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Just Say No (For Now): The Ethics of Illegal Drug Use¹

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ABSTRACT

The war on drugs is widely criticized as unjust. The idea that the laws prohibiting drugs are unjust can easily lead to the conclusion that those laws do not deserve our respect, so that our only moral reason to obey them flows from a general moral obligation to obey the law, rather than from anything morally troubling about drug use itself.

In this paper, I argue that this line of thinking is mistaken. I begin by arguing that the drug laws are indeed unjust. However, so long as they remain prohibited, I argue that we have strong moral reasons to avoid drug use. First, drug users are partly responsible for the violent and exploitative conditions in which many drugs are produced and distributed. Second, the unequal ways in which drug laws are enforced make drug use by many an unethical exercise of privilege. These reasons do not depend on the existence of a general moral obligation to obey the law; we ought to refrain from illegal drug use even if prohibition is unjust and even if we have no general obligation to obey the law. In fact, drug laws turn out to represent an interesting exception case within the broader debate about this obligation, and I argue that it is the very injustice of the law that generates the reasons not to violate it.

Keywords: war on drugs, obligation, drugs, consumer ethics

1. INTRODUCTION

Is it unethical to use illegal drugs? According to one way of thinking about this question, the answer depends on our views about the ethics of obedience to the law. We might think drug use is unethical because it is

¹ Thanks to Lisa Farlow, the audience at the 2014 Canadian Philosophical Association meetings at Brock University, and an anonymous reviewer for this journal for helpful comments on previous versions of this paper.

illegal, on the grounds that it is (typically) unethical to break the laws of a just state. On the other hand, we might think that drug prohibition is unjust, and therefore does not command our obedience.

There is, however, another way of thinking about the question. Rather than focusing on the ethics of drug use through the lens of the law, we might think instead of recreational drugs as popular consumer products. Considered in this way, we can ask whether the purchase and consumption of illegal drugs is unethical, in much the same way we can ask whether it is ethical to purchase any other consumer product. Many consumer goods are produced in harmful, exploitative, or environmentally damaging ways, and this raises important moral worries for consumers. The 2013 Rana Plaza garment factory collapse in Bangladesh, for instance, brought the ethics of low-cost clothing into public consciousness; animal welfare activists have long argued that factory-farmed meat is unethical; and the environmental costs of gas-powered SUVs, for example, make them targets of moral critique.

This way of asking about the ethics of drug use does not presume that the most important element in the answer is their legal status. Nonetheless, I argue that, considered simply as consumer products, we have strong moral reasons to refrain from the use of recreational drugs so long as they remain illegal. This is not because we have strong moral reasons not to break the law, but rather because drug prohibition contributes in an important way to the conditions that do make the purchase and use of recreational drugs unethical.

Section 2 argues that drug prohibition is unjust. For some, this means that the drug laws do not deserve our respect, and so drug use is not a significant moral issue. However, section 3 goes on to argue that so long as drugs remain illegal, there are strong moral reasons to avoid using them. This is for two distinct reasons. First, drug users are partly responsible for the violent and exploitative conditions in which many drugs are produced and distributed. Second, the unequal ways in which drug laws are enforced make use by many into an unethical exercise of privilege.

The fact that drugs are legally prohibited plays an important role in this argument, since the harmful conditions of production and distribution and the unequal enforcement are both generated by prohibition. However, the argument does not depend on the existence of a general moral obligation to obey the law: Section 4 argues that we ought to refrain from illegal drug use even if prohibition is unjust and even if we have no general moral obligation to obey the laws of a just state. In fact, drug laws turn out to represent an interesting exception case within the broader debate about this obligation. Regardless of whether we have such an obligation, we have

strong moral reasons not to violate drug laws. Finally, Section 5 considers a range of potential objections to the argument.

Paradoxically, the very reasons that make drug laws unjust also give us strong moral reasons not to use illegal drugs. Our strong moral reasons to avoid drugs arise not in spite of the injustice of the drug laws, but rather precisely because of those laws; in the absence of prohibition, drug use would be, at the very least, much less immoral (and perhaps not immoral at all). This gives us a reason both to avoid drugs while they are illegal, and to seek to overturn the prohibition of drugs, whether or not we wish to use them.

2. THE INJUSTICE OF PROHIBITION

There are many arguments that drug prohibition is unjust. Some claim that drug use is a 'victimless crime', and so prohibition interferes with liberty. Others point to the hypocrisy of governments banning most drugs out of a professed concern for health while permitting – and profiting from – the sale of alcohol and tobacco. While drugs can be very unhealthy, so too are many things that governments do not control with criminal sanctions (Husak 2002, 2005). These arguments are powerful, but they are not my main focus.² Even if we set aside concerns about liberty and hypocrisy, existing drug laws are unjust because of the considerable harms they generate.

Drug prohibition is often justified on the grounds that drugs are harmful to users' health. Drug use can indeed cause significant harms, including death, and one powerful idea supporting prohibition is that it reduces overall rates of drug use, and so protects potential drug users from serious harm. However, proponents of the 'harm reduction' approach to drugs often point out that prohibition can exacerbate the health problems it is intended to address. Prohibition does not put an end to drug use; in fact, the evidence from Europe suggests that it does not even effectively reduce drug use, since decriminalization does not contribute to an increase in drug use (Vuolo 2013). What prohibition does do is marginalize drug users, making them more vulnerable and less able to access health care and other social services. It can therefore increase the negative health impacts of drug use, even when rates of drug use decline (Drucker 1999). Advocates of harm reduction therefore frequently advocate for decriminalization in order to reduce the health impacts of drug use. If the justification for

² Two potential objections are that: 1) some liberties can be justifiably restricted to achieve important social goods, and drug prohibition may be an example of such a justified restriction; and 2) inconsistencies can be resolved in more than one way. Perhaps the real problem is the legal status of alcohol, not the prohibition of other drugs.

prohibition is that it protects health, and if, as the evidence seems to suggest, it actually contributes to worse overall health outcomes, then prohibition, with all of its attendant costs, is unjustified.

These costs are significant, and affect many more people than drug users. In fact, these costs are so significant that there are good reasons to think that prohibition would be unjustified even if it did succeed in its aim of protecting the health of potential drug users.

First, prohibition creates an illegal black market for the production and distribution of drugs, and this black market is remarkably violent. Between 2006 and 2010, for example, the war between drug cartels and the Mexican government killed at least 41,648 people and perhaps tens of thousands more.³ Much of this violence is a direct result of existing drug laws. The trade is not governed by contracts, disputes cannot be dealt with in the courts, and because it is illegal the drug trade is (for some) incredibly profitable. These facts combine to incentivize violence. Repealing drug laws and ending the War on Drugs might not completely eliminate drug-related violence, since even legal markets can attract violence. Nonetheless, the evidence strongly suggests that prohibition significantly increases that violence (Werb et al. 2010).

Second, violent crime is not the only social cost of the drug trade. Those who work in the drug trade are workers: they are employed in a large and profitable economic sector. Because it is illegal, those workers face the risk of violence without protection from contract law, labor law, employment insurance, or workers' compensation. They are therefore open to serious exploitation, and are generally poorly paid: American drug dealers often earn less than minimum wage in a very dangerous occupation (Levitt and Venkatesh 2000). If the exploitation of Bangladeshi garment workers gives us pause, the exploitation of Mexican and North American drug workers made possible by prohibition should as well.

Third, drug workers and users face significant risks of incarceration, which, even more than drug-related violence, is the direct result of prohibition. In 2015, there were close to 300,000 people incarcerated in American for drug crimes (Carson and Anderson 2016), and another 947,000 on probation (Kaeble and Bonczar 2016), for a total of more than 1.2 million Americans with their autonomy significantly restricted because of

³ For the lower estimate, see (Rios 2013). For a discussion of the criticisms of this estimate, see (Cave 2012).

drug prohibition.⁴ Since this number excludes most drug-related violent crime, it likely under-reports the number of people incarcerated because of drug prohibition. Moreover, incarceration does not just impose a cost on drug offenders: it is costly to the state, since housing so many prisoners is extremely expensive. Government money spent on the drug war is money that cannot be spent on other valuable government programs, and such opportunity costs should be counted among the real costs of the drug war. If the drug laws are not justified, then many of these costs are not justified either.

Fourth, those convicted of drug crimes suffer real harms in addition to incarceration. In many jurisdictions, released felons lose voting rights and the right to sit on juries. They also lose access to public housing, federal student loans, federal health and welfare programs, and food stamps (Alexander 2010: Ch. 4). If they were employed, they typically lose their jobs, and face reduced economic opportunities upon their release, as employers can deny jobs to those convicted of a crime.

Finally, drug laws are enforced in an unjust way. Despite roughly similar rates of drug use, African-Americans are arrested for drug crimes at a much higher rate than whites, a difference that cannot be explained by the differing nature of drug offending between races (Mitchell and Caudy 2015). For example, African-Americans make up 13.3% of the US population, but 38.3% of those in federal prison on drug charges; white (non-Hispanic) Americans, by contrast, are 62% of the US population but only 21.6% of those in federal prison on drug charges (Taxy et al. 2015). This means that African Americans are nine times as likely as white Americans to be in federal prison on drug convictions. The injustice of the racial disparity in drug law enforcement compounds the social costs of incarceration. It is not merely that drug offenders are imprisoned, lose their political rights, and suffer economic and social dislocation, though these are serious costs. It is also that these costs are born disproportionately by already disadvantaged racial minorities. This has led Michelle Alexander, among others, to compare drug laws to the Jim Crow laws, which were used to deny African-Americans housing, jobs, and democratic rights (2010). The racial disparity in enforcement makes African-American communities poorer, more vulnerable, and less politically influential. Drug laws therefore play an important role in

⁴ The 298,704 people in state and federal prisons on drug charges in 2015 represented a relatively small percentage – under 20% – of those incarcerated in America (Carson and Anderson 2016), and so as John Pfaff points out (2017), drug prohibition cannot explain the phenomenon of mass incarceration. Nevertheless, the overall American incarceration rate is so high that the drug crime incarceration rate is higher than the total incarceration rate in many countries, including Germany and Canada (Wagner and Walsh 2016).

perpetuating the systematic racism in American society.

All told, then, drug laws carry enormous social costs. If these costs are to be justified, they should be outweighed by corresponding social benefits. While the exact effect of prohibition on the rate of drug use and the health-related harms of drugs is a complex question, those who aim to reduce the health costs of drug use frequently argue in favor of decriminalization or legalization rather than prohibition. But even if this is a mistake, and it turns out that prohibition does reduce the rate of use and the health-related harms of drugs, these benefits need to be balanced against the other enormous costs associated with prohibition. Those costs – including violence, worker exploitation, mass incarceration, community dislocation, and systematic racism – significantly outweigh whatever marginal reduction in drug use or health costs might be gained by prohibition. As a result, the legal prohibition of drugs is unjust.

3. MORAL REASONS TO AVOID ILLEGAL DRUGS

I've argued that drug prohibition is unjust. But what are the moral implications, for individuals, of this claim? The most obvious one is that we ought to work to repeal prohibition, including pressuring our political representatives to abandon the War on Drugs. Some jurisdictions have taken steps in that direction. In 2001, Portugal decriminalized simple possession of all drugs: drug users are directed to treatment, and punished with, at most, a small fine. Drug dealing, however, dealing remains criminalized. Recreational use of marijuana is legal in Uruguay, in eight American states and the District of Columbia, and the government of Canada has committed to the legalization of marijuana by July of 2018. At present, however, the wholesale legalization of drugs is politically unfeasible in almost every country. Given the injustice of those laws, it is tempting to suppose that they simply do not have any claim on our respect, and so that drug use is not particularly morally objectionable.

There are certainly perfectly good non-moral reasons not to take drugs. First, many illegal drugs carry serious health risks. These risks may *not* be a good reason to outlaw drugs – in fact, they may be a good reason not to outlaw drugs – but they can be a very good reason not to take drugs. Second, given the drugs are illegal, in buying and using drugs one runs the risk of criminal sanction, including prison. As we saw, this is a non-negligible risk for members of underprivileged groups. However, both of these reasons are prudential. It may be in our self-interest to avoid illegal drugs, but do we have a moral reason to refrain from purchasing and consuming them?

I argue that illegal drug use is indeed immoral. The prohibition of drugs is certainly unjust. Nonetheless, the current prohibition drugs gives us two distinct moral reasons to not violate drug law. First, drugs are produced and distributed in a way that are unethical. Second, the use of drugs by many consumers represents an objectionable form of privilege. Moreover, we have these moral reasons to avoid drugs, not merely in spite of the law's injustice, but rather because of it. Paradoxically, it seems, it is precisely the injustice of the laws banning drugs that makes violating those laws immoral.

3.1 Unethical production

The harm reduction approach to drugs endorses treating them much like other dangerous consumer products. This is an argument for repealing prohibition, but thinking of drugs as consumer products has other moral implications. After all, we have strong moral reasons to avoid consumer products that are produced in unnecessarily dangerous and exploitative ways. For example, we ought to avoid purchasing clothing that is made in dangerous sweatshops or by child labor. Ethically produced clothing might be more expensive, but cost savings for relatively affluent consumers do not justify the exploitation and deaths of Bangladeshi garment workers.

The drug trade, as we saw, is violent and exploitative: drug workers are killed and exploited in significant numbers. We ought therefore to avoid drugs for the same reason that we ought not to buy clothing made in dangerous sweatshops; both are produced in dangerous and exploitative ways, and consumers both enable and benefit from that exploitation. The point it is not merely that we could do something to prevent the harms of the drug trade, though this is certainly true. Rather, the point is that drug users are in an important sense directly responsible for those harms. It is their demand for drugs that allows the harms of the drug trade to persist. Drug users are not, of course, solely responsible for those harms, since governments who enforce prohibition share in the blame. Nonetheless, given the reality of prohibition, drug users are blameworthy for the harms that their consumption choices help to bring about. The many affluent North Americans and Europeans who insist on purchasing ethically produced, organic, and fair-trade consumer goods should also avoid illegal drugs, since the reasons we have to avoid such drugs are of a piece with the more general moral reason we have to avoid all unethically produced products.

However, these moral reasons to avoid illegal drugs are arguably stronger than they are for most unethical consumer goods. First, compared to other unethically produced goods, the drug trade combines significantly

greater harms with significantly fewer consumers. Almost everyone in North America and Western Europe wears clothing every day. The majority likely own some clothing produced in an unsafe and exploitative sweatshop. By contrast, around half of North Americans have never used illegal drugs,⁵ and under 10% use them regularly.⁶ Nonetheless, despite the much smaller size of the illegal drug market, drug-related violence kills many more people than die in unsafe garment factories. The collapse of the Rana Plaza in April 2013 killed 1,129 Bangladeshis, mostly garment workers, and a factory fire in 2012 killed another 117. These numbers are alarming, but they pale in comparison to the thousands of Americans and tens of thousands of Mexicans killed in drug violence since 2006. This is not to minimize the harms of the garment industry, but instead to highlight the enormous harms caused by the drug war. To the extent that those who buy drugs or unethically produced clothing are implicated in the harms associated with their production, those who buy drugs are much more implicated, since the far greater harms are spread across a much smaller number of customers.

Second, there are institutional differences between the harms resulting from the drug trade and from unethical garment factories. The harms of the drug trade are a direct product of the criminal laws: it is because drugs are illegal that there is so much violence and exploitation in their production and distribution. The harms of the garment industry, by contrast, emerge in large part from a global economic system in which multinational corporations seek to maximize profits by manufacturing goods in countries that have low labor costs, and correspondingly low labor standards and protections.

This is an important difference, since the criminal law is under democratic control in ways that global economic institutions are not. Americans cannot simply end prohibition by voting for a party that promises to do so; there is no such party and in any case American (and other) democratic institutions are structured so that majority public

5 In 2015, 50% of Americans over the age of 25 reported using illicit drugs at least once in their lives. By far the most commonly used drug is cannabis, with 46% reporting lifetime use. Cocaine and hallucinogens, both at 16%, were next on the list of lifetime prevalence. Only 2% have ever tried heroin (NIDA 2015a). Canadian numbers are similar: in 2012, 43% of Canadians reported lifetime use of cannabis, though that number drops to 34.7% when one-time users are excluded (Rotermann and Langlois 2015). Numbers from Mexico are less reliable, but a 2008 WHO survey put lifetime cannabis use by Mexicans at 7.8%, and lifetime use of cocaine at 4% (Deegenhardt et al. 2008).

6 In 2015, 13% of Canadians reported using illegal drugs in the previous year, a number that falls to 2% when marijuana is excluded. (Health Canada 2015). In 2013, 9.4% of Americans reported illicit drug use within the past month, and fewer than 3% reported past-month use of illicit drugs other than marijuana (NIDA 2015b).

support for a policy does not guarantee that the policy will be advanced by a governing party or passed into law.⁷ Still, it is within the power of democratically elected governments to end prohibition, and its persistence results at least in part from its continued support among the electorate. Were ending the injustice of prohibition an important enough issue for enough voters, it would have greater political traction. Moreover, those jurisdictions that have liberalized their drug laws have largely done so as a result of political pressure from their citizens. Seven of the eight American jurisdictions that legalized recreational cannabis did so as the result of a majority vote on a ballot initiative (i.e. via plebiscite);⁸ the Canadian government's plans to legalize cannabis in the first half of 2018 would fulfil a promise made by the governing Liberal Party in the course of the 2015 election campaign; and, of course, the 1933 passage of the 21st Amendment to the US Constitution, which repealed the prohibition of alcohol, was the result of a 2/3rds majority vote of both Houses of Congress.⁹

Because the criminal law is under democratic control, the citizens of states that prohibit drugs – all of them, and not merely drug users – are in an important sense responsible for the harms that result from the drug trade. Those harms are the result of policies enacted by democratic institutions and so in principle expressing the considered views of the public. While the connection between majority policy preferences and the content of the law is far from straightforward, there is nevertheless an important sense in which ending prohibition is within the control of the American public; it simply requires repealing some criminal laws and passing some new ones, something that is entirely within the power of democratically elected governments who are responsive to the publics that elected them. That this is extremely unlikely reflects in part the fact that a significant proportion of the American public endorses the War on Drugs and the harms that it creates, and this tacit endorsement arguably makes that public complicit in the harms that prohibition generates.

This institutional responsibility, however, is much less clear in the

7 Thanks to an anonymous referee for urging me to discuss the relationship between majority preferences and policy changes in democratic contexts.

8 Alaska, California, Colorado, Maine, Massachusetts, Nevada, Oregon, Washington, and the District of Columbia all legalized marijuana through majority vote on a proposition appearing on the ballot. The sole exception thus far is Vermont, which did so via a bill introduced in the state legislature, rather than via ballot initiative.

9 It's worth noting, however, noting, that the 21st Amendment is the only constitutional amendment to secure the required ratification by three fourths of the states through the use of one-off state conventions rather than by passage in state legislatures. It therefore stands alongside the use of ballot initiatives to legalize marijuana as an example of the ways in which majority policy preferences are not always easily secured through legislative means.

example of sweatshop labor. Global economic institutions are not under the direct democratic control of the citizens any particular country: in fact, many such institutions often are not under any centralized control at all, and are certainly not constrained significantly by democratic control. Democratically elected governments can choose – at significant cost – to opt out of some of those institutions, but even if they do so those institutions continue to be in force and to wield significant power. So individual consumers in wealthy nations are far less responsible for the workings of those institutions.

Moreover, the political institutions of garment-producing nations like Bangladesh also bear some responsibility for lax labor standards and enforcement. That is not to say that there is nothing we can do, of course, but the enforcement of global labor standards is much less subject to democratic control than the content of domestic criminal law. While we cannot just change the global economic order by voting to do so, we can change the criminal laws of our state through straightforward democratic means, as was done in Portugal and several American states. Our ability to reduce the harms of the drug war through democratic means makes us more morally responsible for the persistence of those harms.

3.2 Privilege

We all have a reason not to consume unethically produced consumer goods. But just as we can satisfy this responsibility by purchasing fair trade and organic food and clothing, perhaps we can do the same with drugs: home-grown and ethically sourced marijuana, for example, would avoid many of the concerns raised above. I will return to this objection in Section 5.1, below. However, even if we concede the possibility of ethically sourced drugs, there is an additional moral reason to refrain from drug use that applies to many – though not all – drug users. The freedom to use illegal drugs without significant fear of criminal sanction is one expression of white middle-class privilege. Given the extreme racial disparity in the enforcement of drug laws, it is arguably among the more powerful forms such privilege can take.

White, middle-class, university-educated North Americans can typically purchase and consume illicit drugs safe in the knowledge that it is very unlikely that they will be stopped by police, searched, arrested, charged, or convicted. African-Americans, however, are more than four times as likely as white Americans to be arrested for drugs, despite using

drugs at roughly the same rates (Mitchell and Caudy 2015).¹⁰ A drug charge also has the potential to be much more costly for a low-income American than a middle-class one; the loss of public housing, welfare, or food stamps is a non-issue for white professional home-owning drug users, but is a significant risk for low-income drug users. That African-Americans are more likely than white Americans to be poor compounds the potential for injustice, as they are more likely to be arrested for drug crimes, and more likely to suffer significant hardship as a result of such an arrest. Not only are they much more likely to be arrested for drug use than affluent white drug users, but such arrests can easily make them homeless.

The ability to violate the law and use drugs involves much less risk for some citizens than for others. This inequitable treatment is unfair, and is directly generated by prohibition. As with the harms of drug production, the main way of ending the unfair privilege in drugs is by repealing prohibition. Nonetheless, while the unfairness exists, the exercise of such privilege is something those who have it have a moral reason to avoid.

At the very least, those who use drugs recreationally and who have the privilege to do so without significant fear of sanction ought to both endorse and actively work toward the end of prohibition. Drug users who do not take a public stance in favor of ending prohibition show themselves to be willing to accept a privileged *de facto* immunity that they are unwilling to extend to others. They therefore treat the interests of others as less deserving of concern than their own. This powerful and morally objectionable form of hypocrisy is on display any time someone is willing to blithely break the law and yet not object to – or, worse, actively endorse – the prosecution of others who break the same laws.¹¹ This hypocrisy would be objectionable even in the absence of racial bias in the enforcement of drug laws. Given the existence of such bias, those who are privileged enough to be largely free from fear of drug-related arrest or prosecution should refrain from the use of illegal drugs.

4. THE PARADOX OF DRUG LAWS

Thus far I've made two distinct arguments. First, existing drug laws are unjust. Second, illegal drug use is unethical. These two arguments appear to be in tension, since it seems that I am arguing that both drug prohibition

¹⁰ More precisely, African-Americans of 25 and under are somewhat less likely than whites to use drugs, while those 26 and older are somewhat more likely to use drugs; this is sometimes called the “racial age crossover effect” (Mitchell and Caudy 2015).

¹¹ R. Jay Wallace offers an account of the moral blameworthiness of hypocrisy along these lines in (Wallace 2010)

and drug use are unjust. But, one might think, if laws banning drugs are unjust, then shouldn't we conclude that there's in fact nothing immoral about drug use?

One straightforward way of resolving this tension would be to appeal to the existence of a general moral obligation to obey the law in a just state, even in cases where we believe the law to be unjust. John Rawls, for example, argues that, provided the injustice does not exceed certain limits, in just states we "normally have a duty to comply with unjust laws in virtue of our duty to support a just constitution." (1971: 311). There are several arguments for such an obligation, drawing on the tacit consent of those subject to the law (Locke 1988), the importance of general obedience in securing the many valuable benefits of a just state (Wellman 2001), or principles of fairness and the unfairness of free-riding within generally just social institutions (Rawls 1999). As Rawls puts this point, provided that "the constitution is just and that we have accepted and plan to continue to accept its benefits, we have both an obligation and a natural duty... to comply with what the majority enacts even though it may be unjust". Justice, he argues, "binds us to a just constitution and to the unjust laws which may be enacted under it" (1999: 180).

However, many theorists reject the idea that there is a general obligation to obey the laws of a just state (e.g. Wolff 1970, Raz 1984, Simmons 2001). We may have strong moral reasons to conform with just laws, but this does not mean that the law itself gives us any such reasons. Rather, the law, when it is just, tracks what we have independent moral reason to do. When those reasons exist, we should do what the law requires, but not for the reason that the law requires it. And when no such independent reasons exist, the law typically does not create one, particularly when there are independent moral reasons not to comply with the law. As Joseph Raz puts it, the purported moral obligation to obey the law "is at best redundant" (1984: 140). 'At best,' because it would only make a difference when there are no independent reasons to do what the law commands, and so, if taken seriously, could easily lead people to act in ways that are unjust.

This suggests two distinct perspectives on obedience to unjust laws. Either we have an obligation to obey them in virtue of their being laws, or else their injustice means that, since we have no independent reason to do what they require, we have no obligation to obey them. However, the case of unjust drug laws represents an interesting exception to this general way of carving up the conceptual terrain. Because the drug laws are unjust, there are no independent reasons justifying those laws that explain why we ought to obey them. Nonetheless, the existence of the drug laws creates a strong moral reason not to use drugs, a reason that is entirely independent

of any general moral obligation to obey the law.

To say that unjust laws create moral obligations to obey them might seem paradoxical without appeal to a general obligation to obey. However, this paradox is only apparent. Existing drug laws are unjust because they impose significant harms on many vulnerable people, and these harms could be greatly reduced by ending prohibition. These same reasons explain why illegal drug use is unethical. That is, the production and distribution of drugs is so harmful precisely because it is illegal, and these very same harms explain why consuming drugs is unethical. Drug laws both create the conditions for violence and exploitation, and make possible the kind of systematically racist enforcement that makes recreational drug use by privileged individuals morally troubling. In both cases, then, the reason that drug use is unethical is because of the existence of laws prohibiting drugs.

So while prohibition makes it unethical to consume drugs, the mere fact that drug use is against the law does not carry any moral weight at all. Rather, it is the unjust conditions created by the existence of the laws, and not the laws themselves, that make recreational drug use unethical, and these very same conditions explain why prohibition is unjust.

Those, like Raz, who reject the existence of a general obligation point out that a law is just if there are independent moral reasons to do what it commands. However, drug prohibition is an example of an unjust law that we have independent moral reasons not to violate. Of course, these reasons are independent only in the sense that it is not the existence of the law qua law that gives us a moral reason not to violate the law. In a different sense, the existence of the obligation is highly dependent on the existence of the law, since the law creates the conditions – violence, exploitation, and biased enforcement – that make the activity of drug use deeply ethically troubling. So while the claim that the injustice of the law creates the moral obligation to obey it sounds paradoxical, the paradox dissolves when we recognize that the injustice of the drug law does not explain the existence of the obligation to conform to it. Rather, both the injustice and the obligation are explained by the existence of the violence, exploitation, and discrimination that the law brings into being.

5. OBJECTIONS AND REPLIES

5.1 Ethically sourced drugs

The analogy between drugs and low-cost clothing suggests a possible defense of recreational drug use. The existence of unethical low-cost

clothing is clearly not a reason to forego clothing altogether. Rather, it is a reason to purchase ethically sourced clothing, even if that clothing is more expensive. By the same token, the existence of unethically sourced drugs may not be a reason to avoid drugs altogether: instead, it simply gives drug users a strong reason to choose ethically sourced drugs. Homegrown organic marijuana, for example, seems to avoid concerns about the harmful and exploitative drug trade raised above.

There are two points to make in response to this suggestion. First, while it is true that ethically sourced drugs would certainly be better than unethically sourced ones, there simply are no ethical sources for many recreational drugs. Cocaine and heroin, for example, are not grown in North America or Europe, and as a result need to be smuggled from Asia and South and Central America. Drugs smuggled in this way are part of the violent and exploitative global trade, for which recreational users are in part responsible. Moreover, even drugs produced in North American and Europe – such as marijuana and synthetic drugs like MDMA and crystal methamphetamine – are often produced and distributed by the same violent and exploitative criminal organizations that distribute cocaine and heroin, and the people who produce them are not protected by labor laws. While marijuana and many synthetic drugs might, in principle, be ethically sourced by discreet small-scale producers who treat their employees well and who avoid violence, users who buy such drugs will typically have no way of knowing where their drugs come from, and so no way of knowing whether it is linked to such violent and exploitative drug markets.

Second, while those who grow their own organic marijuana or produce their own synthetic drugs strictly for personal use can avoid being implicated in many of the harms of the drug trade, they may nonetheless participate in the unethical exercise of privilege. While the exploitative source of most drugs is a reason to avoid them, so too are the unequal and unjust ways in which prohibition affects underprivileged groups. In fact, even the ability to produce one's own drugs without fear of detection can require access to space and privacy that members of underprivileged groups often lack: a homeowner can more easily produce drugs at home than a renter, for example.

One thing this argument suggests is that members of vulnerable and underprivileged groups who consume ethically sourced drugs do not behave immorally, since their drug use is not an example of unethical privilege. That is consistent with the argument advanced above, which does not depend on the claim that there is anything about drug use itself that is immoral. It is the nature of the drug trade and the privilege implicit

in much illicit drug use that makes it morally objectionable. Illegal drug use that avoids both of these objections might not be open to moral censure. However, the vast majority of recreational drug use does not fall into this category.

5.2 Civil disobedience

Civil disobedience is a powerful way of protesting unjust laws, and one that is endorsed even by those, like Rawls, who defend the general obligation to obey the law. Since prohibition is unjust, drug use is arguably a form of protest against that injustice, and so counts as an instance of civil disobedience.

While civil disobedience is a morally admirable way of seeking to overturn unjust laws, it does not work as a defense of recreational drug use. First, drugs purchased to be used for the purposes of civil disobedience would still be unethically sourced, and so users remain implicated in the harms of the drug trade. Second, and more importantly, typical private recreational drug use does not count as an example of civil disobedience, which requires publicly breaking the law, doing so with the aim of communicating a political message or bringing about a change in the law, and willingly accepting the accompanying punishment (Rawls 1971, Brownlee 2004). Perhaps taking drugs in full view of the police at a public anti-prohibition rally counts as an instance of civil disobedience, and so of morally permissible drug use. Typical recreational drug use, however, does not.

5.3 Medical uses of drugs

Many people use drugs for a range of health-related reasons, so another objection is that my argument unfairly blames people for using medicines for which they have a legitimate need. This includes drug use by addicts, but also includes other uses: people self-medicate with a variety of drugs to treat chronic pain, nausea, anxiety and depression, to combat the side effects of prescription medication, and for a range of other non-recreational reasons.

I accept that the medical use of drugs is different in important ways. It would indeed be unfair to blame those with a legitimate medical need for drugs for using them, including addicts, particularly when such users are not responsible for the ban on drugs and are in fact among those most affected by that ban. My argument addresses the recreational use of drugs for the sake of the pleasure they deliver. In fact, a recognition of the difference between medical and recreational uses is at the heart of one of the main exceptions to prohibition: the legal regulation of medical marijuana in many jurisdictions. Such programs generally provide users with both legal protection from prosecution and an ethical source for

marijuana. A similar recognition justifies the common practice of prescribing methadone – otherwise an illegal drug – to opiate addicts. Again, this practice provides addicts with both legal protection and an ethically sourced product, while also addressing the health costs of drug use.

However, not every person who uses illegal drugs for medical reasons uses marijuana or opiates, or even has access to legal medical marijuana or methadone. Those who have a legitimate medical need for drugs but do not have access to a legally sanctioned supply do indeed use drugs that are produced in unethical ways. In their case the blame more properly falls on the law-makers who are responsible for depriving people of medically necessary drugs, rather than on those who have the need for those drugs. Recreational users lacking a legitimate medical reason for drug use, however, remain blameworthy for the unethical use of illegal drugs.

5.4 Drugs may continue to be unethical even if drugs were legalized

While the illegal drug trade is violent and exploitative, this does not mean that the legal trade in drugs would be an ethical one. After all, many perfectly legal consumer products are unethical, from cheap sweat-shop produced clothing and electronics to so-called conflict diamonds. Legalization is no panacea. While it might make it possible to provide ethical sources of marijuana and many synthetic drugs, drugs like cocaine and heroin would continue to be produced in the developing world by low-wage workers, and such workers would likely remain vulnerable targets of exploitation. At best, legalization might make possible a market for (perhaps more expensive) ethical drugs, but it would almost certainly not do away with unethically produced drugs. The realities of production and distribution in even a legal drug trade might mean that many drugs would continue to be unethical.

It is certainly true that legalization would not instantly make drug use ethical, and that many drugs might continue to be unethically produced and distributed even if prohibition were repealed. However, this is consistent with the argument advanced above: recall that it is not the mere illegality of drugs that makes them unethical, but the conditions created by that prohibition. To the extent that those conditions remained in place after prohibition was lifted, the argument would remain in force. Prohibition would make it possible for recreational drug use to be ethical, but it certainly would not guarantee it. But even if most drugs continued to be produced and distributed by vulnerable exploited workers, legalization would likely secure some degree of improvement in their working conditions, simply by making legal oversight and regulation possible, and by reducing the incentives for violence. Such improvements might not be

enough to make drug use ethically unproblematic, but they could nonetheless be significant.

5.5 Prohibition is justified

I have argued that drug prohibition is unjustified, in large part because of the enormous social costs that it imposes. But perhaps this is a mistake. For example, perhaps the costs of prohibition – in lives lost, workers exploited, rights sacrificed, and people incarcerated – are worth it to keep drugs out of the hands of children, to secure an overall reduction in drug use, or to convey society's profound disapproval of drugs.¹² Or perhaps the problem with the drug war is in the execution, not in the general approach. The current heavily punitive approach to drug crime may be ill conceived and enforced in a discriminatory manner, but this does not necessarily show that prohibition itself is unjust. Rather, it might show that prohibition ought to be pursued in less harmful and discriminatory ways. For example, justice might require reforming policing practices, eliminating mandatory minimum sentences for non-violent drug offences, or diverting those who commit such offences into alternatives to the prison system. While prohibition is enforced in discriminatory ways, the problem may not be prohibition so much as racism; after all, even perfectly just laws can be unjustly enforced. African-American drivers are much more likely to be stopped and searched than white drivers (LaFraniere and Lehren 2015) – a phenomenon known as 'driving while Black' – but that does not mean that traffic laws are unjust. Rather, it simply means that they are often enforced in a discriminatory way.

It may be that, were drugs not currently illegal, it would be unjust to introduce prohibition. But it may be a distinct question whether we ought to repeal prohibition, given that it is in place. After all, even if we would have been better off had drugs never been prohibited, repealing prohibition might still make things worse. Many of those involved in the illegal drug trade would not transition directly into the legal drug trade, which could draw from a larger labour pool and which would have less need for smugglers and enforcers. So an end to prohibition might well leave many criminals unemployed and without their main source of income, and such criminals might respond by turning to other crimes, thus making crime worse (Rios 2012). Perhaps this is not relevant to the justification of prohibition, since some would argue that incarcerating people for

12 Peter de Marneffe argues that the prohibition of heroin is justified in order to secure an overall reduction in harm, and in particular to protect children, though he agrees with Husak that most other drugs should be legalized (de Marneffe 2005). See also (Bean 2008: 262-266).

recreational drug use is necessarily unjust, regardless of whether repealing prohibition would lead to an increase in harms. But lawmakers interested in adopting policies that reduce the harms of drugs might justifiably choose to continue with prohibition even if they recognize that it is an imperfect policy that would not be implemented if it were not already in place (Wolff 2011: 78).

Whether prohibition is ultimately justified, however, does not affect the argument that illegal recreational drug use is unethical. If it turns out that the laws prohibiting the use of drugs are just, then that of course is a reason to follow them, since we have a moral reason to comply with laws that are just. My argument shows that we have moral reasons not to violate the drug laws even if they turn out to be unjust, and this is perfectly consistent with insisting that prohibition is just and that, as a result, drug use is unethical.

My argument would, however, lose some of its paradoxical appeal if it were true that drugs prohibition is ultimately justified. I have argued that prohibition makes the drug trade harmful and exploitative, and so makes drug use unethical. If it turned out that ending prohibition would not reduce the misery associated with the drug trade, then arguably prohibition itself would turn out not to create the conditions that makes drug use unethical. But this would be because those harmful conditions would continue to obtain in the absence of prohibition, and my argument is that it is the harmful conditions in which drugs are produced and distributed, and not the mere fact that they are illegal, that makes drug use unethical. Regardless of whether prohibition is just, then, the use of prohibited drugs remains unethical.

5.6: Drinking alcohol during prohibition

There is a clear and oft-noted analogy between the current prohibition of drugs and the prohibition of alcohol in the United States between 1920 and 1933. One potential objection to my argument, then, is that it would strongly suggest that drinking during prohibition was immoral, even though prohibition itself is now widely recognized as a mistake and the moderate consumption of alcohol is morally unobjectionable.

It's worth noting that drinking was not illegal during prohibition, as the 18th Amendment and the Volstead Act outlawed the production, distribution, and sale of alcohol, but not possession and consumption. So to the extent that the argument in this paper addresses the ethics of illegal drug use, it may not apply at all to drinking during prohibition.

Moreover, the alcohol example could only serve as an objection to the

argument that illegal drug use is unethical if it were obviously true that drinking during prohibition was morally licit, and that is far from certain. Some of the arguments offered in this paper also apply to drinking during prohibition, and so do show that such drinking may well have been unethical. In particular, both the violent and illegal black market and the exploitation of workers outside the protection of the law were moral problems that faced prohibition-era recreational drinkers who drank bootlegger-sourced alcohol. Those objections do not apply to the wealthy Americans who were able to rely on private reserves of alcohol stockpiled before the introduction of prohibition, but this legal and ethical access to alcohol was a privilege that was denied to the vast majority of Americans. So as with drug prohibition, the risks and harms of alcohol prohibition were far from equally distributed. In such a context continuing to drink while at the same time supporting prohibition arguably constituted an objectionable form of privileged hypocrisy.

Drinking in the absence of prohibition may well be entirely unobjectionable, but then so too would be many cases of recreational drug use. So our current attitudes toward the ethics of drinking and the error of alcohol prohibition are perhaps best understood as suggestive of what ethical drug laws would look like, rather than as an objection to the argument that drug use under prohibition is unethical.

6. CONCLUSION

Existing drug laws are unjust, and cause considerable harm; we should work to overturn them. One might therefore be inclined to conclude that such laws do not deserve our respect, and so that we are free to violate them. This, however, would be a mistake. The ban on drugs may be unjust, but while they are banned it is immoral use them. Drug use is immoral because of the conditions created by the law, rather than because of the law itself. The very facts that give us a strong moral reason to conform to the law therefore also give us reason to overturn it.

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Symposium
on Julie Rose's *Free Time*

GUEST EDITED BY TOM PARR

Symposium on Julie Rose's *Free Time*: An Introduction

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In the United Kingdom, more than thirty percent of those in paid employment express a desire to work fewer hours. Some of these individuals are willing to accept a corresponding reduction in pay, but others cannot countenance such a sacrifice: economic security must take priority.¹ Moreover, these attitudes are by no means unique to the UK, with many people across the world feeling that they spend too much of their time at work. But things do not have to be this way. Policymakers have at their disposal a variety of tools that can reduce working hours and, more generally, enhance the amount of free time that citizens enjoy. These include direct measures, such as working time regulations and the provision of free childcare, and indirect measures, such as policies that strengthen the power of trade unions.

In *Free Time*, Julie L. Rose persuasively argues that governments should make greater use of these tools. She does this, first, by establishing the case for a right to a fair share of free time; and second, by showing that, in order to protect this right, it is necessary to do more than regulate society's distribution of income and wealth. Rose's book makes important contributions to our understanding of the concept of "free time", the nature of citizens' rights to free time, and the moral status of available instruments for ensuring that free time is distributed fairly. This Symposium brings together a series of thought-provoking papers that explore Rose's arguments in further detail in order to advance the debate around the equitable distribution of free time, as well as a range of related issues.

Rose opens the Symposium with a short precis of her book, which acts as a useful introduction to the discussions that follow. The first commenter is Robert E. Goodin, who addresses the problem of how to conceptualise discretionary time. More specifically, Goodin takes issue with what he calls the "empirical inscrutability" of Rose's account, and appeals to this concern to motivate support for his preferred alternative, which makes use of "social benchmarking".

1 For recent data, see Office for National Statistics (2018).

The next two articles focus on Rose's claim that citizens have a right to a fair share of free time. Jeppe von Platz attempts to expose a serious ambiguity in Rose's arguments: either she relies on a "vacuous notion of fairness" or, contrary to what Rose claims to have established, what citizens can claim is merely an adequate share of free time. Lucas Stanczyk then draws attention to the possibility that many affluent citizens who complain about being overworked – and who complain more than others about being overworked – are not in fact denied their fair share of free time. Stanczyk concludes by reflecting upon the implications of this possibility for the justifiability of the policies that Rose defends.

The final two commenters are Désirée Lim and Rosa Terlazzo. Lim's task is to construct a republican case for granting citizens a fair share of free time, which can supplement Rose's own argument. She builds her case by showing how citizens' enjoyment of a fair share of free time can be instrumentally important to realising non-domination. Terlazzo employs Rose's framework to draw attention to another neglected resource to which citizens might have claims, namely a "sense of moral entitlement to make use of basic liberties". The Symposium concludes with a response from Rose that elaborates her view and that replies to the objections that have been raised.

I hope that this Symposium advances our understanding of issues of considerable political concern, and that it prompts further discussion about the appropriate regulation of the labour market. I am grateful to the authors for their contributions, to the papers' referees for their constructive feedback, and to Clare Burgum and Serena Olsaretti for all of their help.

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A précis of *Free Time*

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Every citizen is entitled, as a matter of justice, to a fair share of free time. This is the core argument of *Free Time*. The argument rests on the widely held commitment to ensuring that citizens possess the means to exercise their freedoms, rooted in the recognition that if citizens lack the means to make effective use of their formally guaranteed freedoms, those freedoms are of little worth. A foundational tenet of liberal egalitarian theories of justice is, as such, what I term the effective freedoms principle: citizens have legitimate claims to a fair share of the resources generally required to exercise their formal liberties and opportunities.

Though the effective freedoms principle is applied most often to citizens' requirements for material resources, it applies in the same way to the resource of free time: time that is not consumed by meeting the necessities of life, that one can devote to one's own pursuits and commitments. This argument has been overlooked, yet it is readily apparent on reflection. Consider, for instance, how, in order to exercise one's right to vote, one must have not only the means to get to the polls, but also the free time to do so. Citizens generally require free time to make effective use of the full range of their fundamental liberties, as well as any of their broader legal freedoms and opportunities. As such, I argue, on the basis of the effective freedoms principle, citizens have legitimate claims to the resource of free time.

Though this argument has been absent from contemporary liberal theories of justice, it can be found in a recognizable form in the arguments of American nineteenth century labor reformers in their fight for time. For citizens to enjoy their rights to "life, liberty, and the pursuit of happiness," insisted "The Working Men's Declaration of Independence," they must have the "*means*" to make use of them.¹ "It is true", they argued, "that churches are erected, school houses are built, mechanics' institutes are founded and libraries ready to receive us ... but alas! We lack *the time to use them* – time"² Workers required free time not only to make use of their fundamental political, associational, and religious liberties, but more

1 "The Working Men's Declaration of Independence", December 1829 in Foner (1976: 49) original emphasis.

2 W. Sylvis (1968: 199) original emphasis; quoted in Roediger and Foner (1989: 99).

broadly to pursue any of their own ends, as encapsulated in their demand for “eight hours for work, eight hours for rest, and eight hours for what we will”.³

Though ensuring that citizens enjoy the means to make use of their freedoms is a central liberal egalitarian commitment, contemporary liberal theories of justice have given little attention to “hours for what we will”. Instead, they have implicitly assumed that free time is not an appropriate or worthy concern of a liberal theory of justice. Given this incongruity, it is worth considering why. It owes, I argue, to two mistaken views.

The standard liberal egalitarian approach to distributive justice, which I label liberal proceduralism, is to ensure a fair distribution of resources, the all-purpose means that are generally required to pursue any conception of the good, in order to ensure that citizens have fair access to various specific goods, or the particular components of one’s particular conception of the good. This approach – with which my argument has no quarrel – aims to secure the just background conditions within which citizens can pursue their own ideas of the good life. Importantly, on this standard approach, for the state to directly target the distribution of specific goods is presumptively inappropriate. Absent some exceptional justification, the proper aim is instead to ensure a just distribution of all-purpose means.

The first mistake explaining the neglect of free time is that political philosophers have generally conceptualized it in terms that render it a specific good.⁴ Leisure has been variously understood as time engaged in intrinsically valuable activities, or as time in play and recreation, or – most common among theorists of distributive justice – as time not engaged in paid work, and on each understanding, as a specific good. (To keep this distinction clear, I use leisure to refer to the specific good and free time the resource). This limited view is, however, an error, for it overlooks the way, captured in the appeal for “hours for what we will”, that free time is itself an all-purpose means.

Free time – understood specifically as time not committed to meeting one’s own, or one’s dependents’, basic needs, which are the needs one must generally meet to attain a basic level of functioning in one’s society – is, I argue, properly regarded as a resource. It is a necessary input that is

³ Rosenzweig (1983); see also Gourevitch (2015: 126–32, 144–45); Hunnicutt (2013: 1–94).

⁴ Goodin et al.’s *Discretionary Time* is an important and notable exception (Goodin et al. 2008). My conception of free time, though it departs from their account, is indebted to their view of discretionary time as time not consumed by the necessities of life. For another account that draws on Goodin et al.’s conception, see Shippen (2014).

generally required to pursue any conception of the good, and it meets the conditions to be an object of a public and feasible theory of justice.

The second mistake is the implicit assumption, stemming from the economic view of time and money as fungible goods, of what I call the time-money substitutability claim: that realizing a just distribution of income and wealth is sufficient to ensure a just distribution of free time. If this claim were true, it would not be necessary to give any distinct attention to free time as an object of justice. Yet, neither of the assumptions on which the claim depends – the perfect divisibility of labor demand and the perfect substitutability of money and basic needs satisfaction – can be sustained. Given both ethical and empirical limitations of economic markets, individuals cannot always unobjectionably purchase the satisfaction of their own, or their dependents', basic needs, nor can they always freely choose to reduce their hours of paid work to the level they prefer (even for a corresponding reduction in pay, a phenomenon economists term overemployment).

With these obstacles cleared, it is then possible to construct the core argument for citizens' claims to free time. First, free time is itself a resource. Second, if a theory of justice endorses the effective freedoms principle, as all liberal egalitarian theories do, then citizens have legitimate claims, as a matter of justice, to fair shares of free time. Further, to ensure that citizens have their fair shares, free time must be treated as a distinct object of justice.

Ensuring that citizens have their fair shares of free time requires, if everyone's fair share is, say, eight hours per day, ensuring that all citizens are able to meet their basic needs in sixteen hours per day (e.g. with income subsidies or in-kind provisions), as well as protecting citizens' ability to choose to spend no more than this time meeting their basic needs (e.g. with work hours regulations). Moreover, citizens must not only have the requisite amount of free time, they must enjoy it on conditions that allow them to effectively use it to exercise their liberties, which include having access to generally usable periods of free time on predictable schedules.

With the central argument in place, I turn then to developing some of its implications in the later chapters. Chapter 5 argues that, because citizens' exercise of their freedom of association, whether civic, religious, or social, generally requires sharing time together, citizens require access to free time shared with a significant portion of those with whom one currently associates and might associate. Access to shared free time may be realized by providing citizens with vast amounts of free time, greater work schedule flexibility, or a common period of free time. If the first is not an option, I argue that instituting a common period of free time across society – realized, for instance, with Sunday closing laws (in a modified form consistent with economic and

religious liberty) – may be the best means of ensuring effective freedom of association in a pluralistic democratic society.

Chapter 6 turns to the question of whether parents and other caregivers are entitled to workplace accommodations that enable them to combine paid work, caregiving, and free time, such as paid leave and short and flexible hours schedules. I argue that they are, if citizens' claims to free time are developed such that: citizens have *pro tanto* claims to free time in their chosen occupations; and basic caregiving for children, like other dependents, is treated as a necessary activity that (to a point) deducts from free time. Taking on these terms, I argue that they yield a presumptive claim to be able to engage in paid work, basic caregiving, or the combination, while also having free time.

One final point to make is that the core argument – that citizens are entitled to a fair share of free time – holds on any theory that endorses the effective freedoms principle, as all liberal egalitarian theories do. Across this broad range of theories, the principle is recognized and developed in different ways. So that the core argument applies broadly, it is constructed to not depend on taking particular positions on a set of contested issues across these theories. The later chapters do take positions on some of these issues (most notably related to individual responsibility) in order to draw out some of the argument's implications, but one might adopt different positions and develop the core argument in other ways, yielding another set of implications. Indeed, once the core claim is recognized, citizens' claim to the resource of free time ought to be incorporated into theories of justice in a diverse and expansive array of ways.

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Freeing Up Time

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ABSTRACT

Increasing people's control over how they spend their time is a worthy ambition. But there is only so much we will be able to do in that regard. It is important to conceptualize discretionary time in a measurable way in order to appreciate both the potential and the limits of standard policies designed to do that.

Keywords: discretionary time; free time; temporal autonomy

1. PUTTING THINGS INTO PERSPECTIVE

It is sometimes said that time is the most equally distributed resource in the world. Everyone, everywhere has exactly 24 hours in their day – no more, no less. But that is a cruel joke in all sorts of ways.

Perhaps the most important is this. Some people live longer than others. While everyone has only the same 24 hours in the day for as long as they live, some people have many more cumulative hours in their lifetimes. And given what we now know about the “social determinants of health”, there is clearly something we can do about that, even apart from finding miracle cures for nasty diseases (Wilkinson and Marmot 2003; WHO 2008; Wilkinson and Pickett 2009). Equalizing people's other resources would clearly help equalize their hours, from a whole-life perspective.

Here is another way that the equality of clock-time is a cruel joke. Some people own other people's time (in relations of slavery) or rent it (via the employment relationship). Slave owners and employers gain, and slaves and employees lose, control over time. Slavery has been everywhere (officially) abolished. But until we overcome the necessity for the vast majority of people to rent their time to employers simply in order to survive, there will be gross inequality in the amount of time over which different people have control.¹ Universal Basic Income, paid at a rate that would

¹ In pre-industrial societies (Thompson 1967), and in post-productivist ones (Goodin 2001), people have more control over their time.

make abstaining from paid employment a viable option, would solve that problem – but while important experiments with that are underway, full implementation of that on a scale anything like adequate to that task is a long way off (Widerquist et al. 2013; Van Parijs and Vanderborght 2017).²

A third way the seeming equality of clock-time is a cruel joke has to do with differential access to technology. From a time-use perspective, the greatest boon to women’s lives was arguably the introduction of the electric washing machine (Gershuny and Robinson 1988; Gershuny 2000: 67). Technological innovations allow us to accomplish the same tasks in less time. Those with access to those technologies are temporally advantaged; those without it are temporally handicapped. That is another source of temporal inequalities, whatever the apparent equality of clock-time might suggest.

Finally, there are the temporal inequalities that arise from people’s own life choices. Those choices are not, in the first instance anyway, choices about how to use their time – they are instead choices about other things that have temporal implications (appreciated or not, at the time of making the choice). In *Discretionary Time* my coauthors and I (semi)jokingly concluded that, “To maximize temporal autonomy and discretionary time, people should:

- marry but never have children;
- if they do have children, never divorce; and
- maybe consider moving to Sweden” (Goodin et al. 2008: 263).

Of those three, the first two are much the most important. Caring for children is hugely time-consuming, particularly as a lone parent. No one who wishes the species to persist (or even just their pension to be paid) would wish people not to have children. But gross temporal inequalities arise between people who do and do not (or cannot) procreate, and the capacity of public policy to mitigate those disparities is strictly limited.

Those are hard facts about temporal autonomy and inequality, against which this discussion must be set. If you really want to be a temporal egalitarian, or if you really want to maximize people’s control over the way they use their time, there are many more important things to be talking about than conventionally cluster under the heading of “time use” or “work-life balance” policies.

The focus of discussion here will inevitably be on what contributions

² Of course basic income in any amount would reduce, if not eliminate, the time people have to spend in paid labor to meet their basic needs – and more so for those on low wage rates who would otherwise have to work longer hours to earn the same amount.

of a more limited sort public policy might make to people's discretionary control over the way they use their time, and the benefits they derive from so doing (the “Swedish” point, above). But let us go into that discussion with our eyes wide open to the strictly limited scope of that discussion. Were we serious about temporal autonomy and its equality, and had we power to change the world in more radical ways, there would be other far more important priorities.

2. WHAT TEMPORAL AUTONOMY IS NOT

Julie Rose (2016) is right to focus her book on “free time”. Strictly speaking, that is a misnomer in terms of the standard time-use coding conventions.³ But it is nonetheless clear what Rose (2016: 4) wants, which is that we be guaranteed “hours for what we will”. That is “discretionary time” in our book of that title (Goodin et al. 2008). It is the time over which one has discretionary control, the time that is left over after discharging all of life's necessities in various dimensions. That is the time over which one enjoys “temporal autonomy”.⁴

There are two important things to notice about discretionary time, right from the start. The first is that people will often choose to spend some (yea, much) of it doing more-than-is-strictly-necessary in those very same dimensions. If the poverty line defines a minimum necessary income, then the time it takes you to earn a poverty-level income at your wage rate is your “necessary time in paid labor”. But, quite reasonably, most of us are not content with a poverty level income, and we spend much more time in paid labor than strictly required just to earn just a poverty-level income. Ditto cooking and cleaning and caring for the kids. It is perfectly reasonable (indeed, wholly laudatory) that people should spend more of their time in each of those activities, too, than is minimally necessary. The point is merely that, when people spend more time in those activities than strictly is necessary, that should be seen as a choice of how to allocate their discretionary time. It would be a huge mistake to think that people are

3 In standard time-use terminology, “free time” is time not actually spent in necessary activities of life (paid labor, unpaid household labor, personal care) (UN 2005: 193). But however “necessary” the activities (sleeping, etc.) may themselves be, people can – and typically do (more on which below) – spend far more time than strictly necessary engaged in them. Hence what time-use researchers conventionally call “free time” might better be dubbed “spare time” (Goodin et al. 2008: 51-2; Rose 2016: 59). “Leisure time” is time spent in specific leisure activities (sport, watching television, or whatever). Not all free (spare) time is spent in any of those specific leisure activities.

4 Although, as I shall go on to argue, “temporal autonomy” involves other considerations as well considerations, including those of when you do what, and how much control you have over how you discharge those tasks.

enjoying discretionary time only when they are engaging in what would conventionally be called “leisure activities” (playing sports, or going to the cinema, or whatever).

The second crucial thing to note is that “free” or “discretionary time” speaks to the value of “temporal autonomy”. That is not conceptually distinct from the “equality of temporal autonomy”.⁵ Whether or not what maximizes temporal autonomy also equalizes it across society as a whole is purely an empirical question. As it happens, it seems that households that practice temporally inegalitarian divisions of labor also have (across the household taken as a whole) less discretionary time as well.⁶ But that is purely a contingent matter, an empirical truth rather than an analytic one.

3. EMPIRICS MATTER

Rose eschews empirical measures of discretionary time. Indeed, her philosophically preferred conceptualization of “free time” in terms of how much time it takes each individual to meet “basic needs” in his or her own very particular circumstances would almost certainly defy any attempt at systematic empirical operationalization (2016: 55-7). Rose (2016: 57) concedes as much when weakening her recommendation as I shall discuss shortly.

In *Discretionary Time*, we employ a “social benchmark” operationalization modelled on the standard conceptualization of the poverty line (Goodin et al. 2008: 34-53). As such, ours is a socially relative measure. Rose (2016: 55) complains that that fact renders it “potentially responsive to spurious social factors” – “individuals ... might, due to competitive pressures or other social norms, spend either more time or less time than is objectively necessary” in any given activity. True, but the standard measure of “poverty” (as having less than half the median equivalent income among people in your country [Atkinson 1998]) is relative in just the same way and for good reason (Townsend 1979). Rose (2016: 55) further complains that our measure takes no account of the extra time disabled people may need to perform the same tasks as others. But neither, of

5 While Rose (2016: 128-34) officially leaves the choice of distributive rule open, when she calls for everyone to have a “fair share of free time” it is clear that that would be a more egalitarian distribution than at present. Here and in what follows, you can substitute for “egalitarian” any of those other distributive rules that Rose envisages and the same basic point would remain.

6 Across the eight countries studied in Goodin et al. (2008: 229), an “Equal Temporal Contribution” division of household labor gives a household an hour or two more discretionary time on average than inegalitarian “Male Breadwinner” or “Most-efficient Breadwinner” divisions of household labor.

course, do conventional poverty measures take any account of the extra money that disabled people need to perform the same tasks as others. So we are in good company, and I shall go on to argue for good reason.

Conceding the empirical inscrutability of her philosophically preferred conceptualization of free time, Rose (2016: 57) proposes for the purposes of a public standard of justice a measure of free time that is only “moderately tailored to relevant individual circumstances”⁷ By that she means it should take into account, not how much time it would take any particular actual individual to perform a necessary task, but rather how long “is objectively necessary for individuals in a set of relevant circumstances”, such as a particular class of disability. Given a suitable data set, a “social benchmark” akin to ours in *Discretionary Time* could indeed be constructed for people with each specific class of disability. However, notice that that measure itself would elide individual differences among persons within the same broad disability class, in just the same way (merely to a lesser extent) that Rose complains about in our original measure of discretionary time.

Furthermore, that added granularity would come at a cost. Public policy inevitably, and from a rule-of-law perspective rightly, operates through a system of rules that are general in form (Goodin 1995: ch. 1). For policy purposes, special needs such as those of the disabled are better seen as “exceptional circumstances” to be addressed separately, perhaps sometimes even on a purely case-by-case basis. Likewise when compiling social statistics to inform policy, it is better to employ whatever indicators best reflect the situation of the general population as a whole. That is what should inform general policy. It would be quite wrong to let general social policy, or social statistics either, be unduly driven by the need to accommodate the very special circumstances of some small and very special (however sympathetic) subgroups of the population.

The advantage of using the “social benchmark” standard that we developed in *Discretionary Time* is that it allows us to calibrate relative effects of different social circumstances and policy interventions on people's temporal autonomy. Using that measure, it becomes clear just how great are the temporal inequalities between single parents and others – and just how great those are likely to remain even with Swedish-quality support and workplace accommodation.

Here is the crucial calculation. In the US, people in childless dual-earner households have around 94 hours per week of discretionary time,

⁷ As Rose (2016: 46-7; cf. 87) acknowledges, in order for it to play a role in a public theory of justice, we need a concept of free time such “that it is possible to reliably and verifiably know whether an individual possesses” a given amount of it or not.

compared to 51 hours of discretionary time for US single parents. In Sweden, the figure is 95 hours per week for childless dual-earners but 70 hours a week for single parents (Goodin et al. 2008: 64). Clearly, single parents have massively more temporal autonomy in Sweden than in the US. Equally clearly, they are still massively worse off than childless dual-earners, even in Sweden. That is simply to say that there is only so much that even the very best social policy interventions can do in this realm.

4. REDUCING VERSUS REDISTRIBUTING TIME IN NECESSARY TASKS

As my earlier allusion to the electric washing machine indicates, technological innovations can sometimes reduce the total number of hours that anyone has to spend in necessary tasks of life.⁸ An electric washing machine yields equally clean clothes with far fewer temporal inputs. Telecommuting – working from home via the internet – cuts out time that would otherwise be required to travel to work. And so on.

Just occasionally, time-use policies designed to improve the work-life balance work in similar fashion. Much more commonly, they simply redistribute the necessary tasks. Child care is a prime example. Social policymakers reduce (in some places much more than in others) the time pressure on parents through a suite of taxes-and-transfers and child care subsidies, in effect “buying them out” of necessary time in child care (Goodin et al. 2008: 177-96). But these policies do little to reduce society's total amount of time spent on child care.⁹ The kids still have to be taken care of by someone. What these policies primarily do is redistribute child care time from one person (the parent) to another (the employed child carer), in the process transforming the one's “necessary time in unpaid household labor” into someone else's “time in paid labor”.

Make no mistake: that may be a very good thing in all sorts of ways. Assuming the parents are glad for the extra time and the child carer is glad for the extra money, it can be a mutually beneficial trade much to be welcomed – at least if the child carer gets paid a decent, non-exploitative wage. Socially, too, there may be something to be said for sharing around responsibility for the care of society's children.

But let us see it clearly for what it principally is: essentially a redistribution

⁸ Rose (2016: 128) alludes, in similar spirit, to variability in “how much time a society [as a whole] must devote” to necessary tasks.

⁹ Except insofar as they increase multi-tasking, with childcare workers minding more children at the same time.

rather than a genuine reduction of temporal burdens across the society as a whole.¹⁰ Statisticians quip that if all married men divorced their wives and hired them back as housekeepers the National Income would double (Clark 1958). Let us not fall for a similar sleight of hand, here, mistaking a change in coding categories for a real overall reduction.

5. TIME SHIFTING AND HARMONIZATION

Much the same can be said about Rose's (2016: 112-26) proffered “workplace accommodation” policies for easing the temporal burdens on parents. Insofar as that merely amounts to letting parents attend to child-related duties during working hours, and making up that lost time to their employers at some other time, parents would experience no net gain in free time as a result. They would gain more discretionary control over when they do what they have to do – and of course that is a genuinely important dimension of temporal autonomy in its own right. But that is not to be confused with giving parents their “fair share of free time”, as Rose often puts it. Time-shifting leaves the sum-total of one's temporal commitments completely unchanged.

Discretionary control over when to do what one has to do is important in all sorts of ways. It is the difference between working on a production line and “being one's own boss”. It is the difference between working to a “roster” and being perpetually “on call”. It is crucial for being reliably able to coordinate time to share with partners and friends.

Flexitime works fine for that, when you are just trying to coordinate with one or a few others. It works less well when there are many others with whom you are trying to coordinate, particularly for different purposes. Rose (2016: 99-101) advocates Sunday closing legislation on the grounds that they are a means of orchestrating “shared free time” across the entire society.

Rose describes a common period of free time across the entire society as being necessary to ensure “freedom of association”. Associations are affinity groups. Rose (2016: 101) mentions, as examples, associations among people united in a political cause, a religious practice, a family or a social network. Here, we are talking about people getting together with

¹⁰ Note that with paid child care of any form, someone has to spend time in paid labor to pay for it as well as someone paid for the purpose having to spend time taking care of the children. (Funding child care through progressive taxes minimizes the former factor but hardly eliminates it.) The sum of those two factors will almost certainly exceed the time that would have been necessary if the children were cared for through unpaid household labor.

others with whom they antecedently know they have something in common.

Even more important might be the way in which a period of common free time might facilitate people unintentionally bumping into others with whom they have no prior acquaintance and nothing knowingly in common. Extreme social segmentation, combined with the hyperpolarization that it breeds, is bad for a society. There is surely a strong case to be made for “random sorting”, and for a common period of free time across the entire society to facilitate that – just as in earlier periods there was a case to be made for public parks as places that people otherwise segregated by class and ever so many other dimensions of social difference could brush up against one another and, with luck, come to see one another as fellows (Sunstein 2001: 23-50). As that example suggests, however, a period of common free time is not enough to ensure social mixing – common public spaces are required as well.

6. AUTONOMY IN (AND NOT JUST OVER) TIME USE

If we care about people's autonomous control over their time, then we should (as I have said) care about their autonomous control over when they do what they have to do, as well as over how much time they spend doing it. A concern with people's autonomous control over their time should also lead us to care about how much control they have over what they are doing, whether they are engaging in that activity out of choice or necessity.

That is true across the range of possible uses of their time. People need to spend a certain amount of time (and typically choose to spend still more) cooking and grooming and raising their kids. Autonomy is served by their having a choice whether or not to spend extra time in those ways. But autonomy is also served by their having more than just one choice (or any small number of choices) in what to cook, how to groom and how to raise their kids. That is one of the standard things said in praise of liberal societies in general.

Something analogous is importantly true as regards time spent in paid labor. Across the eight countries we studied, people of prime working age spend on average around 38 hours in paid labor, around half of that out of choice and half out of necessity (Goodin et al. 2008: 88). If we care about people's autonomy, we should surely care not merely about their autonomy in choosing whether, when and how long to work – important though those choices obviously are. We should also care about the degree of autonomy that people are able to exercise in doing the work that they do (Muirhead 2004). Opportunities to exercise autonomous choice within the workplace

are as important as opportunities to exercise autonomy in how much time to spend at work.

7. WELFARE IS SOMETHING ELSE YET AGAIN

Finally, recall that autonomy is one thing, welfare another. The two may be contingently connected. Indeed, they typically are. Having a choice enables you to get what you want, making you (subjectively, anyway) better off in consequence. However strongly that contingent connection, however, autonomy and welfare are nowise identical.

Time and discretionary control over it is a resource. However, how much “good” one derives from that resource depends on how one uses that resource. Poverty researchers say the same thing about money: a miser with a lot of money in the bank is resource-rich, even if (because he refuses to spend any of it) he is welfare-poor (Ringen 1988).

Ensuring that people have adequate (or equal) resources – whether of free time or other sorts – can be a socially important goal in and of itself. It enhances their autonomy. It equalizes their opportunities. But we should not fool ourselves into thinking that ensuring adequate or even equal temporal autonomy to everyone will necessarily lead to equality of welfare, to equality the quality of their lives.

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Free Time, Freedom, and Fairness¹

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ABSTRACT

Julie Rose argues that free time is a proper concern of distributive justice and that all citizens have a legitimate claim to a fair share of free time. Her argument relies on the effective freedoms principle, which says that all citizens have a legitimate claim to a fair share of the resources required to exercise their formal liberties and opportunities. Rose argues that free time is one such resource, which entails that all citizens have a legitimate claim to a fair share of free time. I argue that Rose’s argument does not establish a claim to *a fair share* of free time, at least not if we understand fairness to mean something more than that all should receive their due. I also suggest an extension of Rose’s argument that yields the conclusion that all citizens have a legitimate claim to *a cooperatively fair* share of free time.

Keywords: time, justice, freedom, rights, fairness, work

“In capitalist society, free time is produced for one class by the conversion of the whole lifetime of the masses into labourtime.” (Marx 1976: 667)

1. INTRODUCTION

In *Free Time*, Julie Rose argues that “justice requires that all citizens have a fair share of free time” (2016: 4; see also 1, 5, 17, 63, 68, 73, 85, 92, 128). Rose defines free time as “time beyond that which is objectively necessary for one to spend on one’s own basic needs, or the basic needs of one’s dependents” (2016: 58). Accordingly, justice requires that all citizens have a fair share of time to spend on pursuits other than these basic needs. This thesis might appear uncontroversial, but, as Rose notes (2016: 1, 3, 17-18, 90), most contemporary theories of justice do not include any principles concerning the distribution of free time. Moreover, if sound, her argument

¹ I am grateful to Tom Parr, two anonymous reviewers, and Lauren McGillicuddy for helpful written comments on an earlier version of this essay.

warrants a complaint of justice against most societies, for few societies seem to secure a fair share of free time for all.

Rose's argument starts with the *effective freedoms principle*, which Rose states as follows (2016: 66-7; see also 4, 73, 74, 101, 111, 128-30): "citizens have legitimate claims to a fair share of the resources generally required to exercise their formal liberties and opportunities". Rose takes this principle as a given, since it is endorsed by "nearly all theories of distributive justice" (2016: 66; also 90). Liberals tend to use this principle to defend conclusions about material conditions, but Rose argues (2016: chapters 3 and 4) that free time is generally required to exercise formal liberties and opportunities. To illustrate, think of the political rights of democratic citizenship: rights to form, join, and leave political parties, to voice one's opinion in political matters, to participate in elections, and so on. Exercising these rights takes time – time to discern the nature of political questions, the positions of the candidates, what justice and efficiency requires, and to vote on election days (Rose 2016: 73-74). In general, it takes time to exercise many of the formal liberties that liberals argue all citizens should enjoy; so, by the effective freedoms principle, justice requires that all have a fair share of free time. Here is the argument in overview:

1. All citizens have a legitimate claim to a fair share of the resources generally required to exercise their formal liberties and opportunities. (= The effective freedoms principle.)
2. Free time is a resource generally required to exercise one's formal liberties and opportunities.
3. Therefore, all citizens have a legitimate claim to a fair share of free time.

Rose's argument offers an important corrective to a theoretical neglect of a real and practical dispute. Free time is a subject of justice; it has been neglected by political philosophy, and all citizens have a claim to free time. Moreover, since time has played a central role in the struggle between capital and labor, the theoretical neglect of free time, and time more generally, is remarkable. The history of the working class is as much a history of the struggle for time – for shorter and reasonably organized work-weeks, pay for overtime, lunchbreaks, sick-days, holidays, vacation, varieties of paid and unpaid leaves – as for fair wages and workplace safety.² This struggle for time continues.

However, I have some concerns about Rose's argument. Rose relies on the

² For example, the 1891 Erfurt Program of the German Social Democratic Party demands an eight-hour workday, limitations on night-work, and uninterrupted rest periods of at least 36 hours once per week (e.g. Sundays off work).

effective freedoms principle to establish the conclusion that all citizens have a legitimate claim to *a fair share* of free time. But I doubt that the effective freedoms principle can get her this conclusion, at least not if we understand “fair share” in terms of cooperative fairness.

I also worry that Rose’s reliance on the effective freedoms principle leads her to miss an opportunity for thinking about free time as an issue of justice which is theoretically appealing, true to the historical (and continuing) struggles for time, and can support the sort of claims to a *cooperatively fair share of free time* that the effective freedoms principle does not deliver.

My argument begins with a few distinctions. First, I distinguish between two parts of economic justice, which I call enabling and distributive justice. The former requires that all citizens are enabled to participate as free and equal in social cooperation, the latter that the distribution of the benefits and burdens of cooperation is fair. Second, there is the already indicated ambiguity in the notion of fairness. Fairness can be understood as the somewhat vacuous requirement that the resources useful for pursuing conceptions of the good in general (so-called *all-purpose means*) should be fairly distributed. But it can also be understood in terms of the more specific notion of cooperative fairness, where it says that cooperators have a claim to receive a fair share of the benefits, and to carry only a fair share of the burdens, of their cooperation.

Third, there is an ambiguity in the effective freedoms principle which leads to two different arguments that free time is a concern of economic justice. Free time is of concern to justice, both because free time is necessary for exercising basic liberties and because free time is an all-purpose means.³ This duality is mirrored in two different readings of the effective freedoms principle and these, in turn, issue different requirements of justice with respect to free time. On one reading, the effective freedoms principle is tied to the basic liberties. On another reading, the effective freedoms principle is tied to the ability to freely pursue one’s interests. Rose does not have to choose between these meanings, for she shows that free time is a resource in both senses. However, I argue that the effective freedoms principle is best understood as tied to basic liberties, and that, thus understood, the claims of justice it supports are not claims to fair shares of free time, but rather sufficientarian claims to adequate amounts of free time.

The indicated ambiguities are not particular to Rose’s argument, nor do they by themselves produce fallacies or nasty dilemmas. But resolving them

3 “[F]ree time is required both to exercise many of one’s fundamental freedoms and to pursue one’s con-ception of the good, whatever it may be” (Rose 2016: 71).

will, I hope, bring more clarity to the (in my opinion, limited) purchase of the effective freedoms principle. It will also allow me to suggest a way to extend Rose's argument so that it supports the conclusion that all citizens have a claim to a cooperatively fair share of free time.

2. ECONOMIC JUSTICE: ENABLING AND DISTRIBUTIVE

If we accept the Rawlsian idea that we should think about the principles of economic justice as the basic rules of cooperation between free and equal citizens, the principles of justice can then be applied to draw distinctions between different resources (or primary goods) according to how they are related to the social cooperation governed by these principles. In the Rawlsian framework, these all-purpose means include basic liberties, opportunities, wealth and income, and the social bases of self-respect. Some of these resources (the basic liberties and the resources required to exercise them) are of interest to economic justice because they enable citizens to participate as free and equal in the system of social cooperation. Other resources are of interest to ensure the ongoing fairness of the distribution of opportunities to pursue one's goals, benefits, and burdens of cooperation.

The general notion of all-purpose means can thus be disaggregated into three ways in which resources are of interest to economic justice:

First, as basic rights and liberties necessary for citizens to develop and exercise the moral powers engaged in social cooperation.

Second, as the material (and temporal) background conditions for citizens to actually enjoy these rights and liberties to the sufficient degree.

Third, as the inputs and outputs (burdens and benefits) of the productive and distributive processes of social cooperation.

Of course, the same resource can appear in multiple categories. Thus, wealth will appear both as the second and third sorts of resource, since some wealth is necessary to exercise one's basic rights and wealth is an output of social cooperation.

This way of thinking about how resources are significant for justice also indicates a division of the subject of economic justice – a division that I believe is general to those liberal egalitarian theories of justice that should share Rose's commitments, and which turn out to be helpful for my discussion of her argument. This is the division between the enabling and

the distributive parts of economic justice.⁴

Enabling justice is concerned with empowering all citizens to be free and equal participants in social cooperation. *Distributive* justice is about how we should distribute the burdens and benefits of social cooperation taking place among citizens thus empowered. Enabling justice requires that all members have access to the rights and means sufficient to participate in social cooperation as free and equal. Distributive justice requires that citizens carry at most a fair share of the burdens and receive at least a fair share of the benefits of social cooperation. In terms of the three kinds of resources identified above, we can say that enabling justice is concerned with the first two kinds; distributive justice with the third kind. In Rawls's theory of justice, the first principle of justice expresses the requirements of enabling justice, the second principle expresses the requirements of distributive justice. Enabling justice is *sufficientarian*. The aim is to ensure that all citizens are empowered to cooperate, which means they should all enjoy access to the basic liberties and the means sufficient to exercise these. Distributive justice could be, but typically is not sufficientarian, for the claims it supports are to fair relative shares of burdens and benefits.

3. TWO NOTIONS OF FAIRNESS

The general requirement of economic justice is that we should seek a just (we might say, *fair*) distribution of all-purpose means. Rose shows that free time is an all-purpose means and so should be fairly distributed. However, notice that little is revealed by saying that these resources should be fairly distributed. This general notion of fairness says little more than that these resources are proper subjects of economic justice, so that all should receive their due of these. It is the role of the principles of economic justice to specify what a fair distribution of these resources would look like.

We find a more interesting notion of fairness when it is defined in terms of cooperation, so that the basic norm is that the rules that govern cooperation must secure each cooperator's claim to a fair share of the benefits and burdens of their cooperation. To be clear, here are the two notions of fairness:⁵

4 These two parts do not exhaust the subject of justice, but they are the main parts of what I call economic justice, that is, the principles that should guide the design of institutions that define and regulate social cooperation.

5 There are, of course, many others.

Non-cooperative fairness: we can talk about fairness as the general notion governing the distribution of all-purpose means in general. The norm is that all-purpose means should be fairly distributed.

Cooperative fairness: we can talk about fairness in terms of the *claims of cooperators* to the benefits and burdens of their cooperation. Here the norm is that all cooperators receive at least a fair share of the benefits, and carry no more than a fair share of the burdens, of cooperation.

The distinction applies in other contexts as well. If we are served with a pie, then all should receive their fair share of it (non-cooperative fairness). If we bake the pie together, each has a claim to a fair share of it (cooperative fairness). But the distinction has particular relevance for economic justice, for theories of economic justice can be divided into those that theorize economic justice in terms of cooperative fairness and those that do not.

The non-cooperative notion of fairness is pre-theoretical and vacuous. To say that justice requires that all receive their fair share in this sense is to say that all should receive their due – a statement that, if not analytical, is so generic that any and all theories of justice could include it. Libertarians, classical liberals, socialists, Rawlsians, and social democrats could all agree to this principle, while disagreeing about what it means.

The cooperative notion of fairness is the general norm of what I called distributive justice above. It presents us with a stronger and more interesting notion of fairness. One indication of its relative strength is that right-liberal and libertarian theories of justice would not accept it as norm of economic justice, since they reject the idea that we should think of society as a system of social cooperation (e.g. Hayek 1978; Nozick 1974: chapter 7). And it is more interesting, since the notion ties fairness directly to the claims that cooperators can make on each other as cooperators, which invites more demanding norms of reciprocity and the idea that departures from an equal distribution must be reasonably acceptable to those who have less (since all come into the cooperative relationship as free and equal and thus with an initially equal claim to the benefits and burdens of cooperation).

To further illustrate the distinction, it might be helpful to think again in terms of Rawls's theory of justice. The general question is what a fair distribution of all-purpose means would look like (using the non-cooperative notion of fairness). The two principles of justice answer this question. However, this answer involves the cooperative notion of fairness, namely the claim to a fair share of benefits and burdens that each cooperator has as cooperator. While this cooperative notion of fairness is

more specific in terms of content than the first, it also needs further specification. In Rawls's theory this further specificity is provided by the second principle of justice. Other theories might offer different principles to specify cooperative fairness, but the notion itself restricts the domain of available answers.

With this distinction in mind, we can see that Rose's conclusion that all citizens have a claim to a fair share of free time is ambiguous between the weaker conclusion that free time should be fairly distributed where fairness is used in the non-cooperative, untheorized, and less demanding sense; and the stronger conclusion that free time is subject to the norms of cooperative fairness. In the following two sections I argue that Rose's arguments from the effective freedoms principle can support only the weaker of these two conclusions. In section 5 I sketch an argument that leads to the stronger conclusion.

4. TWO READINGS OF THE EFFECTIVE FREEDOMS PRINCIPLE

Corresponding to the two senses in which free time is a resource, we can distinguish between two readings of the effective freedoms principle:

General liberty reading: All citizens should receive a fair share of all-purpose means useful for freely pursuing their conception of the good, whatever it may be.

Basic liberties reading: All citizens have a legitimate claim to the resources adequate to exercise their basic liberties.

Both of these are at work in Rose's argument; the first, when she treats free time as an all-purpose means; the second, when she treats it as required for the exercise of basic liberties.

It seems clear that the first reading of the effective freedoms principle simply restates the general requirement of non-cooperative fairness that all-purpose means should be fairly distributed, which means that nearly all theories of justice can include it.

The second reading of the principle has more bite, and it seems that right-liberals and libertarians would reject it. This need not concern Rose, for the principle has a secure place in any liberal egalitarian theory of justice of the sort which Rose argues should concur with her conclusions. Rose shows that free time is necessary for various basic liberties, including freedom of occupation, basic political rights, and freedom of association (2016: 91, 73-4, chapter 5). These arguments successfully establish that all citizens have a claim to the sufficient measure of free time required to exercise these liberties.

Though Rose uses both readings of the effective freedoms principle, this is a strength of her argument, rather than a problem, for it shows that free time is a subject of justice in two distinct senses: in general, as an all-purpose means, and in particular, as a condition of the exercise of basic liberties. The problem, rather, is that neither of these senses supports the stronger conclusion that free time is a subject of cooperative fairness, which means that her conclusion – that all citizens have a claim to a fair share of free time – is true only if we take fairness in the non-cooperative and vacuous sense. At least, so I argue in the following section.

5. FREE TIME AS SUBJECT OF ENABLING JUSTICE

To give some substance to my worry, it will be helpful to look at the place of the effective freedoms principle in Rawls's theory of justice.⁶ Looking at Rawls also offers further explanation for why enabling justice is sufficientarian.

Rawls repeatedly says that something like the effective freedoms principle defines membership in the family of liberal theories of justice. Rawls defines liberalism as those theories of justice that affirm the basic rights and liberties familiar from liberal democratic regimes, give special priority to these rights and liberties, *and* secure for all citizens "adequate all-purpose means to make effective use of their liberties and opportunities" (1996: 6; see also *lix*; Rawls 2008: 12; Rawls 2001: 141). In this sense he affirms the effective freedoms principle. Yet the effective freedoms principle is not a distinct principle alongside the two principles of justice as fairness, and Rawls appears to think it is covered by what he says with respect to the enabling conditions of the first principle of justice, the principle of equal basic liberties.

The first principle itself does not affirm or contain the effective freedoms principle, but in *Political Liberalism*, Rawls writes that the first principle should be understood as working within a setting where citizens' basic needs are met, "at least insofar as their being met is necessary for citizens to be able to understand and to be able to fruitfully exercise those rights and liberties" (1996: 7). Thus, Rawls employs the effective freedoms principle in the second, basic liberties reading identified above. And as such, the principle issues the *sufficientarian* requirement that basic needs are met, where needs are understood as the preconditions for exercising the basic rights and liberties. Accordingly, it is not the case that citizens have a legitimate claim to a fair share of the resources required for

⁶ Rose (2016: 67, 70) mentions Rawls as exemplary endorser of the effective freedoms principle.

exercising their basic liberties; rather, they have a legitimate claim to the amount of those resources adequate to exercise their basic liberties. By the distinction drawn earlier, the effective freedoms principle thus serves as a principle of enabling rather than of distributive justice.

The role of the effective freedoms principle in Rawls's theory illustrates how it serves as a principle of enabling justice, and can be satisfied *whether or not citizens receive a cooperatively fair share of resources*. As a principle of enabling justice, the principle carries a target and cutoff point for the resources it covers – once all citizens have enough of those resources to exercise their basic liberties, it issues no further requirements.

To summarize, once we have the distinction between enabling and distributive justice in hand, and once we have distinguished between non-cooperative and cooperative fairness, and once we have clarified the two readings of the effective freedoms principle, we can say that:

First, if we use the general liberty reading of the effective freedoms principle, then the principle says little more than that all-purpose means should be fairly distributed, where fairness is used in the non-cooperative, pre-theoretical, vacuous sense. In this employment, the effective freedoms principle does support the conclusion that free time should be fairly distributed, but not in the strong sense of cooperative fairness.

Second, if we use the basic liberty reading of the effective freedoms principle, then the principle is a principle of enabling justice. As such, it issues strong requirements of justice with respect to free time, namely, that all must enjoy access to free time sufficient to enjoy their basic liberties. However, this requirement does not support claims to fair shares, merely to adequate amounts.

So, *third*, neither of the two readings of the effective freedoms principle can be used to establish the conclusion that the distribution of free time is a subject of the cooperative norms of fairness of distributive justice.

So, *fourth*, Rose's argument has not established that all citizens have a claim to a fair share of free time, if we understand fairness in the stronger sense of cooperative fairness.

Rose's main conclusion that free time is a subject of justice stands untouched by my argument. Indeed, she has shown that the distribution of free time should be fair, if we understand fairness in the general, pre-theoretical, non-cooperative sense that people should receive their due share of free time. Moreover, as Rose makes clear (2016: 128-3), she

does not claim that her argument determines which principle should govern the distribution of free time, so she can leave that matter to be settled by the various theories of justice in light of their respective interpretations of fairness.

However, by relying on the effective freedoms principle, Rose's argument misses an opportunity for developing free time as a subject of what I have called distributive justice and thus as subject to the stronger norms of cooperative fairness. In the following section I offer a suggestion to extend Rose's argument and make free time a subject of norms of cooperative fairness; thereby offering a way to reach the conclusion that all citizens have a legitimate claim to a fair share of free time, in the stronger, cooperative sense of a fair share.

However, first, I want to acknowledge two complications that deserve mention, though they do not change my conclusion. First, even as subjects of enabling justice, some resources are rivalrous goods: the amount of them needed to exercise a basic liberty depends on what others have. This makes it harder to determine what the adequate amount is, but it does not change the nature of the claim, which is to an adequate amount; thus, there is a threshold at which the claim of enabling justice to that resource is fully satisfied (even if this threshold varies with what others have). This point generalizes to other sufficientarian claims of justice; even if the resource covered by the sufficientarian guarantee is a rivalrous good, the nature of the claim still has the sufficientarian characteristics of adequacy, cutoff-points, and non-relativity (even if the absolute amount one has a claim to is a function of what others have, it is still not a claim to a relative share, but to enough to pass the threshold, which may depend on what others have).

The second complication is that some (if not most) resources are subjects of both enabling and distributive justice. Again, take money as an example. On one hand, money is needed to exercise basic liberties, so all citizens have a legitimate claim of enabling justice to enough income and wealth to exercise their basic liberties. On the other hand, money serves as both an input and an output of the system of cooperation (and translates smoothly into many of the benefits and burdens of cooperation), so the distribution of income and wealth *also* is a proper subject of distributive justice, meaning that all citizens have a legitimate claim to a cooperatively fair share of income and wealth. Below, we shall see that free time also is a subject of justice in both senses.

6. FREE TIME AS A SUBJECT OF DISTRIBUTIVE JUSTICE

It is, I think, hard for an argument that relies on the effective freedoms principle to deliver norms of cooperative fairness. Here I suggest a way in which Rose's argument could be extended to distributive justice and issue the more demanding norms of cooperative fairness that rule that domain. For I do think that time and free time are proper subjects also of distributive (rather than only enabling) justice, and that norms of cooperative fairness apply to the distribution of free time. But to see this, we have to think outside the scope of the effective freedoms principle.

Let us return to time and free time as resources. As Rose identifies it (2016: 46), a resource that could plausibly be the subject of a claim of justice must be "generally required to pursue any conception of the good," and it must be practically possible to know and verify whether individuals possess the resource. I suggested earlier that this general notion can be disaggregated into three sorts of resources: basic liberties, the means needed to exercise these to the sufficient degree, and the inputs and outputs of social cooperation. The basic liberties reading of the effective freedoms principle deals with the second of these; norms of cooperative fairness deal with the third. Rose shows that free time is an all-purpose means required for the exercise of basic liberties. I argue that free time is also a resource in the third sense, which makes it subject to the norms of cooperative fairness.

Why do we have social cooperation in the first place? One straightforward answer is that through social cooperation we get better access to all the good things of life: security, transportation, comfortable shelter, food, potable fluids, peace, freedom, stability, the pursuit and dissemination of knowledge, cultural enrichments, innovation and the development of technologies, health-care, comforts in old age; the list goes on and on. A host of things that human beings care about are available only in society and through social cooperation. There are, of course, inputs and outputs to the processes by which these many goods and advantages are produced and distributed: resources are both consumed and created by these processes. One way to think about distributive justice (the right way, I think) is that we need principles to guide the distribution of both inputs and outputs – the sharing of the burdens and benefits of social cooperation.

Time is one of the inputs to this process of social cooperation, and free time is one of the outputs. Even with every advance of modern technology, what we produce requires the investment of time alongside other inputs such as natural resources and knowledge. The time thus spent is work (in a

broad sense); burdensome, but productive.⁷ (This expands the concept of work to include currently uncompensated care-work and uncompensated artistic endeavors that truly enrich society). For in exchange for the collective time spent working, we get not only all the good products of our work, but our collective work also frees up time itself – the division of labor and the productive nature of social cooperation and the progress that we make when we cooperate all make it so that we do not have to work every waking hour to satisfy our basic needs or the basic needs of our dependents. (Some still do, and if they must, maybe that is unjust for the reasons Rose lists, *and* because they do not receive a cooperatively fair share of free time). If we didn't live in society and cooperate, we would spend nearly all our time trying to survive; living in society, we sometimes are released from the imperatives of basic needs and have time to do what we want. Free time is, of course, intangible and usually not traded as a separate commodity, but the same could be said for the other main social goods: freedom, security, and access to knowledge and cultural enrichments.

The norms of cooperative fairness say that the distribution of the benefits and burdens of social cooperation should be distributed in a manner that is fair to all cooperating parties. Since time is a factor of production and free time one of the products, it follows that all cooperating citizens have a claim to contribute no more than their fair share of time, that is, to work no more than their fair part, and to receive no less than their fair share of free time. They can, of course, choose to keep working in their free time, insofar as they want to exchange their free-time resource for other resources.

It is hard to say much more in the abstract about what cooperatively fair shares of benefits and burdens are. But we can say that time and free time are proper subjects of distributive justice and the norms of cooperative fairness appropriate to it. And that, in turn, allows us to say that the requirements of justice with respect to time are open-ended rather than sufficientarian (there is no target and cutoff point), that inequalities of free time need justification, that relative shares of free time matter, that the struggle for a fair distribution of work time and free time continues beyond the point where all citizens have enough time to exercise their basic liberties, and that it looks like a problem of justice when some must work a lot and others work little; when some have just enough free time, while others can choose a life of leisure. If Marx was right (cf. opening quote), the problem is not merely that the working class has insufficient free time, but

⁷ Of course, not all work is equally burdensome and perhaps some work is not burdensome at all. But for the purposes of distributive justice, it makes sense to assume, so that sentence reads "it makes sense to assume that work is normally burdensome."

that a capitalist society tends to suffer from an unfair distribution of work time and free time.

Thus, time is a subject of justice in two ways and citizens have at least two distinct claims of justice when it comes to free time. First, as Rose persuasively argues, free time is a subject of enabling justice. As such, free time is covered by the effective freedoms principle and all citizens have a claim to an amount of free time sufficient to exercise their basic rights. Second, as sketched in this section, work time and free time are subjects of the norms of cooperative fairness that govern distributive justice. As such, all citizens have a claim to use no more than a fair share of time at work, and to receive no less than their fair share of free time in return for their work.

The history of the working class struggle for time is based on both of these claims of justice. But I believe that in capitalist economies, the tendency is for the capitalists to receive more than their fair share of free time, and to provide less than their fair share of time as a factor of production. The leisure class have their good times at the expense of the hard times of the working class. And that is unfair, not because the working classes do not have enough time to exercise their basic liberties – if that is the case, it is unjust in another sense – but because this exhibits an unfair distribution of the burdens and benefits of cooperation. When the working classes keep fighting for shorter and more reasonably structured work weeks, paid vacation, and so on, they have not and need not couch their demands in terms of basic needs, for they can make their claims in terms of cooperative fairness; of carrying only their fair share of the burden and receiving their fair share of the benefits of the productive processes of society. By contrast with claims based on the effective freedoms principle (or similar principles of enabling justice), cooperative fairness justifies claims to fair shares on an ongoing basis even after all basic needs have been met. The struggle between capital and labor does not end once basic needs are met (or the effective freedoms principle is satisfied); the struggle for fairness remains.

7. CONCLUSION

Rose argues that the effective freedoms principle supports a claim for all citizens to a fair share of free time. I have argued that the effective freedoms principle is ambiguous between two readings, each of which supports a distinct argument with respect to free time. On the first reading, the effective freedoms principle restates the general idea that all-purpose means should be fairly distributed. Since free time is such an all-purpose means, it should be fairly distributed. On the second reading the principle

requires that all citizens have access to the resources required to exercise their basic liberties. Since some measure of free time is required to exercise basic liberties, all citizens should enjoy access to this measure of free time.

Both arguments are sound; Rose has successfully established that free time is a proper subject of justice. However, neither of the arguments establishes that all citizens have a legitimate claim to a fair share of free time – at least not if we understand fairness in the stronger sense of cooperative fairness. For the first argument establishes that all citizens should receive a fair share, but employs the general, non-cooperative, and vacuous notion of fairness. The second argument does not establish a claim to a fair share, but a claim to the amount adequate to exercise the basic liberties.

I also suggested a way in which Rose's argument can be extended to establish the stronger conclusion that free time is a subject of cooperative fairness, though to do so we have move beyond the effective freedoms principle. For, I argued, time and free time are real concerns of distributive (as opposed to enabling) justice, and as such are subjects of norms of cooperative fairness. Time spent working is one of the inputs and burdens of the cooperative processes by which we create the social goods, and free time is one of the outputs and benefits made available through social cooperation. Thus, all citizens have a claim to contribute no more than a fair share of their time in the form of work, and to receive no less than a fair share of free time. These requirements of distributive justice are not sufficientarian, have no target or cut-off point of adequacy, and thus support claims to a just distribution of work time and free time beyond the point where all have sufficient free time to exercise their basic liberties.

When it comes to time as a concern of justice, I believe this concern with time as a subject of cooperative fairness is as important as the concerns Rose establishes. Moreover, I'm inclined to think that this concern for time as a subject of cooperative fairness is needed to make sense of the ongoing struggles over time between labor and capital. That struggle will not and should not end once citizens have enough free time to exercise their basic rights, for an adequate amount for all is consistent with distributive *in*justice

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Free Time and Economic Class

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ABSTRACT

In her book, *Free Time*, Julie Rose argues that all citizens must be understood to have a claim to a fair share of free time. In the first part of this essay, I outline Rose's theory of free time and explain why her discussion should be regarded as an important advance on existing thinking about the requirements of liberal egalitarian justice. In the second part of the essay, I argue that reflection on Rose's conception of free time will force liberal egalitarians to confront some potentially troubling philosophical questions. These questions can be brought out by asking, first, how much free time people from different economic classes in fact have according to Rose's conception, and, second, how much free time people belonging to different economic classes should have according to this conception. Reflecting on these questions, I argue that the idea that all citizens have a claim to a fair share of free time does not support giving seemingly harried yet already wealthy professionals the benefit of more flexible work schedules, generous caregiver leave, or more humane overtime rules. The reason is that such people must be judged to already have their fair shares of free time. This fact is an indication of a significant economic class divide, which liberal egalitarians must now somehow take into account.

Keywords: free time; leisure; work; distributive justice; freedom; affluence; class

1. INTRODUCTION

Many people today complain about being overworked. According to Julie Rose, the harried professionals, working parents, and others who make this complaint may well have a point. In her new book, *Free Time*, Rose argues that, in a liberal society, citizens have a claim to more than merely the standard package of formal opportunities and liberal rights. In addition, every adult citizen should be understood to have a claim to a fair share of free time. Moreover, to ensure that everyone gets his or her fair share, it is not enough to attend to the distribution of income and wealth. After all, even a generous

wage subsidy will do a “time poor” single parent little good if she will be fired summarily for refusing overtime work. Similarly, a disabled person might be able to earn plenty of money working thirty-five hour weeks, yet his special needs may take up the rest of his waking hours unless he is able to find reliable in-home help. Accordingly, to ensure that each and every person gets a fair share of discretionary “hours for what we will,” the state must attend to the distribution of free time as well.

More precisely, if everyone’s fair share of free time is, say, eight hours per day, then, according to Rose, public policy must ensure the following four things (Rose 2016: 135). First, it must ensure that each person can actually meet his basic needs in sixteen hours per day. Second, it must make it so that each person can choose to spend no more than sixteen hours per day doing the things objectively required to meet his basic needs. Third, it must ensure that each person is normally able to meet his basic needs in no more than sixteen hours per day while working in the occupation of his choice. Finally, public policy must ensure that some of the free time that each person has each week is not merely uninterrupted but also shared with a substantial number of others. Otherwise, argues Rose, the freedom of association and cognate basic liberties of citizenship will threaten to become substantially less valuable to citizens or, at the limit, will be rendered worthless.

In defense of these claims, Rose puts forward a new conception of free time as a distinct object of distributive justice. In the first part of this essay, I will outline Rose’s theory of free time and explain why her discussion constitutes a major advance on existing thinking. In the second part of the essay, I will argue that reflection on Rose’s conception will force liberal egalitarians to confront some potentially explosive philosophical questions. These questions can be brought out by asking, first, how much free time people from different economic classes in fact have according to Rose’s conception, and, second, how much free time people belonging to different economic classes should have according to this conception. I will argue that asking these two questions will swiftly open up a Pandora’s Box in the liberal theory of social justice. What is at stake, at bottom, is how liberal philosophers, and other people committed to freedom and equality, should think about the persistence of class in modern society. It is a credit to Rose’s book that its pioneering discussion of free time will help to return this important matter to the foreground.

2. ROSE’S THEORY OF FREE TIME

The central claim of Rose’s book is that people have a claim to a fair share of free time. The reason, at bottom, is that people need free time in order to make meaningful use of their formal liberties and opportunities. For

example, if you have to work five days a week from morning till night as well as on weekends just to pay the rent and avoid eviction, then many of the most important liberties of citizenship will for this reason be rendered worthless to you. Forced to be at work at all hours on pain of losing your job, falling behind on the rent, and getting kicked out by your landlord, you will have little use for the freedom to engage in protest and peaceful assembly, to join a political or social organization, or to make other uses of the freedoms of speech, conscience, and association. More generally, in order to make effective use of the numerous legal freedoms you have as a citizen to pursue your personal projects whether alone or with others, you need not just the money but also the time away from work that is required to make some meaningful headway on your goals. It is no use signing up for a course in Spanish, for example, if there is simply no way you will be able to free up the time to attend the nightly classes and do the homework. The same goes for all of your other personal projects, from trivial to all-important, just as long you cannot advance these projects while you find yourself stuck at work. Yet surely, argues Rose, if it is of central importance to give everyone a range of formal rights and freedoms, then it must be centrally important that everyone be afforded the time to make some meaningful use of these freedoms as well. Accordingly, we ought to recognize that, as a matter of liberal justice, people have a claim to a fair share of free time.

While the basic point may be straightforward, Rose argues persuasively that its significance for how we should think about distributive justice has been widely overlooked. The reason is that political theorists and economists alike have tended to conceive of free time as the inverse of the hours that people choose to spend in paid work. Owing in part to the grip of this standard view, it has been widely assumed that there is no need for the state to attend to the distribution of free time in order to secure distributive justice. Instead, the state's proper role is said to be to maintain a system of fair wages, using familiar mechanisms such as taxes and transfers. Then, if a person wants more free time than he currently has, he can always choose to work fewer hours and earn less.

The problem with this reasoning, argues Rose, is that the all-purpose resources of free time and income are not perfectly substitutable. This is true for at least three different reasons. The first is that labor markets are generally imperfect. At the prevailing hourly wage rates, many people would prefer to work fewer hours for a proportionately smaller take-home income. However, for various economic and non-economic reasons, most employers refuse to hire people part-time, and they routinely threaten to fire employees who do not show up for the full "nine-to-five." As a result,

a substantial number of people find themselves in a condition that economists call over-employed, that is to say, willing to give up some proportional amount of their income for additional free time yet unable to do so without losing most or all of their labor incomes altogether.

Second, there are some things that a person must do, such as being hooked up for hours to a dialysis machine, that require her presence and are therefore bound to consume her free time, regardless of whether she is provided with more income. In general, activities that are necessary to satisfy our basic biological needs – such as eating, sleeping, and exercising – are like this, and the minimum amount of time that must be spent on these activities in order to stay alive and healthy varies from person to person. Therefore, even when everyone has identical access to the exact same income, it will not normally be true that everyone is in a position to enjoy the same or even an adequate amount of free time, nor that giving people with unusually time-consuming bodily needs more *money* will always solve the problem. Sometimes, in order to have a minute to herself, what a person needs above all is someone's help – and yet there is no guarantee that the requisite form of assistance will always be for hire.

Finally, there is an even more basic reason why, from the point of view of most able adult citizens, income and free time are not perfectly substitutable. Namely, in societies like ours, the average person will eventually be allowed to go hungry and homeless unless she works for money, and therefore spending some of her waking hours earning a minimum income – at least enough to pay for the essentials – is something that the average person normally *has* to do, on pain of serious deprivation. Therefore, it is not true that for any level of income and any level of free time, a person can always straightforwardly increase her free time by quitting her job and earning less income. On the contrary, if she quits her reasonably well-paid job today, she may have to work even longer at some other, crummier job tomorrow.

Moreover, because people differ dramatically in their qualifications and hourly earning potential, the time that different people must spend earning a minimally adequate income will likewise dramatically differ. Consequently, they will have different amounts of time left over to spend with their children, educate themselves, run for public office, and so on. Accordingly, as long as people are not required to enjoy identical earning potentials on *other* grounds of distributive justice, different people are bound to have access to different amounts of free time, and a question will arise as to whether social institutions have really provided each person with his or her fair share.

In her book, Rose argues that to appreciate these and other points, we

need to stop conceiving of free time as the chosen inverse of paid labor time. Instead, the free time that a person has on any given day is better understood as twenty-four hours minus the number of hours she must spend doing whatever is necessary to meet her basic needs, on pain of failing to satisfy her basic needs. In other words, the core of the politically relevant notion of free time is opposition to an idea of compulsion or necessity. A person's free time is whatever time she is not compelled to spend doing things to meet her bodily, financial, and other basic needs, or the basic needs of her dependents – and hence time that is available for other purposes. According to Rose, it is free time in this distinct sense, of “time for what we will,” that should be recognized and treated as a distinct object of distributive justice. For without adequate free time in this sense, our formal liberties would end up being largely worthless to us.

Now, Rose suggests that reflection on her conception of free time provides a justification for extending familiar types of labor market and working-time regulation (Rose 2016: 135-45). For example, a generous minimum wage law can help to ensure that no one needs to work multiple jobs for a combined sixty hours a week simply to make the most basic ends meet. To the extent that a generous minimum wage law has this effect, it can be understood as a central means not only of giving the least well-paid workers more income and wealth, but also of giving each such worker (more of) his fair share of free time. Similarly, overtime regulations that prohibit employers from firing employees who refuse to work back-to-back shifts can be understood as a means of ensuring that each person is able to work no more than a set number of hours per day or per week, while still retaining access to an income sufficient to meet his basic needs, and thereby freeing him to take up other pursuits. Hence overtime regulations, too, look to be a tool that is normally essential to ensure that everyone will have access to his or her fair share of free time. In addition, Rose suggests that laws requiring companies to provide caregiver leave and flexible work schedules will normally be required to ensure that people with parental and other caregiving duties will be able to enjoy their fair share of free time as well. Finally, Rose argues that there may even be a case for requiring most businesses to shut down on Sundays. Otherwise, people whose employers require them to work on weekends are likely to lack a substantial amount of free time that is shared with, and can thus be coordinated and enjoyed with, a substantial number of others, including friends, neighbors, co-religionists and other possible associates.

It turns out, however, that none of these general laws and regulations are recommended by reflection on Rose's conception of free time. Instead, humane overtime regulations, mandatory caregiver leave, flexible work

schedules, and Sunday closing laws are plausibly necessary to give the least well-paid workers their fair shares of free time. However, such rules are far from necessary to liberate the seemingly harried affluent professionals who complain more than others about their impossible work hours. On the contrary, just in case some of the least well-paid workers today can be said to lack their fair shares of free time as well as their fair shares of income, this condition will normally imply that many affluent professionals should be constrained to work longer rather than shorter hours. In short, if we take seriously Rose's idea of free time as a distinct object of distributive justice, then providing seemingly harried affluent professionals with the benefit of more humane overtime regulations, flexible work schedules, caregiver leave, and Sunday closing laws will turn out to be at cross-purposes with securing a just distribution of free time, and therefore with distributive justice more broadly.

3. WEALTHY PEOPLE ALREADY HAVE THEIR FAIR SHARES OF FREE TIME

According to Rose, how much free time a person has depends on how long she must personally work to have the benefit of an income that is sufficient to pay for the essentials. On this conception, then, a person's free time evidently depends not only on the extent of her income-producing and salable wealth, but also on her maximum earning potential from labor, as well as on which of her ongoing expenses are to be regarded as essential or nonnegotiable. Imagine, then, a "house-rich" but "cash-poor" interior designer, who was once and might still be a well-paid corporate lawyer, with a large mortgage on an expensive house that is only half-way paid off, working long hours to save for residential college tuition for her three young sons. If it is not essential to have multiple guest bedrooms, work in a particular creative occupation, or spend half a million dollars on three times four years of residential college tuition, then the seemingly harried, single-parent interior designer will count as already having more than her fair share of free time. After all, she can ask her children to go to the local community college, sell the oversized house and multiple non-entry level cars, and perhaps even quit working altogether in her forties and live indefinitely off her savings, albeit on a much more modest consumption schedule than she and her children have enjoyed thus far. Alternatively, if she really does prefer to spend more than her accumulated wealth sustainably allows, she can return to earning much more per hour by practicing corporate law. From the point of view of the vast majority of workers today, these fallback options are nothing if not enviable.

Presumably, then, we should not say that the interior designer and her children would be deprived of the essentials just in case she gave up working fifty hour weeks in her existing niche occupation.

However, if we admit this much concerning what she does and does not have to do to maintain a basic level of functioning for herself and for her children, then entire classes of seemingly overworked professionals will turn out not to need any new overtime regulations, parental leave policies, or flexible work schedules in order to enjoy their fair shares of free time.¹ After all, it will often be possible for college-educated and affluent professionals to transition to a noticeably less time-consuming role or occupation, sell some of their real and financial assets, reduce their expenses, or commit to some combination of these courses of action, without ever seriously risking the non-satisfaction of their basic needs or the basic needs of their dependents. Indeed, to the extent that they already possess substantial housing and financial wealth, by cutting out some of their non-essential expenses and “down-sizing” to a modest rental apartment in a less prime location, they may well never have to work for money again.

Now, it seems reasonable to say that anyone in this enviable situation already has her fair share of free time. Where millions of others must work forty or more hours a week just to pay the rent and buy their clothing and food, a person with a fancy house in good repair and, say, an additional half a million dollars to her name does not have to work anywhere near the number of hours that she actually works, and, in truth, in order to enjoy a modest but steady income from accumulated property, she may no longer have to work at all. Presumably, then, it is not the case that public policy should enable such a person to maintain her existing class position at even less cost in time to herself, or what comes to the same thing, enable her to take even more time off from what would otherwise be tax-revenue generating employment at the public’s expense.

Certainly, this is not what Rose’s theory of free time would seem to recommend. After all, for Rose the free time that any given affluent professional has is not to be understood as the inverse of the time that she *actually* spends working a paid job. Instead, the free time that a person has is the inverse of the time that she strictly *has* to work in order to meet her basic bodily and financial needs. So, if an already rich person without any

1 There may of course be other reasons (for example, reasons of economic efficiency or political strategy) to include affluent professionals in a generally applicable working-time policy. However, if what I have said about the interior designer is correct so far, then a general policy will not be necessary to give affluent professionals their *fair shares* of free time. This is one of the main points that I will go on to elaborate in the text.

unusual bodily needs could choose to live comfortably off her existing wealth, yet chooses to spend all of her waking hours getting even richer through lucrative paid work, then the enormous amount of time that she spends at the office for this purpose should not be thought to “detract from [her] free time, for it is still available to devote to any other end” (Rose 2016: 42). On the contrary, it is precisely because she already has so much more wealth than other people that she must be understood to have far more free time as well:

“To see this distinction, consider two individuals who spend all of their time engaged in the same types of activities for the same amounts of time: each spends twelve hours per day working for pay, eight hours sleeping, one hour eating, and so forth. The first is a wealthy heiress who could easily support herself with her investment income, though she actually chooses to spend a significant portion of her time working as a model. She is not contractually bound to work such long hours; every morning she receives a call from her agent asking if she would like to work that day and for how many hours, and she suffers no penalty if she chooses not to work. The second is a day laborer with no personal wealth who can command only low wages and so must work long hours to earn enough money just to get by. She is also not legally committed to working a certain number of hours: each day she is hired by a different person on an hourly basis for her day’s work.

Though both the heiress and the day laborer engage in the same number of hours of paid work, it is implausible to contend that both thereby have the same amount of free time. They both can choose, strictly speaking, whether or not to work on a given day, but the heiress’s paid work is discretionary in a way that the day laborer’s is not: the day laborer must work in order to attain a basic level of functioning, while the heiress need not... Even though the heiress does happen to spend her time engaged in paid work, the time she devotes to paid work is still available to her to pursue other ends if she so chooses. If, one day, she wishes to go to the beach instead of working, she possesses the free time to do so...” (Rose 2016: 42-43).

The reason that the heiress must be judged to have an unequalled amount of free time – even if she chooses to work sixty hour weeks and is therefore not “leisured” in *that* sense – is that the heiress but not the average worker is always “free not to devote her time to work,” because she is free to quit working without risking homelessness or the non-satisfaction of any other basic need. In other words, precisely because she owns an extraordinary amount of wealth – enough to live comfortably even without

having to work – she must for this reason be judged to have an extraordinary amount of free time as well. In Rose’s theory, this conclusion is simply a consequence of the way that free time has been defined.

However, in this regard, the wealthy heiress who chooses to work long hours as a fashion model is just like any other affluent professional who has come into the possession of class-altering financial assets. Just like the wealthy heiress, the former corporate lawyer with a net worth of a million dollars is free to devote far less than fifty hours a week to paid work as an interior designer, without ever seriously risking having to sleep rough or facing material deprivation of any comparable kind. Indeed, the truth is that, like the heiress, the former corporate lawyer is already free to stop doing paid work altogether. For she already has enough wealth to maintain a comfortable life even if she quits her job and spends all of her weekdays at the beach instead.

However, if this is correct, then neither overtime regulations nor any sort of flexible working-time policy will be required to ensure that professionals who have managed to accumulate a liberating amount of wealth will be able to enjoy their fair shares of free time. For the very fact that they have accumulated enough wealth to live comfortably even without working entails that they already *also* enjoy an unparalleled amount of free time. Why, then, should affluent professionals be thought to have a claim in fairness to be provided with even more? Neither of the answers that a liberal egalitarian might give seem plausible in this context.

On the one hand, it will be implausible to say that wealthy professionals currently lack an *adequate* amount of free time. For, unlike the vast majority of workers, who really do have to work five days a week just to make ends meet, professionals who have a house and, say, half a million dollars in retirement accounts are already free to spend the entirety of their weekdays doing pretty much whatever they like. Like the heiress, most of them simply choose to use their free time to continue working and accumulating more wealth.

On the other hand, it would be even more implausible to say that affluent professionals lack their fair shares of free time because, while they each enjoy a fully adequate amount, they systematically have *less* of it than other workers have. For, as we have already seen above, this description is in fact the opposite of the truth. Precisely because they have been allowed to accumulate much more wealth, affluent professionals must be understood

to enjoy a much larger share of free time than almost anyone else.² Accordingly, it is hard to see why any new laws would be required to give affluent professionals their *fair share* of free time.

4. A UNIVERSAL FLEXIBLE WORK POLICY WOULD BE STRONGLY REGRESSIVE

I take it that for some readers this will not be a welcome result. Suppose, then, that in determining how long a given affluent professional must work to satisfy her basic needs, we deliberately disregard the types of facts outlined above. For example, suppose we say, with Rose (2016: 90-92), that each person is entitled to a fair share of free time *in the occupation of her choice*, so that if an interior designer with a middling full-time income could instead run a much more lucrative law practice part-time, this is to be regarded as irrelevant to the question of how many hours per month it is objectively necessary for her to be employed in order to pay her mortgage and cover all of her other bills. Similarly, suppose that we disregard the fact that she could sell one of her luxury cars and relocate to a much less expensive house, as well as the fact that she is among the one in seven Americans who was fortunate enough to inherit the equivalent of the median lifetime labor earnings of the bottom half of all workers³ – and that she could easily use some of this nest egg to cover the equivalent of the average family's monthly housing and other expenses, without spending any time at all in paid work.

If we disregard these types of facts, then even the most asset-rich and privileged professionals may well turn out not to have access to their fair shares of free time, just as long as the bosses in their chosen professions expect them to be at the office at all hours (because they pay them so handsomely for it). Against the background of such deliberate informational restrictions, however, the requirement that public policy must continually guarantee each person a fair share of free time will now turn out to be strongly economically regressive.

For consider. If investment banks, elite law firms, and similar employers are ordered to give their highest-paid employees generous paid parental and

² Again, assuming no unusually time-consuming bodily needs, this conclusion follows straightforwardly from Rose's conception of free time. On this conception, a person's free time on any given day is simply twenty-four hours minus the number of hours that she has to work to be able to buy food, adequate shelter, and to meet all of her other basic bodily and financial needs. So, if someone already has enough wealth to live comfortably even without having to work, then, as long as she does not have unusually time-consuming bodily needs, she must be understood to have much more free time than the average person currently has.

³

caregiver leave, then, not being able to squeeze their costliest employees as much as before, the corporate profits of these employers are sure to erode, and, therefore, also the tax base for downwardly redistributive transfers, including wage subsidies for much poorer service-sector workers. Moreover, even if an exception is made for such elite employers, requiring them to guarantee only *unpaid* leave to their highest-paid employees, then the tax base is *still* likely to shrink. For when richly-paid yet harried professionals are guaranteed not to be fired for taking ample unpaid time off, we can expect that many will choose to spend fewer days and months in paid work, thereby generating that much less salary income that can be taxed by the state. And yet, with less tax revenue available for general government spending and redistributive programs, either some of the state's spending will have to be cut or other – less well-paid – people will have to continue to work at least as much, if not more, than they currently do.

In short, we have arrived at a dilemma. On the one hand, there is reason to affirm that each and every person has a claim to some substantial amount of free time. Presumably, then, affluent professionals who work for absurdly demanding bosses should be understood to have a claim to more humane overtime regulations, more flexible work schedules, and so on. However, in order to count such people as having to work at all (let alone as being forced to continue working at their current jobs), we must deliberately disregard not merely their spending habits but their existing housing and financial wealth. And yet if we decide to disregard their wealth, and if we then go on to provide (even) affluent professionals with more free time in the occupations of their choice, then the aim of continuously guaranteeing each person some reasonable amount of free time will turn out to be strongly economically regressive. For when harried corporate lawyers and investment bankers are suddenly rendered safe from being fired for refusing to work on weekends, many of these exceptionally well-paid professionals will undoubtedly choose to work less and thereby reduce the redistributive tax base. As a result, less revenue will be available to subsidize the wages – and therefore also the free-time – of workers who have decidedly less of both.

On the other hand, if we try to avoid this outcome by acknowledging a person's wealth in the course of assessing what she does and does not have to do to meet her basic needs, then it will turn out that many highly-paid yet seemingly harried professionals will not need any new type of working-time regulations in order to count as enjoying a truly extraordinary amount of free time. The reason is that many of these people are already wealthy enough not to have to work anywhere near as long as they do. Indeed, many educated and affluent professionals could henceforth work strictly part-time at more or less any minimum wage job, and could even drop out of the

paid labor force altogether for years at a time, without ever seriously risking the non-satisfaction of their own or their dependents' basic needs. These are time-use possibilities that the vast majority of service-sector workers today can only dream of. Hence it seems that, if only we consider the time-use possibilities afforded by their wealth, many affluent professionals will have to be regarded as already having been blessed with a truly extraordinary amount of free time. However, if that is the case then it is difficult to see why, from the point of fairness, such persons should be entitled to even more free time at what will then be others' expense.

5. CONCLUSION

As I have already hinted, the dilemma described in this essay emanates from a deeper question facing not merely Rose but also other egalitarian liberals. Namely, in a liberal society, the distribution of wealth and income is also a principal basis for distributing free time. People who are penniless are typically expected to work long hours in order to survive, whereas people who inherit or accumulate substantial wealth are free to spend their days however they like. As a result, the wealthy generally enjoy both more wealth as well as more free time. In a liberal society, are there other ways that freedom itself is tied up with economic class? This is the deeper question that rises to the surface on a close reading of Rose's *Free Time*.

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Domination and the (Instrumental) Case for Free Time*

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ABSTRACT

This paper examines the case for fair shares of free time from a civic, or neo-republican perspective. I claim that, unlike liberal egalitarians like Julie Rose, who can make a straightforward case for free time, republicans' theoretical commitments make it more appropriate for them to throw their weight behind a portion of time specially allotted for political activity. However, as I will show, republicans have strong instrumental reasons to endorse fair shares of free time for all citizens. First, focusing on the idea of non-domination, I outline the typical preoccupations of republicanism that I believe have direct implications for how they ought to treat the topic of free time. Next, focusing on the case of domination in the workplace, I claim that fending off the threat of domination requires a substantial amount of time. Chiefly, workers need time to effectively participate in processes of *justification* and *contestation*, in order to uphold sturdy checking mechanisms that can protect them against domination. As a consequence, setting aside a window of time specially devoted to political activities, rather than free time in itself, is more consistent with the republican project. Nevertheless, in the final section, I conclude that "free time" would be instrumentally necessary on the republican picture. Fair shares of free time are a preferable means to achieving conditions of non-domination than compulsory time for political activity, for practical and principled reasons.

Keywords: republicanism; domination; freedom; workplace democracy; free time

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1. INTRODUCTION

Julie Rose has argued persuasively that liberal egalitarians ought to embrace free time as a distinct object of egalitarian concern. Specifically, she contends that free time, defined here as time that can be devoted to one's chosen ends at one's discretion, as opposed to time constrained by necessary activities, is a *resource* that citizens are entitled to a fair share of (Rose 2016: 39).¹ This is because free time is a resource that is "generally required for the pursuit of one's chosen ends, whatever those may be", as well as "generally required to exercise one's formal liberties and opportunities" (Rose 2016: 67). Rose's book is a crucial intervention into the neglect of free time despite its political and philosophical significance. My contribution to the symposium further advances this goal by examining the case for a fair share of free time from a civic, or neo-republican perspective.² I claim that, unlike liberal egalitarians like Rose, who can make a straightforward case for free time, republicans' theoretical commitments make it more appropriate for them to throw their weight behind a portion of time specially allotted for political activity. However, as I will show, republicans have strong instrumental reasons to endorse fair shares of free time for all citizens.

In Section 2, focusing on the idea of non-domination, I outline the typical preoccupations of republicanism that I believe have direct implications for how they ought to treat the topic of free time. In Section 3, focusing on the case of domination in the workplace, I claim that fending off the threat of domination requires a substantial amount of time. Chiefly, workers need time to effectively participate in processes of *justification* and *contestation*, in order to uphold sturdy checking mechanisms that can protect them against domination. As a consequence, setting aside a window of time specially devoted to political activities, rather than free time in itself, is more consistent with the republican project. Nevertheless, in the final section, I conclude that "free time" would be instrumentally necessary on the republican picture. Fair

1 We should leave open the possibility that at least some *non-citizens* might be entitled to time-related rights, especially those who participate in the host country's workforce. However, this discussion, as Rose's does, will focus only on citizens.

2 Here, I don't claim that republicanism is the theory of justice we ought to prefer. Rather, I am interested in seeing how much of Rose's argument for fair shares of free time can be preserved in a different political framework, as well as calling attention to the temporal dimension within republicanism. Neither do I claim that the central argument I make for free time is the only republican path that can be taken to this destination. For example, the labor republicans discussed by Alex Gourevitch in *From Slavery to the Cooperative Commonwealth* (Cambridge: Cambridge University Press, 2014) have contended that each person needed adequate time for political engagement and personal development. My intention is simply to highlight one of the core preoccupations of contemporary civic/neo-republicans and show how this might lead to a distinctive instrumental argument for fair shares of free time.

shares of free time are a preferable means to achieving conditions of non-domination than compulsory time for political activity, for practical and principled reasons.

2. CIVIC/NEO-REPUBLICANISM AND NON-DOMINATION

2.1 The definition of republicanism

Characteristically, republicans believe that the existence of domination is what makes the exercise of power unjust. I will avoid commenting on disagreements between various strains of civic republicanism, instead only seeking to outline what I take to be the fundamental tenets of a republican theory. In line with Philip Pettit's influential account (1997), there are three basic aspects to any dominating relationship. Someone has dominating power over another to the degree that they have the capacity to interfere, on an arbitrary basis, in particular choices that the other is able to exercise (Pettit 1997: 52-4). Interference may encompass a wide range of possible behaviors, including coercion of their physical body or will, as well as manipulation, which takes the form of agenda-fixing, deceptively shaping people's beliefs or desires, or rigging the consequences of their actions (Pettit 1997: 52). It worsens agents' situations by altering their range of options, the predicted payoffs assigned to those options, or by establishing control over which outcomes will result from which options (Pettit 1997: 53). Importantly, it is not necessary that the dominating agent actually interferes with the dominated party; in fact, the person who enjoys that power need not even be inclined towards interference (ibid). The emphasis, instead, is on their effective capacity to interfere, which leads the power-victim to live at the mercy of the power-bearer (Lovett 2013: 98). In addition, exit costs on the part of the power-victim, which Frank Lovett terms "dependency", play a role in determining a dominating relationship's level of intensity. As he puts it, "the greater the dependency of subject persons or groups, the more severe their domination will be, other things being equal" (Lovett 2013: 50). Suppose that leaving a dominating social relationship would worsen someone's prospects, and that undertaking the move itself would impose further costs and risks (ibid). The higher the exit costs for the dominated party, the more leeway dominating agents have in treating her poorly, as they can do so with the knowledge that she is not likely to leave the relationship.

For my present purposes, I want to focus more closely on what it means for interference to be *arbitrary*. I take interference to be arbitrary when it

is only subject to the discretion or goodwill of the power-holder, and is not forced to track the interests of those who are interfered with (Pettit 1997: 55).³ Of course, power-holders may freely cater to the interests of those they interfere with, like in the case of a benevolent dictator who cares deeply about the well-being of her subjects. Nevertheless, the benevolent dictator still dominates insofar as her interference is unchecked, unconstrained, or unaccountable (ibid). In what ways, then, can power-holders be “forced” to track the interests of their power-subjects? Checking mechanisms – institutional arrangements that place limits on how power-holders may use their power – may perform these three functions:

- a. *Justification*: ensuring that power is justified to its subjects, whether by appeal to norms of public reason, and/or through their participation in democratic processes;⁴
- b. *Contestation*: ensuring that subjects of the power are able to protest if their interests fail to be met;
- c. *Retribution*: ensuring that power-holders are appropriately punished if they do not track power-subjects’ interests. (Benton 2010: 408).

As the next section will reveal, the need for robust checking mechanisms, especially those pertaining to justification and contestation, is of special importance to the relationship between republicanism and time.

To sum up, for republicans, society must aim for a distribution of rights, goods, and resources that secure each individual’s status as safe from domination. One necessary condition for non-domination, which I continue to focus on in the remainder of this article, is the existence of sturdy checking mechanisms that force power-wielding agents to track the interests of their power-subjects.

3 I leave open how “interests” ought to be determined.

4 For Benton, justification refers to governments having to give citizens reasons for their decisions, as well as being forced to respond to citizens’ interests through the democratic process. However, one concern is that she provides an incomplete account of the role of democratic procedures. Other than forcing reason-giving and responsiveness from those in power (termed the “output-based view” by Bellamy (2008)), democracy also encompasses participation that render decisions non-arbitrary (termed the “input-based view”). On the “input-based view”, it is not the content of the decisions made that renders power non-arbitrary, but my having equal status in public decision-making processes (Bellamy 2008: 164). While drawing on her categories, I depart from Benton by interpreting justification in the broad sense, taking it to include democratic justification through co-authorship. On my view, democracy helps justify state power through compelling it to enact responsive policies, and the fact I am able to play a co-authoring role through participation.

3. TIME AND NON-DOMINATION

I will now establish the conceptual link between time and non-domination. Republicans, I believe, can make a distinct argument for free time that is nevertheless complementary to the liberal egalitarian one. To briefly visit the latter, I take it that liberal egalitarianism's two central commitments are to individual freedom of choice, as well as some degree of equality in the distribution of society's benefits. On this account, what will make the exercise of political power unjust is if citizens are unable to meaningfully exercise their individual freedom of choice, or because the distribution of society's benefits is unequal to the extent that some citizens are significantly less able to utilize those liberties and opportunities. Consequently, it is not difficult to see why a fair distribution of free time ought to be championed by the liberal egalitarian. If the distribution of free time is inequalitarian, with some people enjoying a much larger amount of time that can be devoted to their chosen ends at their discretion than others, some citizens would be far less able, or even unable, to meaningfully pursue their projects and commitments.

However, looking to non-domination reveals a different path from which we might reach a similar destination. I make the following argument in two stages. In the first stage, I argue that there is an important temporal dimension to republicanism. As emphasized in the previous section, republicans greatly value the presence of checking mechanisms that ensure that power-wielders are forced to track the relevant interests of power-subjects. Given that successfully establishing checking mechanisms and keeping them in place is often very time-consuming, it is important that power-subjects have enough time to do so. To bring out the significance of time for republicans, I concentrate on the concrete case of non-domination in the workplace. Chiefly, workers need time to establish or participate in crucial processes of justification and contestation that protect them against workplace domination. I expand on these points below. The second stage, which argues that free time – and not just time in itself – may be instrumentally necessary for us to have sufficient time for political activity, will be fully developed in section 4.

Before I proceed, a note about how we ought to envision the relationship between my argument and the liberal egalitarian one is in order. As I have hinted, I view the republican case for free time as a friendly companion to the liberal egalitarian one. It does not challenge the premises of the liberal egalitarian argument, but simply brings out another important political function of free time. Assuming that relations of domination are a quintessential type of social inequality, where the dominated suffer an

inferior public status, it helps to bridge a key connection between free time and social equality – a connection that Rose’s account does not fully investigate. Combined, the two arguments help us build a strengthened case for fair shares of free time.

3.1 *Domination in the workplace*

The extent of domination that can be found in present-day workplaces should not be underestimated. Elizabeth Anderson has made an explicit comparison between workplaces and authoritarian governments. For her, the workplace is akin to a private government where everyone must obey an assigned superior who is “unaccountable to those they order around”, as they are “neither elected nor removable by their inferiors”, and who issues orders that “may be arbitrary and can change at any time, without prior notice or opportunity to appeal” (Anderson 2015: 94). Similarly, as Alex Gourevitch puts it,

“...the typical workplace is a site of domination not self-government, of arbitrary power not democratic control. Workers are subject to a panoply of rules, directives, orders, commands, whims, caprices, and impositions over which they have no legal control and that they have limited capacity to resist” (Gourevitch 2016: 17-8).

While workplace domination may come in diverse guises, I will describe two forms that Gourevitch has helpfully identified: *personal* and *structural* domination. In line with the definition sketched out in the previous section, these forms of domination do not hinge on employers possessing malicious intentions, or even their *actual* interference with workers. It is enough for them to possess the capacity to do so, in virtue of current systems of employment that are routinely taken for granted.

As a starting point, workers suffer personal domination when they are subject to the arbitrary authority of bosses whom they are conventionally expected to obey (Gourevitch 2015: 316). Employers have frequently been judged to be within their rights when subjecting workers to unreasonably harsh working conditions, or flat-out demeaning and humiliating treatment. These include being forced to work in extreme heat or physically hazardous but not illegal conditions, being forced to wear diapers rather than go to the bathroom, being refused lunch breaks, or being forced to take random drug tests (ibid). Importantly, these exercises of power often go above and beyond what has been explicitly spelt out in contracts, and thus what has been assented to by the employee at the outset. This is because employers have the authority to specify underdetermined terms in work contracts, which are necessarily vague or incomplete (Gourevitch

2013: 607). For instance, despite the potential for wide-ranging disputes over conditions of employment, including questions about whether the political views or social media postings of employees are a reasonable basis for being fired, these decisions are largely controlled by employers (ibid). As this example reveals, vagueness or incompleteness paves the way for employers' control to creep into employees' off-hour lives. As Anderson observes, most believe that they cannot be fired for their off-hours Facebook postings, or for backing a political candidate their boss opposes, but only half of American workers enjoy even partial protection of their off-duty speech from employer retaliation (Anderson 2015: 95-6). In these ways, personal domination by employers goes beyond poor treatment *during* work hours: it involves the capacity to exercise insidious power even over intimate aspects of workers' lives.

On top of personal domination, workers also experience structural domination, which rises out of how they are forced to sell their labor-power in the absence of reasonable alternatives to wage labor (Gourevitch 2015: 313). Many societies are structured such that some group of owners privately controls all of society's productive assets, and non-owners are forced by the legally protected unequal distribution of productive assets to sell their labor to *some* employer or other (Gourevitch 2013: 602). Because labor is forced, under the current structure of property-ownership, employers have the capacity to set arbitrary terms and conditions for job positions, with the knowledge that they will continue to be filled. Many end up working "longer hours, at lower pay, under worse conditions than they would otherwise accept" not because they want to, but because they *must* (Gourevitch 2015: 314). Echoing Lovett's contention that dependency makes domination more intense, structural domination heightens personal domination because it makes workers *dependent* on employers for a living wage. In the absence of reasonable alternatives to selling one's labor, there are onerous exit costs to leaving the job market. This dependency may be exploited by employers who force employees to work under harsh or punishing conditions precisely because they know the workers do not have adequate exit options. Furthermore, as Gourevitch notes, even if employers do not intentionally seek to take advantage of workers, exploitation is implicit in their economic decisions about firing, hiring, wages, and hours that presume a steady supply of economically-dependent labor. Again, employers can fire a worker who challenges their authority, knowing they can most likely be easily replaced. In short, the exiting imposes asymmetrical costs on workers and employers. This has the effect of forcing workers to put up with bad jobs, while permitting employers to get away with exploitation and ill-treatment.

To be clear, the argument is not that all workers are *equally* dominated. Of course, there is a wide spectrum of domination across different lines of work, with some privileged classes of employees enjoying relatively low levels of personal and structural domination (compare a factory worker to a tenured university professor with multiple job offers). The extent of workplace domination that we experience may also be influenced by our individual career choices: if, for example, I chose to be a professional football player whose employers are considerably more dominating than if I had chosen the alternative of being a tenured university professor.⁵ However, because of the underlying structure of property-ownership, all workers are dominated to some extent, and the privileged class of workers who experience trivial levels of domination is relatively narrow. Furthermore, I submit that there is a comparably narrow class of socially privileged people who have voluntarily chosen a more dominating job over a less dominating one, often because of other valuable payoffs (like fame and fortune in the football player case). More often than not, workers do not have access to less dominating alternatives that would not also be accompanied by significant exit costs, and this is the group that I take theorists like Anderson and Gourevitch to be interested in. Finally, it is worth noting that my voluntarily choosing a more dominating job over a less dominating one does not necessarily neutralize the wrong of domination. To see this point, suppose that I voluntarily choose to marry Adam over Ben with the knowledge that I am more likely to be dominated in my relationship with Adam, who has a rather controlling personality. Yet it would be misguided to say that my freely choosing Adam over Ben makes Adam's dominating behavior over me morally acceptable.

3.2 *Domination and checking mechanisms*

How ought we respond to these instances of personal and structural domination? Here, I want to focus on how checking mechanisms can help to reduce employers' capacity for arbitrary interference. In 2.1, I introduced three types of checking mechanisms that force power-holders to track the interests of power-subjects: those that enable justification, contestation, and retribution. I now consider how these checking mechanisms bear on workplace domination. Specifically, I will explore how processes of contestation and justification that directly involve *workers* can be

5 I thank Tom Parr for this example, and for pressing me on these points.

implemented to keep employers' arbitrary power in check.⁶

First, workplace decisions should be made robustly *contestable* by workers. In order to be emancipated from the relationships of domination they experience in the workplace, workers ought to organize themselves into political organizations and industrial unions, thus transforming the social and economic order (Gourevitch 2016: 25).⁷ This is because the formation of such organizations and unions would allow workers to robustly contest situations where their interests fail to be met through strengthening their collective bargaining power, thus empowering them to challenge arbitrarily-made decisions. If employees found themselves faced with unreasonable or humiliating demands from the employer, they could dispute these with the union's backing. Being a trade union or staff association member has been shown to increase the odds of a problem at work being resolved satisfactorily (Compa 2004: 5). In addition, while being part of a union in itself does not give workers a direct say in determining the terms and conditions of employment, unionized workers typically enjoy significantly more favorable working conditions than non-unionized workers.⁸

Workplace decisions should also be *justified* to workers. Notably, it has been suggested that a right to justification regarding the conditions of one's labor should be understood as the extension of the moral right to self-determination; "we have a right to demand and be given good reasons when deliberating over matters that affect us in important ways" (Borman 2017: 82). One way the right to justification can be satisfied is for employees to participate in a system of co-determination, where they share control of an economic enterprise with providers of capital, such as through work committees and employee representation on boards of directors (Hsieh 2008: 92). In order to ensure that employees are treated as fellow deliberators, instead of silent parties who passively wait to have rules or

6 I do not claim that implementing such mechanisms would be sufficient to protect workers from domination. For example, they may need to be accompanied by measures that improve workers' exit options, such as more generous welfare payments or a universal basic income. However, I don't think that improving exit options on their own would be sufficient, as they do not address the domination suffered by workers who choose to remain employed. For this reason, the importance of contestation and justification remains.

7 It is important to note that, while Gourevitch believes that transforming the order requires workers to organize themselves in unions, it is also necessary for structural domination to be addressed at a deeper level by cooperatively organizing the means of production. I don't disagree with the importance of changing the structure of employment, but here I choose to focus on what can be done to lessen domination within existing structures.

8 See http://www.epi.org/publication/briefingpapers_bp143/ for some statistics on this issue.

decisions enacted upon them, they should be guaranteed the right to participate in determining the policies that affect them, as well as play a role in governing the enterprise more generally (ibid). Concretely, participation in decision-making would give employees the ability to determine the terms and conditions of their employment and the wider organization of their work, so that these do not lean entirely on the employer's authority.

Of course, this is not to place all of the burden of protecting against domination on the workers themselves and detract from states' responsibilities to their citizens. In fact, workers' ability to form trade unions is heavily dependent on the existence of state-enforced labor laws that protect their freedom of association. I believe it is consistent, however, with the spirit of republicanism to pay significant attention to political action on the part of private citizens.

3.3 Time and checking mechanisms

Now that I have identified two commonplace forms of workplace domination, as well as suggested two measures that could be used to address them, I will clarify the links between these and the subject of time. Chiefly, I contend that the establishment and maintenance of those checking mechanisms would require a substantial amount of time. If workers lack adequate time-resources to participate in these activities, as I believe many currently do, workplace domination would remain seriously unaddressed. Broadly speaking, individuals must possess adequate time-resources in order to effectively justify and contest the interference of power-holders, therefore protecting themselves from domination.

First of all, the formation of political organizations and industrial unions tends to require many onerous steps. For example, employees wanting to form industrial unions would need to canvass support from other workers, or allies outside of the workplace; they would have to find ways of making decisions about who should lead and motivate the union; they would have to tread through red tape for the union to be approved by government agencies. It is obvious that going through the appropriate motions would be immensely time-consuming. Even if employees chose instead to join pre-existing unions, they would still require time to decide which union to join, as well as obtain the union's approval to represent them, and communicate the issues that they wish to negotiate. In addition, in order for workers to successfully contest retributive decisions by employers or managers, they would need to know their rights and understand how exactly these have been violated. Again, in order to clearly understand what we are entitled to, and how it may apply in particular

situations, we would require time to educate ourselves on these matters. In some cases, it would involve having to seek legal assistance; locating and consulting an appropriate authority on the matter would, no doubt, require even more time.

Participating in workplace decision-making might be comparably time-consuming for workers. Suppose that a team of workers is allowed to decide on their own rate of compensation, or have a say in an important decision that will determine their company's future path, as opposed to these decisions being made autocratically by higher-ups. It is very unlikely that all the workers would immediately agree with one another about how to act; instead, disagreement would probably have to be teased out, and compromise or consensus eventually reached, through a series of deliberation. (Tellingly, the hypothesis that more democracy in the workplace mean slowing down decision-making, hence harming productivity or efficiency, has often been used against advocates.) Furthermore, I assume here that the people involved in decision-making are not themselves responding arbitrarily or idiosyncratically, but in a responsible and well-grounded way. Making well-informed decisions – for example, when deciding on a fair rate of compensation – would require the employees to perform research on what people in related fields are earning, or perhaps to come up with a justification for why persons performing a particular task merit more compensation than others performing what appears to be a similar one. Simply put, research and reflection for collective decision-making *requires time*.

I have tried to show why the resource of time is crucial to the establishment and maintenance of checking mechanisms in the workplace – mechanisms that are necessary to stave off the threat of domination. Before concluding this section, I note three final points on time and its relation to non-domination. Importantly, given the history of employers' hostility to unionization and workplace democracy, it seems that introducing the checking mechanisms described above, in the first place, may require concerted effort and struggle from workers – suggesting that even more time may be necessary for practical implementation. The appropriate time-scale here is years, not months, with no guarantee of success. Take, for example, the ongoing attempts of graduate students in the US to obtain the right to unionize and the massive obstacles enacted by universities. Efforts have been blocked, despite students voting to join unions certified by the National Labor Relations Board (NLRB), by various universities on the grounds that the students should not be considered employees (Semuels 2017). A number of universities even hired a law firm known for their formidable powers against workers to block graduate

students from organizing, signaling that they were prepared to spend years in court on the endeavor (Jordan 2017). The ongoing challenges graduate students face to successful unionization are likely to intensify given Donald Trump's presidency, under which they expect the NLRB's recognition of graduate students as employees to be reversed (Rivin-Nadler 2017). As this case demonstrates, workers' striving for sufficient contestation and justification in the workplace can feel like fighting a losing battle – to wit, a very time-consuming one.

Secondly, while the core argument I have given is very different in essence from Rose's, it dovetails with hers with respect to *temporal coordination*. Rose argues insightfully that exercising one's freedom of association does not only generally require the resource of free time, but also free time that is "shared with one's fellow associates" (Rose 2016: 93). This is because the central exercises of freedom of association, such as sharing a meal with one's family, marching in a rally with one's political co-partisans, or sharing religious services with one's fellow believers, involve engaging in the pursuit at the *same time* as others (Rose 2016: 94). Therefore, citizens must have reasonable access to *shared free time* in order to exercise their freedom of association. Similarly, to a large extent, workers need shared time to perform contestatory and justificatory activities *together*. Certainly, an individual can learn about the full extent of their employment rights, or launch a dispute against the employer on their own. But there is an important collective aspect to political organization and deliberation.

While I have chosen to focus on a smaller-scale case to bring out the central role of time in addressing specific forms of domination, the above arguments are meant to extend to political activity and the republican duties of citizens writ large. The kind of political engagement that enables political institutions to be effectively justified or contested is *inherently time-consuming*. Citizens need time to vote, run for office, or educate themselves on political institutions and political life more generally. For example, voting – the most basic form of political participation – often requires citizens to head to a particular location and stand in line for their turn to vote, which can be rather time consuming. U. S. federal law does not require employers to give their staff time off to vote, and while a number of states have instituted their own laws on the matter, with some allowing up to three hours off to vote, not all states require that employees be remunerated for that time off. Coupled with other competing factors like caregiving duties, and the negative impact that losing even a few hours' wages can have, it is no surprise that many people are unable to set aside the time to vote, or find themselves having to leave polling stations because they cannot afford to continue waiting, thus contributing to voter

suppression. It is in this way that citizens *need time* to be able to protect themselves against domination. Without sufficient time for citizens to participate in political activities designed to justify or contest power, state power cannot be properly kept ‘in check’.

To conclude this section, on the republican account, *possessing sufficient time-resources to engage in the justification and contestation of power is necessary for persons to protect themselves from domination*. This is markedly different in tone from the liberal egalitarian picture, where time is deemed necessary for exercising our basic rights and opportunities, as well as pursuing the ends and projects we find valuable

4. ‘FREE’ VERSUS ‘SUFFICIENT’ TIME?

So far, I have talked a lot about ‘time’, but not free time specifically. I attend to this in the final section by arguing that, unlike liberal egalitarians, republicans cannot make a case for the importance of the fair distribution of free time as a resource in itself. At most, they can make an instrumental argument for the fair distribution of free time, as ensuring fair shares of free time may be the best means of encouraging political engagement and the development of civic virtue, in comparison to the alternative. I explain why below.

4.1 The instrumental necessity of free time

Previously, I argued that many activities with a quintessentially republican flavor – and more particularly, those necessary for processes of justification and contestation – are inherently time-consuming, and that people need time to participate in them. However, this does not establish an argument for fair shares of free time. It simply shows that citizens need a sufficient portion of time to engage in political activity, and does not say anything about their claims to time for pursuits of their own choosing. In contrast, Rose’s account does not specify what people *ought* to be doing with their free time beyond pursuing their chosen ends or exercising their formal liberties and opportunities. We can use our free time to be activists, surfers, or couch potatoes without judgment, so to speak. In other words, it is the liberal emphasis on the freedom to do whatever one wants with the allotted time that makes it “free”. Without this, republicans cannot make a case for the entitlement to fair shares of free time, as opposed to *sufficient time for political engagement*.

Keeping this in mind, what kind of time-related policies ought republicans to endorse? One initial suggestion would be for the state to partition off a

certain amount of time to be used exclusively for republican activities. For example, very crudely, citizens could be allocated five hours a week that would be compulsorily dedicated to some form of civic engagement. Yet this looks very unattractive, and unlikely to be endorsed by any present-day republican, as enforcement would be deeply problematic. How, exactly, would the state ensure that citizens would use the allotted time for political purposes alone? To start with, a high level of surveillance and intrusion into citizens' privacy would be required for states to police citizens' time-usage. In practice, the policy might end up licensing *more* domination on the part of the state; it equips the state with an excuse to monitor and control citizens' activity, enhancing its capacity to interfere with their choices on an arbitrary basis, and hence running counter to the policy's purported ends. It also seems that unpalatably coercive measures would have to be employed in order to deter citizens from misusing their time-share, such as penalizing them if they are caught using the time for some other activity.

Here, it might be objected that at least some republicans *have* endorsed coercive measures to ensure political participation, the case in point being mandatory voting, where citizens pay a financial penalty for failing to vote. Why, then, shy away from time for compulsory political activity? Yet mandatory voting would not involve the same level of *intrusiveness*, as citizens are penalized on the basis of records indicating that they failed to vote, rather than having their individual time closely monitored by the state. Nor is it *as demanding*, as citizens are penalized for a one-time failure to act, rather than for the failure to regularly engage in republican activities, which would plausibly lead to repeated fines for many people who are tired, distracted, disillusioned, or simply disinterested in politics. Furthermore, it might disproportionately impact less well-off citizens who are already less likely to participate in politics, yet for whom monetary fines would be more detrimental.

While intrusiveness and demandingness are, on their own, principled reasons against enforcing time-periods of compulsory political activity, such time-periods would arguably be counterproductive to the cultivation of authentic civic virtue. Being forced into regular political engagement would most likely turn it into a tiresome chore, draining the activity of any meaning or significance. Worse still, being punished for failing to do would almost certainly create resentment and even more disillusionment with the practice of politics, rather than feelings of empowerment.

A second possible policy would be *conditional* time for political activity. That is, instead of giving all citizens a period of time they must dedicate to political activity, only those who are active members of political groups would be given time to participate in it. For example, the state might legally

require corporations to give employees who are union members a certain amount of time off from work. This alternative policy avoids some of the worries I have outlined about compulsory time for political activity. It does not force the cultivation of civic virtue, but provides encouragement and support to those who have authentically chosen to be civically engaged. Furthermore, while it seems rather unlikely that anyone would go to the lengths of creating a bogus political organization just so they could use the allotted time for non-political pursuits like surfing or video games, imposing penalties on bogus organizations seems far less problematic than penalizing individuals for how they choose to use their time. For one, enforcing those penalties would not require violating the privacy of *individuals*; political organizations do not have an analogous right to privacy. Secondly, members of bogus political organizations are exploiting the system by engaging in deceit. It seems fair for deceitful behavior to be punished, rather than the mere lack of desire for political participation.

Unfortunately, conditional time also suffers from a fatal flaw. Namely, it adopts a very narrow view of what political participation is. Political engagement today encompasses a wide variety of activities, including marching in a street protest; writing petitions; creating art; or even posting on social media like Twitter and Facebook. But none of these forms of engagement involve formal membership that we can submit as proof of our participation. Only giving time to members of political organizations would deprive others of time for valuable political activities that do not hinge on membership. Worse still, states would be able to make value judgments about what is a valuable or worthwhile political activity that is worth supporting. This could risk disadvantaging those who participate in activities that the state considers ‘fringe’ or disruptive in some sense, like graffiti art or street protests. Furthermore, political organizations that the state disapproves of may be barred from qualifying as legitimate organizations.

A final option would be for states to ensure that citizens have *fair shares of free* time that they can use for any activity of their choosing.⁹ If time is necessary for freedom in the republican sense, as I have suggested, it must be available robustly, as a matter of right. Citizens would not be given free time only at the discretion of the powerful, like their employers. Rather, their access to free time would be entrenched by the state, in the form of laws and norms, as one of the basic liberties necessary for free undominated status. Nevertheless, rather than being a demand of republican justice *per se*, these allotments of free time would serve an *instrumental* purpose: a more

9 Here, I leave open how a “fair” share of free time ought to be determined. For a detailed discussion of how we can do this, see Rose (2016: 127-134).

permissive approach to parceling out time-resources would be more effective in bringing about robust levels of political participation, which can be encouraged in two ways. On a more conventional state-centric view, rather than being forced to do so, citizens could be encouraged to use that time for political participation through “soft”, non-coercive measures that have already been advocated by republicans (including subsidies for political activities, civic education, or public campaigns promoting political engagement). On a more radical view, the state is corrupt and should not be trusted to guide the appropriate use of our free time, as it would likely seek to align our behavior with the interests of dominating forces through empty civics or other forms of mainstream ideology. Instead, we can carve out a major role for counterpublics, or counter-dominating institutions, to educate and guide us in our resistance to domination.¹⁰ I deliberately leave open the question of who the main political influencer over our free time ought to be, to show that this policy can be appealing to different varieties of republicanism. Either way, the guarantee of free time would be likely to encourage political activity amongst citizens in the long run, while avoiding the shortfalls of compulsory political engagement or conditional time-shares. Of course, there is a good chance that most citizens would *always* prefer to use that time to pursue their own goals or projects, shunning political activity altogether. But I think that the objections to the other policies considered above are sufficiently serious for republicans to bite the bullet.

5. CONCLUSION

In this article, I have sought to make a rather bare-bones argument about how republicans can make a case for fair shares of free time, albeit an instrumental one. I pointed out that time is necessary for the creation and maintenance of non-dominating institutions, because we need sufficient time to effectively participate in processes of justification and contestation. I went on to suggest that, while this only entitles individuals to *sufficient* shares of time dedicated to these forms of political engagement in theory, fair shares of free time may be *instrumentally* necessary to encourage participation in republican activities.

I have not said anything about what, exactly, constitutes a fair share of free time or how to measure the amount of time that would minimally be required for healthy civic engagement. Neither have I made any policy suggestions for how fair shares of free time can be achieved, a task which

¹⁰ For a parallel case of a dominating agent encouraging political participation by those it dominates in order to further its own agenda, see Hertel-Fernandez (2016).

Rose helpfully takes up in her book. I also do not claim that this route is the only one available to republicans for justifying fair shares of free time; there may be other, perhaps even more convincing, ways of linking non-domination to free time. These remaining questions provide fertile ground for future discussion. Nevertheless, I hope that my contribution takes an important first step in considering a potential republican justification for the entitlement to free time.

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Entitlement and Free Time¹

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ABSTRACT

In this paper, I use the framework developed by Julie Rose in *Free Time* to offer an initial analysis of another under-theorized resource that liberal egalitarian states might owe their citizens: that is, the sense of moral entitlement to make use of their basic liberties. First, I suggest that this sense of moral entitlement, like free time, might be necessary for the effective use of those basic liberties. Next, I suggest that this sense of moral entitlement (again, like free time) might be the kind of all-purpose good that satisfies publicity and feasibility criteria. Together, this suggests that a sense of moral entitlement to make use of basic liberties is the kind of resource that is appropriate for distribution by a liberal egalitarian state, and that such states indeed owe their citizens.

Keywords: effective freedom; free time; moral entitlement; resource

In her excellent book *Free Time*, Julie Rose offers an extensive analysis of the under-theorized resource of free time. In it, she argues for two main conclusions: first, that free time has the requisite features to count as a distributable resource within a liberal egalitarian theory of justice; and second, that liberal egalitarian states have an obligation to fairly distribute free time to citizens, on the grounds that free time is necessary to guarantee the effective use of the other basic liberties. While Rose's substantive discussion of free time is clearly her book's most significant contribution to political philosophy, I focus here on another of its valuable features: the way in which her argument serves as both a model for exploring other under-theorized resources that liberal states owe their citizens, and a reminder of the importance of developing comprehensive accounts of these other resources.

In this paper, I use Rose's strategy, along with the structure of her argument and insights from her broader discussion, to run a parallel

¹ For helpful comments, I am grateful to Timothy Fowler, Jonathan Herington, Tom Parr, Chad Van Schoelandt, and the Editor and an anonymous referee for this journal.

argument that justice might also require the fair distribution among citizens of a sense of moral entitlement to make use of one's basic liberties. In a paper of this length, however, I can only offer a rough and initial argument, noting only in passing where points are controversial or require further development. Like free time and justice, giving a full account of the relationship between justice and a sense of moral entitlement would require a book-length treatment.

1. FREE TIME, A SENSE OF MORAL ENTITLEMENT, AND EFFECTIVE USE OF THE BASIC LIBERTIES

Like Rose I take it for granted that liberal egalitarians must be committed to ensuring the effective use of the freedoms and opportunities they distribute among citizens (2016: 69-73). While different liberal egalitarians may specify the principle differently, I will use the following general formulation:

Effective Freedoms Principle: The liberal egalitarian state has an obligation to ensure citizens the effective rather than merely formal use of some centrally important set of freedoms.

Use of this principle requires three clarifications. First, the distinction between effective and formal freedom. While formal freedom guarantees absence of certain kinds of interference in a given arena, effective freedom guarantees that one can in fact achieve the freedom's object. That is, effective freedom requires access to whatever resources are needed to exercise it. So while a person has formal freedom of movement insofar as the law prevents others from physically restraining her, she does not have effective freedom of movement unless she has either the internal abilities or external assistive technologies to move herself from place to place. Second, note that the principle requires that liberal egalitarian states must guarantee their citizens freedoms only within some centrally important set, the members of which will depend upon the liberal egalitarianism in question. For instance, while a version of comprehensive liberalism might guarantee the effective use of a set of freedoms that it takes to be especially metaphysically valuable, a version of political liberalism might guarantee a set of freedoms centrally important to the roles of citizenship. Third and finally, notice that while liberal egalitarian states have this obligation to citizens, it may in some cases be defeasible. Cases of defeasibility will once again depend on the species of liberal egalitarianism concerned, but the following cases should be illustrative: effective freedoms may be inappropriate for some

citizens given their capacities (as with children and certain political freedoms); they may be forfeited (as with the criminal who gives up her right to freedom, or the spendthrift who wantonly and repeatedly squanders the resources necessary to exercise another freedom); or their provision may conflict with some other central commitment of the liberal egalitarian state (as in a case in which one citizen's effective use of her religious freedom would require state provision of immense resources that would violate the state's principle of just distribution.)

Given the Effective Freedoms principle, Rose argues that the state owes citizens a certain quantity of free time. In Rose's words, "An absence of free time constitutes a lack of means in the same way as a lack of income and wealth, and the lack of either renders one less able to take advantage of one's formal liberties and opportunities" (2016: 73). Consider classically guaranteed liberal-egalitarian freedoms: freedom of association, freedom to vote, freedom to hold political office, etc. In order for these rights to be more than formal, one must have both money and time. To run for office, educate oneself about candidates' platforms, or associate with one's fellows, one must have time that is not consumed by finding the basic resources to care for one's own or one's dependents' basic needs. So while the person washing dishes 100 hours per week just to make ends meet may have these formal liberties, he will be unable to exercise them in practice. Contrast this person with the highly-paid psychologist who could support herself by working 20 hours per week but chooses to work 100 because she values great wealth. While her work also leaves little excess time for exercising her liberties, Rose argues that she has the effective option to exercise them in a way that her counterpart does not.² Accordingly, while citizens may choose not to use their free time to exercise their basic liberties, Rose argues that a government that guarantees the effective use of basic liberties must guarantee that citizens have sufficient free time to exercise them after meeting their basic needs.

Note that Rose's project is to show that time – like money – is merely necessary for the effective use of one's freedoms. But the following examples suggest that time and money together are not always *sufficient* to effectively guarantee persons the freedoms to which they are politically entitled. First, consider Irma, an affluent housewife who believes that a woman's place is in the family. While she could easily afford childcare, a paid cleaning service, or private education, she believes that it would be morally wrong of her to allow her children or home to be cared for by others. Accordingly, she rarely associates with those outside of her family

2 See the distinction between free and discretionary time: Rose (2016: 40-43).

even when she might like to, does not engage in politics, etc. Second, consider Harvey, who is part of a reclusive religious community. While Harvey lives a comfortable life with much time for leisure, he believes that engaging with politics is sinful. There is an important sense, I argue, in which both Irma and Harvey lack effective freedom to exercise their basic liberties. While each is aware of their politically-guaranteed freedoms and has the time and monetary resources to exercise them, neither feels morally entitled to do so.

The point is not merely that Irma and Harvey refrain from exercising their rights, since most of us refrain at many points from exercising them. The point is rather that both Harvey and Irma take there to be a categorical, substantive obstacle to their exercising some of their most basic politically-guaranteed rights. To be sure, the obstacle in question is internal – each recognizes that no external party or lack of resources prevents them from exercising those rights. But each, given their central commitments, also recognizes that exercising those rights is not an option that is substantively available to them. And note that we cannot say that the obstacle does not exist, simply because neither Irma nor Harvey has the aim of exercising those freedoms. An inaccessible building does not stop being effectively inaccessible to a person who uses a wheelchair simply because she does not want to enter it. Like the wheelchair user, Harvey and Irma do not just take themselves to be in a position where they do not choose to exercise their freedom. Rather, by their own lights, *each cannot*. The wheelchair user's obstacle is the building's lack of ramps. For Irma and Harvey, the obstacle is the belief and the concomitant feeling that they are not morally entitled to exercise those freedoms. While neither Irma nor Harvey may be bothered by this obstacle, given the desires they actually have, it remains the case that each one's lack of a sense of their own moral entitlement to exercise their basic liberties remains a substantive obstacle to that exercise.

My claim, then, is that an absence of this sense of moral entitlement, like an absence of free time, compromises the effective use of one's basic freedoms. Given the Effective Freedoms Principle, this claim in turn suggests that liberal egalitarian states have an obligation to remove this obstacle. But here we must be careful. By virtue of their liberalism, liberal egalitarian states also have a commitment to some degree of neutrality between conceptions of the good. Different versions of liberalism will again conceive of this commitment to neutrality differently, but all should agree that within at least some range, the state should not favor some lives citizens might choose over others. Comprehensive liberals will likely draw this sphere of neutrality fairly narrowly, limiting it to

valuable, autonomously-chosen lives (i.e. Raz 1986). Political liberals, alternatively, will likely include any of those lives that recognize political values and respect the rights of all citizens (i.e. Rawls 1993). But note that as described Irma and Harvey's commitments could both fit at least into the political liberal's sphere of neutrality, and might even fit into the comprehensive liberal's. So if my claim about a sense of moral entitlement and effective freedom is correct, we are left here with a conflict between the Effective Freedoms Principle and a liberal commitment to neutrality.

Given the length and focus of this paper, I cannot attempt to fully adjudicate this conflict. Indeed, there is a history of serious objections to the removal of internal obstacles to freedom that dates back at least to Isaiah Berlin (1969). But remember, my aim here is modest: I simply aim to use Rose's framework to give an initial account of whether some other good – that is, a sense of moral entitlement – might, like free time, both prove necessary to guarantee effective freedom of basic liberties, and meet the criteria for being a resource distributable by a liberal egalitarian state. Whether or not – and indeed how – this obstacle ought to be removed, I hope to have at least motivated the idea that it constitutes a real obstacle to the effective use of one's basic liberties. Accordingly, I will turn shortly to the criteria for resources appropriate for distribution by a liberal egalitarian state.

Nevertheless, while I cannot fully adjudicate the conflict here, let me at least briefly suggest how a liberal aiming to balance effective freedom and neutrality might move forward. Imagine that Irma and Harvey developed their comprehensive doctrines quite differently: while Irma adopted hers as an adult after a period in which she felt morally entitled to exercise her basic liberties, Harvey adopted his without having considered or been exposed to alternatives, as a result of growing up in a relatively homogenous community. One plausible method for balancing commitments to effective freedoms and neutrality is to treat these cases very differently. While Irma experienced a period in which she took there to be no obstacle to the exercise of her basic liberties, Harvey never experienced a similar period of effective freedom. Furthermore, even if Irma currently views her moral commitments as closed to revision, the fact that they have already undergone a significant change means that she has a first-hand understanding of the way in which commitments might change with time and new experience. So even if Irma and Harvey's comprehensive doctrines both compromise their effective freedom to exercise basic liberties in the moment, Irma's one-time possession of a sense of moral entitlement to exercise them leaves her better-placed to experience effective freedom again in the future. While fostering an early

sense of moral entitlement does not then guarantee effective freedom to exercise basic liberties throughout the course of a lifetime, it both allows citizens to adopt a wide variety of comprehensive doctrines in adulthood, and makes more provisional the internal obstacles to effective freedom that those doctrines might include.

2. A SENSE OF MORAL ENTITLEMENT AS A RESOURCE

As I said, Rose's strategy in *Free Time* is to show that free time is both necessary for the effective use of persons' basic liberties, and meets the criteria for being a resource that a liberal egalitarian government can distribute among its citizens. If a sense of moral entitlement, like time, is necessary for the effective use of one's basic liberties, then we should now turn to the question of whether it meets the criteria for counting as a resource in a liberal egalitarian state.

Before we do so, however, we should further specify what we mean by a sense of moral entitlement. While the examples of Irma and Harvey motivated the idea that a lack of a sense of moral entitlement can compromise the effective use of one's basic liberties, there are two distinct but related senses of entitlement that could do so. While I won't take a stand here on which is better suited to serve as a resource distributed by a liberal egalitarian state, distinguishing between the two will clarify the discussion that follows. First, one could believe that they are directly morally entitled to exercise their basic liberties.³ If persons take themselves to be entitled in this way, and also have sufficient time and monetary resources, then they plausibly have effective use of their formally-guaranteed liberties. But second, one could believe that one is morally entitled to change her conception of the good if appropriate reasons present themselves. Imagine that Harvey never took himself to be directly morally entitled to the exercise of his political liberties – but that, at some relevant point in his development, he *did* take himself to be morally entitled to adopt other conceptions of the good, including those according to which he would be morally entitled to make use of his political liberties. Although Harvey never felt morally entitled to use the particular goods to which he was politically entitled, he was open to considering reasons to do otherwise,

3 Note that many liberals will hold that the value of basic liberties derives at least in part from the role they play in allowing citizens to live the lives that they themselves take to be valuable. Insofar as other goods (like wealth, income, education, healthcare, etc.) that a liberal state is obligated to fairly distribute to citizens derive their value from the same source, we may want to expand our sense of moral entitlement to include moral entitlement to make use of these other goods as well. However, this further point cannot be addressed here.

and to changing his view if those reasons proved compelling. While it can be difficult to determine when a person is genuinely open to considering reasons that conflict with their conception of the good, when that bar has been met they plausibly have effective use of their formally-guaranteed basic liberties – as least as long as they also maintain the time and the money to make use of them.

Now let's turn to Rose's framework for determining whether a good counts as a resource to which the citizens of a liberal egalitarian state have a claim. In order for citizens to have such a claim, it must first be the case that it is *appropriate* for a liberal egalitarian state to distribute the good in question, given liberal egalitarianism's distinctive commitments. It must second be the case that the good in question can be *effectively and justly allocated*, given the nature of the good.

2.1 Is a sense of moral entitlement an all-purpose good?

I accept Rose's standard formulation of liberal egalitarianism's two distinctive commitments: the liberal commitment to individual freedom of choice, and the egalitarian commitment to ensuring some degree of equality in the distribution of society's benefits (2016: 23). But these principles stand in some tension, since individuals freely choosing life paths will likely end up with shares of goods that are different in both size and kind. For instance, if my idea of a good life involves world travel while my neighbor's involves investment in real estate, we will likely end up with very different shares of exciting stories and vacation properties. Accordingly, I also accept along with Rose the standard liberal egalitarian position that states should be concerned with the distribution of *all-purpose* goods that individuals can use to advance their conceptions of the good, rather than the specific goods that their conceptions of the good direct them to attain. In her words, "specific goods are the particular goods that one requires to pursue one's particular conception of the good, whereas resources are *all-purpose* means that one generally requires to pursue one's conception of the good, *whatever it may be*" (2016: 27, original emphasis). A yacht, then, counts as a specific good that might feature prominently in some good lives but have no place in others, while wealth and income count as all-purpose goods because they can equally be used to acquire yachts, leisure time, the ability to support beloved charities, or the specific goods that have a central place in other lives. If the state distributes resources which anyone can use to advance their own idea of a good life, then each citizen can see how her interests are served by that distribution – while if it distributes specific goods valued by only some individuals, then those who do not value those goods have cause for complaint.

So the first test for a sense of moral entitlement is to determine whether it is an all-purpose good. On the face of it, it does not seem to be. At least, it is clearly not required to pursue all conceptions of the good, no matter what those conceptions may be. Given that both Harvey and Irma have conceptions of the good that can be pursued without exercising at least some of their basic liberties, they also have conceptions of the good that can be effectively pursued without a sense that one is morally entitled to directly pursue those liberties. And while some persons may take the ability to change one's conception of the good to be central to any substantively good life, many more will not – and this large remainder can therefore effectively pursue their conceptions of the good without a sense that they are morally entitled to change them.

But we should not be too quick to judge from this that a sense of moral entitlement is not an all-purpose good. Even wealth and income are not required to pursue literally any conception of the good, whatever that conception may be. Consider the person who takes the good life to be a life of prayer in which one has no possessions and eats only what they are freely given by others.⁴ Since wealth, income, and the basic liberties themselves are the canonical all-purpose goods, we therefore need a different account of what it means to be an all-purpose good. While I don't aim here to defend one account as correct, each of the following three possibilities is both a plausible account of all-purpose goods, and plausibly counts a sense of moral entitlement as an all-purpose good.

First, a good might be all-purpose if it is useful for advancing a broad range of conceptions of the good. This is plausibly what is suggested by Rose's specification that all-purpose goods are those means that are "generally" required to pursue conceptions of the good, whatever they may be. While there may be a few exceptions, advancement of *almost* all conceptions of the good will benefit from these means. And although it may be possible to advance the majority of conceptions of the good without a sense that one is morally entitled to change that conception of the good, it is much harder to identify conceptions of the good that can be effectively advanced without a sense that one is morally entitled to take advantage of one's basic liberties. And this is because the value of a basic liberty for a conception of the good is generally understood to be *instrumental*. For many of us, political participation or free speech is not an intrinsically valuable part of a good life. Instead, both allow us to express what we take to be good, or to defend our way of life when it is under attack. But liberties cannot benefit our conceptions of the good in this way unless we exercise

⁴ For further argument that primary goods are not plausibly means that one wants whatever else they want, see Nelson (2008).

them – and one is much less likely to actually exercise a liberty that one does not take oneself to be morally entitled to exercise. So since basic liberties will themselves be instrumentally valuable for advancing a *broad range* of conceptions of the good, the sense of moral entitlement to exercise them will be as well.

Second, a good might count as all-purpose if it is required for developing or protecting the moral powers and interests associated with citizenship. This suggestion aligns with John Rawls's proposal that what is taken to be valuable for citizens relates to the higher-order interests they are taken to have as citizens – including, famously, the capacity for a sense of justice and the capacity to hold and revise a conception of the good.⁵ If we take these to be the relevant interests of citizens, then citizens obviously have an interest in a sense of moral entitlement to change their conception of the good. The ability to do so is central to the second moral power, and it once again frustrates both a capacity and its development when a person feels unentitled to exercise and thereby strengthens that capacity. Similarly, a sense of moral entitlement to directly exercise one's basic liberties plausibly supports the second moral power, because the exercise of those liberties themselves supports that power by allowing citizens to try out and investigate new ways of life that might lead them to adopt new conceptions of the good.

Third, a good might count as all-purpose if it is closely tied to some other value that grounds liberalism's commitments to equality and neutrality. Take, for instance, Alan Patten's claim that the value of both equality and neutrality depend on the more fundamental liberal value of self-determination (2012). If self-determination is at bottom what matters for liberal states, then other resources should be distributed to the extent that they further that value. And a sense of moral entitlement to change one's conception of the good certainly does so. If one feels perpetually bound to one's conception of the good even when compelling reasons to modify it arise, then one plausibly becomes a prisoner to that conception of the good rather than a self-determining individual. Similarly, the basic liberties generally distributed by liberal states very plausibly provide persons with essential freedoms and means to live their lives as they see fit – but they once again do so instrumentally, and their instrumental benefit again generally only accrues if one feels entitled to make use of them when the need for them arises.

5 See also Gina Schouten's (2017) argument that protection of the two moral powers often in fact demands substantive progressive interventions on the part of liberal egalitarian states – up to and including preserving a live option for all citizens to engage in gender-egalitarian division of household labor.

While this discussion by no means exhausts the ways in which we could understand all-purpose goods, each is plausible – and each gives us a plausible reason to think that the sense of moral entitlement with which we are concerned is the kind of thing that ought to count as an all-purpose good.

2.2 Can entitlement be effectively and justly allocated?

In order to count as a resource using Rose's criteria, an all-purpose good must also be the kind of thing that satisfies the following publicity and feasibility criteria (2016: 46):

Publicity Criterion: It must be possible for an outside party to reliably and verifiably know whether and to what extent an individual possesses a given resource.

Feasibility Criterion: It must be possible for the outside party to obtain relevant knowledge and distribute the good non-invasively and efficiently.

The publicity criterion applies because in order for justice to be done, citizens must be able to see that it has been done. If a resource is not the kind of thing that can reliably be measured, then citizens cannot know whether a just distribution has been achieved. And the feasibility criterion applies because efficiency and privacy matter alongside publicity. If enormous resources must be expended to monitor or fairly distribute a good, or if that monitoring and distribution comes at the cost of citizens' reasonable expectation of privacy, then these considerations count heavily against treating that good as a resource that a just state ought to distribute.

To illustrate, consider health. While health is required to pursue almost any conception of the good, it is not always possible to adequately judge relative shares of health. This is so both because different definitions of health better capture the health level of different individuals, and because health is not a free-floating concept that makes sense without reference to the state of a population. Further, in order to monitor and influence the distribution of health among citizens even according to some stipulated definition, the state would need to engage in frequent and highly intrusive testing and treatment of individuals. Health, then, will not count as a resource on Rose's criteria. But note that a nearby good – that is, *healthcare* – can still count. Since healthcare is required to protect health when it fails, and since failing health threatens the ability to pursue almost any conception of the good, healthcare is what Samuel Arnold calls a

“second-order all-purpose [good]” (2012: 97).⁶ A second-order all-purpose good is one that is “instrumental to the possession of entities or attributes that are themselves all-purpose [goods]”. And the second-order all-purpose good of healthcare satisfies publicity and feasibility criteria. Regarding publicity, it is possible to know both what coverage citizens have for which medical conditions, and whether citizens live within appropriate proximity to medical establishments. And regarding feasibility, that information can be collected and the good can be provided both non-invasively and efficiently. By providing universal healthcare or enforcing an individual mandate, states can both ensure the provision of care and non-invasively and efficiently gather information about what coverage individuals have; and by determining a citizen’s address and whether relevant public transportation is available, states can non-invasively and efficiently gather information about whether citizens can effectively seek treatment.⁷

We must determine, then, whether a sense of entitlement satisfies the publicity and feasibility criteria. First, consider publicity. It is highly likely that there is no fully verifiable and reliable way for third parties even in theory to accurately determine and compare persons’ comparative shares of a sense of moral entitlement. Citizens may understand their degrees of entitlement very differently, and even when they report the same rating, the scales that they use may be incommensurable. And turning to feasibility, even if these obstacles could be overcome, making such comparisons in practice would require extensive and invasive questioning of persons, as well as time- and resource-intensive calculations to determine citizens’ relative scores.

Two different responses might be made by proponents of treating a sense of moral entitlement as a resource. The first is to identify a second-order all-purpose good associated with the sense of moral entitlement. This approach follows Rawls’ precedent of including “the social bases of self-respect” rather than self-respect itself in his list of primary goods (1999). If a particular set of social conditions roots and reliably fosters the relevant sense of moral entitlement, and that set of social conditions passes the publicity and feasibility conditions, then we could count that set of social conditions as our resource. While it is in large part an empirical matter whether some set of conditions roots and reliably fosters a sense of moral entitlement, it seems *prima facie* likely that the conjunction of some

6 While Arnold calls such goods all-purpose “resources” I call them goods and – with Rose – reserve the term resource for goods that meet all of our criteria.

7 To be sure, there are many important social determinants of health, of which healthcare is only one. I leave open the question of whether these other determinants satisfy the publicity and feasibility criteria.

standard of formal education and broad exposure to persons living diverse lives would do so. The more that one enjoys close connections with those living diverse lives, and comes to appreciate their reasons for holding different conceptions of the good, the more likely they will be to see as morally legitimate the choice to hold another conception of the good or to make use of the resources and liberties used by one's peers. And a third party can certainly verifiably and reliably determine whether citizens are enrolled in these kinds of education and live in diverse communities. Gathering this information should also be relatively efficient and non-invasive, since it will primarily require consulting census data and curricular data that are already collected. And states clearly have at their disposal resources for effectively determining curricular standards and encouraging diverse neighborhoods.

The other response is to reject the move to second-order all-purpose goods on the grounds of the type of resource that a sense of moral entitlement is. Here Rose's treatment of free time is once again illuminating. As Rose argues, the appropriate distributive principle may vary from resource to resource, depending on each resource's nature (2016: 85ff). Take Rose's comparison of inequalities in time and material wealth. Inequalities in either domain can be problematic from the point of view of justice, because either can lead to social inequalities between citizens. But there are two reasons to think that inequalities in wealth are more worrisome than inequalities in free time. First, there is a natural limit to inequalities in free time that does not hold in the case of wealth (2016: 87). While the potential difference between the wealthiest and poorest subject is virtually limitless, inequalities between the most time-rich and time-poor citizens can vary by at most a few hours in a given day. After all, some kinds of self-maintenance simply cannot be outsourced.⁸ So to the extent that equality of resource directly translates into social inequality, inequalities of time simply allow for a lower degree of inequality. Second, material wealth can be more efficiently converted into other kinds of basic goods than can time (2016: 88). For instance, a person with a comparatively large share of free time can use that time to undertake additional paid work or petition her lawmakers, thereby gaining additional income or political influence. But she must do so in real time, and cannot readily trade her free time with others who will advance these ends for her. However, a person with a comparatively large share of wealth can readily trade that wealth for a great variety of other goods: for the consumer goods that signal social class, for the elite education that cements one's children's

8 While these differences could compound over a lifetime, the degree of inequality possible for time could never approach the degree of inequality possible for wealth.

high social position, or for the political influence that lobbyists and large campaign contributions can buy. Both of these differences suggest that a sufficiency principle might effectively protect social equality in the case of time but not wealth. While either can be used to attain a set of additional goods that negatively impact social equality, time is converted into these additional goods much less efficiently, and the limits on the time that one can have to convert are furthermore much stricter.

With regards to distributive principles, a sense of moral entitlement to use one's basic liberties seems to be more like free time than like money. While persons might have stronger and weaker senses of moral entitlement, our focus here is on the effect of a sense of moral entitlement on the effective use of one's basic liberties. And this effect is plausibly binary: one may exercise one's basic liberties hesitantly or enthusiastically, but what matters for advancing one's plan of life is that one does in fact exercise them when the situation calls for it. Beyond the threshold that allows one to exercise one's basic liberties, having a stronger sense of moral entitlement to do so does not seem to make a person substantially better able to exercise them than her fellow citizens. What does this mean for the appropriate distributive principle for our sense of moral entitlement? Remember that sufficiency was meant to be a more plausible distributive principle for time than for money on the grounds that unchecked inequalities in money allow greater corresponding inequalities between citizens. If one does not become substantially better able to exercise her basic liberties the more morally entitled she feels to do so, then sufficiency is also a plausible distributive principle for our sense of moral entitlement.

Determining whether this seemingly plausible claim holds would require space for further defense. But if it held, then a focus on sufficiency should make both the publicity and the feasibility criteria easier to satisfy. First, consider publicity. Unlike determining comparative shares, determining sufficiency would no longer imply comparing persons relative levels of the sense of moral entitlement, or the conceptual and practical problems that come with it. Instead, it would simply require determining whether each person takes herself to be able to choose to exercise her basic liberties if reasons to do so arise – and this can be determined through simple self-reporting. And if we diffuse the tension between the Effective Use Principle and a commitment to liberal neutrality in the way suggested above, then a concern with sufficiency would also make the feasibility criterion easier to satisfy. If we aimed to ensure only a sufficient sense of moral entitlement during early life, then the relatively undemanding self-reporting required to determine sufficiency could be built into public education at regular intervals without great cost. And if we were concerned

with a threshold level of a sense of entitlement rather than a comparative level, then public education could aim to bring all students past the line without worrying that some will progress significantly further than others.

3. CONCLUSION

As noted at the outset, the argument offered here is initial and cursory, and many objections and important subtleties have by necessity been passed over.⁹ But I hope that the discussion so far has served my modest aim: to begin to show us how we might extend Rose's helpful framework to offer a treatment of other under-explored or under-theorized resources that a liberal egalitarian state owes its citizens. I hope that it has also encouraged readers to believe that a sense of moral entitlement to exercise one's basic liberties is one such resource worth exploring – and if so, then I hope that Rose's framework can serve to illuminate a longer (perhaps also book-length) treatment of that resource in the future.

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9 In particular, I take it that a fuller treatment of the relationship between self-respect and entitlement is warranted, as the two goods may overlap depending on our account of each. Briefly, insofar as Rawls's discussion of self-respect focuses on the extent to which citizens see themselves as capable of carrying out conceptions of the good that they take to be worthwhile, I believe that we need either a broader account of the importance of self-respect or a separate discussion of entitlement to do justice to entitlement as a resource. Either way, more work remains to be done.

Justice and the Resource of Time: a Reply to Goodin, Terlazzo, von Platz, Stanczyk, and Lim

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INTRODUCTION

The contributors offer a rich collection of constructive and careful arguments. I am grateful for their thoughtful comments which, drawing on their own work and the book, broaden and advance the discussion of free time as a matter of justice in new and fruitful directions. While my response will in part involve clarifying and developing my argument on behalf of citizens' claims to the resource of free time, I have aimed to engage with their arguments in the same productive spirit, tracing potential avenues of future work.

I begin with Robert Goodin's contribution, and the question of how free time ought to be conceptualized for a public and feasible theory of justice, in particular – as Goodin presses – so that it allows for empirical measurement. I turn then to Rosa Terlazzo's argument, which draws our attention to considering the array of social conditions that must obtain to enable citizens to make effective use of their free time, and liberties and opportunities more generally. I next take up Jeppe von Platz's argument, which asks whether the effective freedoms principle can support citizens' claims to a fair share of free time as a matter of cooperative fairness. Continuing the question of fair shares, Lucas Stanczyk asks how a theory of social justice should respond to class disparities in access to free time, developing this question by asking whether harried wealthy professionals ought to be regarded as having (more than) their fair shares of free time. Finally, Désirée Lim's argument considers the temporal dimensions of republicanism, examining the question of how a republican theory of justice might ground an entitlement to free time.

1. THE REQUIREMENTS OF A PUBLIC AND FEASIBLE THEORY OF JUSTICE: A RESPONSE TO GOODIN

My account of the resource of free time both draws on and departs from Goodin et al.'s conception of discretionary time (2008), and so, in that spirit, my response here will both highlight ways in which our two approaches are and may be more convergent, while also maintaining what I take to be some important points of divergence.

Goodin's central challenge to my conception of free time is how well it meets the requirements of empirical measurement. I share Goodin's view that the operative conception of free time must allow for empirical assessment. To be a resource to which citizens have claims in a public and feasible theory of justice, I argue that it must be possible to reliably and verifiably know whether an individual possesses the resource, and to obtain this information efficiently and noninvasively (Rose 2016: 46–47). Goodin et al.'s conception readily allows for empirical measurement, as their *Discretionary Time* (2008), an important advance in the study of time, clearly demonstrates. Accordingly, in taking up this challenge, my aim is to show that my conception of free time meets the requirements for assessments that are both feasible and reliable.

On both of our accounts, free or discretionary time is to be distinguished from necessary time – the time that one must spend to meet the necessities of life (Rose 2016: 4, 42; Goodin et al. 2008: 5–6, 34). The differences in our approaches arise in how to conceptualize and assess this time. The approach Goodin et al. take – which I term the social benchmark approach – follows, as Goodin here notes, the standard conceptualization of a relative poverty line (that is, a poverty threshold set relative to a society's median income, rather than an absolute measure of deprivation). Dividing one's total necessary time into the categories of paid labor, unpaid household labor, and personal care, they assess one's necessary time in paid labor as how much time it takes one to earn a poverty-level income at one's wage rate, and one's necessary time in unpaid household labor and in personal care, respectively, as fifty and eighty percent of the median amount of time people in one's society spend in such activities, indexed, in the former, to one's household structure (Goodin et al. 2008: 34–53).

The approach I take – the basic needs approach – instead conceptualizes one's necessary time as how much time it is objectively necessary for one, taking account of relevant circumstances, to spend to meet one's own, and one's dependents', basic needs, which are the demands one standardly must meet in order to attain a basic level of functioning in one's society (Rose 2016: 42 n. 5, 58).

Though the philosophical conception of free time underlying the basic needs approach could be fully tailored to a given individual's relevant circumstances (i.e. how much time it is necessary for one, given all one's very particular circumstances, to meet one's basic needs), such a maximally individually tailored approach fails to meet the feasibility requirements of a public theory of justice, as it would not be possible for a public authority to practically make such an assessment efficiently or noninvasively. As such, I argue, the basic needs approach should be only moderately tailored to individual circumstances, such that it more generally assesses how much time it takes people in a set of relevant circumstances to meet their basic needs (Rose 2016: 46–47, 57).

The basic needs approach differs from the social benchmark approach in two key respects: First, on the social benchmark approach, as operationalized by Goodin et al., the assessment of necessary time is tailored only to wage rate and household structure, while the basic needs approach is tailored to any individual circumstances that a theory of justice or democratic decision renders relevant (Rose 2016: 60–65). Second, while the social benchmark approach assesses necessary time purely relatively, the basic needs approach has both absolute and relative components (following Sen 1983).¹

The first distinction is not a deep one, as the social benchmark approach could be operationalized in a more fine-grained way, as Goodin notes, if there were a suitable data set (*Goodin 2017, p.40*). Indeed, this is a potential point of greater convergence, as my approach indicates that more comprehensive circumstance-tailored time-use data must be collected in order to empirically operationalize the basic needs conception of free time.

Goodin argues that though the two approaches could converge in this way, the added granularity would come at a cost, because public policy does and should operate through a system of general rules, and ought not to be unduly driven by the need to accommodate the very special circumstances of some small subgroup (*Goodin 2017, p.40*). This point about generality is well taken, but I don't think it obviates the need for more fine-grained data for sound public policymaking. Consider, for instance, the question of where to invest in improving the speed and efficiency of a city's public transportation systems. It might be the case that the city's high-income workers, who choose to live in its suburbs, and

1 On whether necessary time should be measured by a relative or absolute standard, see the exchange between Goodin (et al. 2011) and Bittman (2011); see also Williams, Masuda, and Tallis (2016). For a measure that relies on an absolute standard, see Hobbes et al. (2011).

its low-income workers, who can afford to live only in its outer rings, spend the same amount of time commuting into work, but the low-income workers spend more *necessary* time commuting – a distinction that could be made only with more fine-grained data, and that ought to inform a just transportation policy. Further, when there are exceptional cases that ought to be treated separately from general social policy, even on a case-by-case basis, the basic needs approach provides the required conceptual grounds for such assessments.

The second distinction is more significant. Consider the question of how much time it is necessary to spend grocery shopping, cooking, and eating. The social benchmark approach determines how much time it is necessary to spend on these tasks as half the median amount of time people in one's society in fact spend on these tasks, tailored to some set of circumstances. On the basic needs approach, these relative comparisons are relevant – how much time people around you spend in necessary activities does provide meaningful guidance about what is socially necessary to function in one's society – but they are not determinative. Say that the median amount of time that full-time employed parents spend grocery shopping, cooking, and eating is only five hours per week. The assessment of necessary time might reflect that, but it could also be adjusted by democratic or expert judgment about how much time it is objectively necessary to spend in these tasks. Consistent with its underlying conceptualization, the basic needs approach allows for such adjustments in instances in which people generally might, due to competitive pressures or social norms, spend either more or less time than is objectively necessary to meet a basic need (Rose 2016: 55).

Beyond these questions of conception and measurement, Goodin also raises several points which fruitfully indicate areas of future work, and which I want to note here, if only briefly. First, there is the matter of distinguishing and evaluating the various policy levers a society might engage to realize a just distribution of free time. These include, as Goodin notes, beyond more generally equalizing resources, reducing and redistributing necessary time (*Goodin 2017: 36-37, 41-42*). In addition, a society can realize a just distribution of time by ensuring that citizens have access to free time (e.g. counteracting overemployment Rose 2016: 60, 78–81, 138–40), and entitling citizens to a greater portion of a society's aggregate available free time, even if at the cost of lower rates of economic growth (Rose 2016: 128–34). Taken together, these means provide substantial scope to affect the amount and distribution of a society's free time. Second, there is the question of what conditions enable citizens to make effective use of their free time – which I take up next in engagement

with Terlazzo's argument. And, finally, there is the question of how arguments for a claim to free time interact with those for a claim to various valuable goods in work. While the former might undermine the latter (if arguments for valuable work depend on how people must spend most of their time working), the arguments might instead apply in tandem, such that people have claims to these goods – as Goodin suggests – within and outside of work.²

2. THE SOCIAL CONDITIONS FOR THE EFFECTIVE USE OF FREE TIME: A RESPONSE TO TERLAZZO

Terlazzo generously proposes that the argumentative framework I use to establish citizens' legitimate claims to free time may serve as a model to argue for citizens' claims to other under-explored resources. She takes up this project by instructively arguing that, on the basis of the effective freedoms principle – which ensures that citizens possess the means that are generally required to make effective use of their formal liberties and opportunities – citizens have a claim to a distinctive internal resource: a sense of moral entitlement to make use of their basic liberties.

Terlazzo's example of Irma illustrates how a lack of a sense of moral entitlement may compromise one's ability to effectively exercise one's freedoms. Irma is an affluent housewife who has ample money and free time, but she believes that a woman's place is in the family, and that she is morally obligated to devote all of her time to taking care of her home and children. While Irma is aware of her formally-guaranteed freedoms and has the temporal and material resources to exercise them, she does not feel morally entitled to do so. As such, Irma does not participate in politics or community life, or engage in any other pursuit beyond caring for her family (*Terlazzo 2017: 92-93*).

Terlazzo develops several alternative ways to specify this resource, but to take one version, we can understand it, analogous to Rawls's primary good of the social bases of self-respect, as a claim to the social conditions that reliably foster the belief that one is morally entitled to exercise one's basic liberties. Terlazzo argues that the social conditions that would ground this belief would likely be some standard of formal education and broad exposure to people living diverse lives (*Terlazzo 2017: 100-101*). If

2 See, for instance, Gheaus and Herzog (2016: 80) for the suggestion that if people had far more free time, there would be less, if any, reason to be concerned with the distribution of people's ability to realize these goods within their paid work. For a discussion of these argumentative possibilities, see Hsieh (2008: 76–79), and for arguments that might apply within and outside of work, see, for instance, Muirhead (2004) and Arnold (2012).

Irma was not educated to consider or exposed to alternative views about the proper role of women in the family and in society, and therefore she has always held, and is not open to revising, her beliefs about women's domestic obligations, she would then lack the relevant resource.³

Terlazzo takes up the argument for the resource of free time to argue, in parallel, for the resource of moral entitlement. In response, I will, in turn, take up her argument to show how a claim to this type of internal resource interacts with citizens' claims to free time.

The effective freedoms principle grounds citizens' claims to a set of resources. By extension, on the same grounds, citizens also have claims to the social conditions that are generally required to make effective use of these resources for the exercise their liberties. As such, citizens have claims to fair shares of free time, and to the social conditions that allow them to make effective use of their free time to exercise their liberties (Rose 2016: 90, 142).

To see how citizens might possess free time under conditions that undermine their effective use of it, and in turn the effective exercise of their liberties and opportunities, consider the following cases. Ann has a fair amount of free time, but she is a retail employee who must work evenings and weekends, so she only has free time during weekdays when her family and friends, as well as most other people, are working. Beth is a live-in housekeeper and nanny and, though she too has a fair amount of free time, she only has free time in brief windows between meeting the responsibilities of her position. Chris works in a distribution center, and though he also has enough free time, it does not occur on a predictable schedule because he is regularly required to work overtime without advance notice; similarly for David, a restaurant server, with an on-call shift schedule (or zero-hours contract). Though Ann, Beth, Chris, and David all have a fair amount of free time, due to the constraints imposed by the terms of their employment, they do not have this time under conditions that allow them to effectively use it to exercise their liberties (Rose 2016: 142-143).

To address these sorts of constraints on the effective use of one's free time, I argue that, in addition to having a fair amount of free time, citizens must enjoy their shares of free time under a set of fair conditions. In particular, first, one must have access to sufficient periods of shared free time; and second, one must either have discretion over when one's free time occurs, or, if one has limited discretion, one's free time must occur in generally usable periods and on a predictable schedule (Rose 2016: 143-44).

3 For a related argument, see Ferracioli and Terlazzo (2014).

The book focuses on these specifically temporal conditions that must obtain for the effective use of one's free time, but these are, of course, not the only ways one's effective use of one's free time may be constrained, nor are these the only conditions that must obtain for one to be able to effectively use one's free time to exercise one's liberties and opportunities. The effective use of one's free time also requires, for instance, various social conditions related to space. Effective freedom of association calls for access to both private and public spaces that meet a set of conditions, including, as Goodin notes, public parks that facilitate social mixing (*Goodin 2017: 43*), as does effective exercise of the political liberties. The effective use of one's free time to more generally pursue a conception of the good also requires access to diverse opportunities in the built and natural environment, which we might think of as free time infrastructure (Rose 2016: 8; see also Weeks (2011: 167-171) on the creative potential of free time, which in turn can expand these and other opportunities).

Terlazzo provides the useful example of Irma to demonstrate how an absence of a sense of moral entitlement, like an absence of free time, can undermine the effective exercise of one's freedoms. But her example also constructively highlights how the effective use of one's free time can itself be hindered in other ways, and more broadly, how ensuring that citizens can make effective use of their formal freedoms requires an interlocking set of resources and social conditions. To illustrate how citizens' claims are connected, consider education. On the basis of the effective freedoms principle, citizens are entitled to a system of education that fosters their all-purpose internal capacities, including, following Terlazzo's argument, a sense of moral entitlement. In turn, such an education system serves as one of the social conditions that enables citizens to make effective use of their free time to exercise their liberties. Bertrand Russell, for instance, who argued that "four hours' work a day should entitle a man to the necessities and elementary comforts of life, and that the rest of his time should be his to use as he might see fit", was quick to add that education would be "an essential part of any such social system" in order to ensure that people were equipped to make use of their free time (Russell 2004: 12).⁴

It is essential – especially as we consider the prospect of citizens having

⁴ This aim might inform both schools' curricula (e.g. civics education) and schedules (e.g. recess, school vacations), so that students have both preparation for and experience with the effective use of free time. I thank Tom Parr for suggesting this point. Children might also have a claim to free time to realize non-instrumental goods; for an argument that children have claims to free time, and to the means to make effective use of that time (e.g. playgrounds, extra-curricular opportunities), to realize distinctive childhood goods, see Neufeld (2018); see also Gheaus (2015); Rose (2016: 63 n. 29).

far greater amounts of free time – to remember that the effective freedoms principle grounds citizens' claims not only to a fair amount of free time, but, as Terlazzo's argument highlights, to the social conditions that allow them to make effective use of it to exercise their liberties and opportunities. Citizens must enjoy their free time under social conditions that allow for its value to be realized.

3. THE SCOPE OF THE EFFECTIVE FREEDOMS PRINCIPLE: A RESPONSE TO VON PLATZ

The argument that the effective freedoms principle grounds a claim of all citizens to free time can be understood, von Platz argues, in two ways, corresponding to two readings of the principle. Von Platz contends that, while both arguments are sound and establish that free time is a proper subject of justice, neither establishes an additional way in which citizens are entitled to free time (*von Platz 2017: 59*). The two ways that von Platz argues the effective freedoms principle can be interpreted are: first, the basic liberties reading, on which citizens have a claim to an adequate amount of the resources required to exercise their basic liberties; and second, the general liberty reading, on which citizens have a claim to a fair share of the resources required to pursue their conceptions of the good, with "fair" meaning only that all should receive their due (*von Platz 2017: 51*).

Von Platz argues that, while the first reading yields a claim to only sufficient free time to exercise one's basic liberties, the fair distribution of free time among cooperating citizens remains an issue of justice beyond the point at which all have enough time to exercise their basic liberties. Yet, turning to the second reading, von Platz contends that it cannot support this stronger claim to a fair share (*von Platz 2017: 53-55*). In response, von Platz suggests a way to extend the book's argument to establish that citizens have a claim of distributive justice to a cooperatively fair share of free time (*von Platz, pp.9-11*).

I take von Platz's argument on behalf of a claim to free time, as a distributive claim to the benefits of cooperation, to be compatible with my own, and would instead characterize his argument as one way of specifying the effective freedoms principle, rather than as an extension that is necessarily "outside the scope" of the principle (*von Platz 2017: 56*).

The effective freedoms principle allows for more variation and is incorporated into different theories of distributive justice in a wider range of ways than von Platz's description may indicate. As I argue, there is considerable diversity in the form the principle takes within different

liberal egalitarian theories, from what grounds citizens' claims and the conditions under which their claims are fair, to which liberties and opportunities its scope extends, as well as the currency of citizens' shares and which distributive principles apply to their shares. Additionally, some theories recognize the principle directly, while others realize it indirectly through other principles (Rose 2016: 69-73, 85-89).⁵ The principle is, by construction, stated broadly – as a “legitimate claim to a fair share of the resources that are generally required to exercise their formal liberties and opportunities” – to encompass this diversity. Across these variations, the principle's core is the commitment, central to liberal egalitarian theories of social justice, to ensuring that citizens possess the means to exercise their freedoms (Rose 2016: 6-7).

One version of the effective freedoms principle is von Platz's basic liberties reading, grounding a sufficientarian claim to the resources that are generally required to exercise one's basic liberties. Yet, the principle is also developed in a variety of other ways, and these alternatives can be seen as different ways of specifying von Platz's general liberty reading of the principle.

Some versions of the effective freedoms principle, while grounding sufficientarian claims, are not limited in scope to resources for the basic liberties. Cécile Fabre's (2006: 32–33) theory of social rights, for one, holds that citizens have “rights to the all-purpose resources they need in order to lead” a life in which they can frame, revise, and pursue a conception of the good with which they identify.⁶ Elizabeth Anderson's (1999: 315–21; 2001: 70–71) theory of democratic equality, to take another, holds that citizens are entitled to the social conditions, including the resources, necessary to have effective access to levels of functioning sufficient to stand as equals in a democratic state and civil society, and as equal participants in a system

5 The two principles of John Rawls's theory of justice as fairness provide an example of how a theory may realize the effective freedoms principle indirectly through other principles. In addressing the question of how to ensure that citizens' liberties are not merely formal, Rawls argues that, while the first principle requires guaranteeing the fair value of the political liberties, it does not specifically guarantee the fair value of all the basic liberties, because to do so would be “superfluous, given the difference principle” (Rawls 2001: 148–51). The difference principle “underwrites the worth” of the guarantees of the basic liberties and fair equality of opportunity principles, and so the principles of the theory taken together ensure that citizens enjoy the worth of their formal liberties and opportunities (Rawls 2005: 5–6).

6 See also Fabre (2000: 18–20). In a notable exception to the general neglect of temporal resources in theories of justice, Fabre cites as an example of lack of means someone “who needs to work fifteen hours a day in order to subsist”, and so “will not be able to pursue his chosen conception of the good, precisely for lack of time and money; in fact he most probably will not be able, for these very same reasons, to pursue any conception of the good which does not involve working fifteen hours a day” (Fabre 2006: 31).

of cooperative production.

Other versions of the effective freedoms principle yield, as von Platz favors, stronger claims of distributive equality grounded in cooperative fairness. Stuart White's (2003: 26, and 25-76) account of justice as fair reciprocity, for instance, which is founded on a commitment to substantive economic reciprocity, holds that citizens have presumptively equal rights to the satisfaction of their opportunity interests, including their "interests in access to the resources necessary for pursuing the ideals that animate their personal lives".

As such, the effective freedoms principle's central commitment – to ensuring that citizens possess the means to make effective use of their freedoms – can be specified in a range of ways. Citizens' "legitimate claims to a fair share" can, as von Platz advocates, be grounded in the cooperative norms of fairness of distributive justice, and if the principle is specified in this way, it can yield claims to a cooperatively fair share of free time. The book aims to show that any theory that holds that citizens have claims to the resources required to exercise their freedoms – as all liberal egalitarian theories of social justice do – must recognize that citizens have claims to free time. From this recognition, citizens' claims to free time ought, then, to be incorporated into different theories of justice, in various ways and with varying implications, depending on different theories' particular principles – with von Platz's proposal being one welcome way of specifying citizens' claims to free time.

4. CONFRONTING THE CLASS DIVIDE: A RESPONSE TO STANCZYK

Stanczyk takes up the question of how we ought to regard the claims to free time of wealthy professionals. Stanczyk makes two arguments: First, though affluent professionals may loudly lament how little free time they have, they ought to be regarded, by virtue of their wealth and occupational opportunities, as already having (more than) their fair shares of free time. As such, wealthy professionals have no claim of justice to work hours protections (e.g. protections that entitle one to work no more than a maximum number of hours; to have predictable schedules; to have short or flexible schedules or leave time for caregiving; or to not have to work during a common period of free time) (*Stanczyk 2017: 66-70*). Second, to extend such work hours protections universally, including to wealthy professionals, would not only be unjustified, it would conflict with the aim of securing a just distribution of free time, and distributive justice more broadly (*Stanczyk 2017: 66, 70-72*).

This is an important and complex question, and one that goes, as Stanczyk rightly argues, to the question of how liberal egalitarians ought to confront the class divide. I will take up Stanczyk's two arguments in turn.

The first argument – that wealthy professionals ought to be regarded as already having their fair shares of free time – is part of the larger question of how choices for which one might be held responsible ought to affect the assessment of one's free time (Rose 2016: 60–65). Say a corporate lawyer has inherited, or has accumulated after enough years in her highly-paid position, a substantial amount of wealth, such that, if she were to quit her position, the terms of which require her to work long hours, she could use this wealth to meet her basic needs without ever working another day. Or, say that a psychiatrist, who hasn't inherited or accumulated wealth but earns a generous income working short and flexible hours, leaves her practice to work as an interior designer, and now must work long and antisocial hours to earn a decent income. Though the corporate lawyer and the interior designer are required to work these hours by the terms of their current employment, they would not have to if they were to take advantage of the privileges afforded by their wealth and occupational opportunities.

The book's core argument, so that it applies broadly across different theories of justice, is constructed to be open to taking different positions on these questions of responsibility-sensitivity, and so is open to holding that such affluent professionals, despite their long work hours, are properly regarded as having their fair shares of free time, and thus have no claim of justice to work hours protections.

With respect to wealth, I argue that a society may democratically decide that, if one has personal wealth above some amount, any paid work one does ought to be treated as a use of one's free time, rather than as necessary time. This threshold level might be set higher or lower, or include or exclude different asset types, depending on various circumstances (Rose 2016: 64). Stanczyk's argument also rightly presses that this threshold should not be left solely to democratic decision, and is properly constrained by principles of distributive justice, if, for instance, it were necessary to treat the work hours of those above some threshold level of wealth as discretionary in order to meet the claims to free time of the less well off.

With respect to occupational choice, the core argument is open to taking the more responsibility-sensitive position, such that if one chooses to work in an occupation that requires longer hours than another occupation one could have chosen, the assessment of how much free time one has would reflect one's occupational choice set, not the occupation one has in fact chosen.

While the core argument allows for taking this position, in developing the argument and its implications, I instead argue that the importance of the interest in freely choosing one's occupation provides a weighty reason to allow citizens to exercise this choice without forfeiting their claim to other important interests, including to free time. Nonetheless, while citizens do have an all things considered claim to a fair share of free time, because it may sometimes be impossible or prohibitively socially costly to guarantee this claim for particular occupations, citizens have only a *pro tanto* claim to free time in their chosen occupational position (Rose 2016: 90-92). This *pro tanto* claim can be defeated by several types of reasons, including, as Stanczyk's argument again presses, if guaranteeing free time to privileged professionals in their chosen occupations would unavoidably conflict with meeting the claims of those who have less advantageous occupational opportunities.

As such, even if citizens do have a *pro tanto* claim to free time in their chosen occupational positions, if extending work hours protections to all, including the most privileged, would necessarily conflict with realizing the claims to free time of the less privileged, my argument is open, and indeed would favor, regarding the long work hours of those privileged by wealth and occupational opportunities as discretionary uses of their free time. Time-pressed wealthy professionals who have access, by virtue of their wealth or occupational opportunities, to free time would – if there is such a conflict – then have no claim of justice to work hours protections.

Yet, to turn to Stanczyk's second argument, we should not be too quick to assume that this conflict would necessarily arise. Stanczyk argues that the conflict arises because providing work hours protections universally would be economically regressive: some of the affluent professionals would inevitably choose to work less, resulting in lower profits and salary incomes, and thus a smaller tax base, diminishing the government revenue available to meet the claims of the less well off (Stanczyk 2017: 70-72).

To start, it might be the case that, for empirical reasons, universal work hours protections would in fact better realize the claims of the less well off. Stanczyk grants that there may be other reasons to implement work hour protections universally, such as economic efficiency or political strategy (and, we could add, gender equality) (Stanczyk 2017: 67). But, we might also raise questions about the assumed economic regressivity. To pose two other possible dynamics, it might be the case that harried professionals, with their long and always-on work hours, would in fact be, in total, more productive, and would be productive in ways that are more creative and socially beneficially, if they had shorter and more flexible work schedules (Rose 2016: 130–31). Or, the fact that the those with high social status work

long hours might promote social norms valorizing this culture – with “busyness as the badge of honor for the new superordinate working class,” as sociologist Jonathan Gershuny puts it – with the effect that these norms undermine the ability of workers across society to choose not to work long hours (2005; see also 2009; Rose 2016: 138–39).

Further, whether extending work hours protections universally would conflict with the aim of securing a just distribution of free time, or distributive justice more broadly, depends on the requirements and possibilities of the underlying theory of justice. On a theory with a sufficientarian distributive standard, for instance, there may easily be no conflict between universal work hours protections and realizing all citizens’ claims to a sufficient amount of free time (and other resources). Or, on a theory with a more egalitarian distributive standard, there might similarly be no conflict between extending work hours protections universally and realizing distributive justice more broadly, given that there would be a far less unequal distribution of wealth and occupational opportunities than in the society, resembling our own today, that Stanczyk describes.

To draw these points together, first, the core argument is straightforwardly open, if maximally responsibility-sensitive, to holding that the long work hours of wealthy professionals are discretionary uses of their free time. Moreover, even if citizens have *pro tanto* claims to free time in their chosen occupational positions, wealthy professionals have no claim of justice to work hours protections if their universal extension would necessarily conflict with realizing the claims to free time of the less well off. But, second, whether the presumptive claim to universal work hours protections is defeated depends on whether this conflict does in fact arise, and unavoidably so – a question that cannot be answered without looking further at both the potential empirical dynamics and the underlying theory’s requirements and possibilities.

5. A REPUBLICAN SOCIAL JUSTICE ARGUMENT FOR FREE TIME: A RESPONSE TO LIM

Lim persuasively develops a republican case for an entitlement to free time, with a carefully constructed two-stage argument. First, republican non-domination requires robust checking mechanisms to ensure that power-holders are forced to track the interests of their power-subjects. In the domain of the workplace, for instance, employees must have mechanisms to check employers’ power, through both contestation (e.g.

political organizations and unions to dispute decisions) and justification (e.g. workplace committees and employee representation on boards to participate in decisions). Importantly, establishing, maintaining, and participating in these checking mechanisms – and citizens’ checks on political power more generally – takes time. Thus, Lim argues, the protection of republican non-domination entitles citizens to sufficient time for political engagement (*Lim 2017: 80-85*).

Second, Lim argues that providing citizens with time specifically for political engagement, either compulsorily or conditionally, would be contrary to republican commitments. For the state to ensure that citizens devote this allotted time to political engagement would require invasions of privacy, extensive surveillance, coercive enforcement, and state judgment about what activities are worthy, and would also likely be contrary to the cultivation of genuine civic virtue. To avoid these pitfalls, citizens’ claims to time for political engagement ought to be provided instead in the form of free time, for citizens to devote to any activities of their choosing (*Lim 2017: 85-88*).

Lim argues that, unlike liberal egalitarians who can make a “straightforward” case for free time, this republican argument is an “instrumental” one (*Lim 2017: 74*). While Lim is right to argue that this republican justification for free time is less straightforward, it is perhaps worth clarifying that, on both accounts, citizens’ claims to free time are grounded in its instrumental value as a resource. To characterize the contrast, we might instead say that this republican argument is both more indirect (citizens’ claims to free time run through their claims to political time) and contingent (citizens’ claims to free time depend on the non-viability of claims to specifically political time).

In examining the “temporal dimension within republicanism”, Lim aims to see how republicanism might ground an entitlement to free time, and she readily notes that the argument she develops is not necessarily the only republican path available (*Lim 2017: 74*). In the spirit of her argument, in response I will sketch another possible republican route to an entitlement to free time. To do so, I will take up Lim’s suggestion to look toward the connection between free time and social equality.

To be free citizens, Philip Pettit argues, republican citizens must enjoy freedom as non-domination not only in their relations to the state, with checks against public domination, but also in their social relations with one another, with blocks against private domination. To protect citizens against private domination, the republican theory of social justice requires “a level of protection and resourcing for people’s basic liberties – a level of entrenchment – that would enable them to count as equals in the enjoyment

of freedom” (Pettit 2014: 82). This ideal of equal status is grounded in the image of the *liber*, or free citizen, from the republican tradition, and requires that citizens can pass “the eyeball test”: they can “look one another in the eye without reason for fear or deference” (Pettit 2014: 82). Free citizens can “walk tall and assume the public status...of being equal in this regard with the best,” and “do not depend on anyone’s grace or favour for being able to choose their mode of life” (Pettit 2012: 84, 82). The republican theory of social justice, then, requires that, to enable citizens to meet the eyeball test, all citizens must enjoy a threshold level of resources and protections for the exercise of their basic liberties (yielding, as such, a sufficientarian version of the effective freedoms principle) (Pettit 2012: 85, and 75-129; 2014: 99, and 77-108; Rose 2016: 70n8).

From these grounds, it is then possible to argue that republicans ought to be concerned with the distribution of free time, insofar as inadequacies in citizens’ shares of the resource of free time undermine citizens’ ability “to stand on an equal footing” (Pettit 2014: 80).⁷ To see how this might be the case, say that while some people have an abundance of free time, and devote it to social and community life, time-consuming political activities, and a wide array of educational and cultural forms of personal development, others must work very long or unsociable hours, and these time-poor citizens have scant opportunity to participate in such endeavors. It is not difficult to imagine how these deficits of free time might, like material poverty, undermine citizens’ equal standing. Or, consider how if one has very little free time, or if the terms of one’s employment render one always on call to work demands or exposed to unpredictable work schedules, one might be dependent on the favors and goodwill of others and thus liable to their interference. One might well have to “bow or scrape, toady or kowtow, fawn or flatter” (Pettit 2012: 82) with one’s bosses and coworkers, and perhaps one’s family or friends, in an attempt to manage and reconcile one’s personal commitments and obligations with these onerous and intrusive work demands. Again, it is apparent how shortcomings in both in the amount and the conditions of citizens’ shares of free time might undermine their equal status as free citizens.

In this way, it is possible to construct another republican path to a claim

7 Though the eyeball test primarily requires that citizens possess an adequate level of resources and protections for the exercise of their basic liberties, it also imposes limits on how vast inequalities in resources can be, as citizens’ equal status depends in part in how their resources compare with others’, and if they “compare too unfavourably” that is likely to affect the “standing they can command in one another’s eyes” (Pettit 2012: 90–91). It seems that the eyeball test would also impose limits on how vast inequalities in free time could unobjectionably be, but this argument primarily yields a sufficientarian claim to free time. (On the relationship between social equality and distributive claims to free time, see Rose 2016: 85–89).

to free time, building on the idea that republican freedom is “a freedom that presupposes the resources required to make it effective” (Pettit 2014: 103). On these grounds, one might argue, citizens are entitled to the resource of free time for the exercise of their basic liberties, to the extent that it enables them to enjoy equal status as free citizens. Such an argument, like Lim’s, provides a republican connection between free time and social equality, as all citizens must possess free time on terms that enable them to pass the eyeball test.

Following Lim’s lead in exploring the temporal dimensions of republicanism, there are likely other ways that republican commitments could yield a case for free time—and these further possible arguments, like the one described here, may be taken as complements to the republican argument developed by Lim.

6. CONCLUDING COMMENT

To have one’s work read by such excellent and thoughtful contributors is an honor. I am grateful to the contributors for devoting their attention and time to engaging with the book, doing so in such a constructive spirit, and for providing so many threads about which to continue thinking. I am also grateful to the editors, in particular to Tom Parr, for his valuable comments and for bringing this symposium to fruition.

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Symposium on Liam Shields'
*Just Enough: Sufficiency as a Demand
of Justice*

**GUEST EDITED BY DAVID V. AXELSEN, LASSE NIELSEN, AND
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Introduction

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Most people would agree that a world in which some people are starving and others take champagne showers is unjust. But is this unjust because some people have too little or because they have (much) less than someone else? This question has long played a role in public debates about redistribution, poverty, and the welfare state; is it insufficiency or inequality (or both) that matters? More recently, the notion that social justice is achieved when no-one has too little, and everyone has enough, has come into vogue in political philosophy. A *sufficientarian* view of justice,¹ thus, now proposes a distinct alternative to prioritarian, egalitarian, libertarian, utilitarian and other conceptions of justice.

In its original form, sufficientarianism entails that justice, or morality, is concerned with securing “enough” of the relevant distributive currency rather than aiming for an equal distribution of benefits. This notion underpins what Frankfurt termed, the “doctrine of sufficiency” (Frankfurt 1987). The doctrine is grounded in the belief that what matters is people’s absolute levels of opportunity and well-being and not their standing relative to others. As Raz famously noted, it is “the hunger of the hungry, the need of the needy, the suffering of the ill, and so on”, with which morality is concerned (Raz 1986: 240). Justice, thus argued, is not upset by the mere fact that people are worse off than others.

The doctrine of sufficiency, as first developed, however, was met with some powerful objections. In particular, it became apparent that the not giving any weight to inequalities above the threshold seemed untenable (Casal 2007; Holtug 2007). While most theories of justice would agree that getting people above some critical threshold is of significant importance,

¹ See Sen 1979; Frankfurt 1987; Crisp 2003; Benbaji 2005; Casal 2007; Huseby 2010; Gosseries 2011; Axelsen and Nielsen 2015; Fourie and Rid 2016; Shields 2016.

few seemed willing to accept the claim that inequalities above this threshold are of no concern to justice. But, as Paula Casal argued, for sufficientarianism to be a distinct view, it must hold both of these claims; both the positive thesis, that it is of special significance to get people above the threshold, but also the negative thesis, that once everybody is above the threshold, no further redistributive demands apply (Casal 2007).

Several philosophers have developed sufficientarianism to better cope with this critique. Some suggest multiple thresholds “vertically” at different levels of well-being, thereby making it less implausible that distributive demands do not apply above the “higher” threshold (Benbaji 2005; Huseby 2010). Others suggest multiple threshold “horizontally”, applied to every distinct relevant dimension of value, so that to be above the threshold in a relevant sense is to be above all such thresholds (Axelsen and Nielsen 2015). Yet others develop sufficientarianism into a hybrid-view by combining the positive thesis with other distributive principles above the threshold (Fourie and Rid 2016).

Liam Shields’ *Just Enough: Sufficiency as a Demand of Justice* (2016) is a new contribution to these theoretical debates, with the merit of applying the theoretical framework to concrete questions such as upbringing, education and global justice. Its main ambition is to rescue sufficientarianism from “the indifference above the threshold objection”, mentioned above, and what we might call “the threshold fetishism objection”. Stated formally, the two objections look like this:

O1: It is implausible to be indifferent about the way benefits and burdens are shared once individuals have secured enough.

O2: It is implausible to permit benefitting those that are *just* below the threshold by tiny amounts instead of benefitting those that are worst off by very large but insufficient amounts.

The first objection applies to what Shields calls “upper-limit sufficientarianism”, or the idea that once everyone has enough, there are no other requirements of distributive justice. The second applies to “headcount sufficientarianism”, stating that we should maximize the amount of people having enough. According to Shields, all existing versions of sufficientarianism fall into these two categories and either are vulnerable to these decisive objections or must be revised in a way that does not make them distinct anymore from other conceptions of justice.

Fortunately for sufficientarians, there seems to be a way out of this, which requires combining the two following theses as Shields recommends:

The Positive Thesis: We have weighty non-instrumental reasons to

secure at least enough of some good(s).

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.

This revised sufficientarian view avoids O1 because it is not indifferent towards inequalities above the threshold – it just affirms a discontinuity in the weight of our reasons to benefit people once the threshold is reached. And it avoids O2 because the shift assigns priority to benefiting those who do not have enough.

The argumentation for the two theses follows two distinct lines. The first consists in identifying “sufficientarian reasons”. These are “weighty, non-instrumental, non-egalitarian and satiable” reasons. Wherever we identify such reasons, there is a shift and hence there is room for a sufficientarian principle. For example, as Shields argues in the third chapter, one condition of freedom is a sufficient degree of individual autonomy, understood as “the ideal of living one’s life in accordance with one’s own authentic judgments”. Without this capacity, there is no freedom; hence it is required by justice. Does this mean that we should not promote autonomy beyond the minimum level required for freedom? No, it just means that once sufficient autonomy is secured, claims to further promote autonomy must be made on different grounds than making freedom possible.

The second line of argument consists in identifying debates in which sufficientarian principles can help solve clashes of values. Wherever there are two values, interests or claims that clash, the sufficientarian solution will be to state that once one value, interest or claim is sufficiently satisfied, the other value, interest or claim becomes relatively more important. One example is upbringing, where the interests of children often clash with the interests of (prospective) parents. On this issue, Shields argues in the fifth chapter that the child’s interests have priority over the parents’ interests until they are met to a sufficient extent. Hence, as long as parents provide a good enough upbringing (which is in the child’s interest), they should not lose the child’s custody. Only if parents did not perform well enough could a change of custody be envisioned. In other words, the child’s interests have priority. However, once a child receives a good enough upbringing, the parent’s interest (in keeping custody) matters more than the child’s interest (in receiving the best possible upbringing).

After having applied a similar reasoning to education and global justice, Shields concludes that the distinctive sufficientarian principles of justice are more plausible than their competitors and even indispensable to a sound and complete theory of justice – a claim assessed by several

contributions to this special issue.

The contributions to this volume cover all the main topics discussed in Shields' book. Two of them focus on Shields' core thesis: the shift thesis. Lasse Nielsen admits that it has some attractions, but is worried about the combination of the principles applying below and above the sufficiency threshold. Either the principle of sufficiency is to be weighed against the principle applying above the threshold, with the risk of downplaying the sufficientarian intuition to a minuscule role, or it has absolute priority and Shields faces objections applying to upper-limit sufficientarianism. Moreover, it seems to Nielsen that Shields' view hardly characterizes as distinctively sufficientarian, as it bears important resemblance with Larry Temkin's pluralist telic egalitarianism. Hence, he finishes his paper with a rehabilitation of upper-limit sufficientarianism – in particular against the “illusion of numbers”. Counterfactual examples with numbers, as Shields uses to disqualify the upper limit, can give the false impression that upper-limit sufficientarianism has no objections against some people being x times better off than others. Yet with a sufficiently high threshold, it will not be possible for some people to fare x times better than others. They will just have more money, not (many) more opportunities, capabilities or even welfare.

Pierre-Étienne Vandamme is more positively inclined towards the shift thesis. As Shields writes in his conclusion (2016: 199-200), he sees it as an opportunity to reconcile sufficientarian and egalitarian intuitions. For if sufficientarianism is detached from its negative affirmation that inequalities above some threshold do not matter from the point of view of justice, it becomes compatible with (luck) equality (or other principles) above the threshold. Hence, Shields' contribution to the debate illustrates the distinction that should be made between *moral indifference* to inequalities above the threshold and *agnosticism* about these inequalities. Endorsing the agnostic position entails that one defends only a partial theory of justice, which must be completed with another principle (at least). Vandamme then enquires into the reasons one might have to leave aside the question of residual inequalities to focus exclusively on insufficiencies, and he highlights several pragmatic reasons to do so. He concludes with a qualified assessment of pragmatism about justice.

Three contributions then discuss Shields' view on autonomy. Robert Huseby expresses sympathy for the view but raises several clarificatory questions and invites further developments on the understanding of satiability, the relation to the conditions of freedom, and the location of the threshold. For example, if autonomy is satiable, it is not clear that *further* increasing autonomy above the sufficiency level will contribute to making

people better off. Hence, in this respect, the principle of sufficient autonomy looks like an upper-limit sufficiency principle. Perhaps there is a level of autonomy that is sufficient without being equivalent to full autonomy, but Shields gives little specification of what this level would be and such view is exposed to the traditional “arbitrariness” objection to (low) sufficiency thresholds. As Huseby argues, there are several formulations concerning the threshold of sufficient autonomy in Shields’ book, and not all of them point in the same direction.

Christopher Mills is more critical and offers two objections against the principle of sufficient autonomy. First, he argues that Shields’ principle offers less protection for our capacities for autonomous behavior than it should. The reason is that it protects against coercion and other external threats acting on our beliefs, but not against internal threats such as self-deception, or non-interpersonal external threats such as bad luck. Second, he argues that Shields fails to dismiss accounts of how welfare is partly constituted by autonomy (“constitutive welfarism”). These accounts do not tie our capacities for autonomy to our interest in *freedom*, as Shields does, but instead tie both our capacities for autonomy and freedom to our interest in *living good lives*. As a result, they seem better able to protect our authentic decisions against internal threats and non-interpersonal external threats.

Danielle Zwarthoed also discusses the principle of sufficient autonomy, yet in relation with Shields’ views on education. Zwarthoed first challenges Shields’ contention that instrumental accounts of autonomy fail to support mandatory autonomy education in all cases. The reason instrumental accounts can succeed, she argues, is that an adequate level of autonomy might be necessary to live well. Drawing inspiration from Joseph Raz, she claims that a minimal degree of autonomy might be necessary to secure the dependency of a person’s goals on reasons. Otherwise, that person cannot make sure the reasons she has to pursue goals are independently valid and will contribute to her well-being. Zwarthoed then compares the principle of sufficient autonomy with the Rawlsian principle of fair equality of opportunity. Shields argues that, by requiring talents discovery, the principle of sufficient autonomy renders Rawls’ principle of fair equality of opportunity more plausible and should thus supplement it. Yet Zwarthoed points out that the two principles are not necessarily concerned with the same talents, which might bring them in tension in a context of finite educational resources.

Anca Gheaus discusses the issue of upbringing. As mentioned earlier, Shields believes that children are entitled to a sufficiently good upbringing, rather than to the best available one, and that their interests in that trump

the (prospective) parent(s)'s interests in parenting and keeping custody of their child. By so doing, he suggests an appropriate balance between the potentially conflicting interests of children and parents. Gheaus agrees with the conclusion that “adequate parents cannot lose custody merely because a better parent is willing to take over”, but rejects Shields' argumentation in favor of a “child-centred” account of the right to parent. Given that parenting entails the possibility to exercise a very significant amount of authority over children, she argues, it seems that the right to parent cannot be grounded on the right-holder. Therefore, unless Shields admits that justice requires equal opportunities to flourish and that parenting is necessary to flourish, which he denies, she claims that he should adopt a child-centred perspective.

Finally, Siba Harb and David V. Axelsen discuss the application of Shields' sufficientarianism to global justice debates. In addition to applying a sufficiency threshold, Shields differentiates between two ways in which our obligations may vary in demandingness: *content* (how much we owe) and *stringency* (how urgent fulfilling the duty is). He believes that this makes possible new ways of conceptualizing our duties of global justice compared with the traditional divide between statists and cosmopolitans. Harb and Axelsen argue that the combination of a sufficiency threshold and a shift in content-demandingness does not produce new viable positions. However, they highlight the conceptual and political benefits of the distinction between content and stringency. The latter means, for example, that someone can be statist *qua* content, i.e. consider that we owe more to compatriots than to foreigners, but cosmopolitan *qua* stringency, i.e. consider that our duties towards foreigners are more urgent. Many other possibilities unfold, with the merit of shifting the lines of divide in global justice debates and bringing more attention to the question of political priority in our duties.

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Why not More Equality? Sufficientarianism and Inequalities above the Threshold¹

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ABSTRACT

For people starting from a presumption in favor of equality, the very idea of a sufficiency threshold where the demands of justice would stop because everyone has enough is puzzling. However, Liam Shields, offers an account of sufficiency that has the potential to reconcile these egalitarians with the principle of sufficiency. This comes from his endorsement of what he calls “the shift thesis”, stating roughly that there is a discontinuity in the weight of our reasons to benefit people once they have enough. This thesis distinguishes his theory from other accounts of sufficientarianism by not denying the injustice of inequalities above the threshold. It thereby changes the way one can look at the relation between sufficiency and equality. The principle of sufficiency becomes the first principle of a conception of justice that must be completed by another – possibly egalitarian – principle. In the first section, I start with a brief exposition of the shift thesis and the way it relates to other accounts of sufficiency. In the second, I introduce a distinction between agnosticism and indifference towards inequalities above the sufficiency threshold. In the third, I argue that pragmatism might provide positive reasons to focus on insufficiency if one is agnostic about these inequalities. I conclude with a brief discussion of this pragmatic stance and of the choice to defend a partial view of justice as Shields does.

Keywords: equality, sufficiency, justice, pragmatism, ideal theory

For people starting from a presumption in favor of equality, or the intuition that unless there is a good reason to do otherwise, any distribution of goods or advantages should be equal, the very idea of a sufficiency threshold where the

¹ I thank David Axelsen, Axel Gosseries, Lasse Nielsen, Liam Shields, Julia Sichieri Moura and the anonymous reviewers for useful comments on previous versions of this paper.

demands of justice would stop because everyone has enough is puzzling. What puzzles them in particular is that some inequalities are tolerated by sufficientarians although they do not have a special moral justification (such as being the result of genuine choices, valuable efforts, or 'sacrifice' for the community).

The main merit of Liam Shields' stimulating account of sufficiency as a demand of justice is to potentially reconcile these egalitarians² with the principle of sufficiency. This comes from Shields' endorsement of what he calls "the shift thesis", stating roughly that there is a discontinuity in the weight of our reasons to benefit people once they have enough. This thesis distinguishes his theory from other accounts of sufficientarianism by not denying the injustice of inequalities above the threshold. It thereby changes the way one can look at the relation between sufficiency and equality. The principle of sufficiency becomes the first principle of a conception of justice that must be completed by another – possibly egalitarian – principle.

In the first section, I will start with a brief exposition of the shift thesis and the way it relates to other accounts of sufficiency. Then, in light of this, I will introduce in the second section a distinction between agnosticism and indifference towards inequalities above the sufficiency threshold, Shields' position being associated with agnosticism. In the third section, I will argue that pragmatism might provide reasons to focus on insufficiency and leave aside other inequalities if one is agnostic about them. And I will conclude with a brief discussion of this pragmatic stance and of the choice to defend a partial view of justice as Shields does.

1. THE SHIFT THESIS AND THE DISTINCTIVENESS OF SUFFICIENTARIANISM

As highlighted years ago by Paula Casal, sufficientarianism is usually conceived as the combination of two different theses: a positive thesis stressing "the importance of people living above a certain threshold" (Casal 2007: 297-298), and a negative thesis denying "the relevance of certain additional distributive requirements" (298). Many people think that it is the negative thesis that makes of sufficientarianism a complete

² Egalitarians committed to "comparative fairness" (Temkin 2017) must be distinguished from other egalitarians, like many relational egalitarians, whose position is compatible with some forms of (relational) sufficientarianism. From the latter perspective, if people have enough to stand in a relation of equality with others, no additional redistribution is required. Yet from the viewpoint of comparative fairness, any distributive inequality must be justifiable, whatever its impact on social relations.

and distinctive conception of justice³. It is *complete* because there are no distributive requirements other than those expressed by the principle of sufficiency. And it is *distinctive* because it is the only conception of justice that gives a pivotal role to some threshold of sufficiency and disregards the remaining inequalities.

In contrast, the mere affirmation of the positive thesis can be included or absorbed into a more complete and ‘hybrid’ conception of justice such as sufficiency-constrained (luck) egalitarianism⁴ or sufficiency-constrained (responsibility-catering) prioritarianism (318-323).

However, Shields proposes another way of understanding the distinctiveness of sufficientarianism. He endorses the positive thesis, which he formulates as follows: “We have weighty non-instrumental reasons to secure at least enough of some good(s)” (Shields 2016: 28). But he rejects the negative one – which he calls “upper limits sufficientarianism” – because of its “inability to condemn some regressive policies, which require greater contributions from the worse off than the better off [when they are both above the threshold], and are unable to condemn huge inequalities between those who have secured enough” (23).

Yet, recognizing that the positive view is not enough to distinguish sufficientarianism from other views of justice that might also include this concern (among others), Shields adds what he 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” (30). This shift thesis is, according to him, what distinguishes sufficiency from priority, because prioritariness usually believe that “priority to the worse-off diminishes at a continuous rate” (30), whereas the sufficientarian threshold marks a discontinuity. This also explains why he does not endorse luck or outcome equality: because unless these views are coupled with a sufficiency constraint, they do not do justice to this discontinuity in the moral importance of redistributions. However, if prioritarianism or egalitarianism were to include a sufficiency constraint, they would become compatible with the principle of sufficiency. Yet Shields does not arbitrate between priority, equality and other candidates. He simply recognizes that the shift thesis is “compatible with a wide range of distributive criteria once everyone has secured enough” (34).

3 See for example Axelsen and Nielsen 2015: 407-408: “[t]he acceptance of the negative thesis is [...] distinctively sufficientarian”.

4 Here we should distinguish between forms of egalitarianism that are themselves sufficientarian (this is the case of several ‘relational’ egalitarian views), others that include a sufficiency constraint, and others yet that reject the moral significance of any sufficiency threshold.

As Shields rejects the negative thesis, we can characterize his sufficientarianism as a *distinctive yet partial* view of justice. The principle of sufficiency is not enough by itself, as it does not provide guidance regarding the treatment of inequalities above the sufficiency threshold. It requires a complementary principle which can be, for example, outcome or luck egalitarian, utilitarian, prioritarian, leximin or maximin – the second principle applying specifically to what we might call the *residual inequalities*.

What is particularly interesting with Shields' view is that it illustrates the distinction that should be made between agnosticism and indifference towards these residual inequalities⁵. Although principles of sufficiency are often defended in *opposition* to principles of equality (see for example Frankfurt 2015; Crisp 2003; Axelsen and Nielsen 2015), Shields' view makes them potentially compatible. It sheds light on the fact that sufficientarians are not necessarily morally indifferent towards residual inequalities. Hence, it makes sufficientarianism attractive for people committed to comparative fairness and yet convinced of the centrality of people having enough. To be sure, this is not new (see Casal 2007 or Gosseries 2011), but this point has usually been made by egalitarians interested in sufficiency, not by sufficientarians. What is more, the shift thesis introduced by Shields has the merit of making this compatibility between sufficiency and equality appear more clearly.

2. . INDIFFERENCE AND AGNOSTICISM TOWARDS RESIDUAL INEQUALITIES

Given that sufficientarians face more egalitarian alternatives⁶, they must be able to provide convincing reasons not to equalize social positions beyond what is required to achieve their goal. In other words, they must be able to justify their choice for a principle of sufficiency rather than some principle of equality (or another alternative conception of justice).

Nonetheless, as Shields' case illustrates, some sufficientarians do not

5 Axelsen and Nielsen (2015: 423), for example, seem to conflate the two attitudes, using one term and then the other as if they were similar.

6 Outcome egalitarianism is certainly more egalitarian than any account of sufficientarianism. Yet regarding luck egalitarianism, things are more complex. Given its emphasis on choice, luck egalitarianism can be both more and less egalitarian than sufficientarianism. Unless they include a form of sensitivity to personal responsibility in their principle, which they usually refuse to do (Gosseries 2011: 473), sufficientarians will generally accept more inequalities (related to bad luck) than luck egalitarians, but they will also sometimes reject some inequalities (related to choice) that luck egalitarians might have accepted.

provide this justification. Shields rejects principles of equality that fail to take into account the discontinuity introduced by the sufficiency threshold, but he does not provide a justification for not adopting a form of sufficiency-constrained egalitarianism. And this might be explained by agnosticism towards residual inequalities. Agnostic sufficientarians have a strong feeling or intuition that deprivation (and/or domination) is unjust, but they do not know whether inequalities between well-off people – or billionaires as in the caricatural example often discussed – should be characterized as unjust or not⁷.

Another possibility is that they have an opinion about these inequalities, but they do not know how to argue in favor of it, or consider it a waste of time to make this argument. In this case, they are not really agnostic themselves, but they withhold their judgment and thereby endorse an agnostic *position*.

In contrast with the agnostics, other sufficientarians such as Harry Frankfurt are *morally indifferent* towards residual inequalities. The two attitudes must be carefully distinguished. Agnosticism entails either admitting that one does not know if these inequalities are unjust, or explicitly withholding judgment – which Shields does, for example. Moral indifference means that one does not consider these inequalities as unjust.

What can explain such moral indifference? Following Roger Crisp⁸, for example, one might believe that it is *envy* that leads some of us to develop hostility towards some inequalities which are not unjust in themselves (Crisp 2003: 749), and that it is compassion, not envy, that should feed our judgments of justice and injustice. Although we feel compassion for those who are badly off, we do not feel compassion for well off people having less than other well off people. Hence, rather than pursuing “envy-freeness” through equalizations of bundles of resources, as Dworkin (1981) would recommend, we should fight against feelings of envy and accept some inequalities as an integral part of social life.

Crisp’s argument about envy can of course be objected to. It is not because a judgment (of justice) comes from an inappropriate attitude (envy) that it is wrong⁹. Nevertheless, it provides us with one explanation why one might be indifferent to inequalities above the sufficiency

7 As suggested to me by David Axelsen, they might also think that we cannot know because we are so far from that world and therefore lack epistemic access to intuitions about these kinds of cases.

8 Crisp himself may not be morally indifferent towards residual inequalities as he expresses sympathy for utilitarianism above the sufficiency threshold (Crisp 2003: 758), and utilitarianism can have redistributive implications.

9 I thank the reviewer who pointed this out.

threshold: a kind of psychological moderation or wisdom characterized by the absence of envy, which is obviously more plausible if the sufficiency threshold is relatively high. Yet some people might also be envy-free for the simple reason that most people in the world are poorer than them. This could be characterized as *biased sufficientarianism*: although this sufficientarian has more than what is sufficient and would probably still have more in a situation where everyone had enough, s/he affirms that sufficiency is enough for the others. In other words, the indifference towards residual inequalities is explained by the fact that the person gains from these inequalities compared with a more egalitarian distribution. To be sure, no sufficientarian is likely to recognize him/herself in this picture. Yet this could be an unconscious bias¹⁰. And if we want to build impartial moral judgments, we should certainly distrust principles of justice that suit our self-interest, especially when we are quite well off and unlikely to be victims of strong injustices, as most professional philosophers are¹¹.

Hence, there is a variety of factors that can explain indifference towards residual inequalities: among others, a particular understanding of the notion of justice and the idea that it should be exclusively based on compassion; a rejection of envious comparisons; or, in some cases, a positional bias. In the next section, I would like to explore a more positive reason why one might be attracted by the principle of sufficiency and disregard residual inequalities: pragmatism. And I will suggest that this could explain Shields' focus on the injustice of insufficiency although he does not completely reject prioritarian and egalitarian views (provided that they include a sufficiency constraint). In other words, the aim of the next section is to provide a charitable interpretation of the reasons one might have to disregard some inequalities. It is an attempt to understand the appeal of sufficientarianism from an egalitarian perspective.

3. THE PRAGMATIC APPEAL OF SUFFICIENTARIANISM

What I will call here pragmatism about justice consists in endorsing a principle of justice in light of practical considerations such as its urgency, its achievability, or its action-guidingness¹². Let us examine these three

10 Similarly, some luck egalitarians or libertarians might be affected by a self-entitlement bias giving them the impression that they deserve more than others. The risk of bias is not specific to sufficientarianism.

11 Certainly, you do not need to have more than enough to defend upper-limit sufficientarianism, but you are less likely to hold this view if you are not above the threshold.

12 This kind of pragmatism differs from the one defended by Elizabeth Anderson and consisting in starting political philosophy from a diagnosis of the injustices in the real world (see Anderson 2010: 3).

possibilities in turn.

First, some might see situations of insufficiency or deprivation as an *urgency* to be solved¹³. Hence, they might consider it preferable to focus on that than on debates about what an implausible equal society would look like. The pragmatism, here, consists in selecting the focus of one's theory in light of what is the most politically important or urgent. In Shields' case, given that he does not seem to have a strong preference or a firm view in the debate between equality and priority above the threshold, this consideration of urgency might explain the choice to defend a partial conception of justice and leave the remaining question open. In particular, if it is true that there is this discontinuity in our reasons to benefit people once everyone has enough, as he argues, it becomes even more legitimate to focus on the urgency of insufficiency. This duty appears as more stringent¹⁴, and as having priority.

Second, some might think that their fellow citizens are probably more willing to accept the principle of sufficiency – which is in line with the human right to a decent standard of living – than a more demanding¹⁵ and more controversial ideal of equality. Or they might think that it would already be something to reach sufficiency for all, that it is already utopian enough. They would thus prefer the principle of sufficiency for its relative political *achievability*. This kind of pragmatism is often called “non-ideal theory”, or “realism”. It rejects the kind of idealist or utopian theorizing that “does not represent an ideal of political life achievable under even the most favorable circumstances” (Galston 2010: 387). Ian Shapiro, whose view of justice as non-domination is sufficientarian, can be taken as an example of such attitude, as he criticizes many theories of justice for being politically irrelevant (Shapiro 2016: 11-12). Such reasoning might play a conscious or unconscious role in one's choice to focus on sufficiency. Shields himself recognizes, without developing further, the advantages of sufficientarianism in light of non-ideal theory's willingness to set “interim goals that can be achieved” (2016: 199).

Third, one might be led away from luck and outcome egalitarianism because they are not action-guiding enough. Several luck egalitarians, for example, insist that levelling down might sometimes be required by justice,

13 See for example Nathanson 2005: 373, although he argues that decency is even more urgent than sufficiency and should therefore be the criterion of economic justice.

14 Shields actually gives an important role to this notion of stringency in his discussion of global justice (Shields 2016: 177; Harb and Axelsen 2017).

15 Note that although most sufficiency principles are less demanding in terms of redistributions than their egalitarian alternatives, a responsibility insensitive principle of sufficiency (especially with a high threshold) might be very demanding as it would require frequent transfers of resources to the imprudent, for example (see Gosseries 2011: 486-487).

but they press to add that other considerations will militate against levelling down in most cases. In so doing, they can appeal to value pluralism and downplay the importance of justice, which they may consider as an important value among other important values such as community and collective well-being for example (see Temkin 2000: 155; Cohen 2008: 7; 2011: 231; Lippert-Rasmussen 2015). Yet if they do this, one risk is to lose the action-guiding force of the principle of justice (Meijers and Vandamme, 2018). In order to know how to act so as to make the world better, we would then need to take into account not only what justice requires, but also other values we care about¹⁶. Hence, those who want to maintain the policy-guiding role of the concept of justice have pragmatic reasons to reject the principles of luck and outcome equality. The principle of sufficiency becomes more attractive, in this respect, because it does guide action. If a person suffers from deprivation, she must be helped, no matter how this happened and what other values we care about. Furthermore, the principle of sufficiency avoids most of the counter-intuitive implications plaguing more egalitarian principles when they are (mistakenly) interpreted as action-guiding principles (see Frankfurt 2015).¹⁷

Shields actually seems to endorse the view that principles of justice should directly guide action, which appears in his affirmation that if a principle “had little significance in terms of policy implications [...] then it could not have an extensive role in our thought” (Shields 2016: 10-11). This might seem uncontroversial, but it is actually not obvious if one considers G. A. Cohen’s distinction between fundamental principles of justice and rules of regulation, the latter only including non-moral considerations such as efficiency, achievability and others in order to directly guide action (Cohen 2008). In the latter view, principles of justice do not by themselves have policy implications, but only when they are associated with the relevant facts and additional values. What Shields seems to be looking for is a clear rule of regulation, and this pragmatic motivation might partly explain his non-selection of luck or outcome equality as the primary or secondary principle of justice. This would not make these alternative

16 Unless there are no other values at stake. But if justice is reduced to comparative fairness, this will not often occur. Most of the time, policies with distributive effects also have aggregative (or relational) effects. Taxation is probably the best example. You cannot just focus on its distributive dimension.

17 One should nevertheless note that if one is concerned with levelling down, as is the case with Frankfurt, the principle of sufficiency may not be the most attractive. Many people will agree that sufficiency for all cannot be pursued at any cost. If, for example, bringing a single person to the sufficiency threshold has a huge cost, and for the same price you could bring an incredible amount of people further away from the threshold, many people will consider it counter-intuitive to opt for the former option. Hence, the principle of priority might appear more attractive – or leximin egalitarianism, not considered by Frankfurt (Gosseries 2011: 468).

principles unjust, but merely inappropriate for Shields' purposes, which is a very different conclusion.

Hence, there is a variety of pragmatic reasons for focusing on the injustice of insufficiency. These reasons do not by themselves justify moral indifference towards residual inequalities, but they help us understand why one might want to take an agnostic position and leave this issue aside, as Shields does.

4. DISCUSSION

Let us take stock. Shields argues that there is a discontinuity in our reasons to benefit people once they have enough (1). His rejection of upper-limit sufficientarianism seems to indicate that he is not indifferent towards inequalities above the sufficiency threshold, but adopts an agnostic position (2). His choice to focus exclusively on the injustice of insufficiency, while leaving open the question of residual inequalities could be motivated by pragmatic reasons (3).

1) If the shift thesis is correct (which it is not the aim of this paper to assess¹⁸), then the principle of sufficiency should become part of any plausible conception of justice. Securing sufficiency for all should be the priority. Yet the very idea of a discontinuity in the rate of change of the marginal weight of our reasons to benefit people, as opposed to upper-limit sufficientarianism, entails that sufficiency cannot be enough. Shields' view of justice stands in need of a complement.

2) Agnosticism is a perfectly legitimate philosophical stance. It has been part of the philosophical wisdom for centuries to recognize our inability to answer some questions. And if it is pragmatism that leads you to sufficientarianism, you might legitimately want to leave aside the trickiest philosophical questions to focus on urgent injustices. You might also (mistakenly) think that we will never have to practically address the question of residual inequalities, because the battle to achieve sufficiency for all will already take centuries. Yet if one enters the philosophical debate about justice, the question is necessarily raised: why not more equality? And in addition to this, a lot of services we benefit from in affluent societies would be above most sufficiency thresholds and yet raise issues of justice¹⁹. Hence, the question matters both theoretically and practically. This being said, I agree that it matters less, *politically*, than defending sufficiency for all.

18 See Nielsen 2017 for a more critical view.

19 I thank Axel Gosseries for this suggestion.

However, as long as one remains agnostic about these inequalities, one cannot defend a complete theory of justice; only a partial one, which is also legitimate. A partial theory of justice points towards a specific kind of injustice, without the ambition to provide a full picture of a just society. Feminism, for example, can be interpreted as a partial theory of justice, laying the emphasis on the diversity of injustices suffered by women. But most feminist views of justice are (or can be) integrated into a broader framework²⁰, not always explicit, which can be egalitarian, sufficientarian, utilitarian or other. In the same vein, sufficientarianism advocating for the positive thesis but not the negative one is a partial view of justice, laying the emphasis on the injustice of deprivation, or insufficiency²¹ (and possibly its effects on social relations).

What is particularly interesting in Shields-like accounts of sufficientarianism is that they open the door to reconciliation between (usually) competing views of justice (see also Casal 2007 and Gosseries 2011). One could endorse two principles – sufficiency and outcome or luck equality – as a matter of justice, and sufficiency-constrained prioritarianism or leximin as a rule of regulation allowing departures from justice for efficiency reasons. Redefined as a partial view of justice, the sufficiency principle will be more difficult to attack and might come to be recognized as an essential component of any attractive complete theory of justice, as Shields hopes.

Nevertheless, Shields' argument will probably not convince those who are morally indifferent to residual inequalities. The reason is that it renounces to argue in favor of sufficientarianism as a complete and distinctive theory of justice, superior to its egalitarian, prioritarian and other competitors. In a sense, what Shields does amounts to admitting that there are no good reasons to put forward in favor of the negative thesis, or upper-limit sufficientarianism, or the idea that, once everyone has enough, there are no more requirements of justice.

3) Many people include pragmatic considerations in their reasoning about justice, without necessarily realizing or acknowledging it. Hence, they might be tempted to deny it and affirm that they have principled reasons to defend the view they are attracted to.

Choosing a principle of justice for pragmatic reasons raises several questions, already much discussed in the debate about ideal vs non-ideal

20 The contemporary emphasis on intersectionality (Crenshaw 1991), or the idea that women are at the intersection of diverse group affiliations and identities, and hence diverse claims of justice, is an attempt to relocate feminism into a broader picture of justice.

21 As Shields (2016: 27) argues, "deprivation" might point to an excessively low threshold of sufficiency.

theory (see among others Estlund 2014). Hence I shall limit myself here to one comment. Being pragmatic is as such not only legitimate but desirable. Nevertheless, by including pragmatic considerations in one's conception of justice, one runs the risk of making discussions about justice more confused²², because justice becomes relative to the author or speaker's appreciation of what is achievable or useful, for example. As there will likely never be a consensus on what is and what is not achievable or useful, there is no common ground to discuss justice, which is highly problematic both from the viewpoint of a community of scientific research and from the perspective of a democratic community searching for common political principles. Hence, before aiming at agreeing on common *principles* of justice, we should first try to reach agreement on the concept of justice: in this concept, do we include pragmatic considerations or not? And it might prove easier to agree on a principle of justice leaving aside pragmatic considerations. Most objections to luck egalitarianism, for example, are practical. If it was not expected to have disincentivizing effects, disrespectful implications or difficulties of implementation, few people would still object to it. In contrast, the appreciation of what is feasible depends a great deal on one's optimism, knowledge of the relevant facts, or appreciation of human nature. Of course, these pragmatic considerations would inevitably reenter the debate at a later stage, but separating the tasks might reduce confusion.

Cohen's distinction between fundamental principles of justice and rules of regulation helps avoiding some debates and confusions about the practicality of different theories of justice. From this perspective, defending a fundamental principle of justice does not commit you to all its implications. The principle does not in itself imply anything about how one ought to act all things considered. And justice is not the only thing that matters: you might care about justice *and* efficiency, *and* political pragmatism, without mixing all these considerations in an all-encompassing principle. Accepting such distinctions might make many disagreements between egalitarians, prioritarrians and sufficientarians disappear. They could then work together towards establishing appropriate rules of regulation in different contexts. Yet the logic of academic research, giving a high premium to apparent originality, or the capacity to distinguish one's view from the others', does not foster agreement between competing

22 This risk is probably more important when pragmatic considerations are hidden than when they are explicitly endorsed as in Anderson (2010)'s pragmatism or Sangiovanni (2008)'s practice-dependence. One important criticism of ideal theorizing is that unless it completely abstracts from facts as Cohen's (2008) does, it runs the risk of hiding pragmatic or context-dependent considerations. I thank David Axelsen for bringing this issue to my attention.

views of justice. Casal and Shields have made one step in a good direction by suggesting that sufficiency can be compatible with equality or priority. The next step could be to recognize the complementarity between egalitarian principles and efficiency-concerned principles such as priority or leximin, the former being fitter as fundamental principles of justice, the latter as rules of regulation.

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Shielding Sufficientarianism from the Shift¹

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ABSTRACT

This paper discusses Liam Shields' sufficientarianism and especially his very innovative construction of the Shift Thesis: that above the relevant threshold there is a significant change in our reasons to benefit people further. The paper argues that, despite its clear advantages, Shields' view still faces some general problems. First, that it says too little about how different types of reasons to benefit someone should be weighed against each other. Second, and more importantly, that Shields does not provide satisfactory reasons for why we need the Shift in the first place. The paper argues that given the value assumptions that sufficientarians normally adhere to, the upper limit version remains a more promising alternative.

Keywords: Shields; sufficientarianism; pluralism; the shift thesis

Liam Shields' development of the sufficiency view – the view that justice is concerned with securing enough for everyone – is among the most promising outlines for a theory of distributive justice in contemporary political philosophy. Shields' rewritings of the sufficiency principle have, since their origin in 2012, gained much attention and many philosophers and political theorists have found them to improve the general outlook of sufficientarianism. Although Shields speaks into a field of great complexity, the key contribution is utterly simple. In a nutshell, Shields' main point of argument is that sufficientarianism need not imply that we should ignore inequalities once everyone has “enough”. Instead, he argues, sufficiency implies merely that there is a significant shift in our reasons to benefit people further. This development has now – true to Shields' own wording – become known as “the Shift Thesis” (2016; 2012).

The Shift Thesis effectively offers a very appealing sufficientarian reply

¹ For useful comments on earlier versions of this paper, I thank Axel Gosseries, David Axelsen, Anca Gheaus, Danielle Zwarthoed, Pierre-Etienne Vandamme, Chris Mills, Liam Shields, and two anonymous reviewers.

to the critics' concern about how justice applies to situations where inequalities persist but where no one is below the threshold. Thus, the advantages of Shields' sufficientarianism are obvious. However, the view is not without its limitations. In this paper, I raise some critical questions for Shields' sufficientarianism and I defend the "upper limit" sufficiency view as a more promising framework. The paper proceeds as follows. Section 1 lays out sufficientarianism generically. Section 2 presents Liam Shields' amendment to this view in the form of his Shift Thesis. Section 3 raises some critical questions for Shields' version of the sufficiency view that I believe he needs to answer. Section 4 defends upper limit sufficientarianism as a more plausible version of sufficientarianism than Shields' account. Section 5 concludes.

1. SUFFICIENTARIANISM

Sufficientarians care about individual people's absolute standing. They do not care about people's relative standing unless it affects their absolute standing (Axelsen and Nielsen 2015). Here I have no space to unfold this idea, but one plausible way to understand it is to say that sufficientarians use a threshold constraint to discriminate between relevant and irrelevant individual demands of justice (Segall 2016; Hirose 2016)– e.g. similar to Scanlon's objective criterion for distinguishing between urgent and non-urgent preferences (1975).

Without distinguishing between different theoretical specifications within the sufficientarian literature, we can assume the following generic principle (adopted from Nielsen 2017):

The generic sufficiency view

Justice is concerned with eliminating absolute deficiencies rather than inequalities

This generic formulation captures the driving moral statement of any specified sufficiency view, and although critics are sceptical, many find it intuitively plausible.²

However, despite the merits of the generic view, sufficientarians might need to say more about how to set the threshold in order to render the sufficiency view theoretically plausible. This is because all sufficiency

² See among others Frankfurt (1987), Crisp (2003), Raz (1986: 240); Benbaji (2005) Huseby (2010).

views – including the generic view – imply that there exists, at least in theory, a threshold point above which inequalities are irrelevant (or significantly less relevant) to justice. Thus, for example, sufficiency views, even when very generic, are always vulnerable to objections stressing the intuitive dissatisfaction with the implication that above some threshold T , the inequality between the super-rich and those who barely have enough would not be a concern of justice (Casal 2007).

But identifying the threshold is a delicate matter, and critics of the sufficiency view believe sufficientarians face a theoretical dilemma on this issue. If defining a relatively high threshold, such as in terms of welfare satisfaction or contentment, the sufficiency view undervalues the urgency found in the substance of absolute deficiency. That is, if our sufficiency view allows not being perfectly content to be an absolute deficiency, we have certainly undervalued the importance of being released of deficiencies such as hunger, deprivation, suffering, etc. Any reasonable sufficiency view needs to underline the special importance of addressing the latter deficiencies rather than the former. On the other hand, setting a very low threshold – e.g. set at the level of basic needs fulfilment – makes the sufficiency view vulnerable to being ignorant of even quite significant inequalities above this threshold. The difference between the super-rich and people who barely have their basic needs met is simply not, on any reasonable interpretation of justice, irrelevant. Thus, the sufficiency view seems faced with this troublesome dilemma in fleshing out a relevant and plausible threshold level.

2. SHIELDIAN SUFFICIENTARIANISM

Liam Shields smoothly solves the above dilemma. He proposes to exchange the strong negative thesis with what he calls “the Shift Thesis”, stating that “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” (2016: 30). Although this interpretation of the view does not flesh out a much specified threshold definition, it does in an important way render the sufficiency view more plausible. What it does, effectively, is to resolve the dilemma by allowing for a more modest threshold level – set at some non-specified level of resources – than would otherwise have been acceptable, since the Shift Thesis enables sufficientarianism to object to inequalities above the threshold. This softens the hard inegalitarian implications of sufficientarianism while still remaining loyal to the central driving intuition of the generic sufficiency view.

We can get a better grasp of what the Shift Thesis involves in figure 2.2,

which Shields presents to illustrate what he calls non-uniform prioritarianism (2016: 32).

Figure 2.2. Non-uniform prioritarianism

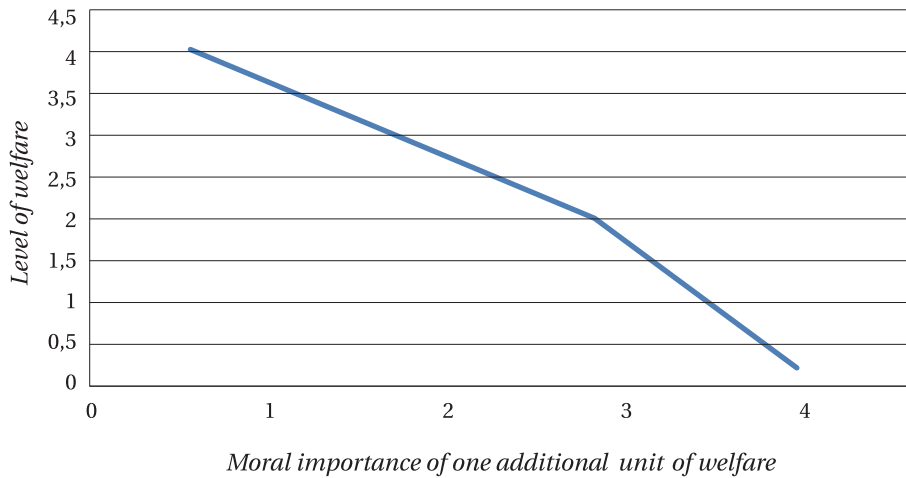


Figure 2.2 displays how non-uniform prioritarianism involves a significant change in our moral reasons to benefit people further, once they reach a certain welfare level (here this level is 2). This captures the shift that Shields builds his sufficientarianism upon. Non-uniform prioritarianism is different from uniform prioritarianism because the former claims that there is a central change in terms of the relationship between how well off people are and the moral importance of benefitting them. This change, Shields convincingly argues, can only be explained in reference to the Shift Thesis. Thus, although non-uniform prioritarians can entail a wide range of other distributive principles, they must rely on some sufficiency principle, because they appeal to the shift. This perspective grounds a much wider relevance of sufficiency principles than normally assumed, because it identifies a very intuitively plausible and common idea – that there are changes in the rate of reasons to benefit people depending on their level of welfare – as a specifically sufficientarian idea. And even more importantly, the appeal to the Shift Thesis does take much of the edge off the most widely shared criticism of sufficientarianism, namely that it is implausible to accept that inequalities above the threshold level are irrelevant to justice. Thus, the prospects of grounding the sufficiency view upon the synthesis of the Positive Thesis and the Shift

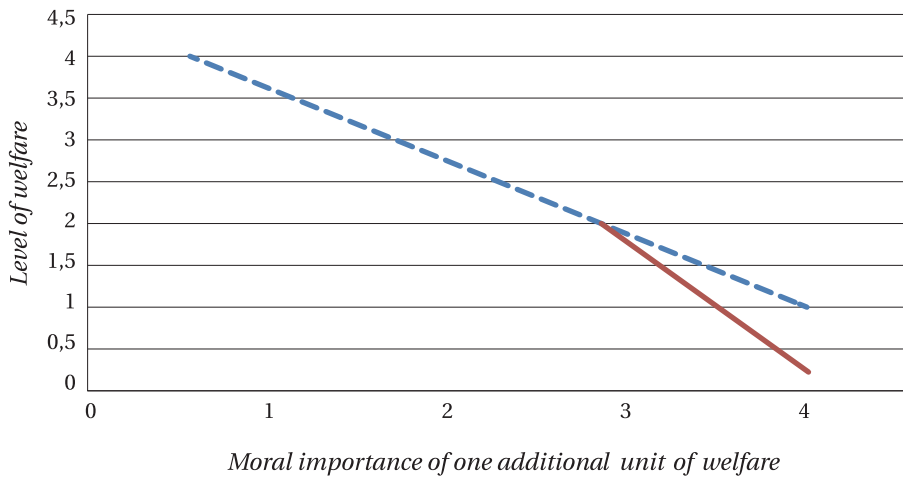
Thesis is promising and fully justifies Shields' status as among the leading contributors to the development of sufficientarian theory.

3. SOME GENERAL PROBLEMS WITH THE SHIFT

Although the advantages of the Shift Thesis are clear enough, there are still some questions that need to be addressed. The Shift Thesis is generic and ecumenical in its outline, and although this is of course not in itself a problem, it blurs our perception of what happens after the shift. Shields seems to imply that the Shift Thesis could be compatible with sets of moral reasons that refer to the value of fairness above the threshold (2016: 35). But this raises the question of what the relationship is between the sufficiency-reason and other moral reasons. Shields' central idea seems to be that once our sufficiency-reason – that is, our reason to benefit a person that stems from this person being below the absolute threshold-level of welfare – stops being salient, because the person is pushed above the threshold, we will turn to the best alternative reason to benefit further. Fairness concerns, such as distributive egalitarianism or responsibility, seem likely candidates. But that gives the impression that the shift is not accurately depicted as a bend on the otherwise nicely linear (prioritarian) graph of the development of our moral reasoning. Rather, it seems that we should think of it as two separate lines. One line, the sufficiency-reason, representing our very strong commitment to bring people above the threshold, and then a separate line, representing our other moral concerns, that so to speak “take over” once we reach the absolute threshold. This is shown in figure 2.2* below.

In figure 2.2*, the shift is depicted as the intersection between the red line, representing our sufficiency-reason to benefit people which is based on their (below-threshold) level of welfare, and the blue dotted line, which represents whatever weaker moral reasons we are left with once the stronger moral reasons becomes non-salient. If 2.2* is a fair illustration of the shift, and I believe it is actually more precise than Shields' own from figure 2.2, then it raises the question of how these two sets of moral reasons relate to each other. In other words, how should we interpret the relationship between the two lines in figure 2.2*?

Figure 2.2* The Shift Thesis as plural sets of reasoning



It seems then, that to make the Shields framework plausible, one would have to decide on a reasonable relationship between the sufficiency-reason and other reasons. First, one possibility is to say that the sufficiency-reason should only take some priority over other moral concerns, but in general be weighed against our alternative set of reasons. That is, if fairness is a relevant moral reason, then this reason ought to be given some weight in our moral deliberation. That is, our decision to help Person I rather than Person II to reach the threshold depends not only on their level of welfare but also on the interaction of other moral reasons – say responsibility-sensitive fairness – on the sufficiency-reason. For example, we might say that if Person I and II are faring equally badly (both below threshold at level 1,5), but differ in terms of exercise of responsibility, then responsibility sensitivity tie-breaks our moral deliberation in favour of priority to the prudent. That is, under resource scarcity, we should give priority to helping the prudent over helping the imprudent. But then we might also say that although being worse off than others below the threshold takes more presence in our calculation than responsibility sensitivity, then large differences in responsibility could outweigh the priority given from level of welfare, so that even if Persons I and II are unequally badly off (e.g. I at 1; II at 1,5), then the difference in their exercise of responsibility could be significant enough as to alter our immediate priority. Finally, it could also very likely imply that under given circumstances, where we have very weighty responsibility-sensitive reasons to benefit Person I who is above the threshold (e.g. at level 3), these reasons could potentially outweigh our

reason to help Person II (et level 1,5) reach the threshold.

This seems like a possible way to embrace value pluralism much in line with standard luck egalitarianism (Temkin 2003; Lippert-Rasmussen 2016), but it seems a very unlikely sufficientarian strategy. This is because it downplays the work of the Positive Thesis (at least in theory) to a miniscule degree, although this is so centrally carrying the sufficiency intuition. This leaves the Shift Thesis *shifty*³ because it makes the sufficiency-reason – stemming from the strong appeal of the Positive Thesis – merely one among a number of moral considerations.

Shields might of course decide that the sufficiency-reason should take absolute priority over other moral concerns. This is the standard sufficientarian move. And this, I should stress, is what I believe he ought to say. But there are two problems involved for Shields in taking this path. First, if fairness (or another egalitarian concern) is fully outweighed by the sufficiency-reason below the threshold, but takes the lead above the threshold, once our sufficiency-reason becomes non-salient, then Shields' sufficientarianism is not distinctive from pluralist telic egalitarianism such as Temkin's comparative fairness egalitarianism (2003; 2017). Shields might of course just say that this is because, on his account, Temkin is a sufficientarian, but this seems strange because the dispute between sufficientarians and egalitarians is not about accurate labelling but about the value of distributive equality. Hence, if that is the case, it seems more correct to withhold that Shields is no sufficientarian.

Second, if Shields gives absolute priority to the sufficiency reason, then his synthesis of the Positive Thesis with the Shift Thesis makes his view vulnerable to the same objection he presents against upper limit sufficientarianism, which he contrasts himself to.

To see how Shields' view departs from upper limit sufficientarianism let me employ an example, also borrowed from Shields (2016: 23).

Table 2.3 Upper limit sufficientarianism

	I	II	III	IV	V	VI
A	1,000	1,000	1,000	1,000	1,000	3
B	5	5	5	5	5	5
C	5	5	280	5	5	4

³ I am indebted to Jens Thaysen for this catchy, although admittedly slightly tacky, punchline.

Table 2.3 shows three different hypothetical scenarios (A, B, and C) entailing very different distributional shares for different groups or persons (e.g. in a given society). As Shields rightly points out, upper limit sufficientarianism would prefer B to both A and C (which headcount sufficientarianism would as well), when the threshold is set at 5. This contrasts it with weighted prioritarianism, which would rank the scenarios A, C, B (from best to worst). Shields favours the weighted prioritarian reply on intuitive grounds, and if this was not the case, it would be unclear on what grounds he would dismiss upper limit sufficientarianism in the first place. But if the Shift Thesis is to be understood to entail absolute priority to our moral reason to benefit people who are below the threshold, then Shieldian sufficientarianism – synthesising the Positive Thesis with the Shift Thesis – gives the same ranking as upper limit sufficientarianism. That is, it would favour B over both A and C, when the threshold is at 5.

This is surely no embarrassment. Maximin and leximin prioritarian views would also prefer B over A and C, as would telic egalitarianism. That is, on further reflection, it is not at all obvious that our intuitions about this case work in favour of weighted prioritarianism or Shields' own account, and against the other theoretical standpoints. In fact, in section 4 defend upper limit sufficientarianism against this intuitive strike. My point here is merely to highlight that if Shields wishes to stick with the weighted prioritarian view in this case – and therefore rank A, C, B (from best to worst) – then he is left with giving away the sufficientarian commitment to the strong priority of the Positive Thesis.

4. DEFENDING THE UPPER LIMIT

This section defends upper limit sufficientarianism. As suggested in section II, the sufficiency view could be understood in a negative form, as a generic principle saying that, *justice is concerned with eliminating absolute deficiencies rather than inequalities*. If this principle is accurate, then justice would be fulfilled once absolute deficiencies are eliminated, regardless of whether inequalities still persist beyond this point. This adheres to the ranking B over A and C in table 2.3 (when the threshold is 5), because only in B are deficiencies eliminated. As mentioned, this is the same guidance as maxmin and leximin prioritarianism as well as egalitarianism, so it need not be counterintuitive, but as Shields mentions, upper limit sufficientarianism also gives counterintuitive guidance in cases where everyone has secured enough (2016: 23). To see this, we can take a look at table 2.3*

Table 2.3 Upper limit sufficientarianism (with no one below the threshold)

	I	II	III	IV	V	VI
A	1,000	1,000	1,000	1,000	1,000	5
B	5	5	5	5	5	5
C	5	5	280	5	5	5

Table 2.3* is similar to table 2.3 except that the worse off in A and in C are now lifted to the threshold level (at 5). Thus, no one is below the threshold level and, moreover, the worst off in A and in C are *just as well off as* the best off in B. In other words, in economic terms, A dominates B and C; and C dominates B, so that moving from B to C; and from C to A would be Pareto-efficient moves. However, upper limit sufficientarianism would be unable to prefer A over B (or C over B), simply because everyone is above the threshold, and because upper limit sufficientarianism accepts the “upper limit claim” that “no distributive principles apply to benefits among those who have secured enough” (2016: 22). It is not that it necessarily needs to prefer B, but the problem is that it cannot in itself capture that we should not be satisfied with B, although dominantly better alternatives A and C exist. This clearly seems to put a stark challenge against upper limit sufficientarianism; but one that Shields’ Shift Thesis can enable us to tackle.

On my account, there is nothing wrong with the guidance of upper limit sufficientarianism even in this extreme scenario. In fact, on further reflection it is not even clear that our intuition works to count against it. The central problem with the illustration of upper limit sufficientarianism above is that it gets lost in what I call *the Illusion of Numbers against Sufficientarianism*.⁴ The illusion of numbers against sufficientarianism assumes that the difference between how well different people are doing is meaningfully captured by the numerical distance between larger and smaller numbers. But sufficientarianism properly understood should reject this assumption. The remainder of this section explains why and thereby argues against the illusion of numbers against sufficientarianism.

To see how Shields’ illustration of upper limit sufficientarianism gets lost in the illusion of numbers against sufficientarianism, let’s consider the content of the example in Table 2.3*; which, you will recall, is a hard case against upper limit sufficientarianism. In Table 2.3*, the threshold is set at

4 I adopt this from Nielsen (unpublished paper).

welfare level 5. Since the figure “5” alone does not in itself tell us a lot about why we choose that level rather than any other as the relevant threshold, we assume that it is the content (of resources, opportunities and welfare) that this figure stands for that constitutes the relevant cut-off point. Following Shields’ example, let’s say that “those who pay the top rate of income tax have *enough* after tax” (2016: 22), and therefore let’s assume that these people are at level 5. What that must mean is that they have sufficient resources and opportunities for their welfare level to be considered a “5”. This seems intuitively appealing. These people have a stable monthly income; they lead autonomous lives; they can afford decent or very decent housing; they have access to decent social insurance; they have a stable health together with a health care system that is prepared to assist them if they fall ill; they are also mentally healthy; their offspring face good social opportunities and have access to good quality education etc. All these things are tacitly put them into the figure “5”.

The problem arises because if all these welfare goods are contained in the number “5”, then what can possibly be the content of the number “1000”? In instance, it follows that, if the threshold (5) contains all the above mentioned welfare goods, then the best-off (at 1000) have all the same times two-hundred. Or, more accurately, they would have the welfare level that you gain from having all these goods times two-hundred. But that is not only hard to grasp, but simply meaningless. You could of course imagine a case in which everyone has all the before mentioned welfare goods and then still some have 200 times as much money as others, but then the inequality in question is solely expressed in material resources, and this is useless because “money” alone is very rarely the currency that critics of sufficiency would employ. For one thing, it is evident that very rich people could be worse off than less rich people in other value-metrics.

The illusion of numbers against sufficientarianism stems from the fact that numerical comparisons are simplistically scalar and potentially infinite, whereas real life comparisons are not only more complex than that, but also simply incompatible with that way of making interpersonal comparisons. Upper limit sufficientarians reject the simple numerical comparison assumption on which these comparisons are made. They are not concerned with numbers. Their only concern is deficiency. They care about eliminating material deficiency such as hunger, deprivation, illness, suffering etc., and they care about social deficiency such as oppression, dominance, discrimination etc. (Frankfurt 1987; Raz 1986). Upper limit sufficientarians reject the simple numerical comparison assumption in favour of another assumption; namely, that *there is an absolute level of well-being (broadly conceived), above which additional resources will not benefit*

people further in any way relevant to justice, regardless of the strength of people's personal desire to possess more resources. On that assumption, it seems that there is nothing wrong with perceiving B as incomparable with A and C.

But from that assumption, we can derive a rather interesting and strong claim about the nature of the value of distributive goods, which is controversial, but which I think we have good reasons to accept. We can say that, *no distributive good (or bundle of goods), that is relevant to justice, can have a comparable value if given to people below the threshold than if given to people above that threshold* (Nielsen 2016). This claim is incompatible with the simple numerical comparison assumption, because it implies that the difference between 996 and 1000 is incomparable to the distance between 1 and 5, although these distances are clearly comparable in a numerical sense captured by the mathematical fact that 4 equals 4. But translated into what these numbers stand for in terms of real goods and their value, it is far from implausible to accept it. Four loaves of bread is of course equivalent to four loaves of bread, but the value of that bundle of goods surely hinges on whether one faces an absolute deficiency in food supplies.

5. CONCLUSION

Liam Shields' writings have surely had a great impact on the theorizing within distributive justice. And although this is only for good reasons, in this paper I have argued that his main contribution, consisting in the offering of the Shift Thesis as an alternative to the Negative Thesis, is an unnecessary detour for sufficientarians. In fact, adopting the Shift Thesis needlessly leaves sufficientarianism open to a number of critical questions, because the alternative in standing up for upper limit sufficientarianism seems much less theoretically troublesome. I conclude that where the Shift Thesis leaves sufficientarianism "shifty", the upper limit seems to do good enough for sufficientarianism to maintain its strong potential for being the leading ideal of distributive justice.

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Sufficient Autonomy and Satisfiable Reasons¹

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ABSTRACT

In this paper, I examine Liam Shields' *principle of sufficient autonomy*. This principle is in many ways interesting and plausible, but it is also in some important respects inadequately specified. In particular, I argue that a) the role of satisfiable reasons should be clarified, b) the relation to the conditions of freedom should be made more explicit, and c) the threshold for sufficient autonomy should be specified.

Keywords: autonomy; conditions of freedom; satisfiability; shift sufficientarianism; sufficientarianism

1. INTRODUCTION

In his recent book *Just Enough*, Liam Shields presents a novel form of sufficientarianism, which he calls shift-sufficientarianism. Most sufficientarian theories accept what Paula Casal (2007: 317) has termed the positive and the negative theses.² According to the positive thesis, there is a level of benefits such that it is especially important, from the point of view of distributive justice, that people reach it. According to the negative thesis, further questions of distributive justice do not arise above this level. The negative thesis is controversial,³ and Shields sides with critics who hold that it is implausible (Arneson 2005; Casal 2007; Shields 2016). He therefore discards the negative thesis and claims that sufficientarians can make do with a combination of the positive thesis and the shift thesis:

1 An earlier version of this paper was presented at the Nordic Network in Political Theory in Stockholm in 2017. I am grateful to the participants at that event, as well as to the guest editors, and two anonymous reviewers for this journal, for many helpful comments and suggestions.

2 See for instance Axelsen and Nielsen (2015), Benbaji (2005, 2006), Crisp (2003), Frankfurt (1987), Huseby (2010, 2012), Nielsen (2016).

3 The extent to which it is controversial depends on where the threshold is set. The lower the threshold, the more controversial the 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” (2016: 30).⁴

The main advantage of this proposal is that it saves sufficientarians from having to claim that benefits and distribution above the threshold are completely irrelevant. Rather, benefits to the sufficiently well off matter somewhat, but benefits to those below the threshold matter disproportionately more. This view is in some respects similar to prioritarianism. However, it differs from prioritarianism in that the moral value of benefits does not decrease continuously the better off the recipient is.⁵ Rather, there is a break, or a shift, at the sufficiency threshold.⁶

From the formulation of the shift thesis (2016: 30), one gets the impression that when distributing some good *G* it is especially important that people get a sufficient amount of *G* and that, beyond this, it might still be valuable, though less so, to provide people with further *G*. On this understanding, the reasons we have for supplying *G* do not change, but the weight of these reasons diminishes. However, it appears that Shields also thinks that the reasons can change altogether at the threshold (2016: 30). On this understanding, it is still important that people receive sufficient *G*, but after that, further provisions of *G*, if valuable, are valuable in light of some reason other than the value of *G*. For instance, *G*, above the threshold, might lead to the realization of some other good, *W*. I assume, however, that there will still be a discontinuity in the rate of change of the marginal weight in the cases where the reasons as such change. Otherwise, the shift thesis would not apply to this latter version.⁷

My aim in this paper is to examine the most specific proposal for a shift sufficientarian principle made by Shields, namely the principle of sufficient autonomy. In my view, this principle is in important respects not sufficiently specified. However, since I am in general sympathetic to the suggestion of a principle of sufficient autonomy, my criticisms are largely calls for clarification and further development of the view.

4 The shift thesis was first presented in Shields (2012: 108).

5 See for instance Holtug (2010: 133).

6 Gustaf Arrhenius has suggested that prioritarianism really is characterized by many small shifts, and that Shields’ theory, with only one shift, is a minimal form of prioritarianism. This seems plausible to me, but I will nevertheless treat it as a version of sufficientarianism here.

7 Shields also holds that the shift could come about as a result of conflict between reasons (2016: 39). I leave this alternative aside here

2. SATIABILITY AND THE PRINCIPLE OF SUFFICIENT AUTONOMY

Shields cashes out the shift in terms of satiable reasons, based on Raz' concept of satiable principles.

“Satiabile principles are marked by one feature: the demands the principles impose can be perfectly met. When they are completely met then whatever may happen and whatever might have happened the principles cannot be, nor could they have been, satisfied to a higher degree” (Raz 1986: 235f, cited in Shields 2016: 36).

Shields further writes:

“Our reasons to benefit people change when they are no longer deficient in the relevant respect. There may be strong claims for benefits beyond the application of that reason, we need not be upper limits sufficientarians, but such claims must be made using a different profile of reasons. This alters our all things considered reasons to benefit people further” (2016: 37).

Shields oscillates, as noted, between suggesting that (only) the weight of the reasons change, and that the reasons themselves (also) change. Nonetheless, in the elaboration of the principle of sufficient autonomy, Shields for the most part writes as if the reasons change altogether. According to this principle, “...we have weighty, non-instrumental, non-egalitarian reasons to secure sufficient autonomy to secure the social conditions of freedom” (2016: 53).⁸ Even though satiability is not incorporated explicitly into this formulation, it is clear that the principle is intended to be satiable (see 2016: 45, 50, 57).

3. IS THE PRINCIPLE OF SUFFICIENT AUTONOMY SATIABLE?

Despite Shields' intentions, it is unclear whether the principle of sufficient autonomy really is satiable. Note that there are two ways of understanding satiability in this context. First, we could think of satiability as applied directly to autonomy (or to whatever value a principle is intended to promote). On this view, autonomy is a satiable concept if one can be *fully autonomous*. This understanding is indicated by Shields when he writes that “[o]ur reasons to benefit people change when they are no longer deficient in the relevant respect (2016: 37; see also 2012: 118)”. He further illustrates sufficiency with reference to “enough sleep”, and “enough

8 I return to the social conditions of freedom below

petrol” (2106: 29), and satiability with reference to “enough money for a bus ticket” (2016: 36). These examples suggest that satiability refers to the value that we should have a sufficient amount of.

Alternatively, satiability might refer to the principle of sufficiency itself (2016: 64). Sufficiency is straightforwardly a satiable principle, since enough is enough. Utilitarianism is not satiable, because there can always be more utility. On this view, sufficient autonomy does not (necessarily) demand full autonomy, but autonomy to some degree that is deemed sufficient for some other reason. Since it is not perfectly clear to me which of these views Shields holds, I will discuss both. I discuss the former in this section, and the latter (more indirectly) in the two subsequent sections.

According to Shields, “[a]utonomy is the ideal of living one’s life in accordance with one’s own authentic judgments” (2016: 47). Autonomy, moreover, is characterized both by the absence of external pressure or constraints, such as threats, coercion or brainwashing, as well as the presence of options and powers of deliberation. Both aspects are needed for people to be autonomous (2016: 47f). However, Shields also writes:

“To flesh this out we can say that sufficient autonomy has three conditions. One has secured sufficient autonomy when (1) one is well-informed, (2) one can give reasons for one’s views, and (3) one has a disposition to exchange reasons and participate in a public deliberative process with others” (2016: 53).

I focus nevertheless on freedom from coercion, options, and deliberative powers in the following, as these seem more central to the concept of autonomy. After all, one can meet the three fleshed-out conditions above without having any options, and without being free from external constraints. I take it, moreover, that being well-informed, and having the ability to give reasons for one’s views can plausibly be subsumed under deliberative powers.

Consider now the different aspects of autonomy in terms of (the first understanding of) satiability. The first, freedom from coercion, does admittedly seem satiable. One can presumably be perfectly free from external pressures and constraints. The second aspect is less clearly satiable. One can always have more options to choose from and one can always gain better powers of deliberation. Thus, there is a sense in which one can never be *fully* autonomous, and one’s claim for autonomy cannot be perfectly sated.

An obvious rejoinder is that there will still be some level at which even more (trivial) options, and even more finely developed powers of deliberation, makes no difference for any practical purposes. Perhaps one

already has all the options one could possibly want, and perhaps one is able to rank all these options (and their combinations) perfectly on an ordinal scale. Adding options one does not want, or gaining the ability to rank the options and their combinations cardinally, makes no difference, let us assume, to how one leads one's life. In such cases, I agree that autonomy is satiated, for practical purposes.

However, if autonomy is satiable, even if only in this practical sense, another question arises. Now it is not clear that *further* increasing autonomy above the sufficiency level will contribute to people's welfare, or anything else for that matter. If satiable in this way, satiability occurs at such a high level that there does not seem to be any further reason, egalitarian or otherwise, to provide people with even more autonomy. The principle of sufficient autonomy now looks like an upper limit sufficiency principle that conforms to the negative thesis.

One could imagine, though, that a person who is, for practical purposes, perfectly autonomous, can still benefit from more of the *stuff* that constitutes autonomy, for reasons not to do with autonomy. For instance, a person might get a thrill from gaining access to even more trivial options, even though none of these additional options will be chosen. Or, the person might enjoy even better deliberative powers, for the feeling of being super-clever.⁹ However, if so, I am inclined to think that what is provided is not more *autonomy* as such, but more options or more deliberative powers. To illustrate, suppose you are perfectly nourished. There are, for all practical purposes, no way for you to be even more nourished. Suppose however, that more vitamin D (unrealistically) might provide you with a nice tan. If so, providing you with more vitamin D, does not in that case provide you with more *nourishment*, it gives you more vitamin D (and a tan). It seems then, that if the principle of sufficient autonomy is satiable (with respect to autonomy), it is likely to be so at such a high level that it is hard to detect a relevant shift.

Consider now the alternative understanding of satiability. Perhaps there is a level of autonomy that is sufficient, *regardless* of whether or not it is equivalent to full or perfect autonomy. The reasons for promoting someone's autonomy, then, are satiated when they reach this level. This might be perfectly reasonable, but the level would have to be specified. As will become clear below, it is hard to find such a specification in Shields' treatment of sufficient autonomy. Let me note, at any rate, that the first kind of satiability has an obvious advantage: It is very useful for defining a threshold. Sufficientarianism is sometimes criticized for the alleged

9 I am grateful to David Axelsen for raising this point.

arbitrariness of the threshold(s). The first notion of satiability might help meet this objection.

4. THE SOCIAL CONDITIONS OF FREEDOM

As noted, Shields ties the ideal of autonomy to the social conditions for freedom in society. However, the link between these two concepts is not entirely clear:

“The principle of sufficient autonomy, supported by the sufficientarian reason we have to live under the social conditions of freedom, can be stated thus: we have weighty, non-instrumental, non-egalitarian reasons to secure sufficient autonomy to secure the social conditions of freedom. The conditions of freedom are those conditions under which one’s beliefs and actions can be considered freely taken” (2016: 54).

The last sentence of the quote indicates that the social conditions of freedom are those conditions under which autonomy is possible (or likely, or certain). Both the conditions of freedom and the principle of autonomy, moreover, appear to be sufficientarian concepts, but the former supports the latter. Shields suggests, moreover, that the social conditions for freedom ought to be such that they are sufficient, as opposed to merely necessary, for the development of sufficient autonomy (see also 2016: 45, 48, 53, 54).

However, the first sentence seems to indicate the opposite; that autonomy is a condition for the social conditions of freedom. It could be the case that autonomy and the social conditions of freedom are interdependent in a way that vindicates both views. However, it seems to me more plausible to say that autonomy presupposes certain societal conditions for its realization, than to say that the social *conditions* for freedom presupposes autonomy for its realization. Shields points to a proper education, an ethos marked by toleration, and reliable information as parts of the conditions of freedom (2016: 53). These factors are more plausibly seen as conditions for the development of autonomy, than the other way around.

However, even if we accept this, there is a further option. There are formulations that suggest that autonomy is *itself* (the whole or a part of) the social conditions of freedom: “...I set out and provide an initial defence of the account of autonomy that constitutes the conditions of freedom” (2016: 46). Further: “One reason for promoting individual autonomy is our interest in the conditions of freedom. It is a weighty, non-egalitarian reason that is satiable with respect to autonomy, at least” (2016: 57). The last quote gives the impression that autonomy is one (satiabile) part of what constitutes the

conditions of freedom (see also 2016: 57, 58, 60)

I confess to being unable to determine whether the social conditions of freedom are to be understood as those conditions that are (necessary and) sufficient for the realization of sufficient autonomy, or whether sufficient autonomy constitutes (or is a condition for) the social conditions for freedom. However, the question is important for how we interpret the principle of sufficient autonomy as a satiable sufficientarian principle.

The reason is that if autonomy is a part of what constitutes the conditions of freedom (or if it is a condition of freedom in itself), then it could be the case that autonomy can be sated *with respect to* the conditions of freedom. Sufficient autonomy just *is* autonomy sufficient for the realization of (sufficient) conditions of freedom. However, in my view, this interpretation squares badly with Shields' presentation of the principle, according to which there are supposed to be weighty, non-instrumental, satiable reasons to provide peoples with sufficient autonomy (2016: 45). There might be ways to interpret autonomy as *non-instrumentally* valuable even if it is a constitutive part of the conditions of freedom. But this is not stated explicitly, and would require further elaboration and specification.

5. THE SUFFICIENCY THRESHOLD

In this section, I consider the way Shields specifies the threshold for sufficient autonomy (regardless of how satiability is understood, and on the assumption that the threshold is not determined in light of the demands of the conditions of freedom). Note first that there are several formulations concerning this threshold in the book, and that not all of them point in the same direction. However, what is perfectly clear is that Shields assumes that there is a level at which we can say that a person has sufficient autonomy, and that there might, because of the shift that occurs at this level, be further reasons to promote the autonomy of those who already have sufficient autonomy (2016: 54).

Shields offers an example of the importance of sufficient autonomy with reference to the information needed to assess the risks associated with buying a house.

“If we do not know the risk, but we know how to find out about it, we might think that we choose freely ... If we are well informed enough to become well informed about the other relevant decisions we make, then our reasons to become more and more well informed thereafter may be very different” (2016: 53).

The latter part of the quote, obviously, indicates a shift. However, it is not clear how this works. Suppose I face a risk. I do not know the risk exactly, but I do know how to calculate it (or as Shields suggests, I have the contact details of a surveyor that can help me assess the risk). In this situation, I am not *as* autonomous as I can be. But I am free to *become* as autonomous as I can be (with regards to this particular decision). It is up to me whether to pick up the phone or start punching numbers into the calculator. Something similar can be said about the “well-informed enough to become well-informed” part of the quote.

The shift, on the view suggested here, is located at the level at which we are sufficiently autonomous to choose to become fully autonomous. This might be plausible, but it seems that this amounts to a view of sufficiency that is, in a relevant sense, an upper limit view, of the sort Shields aims to avoid. One might say, of course, in line with the shift thesis, that the reasons to promote a person’s autonomy above the level at which it is up to the person herself to become fully autonomous, change. But more likely, they disappear. For all practical purposes, one is fully autonomous when one has *direct access* to becoming fully autonomous. It makes no sense to benefit a person, in terms of autonomy, because she has not decided to punch the numbers, place the call, or perhaps consult the relevant literature. There is no longer a recognizable distributive issue to be addressed.

Another view is suggested by the following: “Only once an agent is autonomous can we fully respect his or her answer to the question ‘Do you want to enhance your autonomy?’ We owe them autonomy sufficient for making these kinds of choices freely as part of justice” (2016: 56). While it is certainly true that people should be (at least) sufficiently autonomous to know whether they want to become more autonomous, it is unlikely that people are *sufficiently* autonomous from the point of view of *justice*, at this exact level. The reason is that this level might be quite low, at least along some relevant dimensions. For instance, people who are severely oppressed, and have very few options, may well be more than sufficiently autonomous for us to respect their wish to become more autonomous. The alternative is clearly disrespectful. Notice that the level of autonomy that Shields points to here might (or might not) mark a relevant shift, but not a shift that signifies *sufficient autonomy*.¹⁰

Further, Shields claims that

“Sufficient autonomy is the level of deliberative competence that enables us to have assurance from an external point of view that we

10 For a similar suggestion, though in more convoluted terms, see Shields (2016: 57).

choose for ourselves. This kind of autonomy requires us to be capable of deliberating with others about the reasons that support our conception of the good. We may have weighty reasons to secure more autonomy..." (2016: 64).

The first part of the quote points to one intuitively important and plausible aspect of autonomy, namely self-rule. However, it is unclear what level exactly it refers to. What does it take to be sure that a person chooses for herself? And what aspects of autonomy is it that can be further promoted, but for different reasons? It is unclear what level of freedom from constraints and access to options, for instance, are also required, since these aspects are not mentioned. The notion of choosing for oneself, then, does not point to a clearly discernible level of sufficient autonomy.

In other passages, Shields suggests that ambition, and our conceptions of the good may influence the level of autonomy that we want, but that the level of sufficient autonomy is independent of such ambitions and conceptions (2016: 65). A similar view is suggested in the case of Agnes and Bernadette (see 2016: 70f). Bernadette supposedly has sufficient autonomy, because the reasons we might have to promote her autonomy further are instrumental with regards her welfare, and not non-instrumental with regards to her autonomy. On Shields' description, she has "many options", the "ability to make medium- and long-term plans, can usually spot contradictions in her own judgments and can remedy them", "makes reasoned assessments of various ways of life, and is not being denied information about the costs and benefits of her choices" (2016: 70).

This arguably offers some substance, but it is still not clear enough. I will not detail all the ways in which these different elements are less than perfectly specific. However, I think it is worth pointing out that the subsequent claim that our reasons to boost Bernadette's autonomy further is dependent on whether or not it can contribute to her well-being, suggests a fairly high level of autonomy (2016: 71). The reason is that the level at which more autonomy does not have non-instrumental value sufficient for speaking in favor of further promotion by itself, appears to be high. It would be good, of course, to know how high.

6. CONCLUDING REMARKS

The principle of sufficient autonomy might turn out to be a valuable and plausible principle. However, at present, I think that the principle needs further specification when it comes to the understanding of satiability, the relation to the conditions of freedom, and the location of the threshold. In

closing, I would like to add a fourth call for clarification: the principle of sufficient autonomy is clearly only one among several principles of justice. Shields suggests that there might be many others, and that not all of them need to be sufficientarian. However, in the book, it is hard to get a clear view of the larger picture. It would be interesting to learn more about how these different principles relate to each other and form a coherent general theory of distributive justice.

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On the Limits of the Principle of Sufficient Autonomy

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ABSTRACT

In his recent book, *Just Enough*, Liam Shields offers a novel defense of the Principle of Sufficient Autonomy. According to this principle, each citizen is owed ‘enough’ powers of deliberation and scope for decision-making as a matter of justice in order to satisfy our fundamental interest in acting and believing freely. In this article, I offer two objections against this view. The first objection challenges the plausibility of the principle. I argue that the principle that Shields derives from our interest in freedom will struggle to secure the proper protection for our capacities for autonomous behavior that many autonomy-minded liberals would expect the principle to provide. The second objection challenges the distinctiveness of the principle. I argue that Shields’ defense cannot successfully dismiss all of its competitors and I offer an account of constitutive welfarism to illustrate this point.

Keywords: sufficiency, personal autonomy

I. INTRODUCTION

Theories of distributive justice cannot avoid questions concerning the value of choice and our capacities for autonomous decision-making in modern society. For example, we need to know how accessible our opportunities for valuable choice should be, how the opportunities to develop our decision-making capacities should be distributed between us, and how sensitive the distribution of goods and services should be to our individual choices. In his recent book, *Just Enough*, Liam Shields offers us a series of novel arguments that can help us answer these important questions.¹

1 All in text references refer to this text.

Shields argues that we have a fundamental interest in enjoying the conditions of freedom; conditions under which our actions and beliefs can be considered freely taken (52). Each citizen requires sufficient autonomy in order to satisfy this interest because we each require some autonomy in order for our choices to be considered freely made by ourselves as agents. Our interest in freedom thus establishes the need for a *Principle of Sufficient Autonomy*.

This principle requires citizens to be: (a) well-informed, (b) able to give reasons for one's views, and (c) disposed to exchange reasons and participate in a public deliberative process with others (53). Fulfilling these three satiable conditions secures 'enough' autonomy, understood in terms of: (i) the citizen's powers of deliberation, and (ii) the scope of the decisions over which he or she decides (50).

This principle maintains a conception of autonomy that is framed in terms of an ideal of living one's life in accordance with one's own authentic judgements (47). It emphasizes the role that critical deliberation plays in establishing our capacity for self-rule (51) and concerns itself with avoiding threats to this capacity (especially threats of alien control that circumvent this capacity, such as coercion and manipulation) (48). This principle is relatively thin in its content and moderate in its demands.² It primarily focuses on establishing the conditions of authentic belief-formation and an ethos of well-informed and tolerant decision-making (53).

Shields' principle of sufficient autonomy is notable for two reasons. First, his defense of a sufficientarian principle of personal autonomy is distinctive. The relationship between personal autonomy and sufficiency has been defended in various ways. This relationship is most commonly cashed out in terms of option sets. For example, Joseph Raz (1986: 373-7) famously argues that personal autonomy requires agents to enjoy an adequate range of objectively valuable options. Gerald Dworkin (1988: 62-81) defends an adequacy limit on option sets according to a range of moral and rational considerations. Kerah Gordon-Solmon (2017) has recently offered a satisfaction-based defense of an adequacy limit on option sets grounded in the value of autonomy. However, this relationship has been explained in other ways. For example, Ben Colburn (2010: 89-92) defends a responsibility-sensitive threshold for autonomous capacities, below which we should not be held responsible for deficits in autonomy.

Although these arguments differ in their grounding or target, they all

² For example, Shields' principle has relatively little to say about the structure of autonomous motivation, limits on the validity of motivating factors, substantive constraints on option selection, relational constraints on the standing of autonomous agents, or limits on consent's role as a normative power.

serve to defend autonomy-sensitive principles of sufficiency as Shields understands the notion (i.e. as a shift or discontinuity in the rate of change in our marginal reasons to promote autonomy). Shields' argument is an important addition to this discourse. It distinguishes itself from preceding arguments by appealing to the Rawlsian higher-order interest in the social conditions of freedom as conditions capable of securing our freedom and equality as moral persons (52).

Second, the principle serves a pair of important functions in Shields' general argument for sufficientarianism. Shields primarily defends the principle as a central example of the indispensability of sufficientarianism to a sound and complete theory of distributive justice (26). In order to prove this, Shields identifies sufficientarian reasons as a distinctive type of non-instrumental, non-egalitarian, weighty, and satiable reason (44). He then sets out to prove that we cannot do without these distinctive reasons in the most plausible account of justice by showing that these reasons support principles that are more plausible than their rivals (17). Our reason to secure sufficient autonomy, and the principle that this reason supports, is a central example of this larger thesis.

The principle plays a further role as a significant bridging argument between Shields' general defense of sufficientarianism and his subsequent claims concerning the specific role of sufficientarian principles in education. He suggests that the fact that we owe sufficient autonomy to all should inform how we justify education for autonomy to groups who reject autonomy's value, how we educate in order to facilitate the discovery and development of talents, and how we conceive of the broader requirements of fair equality of opportunity (83).

The reasons why Shields' principle is notable are the very same reasons that motivate this study of his explanation and defense of the principle. His argument takes the form of a two-stage defense; first of the principle's content and then of its standing against competing principles. In this article, I offer a two-stage criticism that mirrors this strategy. First, I will object to the thinness of the principle and the protection of our capacity for autonomous behavior that it provides. I will then object to an important deficiency in his defense of the relative plausibility of his principle against its competitors.

2. THE FIRST OBJECTION – CAN THE PRINCIPLE ACHIEVE ITS AIMS?

Shields motivates his principle according to our interest in the conditions of freedom. This locates the principle of autonomy downstream from the interest in the conditions of freedom. This relationship explains why it is no objection to argue that the principle of sufficient autonomy does not provide us with enough autonomy to secure freedom. The proper role of the principle is not to secure all of the freedom that we might need. Rather, we can secure freedom through a number of principles, one of which must be the principle of sufficient autonomy.

However, we can legitimately object that the principle of sufficient autonomy, as it stands, does not provide us with all of the autonomy that our interest in the conditions of freedom should secure for us. This is the worry that I will press in this section. I argue that Shields' principle offers less protection for our capacities for autonomous behavior than it should, given that it is derived from our interest in freedom. This, in turn, leads us to question whether our interest in freedom is a satisfactory grounding for principles of autonomy.

This objection rests on the different ways in which our free and autonomous behavior can be hindered. Suppose that I sit down to write a short philosophy article. There are a variety of ways in which my decision to do so can fail to successfully translate into action through no fault of my own.

Shields' explanation of these failures explicitly focusses on the social conditions that influence our belief formation (53). He distinguishes between coercion (47) and other failures of self-direction that are the result of external forces acting on our beliefs (48). A long-suffering and frustrated neighbor who barges in to snatch up my notes and prevent me from writing is an example of the former. A manipulative neighbor who tricks me into giving up writing for the afternoon and going out for an enjoyable (though ultimately regrettable) walk instead is an example of the latter. Shields identifies both phenomena as possible threats to our autonomy because in both cases we are unfree to act or decide otherwise.

The principle of sufficient autonomy is intended to respond to these threats to our free and autonomous behavior by securing the social conditions under which our beliefs and actions can be considered freely taken (53). As we have seen, the principle focuses on the conditions of belief-formation (51), and in particular on an agent's powers of deliberation and the scope of the decisions over which he or she decides (50). This focus

generates the requirement that citizens are: (a) well-informed, (b) able to give reasons for their views, and (c) disposed to exchange reasons and participate in a public deliberative process with others. With this in mind, let us question whether Shields' distinction between coercion and other external threats acting on our beliefs is exhaustive and plausible. I suggest that it is not for the following reasons.

First, while it is true that my decision to write can be *circumvented* by some competing heteronomous motivation, it is not true that this motivation must stem from external forces. For example, I could deceive myself into over-estimating my writing ability and mistakenly lead myself into putting off my work for another day. Alternatively, a bout of hysteria or ambivalence may drive me to throw my notes out of the nearest window. In these instances, my initial intention to spend the afternoon writing has been foiled by a pernicious influence that leads to an inauthentic change of plan. I will subsequently become alienated from these decisions and come to authentically reject and regret them, just as I would if they were the product of external manipulation. Of course, it is well within my ability to change my mind as an autonomous agent and freely decide not to spend the afternoon writing. But there are troubling manifestations of this change of character that subvert my authentic will and are thus incompatible with my free and autonomous choice. Crucially, not all of these threats to my autonomy come from external sources, such as my neighbor.

Second, while it is true that my decision can successfully motivate me to act but that my motivation can still be subsequently *frustrated* by coercion (thus preventing me from acting), it is not true that coercion is the only phenomena that can frustrate my behavior in this way. For example, I may misplace my pen, fail to wrestle my notes out of the clutches of my pet, or be plunged into darkness thanks to a broken lightbulb. In these instances, no other agent has frustrated my autonomous decision to write. Rather, frustration is the result of simply lacking the option to perform the act that I had autonomously chosen to perform. It is frustration, rather than coercion, that prevents me from behaving authentically in these cases. Frustration can occur by either natural accident or inter-personal sabotage. While extreme forms of frustration should not concern us (e.g. the irrational desire to perform the impossible), some forms of non-coercive frustration clearly threaten our free and autonomous decision-making.

Circumvention and frustration come apart in a similar manner to Shields' own distinction between coercion and other external threats to our autonomy. Indeed, frustration will similarly occur in the absence of

circumvention as the latter precedes the former in the chain of action. However, both circumvention and frustration are broader than Shields' categories of coercion and other external threats. As a result, if you agree that my distinction provides a more plausible and comprehensive explanation of the various threats to our autonomy that we face, then you may worry that Shields' principle of sufficient autonomy does a poor job of protecting our authentic decisions against internal threats (such as self-deception) or non-interpersonal external threats (such as bad luck). As a result, the principle appears to do a poor job at protecting our autonomy from threats that Shields ignores.

This objection is similar in form to Shields' own objection against John Rawls. In his discussion of Rawls' argument from the interest in freedom, Shields notes a possible ambiguity. Shields interprets Rawls' argument to support the possibility of achieving a sufficient level of autonomy as one important option that should be open to citizens. This is too small a commitment from Rawls. Our interest in freedom does not merely require the possibility of achieving sufficient autonomy, but rather the *actual* achievement of sufficient autonomy (55). Without the actual achievement of sufficient autonomy, we cannot know that each citizen's decision whether or not to live an autonomous life is itself free. Given that our interest in freedom suggests that we should strive to make sure that our adoption of an autonomous lifestyle is itself freely chosen, we require a larger commitment from Rawlsians in their defense of sufficient autonomy.

Shields' defense of the principle of sufficient autonomy is guilty of the same failing for which he dismisses Rawls' argument; at best, Shields' argument is necessary but not sufficient for establishing the conclusion that he wishes to draw. While it is true that the threats that he identifies are likely threats to autonomy, there are other threats to autonomy that should plausibly be recognized as contrary to our interest in freedom.

Shields may respond to this objection in one of two ways: he may concede by fleshing out his argument to encompass further types of threat. Alternatively, he may resist by rejecting the notion that non-interpersonal threats (such as internal threats or accidents) threaten our freedom. According to this response, he has not mistakenly ignored a range of likely threats. Rather, freedom is a question of interpersonal interactions not opportunities for autonomous action. For this reason, non-interpersonal threats should not be covered by a principle of sufficient autonomy that is grounded in our interests in freedom. Those of us who are concerned with protecting further opportunities for autonomous action can look to other compatible reasons to promote autonomy (45), but Shields' focus on securing enough autonomy results from his core sufficientarian reason,

and this reason only concerns interpersonal threats (that is, threats to our interest in freedom from other agents). Therefore, Shields' principle is rightly insensitive to non-interpersonal concerns.

This response is important because it shifts our gaze to the deeper question concerning the justification of his principle. Sceptics may meet him here by denying the downstream relationship and arguing that our autonomy is threatened by more than a mere loss of freedom and therefore Shields' principle is incorrectly justified. Both circumvention and frustration undermine our autonomy and, by doing so, prevent us from enjoying the conditions of freedom in line with our authentic conception of the good. We cannot pursue the opportunities afforded to us in line with our authentic wishes if we are constantly self-sabotaging or suffering from a pronounced mismatch between our preferences and our option set.³ Therefore, his principle is too thin because its justification is wrong. Autonomy tells us which freedoms matter, not the other way around.

Sceptics may conclude that Shields' principle only offers us an incomplete defense of our autonomy because he derives it from an interest in interpersonal considerations of freedom. This conclusion explains why Shields' principle is likely to be attractive to Rawlsians (who may share the same conception and weighting of our interest in freedom) but unattractive to other autonomy-minded liberals who worry about a broader set of threats to our autonomy.⁴ Seen in this light, the feature that makes Shields' argument distinctive is also a limitation.

3. THE SECOND OBJECTION – IS THE PRINCIPLE PREFERABLE TO ITS COMPETITORS?

Having questioned the content of Shields' principle, I now turn to his defense of its relative plausibility against competing principles. Shields' rebuttal of his competitors first rejects rival distributive schemes of

³ These issues combine in cases of adaptive preferences. As fans of famous fables involving foxes will know, the fox that cannot reach the nearby bunch of grapes may mistakenly conclude that they must be sour, and thus undesirable. Of course, adaption cases need not be so far-fetched. But even mundane versions of this phenomena can threaten our autonomy. Crucially, the grapes need not be lifted out of reach by a devious neighbour for our out-of-character decision to override our preferences. Rather, the mere absence of an option can trouble autonomous decision-making. For discussion, see Elster (1983); Colburn (2011); Christman (2014); Stoljar (2014); Cudd (2014).

⁴ As a reviewer helpfully suggests, the Rawlsian's support will hinge on how they view Shields' interpretation of the higher-order interest in the social conditions of freedom. A less-relational reading of this interest will make Rawlsians more likely share my concerns over Shields' argument. If this is the case, then Shields' view is even less attractive.

autonomy (equality, maximization, and priority) and then rejects rival accounts of the relationship between autonomy and other distributive values (instrumentalism). After quickly dismissing egalitarian and maximizing principles, Shields focuses much of his argument against two main competitors:

- 1) *Uniform Prioritarianism* - that those who have the least autonomy should be prioritized with no 'shift' or discontinuity in the rate of change in our marginal reasons to promote autonomy.

Shields rejects uniform prioritarianism because: (a) it cannot plausibly explain qualitatively different autonomy disadvantages, and (b) it requires a non-arbitrary measure of autonomy that allows us to make fine-grained distinctions at all levels of the distribution scale. If prioritarianism is to distinguish itself from sufficientarianism then it must provide a uniform metric for the distribution of autonomy that avoids appeal to a threshold. Without this threshold, our metric must provide a plausible explanation of how we are better or worse off in terms of autonomy at points all along the distribution scale. Shields is rightly skeptical that such a measure exists (69).⁵

- 2) *Instrumental Welfarism* - that securing sufficient autonomy is an important demand of justice iff it has great effects on the more fundamental value of welfare.

Shields rejects instrumental welfarism with a pair of counter-examples (74). These examples aim to show that fully instrumental accounts of the value of autonomy fail to capture all of our intuitions about the non-instrumental role that the value of autonomy plays both in our lives and in a complete and sound theory of distributive justice. These examples suggest that welfarists who believe that autonomy holds purely instrumental value are committed to implausible conclusions, such as the permissibility of bypassing our deliberative capacities or shaping our ambitions to ensure that citizens live good lives. Even if citizens are guaranteed a well lived life, we should suspect that something important is missing in such cases.

However, crucially, Shields fails to dismiss accounts of how welfare is partly constituted by autonomy and so is derivatively but non-instrumentally significant (71). We might call such views *Constitutive Welfarism*⁶ It is true that constitutive welfarism is compatible with Shields'

5 For more detail on this difficulty, see Blake (2001: 269).

6 I do not intend constitutive welfarism as the only non-instrumental justification of the principle of sufficient autonomy (consider, for example, a Kantian justification of the principle). However, I do intend it as one in a small possible set of justifications that can solve Shields' objections to uniform prioritarianism in a way that doesn't fall foul of his objections to instrumental welfarism.

claim that autonomy matters non-instrumentally. These views do not deny that there is a non-instrumental principle of autonomy and thus do not challenge Shields' arguments concerning the indispensability of the principle of sufficient autonomy. However, Shields must still dismiss these views because, although they are in agreement with his stance against pure instrumentalism, they compromise his arguments against uniform prioritarianism. They do this by explaining autonomy's non-instrumental value in terms of the constitutive role that autonomy plays in promoting good lives. This autonomy-sensitive notion of welfare, in turn, can provide a compelling metric to measure our access to autonomy that is otherwise missing from uniform prioritarianism.

To see this, assume that you agree that the value of autonomy plays a constitutive role in living a good life. If you believe this to be true, then you believe that some plausible account of well-being can explain the value of autonomy in a non-instrumental manner. For example, you might agree with perfectionists Joseph Raz (1986: 391) and Steven Wall (1998: 164-182) that the social forms of a liberal society require those who seek to live a good life in such a society to possess enough personal autonomy to make sense of the valuable options available to them. Alternatively, you might agree with anti-perfectionists Will Kymlicka (1989: 10-13) and Ronald Dworkin (2000: 267-274) that authentic endorsement has a necessary role to play in explaining the value of a life well lived. These arguments (and others) open up the conceptual space for a principle that ties notions of autonomy and authenticity (similar to those favored by Shields) to well-being in a non-instrumental fashion. These principles will capture all of our intuitions about the non-instrumental role that the value of autonomy plays both in our lives and in a complete and sound theory of distributive justice. This explains why constitutive welfarism cannot be dismissed by Shields' counter-examples.

Troublingly, these arguments allow uniform prioritarians to appeal to the value of well-being (suitably conceived) as a non-arbitrary metric of autonomy in order to defend their view against Shields' objections to the position. If you are a uniform prioritarian about welfare, then constitutive welfarism allows you to: (a) distinguish between qualitatively different disadvantages, and (b) appeal to some reasonably fine-grained metric of well-being in order to distribute autonomy without necessarily appealing to sufficientarian reasons.

Not only does constitutive welfarism evade the theoretical traps that Shields lays out for his competitors, it may provide some with a more plausible explanation of the role that autonomy should play in a just society

than Shields' own narrower Rawlsian framework. As we saw in §2, the protection for autonomous behavior provided by Shields' principle of sufficient autonomy is limited by its grounding in our interest in freedom. I suggested that some autonomy-minded liberals might be disappointed by this. This disappointment could be undercut if there are no other plausible alternative justifications for the principle. If this were true, then Shields may offer his principle as the only show in town. However, constitutive welfarism offers us an alternative show. This justification does not tie our capacities for autonomy to our interest in freedom, but instead ties both our capacities for autonomy and freedom to our interest in living good lives. While such a view may trouble Rawlsians, Shields must provide further counter-arguments to reject this competitor.⁷

4. CONCLUSION

I have offered two brief objections to Shields' novel defense of the principle of sufficient autonomy. The first objection calls for Shields to broaden his principle in order to more robustly satisfy the interest in freedom that motivates his arguments, and to ultimately reconsider this motivation. The second objection calls for Shields to provide further justification for his principle in a manner that is more nuanced and more sensitive to competing positions. Only an argument that satisfies these challenges will prove the indispensability of his principle of sufficient autonomy to a sound and complete theory of distributive justice.

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⁷ For example, the door remains open for Shields to argue that constitutive welfarism must still secure a shift, either because the most plausible account of well-being requires us to have 'enough' autonomy, or at one level removed, because that account allows us to live a 'good enough' life. Neither of these threshold arguments are out of the question for constitutive welfarism. However, this strategy requires Shields to accept another (non-Rawlsian) defence of a competing principle of sufficient autonomy. Accepting the existence of a valid competitor will lessen the importance of his distinctive argument to the broader case for sufficientarianism

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The Principle of Sufficient Autonomy and Mandatory Autonomy Education

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ABSTRACT

This essay discusses two contributions of the principle of sufficient autonomy to educational justice. In *Just Enough*, Liam Shields criticizes instrumental accounts of autonomy. According to these accounts, autonomy is valuable insofar as it contributes to well-being. Shields argues that instrumental arguments fail to support mandatory autonomy education in all cases, while his non-instrumental principle of sufficient autonomy does support this. This essay develops a version of the instrumental argument and argues this version can do the work of supporting mandatory autonomy education. Another contribution of the principle of sufficient autonomy is the requirement of talents discovery. According to Shields, the requirement of talents discovery renders Rawls's principle of fair equality of opportunity more plausible, since one's chances of accessing a given economic position depend on one's opportunities to discover one's innate talents. This essay argues that Rawlsian fair equality of opportunity does not have the same implications as the principle of sufficient autonomy as to which types of talents should be discovered and to what extent.

Keywords: autonomy, education, liberalism, talents, equality of opportunity

1. INTRODUCTION

Sufficientarianism is a doctrine that affirms that what matters is whether individuals have enough of the relevant goods. In his book *Just Enough: Sufficiency as a Demand for Justice*, Liam Shields develops an alternative original account of sufficientarianism. According to this account, once the threshold is secured, there could be further moral requirements. However, *the nature and weight of the reasons* to secure and reallocate the relevant goods changes after individuals have reached the threshold (Shields, 2016: 30).

In Chapter 3, Shields states and defends the principle of sufficient autonomy:

“Principle of sufficient autonomy: We have weighty, non-instrumental, non-egalitarian, satiable reasons to secure enough autonomy for everyone to enjoy the social conditions of freedom, the conditions under which we freely form and revise our conception of the good life.” (Shields, 2016, 53)

A person has sufficient autonomy if (1) she is well-informed, meaning that she can establish third-person assurance of the freedom (not the truth) of her beliefs; (2) she is capable of giving reasons for her views; (3) she is disposed to exchange reasons and to participate in public reasoning activities with others (Shields, 2016: 53, 84).

The fourth chapter of *Just Enough* is devoted to showing the contributions of the principle of sufficient autonomy to debates about education. This essay discusses two of these contributions. First, Shields argues that instrumental arguments for autonomy-supporting education fail to support mandatory autonomy education in all cases; his non-instrumental argument does support this. This essay develops a version of the instrumental argument and argues this version can do the work of supporting mandatory autonomy education as well as the principle of sufficient autonomy, and perhaps even better (Section 2). Second, Shields argues that the principle of sufficient autonomy implies a requirement of talents discovery. According to Shields, the requirement of talents discovery renders Rawls’s principle of fair equality of opportunity more plausible, since one’s chances of accessing a given economic position depend on one’s opportunities to discover one’s innate talents. In Section 3, I shall argue that Rawlsian fair equality of opportunity does not have exactly the same implications as the principle of sufficient autonomy as to which types of talents should be discovered and to what extent.

2. INSTRUMENTAL AND NON-INSTRUMENTAL ARGUMENTS FOR MANDATORY AUTONOMY EDUCATION

The justification of the principle of sufficient autonomy appeals to non-instrumental reasons to promote autonomy. The chapter entitled “Sufficiency and Education” argues that the principle of sufficient autonomy provides a more decisive reason to support mandatory autonomy education than instrumental arguments for autonomy. A concrete issue at stake is that parents of conservative religious communities may oppose certain forms of autonomy-promoting education. They fear that mandatory

autonomy education will turn their children away from the core beliefs, values and behaviors endorsed by their communities. They could (and do) appeal to religious freedom or parental rights to justify their position. From a perspective centered on children's interests, the main worry is that mandatory autonomy education could jeopardize the long-term well-being of child-members of conservative communities. Autonomy education may estrange these children from their family and community. This would make it impossible for them to meaningfully sustain important familial and social relationships. They would also be deprived of the important contribution of cultural affiliation to one's sense of identity and capacity for wholehearted commitments.

According to Shields, the principle of sufficient autonomy succeeds in showing that securing a certain level of autonomy outweighs these countervailing considerations, while instrumental accounts of the value of autonomy do not (Shields, 2016: 90). The instrumental argument for autonomy education affirms that autonomy is good because it leads to something else, namely well-being or flourishing. It derives the value of autonomy education from the good of well-being. Worries with the instrumental argument arise from the contingent character of the connection between autonomy and well-being (Shields, 2016: 72). Such worries need not arise if the value of autonomy is not derivative. Note this does not necessarily mean concerns with the well-being of children should disappear. Valuing autonomy non-instrumentally does not preclude Shields from valuing well-being non-instrumentally. If so, the case of child-members of conservative communities will require him to balance autonomy against well-being. This balancing reasoning might lead to practical conclusions similar to those reached by "instrumentalists". To strengthen the case for the non-instrumental argument, it seems we need to know why the intrinsic value of autonomy is superior to the value of well-being.

While the case for the non-instrumental account might not be as strong as expected, the case for the instrumental one could be stronger than Shields assumes. A closer examination of the connection between autonomy and well-being shows that the instrumental argument provides little support to those who want to withdraw child-members of conservative communities from autonomy education. How detrimental we think autonomy education is to these children depends on the nature and the importance of the connection between autonomy and well-being, on one hand, and (as Shields himself puts it) on the conception of well-being we assume, on the other hand (Shields, 2016: 93).

The instrumental argument affirms autonomy leads causally to well-being. The causal connection between autonomy and well-being can be understood in at least two ways (Schinkel, 2010: 100):

- (a) Autonomy *may/is likely contribute to* individual well-being.
- (b) Autonomy *is necessary for* individual well-being.

Shields's argument must assume version (a) of the instrumental argument since version (b) would also succeed in convincing those who are concerned with children's well-being that autonomy education should be mandatory. Could it be the case that autonomy is necessary for individual well-being? Drawing on Raz's reflections, as well as on the philosophical works they have influenced (e.g. Brighouse, 2005; Raz, 1986; Wall, 1998; White, 2006), I would like to examine two ways in which an adequate level of autonomy might be necessary to live well.

Autonomy is unlikely to be necessary to achieve some conceptions of well-being such as those based on hedonistic and actual preference satisfaction. It is possible to experience pleasure or to satisfy one's actual preferences without being autonomous. This is emphasized by Shields's discussions of happiness pills and cheap tastes inculcation (Shields, 2016: 74-76).¹ What is wrong with these examples is that people by-pass the autonomous deliberative process involved in forming and realizing their conception of the good life.

Raz's partly subjective conception of well-being (Raz, 1986: 288–312) is not vulnerable to counterexamples like the happiness pill. According to Raz, a person's well-being depends, first, on her capacity to meet basic biological needs and, second, on the successful pursuit of her current and future goals. The content of these goals does not matter so long as they are independently valued by the person herself. This means attempts to improve the life of someone else by making her achieve a good she does not and will not see as her goal will fail. Suppose Mary's mother tries to secure her daughter's future well-being by preventing her from studying history, a subject Mary is passionate about. Mary's mother believes history is a poor choice of major because she does not see the point of spending one's life neck-deep in dusty archives to write unreadable books. She pushes Mary to study communication instead, a seemingly more fun major. Unless Mary revises her judgment on the merits of a history major, her mother's attempt to make her happy will be unsuccessful.

However, success in pursuing a goal, regardless of its objective value, does not suffice to secure a person's well-being. A person's well-being also

1 Note that the cheapness itself is not problematic for autonomy. What is problematic is that they have been inculcated in a non-autonomous way. See Zwarthoed (2015)

depends on the value of the goals she pursues. We evaluate goals, we have *reasons* to pursue them, and some reasons are better than others. A person *has* a goal, properly speaking, only if her reasons for having it are valid. Failing to achieve a goal which is actually supported by no valid reason is a “blessing in disguise” (Raz, 1986: 301). Suppose Mary is genuinely interested in history, but decides to study philosophy instead because she believes a philosophy degree is more likely to improve her job prospects. Now, suppose also that Mary’s belief turns out to be false. History graduates are actually more popular with employers. If this is the case, Mary does not have, in a normatively relevant sense, the goal to become a philosophy graduate. Of course, it is a psychological fact that she has the desire to study philosophy (since she ignores her reason for having this goal is not valid). But, properly speaking, she does not have the goal to study philosophy because studying philosophy will not contribute to the success of her life. If she is not admitted to a philosophy program, this failure might contribute to her well-being unbeknownst to her.

Since there are no reasons to value worthless cheap tastes or a life determined by a happiness pill, Raz’s conception of well-being avoids Shields’s objections to welfarism. Now, having goals does not suffice to live well; one must also succeed in pursuing them. A person’s goals provide her with action reasons, reasons that speak in favor of performing certain actions. Others cannot reach a person’s goals for her: actively pursuing the goals that constitute one’s life is constitutive of living well. This does not mean the good life must be athletic or hyperactive. A flourishing life can certainly consist of modest pursuits. What matters is that the person achieves these goals herself, lives her life herself and from the inside.

According to Raz, these goals need not be acquired in an autonomous way (Raz, 1986: 290–291) and one can live well without being autonomous. Yet I submit that a minimal degree of autonomy is, in fact, necessary to secure the dependency of a person’s goals on reasons. It is true that a person may acquire goals she has valid reasons to value through non-autonomous processes such as habituation, early socialization, and so on. In fact, most of our goals are acquired this way. Furthermore, the successful pursuit of some possibly attractive goals, such as ballet performance, requires the child to commit to cultivate her talents from an early age, before she is fully autonomous (Arneson and Shapiro, 1996: 392).

However, being equipped with the deliberative capacities that partly constitute autonomy enables people to avoid at least two potential obstacles in the process of assessing the validity of the reasons one has to have certain goals. The *first* obstacle is: I cannot make sure the reasons I have to pursue goals are independently valid if I do not possess the skills and

knowledge needed to critically assess, or reassess, their validity. Without a minimal degree of autonomy, I cannot make sure the goals I pursue are based on valid reasons, and therefore I cannot make sure these goals will contribute to my well-being. As Arneson and Shapiro put it, we do not want to choose life plans we just believe are valuable, but we do want to choose those which truly are valuable. Insofar as truly valuable life plans are those which resist critical reflection, autonomy is a good instrument to verify whether our life plans are truly valuable (Arneson and Shapiro, 1996: 399).

The *second* obstacle is: even if I am well-equipped with the cognitive abilities needed to assess the independent values of my goals, I might not be able to want my reasons to be true reasons. I might be rationalizing my choices rather than honestly reflecting on them. I might be deceiving myself about my real reasons. Self-deception is seriously damaging to well-being because it breaks the connection between goals and reasons. Rationality and intelligence do not protect us from self-deception. But the capacity for autonomy does. One of the crucial dimensions of autonomy is authenticity (Shields, 2016: 59). Authenticity involves being able to reflect critically upon one's major goals and to revise them so that they cohere with one's reflectively constituted higher-order commitments and conception of oneself. By definition, authenticity requires being honest with oneself and one's reasons, even when the truth is uncomfortable. The capacity for minimal autonomy is thus necessary to have genuine wholehearted commitments to goals that constitute our well-being. When society has to decide whether to authorize parents to withdraw children from autonomy-promoting subjects or schools, controversial assumptions regarding the superiority of a secular way of life are not necessary (Arneson and Shapiro, 1996: 401). They might even be detrimental to children's well-being, since they could amount to unsuccessful attempts to make these children live well by pushing them into ways of life they do not endorse. But society can assume that autonomy-promoting education makes it more likely that future adults will choose the goals that are truly better *for them* without falling into the trap of self-deception.

The first way in which a minimal degree of autonomy is necessary to live well is by securing the dependency of our goals on valid reasons, insofar as the capacity for autonomy equips us with the skills, knowledge, and disposition to avoid errors and self-deception. The second way appeals to Raz's well-known contextual argument for the special value of autonomy in modern societies. If this argument is valid, a higher degree of autonomy might be needed to achieve well-being in these societies. Our well-being depends on our successful pursuit of goals we have valid reasons to commit to. But we create these goals out of something. Our goals are based on

existing social forms. Social forms refer to existing shared beliefs, cultures, imaginations, practices, behaviors, and so on (Raz, 1986: 307–312). Our pursuits and activities are to a large extent socially defined. This does not mean we should align with existing social conventions. It means the meaning, significance and sometimes the very possibility of some comprehensive goals depend on existing social forms.

As Shields puts it, autonomy involves certain social conditions (Shields, 2016: 48). The social conditions, and more broadly, the social forms of modern democratic societies constitute an autonomy-supporting environment. Modern autonomy-supporting environments are characterized by fast-changing technology and economic circumstances, geographical and social mobility, value pluralism, secularization and a commitment to human rights (Wall, 1998: 166–167). In such environments, people need the capacity for autonomy in order to flourish (Raz, 1986: 391). This is not just because autonomy enhances our ability to cope with changes. This is because this environment makes it extremely difficult, requiring almost complete isolation, to lead successful lives non-autonomously.

At this point, one could argue that this argument does not apply to child-members of isolated conservative communities. Their social environment differs from the characteristic circumstances of modern societies. The range of comprehensive goals available to them is not based on autonomy-supportive social forms. Furthermore, insofar as well-being depends on the successful pursuit of socially defined goals and activities, autonomy education might render them ill-equipped to succeed in the pursuits available to them.

The objection would hold if these communities were entirely isolated from the “external world”. In those specific circumstances, instrumentalists must grant that a relatively high degree of autonomy is unnecessary to live well (a minimal degree of autonomy might remain necessary to secure the dependency of goals on valid reasons). However, most of the communities which currently want to withdraw their children from mandatory autonomy education are not fully isolated. They interact with non-members at various levels. Existing political and social institutions structure interactions among members and between members and non-members. Members pay taxes and consume public goods. As the sheer existence of the *Wisconsin v. Yoder* case makes it clear, member of these communities rely on the same judicial system as non-members to protect their rights. Some produce goods they sell to non-members and buy consumer goods produced outside of the community. Some read newspapers and watch

television programs infused with the background, autonomy-supporting culture. As a result, even when they are able to protect their culture, the presence and influence of the broader autonomy-supporting context unavoidably alter the social forms that prevail in these communities. They also alter the very nature of the opportunities these communities provide to their members. The significance of pursuing the project to live in a traditional community differs greatly in a traditional society from one in which one can freely revise her goals. The very nature and value of these choices depend on whether they exist in an autonomy-supporting environment or not. In concrete terms, the option to stay in the Amish community or to become a nun does not have the same significance in an autonomy-supporting society and in a traditional society. In modern societies, this option unavoidably involves a choice, if only because background institutions provide exit options.² And this choice requires exercising deliberative capacities. An autonomy-supporting environment reshapes the very conditions attached to these seemingly non-autonomous pursuits. It transforms them into autonomous choices. Since child-members of conservative communities will be confronted with these sorts of choices, their future well-being requires the capacity for autonomy too. Therefore, in our modern circumstances, this version of the instrumental argument for autonomy helps us to reach the conclusion Shields wants to reach, that is, that autonomy education should be mandatory.

Before closing the discussion, a few critical remarks on mandatory autonomy education might be helpful to refine the debate. Liam Shields does not only argue that autonomy education should be mandatory. He also suggests it should be delivered by the state:

“The state cannot refuse to get involved with education and simply allow private individuals to provide for it. To do so would be to allow educational provision to be distributed in a particular way that may fail to recognise citizens’ rightful claims.” (Shields, 2016, 85)

Additional philosophical work might be needed to make the move from the claim that autonomy education should be mandatory to the following claims: first, the state should be responsible for delivering autonomy education; second, the state should be authorized to use its coercive power to make sure all children are enrolled in state-provided autonomy education. I have no space to discuss these issues in detail, but I would like to point out a couple of questions. If Shields thinks states should deliver

2 Note some communities make efforts to inculcate beliefs and mindsets that prevent their members from seriously giving consideration to the exit option. Sociologist Donald Kraybill suggests Amish education is designed in such a way that the “agenda of ideas” is “controlled”, thereby preventing children from envisaging a life outside of the community. (Kraybill, 2001: 176–177)

autonomy education because they are the most able agent for this purpose, something could be said about why other educational agents, and especially parents, are more likely than the state to fail to render children sufficiently autonomous (especially in less than ideal states). If Shields thinks states should provide autonomy education because they are the only agent which has the legitimate power to “force” children to get such education, the theory of legitimate authority with which his sufficientarianism needs to coordinate should be developed further.

3. SUFFICIENT AUTONOMY, FAIR EQUALITY OF OPPORTUNITY, AND THE REQUIREMENT OF TALENTS DISCOVERY

Let us now move to the requirement of talents discovery. Sufficient autonomy is related to talents discovery in the following way. Educating for autonomy requires agents to be well informed about the options available to them. Being informed about options involves being informed about one’s interests and talents. Therefore, according to Shields, “everyone should be given opportunities sufficient to discover their talents and interests insofar as this constitutes our freedom as sufficiently autonomous agents” (Shields, 2016, 100). The array of opportunities to discover one’s talents should be sufficiently broad and varied.

Shields argues that, by requiring talents discovery, the principle of sufficient autonomy renders Rawls’s principle of fair equality of opportunity more plausible and should thus supplement it (Shields, 2016: 100–105). According to the Rawlsian principle, social and economic positions should be opened to all under fair equality of opportunity, meaning that those with equivalent talents and the same degree of willingness to use these talents should have equal chances of access to the same offices and positions, regardless of gender, race or social background. The principle must include undeveloped talents and not just to the subset of talents that have been actually developed. Otherwise, the principle would validate background unjust inequalities (Shields, 2016: 102). But giving productive jobs to those who couldn’t have developed the appropriate skills due to unjust circumstances wouldn’t benefit society in general, and the least well off in particular. Therefore, justice requires the educational system to provide prospective citizens with the opportunity to discover and develop their talents. But it would be excessively costly to attempt to discover *all* possible talents. Hence the requirement of talents discovery usefully supplements the Rawlsian principle by providing a criterion to define the

extent to which opportunities for talent discovery should be broad and varied.

It is true that the principle of fair equality of opportunity would be implausible if it did not require the educational system to help children to identify and develop the relevant talents. However, the requirement of talents discovery fits into the principle of equality of opportunity only if their implications regarding the kinds of talents and the extent to which they must be developed converge. This doesn't seem to be the case. The two principles are not necessarily concerned with the same talents. The principle of sufficient autonomy pertains to the talents one needs to adequately develop a conception of the good life (Shields, 2016: 99) and to participate in collective deliberations (Shields, 2016: 98). Fair equality of opportunity pertains to the talents which enable people to be economically and socially productive in a way that can be beneficial to the least fortunate (Rawls, 1999: 87). Of course, some talents, such as good verbal skills, have polyvalent functions. And, to some extent, marketable talents are instrumental to secure the capacity to adequately develop a conception of the good life. But others, such as the capacity for spiritual experiences, are less likely to be valuable in the job market. And talents that are valuable on the job market, such as combativeness, are not particularly well-suited to developing a conception of the good life or participating in collective deliberations.

Of course, the fact that the implications of sufficient autonomy and equality of opportunities are not co-extensive does not undermine the inherent plausibility of Shields's principle of talents discovery. But it puts into question his claim that the requirement of talents discovery implied by sufficient autonomy fits in well with *other* demands, such as the demands of fair equality of opportunities. The problem is not just that the range of talents each principle is concerned with is different. The problem is that educational resources are finite. When a society decides which talents the educational system should attempt to reveal in priority, it has to adjudicate between the demands of sufficient autonomy and the demands of equality of opportunity.

The implications of sufficient autonomy in terms of talents discovery may conflict with equality of opportunities at another level. In the sufficientarian educational system Shields envisions, the least advantaged children would only enjoy a sufficiently varied array of opportunities for talents discovery, while their more advantaged counterparts could, in addition, benefit from exposure to a much broader set of disciplines, experiences, and activities. Their chances to discover a talent that matches job market demands well are therefore higher. Or suppose the requirement

of talents discovery is not only sufficientarian in terms of the variety of talents children should be able to try to develop, but also in terms of the extent to which they could develop these talents. Then, the sufficientarian version of the requirement of talents discovery runs the risk of putting some children at a disadvantage in another way. Imagine the sufficientarian version of the requirement of talents discovery requires schools to provide those who are naturally good at mathematics with the opportunity to develop the level of mathematical skills corresponding to a secondary school degree. The students who would be granted this opportunity and no more will be unable to compete to become actuaries, accountants or financial analysts (which are well-paid jobs). This is not compatible with fair equality of opportunity. The policy of talents discovery required by fair equality of opportunities must take into account the effects of competitive and comparative contexts on children's economic and social prospects. The source of the problem is that talents are goods with positional aspects. Their value in competitive contexts depends on how much of the same goods other competitors have (Brighouse and Swift, 2006). Despite its inherent plausibility, Shields' sufficientarian view of talents discovery might actually hinder fair equality of opportunity rather than reinforce it.

Shields addresses the problem of positional disadvantages in his discussion of Anderson's adequacy principle of educational justice (Shields, 2016: 110–114). He suggests that the shift-based approach of sufficientarianism he advocates is better equipped than Anderson's own version of upper limit sufficientarianism. To recall, upper limit sufficientarianism states that, once people have enough, there is no further reason to benefit them. Shift-based sufficientarianism states that, once people have enough, the nature and weight of reasons to benefit them change. Anderson's view entails that, once educational adequacy is secured, there is no further reason to redistribute educational opportunities. Shields's view entails that, once the principle of sufficient autonomy is secured, there may be further reasons to redistribute educational opportunities. Shields could thus respond to the egalitarian critic that, once sufficient opportunities for talents discovery are secured, his theory of justice can recognize there are additional valid moral reasons to limit rich children's opportunities for talents discovery in competitive contexts.

If my understanding of the implications of shift-based sufficientarianism for educational justice is correct, Shields's view of educational justice may plausibly conciliate two conflicting considerations that structure the debate about educational justice, namely, positional disadvantages and leveling down. Still, this does not show the principle of sufficient autonomy

itself adequately defines the requirements of fair equality of opportunities in terms of talents discovery. It only shows that a shift-based understanding of sufficientarianism can supplement the principle of sufficient autonomy with an egalitarian principle of fair equality of opportunities. In terms of talents discovery, this means once opportunities for the discovery of a sufficiently broad and varied array of talents have been secured, educational justice can seek to achieve an equal distribution of remaining opportunities for talents discovery. Then, a worry remains. If the demands of sufficient autonomy require a lot of educational resources, little will be left over to enable schools to equalize the economic and social opportunities of children. Recall that, according to Shields, the ingredients of sufficient autonomy are: (1) being well-informed, that is, being able to establish third-person assurance of the freedom of one's beliefs; (2) being able to give reasons for one's views; (3) being disposed to exchange reasons and to participate in public reasoning activities with others. It seems to me the educational policies needed to secure sufficient autonomy as Shields conceives it would especially focus on helping children to reach a high level of cognitive and critical thinking skills, a level most of the people shaped by our educational systems do not have reached. In the just educational system Shields envisions, important investments in the cultivation of critical thinking skills would have priority over investments in policies aiming at securing equality of opportunity such as the implementation of a school map (when and where it works) or reforms aiming at helping disadvantaged students to access to and succeed in higher education. The influence of parental background on children's future opportunities would remain decisive. Therefore, the extent to which the principle of sufficient autonomy is compatible with fair equality of opportunities seems limited.

One might think the conclusion of this discussion is that egalitarian views of educational justice are superior to sufficientarian ones. But this needs not be true, even for those who share the intuition that an educational system that fails to mitigate the effects of social background on children's social and economic prospects is problematic. The problem does not necessarily originate from sufficiency in itself. It originates from the fact that Shields' account of autonomy is not rich enough. The ideal of autonomy is not limited to critical thinking skills and deliberative capacities. It also concerns social and economic conditions as well as the kind of relationships people have with each other. A richer account of autonomy may account for the problem of positional goods by enabling us to stress how people's relative position in the distribution of certain goods may affect important dimensions of freedom and autonomy. Some capability-based and freedom-based understandings of the sufficiency threshold can address

the issue of positional goods insofar as absolute value of certain capabilities and freedoms depends upon people's relative place in the distribution of certain goods (Axelsen and Nielsen, 2015, 419–420).

4. CONCLUSION

This essay has engaged with two of the contributions the principle of sufficient autonomy to educational justice. It has argued that instrumental views of the value of autonomy can provide decisive reasons to support mandatory autonomy education. It has also argued that the implications of Rawlsian fair equality of opportunity regarding talents discovery differ from the implications of sufficient autonomy. Insofar as educational resources are scarce, sufficient autonomy and equality of opportunity are potentially conflicting educational aims. However, a richer account of autonomy could incorporate the aim of securing equality of opportunity through education by stressing how such equality contributes to economic, social and relational dimensions of autonomy. The general conclusion is that Liam Shields's autonomy-based sufficientarian view is promising, but his account of autonomy and of the way it relates to well-being may need further refinements to successfully address the two classical problems of philosophy of education we have briefly discussed in this essay.³

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The Principle of Sufficient Autonomy and Mandatory Autonomy Education

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ABSTRACT

This essay discusses two contributions of the principle of sufficient autonomy to educational justice. In *Just Enough*, Liam Shields criticizes instrumental accounts of autonomy. According to these accounts, autonomy is valuable insofar as it contributes to well-being. Shields argues that instrumental arguments fail to support mandatory autonomy education in all cases, while his non-instrumental principle of sufficient autonomy does support this. This essay develops a version of the instrumental argument and argues this version can do the work of supporting mandatory autonomy education. Another contribution of the principle of sufficient autonomy is the requirement of talents discovery. According to Shields, the requirement of talents discovery renders Rawls's principle of fair equality of opportunity more plausible, since one's chances of accessing a given economic position depend on one's opportunities to discover one's innate talents. This essay argues that Rawlsian fair equality of opportunity does not have the same implications as the principle of sufficient autonomy as to which types of talents should be discovered and to what extent.

Keywords: autonomy, education, liberalism, talents, equality of opportunity

1. INTRODUCTION

Sufficientarianism is a doctrine that affirms that what matters is whether individuals have enough of the relevant goods. In his book *Just Enough: Sufficiency as a Demand for Justice*, Liam Shields develops an alternative original account of sufficientarianism. According to this account, once the threshold is secured, there could be further moral requirements. However, *the nature and weight of the reasons* to secure and reallocate the relevant goods changes after individuals have reached the threshold (Shields, 2016: 30).

In Chapter 3, Shields states and defends the principle of sufficient autonomy:

“Principle of sufficient autonomy: We have weighty, non-instrumental, non-egalitarian, satiable reasons to secure enough autonomy for everyone to enjoy the social conditions of freedom, the conditions under which we freely form and revise our conception of the good life.” (Shields, 2016, 53)

A person has sufficient autonomy if (1) she is well-informed, meaning that she can establish third-person assurance of the freedom (not the truth) of her beliefs; (2) she is capable of giving reasons for her views; (3) she is disposed to exchange reasons and to participate in public reasoning activities with others (Shields, 2016: 53, 84).

The fourth chapter of *Just Enough* is devoted to showing the contributions of the principle of sufficient autonomy to debates about education. This essay discusses two of these contributions. First, Shields argues that instrumental arguments for autonomy-supporting education fail to support mandatory autonomy education in all cases; his non-instrumental argument does support this. This essay develops a version of the instrumental argument and argues this version can do the work of supporting mandatory autonomy education as well as the principle of sufficient autonomy, and perhaps even better (Section 2). Second, Shields argues that the principle of sufficient autonomy implies a requirement of talents discovery. According to Shields, the requirement of talents discovery renders Rawls’s principle of fair equality of opportunity more plausible, since one’s chances of accessing a given economic position depend on one’s opportunities to discover one’s innate talents. In Section 3, I shall argue that Rawlsian fair equality of opportunity does not have exactly the same implications as the principle of sufficient autonomy as to which types of talents should be discovered and to what extent.

2. INSTRUMENTAL AND NON-INSTRUMENTAL ARGUMENTS FOR MANDATORY AUTONOMY EDUCATION

The justification of the principle of sufficient autonomy appeals to non-instrumental reasons to promote autonomy. The chapter entitled “Sufficiency and Education” argues that the principle of sufficient autonomy provides a more decisive reason to support mandatory autonomy education than instrumental arguments for autonomy. A concrete issue at stake is that parents of conservative religious communities may oppose certain forms of autonomy-promoting education. They fear that mandatory

autonomy education will turn their children away from the core beliefs, values and behaviors endorsed by their communities. They could (and do) appeal to religious freedom or parental rights to justify their position. From a perspective centered on children's interests, the main worry is that mandatory autonomy education could jeopardize the long-term well-being of child-members of conservative communities. Autonomy education may estrange these children from their family and community. This would make it impossible for them to meaningfully sustain important familial and social relationships. They would also be deprived of the important contribution of cultural affiliation to one's sense of identity and capacity for wholehearted commitments.

According to Shields, the principle of sufficient autonomy succeeds in showing that securing a certain level of autonomy outweighs these countervailing considerations, while instrumental accounts of the value of autonomy do not (Shields, 2016: 90). The instrumental argument for autonomy education affirms that autonomy is good because it leads to something else, namely well-being or flourishing. It derives the value of autonomy education from the good of well-being. Worries with the instrumental argument arise from the contingent character of the connection between autonomy and well-being (Shields, 2016: 72). Such worries need not arise if the value of autonomy is not derivative. Note this does not necessarily mean concerns with the well-being of children should disappear. Valuing autonomy non-instrumentally does not preclude Shields from valuing well-being non-instrumentally. If so, the case of child-members of conservative communities will require him to balance autonomy against well-being. This balancing reasoning might lead to practical conclusions similar to those reached by "instrumentalists". To strengthen the case for the non-instrumental argument, it seems we need to know why the intrinsic value of autonomy is superior to the value of well-being.

While the case for the non-instrumental account might not be as strong as expected, the case for the instrumental one could be stronger than Shields assumes. A closer examination of the connection between autonomy and well-being shows that the instrumental argument provides little support to those who want to withdraw child-members of conservative communities from autonomy education. How detrimental we think autonomy education is to these children depends on the nature and the importance of the connection between autonomy and well-being, on one hand, and (as Shields himself puts it) on the conception of well-being we assume, on the other hand (Shields, 2016: 93).

The instrumental argument affirms autonomy leads causally to well-being. The causal connection between autonomy and well-being can be understood in at least two ways (Schinkel, 2010: 100):

- (a) Autonomy *may/is likely contribute to* individual well-being.
- (b) Autonomy *is necessary for* individual well-being.

Shields's argument must assume version (a) of the instrumental argument since version (b) would also succeed in convincing those who are concerned with children's well-being that autonomy education should be mandatory. Could it be the case that autonomy is necessary for individual well-being? Drawing on Raz's reflections, as well as on the philosophical works they have influenced (e.g. Brighouse, 2005; Raz, 1986; Wall, 1998; White, 2006), I would like to examine two ways in which an adequate level of autonomy might be necessary to live well.

Autonomy is unlikely to be necessary to achieve some conceptions of well-being such as those based on hedonistic and actual preference satisfaction. It is possible to experience pleasure or to satisfy one's actual preferences without being autonomous. This is emphasized by Shields's discussions of happiness pills and cheap tastes inculcation (Shields, 2016: 74-76).¹ What is wrong with these examples is that people by-pass the autonomous deliberative process involved in forming and realizing their conception of the good life.

Raz's partly subjective conception of well-being (Raz, 1986: 288–312) is not vulnerable to counterexamples like the happiness pill. According to Raz, a person's well-being depends, first, on her capacity to meet basic biological needs and, second, on the successful pursuit of her current and future goals. The content of these goals does not matter so long as they are independently valued by the person herself. This means attempts to improve the life of someone else by making her achieve a good she does not and will not see as her goal will fail. Suppose Mary's mother tries to secure her daughter's future well-being by preventing her from studying history, a subject Mary is passionate about. Mary's mother believes history is a poor choice of major because she does not see the point of spending one's life neck-deep in dusty archives to write unreadable books. She pushes Mary to study communication instead, a seemingly more fun major. Unless Mary revises her judgment on the merits of a history major, her mother's attempt to make her happy will be unsuccessful.

However, success in pursuing a goal, regardless of its objective value, does not suffice to secure a person's well-being. A person's well-being also

1 Note that the cheapness itself is not problematic for autonomy. What is problematic is that they have been inculcated in a non-autonomous way. See Zwarthoed (2015)

depends on the value of the goals she pursues. We evaluate goals, we have *reasons* to pursue them, and some reasons are better than others. A person *has* a goal, properly speaking, only if her reasons for having it are valid. Failing to achieve a goal which is actually supported by no valid reason is a “blessing in disguise” (Raz, 1986: 301). Suppose Mary is genuinely interested in history, but decides to study philosophy instead because she believes a philosophy degree is more likely to improve her job prospects. Now, suppose also that Mary’s belief turns out to be false. History graduates are actually more popular with employers. If this is the case, Mary does not have, in a normatively relevant sense, the goal to become a philosophy graduate. Of course, it is a psychological fact that she has the desire to study philosophy (since she ignores her reason for having this goal is not valid). But, properly speaking, she does not have the goal to study philosophy because studying philosophy will not contribute to the success of her life. If she is not admitted to a philosophy program, this failure might contribute to her well-being unbeknownst to her.

Since there are no reasons to value worthless cheap tastes or a life determined by a happiness pill, Raz’s conception of well-being avoids Shields’s objections to welfarism. Now, having goals does not suffice to live well; one must also succeed in pursuing them. A person’s goals provide her with action reasons, reasons that speak in favor of performing certain actions. Others cannot reach a person’s goals for her: actively pursuing the goals that constitute one’s life is constitutive of living well. This does not mean the good life must be athletic or hyperactive. A flourishing life can certainly consist of modest pursuits. What matters is that the person achieves these goals herself, lives her life herself and from the inside.

According to Raz, these goals need not be acquired in an autonomous way (Raz, 1986: 290–291) and one can live well without being autonomous. Yet I submit that a minimal degree of autonomy is, in fact, necessary to secure the dependency of a person’s goals on reasons. It is true that a person may acquire goals she has valid reasons to value through non-autonomous processes such as habituation, early socialization, and so on. In fact, most of our goals are acquired this way. Furthermore, the successful pursuit of some possibly attractive goals, such as ballet performance, requires the child to commit to cultivate her talents from an early age, before she is fully autonomous (Arneson and Shapiro, 1996: 392).

However, being equipped with the deliberative capacities that partly constitute autonomy enables people to avoid at least two potential obstacles in the process of assessing the validity of the reasons one has to have certain goals. The *first* obstacle is: I cannot make sure the reasons I have to pursue goals are independently valid if I do not possess the skills and

knowledge needed to critically assess, or reassess, their validity. Without a minimal degree of autonomy, I cannot make sure the goals I pursue are based on valid reasons, and therefore I cannot make sure these goals will contribute to my well-being. As Arneson and Shapiro put it, we do not want to choose life plans we just believe are valuable, but we do want to choose those which truly are valuable. Insofar as truly valuable life plans are those which resist critical reflection, autonomy is a good instrument to verify whether our life plans are truly valuable (Arneson and Shapiro, 1996: 399).

The *second* obstacle is: even if I am well-equipped with the cognitive abilities needed to assess the independent values of my goals, I might not be able to want my reasons to be true reasons. I might be rationalizing my choices rather than honestly reflecting on them. I might be deceiving myself about my real reasons. Self-deception is seriously damaging to well-being because it breaks the connection between goals and reasons. Rationality and intelligence do not protect us from self-deception. But the capacity for autonomy does. One of the crucial dimensions of autonomy is authenticity (Shields, 2016: 59). Authenticity involves being able to reflect critically upon one's major goals and to revise them so that they cohere with one's reflectively constituted higher-order commitments and conception of oneself. By definition, authenticity requires being honest with oneself and one's reasons, even when the truth is uncomfortable. The capacity for minimal autonomy is thus necessary to have genuine wholehearted commitments to goals that constitute our well-being. When society has to decide whether to authorize parents to withdraw children from autonomy-promoting subjects or schools, controversial assumptions regarding the superiority of a secular way of life are not necessary (Arneson and Shapiro, 1996: 401). They might even be detrimental to children's well-being, since they could amount to unsuccessful attempts to make these children live well by pushing them into ways of life they do not endorse. But society can assume that autonomy-promoting education makes it more likely that future adults will choose the goals that are truly better *for them* without falling into the trap of self-deception.

The first way in which a minimal degree of autonomy is necessary to live well is by securing the dependency of our goals on valid reasons, insofar as the capacity for autonomy equips us with the skills, knowledge, and disposition to avoid errors and self-deception. The second way appeals to Raz's well-known contextual argument for the special value of autonomy in modern societies. If this argument is valid, a higher degree of autonomy might be needed to achieve well-being in these societies. Our well-being depends on our successful pursuit of goals we have valid reasons to commit to. But we create these goals out of something. Our goals are based on

existing social forms. Social forms refer to existing shared beliefs, cultures, imaginations, practices, behaviors, and so on (Raz, 1986: 307–312). Our pursuits and activities are to a large extent socially defined. This does not mean we should align with existing social conventions. It means the meaning, significance and sometimes the very possibility of some comprehensive goals depend on existing social forms.

As Shields puts it, autonomy involves certain social conditions (Shields, 2016: 48). The social conditions, and more broadly, the social forms of modern democratic societies constitute an autonomy-supporting environment. Modern autonomy-supporting environments are characterized by fast-changing technology and economic circumstances, geographical and social mobility, value pluralism, secularization and a commitment to human rights (Wall, 1998: 166–167). In such environments, people need the capacity for autonomy in order to flourish (Raz, 1986: 391). This is not just because autonomy enhances our ability to cope with changes. This is because this environment makes it extremely difficult, requiring almost complete isolation, to lead successful lives non-autonomously.

At this point, one could argue that this argument does not apply to child-members of isolated conservative communities. Their social environment differs from the characteristic circumstances of modern societies. The range of comprehensive goals available to them is not based on autonomy-supportive social forms. Furthermore, insofar as well-being depends on the successful pursuit of socially defined goals and activities, autonomy education might render them ill-equipped to succeed in the pursuits available to them.

The objection would hold if these communities were entirely isolated from the “external world”. In those specific circumstances, instrumentalists must grant that a relatively high degree of autonomy is unnecessary to live well (a minimal degree of autonomy might remain necessary to secure the dependency of goals on valid reasons). However, most of the communities which currently want to withdraw their children from mandatory autonomy education are not fully isolated. They interact with non-members at various levels. Existing political and social institutions structure interactions among members and between members and non-members. Members pay taxes and consume public goods. As the sheer existence of the *Wisconsin v. Yoder* case makes it clear, member of these communities rely on the same judicial system as non-members to protect their rights. Some produce goods they sell to non-members and buy consumer goods produced outside of the community. Some read newspapers and watch

television programs infused with the background, autonomy-supporting culture. As a result, even when they are able to protect their culture, the presence and influence of the broader autonomy-supporting context unavoidably alter the social forms that prevail in these communities. They also alter the very nature of the opportunities these communities provide to their members. The significance of pursuing the project to live in a traditional community differs greatly in a traditional society from one in which one can freely revise her goals. The very nature and value of these choices depend on whether they exist in an autonomy-supporting environment or not. In concrete terms, the option to stay in the Amish community or to become a nun does not have the same significance in an autonomy-supporting society and in a traditional society. In modern societies, this option unavoidably involves a choice, if only because background institutions provide exit options.² And this choice requires exercising deliberative capacities. An autonomy-supporting environment reshapes the very conditions attached to these seemingly non-autonomous pursuits. It transforms them into autonomous choices. Since child-members of conservative communities will be confronted with these sorts of choices, their future well-being requires the capacity for autonomy too. Therefore, in our modern circumstances, this version of the instrumental argument for autonomy helps us to reach the conclusion Shields wants to reach, that is, that autonomy education should be mandatory.

Before closing the discussion, a few critical remarks on mandatory autonomy education might be helpful to refine the debate. Liam Shields does not only argue that autonomy education should be mandatory. He also suggests it should be delivered by the state:

“The state cannot refuse to get involved with education and simply allow private individuals to provide for it. To do so would be to allow educational provision to be distributed in a particular way that may fail to recognise citizens’ rightful claims.” (Shields, 2016, 85)

Additional philosophical work might be needed to make the move from the claim that autonomy education should be mandatory to the following claims: first, the state should be responsible for delivering autonomy education; second, the state should be authorized to use its coercive power to make sure all children are enrolled in state-provided autonomy education. I have no space to discuss these issues in detail, but I would like to point out a couple of questions. If Shields thinks states should deliver

2 Note some communities make efforts to inculcate beliefs and mindsets that prevent their members from seriously giving consideration to the exit option. Sociologist Donald Kraybill suggests Amish education is designed in such a way that the “agenda of ideas” is “controlled”, thereby preventing children from envisaging a life outside of the community. (Kraybill, 2001: 176–177)

autonomy education because they are the most able agent for this purpose, something could be said about why other educational agents, and especially parents, are more likely than the state to fail to render children sufficiently autonomous (especially in less than ideal states). If Shields thinks states should provide autonomy education because they are the only agent which has the legitimate power to “force” children to get such education, the theory of legitimate authority with which his sufficientarianism needs to coordinate should be developed further.

3. SUFFICIENT AUTONOMY, FAIR EQUALITY OF OPPORTUNITY, AND THE REQUIREMENT OF TALENTS DISCOVERY

Let us now move to the requirement of talents discovery. Sufficient autonomy is related to talents discovery in the following way. Educating for autonomy requires agents to be well informed about the options available to them. Being informed about options involves being informed about one’s interests and talents. Therefore, according to Shields, “everyone should be given opportunities sufficient to discover their talents and interests insofar as this constitutes our freedom as sufficiently autonomous agents” (Shields, 2016, 100). The array of opportunities to discover one’s talents should be sufficiently broad and varied.

Shields argues that, by requiring talents discovery, the principle of sufficient autonomy renders Rawls’s principle of fair equality of opportunity more plausible and should thus supplement it (Shields, 2016: 100–105). According to the Rawlsian principle, social and economic positions should be opened to all under fair equality of opportunity, meaning that those with equivalent talents and the same degree of willingness to use these talents should have equal chances of access to the same offices and positions, regardless of gender, race or social background. The principle must include undeveloped talents and not just to the subset of talents that have been actually developed. Otherwise, the principle would validate background unjust inequalities (Shields, 2016: 102). But giving productive jobs to those who couldn’t have developed the appropriate skills due to unjust circumstances wouldn’t benefit society in general, and the least well off in particular. Therefore, justice requires the educational system to provide prospective citizens with the opportunity to discover and develop their talents. But it would be excessively costly to attempt to discover *all* possible talents. Hence the requirement of talents discovery usefully supplements the Rawlsian principle by providing a criterion to define the

extent to which opportunities for talent discovery should be broad and varied.

It is true that the principle of fair equality of opportunity would be implausible if it did not require the educational system to help children to identify and develop the relevant talents. However, the requirement of talents discovery fits into the principle of equality of opportunity only if their implications regarding the kinds of talents and the extent to which they must be developed converge. This doesn't seem to be the case. The two principles are not necessarily concerned with the same talents. The principle of sufficient autonomy pertains to the talents one needs to adequately develop a conception of the good life (Shields, 2016: 99) and to participate in collective deliberations (Shields, 2016: 98). Fair equality of opportunity pertains to the talents which enable people to be economically and socially productive in a way that can be beneficial to the least fortunate (Rawls, 1999: 87). Of course, some talents, such as good verbal skills, have polyvalent functions. And, to some extent, marketable talents are instrumental to secure the capacity to adequately develop a conception of the good life. But others, such as the capacity for spiritual experiences, are less likely to be valuable in the job market. And talents that are valuable on the job market, such as combativeness, are not particularly well-suited to developing a conception of the good life or participating in collective deliberations.

Of course, the fact that the implications of sufficient autonomy and equality of opportunities are not co-extensive does not undermine the inherent plausibility of Shields's principle of talents discovery. But it puts into question his claim that the requirement of talents discovery implied by sufficient autonomy fits in well with *other* demands, such as the demands of fair equality of opportunities. The problem is not just that the range of talents each principle is concerned with is different. The problem is that educational resources are finite. When a society decides which talents the educational system should attempt to reveal in priority, it has to adjudicate between the demands of sufficient autonomy and the demands of equality of opportunity.

The implications of sufficient autonomy in terms of talents discovery may conflict with equality of opportunities at another level. In the sufficientarian educational system Shields envisions, the least advantaged children would only enjoy a sufficiently varied array of opportunities for talents discovery, while their more advantaged counterparts could, in addition, benefit from exposure to a much broader set of disciplines, experiences, and activities. Their chances to discover a talent that matches job market demands well are therefore higher. Or suppose the requirement

of talents discovery is not only sufficientarian in terms of the variety of talents children should be able to try to develop, but also in terms of the extent to which they could develop these talents. Then, the sufficientarian version of the requirement of talents discovery runs the risk of putting some children at a disadvantage in another way. Imagine the sufficientarian version of the requirement of talents discovery requires schools to provide those who are naturally good at mathematics with the opportunity to develop the level of mathematical skills corresponding to a secondary school degree. The students who would be granted this opportunity and no more will be unable to compete to become actuaries, accountants or financial analysts (which are well-paid jobs). This is not compatible with fair equality of opportunity. The policy of talents discovery required by fair equality of opportunities must take into account the effects of competitive and comparative contexts on children's economic and social prospects. The source of the problem is that talents are goods with positional aspects. Their value in competitive contexts depends on how much of the same goods other competitors have (Brighouse and Swift, 2006). Despite its inherent plausibility, Shields' sufficientarian view of talents discovery might actually hinder fair equality of opportunity rather than reinforce it.

Shields addresses the problem of positional disadvantages in his discussion of Anderson's adequacy principle of educational justice (Shields, 2016: 110–114). He suggests that the shift-based approach of sufficientarianism he advocates is better equipped than Anderson's own version of upper limit sufficientarianism. To recall, upper limit sufficientarianism states that, once people have enough, there is no further reason to benefit them. Shift-based sufficientarianism states that, once people have enough, the nature and weight of reasons to benefit them change. Anderson's view entails that, once educational adequacy is secured, there is no further reason to redistribute educational opportunities. Shields's view entails that, once the principle of sufficient autonomy is secured, there may be further reasons to redistribute educational opportunities. Shields could thus respond to the egalitarian critic that, once sufficient opportunities for talents discovery are secured, his theory of justice can recognize there are additional valid moral reasons to limit rich children's opportunities for talents discovery in competitive contexts.

If my understanding of the implications of shift-based sufficientarianism for educational justice is correct, Shields's view of educational justice may plausibly conciliate two conflicting considerations that structure the debate about educational justice, namely, positional disadvantages and leveling down. Still, this does not show the principle of sufficient autonomy

itself adequately defines the requirements of fair equality of opportunities in terms of talents discovery. It only shows that a shift-based understanding of sufficientarianism can supplement the principle of sufficient autonomy with an egalitarian principle of fair equality of opportunities. In terms of talents discovery, this means once opportunities for the discovery of a sufficiently broad and varied array of talents have been secured, educational justice can seek to achieve an equal distribution of remaining opportunities for talents discovery. Then, a worry remains. If the demands of sufficient autonomy require a lot of educational resources, little will be left over to enable schools to equalize the economic and social opportunities of children. Recall that, according to Shields, the ingredients of sufficient autonomy are: (1) being well-informed, that is, being able to establish third-person assurance of the freedom of one's beliefs; (2) being able to give reasons for one's views; (3) being disposed to exchange reasons and to participate in public reasoning activities with others. It seems to me the educational policies needed to secure sufficient autonomy as Shields conceives it would especially focus on helping children to reach a high level of cognitive and critical thinking skills, a level most of the people shaped by our educational systems do not have reached. In the just educational system Shields envisions, important investments in the cultivation of critical thinking skills would have priority over investments in policies aiming at securing equality of opportunity such as the implementation of a school map (when and where it works) or reforms aiming at helping disadvantaged students to access to and succeed in higher education. The influence of parental background on children's future opportunities would remain decisive. Therefore, the extent to which the principle of sufficient autonomy is compatible with fair equality of opportunities seems limited.

One might think the conclusion of this discussion is that egalitarian views of educational justice are superior to sufficientarian ones. But this needs not be true, even for those who share the intuition that an educational system that fails to mitigate the effects of social background on children's social and economic prospects is problematic. The problem does not necessarily originate from sufficiency in itself. It originates from the fact that Shields' account of autonomy is not rich enough. The ideal of autonomy is not limited to critical thinking skills and deliberative capacities. It also concerns social and economic conditions as well as the kind of relationships people have with each other. A richer account of autonomy may account for the problem of positional goods by enabling us to stress how people's relative position in the distribution of certain goods may affect important dimensions of freedom and autonomy. Some capability-based and freedom-based understandings of the sufficiency threshold can address

the issue of positional goods insofar as absolute value of certain capabilities and freedoms depends upon people's relative place in the distribution of certain goods (Axelsen and Nielsen, 2015, 419–420).

4. CONCLUSION

This essay has engaged with two of the contributions the principle of sufficient autonomy to educational justice. It has argued that instrumental views of the value of autonomy can provide decisive reasons to support mandatory autonomy education. It has also argued that the implications of Rawlsian fair equality of opportunity regarding talents discovery differ from the implications of sufficient autonomy. Insofar as educational resources are scarce, sufficient autonomy and equality of opportunity are potentially conflicting educational aims. However, a richer account of autonomy could incorporate the aim of securing equality of opportunity through education by stressing how such equality contributes to economic, social and relational dimensions of autonomy. The general conclusion is that Liam Shields's autonomy-based sufficientarian view is promising, but his account of autonomy and of the way it relates to well-being may need further refinements to successfully address the two classical problems of philosophy of education we have briefly discussed in this essay.³

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Sufficientarian Parenting Must be Child-Centered¹

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ABSTRACT

Liam Shields' sufficientarian commitments mean that he should subscribe to a child-centered account of the right to parent. This point most likely generalizes: sufficientarians who acknowledge children's full moral status must embrace a child-centered account of the right to parent.

Keywords: parents, children, right to parent, sufficiency, child-centered account, dual-interest account

1. INTRODUCTION

One chapter of Liam Shields's book *Just Enough* concerns justice in childrearing. Shields believes that an ability to provide an adequate upbringing usually protects custodians against being stripped of their right to rear a child, even if better custodians are willing to parent that child. To argue for this conclusion, he advances his own version of a dual-interest account of the right to parent; an account that grounds the right by appeal to both children's interest in parenting and prospective parents' interest to rear. As a sufficientarian, Shields believes that children are entitled to a sufficiently good parent, rather than to the best available one and, given the importance of parenting for many people's wellbeing, he also believes that adults are entitled to an opportunity to parent.

I agree with Shields' conclusion that adequate parents cannot lose custody merely because a better parent is willing to take over. But I disagree with his argument for this conclusion. I explain why other dual-interest accounts of the right to rear – as well as child-centered accounts! – can show that, once an adequate parent has acquired custody, she or he holds

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it securely. Most importantly, I argue, Shields' sufficientarian commitments mean that he should subscribe to a child-centered account of the right to parent. The last point most likely generalizes: sufficientarians who acknowledge children's full moral status must embrace a child-centered account of the right to parent. The general form of the argument is:

P1. Children have full moral status.

C1. Therefore there is a strong prima facie presumption that one cannot claim legitimate authority over them by appeal to one's own interests.

P2. Parenting is a form of exercising a very significant amount of authority over children.

C2. Therefore, there is a strong prima facie presumption that the right to parent cannot be grounded in the interests of the right-holder.

P3. So far, the most promising attempt to show that the presumption in C2 is overridden relies on the joint belief that justice requires equal opportunity to flourish/pursue life plans and that parenting is a central and non-substitutable element of full flourishing for some people.

P4. Shields denies both elements of the joint belief in P3 and does nothing else to show that the presumption in C2 is overridden.

C3. Shields must therefore be committed to a child-centered account of the right to parent.

More generally, even if children are not entitled to more than enough, it is false that others' authority over them may be justified by appeal to the interests of those who exercise the authority.

2. THE CHALLENGE OF CUSTODY CHANGE

Imagine a child is well-settled with her biological or adoptive parents, with whom she has a loving, close, trustful and nurturing relationship; moreover, the parents provide adequately for this child's developmental needs and give her a reasonably happy childhood (I must bracket the enormous issue of how to establish who is an adequate, and who is an even better-than-adequate, parent). Now imagine that some people, who could do better on all these counts, express the intention to raise the child themselves. Is there a reason or perhaps even a duty of justice on the side of some agent, such as the state, to allow or enable the second set of adults to take over, against the current parents' will? The resolutely negative answer yielded by common sense is worthy of philosophical attention: children

are very vulnerable, they need parents in order to survive and thrive, and lack the authority to choose their own custodians. Moreover, custodians command an unusually high level of power over children. Some philosophers working on issues of justice in childrearing have considered whether, given these facts about children and childrearing, it can ever be permissible for suboptimal parents to be in charge of children's fates when better parents are available (Vallentyne 2002; Brighouse and Swift 2006; Hannan and Vernon 2008; Gheaus 2012; Brighouse and Swift 2014.) This is the literature about the grounds of the right to parent, and most of it discusses the question of how the right is acquired: (why) do adults who would make suboptimal parents have an entitlement to become parents? Shields contributes to this discussion, with a focus on cases of custody change rather than on cases of the acquisition of the right. That is, he aims to explain why it is impermissible, once a person *already* has the custody of a child and raises her adequately, to allow another person, who would (by assumption) make a better parent for the child in question, to become the legal parent of this child (Shields 2016: 22)².

Shields is critical of both child-centered accounts of the right to parent – that is, of theories that appeal exclusively to the interests of children – and of existing dual-interest accounts – that appeal both to the interests of the would-be parents and to those of children – such as those defended by Matthew Clayton (2006) and by Harry Brighouse and Adam Swift (2006; 2014). He thinks that child-centered accounts cannot explain the impermissibility of custody change; therefore, he seems to assume that the strongest argument in favor of the dual-interest view is that it alone can address this challenge, albeit only imperfectly in the versions developed so far (Shields 2016a, 2016b). Shields' argumentative strategy is to show why his own version of the dual-interest account yields more appealing results than existing versions.

Unlike Shields, I believe that, in fact, the custody change worry can be easily averted not only by dual-interest accounts, but also by child-centered accounts. Child-centered theorists can employ several strategies to explain why it is impermissible to allow a change in custody merely because an adult who would make a better parent for the child wants to take over. Most obviously, they can appeal to the interest of the child in continuity of care, which is such that the transition costs to a different parent are enormous. Indeed, so enormous that maybe child-centered theorists can employ this strategy in all or most cases when parents are adequate, i.e. have the moral

2 As he puts it: "The particular question I wish to answer is 'On what grounds can custodial parents usually be denied the right to rear?'" (Shields 2016a: 122).

right to parent in the first place.³ How bad must one's parents be for a child to be better off changing custodians?

But Shields also wants us to consider cases when a change in custody would really be better for a child – that is, when the cost of severing the relationship with the initial, adequate, custodians would be lower than the gains for the child. Assume that extraordinarily good alternative parents were available to adopt her.⁴ In such cases, child-centered accounts seem unable to explain why a change in custody is illegitimate. One answer to this is to bite the bullet and note that in these circumstances it is a lot less counter-intuitive that a change in custody is impermissible (especially if, indeed, only very rarely could the custody change to an extraordinarily good parent compensate for the loss of an established relationship with an adequate parent). This will not satisfy Shields, nor any of the dual-interest theorists who want to show that, independent of such empirical matters, adequate parents have a right to continue to parent.⁵

However, there is a reason why a change in custody away from adequate parents is impermissible even when the child would really be better off with extraordinarily good parents. This reason is advanced by some child-centered theorists (Vallentyne 2003). Children's interests are well served if, once acquired, the right to parent is securely held; that is, there is immunity to custody change, as long as the parent is at least adequate. Otherwise, only parents who are not too scared by the prospect of losing custody would volunteer for the role. But the prospect of losing the relationship with a beloved child is scary, and we know that good parents are loving and attached to their children. Therefore, those undeterred by the prospect of losing custody are not, in general, less likely to make very good parents⁶. So, even if a particular child, who now has an adequate parent, would, by assumption, be better off with a new parent, allowing custody changes in such cases would make most would-be adequate parents unwilling to engage in parenting. This would set back most children's interests. This is

3 Indeed, in their dual-interest account, Brighthouse and Swift, too, give a lot of weight to the interest of the child in preserving the relationship with her parents, once established (2014: 96-97). The interest, on their view, is powerful enough that may justify even less than adequate parents to continue to have the child's custody.

4 For this, see some of Shields' other work (Shields 2016c).

5 Brighthouse and Swift (2014: 97) employ an additional argument: they note that even in cases of abusive and neglectful parents – well below the adequacy threshold – it may be that taking the child in state custody and trying to place her with an adoptive or fostering family has poor prospects of success. But, I assume, Shields is interested in cases when a state has better records than existing states do for handling such cases.

6 At least, usually. There may be isolated cases of would-be extraordinarily good parents who would not be deterred from parenting by the prospect of losing custody to an even better parent.

a child-centered explanation why a change in custody should not be permitted merely because a would-be optimal parent is willing to parent a child who is already adequately parented. Being child-centered, it is also open to dual-interest accounts which, like Brighthouse and Swift's, give the child's interests the primary role in the justification of the right to parent.

In other work, Shields provided a different line of reasoning, meant to explain why the worry concerning changes in custody can also emerge due to a requirement of equal opportunities to parent (Shields 2016c): Insofar as dual-interest accounts rely on the existence of a weighty, non-substitutable, right-generating interest to parent, they must attribute the interest – hence the right – to all would-be adequate parents, whether or not these individuals actually happen to be the custodian of a child. As egalitarians, dual-interest theorists (Brighthouse and Swift 2006, 2014; Clayton 2006) must also acknowledge that the distribution of the right to parent has to be regulated by the principle of fair equality of opportunity, meaning that adults who are already the custodian of a child have no more principled entitlement to enjoy the goods of parenting than those who are not yet custodians. In short, if would-be adequate parents have such a powerful interest in parenting, then they ought to have the same opportunity to have their interest satisfied. This means that the right to parent cannot be purely negative, namely a protection against interference with current custodians' parenting their children. As Shields writes:

“A negative right to parent would treat some people with the non-substitutable interest in parenting, those who can produce biological children, very differently from others with that very same interest, those who cannot. It would not preserve equality of opportunity to fulfill their interest in parenting” (Shields 2016c: 9).

But this worry, too, can be dispelled, even if the right to parent goes beyond a mere protection, by appeal to a general negative right to continue one's intimate relationship (Gheaus 2018)⁷. Consider an analogous case: we might have a very weighty, non-substitutable interest in finding a life partner. (Is there any reason to think that such an interest is less weighty, or more easily substitutable, than the interest in parenting?) At the same time, individuals have negative rights against being separated from their partners even in cases when there is a shortage of partners to marry, and even in cases when different individuals, out of no fault or choice of their own, have much fewer opportunities to find a partner.

⁷ Brighthouse and Swift frame the early version of their account (2006) as an attempt to explain why only adequate parents have a right to enter the parent-child relationship. They seem to assume that it is not difficult to explain why parents have a right to continue the relationship with the child, once it has been established.

3. SUFFICIENTARIANS SHOULD NOT ENDORSE A DUAL-INTEREST ACCOUNT

I think that the most important accomplishment of dual-interest accounts lies elsewhere than in a unique ability to avert the custody change worry⁸: Their greatest advantage over child-centered accounts is that dual-interest accounts alone are capable of explaining why it is wrong to deny would-be adequate parents a right to engage in, rather than continue, parenting. In Brighouse and Swift's words:

"No child has a right to be parented by the adult(s) who would do it best, nor do children as a whole have a right to the way of matching up children and parents that would be best for children overall. Both scenarios could leave perfectly competent parents missing out on the goods of parenting." (Brighouse and Swift 2014: 95)

As Shields (2016c) himself notes, dual-interest theorists appeal to a weighty and non-substitutable interest in parenting in order to explain why competent prospective parents are entitled to an opportunity to parent; they also presuppose an egalitarian principle of distributive justice, letting them conclude that we are entitled to equally flourishing lives rather than merely sufficiently flourishing. But, I argue below, if the interest in parenting is, in fact, substitutable, (Shields subscribes to this claim in 2016c), *or* if one endorses a sufficientarian view of justice (as Shields does in the book), it becomes impossible to explain what is wrong with denying prospective non-optimal parents the right to acquire custody. This has direct implications for allocating custody to adoptive parents and to settling custody disputes between individuals, none of whom is already attached to the child whose custody is disputed. It also has implications about any entitlement that individuals may have to become parents via subsidized IVF treatments.

To elaborate, most of us now believe that children are our moral equals except from the fact that their lack of full autonomy makes paternalistic behavior towards them permissible (indeed, required). If so, then exercising authority over children must be justified by appeal to their consent or by appeal to their own interests but not, usually, by appeal to the interests of those who exercise the authority. Children cannot give valid consent. Therefore authority over them cannot be denied to those likely to advance their interests as much as possible for the sake of advancing the interest of other prospective authority-holders. Parents have undeniable, and great,

⁸ Other work by Shields (2016b) reflects a similar understanding of the merits of the dual-interest accounts.

power over their children. Therefore (and assuming that it is impermissible to coerce people into the parenting role), it follows that custody ought to be allocated to the best available parent. This is the core of a child-centered account of the right to parent (Vallentyne 2003). One dual-interest theory attempts to resist this conclusion by claiming that many, or most, people, can only have fully flourishing lives if they have a chance to parent (Brighthouse and Swift 2006; 2014). Another version of the dual-interest account explains departures from a child-centered account by noting that “child” and “parent” are periods within the life of the same individuals, and claiming that the loss that we incur as children by having non-optimal parents is more than made up for by the gains we enjoy by having the right to parent (Clayton 2006). This can be true only if the interest in parenting is indeed weighty and non-substitutable; otherwise, it seems more efficient to provide would-be sub-optimal parents with opportunities other than to a right to parent. Further, dual-interest theorists are egalitarians: Brighthouse and Swift believe that justice entitles all of us to equal opportunities to have fully flourishing lives, and Clayton thinks that we ought to have equal opportunities to pursue our life plans. Therefore, all prospective adequate parents have a fundamental right to parent because, without it, individuals whose full flourishing or life plans require an opportunity to parent would be unjustly disadvantaged. A fundamental right to parent is grounded in the prospective parents’ own interest and therefore the right holders cannot be denied custody in order to better advance children’s interests (assuming an even better parent is available) or third parties’ interests.

The above argumentative strategy is not open to Shields for two reasons, each of which is enough to show that he cannot endorse a dual-interest account. First, although he believes that the interest in parenting has significant weight, Shields denies that parenting is a non-substitutable path to flourishing (Shields 2016b; 2016c). Even on the assumption that the interest is non-substitutable, it is far from clear that it can justify a right: there may be several non-substitutable ways to flourishing, which are such that we cannot pursue all of them within a lifetime. The way in which you flourish through parenting cannot be substituted by the way in which you flourish by traveling the world for much of your adult years, or by the way in which you flourish by dedicating your life to doing the most good you can do, for example. But, unfortunately, you may be unable to do more than one of those things in your life. In that case, *achievable* full flourishing need not involve the pursuit of every non-substitutable path to flourishing. But if, in fact, the goods of parenting *can* be substituted, then it is quite clear that preventing an individual from parenting will not necessarily prevent her flourishing: she can always find alternative ways to flourishing,

that do not require exercising authority over another human being.

Second, and more importantly perhaps, Shields is not an egalitarian, but a sufficientarian. Even egalitarians like Brighouse and Swift may have trouble justifying a fundamental right to parent. One can doubt that the interest in parenting they identify (assuming it is indeed very weighty and non-substitutable) can generate a fundamental right to parent. A reason is that there may simply not be enough resources to go around such that we all have opportunities to have fully flourishing lives (Gheaus 2015). In this case we are not entitled to an opportunity to a fully flourishing life even on an egalitarian account; on a sufficientarian one, we aren't anyway. Another reason to be skeptical of the egalitarian version of the dual-interest accounts of the right to parent, and even more so of the sufficientarian version, is that it mandates an otherwise impermissible exercise of authority. We usually do not think that we should allow person A to exercise authority over person B for the sake of person A's interest even if there is no other way to bring person A to the level of flourishing or opportunities to which she is entitled by justice. That our intuitions diverge from this standard when it comes to exercising authority over children might be due to empirical facts which explain why adequate birth parents have a right to parent in most cases (Gheaus 2012; 2015) or to the long tradition of denying children full moral status (Gheaus 2018). Even the egalitarian version of the dual-interest account may be in trouble. But if sufficientarians are right and we are only entitled to enough, it is even less credible that we can make a derogation from the general way in which we usually think about legitimizing authority.

4. CONCLUSIONS

To sum up, if children have full moral status, that is, if they have rights/are recipients of duties of justice, then it is difficult to see why we should allow sub-optimal parents to control children's lives, unless two conditions are *jointly* met:

- a. equality, rather than sufficiency, is the correct principle of justice;
- and
- b. there is a weighty and non-substitutable interest to parent, the fulfillment of which is necessary for full flourishing.

Shields denies both the first and the second conditions above (in 2016a and 2016b, respectively). He also wants to defend the following claim:

“in respect of deciding on the custodial arrangements of a child, the child's interests have some priority over the parent's interests until they

are met to a sufficient extent. Thereafter the parent's interests matter more relative to the child's interests. This yields the following guidance: so long as a parent will perform well enough with respect to the child's interests, we cannot usually remove the child from that parent's custody". (Shields 2016a: 122)

I agree with his judgement of when a custody changes are legitimate, but for reasons different from those he advances. If Shields is right about sufficientarianism being the correct principle of justice, then it seems that he – like other sufficientarians – should embrace a child-centered account about the acquisition of the right to parent. The alternative would be to adopt a dual-interest account by denying children's full moral status, and that, I assume, is unappealing.

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Owing Me, Owing You: Sufficiency, Demandingness, and Global Justice

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ABSTRACT

In the global justice debate, our duties to compatriots and foreigners are often held to differ in terms of demandingness. Statists, in particular, think that duties to compatriots are more demanding than duties to foreigners. In this article, we flesh out and scrutinize the main elements of Liam Shields' considerations about global justice in his recent book, *Just Enough*. Shields notes that the global justice debate largely overlooks that our duties may be more or less demanding in two distinct respects; in terms of *content* and in terms of stringency. He suggests that the distinction between content and *stringency*, combined with his sufficientarian thesis, opens up new and (more) plausible positions in the debate. Here, we flesh out the implications of Shields' tentative suggestions and consider the viability and novelty of the potential positions it permits. We conclude that his considerations of content provide little new to the debate, as this is already the focus of most global justice theorists. However, stringency brings a much needed concern with how to prioritize conflicting duties to the debate, and potentially opens up a range of new positions on how to make sense of our duties across and within borders as well as allowing us to reimagine already existing theories. The article outlines some new potential positions and novel readings of existing views.

Keywords: stringency, global justice, Liam Shields, sufficiency

1. INTRODUCTION

Many of us feel a strong sense of moral outrage and obligation when confronted with news of malnourished children or people fleeing civil war abroad. Many have similar responses when confronted by the realities of inequality that affect their own societies, such as vastly unequal access to higher education, inequalities in wealth and property, and the larger obstacles to political influence faced by racial and cultural minorities. But which of these issues place greater moral demands on us and how do we even compare our obligations in the global and domestic realms?

For the last couple of decades, the debate about global distributive justice has been defined by a stark divide between two overarching sides: *statists* and *cosmopolitans*. Statists hold that our duties¹ to compatriots are significantly more demanding than our duties to foreigners. Cosmopolitans, on the other hand, hold that compatriots and foreigners are entitled to (more or less) the same. The two sides often seem irreconcilable. In his book on distributive justice, *Just Enough* (2016), Liam Shields explores how his sufficientarian account of justice might be applied to the global realm in order to overcome this stalemate. He does so by introducing two variables that make possible new ways of conceptualizing our duties of global justice.

These two new nuancing variables are:

- 1. The sufficiency threshold:** what we owe to others varies according to whether they fall below or above the sufficiency threshold; whether they already have *enough*. The debate between cosmopolitans and statists has been about whether the domestic and global spheres are different realms to which different reasons apply. Shields' sufficientarianism introduces an additional division of realms: it divides the realms of reason below or above the sufficiency threshold.
- 2. Two components of demandingness:** content and stringency. Content is about how much we owe others; stringency is about the urgency of fulfilling the duty when its fulfillment conflicts with other duties. The debate thus far has almost exclusively been about content-demandingness. Shields seeks to apply his sufficientarian reasoning to both content and stringency in the global realm.

Shields' analysis is preliminary, but suggests new ways of nuancing the debate. In this paper, we build and elaborate on his *aperçu*, investigating how the resulting conceptual map compares to the existing positions on

1 In this paper we use the terms duties and obligations interchangeably

global distributive justice, and exploring whether it, in fact, opens up hybrid positions between the two ends of the statist-cosmopolitan divide. We conclude that the combination of a sufficiency threshold and a shift in content-demandingness does not produce new viable positions. However, the distinction between content and stringency *can* provide new perspectives on the debate. Thus, we flesh out how the stringency dimension can inform contemporary debates of global distributive justice. We begin by briefly explaining Shields' view on sufficiency and the distinction between content and stringency within demandingness of duties upon which his analysis turns.

2. SUFFICIENCY AND DEMANDINGNESS IN GLOBAL DISTRIBUTIVE JUSTICE

The central claim of Shields' book is that justice makes different demands upon us depending on whether the individuals with whom we are concerned are above or below the sufficiency threshold. This is because our reasons for what individuals are entitled to and what duties we have with respect to meeting those entitlements differ, or *shift*, once we move from a context in which some have less than enough to a context in which everyone has enough. Furthermore, it is the case, Shields stipulates, that for several central dimensions of societal justice, the primary goal is to ensure sufficiency for everyone, and once someone reaches this threshold, benefitting them further brings about a different *kind* of value or is supported by a different sort of reason. Reasons that, in this way, apply only up to a certain threshold are referred to as *satiabile*.

For example, our reasons to give a loaf of bread to someone who is starving are different from the reasons we may have to give a loaf to someone who is well fed but collects loaves of bread as a welfare-generating hobby (however passionately). And this might be explained by the fact that when one is below a threshold of basic needs (starvation) our reasons to benefit her are of a different character than the reasons we have to benefit someone above the basic needs threshold (loaf-collector). Reasons to do with basic needs are *satiabile*. This is what Shields calls the *shift thesis*.² This idea underlies the first nuancing variable.

In the book's chapter on Sufficiency and Global Justice, Shields, points

² As Robert Huseby points out in his article in this volume, there are two ways of understanding the shift; one which concerns the weight of additional benefits above the threshold and one which concerns a shift in the nature of the reasons. We think this second reading is the more plausible one and will, hence, be assuming that here.

out that there are two ways to characterize the demandingness of a duty; two ways in which one duty can be more demanding than another. First, the demandingness of a duty may refer to the *content* of the duty. This refers to “the conditions under which the obligation has been successfully discharged” (Shields, 2016: 173). In other words, the demandingness of our duties refers to how *much* it takes for them to be fulfilled. A duty is more demanding than another content-wise when it requires more of us than the other duty does. For example, if a good friend invites you to a wedding then you are, barring exceptional circumstances, obligated to go. If, on the other hand, a stranger (generously and somewhat surprisingly) invites you their wedding you are not obligated to go. However, you do owe them declining their offer politely. Duties to friends, we normally think, demand more of us in terms of time and effort. In what follows we refer to the content dimension of demandingness as content-demandingness.

Second, the demandingness of a duty may refer to its stringency, by which Shields means the priority that is attached to the duty’s fulfillment (Shields, 2016: 177). A more stringent duty, then, is more urgent to fulfill. A duty, D1, is more stringent than a duty, D2, when fulfilling D1 takes priority over fulfilling D2. This means that we should fulfill D1 before fulfilling D2 and that if the two duties clash such that we could only fulfill one, we should fulfill D1. In terms of demandingness, whereas content concerns the ‘size’ of the duties, stringency denotes the ‘weight’ to assign to the fulfillment of a particular obligation. To illustrate the notion of stringency, imagine you are sitting between a friend and a stranger who are both suffering from heartache (incurred, perhaps, because the weddings to which they both invited you are not going as planned). Imagine further that you are in the position to alleviate their pain somewhat by way of a similar effort; a kind word. In terms of content-demandingness, in other words, the two are the same. You might, further, think you have moral reasons to do both. But the *urgency* of fulfilling those duties would differ; the stringency of your obligation to your friend would be greater. In what follows we refer to the stringency dimension of demandingness simply as stringency.

3. A GLOBAL SHIFT IN CONTENT?

As mentioned in the introduction, statist and cosmopolitans disagree about the comparative demandingness of domestic and global duties of justice. The notion of demandingness that influential statist and cosmopolitan accounts employ is (usually) content-demandingness.³ The

3 See, however, Miller (1995: Ch. 3; 2013: Ch. 7)

main focus for statist against cosmopolitans, thus, is that our duties to co-citizens demand significantly more of us than our duties to foreigners *in terms of content*. In this section, we investigate whether introducing Shields's sufficientarian shift thesis to the current debate about content-demandingness brings out new distinctive positions.

Many statist have a sufficientarian component in their theories of global justice and hold that, while we have egalitarian duties to our compatriots, for instance, we are only obligated to ensure that foreigners reach a level of sufficiency (Blake, 2001; Miller, 2007; Sangiovanni, 2007). Clearly, on statist accounts, duties to compatriots are more content-demanding than duties to foreigners. For statist, the difference between what we owe compatriots and what we owe foreigners stems from the fact that the domestic sphere and the global sphere are two distinct areas of interaction each with different reasons of justice operating within it.

Some cosmopolitans also have a sufficientarian component in their views. Either by defending a high threshold of sufficiency for everyone (Nielsen & Axelsen, 2016; Nussbaum, 2000) or by arguing for a (lower) global sufficiency threshold as *part of* what is owed to everyone (Caney, 2005: 122; Shue, 1980). For cosmopolitans, unlike for statist, the same reasons of justice are at play within the domestic and global spheres (although, obligations may differ depending on how well-placed one is to fulfill them – Caney, 2011: 514; Goodin, 1988). The duties to compatriots and foreigners are equally demanding in terms of content.

Shields suggests that statist and cosmopolitans each capture one familiar and plausible intuition which he calls, respectively, 'Compatriot Partiality' and 'State is Arbitrary' (2016: 188). The aim of his sufficientarian global justice exploration, then, is to seek to capture both. One can do this, Shields holds, by applying the shift thesis to our theorizing: how we reason about distributive justice is different for a context where some fall below the sufficiency threshold compared to a context where all are above the threshold. This opens up positions according to which our obligations to compatriots vary depending on whether they are below or above the threshold, making space for *some* (threshold-dependent) partiality towards compatriots. But it still leaves room to say that this partiality should be contingent on whether (or the degree to which) foreigners are below or above sufficiency, thus including a concern with the morally arbitrary effect one's birth country has on one's life prospects into in the reasoning. This, Shields suggests, opens up new positions in the debate. Most interesting, he thinks, are those potential positions where compatriots or foreigners crossing the threshold of sufficiency leads one to shift from

being a statist to being a cosmopolitan, or vice versa.⁴ Shields outlines one version of a shift from statism to cosmopolitanism: “we could owe prioritarianism domestically and sufficiency globally but once some level of sufficiency is reached for one or both groups, we owe equality to all” (Shields 2016: 176).⁵

However, it is unclear to us that a shift in content does, or even could, actually open up any viable or new positions on global justice. Consider the example Shields uses where one shifts from being a statist to being a cosmopolitan once we cross the sufficiency threshold. Now, according to Shields, reasons that can justify the existence of a threshold are ones that are satiable. The main candidates for satiable reasons that Shields explores in previous chapters are basic needs and autonomy. Both are satiable in the sense that they do not provide a normative basis for benefits above a certain level (the threshold) (Shields 2016: 34-37). But it is not clear how such satiable reasons can justify a division between the global and domestic realms in terms of content. Reasons of basic needs and autonomy apply universally; everyone shares the trait that gives rise to the relevant obligations. And, indeed, when theorists in the global justice debate, be it statist or cosmopolitan, claim that we owe basic needs fulfillment to foreigners, they do so on the basis of universal human traits and vulnerabilities, not *because* the potential recipients are foreigners.⁶ Shields, it seems, assumes that a division between the two realms can be drawn. But that is difficult to justify on his account, since no satiable reasons seem to support this divide. It is difficult to see, then, how one can be a statist *about content* below the threshold.

Now, despite this, one might still consider the global and domestic realms to be distinct when reasoning about the demands justice. One might do so even when the content of our duties in both realms is basic needs fulfillment and where our duties in the domestic realm are more demanding than globally for other reasons, and perhaps this is what Shields has in mind. But differences between the two realms are, then, due to the different reasons we have to prioritize duties to compatriots vs.

4 Shields refers to this as radical content shift sufficientarianism (2016: 176).

5 Shields' example identifies distributive rules; priority, sufficiency, and equality. Distributive rules, although they are often built around reasons that provide content, are not in themselves content. This is an issue because several distributive rules have stringency considerations as a constitutive feature. Prioritarianism, in particular, says less about how much we owe to someone than about how urgent it is to fulfill such duties. Although, this makes it more difficult to evaluate Shields' content-position, we disregard this issue here.

6 This issue applies when the threshold is the same for the domestic and the global realm. One might think that two different thresholds govern the two realms. It is possible that Shields has this in mind. If he does, he does not mention it and, in any case, this would give rise to a host of very different and difficult questions.

foreigners. In other words, such considerations concern reasons to give the fulfillment of one group's basic needs higher *priority*. But this difference is not one of content-demandingness, but of stringency; it tells us something about how urgent it is to get people in different realms up to the threshold. We conclude that it is not clear that applying the shift thesis to the content-dimension of demandingness adds viable and consistent new positions to the global justice debate. We now move to discuss the stringency dimension and explore whether it provides us with new positions or insights into the global justice question. We think it does.

4. STRINGENCY IN GLOBAL JUSTICE

The global justice debate has to a large extent focused on *what* we owe to compatriots and non-compatriots as a matter of justice: whether and to what extent duties to compatriots make greater demands on us than duties to foreigners. However, as Shields points out, the debate about our duties of global justice has paid little attention to a different dimension of demandingness: stringency. To recall, we say that a duty, D1, is more stringent than a duty, D2, when fulfilling D1 takes priority over fulfilling D2. Shields says little about what influences stringency considerations and how stringency might illuminate the debate on global justice. However, we think the idea of treating stringency as a separate dimension has a number of advantages and generates valuable insights. In this section, we flesh out and explore how it may do so.

Introducing the stringency dimension opens up new possible theoretical positions in the global justice debate whose plausibility can be explored further. Stringency works as a new dividing line that brings some positions closer together and pushes others farther apart than otherwise assumed. A new and different conceptual map emerges when we take the comparative stringency of duties into consideration because one's view regarding the comparative stringency of our domestic and global duties of justice need not necessarily track one's view on the comparative content-demandingness of those duties. The two dimensions, in other words, come apart. For instance, one might hold, like statist do, that the *content* of justice-based duties to others depends on whether or not one shares membership in a state; i.e. equality for co-citizens and basic needs fulfillment for foreigners. But one might also think that state membership *plays no role* in defining the *stringency* of our obligations. Instead, factors such as how badly off a person is, how urgent their plight is, etc., would then determine this. We can say of such a position that it is statist about

content but cosmopolitan about stringency. To illustrate this difference and how Shields' distinction may look in practice, consider Andrea Sangiovanni's account of global justice.⁷

Sangiovanni thinks that we owe more (in terms of content) to co-nationals than we do to foreigners. This is because, on his reciprocity-based conception of justice, we owe others a fair return on their participation in the cooperative scheme we share with them. As such, we owe co-nationals a fair return on their participation in the cooperative scheme that is the state, and we owe foreigners a fair return on their participation in the cooperative schemes that function globally.⁸ According to Sangiovanni both the type of goods produced and the extent of one's contribution to their production are significantly more encompassing domestically than they are globally, and this explains why we owe co-nationals more. But nothing in Sangiovanni's account commits him to assigning higher *stringency* to domestic duties of justice over global duties. Although Sangiovanni does not explicitly take a stand on this, his view at least *allows* for the possibility that the stringency of duties is not membership dependent. A view about content like Sangiovanni's is therefore compatible with a view assigning higher stringency to fulfilling duties to those who are very badly off or to those for whom it is more urgent that duties are fulfilled, independently of whether they are compatriots or foreigners. In policy terms, such a view would entail that we should seek to alleviate global poverty before turning to domestic inequalities.

Indeed, the grounds upon which Sangiovanni's account is built are particularly well-suited for this interpretation, since there is nothing inherent in his conception of reciprocity or the content of the particular duties that justifies granting one precedence over the other. It would be perfectly compatible with such an account to say that duties to the badly-off ought to take precedence regardless of whether those suffering this plight are co-nationals or foreigners. Thus, for an account like the one proposed by Sangiovanni, a whole range of positions on stringency is available. And this includes the one sketched here which, as far as we know, is an unoccupied seat in the global justice debate chamber.

The space opened up by introducing the stringency dimension becomes clearer if Sangiovanni's position is contrasted with one that does not allow

7 We also note that Thomas Nagel (2005) makes a number of comments that suggest sympathy to the view that factors related to urgency of need influence the stringency of duties. He writes, for instance, that "[t]he *urgent* current issue is what can be done in the world economy to reduce extreme global poverty" (118, emphasis added). We thank an anonymous reviewer for pointing this out.

8 See Sangiovanni (2007), p. 4, fn. 5 for his view about what is owed to all human beings.

for similar interpretations. The way in which David Miller's statist account is grounded, for example, seems to commit him to assigning higher stringency to our duties to co-nationals, to be, in other words, statist about content *and* about stringency. Miller thinks that our duties to co-nationals are more demanding in terms of content than our duties to foreigners. To Miller, this is because co-nationals share a relationship that is intrinsically valuable. Furthermore, having and acting on special commitments to each other are constitutive elements of what makes the relationship between co-nationals valuable in this manner. In order to maintain the intrinsic value that flows from such relations, then, co-nationals must give (some, although not absolute) priority to fulfilling their duties of social justice over those of global justice (Miller 2007: 40; 2013: 175-179). Such relations, on the other hand, do not exist globally and so similar priority is not required. Unlike for Sangiovanni, then, on Miller's version of statism, higher stringency to domestic duties is constitutive of the account.

In our world of massive global inequalities, statist views strike many as morally objectionable for asserting that duties of domestic justice eclipse duties of global justice. But as we have pointed out, when statist talk of demandingness, most often they are talking about content-demandingness. Taking note of the fact that one's view on stringency can come apart from one's view on content-demandingness renders some statist views less objectionable from this point of view. A statist position as Sangiovanni's, for instance, seems more plausible if combined with a cosmopolitan take on stringency; a view, that is, which assigns higher stringency to fulfilling our duties to the worse off or those most urgently in need of help regardless of their membership. And, in that, it is importantly different from a view such as Miller's which, if we are right, is committed to assigning both higher content-demandingness and higher stringency to our domestic duties of justice.

The stringency dimension of our duties of justice has potential implications for cosmopolitan positions too. For just as it is open for statist to be cosmopolitan about stringency, it is open for cosmopolitans to be statist about stringency. Cosmopolitans can, for instance, maintain that domestic and global duties of justice are equally demanding but submit that fulfilling our duties to compatriots takes priority. Or they can be cosmopolitan through and through, maintaining that both the content and stringency demandingness of our duties to compatriots are on par with our duties to foreigners. Reasons for why a person can have a more stringent duty to fulfill D1 (e.g. domestic duties) than to fulfill D2 (e.g. global duties) include that she is in a better position to fulfill D1, or that she has created the expectation in targets of D1 that she will fulfill D1, or even

plain partiality towards the targets of D1 on account of their special relationship. Several factors, thus, might impact our judgement of the comparative stringency of our duties, some have to do with the level of wellbeing of the target of the duty, others have to do with the capacity of the duty holder, and others still with the relationship between the duty holder and the target.

Some cosmopolitans have noted this possibility. Simon Caney, for example, is of the view that both compatriots and foreigners are equally entitled to equality of opportunity but entertains the possibility that: “[o]ne has a ‘special’ duty to protect the (cosmopolitan) entitlements of one’s fellow citizens, as well as a ‘general’ duty to protect the cosmopolitan entitlements of everyone” (2008: 511). Caney is vague on what could justify uncoupling entitlements from duties. And it seems to us that the best way to make sense of Caney’s view would be to understand him as highlighting exactly the distinction between the content of duties of justice and their stringency: the content of what we owe to compatriots and foreigners is the same; but in terms of stringency, what we owe to compatriots might be more demanding. This is an interesting potential position on global justice, one that may in some of its variants be attractive to those who worry that standard cosmopolitan views do not leave adequate space for ethical partiality towards those with whom one shares special bonds such as one’s family or, in the case at hand (which is not as similar to that of families as some theorists would have us believe), one’s compatriots.

Besides separating the two dimensions of demandingness, Shields mentions the possibility of applying the shift thesis to stringency. Shields suggests that our reasons about the comparative sufficiency of duties shifts according to whether some are below the sufficiency threshold or all are above. It seems plausible to us to hold a view according to which stringency is determined by level of wellbeing when some are below the threshold but then shifts to being determined by other considerations such as legitimate expectations and ethical partiality when all are above the threshold.⁹ We merely want to note that if Shields is correct then this quickly multiplies the possible positions in the debate. Here is one possibility: one might be statist about content and cosmopolitan about stringency when some are below the sufficiency threshold (like in our reconstruction of Sangiovanni’s view), then back to being statist about stringency when all are above the threshold. Another possibility would be that one is cosmopolitan about content and stringency when some are below the sufficiency threshold and

9 It may seem as though there are no duties left to fulfil after everyone is above the sufficiency threshold if one is a statist. However, recall that Shields’ account is shift-sufficientarian and, thus, places some (diminishing) value on adding benefits above the threshold.

statist about stringency when all are above the threshold.¹⁰

Here, we have sketched a range of new positions that become possible with the introduction of stringency as a dimension of the demandingness of our duties of justice. It goes beyond the scope of this piece to evaluate the sketched positions. What we have done, instead, is to show how reconceptualizing and fleshing out Shields' notion of stringency casts the global justice debate in a new light.

5. CONCLUSION

Shields introduces two new ideas to the global justice debate. First, he applies the notion of a sufficiency threshold and suggests that this could apply to both the global and domestic realms; that we might have different obligations to both compatriots and foreigners, depending on whether they have enough. Second, he differentiates between two ways in which our obligations may vary in demandingness: content and stringency. In this paper, we have cast doubt on the usefulness of applying the content-dimension of Shields's sufficiency thesis to the global justice debate in which the global and domestic realms are separate. When spelled out clearly it turns out that it opens no new, viable positions regarding the content of our duties of global justice. The stringency dimension, however, does illuminate the global justice debate in new and interesting ways.

While global justice theorists have sometimes hinted at considerations of stringency, it is indeed surprising that so relatively little attention has been paid to this aspect of our justice-based duties. Picking up on Shields's suggestion that the content and stringency dimensions of our duties of justice are distinct and influenced by different considerations, we have tried to show how introducing the dimension of stringency can provide an alternative map of the global justice literature.

But this is not just about conceptual possibilities. Understanding demandingness not only in terms of content but also in terms of stringency, allows us to see that some positions have more similar implications and others more dissimilar implications than otherwise thought. Consider two discussed statist accounts, Sangiovanni's and Miller's. While both agree

¹⁰ Things become more interesting, and perhaps more plausible if we think that different goods may have different levels of stringency. For instance, we may think that we have especially stringent duties to ensure some goods for our compatriots – i.e. social status and political influence – which we are particularly well-placed to facilitate qua compatriots. But the duty to ensure other goods – i.e. those pertaining to material opportunities and freedom – might not entail differences in stringency across the two realms (because we are equally well-placed to provide these for foreigners).

that our duties to compatriots are more demanding than duties to foreigners (albeit for different reasons) Sangiovanni's account opens up the *possibility* of giving priority to the fulfillment of the basic needs of poor foreigners over social justice obligations to compatriots (even if the latter are more demanding in content). Miller's account, on the other hand, does not seem to allow assigning the same stringency to basic need fulfillment. In this way, Sangiovanni might be closer to a cosmopolitan who assigns higher stringency to basic needs fulfillment, while Miller might be closer to a cosmopolitan who assigns higher stringency to fulfillment of domestic duties of justice. This reshuffling of positions can be useful in pulling the debate about global justice out of the stalemate in which it has, arguably, landed. And, no less importantly, thinking about stringency points us towards important discussions about what to do *first*, rather than merely speculating about where we should end up.

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Reply to Critics¹

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ABSTRACT

In this paper I reply to the response articles in this issue, which discuss my recent book. In addition, I restate the main claims of the book and clarify some of the key distinctions and arguments.

Keywords: distributive justice; sufficientarianism; autonomy; education; global justice; parents' rights

1. INTRODUCTION

In this paper I reply to the critical responses to the arguments in my book that appear in this issue. I am very grateful to all of the contributors for their detailed, thoughtful and forceful criticisms of the arguments and to the editors of the issue for their hard work in putting it together. I will not be able to reply to every aspect of their responses in this piece, so I will focus my discussion on the few that I have replies to. I know that I will continue to reflect on these criticisms and I hope I will find fully adequate ways to confront them, but for now this is my immediately reply.

I shall begin by restating some of the central claims of the book and, in particular, set out one distinction that is not made in the book but is important for my replies, and then I engage with each of the responses, beginning with those that respond to earlier parts of the book and ending with those that respond to later parts of the book.

2. RESTATEMENT OF MAIN CLAIMS

The book defends the claim that the prospects for sufficientarianism are

¹ I am very grateful to Pierre-Etienne Vandamme, Lasse Nielsen and David Axelsen for helpful feedback on an earlier draft.

good and better than has been thought because sufficiency principles have an indispensable and extensive role in our thought. It does so through first articulating the central commitments of sufficientarianism. These are the necessary and sufficient conditions that must be satisfied by some principle for it to count as “sufficientarian”. The plausibility of these, and only these, principles is what determines the prospects for sufficientarianism. I have taken as my starting point the idea that sufficientarianism is concerned with the concept of sufficiency, the idea of having enough, and its important role within an account of distributive justice. If sufficiency is to have an important role in an account of distributive justice it must have *normative significance*. In other words, it must make a difference to our reasons of distributive justice. In particular, securing enough cannot merely be instrumentally valuable. If it were, then it would be possible to fully state the demands of justice without ever referencing sufficiency. I therefore characterized sufficientarianism as endorsing two claims.

The Positive Thesis: We have weighty non-instrumental reasons to secure at least enough of some good(s).

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 (2016: 34-35).

For short-hand I refer to the shift of sufficiency as a change in the nature of our reasons, but for reasons to do with distinguishing it from prioritarianism the technical definition is important.

This definitional statement of sufficientarianism may appear to contrast with the commonly used upper-limit definition of sufficientarianism, which combines the positive thesis with the negative thesis. The negative thesis holds that once enough has been secured there are no distributive reasons that apply to benefits and burdens. Appearances are a little deceptive here though. For those who endorse the negative thesis, the particular shift in our reasons, once sufficiency is achieved, is a shift from some set of distributive reasons to no distributive reasons. As such, the negative thesis specifies a particular shift and so those who endorse the negative thesis offer one type of sufficientarian view, on my conceptualisation. The definitional statement of sufficientarianism that I presented above allows a rich variety of views to count as sufficientarian. The reason to celebrate this is that, the negative thesis has attracted a good deal of forceful criticisms and so if the negative thesis were a definitional claim, the prospects for sufficientarianism would appear to be poor. I conclude that if the prospects for sufficientarianism are to be good and better than has been thought, then it must be because there are some more attractive positions that reject the negative thesis.

In the book, I defend as plausible and theoretically and practically significant several sufficiency principles that endorse a non-instrumental concern with distributions once the threshold is met. Each of these views rejects the negative thesis and insists that different distributive reasons applying to supra-threshold benefits and burdens. Because of this let's call these views versions of *positive shift-sufficientarianism*, a label I do not use in the book but it will be helpful to use here.

To defend a positive-shift sufficientarian principle, one must defend a shift as specified by the shift and positive theses and reject the negative thesis. I set out two ways of defending a shift. First, one could defend the existence of justice-relevant satiable reasons. By their very nature, satiable reasons cease to confer their weight on claims once they are satisfied. One way this can happen is if a person has enough of something. So, if we have satiable reasons that cease to confer their weight on claims once that reason is satisfied, the point where that reason is satisfied is likely to cause a shift in our overall reasons to benefit that person, but it does not entail nor imply that there are no other reasons that apply to the distribution of benefits and burdens thereafter. It merely entails that at least one reason that did apply before does not apply after, thus changing the overall set of reasons that apply. Second, one could defend a relative change in the weight of our reasons at the point of sufficiency. This can occur with insatiable reasons. Imagine a uniformly diminishing insatiable reason, one that confers weight on claims for one unit more of some good but confers less weight the more of the good that is possessed, and imagine another non-diminishing insatiable reason, one that confers equal weight on claims for one unit more of some good, regardless of how much someone has. Imagine the non-diminishing reason confers weight of 5 onto any further unit of the good. The diminishing reason could outweigh the non-diminishing reason, be weightier than 5, when low amounts are possessed, but the non-diminishing reason will, as that reason diminishes, be decisive, as greater amounts are possessed. This cross-over point is a shift or change in our reasons to benefit someone and represents a non-instrumental sufficiency principle.

By these two methods for defending a shift I aimed to show that principles of sufficiency could be defended as plausible and had an important role to play in theoretical and practical debates. In Chapter Three, I argued for a principle of sufficient autonomy, by appeal to the satiable reason we have to secure the social conditions of freedom, the conditions under which belief can be freely held. In Chapter Four, I explained that this principle should play an important role in theoretical debates in helping us to correct a defect in theories of equality of

opportunity, especially those that take meritocracy as an important component, and it should help us to justify compulsory schooling to those who would opt out on welfarist grounds. In Chapter Five, I argued for a principle of adequate upbringing, by use of the value clash method. I argued that parents have a relevant interest in parenting, but one that is often outweighed by a child's interest in the quality of her upbringing as part of her life as a whole. According to this argument, a good enough parent, that is a parent who is good enough to retain the right to rear her children in the face of superior alternative parents, may fall short from the best alternative custodian by no more than the significance of her own interest in parenting. I argued that this position is theoretically important, since it elucidates the most plausible way of thinking about the good enough parent and it strikes an important departure from minimalist abuse and neglect thresholds and demanding best custodian views. I argued that this position is practically important because it helps us to determine the good enough upbringing threshold and directs us to think carefully about the relative quality of alternatives to parental care prior to severing a relationship. Finally, in Chapter Six, I sought to show how the shift-sufficientarian conceptual apparatus made possible new and plausible positions in the debate about the fundamental demands of global justice. I argued that the shift in reasons once one group has secured enough could help explain both compatriot partiality, the belief that we can be required to do more for compatriots than non-compatriots, and state is arbitrary, the belief that the factors that determine compatriot status are morally arbitrary. If we relax these statements of intuitions slightly, we find that they need not conflict. They can be reconciled. And one way of reconciling them would be to introduce a shift in our reasons to benefit people at the point of sufficiency. So, once people have secured enough, our reasons of compatriot partiality may be sated, or our cosmopolitan reasons may be sated. So, once we have secured enough, we may transition from holding a cosmopolitan position to a statist one or vice versa.

3. REPLY TO VANDAMME

Pierre-Etienne Vandamme characterizes my position in certain ways that I would like to discuss in order to clarify and hopefully strengthen my arguments.

First, Vandamme characterizes my position as both agnostic and partial. My characterization of sufficientarianism does leave open the possibility that we may be concerned with inequality or priority to the worse off even once the threshold has been met. The shift thesis is

compatible with a wide-range of views about how to distribute supra-threshold benefits and burdens. As the view I defend does not commit us to any specific recommendations, or lack thereof, once the threshold is met Vandamme characterizes this position as agnostic.

“Shields rejects the principles of equality that fail to take into account the discontinuity introduced by the sufficiency threshold, but he does not provide a justification for not adopting a form of sufficiency-constrained egalitarianism. And this might be explained by agnosticism towards residual inequalities” (Vandamme, in this issue).

Vandamme also notes that my commitment to the shift thesis renders my favoured views partial. Unlike most sufficientarians, who endorse a particular distribution of sub-threshold benefits and burdens and an attitude of indifference to supra-threshold benefits and burdens, my favoured view does not provide a determinate answer to the question of what to do with supra-threshold benefits and burdens on its own, though I do think some principle does apply. Therefore, it is true to say that my view is partial. I think that a single sufficientarian principle could, at most, be part of a full account of distributive justice.

While it is true to say that the conceptualisation of shift-sufficientarianism, the combination of the positive thesis and the shift-thesis, is agnostic, it is intended only to identify which views are and which views are not sufficientarian. Any conceptualisation of sufficientarianism should be compatible with a wide variety of specific accounts of sufficientarianism. In other words, it should be agnostic, to some extent. It should allow for different currencies, different placements of the threshold(s) and different guidance for how to deal with both sub-threshold and supra-threshold distributions of benefits and burdens. So, the conceptualisation is certainly agnostic about that and partial in that it insists that other principles must be included alongside sufficiency principles in a complete theory of justice. However, there is one important way in which the conceptualisation it is not fully agnostic. What it means to count as a sufficientarian, on the shift-based understanding, is that the distributive reasons that apply to supra-threshold benefits are not the same as the distributive principles that apply to super-threshold benefits. This still leaves open a wide range of possible combinations, but it rules out one view of how to distribute supra-threshold benefits and that is, the same as sub-threshold benefits. Such a view would not contain a normatively significant threshold, one that makes a difference to our reasons.

More generally, I am sceptical of indifference as the correct attitude to take to supra-threshold benefits and burdens. I believe that the indifference objection will always have force against the negative thesis within the

circumstances of justice. The specific sufficiency principles that I defend in the book do endorse a positive shift, that is, they endorse the shift thesis but deny the negative thesis. However, in the book at least, I am silent, if not agnostic, on what principle(s) should apply to supra-threshold benefits and burdens. But the fact that I endorse a positive shift, means that I also accept a partial view. I am sceptical about sufficientarians that endorse the negative thesis, which is why I recommend the positive shift. However, Vandamme is correct to note that I am quite silent on what this should be, I simply doubt being agnostic or offering a partial view amounts to a problem. Being agnostic is essential to a broad conceptualisation and being partial is the only way that sufficientarians can be at least moderately plausible.

Second, Vandamme characterizes my position as pragmatic and concerned with rules of regulation, rather than fundamental moral principles when he says that “What Shields seems to be looking for is a clear rule of regulation, and this pragmatic motivation might partly explain his non-selection of luck or outcome equality as the primary or secondary principle of justice” (Vandamme, in this issue). Although Vandamme notes a number of reasons that could be used to defend sufficientarianism that are themselves pragmatic, such as reasons of urgency, reasons of feasibility or reasons of modesty, these are not reasons that I believe should figure in a task like mine. My concern with sufficientarianism is to see whether it is justifiable simpliciter rather than justifiable to currently existing people or justifiable as a means to an end. I can see why there might be good pragmatic arguments from these bases for sufficientarianism, but such pragmatic arguments are too contingent to provide a secure grounding for principles of justice. For example, if, as is likely the case, the most feasible option is the status quo some pragmatic reasons would not support sufficiency, but that would not seem to be a good reason to favour the status quo. But there is another sense in which my view could be pragmatic. Vandamme says I seem to endorse the view that principles of justice should directly guide action, which appears in my claim that if principles “had little significance in terms of policy implications [...] then it could not have an extensive role in our thought” (Shields 2016: 10-11) characterizing my project as seeking rules of regulation and not fundamental principles of justice.

I can understand why the quoted passage would lead someone to think I was seeking rules of regulation, but I am not. It is important to recall that my objective is to assess the prospects for sufficientarianism and this turns on the extent of their role in our thought. I think that if a principle was true and sound, but nevertheless has no important policy or practical

implications it wouldn't much improve the prospects for that principle, even though it would have an indispensable role in our thought. For example, imagine that in order of lexical priority our first principle is sufficiency (basic needs), our second principle is equality, our third principle is priority to the worse off and our fourth principle is efficiency. Now imagine a fifth principle of individual desert is added. According to this arrangement of principles, individual desert would make a difference only in those cases where, the first, second, third and fourth principle were satisfied as far as possible in lexical order. Because of this, we would not expect the principle of individual desert to play much of a role in our thought nor about practical debates, even if it is strictly required in a full description of the demands of justice. Concluding that some principle has an indispensable role in distributive justice would be too trivial a conclusion on its own, I think. So my concern with the practical and theoretical significance of a principle of justice is not a concern with a principle having clear policy implications here and now. Rather, it is a concern with its place within a theory of justice and its capacity to help us to understand practical debates. The latter can be achieved by derivation. Indeed, all rules of regulations are derived from, and in this sense account for, the action-guidingness of the fundamental principles they are grounded in.

4. REPLY TO NIELSEN

Lasse Nielsen's response to the arguments of Chapter Two advances an argument in favour of retaining the upper-limit character of sufficientarianism, against my suggestion that sufficientarians do better by opting for, what I have here called, a positive shift. Nielsen thinks that by defining sufficientarianism as I do I allow that non-sufficientarian reasons *could* outweigh the reasons we have to achieve sufficiency, but this would betray the strong sufficientarian conviction that securing enough is paramount. He also objects that the shift sufficientarian position remains vulnerable to the indifference objection, which partly motivated its creation. I shall respond to each point in turn before engaging with a further objection.

Nielsen suggests that to be worthy of the label sufficientarian one must believe that sufficiency is the only thing that matters or that it is the most important among a plurality of considerations. The label sufficientarian would cease to capture a wide range of positions that give a fundamental role to sufficiency that could not be avoided in fully describing the principles of justice. But it would also limit sufficientarianism to a number

of positions to which there are already good objections.² Those who hold that only sufficiency matters or give lexical priority to sufficiency, which is the flip side of my allowing other reasons to outweigh reasons of sufficiency, will implausibly always favour helping the badly off by tiny amounts at the expense of helping the well-off by huge amounts. For this reason, we should wish to look for positions that use the attractive and common sense idea of sufficiency in more plausible ways. In setting out the shift-thesis I believe I have articulated the central idea in a way that is compatible with more plausible views.

If we took Nielsen's suggestion and applied it to other views too, then we would see the problems more clearly. For example, if we restricted the label egalitarian to views that held that equality is the only or most important demand then egalitarianism would always be vulnerable to levelling down. If we apply this to prioritarianism and restrict the label prioritarian to views that held that priority to the least advantaged was the only or most important demand then all prioritarian views would be vulnerable to a waste-based objection too, as it would only include absolute prioritarianism. I think this approach would impoverish our understanding of different ideas that can be useful in distributive justice. It would restrict use of these labels to views that were quite implausible, necessitating the creation of more labels. This is just to say there are good reasons to be pluralist and this comes from the problems there are with monist views. Moreover, my characterization includes those monist views in any case.

Nielsen is right to say that my own characterization of sufficientarianism doesn't fully avoid a version of the waste or indifference objection because the objection attaches itself to lexical priority, which is compatible with a rejection of the negative thesis, and not merely the negative thesis itself. But the difference between my position and upper-limit sufficientarianism is that I don't *have* to endorse a claim that has this implication, such as lexical priority or the negative thesis. I set out a way that sufficientarians can be distinctive without endorsing lexical priority. Overall, I suppose some of the disagreement between Nielsen and myself is that I do not find lexical priority plausible. I do not think there exists a disadvantage (however tiny) such that ameliorating it is more important than any other benefit. I do not know what further to say about this, though I think the discussion of the illusion of numbers discussion in Nielsen's paper is relevant to it, so I shall now turn to that.

In Nielsen's response, he develops a point about the illusion of numbers, which I think give expression to an idea that underpins the suspicions that

² Whether these are good objection is, obviously, a matter of dispute between me and Nielsen (and many others).

relational egalitarians have for luck egalitarians and others, and expresses a suspicion about outlandish numerical counter-examples to upper-limit sufficientarianism. I think that my particular use of numbers provides an ideal case for his objection, but I think the numbers are forceful even when the differences are lower than those I state. The point of using very large numbers is to simply exaggerate the point to make the implausibility of indifference as clear and as forceful as possible. We could describe a case to illustrate that point instead, without using numbers. Either it can be modelled using numbers – in which case the illusion is not one – or it cannot be modelled using numbers – in which case it is unclear how people can be said to be better or worse off. It appears, however, that the upper limit sufficientarian thinks numbers matter below the threshold but not above it and that seems odd to say the least. There is much more to say about this, but a final brief remark will explain my caution in accepting it. The structure of the move made by Nielsen in the discussion of illusion of numbers is to deny that there are numbers so big that they can represent different levels of advantage, but it seems to me that the underlying sufficientarian position he endorses is insensitive to the fact of the matter. It should not matter to the sufficientarian position whether it is possible to have huge inequalities once enough is secured or not. The position states that even if massive inequalities are possible, they do not matter. So Nielsen's suggestion that we deny the possibility of these inequalities does not provide a defence of that claim any more than a denial that slavery would maximize aggregate utility is a defence of utilitarianism. I am sure there is much more to say about this on both sides.

5. REPLY TO HUSEBY

In his response to Chapter Three, Robert Huseby identifies several ways in which the principle of sufficient autonomy is not clearly specified. In my reply I will aim to provide some clarification in those areas. The first area that Huseby identifies as needing clarification concerns the satiability of the principle of sufficient autonomy. On one understanding autonomy is itself satiable, which is to say that you can get enough autonomy and once you have enough you cannot get any more autonomy. On another understanding the principle of sufficient autonomy is satiable in that the changes or improvements in autonomy it calls for can be fully met, even when it is possible to get “more” autonomy. Huseby states that “If satiable in this way... the principle of sufficient autonomy now looks like a high-threshold sufficiency principle that conforms to the negative thesis” (Huseby, in this issue).

Huseby is right. If one cannot get more autonomy than sufficient autonomy, then the position I defended would be vulnerable to the main objection that motivates my argument. I am happy to clarify that my view is that one reason to promote autonomy is the conditions of freedom and that with respect to the promotion of autonomy it is satiable. Once we have enough autonomy to be free we might need more things to be free (though not more autonomy) and we may have reasons to obtain more autonomy (to be happy). So I think that you can get more autonomy, or the related features, once enough autonomy is secured. Anticipating this response, Huseby claims that “This might be perfectly reasonable, but the level would have to be specified.” (Huseby, this issue). But I wasn’t sure why this particular view had any more burden of explanation than any other. Why for example, doesn’t an upper-limit principle of sufficient autonomy also have to explain where the threshold is?

My position is that I don’t think it has to be specified more than saying that in order to enjoy the social conditions of freedom one must be sufficiently autonomous and to point to gains in terms of autonomy, perhaps valuable options, that wouldn’t make you more free. As it applies to belief formation, one needs a certain amount of autonomy but not full autonomy. The level doesn’t have to be specified for it to be true, vagueness is an acceptable feature of moral principle. This is one reason why the vagueness objection that has been levelled at sufficientarianism is not one I consider in the book.

Huseby also urges me to clarify the link between social conditions of freedom and autonomy. Huseby works through several ways of understanding what I have said at various points. When Huseby says “if autonomy is a part of what constitutes the conditions of freedom (or if it is a condition of freedom in itself), then it could be the case that autonomy can be satiated with respect to the conditions of freedom” (Huseby, in this issue) he describes my view. Autonomy can be satiated with respect to the conditions of freedom, but autonomy is not satiated conceptually, at that point, you can get more autonomy. Nor is it satiated normatively. There may be other reasons to promote autonomy. The social conditions of freedom include sufficient autonomy. Sufficient autonomy is not the only aspect of the social conditions of freedom and so being sufficiently autonomous, is not sufficient for the social conditions of freedom, but it is necessary. Huseby goes on to point to a particular problem with this understanding,

“If autonomy is a part of what constitutes the conditions of freedom (or if it is a condition of freedom in itself), then it could be the case that autonomy can be satiated with respect to the conditions of freedom. Sufficient autonomy just is autonomy sufficient for the realization of

(sufficient) conditions of freedom. In my view, however, this interpretation squares badly with Shields' presentation of the principle, according to which there are supposed to be weighty, non-instrumental, satiable reasons to provide peoples with sufficient autonomy" (2016: 45).

As I understand Huseby's point, it is that the non-instrumental character of the principle of sufficient autonomy is threatened by its being sufficient for the social conditions of freedom. To clarify I don't think sufficient autonomy is sufficient for the social conditions of freedom, there are other conditions, but the "sufficient" in "sufficient autonomy" is a level determined by what is required, if other conditions are met, for the social conditions of freedom. In other ways, the whole justificatory basis for the principle of sufficient autonomy is that it contributes to the realization of the social conditions of freedom. It therefore looks instrumentally valuable. If it were instrumentally valuable, then it would not support the prospects for sufficientarianism as I have characterized them. Instrumental sufficiency principles can be omitted from a complete description for the demands of justice. However, I think that the link between the principles of sufficient autonomy, as the autonomy component of the conditions of freedom, has a tighter link than an instrumental principle might. This is because nothing else could help us realize the conditions of freedom in its place. Sufficient autonomy is not substitutable. One way of characterizing this link is in terms of the constitutive value of sufficient autonomy. The commitment to the social conditions of freedom, always and everywhere, includes a commitment to sufficient autonomy because they are so linked. For this reason, a complete description of the principle of justice could not omit reference to sufficient autonomy.

6. REPLY TO MILLS

In responding to the arguments of Chapter Three, Chris Mills makes two points about the principle of sufficient autonomy' which states that individuals should secure enough autonomy to secure the social conditions of freedom. First, he states that the principle is too thin and will fail to protect us from all violations of autonomy, in particular he is concerned that the principle I offer relies on a distinction between coercion and external threats, capturing only the latter and not the former. Second, that constitutive views of autonomy and welfare can be defended and won't have a threshold.

With regards to the first point, that the principle I offer relies on a distinction between coercion and external threats, capturing only the

latter and not the former, the principle that I put forward is only supposed to offer a partial defence of autonomy. My aim is to show that there exist sufficientarian shifts, and so all I need to do in this chapter is show that autonomy has one such shift. I don't need to say these are the only or even the most important violations of autonomy.

So then Mills could emphasize his remarks about how our views might not have been arrived at freely when there is self-deception. That freedom to set and pursue our ends can be thwarted or frustrated by our own self-deception. In reply, I would say that the requirement to deliberate, and be disposed to deliberate, with others seems sufficient for avoiding some kinds of self-deception at least. This focus generates the requirement that citizens are: "(a) well-informed, (b) able to give reasons for one's views, and (c) disposed to exchange reasons and participate in a public deliberative process with others." (Mills, in this issue) These attributes would provide good protection against self-deception through being ill-informed or unreflective. However, it might not avoid the problem entirely. There may be some forms of self-deception that are consistent with sufficient autonomy, and if they too frustrate our freedom, particularly freedom in belief formation, that would be a problem.

One avenue sketched by Mills seems attractive. I am tempted to say that some forms of self-deception themselves are not obviously a concern of justice. Not in the purest case of self-deception at least. Where the social background or particular policies or laws encourage self-deception, it is not clear that the deception is really self-deception rather than something else. I follow Mills when he is mapping the possible positions I could take to the point where he characterizes my view as being concerned primarily or exclusively with interpersonal threats. While it is true that sceptics will respond by "denying the downstream relationship and arguing that our autonomy is threatened by more than a mere loss of freedom" (Mills, in this issue) my view is not incompatible with other additional justifications for a concern with autonomy and while I have not yet developed an account of what they are I could possibly adopt them and thereby explain these cases too.

Mills' second point is that a non-instrumental constitutive value of autonomy as a pre-condition for welfare could be defended and could be governed by a prioritarian principle. He states that

"If you are a uniform prioritarian about welfare, then constitutive welfarism allows you to: (a) distinguish between qualitatively different disadvantages, and (b) appeal to some reasonably fine-grained metric of well-being in order to distribute autonomy without necessarily appealing to sufficientarian reasons" (Mills, in this issue).

The first thing I would like to say in reply is that prioritarian welfarism is not incompatible with my view. The idea that we have reasons to promote autonomy that are grounded in welfare and that are uniformly diminishing in moral importance is consistent with thinking that there is an overall shift caused by our reasons grounded in the social conditions of freedom. It is only if prioritarian welfarist reasons were the only reasons to care about autonomy, that this would be a rival to the principle of sufficient autonomy. But that sort of monist view would be implausible and would fail to meet criterion a). If our only reasons to be concerned with autonomy are to do with well-being, then there would be no qualitative difference between violations of autonomy. One possible way around this would be to give the account of autonomy a special place within well-being, so that violations of it were different from violations of well-being simpliciter. Mills suggests that autonomy might be a pre-condition for well-being in his discussion and I discuss that below as Danielle Zwarthoed develops this point further.

7. REPLY TO ZWARTHUED

In her response to Chapter Four, Danielle Zwarthoed advances two arguments. First, Zwarthoed argues that at least some instrumental accounts of autonomy, where autonomy is causally necessary for welfare, can justify mandatory autonomy enhancing education, thus denying parents the right to remove their children from aspects of civic education. This point runs contrary to my argument that because instrumental accounts of autonomy cannot justify mandatory autonomy enhancing education and intrinsic accounts of autonomy can, we should endorse an intrinsic account like the principle of sufficient autonomy. Second, Zwarthoed argues that the requirement of talents discovery, which holds that individuals have an entitlement to sufficient opportunity to know and develop their native talents, does not fit well with Rawls' principle of fair equality of opportunity, as I claim, because that principle points us towards the development of different talents than does the principle of talents discovery. I shall respond to each point in turn.

In advancing the claim that instrumental arguments can justify mandatory autonomy enhancing education Zwarthoed considers whether autonomy is a necessary pre-condition of well-being. If it is, then mandatory autonomy-enhancing education would follow from this instrumental argument. In my response I put forward some reasons for doubting that autonomy is a pre-condition for well-being and that autonomy as a pre-condition could justify an intuitively plausible level of mandatory

education, particularly at a level that would address the practical disagreements around mandatory education.

Regarding autonomy as a pre-condition, it seems odd to say that some people haven't lived good lives simply because they are not autonomous. Indeed, I think that this view implausibly commits its holder to the view that childhoods cannot go better or worse or cannot make your life go better or worse. Consider two more plausible roles autonomy might play that are constitutive of well-being. Autonomy can be said to amplify our well-being in a way that means our successful pursuit of objectively valuable ends is much greater when that pursuit is autonomously chosen. Autonomy can be said to enable us to reach high levels of well-being that it is not possible to reach non-autonomously. Rather than being a pre-condition, autonomy might more plausibly be an amplifier or the lifter of a cap on well-being. But once we reject the pre-condition account of the value of autonomy we cannot make the causal claim and so the account ceases to be instrumental. Moreover, we lose its ability, on its own, to ground mandatory education, since there is going to be a trade-off between the kind of well-being that a person can get from living a non-autonomous, traditional, way of life. I suppose that persons can live flourishing lives in such communities. Others may deny this, but, this denial is implausible and uncharitable to those who argue against autonomy enhancing education. The strongest point those from traditional communities have is that these children are currently on a path that leads to flourishing. My argument does not deny this, it simply insists that flourishing is not the only thing that matters. Being free also matters, and it matters a great deal.

But even if there is some way around this problem, even if autonomy really is a pre-condition for well-being, the kind of education for minimal autonomy that is a pre-condition is not going to support compulsory education beyond a very minimal level. The reason for this is that the higher the threshold is set the more implausible its implications. In the case of autonomy, it gets implausible because it implies that very many people live lives of zero well-being. So the view is only plausible if the threshold is set fairly low, but this may be set too low to ground an intuitively plausible account of mandatory autonomy education. If you look at the court cases *Yoder v. Wisconsin* and *Mozert v. Hawkins*, the traditional communities are not asking for their children to be exempt until they are almost teenagers. At which point I think it is plausible to think they have enough autonomy to have met the pre-condition for well-being, but it is not plausible to think that they have enough autonomy to be making free choices.

In her second argument, Zwarthoed takes issue with my account of the

requirement of talents discovery. That account states that each person should have sufficient opportunity to identify and develop their native talents. I claim that this account is a pre-requisite for any plausible version of Fair Equality of Opportunity, which is concerned with equalizing the prospects of those with equal native talent and ambition (Rawls 2001: 42-44). I argue that the requirement of talents discovery is attractive partly because it fits well with Fair Equality of Opportunity. If it did not, I take it, that would be a reason to be suspicious of it, if not reject it. Zwarthoed argues that the fit is not good. This is because the sorts of talents that the requirement of talents discovery focus on are not the same as Fair Equality of Opportunity, so there is a tension between the two. She claims that the requirement of talents discovery will focus on talents requirement for the conception of the good, while Fair Equality of Opportunity will focus on the talents required for economic positions. While I agree that Fair Equality of Opportunity might naturally focus on talents for acquiring economic positions I think this would be included in any conception of the good planning. So, without conception of the good planning, an adequate range would include a focus on marketable talents, but this would not be the exclusive focus. Moreover, the grounding of Fair Equality of Opportunity is in self-realization, which itself is grounded in the two moral powers, so I don't think that we can say that economic talents would have any significance for Rawls except insofar as they are conception of the good talents (see Taylor 2003; 2004). The fit then, with Rawls and with his explicitly stated grounds of Fair Equality of Opportunity is good.

8. REPLY TO GHEAUS

In her response to the arguments of Chapter Five, Anca Gheaus raises some very important issues in relation to my account of when parental rights over particular children can be re-allocated. I will respond to two of the counter-arguments she provides.

First, Gheaus argues that what I take to be a unique advantage of my version of the dual-interest view, its ability to explain why we need not re-allocate wherever there is a better custodian available, can be had by both the child centered and dual-interest views. I believe her argument, however, begs the question. Gheaus concedes that one way that my rivals might respond, by appeal to the child's interests in continuity of care, would be question begging. The reason for this is that this type of case is not the one that separates my view from the rest. If children do have a very strong interest in continuity of care, then it is hardly likely that there is a better alternative custodian, though this isn't necessarily the case. My concern is

with showing that the dual-interest view I defend can explain that even if there is an alternative custodian who would in fact do a better job in terms of the child's interests, we would not usually be justified in re-allocating rights to her under certain conditions. Gheaus then presses what she takes to be a more decisive argument, which is to appeal to the need for the right of parent to be securely held, something which she finds in the work of Vallentyne, a child centered theorist, but which can also be adopted by dual-interest theorists, since they are concerned with the child centered reasons and other reasons too.

“There is, however, a reason why a change in custody away from adequate parents is impermissible even when the child would really be better off with extraordinarily good parents. This reason is advanced by some child-centred theorists (Vallentyne 2003). Children's interests are well served if, once acquired, the right to parent is securely held – that is, immune to custody change, as long as the parent is at least adequate” (Gheaus, this issue).

This example looks structurally identical to the question begging case. Securely held rights would have to be grounded in an interest that children have for Vallentyne to endorse it. The details of the interest are not so important, the fact that it is a child's interest suggests that in this case, the interests of children are being best promoted by maintaining a secure attachment, which, if severed, would leave the child to live a worse life, even if the alternative custodians would have done a better job excepting the costs of severing this attachment. So, again, this is not a case where rival dual interest or child centered views do succeed in explaining why the best custodian should not get the child. The objection from secure attachments relies on an assumption that my view identifies as the best parent, the parent who would do the best job if there were no costs of severing the relationship. But that is not my position. My position is that the best parent(s) would do the best job from now, taking into account all the relevant costs, which include the costs of separation.

One could argue that this makes the view uninteresting because all children and parents value secure attachments, making redistribution unjustified in all but the most extreme cases. Of course, this wouldn't be an objection to the soundness of my view, but even if secure attachments are very important to children, this interest will likely vary in its strength when applied to particular attachments. For example, in the early years it may be possible to remove a child from a current parent without creating large costs and without jeopardising the possibility of the establishment of a secure attachment with the new carers. As the child ages, and their initial attachment and relationship develops, the costs could be much larger and

therefore harder to outweigh. I believe our views should be sensitive to this case and mine is.

The second major issue is explained by Gheaus as follows,

“Most of us now believe that children are our moral equals except from the fact that their lack of full autonomy makes paternalistic behaviour towards them permissible (indeed, required.) If so, then exercising authority over children must be justified by appeal to their consent or by appeal to their own interests but not, usually, by appeal to the interests of those who exercise the authority. Children cannot give valid consent. Therefore authority over them cannot be denied to those likely to advance their interests as much as possible for the sake of advancing the interest of other prospective authority-holders” (Gheaus, this issue).

According to Gheaus, as someone who believes that children have full moral status I am committed to the presumptive principle that authority over them can only be justified by reference to their own interests. The only acceptable exceptions are where there are very strong overriding reasons, such as equality. But, as a sufficientarian, I do not believe in equality, so I cannot avoid being committed to the presumptive claim that authority over children can be justified only by reference to children’s interests, thus making me a child-centered and not dual-interest theorist. Indeed, all those who reject equality and endorse the full moral status of children, should think this, if Gheaus is correct.

This is a very interesting and intricate argument, and so first a few clarifications are required. I do believe that equality in distributions does matter and that is part of what motivates me, if not motivates the view that I defend throughout the book. Also, I don’t think that I am committed by this particular argument to saying that children have full moral status if that means they have the moral status of fully competent adults. I do find it plausible to think that children may have a moral status that is different, I do not know what “full” means here, but if all it means is that children can have basic rights, then I do agree with it, but I don’t see why it follows from that that we cannot make decisions that affect them or yield authority over them in the interests of others. Having said all of this, I don’t think these points suffice to produce an adequate response to Gheaus on my part. Instead, my response will question the claim that an agent with moral status cannot have someone else wield authority over them in the interests of others.

Gheaus argues that dual-interest theories violate the sound (*prima facie*) principle that one cannot claim legitimate authority over someone possessing full moral status by appeal to one’s own interests. On my view,

it is possible for the interests of parents not only to matter, and to be decisive in tie-breaks, but to out-weight the interests of children. So, one might think my view violates this principle in the worst way and not only in some way. Gheaus describes two ways of resisting the presumption. One way of showing the presumption can be overridden is by appeal to equal opportunity to flourish and the way that parenting contributes to flourishing can override that principle. But in order to advance this argument one must accept that parenting is non-substitutable and that justice requires equality of opportunity to flourish. But I reject the non-substitutability of parenting. So I cannot avoid this problem, it seems.

There's plenty of ambiguity in the so-called "sound principle". In particular, it could be interpreted as prohibiting authority over someone simply because it is in the interests of the prospective holder of authority, or it could be that no one can have authority over someone in anyone's interests but those of the person over whom authority is held. These two interpretations have quite different extension. Moreover, if the principle Gheaus describes, and borrows from Vallentyne, is true then it is unclear that, for example, democratic institutions, where authority is exercised, at least in some significant life-affecting decisions, in the interests of all. So the idea that no one can have authority over me in anyone's interests but my own must be false on either interpretation.

I agree with lots of the examples Gheaus gives about adults having control over other adults, e.g. romantic partners. But the problem with drawing conclusions from that example this is that someone must have control over children, no one else need have control over the bodies of competent adults. That is a morally relevant distinction that can explain different treatment. Moreover, insofar as Gheaus accepts this she accept that children's status is different from adults. This is just to say I think the "sound principle" is questionable.

I think the cases I describe are still the best to show why the parents' interests can justify shortfalls from the best custodian in some cases because they illustrate the following. While some of the child's interests are very weighty, such as their interest in avoiding neglect and abuse, their interests are not all weighty. Those less weighty interests can be outweighed by the interests of parents. Moreover, I think cases where parents make decisions that have costs for their children, like taking a different job, re-locating, etc. can, in some cases be justified. Gheaus' view cannot explain this except if she appeals to an artificially robust distinction between the interests that are relevant to decisions parents make once they have the rights and the interests relevant to the decision to give a particular parent the right. There should be continuity between these, not least because

what a parent would do with the rights is a determinate of how well they will do it and so a sharp discontinuity here cannot be justified.

9. REPLY TO HARB AND AXELSEN

Siba Harb and David Axelsen's response to Chapter Six has two parts. Part one of their reply argues that there is nothing new in one of the distinctions I make while part two provides an interesting development of one of the lines of thought in the chapter. As the second part is mainly complimentary I won't engage with that much, except to say "thanks". I will use this reply to try to explain why the first distinction is of importance.

I argue that the achievement of sufficiency could trigger a shift in the content of our obligations to compatriots and to foreigners, and not merely their stringency. By this I mean that once the sufficiency threshold is met for at least one of these groups, then we may move from being statist to being cosmopolitans. That means we move from thinking that the content of our obligations to compatriots and foreigners is different, to thinking that they are the same.

The authors discuss the example I give in the book about moving from being a statist to a cosmopolitan by reference to the satiable reasons that can justify a threshold.

"Now, according to Shields, reasons that can justify the existence of a threshold are ones that are satiable. The reasons that Shields explores in previous chapters are basic needs and autonomy. Both are satiable in the sense that they do not provide a normative basis for benefiting above a certain level (the threshold) (Shields 2016: 34-37). Surely, however, reasons of basic needs and autonomy apply universally; everyone shares the trait that gives rise to such reasons. And, indeed, when theorists in the global justice debate, be it statist or cosmopolitans, hold that we owe basic needs to foreigners, they hold that we do so because they are human beings, not because they are foreigners. It is difficult to see, then, how one can be statist about content below the threshold" (Harb and Axelsen, this issue).

Now, I do not claim that only satiable reasons can justify a non-instrumental threshold, but I claim that some do, and these may very well be the most plausible such reasons that justify thresholds. Reasons that focus on basic needs and autonomy, once met, no longer apply. These reasons however appear to apply universally and so would not be plausible candidates for the sorts of reasons that can explain why the content of our obligations can change.

The concern that the category of shift sufficientarian content approaches to global justice does not contain a plausible member, is a serious one. To respond I will develop the statement in the book explaining this view. I state that “Possible examples include a view whereby we owe sufficiency to non-compatriots and equality to compatriots but once non-compatriots have enough, we owe equality to all” (Shields 2016: 187). This is all too brief, so I am grateful for the opportunity to expand here. The line of thought set out in the quoted sentence described a view whereby we pursue equality among compatriots and sufficiency globally. These are two of our duties of justice. How they are to be weighed is a further question and concerns stringency.

This position remains too vague to test its plausibility comprehensively, though a good deal of the plausibility test will be met by the implications of such a view and whether they can explain intuitions like compatriot partiality and state is arbitrary. So consider a possible example. Imagine our set of reasons include a commitment to global sufficiency, perhaps specified by basic needs or autonomy, and a commitment to local or state-wide equality of opportunity, as well as a global commitment to helping the worse off in the form of a priority principle. At this point our reasons are mixed. Some are cosmopolitan and others are statist. Whether our outlook is statist or cosmopolitan, I think, depends on how far we have gone in meeting our reasons of justice. If some of our reasons (cosmopolitan or statist) can be sated, then once enough is secured, the content of our remaining obligations is different for compatriots and non-compatriots. This would mean that the satisfaction of global sufficiency means our outlook is statist. This might appear to be a superficial shift since the totality of our reasons remains the same: a mix of cosmopolitan and statist reasons. It’s just that some no longer apply. Alternatively, the achievement of global sufficiency might bring into existence new reasons. For example, once everyone is sufficiently autonomous perhaps political equality matters between compatriots but not globally. Perhaps also equality of opportunity matters between compatriots but not globally. The last example would be a more thoroughgoing account of a shift in the content of our obligations

10. CONCLUSION

I am very grateful to the contributors for pressing me on these and other areas, and I hope I will be able to more fully appreciate those contributions as I continue to think about them.

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