

The Foundation and Nature of Contemporary Liberalism

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ABSTRACT

This thesis aims to define the foundation and nature of contemporary liberalism. Chapter 1 will provide an overview of different interpretations of what liberalism is, followed by a general definition of liberalism as a political doctrine with four distinct features: importance of liberty, centrality of persons, commitment to ethical pluralism, and suspicious attitude towards state power. Chapter 2 will propose that the foundation of liberalism thus conceived is an understanding of persons as free and equal. Persons being free means that there is no normative authority over persons in politics except the one which is properly justified; this is the justification thesis. Persons being equal means that there is no normative authority over persons in ethics. This implies a committed openness to pluralism, since there is no normative position from which to adjudicate. Chapters 3 and 4 will establish that we have good reasons to believe persons are free and equal – or at least that we have reason to treat them as such. In Chapter 5 I present the idea of perfectionism and distinguish perfectionist liberalisms from political liberalisms, as well as considering some ways in which one might make the case for perfectionist liberalism. Finally in Chapter 6 I bring the discussion to a close, first by looking at some objections to perfectionism found in the literature, and then demonstrating that if we take the idea of persons as free and equal as a foundation of liberalism, then we cannot be perfectionist, since these two notions are in conflict with one another. More specifically a perfectionist approach to liberalism cannot meet the justification thesis and cannot be open to ethical pluralism. The thesis provides a comprehensive view of liberalism and its foundation and thus helps to settle an important debate within contemporary liberalism between perfectionism and anti-perfectionism.

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AUTHOR'S DECLARATION

I declare that this thesis is a presentation of original work and I am the sole author. This work has not previously been presented for an award at this, or any other, University. All sources are acknowledged as References.

Chapter 3 of this thesis is based on a previously published paper of mine, the full reference of which is: Volberg, Mats (2013). Persons as Free and Equal: Examining the Fundamental Assumption of Contemporary Liberal Political Philosophy. *Diacritica*, 27.2, pp. 15–39.

INTRODUCTION

The aim of this short introduction is to answer the “what”, “why” and “how” questions of this thesis. In other words to briefly explain what this thesis is about, why I think these issues are worth writing about, and how I am going to say the things I want to say.

As the title of this thesis suggests, I will be writing about two subjects: the foundation and the nature of contemporary liberalism. This divides the thesis into two parts. Firstly I will try to answer the question: “What is the foundational or core idea of liberalism that serves as its basis; the premise to its values?” My claim will be that at the heart of liberalism is the political conception of persons as free¹ and equal. In the second part of the thesis, taking the foundation of liberalism as the idea that persons are free and equal, I will delve into the nature of liberalism. Specifically, I will look at the question: “Should contemporary liberalism be perfectionist or should it be instead political?” My claim will be that perfectionism is incompatible with the idea of persons being free and equal, and thus if we take persons being free and equal to be the foundational idea of liberalism, the nature of liberalism cannot be perfectionist.

It is important to note here the limitations of my claims: by arguing that liberalism is based on the idea of persons as free and equal (step 1) and that this idea is incompatible with perfectionism (step 2) I have not demonstrated that political liberalism is a coherent and workable kind of liberalism (step 3). But by demonstrating that liberalism has a certain foundation that is in conflict with a perfectionist nature of liberalism I have at least demonstrated that the political nature of liberalism is a path we should take, trying as best as we can to work out a coherent vision for political liberalism. That is: steps 1 and 2 mean that we should aim for step 3. Also, given the limitations of a PhD thesis in length there is limited room for working out a thorough vision of political liberalism, but because steps 1 and 2 were necessary before step 3 is attempted, neither of them could be discounted to make room for a positive programme about political liberalism.

The first part of the thesis is motivated by the fact that even though the phrase ‘persons as free and equal’ is often used, there is no comprehensive treatment of this idea outside the work of Rawls, who does not make significant attempt to try to connect that idea to the core of liberalism. I believe that my thesis not only

¹ Following Ian Carter (2012) I will take the nouns ‘freedom’ and ‘liberty’ to mean the same thing.

provides a conceptually coherent presentation of liberalism but also ties the elements of it into a neat little package which are represented by the idea of persons as free and equal. The second part of the thesis is motivated by two considerations. First, having spent time working out the foundation it would only make sense to also look at the implications of that foundation on the nature of liberalism, thus I see the second part of the thesis as a natural continuation to the first part. Second, the debate within liberalism about its nature is an issue that has not yet been fully resolved and put to rest. There are multiple well-known authors who engage in this discussion about the nature of liberalism. For example, Martha Nussbaum (2011), Jonathan Quong (2011), Steven Wall (1998, 2009, 2014) who also co-edited a collection of essays on the topic with George Klosko (Wall and Klosko 2003), George Sher (1997), Ben Colburn (2010), Joseph Chan (2014). This is an active discussion and my thesis is a contribution to it.

I will now give a short description of the content of each of the following 6 chapters. I begin Chapter 1 by noting that in order to look for the foundation of liberalism we should first know what liberalism is. Thus I present in Chapter 1 three interpretations of liberalism, by Michael Freeden, Judith Shklar and Raymond Geuss. By drawing on the overlapping ideas of their work I provide a general definition of liberalism as a political doctrine with four distinct features: importance of liberty, centrality of persons, commitment to ethical pluralism and suspicious attitude towards state power. Moving on to Chapter 2 I reach my main question and try to uncover what is at the foundation of liberalism thus conceived. As already mentioned, my answer will be: a political conception of persons as free and equal. I spend most of the chapter explaining what exactly I take that to mean and what the implications of this are for politics. Persons being free means that there is no normative authority over other persons in politics except the one which is properly justified; this is what I call the justification thesis. Persons being equal means that there is no normative authority over persons in ethics, and this implies a committed openness to pluralism, since there is no normative position from which to adjudicate between different outlooks. I am aware that this brief description is very enigmatic, and so will elaborate on both of these ideas later. In the second half of the chapter I show how the idea of persons as free and equal connects to the definition of liberalism presented previously and how that idea is represented in contemporary liberalism.

The next two chapters are spent showing that not only does the idea of persons as free and equal make conceptual sense as the foundation of liberalism, but also that

we have good reasons to believe that it is indeed the case (or at the very least we have reason to act as if it were the case). In Chapter 3 I lay out three broad strategies for establishing this idea: the metaphysical property approach, the empirical property approach, and the agreement approach. And in Chapter 4 I discuss some particular examples of the latter two as exemplified by John Rawls, Charles Larmore, Ronald Dworkin, Gerald Gaus, and Stanley Benn, as well as some additional pragmatic considerations inspired partly by John Stuart Mill and Bernard Williams. With that I take that the foundation question has been answered and I move on to the nature question. In Chapter 5 I present the idea of perfectionism as defended by Steven Wall, and make a distinction between political and perfectionist liberalisms. After dealing with some criticisms of this distinction I consider some ways in which one might make the case for perfectionism. Finally in Chapter 6 I bring the discussion to a close by first looking at some other objections to perfectionism found in the literature and then showing how, if we take the idea of persons as free and equal to be at the foundation of liberalism, as we should, then we cannot be perfectionist since these two positions are in conflict. More specifically a perfectionist approach to liberalism cannot meet the justification thesis and cannot be open to ethical pluralism in the way it should.

1. WHAT IS LIBERALISM?

1.1 Setting the Scene

The aim of the first half of my thesis is to get to the fundamental or basic concept(s), idea(s) or building block(s) of liberalism; what liberalism at its core is. While this may seem like a straightforward task there are multiple complications. First of all, liberalism does not seem to be one clear and concrete idea, the foundation of which can be studied. As Judith Shklar (1989: 21) has put it: "overuse and overextension have rendered [liberalism] so amorphous that it can now serve as an all-purpose word, whether of abuse or praise." Also there seems to be a great diversity within liberalism. As Thomas Nagel (2002: 62) has put it: "[i]t is a significant fact about our age that most political argument in the Western world now goes on between different branches of [the liberal] tradition." So it turns out that if we try to find the foundation of liberalism we must first find out what liberalism is. In this chapter I will construct an ideal type of liberalism by generalizing from the ideas of different authors and their writings. In the next chapter I will philosophically analyse the foundation of that ideal type in order to answer my main question about the foundation of liberalism.

But searching for a clear definition of liberalism we run into a second problem: by what method ought we to achieve this task? This is not just a problem for the original question "What is the foundation of liberalism?" but also for the derivative question "What is liberalism?". Broadly speaking there seem to be two routes we could take. First, the stipulative or abstract approach, where the aim is to stipulate both the nature and the foundation of liberalism by abstract reasoning and analysis of different general liberal ideas and concepts. Second, the historical or canonical approach, where the aim is to critically evaluate the canon of liberal thinkers and extract both the nature and foundation of liberalism from that. I do not think that either method could be exercised in a pure form, since for the stipulative approach we would need some initial input, (rather than inventing an arbitrary liberal doctrine to work from), and the most logical starting point for this would be to look at the liberal canon. But at the same time, in using the canonical approach we would need some independent starting criteria for deciding what is part of the liberal canon or there would be no non-question-begging way to decide what counts as part of the liberal canon and what does not. So any successful attempt will require some mixing and matching, with both approaches supplementing one another so that the construction of the canon and the abstract reasoning are constantly revised in light of one another. It should be noted here that as a

philosopher I am primarily concerned with ideas and their analysis rather than the history of liberalism in the sense of how and why one and not some other set of ideas came to be known as liberalism. Nor am I particularly concerned with the question of how people generally use the word 'liberalism' and what they take it to mean.

The next step in defining the method is to further clarify my aim, since I could take either the descriptive or the normative route. The former pairs up well with the canonical-historical approach, but is not exclusive to it: we aim to describe what has been the case historically and what different authors have taken liberalism to be, without evaluating the content of their theories. The latter pairs up well with the stipulative-abstract approach: we aim to come up with the definition of what we think liberalism should be and can then use that definition to make evaluative claims about other authors and theories to see if they qualify as liberal or not. When taking the normative route it is easy to run into trouble when trying to make universal and timeless claims. It could easily be that people in the past who self-identify as liberals and who are often recognized as liberals are committed to certain ideas as part of liberalism, which from our modern perspective, do not seem all that liberal. For example, John Stuart Mill and his defence of imperialism (for more in this see Sullivan 1983). It is also possible that this problem arises in the opposite way, meaning that people who self-identify as non-liberals will have to be labelled liberals, and might take issue with this (as could easily happen in USA with the Republican Party members). But in both cases, these problems are not too concerning, since what really matters is the ideas people subscribe to and not the way they label themselves.

Given that I want to adopt a mixed approach of clarifying the nature and foundation of liberalism it would seem that I must also commit to some kind of mixed aim with regards to the descriptive-normative issue. Eventually, I certainly want to make normative claims about what kind of a political doctrine counts as liberal, but in the second part of the thesis the focus will be more asking what form liberalism should take rather than whether certain ideas are part of liberalism or not. It should be noted here that in some sense labels in and of themselves bear little importance, if something is not deemed to be liberal then it does not necessarily mean it is automatically something bad and/or wrong (even though this often seems to be the assumption). But at the same time, certain labels have connotations or associations that cannot be ignored. However, even though I do want to make normative claims about liberalism, I do not want to make any universal and timeless claims about the

nature of liberalism. The content of liberalism here and now is certainly different from what it was in the 19th century (although there are strong ties), and thus with any universal claim, I would be committing myself to suggesting that people in the past were mistaken about the nature and foundation of liberalism. But if I am not making universal claims about the nature of liberalism then how do I resolve the apparent conflict between two sets of people who are both claiming to be liberal while subscribing to different ideas? One reply is that this does not need to be a problem, since even though authors from the 19th century may not count as liberal according to our current understanding, as they did self-identify and were recognized as liberals, we can think of them as having a different conception of liberalism. What I have in mind here is a relationship akin to the Ancient Greek and our modern conception of democracy. While there certainly are similarities between the two, then according to Josiah Ober (2008: 3) the Ancient Greek definition of democracy is best understood as "capacity to do things" whereas the modern definition is often understood as "majority rule". But we would not say that the Greeks were mistaken about what democracy is, they just had a different conception of it. I think the same applies to liberalism, given that in different circumstances the conception of liberalism has had different content. This thesis is primarily concerned with the content and foundation of liberalism now. But just as with the Ancient Greek and modern conceptions of democracy, our modern conception of liberalism is not completely divorced from the previous incarnations.

So in sum what I am interested in is contemporary liberalism and its nature and foundation, which I will aim to define by looking at the canon and employing abstract reasoning while modifying both in the light of the other, with the ultimate aim of being able to say something useful about which ideas and values should be included into liberalism and which should not. Even though the survey of the liberal canon will include a number of 19th-century and other authors one would not necessarily classify as contemporary, we should not think of them as divorced from the contemporary tradition since the contemporaries draw upon the older tradition and see themselves as following the same tradition.

In the opening lines I left it somewhat open as to what is it exactly that I am looking for. I do not think that there is any difference between looking for the basic, core, or foundational elements of liberalism; all of these terms refer to the necessary elements of liberalism; the things without which it not be the kind of political doctrine it is (it is worth mentioning that this does not correspond to, for example Micahel Freedman's use, which I will get to shortly). So I will treat those

words to mean the same thing in this context. On the other hand there seems to be a difference between looking for the core value(s) and the core idea(s). Talking about the basic value of a political doctrine seems to suggest that every other element of that doctrine, up to specific policy proposals, can be, and in fact has to be, put into terms of how that specific policy or principle is either justified with reference to the basic value or facilitates or promotes the basic value.

So for example, let us say that we think equality is the core value of liberalism. So when it comes to liberal policy making we should be able to show that a specific policy is justified with reference to equality. If we understand equality in the sense of equal moral worth of people, then the following argument provides one example:

- (1) the core value of liberalism is equal moral worth of all people;
- (2) equal moral worth entails that people are entitled to same rights and liberties;
- (3) forming a legal union with the person of your choosing is one such right;
- (4) this law allows same-sex couples to form legal unions;
- (5) therefore this law is justified with the reference to equality.

Or we have to be able to show how a specific policy or a principle helps to facilitate, promote or increase the basic value. Continuing to take equality in the sense of equal moral worth of people to be the core value of liberalism, then the following argument provides one example:

- (1) the core value of liberalism is equal moral worth of all people;
- (2) racial discrimination at the workplace decreases this kind of equality;
- (3) affirmative action decreases racial discrimination at the workplace;
- (4) this law proposes sensible regulations concerning affirmative action;
- (5) therefore this law helps to increase equality in the society.

However, the core idea does not seem to postulate specific aims that the doctrine or policies derived from it ought to try to achieve but lays down some general guides or principles for action. So for example saying that the core idea of liberalism is that persons are free, does not immediately give us any specific goals to strive for, but rather tells us that whatever we do, we ought to take into consideration that persons are free.

As I already noted it seems that we need to have a good grasp on what liberalism is before we can look for its core elements since otherwise we would be unable to distinguish our object of study from all the other things in the world. Now, a very

general and superficial account does not really help us here, since if we start out very broadly and say that liberalism is a political doctrine then we can distinguish it from most things in the world, but such a definition is still liable to include a lot of things which we are not interested in, since Marxism and fascism are both political doctrines also. So we would need to clarify our definition in a way which lists certain necessary or at least distinctive characteristics of liberalism, since otherwise we might once again pick out objects of study which are not liberalisms or, fail to pick out all instances of liberalism for study. But once we get into this kind of work then it already seems that we are asking what the core elements of liberalism are, and this seems to suggest that the question of what the core elements of liberalism are is practically synonymous with the question of what liberalism is. But this is not actually the case and we should not confuse those two issues. It is one thing to ask what are the distinctive features of liberalism that make it liberalism, and it is another to ask what lies beneath those features; what the premises are from which those features are derived. It might feel more intuitive to look for the foundation of a thing before looking at the distinctive features of the thing, but as I explained earlier the problem in this case is that we do not know what the thing even is. So in this chapter I will aim to come up with a generalized definition of liberalism and I will approach this from the historical-canonical perspective. In the next chapter I will attempt to uncover what the premises are from which those features are derived, with a more stipulative-abstract approach.

1.2 What is Liberalism?

To start my discussion I have chosen three treatments of this issue: Michael Freedman's, Judith Shklar's and Raymond Geuss'. A few words on the selection of these three treatments would be appropriate here. The main thing to note is that, as I said, I want to mix both the historical-canonical and the stipulative-abstract approaches. Both Freedman and Geuss are very good examples of a comprehensive historically minded expositions of liberalism, while Shklar leans more towards a stipulative-abstract approach. So this gives me dual perspective on the question of what liberalism is, which makes the overlap between the authors even more significant.

It should be noted here that none of the three authors seem to make the explicit distinction between the distinctive features of liberalism and the foundation of those features. They all aim to describe the former, but it is not entirely clear what they aim to say about the latter. One interpretation could be that given that they do not make this distinction then they take themselves to provide both, in which case they

would be confused. Another interpretation would be that they only want to talk about the former. But either way the latter are missing, and that is what I aim to provide in the next chapter.

1.2.1 Michael Freeden's Interpretation of Liberalism

I will begin with Michael Freeden's study of what liberalism is and what its constitutive parts are. Freeden's approach is slightly different from mine: as we will see, he thinks that liberalism (or any other political doctrine for that matter) cannot be boiled down to one single core idea, rather there will be a cluster of core and adjacent or peripheral concepts which make up the foundation of liberalism and which will infringe upon one another. But I will show in section 2.3.1 that not only is his description of the core concepts of liberalism compatible with the core idea of liberalism that I will propose, but also that many of the core concepts Freeden puts at the centre of liberal doctrine can be shown to be either derivative of the core idea that I will stipulate or not actually among the cluster of core concepts.

The other thing to note is that Freeden sets out to study *ideologies* and he takes liberalism to be one such ideology. In other words he draws a distinction between a political doctrine and an ideology. This means for example that for Freeden (1998: 141) Locke is not of great interest, since although he could retrospectively be described as making use of the concepts that later will make up the core of liberalism, given the lack of means of mass communication we cannot really speak of ideologies at the time of Locke.

Given that Freeden is conducting a study of ideologies and I take myself to be conducting a study of the contemporary liberal theory or liberal political doctrine, then the question might arise as to whether what Freeden is saying is actually relevant to the things that I am trying to achieve. I think they are; there are several things Freeden says that point to this relevance. First, Freeden (1998: 27) notes that both ideologies and political philosophy are "*forms of political thinking, shaped from political concepts*", thus the core concepts play a similar role in both. Also, in the particular case of liberalism, Freeden (1998: 28) notes that the difference between an ideologist and a philosopher is very slim as the former engages in philosophizing and the later in ideologizing. Second, "the function of ideologies is to guide practical political conduct" (Freeden 1998: 6) then "ideologies are forms of political thought that provide important direct access to comprehending the formation and nature of political theory" (Freeden 1998: 1) and they "display strong similarities [with political philosophy] in their morphology and

that may overlap considerably” (Freeden 1998: 1). In other words, while ideologies are collection of ideas which are meant to drive political action, they still depend on the same concepts the philosopher uses, although for different purposes. Third, in Freeden’s (1998: 24) use ‘ideology’ is not synonymous with ‘political movement’ or ‘a party’, so while there are empirical components to an ideology there is no serious disconnect between this and political philosophy.

Freeden (1998: 142) proposes to reach to the core concepts of liberalism by looking at four major case-studies from the liberal tradition: the classical liberalism of John Stuart Mill, the reformist liberalism which followed him, represented by Thomas Hill Green and Leonard Trelawny Hobhouse, the Anglo-American philosophical liberalism and finally libertarianism, which Freeden suspects of not actually belonging to liberalism.

Based on Mill the first core concept of liberalism is of course *liberty* itself: in *On Liberty* Mill explicitly states preservation of liberty to be the main aim. While Freeden does not expressly address this issue, then we should still note that liberty is not exclusively liberal concept. Also, on its own, the word liberty does not have clear meaning. So what we need is a specific, liberal content to this idea to distinguish it from other traditions and make sense of it. From Freeden (1998: 145) we learn only that liberty should be understood as non-constraint, but I will return to this issue in one of the following subsections when I discuss Geuss.

In Freeden’s view, liberty is very closely related to another core concept: that of *individualism*, which is also very prominent in Mill. Thirdly Freeden proposes that *individual development* or *progress* in more general sense is another core concept of Mill, and he states that the phrase “the free development of individuality” contains all the three most important concepts in Mill’s thinking. The content that Mill gave to these core concepts implied that liberty was not merely freedom of action and self-determination, but also self-development. (Freeden 1998: 144–147)

When we look further we will see that a certain kind of human nature and a certain way of organizing the society and the state are also part of the Millian core of liberalism. First, for Mill, humans are by their nature rational and sociable, thus both *rationality* and *sociability* become core concepts. The latter of these might seem to conflict with individualism and thus pose the question as to whether both of them could be at the core. But for Freeden that is the very point: a successful

ideology has its core concepts developed so wide that they do end up infringing upon other core concepts. (Freeden 1998: 148–151)

On the topic of organizing the state Mill might seem a bit of an exception to the rest of the liberal tradition by putting considerable emphasis on power. But this is only because Mill recognized the inevitable practical role power has to play in making sure that each person is provided with an environment in which they can develop and that disorder is not allowed to take hold. This means that we would also have to make sure that power is not being abused, which leads to a symbiotic relationship between power and personal development since both help the other out: if power is kept in check then people can develop and well developed people will make sure that power is kept in check. (Freeden 1998: 152)

This leads Mill to endorse two important qualifications for the *exercise of power*: first it must be *participatory*, meaning those over whom power is exercised must have some say in exercising it, but power also has to be exercised in a *responsible manner*. Based on this discussion Freeden (1998: 153) concludes that according to Mill the liberal core concepts imply that liberalism is about: protection of individual capacities so that free individuals can develop their rational and social attributes in an environment of limited and responsible political power.

I noted earlier that for Freeden the concepts that make up an ideology or a political doctrine are divided up into core and peripheral or adjacent concepts. Now that we have the core we should also look at the others. The core implied that *democracy* should be one of the peripheral concepts since it is one of the best ways to achieve limited, responsible and participatory exercise of political power. But also the self-development of people calls for and facilitates democracy: people who are capable of ruling themselves want to rule themselves and they will have much higher chance of success than those who are not so well developed. (Freeden 1998: 154–155)

Another adjacent concept that becomes more prominent in the later liberal tradition is *equality*, understood as a shared human rationality and the lack of relevant differences between people. But given the situation of the time, where “uneducated masses” were seen as a potentially destabilizing force, equality did not play a significant role in Mill’s thinking. Another concept that Freeden mentions is *education*, as a practical requirement for many of the core concepts. Moving further away from the core we will encounter *rights, property, free trade, equal rights for*

women, national self-determination, free education, social order, state regulation of economics and social practises (Freeden 1998: 162, 165–166).

According to Freeden's (1998: 178–179) analysis, in the years following Mill the core of liberalism remained the same: liberty, individualism, progress, rationality, general interest, sociability, limited and responsible power were still the core concepts,² although liberalism did continue to develop by re-interpreting some of those concepts, giving them new content. The main theorists behind these developments were T.H. Green and L.T. Hobhouse.

Most of those changes to the Millian core did not stick to the liberal core. The most notable of these was Green's effort to give liberty a new content. For him liberty was not merely the lack of restrictions, but a social power which is valuable only if applied to goals which are themselves deemed valuable. This move was partly constituted by Green's re-interpretation of progress both in terms of individual's self-improvement and also in terms of self-realization or self-perfection, giving it an element lacking in Mill (Freeden 1998: 183). Although Mill thought some goods to be better than others he did not specify a specific aim for personal development. Another element of liberty Green emphasised more than Mill was its social component: that the liberty of each person is bound up with the liberties of others, none of us can be free just on our own. This change was introduced by Green because he re-evaluated the importance of sociability, since he thought that people would not be able to make use of or develop their individual powers in isolation (Freeden 1998: 184). But once we get to contemporary theorists we will see that the perfectionist element in liberty and the concept of strong communal ties are not elements shared by most liberals. Another innovation that Green also attempted but which did not take root was trying to introduce *temperance* into the core of liberal concepts (Freeden 1998: 189).

Even though the theorists following immediately after Green moved liberalism closer to socialism, then still the core remained pretty much the same (Freeden 1998: 194). One notable development from this period is that the otherwise general right to life was now fleshed out as a right to a minimally decent life, which implied certain duties on the part of the state to provide for its citizens (Freeden 1998: 208). This led to the demotion of private property since individual claims

² Later when Freeden starts discussing the contemporary Anglo-American variation of liberalism Freeden (1998: 231) refers to them as "eight core features identified in the previous chapters" but this only makes sense if we take limited power and responsible power to be two different concepts. But it seems much more reasonable to me to think of them as two elements of one liberal concept of power. Thus I will interpret Freeden as only having identified seven core concepts based on the work of Mill.

over private property lose strength when the state needs to redistribute resources in order to provide each person with a minimally decent life. So as a midway conclusion we can say that by the beginning of the 20th century the liberal tradition had stayed true to the same core concepts first found in Mill.

Freeden then moves onto the next era in the liberal tradition: contemporary Anglo-American philosophical liberalism. It is here that the lines between ideology and political philosophy get most blurred, especially given that we usually encounter this kind of liberalism in academia rather than in politics or in public thinking more generally. The representative of this kind of liberalism who Freeden selects to look more closely is of course John Rawls – probably the most prominent figure in contemporary liberalism. Without going into too much detail about Rawls' theory of justice, Freeden thinks that we can easily identify six of the seven core concepts of liberalism in Rawls (Freeden 1998: 231–232). But some of them only in a thinner form, for example rationality for Rawls relates only to individuals' pursuit of the good, that is, the way they think and act. So there are no further elements, unlike in Mill, who tied rationality to harmony and development of individual attributes (Freeden 1998: 149). We will also see that the adjacent concepts of democracy and equality are represented. In other words, we can see a strong line of intellectual succession. The concept missing from the Rawlsian core compared to the Millian core is individualism in the sense of individuality, which is interpreted by Rawls as a comprehensive idea and thus excluded from the thin theory of good that underpins his theory of justice. Rawls still subscribes to individualism in the sense of persons rather than groups being the primary political units.

But another contemporary theorist, whom Freeden concentrates on, Ronald Dworkin, thinks that the correct way to think about liberalism is to put equality at its core rather than on the periphery. Dworkin sees this particular notion of liberal equality first and foremost as duty of the government to treat its citizens with equal concern and respect, but also as entailing certain equality in resources, political power and legal rules. Freeden (1998: 242) finds this approach questionable. First, he is sceptical as to whether any ideology could be constituted by just one principle. Secondly, he thinks that a move which removes liberty from the core does not make sense analytically since equality at the core does not exclude the possibility of liberty being at the core at the same time, and also makes little sense historically, because, as we have seen, liberty has been part of the liberal core for a long time. Thirdly Freeden finds that the Dworkinian notion of equality could easily be derived from other core concepts, such as rationality and individuality.

There are two other concepts that come up within contemporary philosophical liberalism which merit some discussion. One of them is *community*, the other is *neutrality*. Freedman (1998: 248, 251) starts his discussion by noting that the concept of community has been part of many traditions, and certainly there are and can be communitarians who are non-liberal, but at the same time he thinks that community can be accommodated within liberalism. Due to the criticisms of Rawls made by people like Sandel and the response by the Rawlsians, Freedman (1998: 250–251) finds that there are at least five different understandings of community that have taken root in the liberal tradition. Some of them involve a weaker sense of community, meaning that individuals are taken to exist independently of the community, while others have a strong sense of community, meaning that individuals are taken to be partly constituted by the community (Freedman 1998: 252). Examples of the latter are Walzer's conception of community and the organic sense of the community which can already be found in the 19th and early 20th century liberal theorist, but also later, as in John Dewey (Freedman 1998: 254–255).

Freedman's (1998: 258–259) final verdict is to reiterate the starting point that most of the core concepts except for individualism as individuality are present in contemporary Anglo-American philosophical liberalism. But also note that while equality and community are present they remain adjacent concepts: the former fluctuates between core and adjacency, the latter is usually excluded from the core by association with meanings of community that are hostile to other liberal core concepts.

But this is not the very end of it since this strand of liberalism exhibits one core concept which is not found previously: neutrality between differing conceptions of the good. Freedman's discussion of this concept is quite critical. For example, if this idea is taken seriously then from the public point of view all conceptions of the good must be thought to be of equal value, but Freedman (1998: 262) suggests that this would create too much toleration and that this is not consistent with the tradition. Also the motivation behind this idea is that the liberal fears of paternalism: if the state is not neutral then this might lead to a situation where ideas about the good are imposed on people. Freedman's (1998: 264–265) response to this worry of paternalism is twofold: first, whenever political decisions are made (or not made) then some ideas will be imposed on people and you cannot have a political community without such decision making, and second, many liberal theorists seem to equate the non-neutral state with coercively imposing certain values, while in

fact there can be state action which merely promotes certain idea of the good and does not impose it. Ultimately I do not think that these responses to the worry of paternalism will stand, but that is not the issue here. The issue is that the place the concept of neutrality occupies in the liberal tradition and Freedman seems to suggest that neutrality is mostly a characteristic of the Anglo-American version and not of liberalism as a whole.

1.2.2 Judith Shklar's Interpretation of Liberalism

When we look at Judith Shklar and her liberalism of fear then we will get a somewhat different picture, since she is not trying to capture the whole of liberal tradition, which, she (Shklar 1989: 21) notes, is come to mean a great many things. Her aim is rather to argue for one version of liberalism, which, we can assume, she thinks is the best kind, or at least most true to the one and only overriding aim of liberalism: "[securing] the political conditions that are necessary for the exercise of personal freedom." But despite their differences there are clearly elements that Shklar proposes are at the centre of liberalism, which coincide with those proposed by Freedman.

Personal freedom, which is mentioned as the aim of liberalism, is understood by Shklar (1989: 21) as meaning people who are equipped to make decisions about their life and actions being allowed to make as many such decisions as are compatible with others doing the same. The important detail here is that that decision making has to be free of fear and of favour, and since the state is often the agent capable of the things we fear most and also capable of doing favours which are out of reach to single individuals, thus the name of Shklar's brand of liberalism. She distinguishes her conception of liberalism from the rights-based and the personal development-based liberalisms of Locke-Kant and Emerson-Mill respectively.

According to Shklar (1989: 22) the roots of liberalism lay in the Reformation and there are two different processes that lead people to liberal ideas. First, there were people who turned away from the Catholic Church, which they thought to be authoritarian and cruel, and sought to express Christian morality in toleration. Second, there were people who, when faced with the diversity of religious doctrines, turned to scepticism and thus became more tolerant from that perspective. Both sides shared the idea that individual people should be left alone from public oppression by the state. Eventually the Lockean-type argument for

religious toleration – that forcing people to believe is counter-productive – was extended to all matters of conscience and not just religion.

While liberalism does not propose or require any one specific world-view, as long it is tolerant and thus not prone to cruelty against dissenters, Shklar (1989: 24–25) notes that there is a certain natural affinity or psychological connection with sceptical world-views, which take natural sciences seriously and are inclined to be atheistic and relativist. But Shklar insists that there is no logical connection and that there are a variety of comprehensive doctrines open to liberals, what is important is that a strict line be drawn between public policy and private matters and the state not breaching into the latter.

The reason liberalism can stay open between different conceptions of the good is because there is no ultimate monist good that underpins liberalism or on which liberalism depends. Instead Shklar (1989: 29) proposes a *summum malum*: cruelty and the fear of it. She (Shklar 1989: 27, 29) understands the basic units of politics to be the weak and the powerful and thus cruelty here is meant as “the deliberate infliction of physical, and secondarily emotional, pain upon the weaker person or group by stronger ones in order to achieve some end [of theirs].” In other words the liberalism of fear is about avoiding arbitrary, unexpected, unnecessary and unlicensed violence towards the people by the state (and in some cases by other people). This sort of approach to politics should be universally appealing since the fear of such intrusion is something we all share according to Shklar (1989: 30), and I am inclined to agree with her.

This has several implications for liberal politics. First, cruelty (or coercion more broadly) is to be allowed only to avoid greater or more cruelty and coercion, this, for example, means that the criminal justice system with the threat of punishment attached to certain acts is legitimate since without it there would be much more infliction of pain. Second, political power must be kept in check, Shklar (1989: 30) suggests that this should be done by making political procedures public but also making sure that individuals would have the opportunity and ability to influence political power (and although she does not mention it, presumably also redistribute political power via elections). Thirdly, no public official can offer ethical instructions to individuals on how to live one’s life; it is not the business of the state how people aim to achieve their personal happiness, this is assuming of course that individuals in their pursuit of happiness comply with the underlying restrictions of liberalism of fear. And fourthly a fairly strong sense of private property such that individuals

would have the means to pursue their chosen life plans and that they would be free from undue influence and exploitation by others, since in politics the poor are often also the weak.

When we now compare Shklar's account of liberalism with the core concepts presented by Freedman, we will, as I said, see quite some overlap between the two. First of all, of course, there is *liberty*, which both authors regard as the core element of liberalism. While Freedman, unlike Shklar, does not propose any one specific definition or content to this concept, they are in agreement in its central role. Secondly, there is *responsible and limited power of the state* and here there also seems to be an agreement on the actual content or the justification for this concept. From Freedman we learned that Mill originally wanted a responsible and limited government so that it could not infringe on individuals' development, and in Shklar we saw the same idea: the power of the state has to be limited and the workings of the government responsible so that we could remove the fear of interference with individuals' lives. This leads us into the third point of agreement: the *fundamental units of politics are individuals*. Although Shklar does distinguish between the weak and the powerful, the crux of liberal politics is still to make sure that individuals are free from the fear of intrusive government action.

On the following points the agreement is somewhat weaker but still there is some overlap. First, Shklar admits that *progress* is a core element of some versions of liberalism, thus she would not deny Freedman's claim that progress is a core element of liberalism, even though she prefers the kind of liberalism where progress is not vital. And secondly Shklar does not think that it is the aim of liberalism to propose any positive programme on how individuals should live and we only need to care about lack of interference, thus she shares the commitment to *neutrality and the toleration* implied by the Anglo-American philosophical liberals. And finally Shklar and Freedman are also in agreement about the adjacent concepts of liberalism, at least when it comes to *democracy*, since Shklar (1989: 37) notes that liberalism's tendency towards democracy is only contingent since it is currently the best way to achieve its aims, thus there is a connection between the two, but it is not a fundamental one.

1.2.3 Raymond Geuss's Interpretation of Liberalism

When we turn to a third author, Raymond Geuss, who has taken up the question of what liberalism is and what its foundational elements are, we will once again see a fairly large degree of overlap with the other authors. Before I get to his analysis

there are few preliminary points worth mentioning. First, Geuss (2001: 3) takes a critical approach to liberalism, in the sense that he wants to suggest that the modern liberal tradition (and other central ideas to current political thinking: the state, capitalist economy, democracy and human rights) are confused and possibly incoherent. It is the main thesis of his book that it is an illusion to think that those five elements themselves form a coherent set or a framework for political thinking. But regardless of Geuss' criticisms of liberalism and its basic elements, I feel that he can be useful to my inquiry. As he himself notes (Geuss 2001: 52), if anarchism is understood as the rejection of the state, then studying what exactly it is that the anarchists are rejecting can tell us something useful about the concept of the state. Which means that even if Geuss thinks that liberalism is confused, or "at best only very dubiously coherent", then looking at what he says about liberalism can still be useful to us in trying to understand what it is.

Second, Geuss (2001: 6–7) applies a Nietzschean historical genealogy methodology to his analysis, meaning that he does not think, when it comes to liberalism, that we can give one universal and timeless definition of it; at best what we can get is a "historically accumulated constellation". Thus any attempt to define liberalism or a similar concept and its foundational elements will end up being tied to a specific time and place and influenced by the rich history of that concept. He (Geuss 2011: 2–3) illustrates this by using the concept of democracy: with our modern understanding, if something is democratic then it is implied that thing is good, whereas in the 18th century being democratic had negative connotations. While this historical genealogy is not exactly the methodology I want to adopt, I do not think that this approach conflicts with my aims, since as I already mentioned, what I am truly interested in is the nature and the foundation of contemporary liberalism; the liberalism of here and now. Thus if Geuss was correct about it not being possible to find universal and timeless definitions, this would not interfere with my aim.

Given Geuss' methodological approach (and the subject of inquiry) it should not come as a surprise that he (Geuss 2001: 69–70) concurs with Freedman and Shklar that liberalism is conceptually elusive. But his explanation of this elusiveness is somewhat different: while Freedman relied mainly on the fact that liberalism has a long history and Shklar quoted the overuse of the concept, Geuss adds another reason: liberalism is a currently politically active doctrine. This means proponents of liberalism have an interest in gaining support for themselves, which leads them to re-write the history of liberalism to their convenience, and also given that the historically set nature of liberalism it is open ended, in principle liberalism can come

to mean whatever people in the future are able to persuade people to think it means.

Getting to the meat of the matter Geuss (2001: 73) proposes that over time four main elements of liberalism have emerged. First, a commitment to a *principle of toleration* in the sense of a lack of oppression of dissenters; second a particularly liberal conception of *freedom* as voluntary relationships as the basis for social order; third *individualism and autonomy* in the sense of individuals being the final objects of value and their being able to do the things they consider valuable; and finally *suspicion of absolute power or preference for limited government*. But Geuss's agreement with Freedman and Shklar is not merely superficial in that they mention the same elements; it goes deeper than that.

For example when elaborating on the idea of toleration, Geuss (2001: 73–74) says that it started out as a strictly negative policy concerning religion: there should be no persecution for religious reasons and people ought to be religiously tolerant, and he cites many of the same reasons that Shklar for example refers to, including scepticism³ and reasons to do with religious belief. Geuss (2001: 80) is also in line with Shklar in the development of this idea, that in by the end of the 18th and the beginning of the 19th century toleration had grown into a positive doctrine extending to spheres other than just religion.

In the context of toleration Geuss (2001: 80) talks in length about Humboldt and his theory of *Selbsttätigkeit*, that is, "the self-initiated and self-guided development and deployment on human powers and capacities." He (Geuss 2011: 84) notes that due to this theory Humboldt is fairly different from many of the later liberals since he subscribes to a specific theory of the good (which is used to justify broadening the limits of toleration). But Humboldt is not alone in this kind of approach. Mill, for example, drew upon Humboldt's work and also had a similar idea in his liberalism. So we can already see here a theme that will become relevant later in the thesis and to at Freedman also hinted. The tension between two types of liberalisms: one which finds that theories of the good should not be part of politics and should not

³ On the topic of sceptical arguments for religious toleration Geuss (2001: 76) thinks that because religion is dealing with something very important then the standards of proportionality should be different, meaning the sceptical argument for religious toleration only becomes convincing for somebody who already places little importance on matters of religion. But this reply only works if you assume that religion trumps all other issues. Because enforcing one single religion can only happen at the expense of people's freedom to choose their own religion, and if we think that such freedom is equally important to the salvation of one's soul then it is no longer clear which we should opt for. In fact the importance of religious matters makes the sceptical argument for toleration stronger. Since if the issue at hand is very important then presumably getting it right is as important as not getting it wrong. So if we accept the sceptic's position about not being able to know religious matters for sure then even with the importance of the religious matters taken into account we would still have good reasons to be for toleration.

inform the justification for political decisions and the other which takes the opposite position.

The second element of liberalism that Geuss talks about is freedom and as I already noted there is much agreement over that particular idea being a basic element of liberalism. However, Geuss' discussion of this idea does not contribute significantly, but there are two points worth mentioning: first Geuss (2001: 85) emphasizes that of all the four basic elements of liberalism freedom are the least distinctive of liberalism in the sense that other political doctrines have seen it as a prime political virtue as well. So what is important here, and this is the second point, is the particular content liberals give to this idea. To illustrate this Geuss (2001: 87–88) once again turns to Humboldt and his understating of the basics of political thinking. According to Humboldt one needs to distinguish between the question "who rules?" from the question "how far does the power of the rulers extend?" and also one needs to decide to which question one wants to assign priority. Traditionally priority has been given to the first question with the idea that if we make sure that the right kind of agents rule then it does not really matter what they can rule over. The liberal response is to give priority to the second question; if the power of the state is limited in the appropriate way then it will matter much less who is in charge (Geuss 2001: 92).

At this point Geuss (2001: 93) suggests that thinking of freedom as the basic virtue of political associations is not actually all that common and in fact many well-known liberal theorists have proposed different ideas. Most notably, Rawls, who puts more emphasis on justice than on freedom, and Shklar, who is concerned with the avoidance of cruelty. But I do not think that this is a fair representation. Clearly I have to agree that Rawls says that justice is the first virtue of social institutions. But this does not mean that he did not think freedom to be of utmost importance, since he thought justice to consist of, first and foremost, a set of liberties which are all meant to carve out the right of the private individual to act on their own, free from state intervention.⁴ And similarly, Shklar, as I noted earlier, thinks that liberalism ought to be about the absence of fear of cruelty. But given that cruelty is understood as the powerful using violence to get the weak to do their bidding and Shklar thought the state to be the most powerful agent of them all, then the absence of cruelty implies that individuals are free from arbitrary and unjustified

⁴ The main normative work in the case of Rawls is of course done by the conception of persons as free and equal. What I mean is that it is that conception of persons which causes Rawls to think that persons as moral agents are entitled to those freedoms. The importance of justice is to guarantee the best distribution of those freedoms.

government intervention, meaning she also subscribes to the liberal conception of freedom as presented by Geuss.

Moving on we see further agreement about the basic elements of liberalism between Geuss and Freedman, who both find individualism to be one of those elements. And just as Freedman described the Millian idea of individualism as the individual being the ultimate aim of politics and the importance he assigned to the individual and their development, Geuss (2001: 98) gives us pretty much the same picture. So according to Geuss the liberal conception of individualism means, first, that individuals are the bearers of political relevance. The second part of the liberal conception of individualism is that individuals are the only and final judges of value. The former implies that groups or societies can be politically relevant only insofar as the individuals in them are, or when individuals come to value certain properties of groups. The latter implies that when it comes to the good of each individual then they should be the arbiter on what counts as good for them. This harks back also to what we learned from Shklar about individuals having to be in the position to choose their own good.

The final element of liberalism according to Geuss (2001: 104) is the suspicion of, and opposition to, absolute power. This again overlaps with the other authors discussed earlier: for Shklar the very existence of such a power creates the possibility for cruelty, the avoidance of which is the basic aim of liberalism, and in the case of Freedman we saw that arguing for a limited government has long been part of the liberal tradition. So once again this is more than mere rhetorical agreement among the authors since the reasons Geuss cites match ones mentioned by Shklar and Freedman.

Most directly, it is present in the second aspect Geuss mentions, which is that individuals feel intimidated by the concentration of power into one state institution when compared to the power single individuals enjoy. This is the very same point Shklar makes: that states are the agents with the most power and single individuals often fear their institutions – especially courts and police. The first and the third aspects Geuss mentions – the moral corruption due to power and the unpredictability of unlimited power – seem to me to run parallel to the ideas of Mill which Freedman referred to: that governmental power needs to be kept in check so that it cannot be abused to distort individual development. The unpredictable nature of absolute power also relates to the idea that the exercise of power should be participatory or at least that those whom over power is exercised should be able

to give their consent to it. It is hard to imagine this being the case when the state wields absolute discretionary powers.

It is interesting to note here that Geuss (2001: 105) deviates from the common narrative presented by liberals, that liberalism was born out of the opposition to absolute authorities, whether they were the church or monarchs. Instead Geuss suggests that if one is being oppressed by a monarch then it is possible to believe that the fault lies with the person and not in the system itself. But only when the first republics started to emerge and people realized that those states can be as oppressive as a monarch, did liberalism and its general suspicion of power really take root.

1.3 A Generalized Definition of Liberalism

I think that the two comprehensive interpretations of liberalism given from a historical-canonical approach (Frieden and Geuss) and one more specific interpretation of liberalism which also is somewhat reliant on the historical-canonical perspective (Shklar) have provided us with sufficient background to draw some initial conclusions. There are multiple points of agreement among those three authors, which is reassuring, given the prevailing notion of liberalism being a vague and all-encompassing thing. The main conclusion to draw from this is that there seems to be the possibility for a generalized conception of liberalism which unites all those points of agreement. I took it as a given that liberalism is a kind of political doctrine, but what we need to know is what its distinctive features are. Based on the discussion so far it seems that there are total of four main features: *importance of liberty, centrality of persons, commitment to ethical pluralism and suspicious attitude towards state power*. I will elaborate on those features in turn.

The first and most obvious point of agreement between the three is the place of liberty in liberalism. But their discussion of it differs slightly: Shklar understands it as allowing making as many decisions about one's life as are compatible with others doing the same (assuming that people are capable of doing that). Geuss suggests a similar picture: what makes the liberal conception of liberty distinct is that they give priority to the question of "how far does the power of the rulers extend?" over the question of "who rules?", implying that what is important for the liberal conception of liberty is carving out a space for the individual to act without interference (usually from the state). Frieden on the other hand does not seem to propose one single understanding of the liberal conception of liberty, although he does introduce liberty as a core concept based on the work of Mill who can be

interpreted as subscribing to a similar conception of liberty which emphasizes the individual and their uninterfered choices.

The second strong point of agreement between the three is on liberalism's attitude towards state or governmental power. This links up well with the priority and the content of liberty in liberalism. All three point out that it is a constitutive part of liberalism to be generally suspicious of power (Geuss), to be highly aware of the possible threats of state power to individuals (Shklar), and to recognize that unlimited and non-responsible state power can seriously inhibit individuals in their activities (Freeden).

The third area of overlap between the three concerns liberalism's attitude towards different ethical outlooks and the role of the state in the ethical lives of their citizens. Geuss and Shklar both find that being tolerant of plurality of ethical outlooks is a fundamental idea of liberalism. In addition liberalism is not directly tied to any specific conception of the good (although Shklar notes that some are more compatible with it than others) and that each individual themselves is in a position to be their own judge of their conception of the good. Both Freeden and Shklar claim that it should not be the business of a liberal state to worry about the conceptions of the good of their citizens and the laws of the state ought to be neutral concerning them. Geuss agrees with them by noting that only the individual can judge what is good for them therefore the state should not meddle in those issues and should allow people to experiment and find their own way.

The fourth main area of overlap concerns the basic unit of political philosophy. Where Shklar talks about the powerful and the weak, she can easily without any loss of meaning be translated to the group/community and individuals terminology which both Freeden and Geuss employ. This means that in all three interpretations liberal politics is seen to be about the individual, the person, and not the community at large, being the ultimate consideration for action. Thus it is the liberty of the individual that we talk about and not some property of a group. Thus it seems to me that we can generalize to a definition of liberalism in the following way: *liberalism is a political doctrine about the individual being free to make their own choices in an environment of ethical pluralism and limited state power.*

The first thing to note is that this definition of liberalism lacks a number of different features that were discussed by Freeden as features of liberalism, and it also lacks features that have been associated with liberalism. I will address the points made

by Freedom in the next chapter (section 2.3.1) since I need to have the foundation of liberalism in place before I can show that those features are not supported by that foundation. When it comes to features that are often associated with liberalism then the first issue which needs to be addressed is the “libertarianism question” which I will tackle in the next section, since it needs more space. What I want to touch upon here is that under this definition of liberalism, equality understood as a guide to social justice or even more specifically, egalitarian sentiments, are not necessary parts of liberalism. This is to say that it is not necessary for one to care about social justice or to be an egalitarian concerning distribution of resources in society if one wants to be a liberal.

So for example let us look at the authors collectively known as classical liberals: David Hume, Adam Smith and more recently Milton Friedman and Friedrich Hayek. According to John Tomasi (2013: 7–8, 12), all of them subscribe to ideas that fall under the generalized definition of liberalism: the aim of the government is to protect the freedom of its citizens by limiting the functions and discretionary power of the government. This freedom is understood much in the same way as described earlier: individuals’ free activity in the pursuit of their goals, but also that it is not the business of the government to make prescriptions concerning religious and ethical matters (Tomasi 2013: 7, 17). Thus all of the four elements are present: classical liberals care deeply about freedom of individuals in an environment of limited state power which aims to be ethically neutral.

But at the same time Tomasi (2013: 13, 26) notes that one of the distinctive features of classical liberalism is the unimportance of social justice understood in the sense of roughly equal distribution of resources. The classical liberal thinks that the distribution emerging from the free market is just and that it is not the business of the state to intervene in those distributions. So while classical liberals are clearly liberals in the sense defined earlier they are not committed to egalitarianism of material resources, illustrating that it is not a necessary feature of the liberal political doctrine.

1.4 The “Libertarianism Question”

In order to avoid as much confusion and misunderstandings as possible I should now briefly address the question of libertarianism. It is hard to deny certain similarities and affinities of liberalism and libertarianism and the fact that the latter is often understood as a specific brand of the former. But as I have already suggested, many people who have presented a comprehensive picture of what

liberalism is tend to think that libertarianism differs from it sufficiently to exclude libertarianism from the family of liberal views.

To get into a bit more detail I will survey Michael Freeden's views. He (Freeden 1998: 276) starts with the same assumption: there are points of agreement (such as the importance of liberty) in both doctrines, but they are still distinct, with libertarianism including some elements of conservatism. The main difference is that libertarianism is a much thinner ideology than liberalism, emphasizing liberty too much at the expense of other concepts, such that the concept of limited governmental power is taken to the extreme, so that the state is reduced to merely being the guarantor of contracts between individuals. Freeden (1998: 279) notes that affinity between the two is explained by the fact that the roots of libertarianism are in liberalism – in fact the first libertarians saw themselves as continuing the true liberal tradition and their contemporary liberals as diverging from the traditional path.

Freeden's (1998: 280–283) account of this development notes that while liberalism relied on the ideas of respect and dignity, libertarians relied more on economical and action-driven ideas to demarcate an area for individual action untouched by state intervention. While the liberals thought in terms of development, libertarians thought in terms of maximization, and given the starting point, it was the maximization of personal gain and productivity that was aimed at. This meant the reinterpretation of the core liberal concept of rationality in purely instrumental terms, and also sociability, was discarded, as social relations between people retained value only insofar as they facilitated individual gain. In other words, common good was now thought only to be gained through the aggregation of individual gain in a free market situation: everybody is better off because individuals are free to make themselves better off in their interactions with one another. The other result of this development was the reinterpretation of liberty as one's economic activity not being interfered with, which, as already mentioned, meant the diminishing of the state to a very minimal role. Freeden (1998: 286, 305) also notes that this different understanding of liberty lead to elevating the concept of property to core status (as compared to liberalism).

A second example of the same line of argument – that libertarianism is similar to liberalism on the surface, but that ultimately the former cannot be counted among the latter – comes from Samuel Freeman (2001, 2012). But this argument takes place on a slightly different level, since Freeman is considering liberal institutions

and not the underlying liberal ideas and shows how the basic principles of libertarianism are at odds with those institutions. According to him (Freeman 2001: 123) the main features of the liberal institutions are: recognition of a set of basic inalienable liberties; lack of legal restrictions for entry into social and political positions based on one's gender, race, religious views and so on; free market as the mechanism of allocating resources and providing a social minimum; provision of public goods; and the public fiduciary nature of political power.

As already stated Freeman (2001: 123) notes the superficial similarities of liberalism and libertarianism: the latter endorses individual liberties and the idea that the individual should be able to choose for themselves how to best live one's life. But since libertarians differ greatly in on how they prioritize those liberties they are at odds with the main features of liberal institutions listed earlier. The fundamental points of disagreement between the two doctrines are (1) the fact that libertarians assign much higher status to property and contract rights and (2) that libertarians treat the essential (for the liberal) individual liberties as a special case of property rights, emerging from each person's fundamental right to self-ownership (Freeman 2001: 127, see also Tomasi and Brennan 2012: 116).

The implications of this difference are as follows. First, the basic liberties are no longer considered to be inalienable. Since they are a kind of property they can be traded just like any other piece of property meaning that the libertarian state would uphold and enforce private contracts for selling oneself to slavery, which contradicts the first feature of liberal institutions (Freeman 2001: 131–132). Second, due to the high priority of property rights, (Freeman 2001: 136) there is nothing in libertarianism which would stand against discrimination on principle. Third, while liberals endorse a free market for distribution of resources, libertarians endorse a completely unregulated market, which can easily lead to monopolies and thus to highly unequal distributions (Freeman 2001: 136–137). Fourth, given that the libertarian state is seen only as the guarantor and enforcer of private contracts there is no requirement for the state to provide any social minimum or public good that is not provided for by the market (Freeman 2001: 138). And fifth, and most importantly, the libertarian notion of political power is private and personal as opposed to public and institutionalized, and also lacking any fiduciary element since it is only motivated by private gain. Freeman (2001: 148–149) goes even so far as to claim that the libertarian notion of public power resembles feudalism and as liberalism evolved partly as a rejection of feudalism, it cannot be that libertarianism is part of the liberal family.

Now that we have finished the initial task of getting a sense of what liberalism is – political doctrine about the individual being free to make their own choices in an environment of ethical pluralism and limited state power – we can move to the main question about the foundation of liberalism thus conceived in the next chapter.

2. LIBERALISM IS PERSONS BEING FREE AND EQUAL

2.1 What is the Foundation of Liberalism?

I ended the last chapter with a proposal for a generalized definition of liberalism. So now that we have a good grasp of what liberalism is we can move on to asking what its foundation is, and what the premises are that underlie that generalized definition of liberalism. That will be the aim of this chapter.

I propose that we start with a description of a perfectly non-liberal state by applying the generalized definition of liberalism and then trying to see what we think is wrong with such a state, which will point us toward why we think liberalism should have the features put forward in the generalized definition. A perfectly non-liberal state would then be a negation of all of the features, but this can be realized in two ways. First we could have a state, let us call it Unequaland, where there would be one dominant doctrine of the good upon which there is wide agreement. Because of this agreement, that doctrine would enjoy a privileged position both in the law and in the society general; the agreement would be deeply entrenched into Unequaland, meaning that this doctrine would also serve as a basis or at least a guide for legislation. Also the state would employ its power to restrict the actions of its citizens where needed, to achieve aims that are important for the collective as a whole. Last but not least, the state would enjoy large discretionary powers, giving it unfettered power to ensure that it is able to execute the vision stemming from this doctrine. The other kind of perfectly non-liberal state, let us call that Illiberia, would be one in which the same kind of institutions are in place, that is, the state still has large discretionary powers and collective aims would still drive the restriction of individual activities, but there would be no one single dominant doctrine. This means that there would be a factual pluralism of different doctrines, but that the representatives of each have aspirations to bring about the same situation as in the first kind of state, but have not yet been able to establish their supremacy.

Unequaland might not, on the surface, seem all that problematic. We might be worried about restrictions of liberty and privileging collectives over individuals, but given that there seems to be an agreement about the good, it should not be difficult to legislate based on this idea of the good. In other words, if everybody follows only one doctrine then justifying political authority and setting the political agenda with reference to that should satisfy everybody. But what is important here is to think about how this agreement was reached and is maintained: by

entrenching this agreement into the law other doctrines (and thus people's call for different kind of reasons) are being forced out, but this would not be a level playing field. Agreement is created only by eliminating the conditions for disagreement. In other words, the state's ability to justify its legitimacy and activities more specifically is no greater achievement than that of somebody who, in order to satisfy all his needs and desires, gives up all his needs and desires or, more ridiculously, of somebody who, in order to treat the wound on his foot, cuts off their leg. While both actions technically help to achieve the desired end, they also completely miss the point of the aim.

This suggests that what is wrong with a perfectly non-liberal state is that there are no conditions for disagreement about the conception of the good which is then in turn used to legitimize all other state actions. While it is entirely possible (although highly unlikely) that in a contemporary liberal state the population comes to an agreement about their conception of the good and thus that a particular doctrine becomes to enjoy a privileged position in the society, then the hallmark of a liberal state still is that it maintains the conditions for disagreement even if there is wide agreement on the good. This implies that one element of the foundation of liberalism has to do with being open to principled ethical pluralism; that despite what all other people think, each individual still has to retain some position to decide their own good.

The reason Illiberia would be problematic is for the same reason that Unequaland is problematic, since its aim is to create a kind of Unequaland. In Illiberia we have various different doctrines — A, B, and C — each incompatible with the others and each proposing its own way of organizing human life, including political institutions. Each doctrine contains some value — X, Y, and Z respectively — which is central to that doctrine and which the followers of that doctrine have to endorse. Each of those values either implies, demands or can be used to justify a law or some other prescription or guideline — K, L, or M, — for human activities. Given that the doctrines are incompatible with each other, it is very likely that the values X, Y, and Z and the laws and prescriptions K, L, and M, are also incompatible with each other. Of course we need not think that every doctrine is incompatible with every other doctrine found in Illiberia, but that there may be at least one pair of such incompatible doctrines, values and prescriptions, with both parties having a significant chance of establishing their supremacy.

The important part of this description is that even though we can note empirical pluralism, there is no principled pluralism, thus once again there are no conditions for disagreement. In other words the disagreement we find between the different doctrines is something everybody laments, since each thinks that their doctrine is the correct one and all others are mistaken. But given everybody thinks that they have the correct doctrine, they will also think that others ought to accept their doctrine, or at least not deny it. In other words, if you think you have found the correct answer to the question of how to organize human life then minimally you will think that others ought not deny that answer, but it is more likely that you go further and also believe that they ought to accept your answer, since after all, it is the correct one. But if accepting doctrine A, B, or C implies one ought to endorse value X, Y, or Z respectively and each of those values implies or justifies a guide for action K, L, or M, then the representatives of A, B, and C all think that everybody else has reason to accept the guide for action K, L, or M even if they reject the value and the doctrine behind it. In other words everybody thinks that the restriction K, L, or M legitimately applies to everybody despite of what people actually believe in.⁵

So once again the initial response might be to question why this is bad. Certainly different groups all attempt, or wish they could, coerce others, but are at least willing to provide reasons for their actions; nobody tries to coerce people with no reason whatsoever, as they need to be able to conceptualize at least for themselves what it is they are doing and why is it they are doing it. So if a group of people in Illiberia aim to establish a theocracy based on their particular religion then they will have reasons for it: they are doing this because their god told them to do it. But the problem with such an attitude is that it does not consider what kind of beliefs other people might hold. That is, the justification provided does not really address the people since it does not take seriously what they believe about the matter. If we take seriously the commitment to conditions of disagreement then one ought to take seriously what others believe, not to do that would be to ignore the conditions of disagreement. Thus the other element of the foundational idea of liberalism has to do with justifying coercion, and the freedom of each individual is taken seriously, so that only a justification with certain conditions can be taken to be legitimate.

The combination of these elements suggests that what is at the foundation of liberalism is a certain conception of persons. In contemporary literature there is a

⁵ A problem that both states share is that the lives of people living in them are quite unpredictable. If the state wields large discretionary powers then each person can never be really sure what kind of rules will apply to them or what kind of consequences their actions will have.

widely used label, which I think expresses exactly that kind of understanding of persons: free and equal. After hearing this particular phrase the reader might immediately think of Rawls, but while the phrase is the same, the content of both free and equal will be spelled out somewhat differently (although I think that Rawls ultimately subscribes to this conception of the person). So I think that the core idea of liberalism is the recognition and adoption of a certain political conception of persons as free and equal, according to which, each is free in the sense that there is no normative authority over other persons in politics except the one which is properly justified, and each is equal in the sense that there is no normative authority over persons in ethics which implies we should be committed to being open to pluralism, since there is no normative position from which to adjudicate between different outlooks. Both of those elements call for some more specific explanation and this is what I will get to in the next section.

2.2 What It Means for a Person to Be Free and Equal

This section is dedicated to explaining the fundamental idea of liberalism. The next section will show how it serves as the premise from which the distinctive liberal features are derived, and will review some contemporary liberal literature to demonstrate the wide presence of this idea. Chapters 3 and 4 provide arguments for accepting this idea.

2.2.1 Persons Being Free

The first element of the fundamental liberal idea is that persons are free, which should be understood as meaning nobody is in a position of normative authority in politics, so that authority can be exercised over persons only when that is accompanied by proper justification.⁶ Such a justification ought to be such that it is not merely offered *at* the persons but *to* them, meaning that it has to meet certain criteria, such as: it is reasonable to expect them to accept it or it cannot be reasonably rejected. This is what I will call the *justification thesis*. It echoes the Kantian idea of never treating humanity merely as a means, because not offering a proper justification would imply that the person is being treated merely as a means to some other end and not as an end in themselves. Of course the qualification of the specific criteria need to be fully fleshed out, and whilst doing that we must be careful to limit ourselves to formal criteria as much as possible, and not to tip into substantial conditions so that we end up with a set of criteria that are biased

⁶ Since I am interested in liberalism and have defined liberalism as a political doctrine, I am confining myself here with the political sphere. I remain silent on the issue of what relevance persons being free has for interactions outside the state and politics.

towards certain conceptions of the good. I will get back to this discussion in subsection 2.2.3. Given that most forms of state institutions claim some authority over their citizens, the justification thesis implies certain kinds of state institutions: ones that can meet this demand for justification, meaning that they would need to have built into them some form of accountability for the people and means for addressing the people.

At this point it would be quite reasonable to ask why, if I start with the premise that persons are naturally free and not under the authority of others, should we conclude that there can be any legitimate coercion, and if it is the kind of coercion which meets certain conditions. Instead, why not propose something more akin to what anarchists and some libertarians conclude: that there can never be any legitimate coercion?

One possible answer to this is that if I were to draw that conclusion, then I would not be a liberal but an anarchist or a libertarian. What makes liberalism distinctive as a political doctrine is that it accepts the possibility of legitimate coercion by the state. But this kind of a reply could perhaps *explain* why I draw such a conclusion, but it would certainly not be sufficient to *justify* it.

The next thing that could be said in defence of that conclusion relies on pragmatic considerations. That is, the modern state is not only necessary for us to live the kind of life we have become used to but also to live the life that is, according to various objective measurements, the best kind of life (i.e. only in the modern state can we provide so many people with health care and education and so on). The existence and proper functioning of the modern state requires some level of coercion, in other words it would be unacceptable for us to live without the state and thus without coercion.⁷ Alternative version of this argument would say that because there is a certain conception of a person which implies that persons are entitled to a certain kind of environment and that the only way to guarantee this environment for all is by coercion. The conclusion to draw from both of these is that if coercion is necessary but we have our premise about persons being free, the only reasonable response is to try to mitigate the harm of coercion by supplementing it with a justification that we think people are able to accept.

⁷ This is of course an empirical claim and is it is not immediately obvious that this is true, but I think that there should be at least some appeal to the idea that we could not maintain let alone build up the current arrangement which provides so many people with so many benefits.

But this line of reasoning does not necessarily work, since we could accept the pragmatic consideration for the need of for the modern state, but still not believe that coercion supplemented with justification is acceptable, because we could, just like A. John Simmons (1981), conclude that the state is a necessary evil: while there is currently no justification that would make the modern state morally legitimate, we nevertheless need the state, but neither of these two facts negate the other, just as we can find video games that perpetuate questionable racial or gender stereotypes still entertaining as video games: the fact that we enjoy the game does not make the perpetuation of stereotypes okay, nor does the perpetuation of stereotypes mean necessarily that the game cannot be entertaining. The fact that we find the state to be pragmatically very useful or even necessary does not automatically mean that we have to accept it as a morally legitimate form of coercion. And if we reject the possibility of legitimate coercion we are not automatically committed to denying the pragmatic usefulness of the modern state.

But perhaps we should first look into why we think coercion is something to be worried about. If we know what the harm in coercion is, that could shed some light on how to remove that harm. Once the harm of coercion is removed then it becomes harmless and thus there should be no conflict between it and the premise that persons are free. For that purpose it would be helpful to briefly analyse the conception of coercion.

At first glance we might understand coercion as being forced to do or refrain from doing something one would/would not otherwise do. But this cannot include all kinds of forcing since a person can be forced into doing something by their own habits, addictions and so on. We would not really want to claim that the person is coercing themselves into something. So this forcing would have to have an external source.⁸ But this could not be all kinds of external sources since a person can be forced into doing something by the surrounding circumstances that are out of the control of anybody (such as the weather) or a person can be accidentally forced into doing something by the actions of another agent. Thus in order for something to count as coercion it would have to involve doing something or refrain from doing something because of forcing which is both external to the agent and also intentional. Definition of coercion from *The Stanford Encyclopaedia of Philosophy*

⁸ It certainly could be argued that a person's addiction is separate from the person such that an addict is forced to do something by an external force. But this would still not get us to the point of persons coercing themselves as I will argue shortly merely being of external source is not sufficient, we also need some intentionality and an addiction is not an agent. I would like to thank Rachel Davies for bringing this to my attention.

seems to agree: “[the concept of coercion] picks out a technique agents (coercers) can use to get other agents to do or not do something” (Anderson 2014).

Based on that, we could say that the harm of coercion lies in the fact that it causes involuntary action, or at least tries to bring about involuntary action, since it is possible that somebody resists coercion. Again, Anderson (2014) concurs: “[c]oercion is typically thought to carry with it several important implications, including that it diminishes the targeted agent’s freedom and responsibility, and that it is a (*pro tanto*) wrong and/or violation of right.” And here I think the qualification of “would not do otherwise” makes an important difference: if I decide on my own, based on my own reasons, to do something and independently of some other agent who is ready to force me into that very same action, then they have not replaced my agency with theirs, so they have not committed a wrong in that sense. Although we cannot say that they are blameless since they intended to coerce us, even though they failed. Then what of cases where person resists coercion? The intention was there and even the coercive action was there, but no involuntary action or replacement of agency has occurred, but this is clearly different from somebody trying to coerce me into something I was already planning to do. If it was a real act of coercion and the person being coerced did not comply, then one would expect there to be sanctions, which are usually some form of infringement on the agent, but since the source of those infringements is the coercion which we assume is a *pro tanto* wrong then it must be that those infringements are also wrong.

But if coercion is supplemented with a justification which meets certain criteria, for example it is reasonable to expect the person to accept the justification for this coercion, then we could say that the harm of coercion is removed. This is because if the person accepts the justification then we can take them to agree to those actions which would mean that they would no longer be forced to do something they would otherwise not do and thus there would be no involuntary element involved. Or if the justification provided is sufficient but the agent resists the coercion then any sanctions would not be wrongs since their source, the coercion, is assumed to not be wrong in this case. Clearly if I authorize the state to provide public goods and levy a tax to collect funds to do it but only end up paying my own taxes because of some threat or actual coercion, I am still being coerced, but this is a different case to where the state just imposes some tax on me which I have no reason to authorize. By such authorization of coercion, people become both the subjects and authors of law, which should not be problematic, unlike a situation where people

are only the subjects of law. This is because, as I said earlier, we would not say that a person can coerce themselves.

So if we accept this description of what makes coercion harmful and how it can be rendered harmless we might question whether the same applies to other similar ways in which people's actions are intentionally and externally influenced. In other words, can manipulation be made consistent with persons being free? I think not, since there is a crucial difference between coercion and manipulation: the former is explicit while the latter is implicit, in the sense that the success of manipulation is dependent on the person being manipulated not realizing that they are manipulated, whereas coercion usually is successful only when the person being coerced knows that they are forced to do something but if they do not comply, then some force will be used on them to enforce those actions. Thus manipulation could never be consistent with persons being free because manipulation requires the person being manipulated to stay unaware of it (at least until the manipulation is over) and thus they could not be accept any justification for it since accepting a justification assumes being aware of it.

This kind of understanding of coercion I think is sufficient to show that from the premise that persons are free, we need not necessarily conclude that there can be no morally legitimate coercion. Thus arriving at the justification thesis (that the only morally legitimate coercion in politics is the kind which is supplemented with the right kind of justification) is a valid option, especially if we want to reconcile our moral views with the pragmatic necessities. There is a tendency of different authors to frame this in terms of a *presumption in favour of liberty* or *presumption against coercion* (for example Rawls 2001: 44, 112; Williams 2001: 26; Ripstein 2007: 199; Gaus 2011: 341, Raz 1988: 8).

Often this talk of presumptions is modelled after presumptions in law. For example it is said that the burden of proof lies on those who propose coercion. But this kind of analogy has been criticized as confused and having the potential for abuse (Husak 1983). The first main point of Husak (1983: 351) is that while what is more important in legal proceedings is adjudicating on the issue and resolving conflict (i.e. it is mostly about actions), in moral and political philosophy we are more interested in the truth (i.e. it is mostly about belief). Since the court cannot simply suspend their judgment, every case requires a resolution and for practical reasons this resolution has to have a certain level of finality, but in moral and political philosophy suspending judgment until further arguments or evidence are provided

is a quite reasonable thing to do. Given this stark contrast between the two, drawing inspiration about presumptions from the practice of law is not a good idea for the moral and political philosopher.

It is hard to deny this contrast between the two disciplines, but at the same time, even Husak (1983: footnote 9) seems to agree that there are many cases in political philosophy when there are actions that need to be taken. People have to decide which laws and policies to implement or repeal and one would hope that those issues are not considered on pragmatic and everyday political reasons alone, but that philosophical moral reasoning also plays a role. So when we accept that the presumption of liberty plays a relevant role in taking actions rather than forming belief, then the problem of disanalogy between law and political philosophy becomes less relevant.

When we get to the detail of Husak's argument we will see that his second point is that in law there are two kinds of presumptions. The first of these are procedural and are concerned with who has the duty to present evidence concerning certain propositions. But when we look at proposed cases of coercion in political philosophy Husak (1983: 353) maintains that the mere presentation of evidence or arguments is not an issue: any claim of coercion is always accompanied by at least some reasons, even if those reasons are bad. Thus what we need is not a procedural but a substantive presumption.

One way to understand this is to assume that the case for liberty (in some general form) is taken for granted, and thus whenever coercion is proposed it is assumed that there already is some kind of argument in favour of liberty presented, and whoever is proposing coercion has to reply to that argument. But Husak (1983: 358) thinks that this way of seeing the presumption in favour of liberty is unhelpful since the general case in favour of liberty cannot resolve the issue every time, and we also need specifics that relate to each particular case. This means that this silent argument in favour of liberty does not do anything other than prolong the argument. Also, allowing people to appeal to this presumption may lead to double-counting when arguing against coercion: once for the presumption and then once again for the argument which also happens to underlie the presumption.

If we try to get back to a procedural approach, thinking of the presumption in favour of liberty in terms of: "when the arguments for both sides have equal merit then we ought to decide in favour of liberty", then there will be a possibility of

abuse. As Husak (1983: 360) puts it there is a “danger of [presumptions in favour of liberty] functioning as poor substitutes for argumentation.”

But once again I think that people who talk of presumption in favour of liberty can concede the point, since nothing especially substantive hangs on maintaining the analogy with law. What we want to express with this talk of presumptions is that there is a strong but only *pro tanto* case for liberty. Meaning that in every situation the default position should be to prefer liberty over restriction of liberty or coercion, but that in each situation there could be reasons and arguments that overcome this case for liberty.

In practical terms I think that the justification thesis would first and foremost apply to political institutions rather than to each individual law. So we would rely on the requirement of suitable justification to set up certain kind of political structures and then would not require such a high standard of justification from each and every law. This is because the justification thesis applies to legitimate state coercion and not every single law coerces or coerces to the same degree. Such an approach would also mean that each citizen would not have to agree with each particular law for that law to count as legitimate. If the law was enacted by using legitimate procedures and the procedures themselves are justified to the citizen then that could be sufficient to make the particular law justified, even though the citizen might not agree to the content of it.

I have explained the idea of persons being free (and I will explain the idea of persons being equal) in terms of normative authority, and while I did spend some time explaining what I take coercion to be, I have not yet fleshed out what I take normative authority to be. In the sense of the general idea of normative authority rather than how it manifests concretely in the case of persons being free and equal. First of all it should be pointed out that my account is loosely based on Raz’s account of authority (which can be found in Raz 1988), but only loosely, meaning that I do not necessarily endorse all the details and arguments of his account.

The first step in explaining my account of normative authority is to distinguish it from epistemic authority, what Raz (1988: 52) calls expertise. An epistemic authority or an expert is someone whose utterances, their commands, so to speak, give us reason to believe some proposition and the assumption here is that they know better or that they know the subject well enough that we should rely on their judgment. But that is as far as it goes, the epistemic authority cannot give us

reasons for actions directly, only indirectly as they give us reason to believe something which in turn gives us reason to act in a certain way. As contrast to that a normative authority is someone whose utterances, their commands, give us direct reason for action. But that is still fairly broad and in need of specificity.

Having noted that normative authority is about reasons for action then it seems that it has to be somehow connected to power, in the sense that whoever or whatever is a normative authority must have some power to command others or make others act in some way. But just as Raz (1988: 24) points out, this cannot be all that is to it, since mere power is not enough for being an authority. What makes authority different is that there is a special feature present, namely that there is a kind of duty to obey, or at least an expectation of a duty to obey. It is important to notice that this special feature is distinct from the question whether or not the authority in question is legitimate, even in the case of illegitimate authorities, if they are to count as normative authorities at all, there must be at least some kind of a duty or an expectation of a duty to obey their commands.

But mere power to command and duty to obey is not enough, and here comes in the element that could be said to be at the core of Raz's account and which also plays an important role in how I understand normative authority and that is the so-called pre-emptive thesis. What I mean by this is that given that authority gives reasons for action for its subjects (in form of commands) then the question is what is the status or role of those reasons in the overall set of reasons and considerations the subject has. I agree with Raz that the reasons that spring from the command of the authority have to be taken to pre-empt any other reasons for action the agent has that are relevant to the situation at hand and not just as one consideration among many. As an example when I work at an office and my boss tells me to go and make some copies in the third floor copy room then given that my boss is a normative authority for me in the context of the office (during work hours) then that command not only gives me a reason to go to the third floor copy room but also pre-empts any other reasons I might have had to do or not to do that action. Rather than becoming one additional consideration in the pro column (along the fact that I like chatting to the copy room clerk) which I would then weigh against the con column (which includes the fact that the lift is broken and I do not like climbing stairs).

One important difference between my understanding and Raz's understanding of authority is that I do not accept his normal justification of authorities which states

that “the normal way to establish that a person has authority over another person involves showing that the alleged subject is likely better to comply with reasons which apply to him (other than the alleged authoritative directives) if he accepts the directives of the alleged authority as authoritatively binding and tries to follow them, rather than by trying to follow the reasons which apply to him directly” (Raz 1988: 53). So the question becomes how can an authority ever be legitimate? Well, in terms of persons being free the legitimacy of normative authority over them is given by the justification thesis, the difference of that from the Razian normal justification thesis is that it is not externalist. The legitimacy criteria for Raz is given by reasons that apply to the person, i.e. something that is external to the person, whereas with my proposed justification thesis the legitimacy is given by the justification meeting a certain criteria of “being suitable” and although I do not have a rich and full account of what counts as “being suitable” then in section 2.2.3 I will indicate that the measure of suitability is determined from within the person and thus my justification thesis is internalist.

2.2.2 Persons Being Equal

The second element of the core idea of liberalism is that persons are equal. This idea has had very different meanings in the liberal tradition: it has been taken to mean that all people have equal worth or that they are all entitled to equal treatment (under the law). But under my interpretation persons being equal means that in ethical deliberation, that is, when we try to determine what does it mean to live a good life and when we try to come up with our life-plan, then again nobody has normative authority over others. Certainly the empirical conditions of different people will differ: some people will have more time to think about their life-plan, others will be better equipped intellectually. But these differences are merely a contingent matter; it is not logically impossible for all people to be in the same position empirically. But more importantly, despite empirical differences in their capabilities to reason regarding these issues, nobody can claim that everybody should take one or other position just because they happen to hold that position, meaning that as long as people remain good willed and sincere and think about their views on ethics diligently then we cannot not fault them for holding one position rather than another, because we are all final judges for ourselves, unlike in questions of fact where there is just one correct position, and continuing to think that the Sun orbits the Earth when one is presented with conclusive evidence to the contrary constitutes a serious intellectual mistake. Of course there are qualifications that have to be made concerning the ethical positions people could take, but I will get to them later.

This understanding of equality of persons means two things at the same time. First, there is the normative claim that persons have the equal authority to make ethical claims. As a comparison, when we are debating the question "What was the best (English language) movie released in 2014?", at the outset nobody is disqualified in making a judgment on this issue; everybody has the authority to give their opinion and has the right to expect it to be taken seriously (or at least *prima facie*, some disqualifying considerations might emerge, such that they are biased towards some filmmaker or they are consistently relying on irrelevant considerations etc.). But if the question becomes "Which movie should receive the Academy Award for Best Picture in 2015?" then only the voting members of the Academy of Motion Picture Arts and Sciences have the authority to make that judgment, in that case only they are in the position to make that judgment. Thus people are not equal in that regard.

Second there is the empirical claim that somebody is actually able to make the judgment at hand with certain level of competency: i.e. their reasoning is valid, they make an effort to gather all the relevant considerations, they take into account the relevant considerations and exclude the non-relevant ones and so on. So I might be an avid film lover and have watched and carefully analysed every movie released in 2014 (a task which is difficult if not impossible) and thus be in a much better position to judge which movie deserves the Oscar for Best Picture than some member of the Academy who perhaps casts their vote based on what they read of speculations about who is going to win. Often being in a position to make judgments in this empirical sense has no bearing on whether a person is also in a position in the normative sense, and *vice versa*. The mere fact that I have done all the research and can competently decide the best movie of 2014 does not give me access to the Academy to cast my vote. At the same time citizens of most states are in the normative position to cast their vote in various kinds of elections independent of whether or not they are also in that position empirically.

So we should be careful not to mix up those two separate issues – normative authority and epistemic authority – at play here. There are multiple situations where people are not equal in either sense, for example in medical situations there are people who could say that something is right because they say so, or when I offer my opinion on the matter it could easily be just dismissed because it is me who offered it, this is because those people happen to have certain epistemic authority or expertise in the field of medicine that me and most other people lack.

Such epistemic authority does not necessarily mean that doctors have normative authority over others: I am obliged to follow my doctor's orders only insofar as I wish to recover from my illness, my doctor cannot make me follow their instructions. But sometimes epistemic authority can translate into normative authority: if I find myself in the midst of some emergency and there is a medical doctor present then I have good reasons to submit myself to their authority because they know what do to better than me.

So it would seem that these two claims are rather closely connected. Making the claim about persons being in a normative position to make ethical judgments assumes them being in an empirical position, or at least assumes that most of the time most of the people are. Because if most people most of the time were quite unable to make competent judgments about moral matters then no reasonable person would insist that people should in a normative position to make those judgments. But if we think that most people are most of the time able to make these judgments, then this gives us reason to think that they also ought to be in a normative position to make those judgments.

However, in the context that interest me here, ethical considerations, normative authority must trump epistemic authority. For if the all-in sceptic is correct then nobody can have any epistemic authority and if normative authority depended on epistemic authority then there would be no reason not to assign one person normative authority over all others, since they would all be equally placed. But the normative authority cannot extend beyond each person themselves. The idea behind this is that each person has their own life to live and they are the person who lives it making them the best person to decide how to best live it. Thus it makes sense to think that persons are entitled to make their own decisions about which ideas to rely on when guiding their life. In other words, persons being equal means that each person is the judge of value for themselves. So being equal in this sense means you do not have the normative authority to decide for other people what the good life should be for them. Even if there is a correct answer to be had, people have the right to be mistaken about this.

In other words there is no privileged ethical position from which to adjudicate between all of the different positions since for each person their position is the best, but that is only when viewed from inside their position. Unlike in the field of medicine, where we feel that people should go through special training so they could be certified to practise medicine, in ethics we do not think that such

certification preceded by some special training is necessary. Everybody is already certified by the very fact of being a person. Which is not to say that everybody are equally good at the actual practise, just like in the case of medical doctors some people could be better at the actual practise than others, but all are equally positioned normatively and considered sufficiently apt empirically.

Before I can get into further discussion a few words have to be said regarding what I really mean when I talk about conceptions of the good or life-plans. First of all, as I will elaborate shortly, we should not think of them as people's *own* conceptions or life-plans, at least not in the sense that people's emotions are their own emotions. When it comes to the content and the scope of conceptions of the good and life-plans then they certainly could have some relevance for political morality and personal morality, but the main focus would have to be on ethics. Let me explain in more detail. If Alf was the only morally relevant being in the world then his actions would matter morally only insofar as they affect him. Meaning that in the moral realm he would only have to ask himself whether he was living a good life. Such inquiry would mean he is only engaged with questions of ethics (cf. Forst 2011: 64; Williams 1985: 6; Dworkin 1990: 9). Now, if another morally relevant being, Betty, were to come into this world, then a new set of moral questions would come on to the agenda: how ought Alf and Betty interact and treat each other? Such inquiry means they are engaged with questions of personal morality. But if Alf and Betty join with Charles and Diana into a political association where they take up collective action, especially when it is done by one person in a special position and/or in the name of others or in the name of all, a whole new host of issues would be on the table: namely political morality (cf. Dworkin 2011: 327–328),⁹ meaning that certain political ideologies, such as socialism, might serve as starting points for examples of conceptions of the good, but only if those ideas would guide the person's actions primarily in their private life and only derivatively in their political beliefs and actions. On the other hand somebody who is an environmentalist might see their environmentalism as a conception of the good which directs their actions in all three spheres: policies which conserve and protect nature, as well as making sure that their own individual actions would be considerate of nature.

In most cases, it will make more sense in practical terms to talk about particular value judgments and individual values that people hold, rather than complete

⁹ I am abstaining here from making any claims about the relationship between the three different spheres of moral thought: the fact that I introduced them in a certain order is not to be taken as indicating which I think is more fundamental or which serves as a basis for which. There very well might be connections between the three, but this is not at issue here right now.

doctrines or full conceptions, since most people will not have the resources or the inclination to work out for themselves a full understanding of the good, but will have some individual judgments about what they think constitutes a good life, but not derived from a coherent set of ideas. But for my purposes it matters little if people have one or the other since the equality of persons applies similarly to both.

Given all this, the natural question to ask next is: what would the liberal meta-ethics concerning conceptions of the good life would be like? We know that at the surface there are two options available: either liberals accept some kind of monism or they reject it, in effect accepting some kind of pluralism. At first sight accepting monism does not seem like a very attractive option because it seems incompatible with persons being equal: one consequence of persons being equal was that we could not say people were making a mistake in their ethical reasoning, but if monism were true then it must be that there is a right answer to be found, and all those people who do not accept that one monistic conception of the good must be mistaken, but if persons are equal then they could not be mistaken. However, because normative authority trumps epistemic authority then monism could still be true if we accept that persons are equal, since although others might know better, each person still had the right to decide for themselves.

Does this mean, then, that we must reject pluralism in favour of monism? As I will elaborate later in Chapter 6 there are multiple things wrong with value pluralism as it is often presented. In a very condensed form I could say that all the pluralisms that are usually contrasted with monism suffer from one of the two following problems: either, they present us with a closed list of incompatible but still valuable ways of life or basic values, and such lists will not be very helpful since they are either not inclusive enough or are so inclusive that they are no longer useful. Or, pluralism is merely there at the surface since at the foundation different incompatible yet valuable kinds of lives are all about the one and a same thing. In other words it is just a different kind of monism which can lend itself to justify various kinds of conceptions of the good. But in fact the liberal need not choose between the two at all.

The only real consequence the liberal is committed to because of persons being equal is that they must be *committed to being open to pluralism* or disagreements. The fact that persons are equal in the sense described above does not necessarily mean that pluralism about the good in fact arises just that we must be committed

to maintaining the conditions for disagreement and thus be accommodating to pluralism when it does arise.

The initial reaction we might have to this is that it is some form of hyper-relativism or "anything goes" approach. If everybody truly is in a position to say what the good life consists of, and we must be open to pluralism, then it looks as though nobody would be in a position to say that anybody else is mistaken. Thus if somebody thought that the good life consisted of oppressing others or denying them what they think to be the good life, then it would seem that we have disarmed ourselves against such people. We would be liberals in the sense Robert Frost defined liberals: somebody who cannot take their own side in an argument. Of course this would not be a satisfactory solution so we would need to restrict the pluralism to which we must be open to in some way.

One distinction we should bear in mind here is between denying somebody else's conception of the good and denying somebody else's authority to come up with their own conception of the good. The first is something which is necessarily true of most conceptions, since if I believe that a good life consists of doing things that are A, B or C, then it must mean that I also believe that the good life cannot consist of doing things that are D. And if somebody else holds the position that the good life consists in doing things that are D, then we are necessarily denying each other's ideas about what the good life is. But that is not a huge problem, since in most cases I can go about doing things that are A, B or C and you can go about doing things that are D and we need not interfere with each other. But once one starts denying that others are in a position to define their own understanding of the good life then we run into a problem. So the first restriction we have to demand is that in order to get to play the game, so to say, of thinking about the conceptions of the good, one would have to accept the basic rule that everybody is in a position to say what the conception of the good is. Accepting this rule would rule out all oppressive and discriminative conceptions since these would entail denying some people this position.

The other important consideration is the scope of the inquiry: I defined liberalism as a political doctrine and as such it is relevant for political morality and the design of institutions. Thus from that perspective we need to worry about pluralism only insofar as it translates into actions. If Alf holds a conception of the good which conflicts with Betty's and Alf would not object to coercive methods in converting Betty then that seems problematic, but if those beliefs never manifest themselves

into actions then that would be much less problematic. Of course it is troublesome from a civic community point of view if people regard some of their fellows to be of a lesser status, since that does not seem very conducive for co-operation, but it would not be the kind of situation which would require action on the part of the state, since it should not be the goal of the state to police people's minds – only their actions. So this means that for the liberal the conceptions that are potentially problematic are those which are other-regarding and which actually manifest themselves in action.

The issue is somewhat different when the locus of conflict is between the state and the individual, where the state wants to adopt a certain policy but the content or the justification for it conflicts with the conception of the good a particular person holds. This would leave the door open for endless debates and would give people the right to veto all sorts of reasonable proposals. I think that if such cases were to arise we could assume that they would be fringe cases, with those who oppose proposals not constituting a substantial portion of society. So we could first refer back to the point I made earlier that we would aim to justify the whole system of institutions rather than each individual law. And secondly it is likely that the specific conception of "suitable justification" would have good reasons for excluding fringe views.

But another reason not to be especially worried about disagreements is that, I believe, we can be somewhat optimistic about a convergence. First, as I noted Shklar says, we are very likely to come to an agreement about the things people ought not to do and somewhat less likely to come to an agreement about what people ought to do. So we can say that the range of acceptable conceptions of the good will be protective rather than directive; that it is about protecting people from certain harms rather than directing them to do certain goods. Second, building on Rawls (1996: 8), we can hope for convergence on certain basic ideas which form the background to those conceptions; what I have in mind here is our considered moral convictions such as the rejection of slavery or acceptance of religious toleration. Those basic ideas can then limit the area of disagreement to the application of the conceptions of the good or on minor issues.

One reason this is likely to happen is because there is no conception of the good which is really one's own. Our ideas of the good are always situated within an intellectual environment and influenced by it. What we come to believe is the good is a combination of what we read, what we learn in school, what our parents tell us,

what we see other people do and believe and a whole host of other similar factors. Given all those sources of influence it is not unreasonable to think there will be a good deal of agreement since the "building blocks" of our conceptions of the good tend to be similar.

Of course it is not logically impossible that somebody will not be influenced by the kind of external factors I listed. But it will be a very rare occasion when one person or a very small group of people work out for themselves their conception of the good in complete isolation from the surrounding intellectual environment. And such things can only happen if the intellectual isolation stems from physical isolation in which case these people cannot be very relevant or have impact on our political life. The relevance and the impact of such fringe cases is also limited because it has to be small in numbers otherwise it will be impossible to sustain the isolation from the surrounding intellectual environment, if a new way of thinking about the good gains a certain number of followers they inevitably come into contact with others. And with such contact comes either influences and or spread in which case the fringe ideas stop being fringe, since they will have changed or become widely accepted. But if the numbers stay small then once again there is no relevance or impact.

Now, the fact that we must be open to pluralism does not mean that there can be no serious and meaningful discussion of ethical matters and that anybody can say: "I think X. And if you do not, then we must agree to disagree." Despite the commitment to pluralism liberalism can still allow for people who hold differing positions to try to convince others to take up their position; they can still provide others with the reasons that convinced them at first or come up with new reasons why others should agree with them (assuming they maintain their sincerity). And despite the commitment to pluralism liberalism is not committed to the view that all ethical outlooks are equal in their merit. As I already mentioned, from the liberal perspective it would be legitimate to harshly criticise non-liberal positions which deny, for example, that persons are free and equal or which employ a much restricted conception of a person.

Also, liberalism can allow, and I think should take seriously, some kind of hierarchy of conceptions of the good life. Meaning that we cannot hold it against some people that they have chosen one kind of life since according to pluralism liberalism is committed to many differing and incompatible views on the good life are acceptable, although we can still think that some of those lives are better than others. So we cannot demand that they change their ways, like we can demand

that those who deny that persons are free and equal change their views, and we can hold that they have good reason to do so. For example a life that that is devoid of any meaningful relationships (the person has no family or close friends or even people who admire him) and significant achievements for the person himself or others (no great personal projects or great works of art for others to enjoy or breakthroughs in science for others to benefit from) is clearly worse compared to a life which has either or both of those elements. This is assuming of course that those other elements do not come at too much cost to the personal satisfaction of the individual and that the lack of those elements is a matter of choice and not due to unfortunate contingencies.

Not to mention that there are also various rational considerations such as coherence or fact-dependence. So if Alf claims that "all persons are equal" and "people of a certain race are better", then Betty can point out that Alf cannot maintain both at the same time, thus Alf has to give up one of those judgments (assuming that Alf thinks that people of all races are persons). Or when Alf claims that "people of some race are better because of their increased intelligence", then Betty can show that since there is no factual basis for Alf's claims he has no good reasons for holding those views. In both cases we can have a meaningful discussion about the good and while still remaining true to our commitment of pluralism.

In the previous subsection I argued that persons being free implies the justification thesis, that is, all coercion should be supplemented by justification and that justification has to meet certain criteria. The simplified version of it is that justification has to be properly addressed to those people. Meeting the justification thesis should be simple enough if everybody agrees on one conception of the good, because we could draw upon that conception and the justification would always be the kind that people could in principle accept. But as our real-world experience shows, this is not the case: people disagree vehemently about conceptions of the good.

Such disagreements need not be a problem for the state when it comes to meeting the justification thesis since if the state takes the position that some people just are mistaken about their conception of the good and the state has the correct conception, then the state has a legitimate expectation that people should convert and thus offering justifications from that particular position would be addressed to people. But as we saw in this subsection if we take people to be equal then this is not an option for us, we must be open to pluralism if it happens to arise. Thus we

must make sure that the state is able to meet the justification thesis also in the case of disagreements about the conceptions of the good.

So one of the consequences of persons being equal is that this makes it much more difficult for the state to meet the justification thesis. Since if justification ought to be such that it addresses people but persons are of different minds concerning ethical issues and nobody can be said to be wrong about these issues just because they disagree, then the set of suitable reasons becomes much smaller, because what one side thinks to be true can often be legitimately denied by the other side and thus rejected by others. But this means that we have set some liberal constraints on the kinds of reasons that can be offered to meet the justification thesis, since if we must be open to pluralism, then the justification for coercion cannot take the form of denying the status of some people as free and equal. But all of this still very much hangs on how we understand the "suitable justification" clause in the justification thesis. Therefore this is good place to say a few more words on that issue.

I have spelled out both of the aspects of the fundamental idea about persons in terms of normative authority or the lack of it to be more precise. But when it comes to persons being free then I allowed for the possibility of there being a normative authority (one which is properly justified), but when it comes to persons being equal then I did not allow for a similar possibility. This asymmetry between the two calls for some explanation, what makes being free different from being equal? There are number of things I want to say on this issue.

On the one hand there are considerations on the existence or the importance of this asymmetry. First, when I was presenting what it means for persons to be equal I touched briefly on the issue of a set of acceptable views and that an ethical outlook which would deny the status of other people as free and equal would fall outside of that set. Thus, even though I did not make it explicit, there are some cases of normative authority over others when it comes to ethics, namely in cases where somebody holds and acts on an ethical outlook which falls outside the restrictions laid out earlier. Admittedly this would only apply to very few cases since the set of acceptable views is very large, but it would mean that persons being free and persons being equal would not be entirely asymmetric when it comes to overriding the normative authority of persons by an external source.

Second, the asymmetry is not actually all that significant as it may initially seem. In other words while persons being free does not have a condition for having authority built into it then that does not mean that there could not be instances of legitimate normative authority for people in ethics. What we need to recognize here is that if some ethical outlook would be enforced and thus in effect people's equality would be overridden, then it would happen via laws and policies. Given that the idea of persons being free and equal is a political conception of persons meant to underpin the political doctrine of liberalism then it is only relevant in the realm of political morality. It is not my intention here to say anything about the implications of that idea (if any at all) for personal morality or ethics itself. But when it comes to enforcing something via laws then it must be that some coercion is being used thus the conditions for legitimate authority will be given by the fact that persons are free. In other words persons being equal do not need their own conditions for overriding the normative authority of persons themselves since if anybody is to decide for others their ethical beliefs then the practicalities of that would require them to meet the justification thesis. This means that the asymmetry is smaller than it seems: persons being equal does not rule out a possibility for normative authority of others.

On the other hand, even a small asymmetry still calls for some explanation and I propose two reasons for it. One is a merely pragmatic reason: as I said in section 2.2.1 the modern state is something that needs coercion in order to work and insofar as we think that the modern state is a good thing to have we are stuck with the need for coercion, thus even if we think that persons are free with no normative authority over them in politics we must allow for some conditions for coercion just so that we could run a modern state. When we look at ethics then there is no such pragmatic need which would make us call for similar conditions for having a legitimate normative authority. The proper functioning of the modern state does not hang on the requirement of everybody having the same kind of ethics, it surely would help and make many things easier but we do not require it in the same way we require coercion. Of course, as I pointed out previously, there are some limits that we must set on the ethical views that are acceptable to hold, but those limits still allow for a very wide array of differences. Thus the asymmetry is partly explained by the fact that in ethics there is much less pragmatic need for any such normative authority.

The other reason draws upon the idea that political morality and ethics are different realms which answer different questions and concern different issues. As I

explained in section 2.2.2 I take ethics to be the area in which one is concerned with the question of what makes one's own life go well, whereas political morality is the area in which one is concerned with the questions of how people in special positions of power can take collective actions or how people can take actions in the name of all or for all. As I have described them here the freedom of persons is relevant in the latter and the equality of persons is relevant in the former.¹⁰ But insofar as ethics concerns only the agent there cannot be any normative authority (although there might be epistemic authorities), and insofar as political morality is about directing power or deciding things for other people then normative authority is a necessary part of it. Thus the asymmetry between the ideas of freedom and equality is explained by the difference of the realms of where those ideas belong.

2.2.3 A Few Notes on "Suitable Justification"

There is a huge literature on public reasoning with authors proposing all sorts of different models. Even though a large portion of the literature focuses on religious reasons in political debate and justification of laws there are also a whole host of other issues discussed (for a good overview see Quong 2013, but also Vallier and D'Agostino 2014).

I will not be able to completely solve the issue of suitable justification here, but I would like to offer a few notes which at least give some basic idea of the kind of public reason model I think we need. First, as I already mentioned, I think it is important to try to give as formal criteria as possible, which would act as filters for reasons which constitute suitable justification, any substantive criteria which would stipulate specific content, would be problematic because they could be unfairly biased against or towards some particular ethical outlook and that would be contradictory to the whole idea of persons being equal. We should be able to define the reasons suitable for justification without making reference to any particular concrete doctrine people actually have. For example a condition which says "the justification cannot make explicit reference to Christianity or assume the truth of the Christian doctrine" would clearly be inappropriate because they make restrictions based on substantive criteria. But, as I will explain, being open to pluralism does not mean relativism, thus there will be some ethical outlooks which will be excluded from the set of suitable doctrines. Also the existence of pluralism does not mean necessarily that all the valid conceptions are of equal value, such

¹⁰ Even though the kind of ethics that is implied by persons being free is supposed eventually to give us guidance towards certain kind of political institutions, i.e. have relevance in political morality. But this relevance is not direct.

that we could not say one to be better than the other. These two points will mean that some conceptions will be excluded on substantive basis, but I do not think that those exclusions will be problematic.

Having said that, then I do have to admit that the first criterion that I will propose does look more substantial and less formal, but at the same time it is a necessary part of any public reason model. Namely, I think that the justification cannot include or assume the denial of the very core idea of liberalism itself. In other words the justification cannot be such which denies or assumes the denial of persons being either free or equal. If it did the former then it would be self-defeating since the justification is being provided just because we think that persons are free and such justification ought to be provided. If it did the latter then it would make providing the justification a trivial matter since if there is no principled pluralism, and if you assume that you have the correct ethical outlook then there can be no counter-points to you, thus providing a justification becomes trivial since you can just pick whatever outlook suits you and claim it to be true. In other words we need to make sure that the very reason we are looking for some kind of public reason model in the first place stays intact. What is important to note is that the same must apply to any replies or counter-points made to the justification on the part of the recipient of coercion. There is a presumption in favour of freedom but that presumption can be overturned; there is always a possibility for a counter-case. In other words any evaluation of a justification as suitable has to take into account possible counter-points, but none of them can include or assume the denial of persons being free or equal. Once again if the former were allowed it would make the whole process of providing this justification self-defeating, at least in cases where the coercion in question is about stopping people doing things to other people, since if you deny that persons are free then the case against stopping you doing things to them becomes much weaker. If persons being equal and thus any principled pluralism is denied then one could always take the stand that the reasons being offered are of the wrong doctrine and thus insufficient to overcome the presumption in favour of liberty. One of the implications of this component is that the justification cannot assume the falsity of any ethical outlooks (assuming that they are compatible with persons being free and equal). Especially the one that the target of the justification happens to hold.

So what does this mean for the two popular criteria for suitable justification that I mentioned earlier: reasonable expectation of endorsement or acceptance (like in Rawls 1996 and Quong 2011) and reasonable rejectability (like in Barry 1995 and

Klosko 2003)? I agree here with Quong (2011: 209) who argues that for something to be reasonably rejectable means that it is reasonable to hold contrary positions, but if we take seriously our commitment to persons being equal, then such a criteria will not help us much since it is reasonable to hold a whole host of different positions and therefore most (if not all) justifications offered by the state can be reasonably rejected by some people in the society.

This pushes us towards the other option, but there is also an independent reason to prefer the former over the latter. Namely it is more inclusive and engages people more in the way we want them to be engaged.¹¹ If reasonable rejectability were our criteria then it would mean that the state essentially says the people "Do you mind if we do this? No? Great!" But if reasonable expectation of endorsement or acceptance is our criteria then the state says to the people "We think you have reason to want us to do this. And here is why this is so." I assume that most people would want the state to work for them and try to accommodate itself to the people, rather than the state doing things for itself and asking the people to accommodate themselves to it.

But what does it mean to have a reasonable expectation of endorsement or acceptance? For me it means that we make the persons themselves the yardstick which tells us if the justification is suitable or not. We need not worry about being hostages to the illiberal people since we have already from the outset limited ourselves to the kind of ethical outlooks which are compatible with persons being free and equal. If each person is the measure of suitability then it must mean that the state has to look for a convergence of reasons, that is, not every individual has to be provided with the same justification, as long as the state can provide a justification which the person from their own perspective can be expected to endorse (i.e. they do not need to give up or deny their ethical outlook) then the justification is suitable.

If we assume some level of plurality in the world then looking for a convergence of reasons brings up an important issue: sincerity. I will argue that it will not be sufficient if only the recipient of the justification thinks it to be a good one, whoever is offering the justification has to also sincerely think that it is a good justification. Without this condition the door would be open to serious exploitation. As an example think of an employer who does not personally think that there is any

¹¹ I will return to the issue of engaging persons with reasons in Chapters 3 and 4 when I start looking at the arguments for thinking that persons are in fact free and equal.

reason to work for him at 50p per hour, nor does he think that anybody in a different situation could validly have any reason to work for him at 50p per hour. If that employer then finds somebody who is nevertheless willing to work at 50p per hour and employs them at that wage then he would facilitate some people doing something he himself thinks nobody has any reason to do. Of course this would not be problematic on its own, what makes it problematic is that the employer benefits from it – unjustly, we would think. Now, I am not trying to say here that any time somebody pays somebody else a lower salary than the one they would want for themselves that it would be exploitation, since the employer may think that other people (who are in different situation to them) do have valid reasons for work for such a low wage, just like adults may think that there is no reason to play a game which consists of just running around with no particular purpose, and at the same time think that their toddlers do have valid reason to do that. In our example the employer thought that nobody could have valid reason to work for such a low salary. Thus if they do employ somebody for such a salary they cannot think to themselves “I would not do it, but I can see they have reason to do this” so it must be that they are letting people engage in actions they think nobody has any reason to engage in and they are directly benefiting from it.

When we apply this to coercion and providing justification then there clearly is some sort of benefit involved since otherwise what would be the motivation for the coercion in the first place? Of course it might be that all the parties (as well as others) are benefitting but still the coercer must be getting something out of being able to make people act in a certain way. So this situation would be similar in this respect to the one described earlier. And if whoever is providing the justification does not sincerely believe there to be any good reasons for a justification, that anybody in any position could validly have any reasons for this coercion, but nevertheless there is somebody like that and the justification is provided to them on the basis of such reasons, whoever is providing the justification is as guilty of exploitation as the employer in the example. If the particular coercion at hand allows the idea to be justified by using more than one set of reasons then, under this picture, one would be allowed to appeal to reasons they themselves do not hold, but the recipients of their coercion do, only if they can admit that it makes sense for them for their patients to have such reasons.

I think that this sincerity requirement would have to extend quite far. Because otherwise one could sincerely believe that J is a good justification for a coercive law L given the ideas of a conception of the good C. But if the C happens to be a very

unusual conception then it could lend itself to justify all sorts of unusual things. Thus to avoid exploitation of people with unusual conceptions of the good (or people with perhaps not the most sophisticated conceptions of the good), whoever is presenting J to justify L would also sincerely believe that C is a valid conception of the good. But if we are seriously committed to the idea of persons being equal then we must also think that conceptions of the good other people hold are valid conceptions, even if we do not agree with the content of those conceptions (assuming that they hold conceptions that fall within the acceptable range). Thus it would not be in most cases difficult to achieve sincerity, since if we think the conceptions are valid then we must also think people can have reason to hold them.

2.3 Tying It All Together

2.3.1 Connecting the Foundation to the Generalized Definition

Having now laid out what I think is the core idea of liberalism and elaborated on that idea and its implications, it seems like a good time to look back at the picture of liberalism that emerged from the literature that I reviewed previously. So the aim here is to show how the core idea of persons being free and equal is the premise from which the generalized definition of liberalism can be derived. Also given that we now have a sense of the foundation of liberalism I can also show why I think some features of liberalism proposed by Freeden cannot be included into the definition of liberalism.

As one would expect liberalism has to at least in part be about liberty, and Freeden, Shklar and Geuss all agree, not only by presenting liberty as a necessary feature of liberalism, but also by giving it roughly similar content: basically freedom was understood as not interfering with the choices of the individual. This usually means that in the political context there has to be some (relatively large) space for the individual to make their own decisions without any interference from the state. But none of the authors think this to be of absolute status, meaning they admit that there are cases where there are reasons to restrict this space and interfere with the individual. One such case, for example, is based on reciprocity: not interfering with one person's choices cannot be allowed if this will end up interfering with another person's choices.

This conceptualizing of political liberty can be very directly derived from the first element of the liberal core idea that persons are free. Which stated that the default

position, as it were, is that every person is free to do as they choose. But this freedom is not absolute and universal: there can be cases when persons are coerced to do things, but this can only happen when there are good reasons to restrict their freedom. When Alf's free choices are unjustifiably infringing on the freedom of Betty then there seem to be good reasons to coerce Alf so that Betty's freedom would not be impinged upon.

A pair of concepts – toleration and state neutrality – which both embody the same idea that first, the freedom individuals are supposed to have in the liberal state means that each person is free to come up with their own conception of the good. If those conceptions happen to differ from each other then those differences should be tolerated since they are the product of each individuals' freedom. The second part of this idea is that the state should not be in the business of giving direct ethical prescriptions to people and also the laws and policies should be, as best as they can, neutral among all the different conceptions of the good people hold.

This is very clearly the direct implication of the second element of the core liberal idea – that persons are equal. This stated that each individual is in a normatively equal position to come up with their own life-plan, if that is the case then we must tolerate (at the very minimum) the life-plans people come up with, and since we recognize the equal validity of a plurality of different ethical outlooks there can be no reason to legally codify one of them over others. But once again, as with freedom, this idea is not absolute, as, for example, Shklar (1989: 31) also notes, meaning that even though each person is entitled to decide for themselves what their good is to be, then they cannot choose it to be to deny the good of others to them. In the sense that one is still expected to take others' freedom into consideration, arguing: "but this is what my conception of the good prescribes" is not on its own a good reason to deny other people what their conception of the good prescribes. Of course there are non-coercive means, such as rational persuasion, available for everybody but the main point still stands: differences should be tolerated and morals should not be legislated.

The important place liberty occupies in the liberal core implied for all three authors a specific attitude towards governmental power: namely that state power has to be limited and responsible, otherwise it can become a serious hindrance to freedom, especially if the state has absolute and/or discretionary power. This element is premised on the combination of person being free and equal. Their freedom means that any coercion upon them has to be justified, but given that they are equal then

they are likely to hold different conceptions of the good. Thus the set of coercive actions that can be justified is limited since the kinds of reasons that can be offered to persons to justify coercion depend on their conceptions of the good. This in turn means that state power is limited in two ways: first by having to meet the justification thesis, which rules out any arbitrary intervention or acts of cruelty (in Shklar's sense), and second, the ethical diversity which arises out of the equality of persons limits what kinds of reasons can be offered to meet the justification thesis, thus any exercise of (discretionary) power will be made acceptable to those it impacts.

The fourth main point of the generalized conception of the core of liberalism was individualism: that the fundamental political unit is the individual rather than the group or the community. This idea is once again implied by the core idea of liberalism that I presented since the core idea of liberalism as I see it is about persons. It is persons who are free and equal and those characteristics of persons guide the establishment of political institutions and laws and policies. As a small side note, both Geuss and Freedman give the individualism in liberalism a dual meaning. The first part is the one I just discussed, but for Geuss individualism also carries with it the idea related to toleration that each individual should be the final judge about their own good. And this meaning of individualism was already covered in the previous discussion under the heading of persons being equal. Freedman on the other hand gives individualism also the meaning of individuality in the sense of it being essential for well-being that each person develop their personal attributes; their character. And I think this cannot be taken to be a necessary feature of liberalism since it would then tie liberalism to a fairly specific conception of the good, which would amount to denying persons being equal.

In the previous chapter I noted that there are quite few features of liberalism that only Freedman talks about and which I excluded from the generalized definition. I also promised to show why I think they should not be included. I will now proceed to discuss those issues. First of there is rationality, which in very broad terms is taken to mean that human nature is rational, that people act and think based on reasons. At first sight it seems to make sense to include this kind of understanding of rationality as one necessary feature of liberalism since, as we will see later, it will play an important role in establishing the foundational idea of persons being free and equal. But as Freedman (1998: 148–149) notes it is not a very controversial thought that humans are rational beings, thus it would not add anything significant. So in order to take it seriously as a distinctive liberal feature and not something we

take for granted we would need to see what the particular liberal content of the concept of rationality is. The Millian understanding of rationality which Freedman makes use of was influenced by Humboldt and was related to harmony within the individual as an end-result of their developed attributes. But this points to the same kind of ideas as the individuality discussed previously and thus could not be included for the same reason: the foundational idea does not support it.

Secondly, there is sociability, which in very broad terms is taken to mean that humans by nature are social creatures. This again is a fairly uncontroversial and not exclusively liberal claim. Thus for it to make sense to include the concept of sociability as one feature of liberalism it would need to be given a distinctively liberal content. According to my reading of Freedman the content Mill gave to sociability could be understood as reciprocity, as "mutual regard for interests". As such this does not add much to the more general claim of humans being social but more importantly it seems to fall outside the realm of political morality and into the realm of personal morality. I take liberalism to be about what kind of political institutions we should have and according to which principles or ideas should they operate, and not as an all-encompassing ethical world-view.

The concept of sociability is closely related to the concept of general interest which started in Mill as the interest all people should have in promoting certain values (such as self-development) but came to mean the kind of egalitarian concerns for material equality that have accompanied liberal theories of social justice. In this later form I feel that the idea of general interest is too specific to be directly derived from the foundational idea. It is quite possible that taking seriously the claim that persons are free and equal will lead to the kind of political institutions which will embody certain egalitarian sentiments, but this does not happen at the level of the core of liberalism. The final concept that Freedman posits at the core is progress which is understood as the development of individual characteristics rather than as a more general idea of (social) progress. But as such it forms the problematic portion of the concept individuality and as such I do not think it has any place in generalized definition of liberalism.

I started out with the quest for the foundation of liberalism; I argued that this question cannot be answered without at the same time trying to answer the question of is liberalism what. As my starting point I chose two comprehensive presentations of what liberalism is, both of which took the historical-canonical approach as well as a third presentation which had some of the same elements but

which stipulated one understanding of liberalism to be better than others rather than presenting one comprehensive picture. Based on those sources I formed a general understanding of what liberalism is and thus what its distinctive features as a political doctrine are: importance of liberty, centrality of individuals, ethical neutrality and suspicion of power. I then took a stipulative-abstract approach to see what the premises of liberalism are, and thus reached the conclusion that it is the idea that persons are free and equal that underlies that definition of liberalism. Having elaborated on that idea I then showed how the features of the generalized conception of liberalism are derived from it.

At the very beginning I noted first that I am interested in the foundation and nature of contemporary liberalism rather than a comprehensive (historical) understanding of liberalism, and second, that my way of getting to that foundation and nature is by mixing the stipulative-abstract approach with the historical-canonical approach. Having now formed a proposal for the foundation of liberalism, it seems suitable to now move on to see if and how the idea of persons being free and equal is represented in the contemporary liberal theory. If liberalism truly is about persons being free and equal then we would expect this idea (and its implications: the justification thesis and some form of ethical pluralism) endorsed by various authors. And that is indeed what we will find in the next subsection. Thus solidifying my claim that this is the best way to understand the foundation of contemporary liberalism.

2.3.2 The Place of "Persons as Free and Equal" in Contemporary Literature

Before I can meaningfully delve into the question of if and how the idea of persons as free and equal is found in the contemporary liberal literature I need to take a small detour to clarify the scope of our inquiry. Given that the liberal landscape is quite diverse it is worth looking at what different kinds of liberalisms are out there.

One way to divide up the liberal landscape was recently proposed by Tomasi and Brennan (2012) and also Freeman (2011), and according to this we can distinguish different strands of liberalism by their attitude towards two sets of issues: on one hand economic rights and liberties, on the other and approach to social justice and material equality, giving us four theoretically different positions.

First, the classical liberals, such people as David Hume and Adam Smith and more recently Friedrich Hayek, who endorse a thick conception of economic rights. That is, they think that rights and liberties concerning first and foremost private property

and contracts are on par with the other rights and liberties that are held as basic within liberalism. But at the same time they take a thin position on social justice, in the sense that the material equality of people does not play an important role in the evaluation of a society's basic structure as just or unjust and that they view the distribution of market processes as fair.

Second, the modern "high liberalism" or less contentiously the liberal egalitarian position is to endorse the exact opposite view: a thin conception of economic rights and a thick conception of social justice. In other words they think that while some rights and liberties (such as freedom of expression or right to political participation) are basic, economic rights are different and in that respect second class. They also think that the material equality is an important evaluative category when looking at the basic structure of a society and that a just society is an equal one (thus the label egalitarian).¹² This tradition includes such people as John Rawls, Ronald Dworkin, and also John Stuart Mill. For example, in the case of Rawls this is quite explicit in his theory: the first principle of justice which is about liberty of people is lexically prior to the other two principles which are about economic status. But at the same time he is concerned with the material equality of people and regards it as a vital sign of justice.

Third, the neoclassical liberals "agree with high liberals that citizens should have the effective means to face each other as free and equal" (Tomasi and Brennan 2012: 120) and thus they also think that social justice is important. But unlike the liberal egalitarians the neoclassical liberals think that there is no reason we should single out economic rights and liberties as different and less important, making them the hybrid view between the two. In addition to themselves, Tomasi and Brennan also put, among others, Gerald Gaus and David Schmidtz into this category.

Lastly, there is conceptual space for a liberal view which affirms the thin economic liberties, just like the high liberals, but do not affirm the need for social justice, just like the classical liberals. But Tomasi and Brennan (2012) do not give any examples and I do not know of any concrete defences of this kind of a position. Although I think this position would collapse into egalitarian liberalism position since by affirming the thin economic liberties one would end up enforcing the kind of basic

¹² Of course it is a matter of debate between different authors what exactly constitutes equality or what is it that we should be trying to equalize between people. Also for current purposes we can leave it open exactly how we should go about equalizing things.

structure which would have an equalizing effect, even if the theory itself does not think it to be important.

This is, as already mentioned, only one way to divide up the liberal landscape. I am here completely ignoring another popular way: dividing liberalisms into perfectionist and non-perfectionist kinds. This is an issue that I will return to in the second half of the thesis, but I will need to spend some time establishing the idea of persons as free and equal first, so that I could make the arguments about that divide that I want to make.

Returning to the issue at hand, in so far as there are examples of each of the four kinds of liberalism in the contemporary literature I think that despite the diversity the idea of persons being free and equal is relevant in all the different liberal strands, albeit proponents of different views present their own stories about that idea. Also there are examples of this idea in authors who cannot be neatly categorized under one or another strand.

So what we can expect to find in the writings of different authors from the different strands of liberalism described earlier is the endorsement or acceptance of two claims despite their differences elsewhere. First, coercion without proper justification is morally bad, i.e. the justification thesis. It cannot be that liberals think that all coercion is morally bad since that would mean that there could be no state and liberals certainly do not believe that.¹³ The underlying idea of this claim is of course that persons are free and not naturally under the authority of anybody, thus only legitimate coercion can be one which can be justified to persons.

And second, the ethical pluralism we encounter in the world is valid. While most people agree that this should not be taken as a sceptical claim (we cannot know the one true conception of the good, thus we must settle for the plurality), they do not seem to be in total agreement on the cause and base of this plurality. For some it is a question of meta-ethics: it is actually the case that the human good is diverse? And if people engage in sincere inquiry into human good will their best efforts necessarily give us a plurality of answers? Others agree that it is a question of meta-ethics, but tell a slightly different story: there is no objective human good out there to be discovered, but that we come up with it ourselves, and as it happens

¹³ Also if liberals would subscribe to that idea then they would basically turn into anarchists. It is true that some libertarians are quite close to anarchists and might even endorse the claim "all coercion is morally bad", but that would not really be an issue since it lend further evidence to the case that libertarians are not liberals.

people have different interpretations of it, but that is okay. Yet other see this as a combination of epistemic and meta-ethical reasons: there are certain characteristics in the world (e.g. the burdens of judgment) that make it so that even if there were just the one human good we would be unable to reach an agreement on it.

Here is a short collection of various quotes which all embody one or both elements of the fundamental idea of liberalism. In some cases this is fairly explicit and straightforward, for example here is Freeman (1990: 122):

the liberal idea that cooperation ought to be based on the individuals' consent and ought to be for their mutual benefit. ... This framework [general notion of agreement as a method for justification in ethics] is based on the liberal idea that the legitimacy of social rules and institutions depends on their being freely and publicly acceptable to all individuals bound by them.

And here are few other examples from Kevin Vallier, Jonathan Quong, John Rawls, Ronald Dworkin and Charles Larmore:

This is to say that each and every reasonable member of the public must have good reasons to endorse the laws (or, for Rawls, constitutional essentials) of their society if they are to be treated as free and equal. (Vallier 2011: 261)

We correctly think of ourselves as free and equal from the moral point of view. We all have the same moral status as free persons—as people who are not naturally under the authority of someone else. If person A claimed the moral right to control the life of person B without offering a suitable justification for this claim, A would be claiming a superior moral status to B. The liberal view of people as free and equal is incompatible with this claimed inequality of moral status. (Quong 2011: 2)

Our exercise of political power is fully proper only when it is exercised in accordance with a constitution essentials of which all citizens free and equal may reasonably be expected to endorse in the light of principles and ideas acceptable to their common human reason. This is the liberal principle of legitimacy. (Rawls 1996: 137)

Government has no moral authority to coerce anyone...unless it respects two requirements [of principles of dignity] person by person. (Dworkin 2011: 330).

It is roughly that however much we may disagree with others and repudiate what they stand for, we cannot treat them merely as objects of our will, but we owe them an explanation for those actions of ours that affect them. (Larmore 1987: 62)

In all of the examples we get the recurring theme of coercion or laws in general having to be acceptable to people and being made acceptable by meeting a certain justificatory standards. Many of the authors even use the same label: persons as free and equal, to express these ideas. Dworkin's terminology does differ significantly but the way he spells out the principles of dignity makes it clear that he has the very same idea in mind (I will come back to this in Chapter 4).¹⁴

When we look further we will also see numerous examples of authors being also committed to a kind of ethical pluralism or a reasonable disagreement about the good:

Liberal societies are crucially characterized by pluralism or disagreement regarding what makes a life good, or valuable, or worthwhile. Disagreement about the nature of human flourishing is a deep and permanent feature of free societies. (Quong 2011: 2)

We acknowledge, first of all, the permanent fact of pluralism: reasonable people disagree not only about preferences and interests, but widely and deeply about moral, philosophical, religious, and other views. (Macedo 1990: 47)

We need most of all to make use of one of the cardinal lessons of modernity, which is that the ultimate ends of life are bound to be an object of reasonable disagreement. (Larmore 2008: 3)

The first is that the diversity of reasonable comprehensive religious, philosophical, and moral doctrines found in modern democratic societies is not a mere historical condition that may soon pass away; it is a permanent feature of the public culture of democracy. (Rawls 1996: 36)

¹⁴ See also (Cohen 2006: 244), (Reidy 2007: 278), (Freeman 1990-1991: 348), (Grotefeld 2000: 77). But this is not limited to recent nor academic literature: (Pateman 1980: 150), (Finer 1950: 231), (Knight 1941: 141-142), (Overstreet 1913: 115), but also Article 1 of the Universal Declaration of Human Rights (adopted by the United Nations) and Article 1 of the Declaration of the Rights of Man and of the Citizen (adopted by the National Constituent Assembly).

Just like with the previous component there are numerous other examples to be found in the literature and I hope that the reader is inclined to agree with me without needing me to provide additional examples.

3. ARE PERSONS FREE AND EQUAL?

3.1 Some Preliminary Issues

In the previous chapter I showed how the idea that persons are free and equal serves as a foundation for much of contemporary liberal political philosophy. So it is uncontroversial and even trivial to claim something of the following form: 'persons are free and equal' or 'people think of themselves as free and equal'.

In that chapter I also addressed the question of what this idea actually means and entails. Now is time to start exploring what justifies this idea, and asking if there are good reasons for holding it. We can interpret this question in two ways: as a question about what makes it true that persons are free and equal and as a question about why we ought to treat persons as free and equal.¹⁵ The why-we-ought question has a wider scope than the why-is-it-true question, in the sense that if no good answer to the why-is-it-true question can be found then we still might have reason to act as if it were the case. Very much like when solving high school physics problems we have good reasons to act as if the speed of light is 300 000 000 m/s and the question of what is the true speed of light in the conditions of the problem we are currently solving is less relevant. Thus this chapter should be read more as focusing on the why-we-ought interpretation, although I think that there are good reasons for thinking it to be also true. More specifically I will look at three general ways one could establish this idea.

If my arguments in the previous chapters have been convincing then I have thus far made the case for what liberalism is. But if the arguments in this and the next chapter are convincing then I will have made also a case for being a liberal, since this idea implies certain kind of liberal institutions and if this idea can be established independently of prior ideological commitments then this discussion could also serve as a way to justify liberalism to non-liberals. Even though that is not my explicit aim, it is an upshot worth mentioning.

This chapter will lay the analytical groundwork for establishing the idea of persons being free and equal while the next one will look at some concrete examples and also try to make the case for it. The chapter proceeds as follows: after dealing with some preliminary issues, I will turn to the conceptual aspects of this idea in section two. The next three sections give a brief overview of three broad groups of ways to

¹⁵ I would like thank Tom Stoneham for bringing this distinction to my attention.

answer the question about foundation of the idea: the metaphysical/necessary property approach (section three), the empirical/contingent property approach (section four) and the agreement approach (section five). After having examined all the options I will conclude that the latter two seem more plausible and in the next chapter I will present several arguments from those approached which can be illustrated by examples from recent literature.

So on to the preliminary issues. First, a methodological question: should the justification we are looking for be in a form of an argument or could an explanation suffice? The problem here is that this idea serves as a fundamental building block of liberalism, if an argument for holding this idea was given, then that would have to consist of similar fundamental building blocks, which could be questioned in a similar way. Thus it might make more sense to look for some kind of explanatory story of how we have come to hold this idea. Such position is, for example, exemplified by Burton Dreben (2002: 329) who said during a Q&A session after one of his talks:

If one cannot see the benefits of living in a liberal constitutional democracy, if one does not see the virtue of that ideal, then I do not know how to convince him. To be perfectly blunt, sometimes I am asked, when I go around speaking for Rawls, What do you say to an Adolf Hitler? The answer is [nothing.] You shoot him.

The point here is that we can note that there is such an idea and it is at such a fundamental level that nothing really can be said for (or against) it, thus one either just accepts it or not and that would be the end of it. If this were be our position then it seems that the only thing left to do is some history and sociology to trace when, where and how this came to be a basis for a political doctrine, since it is fairly obvious that it has not been so throughout human history. The problem with this approach is that such a story will probably prove to be unpersuasive to those who do not already accept the idea: a simple explanation is not a justification. But a vindicatory explanation (Wiggins 2005: 7 n. 12; Wiggins 1990–1991: 66–67) might do the job, that is, we look for the “best full explanation” of the belief that p which “requires as a premise either the very fact that p or something which leaves the explainer no room to deny that p .” So according to David Wiggins we might go about establishing the grounds for the idea that persons are free and equal by (i) relying on certain characteristics about persons which establish the fact that they are free and equal or give us conclusive reasons to treat them as such; or (ii) given the circumstances of our political culture and progress of moral thought there is no

room to think anything else. A similar idea has been put forth by Catherine Wilson (2010) who compares moral knowledge to scientific knowledge, where some “unidirectional narrative” explains why something is now judged to have a moral property *M* when it was not the case before. So from this kind of perspective a certain kind of explanation could also do some persuading.

A somewhat similar approach is proposed by Charles Larmore (1999: 605, 608) who thinks that no principle of how to organize their political association that reasonable people come to agree on is as important as is the deeper moral commitment of those people to start looking for such an agreement. These positions are quite similar because in both cases there is room for a philosophical argument about what that deeper moral commitment is about or what those characteristics are. So it seems that we probably will not be able to get a premise1-premise2-conclusion kind of argument, given the fundamental nature of the topic, but hopefully the explanatory story will be more than just a description of historical and sociological facts.

Secondly, and more importantly, it should be noted that since the general discussions of persons as free and equal are often related to or serve as a basis for a more specific discussion, which makes political proposals and claims about which liberties and rights should be available to citizens, then there is a danger of mixing up two distinct ideas of what it means for a person to be free and equal. On the one hand we can think of persons as free and equal in the sense of *having freedom and equality*, that is, the familiar set of liberties and rights in modern liberal democracies (such as freedom of thought, right to political participation, equality before the law etc.), this is what I call the politico-legal sense¹⁶ of persons as free and equal. In this sense persons become free and equal only in a political association with others, because without laws and institutions setting down the proper framework talk of political and civil freedoms does not make sense. Persons can lose their freedom and equality in this sense when laws which establish them are revoked or the application of those laws is suspended.

On the other hand we can think of persons as free and equal in the sense of *being free and equal*, that is, of having a certain moral status, this status unlike the politico-legal sense of freedom and equality cannot be taken from people. It can be, of course, that this status is not recognized or acknowledged, but this status is not established by any law, but by certain characteristics of persons (what those

¹⁶ I am indebted to Paul McLaughlin for suggesting this label.

characteristics actually are remains to be seen). I will refer to this as the moral sense of persons as free and equal. Unless stated otherwise I will talk of persons as free and equal in this sense.

It is possible to make even more fine-grained distinctions and identify an intermediate point between the two senses of free and equal. So while politico-legal sense refers to positive law and the moral sense refers to moral ideas then one could distinguish a kind of idea of justice which is a normative ideal for legal systems; what laws ought to look like. Thus it would be part of the legal realm, but it would not be positive law. At the same time it would be not be part of the moral realm since it would have concrete and specific content rather than abstract. But for my purposes this distinction has little bearing since my main aim is to separate the moral sense from any other senses.

To illustrate the distinction, imagine an authoritarian state in which there is a minority of indigenous people. Given their odd customs and strange beliefs the dictator and the ruling majority, who enjoy all the political liberties we are used to in contemporary democracies, consider them to be second class citizens, incapable of proper civilized life and therefore worthy of less consideration. This attitude is reflected in the fact that most of the laws establishing various rights and liberties explicitly exclude this minority. In this situation the minority is not free in the politico-legal sense nor is their moral status as free and equal persons recognized. But now imagine further that one day the dictator is bored and decides to grant the minority the full liberties and rights enjoyed by the ruling majority, given that he retains his attitude of them being of lesser status, he is expecting strange things to happen when the minority tries to cope with their newly gained liberties and rights. In such a situation all citizens of the state are now free and equal in the politico-legal sense: they all have equal protection under the law, they have right to free expression and so on. But they are still not all treated as free and equal in the moral sense, because both the dictator and the ruling majority still regard the minority as lesser people. If they were recognized as free and equal persons in the moral sense then that fact and not the whim of the dictator would explain and justify their freedom and equality in the politico-legal sense.

Having distinguished between the politico-legal sense and the moral sense it is appropriate to ask why I concentrate on the latter rather than the former. The short answer is that the moral sense of free and equal precedes the politico-legal sense both in the order of justification and also in temporal order. The politico-legal sense

comes into being only after a political association has been established; it has no real meaning or normative force pre-politically. Thus the politico-legal sense of persons as free and equal can have no bearing on the fundamental structures of that political association, since it is created only with that very political association. In other words if persons would not be free and equal in the politico-legal sense in a political association then the only basis for claiming that they should be is to refer to the moral sense of free and equal persons.¹⁷ Think of it like this: if Alf says to Betty that she cannot do X and Betty asks why, then Alf can refer to a law that prohibits it, but when she inquires further, then at one point Alf must refer to some moral principle, which underlies the laws Alf is relying on. In this particular case the fundamental answer to why persons ought to be treated free and equal in the politico-legal sense is that they are free and equal in the moral sense.

But if the moral sense of persons being free and equal means having a certain moral status then am I saying that what it means to be free and equal in this sense is the same as to be morally relevant, that is, to have moral standing? No, but that thought does point us in the right direction. The short explanation is that saying a person is free and equal is a more constrained statement than saying that person has moral standing; the former refers to moral standing in a specific context. As I explained in the previous chapter I take ethics to answer the question "What makes my life go well?", personal morality to answer the question "How ought I act in my interactions with others?" and political morality to answer the question "How ought we organize our political institutions?" The idea of people being free and equal is relevant for contemporary liberal theory only in this last context. But not in the same way as moral standing in general is important in the previous contexts, since the aim is not to give directions for individual actions, but to help us set up institutions that are in line with the status of persons.

So if it turns out that there is no good reason for holding the assumption of persons being free and equal, then it would not mean that everything would be allowed, persons would still retain their moral standing in their personal affairs and private lives. Furthermore, it should be stressed here that if we talk about persons as free and equal in the sense of having a certain status, then it does not mean that we are

¹⁷ It would also be possible to refer to the empirical equality of persons, as Hobbes (1992: 86-87) does "Nature hath made men so equall, in the faculties of body, and mind (...) For as to the strength of body, the weakest has strength enough to kill the strongest (...) And as to the faculties of the mind, (...) I find yet a greater equality amongst men, than that of strength." But this would not be very helpful since as an empirical claim it is not clear that it is true; even if it were true of most people, it is still questionable concerning some (e.g. young children, people with disabilities, elderly); but most importantly any such empirical equality would need to be connected up with normative claims, which would take us to the moral sense of free and equal.

at the same time saying that trees and polar bears, for example, have no moral standing whatsoever.

So far I have been talking about persons who are free and equal, but when we later look at some of the authors in the literature, particularly Quong (2011) and Rawls (1996), then we see that they are using the word 'citizens' and not 'persons'. Thus there seems to be a question: are they even using the same idea? I think they are, for example in the case of Rawls we can actually see a transition from person-talk to citizen-talk during his transition towards political liberalism. So Rawls (1996: xliii) notes that "the idea of a person (...) is transformed into that of the citizen (...) the person is seen rather as a free and equal citizen." But we could still ask if the use of 'person' is substantially different from the use of 'citizen', and I think that it is not. Rawls (1980: 520) writes:

Their [the conception of well-ordered society and moral person] general purpose is to single out the essential aspects of our conception of ourselves as moral persons and of our relation to society as free and equal citizens. (...) It [original position] serves this role by modelling the way in which the citizens in a well-ordered society, viewed as moral persons, would ideally select first principles of justice for their society.

Here we can see that 'citizen' is meant in the sense of 'a person in the political context, in relation to other moral persons'. Thus the use of 'citizen' rather than 'person' just serves the role of restricting the scope. Since Quong takes much of his starting points from Rawls it is safe to assume that a similar treatment applies to him. Since I have already restricted my scope to political morality I can continue to talk about persons.

3.2 Analytic Aspects of Persons Being Free and Equal

If being free and equal is a special case of moral standing then it makes sense to start by looking at what are the ways beings have moral standing. Sytsma and Machery (2012: 1) have recently argued that there have traditionally been two ways the moral standing of beings has been established, first, what they call the Experience account, and, second, the Agency account. Simply put, the former takes the capacity to feel pleasure and pain as the basis for assigning moral standing. All beings capable of such feelings have moral standing, Sytsma and Machery (2012: 5) cite Jeremy Bentham and Peter Singer as representatives of this view. The second view takes the capacity for sophisticated forms of cognition and life-style as

the basis for assigning moral standing. All beings capable of certain cognitive tasks have moral standing, Immanuel Kant and Thomas Aquinas, but also Peter Carruthers are representatives of this view (Sytsma and Machery 2012: 3–4).

Since I have restricted the scope of my discussion to political morality but these are views about moral standing in general, then the case for the idea cannot be directly modelled after either view. For example it is clear that the Experience account would cast too wide a net and would easily include beings to which we would want to deny membership to our political communities, namely large parts of the animal kingdom, or at least the mammal class.

But whatever approach we take there is an issue that I have thus far assumed to be uncontroversial that has to be settled: the question of what the criteria are for personhood. While I hope to avoid arguing for a specific set of person-making properties, something on this matter has to be said. First of all, whatever the specific criteria, they have to be such that corporations or any other artificial entities, which are often considered to be persons in modern legal practise, would not fall under it. So any criteria will have to be such that they only pick out single individuals (who will, in most cases, be biological organisms from the species *Homo sapiens*).

But given the nature of the current inquiry there is a second thing to be said on the matter. Here I am following Paul Weithman (2011: 32–33) and Rawls (1996: 18, footnote 20), we should bear in mind that the type of concept of a person we get is dependent on the type of ideas we use to construct it. Meaning that when we rely on ideas of metaphysics then we get a metaphysical conception of a person and when we make use of ideas from moral philosophy we will get a moral conception of a person and so on. And also the type of concept of a person we want is dependent on our aims. Meaning that for normative philosophy we want a moral conception of a person whereas for descriptive psychology we would want something different. This will prove useful because then we can get certain independence of political and moral philosophy from metaphysics and philosophy of mind. So that debates in the former fields (e.g. how we ought to treat persons?) could proceed without regard to the debates in the latter fields (e.g. what constitutes personal identity over time?)

Thus the picture we have here is that there are many different beings in the world and doing metaphysics can tell us which of them are persons and why. But doing

moral philosophy tells us how we ought to treat those beings that our metaphysics picked out as persons. So for my purposes the more relevant question is not what are the person-making properties but what is the relation of those properties to the free-and-equal-making properties. More on that below.

But even with the restriction of applying only to persons the Experience account, or some view based on it, would not be a good starting point for the establishment of our idea. This is because it identifies characteristics which are irrelevant to the political context. The idea that persons are free and equal is meant as grounding for specific kind of political doctrine which in turn will be the base for certain institutions and from there on specific kind of laws. But it is hard to imagine a law or a political institution to be the direct cause of pleasure or pain. At the same time, a person's capacity for sophisticated forms of cognition and life-style does seem to connect up with political institutions and laws in relevant ways, since they can prescribe actions which conflict with one's life-style, for example. This is why I think that the establishment of the idea has to take its cue from the Agency account of moral standing.

Now, back to the relation of person-making properties to free-and-equal-making properties. One option would be to think that the person-making properties and the free-and-equal-making properties are the same, in other words all beings who are persons are also free and equal and necessarily so, because the very properties that make them persons make them also free and equal.¹⁸ In one sense it would make the whole problem of looking for a foundation trivial: there is no need to look for any foundation to the idea, since it is already in the conception of person that they should be treated with a certain status in the political context. But in another sense, it would not solve anything since it would just push the problem to another level: instead of asking "what makes persons free and equal?" we would now ask "what makes some creatures persons (and thus by extension free and equal)?" Michael Tooley (1973: 54–55) seems to espouse this kind of view when he writes "I shall treat the concept of a person as a purely moral concept /.../ in my usage the sentence 'X is a person' will be synonymous with the sentence 'X has a (serious) moral right to life'" and also Robert Spaemann (2007: 16) who says that there is a special status of inviolability built into the idea of a person. Depending on what we take to be the person-making properties to be, this approach has to deal with the problem of casting a too wide net, since if we encounter non-human animals or

¹⁸ Although it could still be an open question whether the beings who are persons are persons necessarily.

other entities that have all the properties that make a person we must admit that they also should be treated as free and equal and thus considered full members of our political communities. Another practical problem we would face is beings we would want to consider as persons (such as young children) but to whom we would not necessarily want to assign the status of free and equal.

A second option would be to think that those two sets of properties are distinct but that free-and-equal properties supervene on the person-making properties or partially overlap with them. This is the kind of view that would be consistent with Lynne Rudder Baker's (2000: 4, 60) view, since according to her beings are persons in virtue of having first-person perspective, but our status as persons is not directly constituted by that ability, but by others, which we can have only if we have first-person perspective. This seems to be the most plausible option, firstly, because it coheres best with the most plausible ways of grounding the status of persons as free and equal. But also because it means we do not jump from certain metaphysical concept of a person to some normative conclusions without any further argument or explanation. Under this view the moral concept of a person (with its normative conclusions) will be separate from the metaphysical concept.

There is also a third option: to think that those two sets are completely independent, thus some beings who are persons could be also free and equal but that would be merely a contingent matter, and there could be beings who are free and equal but not persons. In some sense it seems that this would be the best, since the danger of casting the net too wide is lowest, at the same time there is the danger of coming up with free-and-equal-making properties which are biased against some beings. This view takes the separateness of the two concepts to the extreme and thus seems like the most implausible one since it is difficult to imagine what those completely independent sets of properties are. It is very likely that our metaphysical concept of person will have a cognitive component and will also make reference to some biological factors,¹⁹ then coming up with a separate list of properties to make our moral concept of a person seems very difficult, since as we have seen, traditionally, the moral status of beings has been defined in terms of agency (i.e. a cognitive aspect) or in terms of experience, which would require a certain kind of biological make-up.

¹⁹ If a person is constituted, for example, by psychological continuity then it has to be the kind of being who has the biological features which can generate such psychological continuity (e.g. a brain).

This question of what the relationship is of person-making properties to free-and-equal making properties, I think, cannot be fully answered without knowing more about what the free-and-equal making properties are. So I will move now on to the main topic: different ways to ground the status of persons as free and equal. Taken very broadly there can be two ways to do that: first, there is something about the persons themselves and second, there is something about their interaction with each other. The former group can be sub-divided into approaches that rely on some metaphysical/necessary or non-natural property of persons, such as having a human nature or having an immortal soul and approaches that rely on some empirical/contingent or natural property of persons, such as the actual fact of reasoning. The third approach then relies on the explicit or implicit principles and procedures that we make use of when interacting with each other. So the grounding for the status of free and equal can be read off from them as a kind of an agreement among persons. In what follows I will briefly examine all three options. It should be noted here that the choice of these labels is somewhat arbitrary, which is why I have so far used the dual names. For example, some arguments that I will be considering in the next chapter it may not be contingent that persons are rational, but it would still be an empirical property of persons, and the agreement based approaches could just as well be recast as moral practise based approaches, nevertheless I do need a way to distinguish between the groups. Thus the labels are meant to do only that that – distinguish one group of arguments from others, nothing of more significance should be read into them. Thus for simplicity I will from now on use only one name labels, but the reader should be aware that 'metaphysical' sometimes means also 'necessary' and/or 'non-natural' and same for the empirical property arguments.

Of course just noting certain properties will not be enough; one cannot just jump from the claim 'Persons have the property X' to 'Persons ought to be treated as free and equal'. But I do not think that bridging that gap is impossible. For example, certain properties might imply certain patterns in behaviour, which would in turn imply certain ways to deal with persons. It should be noted that with the first kind of approach it seems that to be free and equal will be a binary thing: a being either has the metaphysical properties that make it free and equal or it does not. With the other two there is some possible room for having a scale; some beings are more clearly free and equal than others, this leads us to the area of threshold and range properties which I will take up in section 5.

3.3 The Metaphysical Property Approach

The first kinds of approaches to grounding the idea are the metaphysical property approaches. According to this kind of approach all persons have some metaphysical property which makes it so that we ought to treat them with a certain status. One example of this approach can be called the God Did It view. Andrew Brennan and Yeuk-Sze Lo (2007: 48) have presented one such argument in a neat form: given that God is all-good, the necessary non-instrumental and intrinsic love God has for all humans gives them the value or dignity which implies that they should be allowed to exercise their self-mastery, i.e. to be treated with a certain status. It is worth mentioning that the difference from a Lockean account here is that although God plays a role in his explanation of why persons are free, it was not the fact that God *created persons with reason*, but the fact that *they had reason*, which was at the bottom of taking all persons as free and equal (cf. Waldron 2002: 83).

The obvious strength of such an approach is that if some metaphysical property can be identified, and it can be easily demonstrated that certain beings have it and others not, then it makes the foundation of the idea of freedom and equality very firm and also very distinct. If this approach is favoured then it points us very strongly towards the view that person-making and free-and-equal-making properties are identical, although it does leave open the option that there is only partial overlap or supervenience relation between the two. As demonstrated by the example versions of this approach will have to deal with establishing the controversial assumption that there is a God with certain purported properties.

But the main problem of this kind of approach is what I will call the problem of humanity. That is, if the metaphysical property of persons is some metaphysical quality of human nature or some capacity that humans have as a metaphysical fact then all non-human persons or all artificial entities that possess that capacity are excluded from the set of free and equal, and the idea of free and equal will be unduly biased towards one species. In other words the metaphysical or the biological conception of a person is conflated with the moral one with no good reason. It is true that this is not an actual problem at the moment, since there does not seem to be any non-human persons in our political associations. But a theory should be able to say how to deal with highly intelligent programs/robots, alien life-forms and/or (genetically enhanced) animals all of who are possible future members of our political associations.²⁰ If a being exhibits all the properties we take

²⁰ As a recent case in Argentina (<http://www.reuters.com/article/2014/12/21/us-argentina-orangutan-idUSKBN0JZ0Q620141221>) demonstrates, this is not a flight of fancy. If a great ape (in this case an

to be necessary for being a person, except for being a member of the species *Homo sapiens* then it seems problematic to treat that being significantly differently from humans, assuming that there are no disqualifying reasons. Of course any such account could stipulate additional reasons why non-human persons should still be treated as free and equal, but then the question arises: how do we decide in which cases do we come up with the extra reasons? Also concerning those extra reasons we might ask: if they grant the status of free and equal in this case, then could those same reasons grant free and equal in general and we would not even need the initial metaphysical property?

The other problem one might face is to provide a clear definition of the kind of property one is claiming persons to have and what it means. If one relies on human nature for the explanation of why persons ought to be treated as free and equal then it should be made clear whether this is just a placeholder for human psychology or whether supposed to describe something "deeper"? If the former, then I think legitimate concerns can be raised whether there is something that is substantial enough, and at the same time universal, in the psychological make-up and behaviour of persons. I am sure that there are traits that are shared widely enough, but something as simple as survival instinct or fear of death might not be sufficient to think that persons ought to take other persons as free and equal. If it is supposed to be the latter then I am sceptical that a clear and meaningful definition can be provided, or at least a clear and meaningful definition which would not end up being controversial. From the history of philosophy we can find many examples of different conceptions of human nature, so any specific understanding of human nature would have to compete with alternatives like the Aristotelian, Thomistic, Cartesian, Kantian or any of the other countless examples from the history of philosophy (cf. Williams 1973: 236).

Thus it would seem that the metaphysical property approach, while a theoretical possibility, does not like a very promising way to ground the status of persons as free and equal.

3.4 The Empirical Property Approach

The second kinds of approaches abandon the metaphysical picture and look for empirical capacities, such as capacity for rational choice or the ability to reason.

orangutan) can be recognized as a "non-human person" and ruled to be "unlawfully deprived of its freedom" then it is not unimaginable to think of a future scenario with certain animals having equal status with humans.

Thus one example of this kind of approach would go something like this: persons are beings capable of reasoning; that is, they act based on and respond to reasons. And even though some persons might be better at reasoning than others, they all meet a certain minimum requirement. If they were treated in a way that did not engage their reasoning, such as being subject to coercion without proper justification, then they would not be treated according to their nature. To treat them according to their nature is to offer them arguments for the actions which affect, influence or coerce them. In other words accord them a certain status, that of free and equal.

This example argument just given relies on an assumption that we ought to treat persons according to their nature and it is not obvious that this is so. But Weithman (2010: 27–28) has suggested that there is another way of stating the same point, according to him there is no need to rely on this imperative of respecting persons' nature, instead the nature of persons gives rise to a certain self-conception for the persons and if they are to live up to their view of themselves then they ought to act towards others in a certain manner. In other words it would be inconsistent to think one is a person with a certain nature but not treat others who are also persons according to that nature.

As I said we are looking for empirical capacities, but, as noted by Williams (1973: 230), these are distributed unequally among persons. When we turn to slightly more abstract properties, like the capacity to feel pain or feeling affection for others, then we seem to be on the right track, and we may end up with some idea of desire for self-respect or capacity for virtue. But the problem is identifying such moral capacities, and they seem to depend on empirical capacities which are possessed unequally (Williams 1973: 233–234).

The reply to this worry, which can be found in Rawls (1980: 546), is to adopt a threshold view. If we stipulate a certain threshold that each person has to meet then the factual differences will matter much less, since as long as the threshold is met the status of free and equal should be accorded. This is kind of approach can also be found in Carter (2011: 548) who makes use of the idea of range property: possessing some scalar property within a specified range, so all those who, for example, have certain level of rationality qualify as having equal dignity or humanity.

Although Carter (2011: 549–550) thinks that this line is “in the right direction”, he finds it ultimately unsatisfactory because it runs into two problems. First, explaining the moral relevance of the range property. If we move from a claim ‘persons who possess scalar property X in this certain range possess the range property Y’ to the claim ‘persons who possess range property Y ought to be treated equally’ we have not shown why we should not take the scalar property X instead of range property Y to be the basis for equality. Second, even if the range property can be shown to be morally relevant and empirically equally possessed then there seem to be other properties which people possess unequally which are also morally relevant and thus should be taken into account when assessing the equality of persons.

Carter’s (2011: 550) own proposal relies on a particular understanding of respect for which the central element is evaluative abstinence. The point is that in order to take people as equals we need to “avoid looking inside people” (Carter 2011: 551), that is, all the variable empirical properties on which persons moral personality supervenes are not evaluated.

It should be noted that Carter (2011: 552) leaves it open as to what are the exact characteristics upon which a person’s moral personality supervenes. But whatever they are, once we have recognized that the person under evaluation possesses these characteristics to a minimum degree, we should not look any further (Carter 2011: 553). This kind of idea of respect, “opacity respect” as Carter (2011: 553–554) calls it, provides us with a response to the problems identified with the Rawlsian picture discussed earlier. It deals with the first problem because we can show that there are independent moral requirements for adopting opacity respect other than our commitment to equality (as I try to do in the next paragraph). It deals with the second problem because if the independent moral requirements have been presented opacity respect excludes any other considerations.

But what reason do we have to adopt this kind of idea of respect? Carter’s argument can be summarized briefly in the following way: we can rely on an empirical property as a basis of equality only if we take that property to be a range property (otherwise people will not possess it equally). We can rely on a range property only if we adopt the opacity respect approach since otherwise we will see too much and the differences in the scalar properties that constitute the range property will reveal the inequality of persons. Assuming that human dignity is the proper object of respect, then the opacity approach will work only if we distinguish two kinds of dignity: dignity as agential capacity in the Kantian sense of having

certain agential capacities, and outward dignity which is a “feature of a person’s character, behaviour, or situation” (Carter 2011: 555). The fundamental difference is that unlike the former, we can lose the latter. Making use of outward dignity is appropriate only in certain contexts, where we view others simply as agents. One such context is the relation between the citizen and political institutions, for example, we think it improper for the state to evaluate our agential capacities, so in such situations only the outward dignity should be made use of. This is very plausible since I suspect that most people would have the intuitive reaction that there is something wrong when a philosophy professor is given a higher status than somebody with less but still adequate level of education. It should be fairly obvious how this approach clearly assumes that the person-making and free-and-equal-making properties either have some overlap or the latter supervene on former.

The empirical property approaches face what I will call the problem of marginal persons; that is, if the empirical property of persons that grounds their freedom and equality is some range property then one ought to explain what becomes of people who fall just under the required range, due to, for example, mental disability. If somebody is born mentally retarded or becomes impaired later in their life such that they are incapable of reasoning or meeting any other cognitive task that has been set, then it seems they do not qualify as free and equal persons, but this might conflict with our intuitions that as members of the same political association they still should be treated as such. It must be pointed out here that although they may lack the status of free and equal, such people still retain their moral standing, and it is probably one of the main reasons why our intuitions would tell us to treat them as free and equal. So what this means is that while it would be permissible for the state to coerce them with lesser or no justification or not allow them planning concerning their good, it would not at the same time be permissible for their family members to steal from them.

Nicholas Wolterstorff (2012: 607) has suggested that there are three solutions to this problem: (1) rely on a theistic account, thus marginal persons retain their status irrespective of their current capabilities, (2) bite the bullet and claim that such people are not free and equal or at least not to the same measure as others, (3) or come up with some extra reason why, despite their lack of cognitive abilities, they still should be taken as free and equal. A version of the second solution would be to deny that there even is a problem, saying that when we examine the issue closer we will see that in fact we do not have such intuitions and there is no problem in assigning a different status to marginal persons.

The first of the three solutions offered by Wolterstorff is basically adopting a version of the metaphysical property approach where all persons have some connection with a deity and thus granted freedom and equality. And as such it would not be a satisfactory resolution.

The third solution seems unsatisfactory in much the same way as the possible solution to the problem of humanity, I discussed earlier. If, facing the problem of marginal people, we manage to come up with some extra reason why people who lack the required empirical property still qualify as free and equal then the question arises as to whether we should look for a similar reason for other beings who do not meet the established requirements, whatever these happen to be. There needs to be some motivation as to why we are looking for the extra reason in some cases and not in other cases. That motivation will either be problematic, since it will refer back to certain biological facts and thus be speciesist, or it will be self-defeating since it will reveal that it is not the particular empirical property but rather the extra reason which is doing all the work. So it seems we are left with the second solution.

In a way adopting the second solution would be the intellectually most honest way: accepting the logical conclusions of the argument and not coming up with any (*ad hoc*) explanations for special cases. At the same time there might be intuitions that tell us that there would be something wrong in choosing to believe that disabled people, survivors of unfortunate accidents or the mentally ill are in some sense a lower status than others. But when we look at our current practices concerning the mentally disabled and incapacitated then they seem to reflect the attitude that they do have a different status: it is considered normal to treat them as having less or no freedom and equality, especially in medical cases.²¹ Such attitudes are implied by Stanley Benn (1988: 116) who has noted that given the deficiencies in their personhood, the requirements for justifying our actions towards the mentally ill are much more relaxed. So there are various cases of invasive medical procedures that are regularly performed on people who are deemed incapable of making decisions, including sterilization (Dimond 2009: 56; Stauch *et. al* 2006: 197–220), bone marrow harvesting (Dimond 2009: 65), and involuntary admission and detention for treatment (Jackson 2009: 307). All such activities could constitute assault,

²¹ When looking at the relevant laws and practises we should keep in mind the justification for them. If the motivation for them is purely pragmatic (i.e. marginal persons have the same status, but as a matter of fact they are unable to perform certain tasks, so we will not allow them to do those or we will do those for them) or whether it is more principled seeing marginal persons with a lesser status.

battery and kidnapping if performed on mentally capable people, but the fact that it is deemed alright to be performed on marginal people indicates that they are not free in the same way. Sometimes in case of incapacitated people part of their agency is transferred to a guardian, who has, the authority to decide among other things where the patient should live (Jackson 2009: 345). This is also something which would not be normal in case of normal adults and is an indicator of not taking those people to be equal.

Thus it seems, at first sight anyway, that if certain cognitive capacities are at the fundamental level the ground for persons being free and equal then the best response to the problem of marginal people is to bite the bullet. Or even deny that there is such a problem in the first place, given our actual practises concerning marginal people.

But when we think further we should notice that the problem of marginal persons it not really an issue at all. Referring back to the distinction made in Chapter 2 about personal and political morality (and the different conceptions of persons for different context made in this Chapter): what is under investigation here is not our singular acts concerning individuals, what is under investigation is how our institutions ought to be organized given that people are of certain kind. In other words what is at issue here are general rules, after inquiring about what the moral nature of persons is we come up with the proper institutions in line with that nature. Given that marginal persons are a deviation from a statistical normality then we need not take them into account when considering the structure of institutions. But once those institutions are in place they will apply to all of those who fall under them, and whether somebody falls under those institutions is not decided based on moral facts, but based on legal facts, if somebody is or is not a citizen of a certain state. So when it comes to the application what we need to look at is if and to what extent they are citizens and not if and to what extent those particular people meet the criteria for being free and equal.

When discussing the problem of marginal people, the question of very young children might arise: since if they also do not possess the required cognitive capacities then it looks like they also fall under this problem. Similar attitudes apply to children: in many ways children are not free or equal. For one thing they are partly under the authority of their parents, meaning that they are restricted in ways normal adults are not and usually they are not given the same kind of position to think about their own good as adults are. In addition to the reasons stated at the

end of the previous paragraph, there is also another good reason not to take the worry of very young children too seriously: under normal circumstances the inability of very young children is merely temporary and not permanent. Which gives us reason to treat them differently, but only in so far as they remain unable to participate fully and such that they would be able to participate fully in their own governance. So once again we can take children to be the exception to the case and not the norm.

A further issue that is not necessarily a problem for the empirical property approach, but needs special attention, is making sure that the cognitive capacities that are required of persons for them to be free and equal would not be so strict as to include only the Platonic Philosopher Kings; the fully autonomous persons who at all times operate on stage six on the Kohlberg's (1973: 632) moral development scale. I would suspect that there is a certain tendency, given the nature of professional philosophy, to bias the requirements on the too-strict side and also underestimate the abilities of lay people. Once again it seems to me that Benn (1988: 155) is right when he stipulates a state of autarchy of agents, which is a state between the full autonomy just mentioned and always acting on impulse. The opposite worry, that the requirements will be too relaxed and too many beings will satisfy them, thus making the set of free and equal beings too large, does not seem very serious.

The strength of the approach, at least over the metaphysical property approach, is that there is no need to rely on any problematic ideas such as human nature or souls. Instead we rely on actual empirically verifiable properties. I take Larmore (1987, 1996, 1999) and Rawls (1996) to be examples of this kind of view.

3.5 The Agreement Approach

The third kind of approaches I want to discuss are the agreement approaches. One possible version of the agreement approach could be built on the idea of reciprocity. This would mean assuming that persons think to themselves how they would like to be treated by others, including other persons. They come to the conclusion that they would prefer if they were not coerced and restricted arbitrarily by others, thus they would want others to treat them with a certain status. But after reaching this conclusion persons would have to recognize a further point, namely that there are no deep differences between them and other persons, meaning they would have to assume that other persons have reached similar conclusions about how they would like to be treated. Such hypothetical reasoning

would lead all persons to see that if they want others to treat them with a certain status; they would have to treat others with the same status in return. While this is very similar to contractualist (as opposed to contractarian) thinking, it is nevertheless different, since the contractualist already starts with the parties taking others to have certain status (Ashford and Mulgan 2012; Cudd 2012), while here the establishment of that status is at issue. Another version would be to make observations about how people treat others and then derive the status of free and equal from the principles implicit in such treatment. In other words, the way we treat each other leads us to a mutual recognition of each other as free and equal.

In such an approach the actual properties of persons would not matter.²² What would be important that there is some set of beings, persons, whoever might belong to that set, and those beings have reached some kind of an agreement, whether explicitly or implicitly, actually or hypothetically, to accord a certain status to all persons. That very *fact of agreement* is what would ground the idea; even the reasons for achieving the agreement or the emergence of the agreement would be irrelevant. Because this only concerns persons then as long as all of them are in agreement the reasons do not really matter, since there is nobody challenging it.

These kind of approaches face first of all the same problems any contract approaches face: when and where did the agreement take place? Of course one need not rely on explicit agreement, but if the agreement is taken to be hypothetical or in some way implicit then it will be much harder to show that it is binding. Here I think it would be helpful to turn to emergence view. That is, we will tell an evolutionary story of how this agreement emerged out of our moral and political practices over time and is implicit in them currently. One such story might rely on that fact that, for evolutionary reasons, humans feel empathy for other beings relevantly similar to them, and this empathy makes them want to treat those beings in a certain way. Another might claim that experimenting with different kinds of political associations it turned out that the kind which guarantees a certain status to its members is the most efficient in achieving our aims. Of course any such story cannot be parochial or rely on facts that are true of only a very small set of persons; in such a case it would not just be convincing enough.

A further aspect of this approach which might prove to be problematic is explaining why the agreement should be binding for all. It might be true that an implicit

²² The properties of persons would of course matter insofar as our description of them would determine their behaviour in a hypothetical agreement situation leading them to make one choice of the other.

agreement emerged from our practices but if it relies on distant past then that alone does not give us sufficient reason to hold that agreement binding for us now. The response to this worry is to claim, like Strawson (1962: 210), that “[o]ur practices do not merely exploit our natures, they express them”, meaning that the fact that the agreement emerged from our practises is binding since our practises are based on our natures, thus there is an innate reason to abide by such an agreement in all of us. Another worry which could be raised is whether such an agreement among persons is even sufficient to ground the actions of persons on such a fundamental level. But as I said already if this concerns only persons and includes only persons then there really is no outside point of view from which to question this agreement.

The strengths of the agreement approach are mainly that it is not vulnerable to the weaknesses of the two other approaches: there are no contingencies about whether persons actually have the properties (empirical approach) or difficulties in identifying them (metaphysical approach). Recent authors who espouse some version of this kind of approach are Benn (1988) and Gaus (2011).

3.6 Summary

In this chapter I started out by surveying some conceptual aspects of providing grounding to the widespread assumption in liberal political theory that persons are to be taken as free and equal. I first drew the distinction between two different senses of this idea: the politico-legal and the moral. The former refers to the liberties and equalities we enjoy as members of specific political associations and which depend on a specific legal framework. The latter refers to a pre-political idea of a certain status on persons which is supposed to guide us in defining the politico-legal sense.

I then looked briefly at the relationship between properties that make a person and properties that make a person free and equal, and suggested that this issue cannot be solved without a more particular sense of what kind of properties could make a person free and equal. I thus moved on to looking at three different possibilities: the metaphysical property approach, the empirical property approach, and the agreement approach. The first of these relies on some metaphysical property of persons (e.g. possessing an immortal soul or being the creation of God) to make the case for the special status of persons. The main difficulty of such approach lies in the fact of being metaphysically controversial. The second relies on some empirical property of persons (e.g., rationality or other cognitive capacities) to

make the case for the special status of persons. The main difficulty of such an approach lies in alleviating the tension between intuitions that marginal people should still be treated as free and equal and the approach's demand that they should not. Although, if we do not aim provide guidance on individual action, but come up with general institutions, then it would not be a problem at all since the marginal people would be treated under the general rule. The third relies on the agreement among persons (e.g. one through evolutionary process or hypothetical agreement based on abstract reasoning) to make the case for the special status of persons. The main difficulties of such an approach are the ones any contractualist approach faces. The relevant difference of this approach from the last two is that the foundation of the assumption is not grounded in the properties of persons and thus does not have the weaknesses of the first two approaches.

Having now laid the analytical landscape of the relevant issues and possible solutions in establishing this assumption, we can move on to the next chapter in which I will discuss some concrete examples of the two approaches which seemed to be more promising in hoping to make a good case for persons being free and equal (or at least us having good reasons to treat them as such).

4. YES, PERSONS ARE FREE AND EQUAL

The previous chapter I outlined three broad groups of arguments one could use to establish the idea that persons are free and equal in the sense defined in Chapter 2. The conclusion of the chapter was that empirical property- and agreement-based approaches seem to have much more potential than the metaphysical property approaches. In this chapter I will consider several specific arguments from both groups and illustrate them with examples found in the literature. I will start first with two versions of empirical property approaches which we can also find in Rawls and Larmore respectively, and I will then move on to a third argument which is difficult to fit into either category and which can be found in Dworkin. In section three I will consider two versions of the agreement based approaches and I will illustrate them with Gaus and Benn. I will end the chapter with some additional considerations from a pragmatic perspective. Given that each argument does not necessarily exclude the others then if any individual argument is not convincing the sum of all of them should be sufficient to establish the idea that persons are indeed free and equal (or at least that we have very good reasons to act as if they were).

There are three points worth highlighting before we begin. First, for most authors that I will be discussing it is not their primary end to show that persons are free and equal and why they are such. They usually aim to show something else which just makes use of the idea. Therefore we can only extract the argument for persons being free and equal from them if we ask what is the problem that they are trying to solve and how do they approach it. The second, and more important point, is that not all of the authors I will be discussing use the same label of 'persons as free and equal' or if they are then not directly in the same sense as I have explained it. But when we look at the content of their ideas and not just the labels, we will see that substantively we agree, and I will do my best to point out how I take each author to be subscribing to the same ideas. And, third, not only do they see themselves answering different questions but their methodology of doing so is also different. Both Rawls and Larmore are engaged in abstract idealized theorizing in a normative framework and they constrict themselves strictly to political philosophy. Dworkin's method is interpretation of concepts (what that actually entails I will explain in section 2) while both Gaus and Benn are making observations about our moral practice and extrapolate a kind of agreement from that. Dworkin and Gaus aim to solve fundamental questions about ethics and morality first so as to eventually build their political philosophy upon that, whereas Benn is mostly

committed to solving the fundamental ethical questions.²³ This mix of methodologies in some way counts towards the plausibility of the conclusions. Since I take all the authors to be examples of arguments for more or less the same conclusion – that persons are free and equal – then the fact that they arrive at it from different starting points and methods shows that they must have found something convincing if they all arrive at the same results.

4.1 The Empirical Property Arguments

In this section I will consider two arguments based on rationality of persons and illustrate them with discussion from Rawls and Larmore. While there are slight differences – one argument relies on a conception of moral and political personality while the other draws upon the notion of respect for persons – ultimately we have two very similar arguments: that the empirical property of persons being rational underlies why we ought to treat people as free and equal. It is our rational nature that gives rise to that particular conception of persons and it is our rational nature which gives rise to the principle of respect, both of which require us to treat others as free and equal. As I noted in the previous chapter, if one is unconvinced by the move from “persons have certain nature” to “we ought to treat them according to that nature” then we could put a new spin on this argument. And claim, like Weithman does, that this particular nature of persons gives rise to our self-conception and if we want to live up to our own conception of ourselves we must treat others according to their nature.

4.1.1 The Argument from a Conception of Political Personality

Given that Rawls made a huge contribution in popularizing the label free and equal, it makes sense to start with him when looking for specific arguments in support of this idea. Unfortunately there are several complications. On the other hand he is famous for being “a philosophical underlaborer” (Ackerman 1994: 364) and his political liberalism “does not seek deep foundation for these beliefs [which form the common currency of our public culture]; it concerns itself neither with their justification nor with its absence” (Raz 1990: 8), the same sentiment is shared even by people who explicitly claim agreement with his project (Larmore 2008: 164, 211). Thus there is very little explicitly argumentation about why we should think persons are free and equal and the implicit argument is difficult to extract. Second, he uses the label differently compared to me, although I think that we still

²³ Although Benn (1988: 215) does end up pointing to some political implications, namely that “respecting persons and their autarchy and valuing autonomy” are “core liberal commitments” and incompatible with communitarianism.

both agree, and just use different ways to label things. A further problem with Rawls is that his thinking splits into three: the earlier more empirical,²⁴ the middle Kantian period and the later political (not metaphysical) period. Although what is important is that the even though the explanation or justification for why persons are free changes over time then content stays consistent.

During the former he seems to assume it to be the case that a certain conception of persons is true:

in addressing the public culture of a democratic society, Kantian constructivism hopes to invoke a conception of the person *implicitly affirmed* in that culture, or else one that *would prove acceptable* to citizens once it was *properly presented and explained*. (Rawls 1980: 518, emphasis added)

So it would seem that we should try to examine this conception of persons and lay it out as Rawls presents it, and then ask ourselves if this kind of description of persons fit with our implicit beliefs about the persons in a political sphere. The following will partly aim to do that. Rawls seems to hold a similar idea also in his later period when he writes:

In the present case the conception of the person is a moral conception, one that begins from our everyday conception of persons as the basic units of thought, deliberation, and responsibility, and adapted to a political conception of justice. (Rawls 1996: 18, footnote 20)

An uncharitable reading of Rawls would conclude that there really is no argument, the truth of this conception of persons is just assumed to be true. But that is not all what he has to say, and I think it is more interesting to look at the more practical foundation he tries to provide: when we think about modern democratic politics there is a pragmatic problem to be solved. It would hardly make sense to start excluding certain people from politics; everybody deserves, at least *prima facie*, an equal standing. Thus the problem Rawls (1996: xviii) takes himself to be solving is the following: "How is it possible that deeply opposed though reasonable comprehensive doctrines may all live together and all affirm the political conception of a constitutional regime?" For Rawls this problem springs from the fact of

²⁴ What I have in mind here is Chapter 8 of *A Theory of Justice* (Rawls 1999) where he describes various psychological laws of moral development which lead people to acquire a sense of justice, which as we will see, is a component of being a free person. Because he does not qualify that discussion, unlike in *Political Liberalism* where he explicitly states the moral psychology not to mean empirical, then we can take the discussion in the *Theory* to mean empirical.

reasonable pluralism which is found in modern democratic societies. If people deeply disagree about the good, and their disagreement is a reasonable one (it is not caused by somebody making a mistake or selfishly pushing their agenda), then having institutions which are stable for the right reasons (i.e. principled moral and not contingent pragmatic reasons) is indeed an issue. Rawls' solution to this is a political constructivist procedure which is set up in a fairness-preserving way, meaning that if we go through the procedure correctly fair results must follow. This requires that the inputs to the constructivist procedure would be fair and it is in this place where the conception of persons as free and equal enters the argument. We must note here that much of the content of his views actually stays the same between the two periods. The major change is only in the method justifying those claims and the status of those claims, but both of them require some sort of exposition, which I will now provide.

According to the Rawlsian political conception of the person, persons are free in three respects. First, they have the moral power of capacity for a conception of the good (Rawls 1996: 30). By which Rawls means the ability to have, revise and pursue one's own good in life (meaning they are rational). What is relevant is that persons do not think of themselves as being tied to any particular conception of the good, but being capable of changing and revising whatever conception they do hold (Rawls 1980: 544, Rawls 1996: 131–132). This is a necessary requirement for people to engage equally in social cooperation: being rational provides each with their aims to achieve as a result of that co-operation. To be free in this Rawlsian sense is to be able to work out what is of value in life but also recognizing that this is an ability everybody shares, thus this covers what I take to be the equality of persons.

Second, they take themselves to a position to make claims on how the basic institutions ought to be organized, as Rawls (1980: 543; 1996: 32) puts it: free persons think of themselves and others as "self-authenticating sources of valid claims". Each person has their conception of the good and based on that they want certain things, and being free means that persons take themselves to be entitled to make claims on institutions to get those things.

Third, they take responsibility for their aims, meaning that persons, when making claims on institutions and/or resources, take into account practical considerations (Rawls 1980: 545; Rawls 1996: 33–34). That is persons adjust their desires and want to adapt to the particular social co-operation in which they make those claims,

even though from their own point of view it might be completely rational to make stronger claims.

Persons are considered to be equal within this conception because they possess these moral powers and other characteristics to a certain sufficient degree so that they would be able to engage in social cooperation with others. Also because each of them consider each other person to have the equal right to participate in the determination and assessment of the first principles of justice (Rawls 1980: 521). Or as Will Kymlicka (2002: 61) has put it: “[p]art of the idea of being moral equals is the claim that none of us is inherently subordinate to the will of others, none of us comes into the world as the property of another, or as their subject.” This springs from the assumption of “equal sufficient capacity” to reason about and act from the principles of justice, meaning that, while some may possess a deeper understanding of the principles and be better equipped mentally to evaluate them (Rawls 1980: 546; Rawls 1996: 80), all have at least the minimal abilities and are equally situated do use them. So we see how Rawls (1996: 72) falls into the empirical property approach camp: it is the “intellectual and moral powers” of persons which make them free, but those powers are not taken to be necessary properties of people, Rawls (1996: 81) admits to possibility of fluctuation and only “having these powers to the essential minimum degree” makes them equal.

If a free person considers others to be free also then we get a complementary idea of persons being reasonable which means they are disposed to follow the criterion of reciprocity, that is, they are willing to propose fair terms of co-operation (Rawls 1996: xlii). This covers what I take persons being free to be, since reasonable people (in Rawls’ sense) will not try to force others into co-operation or submission. So if we plug persons so conceived into the political constructivist procedure fair results will follow. One of the implications of that procedure is the liberal principle of legitimacy, which says that:

our exercise of political power is fully proper only when it is exercised in accordance with a constitution the essentials of which all citizens as free and equal may reasonably be expected to endorse in the light of principles and ideals acceptable to their common human reason. (Rawls 1996: 137)

This is quite synonymous with what I take for persons to be free. So clearly Rawls is talking about the same thing, but so far we still have not yet seen any reason to think of persons in such a way. As we saw before, the Kantian constructivist answer was that this idea of persons is implicit. His answer does not change much from the

political constructivist perspective, assuming that we are working within the framework of democratic societies under modern conditions, Rawls (1996: 43, emphasis added) thinks that his political liberalism project can be stated by using “a number of familiar and basic ideas *implicit* in the public political culture of a democratic society” and the political conception of persons as free and equal is one such of three fundamental ideas.

In other words Rawls thinks that this kind of understanding of persons is something we would not need to justify or explain. Just like the general convictions of slavery being wrong and religious toleration being right, which form the “provisional fixed points” from which we start our search for fair terms of co-operation, the idea of persons as free and equal (because they are reasonable and rational) is already part of the initial set-up. At least once we are properly familiar with it we come to realize that this is indeed the way we think of people in the political context.

Another way to interpret Rawls on this point is this: once we accept that there is reasonable pluralism about the good, finding the institutions that all could endorse from their point of view is a difficult task, and political constructivism is a fair procedure which will give us fair terms of co-operation. Then we can start to think of persons as free and equal as a tool for working out the kind of institutions which we think embody fairness. That is we have reason to accept this political conception of persons as free and equal since this delivers the kind of principles of justice which are compatible with our implicit beliefs.

This would indicate that Rawls is more engaged with the why-we-ought question rather than why-is-it-true question. Such interpretation is further supported by Rawls’ (1996: 86–87) statement that the moral psychology of persons presented is not meant to be an empirical description of people, but rather a philosophical tool, which he proposes in order to solve the problem of the justification of coercion in an environment of pluralism and disagreement about the good. So the argument then becomes: should we take this conception of persons to be the case since it works (in so far as we think that Rawls’ theory of a political conception of justice is convincing for us)?

There certainly are some aspects this conception of persons which seem to be (implicitly) affirmed in democratic cultures, such as thinking of oneself as being able to revise one’s conception of the good, so that empirical fact seems to count for his position. But when we think of Rawls’ (1996: 285) overall approach to

political philosophy and his understanding that ideal theory has to come first and must serve as a basis for non-ideal theory, the main consideration in evaluating the elements of his theory should be different. We should ask whether Rawls provides us with a consistent theory which is applicable in the real world with some modifications and if it is able to solve the problem it is meant to solve. If the answer is yes (and I think it should be) then we have reason to accept his theory and as an extension his conception of persons since it allows the theory to be realized.

4.1.2 The First Argument from Respect

The second example of an empirical property approach argument to establishing the freedom and equality of persons draws on the idea of respect. The starting point is the acknowledgment of the disagreement on value judgments we find in the world. Once we are confronted with it then the question is how we ought to respond to it. If we take persons to be rational and acting in good will, then we must assume that the disagreement is genuine and reasonable, i.e. no side can claim that the others are making a mistake, thus we must respect their ability to make value judgments (even if we happen to disagree with the content of those judgments). But given that persons are rational and respond to reasons, then when we want them to do something we must engage their rationality, that is, we must respect their status as beings capable of making their own value judgments. So respect for their rationality gives us persons being equal because we are bound to accept the disagreement if it were to arise as a result of rational and good willed debate, but respect for their rationality gives us also persons being free because we are bound to offer them reasons when trying to get them to do things.

We can find such an argument in the work of Charles Larmore. It should be noted here that classifying his argument as an empirical property approach is somewhat contentious since he seems to suggest that the reason for assigning persons this status is also the reason why we ought to consider them persons in the first place, which would make his approach closer to the metaphysical property one. But he does not elaborate on that idea so we cannot know in full detail his position on what makes a person a person and also he does not seem to invoke any strong necessary metaphysical claims about persons. After all, he views the rationality of persons as an empirical property of persons, thus I think it is not a problem to view him as a representative of the empirical property approach.

Because he (Larmore 1996: 121) thinks that the best way to think of liberalism is in terms of what kind of problems it is meant to solve, then his argument starts with that – what the liberal response to disagreement about the good is – and only then explains why the liberal response should be taken seriously which leads him to elaborate on the reasons for assigning certain status to persons.

In modern times we can witness a huge disagreement about different conceptions of the good life and there seems to be a general realization that the disagreement on those questions is reasonable (Larmore 1987: 43; Larmore 1996: 122). This means that people who “think and converse in good faith and apply, as best as they can, the general capacities of reason that belong to every domain of inquiry”, i.e. reasonable people, in Larmore’s terms, cannot come to an agreement about the best way to live one’s life. But this is not to be taken as an endorsement of value pluralism, like the one Isaiah Berlin advocated, for that itself is a controversial position about value, rather we should stick to the notion of disagreement (Larmore 1996: 153–154).²⁵ Given that he takes this disagreement to be a valid one, i.e. not a case of one party simply making a mistake, this already shows that he is committed to persons being equal in the sense I am using the term. This situation has created a need to reconceive politics: no longer can states be directed by and enforce one single “correct” or “right” doctrine, and liberalism is a response to that need (Larmore 2008: 142). Later we will see that he (Larmore 2008: 147–148) also distinguishes between two kinds of moral principles: ones we can rightly coerce people to follow and ones where coercive enforcement is not acceptable. Given that political principles alone fall into the first group and that he thinks that such coercion must be justified, he also thinks that persons are free in the sense I am using the term.

Given this disagreement (and the potential for conflict from it), Larmore finds that the response from the liberal state ought to be neutral, meaning no *state* action in the *political* arena can be justified such that it implies or relies on the intrinsic superiority of any specific doctrine (Larmore 1987: 43, Larmore 1996: 126). Obviously there can be some extrinsic reasons, such as appeal to public safety, which are valid for justifying state action, including coercion (Larmore 1987: 43). Also this neutrality should not be confused with neutrality regarding morality. What Larmore means is only being neutral regarding controversial ways of life (Larmore 1996: 125). Also this neutrality should not be taken to mean finding some form of

²⁵ Thus, according to Larmore it would be correct to talk about the fact of disagreement rather than the fact of pluralism (in Rawlsian terms) when we look at modern democratic societies.

universal unit of measure which could be used to weigh the different ways of life, in the way that classical utilitarianism tries to do by reducing everything to pleasure calculations (Larmore 1987: 49–50, Larmore 1996: 125).

Furthermore, since the limits of reasonable disagreement are not strictly defined, what counts as a neutral justification in a given state is historically contingent, if there is no dispute over some value or issue there is no reason for the state to remain neutral concerning that value or issue (Larmore 1987: 67). Also, Larmore is talking about process neutrality not outcome neutrality. There is always a possibility that some people fare better than others, but as long as the process was neutral this is not a problem (Larmore 1987: 43–44). Lastly, what is most important are not the specific political rules or policies that will be adopted but the general commitment to that kind of political justification, “to seek principles that can be the object of reasonable agreement” (Larmore 2008: 143).

This last point is most important because neutrality is not the only possible reaction to the disagreement we encounter: the state could use coercion to enforce only one conception or there could be a lottery to pick out one. Thus, what is needed is some way to justify the neutrality of the state, and that should also be neutral (Larmore 1987: 50; Larmore 1996: 127). So justifying state neutrality cannot be via strategic means (neutrality as a *modus vivendi*) and giving a substantial justification based on some version of individualism, like Kant’s autonomy-based approach or Mill’s experimental-based approach, would not work because that would just pass the disagreement onto the next level rather than solve it (Larmore 1996: 132–133). Instead what we need to look for is some common ground or *core morality* (Larmore 1996: 137–138).

Larmore claims that a neutral justification for political neutrality can be provided by the norm of rational dialogue, which states that when two people find themselves to be in a disagreement then, in order to solve it, they should:

[retreat] to neutral ground, to the beliefs they still share, in order either to (a) resolve the disagreement and vindicate one of the disputed positions by means of arguments that proceed from this common ground, or (b) bypass the disagreement and seek a solution of the problem on the basis simply of this common ground. (Larmore 1996: 135; cf. Larmore 1987: 53)

As with the initial proposal of responding with state neutrality to the observable disagreement over conceptions of the good, it is legitimate to ask why we ought to react this way, in other words the norm of rational dialogue does provide a solution but does not provide a reason to accept itself.

The two initial and obvious reasons, according to Larmore, could be sympathy and desire for civil peace. When we feel sympathy for those with whom we disagree, for whatever reason (maybe they have other views we agree with or maybe there is some historical/sociological community link between us), then that would provide us enough motivation to continue the discussion in a rational way when a disagreement occurs. Also when we can see that not following the norm of rational dialogue and/or not being able to solve the disagreement there would be violent (or just very unpleasant) consequences, we also have enough motivation. But those two reasons are too weak to properly ground the norm of rational dialogue: because sympathy is limited in its application and desire of civil peace is contingent on power positions which can often change easily. (Larmore 1987: 59–60)

Thus Larmore finds that the real and sufficiently good reason to follow the norm of rational dialogue lies in the *norm of equal respect for persons and our wish to show it* (Larmore 1987: 61; Larmore 1996: 136). This idea of respect needs to be unpacked. As a general note, Larmore says that what he has in mind is similar to the Kantian idea of never treating humanity merely as a means but also as an end. Larmore defines equal respect for persons in the following way:

It is roughly that however much we may disagree with others and repudiate what they stand for, we cannot treat them merely as objects of our will, but we owe them an explanation for those actions of ours that affect them. (Larmore 1987: 62)

Larmore distinguishes between those moral principles we think can legitimately coerce people to follow and those where such behaviour is unacceptable no matter the reasons: the first kind of principles are political ones, and those are the ones he addresses in this discussion (Larmore 1996: 136–137; Larmore 2008 147–148). The point is that forcing people to act in a certain way cannot be bad in and of itself, because in that case any modern political association would be impossible, but what seems to be bad is not complementing the force with reasons. That kind of behaviour indicates we are simply treating others as means: what is important is compliance with some order and that is achieved by coercing persons. But given that persons have certain capacities, namely being capable of thinking and acting

on the basis of reasons, we ought to engage with them and bring about conformity with rules by accompanying coercion with justification. Respecting other persons is expressed by recognizing them as capable of coming up with coherent set of beliefs viewed from within their own perspective. (Larmore 1987: 64; Larmore 1996: 136–137; Larmore 2008: 148–149)

There are two points to make about the norm of equal respect: first, we should not think that it is universal in the sense of universally justified, meaning that one has to be in a certain set of historical and sociological conditions in order to properly grasp the validity of that principle (Larmore 2008: 165). This idea follows a more general strain of thought in Larmore that morality needs to take into account: “the distinctive form of modern experience” (Larmore 1996: 1). But he does suggest that the norm of equal respect is compatible with most of the various ideas of the good life we find today (Larmore 1987: 66) and that it has been a central element of Western thinking and thus widely accepted by many (Larmore 1996: 150). The second thing to note, is that we have to think of the norm of equal respect as a deeper level principle, one that is antecedent to and is thus not legitimated by any “general” or “democratic” will, because only then can it serve as a neutral basis for the justification of the neutrality of the state and the liberal principle of legitimacy and only then can we make sense of our (observable) commitment to liberal democracy (Larmore 2008: 150, 167).

So even though Larmore is using the language of respect he still has in mind the same ideas that I have called being free and equal: to respect persons is to provide them with justifications when we coerce them, that is, to treat them as free. Larmore also subscribes to the idea of persons being equal because to respect persons is to follow the norm of rational dialogue which implies that we should be open to ethical pluralism, since we will not aim at agreement via converting others to our position.

4.1.3 Summary of Empirical Property Arguments

Before moving on, let us recap Rawls’ argument: people can have reasonable disagreements about the good, and such disagreements make designing political institutions a puzzle. To arrive at fair terms of co-operation which everybody can endorse from their own perspective Rawls proposes we go through a constructivist procedure. One input to this procedure is the conception of persons as free and equal, based on them being reasonable and rational. We have two reasons to think that this conception of persons is adequate. First, Rawls thinks that this conception

of persons is implicit in the public political culture of contemporary democratic regimes. And, second, I conjecture that because this conception helps us to arrive at terms of co-operation which are compatible with our considered judgments and implicit beliefs, we should accept it as adequate.

And we can summarize the other argument for taking persons as free and equal (with the implications for liberal institutions) in the following way: as a matter of fact reasonable people disagree with one another on questions of the good. The proper response from the liberal state is to remain neutral in its justification between the conceptions of the good which are in dispute in the society. While this position could be defended from for example the Kantian or the Millian positions, then it should, given the disagreement we have already noted, be defended from a neutral position, which relies on the very core moral principles. Larmore believes that such core morality is expressed by the norm of rational dialogue and equal respect for persons. The first of them establishes the way we ought to converse given the disagreement if we are inclined not to use violence, the second tells us that we should not resort to violence. The principle of equal respect is established by reference to the nature of persons as "beings capable of thinking and acting on the basis of reasons" and invoking the Kantian thought that if we force people into compliance without engaging them with reasons, we treat them merely as means.

4.2 The Second Argument from Respect

As I noted at the beginning of the chapter one of the arguments is difficult to fit in either category. On one side this argument is clearly making use of the Kantian idea of respect, which would put it in the same camp as the arguments from the previous section. But at the same time this argument does not appeal to any particular property persons have, and instead it proceeds from ethics to morality, showing us that we ought to treat other persons in a certain manner because that forms a consistent whole with the way we should live our own lives. But it does not fit neatly together with the arguments in the next section which are based on our moral practice in general, that is, in abstraction from any particular substantive principles or rules, this argument takes a specific ethical and moral framework as its starting point.

If we were to start building an ethics, i.e. answering the question "What it takes to make my life go well?" then one plausible solution is to claim that we must, at minimum, have self-respect. We must take a certain attitude towards our lives, that we accord some value to our life and we accept a certain kind of duty to make it go

well. If we were to then go on to morality, i.e. ask the question "How I ought to interact with others?" taking this kind of ethics as our starting point. Then for reasons of consistency we should conclude that we must also respect others, if we are to respect ourselves. This is because to only have self-respect and not respect for others is to say that there is something fundamentally different about our lives compared to others, but this clearly is not the case (at least from the outside perspective). And if self-respect implied certain attitudes towards our own life, then respect for others implies those attitudes towards others.²⁶

If we then move to political morality then we should conclude, like Dworkin (2011: 330) who represents this kind of argument, that no action of a political community that concerns its members is legitimate unless it treats its members with equal concern and respect. In his own words: "[g]overnment has no moral authority to coerce anyone [...] unless it respects two requirements [principles of dignity] person by person." This means we will be committed to persons being free and equal: coercion is only legitimate if certain conditions are met (what those conditions are should become clearer further in this section) and respect for others means being open to ethical pluralism since self-respect implies people coming up with their own ways of the good life.

The criteria for the right kind of justification in Dworkin's (2011: 369) case centre on the ideas of *dignity* and *ethical independence*, meaning that the state cannot presume the superiority of ethical values that are controversial in the community (leaving its citizens ethically independent) also state cannot infringe on anyone's dignity. The requirement for justification for coercion and the demand for ethical neutrality by the state surely mean that Dworkin also subscribes to idea of persons being free and equal in the sense I am using this label.

Before we can get to Dworkin's argument of why we ought to treat persons as free and equal we need to look at *interpretation*: the method that he uses to propose the substantive claims about ethics. Dworkin (2011: 6) proposes that some of our concepts (this includes moral and political concepts) are interpretative, in the sense that we share the contexts in which those concepts play a role in, but we disagree on those concepts because we interpret those contexts differently. While every interpretation is always of a specific genre (legal interpretation, literary

²⁶ Dworkin, who I will be using to further illustrate this argument, mentions Kant in relation to the idea of respect on multiple occasions (Dworkin 2011: 14, 255).

interpretation etc.), then all interpretations are united by the fact that they are expressed in the terms of intention of purpose (Dworkin 2011: 124–125).

Dworkin (2011: 130–131) takes interpretation to be a social phenomenon with which we can join in, and this practice is truth-seeking. In the first step of interpretation we identify the specific tradition or practice we are currently engaging with (i.e. whether it is literary or legal interpretation), we then assign purpose to that practice, and as a third step we propose the best version of realizing those purposes given the circumstances (Dworkin 2011: 131, 134).

But how are we to decide between interpretations? What counts, for example, as a true interpretation? Dworkin (2011: 154) says it is the one for which there are best reasons to accept it compared to all alternative interpretations. In some contexts we can know this by relying on psychological facts: the right interpretation of a book depends on the mental states of the author. While this kind of understanding applies well to conversations, it is problematic, for example, in history and law, and also in literature in recent times, where the majority position seems to be that author's intentions have little to do with the right interpretation (Dworkin 2011: 128–130). So Dworkin proposes that the best and by extension the true interpretation of a concept is one which best captures the responsibilities and aims associated with that concept in that particular context (Dworkin 2011: 7). Because he believes that there are objective truths about value he can also make a claim of objective truths about interpretations, since the success in ethics and morality is defined by a set of values (Dworkin 2011: 151).

Having set out the interpretative method Dworkin (2011: 191) goes on to execute his interpretative project of finding ethical principles. He (Dworkin 2011: 5, 25) relies on a similar distinction between ethics, personal morality and political morality I mentioned in Chapter 2, meaning that he takes ethics to be concerned with the question "how ought I act to make my life go well?" and morality with the question "how ought I treat other persons?". But even though they are two separate things, Dworkin (2011: 193) aims for an interpretation such that ethics would support morality and vice versa.

Dworkin (2011: 196) proposes that "almost all" accept that "we are charged to live well by the bare fact of our existence as self-conscious creatures with lives to lead." We have a responsibility to live well just as we are responsible to care for things that are entrusted to our care. It should be noted here that "a good life"

(understood as satisfaction of preferences and interests) is not synonymous with "living well": first, living well is having a good life within the constraints of human dignity (Dworkin 2011: 195). Second, it is not all about good consequences, someone who is currently not living a good life but is in that situation due to bold choices, may still have lived well (Dworkin 2011: 199).

In order to connect ethics to morality we need some ethical principle which is not directly about how to act in our dealings with others but only informs those duties. Dworkin (2011: 203–204) thinks that this can be found in the two connected ideas of *self-respect* and *authenticity*. He goes on to define self-respect, saying: "each person must take his own life seriously: he must accept that it is a matter of importance that his life be a successful performance rather than a wasted opportunity" and authenticity as "each person has a special, personal responsibility for identifying what counts as success in his own life; he has a personal responsibility to create that life through a coherent narrative or style that he himself endorses." Together those two ideas form the conception of human dignity, which is at the centre of both Dworkin's ethics and morality, as they give guidance on how to live well and shape moral principles such that any insult to this dignity is deemed morally wrong. Unfortunately Dworkin does not spend any time explaining how exactly he arrived at those two principles, he merely directs the reader to his previous work *Sovereign Virtue* (2000) and *Is Democracy Possible Here?* (2006) and asks us to look at the "related though different principles" presented there as "political principles".

As was noted in the previously the principle of self-respect as an ethical principle applies only to oneself; it gives no guidance on how to act in relations with others. But Dworkin (2011: 14, 255) thinks that in order to properly respect ourselves we must also respect all other human life, or put in another way: self-respect implies respect for all. His (Dworkin 2011: 255–256) argument goes like this: if a person takes their life to be important and of value, as the principle of self-respect leads us to, then there has to be an explanation for that value and importance. The fact that it is one's own life does seem to explain why that particular life is important for that person, but this, says Dworkin, falls under the second principle. The issue we need to solve is why one's life has objective value. So the question is: whether we think our life has importance because all human life has, or whether we think that there is some special characteristic which makes our life special. Opting for the latter does not take us very far: could somebody really make a convincing case that their life is of objective value just because of their gender, ethnicity, religion or some

other characteristic? So that leaves us with the second option and thus we must think our life has objective value because all human life has objective value. As Dworkin (2011: 260) puts it: "you see the objective importance of your life mirrored in the objective importance of everyone else's." We find a similar argument in (Sulmasy 2007: 13): trying to get the importance of one's life any other way than the general value of all human life, leads to inconsistencies. Thus Dworkin has integrated the ethical principle of self-respect into morality to arrive at a principle of equal respect for all persons.

From moral principles Dworkin then derives political principles. I have already hinted at what the implications of the ethics of dignity for politics are: coercion is inherently in tension with both self-respect and authenticity. But if we think as Dworkin (2011: 320) does, that we need some form of coercion in order to establish the proper conditions for a well lived life, even if it is a minimal form of coercion solving coordination problems, then there is a tension which needs to be solved. The conclusion, as already noted, is that a legitimate government:

must show equal concern for the fate of every person over whom it claims dominion. [And] it must respect fully the responsibility and right of each person to decide for himself how to make something valuable of his life.
(Dworkin 2011: 2)

This clearly demonstrates that according to this argument in political morality persons are to be taken as free and equal in my sense: taking seriously the demands of authenticity, the state should recognize each person's normative authority to form their own conception of the good and taking seriously the demands of self-respect the state should make sure it supplements its coercion with proper justification.

4.3 The Agreement Based Arguments

The second major group of arguments takes our moral practise as their point of departure and tries to show, given how morality works for us, we must also have had reached an agreement (understood in a very loose way) that persons are free and equal. The two authors who I will use to illustrate this kind of arguments are Gerald Gaus and Stanley Benn.

4.3.1 The Argument from Moral Practise

If we take our moral practise to be about following rules and punishing people for their failure for doing so and we assume that this practise makes sense and works and then we should ask what helps to make it so. One important element in our moral practise understood this way is the feelings of indignation and resentment when we observe failures to comply with rules. But such emotions are appropriate only if we further assume that those who failed to follow the rule were in a position to follow it. When Basil Fawlty calls his car a "vicious bastard" for breaking down and then proceeds to give it a "damn good thrashing" then that does not seem to make much sense, this is because Basil's car is not the kind of being who has agency and can follow rules. So if we want to explain our feelings of indignation and resentment we must assume that other people are full moral agents capable of following moral rules. But once we do that we must also assume that they are the kind of agent who is guided by their own reasons, thus we once again get persons as free and equal. How exactly this happens is illustrated by the argument from Gaus.

Gaus starts out with the notion of social morality which very simply put "provides rules that we are required to act upon and which provide the basis for authoritative demands of one person addressed to another" (Gaus 2011: 1). A more detailed definition states:

By "social morality" I mean the set of social-moral rules that require or prohibit action, and so ground moral imperatives that we direct to each other to engage in, or refrain from, certain lines of conduct. (Gaus 2011: 2)

It seems to me that the first thing we need to do is to see how this notion of social morality differs from what I have called ethics. The first obvious difference is that social morality does not say anything about what makes a good life or what constitutes a virtuous behaviour; it is strictly limited to organizing our social interactions. Gaus thinks of social morality as some set of rules which are "verified from the requisite moral point of view" (Gaus 2011: 3). Since the function of social morality is to regulate our social existence, Gaus (2011: 4–5) thinks that we must understand social morality to be a necessity for any kind of society. But we should not think of social morality merely as some instrument which helps us to achieve our aims, such that our allegiance to it is contingent on its ability to help us to achieve our ends.

As should be clear from the description of social morality given so far, Gaus thinks that it is imperativial; it is the "basis for issuing *demands* on others that they *must* perform certain actions" (Gaus 2011: 6). He ties this authoritative nature of social morality with the general nature of modern ethics which is based on the notion of right as opposed to the ancient ethics which are based on the notion of good (Gaus 2011: 6). The crucial point in the authoritative nature of social morality is that while I may issue demands and orders to others, social morality gives me the standing to issue those demands and orders; it makes your action my business and vice versa (Gaus 2011: 8–9). Also, Gaus (2011: 9) stresses that it is not the authority of morality to which one must submit themselves, but the authority of the person issuing the demand. The former approach would not do since it would lead to endless debates about what morality requires, since people's private judgments about those matters differs and nobody seems to be in a position of authority to solve the debate (Gaus 2011: 9–11).

Gaus continues with the discussion with the aim to reveal the nature of social morality, with a quote from Strawson (1962: 210) that I already referred to in the previous chapter: "[o]ur practices do not merely exploit our natures, they express them." This is the closest one-line summary one could get of Gaus' view of the nature of morality, which he believes integrates both emotions and reason. Previously in his book Gaus presented a long, and, it seems to me, a successful argument that instrumentalist foundations of morality have failed. But Gaus thinks the problem is deeper than just the failure of specific instrumentalist accounts: a purely instrumental account of morality has no chance of succeeding because it provides no grounds for Andy to make moral demands on Beatrice other than reminding her that it would be in her best interest to act in a certain way. Thus we should look for a different basis, which for Gaus is an evolutionary one focused on Rule-following Punishers. (Gaus 2011: 183–187)

The driving force in this kind of understanding of moral practise is emotional responses to violation of moral rules, such as resentment and indignation or "moral anger", this is the case both when we are harmed and when the violation of the rule is not directly linked to us. Emotions, including "moral anger", as understood by Gaus, have two features: (1) they have certain content, and (2) have implications for actions. For example: when we experience fear, it is always fear of something or someone (even if it is "the unknown"), and if we sometimes experience a more general state of fear that emotion is very puzzling to us. Also

fear has implications for actions: we avoid the thing we fear, or with the aim of overcoming our fear, face it, and so on. (Gaus 2011: 188–189)

The same features are present in the case of “moral anger”: (1) it is certain actions or the character of certain persons that we resent or feel indignant towards, and (2) having such emotions implies blaming²⁷ and punishing others, but also demanding that they stop or abstain from the behaviour which caused the “moral anger” in the first place. Both of these cases show that the two features are connected in such a way that you could not have one without the other. Gaus hastens to add that we should not think that the action should be taken because one has the emotion; one should avoid things that one fears because such things are (under normal circumstances) dangerous and stop actions which cause “moral anger” because such things are immoral. The emotional reaction serves as an indicator that the violation we have witnessed is an important one; that we care about the rule. (Gaus 2011: 190)

A similar mechanism is in place when it comes to guilt. Gaus (2011: 202–204) refers to empirical studies done with children in the ages of four to eight. These studies reveal that while the all children reported that the child in the vignette who stole the candy or pushed the other child off the swing did something wrong, the younger children thought that the bad child would feel happy, since she got what she wanted. In the words of the authors of the study, the children took moral rules to be “purely informational”. They knew that such rules existed and could cite reasons for them to exist, but lacked any personal investment in them, thus they lacked the idea of guilt. But it is Gaus’ claim that Rule-following Punishers, which we basically are in our moral activities, not only follow rules (and punish those who cheat), but also internalize the rules, becoming emotionally involved and thus feeling guilt when they break the rules, which is the essential part of being morally autonomous.

But all this makes sense only if our emotions are appropriate to the situation. The emotional reaction of “moral anger” can only be sustained and made sense of if we also hold requisite beliefs about the person or the action to which we are reacting. Gaus refers to an example given by William McDougall where he is startled by a rabbit that obviously is the least dangerous animal and thus the momentary fear felt by McDougall seemed absurd to him in retrospect. (Gaus 2011: 205–207)

²⁷ I will not go into detailed discussion about the nature of blame which Gaus presents in section 11.3 of the book.

But just as there is no rational explanation of fearing something we at the same time believe to be completely harmless, there can be situations (or descriptions of situations) where is no rational explanation for experiencing "moral anger". Such situations include "He was acting under posthypnotic suggestion" or "He's only a child". But why is that? If we take seriously the evidence about young children presented earlier we could hardly deny that being a child renders one unable to distinguish morally permissible from morally impermissible, in the sense of lacking the knowledge of those things. Gaus' suggestion is that while they may have those beliefs, they "[do] not really see that it is wrong", in other words they have not verified the rule from their own internal perspective; they are not principled rule-followers. (Gaus 2011: 208–209)

This implies that children (and psychopaths) do not themselves experience "moral anger" in the sense described earlier, they may experience "regular anger" when others frustrate their goals, but not something that springs from violation of rules. Also they would not feel any guilt, since they are not emotionally invested in the rules they may or may not break. In other words they do not exhibit moral autonomy, which leads Gaus to adopt the Principle of Minimal Autonomy, which says that "A moral prescription is appropriately addressed to Betty only if she is capable of caring for a moral rule even when it does not promote her wants, ends, or goals" (Gaus 2011: 210–211).

But we can imagine someone who is not lacking minimal moral autonomy, but is unable to comprehend how a moral demand to ϕ has any internal authority over her; she cannot grasp any reason for it. For example Gaus invites us to think of Winston Smith from *1984* who has the capability to care for the rule, but due to indoctrination has no reason to. So when someone like that violates a moral rule it does not seem appropriate to feel "moral anger" towards them, it may make sense to feel "moral anger" at the fact that they are the way they are, but not for the specific action they have taken. But if this is right then Gaus (2011: 222) needs to expand his principle to The Principle of Moral Autonomy: "A moral prescription is appropriately addressed to Betty only if she is capable of caring for a moral rule even when it does not promote her wants, ends, or goals and she has sufficient reasons to endorse the relevant rule." (Gaus 2011: 219–222)

All this leads Gaus to conclude that it is the nature of our moral practise that gives us reason to assume that people are free and equal:

For us to rationally maintain the reactive attitudes toward Betty, a moral prescription addressed to her must suppose that the Principle of Moral Autonomy is met. But that is to suppose that we see her as a free and equal moral person. She is a free moral person as she can be guided by her own sense of obligation based on her own reasons; she is equal because her reasons are as definitive about what she can recognize as her obligations as mine are about what I can see as mine. (Gaus 2011: 223)

Thus the original assumption of moral freedom and equality of persons is vindicated. For our moral practice of reactive attitudes only makes sense if we assume that other persons are morally autonomous. That is, we recognize that their reasons concerning moral actions are as valid as ours (i.e. they are equal), and we also recognize that for them to follow demands issued by others, those demands would have to be supported by reasons they can endorse from their own point of view (i.e. they are free).²⁸

4.3.2 The Argument from Reciprocity

The next example of the agreement based approach relies on the idea of reciprocity. The basic idea is similar to the argument in the previous section: we view ourselves as intentional agents, beings that can have a causal effect on the world, natural persons in other words. This means that we can have projects in which we have some interest in, that is, we want to be able to pursue them and not be interfered with. Much like the argument from the previous section we must also recognize others as natural persons, for one they are sufficiently similar to us and to think of them as automata would just be explanatorily very difficult. But once we have made that step then following the norm of reciprocity we have reason to not interfere with other's projects since we want to be not interfered as well. Thus we have reason to take persons being free, but also we have reason to treat them as equal given that the projects include ethical pursuits.

Such an argument in a more detailed manner can be found in Stanley Benn. Although he is less political in his aims compared to other authors, in that he is trying to figure out a more general theory of freedom rather than argue for specific political institutional set-up, he nevertheless presents us with a line of reasoning for treating other persons with a certain status which I have called being free and

²⁸ Gaus uses this fundamental starting point to argue eventually for certain kind of state institutions which resemble more a libertarian than a liberal state. So one might question if that does not somehow taint the idea of persons being free and equal as not exclusively liberal. But I do not think this is any cause for concern, the fact that one can draw different institutional conclusions from the idea does not in any way invalidate the liberal conclusions that I draw.

equal. Even though he makes use of the idea of respect and refers to Kant, I think it is more accurate to classify him as having an agreement based approach rather than an empirical property approach because the bulk of the work in his argument is done by the idea of reciprocity, how we as persons interact, and what implications that has for how we ought to act.

To start off the discussion Benn presents us with an example case:

Imagine Alan sitting on a public beach, a pebble in each hand, splitting one pebble by striking it with the other. Betty, a casual passer-by, asks him what he is doing. She can see, of course, that he is splitting pebbles; what she is asking him to do is to explain it, to redescribe it as an activity with an intelligible point, something he could have a reason for doing. There is nothing untoward about her question, but Alan is not bound to answer it unless he likes. [...] Suppose Betty were to prevent Alan from splitting pebbles by handcuffing him or removing all the pebbles within reach. Alan could now quite properly demand a justification from Betty. (Benn 1988: 87)

When we consider this case Benn (1988: 87–88) finds that we would agree that while it would be appropriate for Alan to resent Betty's actions (of restricting him in pebble-splitting), it would not be appropriate for Betty to resent Alan's actions. So according to Benn the onus of justification always falls on the person who is interfering and not on the person who was interfered with. Betty's interference with Alan would require justification even if it has no negative impact on Alan's aims and also when Alan does not mind Betty's interference (Benn 1988: 89–90). This is because Alan and Betty are both natural persons (Benn 1988: 90). The implications of being a natural person are very similar to that of persons being free as I have described it.

The idea of natural personality does a lot of work in Benn's overall theory, it is the basis for moral personality and thus for the principles of non-interference, respect for persons and equal consideration of interest. But in order to understand and evaluate his ideas we need to start at the concept of natural personhood. In a very general way Benn's approach is similar to Larmore's, in the way that personhood (and thus requirement of respect) is tied to certain capabilities/capacities. For Benn someone is a natural person when they conceive of themselves as intentional agents, that is, they are aware of themselves as being an agent with causal capacities: unlike inanimate objects events just do not happen to them, they are

able to initiate events (Benn 1988: 90–91). Being self-conscious agents, they are able to predict their actions, and even if some outside observer is able to predict their behaviour just as well (or even better), it would only be so because the observer would have gone through the same deliberative process the agent would have gone through (Benn 1988: 92–93). Clearly not every human is a natural person: infants for example must first learn to distinguish themselves from the rest of the world in order to have intentional causal influence on it, also Benn (1988: 94) allows for the possibility of there being non-human natural persons (aliens or supernatural beings).

Since being a natural person includes being self-conscious about the very fact of being a natural person, one must necessarily apply the concept to oneself, but that only opens the possibility for extending the concept to others. But not applying the concept to others would lead to very strange consequences, for one would have to then assume that all other humans in the world are some sort of automata, which would mean that on one hand the behaviour of others would need to be explained somehow differently, but on the other there would be no real basis for that single person to predict the behaviour of others. This leads Benn to assume that all natural persons extend the concept of natural person to all other natural persons. But this would only provide grounds for consideration of others on prudential grounds, and for a functioning society we would need more reason than this to consider others. (Benn 1988: 95–97)

If we extend the notion of natural person to others only on prudential grounds then in such a world there would be no room for feeling resentment and indignation towards others, and treating others nicely would only be done in the same way as one takes care of one's pets: without giving them the full regard that is given to oneself. If we were treated like that then we would feel resentment and indignation, but such emotions are adequate only when the object of those emotions is able to recognize them (one would not feel resentment towards an inanimate object or even an animal or an infant since they do not know any better). In addition to feeling resentment because of some behaviour, we must assume that there is some minimum level of appropriate behaviour that others should take into account when dealing with us and that this minimum has been breached. But being all natural persons we must assign the same level of consideration to others once we assign it to ourselves. Thus, finds Benn, we have developed a self-conception of moral personhood, which requires that others treat us with respect and which is based on our natural personhood. (Benn 1988: 97–98)

From this we can see that reciprocity plays an important role in Benn's theory: thinking: "I would not want others to do that to me, so I had better not do that to them", is the main mechanism through which natural persons come to think of themselves and others as moral persons. Thus it is not only the causal agency we need to look at but also some kind of rationality.

Next we should look at how Benn unpacks this notion of respect and the principle of respect for persons, and also what its implications are. Benn (1988: 103), just like Larmore, does not take a fully Kantian approach, claiming that the principle of respect for persons means that nobody should be treated merely as a means but also as an end in themselves. Instead Benn concentrates only on the negative prescription of not treating others as means. Benn's (1988: 104) approach differs from Kant's in three ways: 1) what matters is persons and not humans; 2) there is no similar connection to rationality; and 3) respect is given a different meaning, which places it between concern and deference (one can have concern for someone else without respecting them, and deference assumes some sort of hierarchy).

Benn (1988: 105) ties the idea of respect to a person's interest, i.e. things which are to his advantage, which can be perceived or real, that is, person may just believe that something is to his advantage and something can be to his advantage irrespective of him believing it to be. To respect a person is to act according to his perceived interests – "to treat his own view of himself seriously" (Benn 1988: 105). Here we can see a similarity with Larmore, who claimed that respect for persons means that we take others to be capable of coming up with a coherent set of beliefs.

But Benn (1988: 106–107) goes further with his discussion of interest, and correspondingly, respect. For there are also things persons take interest in, i.e. their projects. Such projects give meaning and direction to one's actions and thus form an external part of one's identity. Respecting others in this sense then, means recognizing each other as agents who have projects which one considers valuable. Taken as such, respect for persons serves as an obvious ground for the principle of non-interference: to interfere would be not to allow others to pursue their projects, but if we recognize each other as agents with projects we ourselves think to be worthy, we have no reason to interfere with those projects (under normal circumstances). This is where we see Benn subscribing to the idea of persons being

equal as I have described it: respecting the moral personhood of others includes allowing them to come up with their own plan for life.

If we now look back at Larmore's definition of what it means to respect a person we see that his approach is somewhat stronger than Benn's. Larmore talks about owing an explanation to those whom our actions affect, while Benn finds that respect requires we only justify actions which interfere with others. Also Larmore seems to think that the distinctive feature of modern political associations is that people are coerced into following some social order, but that is legitimate as long as this is accompanied by proper justification. Benn (1988: 140) on the other hand, thinks that political association, mobilizing other people's power to bring about one's own ends, can have other sources than coercion.

But under what circumstances it would be legitimate to interfere, while still adhering to the principle of respect for persons? Benn (1988: 113–114) finds that when one can provide another with a justification that is intrapersonal, i.e. does not rely on subjective tastes, that the justification is such that one has reason to believe others have reason to accept it. One can rely on a personal dislike only if it is possible to re-describe it in some agent-neutral terms, so when Caroline says that she does not like that Desmond is tearing legs off from crabs, that is not sufficient. But when she re-describes it in terms of that action causing pain, she has a real justification for interference, because, presumably, avoiding causing pain is not a subjective like of Caroline, but is widely shared. In other words, Benn (1988: 115) suggests that the justification should rely on reasons the other person (the one being interfered with) is already rationally committed to, and avoiding causing pain seems to be such a reason, because Desmond presumably would not choose to be subjected to it. If that were not the case, claims Benn (1988: 116), we would have to say that Desmond is suffering from a defect of rationality and thus his immunity to interference is diminished.

But what about the equal consideration of interest that was mentioned earlier? It is clear that there are certain situations and roles where discrimination is ruled out, such as a judge presiding over a case. But Benn (1988: 118) does not want to claim that all instances of favouritism are excluded, because that would mean one could not ask a particular woman to be their wife unless they made the same proposal to all unmarried women of the marriageable age. But notice that because Benn (1988: 119) concentrated on the negative prescription—abstain from treating others in ways yourself would have reason to resent if they did that to you—it does

not confer any positive duties. Thus as long as one's actions do not have adverse effects on others, there is no problem, meaning that the principle of equal consideration is only secondary: it kicks in when it has been demonstrated that there was no basis for discrimination.

While most adult humans are natural persons and thus moral persons and thus owed respect, then there can be deviations from the normal functioning of people which diminish their status as natural persons. Benn calls a fully free natural person – an agent who has and sees himself of having some causal capacities, and is able to deliberate on options and choose among them – an autarchic agent; somebody who is self-directing.

According to Benn (1988: 155) the baseline of an agent is a state of autarchy, self-directing, which is somewhere between acting on impulses and being fully autonomous. In Benn's terminology autonomy is understood as an ideal, a kind of excellence of never acting on any impulse and always acting on rules one prescribes to oneself. Agents may strive to this but only reach it in varying degrees. Autarchy is the baseline in the sense that most people most of the time are autarchic and when someone is not we usually feel that we need to treat them differently from the way we treat full persons, meaning that in cases of defective autarchy the principle of non-interference is more relaxed.

4.3.3 Summary of the Agreement Based Arguments

It will be helpful here to recap quickly the two arguments considered in this section. We first saw that evolutionary game theory indicates that people are very good at being rule-following punishers, that is, people who follow rules even and punish those who do not even if each individual instance of following a rule and punishing a transgressor is not in our immediate self-interest. We can use this to conclude that morality is about following rules and if somebody (including ourselves) breaks those rules we will feel resentment and indignation (and shame in our own case). But such emotional responses are only appropriate if we assume that others are the kind of agents who are able to internalize and follow the rules of morality: just as we cannot resent a tree falling on our car, we cannot resent the compulsively behaving person. But to assume that others are agents with full moral autonomy is to assume that they are free and equal. Thus we must think of persons as free and equal since this is a requirement for how morality in fact works.

We then considered the idea that each normally functioning adult human is a natural person, that is, they are an agent who have and seem themselves has having intentional capacities, to be able to initiate actions and change in the world. As such agents we want to be able to act according to our own projects and not be interfered with by others. But once we ascribe such agency to ourselves we must also ascribe similar status to other people, otherwise there is no other realistic way to understand and explain their actions. But once we do that we must also recognize that they also have projects they care about and they also do not want to be interfered with, so reciprocity leads us to treat others with a certain status as free and equal persons.

4.4 Pragmatic Considerations

A fourth way to go about grounding the assumption that persons are to be taken as free and equal is through pragmatic considerations. As Gaus made the argument that in order for our moral practise to work we must assume people to be free and equal, I want to make the case that in order for *our political practise* to work we must assume people to free and equal. The first point here is that it will make for easier governance if we employ such an assumption.

First, consider a parent and their child. The younger the child is the less independent she is, meaning the parent must devote more attention to her. Consider a fairly simple task, by adult standards, of doing the grocery shopping and cooking for two days. For example, a 4-year-old could not be given this task because they would be too young to take care of themselves on their way to the shop or when handling the cooker and so on. A 11-year-old might be old enough to do the shopping and cooking, but when all of the sudden given money to spend and no direct control is exercised over her, she might decide to order pizza and buy lots of candy bars and find herself to be short on cash by lunch time on the second day. A 14-year-old on the on the other hand might be responsible enough to be able to go out on the town to do the shopping and also make the right choices. The more independent the child, the less need for the parent to govern them, making both better off. We do not need to apply any theory of the good and judge from outside that the 11-year-old did something wrong; when they find themselves without money to buy food, having spent it irresponsibly on the first day and have to go hungry wishing they were not in that situation, then that cas serve as the measure of wrongnes since the 11-year-old judges the situation themself to be wrong.

When state institutions are set up such that we assume persons to be free and equal it means that citizens will be more independent when it comes to ethical reasoning. So if persons are taken to be equal, in my terms, then the state need not cultivate particular beliefs in people and monitor them to make sure that they do not stray from that path, making both better off: the state can save resources and the persons are less interfered with.

A similar point is made by John Stuart Mill (1991: 15–16) who argues that for less developed people, more despotic governments are needed, because the people are unable to make the right choices. According to Mill (1991: 13) a representative form of government needs input by the people: they must accept that form of government but also be willing and able to participate in it and cooperate with it. But just as a parent, who does not want or cannot be there to govern every move their child makes, needs to assume certain kind of capacities from her child to leave her alone, the modern representative government needs to assume certain capacities from its citizens. The rightness or wrongness of such decisions is not measured by any external standards but from the point of view of the people making the decisions.

The other aspect is stability. Taking persons as free and equal and accepting the implications of that – the justification thesis and a principled ethical pluralism – will lead to a more stable political environment, at least when taken from the perspective of how the state institutions relate to the people. If the previous arguments have established anything, they have established that a lot of people will have certain intuitions and understandings of how they ought to be treated, but if the state institutions do not correspond to that then the people will have cause for complaint. If people feel that the state institutions are such that the state oversteps their legitimate boundaries either by exercising undue coercion or trying to restrict people's endeavours in pursuing their own good, they might feel compelled to take action.

It is true that taking the equality of persons seriously, in my terms, leads to a whole new host of questions of stability, as has been noted by Rawls as the main question of his *Political Liberalism*. But at the same time, taking seriously the freedom of persons helps to balance it out: if we allow for a wide plurality of different outlooks, but at the same time demand proper justification for coercion, then the possibility of oppression of group by another is much less possible than it would be if we did not have the requirement of justification thesis.

With a brief look at the history, we will find strong support for both of these claims: extending the status of free and equal to all persons has been a steady progress over time and this approach has paid off, because we assume people are free and equal and thus are able to behave responsibly when not governed despotically. Hence we are able to have the kind of institutions we have today. Also we have seen multiple examples of revolutions of citizens against the state because the state has not recognized their status as free and equal.

But there is also a third side: that of perfectibility. Mill (1991: 51, 58) has noted that certain kind of institutions and governments are able to bring people who are not as developed up to "the next level", they are able to educate people, to perfect them. In a non-representative governments, where people do not play a role in their own governance, their personal growth is stunted. But in a representative government this is not the case, although as I noted before, to have this kind of government we need to assume that people are free and equal, that they can be trusted just like a parent can trust a child after a certain age. I do not endorse Mill's argument in its pure form; I do not think that his particular vision of being a better person is something that I want to adopt. But he nevertheless has a point if we convert the perfectionist claim into a pragmatic one: designing institutions with the assumption of persons being free and equal in mind helps to develop their pragmatic skills such that they are more able to get what they want, whatever that happens to be.

Bernard Williams has, at least implicitly, provided a similar argument based on pragmatic considerations for assigning persons the status of free and equal. This argument relies on a functional understating of the state, such that it is the aim of the state, and thus the "first political question", to secure "order, protection, safety, trust, and the conditions of cooperation" (Williams 2007: 3). Some of those things listed may be achieved by instituting a Hobbesian Leviathan – a sovereign with absolute power – but the problem with such a solution that it partly becomes the problem itself – there is little point in trying to remove fear and terror of an uncertain source (i.e. the state of nature where you can only know that someone might attack you, but you have no idea who or when) with fear and terror of a certain source (i.e. the sovereign wielding absolute power). Thus any solution to the first political question has to, according to Williams (2007: 4) meet the Basic Legitimation Demand, which would mean that "the state has to offer a justification of its power *to each subject*." So we end up with something very similar to the

justification thesis, meaning that persons are accorded a certain status, but the way Williams reaches this conclusion is different: nothing that would imply such a principle is presumed about the persons beforehand, instead the functions of the state are taken to be the point of departure.

This argument is fairly similar to the previous one, but the focus here is on our political practise. As a matter of fact we have seen that assuming the freedom and equality of persons leads to better results in the political realm and that much of our current political practise currently operates with this assumption, thus once again our actual practises validate the assumption.

4.5 Going Forward

This chapter marks mid-point of the thesis, so it will be useful to recap briefly the discussion so far, and to map out the discussion that is coming up in the second half of the thesis.

I started out with the quest for the core idea of liberalism. I set as my goal finding out what the fundamental idea of liberalism is. One of the first things I did was to note that this question cannot be divorced from the question of what liberalism is. And in fact the question of what liberalism is needs to be answered first.

This meant that I spent most of Chapter 1 discussing three conceptions of what liberalism is from Freeden, Shklar and Geuss. While they did differ at some points they also had considerable overlap between them. Thus, making generalizations that covered all of these three, I presented a definition of liberalism as a political doctrine with four distinctive features: importance of liberty, centrality of individuals, ethical neutrality and suspicion of power.

Having an understanding of what liberalism is, in the next chapter I began looking at what is at the core of it. I argued that a certain understanding of persons as free and equal is the core idea of liberalism thus conceived. When I elaborated on that idea further it became apparent that the implication of persons being free is *the justification thesis*: coercion can only be legitimate if it is accompanied by proper justification. And the implication of persons being equal is *a commitment to being open to pluralism in ethics*: nobody is a normatively better position in ethics, thus nobody can come up with a conception of the good for others.

Next, I showed how this core idea connects up with the four distinctive features of liberalism. I also demonstrated how much contemporary liberalism takes this idea

of persons as free and equal and its implications to be the core of liberalism. So we know that conceptually this all makes sense, but there is still the question of having good reasons for holding this position.

And that was the aim of the previous and this chapter. First I aimed to describe three general ways in which one can establish this argument: the metaphysical property approach (that it is some metaphysical property of persons which makes them free and equal), the empirical property approach (that it is some empirical property of persons which makes them free and equal), and the agreement approach (that it is some agreement, broadly construed, among persons which leads them to treat each other as free and equal). At the same time I argued that the two latter approaches seem more promising.

This leads me to present specific arguments for the idea. I looked at one set of empirical property approaches: the Kantian arguments from Rawls and Larmor, and at two sets of agreement property approaches, based on our moral practise from Gaus and Benn, with Dworkin in between, since his argument does not submit itself for a neat classification. I ended the chapter with some additional pragmatic considerations from myself, Mill and Williams.

Rawls and Larmore argued that persons are rational and to treat them according to their nature is to treat them with a certain status: we ought to respect them, that is, treat them as free and equal. Dworkin's argument was similar but his starting point was ethics: the best interpretation of ethics requires that we have self-respect, but we cannot have self-respect if we do not respect others, that is, treat them as free and equal. The third line of argument was that if our moral practise is about emotional reactions to others breaking rules, then we must assume them to be free and equal otherwise those emotional reactions would not make sense (Gaus), or that our own moral personality of natural persons leads us to demand justification from others and we must extend this natural personality to others (Benn). And finally I argued that based on few pragmatic considerations, referring to Mill and Williams, that the assumption of persons as free and equal is a requirement for good governance and is a way to make people better at living their own lives.

But the question now is: if liberalism is about persons being free and equal and we have good reasons to think that persons are free and equal (or at least that we should treat them as such), then what does this mean for liberalism? More

specifically, what implications does this have for the nature of liberalism? The current debate has been framed as perfectionist nature versus political nature view of liberalism. It will be my argument that perfectionist liberalism is ruled out if we take seriously the idea of persons being free and equal. But in order to make that case I will first spend some time introducing the distinction between the two kinds of liberalism and developing the case for perfectionist liberalism.

5. POLITICAL AND PERFECTIONIST LIBERALISMS

As I noted at the end of the previous chapter we are now in the second half of the thesis and my aim here is look at the question of what type of liberals we should be, given that we take seriously the idea of persons being free and equal. More specifically I want to inquire as to the consequences of this idea to the debate between political and perfectionist liberals. My argument will be that the implications of persons being free and equal make it impossible to be a perfectionist liberal. In order to make that argument I will need a good grasp on what exactly are political and perfectionist liberalisms. So I start this chapter by exploring that issue, to see what, and how sharp, the distinction is between these two kinds of liberalisms. For my argument against perfectionist liberalisms in the next chapter to have any real merit we would need to have at least some case for perfectionist liberalisms. So the second half of the chapter will consider some of the common arguments for perfectionist liberalism.

5.1 Perfectionism in Political Philosophy

So far there has been talk of only perfectionist liberalisms, but of course perfectionism is much wider idea than just one particular type of liberal theory. In fact we can talk about perfectionism in ethics as a moral theory or as an account of well-being, and about perfectionism in politics, wherein perfectionist liberalisms are only one type (Wall 2009: note 3). We should bear in mind here that even though there have been perfectionist political theories throughout history, as Herlinde Pauer-Studer (2001: 180) has noted, modern versions of perfectionism are quite different from the ancient ones. For Plato, for example, perfectionism in politics is based on fundamental claims in epistemology, drawing its authority from the fact that the theory has some sort of connection to the truth, understood metaphysically. The modern versions of perfectionism are much more modest in that regard: they just stipulate that some liberal value (often autonomy) has intrinsic value and thus political theory needs to be formed taking that fact into account.

Steven Wall (2012) has given a very general characterization of perfectionism in political theory: it means that a certain objective conception of the human good is put forth and then a set of political institutions is proposed based on that, so that politics would conform to this ideal and facilitate its realization. From that description we can deduce that perfectionism in politics has two main features: *the objective good component* and *the rejection of state neutrality component* (Wall

2009: 101–102). The objective conception of the human good can take various forms. There are those which are presented in terms of well-being: what is important is that people's lives go well, judged according to the objective goods posited by the theory; and those which are presented in terms of excellence or achievement: what is important that people realize certain objective values or achieve a kind of excellence in themselves during their lives, their individual well-being is of only secondary importance (an individual may be required to forgo personal well-being for the sake of others or some impersonal value). Given that the latter is much broader, Wall (2009: 101; 2012) thinks we should favor that view.

But both of those kinds of objective good components can be presented in different ways: first, the goods could be related to an understanding of human nature. Wall (2012) cites Aristotle as a historic example and Thomas Hurka (1993) and Philippa Foot (2003) as contemporary examples of this kind of approach. The main task for these kinds of theories of perfectionisms is to present and defend a particular kind of conception of human nature and its components, who they relate to, and the values they propose. In the second approach, what is important is the realization of some list of objective goods without any reference to human nature; Wall (2012) cites Derek Parfit (1986) and Richard Arneson (2000) as contemporary examples of this kind of approach. The main task of these other kinds of approaches is to compile a specific list, to defend the values in this list and explain why other values are not in it (Wall 2009: 102; 2012). While this list need not be exhaustive, the theory should include some general criteria for determining which kind of values should have a place on that list and which should not, i.e. what makes something objectively valuable. It is relevant to note here, that although the objective good element of perfectionism seems to imply monism, it is completely compatible with pluralism. The general characterization of perfectionism leaves it open whether one or more (incompatible) kind of lives are valuable or whether the realization of one or more (incompatible) values contribute to the objectively good life (Wall 2009: 102; Wall 2012).

But the objective good component is not sufficient to pick out only perfectionist theories so we also need the second component: the rejection of state neutrality. It means that the perfectionist thinks that the state should be given the task of actively promoting the good provided by the objective good component (be it monist or pluralist; human nature related or list based). In Wall's (2009: 103) characterization, perfectionist's rejection of state neutrality is all encompassing,

meaning that the state need not be neutral in the aims nor the justification of their actions. It seems that there are two parts to the non-neutrality of the state: promoting the objective good and using the objective good to justify state actions. It is difficult, then, to imagine what the justification for the former would have to be in order to avoid making reference to the objective good itself. Presumably the motivation for promoting the good has to come from the fact that it is believed to be the objective good, and if so, such actions would be justified with reference to the objective good. This means that understanding state neutrality as not using objective conceptions of the good to justify state action has a much broader reach since that can also cover cases which do not directly promote a certain good, but which are still justified with reference to that good.

This kind of non-neutral state action can take many forms: mild forms of perfectionism include subsidizing certain activities by using funds which are voluntarily collected, a stronger version of perfectionism taxes citizens and then redistributes those resources according to the conception of the human good by providing certain services and products, even stronger versions of perfectionism would not just provide additional valuable options, but would prohibit and ban unworthy pursuits. But the main point here is that unlike in anti-perfectionist states, which aim to remain neutral on the question of good, in the perfectionist state there is no principled reason why the state should not act upon a particular judgment about the good life which is thought to be the best regardless of whether that judgment is shared by the society.

According to Wall (2009: 104–105) with these two components – the objective good component and the rejection of state neutrality – in mind, we are uniquely able to pick out all the political theories which are historically thought of as perfectionist and no others, and at the same time leave enough generality to our definition that there still can be a variety of theories. Such description gives us positive perfectionism: we have a conception and the state aims to promote it. But it has been suggested that perfectionism should take a negative form, such “that laws and institutions should be designed so that they prevent (or at least do not promote) objectively bad human living” (von Platz 2012: 107). Having a theory of what is of objective value implies that you also have a theory about what has objective disvalue, but merely having a conception of what constitutes objective harm does not necessarily provide us with an understanding of what is of objective value. Thus it seems that a positive perfectionism will be preferable to a negative one, just because it will present us with a more complete picture. On the other

hand, it seems that people in general are more likely to agree on the objective harms than on objective goods, thus it might seem that negative perfectionism has more chance of gaining popular support. As I will discuss shortly many contemporary states do seem to adopt a negative perfectionist approach, at least in some areas. But if that is the case then discussing negative perfectionism is much less interesting. Furthermore this view is still fairly new and unorthodox, so I will not discuss it further and will from now on talk only about positive perfectionism.

Wall adds that the two components are not necessarily connected. For example you could have a certain objective conception of the good, but because it is based on a religion, you would not want it to be enforced or promoted by the state since adoption through such means would diminish the value of that life. But the components do still support each other: once you have a notion of an objective good then you have a very good reason to support a non-neutral state since you know what is of value in life; and once you think that the state should be promoting a certain conception of the good, then it helps if you have an objective conception of the good to be promoted.

One possible connection between the two is when state neutrality is seen as intrinsically valuable and a part of the objective good. Thus when the state starts to promote the objective good we would seem to have, and not to have, a neutral state, at the same time: on the one hand it does enforce a particular objective conception of the good but at the same time the conception dictates a neutral state. Though this is certainly an interesting possibility, I think we should disregard it because in the original discussion about the components of perfectionism we talked about the objective good in relation to *individuals' lives going well* and it is not immediately obvious how a neutral state could have intrinsic value for an individual in the same way as, for example, autonomy could. Thus the neutrality of the state will be a condition for exercising the objective conception of the good rather than a constitutive part of it. Also even if there were such a neutral state, motivated by a particular objective conception of the good, then that neutrality would only be on the surface, but once we gazed deeper we would find the objective conception at the bottom, which the state would be exercising, making it still not neutral and thus perfectionist.

So it would be more accurate to view such a theory as a kind of middle position; what we might call a social perfectionist. Perfectionism as I have been talking about it so far, and as it is usually used in literature, has the objective good component,

which is about individual lives, and having the state institutions promote that conception; and, as we will see in the next section, political liberalism could be seen as the complete denial of this position. But a theory which denies the possibility for an objective conception in individual lives, but at the same time thinks that there is a certain set of objectively best and most valuable state institutions, would seem to be perfectionist in some sense, since this clearly is not the view where the neutral state institutions are viewed merely as instrumental to providing the right kind of environment, as in political liberalism. But as I already said this is not the kind of view people have in mind when they talk about perfectionism, thus I do not want to spend any more time on it.

Before I close this section, I would like to take some time to consider one important implication of the two components of perfectionism: their attitude to paternalism. What is important is that while anti-perfectionists seem to be fine with some forms of mild paternalism (I do not think many people object to seatbelt laws on the basis them being paternalist, and it is even questionable if seatbelt laws are properly paternalist) then perfectionists are far more open to other, stronger, forms of paternalism. But the crucial difference here is the justification provided for such paternalist policies. Anti-perfectionist political theories usually employ the following principles: equal freedom, negative consequences and the harm principle (Pauer-Studer 2001: 185), while perfectionist political theories rely on their specific theory of value.

But when considering perfectionist policies we should note that not every ban or prohibition is an enforcement of a specific conception of human good and therefore perfectionism. First even anti-perfectionists think that there are some things which are so harmful and/or wrong that everybody should disvalue them. In other words, a rapist or a murderer cannot claim their state is perfectionist just because it is enforcing a certain conception of human good — one free from serious bodily harm — by prohibiting rape and murder. These two cases, I contend, are uncontroversial examples, but there are others which are more borderline, for example smoking or use of tobacco more generally. On the one hand it could be claimed that whatever people's conception of the good, health is a part of that, since without it they will be unable to achieve their goals. Thus it does not seem perfectionist to enforce a prohibition on smoking, or at least banning it from public spaces. On the other hand, if we were to view health as an intrinsic, rather than an instrumental, good, then those actions seem to be perfectionist, insofar as they enforce a particular view of the human good, one in which healthy life is seen as a goal.

5.2 The Distinction between Perfectionist and Political Liberalisms

The previous section gave us a definition of a perfectionist political theory, but since there can be many different kinds of perfectionisms – in fact most of the Western political thought from Plato onwards has been perfectionist and non-liberal (Chan 2000: 5) – the question we must now ask is: what does a *perfectionist liberalism* look like? This is an interesting question because I think that any political theory which is not perfectionist looks like it will be liberal or at the very least consistent with liberalism.

From the definition, we know that an anti-perfectionist state will be one where the state institutions are not underpinned by any objective conception of the good and where the state will be neutral with regards to conceptions of the good. This will mean that the state should, in theory, always be able to meet the justification thesis: if they are neutral and do not make use of conceptions of the good in their justification of coercion then the reasons they do use will likely meet the requirements of the justification thesis since they will not assume the truth or falsity of any ethical conceptions. Also if there is no objective good component then it would seem that the state is open to pluralism just as the equality of persons would require it to be. But if this is the case then we might ask: does this mean that being perfectionist implies one cannot be liberal?

There seems to be a few options regarding how a perfectionist theory could be liberal, if we take Wall's definition to be our starting point. First, the objective good component is used to justify substantive liberal principles and the state exercises its power with reference to those liberal principles. But that makes the state non-neutral, because those principles require one to accept that particular objective good, in order for that justification of power to make sense. So we have liberalism because we have liberal principles but we at the same time have perfectionism since we have the two components.

Joseph Raz's (1988) perfectionist liberalism seems to be an example of this. Raz first defends the objective value of autonomy and then justifies liberal state institutions with reference to that same ideal of autonomy. So we have liberal principles, and the exercise of state power was justified with the reference to those principles. But all of this is non-neutral since what was underlying it all was the particular understanding of autonomy.²⁹

²⁹ By Rawls' (1996: xvi) own admission we could perhaps think of his justice as fairness as it was presented in the *A Theory of Justice* also as an example.

Second, the exercise of state power will take as its starting point an objective conception of the good, thus it will be non-neutral by definition. But the content of that particular objective conception of the good is best realized in a liberal state. Thus we once again have perfectionism (both components are present) and also liberalism (as was stipulated), but the connection between the two is less direct, and, one could even say, contingent.

A widely cited example of perfectionist liberalism of this kind is John Stuart Mill's liberalism: he had very specific idea of what it means to live a good life. Thus he (Mill 1991: 66) writes "[i]t really is of importance, not only what men do, but also what manners of men they are that do it", the manner which Mill had in mind was one according to which a flourishing life is one where the individual makes autonomous life choices. The harm principle (and other liberal ideas, such as freedom of speech of which Mill was a staunch defender) is needed to provide people with the suitable environment to live such a life. So we have an objective good component – Mill's ideas about autonomy of persons and the development of their personal characteristics – and that directs us towards a non-neutral state – a state where we have the best environment for people to live that particular kind of life. But what makes Mill's perfectionism liberal is the specific conception of the objective good which is best realized in a liberal state.

A third possibility would be that we have the objective conception of the good and we start to use state power non-neutrally to promote that good, but we do this promotion within liberal bounds. So even though it might be more effective to get more people to live the good life by directly coercing them into it, our commitment to liberal ideas leads us to either find indirect ways to do this, so that we stay true to liberal principles. We yet again have the two components that give us perfectionism and also liberal ideas in play, but there is no connection whatsoever between the two. So we would have to ask what the source is for imposing those liberal bounds at all: what is the motivation for being liberal? It is most likely that this kind of perfectionist liberalism will not be all encompassing, meaning that the state which has independent reasons for being liberal will promote an objective good in some spheres and remain neutral in others.

We can take Estonian Song Festivals as an example of this. They are funded with public money by the Ministry of Culture. But the money is not given on equal basis, that is, there is no application process and other similar cultural events have no chance to get those finances, the money is just allotted to that event. The tradition

of Song Festivals with their roots in the 19th-century National Awakening and their important role in regaining Estonian independence can be taken unequivocally to carry statements of value about Estonian nationalism, patriotism and cultural identity. Their objective value has also been recognized outside Estonia: in 2008 UNESCO recognized³⁰ them as a Masterpiece of the Oral and Intangible Heritage of Humanity. But the whole process is within liberal bounds since, for that is what the constitution dictates.

Although these three examples of a perfectionism which is liberal are slightly different I think we can generalize and say that perfectionist liberalisms want to direct the state power within liberal bounds to make people live more valuable lives, judged from a particular doctrine.

But what about the other option – political liberalism – what does the addition of ‘political’ add to the already existing idea of liberalism? This phrase was originally coined by Charles Larmore (1987), but developed further and brought into the limelight by Rawls in his book *Political Liberalism* (1996). It is supposed to distinguish a type of liberalism which stands in opposition to perfectionist liberalisms. The main feature is that a political liberal is concerned with providing a suitable environment for people to make their own choices and decisions concerning the good life without any intervention or promotion from the state.

A widely cited example of liberalism which is political is of course Rawls’ political liberalism, which he develops in the aforementioned book. The crucial difference from perfectionist doctrines is that the liberal ideas of freedom and equality and the political liberties derived from them are not grounded in any one specific doctrine. Instead Rawls believes that he has presented them in a way that each individual can endorse from the point of view of their own understanding of the good, or at least that these liberal values are not incompatible with the views of the citizens. Thus there is no objective good component and consequently the state is neutral since there is no conception of its intrinsic superiority to others.

In some senses perfectionist liberalisms are more ambitious since they need to show how their understanding of the objective good is superior to others, i.e. that their preferred kind of liberalism is the best doctrine among many others, but at the same time they are also less ambitious in the sense that they think liberalism is in

³⁰ <http://www.unesco.org/culture/ich/index.php?lg=en&pg=00011&RL=00087>, retrieved on February 6th 2015.

principle on the same level as the other competing doctrines. Political liberalisms, on the other hand, should be “freestanding” and not offered from the standpoint of any particular comprehensive doctrine, thus they are more ambitious since they raise liberalism to the status of a sort of meta-theory which can be justified from multiple perspectives, but at the same time political liberalism is less ambitious since it completely avoids all of the debate with competing doctrines; they keep the foundation clear of any comprehensive doctrine thus they do not need to prove the superiority of this or that conception of the good.

This might seem like a neat little distinction, but it is not without its complications. Gaus thinks, first, that the idea of political liberalism as it was provided by Rawls is confused and that it cannot be so easily distinguished. He further thinks that even if we could make sense of this, we should surely think of liberalisms as placed on a continuum rather than as a simple binary division. Quong on the other hand provides us with a new kind of analysis on the issue – one which helps us to get the distinction between perfectionism and political liberalism without having to provide a definition of the political by separating different questions. So instead of two-fold distinctions, have a four-fold distinction along the perfectionist/anti-perfectionist axis and the comprehensive/political axis. I will now discuss these concerns in turn.

5.3 The Problems with the ‘Political’

As I noted, Gaus (2003: 180–181) is fairly critical of the distinction between political and other kinds of liberalisms, which rely on distinguishing political as opposed to comprehensive or perfectionist views. Although Rawls has provided some criteria for separating the two, Gaus thinks that this way of making the distinction is elusive. My aim here is to show that his critique is not as damaging as he thinks.

But let us start by laying out how Rawls makes the distinction between the two views:

the distinction between a political conception of justice and other moral conceptions is a matter of scope: that is, the range of subjects to which a conception applies and the content a wider range requires. A moral conception is general if it applies to a wide range of subjects... It is comprehensive when it includes conceptions of what is of value in human life... A conception is fully comprehensive if it covers all recognized values and virtues within one rather precisely articulated system; whereas a

conception is only partially comprehensive when it comprises a number of, but by no means all, nonpolitical values and virtues rather loosely articulated. (Rawls 1996: 13)

Gaus (2003: 181) thinks it is curious that Rawls hangs his political liberalism on this distinction when he himself claims that “[m]ost people’s religious philosophical, and moral doctrines are not seen by them as fully general and comprehensive, and these aspects admit of variations and of degree” (Rawls 1996: 160). This is curious because the motivation behind Rawls political liberalism is that people hold incompatible but still reasonable doctrines, and thus we cannot rely on any one of them, since that would violate the principle of liberal legitimacy and thus constitute non-neutral state action. But if most people do not have a fully comprehensive doctrine which encompasses their whole life and informs their decisions, then there seems to much less need to look for a political conception of justice since the potential for conflict is just not there. While this does seem to make Rawls seem inconsistent, I do not think it is as problematic as Gaus wants us to believe. First, Rawls only needs some of the people to hold fully general and comprehensive doctrines; as long as there are some people who can see the conflict between their views and non-neutral state action, he has the necessary motivation for the political approach. Second, the fact that lay people have not taken the time, or perhaps lack the intellectual tools, to work out their full comprehensive doctrine from the initial set of beliefs they hold – some of which might be held implicitly – should not be a source of norms for political philosophy. In other words if people have not worked out a full comprehensive doctrine for themselves, this does not mean that it could not be done if some effort were made, thus we have no reason do disregard the plurality of comprehensive doctrines in political philosophy, since once again the potential for disagreement is there. And third, when we observe the world we cannot deny the existence of deep and fundamental value disagreements between reasonable people, even if those disagreements emerge only certain circumstances. Thus we can assume that while not all people possess a comprehensive doctrine, all of them are capable of forming and making use of one when needed.

So far we only know that the two conceptions, political and comprehensive, differ in scope, but what are the more concrete characteristics of a political conception? According to Rawls they are:

1) [I]t is a moral conception worked out for a specific kind of subject, namely for political social and economic institutions ... [i]t applies to what I call the “basic structure” of society. (Rawls 1996: 11)

- 2) [A] political conception of justice is presented as a freestanding view. [I]t is neither presented as, nor derived from, [a comprehensive] doctrine applied to the basic structure of society, as if this structure was simply another subject to which that doctrine applied. (Rawls 1996: 12)
- 3) [Its] content is expressed in terms of certain fundamental ideas seen as implicit in the public political culture of a democratic society. (Rawls 1996: 13)

When we look at these three features then, as Gaus (2003: 182) points out, we should see that two of them do not particularly help us to understand what the distinction is, since they make reference to the very idea of the political. But it seems to me that Gaus is being uncharitable here, which is partly Rawls' own fault due to poor choice of terminology. The word 'political' in the first and the third features does not refer to the same concept as it refers to in the term 'political liberalism'. In the phrase 'political liberalism' the word 'political' has a technical meaning and should be understood as "political not metaphysical" (as in Rawls 1985), while in these characteristics 'political' should be understood to mean political in the ordinary sense of the word. So "political institutions" in the first feature refers to the kind of regime a society has, or to the rights and liberties guaranteed by the constitution, and "political culture" in the third feature refers to the dominant way politics is conducted in the given society. So those three features do help us in understanding the technical sense of political, which we are here after: something is political in the technical sense if it is about political institutions (in the ordinary sense), and if it can be worked out from what is implicit in the political culture (in the ordinary sense).

Anticipating this point Gaus (2003: 186–187) refers to criticism made by Habermas, that this way of delineating the political and non-political spheres (in the ordinary sense) is controversial, the division has drifted throughout history and is itself a point of disagreement among different doctrines. In other words there is no single unchanging understanding of what belongs in the political sphere and what in the non-political. For example it is not obviously and uncontroversially clear whether justice within families should count as a political matter or not. While I cannot deny these kinds of issues, I believe that for any specific context (time and place) we are able to determine what should count as political and what not. For we do not need a universal and unchanging division; what we need is an understanding of what is political (in the ordinary sense) given the specific time and place. And there is a fairly simple way to achieve that: by looking at the institutions. So we

can say that political is what falls under certain institutions, and thus we can leave aside the question about what kind of issues these institutions include.

Gaus (2003: 183) turns next to the notion of “freestandingness”, which he believes is also insufficient to make sense of the distinction. This is because under his interpretation freestandingness is defined in terms of being worked out from the political culture. That is, there is a moral conception of politics that is put forth by using independent reason and arguments; it has its own grounding, so to speak. But given Gaus’ previous point this does not help us, since we do not know what the political culture is because we are still looking for the meaning of political. But this worry should not concern us, since I believe Gaus is mistaken about his previous point. Thus we can make sense of freestandingness. In addition, there is also a different interpretation of freestandingness: we can also understand it in terms of not making reference to any one particular comprehensive doctrine, meaning that to accept a freestanding conception one does not need to endorse any one particular comprehensive doctrine.

In response to the problems, Gaus’ (2003: 189–190) own proposal is that we might try to define political values as something about which there is no reasonable disagreement or as something which are constructed out of reasonable agreement. In other words, if good-willed people, despite burdens of judgment, all reach the conclusion that slavery is wrong, then the rejection of slavery would be a properly political value. This interpretation avoids all the problems discussed so far, since it does not rely on a prior understanding of what is political. But while this seems like a good way to solve the issue in theory, it is not so in practice, at least when we take seriously what Rawls said about disagreements. We may all come to agree that the political conception ought to be “broadly liberal”. That is:

first, it specifies certain basic rights, liberties, and opportunities (of the kind familiar from constitutional democratic regimes); second, it assigns special priority to these rights, liberties, and opportunities, especially with respect to claims of the general good and of perfectionist values; and third, it affirms measures assuring all citizens adequate all-purpose means to make effective use of their basic liberties and opportunities. (Rawls 1996: 223)

But as these three characteristics can be spelt out in various ways, we have no grounds for thinking that reasonable people will converge on one single political conception. In fact Rawls claims that “[i]t is *inevitable and often desirable* that

citizens have different views as to the most appropriate political conception; for the public political culture is bound to contain different fundamental ideas that can be developed in different ways" (Rawls 1996: 227). Thus there is little reason to think that such interpretation of political will ever give us any real content of what the political entails, other than broad, abstract liberal principles. So Gaus (2003: 197) concludes that the distinction between political and comprehensive liberalism cannot be maintained, at least not in the way Rawls wants to draw it, since it would require us either to give a contested definition of the political, or to rely on our shared reasons, which would give us too minimal a definition of the political. Even if Gaus is correct and my reply about the contested definition of political does not help, this does not mean that we have to give up the distinction, because we can approach this from a different angle, not coming up with definitions at first and fitting different theories to them, but by looking first at the existing theories to see what characteristics they share and if there is a meaningful way to distinguish a set of theories which are not perfectionist and which we might then label political. This is the task of the next section.

5.4 The Four-Fold Division from Jonathan Quong

Quong (2011: 12) proposes that when we think of political and perfectionist liberalism we should untangle two separate questions and place the discussion onto two separate axes, allowing us to get the distinction between the two without having to define the political. First, there is the comprehensive/political axis, which asks:

Must liberal political philosophy be based in some particular ideal of what constitutes a valuable or worthwhile human life, or other metaphysical beliefs?

And second, there is the perfectionist/anti-perfectionist axis, which asks:

Is it permissible for a liberal state to promote or discourage some activities, ideals, or ways of life on grounds relating to their inherent or intrinsic value, or on the basis of other metaphysical claims?

In Quong's (2011: 16–17) terms, answering yes to the first question commits one to a liberalism which is comprehensive, as opposed to political. Usually the particular ideal to which appeals are made is autonomy and the argument works as follows:

- (1) autonomy is intrinsically or inherently valuable;
- (2) adopting liberal institutions best allows to develop/exercise autonomy;
- (3) therefore we should be liberals.

The political variety of liberalism is split between two groups: first, those who rely on pragmatic considerations, i.e. an agreement to disagree while recognizing that decisions have to be made, thus judgments of intrinsic or inherent value are excluded. And second, those who make use of principled reasons, such as value pluralism, which gives a theoretical reason for prevalent disagreement, or public reason models, which set a standard of public justification which cannot be met by reference to intrinsic or inherent values.

Quong (2011: 13–14) thinks that the fundamental difference of political liberalisms from comprehensive ones are as follows: Political conceptions: (1) are limited in their scope, making only claims about political morality, how we ought to act as citizens, (2) avoid making any claims about what is valuable in human life overall or why something is valuable, and (3) only make use of values which are compatible with a wide range of conceptions of the good. Comprehensive conceptions, on the other hand, form a full set of judgments about intrinsic and inherent value which cover the whole range of human life, from ethics to political morality. In these descriptions Quong relies quite a lot on Rawls (cf. 1996: 11–15).

In Quong's (2011: 19–20) terms answering yes to the second question commits one to a liberalism which is perfectionist, as opposed to anti-perfectionist. The important point that he makes is that the answer to the first question does not determine the answer to the second, in the sense that endorsing liberalism on the basis of the belief of the intrinsic value of autonomy could lead one to be either perfectionist or anti-perfectionist. Commitment to autonomy as a basis for liberalism could commit us to state neutrality, since people's choices are only good if taken autonomously, thus we arrive at the anti-perfectionist position. On the other hand we could reach the perfectionist position if the grounds for liberalism were a particular view of human flourishing which the state (within the liberal bounds) ought to help people to achieve, which would include discouraging them from making less valuable choices.

Notice how this way of distinguishing one set of theories from the other maps fairly neatly onto the definition we previously got from Wall. The comprehensive/political axis gives us the same content we would get from the objective conception of the

good component, and the perfectionist/anti-perfectionist axis gives us the same approach to politics that we would get from the rejection of the state neutrality component. But given that for Wall, there are only two kinds of theories – perfectionist, i.e. ones which have both components, and non-perfectionist – and for Quong there are four – comprehensive perfectionism, comprehensive anti-perfectionism, political anti-perfectionism and political perfectionism – the question remains as to how much agreement we have in their classifications.

I think that there is, in fact, a relatively large amount of agreement, because, as we will see, Quong's four types only exist as logical possibilities. First, Quong (2011: 23–25) himself believes that the view that comprehensive anti-perfectionism – the view that liberalism is based on some metaphysical claims about intrinsic or inherent value but the state should remain neutral between different conceptions of the good life – collapses into comprehensive perfectionism. This is because the very same comprehensive doctrine which is used as a foundation for liberalism will have to be relied on when it comes to law-making. If the state aims to be neutral, then it cannot be neutral towards its own comprehensive doctrine, making it no different from any perfectionist theory. Also while a comprehensive anti-perfectionist state might be neutral towards results it could not be neutral towards the justification since the neutrality itself would be a substantive position derived from the comprehensive doctrine grounding liberalism. So as we saw earlier, such a state would qualify as perfectionist since its neutrality would only be surface-deep.

However, I believe that political perfectionism does not make sense. It seems puzzling that one could think that liberal principles themselves need to be justified without any reference to particular doctrines and at the same time think that it is legitimate to justify policies with reference to particular doctrines. Quong (2011: 20) proposes that if we accept that there is a reasonable pluralism about conceptions of the good and if relying on them in policy decision is not threatening to the liberal framework, then there does not seem to be any reason to not allow it.

But I do not think that this position can be maintained – at least as long as we think that the assumption that persons are free and equal holds and that there is a reasonable pluralism about the good. A political perfectionist should be committed to both: if they reject the latter then the question arises as to why they should opt for a political rather than a comprehensive defense of liberalism. Surely if one denies reasonable pluralism regarding the good then one must believe one conception of the good to be true (or at least closer to the truth than any other).

But relying on that conception would provide one with far more convincing tools for the justification of liberalism than freestanding appeals. If they rejected the former, then the question arises as to in what sense are they liberals and if they are, how did they come to hold that position?

As I explained in Chapter 2 the implication of taking persons as free is the justification thesis: persons can only be coerced if proper justification is provided. What is important is that the justification needs to be addressed to the persons, not merely presented at them, meaning that it needs to be put in terms they can be expected to endorse, given their other commitments, or at least the justification needs to be such that it could be reformulated in suitable terms. But if we also accept the fact of pluralism then we know that there will be some person P to whom some law L cannot be justified in terms of some doctrine D.

This means that for a political perfectionist, in order for a law to be justified, there need to be some considerations supporting it from all reasonable doctrines (or at least from all the reasonable doctrines present in the society). But if it is the case that every person can endorse a law from the point of view of their particular conception of the good then we have a freestanding argument for the law. In other words we would have a political justification, rather than a perfectionist one.

So it seems that the political perfectionist either needs to give up their politicalness and opt for a comprehensive justification of liberalism, since they think they know the correct conception of the good. Or they need to give up their perfectionism for anti-perfectionism, since the standards of justification in line with their politicalness cannot be met. There is of course a way for them to reply. The question to which political perfectionists answered yes asked if it was permissible for the state to promote ways of life based on some conception of the good; it did not ask if it is mandatory for the state to do so. Thus it would seem that there is the option of claiming perfectionist state action being permissible, but never exercised. However, this implies perfectionism only in a very weak sense.

Thus the conclusion must be that even though we can distinguish two different issues and thus four different positions, two of these positions are unsustainable, meaning that for any serious consideration we still are left with two options: political anti-perfectionism (or political liberalism in more familiar terms) and comprehensive perfectionism (or perfectionist liberalism). This links up with the general description from Wall, who also insisted that for a political theory to be

perfectionist it needs to have two components. The objective good component links up with the question about the foundation of liberalism and the rejection of state neutrality links up with the limits of governmental action question. So even though Gaus saw problems in giving a clear definition of the 'political' in political liberalism, we can still clearly distinguish two different kinds of approaches to liberal political philosophy.

5.5 The Diversity of Liberalisms

But even if we manage to successfully draw the distinction between political and other kind of liberalisms, then Gaus wants to question how sharp this division is. He argues that we should think of a spectrum of liberalisms from fully comprehensive to less comprehensive, rather than just a binary division (Gaus 2004: 100). At the one end of the spectrum we have liberalism as a secular philosophy along with liberalism as a philosophy of the good life, while in the other we have liberalism as a distinctive theory of justice.

When looking at liberalism as a secular philosophy Gaus (2004: 101) concentrates on two aspects of it: liberal epistemology and liberal metaphysics. The former divides into two strands: rationalistic or Enlightenment liberalism – in which the leading idea is that the rational inquiry of humans will be able to work out and converge upon one single best way to organize the society – and the experimental – in which the leading idea is that knowledge is complex and the truth emerges out of market mechanisms and experimentation. The latter concerns how we should conceive of the nature of the society and the nature of the self; whether we should be individualists, believing that society is merely the sum of its members and the self is a unencumbered individual, or collectivists, seeing the society as organic and the self as (partly) constituted by the community. In any of its variations liberalism as a secular philosophy is truly comprehensive covering all aspects of human life.

Slightly less comprehensive groups of liberalisms are ones that can be viewed as general theories of the good life. According to Gaus (2004: 102–103) these kinds of liberalisms come in two forms: One, centered on the idea of personal development, as noted before Millian liberalism, is an exemplar of this kind of liberalism. The other, centered on the idea of autonomy, a modern proponent of this kind of liberalism is Joseph Raz. Unlike the Millian liberalism, which endorses particular choices, Razian liberalism emphasizes just that the person lead the life of their choosing; that they are the creators and authors of their life.

There are also liberalisms derived from moral theories which are not themselves liberal, thus forming a distinct group of comprehensive liberalisms. This group could be viewed as less comprehensive since the grounds are less controversial, insofar as they lend themselves to justify non-liberal political institutions. Gaus (2004: 105) puts liberalisms based on three different moral theories into this group: utilitarianism, Hobbesian contractualism, and value scepticism. All of these can lend themselves to be used to justify non-liberal forms of governance, but have been at different times also been used to argue for liberal institutions.

The last group consists of liberalisms which do not rely on any specific view of the good, but which do propose a distinctly liberal view of the right (Gaus 2004: 109). As examples of these kinds of liberalism, Gaus (2004: 111) mentions Kantian liberalism, which either starts with the basic ideas of our agency and respect for persons, and works up from there to principle of non-interference; or starts with respect, but works to liberal political institutions via a hypothetical contract, since respect requires a certain kind of neutral justification. As these kinds of liberalisms do not suppose any particular view of the good nor specific metaphysics, they are less comprehensive than the liberalisms considered previously.

For my purposes this diversity on the scale from fully comprehensive to not comprehensive at all, has little weight: since insofar as the particular liberalism contains an objective good component – all but the last group seems to satisfy this condition – and insofar as it proposes liberal institutions or justifies state action based on that – which again, all but the last group seems to do – then they would count as perfectionist liberalisms. And even though some might be more perfectionist than others, they will all be perfectionist to some extent. Also, when we apply Quong's two axes, we will also get simple yes or no answers, and even though some theories might take stronger positions we would still end up with a fairly binary, sharp division between different groups of theories.

5.6 A Case for Perfectionist Liberalism

Now that we have some sense of what perfectionist liberalism looks like and how it differs from political liberalism, this is a good place to look at the case for perfectionist liberalism. There are multiple ways in which one can make the case for perfectionism. For one, it seems to be the natural approach to politics, since if there is an objective conception of human good and the aim of the state is to make people's lives better, surely the state should be organized so that this objective good is promoted. Also, as I noted earlier, most of Western political philosophy has

been perfectionist, thus we could make a tradition-based argument for being perfectionist.

But I do not think that either of those two arguments have the sophistication and depth of certain other arguments. So I will instead consider three other arguments in more detail: first the "we know the truth" argument; the second is the pragmatic considerations of real governing; and third, the significant costs of alternatives argument.

In a modern liberal democracy, be it perfectionist or not, whenever somebody would want to put forth and enact a policy or a law they would be bound to provide some sort of justification for it. This is something both the perfectionist and anti-perfectionist can agree on, but where their views diverge is regarding the story they tell to provide such justification.

To borrow an example from Raz (1988: 159): let us think of a government agency which approves drugs for general use. We can assume that every time they approve a new drug, or prohibit a previously sold drug, it will be on the basis of evidence that the drug is safe or unsafe. In other words, having approved a new drug, the agency cannot merely say "This drug is now approved for the general market because we said so." They would have to make some sort of reference to evidence or their belief about the evidence concerning the safety of that drug. Of course we should be aware that it is not the fact of whether the drug is actually safe or not, but whether or not the agency believes it to be safe that provides the justificatory force. Thus in effect, the agency claims that the drug should be allowed on the market, since they know the truth about its safety. A more-or-less similar description could be given when a piece of legislation is at stake: the government tries to enact a law not because "they said so", but because some consideration C which supports or implies or demands that law. When asked about the issue further, along the lines "why should we care about C?" the government would claim that they know that C has intrinsic value. In other words they know it to be true that C is something worth caring about. This is roughly the kind of story a perfectionist would tell.

The political liberal's story differs significantly from this since they think that in the perfectionist's story, the claim of the intrinsic value of C does not amount to anything more than simply saying "because I said so". This is because in most cases, given their principled openness to pluralism, the political liberal must admit a

possibility for somebody who can reasonably disagree with that value judgment and thus claim the opposite, which would give us two sides: one claiming they know C to have intrinsic value, and one claiming C does not have intrinsic value (or that not-C has intrinsic value, or something else to that effect). This is why Rawls concludes that no reasonable person would appeal to the truth of their comprehensive doctrine in the use of state power. Thus political liberals cannot endorse the "we know the truth" argument.

But if we recall the definition of perfectionism I proposed earlier then it is almost a starting premise of perfectionism itself that the perfectionists "know the truth". This is a very important point to remember and I think that the reluctance of many people to accept the "know the truth" argument is their inability to accept this premise. If the perfectionist is actually right about their objective good then their desire to enforce and promote it via the state makes so much more sense. Another reason why people are often reluctant to accept this argument is their uneasiness with the methods that will be used to enforce or promote the truth the perfectionist purports to know. But we should remember that we are talking about perfectionist *liberalisms* here, thus we should not rely on an image of savage persecution to object to this argument. The liberal commitments will prevent those kinds egregious interferences.

Perfectionists' completely different attitude towards making these kinds of truth claims about values or the value of things puts them in a much stronger position than the political liberal when it comes to resolving disagreements with the non-liberals or other fringe groups. The perfectionist can make substantive arguments and stick to their position since they know the other person to be making a mistake by not endorsing their objective conception of the good. Given their position on pluralism, the political liberal is hard-pressed to reply to the non-liberal or other fringe groups. If substantive arguments are not allowed then the only option open to them is to try to make a formal argument but it seems that the non-liberal is always free to reject the premises and cannot be faulted without some substantive claims. Of course the political liberal might try to come up with some neutral theory or independent reasons for restricting the scope of pluralism, but from the perfectionist's perspective this may seem to be cheating since the political liberal is helping themselves to substantive claims by which to set the rules so that they will have to rely on substantive claims in the future. The same applies when the political liberal tries to come up with the rules for public reasoning (the rules and procedures for justifying laws): they cannot use any substantial criteria for

excluding certain kind of views or establishing the “right kind of reasons”. For the perfectionist such situations are much simpler, since assuming that they have good grounds for their objective conception, making such arguments becomes easier.

This idea leads us into the second argument I want to consider: the pragmatic upsides of perfectionism over political liberalism. If we accept the possibility of an objective conception of the good and once we agree that we have found *the* objective conception of the good, many operations within politics become much easier. First, it will give clear guidance on what sort of policies to enact and which not: if a policy promotes the chosen conception then that is a decisive reason for adopting it and at the same time if a policy helps to discourage other conceptions then that is also a good reason for adopting it, although we do have to admit that there is usually space for interpretation: even if we agree on the objective conception of the good we could still disagree whether a particular policy or a law actually promotes that good. But such debates function much more on an application level, not a theory level, so they are of less interest to us here.

Second, the actual empirical disagreement is much less problematic for the state since they will know who is right and who is wrong, meaning that when addressing the opposition, all they have to do is to explain why their position is not given weight, rather than actually providing any arguments directly against that opposition. So unlike in political liberalism where disagreement among people is taken to carry much more weight, but so is the commitment to pluralism, there is a real possibility of not arriving at any real solutions – or at least of arriving at any real solutions that meet the criteria political liberals have set themselves since they want an agreement in politics that stands above the disagreement in ethics without removing the latter.

The third argument for perfectionism that I would like to discuss here briefly is presented in a somewhat roundabout way. That is, the argument shows that the alternative, political liberalism, has significant costs attached to it and thus is not an appealing option, leaving us with perfectionist liberalism. This argument comes from Wall (2014) and it starts by asking us to imagine what would happen if we were to take the political approach to liberalism as opposed to the perfectionist one.

So we have a liberal conception of justice, LJ, and when we start justifying it to the given society, then, according to political liberalism, we cannot rely on any one specific comprehensive conception of the good. If LJ happens to be the kind that

loses nothing important in its content when it is presented in this way, then Wall (2014: 470) thinks this would work well; there would be no costs attached to the political approach and we would not lose anything by not allowing comprehensive justifications. The problem according to Wall is that this is not quite the case: a seamless transition to the political justification is not possible without some loss to the content of the conception of justice. And as such, the political approach would bring with it significant costs compared to the perfectionist one, since by being allowed to use only political justification would hamper the pursuit of justice, as we could not get the best account of the best conception of justice.

Wall (2014: 470–471) gives us another version of this argument by using Rawls' distinction between legitimacy and justice. If justice is constrained by legitimacy in the sense that the only conceptions of justice which is legitimate for enforcement by the state are ones which we can reasonably expect some set of people P to accept, then we might find ourselves in a difficult position. This is because if not all members of P accept the right conception of justice then legitimacy prevents us from pursuing justice. It is clear that the way we draw up P will play an important role as to whether that will ever be the case, but it is clear also that the more members in P the more likely it is that a conception of justice can be reasonably rejected. The political approach to liberalism would include more people in P than the perfectionist one, leading to higher costs being attached to political liberalism. So we have a reason to favor perfectionist approach over political because it will have less costs attached to it in terms of being able to pursue justice.

In the first half of this chapter I introduced the idea of perfectionism in political theory in general and then described what perfectionist liberalism would look like. I then distinguished political liberalisms from perfectionist ones and demonstrated how the two are at odds. In the second half I looked at what could be said in support of perfectionist liberalism. Now that we have some grasp on perfectionist liberalism and the arguments surrounding it we can move on to the final stage in the argument.

6. WHY PREFER POLITICAL LIBERALISM?

6.1 The Argument So Far

In this final chapter I will conclude my argument by showing that, given what has been said in the previous chapters, we have very good reasons not to be perfectionist liberals. I will do this by showing how perfectionism is incompatible with the idea of persons being free and equal.

But before I present this argument, it will be helpful to recap briefly the previous chapters one by one. I began Chapter 1 by asking about the foundation of liberalism, and determined that one should first know what liberalism is before anything about its foundation can be said. So I spent the rest of the chapter presenting different interpretations of what liberalism is, on the basis of which I concluded the chapter with a generalized definition of liberalism as a political doctrine about the individual being free to make their own choices in an environment of ethical pluralism and limited state power.

In Chapter 2 I proceeded with my original question and delved into the foundation of liberalism as described in Chapter 1. My suggestion was that a certain conception of persons as free and equal is at the foundation of liberalism thus conceived. I elaborated on the ideas of freedom and equality as I interpret them: persons being free was taken to mean that there is no normative authority over other persons in politics, which implies the justification thesis – any coercion has to be supplemented with proper justification – and persons being equal was taken to mean that there is no normative authority over persons in ethics, which implies that we should be committed to being open to pluralism, since there is no normative position from which to adjudicate between the different positions. I also spent some time in that chapter demonstrating that many contemporary liberal authors subscribe to the justifications thesis and to the principled openness to ethical pluralism, and accordingly to the view of liberalism I proposed.

The next two chapters were spent trying to ascertain whether we indeed have good reasons to think that persons are free and equal in the sense described in Chapter 2. After settling some conceptual issues and sketching some general strategies for showing the truth of such a conception of persons, I settled on two approaches that seemed equally plausible: the empirical property approach – that some empirical property of persons makes them free and equal, or at least gives us reason to treat them as such – and the agreement approach – that some (implicit) agreement

(broadly construed) can act as a basis for treating persons as free and equal. So in Chapter 4 I explored some specific instances of those two strategies from Rawls, Dworkin, Larmore, Gaus, Benn as well as some pragmatic considerations from myself. That chapter concludes that we do have good reasons for thinking that persons are free and equal and thus we have good grounds for the kind of liberalism I described.

That ended the first half of the thesis and gave us the foundation of contemporary liberalism. The second half discussed the nature of this liberalism. If the 1980s and early 1990s saw the renewal of the internal debate about the ontology of liberalism – whether it should be atomistic as it had classically been or whether it should be more holistic as the communitarians were suggesting (cf. Gaus *et al.* 2015) – then starting from the middle of the 1990s to this day, the new debate within liberalism has been about what form it should take, i.e. what should be the nature of liberalism. The two options to choose between are perfectionist and political liberalisms. In the previous chapter I explored this distinction between the two kinds of liberalism.

Taking Wall's definition as a basis for the discussion I understood perfectionist liberalisms as political theories which endorse some objective conception of the good upon which their politics is built and which endorse a non-neutral state, that is, they advocate for the promotion of their objective conception of the good and/or they rely on their objective conception of the good when providing justification for state action. What makes those theories liberal is that they constrain state promotion and enforcement of the objective conception of the good within liberal bounds, or they use the conception to justify substantive liberal principles. Political liberalism, mostly following Rawls, was understood as the direct opposite to perfectionism, so a political liberal is committed to ethical pluralism (understood as a factual thing and not as a statement about value theory), and to aims for a neutral state, that is, avoids the promotion of one conception of the good over others and avoids putting the justification of state actions into terms of one specific conception of the good.

The question to consider now: is perfectionist liberalism consistent with the conception of persons being free and equal as a foundation of liberalism? In other words, if the foundation of liberalism is the conception of persons as free and equal then what should the nature of liberalism be: perfectionist or liberal? My answer will be that perfectionist liberalism is not consistent with persons being free and equal,

thus being committed to that idea leads us into being political liberals. I will consider the relationship between perfectionism and the two aspects of persons in turn. But before I get to that I will first look at some of the other objections to perfectionism and replies to them. At the end of the chapter I will consider some important background issues that need to be settled as well as pointing out how my account differs from some of the other political liberalisms found in the literature.

6.2 Some Common Worries with Perfectionist Liberalism

Before I move on to my own argument of why we should prefer the political kind of liberalism over perfectionist kind I want to consider briefly some of the other criticisms and replies to them found in the literature.

If a perfectionist state is not neutral and endorses a certain objective human good, then this raises a worry: is perfectionism sufficiently concerned with individual liberty and the harms of coercion? It seems that perfectionist considerations will lead to the imposition of one particular way of life or conception of the good for all people; often this worry is accompanied by an even more serious worry about persecution of those who adhere to a different conception. The first reply to this is to point out that not all perfectionist actions are coercive or liberty limiting. Perfectionist policies might also be ones which simply promote or make available valuable choices, thus one might even argue that persons' liberties are broadened by perfectionism. For example Raz (1988: 161–162) takes this line, arguing that there can be cases where there is a consensus on certain ideals (for example, monogamous marriage), which would mean that perfectionist legislation on the basis of those societal agreements would be a general affirmation of certain ideals rather than an imposition. In other words, legalizing capital punishment can be a society's way of expressing that they, as a society, think that there are certain crimes which are so heinous that there can be only one fitting reaction.

Building one's reply on societal consensus does not fully address the worry, since it disregards the ethical disagreement we find in the real world. There will hardly ever be a case where there is "unanimous support in the community" for certain "social institutions", although most political liberals, following Rawls, would agree that some such cases do exist, and would name objection of slavery as one. But these examples would not help Raz's point very far since we could get societal consensus on such issues only if we include only reasonable people and exclude irrational and mad people, since you are sure to find at least one racist Aristotelian who is certain that some people should be slaves because of their nature (see *Politics* Book 1,

Chapter 5). But once we include only reasonable people and their views and find that some social institutions “enjoy unanimous support in the community”, the political liberal would say that those are the shared moral convictions upon which political liberalism is built, meaning that any justification drawn from that would not be the kind of perfectionist justification the political liberal is concerned with. But more importantly, any factual consensus has little normative weight in liberalism. I will come back to this issue later in the chapter.

But there is a line in this reply that seems a little more promising, in that it claims that the perfectionist policies of promotion could be seen as informational. The aim is to provide people with certain experiences which contribute to making their lives valuable, but the state would not necessarily expect the people to choose to live their lives in this manner permanently. So in effect this would be perfectionism with the possibility to opt out. While this seems to answer the initial worry, in that the state does not tie people to the promoted ways of life, there are certain other problems raised, which I will return to later in this chapter.

The second part of the reply from the perfectionist is to deny that the perfectionist political action is coercive in such a way that it should give rise to the stated worry. As Raz points out, action need not always be about *imposing* a certain conception of the good, it can be merely about promoting certain valuable forms of life and discouraging invaluable ones. In other words Raz thinks that when the government levies a tax on tobacco products and restricts their use in public spaces, the government is not imposing a certain conception of the good, and thus it would not be objectionable in the way as a government which imprisons people for not following the state religion. I think most people would agree with Raz that such state actions do “fall short” of paradigmatic instances of state persecution. A rejoinder from the anti-perfectionist side is to acknowledge that particular policies might not be coercive, but to insist that the resources which are used to fund those policies come from tax money and thus are still coercive or at least liberty-limiting, since collecting taxes is usually backed up by coercive force of the law and limits people’s liberties insofar as they cannot decide themselves what to do with their money. The perfectionist reply here would be to claim that there are other ways the state can raise funds for such policies, for example there could be state-run lottery. If it is publicly known that the proceeds go towards funding certain perfectionist policies and participation in the lottery is voluntary then there can be no charge of coercion or liberty-limiting.

A third reply according to Raz (1988: 161) is that the worry assumes perfectionism must be monist, but this need not be the case since perfectionism is compatible with moral pluralism, thus allowing "that there are many morally valuable forms of life which are incompatible with each other." Thus there is no need to worry about imposition of a certain conception. This seems like the best response to the worry: if perfectionism is compatible with a plurality of different ways of life then even if the perfectionist policies engage in some kind of imposition, there will be no cause for worries since the policies will impose a plurality of ways of life.

Raz (1988: 162) presents us with a fourth reply against this anti-perfectionist worry about the negative consequences of perfectionist state action. As I have already said, the anti-perfectionist, crudely put, proposes that everybody would work out for themselves what is valuable in life and then act upon that and that the state and other people would be left out of each individual's own pursuits. But Raz claims that many of the valuable forms of life that people do decide to pursue are counted as valuable, and exist, only because of a certain social environment. In other words one cannot, for example, have an individual pursuit of marriage, if they think it to be valuable, for that not only requires another person to be married to, but also the social and legal framework in which marriage is recognized as a certain kind of relationship. But the same can be said of bird-watching: in order to engage in that, you need eye-sight and birds to look at, but also the kind of social institutions which recognize this (and other kind of animal tracking) as a leisure activity (Raz 1988: 311). This implies for Raz that we need some sort of public action and that mere individual pursuit would not do, regardless of which valuable way of life is under consideration. He (Raz 1988: 162) goes on to say that anti-perfectionism "would undermine the chances of survival of many cherished aspects of our culture."

The anti-perfectionist is bound to admit that it is the case, when people speak of their conception of the good, that it is rarely really their own conception, in the sense that it is not truly developed and adopted independently of what other people do and believe in. But at the same time there seems to be a difference between social conditions which allow for certain pursuits, and those which emerge from the amalgamation of individual positions of what constitutes a good life, and centralized public (state) action which purposely promotes ideas about the good life. After all, even if individuals rely on social institutions in their pursuit of the good life, most of those social institutions were at one point established by individuals. According to Stephen Moss (2004: 9) it was Gilbert White who in the middle of the 18th century

started bird-watching in the recreational sense. But if too large a role is given to the state and other forms of public action in founding and forming social institutions, then it seems that the anti-perfectionist is rightly worried about the role individuals can play in coming up with and adopting their own conceptions of the good.

A more general reply to the ant-perfectionists' worry is that some perfectionist theories (such as Mill's or Raz's) regard autonomy as a central value and thus give their wholehearted support to the harm principle. In other words if the objective human good which is at the centre of a particular perfectionist theory is autonomy, or is based on autonomy, then there is no need to worry about liberty limitation or the coercive nature of perfectionism, since such things are considered bad. The issue with this solution is that if autonomy either as a state (in the sense of being the author of one's own life) or as a capability (in the sense of being able to lead an autonomous life in the previous sense) is considered valuable then the perfectionist should aim at making people autonomous. To make people autonomous in the being-an-author sense seems like a contradiction in terms: how can one be an author of one's own life, if one is made to be in that position by an external force. To make people autonomous in the having certain capacity sense also seems problematic since it seems to require enforcing strict educational norms, which are clearly liberty limiting, even if they end up enhancing one's liberty in some other sense. Thus the problem is not resolved but merely pushed back to another level.³¹ The reply from the perfectionist could then be that even though individual autonomy is in some cases reduced, overall autonomy is increased. That is, if a person's ability to be the author of their own life is limited during some period then it could be made up by the fact that they will be more autonomous later in life compared to what they would have otherwise been, if the initial decrease in autonomy had not taken place.

But the perfectionist could be presented with a challenge to explain a situation wherein somebody makes the autonomous choice not to be autonomous. It seems that if what is important is that people make their choices in a certain way then the content of their choices is not important. But having made the autonomous choice not to be autonomous anymore, it seems that all my future choices will not be autonomous, thus they will not be as valuable as they could be. This would give us

³¹ Political liberals are not unaffected by this issue, since it seems that they cannot do without enforcing a specific kind of education. How else can they make sure that people are able to make meaningful choices within the ethical plurality that they find themselves, since they cannot be educated to make certain choices on any substantive level, but merely be schooled in the formal aspects?

reason to change that person's condition, if we truly believe autonomy to be intrinsically valuable. However, the person is in this condition only due to their autonomous choice. Thus if we were to intervene we would be over-riding their previous autonomous choice. The reply for the perfectionist here is to take the same line I took in the previous chapter when I was discussing state neutrality on the surface and state neutrality deep down. I claimed that if the state acts neutrally only because they are acting based on an objective conception of the good, then the state is not really neutral, meaning that if somebody is not autonomous as a result of their autonomous choice then they would still count as autonomous deep down.

Another major set of worries concerns the efficacy of perfectionist politics: the question is if this kind of approach might be self-defeating. One version of these objections claims that in order to add value to a person's life the activities he engages in must be endorsed from the inside, as it were. This is often referred to as the endorsement constraint. But enacting policies which make people conform to certain conceptions of the good can only achieve outward conformity and nothing more. Another version doubts the competence of modern governments in achieving the task. If, for example, friendship is part of the objective human good, then how would a government promote that good? Then of course, there is the sceptical worry about the state, or at least the people who make policy decisions, being able to discover what the objective human good is. Some of these problems seem to be begging the question against perfectionism since the very point of perfectionism is that there is an objective conception of the good, and, being sceptical, whether or not the state can work this out cannot really be an objection for the perfectionist. Also some of these pragmatic arguments need not be anti-perfectionist since they may endorse perfectionist politics in principle (i.e. that there is an objective good and the state should promote it) but admit that for pragmatic reasons stemming from the contingencies of the actual world perfectionist politics is very difficult or impossible to exercise. So the perfectionist could ignore those application issues insofar as they take themselves to first trying to solve the ideal case.

We can recap this section by noting that the anti-perfectionists have problems, first, with the way perfectionist policies are enacted – that they might be unduly coercive – and while the perfectionist has some ways to reply, the issue cannot be counted completely resolved. Second, there are problems with the range or extent of the perfectionist policies – that they involve complete ways of life – and again the perfectionist has ways to reply, but again the issue is not fully resolved. And

third, there are problems with the agent who is enacting the perfectionist policies – the state might not be the best possible agent.

6.3 The Revised Case for Perfectionist Liberalism

In the light of the objections explored in the previous section we should perhaps look at a revised case for perfectionism. Joseph Chan (2000) has made an attempt to defend perfectionism against the political liberal by distinguishing between a moderate and an extreme perfectionism, with former avoiding many of the characteristics liberals tend to object when talking about perfectionism. First, moderate perfectionism would not be coercive, unlike extreme perfectionism, which would enforce its objective conception of the good via the criminal justice system, thus it would rely on methods such as subsidies, tax exemptions and education (Chan 2000: 14–15). Second, moderate perfectionism would be mixed as opposed to pure, which means that it would balance the promotion of the conception of the good with other values such as stability, equality and efficiency; while the pure form of perfectionism would assign a lexical priority to the advancement of the preferred conception of the good (Chan 2000: 15). And thirdly, moderate perfectionism would not necessarily be state-centred and would assign a role to civil society and other voluntary associations, if doing so would be more effective in advancing the goals of the concept (Chan 2000: 15–16).³² An important part of Chan's (2000: 13) suggestion is that perfectionism's value judgments should not be attempts at comprehensive rankings, but merely specific local comparative judgments. His example is comparing two people, one of whom is a drug-addict: we should, without having to present a whole comprehensive theory of value, be able to judge a life free of drug abuse to be better than that of a drug addict. Often this is supplemented with the claim that while there might be disagreement over comprehensive theories, we will find wide agreement in specific judgments (although I will argue later that the factual agreement has little normative weight). A similar approach has also been proposed by other authors: Simon Caney (1996) and Franz Fan-lun Mang (2013).

While this distinction makes perfect sense in theory, I am not certain that it will prove helpful in categorizing different perfectionist approaches, since there will not only be pure types; that is, there will be an array of types ranging from the

³² It is estimated that in 2013 crowdfunding, that is, gathering funds to fund a project or a business venture by using various internet platforms such as Kickstarter, almost doubled compared to 2012, reaching over 5 billion USD globally (<http://www.bloombergvew.com/quicktake/crowdfunding>, retrieved February 10th 2015). So being able to fund perfectionist goals solely via voluntary funding might not be a complete pipedream, but then again 5 billion is still a very small budget for a modern state and that sum was gathered globally, so any one country could still only do very little.

extreme to the moderate, thus Chan's defence of the moderate perfectionism, if successful, will be very limited. Also it is not clear how much Chan's brand of moderate perfectionism would differ from any version of perfectionist *liberalism*; certainly the first characteristic is something we would expect to find in both.

I also think that there are problems with the individual components of the two types. First, concerning the methods: I agree that the type of methods Chan ascribes to the moderate type of perfectionism are less problematic than the ones employed by extreme perfectionist, but that is still essentially the same reply we looked at earlier. If subsidies are funded from tax money and taxes are backed up by laws then those methods would still be coercive, even if indirectly. Even if there were no coercive measures used to collect taxes and dissenters still paid their taxes, (due to social pressure or out of habit established when the state was not perfectionist) or taxes were collected in a way that meant dissenters could not avoid paying them (from for example value added tax) then it would be problematic, because the dissenters would be made, due to the nature of perfectionism, to financially support goals that they do not – and more importantly – cannot share philosophically.

Of course it is entirely possible and sadly quite often the case that in a non-perfectionist state policies are adopted and goals are set which are funded from tax money and which are such that many people do not support them philosophically even if they have inadvertently contributed to them financially. But there we can explain away the problem by referring to the principled support people have given to the system or process of choosing and adopting policies and goals, so that even if their preferred conception of the good loses out in this particular instance, people know that the system is not fundamentally biased against them. Now Chan could, and in a way does (Chan 2000: 33), reply here that in a perfectionist state different factions could take turns and when somebody discusses how to distribute funding, different views could take turns in taking priority. But as Thaddeus Metz notes (2001: 426) that kind of turn-taking within a perfectionist state would not make sense in practical terms for a perfectionist state; it would be self-defeating for the pursuit of the advancement of certain objective goods if from time to time it allowed the promotion of other goods that the state did not consider to be objectively good.

Secondly, mixed perfectionism, where perfectionist pursuits are balanced by other values including "peace and harmony of the community" (Chan 2000: 15) seem to

suggest some kind of opting-out. If giving perfectionist pursuits lexical priority could lead to civil unrest from the dissenters then mixed perfectionism, drawing on harmony of the community, should provide some options for dissenters to avoid that with which they dissent. Something like this – an open perfectionist state – has been suggested by Metz (2001).

What he (Metz 2001: 428) describes is an open perfectionist state which “promotes a certain way of life favoured by the majority contingent upon the minority having a substantial negative and positive ability to avoid enforcement of that way of life.” This means that dissenters could either leave that particular state for another preferred one or they could avoid the perfectionism of their particular state. While I agree that such a perfectionist state would be less problematic, it is difficult for me to see the plausibility of such a state. If we take perfectionism in politics to be, as described earlier, about organizing the institutions and policies of a state based on an objective good, then what would motivate a perfectionist state to be open? Whoever is running the perfectionist state must think that they know what is objectively good; what the right conception of the good is. Granted, perfectionism can be pluralist, but still, people running the perfectionist state must see themselves as being in a position to know what kind of life is not worth living and what kind of life people ought to live. But in an open perfectionist state, the state would leave it open for people who do not agree, for whatever reason, with the conception put forward by the state, to leave and/or opt-out. But given that the state knows the truth about the good, why should it let people choose untrue conceptions? There does not seem to be any motivation that can be given for such behaviour – at least no perfectionist one. And even if we could find a way to provide motivation for this, that would undermine the perfectionist nature of the state: why bother organizing your state according to the objective good if you will allow opting out for everybody who wants it? Why become perfectionist in the first place? So it seems to me that even moderate type and open-state perfectionism have their problems. But what is more important is that insofar as they are still perfectionist in the sense described in the previous chapter, I will argue now that they would conflict with the idea of persons being free and equal.

6.4 Perfectionism and Persons Being Free

The question before us in this section is whether perfectionist liberalism can accommodate the thesis of persons being free with all its implications as they were laid out previously. I aim to show that they cannot. I explained in Chapter 2 that persons being free means that the state must meet the justification thesis: all

coercion has to be accompanied with proper justification. And in Chapter 5 we saw that one component of perfectionism is that state action is justified with reference to one specific objective conception of the good. But this means that the state will not always be able to meet the justification thesis since for those people who endorse a different conception of the good, one which conflicts or just is incompatible with the one endorsed by the state, cannot be expected to accept the reasons the state is offering to them. Therefore the state fails to meet the justification thesis when it comes to those people. Thus perfectionism is not compatible with persons being free.

In order for this argument to work we must, first, assume that the state's failure to meet the justification thesis is not due to the fact that some citizens hold crazy and incoherent conceptions of the good, in which case, it would be clear that the citizens would be making a mistake. A second and more important assumption we need is that the people holding the different conceptions of the good, compared to which, for them, the state's justification of the "official" conception of the good is improper, are entitled to hold those different conceptions. That is, it must be the case that the perfectionist state is not only mistaken about their particular conception of the good being the one objective conception, but they must also be mistaken about the very fact of there even being the one objective conception of the good. In other words we would have to accept a commitment to being open to pluralism, since there is no other way to grant the dissenting people a standing to complain about the impropriety of the justification. That assumption is given by persons being equal. I will discuss the relationship between this aspect of persons and perfectionism in the next section. But we need also a third assumption that the state in the situation described really does fail to provide proper justification. Although the discussion of that topic was relatively short in Chapter 2, I take it to be sufficient to show that the state fails to meet the justification thesis in the circumstances described.

6.4.1 "Limited Scope of Justification Thesis" Objection

It seems to me that the perfectionist could raise three possible objections to this argument, but I think that there are good replies to all of them. The first thing that comes to mind is that the demonstrated incompatibility of the justification thesis with perfectionism should not really worry the perfectionist, because the justification thesis applies only to coercive actions, meaning that its scope is limited, and if the particular state action we are considering is not coercive then the justification thesis does not apply, and therefore in that instance, it does not matter

if perfectionism is compatible with it or not. As we saw earlier, the perfectionists have proposed different kinds of state action which all serve their perfectionist aims, but those actions need not be coercive. It might be helpful to remind ourselves here that I take coercion to mean something of the following form: an act of trying to force another agent to do something they would not otherwise do. I took the harm in coercion to be that one agent's will is replaced by another's.

I would like to offer two replies to this possible objection. First – and this draws upon what I already said earlier – it is not clear that there are any state actions which serve perfectionist aims and at the same time are not coercive. Because even if we only consider state actions which promote certain behaviours without prohibiting or hindering others, it does not automatically mean the state is not acting coercively. For one thing, the means the state uses to promote the objective conception of the good might provide such benefits compared to other choices that some or most people, given their situation, cannot really make a free choice between the two. That is, they are in effect coerced into the state-preferred option, since, even though they are technically free to do something else, their circumstances force them to take the state-preferred option, as they either cannot afford not to, or it would be irrational not to.

The kind of situation I have in mind here is similar to the argument that Michael Sandel (2013: 43) makes when he discusses a private institution that pays drug-addicted women to allow themselves to be sterilized. The transaction is free and the addicts are not directly forced into it, but often their circumstances are such that they are coerced into it by not having any other viable source of income. So if the state were to start a voluntary program which paid certain people to allow themselves to be sterilized, then while technically free, that system would still, in effect, coerce some people, given these people's poor circumstances.

Even if we do not think that such promotion schemes are coercive, those schemes have to be funded somehow. It is likely that the state would use tax money, which they are usually bound to do, given the portion of tax money in a typical country's budget. But any such use of public money can be seen as coercive in the sense that tax money is usually collected in a coercive manner: private individuals and corporations have to pay income tax and legal transactions will result in value-added tax, and so on. So it is not very plausible that one could find an example of a non-coercive state action which would be at the same time perfectionist.

The second reply is willing to grant that there might be some such instances, but that this would still not save the perfectionist since there would still be a good number of coercive state actions which would necessitate the application of the justification thesis and bring with it conflict between the state's endorsed conception and the private judgments of individuals. That is, it would not be conceivable for the perfectionist to have a modern state which would also be rightfully called perfectionist without some state actions that would be coercive and would draw upon their justification from the objective conception of the good.

For example, let us recall of an area that I mentioned in the previous reply: taxation. Whatever the state does, those actions will have to be funded somehow and for modern states most of those funds come from taxing the income of individuals and corporations as well as the transactions between them, among other things. Most forms of taxation require some coercion: given that under the current system, where there are penalties for evading taxes, there are still a significant sums of money not being paid,³³ it only stands to reason that if there were no penalties involved the numbers would be even higher.

6.4.2 "Not All Reasons Are from Objective Good" Objection

Another objection emphasises that even if the justification thesis applies in most cases, or when it applies to at least sufficient number of important cases, then the perfectionist state need not necessarily rely on their objective conception of the good when providing justification in those cases. They could employ other considerations which are more general and which do not depend on one specific idea about the good. If that were the case then the conflict between the justification thesis and the perfectionist state would cease to exist since if the state's preferred conception of the good were not used there would be no barriers for providing a proper justification.

This certainly seems like an option that is open to the perfectionist state. But my reply to this objection would be that if the perfectionist state took that route then it will be highly questionable in what sense the state would still be perfectionist. If the justification that is provided for the state's actions does not rely on the objective conception of the good and instead makes use of other more general

³³ In the UK Her Majesty's Revenue and Customs suggest that 7% of tax due is not paid – http://www.cps.gov.uk/news/articles/prosecuting_tax_evasion/ (retrieved on 13th November 2014). And in the USA recent data shows that 18-19% of total reportable income is not properly reported to the IRS (Cebula and Feige 2011).

considerations, then the state is being neutral, but this would mean the state lacks one of the characteristics of a perfectionist state.

A rejoinder to this could be that even if the justification is neutral then the aims of the state could draw upon the objective conception of the good and thus the state would still be non-neutral and thus perfectionist. In this situation I could see two possibilities. Either the aims of the state are such that they are only supported by the objective conception of the good, making the state non-neutral in that instance, in which case the original claim of justifying state actions in reference to some general considerations becomes suspect. Or the aims of the state are derived from the objective conception of the good, but are at the same time supported by other general considerations, as was stipulated by the original objection, but if that is the case then once again the non-neutrality of the state is questionable. If the aims are supported by neutral considerations and the state is using those neutral considerations to justify both setting those aims and the means for achieving them, then it is hard to see how the state is acting non-neutrally. And without being non-neutral the state is not perfectionist, and thus, while there is no conflict with the justification thesis, there is no conflict precisely because there is no perfectionism, which does not help the perfectionist argument.

This same reply applies also to the moderate perfectionist case as well, insofar as we understand moderate perfectionism to be a case in which we do not have a full, comprehensive conception of the good which the state promotes or enforces, but as something where we have individual value judgments about singular issues (for example "a life free of addiction is good"), upon which there is wide agreement, and which the state either promotes or enforces. First, moderate perfectionism understood in this way is not really perfectionism, and secondly, by stipulation, there is no actual plurality on the issue, and as long as the state employs methods to promote that value judgment such that the conditions for disagreement are maintained, the political liberal sees no problems with it.

6.4.3 "Pluralism Can Help" Objection

A third objection that could be made draws on the idea of pluralism. As I noted in Chapter 5, perfectionism is compatible with pluralism and many perfectionist liberal authors present us with a pluralist perfectionism. If a particular perfectionist theory were to be pluralist then it would have much wider set of reasons at its disposal to meet the justification thesis, meaning that a pluralist perfectionism could avoid this conflict entirely.

But for the perfectionist, this objection relies on the conditions being just right. The particular kind of pluralism of the theory has to be just inclusive enough to map exactly onto the empirical pluralism found in the society (or at least to map onto it exactly once we exclude the crazy and incoherent doctrines). If there is a mismatch between the two then this argument does not work. If the pluralism of the theory is too narrow it will not be able to address some of the members of the society, just as was the case in the original argument, because some of the members of the society will endorse values that the perfectionist theory does not endorse. Thus the theory will fail the justification thesis when it comes to those citizens. If the pluralism of the theory is too wide then again, it will not be able to address some members of the society because this time the theory will endorse values that the citizens do not and if the theory ever relies on those values then it will fail the justification thesis. But once we allow the stipulation of such ideal conditions, the whole discussion becomes meaningless, since we could begin by stipulating complete agreement within the society on one conception of the good, and it would not matter then if we were perfectionists or not, given the agreement on everything justification thesis could then be met every time.

But let us, for the sake of argument, allow that there could be a pluralist perfectionism which maps exactly onto the pluralism in the society (with the crazy and incoherent doctrines excluded). Can this objection really help the perfectionist show that there is no conflict between their theory and the justification thesis? This will largely depend upon what kind of pluralism the perfectionist has in mind. For one, we could think of pluralism as found in Raz, where there is plurality of different and equally valuable yet incompatible lives which all exemplify one objective value; let us call that the practise level pluralism. But that kind of pluralism would not be very helpful, because in this case, the various forms of life would not be considered worthy in their own right, but only in their relation to autonomy. We can grant that people can live different and equally valuable yet incompatible lives if their lives exemplify autonomy or if they have autonomously chosen to live those lives, but that does not give us the kind of pluralism we are interested in, since at the heart of this pluralism is still the master-value of autonomy. So we need to look at some other kind of pluralism.

If we go to the objective level, that is, the level of different conceptions of the good, we could claim that there is a plurality of different *conceptions* of the good which are all objective. Within this plurality we will find the tools to justify the state's action in a perfectionist manner without conflicting with the justification

thesis. While this might be the case (and in a way this seems the kind of meta-ethical picture the political liberal not only could accept but actually endorses), then this does not help the perfectionist, for two reasons. First, the perfectionist by definition will only endorse one of these conceptions. Thus this plurality does nothing for the perfectionist in this matter, since they will only get the contents of one of those conceptions. And, second, if there are multiple objective conceptions and the perfectionist is only endorsing one then the question arises as to why the state prefers this particular one over others. If they all truly are similarly objective then we either need to stipulate yet another level from which to choose from or choose randomly, neither of which seems very appealing. Or if the particular conception endorsed by the state is somehow better then it is questionable whether the initial description of plurality of conceptions was adequate.

So it seems that the perfectionist needs a middle perspective, which I will label the value level. That is, within their preferred conception there is a plurality of different *values* which are equally valid compared to each other. As an example we could think of a list of fundamental values, as suggested by the work of Jonathan Haidt (2012: 153-154) or some other values, for example autonomy, equality and community. Such pluralism could provide a solution to the perfectionist since if the list of values is just inclusive enough the perfectionist will have the tools needed to meet the justification thesis. But it is important to keep in mind that the plurality could not be unlimited, as that would stop it from being a serious or useful conception of the good. So we would expect the plurality to be closed in form, either by providing a list of some kind or defining the values included in the plurality by some other characteristic. The perfectionist could not say "my objective conception of the good is plural and its contents will include all the values that are out there". If they were to do that, then they would no longer be perfectionist in the sense I have defined them and then they would end up in a similar position as the objective level pluralist.

But once we accept this kind of pluralist perfectionism as a response to the tension between the justification thesis and perfectionism, some questions arise, which I think show that in fact the tension is not relieved. The first issue is of course the idea of a list of values included into the objective conception: I established that the list cannot be all-inclusive for then it would no longer be a useful conception. But as soon as some values are excluded from the plurality endorsed by the conception, there is the possibility for a conflict between the conception and the justification

thesis, since there can be people who affirm those values which were left off the list.

The perfectionist's response could be to include all and only those values affirmed in the society. This could provide a way out: the list is not exhaustive so it serves as a useful list, but at the same time it is able to address everybody in the society. But this raises two issues. First, how could we know that we would retain liberalism? Unless there was some method of filtering we could not be sure that lifting the list of values from society would give us the kind of list that supports liberalism. But once there is a method of filtering, it seems like cheating. The second issue is openness to new values. Considering, for example, the LGBT life as an example of a valuable life, is a relatively new addition to value space of the modern democratic society. Of course not all additions to our space of values are always good, but we cannot know beforehand if this or that idea is worthwhile pursuing and we cannot know before we consider them. But to be able to consider them as valid options the current value system has to allow for the possibility of those new values being added to our value space. Could this proposed pluralist perfectionist account be open to new values while still maintaining its perfectionist nature of endorsing one objective conception of the good? It does not seem to me that it can.

A further issue is this: once we have expanded the pluralism to cover all the current values then are we still dealing with a single coherent conception? That is, could all the values that are held by people right now be brought together into one single conception of the good? And again I think they cannot: a conception of the good would not make sense if it were nationalist and cosmopolitan at the same time, for example.

So it seems to me that while the perfectionist could easily hold a pluralist conception of the good (in the sense of there being a plurality of equally valid values within the conception), then there cannot be a version of the kind of pluralist conception which would help the perfectionist meet the justification thesis. It will either be too exclusive to meet the thesis in every instance, it will end up containing too many different values to form a single coherent conception, or it will be so inclusive that it will fail to be useful or a meaningful conception of the good in the first place.

But as I said in the beginning of section 6.4 a lot in this argument hangs on the idea that people have cause to ask for different kinds of reasons when the justification thesis is applied to them. In other words, only looking at persons being free cannot give us the full story since this argument assumes also that persons are equal. And I will not turn to that aspect and its relationship to perfectionism.

6.5 Perfectionism and Persons Being Equal

In this section I will consider whether perfectionist liberalism can accommodate the thesis of persons being equal with all its implications as I laid them out previously. My answer will again be negative. I explained in Chapter 2 that persons being equal means that we must be committed to being open to pluralism about ethics. On the question of what constitutes a good life no person is in a normatively better position to judge. Thus there can be no superior position from which to adjudicate between the different ideas people have and therefore we cannot prescribe for others what constitutes a good life. So we must be committed to being open to pluralism since the equality of persons does not allow one conception of the good to be declared the winner, so to speak. In Chapter 5 we saw that one of the components of perfectionism is that it endorses an objective conception of the good. Endorsing an objective conception of the good rules out the principled commitment to pluralism that equality of persons requires, since if there is one objective conception then there cannot be an opposing but equally valid conception. So perfectionism is incompatible with persons being equal, almost by definition.

The other component of perfectionism was the non-neutrality of the state, which I construed both as being partial towards the objective conception of the good in the aims of state action, and as relying on the objective conception of the good in the justification of state action. This component is also in conflict with the principled commitment to being open to ethical pluralism that derives from persons being equal, since promoting one conception of the good over others carries with it the judgment that there is a conception of the good which is more true or better than some others. This means denying the equal validity of different ethical outlooks. Thus perfectionism is also incompatible with persons being equal.

The first thing to note is that persons being equal and the commitment to being open to pluralism that we get from this, forms a strong part of the argument presented in the previous section: the perfectionist's failure to meet the justification thesis is a cause for problems only if we assume that the doctrines those people affirm are equally as valid as the one the state endorses. So it would be more

accurate to say that perfectionism is incompatible with persons being free *and* equal (rather than with each component individually).

But the second thing is that again some discussion of a pluralist perfectionism seems relevant. If the objective conception of the good the perfectionist endorses is pluralist then they could try to argue that there is little conflict with persons being equal since their pluralism is open in the way required by persons being equal, and conditions for disagreements can be maintained.

But just as the objection repeats itself, replies will be somewhat repetitive also. Practise-level pluralism will not be helpful: there can be different and incompatible but equally valuable kinds of lives all exemplifying autonomy, thus it may seem that the promotion of autonomous lives at state level is not that problematic, but then on the value level there would still be monism. There is but one master value of autonomy and all those different lives are valuable insofar as they are expressions of autonomy, thus this kind of pluralist perfectionism would not be open in the way persons being equal requires it to be. Furthermore, there are no real conditions for disagreement since there is only one thing that makes lives valuable.

Objective-level pluralism will also not be helpful, since in claiming that there are multiple different equally valid conceptions of the good, the perfectionist is either aligning themselves with the political liberal or creating for themselves an obstacle that they cannot overcome. The former problem occurs because it is precisely the position of the political liberal who affirms the equality of persons that there are multiple different conceptions of the good and no person is in a position to adjudicate between them to decide for others what they should believe. The latter problem occurs since such pluralism would not provide the perfectionist with the tools to decide between different conceptions but as I noted in Chapter 5 it is the characteristic of perfectionist to endorse one conception and promote it via state actions.

Value-level pluralism will not be helpful, since if the values *within* the pluralist perfectionist conception are presented as a list, that list will have to be a closed list, otherwise it will not be a useful or even a coherent conception: we cannot lump all the possible values into one big set. But a closed list gives no real conditions for disagreement, since only values that are on the list or are derivable from the values on the list would be acceptable. Thus there is no opening for a completely new

value judgment that does not yet exist to come into being and achieve validity. (Once again it is worth stating that not every new value judgment is necessarily the kind we want to assign equal validity, but we cannot know this before considering each one, and thus we should not exclude the possibility.)

To reiterate the point: the perfectionist could be pluralist in regard to the realization of their objective conception of the good in real-life, or they could even be pluralist in regard to the values within their objective conception of the good, but they would have to be monist with regard to their own conception of the good. That is part of the very meaning of being perfectionist. But this attitude would face challenges from persons being equal and its implication of being open to pluralism about conceptions of the good.

In the previous discussion the question of societal consensus came up. It is worth revisiting this issue here, since it is also relevant in the case of promoting one conception by non-neutral state actions, but also more generally, to the idea of persons being equal and being open to pluralism. If we accept the idea of persons being equal, and its implications for ethics, then it is also clear that we must demand from the state that they do what they can to maintain the conditions that allow disagreement. This duty will be rather extensive since only making sure that the legal conditions are satisfied, such as there being no laws explicitly prohibiting dissent or there being laws guaranteeing freedom of conscience, is clearly not enough. That is because, as with discrimination and toleration, for example, the merely legal conditions have little use if the social conditions are not conducive. So for example if there are the legal conditions that allow disagreement with the wider social consensus about the good life, but it is widely known that doing so publicly will result in a strong backlash, then the conditions of disagreement are not really maintained since people who actually disagree are not completely free to disagree.

However, I claimed that it would not be problematic from the political liberal perspective to build on the idea of persons being free and equal, to rely on either a specific value judgment when providing justification, or to promote a specific value judgment with the non-neutral state actions when there is sufficient societal consensus on the issue. I must stress once again that the enforcement of this idea has to be made in a way which makes sure that both the legal and social conditions for disagreement are maintained. So even though it might seem, at first sight, to be unproblematic to teach one given view of the good life at school as long as there is wide societal consensus on it, the requirement for maintaining the conditions for

disagreement make this problematic. In many cases I think will be very difficult, if not impossible, to prefer one conception of the good or one specific value judgment, and at the same time make sure that it will have no social ramifications for people who would wish to disagree. Such a practice becomes even more problematic once we start to consider future generations: even if we make sure that in the present it will not be socially difficult to disagree, then once an entire generation or two has gone through "the schooling" then it might become impossible to disagree since people would not consider this as a possible response.

While in the previous section I argued that what makes it difficult for the perfectionist to meet the justification thesis is valid ethical pluralism, and in this section I bolstered that argument by noting that if we take persons to be equal we must be committed to being open to ethical pluralism. But persons being equal does not imply that ethical pluralism will necessarily be an empirical reality; the mere fact of being committed to being open to pluralism does not mean that the society could not come to an agreement on a conception of a good. Unlike the Rawlsian position which took the pluralism of reasonable comprehensive doctrines to be a necessary fact about contemporary democratic societies, because it is "the natural outcome of the activities of human reason under enduring free institutions" (Rawls 1996: xxvi), the picture presented here does not seem to guarantee such a result. So this leaves open the empirical question: do or will we in fact have the kind of pluralism that makes it difficult for the perfectionist to meet the justification thesis?

So this would seem to leave the perfectionist with an out: contest that any pluralism will in fact emerge. The perfectionist could try to claim that given that their conception of the good is objective, once people are introduced to it properly people would be convinced by it. If that conception is not directly promoted or enforced then the people could also claim that they are open to pluralism, even though they think that in fact whatever diverging opinions are proposed, they will end up losing out to the perfectionist's objective conception. If that were the case then the tension between the perfectionist approach and persons being free and equal would disappear: if there is agreement then there is no problem meeting the justification thesis and any problems caused by pluralism are avoided, since being open to a concept does not mean that the chance for the concept to come into play will in fact arise.

While this seems like a good reply on paper, I do not think it will hold up in practise. We need just look at the world around us to realize the currently existing wide disagreement on a range of ethical issues. Of course that could, for the perfectionist, mean just that the best objective conception of the good, which would convince everybody, has not yet been presented, but I think that our past failure in being able to come up with such a conception does not give us reason to be optimistic.

So to recap the argument of the last two sections: persons being free and its implication for the justification thesis presents the perfectionist with a problem they cannot overcome, since if they are to remain perfectionist they would have to draw on their objective conception of the good to meet the justification thesis, but doing so, they would fail. Persons being equal and its implication of commitment to being open to ethical pluralism presents the perfectionist with another problem they cannot overcome, since if they are to remain perfectionist they would have to claim the superiority of one conception over other, which is in direct conflict with the idea of being open to pluralism.

If we compare these arguments to the arguments considered in section 2 then we will see an important difference between the two groups. The arguments I considered first engaged with perfectionism from two sides, first from the point of the characteristics of liberalism as I defined them in Chapter 1. That is, with the liberal ideas of freedom and state neutrality in mind, the critics asked if perfectionist attitude towards liberalism is even possible. Secondly, the arguments considered some of the pragmatic aspects of applying perfectionism and also moderate perfectionism. What we saw is that there certainly are questions that perfectionists need to answer and even if there currently is no satisfactory way of realizing the ideas of perfectionism or showing how perfectionism adheres to the characteristics of liberalism we cannot discount the possibility of finding a way to apply those ideas or to explain their compatibility (possibly by re-interpreting the liberal idea of freedom). But my argument against perfectionism: that it is incompatible with the idea of persons as free and equal engaged perfectionism on a deeper level. Thus they are superior in that they demonstrate the incompatibility of perfectionism with the very foundation of liberalism and not just with its characteristics.

6.6 Tying Up Loose Ends

In this final section I would like to address few loose ends to wrap up the discussion. The most important question is about the status of the idea of persons being free and equal.

The question is: if persons being free and equal implies being open to pluralism, how can this idea of persons still stand on its own? Does the concept not collapse under its own weight, seeing as it cannot not be established as an objective claim because it commits us to being open to pluralism? The answer to this problem lies in noticing where the claim of persons being free and equal is made and where the pluralism it implies is. While the perfectionist starts with individual ethics and moves onto political morality after establishing an objective conception of the good, my starting point is from of the idea of persons as free and equal as already being in the political morality. As I explained in Chapter 3 this idea has no direct implications on the moral standing of persons in general – only on how we ought to organize our political institutions. So the idea of persons as free and equal is not in conflict with its own demands of pluralism with regard to ethics since it is not itself a claim about ethics.

But we should consider for a moment a slightly different version of this same style of problem: what about a perfectionist theory which takes the freedom and equality of persons to be of objective value? This would seem to allow the perfectionist have their cake and eat it too: they would have the perfectionist elements of objective good component and the non-neutral state³⁴ and at the same time be immune to the objections I have raised here (assuming, of course, that they understand the freedom and equality of persons in the same way I do). It is possible that somebody taking this position would want to maintain that state institutions built on the idea of the objective value of freedom and equality of persons is neutral, but if they were successful then they would no longer be perfectionists in the sense I have used this term here and thus they would not qualify as my target. But assuming that they did not take that route then there are few things I could say in reply to them depending on how exactly this position were to be cashed out.

One way to conceive of this kind of perfectionist theory would be akin to Wall (2009) and Raz (1988) who both are likely to claim that valuing autonomy is consistent with justification thesis (in the sense that somebody who values

³⁴ As I discussed in section 5.4 if the objective good component dictates the state to be neutral then that neutrality would only be surface-deep, thus the state would still count as non-neutral.

autonomy could also endorse the justification thesis) and that it is also consistent with ethical pluralism. As it happens Raz (1988: 391) makes an even stronger claim that valuing autonomy requires pluralism (and vice versa). Wall (2009: 169), following Raz, states this idea as follows: if there is no plurality there is no possibility to be autonomous (since there are no choices to be made), and if there is plurality then there is no other option but to be autonomous (since one will have to choose among the options). But stating the problem in this form does not get the desired result, because the pluralism is the wrong kind of pluralism (as was discussed in 6.4.3).

This I think is a concrete example of a more general problem with this type of solution from a perfectionist. Freedom and equality as I have used and defined them in this thesis are not taken to be substantial values, things that need to be promoted for a flourishing human life. As I have used them here they are merely taken to be considerations that guide our design of institutions which are meant to provide persons with the environment to find their own flourishing. In Chapter 2 I talked about conditions for disagreement being one characteristic of a liberal system, that if an agreement over some value happened to emerge then the liberal approach would still be not to legislate on the basis of it, since that would remove the conditions for disagreement, it would make it harder (and in some cases even impossible) for people to disagree with that particular value judgment in the future. Taking persons as free and equal serve as constraints that help to preserve these conditions for disagreement. So at best we could think of them as conditions for flourishing and promotion of other substantial values.

A perfectionist theory that claims to take freedom and equality as their objective conception of the good would have to understand freedom and equality in a very different way. From the definition of perfectionism we know that the object of a perfectionist objective conception of the good is the flourishing of individual lives, thus freedom and equality would have to be taken as things that are valuable on their own, things that need to be promoted for a flourishing life. But such a twist on freedom and equality would completely do away with the conditions for disagreement since there would be no room for differing value judgments. Thus a perfectionist objection that taking freedom and equality as objectively valuable could allow them to have their cake and eat it too, could not work since it would require misunderstanding freedom and equality as I have used them here.

A second issue that I would like to address here concerns my remark in the introduction to this chapter, that I will point out how my understanding of political liberalism differs from some of the prominent versions found in the literature. First I will consider the case of Rawls. For him the plurality of different conceptions of the good is a necessary part of a modern democratic society so the question for political philosophy is how we ought to deal with it (Rawls 1996: 4). His account of political liberalism is meant to address that problem. For me, though pluralism has to be allowed for, it is not necessary that it occurs. Since nothing in the conception of persons as free and equal indicate that a consensus or an agreement about ethics could not arise, the more interesting question for political philosophy, to my mind, is how we ought to deal with a situation where we do not have pluralism. If we take seriously the conception of persons as free and equal then we must be committed to being open to pluralism, so we need to maintain the conditions of disagreement both legally and socially. This means that even if we have an agreement we would need to have a devil's advocate so to speak, who would represent the other side. Privacy is something that helps to illustrate this: privacy (from the state) is something we care about even if we know that we do not have anything we would wish to hide from the state. What we want to have is the option to have some information private even if we do not at the moment have any such information. So my account differs from Rawls by allowing for the possibility of agreement and then also prescribing what we should do in that situation.

The other prominent version of political liberalism found in the literature that I want to consider is Larmore's theory. He agrees with me that the pluralism Rawls describes as a fact about society is not as necessary as Rawls makes it out to be. Now, he does agree with Rawls that if there is a disagreement we should take a similar approach to this as the one proposed by Rawls. But because disagreement is not necessary, there is the possibility that we will have empirical consensus on one or other value judgment. Such actual agreement carries a lot of weight for Larmore, since, as we saw in Chapter 4, he thinks that the state could legislate on the intrinsic value of one conception if there is agreement on it. But because I think that we should maintain the legal and social conditions for disagreement then any such possible empirical consensus has little normative weight, marking a difference of my account from his.

CONCLUSION

The first clear result of this thesis is one complete and comprehensive presentation of what liberalism is, as well as what underpins it. Surely many people have a vague sense of what liberalism is or means, and have some value associations with it. Thus having an account of the values that should be associated with liberalism, and being able to identify characteristics of liberalism, is all the more useful. But my presentation here also includes an examination of the foundation of liberalism, which completes the picture.

The second result or benefit is that just like liberalism, the phrase 'persons as free and equal' or 'persons being free and equal' is also very commonly used without being given an explicit meaning or content. So I think that my investigation of this idea, its content and justification, as well as connecting it to major contemporary authors, is important for giving a better grasp of the contemporary liberal tradition. While it would be fair to characterize my interpretation of persons being free (and the justification thesis it implies) as fairly traditional or conventional within liberalism, then I think that my interpretation of persons being equal (and the commitment to being open to pluralism it implies) is a distinctive feature of my thesis. As we saw in Chapters 1 and 2 ethical pluralism is a clear feature of liberalism, but that idea is usually is not connected to an understanding of persons as equal. But given the relative importance of the idea of equality in liberalism connecting the two is definitely a benefit for liberalism.

The third result is that having achieved the first two aims put us in a position to evaluate and even settle the debate between a perfectionist and anti-perfectionist approaches to liberalism in favour of political liberalism. This last point raises some interesting additional questions.

First, if the reader is inclined to agree with me that I have demonstrated the incompatibility of perfectionist approach to liberalism with the conception of persons as free and equal, then the question arises as to what this means for perfectionist liberalisms. For one thing, if this conception of persons serves as the foundation to liberalism and conflicts with the perfectionist approach, does it mean that the implication of my argument is that perfectionist liberals are not really liberals in the first place? While that would be a very interesting implication, I do not think that it follows from what I have said here.

In Chapter 1 I defined liberalism as a political theory as having four characteristics and, to an extent, many perfectionist liberal theories meet those characteristics; those theories are liberal political theories. The point that is most difficult to meet for the perfectionist is the openness to ethical pluralism, but many perfectionists, including Raz (1988: 161) and Wall (2009: 102; 2012), argue for a kind of pluralism (even though I think that this is not the kind of pluralism we should have). Thus the mistake the perfectionist liberals make is not that they affirm the wrong kind of political principles but that they do not have the right foundation. Of course nothing prevents the perfectionist liberal from building their liberalism from a different starting premise and claiming that the same kind of liberalism can be derived from a different set of ideas. But that would not help the perfectionist, since Chapters 3 and 4 aimed to establish the case that persons are free and equal, and if I succeeded in doing this, persons are free and equal with the accompanying implications regardless of whether or not we take that idea to be the basis of liberalism. This means that the perfectionist would still need to address the conflicts and tensions this gives rise to.

But secondly, one might ask why this matters. If we turn our attention to actual political practise and policy then it is often the case that the perfectionist liberal and political liberal will be almost indistinguishable. They are both, after all, liberals, and from what I said earlier we can deduce that this must mean that they endorse the same values. It matters because being a perfectionist liberal who is in practise indistinguishable from a political liberal would mean doing the right thing for the wrong reasons. Surely doing the right thing is more important, but doing the right thing for the right reasons is preferable to a situation where the right thing is done for wrong reasons. Thus if being a political liberal is preferable, even though you might be indistinguishable in practise from the perfectionist, you would have the added benefit of doing the right thing for the right reasons.

I would also like to reiterate a point I made in the Introduction, that it is important to note the limitations of my argument: having showed what persons as free and equal means and that this concept is in tension with perfectionist approaches to liberalism, I have not therefore immediately shown the consistency and applicability of political approaches to liberalism. But I have shown that given that perfectionism is inconsistent with persons being free and equal, it looks like our only alternative is to try to work out the best possible version of political liberalism.

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