much more freedom than any other person on earth. Now, while it might not be entirely implausible to believe that Jeff has a high level of freedom, it is clearly counterintuitive that everyone on Earth who has far fewer space-time regions to occupy should be much less free than Jeff. Shnayderman makes a similar case against the Non-Evaluative Account. He has us imagine two situations. In one, you have:

‘The freedom to spend an hour every day in a pool that is twenty meters long, three meters wide, and meter and a half deep;’

Compare this with a situation in which you have:

‘... the freedom to spend an hour every day in a pool that is twenty meters long, twenty meters wide and twenty two and a half centimetres deep.’¹³⁶

In both cases the volume you can occupy is equal (90m^3), so the Non-Evaluative Account would take them to offer the same level of freedom. But, according to Shnayderman, our intuitive judgement is that the former offers more freedom than the latter.

Note that while in *Loneley Astronaut* our intuition was that the Non-Evaluative Account gives too much weight to the ‘depth-dimension’ of volume, the depth-dimension was given insufficient weight in Shnayderman’s cases. So, giving more weight to some dimensions might get us the intuitive ordering in *some* cases but will aggravate the counterintuitiveness of these orderings in other cases.

(iii) *Argument 3: Time*

The way time features as one of the dimensions on the Non-Evaluative Account leads to counterintuitive rankings too. Shnayderman presents the following variation of the swimming pool case. In one situation you have:

¹³⁶ Shnayderman (2011), p. 81.

‘...the freedom to spend sixty consecutive minutes every day in the pool [twenty meters long, three meters wide and one meter and a half deep]’

In another you have:

‘...the freedom to spend sixty non-consecutive minutes within two hours, *i.e.* one minute in the pool and one minute out [the same pool as above]’.¹³⁷

The Non-Evaluative Account, again, would have to say that in terms of purely spatiotemporal properties these freedoms are equivalent. However, this seems counterintuitive, the former seems to offer more freedom than the latter.

I think our judgements in these and earlier cases are supported not only by intuition but good argument too. As I will show now, our reasons for valuing freedom clearly speak for the Hybrid Account and against the Non-Evaluative Account

(iv) Argument 4: Freedom-Associated Value

What are our reasons for valuing freedom? I will say more about this in chapter 9. Let me just quickly mention a few. Freedom is valuable as a constituent component of autonomy, a core ingredient of personal control and is instrumentally valuable given uncertainty about preferences and/or likings given personality change.

All these reasons speak against the Non-Evaluative Account. Options which are important for personal control should be considered more important for the extent of a person’s freedom than other equally-sized options which do not contribute to personal control. Similarly, when there are options of which we are very certain that no one will like them, our freedom-associated reasons for valuing freedom suggest that these should contribute less to a person’s level of overall freedom. The same thing can be said with respect to *personality change*. If we have options of which we are very certain that we will not like them in the future, they should count for less than those that have a good chance of being liked in the future. Imagine, for

¹³⁷ Shnayderman (2011), pp. 81-2.

example, that we need to decide for a young person whether as a grown-up he should either have the freedom to engage in sexual intercourse or to have the freedom to run against walls (exclusive disjunction). Let us assume both options have the same spatio-temporal extensions. Even though it is not clear that he will be interested in sexual activity it is quite probable. The probability that he will enjoy running against walls, however, is relatively small. Clearly, our freedom-associated reasons to value freedom speak in favour of thinking that the opportunity to engage in sexual activities will contribute more to a person's overall level of freedom than her option to run against walls. The fact that they offer the same number of spatio-temporal options does not imply that they matter the same in terms of freedom. The same holds when we value other people's freedom of whose likings and preferences we are not entirely sure.

(v) Argument 5

More fundamentally, it is a 'non-trivial' answer for the Non-Evaluative Account to say that all equally-sized space-time units should count equally. Why should they? The answer must be something like: because freedom is inherently about physical dimensions. What matters, from the standpoint of freedom, is how far one's physical possibilities extend. There must be something about the concept of freedom that binds it to physical dimensions but not to evaluative ones. But why should it?

First, intuition does not demand such an exclusive focus on physical dimensions. Even proponents of the Non-Evaluative Account themselves note that many people have opposite intuitions.¹³⁸

Second, our freedom-associated values do not require a Non-Evaluative Account. They do not demand that what we value about freedom is inherently connected to its physical extension, as I have tried to show above. Of course, there are good reasons why physical dimen-

¹³⁸ Cf. Steiner (1982), p. 79.

sions should be very important. Not only do all freedoms supervene on physical qualities, freedom of movement broadly construed is very important for personal control, preference satisfaction, autonomy etc. But these reasons do not imply that we should focus on physical dimensions exclusively.

A third and very different reason that one might suggest for focusing *only* on physical qualities is that it makes overall freedom easier to measure. Invoking values would make things too complicated.

There are three reasons why this argument from simplicity fails.

First, simplicity alone is not a decisive reason to reject a theory, though it might speak for a theory *ceteris paribus*. So, if there are independent reasons – as I am trying to show there are – for the Hybrid Account, then these trump the fact that it is a more complex theory.

Second, one might think that theoretical simplicity is a virtuous feature of a freedom-metric as it makes the metric more *applicable*. However, even though the Non-Evaluative View might be more parsimonious it is not more applicable. When we try to develop a real-world proxy of an ideal, non-evaluative account of freedom, we are likely going to use evaluative considerations. Apparent simplicity on a theoretical level does not imply straightforward applicability. So, even if the Hybrid Account might seem more complex on a theoretical level, it is by no means less applicable than the Non-Evaluative View. In fact, the evaluative features on the theoretical level might give better guidance in developing a real-world proxy.

I therefore conclude that there is no good reason to accept that equally-sized freedoms should always count equally. We should thus accept the Hybrid Account according to which both ability-space and *value* matter for overall freedom. I have argued that such an account is supported by important intuitions and the reasons we have for valuing freedom and is not arbitrary in balancing ‘Quantity’ and ‘Quality’. Its alternative, the Non-Evaluative Account,

results in various counterintuitive judgements and has problems justifying its exclusive focus on physical extension.

So far, I have argued that we need evaluative considerations but not yet said what they are.

This I will discuss in my next chapter.

9 The Hybrid Account 2

I have argued in my previous chapter that we need evaluative weighting factors in our formula of overall freedom. I will now discuss what these are. I will start by offering three *desiderata* that any such account of these weighting factors should fulfil. Then I will discuss different candidates. I will discuss whether weighting factors should reflect a choice-set's *variety* (sec. 9.1), whether weighting factors should be based on the freedom-holder's *actual* preferences (sec. 9.2) or her *potential* preferences (sec. 9.3). I will argue that all of these accounts fail and then suggest my own.

Note that I will not discuss all possible accounts of evaluative weighting factors. I will only discuss those proposed in the literature on freedom. Before discussing substantive suggestions, let us first discuss desiderata that any such account should fulfil.

First, if our weighting factors are evaluative, they should be concerned with value *for the freedom-holder*. So, evaluative weighting factors will not, for example, be determined by 'how moral' certain options are. Constraining value to 'value for the freedom-holder' might still mean different things. We might look for what

- i. is *good for* the freedom-holder,
- ii. constitutes *prudential value* for the freedom-holder,
- iii. gives the freedom-holder normative reasons.

I understand the question in the sense of (i) and (ii). I take these to be equivalent. I will exclude the broader (iii), the reason being that not all normative reasons are ‘wellbeing reasons’. So, if we assume that moral reasons are normative reasons, then ‘normative reasons’ are too wide.¹³⁹ So, an account of evaluative factors should fulfil:

The Good For Desideratum: evaluative weighting factors should be justified with respect to what constitutes what is good for the freedom-holder.

Note that I deliberately used the rather vague formulation ‘justified with respect to’ so that freedom can be non-specifically valuable. Freedom’s non-specific value, introduced in an earlier chapter, means that the value of a choice-set is not reducible to the overall value this set has in specific instances. Here is an example. Most people agree that, *ceteris paribus*, it is better for a person to be happier. But in developing an account of evaluative weighting factors we should not say that weighting factors are fixed according to the happiness individual options will cause when added to a person’s choice-set. In some cases specific persons will be happier with less freedom. So, imagine a person who has been indoctrinated to hate freedom. In such a case, we clearly do not want to say that an option offers her more freedom the less freedom it provides here. So, ‘justifying evaluative weighting factors with respect to the goodness for a person’ need not be the same as reducing evaluative weighting factors to the goodness a choice-set has for a person in individual instances.

Third, at different stages I have briefly mentioned freedom-associated reasons to value freedom (such as uncertainty about likings and or preferences, preference change, autonomy and personal control). Because these attach specifically to freedom, we should expect our account of evaluative factors to reflect these freedom-associated values.

The Freedom-Associated Desideratum: evaluative weighting factors should reflect our freedom-associated reasons to value freedom.

¹³⁹ Of course, morally good freedoms will typically still count for more than immoral freedoms in virtue of their differing values for the freedom-holder. Whether and to which extent this is the case depends on one’s theory of well-being and empirical facts.

Note how the Freedom-Associated Desideratum coheres with the Good For Desideratum. Consider the above example. Sometimes one is happier with less freedom. This does not, however, mean that the good things we typically associate with freedom are absent in such a situation. There might still be freedom-associated reasons – which are not simple happiness – to value freedom even if more freedom is not better for the person all things considered in that situation.

A third desideratum might be that our weighting factors should reflect our intuition that the more *variety* an option-set offers, the more freedom it offers *ceteris paribus*. Our account should, to some extent, track these variety-based judgements. So:

The Variety Desideratum: a measure of overall freedom needs to cohere reasonably well with our variety-based intuitive judgements about overall freedom.

Let us now discuss different accounts and see whether they fulfil the Variety, the Good For and the Freedom-Associated Desideratum.

9.1 Variety

Should an option's weighting factor be determined by how much *variety* it adds to an option-set? I will start by discussing how variety has been proposed as a criterion in response to the Non-Evaluative Account and will then argue that we should not directly evaluate option-sets according to their variety.

9.1.1 Variety and the Non-Evaluative Account

In a classic paper, Pattanaik and Xu give three axioms to determine a function to order opportunity-sets in terms of freedom. I will shortly outline these and use them as a backdrop to understand what role the variety of options is often thought to play.

Let X be the universal set of equally-sized specific freedoms with $x, y, z \dots$ being elements of X . Let Z be the set of all non-empty subsets of X . Let $A, B, \dots$ elements of Z be sets that contain specific freedoms such as x, y, z . Let ' $\succeq$ ' denote 'offering at least as much freedom as', ' $>$ ' denote 'offering strictly more freedom' and ' $\sim$ ' denote 'offering the same degree of freedom as'. Note that, to link up better with other people's frameworks, x, y, z are specific freedoms and not freedom-sets. Remember, however, that my account aggregates over *freedom-sets*. For the moment this difference does not matter for the question to be discussed here. Pattanaik/Xu list the following three axioms to rank opportunity-sets in terms of freedom:

$$\text{No-Choice:} \quad \forall x, y \in X: \{x\} \sim \{y\}$$

$$\text{Independence:} \quad \forall A, B \in Z, \forall x \in X - (A \cup B): [A \succeq B \text{ iff } A \cup x \succeq B \cup x]$$

$$\text{Strict Monotonicity:} \quad \forall x, y \in X, x \neq y: \{x, y\} > \{x\}$$

No-Choice simply states that two singleton sets offer the same level of freedom, namely none. The Independence Axiom states that if one set of options offers more freedom than another, then adding the same option to both does not change the ranking.

A problem with these non-evaluative axioms is that they ignore *variety*. Here is one of Pattanaik and Xu's own examples. Imagine you have two choice-sets A and B :

$$A = \{\text{red car}\}$$

$$B = \{\text{train}\}$$

Given the No-Choice Axiom these are equal in terms of freedom. Let us now add the option 'blue car' to both such that

$$A' = \{\text{red car}, \text{blue car}\}$$

$$B' = \{\text{train}, \text{blue car}\}$$

Given Independence, A' offers just as much freedom as B' . This, however, seems false, as the latter offers more freedom because it offers more variety.¹⁴⁰ Therefore, accounts of freedom need to take account of variety and it seems they cannot be based purely on spatio-temporal criteria.

9.1.2 Variety and Value

I will now discuss different ways to account for an option-set's variety in our measure of freedom.

One way to try to account for variety on the Non-Evaluative Account is to say that options which are very similar to other options are (or include) different ways to do the same thing. When we apply the Physicalist version of the Non-Evaluative Account to the example above, we could argue that very similar options will overlap strongly in the spatio-temporal regions they open up. Having a blue car will give one options that are different ways to do the same things as one could with a red car. Having the option to use a train, on the other hand, will allow one to do many different options (individuated by their spatio-temporal properties). This is what earlier I called the *Many Ways Reply*. So, the first way to account for judgements of variety is:

- (i) Judgements about variety are accounted for by the fact that some options are (or include) different ways to do the same thing.

But there are alternatives. Evaluative views, including the Hybrid Account, will hold:

- (ii) Judgements about variety are accounted for by *evaluative* considerations. Options are relevantly different because they can lead to the realisation of different valuable things.

Both (i) and (ii) characterise variety through some other feature, either fecundity or value. A third way holds:

¹⁴⁰ Cf. Pattanaik/Xu (1990), p. 200.

- (iii) Judgements about variety are directly accounted for by *variety itself*. There is an independent, naturalist way to assess the variety of options.

So, instead of using evaluative considerations that ‘track’ variety-judgements, option (iii) imposes a standard of variety directly in determining the weighting factors. Various technical ways to incorporate variety have been suggested in the literature.¹⁴¹ These accounts do not elaborate *how* we arrive at judgements of variety. Instead, they offer technical tools to incorporate variety given that ‘what variety is’ has been antecedently determined.

However, I think there are two problems with such an independent account of variety.

First, what might criteria of variety look like? Spatial distance might be one such criterion. So, we could think that different options are more varied if they occupy different space regions. But given that the Physicalist Account already accounts for spatial extension, prospects for further ‘extension-based variety weightings’ are not promising. Alternative ways to define in a naturalist way might be to invoke the range of natural kinds used to describe different options. So, different cars whose only difference will be their colour will share many ‘naturalistic properties’ (the material used to build them etc). Compare this to having to choose between a car, a motorbike and a horse. For the latter set, there is a greater number of natural kinds needed to describe these individual options. However, despite the general conceivability of such an approach, there is still an open question as to which natural properties to use. The simple point I want to make is that there is more than one way to flesh out ‘variety’ in naturalist terms.

¹⁴¹ Pattanaik/Xu (2000) suggest to include a binary notion of similarity into their freedom-ranking. Klemisch-Ahlert (1993) suggests that adding an option x to a set $\mathcal{A}$ increases this option if and only if x is not a member of the convex hull of set $\mathcal{A}$. So, her account of ‘similarity’ is binary as well. Other theorists who have made attempts to include variety in a ranking rule (or measure) of freedom/opportunity are, for example: Suppes (1996), Rosenbaum (2000), Nehring und Puppe (2002), Bossert, Pattanaik and Xu (2003), Peragine and Romero Medina (2006) and Bervoets and Gravel (2007).

Second, this leads me to my more fundamental and important point. There more fundamental problem with the variety-based weighting factors is, at base, that there is *no reason* to include variety as an independent factor to determine the weighting factors. What type of reason is there to invoke variety? Our reason could be *theoretical*: we might think that we need to account for the fact that we intuitively judge that sets with more variety also offer more freedom. However, every account that tracks these intuitions will suffice. It is not required that this account invoke variety as an ‘independent’ standard. So, there is no theoretical reason why variety should determine our weighting factors. Alternatively, our reason for invoking variety could be *practical*: we might think there is a practical reason to care about more diverse opportunity-sets. This might be true in many cases. But this merely suggests that we should look at this more fundamental practical reason to value variety. If these more fundamental reasons determine the weighting factors, they should typically value more diverse option-sets more highly than very homogenous ones. But for this, it is not required that variety should determine weighting factors directly. Therefore, we should focus on genuinely evaluative criteria and not invoke variety as an independent standard.

To support this argument, I would like to show that at least some debates in the literature are actually about normative reasons and not about the correct naturalistic understanding of diversity. Think of the following case. Imagine you are on a flight and you get to choose between three different types of wine (option set $\mathcal{A}$). In a different situation you get to choose between two types of wine and a beer (option set $\mathcal{B}$). The latter situation seems to offer more variety. Amartya Sen, however, would hold that if you are a real wine connoisseur and do not like beer, then, relative to your preferences, option set $\mathcal{A}$ will offer more variety than option set $\mathcal{B}$. The reason for this is that we should determine variety based on the *actual* preferences of the person affected.¹⁴² Others disagree and argue that we should determine the kind of va-

¹⁴² I will discuss Sen’s preference account below.

riety based on, for example, possible preferences.¹⁴³ This point shows that there is *prima facie* reasonable disagreement about what *kind* of variety we should incorporate. But this disagreement is not about the correct naturalistic understanding of variety. Rather, it is about the correct kinds of evaluative considerations that operate in the background.

I conclude that we should not invoke variety as an independent standard in our evaluative weighting factors. First, it is questionable that there is *one* correct way to operationalize variety in naturalist terms. Second, there is an open normative question as to why we should prefer one type of variety over another. And even if there is just one naturalist way to define ‘variety’, we need a normative reason as to why we should include it in our measure of freedom. Third, part of the debate about variety in the literature is actually about normative background reasons

Instead, we should use evaluative considerations to determine the weighting factors in our formula. Using evaluative weighting factors will explain (i) *why* more varied sets offer more freedom and (ii) what *kind* of variety matters from the standpoint of freedom. Nonetheless, we should accept the Variety Desideratum even if variety should not function as an independent weighting factor.

Let us now discuss different suggestions for evaluative weighting factors.

9.2 Actual Preferences

The first suggestion for determining evaluative weighting factors uses a person’s *actual* preferences. This is suggested, for example, by Sen. Sen argues against Pattanaik and Xu’s No-Choice Axiom. Here it is again:

No-Choice: $\forall x, y \in X, \{x\} \sim \{y\}$

¹⁴³ Cf., for example, Sugden (1998), (2003).

Sen argues that if one of the options is preferred over the other, then it also offers more freedom. Therefore, No-Choice is false. Sen then introduces preference relations and offers a number of axioms.¹⁴⁴ Let ' P ' denote 'strictly prefers over'. Sen then holds:

$$\textbf{Preference-Axiom:} \quad \forall x, y \in X: xPy \rightarrow \{x\} \succ \{y\}$$

I will now argue that the Actual Preference Account does not fulfil our desiderata.

(i) The Adaptation Argument

In an earlier chapter (chapter 4), we came across Berlin's Adaptation Argument. I argued that whether I am free to φ is independent of whether I desire to φ . Otherwise I could make myself free by adapting my preferences. Similarly, if my preferences determine the value of my options, I could adapt my preferences to the choice-set available. Thus, I can make myself more free (though never 'perfectly free'). This seems false, as we understand freedom as an opportunity-concept. It would be odd if I could influence how many options I have by changing my preferences.

(ii) The Variety Desideratum

In my above section on variety I argued that even though we should not invoke 'variety' directly, our evaluative account needs to track at least a reasonable portion of our variety-based judgements. Robert Sugden argues that Sen's preference-based approach fails to do just this. Sugden attributes the following axiom to Sen (' xRy ' denotes a weak preference of x over y)

$$\textbf{Preference-based Independence:} \quad \forall A \in Z, \forall x, y \in X - A: xRy \rightarrow A \cup \{x\} \succeq A \cup \{y\}$$

Sugden then criticises this axiom. He has us imagine a room heater that allows different settings:

'[T]he relevant individual is indifferent between the two options 15 and 19 [the settings of the heater]. Then, by Preference-based Independence, we have $\{15, 15.01\} \sim \{15.01, 19\}$. If there is

¹⁴⁴ Sen offers axioms that are mainly concerned with set-dominance. I will here not discuss this.

an argument for ranking these sets equally, as Sen asks us to do, it would seem to be something like the following. Each set has the same number of options, and thus offers the same ‘sheer quantity’ of choice. Further, since the options in the two sets are either identical (15.01 appears in both sets) or equally preferred (the individual is indifferent between 15 and 19), these sets are equivalent to one another in terms of the individual’s preferences. Thus (it could be said) the two sets give equal amounts of opportunity. Clearly, what is wrong with this argument is that it fails to compare the extent of diversity in the two sets. The lesson to be learned, I suggest, is that we cannot measure diversity merely by using information about how options are ranked in the individual’s preference ordering.’¹⁴⁵

The problem for the Actual Preference Approach is that it reduces variety to the kinds of preferences a person has. Therefore, it might conflict with *the Variety Desideratum*.

(iii) *The Good For Desideratum*

I think the Adaptation Argument by itself is enough to show the inadequacy of the Actual Preference Account. But there might also be ample reason to doubt that it fulfils the Good For Desideratum.

There are good objections to an actual preference theory, if we understand it as a theory that gives us necessary and sufficient criteria for prudential value. Let the ‘preference-satisfaction theory of wellbeing’ be the theory that one thing is better for a person than another if and only if the person prefers the first to the second.

The first problem is that an actual preference is *not sufficient* for one thing being better than another in terms of welfare. Bernard Williams offers a case in which a man desires to drink a glass of petrol thinking it is Gin.¹⁴⁶ A different example – which does not involve false information – is provided by Derek Parfit:

‘I know that some future event would cause me to have some period of agony. Even after ideal deliberation, I have no desire to avoid this agony. Nor do I have any other desire or aim whose

¹⁴⁵ Sugden (1998), p. 475.

¹⁴⁶ Cf. Williams (1981), p. 102.

fulfilment would be prevented either by this agony, or by my having no desire to avoid this agony.¹⁴⁷

We can respond to these examples saying that even if preference-satisfaction is not sufficient for making one thing better than another all things considered than another, it is sufficient to make it better *pro tanto*.

However, there is reason to doubt even this general claim about the *pro tanto* increase in welfare. There are cases in which the fulfilment of our preferences has no direct bearing on our lives. Imagine you meet a person on the train and you get on very well. Upon departing the train you wish him well and hope that his life goes well. If you never meet this person again and his life goes well without you knowing it, a preference view would judge that your wellbeing is increased.¹⁴⁸

Wayne Sumner summarises such objections:

‘Desires whose objects prove disappointing in the actual experience of them and desires whose objects never enter our experience at all – these are both cases in which the satisfaction of our desires appears insufficient to make us better off.’¹⁴⁹

A desire to φ is not a sufficient condition for φ -ing to be valuable. But previously desiring something is not even necessary for it to be valuable. Some good things happen unexpectedly. The Actual Preference Approach does not take account of this. One might object that preference views can account for things that are good but not previously desired as long as the person *will* desire the thing in the future – that is after she has tried it. So, even if a person does not desire to listen to Dubstep – because she does not know what it is – she might still come to desire to listen to Dubstep after she has been made familiar with that particular musical

¹⁴⁷ Parfit (2011), p. 74.

¹⁴⁸ Cf. Parfit (1984), p. 494.

¹⁴⁹ Sumner (1996), p. 132.

genre.¹⁵⁰ I will not discuss whether this reply works for desire theories generally. But it is inadequate for the Actual Preference Approach we are considering here which uses *actual* preferences and not possible or future ones. So, to determine the weighting factor for my freedom at t to listen to Dubstep at $t + 2$, we need to find out how valuable it is for me *at t* . If I do not have the preference to listen to Dubstep – or the more general desire to try out different musical genres – then the Actual Preference Approach cannot say that having that freedom is valuable for me at t .

More would have to be said to decisively argue against desire theories of well-being. But the arguments presented here are sufficient to give us reason to believe that a simple actual preference theory alone fails to justify evaluative weighting factors with respect to a plausible account of well-being.

(iv) The Freedom-Associated Desideratum

In one sense, we might think a focus on an agent's actual preferences accounts for some of the freedom-associated reasons to value freedom. Amongst other things, freedom is about being left alone, being allowed to 'act as one wishes'. It does, however, perform badly with respect to many other reasons we have for valuing freedom. Freedom-associated reasons to value freedom are personal control, autonomy, preference change, uncertainty, personal development and others. The Actual Preference Approach fails to account for these. What is good for us in terms of autonomy and personal development and what we currently want will often conflict. Also, what we want *now* and what is good for us in the future might change drastically. Freedom 'ensures' that even those things will be available that you do not currently desire but that you might come to desire and/or enjoy in the future. Also, freedom is instrumentally valuable for personal development. Part of personal development should lie in

¹⁵⁰ Parfit (1984), Appendix I discusses what he calls the Summative Version of a desire theory which says that the more desires are fulfilled across a life and the more intense these desires the better off the person.

changing or refining one's preferences, tastes and likings. The Actual Preference Approach does not take account of this. Focussing exclusively on actual preferences thus downplays the role that freedom plays to facilitate what is good for us given that our personality changes over time.

So, a simple Actual Preference Approach does not fulfil the Freedom-Associated Desideratum, because it fails to account for a number of reasons we have for valuing freedom.

The Actual Preference Approach fails on all accounts. Maybe another popular account in the literature, the Potential Preference Approach, will do better.

9.3 Potential Preferences

Instead of focusing on a person's actual preferences, it is sometimes suggested we should focus on a range of *potential* preference-profiles per agent. Here is an example of how potential preferences can be included in axiomatic freedom-rankings. Pattanaik and Xu suggest a number of axioms. The basic idea is that for each person there exists a preference-profile $\mathbf{R} = \{R_1, \dots, R_n\}$ that contains all *reasonable* preference-orderings this person could have. Again, X is the set of all alternatives $x, y, \dots, z$ and Z is the set of all non-empty subsets $A, B, \dots$ of X . Pattanaik/Xu then define $\max(A)$:

$$\max(A) := \{a \in A : a \text{ is the } R \text{ greatest element for some } R \in \mathbf{R}\}$$

The idea is that instead of including *all* options offered by some choice-set A , we focus on $\max(A)$, that is, on the subset of options that are the most preferred options on some reasonable preference-ordering (the ' R greatest element for some R element of $\mathbf{R}$ '). Pattanaik and Xu show that if we accept a number of axioms, we can rank choice-sets in terms of the number of such preferred options in each set, such that:

$$\forall A, B \in Z: A \succeq B \leftrightarrow \# \max(A) \geq \# \max(B)^{151}$$

Instead of this ordering or the axioms behind it, let us focus on the basic idea behind this and similar approaches.¹⁵² The basic idea is to remove some options as not being relevant for a measure of freedom by restricting the set of options to those that can be reasonably preferred. We might want to change this account for two reasons.

First, in chapter 8, I argued that every type of option can be a specific freedom independent of its value or disvalue. Moreover, in chapter 8 I argued that for a ‘how free question’ it is relevant to determine how many options there are (understood in purely spatio-temporal terms) and how good these options are. I argued, therefore, that *all* options even those that are not valuable should be included for a measure of freedom. Therefore, we should not exclude options that one cannot reasonably prefer.

Second, according to the aforementioned accounts, reasonably preferred options all count equally. However, some reasonable preference-orderings might be more common than others. One reason to value freedom is its propensity to lead to a better fit with what one wants or what is good for us given that we do not always know what that is and given that personalities change. A binary account fails to account for this. So, say there are 100 reasonable preference-orderings in $\mathbf{R}$. 99 R out of $\mathbf{R}$ prefer x over y , one R prefers y over x . Instead of weighing x and y equally, I suggest, a Potential Preference Account should give x greater weight than y .

So, a continuous weighting function – one that assigns different values to individual options according to how much they can be reasonably preferred – commends itself over a binary account of ‘reasonable’. So, say we want to construct evaluative weighting factors for a person whose set of reasonable preference-rankings we know. I will not address the technical ques-

¹⁵¹ Cf. Pattanaik/Xu (2003), p. 187.

¹⁵² Cf., for example, Puppe (1996).

tions about how to construct such a ranking. But the general idea is to aggregate the different preference-orderings $R_1, R_2, \dots, R_n$ over $x, y, \dots, z$ into a welfare function, just as we do when we aggregate individual preference-orderings into a social welfare function.¹⁵³ That is, we would treat each individual potential preference ordering as we treat a person's preference ordering in a social choice situation and then aggregate these orderings into an overall preference ordering the way we do for a social welfare function. Based on this cardinal welfare function we then give weightings to individual options.

The kind of Potential Preference Approach to be discussed here is one that is linked to a Hybrid Approach such that all non-valuable options have weighting factors 1 and other options get their weighting factors from an aggregated welfare function based on preference-profile **R**. I have already given two arguments as to why such a version of the Potential Preference Account is more plausible than the ones being proposed so far. We will see further reason why such an account is an improvement.

Let us now see whether the Potential Preference Approach (understood as a *Hybrid Account*) meets our desiderata.

(i) The Variety Desideratum

The Potential Preference Approach fulfils the Variety Desideratum. Consider our plane example again. What gives you more freedom, being offered three different types of wine or being offered two types of wine and one beer? It is not unreasonable to prefer beer over wine

¹⁵³ Because I will not defend a Potential Preference Account, I will not discuss exactly how weighting factors are to be had from a set of preference-rankings. For example, should, as I wrote, such a ranking be over individual options $x, y, \dots, z$? Should they be over *all* options in X ? Or, alternatively, should such orderings be over *sets* of options? Or should the value of an option x be determined relative to an option-set A , such that we invoke a preference-profile over the union of A and x compared to unions of A with other options? Moreover, one might worry about encountering the same problems one encounters when aggregating individual preference-orderings into a social welfare function – Arrow's Impossibility Theorem might loom. However, if we allow interpersonal comparability of welfare, that is if we relax one of Arrow's axioms, we can avoid Arrow's impossibility result. This makes sense in this context, as we are dealing with possible preference-orderings of *one* person.

and many reasonable people do have that preference. If there are enough such preference-orderings and if we give these orderings enough weight, then the option-set that involves beer will offer more freedom even if a person happens to be a wine-lover. One can reasonably prefer very different things. Even without spelling out how such an account would work precisely, it seems that a Potential Preference Account would track intuitive judgement in this case and is thus, *prima facie*, a good candidate for fulfilling the Variety Requirement.

(ii) *The Adaptation Problem*

This approach also gets round the Adaptation Argument. Because the evaluative weighting factors are not based on a person's actual preferences but on those she could reasonably have, one cannot make oneself more free by adapting one's preferences.

(iii) *The Good For Desideratum*

Does the Potential Preference Account justify the choice of evaluative weighting factors on the basis of a convincing theory of what is good for the freedom-holder? For this, the Potential Preference Account needs to develop a position that is not solely based on a person's *actual* preferences without allowing *all* preferences to be reasonable. So we need to defend some kind of restriction. I will now discuss two suggestions for such a restriction.

The first approach defines some objective features of a person's situation, such as gender, age and so on, and then lists the kinds of preference-orderings that a person in such circumstances could *reasonably* have.¹⁵⁴ However, the word 'reasonable' is a notorious placeholder in political philosophy. Relatively little has been written on how to spell it out on the Potential Preference Account. There are different routes one might take. One might suggest an objective list of valuable things and activities – as is done, for example, by Martha Nussbaum – or one might offer a theory about, for example, what makes people happy allowing for myriad ways to be happy.

¹⁵⁴ Sugden (2003), p. 793.

The problem with using objectivist account is that a Potential Preference Account would cease to be a *preference* account and turn into an objectivist account. Now, I do not want to take issue with accounts being objective in general. But I think there is an issue with an objectivist reading of Potential Preference Account in particular. For restricting the range to ‘reasonable’ preferences results in a dilemma: if we want to account for the Subjectivist Intuition that ‘what is good for people is up to them’, then this speaks for using an Actual Preference Account. But the Actual Preference Approach is implausible. Therefore, we want to restrict the preferences that matter to those that are ‘reasonable’. But in doing so, we will often use objectivist criteria which contradict the basic subjectivist motivation for preference accounts. This, I suggest, is the main dilemma for the ‘reasonable preferences version’ of the Potential Preference Accounts and I do not see how it can be solved.¹⁵⁵

Let us discuss Sugden’s second approach which

‘...tries to avoid making claims about what is good in human life. Instead it uses an empirical criterion: a particular preference ordering counts as “potential” for all people with a given set of objective circumstances if and only if it is the actual preference ordering of at least some person with those circumstances.’¹⁵⁶

On what I will call the Sociological Approach, we define a reference-class for a given freedom-holder and then include all those preference-orderings that are held by people in this reference-class as potential preference-orderings. Is this a more promising way to restrict R?

The first challenge is of course to determine what should count as the reference-class. What are our criteria for this? But even if this is solved, there are a number of problems.

First, we have seen that the ‘reasonable’ restriction conflicts with the basic motivation for preference accounts, what I called, the Subjectivist Intuition. The same problem should arise

¹⁵⁵ This argument is somewhat akin to Enoch’s (2005) argument that any subjectivist account that moves beyond a person’s actual desires, that is if it ‘idealises’, contradicts the basic motivation of a Subjectivist account.

¹⁵⁶ Sugden (2003), p. 322.

with the Sociological Account. If what matters is what the person herself desires, then it is neither here nor there what *other* similar people desire.

One might respond that if we care about freedom, we care about the availability of meaningful and meaningfully *different lifestyles*. The existence of different preference-orderings will give us this.

However, the problem with this reply is that while other people's preferences might point us in the direction of what might be a valuable option, the fact that someone else desires something neither constitutes nor explains why it should be valuable *for me*. Other people's preferences seem to play an indicative, not a constitutive role.

Second, the Sociological Approach might sometimes be unduly conservative. While it might get intuitive results in situations in which our reference-class includes a wide variety of preferences, it might be less intuitive in cases in which societies are very repressive and preferences very homogenous. Many preferences are the result of repressive circumstances, cultural hegemony, religious indoctrination or simply the result of external material circumstances. It is hard to see why the value of specific freedoms should be indirectly determined by such circumstances.

I think the case against the Sociological Approach is quite strong. However, even if this is so, one might still use the technique of the Sociological Approach as a *proxy*, that is, the existence of certain preferences for an option x within a sociological reference-class might be a good indication that this x is potentially valuable.

So, the first two ways to flesh out the restriction on **R** fail to account for the Good For Desideratum but a Sociological and Hybrid Version of the Potential Preference Account might be useful as a proxy.

(iv) *Freedom-Associated Desideratum*

Sugden argues that the Potential Preference Account fails to account for those normative reasons (particularly those expounded by Mill) associated specifically with freedom. Therefore, in my terminology, it fails to meet the Freedom-Associated Desideratum. The objections he discusses are, as I will show, more damaging to the simple version of the Potential Preference Approach (such as Pattanaik and Xu's) but less so to the Hybrid Version.

Against the 'reasonable preferences' version of the Potential Preference Account Sugden argues

'Mill is explicit and emphatic in arguing that the unreasonableness of a mode of life – its incompatibility with any credible account of human well-being – does not justify the public in restricting the opportunities of adult individuals to take it up.'

Later he argues that

'It is a great virtue of Mill's account of opportunity that it is not constrained by current theories of the specific nature of well-being and so provides space for individuals to make life choices which, according to received ideas, lack moral value. That virtue would be lost if potential preferences were defined in terms of reasonableness.'¹⁵⁷

This objection seems strong. However, if potential preferences are used to determine the weighting factors in a *Hybrid View*, then the objection loses (some of) its force. For in such a version of the approach, options that lack value would still count as freedoms that matter for a person's overall freedom. Options matter more if they can reasonably be preferred but no option is excluded on such a criterion.

On the Sociological Approach Sugden quotes Mill:

¹⁵⁷ Sugden (2003), p. 797. The quote is ambiguous in two ways. First, it suggests that 'reasonable' is determined by 'current theories of...well-being' and by 'received ideas'. But if we give 'reasonable' a more objective reading than what is reasonable will be independent of received wisdom and current theories. Second, it uses 'moral value' but the context of the quote shows Sugden is concerned with prudential value or welfare.

“Precisely because the tyranny of opinion is such as to make eccentricity a reproach, it is desirable, in order to break through that tyranny, that people should be eccentric.”¹⁵⁸

Sugden then writes that

‘No one who values opportunity as a means of promoting eccentricity and originality will be satisfied with a theoretical approach which treats opportunities to be truly original as if they were not opportunities at all.’¹⁵⁹

There are two reasons why this objection to the Sociological Approach might be less damaging than Sugden thinks.

First, a Hybrid version of the Sociological Potential Preference Approach would not rule out eccentric lifestyles, but would simply attach lower weighting factors to them.

Second, how many reasonable preferences we include depends also on our choice of reference-class. We might determine all possible preference-orderings for a woman in a very patriarchal and illiberal environment. But we might also use, as a reference-class, women who grew up in different and more liberal circumstances.

Nonetheless, the objection might still have *some* force. As I have argued before, the fact that someone else desires something should only have indicative importance for me. But there is little reason to believe it should *constitute* what is valuable for me.

Overall, the Potential Preference Approach fulfils a number of desiderata and is an improvement on the Actual Preference Approach. The main problem, however, is that it lacks an axiological justification for restricting and weighting potential preferences.

I will now present my own suggestion that provides such an axiological grounding.

¹⁵⁸ Mill, *On Liberty*, pp. 124–5 quoted after Sugden (2003), p. 797.

¹⁵⁹ Sugden (2003), p. 797.

9.4 The Conditions Approach

9.4.1 Freedom-Associated Value

There are some things a person typically needs to have a good life. A number of conditions typically need to be fulfilled for a person to possess well-being. The basic idea of the Conditions Approach is this: some of these conditions of a good life are provided by freedom. Accordingly, an option should count for more if it is more conducive in providing these conditions. In previous chapters, I have already mentioned a number of values that attach specifically to freedom: personal control, autonomy, personality change, personal development etc. These provide (part of the) conditions of a good life and should determine the values of the evaluative weighting factors.

Those values that attach specifically to freedom constitute *freedom-associated value*. So, the more choice-set $\mathcal{A}$ helps to provide the freedom-associated conditions of a good life, the higher $\mathcal{A}$'s freedom-associated value. Let $V_F(x, \mathcal{A})$ be the freedom-associated value that adding x to choice-set $\mathcal{A}$ has for a person. $V_F(x, \mathcal{A})$ will generally be determined by asking questions such as: how much does adding this option improve the agent's opportunities for personal control, autonomy and so on?

First, a very straightforward reason to value freedom is that people like different things at different times and that freedom takes this into account. As a child I hated olives and coffee but like both very much today. Freedom is thus also about safeguarding an adequate range of choice to allow for personality change. I think a failure to appreciate the normative importance of personality change comes from what, in a recent psychology study, has been called 'the end of history illusion'. While they might acknowledge that their personality has usually changed significantly over the last ten years, persons of all ages systematically underestimate the extent to which their personality will change in the next decade. 'History, it seems,

is always ending today.”¹⁶⁰ So, future option-sets should be higher in freedom-associated value if they offer variety and include options that might be enjoyed by the freedom-holder’s future self. Here, one could use the Hybrid Version of the Potential Preference Approach. Accordingly, we could hold that options which rank higher on a set of potential preference orderings in a person’s sociological reference-class should be of a higher freedom-associated value. Note that the Potential Preference Approach is here used merely in an indicative not a constitutive sense.

But what is a person’s sociological reference-class on the basis of which we should judge whether an option-set accounts for a diversity of possible tastes and likings? The way to build up such a reference-class is to start from a list of a person’s characteristics or properties and then take all people who fall under that description to form that person’s reference-class. Their preference-orderings or likings can then be aggregated to develop evaluative weighting factors. However, on the basis of which properties should we construct this reference-class? Clearly, we should not use *all* of a person’s characteristics. But more importantly, we should not limit our reference-class to the same social group or even to members of the same society. Say someone grows up being brainwashed into believing every tenet of some religious cult. The relevant sociological reference-class should not consist of those people who are also members of this or some other oppressive sect but those who have a free choice about their lifestyles. Or consider a woman who lives in a strongly patriarchal society. We should not only consider what other women in similarly patriarchal societies prefer. Again, we should consider what other people who have different options available might come to like.

So, what are the criteria for a sociological reference-class? To safeguard great diversity, we should allow for a great diversity within the set of persons who make up the sociological ref-

¹⁶⁰ Quoidbach et al (2013), p. 98.

erence-class. So our criteria should be rather general and should include things like gender and age for example.

Note that I am not arguing that using the sociological version of the Potential Preference Approach alone should determine our weighting factors. Other criteria, to be discussed below, should enter too.

Second, freedom is valuable, *inter alia*, because it is required to be able to develop and exercise personal control. We can understand personal control, roughly, as the ability and sense of ability to change adverse circumstances. If your circumstances allow you to influence what is available and what is not, then these circumstances are, what I will call, *agency-responsive*. Agency-responsiveness does not mean that options reflect your preferences nor does it mean that all options in your surroundings are good for you. Instead, it means that you are able to alter circumstances according to what you intend to change. Agency-responsive environments are such that, at the very least, an individual's 'voice is heard'.

Agency-responsive environments are democratic environments. This can be on the small and medium scale, such as non-authoritarian families, schools and work-environments, as well as on the political level. Through the idea of *personal control*, I suggest, there is a conceptual link between freedom and democratic environments. Agency-responsive environments are necessary for the development of personal control. Options which allow that an agent's voice is heard should thus count for more on the Conditions Approach. We might thus ask questions like: if a child is unhappy about a situation in her family would her parents listen and consider her complaints? If an employee is unhappy about certain work conditions would her complaints be heard? Personal control is not only relevant in the sense that a person's *ability* to exercise control is relevant. What is also important is a perceived *sense* of personal control. So, agents need to have the beliefs and conviction that they are 'in control' and can change adverse circumstances if necessary. The opposite of a sense of personal control is *helplessness*, that is, having a sense that one is helpless in the face of adverse circumstances. Helplessness

is often causally related with depression, so the advantages of its opposite, personal control, should be immediately apparent.¹⁶¹ A sense of personal control is, to a certain degree, learned. That is, through positive experiences particularly during one's formative years, agents can acquire 'a positive attitude' in the sense that they learn to feel and be in control of their circumstances.

A further feature, closely linked to personal control, is personal autonomy. Autonomy is a notoriously difficult concept to pin down. But it implies such things as the non-heteronomous development of goals and preferences and that agents act on such preferences rather than heteronomous ones. What does it mean for options to facilitate personal autonomy? As Mill argues, an autonomous choice is helped if there is a range of different lifestyles available. There is an epistemic dimension: different lifestyles in a society offer information and inspiration. But there is also a conceptual dimension: an autonomous choice of a lifestyle requires that one tries a number of things to be able to judge different options 'from the inside' and to develop one's personality and tastes. Another conceptual link between autonomy and freedom is, as Hurka argues, that making autonomous decisions requires *rejecting options*.¹⁶² So, the possibility of autonomous choices often requires the freedom to choose otherwise.

The existence of different lifestyles facilitates autonomy. But it is not only their existence that matters but also the social conditions for social inclusion, acceptance and recognition despite wildly differing lifestyles. People who are encouraged to develop their own goals are more likely to choose their goals autonomously. Such things as the absence of peer pressure, of strict gender expectations, non-authoritarian education, the free exchange of ideas and arguments and so on will facilitate the conditions of personal autonomy. For example, in many societies there is a strong pressure to be very feminine as a woman and very masculine as a

¹⁶¹ Cf. Seligman et al. (1967), (1975).

¹⁶² Cf. Hurka (1987).

man, where this usually comes with a list of properties that make up these gender-based aspects of identity. This does not mean that in those societies one is unfree to act in defiance with these gender prescriptions. But such defiance might result in the loss of some other freedoms, such as the prospect to be a member of a certain group or to have certain job opportunities etc. So, the wider the range of lifestyles and the more accepting society is, the more likely it is that one can freely and autonomously choose between.

These remarks are sketchy and not sufficient to generate a clear weighting procedure of individual options. But they do point out what kinds of considerations stand out from others as being the freedom-associated conditions of the good life and should thus determine our weighting factors.

Before showing how the Conditions Approach fulfils our desiderata (sec. 9.4.4), let me expand on a few more features of this approach.

9.4.2 Neutrality

So far, I have argued that an option's weighting factor should be determined by how far it provides (relative to a set of options) freedom-associated conditions of the good life. Proponents of the Non-Evaluative View, such as Carter, object to *any* Hybrid View that it confuses freedom with the value of freedom. However, this is not the case for the Conditions Approach. By focusing on the *conditions* of the good life instead of the good life itself, the Conditions Approach avoids confusing freedom with the value of freedom. Freedom-associated conditions of the good life should be distinguished from *all-things-considered value*. Let $V(x, \mathcal{A})$ be the all-things-considered value of adding x to choice-set $\mathcal{A}$. Assume, for example, that our theory of all-things-considered value is hedonism. Then, $V(x, \mathcal{A})$ is simply the amount of pleasure that adding x to $\mathcal{A}$ would give a person.

All things considered value and freedom-associated conditions are clearly different. Because freedom is not the only factor that determines a person's overall level of welfare, there are

cases in which an increase in freedom might make a person better off in having more freedom-associated value but maybe not more all-things-considered value. So, the all-things-considered value of an option-set and its contribution to the freedom-associated conditions of the good life are different, which is why Carter's objection does not work against the Conditions Approach.

What precisely is the relationship between 'freedom-associated value' and 'all-things-considered value'? The link between freedom-associated *conditions* of well-being and well-being might be conceptual if we believe that autonomy and personal control etc are intrinsically valuable. If we do not think that these things are intrinsically valuable, then the link between freedom-associated value and all-things-considered value might be merely *empirical*. So, one only has to agree that, typically, opportunities to exercise autonomous agency, to develop and exercise powers of self-control and to be in a situation to satisfy one's likings given that these change over time are all *conducive* to a person's well-being. One need not hold that these are also *constitutive* of a person's well-being. Consider, for example, a hedonist account of value. On such an account, freedom and autonomy are only instrumentally valuable. Therefore, according to hedonism, freedom-associated benefits are conditions for well-being in an empirical sense only.

Because the Conditions Approach allows for the link between freedom-associated condition of the good life and well-being to be empirical, it is thus neutral with respect to a broad range of theories of well-being. All theories of the good life are admissible that hold either that there is a conceptual connection between freedom-associated value and well-being or that freedom-associated value contributes to well-being in an empirical sense.¹⁶³

¹⁶³ Note that the set's contribution in terms of freedom-associated value can go beyond the time during which the person had the relevant set. So, say I have an option-set now, then this might create all-things-considered benefits in the future.

For example, imagine your preferred theory of well-being is an Objective List Approach. Objective List Approaches hold that there is a list of objectively good things that make up a good life for everyone. On such a version we would determine all-things-considered value through the achievement of a number of objectively good activities or properties. All those forms of the Objective List Approach are compatible with the Conditions Approach that, at least, hold that freedom-associated values are empirically conducive to the realisation of those objectively good things.¹⁶⁴

Or the Conditions Approach could be combined with a Happiness Account of value. On this version, evaluative weighting factors will be determined by how much these factors contribute to the *conditions* of a happy life. Given our best normative theory of happiness and given empirical relationships between these aspects and happiness, we should expect the reasons we have to value freedom to be a subset of the conditions of a happy life. So, personal autonomy, personal control, the conditions of respect and personality change are all relevant for happiness without being reducible to it. So, while these are part of the ‘conditions of a happy life’, they do not exhaust the determinants of a happy life.

The options I have mentioned plausibly hold that there is a strong positive link between freedom-associated benefits and all-things-considered value whilst also allowing that more freedom need not always mean more all-things-considered value. Sometimes more freedom might conflict with other determinants of the good life.¹⁶⁵

¹⁶⁴ This does not mean that there is a strong empirical link between freedom-associated value and all-things-considered value for *all* Objective List Approaches.

¹⁶⁵ Despite this level of neutrality, we should still expect there to be some disagreement about which aspects of freedom-associated value are most important and how one should weight these different aspects depending on one’s background theory of all things considered value.

9.4.3 The Conditions Approach and Preferences

(i) Subjectivist or Objectivist?

In this section, I will discuss the following question: when we determine $V_F(A)$, are these conditions ‘subjectivist’ – that is, dependent upon the psychological make-up of the person whose option-set it is – or are these conditions ‘objectivist’ – that is the same for all people in the same or similar circumstances?

First of all, these conditions should not be totally subjectivist. The question we are asking, when developing qualitative weighting factors, is not *how good an option-set is for a person*, but how much an option-set adds to a person’s freedom. Carter reminds us not to confuse ‘what is freedom?’ with the question ‘what is the value of freedom?’. I have argued that even though the former question needs some elements of the latter, the two do not collapse. This is why the Conditions Approach should not be completely subjectivist. Imagine a person P who flourishes/is happiest when she is very unfree. If we totally individualised the Conditions Approach, we would say that for P , an option should weigh more, the less free it makes P . This is implausible. So, the ‘conditions of the good life’ should be understood, at least to a large extent, relative to typical human beings and not be wholly individualised. Therefore, objectivist aspects should matter greatly. Aspects like the ability to be an agent, to act autonomously and to have a strong sense of personal control are relevant across individuals as conditions for the good life. Similarly, the fact that personalities change or that one needs a diverse range of options to be able to express oneself should hold interpersonally.

Now, saying that one needs objectivist conditions does not imply the exclusion of all subjectivist aspects. As explained above, when assigning an individual a sociological reference-class, the Conditions Approach should use a number of ‘objective criteria’ from a person’s situation and take these to be relevant for what should count as a person’s conditions of the good life. So, a person’s gender and age, for example, should be relevant for an evaluation of her options. Admittedly, there is a great deal of indeterminacy about which aspects – objectivist and

subjectivist – we should include and how to balance these. Which background theory of all-things-considered value one endorses will be relevant too. I will now argue that, when including subjectivist aspects, we should not include a person's *preferences*.

(ii) Should We Include a Person's Preferences?

My Conditions Approach is inspired by Matthew Kramer's version of the Hybrid View. Kramer starts from the idea that values which attach specifically to freedom that should determine evaluative weighting factors.¹⁶⁶ However, Kramer argues that the typical person has a strong interest in seeing her strongly felt desires be fulfilled. Evaluative weighting factors of freedom need to account for this interest and we should therefore include a person's strongly felt desires in our measure of freedom.¹⁶⁷

I think we should resist this move.

First, I have earlier argued against taking actual preferences to be constitutive of a person's well-being (sec. 9.2). This should make it less plausible to include preferences in the Conditions Approach.

Second, the inclusion is also problematic because of the Adaptation Argument. If preferences determine, *inter alia*, evaluative weighting factors, then one can still make oneself more free by adapting one's preferences. The extent to which one can do so is less drastic than before, because, first, the Hybrid Account will count *all* freedoms and, second, evaluative weighting factors are only partly determined by an individual's preferences.

¹⁶⁶ Kramer (2003), p. 434. Of course, Kramer holds that it is not the person's preferences alone that will determine the significance of a specific freedom. The freedom to read, for example, is important even if a person does not have a strong desire to read. Note also that, more generally, Kramer gives a different list of what these freedom-associated values are.

¹⁶⁷ Kramer (2003), p. 436.

I will now argue that we can indirectly account for the intuition that what a person wants should matter for how much freedom she has – henceforth called the *Preference Intuition* – without including preferences in $V_F(\mathcal{A})$.

Why would we want to include preferences in the first place? One of the reasons we have for valuing a person’s freedom might be that often want to respect a person and her decisions independent of whether we believe she has taken a good decision or not. Does this imply that we should determine our weighting factors based on a person’s preferences? Here is why not.

First, the Hybrid Approach includes all specific freedoms whether they are valuable or not. So, in this sense it clearly leaves everyone a space of decisions in which no one interferes, even if the decisions are not good for the person. By not discarding ‘valueless’ options, it leaves everyone free to take their own decisions, even if these might be bad.

Second, ‘respecting persons and their decisions’ is further reflected by the idea that freedom is also about how you are able to change your circumstances. Above I argued that circumstances should be agency-responsive. Agency-responsiveness means that you are able to alter circumstances according to what you intend to change – or at least that your voice is heard. This is different from options’ values being determined by one’s preferences. The inclusion of agency-responsiveness should account for some of the force behind the Preference Intuition.¹⁶⁸

Third, as I will discuss in more detail in chapter 13, there is a difference between *Point in Time Freedom* and *Lifetime Freedom*. *Point Freedom* asks: how much overall freedom does a person P have at a specific point in time t ? When we ask how much Point Freedom P has, we ask how many future freedoms and unfreedoms exist at t for P . *Lifetime Freedom*, on the other hand, asks how much freedom a person has over a period of time. Here, we ask, for example: how

¹⁶⁸ Note how agency-responsiveness is not open to the Adaptation Argument. If I adapt my preferences to what is available, like for example the ‘contented slave’, then this does not increase agency-responsiveness and thus it will not increase my level of overall freedom.

much freedom did a person have (*ex post*) or is expected to have (*ex ante*) over the course of his life?

A person's level of Lifetime Freedom depends, indirectly and *inter alia*, on her preferences. Say I, a decently well-off Westerner, love communist dictatorships and decide to live in North Korea and give up all my civil rights and wealth. So, even though I started with a high level of Point Freedom, I end up with a relatively low degree of overall freedom because of the actions I took (and thus in a derivative sense my preferences). Preferences thus do matter for Lifetime Freedom but they do not determine Point Freedom.

So, the Preference Intuition is accounted for indirectly.

Overall, we have good reason not to include a person's actual preferences as one of the determinants of freedom-associated value.

9.4.4 Our Desiderata

I have defended a version of the Conditions Approach that does not invoke a person's preferences to determine evaluative weighting factors. Excluding a person's actual preferences avoids the Adaptation Problem and thus fulfils one of our *desiderata*. Let me now discuss how far the Conditions Approach fulfils the other *desiderata*.

(i) *The Variety Desideratum*

Remember I argued for the following desideratum:

The Variety Desideratum: a measure of overall freedom needs to cohere reasonably well with our variety-based intuitive judgements about overall freedom.

My account fulfils the desideratum whilst also explaining why we should care about variety of options in the first place and what type of variety we should care about. Intuitively, we have an idea of what makes a choice-set more diverse than another. The Conditions Approach can

now explain why we should make these judgements without having to include an independently defined notion of variety.

Options which intuitively we take to be diverse will, *ceteris paribus*, be conducive to the development and realisation of the freedom-associated conditions of the good life. Moreover, the Conditions Approach not only accounts for intuitive ‘variety-based’ judgements, it also explains why variety should matter normatively. It matters inasmuch as it is conducive to the freedom-associated conditions of the good life.

(ii) The Good For Desideratum

According to the Good For Desideratum, the method we use to determine weighting factors should be justified with respect to an individual’s welfare. By concentrating on the freedom-associated values that are part of the conditions of a good life, I have suggested, we have a normatively compelling answer to the Good For Desideratum. However, by concentrating on the *conditions* of welfare, such an account does not confuse the question as to ‘how free’ a person is with ‘how much well-being’ a person has at a time.

(iii) The Freedom-Associated Desideratum

Above I argued that evaluative weighting factors should reflect our freedom-associated reasons to value freedom. My account has taken these reasons to directly determine evaluative weighting-factors. Therefore, it clearly fulfils the Freedom-Associated Desideratum.

The Conditions Approach is sufficiently neutral with respect to differing theories of all-things-considered value, is neutral about whether freedom is intrinsically valuable, avoids the Adaptation Argument, fulfils the Variety Desideratum, the Good For Desideratum and the Freedom-Associated Desideratum.

9.5 Conclusion

In the previous chapter, I argued that we need evaluative weighting factors. In this chapter, I have discussed how to determine their weights. I dismissed variety-based weighting factors and showed that weighting factors should neither be determined by actual nor potential preferences.

As my own solution, I suggested the Conditions Approach according to which weighting factors are determined by their tendency to further those freedom-associated values that are part of the conditions of a good life. The Conditions Approach was shown to be sufficiently neutral to include a broad range of theories of all-things-considered value. I furthermore argued that we should, contrary to what Kramer suggests, not include a person's preferences when assigning evaluative weighting factors.

10 Two Measures of Freedom

10.1 Choice Freedom

In my previous chapters I have explained how to measure ability-space, defended the idea that we should aggregate freedom-sets rather than specific freedoms and explained how to use evaluative weighting factors to account for the freedom-associated value of freedom-sets.

In this final chapter of Part II, I will bring different aspects of previous chapters together, discuss what function we should use to aggregate freedom-sets and then present my *measure of freedom*.

Remember from my Introduction to this part that the simple Cardinality Account is open to the objection that it fails to include the relevance of *unfreedom*s. So the main question of this chapter now is: should we include *unfreedom*-sets in our measure and, if so, how?

There are, roughly, two strands in the literature on measuring freedom. On the one side, there are measures of freedom – or rather rankings of opportunity-sets in terms of freedom – commonly found in economics journals according to which ‘more freedom’ simply means a greater range of options. One such account is the Cardinality Account according to which we should rank opportunity-sets according to their cardinality, that is, according to the number of elements in each set.

Another, and probably the most well-known account of freedom in this tradition, is Amartya Sen's capability approach. According to Sen, we should conceptualise freedom by taking into account the quantity and quality of a person's capabilities. A capability is the opportunity to realise a functioning. A functioning is something that a person does or is (so, a 'being' or 'doing').¹⁶⁹ So, 'capability' corresponds roughly to the way I have used 'ability' in this dissertation. Some political philosophers, on the other hand, have insisted that freedom is more than the availability of options (and their quality). Besides freedoms, we should also aggregate over *unfreedoms*. As political philosophers, or so it is argued, we should capture *all* social relations that matter for freedom. An exclusive focus on a person's abilities is insufficient. According to Steiner, a conception that sees freedom as ability

'...confuses liberty with ability. If this is a proper conception of liberty at all, it is certainly not the one which concerns us as political philosophers. Liberty is a social relation, a relation between persons. [...] But it is not to physicists, doctors or engineers whom we turn in seeking answer to the question of 'How free?' For while it is undoubtedly true that the average member of an advanced society is able to do, and unrestrained from doing, many more actions than his counterparts in less advanced societies, it is equally true that he is able to do, but restrained from doing, many more actions than they. That is, there are many more actions which he is *unfree* to do. Simply to ignore them, in estimating the extent of a person's liberty, is to misconstrue the object of such an exercise.'¹⁷⁰

To incorporate unfreedoms into a measure of overall freedom, Steiner, Carter and Kramer each suggest their own ratio function. Steiner holds that this is overall freedom (where F is a person's number of freedoms and UF is her number of unfreedoms):

$$OF_1 = F/(F + UF)^{171}$$

¹⁶⁹ Cf. Sen (1993) and (1999). Note that Sen's capability account is in some sense wider than the current account as it is designed to be a measure not of one distribuenda in a theory of distributive justice but as *the* distribuendum. The intentions of the capability approach are thus more wide-ranging than those of the theory of freedom developed here.

¹⁷⁰ Steiner (1982), p. 447; also cf. Kramer (2003), p. 366 for arguments to this effect.

¹⁷¹ Cf. Steiner (1982), p. 447.

Carter holds that instead of specific freedoms and unfreedoms, we should aggregate over freedom-sets and unfreedom-sets. He suggests the following measure, where F_i is a freedom-set and UF_i is an unfreedom-set:

$$OF_2 = \sum_{i=1}^n F_i / \left(\sum_{i=1}^n F_i + \sum_{i=1}^n UF_i \right)$$

Now, why are there these two different ‘camps’ in the freedom-measurement literature? Are these groups of theorists talking about different concepts or is one side getting it wrong? I want to suggest that there are two different concepts at play here and that my way of distinguishing freedom-constraints from other constraints – i.e. the Distributive Account – can explain not only that difference but also how these two concepts relate.

First, I shall call the first concept *Choice-Freedom*. Choice-Freedom is wholly determined by the availability of freedom-sets and their respective values. So, the more freedom-sets a person has, the more free she is. For this measure, we need not determine how *unfree* a person is. Choice-Freedom is wholly determined by a person’s range and quality of ability-space.

I suggest that overall freedom on this picture is the weighted sum of freedom-sets. To determine a person’s extent of overall freedom does not require that we distinguish between ability-constraints and freedom-constraints. If we want to know how free a person is, we just check how many compossible abilities she has and how good these are in the freedom-associated sense. Here is my own rather simple measure of Choice-Freedom (q_i stands for a freedom-set’s freedom-associated value.)

$$OF_3 = \sum_{i=1}^n q_i F_i$$

Note also that, for simplicity, I have omitted probabilistic qualifiers from this formula. But, as explained in the first part, we should also weight freedom-sets according to the probability that if an agent tried to actualise them she would succeed.

The second concept, which I shall call *Normative Freedom*, is inherently normative. Besides the range of freedom-sets, this concept measures how many freedom-constraints a person is subject to. Why a measure involving unfreedoms is inherently normative is easily explained by the Distributive Account of unfreedom developed in part I. Here is the Distributive Account again:

The Distributive Account: y is a freedom-constraint on P 's freedom to φ only if there is at least one person whose imposition or non-removal of y (in the past, present or future) is *pro tanto* wrong, in an evidence-relative sense and in the absence of disabling conditions, in virtue of the worse distribution of freedom resulting from y .

So, on the account defended here, a freedom-constraint is conceptually linked to the idea of a better distribution of freedom. If we ask how much Normative Freedom a person has, we ask not only how much Choice-Freedom she has but also how much of her 'just share' of freedom is thwarted by other agents. How much 'unfreedom' a person has forms the basis of a normative freedom claim; by this I mean that someone can claim that she has been wronged, *pro tanto*, by having less Choice Freedom than she would have if freedom had been distributed better.¹⁷² Again, this does not imply that she is always wronged all things considered. I suggest Normative Freedom is the concept of overall freedom with which political philosophers such as Carter, Kramer and Steiner are concerned. Of course, I am not claiming that these theorists think or say they are concerned with Normative Freedom. Rather I hold that, if the Distributive Account is correct, their project of combining freedoms and unfreedoms into a measure of freedom would by implication have to be understood as being about Normative Freedom. Before presenting my own measure of Normative Freedom, let me briefly discuss an example which brings out quite well the difference between Choice Freedom and Normative Freedom:

¹⁷² Remember that the wronging is *pro tanto* and *ceteris paribus*, that is, it might only be wrong *pro tanto* and only in the absence of possible defeating conditions if we allow for holism about reasons.

Bedridden: P is severely disabled and spends her days lying in bed. She can move her limbs but she cannot stand up. There is no medical treatment that would enable her to get beyond these abilities. Q has been tied to a bed by some evil sadist. Q can move her limbs to some extent but cannot stand up. Both P and Q have roughly the same number of abilities.

In *Bedridden*, if we ask how much Choice-Freedom P and Q have, we would have to quantify over the freedom-sets open to both P and Q . Let us assume they are equal and equally good in the freedom-associated sense. Therefore, we would have to say that P and Q are equally free. However, there is a sense in which there is some difference in terms of freedom between the two. Q 's predicament has been inflicted on him by another person whilst P 's predicament has not. I think this difference is brought out if we ask a 'how free question' in the sense of Normative Freedom. Q is very unfree, because there is a distribution of freedom available which would clearly be better. There is, however, no distribution of freedom available, we assume, that would make P better off in terms of freedom. Not tying Q to a bed would have resulted in a better distribution of freedom. Normative Freedom brings out a sense in which a person has been deprived of some of her fair share of freedom. Again, this does not mean that this unfreedom is always wrong to impose all things considered. Normative Freedom gives you information about how a specific person is wronged, *pro tanto*, by a distribution of freedom.

This, I suggest, is the difference between the two different projects of measuring freedom: whilst Sen and other economists are concerned with measuring Choice-Freedom, political philosophers have been interested (though not explicitly) in a concept of overall freedom that is inherently connected to normative claims about the distribution of freedom. Moreover, the Distributive Account shows how the questions relate. Choice-Freedom is the more fundamental of the two concepts. We start with Choice-Freedom, move on to the best distribution of Choice-Freedom that is available and then determine for each individual how much of her

(*pro tanto*) share of freedom she has. So, though different, these are strongly connected concepts of freedom.

10.2 Normative Freedom

In the foregoing section I have presented my own measure of Choice-Freedom and shown how the Distributive Account explains the relation between Choice-Freedom and Normative Freedom. But we might ask: given that we have an account of overall Choice-Freedom, why do we need another one? The answer is that Normative Freedom gives us the informational basis for, what I have called, normative freedom-claims. So, a person's level of Normative Freedom will tell us how a specific individual is 'treated' by others in terms of her freedom and how much of her fair share of freedom she has. So, knowing how many unfreedoms relative to freedoms a person has will be a better foundation for ethical and political judgements than only knowing her level of Choice-Freedom.

Of course, on the Distributive Account, a person's Normative Freedom is ultimately derived from a person's actual Choice-Freedom relative to the Choice-Freedom she would have in a better distribution of freedom. So, we could for each individual look at her Choice-Freedom in the actual world and compare it to the Choice-Freedom she would have in a better distribution of freedom. A measure of Normative Freedom combines these perspectives in a single measure.

What does a measure of a person's Normative Freedom look like? I will argue that, similar to Steiner's, Carter's and Kramer's ratio functions, we need to combine freedoms and unfreedoms in our measure. But why not exclude a person's freedoms and simply measure the extent of a person's *unfreedom*? So, the more unfreedom-sets a person has the more overall unfreedom she has. And the more overall unfreedom a person has, the greater her normative freedom-claim:

$$OUF_1 = \sum_{i=1}^n q_i UF_i$$

This measure would lead to counterintuitive normative freedom-claims. Imagine two persons whose level of Normative Freedom we want to compare:

Rainforest: P is member of a small-scale community in the Amazonian rainforest. Some reckless government officials suppress P 's freedoms to pursue a project in the area. P has 5 freedom-sets and 15 unfreedom-sets. Compare P with Q who is a decently well-off citizen living in an urban environment. Q has 10,000 freedom-sets and 16 unfreedom-sets.

If we use OUF_i , we would have to judge that Q 's normative freedom-claim is more pressing than P 's. Let us assume we can reduce either P 's or Q 's unfreedom by 5 unfreedom-sets. OUF_i suggests that we should remove Q 's unfreedom-sets. However, this seems wrong. It also matters how much Choice-Freedom a person already has relative to which we should judge the 'urgency' of her freedom-claim. P has very few freedom-sets. P 's 15 unfreedom-sets are more of a 'burden' than Q 's 16 unfreedom-sets. So, if Normative Freedom gives us information about how much a person is 'wronged *pro tanto*' in terms of freedom by a certain outcome, then it cannot be based purely on unfreedom-sets.

Therefore, our measure of Normative Freedom should combine the extent of a person's freedom-sets with her unfreedom-sets. Before discussing its precise functional form, I will have to defuse two objections to such a measure.

(i) Two Objections

In chapter 3, I defended *Trivalence*, i.e. the idea that for any given φ , one can be either free to φ , unfree to φ or merely unable to φ . An account such as Kramer's for example, combines freedom-sets with unfreedom-sets but also accepts Trivalence. I will now present two objections to such trivalent accounts of Normative Freedom and then show how my Distributive

Account solves these problems. The first problem can be illustrated with a variation on my previous example:

Bedridden 2: *P* is severely disabled and spends her days lying in bed. She can move her limbs but she cannot stand up. There is no medical treatment that would enable her to get beyond these abilities. *Q* has been tied to a bed by some evil sadist. Both *P* and *Q* have roughly the same abilities. *Q* then takes a pill that gives her exactly the same medical condition that *P* has such that she has exactly the same set of abilities as *P*. She is confined and tied to the bed as before.

Kramer holds, correctly as I have argued, that for you to be unfree to φ it is necessary that not only is there a freedom-constraint on your φ -ing but in the absence of this freedom-constraint you would also be able to φ . So, in *Bedridden 2* this would mean that because *Q* removes these counterfactual abilities, he also loses many unfreedoms. *Q* now has more or less the same set of abilities as he did before but no unfreedoms. On Kramer's account, we would say that by injuring himself, *Q* has made himself *more free overall*.¹⁷³ This, however, seems odd. Freedom is a social relation and it would be odd if one could liberate oneself by injuring oneself.

Again, this is only a problem if we accept *Trivalence*. Should we reject Trivalence on these grounds? No. The Distributive Account and my distinction between Choice-Freedom and Normative freedom will show that we can keep Trivalence and still get round this problem. In *Bedridden 2*, before *Q* takes the pill, *P* and *Q* have the same level of Choice-Freedom, but *Q* is unfree in the Normative Freedom sense. For there is a distribution available that would be much better overall. After *Q* takes the pill, however, *Q* has reduced the 'unfreedom-aspect' in his Normative Freedom. (Let us disregard any questions about who gave *Q* the pill etc to

¹⁷³ Kramer could respond that *Q* would not have taken the pill had she not been held captive. Therefore, on Kramer's Causal Responsibility Account, *Q* is still unfree, because her being unable is the result of a causal influence on the part of someone else. However, we could simply stipulate that *Q*, for some mysterious reason, had always planned to take the pill. So, she would have taken the pill even if she had not been held captive.

make this example work.)¹⁷⁴ But given what Normative Freedom means, this judgement is not a problem. Because Normative Freedom is simply a judgement about, first, the person's level of Choice-Freedom plus, second, the person's *normative claims* that derive from other available distributions of freedom. By removing all counterfactual abilities, *Q* has effectively removed claims that, in a future-regarding sense, she is continuously wronged by not being brought into a better place within a distribution of freedom. So, while the judgement that the person is no longer made unfree seems counterintuitive on a view such as Kramer's – who accepts the Causal Responsibility View – the judgement seems less problematic if we accept the Distributive Account. By removing counterfactual abilities, we remove our normative claims to be given a better place in a distribution of freedom. So, while *Q* has not increased her Choice-Freedom, she has removed the basis for some normative freedom-claims.

Similar examples bring home the point. Say I move to the jungle away from society where no one can find me and it is nearly impossible for me to find my way back. We might say, plausibly, that my Choice-Freedom is drastically reduced as there are fewer options available and my life-expectancy reduced. However, it would be false to say that this reduction of freedom forms the basis of a *normative freedom-claim*. No one is in a position to provide me a better place in a distribution of freedom. Therefore, no one makes me *unfree*. So, if we understand what a measure of Normative Freedom aims to convey, the judgements in *Bedridden 2* and similar cases stop being counterintuitive.

My answer to the first objection also solves another problem. In a review of Kramer's book, Carter argues that there is a tension between including unfreedoms in one's metric of overall freedom and accepting *Trivalence*:

¹⁷⁴ We might of course still think that *P* who is, say, taken care of by her loving parents, still has some freedoms and more valuable ones that *Q* does not have. Also, we of course want to say that by being locked into a basement *Q* is still wronged all things considered. For the argument to work, we need not assume that *P* and *Q* have *exactly* the same level of Choice-Freedom.

‘[T]he notions of overall freedom and unfreedom are seen as providing different ways of describing the same quantitative attribute—like the fullness and emptiness of a bottle (“two-thirds empty” = “one third full,” etc.). Trivalence would instead seem to imply that we have two quantitative attributes: a person’s degree of overall freedom is one thing, her degree of overall unfreedom another, and we have no good reason for thinking there is some single quantitative attribute that consists in a combination of the two. (Indeed, and even if we had, why should that single attribute be called “freedom” rather than “unfreedom”?)’¹⁷⁵

The Distributive Account and the distinction between Choice-Freedom and Normative Freedom solve this problem. Carter claims that ‘we have no good reason for thinking there is some single quantitative attribute that consists in a combination of freedom and unfreedom. Not so. As explained earlier, Choice-Freedom is our fundamental quantitative attribute and Normative Freedom combines this attribute with a claim about the betterness of distributions of this very same attribute.

So, trivalent accounts of overall freedom that combine freedom-sets with unfreedom-sets can resist objections if we accept the Distributive Account of freedom-constraints. Let us now look at different versions of Normative Freedom.

(ii) *Ratio Functions*

Steiner, Carter and Kramer each offer *ratio* functions to measure overall freedom. Such ratios combine freedom-sets with unfreedom-sets. Let us compare Carter’s and Kramer’s suggestions. Here is Carter’s measure again:

$$OF_3 = \sum_{i=1}^n F_i / \left(\sum_{i=1}^n F_i + \sum_{i=1}^n UF_i \right)$$

Kramer objects to this measure, because he thinks unfreedoms are given undue weight in this formula. He gives the following example:

¹⁷⁵ Carter (2005), p. 552.

Gertrud: Gertrud ‘is undertaking some speleological investigations’.¹⁷⁶ Whilst being in a cave she is entrapped by a natural landslide. So, she is naturally constrained from leaving the cave but there is no freedom-constraint in place. She does have some freedom-sets within the cave, such as walking around and singing a song. Let us say she has 10 freedom-sets. But she does not have any unfreedom-sets, because she is only naturally constrained.

If we insert these values into Carter’s function OF_i , we get:

$$OF_1 = 10/(10 + 0) = 1$$

So, because Gertrud has no unfreedom-sets, she has a ratio of 1 and thus perfect freedom. This, Kramer holds, is implausible. Moreover, for a person who has no unfreedom-sets, it does not matter *how many freedom-sets* she has. Compare Gertrud with someone else who has no unfreedom-sets but 10,000,000 freedom-sets. According to Carter’s formula, they will be equally free. For this reason, Kramer suggests a different formula, one in which the numerator is squared:¹⁷⁷

$$OF_4 = \left(\sum_{i=1}^n F_i \right)^2 / \left(\sum_{i=1}^n F_i + \sum_{i=1}^n UF_i \right)$$

On Kramer’s formula, Gertrude will turn out less free than people who enjoy a wide range of freedom-sets, because the numerator is squared. Kramer’s formula gives greater weight to freedoms relative to unfreedoms than Carter’s. However, is squaring the numerator – though certainly salient – not slightly arbitrary? Let me briefly explain why it is not. Instead of using ‘2’ let us use a variable ‘ q ’. We can then see that for all cases in which a person has no unfreedom-sets, the marginal contribution to overall freedom of extra freedom-sets is either going to be increasing for any q greater than 2 or decreasing for any q smaller than 2. So, squaring

¹⁷⁶ Kramer (2003), p. 371.

¹⁷⁷ Now for this argument to work, one needs to accept *Trivalence*. Otherwise, losing a freedom means gaining an unfreedom and *vice versa*. In Gertrude’s case, someone who accepts Bivalence would hold that Gertrude has lost many freedoms and gained many unfreedoms. That is, the denominator needs to be constant. That is why she is much less free than someone else with many freedom-sets.

the numerator is the only way to ensure that, when there are no unfreedoms, the marginal contribution of new freedom-sets is constant.¹⁷⁸

Does *Gertrud* give us sufficient reason to prefer Kramer's over Carter's function? I want to suggest, similarly to my discussion of *Bedridden 2*, that the intuitive force in *Gertrud* is defused when we consider the distinction between *Choice-Freedom* and *Normative Freedom*. The idea that Gertrud is not very free overall is easily accounted for by my measure of Choice-Freedom. She has next to no freedom-sets in her cave, so she has very little Choice-Freedom. But what does this mean for *Normative Freedom*? Understood as an account of Normative Freedom, Carter's measure is not counterintuitive at all. A person's level of normative freedom represents, as it were, the *severity* of her normative freedom-claim. It answers the question as to how much of her Choice-Freedom is or has been thwarted foreseeably by other agents. In light of our understanding of Normative Freedom, we should reinterpret the information given by Carter's measure. Instead of saying that Gertrude is 'perfectly free' – which seems absurd – we should say that Gertrude has no normative freedom-claim. On Carter's ratio function, the lower the percentage, the stronger is one's freedom-claim. In *Gertrud*, her level of Normative Freedom is very high – perfect indeed – because she is not deprived of the Choice-Freedom she would have in a distribution that could foreseeably be brought about by another agent. Her freedom-claim is nil.

The intuitive appeal in *Gertrud* results from a confusion of Normative Freedom with Choice Freedom. As a measure of *Normative Freedom*, Carter's simple ratio function is preferable to Kramer's.

Our measure of Normative Freedom is meant to give us the following information: how much of her fair share of freedom does a person have? And, consequently, how great is her

¹⁷⁸ But, nonetheless, why should this be the only correct way of balancing freedom-sets and unfreedom-sets? Instead, we might offer a function that leaves us some flexibility for fine-tuning. We could, for example, insert a variable that reflects different ways to balance freedom and unfreedom-sets: $OF_5 = (\sum_{i=1}^n F_i)^2 / (\sum_{i=1}^n F_i + r \sum_{i=1}^n UF_i)$. The higher r , the more weight we give to unfreedom-sets

normative freedom-claim? Though Carter's measure was better than Kramer's, we still need to modify it for two reasons.

First, Carter rejects the idea of using evaluative weighting factors, whereas I have defended it in chapters 8 and 9. So, we need to insert these factors q_i .

Second, Carter rejects Trivalence whereas I accept it. This has the result that the freedom-sets a person has in an actual distribution are not always a subset of the freedom-sets she would have in the relevant better distribution of freedom. For example, a prisoner might have the freedom to walk around her prison cell but she might not have these *particular* freedoms in an available and better distribution of freedom (though of course many others). So, to calculate how much of her share of freedom she has, we cannot use the set of freedom-sets in both the numerator and denominator. Instead of using the sum of freedom-sets and unfreedom-sets in the denominator – as Carter does – we should use a person's level of Choice Freedom she would have in a better distribution. To calculate how much of her fair share of freedom she has, we thus compare the range of her freedom-sets in the actual distribution 'AD' to the range of her freedom-sets in the better distribution 'BD':

$$OF_i = \text{Actual Choice Freedom} / \text{Choice Freedom had in a relevant better distribution}$$

Using my measure of Choice Freedom, this gives us:

$$OF_i = \sum_{i=1}^n q_i F_i^{AD} / \sum_{i=1}^n q_i F_i^{BD}$$

Note that on this measure a person can have levels of Normative Freedom greater than 1. So, imagine a slave-holder with 120 freedom-sets in the actual distribution but with 100 freedom-sets in a better distribution (in which her slaves would be released). This entails that she has a freedom-level of 1.2. Is this a problem? I do not think so. These numbers simply point out that some persons have *more than their fair share of freedom*. Just as some have less than their share of freedom, others have more.

Summary

The first part of this dissertation elucidated the concept of specific freedom and unfreedom. I defended a liberal, ability-based view of freedom and unfreedom. In this part, I have shown how to move from specific freedoms and unfreedoms to overall freedom.

I have shown how to aggregate over freedom-sets and unfreedom-sets using the Segment Method. I have defended a version of the Hybrid Account. Accordingly, how free you are depends, first, on your range of compossible freedoms and, second, on how far these compossible freedoms provide you with the values attached to freedom – personal control, autonomy, personal development etc – that are necessary to live a good life.

In my final chapter, I then presented my own measure of freedom. The literature on measuring freedom is getting ever more complex and the measures more and more refined. Fortunately, my Distributive Account has shown that a measure of overall freedom is indeed simpler than expected. I developed a measure of both *Choice Freedom* and *Normative Freedom*. This was my measure of Choice Freedom:

$$OF_3 = \sum_{i=1}^n q_i F_i$$

Unlike Choice Freedom, Normative Freedom quantifies over both freedom-sets *and* unfreedom-sets. In the first part I argued that a person P is unfree to φ as opposed to merely unable to φ only if at least one other person foreseeably deprived P of the ability to φ she would have in a better distribution of freedom. An account of Normative Freedom thus measures how much of her fair share of freedom a person has. The relative amount of unfreedom represents the extent to which she can claim to have been treated wrongly (*pro tanto*) in virtue of not having those freedoms she would have in a better distribution of freedom. This was the

measure I suggested, where F_i^{AD} are those freedom-sets a person actually has and F_i^{BD} are those she would have in a better distribution of freedom:

$$OF_5 = \sum_{i=1}^n q_i F_i^{AD} / \sum_{i=1}^n q_i F_i^{BD}$$

This measure of Normative Freedom has, as one of its input, the idea of a ‘better’ distribution of freedom. But what makes a distribution of freedom better or worse? And how does freedom and its distribution fit into a theory of distributive justice more generally? It is to these questions that I now turn in my third part.

Part III: The Distribution of Freedom

11 Introduction to Part III

The third part of this dissertation is concerned with the role freedom should play in normative political theory. More specifically, it answers the question: how ought we to distribute freedom?

In the first chapter, I argue for a specific view of how freedom and distributive justice relate. Throughout this thesis I have defended freedom as a continuous and distributable property. Now I will show why freedom is one of the *distribuenda* of a theory of distributive justice (but not the only one). I will defend this picture against critics. The first, libertarian critique is that freedom deontologically *constrains* patterned principles of distributive justice. This is often presented with the well-known slogan that freedom is incompatible with equality. The second critique comes from liberal egalitarians who deny that freedom should play a role in normative political theory. I will argue that both critiques fail. Seeing freedom as a distribuendum requires reframing some of our debates in political philosophy: instead of asking whether a certain policy is an infringement of freedom or not, we should analyse its distributive effects.

In the second chapter, I will discuss the first distributive question: how ought we to distribute freedom *across lifetimes*? So, rather than interpersonal, I will discuss *intrapersonal* distribution. I will show that this overlooked question is central to discussions of paternalism.

The third and fourth chapter are on *interpersonal* distribution. In the third, I discuss the idea that we ought to aim at maximal societal freedom. This will lead me to discuss whether societal freedom is merely the sum of individual overall freedom or whether we need to add the freedom of collective agents. I will show why we ought not aim at maximal societal freedom.

In the final chapter, I will discuss how to distribute freedom between persons in a society. I will argue that we should neither aim at everyone having *enough* freedom nor at *greatest equal* freedom. The distributive principle I defend is a combination of prioritarian and egalitarian elements that accounts for the fact that, first, more freedom is better than less, second, freedom has diminishing marginal value and that, third, strongly unequal distribution of freedoms are unfair.

12 Freedom and Justice

Before discussing the relation between freedom and distributive justice, let me shortly discuss the term ‘distributive justice’.

Roughly, a theory of distributive justice usually is understood to be a normative principle or set of normative principles that orders distributions of benefits and burdens according to how just they are. One need to be careful, however, not to use the term ‘distributive justice’ too widely. One should not understand all relevant normative aspects concerning distributions to be concerns of justice, leaving a distinction between ‘distributive justice’ and those principles that function as ‘all things considered principles’ in ordering distributions. Besides justice other relevant aspects might enter such all things considered principles:

Just Bananas: in two-person society S each person has 10 kilos of bananas per year. In two-person society Q (2,000 km away), each person has 5 kilos of bananas per year, as they live in an area with fewer banana trees.

Would we say that the distribution of bananas in society S is more just than in Q ? It seems they are equally just, because benefits are distributed equally in both S and Q . However, the distribution in S is still better than in Q without being more just – there simply are more ba-

bananas in S than in Q .¹⁷⁹ So, it is misnomer to call a theory about the ‘all things considered betterness of distributions’ a theory of distributive justice.

One might respond that ‘distributive justice’ is an appropriate name for all-things-considered orderings of distributions *within* a society. However, even this is problematic:

Bad Decision: a ten-person society unanimously decides on a policy that will expectably make everyone worse off. Instead of welfare level 20, everyone will have welfare level 18.

In *Bad Decision*, the distribution resulting from their joint bad decision is *within* a society and yet we would not say that the result is unjust. But, clearly, the distribution is *worse* all-things-considered without being less just.¹⁸⁰

Instead of discussing the ‘distributive justice’ of distributions, I will therefore refer to such ‘all-things-considered-betterness-theories’ as *distributive theories*. (Occasionally, when referring to quotations, I will have to use the term ‘distributive justice’.)

Let us now discuss the relation between freedom and distributive theories. A very common way to think about this relation is to think that freedom *constrains* how far one may aim to bring about distributions. Freedom and equality – equality being a place-holder for any distributive view – are incompatible. Say, for example, you believe that everyone should have equal opportunities. To achieve this, say through the redistribution of economic resources, would require interfering with individuals’ freedom. Therefore, freedom and equality are conflicting ideals.

I will defend a very different way of thinking about the relation between freedom and distributive theories. Such a view starts with a distributive theory and takes freedom to be one of its

¹⁷⁹ Though assuming a luck-egalitarian (or more generally a ‘humanity-centred’) understanding of distributive justice, one can still say that the inequality between S and Q is unjust. But this is clearly different from the question as to whether S is more just than Q .

¹⁸⁰ To avoid possible complications, I am assuming that ‘non-comparative considerations of justice’ (if these should exist) do not apply to both *Just Bananas* and *Bad Decision*. So, for example, people’s basic needs are met.

goods. Rather than freedom constraining a distributive theory – or ruling it out – freedom is one of its *distribuenda*.

A monistic version of this view takes freedom to be the *only* relevant *distribuendum*.¹⁸¹ The version I argue for allows for more than one *distribuendum*. So, it might allow well-being, autonomy, resources or other things to be relevant goals besides freedom. Let us call this *pluralism about distribuenda*. Pluralism about *distribuenda* implies that freedom sometimes needs to be traded off with other goods. For example, more freedom might sometimes make some people less happy. In such cases, we would have to balance these two goods.

My approach is also pluralist in the sense that I will not try to find one overarching principle – such as ‘equalise x ’ – for *all distribuenda* including freedom. So, I want to allow for a distributive theory to have more than one principle. Let us call this *pluralism about principles*. This approach allows that different goods have different principles of distribution. For example, while we might think that, other things being equal, we ought to aim for equal opportunities, we might also think that we ought to *maximise* well-being.¹⁸²

John Rawls’ theory of justice is an example of such a doubly pluralistic theory. His first principle requires that everyone has an equal right to the most extensive scheme of equal basic liberties compatible with a similar scheme of liberties for others. The second principle consists of two parts, one that requires fair equality of opportunity and the other that requires that economic differences be to the advantage of the worst off. The first principle takes lexical priority over the second. Within the second principle, the first part takes lexical priority over the second.¹⁸³

¹⁸¹ Pettit’s republicanism is such a theory. Note that Pettit does not claim that the only thing that is of value is freedom. Rather he claims his ‘freedom as non-domination’ is a primary social good. Cf. Pettit (1997), ch. 3.

¹⁸² Cf. for example Walzer (1983) for a view of justice that includes pluralism about principles.

¹⁸³ Cf. Rawls (1971), ch. 2.

Pluralism about distribuenda and principles does not require lexical priority. We can also take an approach similar to W.D. Ross's pluralism in ethics. Ross suggests a number of *pro tanto* moral principles, such as '*pro tanto*, it is wrong to lie'. He does not, however, provide a *principle of composition*, that is a principle which aggregates these *pro tanto* principles to determine what one ought to do all-things-considered in each situation.¹⁸⁴ Similarly, I will offer a *ceteris paribus* principle about how freedom ought to be distributed but will not offer a principle of composition that shows how this distributive principle combines with other distributive principles to form an 'all-things-considered principle' of justice. Besides lack of space, there are two reasons why I will not attempt to provide such a principle: first, I am relatively sceptical that we can provide such a principle independent of the specific situations of the society, country, social and political institutions to which we want to apply our claims. Second, there is bound to be a great deal of disagreement about such a higher-order principle and about underlying theories of value and so on. Focusing on a distributive principle for freedom allows us to bracket out some of these disagreements and make progress on a more specific question.

Let me now give a positive argument for the inclusion of freedom in a distributive theory. For a specific good *G* to be a candidate for being a *distribuendum* in a distributive principle it should fulfil the following criteria (though these are not necessarily sufficient):

- i. *G* comes in degrees and is interpersonally comparable.¹⁸⁵
- ii. *G* is something whose distribution can be effected through the means available to public institutions.
- iii. *G* is valuable for individuals where this value is not relevantly reducible to other values.

¹⁸⁴ Cf. Ross (1930). Note that Ross uses the term 'prima facie' instead of 'pro tanto'. It is more common nowadays, however, to use *pro tanto* for what Ross intended to denote by using 'prima facie'.

¹⁸⁵ Note that continuity is not necessary for a good to be relevant in distributive questions.

I will now argue that freedom fulfils these criteria.

The idea behind the first criterion is that something can only be a *distribuendum* if it is conducive to being distributed.¹⁸⁶ On the view I defend here, instead of being concerned with a list of liberties, we see freedom as a scalar and interpersonally comparably good. I have defended this view in part II. A person's ability-space and its freedom-associated value will determine how free a person is at a certain time.

Freedom fulfils criterion ii. Let me explain the criterion first. What does it mean for a good to be distributable? I mean that the things that the state and other institutions have the power to distribute are such that they influence people's levels of freedom. Not all goods are equally conducive to being distributed. Goods like money can be directly distributed by simply transferring it onto someone's bank account. Other properties are not distributable at all, such as the property 'the quantity of days preceding someone's birthday in her year of birth'. Then there are aspects which are somewhere in the middle, for example pleasure. Though the state can provide conditions in which one would expect people to experience pleasure – such as providing public swimming pools – the state does not *directly* distribute pleasure. Freedom is not as easily distributable as money but easier to distribute than pleasure. Here are some ways in which the state influences people's freedom levels.

State interference will often reduce people's freedom. Sometimes it will reduce it for some, but increase it for others. Sometimes it might take away some of a person's options but add others to her set. Moreover, the state can prevent, through a functioning legal system for example, citizens depriving *each other* of freedoms.

¹⁸⁶ Rawls argues that people's freedom should be equal and that this takes lexical priority over other distributive goals. But in *A Theory of Freedom* but particularly in *Justice as Fairness*, Rawls makes clear that he is concerned with a fully adequate scheme of equal *basic liberties* and not with one 'uni-dimensional' understanding of freedom. His original formulation of the first principle is in Rawls (1971), pp. 205-1, his (slightly revised version) is in (2001), pp. 42-3.

More abilities mean more freedom-sets. So, by distributing economic resources – such as money, pensions, benefits, housing etc – the state clearly affects the distribution of freedom-sets. Also, by providing education and health care, the state enables citizens to do things – for example, run a marathon, play the piano or become a chemist – which count as freedoms.

So, the state has resources to distribute which will influence people's levels of overall freedom. Of course, this does not mean that the state can distribute every *type* of freedom. I am unable to bench-press 300 kg no matter how many resources the state would be willing to spend on me. Other people are able to do so. A freedom like this is thus not redistributable.

Most state actions, though not necessarily all, will usually lead to both reductions and increases in freedom. Every interference to increase freedom will also 'negatively affect' freedom (though only *pro tanto*). On my view, the effects of state policies are redistributions of freedom and rarely just 'infringements' of freedom. So, asking whether a certain policy is 'licensed by freedom' should not be understood as a question of infringement but is best answered by looking at the distributional effects that result from such a policy.

Condition i and ii are fulfilled. What about iii? Is freedom valuable for individuals and is this value not relevantly reducible to other values? I have already proffered some considerations about what makes *freedom valuable* in chapter 9. So, I will take it for granted that freedom is valuable (in some sense) in this chapter. I will continue being neutral on whether freedom is intrinsically valuable or not. What I mean by 'not relevantly reducible to other values' is that the value of freedom is not reducible to other goods in relevant situations. I take situations to be relevant in which someone (typically but not exclusively the state) has to distribute resources or decide on a policy that will affect other people's levels of freedom. So, the question 'how to distribute freedom?' is to be understood as a practical question in 'non-ideal' theory. The value of freedom is not reducible to other values in real-life political contexts in which questions of distributions arise.

I have given a number of reasons why freedom is valuable – without assuming that it is intrinsically valuable – such as its role for personal autonomy, personal control, respect, differences of likings and preferences and personality change. Because freedom is a necessary – or at least robustly conducive – component of these aspects, there is good reason why we cannot reduce freedom's value.

One reason for the non-reducibility of freedom in actual distributive contexts comes from *uncertainty* and *disagreement*. So, say I can decide whether other people, whose preferences I do not know, should have more or less freedom. It seems I should want them to have more freedom rather than less. This way, I increase the chances of these people getting what they want even though, first, their preferences are different, second, I do not know what these preferences are and, third, they are likely to change over time. For these reasons, freedom is something that is particularly valuable if we can influence how much freedom *other persons* have. That is, freedom is particularly valuable in distributive contexts. Public policy decisions are mostly not taken with one person in mind. So, officials rarely ask: how will this policy affect Peter? Rather, we evaluate policies with respect to their effect on a multitude of persons about whom we do not have all relevant information. What we do know, is that these persons are different in many respects: they have different preferences, likings and differing conceptions of the good life. These features make freedom – even if you do not believe that freedom is intrinsically valuable – an important *distribuendum*.

This is the main motivation for including freedom as a distribuendum. In chapters 14 and 15, I will discuss different distributive principles for freedom. Let me shortly describe a bit more to what kinds of distributional contexts these distributive principles apply. The distributive principle I will develop for freedom is meant to apply to contexts that in many respects – as adumbrated above – reflect real-life distributive contexts. So, say we discuss whether we should raise income tax for people in the top income bracket to reduce tax burdens for those on the lower end. In such situations we need to take decisions that clearly affect other peo-

ple's levels of freedom and we do so in conditions of limited information. We typically have, for example, limited knowledge about individual preferences and their likings and how these change over time. We also do not know for certain how distributions of freedom will affect distributions of other values. For example, we cannot predict precisely how distributions of freedom resulting from our tax will affect distributions of welfare. There are two reasons for this uncertainty about the effects on welfare: first, political decisions are typically taken in contexts in which there is reasonable disagreement about conceptions of the good; second, even if we had a clear account of welfare or the good life, we are still faced with empirical uncertainty.

My discussion will, however, be quite abstract in other respects and include some unrealistic assumptions. First, I will assume that we can perfectly gauge people's levels of overall freedom. Second, I will, for the most part, not discuss how my distributive principles can deal with cases of empirical risk and/or uncertainty. So, I will only briefly discuss how we should distribute *prospects* of freedom between persons. Third, my distributive principles apply to distributions of freedom in societies with fixed numbers of people. Real-life decisions, such as the question which health care system to implement, might themselves influence *how many* people there are. These factors will be excluded in this thesis to avoid the need to discuss difficult problems in population ethics.

I will now discuss objections to my view and alternative ways to link freedom and distributive theories. I start with views, notably libertarian ones, that argue that freedom rules out redistributive accounts of justice (sec. 12.1). In section 12.2, I will discuss Ronald Dworkin's argument that – contrary to what I have argued – the value of freedom is reducible to the value of other goods such that overall freedom should play no role in normative political theory. In a slogan: liberalism does not need liberty.¹⁸⁷

¹⁸⁷ Though in his later *Justice for hedgehogs* he does allow a highly moralised understanding of freedom to play a role in his theory.

Engaging with these arguments will help clarify the nature and strength of the view defended here.

12.1 Freedom vs. Equality

Many argue that a concern for freedom is incompatible with bringing about certain patterns of distribution. One version of such an argument seeks to establish the incompatibility of freedom and *equality*. David Hume argues:

‘But historians, and even common sense, may inform us, that, however specious these ideas of *perfect* equality may seem, they are really, at bottom, *impracticable*; and were they not so, would be extremely *pernicious* to human society. Render possessions ever so equal, men’s different degrees of art, care, and industry will immediately break that equality. Or if you check these virtues, you reduce society to the most extreme indigence; and instead of preventing want and beggary in a few, render it unavoidable to the whole community. The most rigorous inquisition too is requisite to watch every inequality on its first appearance; and the most severe jurisdiction, to punish and redress it. But besides, that so much authority must soon degenerate into tyranny, and be exerted with great partialities; who can possibly be possessed of it, in such a situation as is here supposed?’¹⁸⁸

The conflict Hume mentions is between aiming to achieve *perfect equality of possessions* and freedom from state interference. Now, we can easily grant Hume’s argument without having to conclude that there is a necessary conflict between freedom and distributive theories more generally. First, Hume’s argument is about freedom from state interference. A more thorough conception of freedom, as argued in previous parts, considers other interferences besides state interferences as possible sources of unfreedom too. So, while this argument might work for one specific account of freedom – freedom from state interference – it might not work for freedom as such. Second, most distributive theories either reject perfect equality of possessions or, if they do not, hold that there is a difference between the ‘ideal’ notion of justice

¹⁸⁸ Hume *Enquiry*, section III part 3, p. 195.

and the non-ideal conditions of justice in the real world. So, Hume's argument from incompatibility can only establish an incompatibility between one type of distributive principle and one type of freedom. For these reasons, let us discuss an argument that aims to establish an incompatibility between freedom and distributive theories in which both sides of the incompatibility are construed more broadly.

In discussing the incompatibility between freedom and distributive justice, Robert Nozick distinguishes between *end-state*, *patterned* and *historical* principles of justice.

Patterned principles are such that 'a distribution is to vary along with some natural dimension.'¹⁸⁹ Examples are 'to each according to his need', 'to each according to moral desert'. Patterned principle can range over different time-slices. So, you might deserve to receive more than me, because you have behaved more virtuously in the past, for example. End-state principle ignore all aspects of previous time-slices and simply prescribe a certain distribution per time-slice. Rawls's difference principle is an example of an end-state principle. An example of a *historical* principle is Nozick's entitlement principle, according to which a distribution is just only if it is the result of voluntary transactions starting from a just starting point. Nozick's claim is that freedom is incompatible with *end-state* and *patterned principles*. More practically, a concern for freedom does not justify the existence of those instruments that are required to achieve a certain pattern, for example welfare states, paternalistic policies or any state interference that goes beyond the minimal state's function. In his detailed argument, Nozick does not talk a lot about freedom. His argument is based on rights rather than freedom – though for him these are intimately connected.

Because it is more detailed and directly presented as an *argument from freedom*, I will discuss Jan Narveson's version of this libertarian argument.

¹⁸⁹ Cf. Nozick (1974), pp. 153-60.

I will start with a reconstruction of Narveson's conceptual analysis. Narveson assumes a conception of freedom according to which the absence of a freedom-constraint is a necessary and sufficient condition for freedom. (I will later explain how Narveson characterises freedom-constraints.) Because absence of interference is necessary and sufficient for freedom, Narveson accepts the Hobbesian Dictum:

'If we do x , then it follows that we must have been free to do it'.¹⁹⁰

Unlike the conception I defended in chapter 3, Narveson's takes an ability to be sufficient but *unnecessary* for freedom:

'I would like to play the Tchaikovsky Violin Concerto, say – but I am quite sure I lack the ability to do so, now or ever, even with no end of instruction. Nevertheless, no one is impeding me from doing so. Should we say that I am “at liberty” to do so? I think we should, in the relevantly social sense of that term.'¹⁹¹

So, if I am unconstrained to do something, then this is a necessary and sufficient condition for me being free to do it.

Next, under which conditions am I *unfree*? Here, the presence of a freedom-constraint is a necessary but insufficient condition.

'When we talk of liberties being abridged, denied, or violated, they are the liberties to do what we would and could otherwise do, not what we cannot do.'¹⁹²

This suggests that to be made unfree to do something implies that one would be able to do it in the absence of all freedom-constraints. A person P is unfree to φ iff there are freedom-constraints that would prevent P from φ -ing and P would be able to φ in the absence of all freedom-constraints. In my terminology, an unfreedom implies a *counterfactual ability*.

The next condition is that one can only be made unfree to do those things that would *not cause harm* to other persons. For instance, if you prevent me from walking down the street, this

¹⁹⁰ Narveson (2010), p. 127.

¹⁹¹ *Ibid.*, p. 128.

¹⁹² *Ibid.* p. 167.

constitutes a freedom-constraint because my walking would not harm anyone. However, if you prevent me from killing someone, this is not a freedom-constraint, because killing would harm someone. Similarly, if a poor person is prevented from stealing an apple from the rich person's garden she is not made unfree, because taking the apple would harm the rich person in violating her property rights. Narveson writes that we are harmed when we are attacked, others impose their will on us or, more generally, our situation is worsened. He further argues that freedom-constraints are intentionally imposed by another human. Put together, this is Narveson's conception of unfreedom:

Libertarian Unfreedom: *P* is unfree to φ iff φ -ing would not harm anyone else, there is a constraint that is intentionally imposed by other humans that would prevent *P* from φ -ing and *P* would be able to φ in the absence of all such freedom-constraints.

The specifically libertarian aspect of this definition is that a freedom-violation is one that prevents you from doing what would not *harm* anyone else. There are other versions of such a conception. Nozick's conception uses rights instead of harming. Accordingly, one is made unfree to do something only if one is prevented from doing what would not infringe other person's rights. Narveson, however, believes that the idea of harm is more fundamental:

'the concept of "harm" - of imposition, attack, injury, and worsening of condition - are prior to, not contingent on, independent notions of rights.'¹⁹³

Narveson includes this harm-restriction to make sense of the idea that we have *a right to freedom*. Libertarians believe that such a right to freedom implies, what I will call, the *Like Liberty of All Thesis*:

'Proposing to make liberty a right means that we are turning the liberty of each into a constraint on the liberty of others. Only "compossible" liberty will be supported: liberty that is compatible with the "like liberty of all" - to use Rawls's earlier words.'¹⁹⁴

¹⁹³ *Ibid.*, p. 133.

¹⁹⁴ *Ibid.*, p. 131.

We can only have a right to be free to the extent that our right does not violate the same right for others. The ‘harm-restriction’ in the conception of freedom assures that this is the case.

This right to freedom means, ideally, that individuals should never be *unfree*. So, the goal of public action is not some distribution of freedom, it is a situation in which there are *no unfreedoms* whatsoever. This is very different from my view in which a concern for freedom might require a certain pattern in the distribution of freedom.

‘The libertarian is not independently interested in seeing to it that the amount of imposition on some of us is about equal to that imposed on others. In whatever way that can be measured, libertarianism does not call for equalizing the amount of evil visited on different people – unless we count zero as the “amount in question”’.¹⁹⁵

This view is radically different from mine. It is now easy to see why Narveson – like other libertarians – believe that a right to freedom is incompatible with any redistributive measures: to do so would require interference with someone’s actions – say by taxing the rich persons – without avoiding any harm through this. But the only state interference that is justified is one that is itself not a source of unfreedom, because it prevents the imposition of harm. No interference beyond this is ever justified. Therefore, freedom and distributive theories are incompatible.

I will now show why Narveson’s (and similar) libertarian arguments from freedom are flawed. There are different ways to do so: first, one could grant the libertarian account of freedom and its underlying theory of harming (or property rights) but argue that this does not establish the conclusion libertarians think it does.¹⁹⁶ Second, we could take issue with the very conception of freedom that Narveson defends. Because this part is specifically about whether libertarians can present a successful argument *from freedom*, I will take the second route.

¹⁹⁵ Narveson (2010), p. 150.

¹⁹⁶ Such arguments are provided by Sterba (2010) for example.

(i) *Objection 1: the Unfree Billionaire*

Narveson seems to say that the extent of a person's overall *freedom* (or better: unfreedom) is determined only through *the absence of unfreedoms*. In the ideal state, everyone is perfectly free in the sense that no one has unfreedoms. This has the result, with which Narveson agrees, that a person on a lonely island is perfectly free, because no one interferes with her. The libertarian's exclusive focus on unfreedoms coupled with the idea that an unfreedom requires a *counterfactual ability* leads to implausible results:

The Billionaire: compare three persons living in a non-libertarian society, say, a country that includes a welfare state financed through taxation. There is Bob the Billionaire who has to pay 25% income tax. There is James a severely disabled and poor person who is unable to do most of those things that cause government interference (such as earning taxable income). Then there is Paul a very poor person who is not disabled.

Because James, the severely disabled and poor person, would not be able to do many of the things the government prevents other people from doing, he has very few unfreedoms. Paul the poor and non-disabled person has more counterfactual abilities and thus – given government interference – more unfreedoms. Bob the billionaire who pays 25% income tax is interfered with by the government most often. Therefore, Bob is the most *unfree* person, Paul is the second most unfree person and James is, due to his disabilities, the freest of the three. This is an utterly implausible ranking. If a conception of freedom implies that a healthy and superrich person has much less freedom than an impoverished disabled person should be reason to reject this view.¹⁹⁷ It is a result of Narveson's exclusive focus on the absence of unfreedoms combined with the idea that counterfactual ability is required for unfreedom.

¹⁹⁷ Libertarians can reply that while Bob is the unfreest of the three, he is better off in respects other than freedom. Though this is a possible reply, the ranking is still implausible as a ranking of overall freedom.

(ii) *Objection 2: Freedom Requires Abilities*

The problem in the background of Objection 1 is that Narveson's – or indeed any libertarian account of freedom – completely disregards how many things a person is actually able to do. I have argued for an ability-based view of freedom earlier. I will not rehearse these arguments but only mention that Narveson agrees with some of the reasons we have for valuing freedom:

'One's own liberty does not have "value", though it is essential to activity and so important as to take priority over all else. We value our liberty when it is lacking, especially: if someone is preventing me from doing something I very much want to do.'¹⁹⁸

'What makes liberty important is that without it, we cannot, *by definition*, do the things whose hindrance is in question.'¹⁹⁹

Narveson further explains that freedom is also very important, because people are different and like different things and even one person likes different things at different times.²⁰⁰ But if freedom is so valuable because it enables us to do all those valuable things, it is implausible to focus exclusively on *unfreedoms* (the way Narveson understands these). If I have many more abilities, then this allows me to do many more things. This should be reflected in a person's overall level of freedom.

So, our reasons for valuing freedom require the inclusion of *abilities*.

(iii) *Objection 3: Justice-Based Accounts of Freedom*

G.A. Cohen has argued that Nozick's argument from freedom is ultimately just an argument from libertarian rights. Because the libertarian version of unfreedom is limited to rights-violations, freedom is not doing any justificatory work: I am unfree if my rights not to be interfered with are violated. Starting from a libertarian conception of rights, it is then quite easy

¹⁹⁸ Narveson (2010), p. 129.

¹⁹⁹ Narveson (2010), p. 127.

²⁰⁰ Cf. *ibid*, pp. 127 et seqq.

to see how we can move to the claim that freedom – so construed – is incompatible with patterned principles. However, the argument boils down to the argument that upholding libertarian property rights rules out the redistribution of any property that was justly acquired.²⁰¹

Narveson claims that his account is normatively more basic as it starts with an account of harm rather than rights. Can he avoid Cohen's objection? The answer is 'no'. The idea of 'harm' that goes into it is similarly based on a libertarian conception of justice. Consider an example.

Dehydration: a poor and dehydrated person called Peter lacks resources to procure himself enough drinking water. There is a big lake in his proximity with fresh drinking water yet this lake is privately owned by Bob. If Peter tried to drink water from Bob's lake, Bob would prevent him from doing so (Bob is stronger than Peter). Bob acquired the lake in accordance with libertarian conceptions of just acquisition and transfer. Now a third person called Jude intends to help Peter by preventing Bob from preventing Peter from drinking water (Jude is stronger than Bob).

On Narveson's conception of freedom, Peter would not be made unfree by Bob's constraint, because his drinking Bob's water would constitute a *harm* to Bob. Jude's preventing Bob from preventing Peter would be an infringement of Bob's freedom as it would harm him. At the very least, this account of harming is controversial. A very different and quite commonsensical understanding of 'harm' in *Dehydration* is that Jude's interference prevents Bob from forcing Peter to make a strong sacrifice (continued dehydration or even more severe health problems). Why should this not count as a harm yet an utterly inconsequential property-violation should?

Dehydration shows that libertarian accounts of freedom that use a 'harm-restriction', build on a previous notion of property. This account of property, in turn, is determined through a libertarian account of just acquisition and transfer. It should be clear that, at the very least, this is

²⁰¹ Cf. Cohen (1995), ch. 2-4 for a critique of such justice-based conceptions of freedom.

not our intuitive understanding of 'harm'. The libertarian puts the cart before the horse: libertarians start with an account of just acquisition and transfer and then develop their account of freedom on top of it.

However, Narveson offers a response to this objection:

‘Writers of socialist persuasion, such as Cohen, tend to argue that *property* is somehow assumed, without argument or reason, to be a special and restricted part of the libertarian panoply of liberties, quite unrelated to the rest. But while libertarians do indeed take violation of property to be a violation of liberty, it is not without argument or reason. The reasons are remarkably simple, in fact. The legitimate owner of property (as distinct from the thief) has, we are supposing, either simply found what he owns, in a situation in which no previous owner exists, or created it, using materials which in turn are previously unowned by others...; or else he got it by voluntary agreement from someone else. ... No one’s liberty, therefore, has been violated by any of these actions. The Cohen argument completely ignores these essential points.’²⁰²

I have argued that Narveson’s libertarian argument from freedom fails, because it assumes a libertarian account of property that, through a notion of harm, determines the content of freedom. So, the libertarian starts with an account of property and then fleshes out what ‘freedom’ means. Narveson’s reply is that this account of property is itself justified via freedom. A distribution of property is justified if it historically did not violate anyone’s freedom. But on such an account, freedom determines the content of property rights whilst property rights in turn determine the content of freedom. This is viciously circular.

For various reasons, Narveson’s account of freedom is implausible and thus does not give us any reason to reject my view of linking freedom and distributive theories.

²⁰² Narveson (2010), p. 174.

12.2 Liberalism without Freedom

Some liberals argue that distributive theories should do without freedom. In this section, I will discuss this challenge as it was put by Ronald Dworkin in *Taking Rights Seriously*.²⁰³

Dworkin argues, first, against a general *right* to freedom and, second, for the conclusion that freedom as such should not play a role in normative political theory. Though this is his ultimate conclusion, Dworkin's initial target is more narrow:

I have in mind the traditional definition of liberty as the absence of constraints placed by a government upon what a man might do if he wants to.²⁰⁴

Dworkin argues that we cannot have a right to freedom of this kind. Let us call this Conclusion i:

Conclusion i: there is no right against state interference.

But even though Dworkin argues for Conclusion i he also draws a stronger one:

Conclusion ii: overall freedom – or freedom as such – should not play any role in a theory of justice.²⁰⁵

Instead of caring about freedom as such which Dworkin thinks is 'spurious', egalitarianism entails that individuals have a right to equal treatment and concern.²⁰⁶ Both Conclusion i and Conclusion ii are supposed to follow from the same arguments and this is how I will reconstruct Dworkin's arguments. But we can immediately see that Conclusion ii is very different from Conclusion i. Conclusion i is not a problem for the view I defend here, whereas Conclusion ii is. They are different in two respects.

²⁰³ Dworkin is more sympathetic towards including freedom as a political value – as a moralised notion – in his later book *Justice for hedgehogs*, cf. Dworkin (2011), ch. 17.

²⁰⁴ Dworkin (1977), p. 267.

²⁰⁵ Cf. *ibid.*, p. 267 and p. 271.

²⁰⁶ Cf. *ibid.*, p. 271-3.

First, there is a big difference between a *right* to freedom and freedom being a *distribuendum* in a distributive theory. Many things are valuable without this entailing a right to these things. There are two reasons why I neither assume nor argue that there is a *right* to freedom.

The first reason is that Choice Freedom is scalar and cannot straightforwardly be operationalised into a binary good one has a right to have. The second reason is methodological: we ought to remain neutral about as many questions as possible. So, we might ask the question: should freedom play a role in a distributive theory? An answer to this question should not depend on one specific way in which freedom can play a role in such a theory (i.e. as a right). Many believe that persons have rights and that these are not mere ‘policy instruments’ to secure the good in question. Others think rights are nonsense upon stilts. But even if you think the latter, you might still think it matters how free a person is. Therefore, whether freedom is a *distribuendum* in a distributive theory should not be determined by the question as to whether rights carve out the fundamental structure of morality or politics.

Second, freedom from state interference is very different from the kind of freedom I have defended in part I and II. The level of one’s freedom is determined not only by state interferences. How free I am depends on my relation to the state, other individuals and non-governmental corporate agents. A concern for freedom is not exhausted by a concern for the absence of state interference.

I will show that if we accept my account of freedom – and not merely freedom from state interference – and do not frame the debate in terms of a ‘right to freedom’, then Dworkin’s arguments against the inclusion of freedom fail.

Let us look at his arguments.

(i) Argument 1

According to Dworkin, to have a right means, roughly, that one’s interest is protected against consequentialist considerations. If I have a right to freedom, then this right will trump conse-

quentialist considerations. However, the state can unproblematically constrain my specific freedom to drive down Lexington Avenue because of consequentialist considerations. There is no right to trump general interest here.²⁰⁷ Many specific freedoms should be like this.

Argument 1.i.:

- A. If there is a general right to freedom from state interferences, then all interferences require a justification beyond simple consequentialist reasons.
- B. Many interferences – such as making Lexington Avenue one-way – do not require any justification beyond a straightforwardly consequentialist one.
- C. Therefore, there is no general right to freedom from state interference (Conclusion i).

As I have explained, I do not assume a right to freedom. Nor do I defend the claim that freedom is freedom from state interference. Therefore, Argument 1.i. is irrelevant. How would we have to change this argument to make it establish Conclusion ii?

Argument 1.ii.:

- A*. If we have reason to care about overall freedom, then all interferences require a justification beyond simple consequentialist reasons.
- B*. Many interferences – such as making Lexington Avenue one-way – do not require any justification beyond a straightforwardly consequentialist one.
- C*. Therefore, we do not have reason to care about overall freedom (Conclusion ii).

There are three problems with this argument.

First, Premise A* is problematic. If we do not think that freedom is conceptually linked to the idea of a right, then we might allow for freedom itself to enter a consequentialist ‘balancing’. So, first we might aim to achieve a good outcome in terms of freedom and sometimes we

²⁰⁷ Cf. Dworkin (1977), p. 269.

might have to balance freedom with other objectives. If we reject the idea of freedom as a right, premise A* is hard to defend.

Second, rejecting the requirement that a concern for freedom entails a ‘special’ sort of justification, does not entail that reducing someone’s freedom does not require *any* justification. On the Distributive Account there always is a *pro tanto* moral consideration against reducing someone’s freedom simply because one’s freedom is being reduced.

Third, the Lexington Avenue example only works if the conception of freedom we assume is freedom from state interference. It does not work if we use my conception, according to which one’s freedom levels can also be reduced by agents other than the state. If we accept this, then making Lexington Avenue one-way might increase people’s freedom of movement (maybe Lexington Avenue is very narrow). So, one reason why traffic restrictions mostly do not strike us clear cases of ‘infringements’ on our freedom is that they are needed to ease co-ordination and thus to effect a certain distribution of freedom.²⁰⁸

So, Argument 1 does not establish Conclusion ii.

(ii) Argument 2

Starting from the idea that constraining my freedom to drive down Lexington Avenue does not require a justification in terms of freedom, Dworkin wonders why it is that other constraints *do* matter. What is the difference between constraints on my freedom to drive down Lexington Avenue and constraints on my freedom of speech?

Argument 2.i.:

- A. If an account assumes a right to freedom from state interference, then it should be able to explain why some interferences matter and others do not or, at least, why they matter to different extents.

²⁰⁸ Similar arguments can be found in Carter’s theory (1999), chs. 7 and 8.

B. A right to freedom from state interference cannot explain the difference.

C. Therefore, there is no right to freedom state interference.

Again, we need to change it such that C is or supports Conclusion ii:

Argument 2.ii.:

A*. If an account assumes we have reason to care about overall freedom as such, then it should be able to explain why some interferences matter and others do not or, at least, why they matter to different extents.

B*. The idea of overall freedom cannot explain the difference.

C*. Therefore, we do not have reason to care about overall freedom as such.

Dworkin needs to show that the second premise is true. He considers some candidate answers and tries to show why all of them fail. According to the first candidate, the difference between my freedom to drive down Lexington Avenue and my freedom of speech is a *matter of degrees* of freedom. Dworkin first rules out the idea that the matter of degrees can be explained in terms of how they are experienced. Dworkin then considers the difference in terms of future choices:

‘We might [...] measure the degree of loss of liberty by the impact that a particular constraint has on future choices. But we should then have to admit that the ordinary criminal code reduces choice for most men more than laws which forbid fringe political activity.’²⁰⁹

If we measure degrees by how much constraints influence future choices, taking away freedom of speech always seems to be a lesser constraint than a system of criminal law.

The first rather obvious point to make is that there are of course other considerations that matter normatively for the justifiability of laws. So, while the criminal code imposes a great deal of constraints, it might still be justifiable in facilitating other goods such as security. This

²⁰⁹ Dworkin (1977), p. 269.

might be one of the reasons why the criminal code is a lesser problem from the standpoint of freedom than restrictions of freedom of speech.

Besides this point, another difficulty in Dworkin's argument emerges; it suffers from the same problem as the Lexington Avenue example. While this example might work if we understand freedom as 'freedom from state interference', it does not work if we accept a wider conception of overall freedom. Of course, our overall freedom is constricted *ceteris paribus* if legal restrictions are in place. But these legal restrictions will enhance our freedom in other areas by securing many other freedoms, such as our freedom to walk along the streets at night or the freedom to carry money around etc. So, while it is true that 'ordinary criminal code reduces choice for most men more than laws which forbid fringe political activity' the criminal code also enables us to make many future plans by greatly increasing the number of choices available.

Third and similarly, a distinction between a 'freedom to drive down Lexington Avenue' and freedom of speech is easily drawn using degrees of overall freedom. Compare the following two situations. In situation 1, I am unfree to drive down Lexington Avenue but I am very free to express my opinion about the government and the political and economic system. In situation 2, I am free to drive down Lexington Avenue but totally unfree to express my opinions on the government. Situation 2 might constrain more of the average person's choices. Constantly having to watch out what to say to whom will certainly constrain a person in more ways than making a specific street one way. However, not every little bit of freedom of speech is always more important for overall freedom than freedom of movement. If I am not allowed to leave my town, but I have a decent level of freedom of speech, then this might make me quite unfree overall.

Contrary to what Dworkin argues, we can distinguish between 'trivial' and 'weighty' restrictions of freedoms on the basis of degrees of overall freedom.

Dworkin then looks at the idea that the difference between my freedom to drive down Lexington Avenue and my freedom of speech is constituted by the *content* of these freedoms. So, the reason why we care about one freedom but not the other is because one of them allows us to do something *valuable*. However,

‘if the distinction between basic liberties and other liberties is defended in this way, then the notion of a general right to liberty as such has been entirely abandoned.’²¹⁰

When we distinguish on the basis of content, then what matters is ‘the value and interests or standing’ that are the content of the liberties. So, if we care a lot about freedom of speech, for example, then this might best be accounted for by the ideal that everyone should be treated with equal respect and concern. Equality is thus more fundamental than freedom. Freedom as such lacks independent value.

We can only distinguish trivial from important freedoms based on their respective contents. Therefore, freedom as such lacks value and there is no reason why liberals (or anyone else) should be concerned with it.

A similar conclusion is reached by Will Kymlicka:

‘For the reason it is important to be free in a particular situation is not the amount of freedom it provides, but the importance of the various interests it serves.’

He concludes:

‘The idea of freedom as such, and lesser or greater amounts of it, does no work in political argument.’²¹¹

H.L.A. Hart and Onora O’Neill have argued similarly.²¹² Here, I will concentrate on Dworkin’s argument.

²¹⁰ *Ibid.*, p. 271.

²¹¹ Kymlicka (1990), p. 145-51.

²¹² Hart argued against the Rawls’ earlier theory of justice that there is no sense in which there is ‘maximal freedom’, cf. Hart (1975). Rawls (1993), pp. 291-2 accepts this critique. A similar argument is also presented by O’Neill (1979).

There are various reasons why Dworkin's argument does not work. As seen above, Dworkin's needs premise B*, i.e. the idea that overall freedom cannot explain why some freedoms matter more for overall freedom than others, to be true. I have shown that it is false.

But *even if* Dworkin's first move were successful, the second part fails as well. Dworkin argues that if we value my freedom to drive down Lexington Avenue less than my freedom of speech because of their respective content, we stop valuing freedom as such. There are several problems with this. As we saw in my previous chapter, even if the value of freedom takes account of the content of the specific freedoms, the value of freedom does not collapse into the value of its content. Freedom is, as we saw, non-specifically valuable.

First, a point put forth by Kramer, which I have discussed in chapter 8, applies here too: there is an analytical difference between the value of φ -ing and the value of having the freedom to φ . Dworkin conflates the two.

Second, even if we value some specific freedoms more than others, this does not mean that freedom's non-specific value drops out of the picture. In chapters 8 and 9, we saw that we can value some freedoms more highly than others without reducing their value to their content. We will, for example, attach greater value to those options that are relevant to the kinds of commitments and values we autonomously have. But it is still choice as such that matters. Similarly, for the *instrumental* value of freedom, content mattered as well. For example, if we value future freedom – because we believe that our preferences might change – then we have perfect reason to value the availability of those options that are more likely to be preferred.

So, not only do we have reason to value the sheer quantity of options but we should also value some types of freedoms more than others. But this does not collapse the value of freedom into other values.

Dworkin's arguments fail to support the claim that overall freedom should not be a *distribendum* in a distributive theory.

12.3 Conclusions

Whether one distribution of goods is better than another should be determined, *inter alia*, by how they affect the distribution of overall freedom. Overall freedom is a good thing and particularly so in contexts in which resources have to be distributed. The approach I defend here takes freedom to be one of the *distribuenda* of a distributive theory. Therefore, instead of a conflict between freedom and equality – or any other distributive theory – freedom is one of its goods.

I have shown that this approach is more plausible than its competitors. Libertarian accounts rely on an implausible account of freedom. Some liberals want to argue that liberalism can do without freedom. I have shown that Dworkin's arguments to this effect rely on too narrow a conception of freedom, i.e. the right to be free from state interference, and misconstrue the value of freedom.

Having argued, theoretically, how to link freedom and distributive theories, I will now discuss the distribution of freedom. As other goods, freedom can have different *locations*. It can be located across time for one person, for example across a lifetime. It can be located across persons, say across members of a state. And it can be located across different states of nature.²¹³ To deal with states of nature, we have to use probabilities.

I will start by discussing how to distribute freedom across lifetimes (intrapersonally).

²¹³ Cf. Broome (1991), ch. 2.

13 Intrapersonal Distribution

In part II of this thesis I have discussed how to measure how free a person is overall at a given point in time. In this chapter, I will discuss how to distribute a person's freedom *over the course of her life*. This will have important implications for discussions of paternalism.

Paternalistic policies are often presented as involving an interference with a person's freedom with an eye to furthering (or safeguarding) some other good for that person. The state might, for instance, restrict the possibility to consume drugs to avoid people developing welfare-reducing addictions, it might make schooling compulsory to ensure that children receive an education, force individuals to wear seatbelts to avoid incapacitating accidents and so on.

People strongly disagree about the legitimacy of such policies. Some believe that many goods one can secure through paternalist interference outweigh the *pro tanto* wrongness of interfering with a person's freedom. Others think that freedom takes strong priority over other goods such that the state ought not to interfere with a person's freedom except in very few instances. Debates about paternalism thus often revolve around whether and/or how we should balance freedom with other values. I want to show that many cases of paternalistic policies do not fit into this 'freedom vs. some other value framework'. Freedom is a more complex ideal

than such a characterisation assumes. Most cases of paternalist interference are not simple infringements but *redistributions* of a person's freedom across time.²¹⁴

That the 'freedom vs. some other value framework' runs into problems can be seen quite clearly through John Stuart Mill's famous *Slave Case*. Mill argued the state should not interfere with people's choices unless not doing so would result in harm to a third party. He did, however, know of exceptions:

'The reason for not interfering, unless for the sake of others, with a person's voluntary acts is consideration of his liberty. [...] But by selling himself for a slave, he abdicates his liberty; he forgoes any future use of it beyond that single act. [...] The principle of freedom cannot require that he should be free not to be free.'²¹⁵

Mill's verdict was that freedom requires proscribing even entirely voluntary forms of slavery. In cases such as the *Slave Case*, *freedom* itself might give us a reason to interfere. This, however, has puzzled many readers: how can we constrain someone's freedom in the name of her very own freedom?²¹⁶ There are two intuitive propositions at play:

Intuition 1: taking away the option to become a slave is a restriction of freedom

Intuition 2: being a slave implies having many of one's freedoms restricted.

Now, if intuition 1 is true, how can it be that freedom requires taking away the option to become a slave? But if intuition 2 is true, how can we – in the name of freedom – let people lead very unfree lives?

²¹⁴ There are also cases of paternalism that do not fit into this 'freedom vs. some other value' structure for different reasons. Some cases of paternalism might be an interference with a person's autonomy but not her freedom. I will exclude these cases here and only discuss those that involve an interference with a person's freedom. Cf. Dworkin (1988), pp. 121-4.

²¹⁵ J. S. Mill, *On Liberty*, p. 173.

²¹⁶ People who offer interpretations of Mill on this case are Arneson (1980), Ten (1980), p. 117, Feinberg (1971) and Archard (1990).

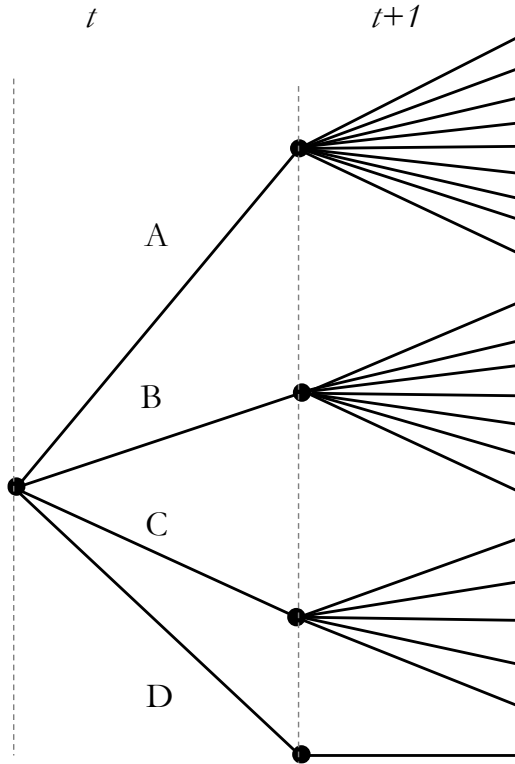
13.1 Freedom across Time

The problem in the Slave Case is that we have two competing claims with regard to freedom. On the one hand, a concern for freedom requires that we let people make their own decisions even if these decisions lead to unfree lives. On the other hand, a concern for freedom suggests that we ought to avoid individuals becoming very unfree.

Once we have understood that freedom is a scalar property, the solution to this paradox is obvious: rather than caring about freedom at one specific point in time, we are also concerned with freedom across time. So, in the Slave Case, we are not only concerned with a person's present but also her future levels of freedom. Therefore, we should also reconsider the way we think about paternalism. Rather than being cases of 'freedom vs. some other value', paternalistic interferences are often ways to *redistribute* freedom across time.

Note that I will use a simplified measure of overall freedom here. I will only aggregate specific freedoms – and not freedom-sets in segments as I have argued for in part II – and disregard *un*freedoms. I will use a simple Cardinality Account according to which a person's level of overall freedom at t is simply the cardinality of the set of all specific freedoms available to her at t . I use this function to create simple 'toy numbers' that make the idea of lifetime freedom easier to grasp.

We might think that the specific/overall distinction already solves the Slave Paradox: does removing one specific freedom – the freedom to be a slave – not simply result in more overall freedom? Imagine the following choice-situation where D is the slavery option:



Does it not make sense to say that by removing ‘D’ the person has more freedom overall? Not so. If we calculate a person’s overall freedom at t , we need to aggregate over her entire freedom at t . If we do so, we see that having the option to become a slave makes the person *more free* at t , that is, before she has taken any decision. So, this account of overall freedom does not remove the paradox.

To explain the different intuitions – and remove the paradox – we need another distinction. I suggest the Slave Paradox is best explained by distinguishing between, what I will call, *Point in Time Overall Freedom* and *Period of Time Overall Freedom*. This distinction will help us understand why voluntary slavery looks like an extension of freedom from one angle but like a restriction from the other.

Point in Time Overall Freedom (*Point Freedom* henceforth) asks: how much overall freedom does a person have at a specific point in time t ? When we ask how much overall Point freedom a person has, we ask how many present and future freedoms exist at t for a person P .

For none of these (un-)freedoms does it matter whether an agent is inclined to choose them or not.

As explained in chapter 4, a person's *specific* freedom to do something carries two temporal indices. So, I might be free today to go on holiday to South America in 10 years. More generally, P is free at t to φ at $t+n$. ' t ' is, what earlier I called, the *existence-time* of P 's freedom and $t+n$ is the *actualisation-time* of P 's freedom. Usually, we will measure how many freedoms a person 'owns' at t whose actualisation-times range from that moment to her death.

Point Freedom is different from the question as to how much freedom a person has over a *period* of time. I will call this *Period of Time Overall Freedom* (*Period Freedom* henceforth). When we gauge Period Freedom, we do not focus on one particular point in time. So, imagine you are at a funeral and you find yourself discussing with a friend whether Steve, the person who died, had a free life. This is a question about Steve's Period Freedom, because you ask: how much freedom did Steve have over the course of his life? When we calculate Period Freedom, we are not looking for how many (un-)freedoms Steve at a specific time t but how much freedom he had, aggregated over different 'points in time' of his entire life. Maybe Steve started with a very free life when he was young. He then signed up for the army for 10 years during which he had very little freedom. After these 10 years, however, he received a good deal of money which he invested wisely to then become a wealthy man. To gauge how free Steve was over the course of his life, we would have to see how free he was at the different stages of his life. To calculate a person's Period Freedom, we need to aggregate the different levels of Point Freedom that fall within that period. (I will explain the different ways to do so later in this chapter). Of course, Steve's Period Freedom strongly depends on Steve's decisions. Had he, for example, wasted all his money gambling instead of investing it wisely, his level of overall freedom would have been lower. Or had he broken the law and been imprisoned, his Period Freedom would have similarly been much lower than it was.

Period Freedom can have different temporal extensions. We could determine how much freedom Steve had in the last twenty years of his life or how much freedom he had over his entire life. The normatively relevant temporal extension is freedom, which I will focus on here, is across whole lives or *lifetime freedom* as I will call it.

When we determine Period Freedom, we might usually do so *ex post*. That is, we determine how much freedom a person *had* over some period. But we can also gauge how much Period Freedom we expect a person to have in the future. That is, using probabilities over how a person might act, we can also estimate a person's Period Freedom *ex ante*.

Let us return to the Slave Case. I suggest that our different intuitions about the Slave Case can be explained by the distinction between *Point Freedom* and *Period Freedom*. In one sense, overall freedom is reduced when we remove the slavery option. We can be more precise now.

Here is the table with the number of options at each time stage:

Specific freedoms at t	Number of specific freedoms at $t+1$
A	9
B	7
C	5
D ('the Slavery Option')	1

A person's level of *Point Freedom* at t is thus the number of options at t plus the options that ensue at $t+1$, so we get: $4 + 22 = 26$. Therefore, removing the slavery option reduces a person's Point Freedom at t .

However, the case is not as straightforward when we calculate a person's *ex ante Period Freedom*. To calculate a person's *ex ante* Period Freedom, we take account of a person's probability to choose certain options. Using these probability judgements, we then calculate how likely it

is that a person will have certain levels of Point Freedom in the future.²¹⁷ Note that here I am using an account of *Period* Freedom according to which we simply add up a person's Point Freedom over time. In section 13.2, I will discuss whether we should care not only about the sum of Point Freedom across time but also its *distribution*.

Let us use some numbers to show how *ex ante* Period Freedom works. Assume we have reason to believe that *P* is equally probable to choose either *A*, *B*, *C* or *D* at *t*, so the probability that she chooses any option is $p_i=0.25$. If we now add her Point Freedom at *t* (where the temporal extension is *t*) to the Point Freedom she is expected to have at *t+1*, then we get the following results:

$$\text{Period Freedom } ex \text{ ante (with } D) = \text{number of specific freedoms at } t + \text{expected number of specific freedoms at } t+1 = 4 + 0.25(9+7+5+1) = 9.5$$

Let us now remove option *D*, the slavery option. Again, let us assume that *P* is equally probable to choose any of the remaining three options ($p_i=1/3$).

$$\text{Period Freedom } ex \text{ ante (without } D) = 3 + 1/3(9+7+5) = 10$$

Removing the slavery option increases *ex ante* Period Freedom to 10. So, if we care about Period Freedom in this example, we should prohibit voluntary slavery.

Now, to maximise a person's *ex ante* Period Freedom across periods is different from maximising a person's Point Freedom. It takes into account the probability that people will have certain options in future periods where these probabilities depend on how an agent is inclined to act now.

Whether increasing Period Freedom requires removing options like 'voluntary slavery' depends on the following three factors:

- a) What is the agent's probability distribution over the different options?

²¹⁷ Here I will not attempt to specify how such probabilities are to be had. Also, I am assuming that probability-distributions are menu-independent.

- b) How fecund are the different options?
- c) What distribution of freedom across lives do we aim for?

Whether we want to remove an option depends on the overall probability distribution, an option's fecundity relative to the fecundity of other options and the aggregation procedure we use to determine Period Freedom. Therefore, we cannot say that to increase *ex ante* Period Freedom, the 'slavery option' should always be removed. If one is very unlikely to choose to be a slave and/or choosing to be a slave results in only a little less freedom than the other options, then, depending on one's aggregation procedure, removing slavery would not increase Period Freedom.

This is how we should dissolve the Slave Paradox: previous to taking any decision, prohibiting slavery does in fact make people less free overall in terms of *Point Freedom*. However, if we use an *ex ante* Period Freedom account, then prohibiting slavery can – depending on probabilities, relative fecundity and one's aggregation procedure – lead to higher *ex ante* Period Freedom.

The Slave Case was introduced as an example of a paternalistic intervention that does not fit the 'freedom vs. some other good' framework. Distinguishing between Point and Period Freedom shows that some cases might already involve a conflict between different types of freedom. Therefore, the prohibition of slavery contracts should not be seen as a simple infringement but a *redistribution* of freedom instead.

So far, I have, for simplicity, said that a person's Period Freedom is simply the sum of Point Freedoms that fall within that period. I will now drop this assumption and discuss different procedures to aggregate Point Freedoms into a person's Period Freedom.

13.2 Different Distributions

There are different ways to aggregate Point Freedom into Period Freedom. So far, Period Freedom was defined as the sum of Point Freedom across the relevant period. I have done this to keep things simple.

I now discuss alternatives. I will ask questions like: does a free life mean that one starts with a lot of freedom? Does it mean that one has a high sum of Point Freedom across time? Or does it mean that one has *enough* freedom at all times? I understand the question ‘what is life-time freedom?’ to be a normative question. So, the question guiding this section is: given that freedom is *one distribuendum* in a distributive theory, at what type of intrapersonal distribution of freedom should the state aim?

(i) Starting Gate View

The easiest account is to say that a person’s life is free proportional to the extent of her Point Freedom she had at birth. Let us call this the *Starting Gate View*. So, independently of what a person does with her life – even if she chooses freedom-reducing options like the slavery option – she has a free life if she started with a lot of freedom.

What might speak for such a position? Amongst other things, freedom is about *respecting* other people and their decisions. So, if persons genuinely start with many alternatives and choose the ones they do, we should leave them to it.

On such a view, we could not justify paternalistic policies on the grounds that they redistribute freedom favourably across time. A free life is one in which persons have lots of freedom to start with. Whether they give it away afterwards does not impact on their level of lifetime freedom.

However, there is decisive reason against the Starting Gate View. This position removes the intuition that slaves, even those that voluntarily signed up to be slaves, lead unfree lives. This

is counterintuitive. Besides intuition there are also systematic reasons against the Starting Gate View.

The first problem for the Starting Gate View is to find a temporal point at which we should localise the ‘starting gate’. The salient point is at a person’s *birth*. But starting at birth is *too early*. Consider compulsory schooling:

Jack and James: in a world in which schooling is optional, Jack and James start with exactly the same level of freedom at birth (the same ‘starting gate’). When Jack is ten he starts skiving off school most days which is why he later misses out on a degree. James attends regularly throughout his youth, gets a degree and goes on to university. When James turns 26, he is very wealthy and has lots of options. Jack’s lack of a degree forces him to lead a very simple life with much lower income and a shorter life expectancy.

If we accept the Starting Gate View and locate the starting gate at birth, then the lack of compulsory schooling makes no difference for how free Jack’s and James’ respective lives are. Jack’s skiving was voluntary and his life just as free as James’s. However, this seems counter-intuitive. When Jack started skiving off, he was still quite young. James clearly has more freedom later in his life. The Starting Gate View should thus not locate the starting gate at birth but at a point at which we would expect persons to be sufficiently autonomous to take important decisions.

But even this revised version of the Starting Gate View is open to objections. There are systematic normative reasons against such a view.

First, as I have discussed earlier, one reason to value freedom is *personality change*. People like different things at different stages in their lives. Freedom should thus also be about safeguarding an adequate range of choice to allow for personality change. To have a suitable range of freedom available in the future, it might be justified to remove low-fecundity options.²¹⁸

²¹⁸ Of course, one’s personality will change less at later stages in one’s life and it might be more important to have more choice during one’s formative years than later.

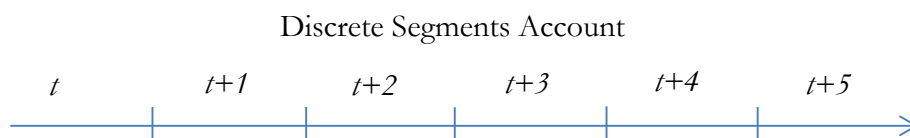
Second, for Mill, personal autonomy requires experiencing different lifestyles. Freedom is required for personal development. So, when agents choose freedom-reducing options like voluntary slavery, they deprive themselves of future possibilities for personal growth. So, we do not care exclusively about a person's starting gate freedom.

Overall, the Starting Gate View is implausible. A free life is more than just a life that started with a high level of freedom.

(ii) *Maximising Account*

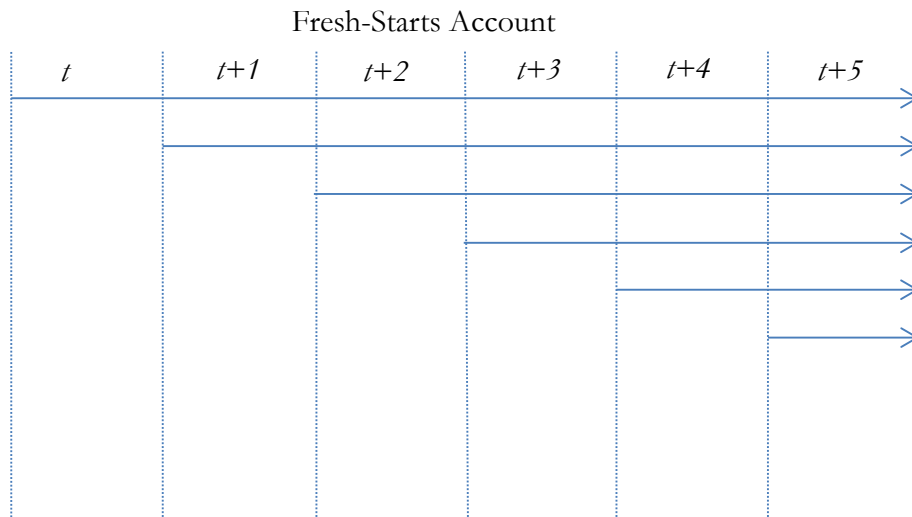
Instead of focusing on a starting gate, should we aim to *maximise* the sum of Point Freedom? If the answer is yes, then a concern for a person's lifetime freedom would justify many paternalistic policies purely on the grounds that they would increase the sum of future freedom.

Before discussing whether this is plausible, we need to specify what precisely we should maximise. Here we need another distinction. Aggregating freedom over time is more difficult than, say, welfare, because freedom always ranges into the future. This leaves us with different temporal extensions over which we could aggregate. When we aggregate Point Freedom into Period Freedom, we can either use a *Discrete Segment Account* or a *Fresh Starts Account*. When we use the Discrete Segment Account, we aggregate Point Freedom whose temporal range is only up to the next point at which we measure Point Freedom. So, say we want to know how free I am in the next three years and we do so by aggregating my Point Freedom every year. Using the Discrete Segment Method we would aggregate over Point Freedom within each respective year without overlap. Let me illustrate this:



Here we would add the Point Freedom that includes all freedoms that I can perform in t plus the Point Freedom that includes all freedoms I can perform in $t+1$ plus the Point Freedom with all freedoms in $t+2$ and so on.

Contrast this with a Fresh Starts Account. Here we aggregate over Point Freedoms at different stages of my life calculating each time the freedom from that point to my death (if we calculate lifetime freedom).



So, we would have to add the Point Freedom with all freedoms between t and $t+5$ to the Point Freedom with all freedoms between $t+1$ and $t+5$ to the Point Freedom with all freedoms between $t+2$ and $t+5$ and so on.

Which of these two accounts should we use? Carter, from whom I take this distinction, argues that we should use the Fresh Starts Account.

“The discrete-segment version is the simpler of the two, but it is also the less plausible one. After all, the real degree of a person’s freedom at any given time surely depends on her freedom to bring about events that are temporally located at any subsequent time within her expected lifetime. Focusing at t_1 only on those freedoms to perform actions located between t_1 and t_2 seems plausible only if we think of the life of the person under consideration as itself coming to an end at t_2 .²¹⁹

However, the Fresh Starts Account causes a problem for the Maximising View: the best way to maximise a person’s sum of Point Freedom is to get him to have a lot of freedom towards the later stages of her life. For freedom at the end of one’s life is not only counted once but

²¹⁹ Carter (2011a), pp. 139-40.

every time. So, imagine you can add one ‘unit’ of freedom to someone’s life. The later in one’s life that extra unit is added, the greater its contribution to the person’s Period Freedom.

Is this implausible? We might think that freedom is also about *keeping one’s options open*. In this sense, the later these options are the longer you can keep them and the more freedom you will have across your life. But it seems contrary to the reasons we have to value freedom that we should force people to keep their options open. I will now follow up this problem and argue that there is decisive reason against the Maximising View.

Usually, more freedom is better. But freedom has *decreasing* marginal value as I will argue in chapter 14.²²⁰ More of it is not always better to the same extent. This gives us reason to care not only about the ‘sum’ of freedom across one’s life, but also about its *distribution*. Having a great amount of freedom at some point of one’s life but very little at other times might make one’s life less free than a nicely distributed amount of freedom. Such drastically unequal distributions of freedom might also facilitate fewer of the goods typically associated with freedom.

Most importantly, however, the idea of ‘slicing up’ a person across time to then maximise the sum of freedom seems to contradict the idea that freedom is about *respecting* a person and her decisions. I do not attempt an analysis of ‘respect’ here. But a pre-theoretical understanding of respect suggests that we accept some or most of an individual’s decisions and understand her to be a person taking responsibility for her decisions *across time*. Maximising the sum of a person’s Point Freedom across time goes against this idea.

The following example shows how some implications of the Maximising Account are at odds with the reasons we have for valuing freedom.

Pierre: Pierre, who is in his thirties, is a ‘savoir-vivre kind of person’. He loves opera and good food. He would like to spend a good portion of his income on these enjoyable pastimes.

²²⁰ Cf. Dworkin (1988), ch. 5 for philosophical arguments and Schwartz (2004) for an overview of the psychological literature.

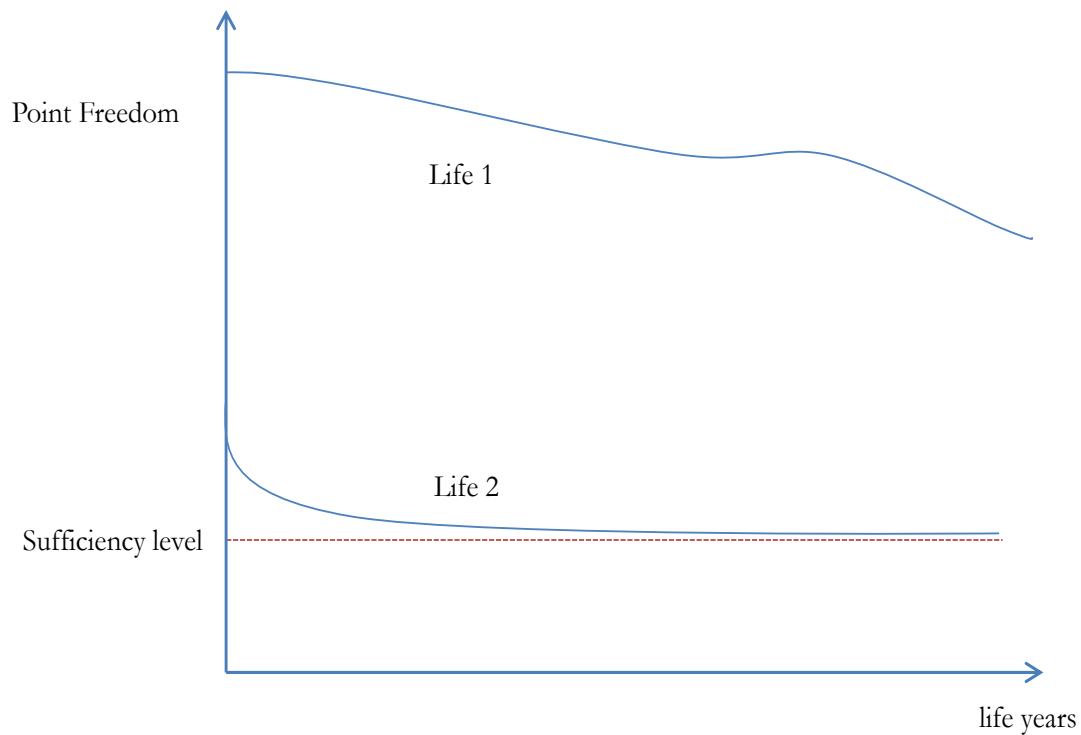
If we accepted the Maximising Account and believed that we ought, *ceteris paribus*, to interfere to maximise a person's Period Freedom, we might have to say that the state ought to prevent Pierre spending his money as he sees fit. The reason is this. More money means more freedom (on my and indeed most accounts of freedom). But Pierre wants to use his money for a type of consumption that does not preserve his wealth. Instead he should only buy items – such as valuable stamps for example – he can later resell. This way he keeps his freedom. To maximise the sum of Point Freedom, Pierre would have to use his money such that it expands his abilities. However, forcing Pierre to save his money seems intuitively at odds with a concern for Pierre's freedom. Part of freedom's value is about respecting individual's choices. Therefore, the Maximising View is implausible.

(iii) The Sufficiency View

We could take inspiration from Gerald Dworkin and hold that '[i]n the realm of choice, as in all others, we must conclude – enough is enough'.²²¹ Instead of maximising freedom, maybe we ought to ensure that people have *enough* freedom at all times. The government, and everyone else, ought to act in such a way that everyone's freedom always remains above a certain threshold at all times.

However, the Sufficiency View alone does not make sense. Compare two lives. One, Life 1, starts well above the threshold and remains high whereas, Life 2, is always just slightly above the threshold. The former seems to offer more lifetime freedom:

²²¹ Dworkin (1988), p. 81.



Therefore, we need to supplement the Sufficiency View. Ian Carter suggests combining the Sufficiency View with the Starting Gate View. I will call this the *Combined View*:

C1: allow only those lives in which Point Freedom is above the threshold at all times.

C2: out of these, choose the life with the highest starting gate freedom.²²²

What speaks for the Combined View?

First, C1 and C2 account for the fact that freedom is about respecting people's decisions. Unlike the Maximising View, the Combined View gives people a good starting position and then lets people get on with their own lives.

Second, but unlike the Starting Gate View, the Combined View takes account of *personality change* and *autonomy*. Future people have interests and one of them is freedom. Through securing enough freedom in the future, we make sure that future versions of a person do not have to lead an unfree life. But we also allow that people can choose long-term life-plans. Thus, it

²²² Carter (2011a) furthermore suggests for C2 that we choose the *greatest equal freedom*. I will discuss *interpersonal* distributions in the following chapter and egalitarian criteria in particular in my last chapter.

does not require, for example, that we put a prohibitive cap on Pierre's expenditure on good food.

The Combined View seems more 'balanced' and thus more promising than the Starting Gate and the Maximising View. Unfortunately, it does not withstand objections.

First, consider the following case:

Nelson: a political activist called Nelson lives in a racially segregated Apartheid regime. He can decide whether to do something that will get him into prison for two months. He also knows that, given his prominent status, these two months imprisonment will lead to social unrest which will then topple the government such that his life will be drastically more free after the imprisonment than it otherwise would be.

During his incarceration, Nelson would be insufficiently free. During Apartheid he will be very unfree but not below the sufficiency line. The Combined View would require that we prevent Nelson from going to prison. However, we might have good reason to accept insufficient levels of freedom temporarily to enjoy greater freedom later. A similar case is:

Flying: I am on a 24 hour flight from Europe to Australia. During the flight I have insufficient freedom.

Does the Sufficiency View have to say that we should avoid flying? If so, that would rule out such a view.

This problem leads us back to the distinction between a *Fresh-Starts View* and a *Discrete Segment View*. The Sufficiency View would be saved from *Nelson* and *Flying* if coupled with a Fresh-Starts View (which Carter endorses). On such a view, *Nelson* will not pose a problem, because the ensuing freedom after imprisonment will factor into his levels of Point Freedom during imprisonment. The same is true for *Flying*.

However, a slightly different example also works against the Sufficiency-cum-Fresh-Starts-View. Such a view will rule out lives in which the insufficient level of freedom is at the *end* of a person's life. Consider *Football*:

Football: Peter is very particular about sports. The only sport he likes to play is football. If he is allowed to play football he will live to become 80 years old. However, because Peter has a hereditary illness that will break out by the time he reaches 78, he will be bedridden for the last 2 years. If he is not allowed to play football, Peter will choose a very unhealthy lifestyle which will result in a fatal heart attack when he is 55.

Peter's condition between 78 and 80 grants him insufficient freedom and his level of freedom during his unhealthy life is always above the threshold. According to Carter's criterion, we ought to prevent Peter from playing football, because this would ensure a life in which Peter is never below the sufficiency level. This works on both the Sufficiency-cum-Discrete-Segments-Account and the Sufficiency-cum-Fresh-Starts-Account. This, however, is implausible, because between 55 and 78 Peter will still have a free life.

The Sufficiency-cum-Fresh-Starts-View has its own problems. We can imagine a simple scenario in which a person has *a lot of* freedom towards the end but next to no freedoms during other times before. If we add lots of freedom towards the end, then having next to no freedom within certain time-segments – because of imprisonment for example – does not count as insufficient freedom. Thusly rendered, the sufficiency aspect of the Combined View fails to rule out lives that intuitively contain insufficient freedom.

The Combined View thus faces a dilemma: if it accepts a *Discrete Segments View*, it will implausibly rule out cases such as *Nelson*. If it accepts a *Fresh-Starts View*, it will fail to rule out those situations in which a person genuinely has insufficient freedom and fail to avoid problematic cases such as *Football*.

But Carter's Combined View has further problems. The sufficiency criterion C1 invites the question as to where such a level of sufficiency is to be had, a notoriously difficult problem for any threshold view. Moreover, at which temporal point in a person's life should we locate a person's starting gate for our criterion C2? I doubt there are 'correct' theoretical answers to both questions. Even if there are, the Combined View will still be open to the objections discussed above.

I conclude that the Combined View is implausible.

(iv) A Hybrid Account

Where does that leave us? The Starting Gate, the Maximising and the Sufficiency View were all unsuccessful. What to do now? We could look into the distributive justice literature for inspiration. One of the well-known alternatives for interpersonal distribution is the *Priority View* according to which a *distribuendum* is weighted such that more priority is given to a person the less of the *distribuendum* she has. But this does not make sense for intrapersonal cross-temporal distribution of freedom. We are not concerned with balancing ‘egalitarian’ or ‘fairness-concerns’ with maximising concerns. Instead, we are concerned with respecting people’s fundamental decisions about their lives whilst at the same time ensuring good levels of freedom for future versions of that person.

This section closes with a pessimistic and a constructive conclusion. Given my arguments in the last section of this chapter, I conclude that there is no simple and straightforward aggregation procedure for Period Freedom that does justice to the various normative considerations typically connected to freedom. Neither a Starting Gate, Maximising nor Sufficiency View does the job. This means that freedom-based liberalism is less precise a view than many people would have hoped. In balancing the differing roles that freedom plays, we lack a simple criterion for the intrapersonal aggregation of freedom. This also means that assessing the justifiability of paternalistic policies simply in terms of their effects on freedom is relatively complex.

Instead, a number of considerations have transpired that narrow down the types of distributions we should aim for and that a weighted sum of Point Freedoms might reflect.

First, our distributions should reflect the importance of facilitating a person with a lot of (far-reaching) freedom at the beginning of their lives. To *respect* a person and the life choices she makes, she should have a good ‘starting gate’ and secured high freedom levels during child-

hood, adolescence and early adulthood. Granting someone else a lot of life-choices is particularly important when you do not know what this person wants or what is good for that person.

Second, we should avoid times with very low levels of freedom. Freedom has decreasing marginal value and times with a lot of freedom usually (though not always) do not compensate for prolonged periods in which persons are terribly unfree. This should be reflected in our weighting factors.

Third, freedom towards the end of one's life usually matters less than it does during the beginning of one's life. Typically, we do not expect great changes in a person's tastes and character in old age and most, though not all, will have found their lifestyle. This does not mean that it does not matter, but maybe slightly less than beforehand.²²³

These aspects, particularly giving greater weight to a starting gate, should narrow down the distributions of freedom we ought to aim for.

Let us now briefly return to questions of paternalism more generally.

13.3 Conclusions: Paternalism and Lifetime Freedom

In this chapter, I have discussed the distribution of freedom across lifetimes. This was not a mere conceptual exercise. I have shown that the idea of aggregating freedom across time explains our intuitions in the Slave Case and serves as a useful framework for assessing paternalistic policies.

²²³ This does not mean that freedom does not matter when you are old. Increasing freedom for pensioners with fewer abilities might be better than increasing freedom earlier when you still have many abilities. This, of course, is easily explained through freedom's decreasing marginal value.

Usually, paternalistic interference is sought to be justified because it might prevent harm to the person, makes her better off (without preventing ‘harm’) or prevents an inherently immoral action etc.²²⁴ But the idea of *ex ante* Period Freedom shows that some of these policies might be justified purely with the aim of furthering a person’s *lifetime freedom*. Wearing seatbelts might avoid freedom-reducing, incapacitating accidents. Preventing drug addictions will put people in a position to enjoy more future freedom. Compulsory schooling might be understood as a means to safeguard a person’s levels of future freedom as shown in *Jack and James*. So, because some paternalistic interferences are *redistributions* of freedom, they might be justifiable purely with the aim of furthering freedom. Whether they can be justified this way depends on three factors: the probability distribution over the different options, the relative fecundity of the different options and the aggregative procedure we use to measure Period Freedom. Take anti-narcotics legislation for example. On the one hand, ‘being a drug addict’ should typically be more fecund than being a slave, that is, it will typically offer higher levels of future freedom. On the other hand, whilst people often do desire to consume drugs, few people desire to be slaves. So, the probability of choosing such an option is typically higher than in the Slave Case. Because it is comparatively probable that people choose paths that lead to addictions, such paternalist policies might, depending on one’s aggregative procedure, be justified with respect to Period Freedom.

But we have also reached the conclusion that there is no simple straightforward distributive criterion for the distribution of freedom at which the state ought to aim. The Starting Gate, the Maximising and the Sufficiency View were found inadequate. So, the position I defended combined the idea that we respect a person’s decisions through offering her a good starting point with the idea that we ought to safeguard future levels of freedom and avoid prolonged periods of very low levels in particular. These ideas are sufficiently precise to show that many

²²⁴ Cf. Feinberg (1987), p. xiii.

policies to which we apply the label ‘paternalism’ *are* legitimate redistributions of freedom. These include outlawing voluntary slavery, strongly limiting the contractual capacity of children, certain paternalist health policies etc. But they do leave freedom-based liberalism a slightly less precise position than one might have hoped for.

I will now turn to the distribution of freedom across people.

14 Interpersonal Distribution: the Maximising View

In this and the following chapter, I will discuss how to distribute freedom *across persons*. To avoid complications I will only discuss how freedom is to be distributed in one society and between a fixed number of persons. Problems in population ethics are difficult and my restriction circumvents the need to solve them here.

Let me shortly summarise again what kind of distributional question I understand this to be in this context (see chapter 12 for details): distributions of freedom here are ordered according to their goodness in abstract circumstances that vaguely resemble real-life political contexts. There are obvious differences: first, we have perfect information about individuals' levels of freedom and, second, there is no uncertainty involved about which states of nature will be actualised. But the context resembles real-life political decisions in other respects. We have no information, or at least great uncertainty about, how decisions will affect other types of goods (such as welfare for example) and are confronted with reasonable disagreement about conceptions of the good. We do not know individual preferences and likings nor do we know how these preferences and likings will change in the future.

In this chapter, I will discuss whether we should *maximise* the social aggregate of freedom. For ease of reference, I will call this the *Maximising View*. Before discussing normative objections,

I will tackle two *conceptual* objections (sec. 14.1). First, I will discuss arguments against the idea that societal freedom is merely the sum of individual freedom. Second, I will discuss Steiner's claim that societal freedom is always constant and that aiming to maximise it thus makes no sense. I show that both objections fail and that we can consistently aim to maximise the sum of individual freedom.

In the last section, I will argue against the Maximising View on *normative* grounds. The arguments are straightforward. First, freedom's marginal value decreases when freedom increases. Second, it is *unfair* to impose great burdens on individuals – in the sense of greatly reducing their level of freedom – to maximise societal freedom. Beyond the normative debate, this chapter makes a contribution to conceptual questions surrounding corporate freedom.

14.1 What is societal freedom?

According to the Maximising View, we should aim to maximise the sum of individual overall freedom:

The Maximising View: one distribution of freedom is better than another if and only if the first has a higher sum total of freedom than the second.

Because I have limited the discussion to constant populations, it does not matter whether we use a sum-maximising or an average-maximising view. I will now discuss the first conceptual objection to the Maximising View.

14.1.1 Individual and Corporate Agents

(i) Cohen's Example

There is a well-known objection to equating societal freedom with the sum of individual freedom. G.A. Cohen has us imagine the following case:

Prison: ‘Ten people are placed in a room, the only exit from which is a huge and heavy locked door. At various distances from each lies a single heavy key. Whoever picks up this key – and each is physically able, with varying degrees of effort, to do so – and takes it to the door will find, after considerable self-application, a way to open the door and leave the room. But if he does so he alone will be able to leave it. Photoelectronic devices installed by a gaoler ensure that it will open only just enough to permit one exit. Then it will close, and no one inside the room will be able to open it again.’²²⁵

Cohen further assumes that none of the inmates will actually try to leave the room so that it is true that each of the inmates has the freedom to leave the room. For such a case, it is fulfilled that:

Ability View: P is free to φ iff P is able to φ .

A person is free to φ if she would φ if she attempted to φ (and she is able to intend to φ). For each inmate this is fulfilled. So, this very fecund freedom will be included in everyone’s overall freedom. This, however, seems to cause a problem for the Summing Account:

The Summing Account: societal freedom is the sum of individual freedom.

Calculating societal freedom this way yields a counterintuitive result in *Prison*. Surely, there is a freedom-relevant difference between a situation in which *one* person can escape gaol and one in which *everyone* can escape. Therefore, Cohen argues, societal freedom is more than the sum of individual freedom. There is also irreducibly *collective* freedom. This is the first claim we can extract from Cohen’s article.

Cohen goes on to compare *Prison* to the plight of the proletariat in capitalist systems. While each member is individually free to leave the working class and join the bourgeoisie, the proletariat is *collectively unfree* to leave the working class (in capitalism). Collectively leaving behind the proletariat would mean abolishing it, but this is not possible in a capitalist system.

²²⁵ Cohen (1979), p. 178.

I think we should distinguish three different propositions. The first, conceptual claim is that the Summing Account misses something important about societal freedom, namely *collective unfreedom*. The second, ‘hermeneutical’ claim is that the concept of ‘collective unfreedom’ can be used to adequately flesh out Marx’s analysis of the situation of the proletariat. The third, implicit claim is that such a Marxist analysis is an adequate analysis of the proletariat in capitalist systems.

Here, I will not discuss whether Marx is right (the third proposition). Carter has convincingly argued against the second claim, holding that the Marxist idea that the proletarian class is less free than the bourgeoisie can be fully made sense of using the Summing Account. Not only is it very hard for each proletarian to leave the proletariat, each individual is also unlikely to succeed. Moreover, proletarians not only have the collective *unfreedom* to stop being proletarians, they also have, according to Marxists, the collective *freedom* to do so. For if they all acted in a unified fashion, they could start a revolution and abandon capitalism.²²⁶

However, while I think Carter’s arguments against Cohen’s second claim – his hermeneutical Marxist claim – are quite successful, they do not deal with Cohen’s first claim. Even if it they do not adequately capture Marx’s claim about proletarian unfreedom, cases like *Prison* might still show that the simple Summing Account of societal freedom is false.

To see if this is the case, let us slightly change Cohen’s example:

Prison 1: each prisoner can leave the cell thus enclosing the others in the cell forever.
No prisoner will actually leave the cell.

Prison 1 is different from *Prison 2*:

Prison 2: each prisoner is able to leave the cell without thereby making anyone else unfree.

²²⁶ Carter (1999), p. 253-6.

Now, to save the Summing Account of societal freedom, the difference between the two cases needs to be reflected in each person's level of overall freedom such that when we add their respective levels, the group of ten prisoners has more societal freedom in *Prison 2* than *Prison 1*.

Kramer argues that his theory of freedom can accommodate this, because the differing levels of societal freedom are reflected in each person's level of overall freedom. A person has significantly less individual freedom in *Prison 1* than in *Prison 2*, because she is not free to both leave the cell and not be causally and (partly) morally responsible for making other people worse off (by greatly restricting their freedom for example).²²⁷

However, one might wonder whether adding 'a few compossible freedoms' really accounts for the difference between *Prison 1* and *Prison 2*. Does the lack of the compossible freedoms 'leave-cell-and-do-not-make-others-unfree' really account for our intuitive judgement in this case? Kramer argues that this is yet another argument for preferring the *Hybrid View* over the Non-Evaluative View. If we assign evaluative weighting factors to important sets of compossible freedoms, then it will come out as quite important that you are able to lead a normal life without thereby making other people worse off (in one respect or another). Therefore, the Hybrid View can accommodate our judgements with respect to *Prison 1* and *Prison 2*.

I think this defence is fine for *Prison*. However, one might still think that this is insufficient. But I think we should not trust our intuitions here. The intuition might come from a failure to adequately imagine a situation like *Prison 1* in which no one has the intention to leave. If I were such a prisoner and no one else left the cell, would I not simply leave the cell? Yes, if no one else is leaving, then why leave this opportunity unused? But others will surely reason the same way and I will anticipate this. Maybe our intuition stems from a failure to imagine our-

²²⁷ Kramer (2003), p. 224-40.

selves and others reasoning and acting the way the inmates do in Cohen's example. So, Kramer's solution should be allowed to stand.

(ii) Corporate Freedom

I will now analyse in more detail the idea of *corporate freedom* which is a more specific version of collective freedom. Corporate freedoms are those had by corporate agents. What I mean by 'corporate agents' are social entities such as a family, a football club or the Labour Party. Typically, corporate agents have some form of commonality and (the potential of) a decision-making procedure for joint action. I will argue that freedoms of corporate agents should neither influence how much *individual freedom* a person has nor how much *societal freedom* there is. Therefore, the Summing Account should be allowed to stand.

Let us first analyse the idea of corporate freedom. Frank Hindriks argues that an account of corporate freedom – that is, an account that spells out under which conditions a corporate agent has a specific freedom – cannot be reduced to the specific freedoms of its individual members. Accordingly, the following claim is false:

CF 1: a corporate agent *C* is free to φ iff all of *C*'s constituting members are free to φ .

In Cohen's example, we saw that even though every prison inmate is free to leave – conditional on the others not leaving – all inmates taken together as a corporate agent are not free to leave. So, the freedom of individual members is not a sufficient condition for corporate freedom.

But individual freedom is not even a *necessary* condition for corporate freedom. One might think to avoid cases such as *Prison*, corporate freedom requires that all members need to be individually free to do what is required for the corporate agent to realise its freedom.

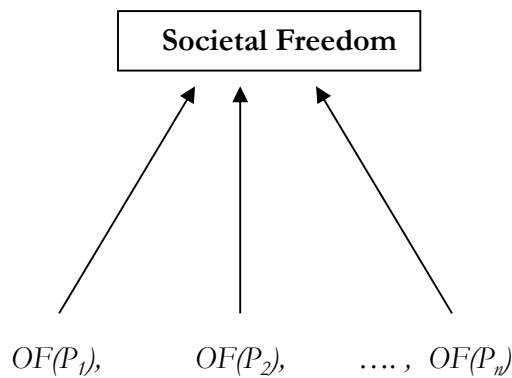
CF 2: *C* is free to φ iff all constitutive members of *C* are free to do their parts necessary for φ -ing.

CF 2 is false. Imagine a group of people who are collectively free to carry a piano up the stairs. The piano is so heavy that no one is able to do her part without others doing their part.²²⁸ So, a specific individual is not free to do her part, if others do not do theirs.

We should instead opt for a non-reductive account of corporate freedom:

CF 3: C is free to φ iff C is able to φ .

Again, C is able to φ if C would φ if C attempted to φ (and C is able to intend to φ). How is corporate freedom different from societal freedom? I have so far defined societal freedom as the sum of individual freedom in a group. So, we go straight from individual freedom to societal freedom, without considering whether different coalitions in that group can have irreducibly corporate freedoms (where $OF(P_i)$ denotes P_i 's level of Choice Freedom):



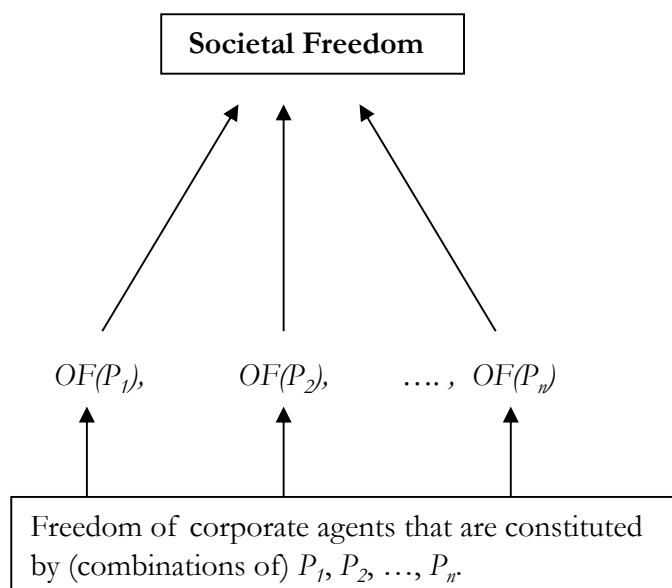
Let us call this *Model 1*. But one might think that corporate freedoms should be included into individual freedom and/or societal freedom. I can think of two arguments for such an inclusion.

First, one might think that Model 1 suggests an ontological picture on which a society consists only of individuals. Characterising a society, one might object, requires a richer ontology, including corporate agents, systems, networks etc. Second, there is a difference between the societal freedom of $P_1, P_2, \dots, P_n$, if these are just random persons from different societies

²²⁸ Cf. Hindriks (2008), pp. 168–80.

who do not form a group, and the societal freedom of $P_1, P_2, \dots, P_n$ if these are all members of the same group. Including corporate freedom will account for this difference.

The first way to include corporate freedoms is to let corporate freedoms (and unfreedom) directly influence how much individual freedom each person has:



Such an account would of course require changing my account of overall freedom developed in previous chapters. Let us call this *Model 2*.

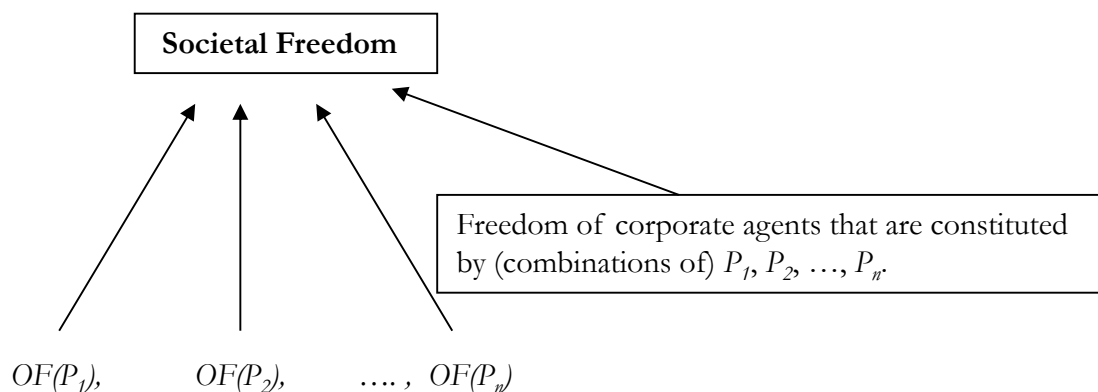
However, directly including corporate freedom (and unfreedom) in an assessment of a person's overall freedom is problematic. Say I am a proletarian. We might think that all proletarians together have the freedom to overthrow capitalism. Suppose also that no one has the intention to do so and that it is not going to happen. Should it still factor in my level of overall freedom that there is this theoretical possibility of overthrowing capitalism even though it is certainly not going to happen? The answer is no, because this model is confronted with a dilemma. On the first lemma we include *all* possible or conceivable corporate freedoms and thus also those that are incredibly improbable of ever having a chance to be realised. However, such possible corporate freedoms seem entirely irrelevant for the overall freedom of the persons making up that corporate agent. Moreover, if we allow all conceivable corporate freedoms, we can simply conjure up imaginary corporate agents and then include them in the

person's level of freedom. If all Schmidts, Schmitts, Schmitz's and Smiths got together to form a corporate agent, they would be quite powerful. But my personal freedom is in no way enhanced by this theoretical possibility. To include my membership in such possible corporate agents as a source of individual freedom would inflate individual freedom unduly.

The other lemma is to include only those corporate freedoms that are sufficiently likely. That is, it is sufficiently likely that if I were to decide to be part of a corporate agent's ' φ -ing', it would be sufficiently likely that the corporate agent would φ . However, if this probability is sufficiently high, then this freedom will already be included in my measure of overall freedom. Therefore, we do not need corporate freedom as an independent source of individual freedom.

So, the problem with Model 2 is that it either includes all improbable corporate freedoms – which is implausible – or it includes those that are sufficiently likely for individuals, in which case it collapses into Model 1.

If we think that freedoms of corporate agents do not directly matter for individual freedom, should they matter for *Societal Freedom*? So, how much corporate freedom there is between individual $P_1, P_2, \dots, P_n$ might influence how much societal freedom there is without previously influencing individual levels of overall freedom (henceforth *Model 3*):



One might argue that Model 3 allows us to distinguish between collections of persons that are genuine groups and those that are just a random collection of people. For the former might

have a higher level of corporate freedom. However, Model 3 fails for similar reasons as Model 2.

First, we need to determine which possible coalitions to allow as possible corporate agents. We might want to exclude coalitions like the ‘Schmidt coalition’. But for the purpose at hand, this distinction is best done through a breakdown of how the existence of these corporate agents might affect individual level of freedom. But once we allow this, we have no reason to see corporate freedom as an independent source of societal freedom.

Second, when we ask how much freedom there is overall in a group, we want to find out how much freedom *there actually is*. We do not want to know how much freedom there could be *if people acted differently*. But again for corporate freedom to be counted on my account of individual freedom, it needs to be sufficiently likely to be realisable; this adequately reflects that we want to know how much freedom there is given our information about how agents will act. If we allowed corporate freedom to be an independent source for societal freedom, we would be confusing the question ‘how much freedom is there?’ with ‘how much freedom could there be?’.

Third, there is good reason to focus exclusively on the individual level. We care about freedom’s normative relevance for individuals. The reasons we have for valuing freedom are all, ultimately, to do with benefits that accrue to individuals.

Let me summarise my argument in this section. I have argued that even though corporate freedom is something that *does* exist and that cannot conceptually be reduced to individual freedom, we should keep the Summing Account of societal freedom.²²⁹

²²⁹ These arguments are not meant to suggest that corporate freedoms are uninteresting. Analysing such freedoms might prove useful in finding forms of social interaction that increase individual levels of overall freedom or prove useful in bringing about other valuable states. So, for example, if we could change society in such a way that organising political protests for oppressed groups is not merely a theoretical corporate freedom but one that can be achieved by individuals, then, other things being equal, this might result in a better overall distribution of freedom.

For the Maximising View, this entails that societal freedom is just the sum of individual freedom and that it cannot be ruled out on this conceptual ground. Let me now discuss the second conceptual objection to the Maximising View, the Zero Sum Thesis.

14.1.2 Zero Sum Thesis

Steiner has argued for the Zero Sum Thesis according to which the sum of societal freedom is fixed if we hold the range of space and material objects fixed. For this reason, Steiner thinks maximising societal freedom is pointless. Is the Zero Sum Thesis true?

If, as I have argued, my ability-based conception of freedom is correct, the Zero Sum Thesis is easily shown to be false. A variety of factors determine societal freedom, its level is not fixed. Imagine person *P* harms *Q* by breaking his legs. As a result of *P*'s action, *Q* is unable to walk around. This, on my account, would make *Q* much less free. Is there not less freedom overall? More generally, we could think of certain health policies – better sanitation for the working class for example – that would improve people's health and thus their abilities. This, on the measure defended here, would translate into an increase in societal freedom.

But, more generally, the Zero Sum Thesis is problematic even if we accept Steiner's own theory of freedom. One factor that leads to differing levels of societal freedom is property rights. Cohen argues, for example, that communal ownership will often result in more societal freedom than some forms of private ownership.²³⁰ Carter takes up this argument:

'Divide an empty room into ten equal spatial units, one unit being the maximum space a person can take up at any one time [M]y freedom with respect to these units of space when I occupy the room exclusively is 10/10 ... Now imagine a different situation in which the room is no longer occupied exclusively by me, but is also occupied by you. Should we say that my freedom with respect to the list of these ten units of space is now 5/10 (and that yours is similarly 5/10)? This is what an advocate of the zero-sum thesis will have to say. However, this will only be so if my room is divided into two equally sized compartments, one belonging to me and the other to

²³⁰ Cf. Cohen (1981).

you ... If we think instead of my room as communally possessed by the two of us, surely we should say that my freedom (still with respect to the list of the ten units of space) is now 9/10 (and that yours is similarly 9/10). I do not know which units of space you will take up, or at what times, but I do know that you only have one body, that it is logically impossible for you to be in two places at one time, and therefore that at any one time it will only be impossible for me to be in one of the ten units. The room provides us with more individual freedom when we possess it communally than when we are each in exclusive possession of a half of it.²³¹

I think this argument shows that the Zero Sum Thesis is false.

We have seen that we *can* simply add up individual freedom to determine societal freedom the value of which can change. So, the Maximising Account cannot be ruled out on conceptual grounds. Let us look at normative reasons.

14.2 For and Against

What reasons are there *for* maximising societal freedom? We might take inspiration from utilitarianism. Utilitarians hold that welfare is good for an individual and that the marginal contribution of welfare to goodness is constant. Moreover, morality is about impartiality. So, welfare is *impartially* good. It is irrelevant *whose* welfare it is. Moreover, welfare is the *only* thing that matters. This suggests that we should aim for the highest sum of welfare across people.

Do these claims apply, *mutatis mutandis*, to freedom? We might believe that freedom is *impartially* good, that is, irrespective of whose freedom it is. So, everyone's freedom 'counts equally'. If we believe that more freedom is better than less and its marginal contribution to overall goodness is constant, we should maximise societal freedom. However, these assumptions are false, as I will argue now.

²³¹ Carter (1999), pp. 259-60.

(i) *Decreasing marginal value*

Like money, freedom has decreasing marginal value. Increasing someone's freedom who has very little seems better than increasing someone's freedom by the same amount who already has a lot. We have intuitive reason to believe that freedom's marginal value decreases. Beyond intuition, there are also systematic reasons for this. Let us consider freedom's *instrumental* value first.

In chapters 8 and 9, I defended an account of overall freedom according to which it is both the physical range of ability ('ability-space') and the freedom-associated value of that space that determines how free a person is. Freedom-associated values were things like autonomy, personal control, preference-change, personal development amongst others. But given that these values are already incorporated in the measurement of freedom, should freedom's marginal value therefore not be constant? If freedom's marginal value is constant then this might give us reason to maximise it across people.

First, this is not the case, because sheer physical extension also increases one's freedom but not necessarily the extent to which the goods typically associated with it are fulfilled.

Second, freedom has decreasing marginal value because more freedom often comes at a cost. There are a number of problems that come with more choice. These costs have been the subject of much empirical psychological research. Here I just give a short list. First, the more choice we have the more information-gathering we often have to do. Second, the more options there and the better these are, the more often feel people bad about *missed opportunities*. When people have different options that each have their individual qualities, they remember rejected options and their qualities as missed opportunities. Moreover, people often regret even good decisions, knowing they have to forgo another good option. Third, taking decisions also implies having to take responsibility more often for one's actions. Sometimes it is better not to be responsible. Fourth, the more options we have the more often we fall prey to

weakness of the will. Fifth, with increased choice our hedonic expectations increase disproportionately and we are more likely to be disappointed about chosen options.²³²

None of this entails that freedom does not have positive marginal value at all levels. It only implies that the higher one's level of freedom, the more likely it is that extra units of freedom will come into conflict with other values.

So, there is good reason to believe that freedom's marginal value decreases.

But one might respond like this: freedom is not one amongst other goods. Freedom is what Rawls calls a *primary* good. That is, a good one has instrumental reason to want no matter what else one wants.²³³ But even if this is so, this does not imply that freedom's marginal value is constant. While it might be true that one needs freedom to realise whatever else one aims to pursue, one unit of extra freedom does not always translate into the same 'amount' of things one realises. Here is an analogy. Health is a primary social good. Whatever else one aims to pursue, one needs to be healthy. But this does not entail that an extra unit of health always helps to realise one's goals to the same extent. While freedom is of course a more comprehensive ideal – that to some extent encompasses physical ability for which health is required – I think the same point applies to it regardless.

So, a discussion of freedom's instrumental value suggests that its marginal value is not constant. What about freedom's intrinsic value? Remember that I have left it open whether freedom is intrinsically valuable or not. But, maybe, *if* freedom has intrinsic value, its marginal value necessarily must be constant. There are two responses to this claim.

²³² Cf. Luce, Bettman and Payne (2001), Schwartz (2004), ch. 7, Schwartz, Ward et al. (2002), Roese (1997) and Kahneman/Tversky (1982) on the relevance of costly trade-offs that come with more choice Cf. Frederick and Loewenstein (1999), Clark et al. (2003) for raising expectations and the hedonic treadmill. Cf. Schwartz (2004), ch. 8 for its relation to increasing choice. Cf. Peterson and Seligman (1984) for the costs that come with increased responsibility.

²³³ Pettit (1997), p. 90 argues that republican freedom is a primary good.

First, even if freedom has constant intrinsic marginal value, the fact that it has decreasing *instrumental* value, entails that it has *decreasing* all-things-considered value.

Second, the most plausible way in which freedom could be intrinsically valuable does not imply that its marginal value is constant. Freedom might be valuable as a constitutive element of autonomy. To lead an autonomous life might mean, amongst other things, to have enough freedom. Given that autonomy is intrinsically valuable (we assume), its constitutive parts – freedom – are intrinsically valuable too. Freedom might thus have *constitutive intrinsic* value.²³⁴ However, while more freedom contributes positively to autonomy, more freedom does not always mean more of the thing – autonomy – that together is intrinsically valuable. Consider an analogy. Let us assume that biscuits were intrinsically valuable and that a good biscuit consists of 30% sugar. Therefore, on some metaphysical picture, sugar has constitutive intrinsic value when it is part of a biscuit. Does that mean that sugar has constant marginal intrinsic value? No. To create intrinsic value, sugar needs the other ingredients in certain measures too. So, simply increasing the sugar content of a biscuit to 90% does not result in a proportionate increase in overall intrinsic value.²³⁵ The same, I think, holds for freedom. Even if freedom might have constitutive intrinsic value as part of a good autonomous life, this does not mean that more of it is always better in equal degree.

I conclude that freedom's marginal value decreases. Therefore, we ought not simply maximise the sum of societal freedom. We also have 'empirical reason' to care about its distribution. Other things equal, the more equal a distribution, the better.

²³⁴ Cf. Carter (1999), ch. 2.5 for a detailed discussion. Cf. also Raz (1988), ch. 15 for a discussion of autonomy and freedom.

²³⁵ In the biscuit example we might even expect the overall value of the biscuit to decrease.

(ii) *Intrinsic Badness of Inequality*

The ‘instrumental’ case is strong enough against the Maximising View and for the claim that more equal distributions are better *pro tanto*. But many philosophers think inequality is instrumentally *and intrinsically* bad. I will now briefly discuss different reasons for this.

Rawls held that utilitarianism disregards the separateness of persons. It considers a set of agents just the way it considers one person: just as we impose burdens on ourselves at some times to receive greater benefits some other time, maximising social welfare might often require imposing great burdens on individuals. But this disregards that we are dealing with *separate* persons in the latter case.²³⁶

I do not think there is only *one* version of the separateness of persons objection. All versions have in common that they hold that members of a social group should not be treated the way we treat the individual case. I think the separateness of persons objection is best considered an objection to a specific argument for maximising views. One argument for utilitarianism, famously propounded by Harsanyi, infers utilitarianism from a few axioms about individual rationality, utility and impartiality. The Separateness of Persons Objection takes issue with such moves from individual rationality to overall goodness.

But on what *grounds* should we reject this move? It is clearly not the simple empirical fact that persons are separate ontological entities. We need deeper reasons that show why the individual case is different from the social case in a normatively relevant sense. I think by itself the separateness of persons objection has no bite, it needs deeper reasons. There are two further deeper reasons standardly marshalled for distributional equality: respect and fairness. To capture respect as a normative underpinning of egalitarian distributions is quite difficult and would take us too far afield.²³⁷

²³⁶ The *locus classicus* for this is Rawls (1971), pp. 22–7.

²³⁷ Cf. Carter (2011c) and Darwall (1977) on respect.

‘Fairness’ strikes me as a more potent and straightforward reason than respect. Maximising freedom might conflict with our concern for fairness. It might be unfair to impose great burdens on individuals to make others better off. What is fairness? Given limited space, I will be relatively brief. One sense of fairness is *formal*. Formal fairness requires rules to be applied equally and impartially. So, when the rule is ‘the best candidate gets the job’, then a person should not be ruled out because he is not good-looking. But formal fairness alone is insufficient. Brad Hooker writes:

‘We usually think of formal fairness as a good thing, but it is hardly the only good thing. For there can be perfectly impartial application of *bad* rules. Suppose some group has a rule that no Jews are allowed into a business club. This is a bad rule, but it can be impartially applied. Clearly, that a rule is impartially applied neither qualifies it as an impartial rule nor qualifies it as a justified rule.’²³⁸

Here we want to know what makes *distributions* of goods fair. For this, we need more a substantive account of fairness not a merely procedural one. Roughly, we might call distributions fair to the extent that people receive what they are due. This is very vague. Broome develops a theory according to which fairness consists in the proportional satisfaction of a specific type of moral reasons. To see of what type these reasons are, consider this example.

Dangerous Mission: ‘Someone has to be sent on a mission that is so dangerous she will probably be killed. The people available are similar in all respects, except that one has special talents that make her more likely than others to carry out the mission well (but no more likely to survive).’²³⁹

If we only employ *teleological* reasons, then we should send the person with special talents. In applying teleological reasons, we weigh up benefits between individuals to maximise overall benefit. These types of moral considerations are not owed directly to the persons involved. Teleological reasons are different from *claims*. In *Dangerous Mission*, we might want to say that each person has a claim to have some chance of not being sent out on the dangerous mission. If we simply choose the person with special talents, then this is unfair as we fail to discharge

²³⁸ Hooker (2005), p. 329.

²³⁹ Broome (1990), p. 90.

our duty to give this person a fair chance not to go. This type of reason, a claim, is owed to the person directly.²⁴⁰

Broome sees fairness as the *proportional satisfaction of fairness-claims*. Such satisfaction is proportional if the distribution reflects the strength of individual claims. Fairness-claims might derive from a number of factors, such as desert or need. It is one of the stipulations of the discussion here that we exclude the kinds of desert-based considerations according to which the amount or share of some good that a person should receive is proportional to some property of her past behaviour (her past effort or her ‘virtue’ for example). But there might be a general fairness-claim owed to individuals that says that, absent any desert-based considerations, a person has a claim to an equal share of some good. Imagine a very unequal distribution will lead to a higher overall benefit. We might have reason to think that this very unequal distribution is unfair. Of course, this does not mean that we always have all-things-considered reason to opt for a more equal distribution of a good. Maybe our teleological reasons are sometimes stronger than fairness-claims.

So, when distributing freedom we are confronted with two considerations: first, which distribution of freedom will maximise overall benefit? Second, which distribution of freedom will satisfy people’s fairness-claims proportionally? A plausible distributive principle will balance these two considerations.²⁴¹ Note that fairness-concerns do not arise in all contexts but they do apply to the distributive context relevant here. They might not arise, for example, when we compare our freedom with that of people in the Stone Age. It is a highly unequal distribution but it is not one in which we live well off the back of people in the Stone Age. In this situation, it makes little sense to compare the satisfaction of our fairness-claims in comparison to theirs.

²⁴⁰ Broome further distinguishes claims from side-constraint reasons which are injunctions against doing something that cannot be ‘weighed’ against other types of reasons and thus always override them.

²⁴¹ Also cf. Rawls (1971), pp. 108-14 and Hart (1955), pp. 185-7 on what is often called ‘the principle of fairness’.

Other things being equal, distributions of freedom are fairer and thus better if they do not impose great burdens on individuals. The Maximising View aims to maximise societal freedom and gives no weight to questions of fairness. This is a problem.²⁴²

I conclude that the Maximising View is not plausible. The reason for its implausibility is not conceptual. To calculate societal freedom we can simply add up individual freedom. Also, the distribution of freedom is not a ‘zero-sum affair’, so it is possible to choose between different levels of societal freedom. But there are normative reasons against maximising. First, freedom’s marginal value decreases with increases in freedom. Moreover, highly unequal distributions of freedom are *unfair*.

I will now discuss alternative distributive principles.

²⁴² As sometimes happens in philosophy, there is not much one can say to someone who favours a simple maximising view and does not share any fairness intuitions. Here the question is whether we should give *any* weight to distributive concerns other than simple maximisation. However, as I have already argued for the *diminishing* marginal value of freedom, my argument against the Maximising View stands even if you are not convinced that fairness makes unequal distributions bad intrinsically.

15 Interpersonal Distribution: Equality, Sufficiency, Priority

I will now discuss alternatives to the Maximising View.

First, I will discuss the suggestion that everyone should have *enough* freedom (the Sufficiency View). I will show various ways in which this position might be fleshed out and show that we have reason to reject all of them.

Second, I will discuss the intuitive suggestion that everyone should have *equal* freedom. I will discuss different versions of this view and show that, if understood as a lexical position, all of these positions are implausible.

Third, I will then discuss prioritarian and pluralist egalitarian positions. I will show that neither prioritarianism nor pluralist egalitarianism *alone* account for both fairness-considerations and the fact that freedom has diminishing moral value. Therefore, we need a hybrid view of the two.

I will discuss the distribution of *freedom*. But some of the arguments apply to the distribution of other goods, for example welfare. I will signpost where something applies to the distribution of freedom specifically and where it applies to other *distribuenda* (such as welfare) too.

Let us start with *sufficiency views*.

15.1 Sufficiency Views

The Sufficiency View's main claim is that everyone should have *enough* (freedom in this case).

Paula Casal distinguishes between a positive and a negative claim that sufficientarians make:

The Positive Thesis: what matters is that people have enough.

The Negative Thesis: ‘...if everyone had enough, it would be of no moral consequence whether some had more than others.’²⁴³

The Positive Thesis can take different forms. It could mean that the only thing that matters is sufficiency *or* that sufficiency matters above everything else *or* that sufficiency is one amongst other things that matter. I take some form of the Positive Thesis to be a necessary component of the Sufficiency View. I will present different versions of the Sufficiency View which include different versions of the Positive Thesis. Some of them accept the Negative Thesis, others do not.

Next, what do we mean by ‘enough freedom’? There are two plausible interpretations:

The Minimal Interpretation: how much freedom is enough in the sense that this level is necessary for individuals to lead a ‘minimally good life’?

The Maximal Interpretation: how much freedom is enough in the sense that more freedom does not add any value?

Understanding the question according to the Maximal Interpretation would imply there is a level above which additional freedom has no or even negative marginal value. Another way to put this is that there is a level at which a person's rational interest in freedom is satiated. On the Minimal Interpretation, there is a level of freedom necessary for individuals to lead a minimally good life. Securing this level of freedom takes priority over other goals. Below I will discuss in detail suggestions about how to flesh out these thresholds.

²⁴³ Frankfurt (1987), p. 21, cited after Casal (2007), p. 299

We should distinguish between monistic and pluralistic sufficiency principles. Monistic views hold that *the only thing that matters* is people's levels of freedom relative to the threshold. T denotes the sufficiency threshold for freedom. A simple monistic view is:

Monistic Sufficiency 1: one distribution is better than another if and only if it has a higher number of people whose level of freedom is above T .

Let us assume T is at level 10. The problem for Monistic Sufficiency 1 is that it judges the following distributions D1 and D2 to be equally good, which is implausible.²⁴⁴

	D1	D2
Freedom of person 1	1	9
Freedom of person 2	1	9

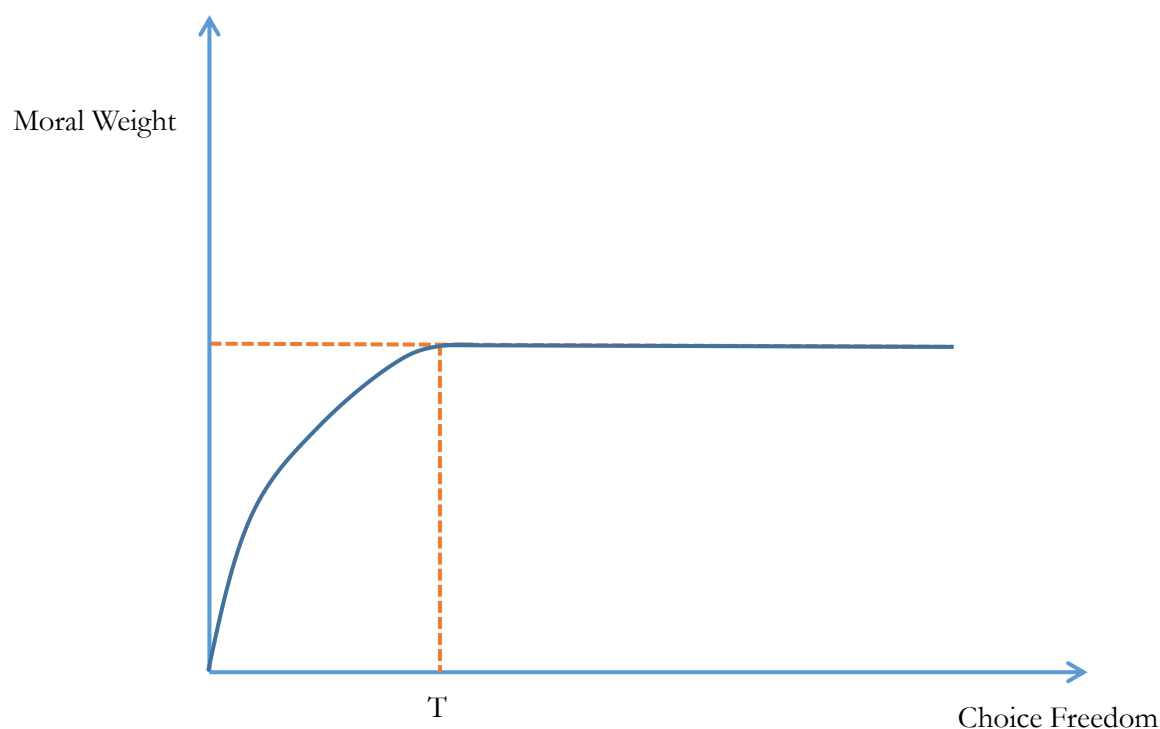
Another problem is this:

	D3	D4
Freedom of person 1	1	9
Freedom of person 2	1	9
Freedom of person 3	1	9
Freedom of person 4	10	9

Here Monistic Sufficiency 1 would judge that D3 is better than D4.

Instead of Monistic Sufficiency 1, we could use a principle that takes into account how far from T a person is. Let us call this *Monistic Sufficiency 2*. The distance between your level of freedom and the threshold determines how much weight is given to your claim. The further you are below the threshold, the more important is your distributive claim.

²⁴⁴ The problem is not solved by changing it to 'minimise the number of people below T '.



On this version of the Sufficiency View, we maximise the sum of *weighted* freedom, weighted according to the above graph.

The problem with this view is that it does not matter how far above the threshold individuals are:

	D5	D6
Freedom of person 1	10	1000
Freedom of person 2	10	1000
Freedom of person 3	10	1000
Freedom of person 4	10	1000

According to Monistic Sufficiency 2, D5 and D6 are equally good. This is implausible on the Minimal Interpretation. However, if we understand the threshold according to the *Maximal* Interpretation, the above case is not problematic, because freedom above T has no value. Let us discuss whether sufficientarianism is plausible on the Maximal Interpretation.

(i) *The Maximal Interpretation*

I will now argue that we should not understand the threshold according to the Maximal Interpretation. Let me clarify the claim for which I will argue. We should distinguish between the question as to whether there is a *theoretical* level after which freedom has no value whatsoever and the question as to whether there is such a level that is *practically attainable*. I will not try to argue against the idea of a theoretical level of freedom after which it does not add any value. There might be science fiction scenarios in which people have fantastically high levels of freedom. Maybe extra freedom does not add value at such high levels – I do not know.²⁴⁵ But the distributional context I am discussing here is one of non-ideal theory that takes as relevant the technical limitations now and in our foreseeable future. In those circumstances, I want to argue, there is no point above which freedom does not add any value.

First, I have located the discussion about which distribution is best at the social level or in a ‘distributional context’. That is, in situations in which a policy-maker (or someone similar) has to decide how to effect distributions of freedom of other people in conditions of uncertainty; or, more fundamentally, what types of distributions of freedom we should aim to achieve through our social and political institutions. In such situations, the ‘distributor’ does not know exactly how it will affect other valuable outcomes such as pleasure or the proliferation of knowledge, what people’s desires are or what these might be in the future and is confronted with reasonable disagreement about theories of the good. Do we have reason to believe that in such situations we can find a level at which freedom would have constant or even negative expected value? We have seen in my last chapter that there are situations in which relative to a certain decision at hand too much freedom imposed cognitive and emotional burdens. However, most of the empirical research focuses on specific types of choices and not on overall freedom. So, typical experiments involve decisions such as buying a pair of jeans or

²⁴⁵ Cf. Carter (1999), p. 76.

a coffee mug. Also, such experiments show that more freedom can come at a cost but not that it is worse *all things considered*. This is a far cry from showing that increases in *overall* freedom in the distributional context we are considering here do not increase overall value.²⁴⁶ Moreover, how far added choices might diminish a person's contentment (or her welfare or something else that is valuable) also strongly depends on how individuals make their decisions. Some mechanisms of decision-making, explored by psychologists, will diminish the costs and emotional burdens that might come with added choice. How far we can fully benefit from large choice-sets thus also depends on how well our decision-making procedures are adjusted to increased freedom.

Independent of this, when we look at real-life increases in overall freedom even at high levels, they seem, at least *prima facie*, to add value on a broad range of theories of the good. Consider an example. In the early 2000s more intense competition and new low-cost business models made air travel in Europe significantly cheaper. While frequent flying had previously been reserved to the privileged, the great reduction in air fares extended this privilege to far more people in Europe. On my measure of freedom, this results in an increase in individual overall freedom, as individuals are able to move around much more often for less. If we leave quite obvious environmental concerns aside, this increase in overall freedom seems a good thing. Similarly, consider freedom of movement for citizens of the EU which allows them to settle in virtually any country of the European Union. Again, leaving possible negative effects aside, this greatly increases a person's freedom. Imagine prices for long-distance flights would similarly drop and freedom of movement extended to many other non-European countries. This

²⁴⁶ One could object that adding specific choices is an increase in overall freedom and that, therefore, increases in overall freedom can be bad all things considered. There are two ripostes. First, we might allow there to be little plateaus or little 'bumps' in our value function, such that though the function is increasing 'globally', it might have negative bumps locally. Second, the distributional context we are considering here is such that we do not make decisions about adding individual choices (such as adding the choice to buy another coffee mug) but about more general distributional questions, such as 'which distribution of economic resources would be best in terms of its distribution of freedom?' for example.

would be a further huge increase in freedom. Leaving environmental costs and problems that might result from mass migration aside, it seems implausible to assume that being able to settle anywhere in Denmark or the UK is enough or it is enough freedom to be able to travel once every two years. Similarly, it seems implausible to say that it is *enough* freedom to be able to travel and settle in Europe. Other things being equal, travelling outside of Europe and being able to settle there is a valuable extension of freedom. So, *prima facie*, significant increases in freedom even at high levels seem to be positive. Such examples do not settle the debate of course. But they show that we should not swiftly move from individual examples of consumer choices – and most of the psychological literature focuses on these aspects – to the conclusion that there is a practically attainable level of *overall* freedom after which no increase will add value.

So, I think there are good systematic reasons against thinking there is a practically attainable sufficiency level for freedom understood according to the Maximal Interpretation. Let me nonetheless briefly discuss a substantive suggestion for this type of sufficiency.

Robert Huseby argues that sufficiency should be fixed at the level where people are *content* and adding more of the good in question would not make them more content with their lives.²⁴⁷

However, there are three reasons against Huseby's idea. First, it is far from obvious that a person's own judgement should be decisive. Should it really matter so much whether a person judges to be content with her level of freedom? After all, some people suffering from clinical depression report being very content with their lives although on most plausible theories of welfare they would clearly benefit from not being depressed. Often, people's judgements about whether they are content reflect more whether they think they *should* be content with

²⁴⁷ Cf. Huseby (2010). Note that Huseby suggests a version of the Sufficiency View with two *thresholds*, so he combines the Minimal and Maximal Interpretation into one view.

their lives.²⁴⁸ Second, and conversely, people with expensive tastes might not be content despite very high levels of goods or a broad and extensive range of pleasurable experiences. Third, consider extended life expectancy. Imagine a person who is content with her 75 years of leading a relatively free and happy life. Imagine a new technology would allow her to lead a very happy life until she is 110. It seems we have very good reason to give her the freedom to live to 110 even though she was content with just 75 years. Therefore, ‘being content’ is not justification enough for there being a practically attainable point after which freedom does not add value.

We should not understand the threshold according to the Maximal Interpretation.

(ii) The Minimal Interpretation

If we interpret *T* according to the *Minimal* Interpretation, however, then Monistic Sufficiency 2 is implausible. Here is the above case again:

	D5	D6
Freedom of person 1	10	1000
Freedom of person 2	10	1000
Freedom of person 3	10	1000
Freedom of person 4	10	1000

Monistic Sufficiency 2 would hold that D5 and D6 are equally good. But we have good reason to care about life being more than just minimally good.

Therefore, instead of a monistic principle, we need a *pluralistic* Sufficiency View that combines this Monistic Sufficiency 2 with a distributive rule for levels of freedom above the threshold.

²⁴⁸ Cf. Haybron (2008), ch. 10 for a discussion of problems of introspection.

We could use a lexical version that combines Monistic Sufficiency 2 with a view that maximises the sum of freedom above the threshold:

Pluralistic Sufficiency 1: One distribution is better than another if and only if either it has a greater total of weighted freedom (weighted according to Monistic Sufficiency 2) or it has the same total of weighted freedom and a greater total of freedom above the threshold.

This lexical pluralistic view seems to cash out the view – which can plausibly be attributed to some liberals – that before moving on to other distributive goals, we should be concerned with safeguarding certain levels of freedom; to safeguard a certain level of freedom might mean to secure a ‘boundary’ around each person the protection of which takes priority over other values.²⁴⁹

But the following example brings out a problem with the criterion’s *lexicity*.

	D7	D8
Freedom of person 1	10	100000
Freedom of person 2	10	100000
Freedom of person 3	10	100000
Freedom of person 4	10	9

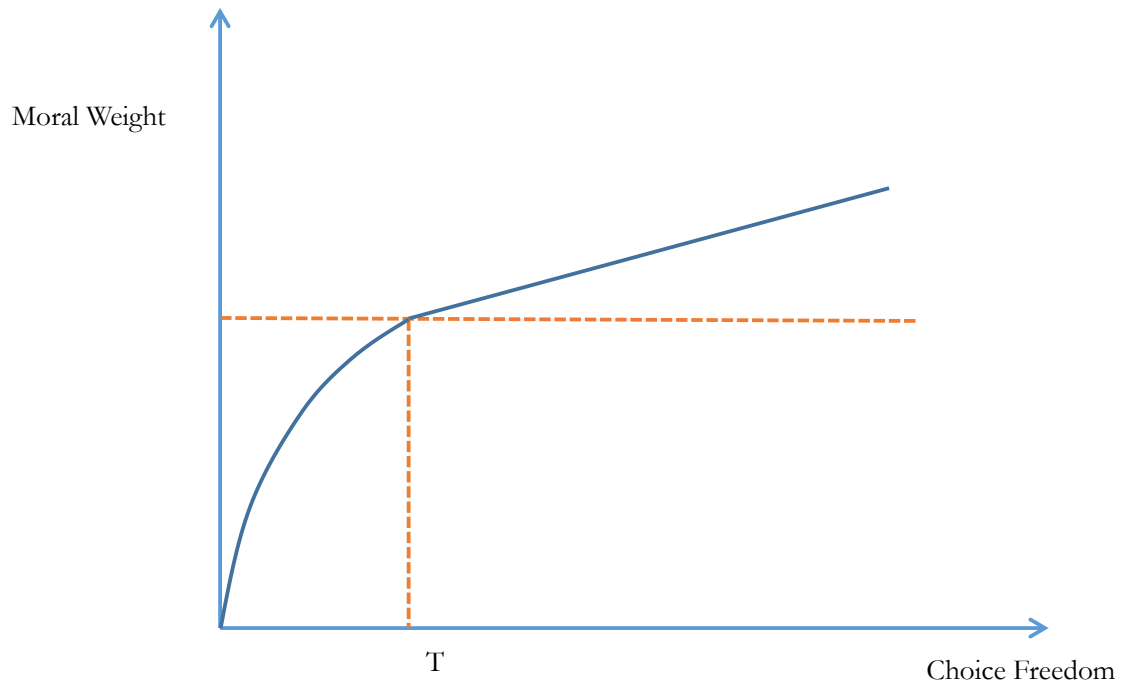
Here the above criterion would judge that D7 is better all things considered than D8. Is this plausible? D7 might be better in some sense, that is, *pro tanto*. However, I find it implausible to think that D7 is better all things considered than D8. It is hard to believe that giving one person one unit in order to bring her onto the sufficiency threshold should take priority over

²⁴⁹ Cf. Carter (1999), pp. 83-4.

benefitting others above the threshold without consideration to *how much* one could benefit them and *how many* people one would benefit.²⁵⁰

So, instead of a lexical criterion we should use a weighted sufficiency function like this:

Pluralist Sufficiency 2: one distribution is better than another if and only if it has a greater total of weighted freedom (according to the graph below).



The sufficientarian element of this curve is that there is a discontinuous rate of change of moral weight at T . Above T , we maximise the total of societal freedom where freedom has a constant marginal value.

However, there are two problems with the linearity of the function above T .

²⁵⁰ We might respond to my point through introducing a *right* to sufficient freedom. Here we are discussing the distribution of freedom specifically. So, we might hold that before one can move on to maximising societal freedom we first need to fulfil people's right to sufficient freedom. But such a strong right needs some important interest that is protected by such a right. Below I will discuss the considerations – such as deprivation, basic needs etc. – that might motivate a threshold. None of these, however, seem strong enough to support the idea that it is always better to move one person one unit of freedom onto the threshold than to raise a fantastically large number of people to fantastically high levels of freedom.

First, it is insensitive to unfairness *above* T . In my previous chapter I argued that it is unfair in a joint cooperative undertaking to distribute freedom too unequally. Defenders of Pluralist Sufficiency 2 would hold that fairness considerations disappear entirely above the sufficiency level. But this is not supported by intuitions, particularly not in the case of freedom:

Rich Society Unfairness: a society moves from a state in which everyone is below the threshold level of freedom to a state in which everyone is very free (and above the threshold). However, someone is given much more freedom than the others even though an egalitarian distribution with the same level of societal freedom would be available.

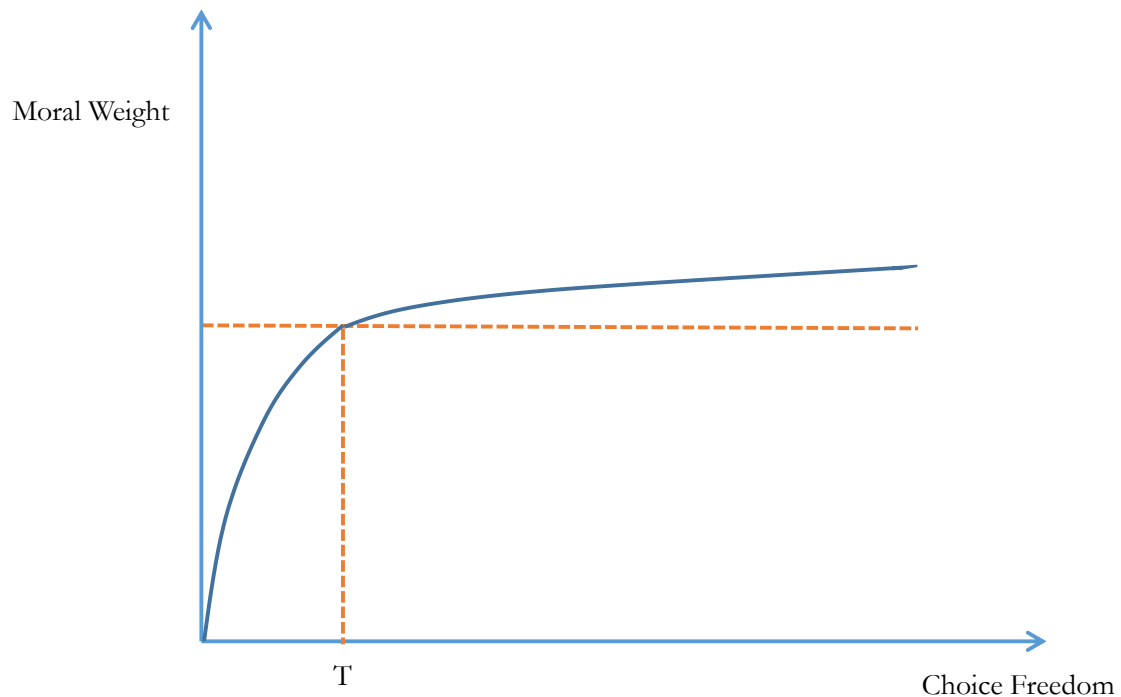
Here, I think we rightly judge that there is something unfair about withholding freedom from some people just because they already have a lot. Even at high levels of freedom, fairness-considerations speak against making some people significantly less free to achieve a higher sum of societal freedom.

Second, in my previous chapter I have argued that freedom has decreasing marginal value. We might think that for very high levels of freedom, the marginal value will be decreasing and that therefore we ought not have a linear function above T .

So, the function should not be linear above T .

We could now keep a threshold but stipulate that distributions above the threshold should be subject to some egalitarian or prioritarian weighting:

Pluralist Sufficiency 3: one distribution is better than another if and only if it has a greater total of weighted freedom (weighted according to the graph below).



Pluralist Sufficiency 3 would have one prioritarian distributive principle for all freedom-levels below T and a different one for all levels above T . There is thus a discontinuous rate of change at T (or a ‘kink’ at T).

But one might now ask: why not simply use a straightforward prioritarian (or a pluralist egalitarian) principle? Do we really need a kink? To argue for sufficientarianism, we thus need to justify what Liam Shields calls

‘**The Shift Thesis:** once people have secured enough there is a discontinuity in the rate of change of the marginal weight of our reasons to benefit them further.’²⁵¹

Earlier I have already argued that there is no practically available threshold level of freedom at which more freedom does not add more value (the Maximal Interpretation). But which consideration is there that justifies the existence of a kink on the *Minimal Interpretation*?

²⁵¹ Shields (2012), p. 108; my emphasis.

The reason sometimes mentioned for the Shift Thesis on the Minimal Interpretation is that there is a level after which people's basic needs are met or, alternatively, at which they stop being *deprived*.²⁵²

But caring about basic human needs or about the absence of deprivation does not require postulating a shifting point at which one type of reason – that is a deprivation-based reason – suddenly disappears entirely. The simpler model would be that the ethical relevance of deprivation, poverty and other related concepts is very strong on the lower end of the distribution but gives out gradually with increases in the relevant distribuendum. These concepts thus allow for degrees without there being a kink in the curve.

There are also some considerations that might speak directly, but maybe not decisively, against deprivation as a reason for a kink.

First, it seems questionable that there is an absolute cut-off point between 'being deprived' and 'not being deprived'. What 'deprivation' means might strongly depend on *social contexts*. Second, deprivation has gradations. So, there might be different shades of poverty. This grading aspect makes the idea of a cut-off point less plausible. Third, even if there is a linguistic cut-off point for 'poverty' or 'deprivation', why should this matter normatively? Moving a person across the cut-off line seems to lack the relevant normative importance. Imagine you give someone a near-to-imperceptible benefit and move her above the cut-off line. If we accept the Shift Thesis, we need to say that the deprivation-based reason we had before has now disappeared entirely.²⁵³ It seems more intuitive to say that the moral force of deprivation disappears gradually.

²⁵² Cf. Shields (2012).

²⁵³ None of these reasons imply that it is not a good idea to have definitions of poverty for the purposes of public policy and statistical analysis. But fixing the poverty line at \$1.25 is clearly practically expedient and not aiming to represent a theoretical 'kink' in the curve of betterness functions.

At this stage, I suggest we should reject sufficientarianism. Pluralist sufficientarianism 3 is very close to either pluralist egalitarianism or prioritarianism and we can account for our practical moral judgements based on considerations such as poverty or deprivation without a kink in the curve.

Let us now discuss the most commonly held distributive principle for distributions of freedom: equality.

15.2 Equal Freedom

Often it is assumed that freedom ought to be distributed equally. Some think the core of liberalism is to see individuals as free and equal. This might imply that individuals should be equally free. References to the *principle of equal freedom* abound in the literature. Most famously, this principle is endorsed by Rawls in his *Theory of Justice* (though he later rejects this and adopts a principle of an equal right to basic liberties). But Richard Norman, Hillel Steiner (with the qualification that he believes societal freedom to be a zero-sum affair), Jan Narveson and Herbert Spencer are others who, on some interpretations, subscribe to equal distributions of freedom.²⁵⁴

Presumably, we might think that we ought to aim at *greatest* equal freedom where a concern for equality takes lexical priority over a concern for the total of societal freedom (I will discuss a non-lexical pluralist interpretation below):

²⁵⁴ Rawls (1971), p. 60 and p. 302, Spencer, *Social Statics*, p. 35, Steiner (1974), (1987) and (1997) and Norman (1987). In (1985), p. 35 Narveson seems to suggest a greatest equal freedom principle. In Narveson (2003), however, he seems to hold that we should simply do away with all unfreedom and thus equalise people's unfreedom levels at zero.

Equal Freedom: one distribution is better than another if and only if the first is less unequal than the second or both have equal degrees of inequality and the first has a greater total of freedom than the second.²⁵⁵

What might speak for such a position?

First, I argued that the Maximising View fails to take account of the role fairness should play in distributive theories. Equal Freedom takes account of fairness. Second, many authors believe that a *right* to freedom translates into a right to the greatest equal freedom. Such an account has been assumed by liberals as well as left and right libertarians. It is shared, arguably, by authors as diverse as Immanuel Kant, John Stuart Mill, Thomas Hobbes, Herbert Spencer, Jan Narveson, Richard Norman, H.L.A. Hart and Hillel Steiner.²⁵⁶ There are different versions of the greatest equal freedom view.

(i) Same Type Equal Freedom

What freedoms should people have? One classic answer is: the freedom that is compatible with the greatest equal freedom for others. There are different ways to flesh out such a view. One way is to allow only those distribution(s) in which everyone has the same set of freedoms and choose the one in which this set is greatest.²⁵⁷ The idea behind is that if I should be free to do something, then others should be too. For example, I should only be free to voice my opinion on the government if everyone else has that freedom too. If I am the only one – say I am the government – then this is unjust.

Despite its popularity, Same Type Equal Freedom is implausible if we accept an ability-based view of freedom. *Prima facie*, this idea is not entirely implausible on the Constraint View. In

²⁵⁵ The lexicality might even be stronger than this. A different version of the principle would require that only if both distributions are perfectly equal does it matter which one has more societal freedom: one distribution is better than another if and only if the first is less unequal than the second or both are perfectly equal and the first has a greater total of freedom than the second

²⁵⁶ In Kant, *Rechtslehre*, Mill, *On Liberty*, Hobbes, *Leviathan*, ch. 14, Rawls (1971), p. 60 and 302, Spencer, *Social Statics*, p. 35, Narveson (1985), (2003), Norman (1987) and Steiner (1974), (1987) and (1997) and Hart (1955).

²⁵⁷ I will here not discuss what we should do in cases in which there is no distribution in which everyone has the same types of freedoms.

chapter 3, however, I argued that the Constraint View should be rejected in favour of the Ability View. The Ability View holds that being free to φ implies being able to φ . It is clear that we should not force everyone to have the same types of abilities: a concern for freedom should not require taking away a woman's ability to become pregnant because not *everyone* has that ability. Similarly, an opera-singer's ability to sing difficult pieces should not be removed because few others are able to perform them. Same Type Equal Freedom used with an ability-based view requires implausible levelling down.

(ii) *Social Compossibility*

Maybe we can cash out the egalitarian element through *social compossibility*: if it is the case that A should have the freedom to φ , then A 's φ -ing cannot be the cause of someone else being deprived of a freedom. What we might call, *Socially Compossible Equal Freedom 1*, is the claim that when ranking distributions of freedom we should consider only those distribution(s) in which sets of freedoms consist exclusively of those freedoms whose *exercise* is socially compossible (and then, presumably, choose the one with greatest equal freedom). There are some problems in precisely formulating such a principle which I will not discuss here.²⁵⁸

What I will call *exercise-compossibility* of a freedom to φ holds that a person's *exercise* of a freedom to φ (her φ -ing) cannot be the cause of someone else's lack of freedom. So, say I have a freedom to φ that, if exercised, would take away your freedom to ψ . Neither your having the freedom to ψ nor your ψ -ing, however, would interfere with my freedom to φ or any other of my freedoms. Imagine for example that you and I share an internet connection. Say my internet activity φ would somehow block you from being able to access the internet (ψ). But you accessing the internet (ψ -ing) would not take away my freedom to access the internet (freedom to φ). On the account here, we would only allow for you to have the freedom to ψ . I

²⁵⁸ As I will reject such a view, I will not discuss what to do when there exists no distribution that has only freedoms whose exercise is socially compossible. There are further questions, for example: is it better to have distributions with fewer socially impossible sets and fewer compossible sets or is it better to have distributions in which there are both more impossible and compossible sets?

would not be allowed to keep my freedom to φ , because it is not socially compossible with your freedom to ψ .

However, Socially Compossible Equal Freedom 1 seems counterintuitive:

Cave: you and I are both free to enter a cave at t . However, the cave is so small that it only allows for one person to enter and be in the cave.

In *Cave*, my freedom to go into the cave at a specific time period is not socially compossible in the exercise sense, because if I go into the cave you cannot. This, however, does not seem to be a good reason for us to restrict our freedom to be in the cave.

What motivation is there to go for exercise-compossibility in the first place? The motivation, I think, stems from the following claim:

Rights Claim: if it is good that P is free to φ , then P has a right to φ .

Let me first explain why exercise-compossibility makes more sense if we accept the Rights Claim. The case for the compossibility of *rights* is, arguably, one of deontic logic: if I have a right to φ , then someone else has a correlative duty not to interfere with my φ -ing. If ψ -ing is an interference with my φ -ing, then it cannot be morally permissible for you to ψ .²⁵⁹ For if it were, you would both have a duty not to ψ and it would be morally permissible for you to ψ , which is contradictory. Therefore, either you do not have a right to ψ or I do not have a right to φ , but we cannot both have these respective rights, because they are not socially compossible.

However, no such contradiction applies to freedom. Freedom here is understood as a non-moralised concept. For example, if you are free to do a morally worthless act, then this does not mean that it is morally permissible for you to do it. Nor does this entail a duty on my part to

²⁵⁹ Cf. Steiner (1977).

abstain from removing your opportunity to do that act. So, conflicts between exercises of freedom do not entail a problem in deontic logic.

Compossibility of exercise of freedom only applies if we answer the question ‘what distributions of freedom are better than others’ as the question ‘what sets of freedom do individuals have a right to have’. But in cases such as *Cave* we might plausibly hold that it is good for a person to have the freedom to φ without assuming that she has a right to φ .²⁶⁰ Similarly, it is good to be free to fly across Europe for very little money. In other continents, air travel is more expensive, but we would not hold that people are deprived of one of their moral rights to cheap air travel. The language of rights, I suggest, should be reserved for the most fundamental of our interests. More generally, when we determine whether a distribution of freedom is better than another, we are interested in whether this distribution is good all things considered and not only whether it safeguards people’s rights (though this might be one consideration).

Therefore, the motivation for social compossibility – the compossibility of rights – disappears when we compare distributions of freedom in terms of betterness.

But there is a different and less demanding version of social compossibility. Unlike exercise-compossibility, what I will call, *possession-compossibility* holds that if it is the case that someone should be free to φ , then his possessing the freedom to φ cannot be the cause of other people’s lack of freedom. *Socially Compossible Equal Freedom 2* would require us to allow only those distribution(s) in which sets of freedoms include only those freedoms whose possession is socially compossible (and then, presumably, choose the one with greatest equal freedom).

This is less demanding than exercise-compossibility. It would allow you and me both to have the freedom to enter the cave in *Cave*. However, we should still reject it:

²⁶⁰ I here understand ‘rights’ as claim-rights in the Hohfeldian analysis.

Concert Ticket: Felix has a ticket to a concert he would like to give to either Karl or Hannah. If Karl is given the ticket, Hannah is not free to go to the concert. If Hannah receives it, Karl is not free to go.

Karl's and Hannah's freedoms are not socially compossible. But I think we should *not* say that neither of the two should have the ticket and thus the freedom to go to the concert. Here is another example:

Competition: an ancient building is so fragile that it can only be accessed by one person per year. In an annual competition, the most knowledgeable archaeologist is selected and granted access to the building for research purposes.

In *Competition*, we would not hold that no one should have the freedom to access the archaeological site, just because one person's freedom is, through a licensing scheme, incompatible with other people's freedom to access the site.

Neither of the two versions of Social Compossibility Equal Freedom is plausible.

(iii) *Same Level*

Alternatively, we could require that all persons have the *same level* of freedom without necessarily having the same types of abilities and without their freedom needing to be socially compossible. So, the opera-singer is allowed to keep his freedom to sing a difficult opera piece as long as his overall level of freedom is not greater than those of others. Moreover, I am allowed to keep my freedom to protest on the market square at noon even if we cannot all exercise this freedom at the same time. This version is less implausible than the aforementioned two versions – yet implausible nonetheless. By giving lexical priority to *equality* over how much freedom there is overall, it leads to implausible levelling down. So, say we had to choose between the following two distributions:

	D9	D10
Freedom of Person 1	5	1000

Freedom of Person 2	5	1005
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Choosing Distribution D9 would involve unnecessary levelling down. I have argued that being specifically free to φ means being able to φ . However, natural abilities will differ to a great extent and not all of these can be offset. Equalising the extent of everyone's abilities would thus require drastic levelling down. So, while a good distribution of freedom involves a concern for equality, equality should not be given lexical priority over other criteria.

Therefore, all forms of the principle of equal freedom are implausible.

15.3 Priority or Equality?

In all aforementioned versions of equal freedom, equality was given *lexical priority*. There are two alternatives that avoid the levelling down that comes with this lexicality: prioritarianism and pluralist egalitarianism.

Pluralist egalitarianism orders distributions according to a function that trades off equality with a concern for how much freedom there is overall. We can represent a pluralist egalitarian ordering on distributions through a cardinal function MV (for moral value):

$$\text{Pluralist Egalitarianism: } MV(D) = a\left(\sum_{i=1}^n OF_i\right) - b(\text{inequality})$$

The coefficients a and b represent how much weight we want to give to inequality relative to a concern for the total of freedom. For a two-person case, we could calculate inequality as the difference between levels of freedom:

$$MV(D) = a(OF_1 + OF_2) - b \times \text{diff}(OF_1, OF_2)$$

This view is different from prioritarianism. Like pluralist egalitarianism, prioritarianism combines a maximising aspect with a concern for the distribution of benefits. Prioritarianism is the view that benefits matter more (in the moral sense) the worse off you are in an absolute

sense. Applied to the distribution of freedom, your level of freedom will be weighted with an strictly increasing concave function that determines the moral value that your freedom adds to the goodness of the overall distribution. $f(OF_i)$ denotes such a function. Because it is concave, a benefit given to someone who is worse off will make the overall outcome better than if it is given to someone who is better off. We can then determine the overall value of a distribution by adding up individual value functions:

$$\textbf{Prioritarianism: } MV^*(D) = f(OF_1) + f(OF_2) + \dots + f(OF_n)$$

The difference between the two positions is that prioritarianism is additively *separable* whereas pluralist egalitarianism is not. In other words, we can derive a prioritarian function of overall goodness by simply adding up individual value functions. This is not the case for pluralist egalitarianism which involves considerations of relative standing. Specifically, it takes into account the inequality of levels of freedom between individuals.²⁶¹

The difference between the two views is brought out by an analogy: for prioritarianism it matters whether you are high up or low on a mountain, it does not matter where other people are on the mountain. For pluralist egalitarians, the moral weight of your claim is determined partly by your *relative* standing, that is, where you stand on the mountain in comparison to other people.

When operating *without uncertainty*, both positions are quite similar. They also both avoid, to some extent, the Levelling Down Objection. Prioritarianism implies there is nothing good whatsoever about levelling down someone's freedom. For pluralist egalitarianism, things are slightly different: for most cases, levelling down will not be considered good all things considered, because it leads to less societal freedom. But levelling down is good *pro tanto* as it leads to less inequality.²⁶² We might think that this is not a problem as long as it is only better *pro*

²⁶¹ Cf. Broome (forthcoming).

²⁶² Though Jensen (2003) develops a version in which levelling down is not even good *ceteris paribus*.

tanto. After all, inequality between members of a society is unfair, so there is something good (even if only *pro tanto*) about lessening the extent of it.

Let us now look at cases in which prioritarianism and pluralist egalitarianism lead to different judgements. The differences come out best when invoking *uncertainty*. These differences will be relevant in our context for two reasons: first, I have argued that freedom has diminishing marginal value. A plausible distributive principle should reflect this. Second, a distributive principle should reflect that the less inequality there is (absent desert considerations) the fairer a distribution. The following cases (*Case 1* and *Case 2*) show that neither view fulfils both considerations. Therefore, for the distribution of freedom we require a hybrid of the two.

(i) *Case 1*

As Broome shows, there are cases in which pluralist egalitarianism reflects fairness in distributions in a way that prioritarianism does not. In the following matrices S1 and S2 denote states of nature where each has a one in two chance of being actualised. Prospect 1 and 2 assign levels of freedom to S1 and S2 for person 1 and person 2. Here is the matrix for the first prospect:²⁶³

Prospect 1:

<i>Prospect 1</i>	S1	S2
Freedom of person 1	2	4
Freedom of person 2	4	2

These are the outcomes for prospect 2:

²⁶³ Cf. Broome (forthcoming).

<i>Prospect 2</i>	S1	S2
Freedom of person 1	2	4
Freedom of person 2	2	4

Remember that prioritarianism is additively separable whereas pluralist egalitarianism is not. In this case, prioritarianism would be indifferent between Prospect 1 and Prospect 2. For in both prospects person 1 and 2 have an equal chance of getting 2 or 4. Because the prospects are equally good for everyone involved, they are equally good overall.

The situation is different for pluralist egalitarianism (see the above formula). Prospect 1 results in unequal outcomes in both S1 and S2, while Prospect 2 results in perfect equality in both S1 and S2. Therefore, Prospect 2 is better than Prospect 1. Broome holds that in cases such as this, pluralist egalitarianism responds to underlying fairness considerations that lead us to favour egalitarian distributions in the first place.²⁶⁴ To account for fairness-considerations when uncertainty is involved, pluralist egalitarianism is preferable. Let us now look at a different case involving uncertainty.

(ii) Case 2

An objection to prioritarianism, which has recently gained a lot of attention, holds that prioritarianism disregards the unity of a person when dealing with uncertainty. This is an idiosyncratic way of describing this objection, but I think it brings out what is at stake. Here is the case put forth by Michael Otsuka and Voorhoeve:

Impairment: a person who is in good health receives the information that soon she will develop an illness. There are two scenarios, each with 50 percent probability. She will either be slightly impaired which will render it difficult for her to walk more than 2 km. Or she will be very severely impaired such that she is bedridden or tied to a wheelchair (which has to be pushed by others). There are treatments against each im-

²⁶⁴ Note that the case only works if we apply egalitarianism to outcomes, not directly to prospects.

pairment but it can only be taken *before* she knows which impairment she will have and she cannot take both treatments at the same time. The treatment against the slight impairment would completely remove the impairment but would be ineffective against the severe impairment. The treatment against very severe impairment would allow the person to sit up in bed (but she still requires the help of others to move around).²⁶⁵

Let us assume the expected utility increase is the same for both treatments. Otsuka and Voorhoeve argue that prioritarianism, if applied to the one-person case with uncertainty, would require that the person receives the treatment for the *very severe* impairment. For benefits matter more the worse off the person is. But this seems counterintuitive. In the one-person case we might legitimately prefer to give the person the treatment for slight impairment.

In a way, this argument mirrors the Separateness of Persons Objection to utilitarianism mentioned in chapter 14: non-utilitarians object to treating the social case in the same way we treat the intrapersonal case. While in the intrapersonal case it might be permissible to make yourself badly off at times in order to be better off later (or to take great risks), the same is not true for the interpersonal case. For it is morally wrong in some sense to make individuals badly off to benefit others. The Voorhoeve/Otsuka case, conversely, holds that while we have a duty to give greater moral weight to those who are badly off in the interpersonal case, there is no such moral duty to give priority to your possible future self that is badly off in the intrapersonal case. Let me call this the *Unity of Person Objection*.

Prioritarians have a number of replies to this objection, so I do not think the Unity of Persons Objection is in any way decisive. But I will not discuss this here.²⁶⁶ Instead, let me ex-

²⁶⁵ Cf. Otsuka and Voorhoeve (2009), pp. 171-4.

²⁶⁶ The prioritarian has four responses to the Unity of Persons Objection. First, one can simply stipulate that prioritarianism does not apply to cases of uncertainty. Second, one can apply prioritarianism to prospects instead of outcomes. When applied to outcomes, a prioritarian transforms outcomes and then multiplies each transformed individual outcome by its probability (where OF_i is i 's level of overall

plain why this objection is not problematic if the distribuendum is freedom. If we care about distributions of *freedom*, the patient in *Impairment* will obviously have more freedom if she herself has a choice between the two treatments. So, to better test whether the objection works we need to consider contexts in which a person decides for someone else. The political distributional context under discussion here provides such a context: how should we distribute other people's freedom? Imagine we have a case similar to *Impairment*, only this time the choice is between different prospects of *freedom* (not welfare). Again, the expected gain of freedom is equal for both prospects. Here we have a straightforward instrumental reason to choose the treatment for the very severe impairment if the good under consideration is freedom: freedom has diminishing marginal value. Freedom's diminishing marginal value gives us reason to choose the risk-averse option for the person.

This creates a problem for pluralist egalitarianism when applied to the distribution of freedom. For pluralist egalitarian, a distributor has no normative reason to choose a risk-averse prospect of freedom for another person, because it is only relative standing (relative to other persons) that matters.

So, we have seen that *Case 1* gives us reason to cash out fairness through *relative standing* rather than absolute priority. *Case 2* has shown that for a choice that affects only one person, plural-

freedom and p_{S_i} is the probability of state of nature S_i). So for one person we get: $MV^*(\text{prospect}) = p_{S_1}(f(OF_{S_1})) + p_{S_2}(f(OF_{S_2})) + \dots + p_{S_k}(f(OF_{S_k}))$. Alternatively, we can apply prioritarianism to prospects, that is, we multiply each outcome by its probability, add these up and then transform the prospect with our prioritarian function f . For one person we get: $MV^*(\text{prospect}) = f[p_{S_1}OF_{S_1} + p_{S_2}OF_{S_2} + \dots + p_{S_k}OF_{S_k}]$. Prioritarianism about prospects avoids the *Unity of Persons Objection*. Third, Crisp (2011) argues there is no need to avoid the Unity of Persons Objection. Our intuitions in cases such as *Impairment* are driven by the idea that the patient should have the freedom to decide for herself which treatment to take. But this is different from an axiological analysis of which prospect is better. In cases in which we need to decide for others (because say the person is too young to decide for herself), it is not counterintuitive to think we ought to apply prioritarian considerations (across possible future 'selves' of the person affected). Fourth, Prioritarians can moreover respond to Voorhoeve and Otsuka that *pluralist egalitarianism* is not a good alternative, because it violates an *ex ante* Pareto criterion, that is, it leads to situations in which a prospect is not better than another even though it is better for everyone involved. Fleurbaey/Voorhoeve (forthcoming) address this issue.

ist egalitarianism fails to account for freedom's diminishing marginal value. Our function would thus have to combine both aspects: the prioritarian weighting that accounts for freedom's diminishing value in the one-person case and the fairness aspect that selects more equal outcomes when uncertainty is involved. I suggest the following function, for n persons in k states of nature where p_{S_k} is the probability of a state of nature S_k

$$MV^{**}(\text{prospect}) = a[p_{S_1}(\text{sum of weighted individual freedom in } S_1) + \dots + p_{S_k}(\text{sum of weighted individual freedom in } S_k)] - b(\text{inequality})$$

The idea is to transform individuals' levels of freedom in a state of nature through a prioritarian function, add them up and then multiply the weighted sum with the probability with which the state of nature might be actualised. The second term of the function is meant to cover the egalitarian aspect that, in cases of uncertainty, fairness-considerations require us to take relative standing into account.

Let $OF_{S_k}^n$ be the overall freedom of person n in state of nature S_k and, as before, $f(OF_{S_k}^n)$ be an increasing and strictly concave transformation of $OF_{S_k}^n$ (our prioritarian weighting). We can then rewrite the above formula as:

$$MV^{**}(\text{prospect}) = a \left[p_{S_1} (f(OF_{S_1}^1) + f(OF_{S_1}^2) + \dots + f(OF_{S_1}^n)) + \dots + p_{S_k} (f(OF_{S_k}^1) + f(OF_{S_k}^2) + \dots + f(OF_{S_k}^n)) \right] - b(\text{inequality})$$

f is an increasing and strictly concave function. The second term of the function covers situations similar to *Case 1* in which pluralist egalitarianism does but prioritarianism does not account for fairness. *Case 1* showed the necessity to invoke considerations of *relative standing*. I will not try to make precise the inequality term of the function. Note, though, that it will cover the inequality in all possible states of nature weighted according to the probability with

which each state of nature might occur. The weighting factors ‘ a ’ and ‘ b ’ and the prioritarian weighting function f allow for some ‘fine-tuning’ of the function.²⁶⁷

The general aim of this function is to combine three aspects: (i) more freedom is better than less, (ii) the marginal value of an extra unit of freedom decreases as one’s level of freedom increases and (iii) the more equal a distribution, the better it is *ceteris paribus* (because it is fairer). The above formula tries to bring these elements together. (i) is accounted for by the ‘maximising’ element of the formula. The prioritarian transformation $f(OF)$ accounts for (ii) and the second term accounts for (iii).

This concludes the third part of this dissertation. I have argued that our distributive principle should not aim at everyone having *enough* freedom. Similarly, the most popular position, the idea that we ought to aim at greatest equal freedom, was shown to be implausible once we spell it out in detail. I have argued that we need a principle that avoids levelling down, incorporates fairness considerations and accounts for freedom’s diminishing marginal value. A hybrid version of a prioritarian and a pluralist egalitarian position was found to best account for both freedom’s diminishing marginal value and the idea that fairness in distribution is about people’s relative and not their absolute levels of freedom.

²⁶⁷ The function suggested here is meant to apply to the distribution of freedom only. The idea of diminishing value of freedom does not apply to, say, welfare and a non-hybrid version of pluralist egalitarianism might thus do the job for welfare. So, the function here does not conflict with axioms of expected utility theory. Note, however, that the second term, which is about inequality, might be in conflict with the *ex ante* Pareto principle. This principle holds that if an alternative has higher expected utility for every person than every other alternative, then this alternative is better overall. So, we might imagine situations in which a prospect is individually better for an individual in offering a better prospect but worse overall because of inequality. Fleurbaey/Voorhoeve (forthcoming) have offered a response to justify the egalitarian’s violation of the *ex ante* Pareto principle.

16 Conclusions

On the conceptual level, this dissertation has defended a new theory of specific and overall freedom that differs in important respects from existing theories. The contributions made here should help resolve some conceptual confusion that has all too often beset talk about freedom in political theory.

The dissertation started with an account of specific freedom:

The Ability View: P is free to φ iff P is able to φ .

I then analysed what it means to be unfree to φ :

Unfreedom: P is unfree to φ iff there is at least one freedom-constraint that would prevent P from φ -ing if P attempted to φ and, in the absence of all freedom-constraints, P would be able to φ .

I argued that the idea of a freedom-constraint is conceptually linked to good distributions of freedom:

The Distributive Account: y is a freedom-constraint on P 's freedom to φ only if there is at least one person whose imposition or non-removal of y (in the past, present or future) is *pro tanto* wrong, in an evidence-relative sense and in the absence of disabling conditions, in virtue of the worse distribution of freedom resulting from y .

How does this theory fit into a broader context and how does it differ from alternative theories of freedom?

Libertarian theories such as Nozick's and Narveson's, conceptualise freedom as a moralised attribute. A person free to φ if and only if she is not unfree to φ . On Narveson's theory, P being unfree to φ implies that φ -ing would not harm anyone else. Because φ -ing would not harm anyone, one has a right not be interfered with in one's pursuit to φ . The theory I have defended does not have this moralised aspect. Whether a person has a specific *freedom* is different from the normative question as to whether she ought to have this freedom. Ascriptions of specific freedom are descriptive and not moralised. As we have seen, however, the idea of *unfreedom* is normative – though not in the same way that the libertarian theory is normative. On my account, whether a person is unfree as opposed to merely unable is *not* determined by an account of moral rights (as in Nozick) nor by an account of harm (as in Narveson). Instead, unfreedom is determined on the basis of better and available distributions that someone else could foreseeably bring or have brought about.

My theory also differs in important respects from traditional liberal theories. Most traditional liberal theories identify freedom as the absence of interference. Whether a person also has the internal ability is irrelevant for the question as to whether the person is free or not. Moreover, freedom is typically seen to be *bivalent*. That is, with respect to any type of action one is either free or unfree to do it, *tertium non datur*. I have joined Matthew Kramer in developing a trivalent picture. On Kramer's view and on mine, freedom is identified with ability. However, not being free does not imply that one is unfree, one can also be merely unable. On these points, I agreed with Kramer. Where we differed was the question as to what distinguishes unfreedom from inability. I have developed a new account – the Distributive Account – that is more successful than Kramer's Causal Responsibility Account (as well as other alternative accounts).

In chapter 5, I then distinguished my theory from republican theories of freedom through a new probabilistic framework. On the republican conception, for a person to be free to φ , it is not enough that the person is able to φ . Being free to φ also requires the absence of another

person's power to be able to interfere with my ability to φ . I argued that this extension of freedom meets with a range of problems and is ultimately unnecessary: our intuitions about freedom and our normative reasons to value freedom are better fulfilled by my liberal theory alone.

I think my new theory better explains the relation between ability, freedom, inability and unfreedom than any alternative theory. By carefully laying out its alternatives and by providing a new theory of how these concepts are connected, I hope to have established a framework that dissolves some of the confusions that – together with the ambiguous distinction between 'positive' and 'negative liberty' – have traditionally beset conceptual and normative discussions of freedom.

In my second part, I then developed a new theory of overall freedom. I first argued with Carter that we should aggregate over *sets* of compossible freedoms instead of specific freedoms. I then introduced a new account, the Segment Method, to quantify sets. This account limits the size of sets over which we aggregate. I have shown how this avoids some of the problems that previous accounts, such as Carter's, have encountered.

I then argued that a measure of overall freedom needs to take account of both the purely spatio-temporal range of a person's abilities – what I called 'ability-space' – but also of the freedom-associated value this ability-space has. Similar to Kramer, I thus developed a *hybrid* theory of overall freedom. By surveying the range of goods we typically expect to come with freedom, I argued that the freedom-associated conditions of the good life should influence our judgements about how free a person is.

I then integrated these elements into my measures of overall freedom. By offering two rather than one measure of freedom, I aimed to resolve a problem encountered in the literature on freedom. There are, roughly, two strands in the literature on measuring freedom. On the one side, there are measures of freedom – or rather rankings of opportunity-sets in terms of free-

dom – commonly found in economics journals according to which ‘more freedom’ simply means a greater range of options. Some political philosophers, on the other hand, have insisted that freedom is more than the range of a person’s options (and their quality). Besides freedoms, we should also aggregate over *unfreedoms*. I argued we can explain the existence of these two ‘camps’, by distinguishing between Choice Freedom on the one hand and Normative Freedom on the other. Choice Freedom, the type of overall freedom economists are concerned with, is simply the range and quality of abilities. I offered a simple formula (where F_i is a set of freedoms and q_i is an evaluative weighting factor):

$$OF_3 = \sum_{i=1}^n q_i F_i$$

I then argued that the ‘political’ conception of overall freedom, one that includes unfreedoms, is inherently normative. Invoking my Distributive Account of specific freedom, I argued that when we gauge a person’s level of Normative Freedom, we represent how a person is treated in a distribution of freedom. In doing so, we can evaluate whether she has a claim to have been wronged (*pro tanto* and *ceteris paribus*) in not being granted all the freedoms that would be available in a better distribution. We do so by comparing her actual level of Choice Freedom to the level she would have in a better distribution of freedom (‘BD’):

$$OF_5 = \sum_{i=1}^n q_i F_i^{AD} / \sum_{i=1}^n q_i F_i^{BD}$$

My distinction between Choice Freedom and Normative Freedom offers a relatively simple operationalisation of overall freedom and explains the relation between two different but strongly connected projects of measuring freedom. On this account, there are two types of judgements about a person’s overall freedom: judgements about the range and quality of a person’s abilities and normative judgements about how much of her ‘just share’ of freedom she has.

In my third part, I then discussed how to distribute freedom and what role freedom plays in the broader context of normative political theory.

My approach here again differs strongly from libertarian theorising. Because libertarians see freedom to be connected to moral rights, freedom becomes a source of deontological side-constraints that limit the reach of distributive justice. Freedom and distributive justice are mutually incompatible.

I also defended my view of linking freedom and distributive justice against those liberal theorists who hold that overall freedom should play no role in our normative theories. Dworkin and others argue that overall freedom is not needed in a liberal-egalitarian theory, because it is not a measurable quantity and, more importantly, its value is accounted for by other values. In Dworkin's case, it is a right to equal respect and concern that does all the normative work.

I marshalled a range of objections to both approaches. The libertarian incompatibility argument, I argued, relies on a mistaken conception of freedom. Against Dworkin, I argued that we can in fact measure freedom, that he misconstrues the value of freedom and that his argument only works against a very narrow conception of freedom.

My own analysis of freedom's role in normative political theorising saw freedom as one (but not the only) *distribuendum* in a distributive theory. Therefore, contrary to what libertarians argue, there is no conceptual incompatibility between freedom and 'justice'.

I then discussed how to distribute freedom across a person's lifetime. This question was shown to be particularly relevant for discussions of paternalism: sometimes we can justify paternalistic interference, such as the outlawing of voluntary slavery, if these interferences lead persons to have a better distribution of freedom across lifetimes.

One interesting feature of freedom as a *distribuendum* – not shared by other *distribuenda* such as welfare – is that a concern for freedom is often both a reason for and against state interference. The aim of distributing freedom is to distribute choice for individuals. However,

because state interference is always a *pro tanto* restriction of a person's freedom, freedom as a distribuendum puts a natural limit on how much the state might interfere to achieve this very goal. This was particularly evident in the case of intrapersonal distribution. Whether a concern for a person's lifetime freedom justifies paternalistic interference – such as outlawing voluntary slavery – depends on the relative fecundity of that option, the probability with which a person is going to choose that option and what pattern of distribution of freedom we aim to achieve across a lifetime.

I then discussed a number of principles for the distribution of freedom between persons. I argued that fairness considerations and freedom's diminishing marginal value give us reason not to aim to maximise the sum of freedom. A sufficientarian position also met with strong objections. I then marshalled a range of objections to the idea that everyone should be 'equally free', chief of which was the consideration that if freedoms are abilities, equalising freedom would often lead to implausible levelling down. Instead, we need to balance fairness-concerns with prioritarian maximisation in the distribution of freedom.

The theoretical framework developed here gives us a good framework to approach discussions in public policy. So, imagine we discuss the justification of a specific paternalistic policy, say a piece of anti-narcotics legislation. Instead of posing the question 'is this policy an infringement of a person's right to non-interference', we should consider the likely distributional effects of this policy instead. How does this policy affect the distribution of freedom both intrapersonally and interpersonally? How does it affect the distribution of other goods? And, lastly, if these distributional effects are in conflict, how should we balance freedom with these other goods?

I hope to have shown that not only does my theory make some valuable conceptual contributions, it also clarifies the role freedom plays in normative political theorising on both a theoretical and an applied level. The core of liberalism, or so some theorists think, is to see indi-

viduals as free and equals. My theory of freedom spells out one central aspect of this normative ideal.

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