

The Essex Autonomy Project



AUTONOMY AND VALUE

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Introduction

Autonomy is an ideal which pervades the rhetoric of modern law, political thought and professional guidance. In these settings, it can often appear to be in tension with other goals which people hold to be important, such as solidarity, security and welfare, especially in conditions of risk or resource scarcity. Should, then, self-determination be simply one more value alongside others, or does it deserve a privileged place in human affairs? Alongside issues about the relative priority of autonomy compared with other values, the evaluative dimension of autonomy itself is also contested. In particular, does respecting someone's autonomy means allowing them to decide for themselves what is valuable, or is there a threshold of rational or evaluative competence that people must meet in order to be self-governing?

This report examines such connections between autonomy and value. It aims to illuminate these relationships in history, theory and practice, with a focus on autonomy, value and rationality in health and social care settings. The main topics discussed are:

- The nature of autonomy and the justifications for pursuing it

- Whether autonomy requires the possession of evaluative skills or adherence to certain values and norms
- How the effects of mental illness and intellectual disability on individuals' evaluative and rationality capacities bears upon their autonomy
- The extent to which respect for autonomy requires the state to be neutral about the good life for its citizens

Autonomy and Value in Practice: Three Examples

Considering some specific examples may help bring these issues into better focus.

- i) P was a 24-year old with a mild learning disability and a severe form of epilepsy, and who had lived with his adoptive mother AH for over 15 years.¹ AH was alleged to have withdrawn P's anti-epileptic medication, thereby helping to cause life-threatening and prolonged seizures which resulted in P's hospitalization. P wanted to remain living with AH, but Justice Hedley found that the combination of his disability and excessive dependency on AH meant that he currently lacked the capacity to make decisions about where to reside. Hedley judged that it was in P's best interests to move to an independent living placement with mandated but limited contact with AH.

Two important questions about autonomy and value are foregrounded by this case: what does respect for autonomy consist in, and should it take primacy over other aspects of welfare? Hedley's decision can be framed in various ways: as thwarting P's autonomy insofar as his wishes to live with AH are overruled; or as safeguarding P's autonomy by providing an

¹ *The PCT v P, AH and a Local Authority* [2009] EW Misc 10 (EWCOP)

environment that enables him to develop a set of skills for coping independently and an opportunity to form his own evaluative commitments without pressure from AH. In addition to disagreements about what respect for P's autonomy would involve, there is the further question of how much weight should be given to autonomy compared with other values. Even if we adopt Hedley's 'long view' of autonomy, might P's distress be so great in the short-term that it would not be in his best interests to promote this autonomy?

- ii) Ruth suffers from major depressive episodes with no obvious external trigger. She has recurrent thoughts about the inevitability of death, and for her, the future seems like more of the same: various activities with no genuine or lasting value, which ultimately only lead to death. Facing a treatment-decision about a potentially life-saving medical intervention, she is indifferent – whether she accepts treatment or not, death is coming, and there is no guarantee treatment will even delay this outcome. While admitting to anxieties about the prospect of dying, she feels neither treatment nor non-treatment will make a significant difference. Ruth recognises that in the past she would have seen such a difference, but not now. Consequently, she sees no point in consenting.

This case raises questions about the impact of mental health problems upon people's autonomy. In particular, the changes in Ruth's evaluative commitments – her new-found indifference about life-saving treatment – which might even reveal a deficit in her evaluative capacities, may suggest to us that her depression has prevented her from acting autonomously. 'It is not Ruth but the illness speaking', someone might remark. Similarly, consider the values entwined with anorexia nervosa (such as privileging of thinness and bodily self-control over all other aspects of life) or beliefs associated with paranoid

schizophrenia (such as delusional attitudes concerning being conspired against). However zealously held, these values and beliefs associated with psychopathology will strike many people not only as being wrongheaded but as stopping people from acting and deciding for themselves. Yet, insofar as autonomy consists in acting on our deepest commitments, that conclusion is also puzzling. Does it make sense to think that psychopathology can impede autonomy, even when the person said to have mental health problems denies that there is anything awry with their beliefs, values or deliberations?

- iii) Mark is a 36-year old mountain climber and has over a decade and a half of experience. For some time, it has been his ambition to scale Annapurna in Nepal – one of the most challenging climbs in the world. Members of his rock climbing association have mooted the possibility of an expedition, and Mark suspects that this will be his only chance to make an attempt. To date, there have been over 100 people to have made successful summit attempts, but at least 56 deaths. Mark’s friends and family—especially his partner Alex—are extremely anxious at the prospect, and do not want him to go. However, Mark is determined to do the climb and says he finds the risk exhilarating, even intoxicating.

Mark took a very risky decision, unpopular amongst his immediate social circle, and which may well lead to his death. In these respects, he resembles Ruth, who also undertakes grave risks by withholding consent to life-saving treatment. Yet, few would ordinarily question Mark’s autonomy on this basis or suggest that he does or should lack the legal standing to make the expedition. What accounts for this divergence in attitudes and is it justified? Can the state make any such distinction while maintaining principled neutrality about the nature of the good life? If respect for autonomy requires that state institutions do not impose

contentious ethical norms, then similar problems can arise in other areas. Why, for instance, are Jehovah's Witnesses granted the liberty to refuse some medical treatments on religious grounds whilst schizophrenics experiencing religious ideation are often detained for mental health treatment?

What is autonomy?

Autonomy is best characterised in terms of self-determination (or self-governance), although it admits many facets. The term 'autonomy' is itself often used fairly loosely to denote a number of related concepts. But we shall need to observe some relatively fine-grained distinctions amongst concepts such as mental capacity, liberty and authenticity if we are to think clearly about what autonomy comprises.

Autonomy: Essential Concepts

Three common conditions of autonomy

Mental capacity: the ability to decide by using relevant information.

Liberty: the ability to act (free from interference and possessed of appropriate skills and opportunities).

Authenticity: something being one's own rather than alienated.

Three aspects of attributing autonomy

What objects are being assessed? It might be a desire, belief, decision, person, or whole life.

Is it the ability and occasion to be self-determining or whether these abilities and opportunities are exploited that is being assessed? Autonomy can be used as an ‘opportunity’ or an ‘exercise’ concept.

Is the realisation of autonomy or the right to autonomy at issue? Autonomy has both descriptive and normative senses.

Mental capacity or *decision-making capacity* refers to a person’s ability to make a decision in light of their psychology and current circumstances. In contrast to concepts like soundness of mind—which apply to persons as a whole—assessments of mental capacity are typically undertaken in decision-specific fashion. The most widely employed criteria for possessing this decision-making capacity include abilities to understand, retain, use and weigh information relevant to the decision and the ability to communicate a choice.² Common barriers to such mental capacity are brain injury, the excessive influence of other people, intoxication, intellectual or developmental disabilities, mood disorder, psychosis, confusion and severe pain. Mental capacity is sometimes further distinguished from *competency*, where the former is said to be a primarily psychological condition and the latter a legal status that typically accrues in virtue of a finding of mental capacity.³ When someone is found to lack mental capacity in relation to a decision, then in many Anglophone jurisdictions this can

² For discussion of the test for mental capacity as used in English law, see Department for Constitutional Affairs, *Code of Practice: Mental Capacity Act 2005* (London: The Stationary Office, 2007), 44-9. In short, the MCA test takes someone to lack mental capacity in relation to a decision when—due to a mental impairment or disturbance—someone is unable to understand, retain or ‘use or weigh’ decision-relevant information, or to communicate their decision by any means. See also the range of competence assessment tools developed by the MacArthur Foundation based upon law in many US jurisdictions, such as Thomas Grisso and Paul Appelbaum, ‘The MacArthur Treatment Competence Study. I: Mental Illness and Competence to Consent to Treatment,’ *Law and Human Behaviour* 19:2 (1995), 110 and *Assessing Competence to Consent to Treatment: A Guide for Physicians and Other Health Professionals* (Oxford: Oxford University Press, 1998). The four abilities they outline are to communicate a choice, understand relevant information, appreciate the nature of the situation and its likely consequences, and manipulate information rationally.

³ For more on the distinction, along with some scepticism concerning its usefulness, see Scott Y. H. Kim, *Evaluation of Capacity to Consent* (Oxford: Oxford University Press, 2010), 17-8.

provide legal grounds for intervention in their ‘best interests,’ regarding matters like their financial affairs, medical treatment or living arrangements.⁴

If autonomy requires individual self-determination, then possessing mental capacity is a plausible requirement for achieving full autonomy. Impairments to decision-making capacity—such as being unable to understand or use relevant information in reasoning—interfere with the process of coming to a decision and translating one’s commitments into pertinent actions. Whilst autonomy encompasses decision-making capacity, it is not exhausted by it. Despite being the focus of much recent law and professional guidance concerning autonomy, self-governance involves more than the possession of basic capacities to decide. Other conditions commonly advanced in accounts of autonomy include forms of liberty and authenticity.

Liberty consists in the ability to act.⁵ Negatively, this means an absence of interference or impediments to action imposed by others.⁶ For instance, handcuffing someone, seizing their property, or transferring them from an open to a locked ward, can all diminish a person’s negative liberty. Similarly, it was P’s negative liberty that was infringed when Justice Hedley restricted his contact with AH. P would have chosen to see and live with AH – his ability to

⁴ In English law, see *The Mental Capacity Act 2005*. We should note that a finding of incapacity or incompetency alone is (ordinarily) neither a necessary nor sufficient condition for practitioners to coerce a person or intervene to make a decision for them. Mental incapacity is not a necessary condition insofar as it is not the only possible ground—for instance, criminal law and mental health laws not based around capacity can sanction detention and other restrictions on liberty. Conversely, the absence of mental capacity need not be a sufficient condition, because further justification for interventions may be required. For example, the Mental Capacity Act requires that decisions made on behalf of someone lacking capacity must be in their best interests, where these interests may be best served by leaving the person in charge of their own affairs.

⁵ For two influential modern discussions of liberty, see Isaiah Berlin, ‘Two Concepts of Liberty,’ in *Four Essays on Liberty*, Henry Hardy (ed.) (Oxford: Oxford University Press, 2002) and Charles Taylor, ‘What’s Wrong with Negative Liberty?’ in *The Idea of Freedom: Essays in Honor of Isaiah Berlin*, Allan Ryan (ed.) (Oxford: Oxford University Press, 1979).

⁶ Thomas Hobbes expresses this idea as follows: “A FREE-MAN, is he, that in those things, which by his strength and wit he is able to do, is not hindered to doe what he has a will to.” *Leviathan: The Matter, Forme and Power of a Common Wealth Ecclesiasticall and Civil*, Richard Tuck (ed.) (Cambridge: Cambridge University Press, 1990 [1651]), 146.

realise his wishes being thwarted by the state, ultimately backed up by the threat of coercive force and legal sanction.

Liberty can also be characterised positively as the possession of abilities and opportunities required to undertake a wide range of actions.⁷ This kind of positive liberty would be increased by wages or social security benefits that raises someone out of poverty, physiotherapy that allows them to walk again, or education from which they learn new skills, for example. Justice Hedley's best interest ruling can be understood as an attempt to increase P's positive liberty at the expense of his short-term negative liberty. The stated aim of placing P in independent living accommodation was to enable him to break his dependence on AH and develop the skills and outlook necessary to make decisions and thrive on his own, whether or not he would eventually choose to return to live with her.

Does autonomy require liberty? If autonomy consists in self-government, then there are grounds for thinking that it presupposes some measure of liberty. Decision-making capacity alone, without being able to enact or command respect for those decisions, does not enable people to direct their own lives. Lack of liberty, and thereby the absence of a meaningful array of options, threatens to make our choices hollow. Unbounded liberty would be an impossibly demanding condition for ordinary ascriptions of autonomy, but the negative and positive liberties to realise some fundamental human goods, such as bodily integrity, social interaction, and political participation, would seem to give us a reasonable conception of a self-governing life.⁸ However, others restrict the application of the term 'autonomy' to the

⁷ Sometimes positive liberty is understood more narrowly than as our powers to act in general, and is instead limited to doing what is mandated by sovereign political legislators or what is required to realise our own potential. We shall not follow these alternate uses here.

⁸ Martha Nussbaum and Amartya Sen have developed an influential account of human flourishing which associates it with freedom in this fashion. See Amartya Sen, *Development As Freedom* (New York: Knopf, 1999); Martha C. Nussbaum, *Women and Human Development: The Capabilities Approach* (Cambridge: Cambridge University Press, 2000) and *Frontiers of Justice: Disability, Nationality, Species Membership* (Cambridge, MA: Harvard University Press, 2006).

attitudes and processes involved in deliberation.⁹ Whilst recognising that comprehensive freedom would demand more than autonomy, their hope is to maintain analytical clarity by resisting the tendency to blur distinct aspects of this freedom. Both approaches are legitimate, so long as we do not confuse the claims of each.

Authentic decisions (or actions) are those which genuinely express a person's identity, commitments or goals. On their own, the notions of decision-making capacity, and the liberty to realise resulting decisions, arguably fail to capture the senses in which people can either be estranged from or properly own their behaviour. Self-determination has been taken to require not merely that we competently make and can act upon decisions but that they reflect our genuine selves; and in order to address this, authenticity conditions have been invoked in many accounts of autonomy. Recalling our earlier example, the authenticity of Ruth's actions may be called into question insofar as they are thought to be heavily influenced by her depressive illness rather than her enduring personality. Similarly, acting on an obsessive compulsion to repeatedly wash your hands, or a wrenching longing for methadone—even rationally deciding that doing otherwise would be too painful—can involve a lamentable alienation from these actions, in which someone is moved by forces that are not (and perhaps should not be) properly psychologically integrated. In such cases, choices and behaviour are often driven in ways that are significantly externally- rather than self-determined. Therefore, inauthenticity, in which we are or feel seriously estranged from what we do, is another candidate for undermining autonomy.

The merit of incorporating authenticity within accounts of autonomy is, however, disputed. Different understandings of authenticity abound, with the nature and even existence of an

⁹ For an example of this latter approach, see John Christman, 'Autonomy, History, and the Subject of Justice,' *Social Theory and Practice* 33: 1 (2007): 1-26.

authentic, true or deep self being deeply contested.¹⁰ One popular philosophical analysis focuses upon the relation between the structure of a person's desires (or 'life-plan') and their actions, holding that authentic actions are those motivated by desires that people desire to possess.¹¹ But this approach has been beset by difficulties (which cluster around the justification for the special status granted to higher-order motivations), and there is no widely accepted competitor.¹²

The slippery character of authenticity also presents a problem for practitioners, since there are no readily operationalisable tests available. Furthermore, special consideration of authenticity may appear redundant in many contexts, insofar as more familiar concepts found in law, such as undue influence and capacity to use and weigh information, get at some of the issues surrounding the ability to genuinely decide for oneself. Despite these difficulties with authenticity, the problematic it points to recurs regularly throughout discussion of autonomy. Whether or not we insist that autonomy requires authenticity, it is important to recognise how concepts like self-government or self-determination generate the tendency to identify authentic selves and actions – those which are genuinely someone's own.

Attributing Autonomy

Now that autonomy has been situated in relation to mental capacity, liberty and authenticity, we should note three important aspects of the ascription of autonomy. The first striking feature of autonomy-attribution is the variety of objects of autonomy: actions, decisions,

¹⁰ For a good overview of conceptions of authenticity, see Charles Guignon, *On Authenticity* (London: Routledge, 2004).

¹¹ This tradition has grown out of Harry Frankfurt's early work, especially his seminal paper, 'Freedom of the Will and the Concept of a Person,' *Journal of Philosophy* 68 (1971), 5-20.

¹² For a paradigmatic critique, see Gary Watson, 'Free Agency,' *Journal of Philosophy* 72 (1975), 205-20.

motivations, reasoning and persons are some of the items said to be autonomous.¹³ Second, autonomy can function either as an exercise- or opportunity-concept, meaning that it can be used to name a capability or achieving what the capability enables. Third, the notion of autonomy can be normative or flatly descriptive, and so denote an entitlement to self-determination or the actual achievement of self-determination.

It may help to illustrate the elements of this conceptual framework, in turn, with some examples. Consider a care worker judging whether someone's current desires are autonomous or a transitory side effect of their medication, whether this means a specific decision fails to be someone's own, and in light of this, what they can do to foster autonomy in the person's life as a whole. This involves ascribing autonomy or heteronomy to different objects—desires, decisions and lives, respectively—while implicitly switching between different assessment perspectives. In other words, thinking about autonomy will often be multipolar in practice, with many potential focal points, such that autonomy in one aspect of a person's life may be compatible with heteronomy in another.

The distinction between exercise- or opportunity-conceptions of autonomy is also implicit in practice. For instance, mental capacity tests typically deploy autonomy as an opportunity-concept because they seek to determine whether someone has the *ability* to make a decision for themselves rather than whether they exercise this ability. Consistent failure to exercise an ability may provide *prima facie* evidence that it is lacking; but possession and use of an ability are nevertheless distinct. This can be significant if we want to allow that a person is still in some sense autonomous when they have an opportunity – the abilities and occasions – to decide or act for themselves but which they do not exploit. For example, when someone is capable of using and weighing information relevant to a decision but opt to act on a whim,

¹³ Further subdivisions are also possible, such that we can distinguish between local and global ascriptions of autonomy. For instance, we might claim that a person is currently autonomous but that their life as a whole is heteronomous, or *vice versa*.

then they could be described as autonomous to the extent that they possessed the requisite opportunities, yet heteronomous in not electing to exercise these capabilities.

Lastly, it should also be clear that having a right to autonomy is distinct from achieving this autonomy. For instance, debt peonage will deprive someone of much of their actual autonomy, but it does not thereby eliminate their entitlement to be autonomous or others' responsibility to help end their enslavement. Nevertheless, deficits in the ability to govern oneself are sometimes associated with the loss of certain *legal* rights. Typically, someone's legal capacity to have their decisions fully recognised in law is conditional upon their mental capacity to make decisions for themselves.¹⁴ For example, serious brain injury can lead to someone being deemed incapable of deciding for themselves and so unable to legally enter contracts, decide where to live, or whether to take medication. Yet, the fact that a person is experiencing difficulty making decisions is compatible with ethical and legal imperatives to help them regain mental capacity and to minimise any infringement of their autonomy in the meantime.

Value

Examining the relationship between autonomy and value requires us to observe some important distinctions in the use of the term 'value'. The most significant is the contrast between *valuing* and what is *valuable*. Valuing is something we do: it is a psychological and often social phenomenon. To value, in this sense, is to find worth or goodness in some object – whether that is appreciating a particular bond of friendship with a person we have known

¹⁴ Radical critics of capacity assessment regimes have challenged this orthodoxy, however. In Oliver Lewis' words, they oppose legal regimes they take to be "based on the now increasingly questioned assumption that the right to legal capacity is dependent upon, or equitable with, requisite mental/functional capacity." Oliver Lewis, 'Advancing Legal Capacity Jurisprudence', *European Human Rights Law Review* 6 (2011), p.700. In their influential 2010 Ontario Law Commission report, Michael Bach and Lana Kerzner put it even more directly when they claim: "mental capacity can no longer serve as a proxy for legal capacity."

for years, or the fact that an abstract notion like justice or honesty matters to us. Speaking about values – rather than relatively transient or occurrent states, such as desires or intentions – usually implies that the relevant orientation is more enduring and wide-ranging.

Yet, ‘value’ can also mean what is actually valuable – i.e. what gets valued when we value correctly. Candidates for this kind of value would be the cherished friendship or justice and honesty themselves (as opposed to evaluative acts or attitudes taken towards them). Some philosophers have argued that something’s being valuable must be a product of us valuing it. However, even amongst these philosophers, most think individuals can make mistakes about what is valuable. Whether such evaluative failures can undermine autonomy is a core topic of this report.

Autonomy as a Value

Why advocate autonomy? That we should is by no means self-evident, and the assumption that autonomy is valuable has been rejected by numerous critics. Opponents of autonomy typically claim that seeking to be independent is a misguided or harmful ideal for finite, dependent creatures like ourselves, or that it has at least been overvalued in modern social and political life. Critics of autonomy are discussed in more detail elsewhere; for now, the positive case for the value of autonomy will be sketched.

Firstly, autonomy may be valuable because of its usefulness. The thought is that autonomous people are more likely to achieve important human goods, such as happiness, security, mental health or successful intellectual inquiry.¹⁵ Most arguments of this form combine empirical and normative claims. Empirically, there must be sufficient evidence that autonomy leads to

¹⁵ On mental illness understood as a deficit of autonomy, see David Shapiro, *Autonomy and Rigid Character* (New York: Basic Books, 1984).

the putatively good outcomes; or, conversely, that paternalism, coercion, failing to empower people or give them opportunities to direct their own lives, and so on, leads to unhappiness, conflict, mental disorder, or poorer development of knowledge. Normatively, there is a need to show that these putatively good or bad outcomes actually are good and bad, respectively. Autonomy, so understood, is a means to an end. Thus, vindicating autonomy — whether in general or in some specific situation — requires normative arguments demonstrating the value of the ends and empirical evidence that autonomy is an effective means to them. Both aspects can be difficult to establish.

Another set of arguments aims to show that autonomy has an intrinsic or constitutive value. On this approach, autonomy is said to be essential for the good life, rather than being valuable only insofar as it helps secure other valuable things. For example, John Stuart Mill counts autonomy amongst the “elements of well-being”.¹⁶ Kantian philosophers have claimed that autonomy is integral to moral agency, and that a capacity for self-determination is required in order to both act with a moral motivation (rather than being ruled by our inclinations alone) and to be subject to the moral law at all (rather than being creatures subject merely to causal laws). Furthermore, many liberal political philosophers take autonomy to be the cardinal political value, respect for which shields citizens from undue state interference and paternalism in order to enable them to associate freely and direct their own lives. These reasons for directly valuing autonomy—welfarist, moral and political—are cumulative rather than incompatible, so there is no need to choose between them.

Autonomy can also be a condition of doing something worthwhile in a more mundane sense. Consider an accomplished author who works part-time as a creative writing teacher and who is helping out one of her young students. Swept up in her urge to improve what she takes to be a flawed but interesting short story, she heavily edits the piece and sets down a

¹⁶ John Stuart Mill, *On Liberty*, ed. David Spitz (New York: Norton, 1975), ch.3.

number of plot and characterisation changes for the student to incorporate in further drafts. However, there can come a point when the input of the teacher is so extensive that the story is no longer the student's own. To the extent that the value of the story is bound up with the fact that the student has produced it, then according to them insufficient autonomy can be counterproductive even if it makes for a better story at the level of the text itself. Similarly, in care settings, whilst support is often crucial in enabling people to achieve things which they would otherwise be unable to do, 'support' can also become so extensive that people are deprived of the opportunity to achieve things for themselves. Sometimes it is more important that *you* have done something good, than exactly how good or accomplished was the thing done.

Finally, some philosophers have argued that autonomy is the source of all other values. In other words, autonomy becomes a primary source of normativity. Typically, these philosophers argue that the only way to understand value that is consistent with the modern scientific world view, and yet which does not compromise human rationality and freedom, is to suppose that they are grounded in our autonomous endorsement. Value is to arise from our actual or possible valuing. If true, this would give autonomy a unique status as not merely one value amongst others, but what enables other values to take root in the world.

Evaluative Conditions of Autonomy

We have touched upon potential reasons for thinking autonomy is valuable: its helping to achieve other values, its intrinsic value, its enabling of personal achievements, and its being the origin of all values. In the remainder of this report, the focus will be another kind of relationship between autonomy and value: the evaluative conditions of being autonomous. The primary question is not whether or why autonomy is valuable but what, if

any, evaluative skills someone needs to possess in order to be self-determining. For instance, does Ruth's inability to find worth in any future she can anticipate for herself render her incapable of directing her own life?

In health and social care, these issues arise in the context of mental capacity assessment. This is most obvious in the inability to 'use or weigh' information relevant to a decision, which, in law, is one condition for mental incapacity. Weighing information draws upon evaluative abilities because it involves making judgments about the merits and demerits of a decision and deeming some outcomes better than others as a result. The ability to use relevant information also depends upon evaluative skills insofar as it presupposes that someone can discriminate between information that should and need not impact on a decision and then actually take the salient information into account.

Abilities to use and weigh might involve more contentious evaluative components than these, however. If someone can be unable to use or weigh because they consistently deem relevant information to be irrelevant or give it a weight that it does not deserve, then capacity assessment appears to impose robust normative standards on those assessed. Consider an elderly woman with worsening dementia, who long maintained that she wanted to leave her estate to her grandchildren who she cared for deeply, but to who she seems indifferent and barely able to recognise recently. If in her decision-making she can no longer recognise the significance that she once placed in her relationships with her grandchildren or can only give them a marginal significance now, then this might count as an evaluative failure that would suggest a lack of testamentary capacity. Without these kind of strong value-criteria for decision-making capacity, it is also difficult to make sense of key examples of incapacity that feature in guidance or case law and are accepted as much by many assessors, such as findings of incapacity in some of the more extreme cases of anorexia nervosa or self-punishing behaviour. Yet, appealing to evaluative standards that are rejected by the person assessed

can seem to threaten the aim of permitting people to make unwise decisions and be *self-determining*.

At the root of these difficulties is the issue of neutrality. Should mental capacity assessment, or accounts of autonomy in general, aim to be neutral concerning what is genuinely valuable? In exploring this question, it is important to specify what the relevant kind of value neutrality is. Neutrality could be understood as discounting value entirely by ignoring people's evaluative attitudes and making no judgments about whether their decisions and actions are good or appropriate ones. However, this conception of neutrality is too stringent and does not adequately capture the disagreement. Being blind to a person's values threatens to make their decision-making unintelligible, and the fact that someone does or does not act on the norms they purport to hold can be a significant factor in determining to what extent they are governing themselves.

A better conception of neutrality in the assessment of autonomy opposes it not to mere value-ladenness but to value-externalism: the appeal to values other than, or irrespective of, those that the person themselves endorses. For example, imagine someone who is incapable of recognising that they are not completely worthless as a person, and whose thoughts and actions are pervaded by a sense that they are entirely abject. Denying that someone was autonomous on this basis would invoke a value-externalist condition, since it makes autonomy dependent on adherence to values that the person does not share. Neutrality would consist in being value-internalist about autonomy: refusing to appeal to values other than those which the assessed person adopts. For example, this would allow for the identification of heteronomy in virtue of someone with Prader-Willi syndrome finding they cannot act on their sincere commitment to improve their health by reducing calorie intake. Yet, on an internalist conception of neutrality, it would be impermissible to invoke the value of health in this way if the person did not accept it themselves. Advocates of internalism fear that going

further and introducing externalist conditions “would make the property of autonomy divergent from the idea of *self*-government that provides its intuitive base”.¹⁷

Value-neutrality is only one kind of ‘normative neutrality’ that accounts of autonomy might adopt. Sometimes epistemic norms – those concerning the justification for beliefs – can be at issue in assessment of autonomy. Can beliefs which assessors knows to be unwarranted be grounds for denying someone is autonomous, or should they not let this influence their verdict? Consider someone experiencing medication-induced psychosis who comes to believe that the care team on a home visit are intending to kill them. Given this premise, their hostile behaviour may make perfect sense, and their ability to use relevant information, weigh it in the balance, and express a choice, might appear intact. If their autonomy can be denied on the grounds that their delusional belief is not justified, then this implies that the conception of autonomy at issue is not entirely normatively neutral, even if it remains neutral regarding values.

Proceduralism and Substantivism

Normative internalisms are a species of psychological internalism, which often accompany ‘proceduralist’ approaches to autonomy. Psychological internalism understands autonomy in terms of the psychological perspective of the assessed person. Whether they are self-determining is meant to depend upon the content, history or relations between what the person believes, desires or intends. Whereas, on psychological externalist positions, it is argued that autonomy also depends upon a set of non-psychological enabling conditions that relate agents to their environment, such as being in a community that grants you the liberty to act. Cutting across this contrast is another—important for grasping debates over value-

¹⁷ John Christman, ‘Autonomy and Personal History,’ *Canadian Journal of Philosophy* 21: 1 (1991), 2.

neutrality—between substantivism and proceduralism. The substantivist focuses upon content, namely *what* we do, want, value, and so on; but proceduralism focuses on *how* we have come to do, want or value it.

Defenders of value-neutrality often combine psychological internalism and proceduralism. On most such views, if a person identifies with or reflectively endorses their motives, decision or action, then these are to count as authentic. Autonomy, so understood, requires only the presence of authenticity and that procedural conditions are met which rule out distorting influences such as psychological manipulation, addiction and psychopathology. Thus, for the procedural internalist, it does not matter what we come to value—whether it is poetry or pushpin—but only how we come to value it.¹⁸

On the procedural internalist approach, the presence of autonomy depends upon the psychology of how decisions or action are produced. For instance, when faced with someone experiencing a major depressive episode who has taken an overdose, the procedural internalist will want to know more about their decision-process. Did they act impulsively, or did the action stem from a reflectively endorsed motivation, well-integrated with their settled values? If they did deliberate, was their reasoning impeded by psychopathology, such that they was not guided by their own evaluative commitments? In contrast to substantivists, proceduralists cannot assess autonomy by reference to the *content* of the act or reasons for it, except insofar as this bears upon how it was arrived at. Thus, that the act is suicide, or the person's reason for it being that they no longer valued their life when faced with the prospect of continued suffering, cannot alone disqualify their action from being autonomous. But a

¹⁸ Various procedural conditions have been proposed. For Gerald Dworkin, it is the integrity of our critical faculties which takes precedence, such that we retain, “some ability both to alter one’s preferences and to make them effective in one’s actions.” Gerald Dworkin, *The Theory and Practice of Autonomy* (Cambridge: Cambridge University Press, 1988), 17. Whereas John Christman takes the crucial condition to be our attitude towards our personal history: “the acceptance or rejection of the process of desire formation or the factors that gave rise to that formation.” John Christman, ‘Autonomy and Personal History,’ *Canadian Journal of Philosophy* 21: 1 (1991), 2.

fixation on short-term suffering, for example, insofar as it impaired the ability to think critically about the options available to one, could cause someone to fail on the proceduralist conditions for autonomy.

The combination of psychological internalism and proceduralism provide a powerful basis for neutral conceptions of autonomy. Psychological internalism ensures that there is a close connection between autonomy and authenticity, and thereby the actual hopes, passions and goals of the agent. This allows psychological internalists to defend their position from Isaiah Berlin's famous worries about rationalist abuses of the concept of self-determination—those beginning from not what we actually value but what we should—and their supposed tendency towards paternalism or even totalitarianism.¹⁹ At the same time, introducing limited procedural constraints upon self-determination can mimic some of the functions that appeals to substantive values perform, such as ruling out some egregious cases of being unduly influenced or controlled by others in a way that means we act against our best interests. Thus, these procedural internalists hope to mount a defence of a neutral conception of self-governance without having to accept that everyone who endorses their current desires, goals and commitments thereby counts as autonomous.

Psychological externalists think that autonomy cannot simply be a psychological matter, even when procedural conditions upon psychological processes are introduced. Instead, for them, autonomy also relies upon environmental enabling conditions. In other words, it is not simply our psychology and its history that is important, but how we stand with respect to other people and the material settings that shapes our choice—such as, whether our social relationships are systematically oppressive or distorting, regardless of whether we think they are. Partly, this is a response to endemic problems with the internalist view. For instance,

¹⁹ Isaiah Berlin, *Two Concepts of Liberty* (Oxford: Oxford University Press, 1958). For a rejoinder to the spectre of totalitarianism that Berlin raises, see Slavoj Žižek, *Did Someone Say Totalitarianism?: Four Interventions in the (Mis)Use of a Notion* (London: Verso, 2002).

even introducing procedural conditions, requiring that we must endorse the internal process of desire formation, appears vulnerable to objections that our second-order evaluation of our personal history can itself be open to manipulation, bad faith and skewing by psychopathology; and capturing this seems to require more than intra-psychological conditions on competence.

Marina Oshana argues that “personal autonomy, understood as self-government, is a socio-relational phenomenon,” which cannot be accommodated with narrowly internalist resources.²⁰ She invites us to consider a range of compelling examples—such as voluntary slavery and a subservient woman who endorses her subservient social role—which are supposed to meet internalist criteria but leave us troubled as to whether the relevant person is self-governing. Liberty of action is constricted in these cases; but does the choice to forsake it ameliorate this enough to preserve autonomy? Oshana wants us to agree that some social relations, irrespective of our attitudes towards them, deprive us of control over our lives, and therefore autonomy. In effect, she contests the sufficiency of procedural conditions for saving psychological internalism, refusing to accept that our environment and human relationships can only undermine autonomy through their effect upon psychological processes bearing upon deliberation and motivation.

Conditions upon autonomy on externalist accounts can be both procedural and substantive. On the more procedural side, externalists have required “control over one’s external situation, a viable range of options for choice, and the absence of severe constraint.”²¹ These conditions are essentially types of negative and positive liberty, and they remain relatively neutral, since autonomy is made conditional upon environments which allow people to control their own lives (rather than *what* they use this control to do). But externalists have also appealed to

²⁰ Marina Oshana, ‘Personal Autonomy and Society,’ *Journal of Social Philosophy* 29: 1 (1998), 81.

²¹ Oshana, ‘Personal Autonomy and Society,’ 98.

substantive evaluative conditions. For instance, Oshana argues that valuing autonomy is itself a condition for being autonomous.²² Similarly, Honneth and Anderson seek to show that social recognition must underpin autonomous agency, such that a person can also depend upon *others* valuing them.²³ The intuition underlying these externalist conditions is that autonomy consists in a valuable kind of independence which cannot be achieved merely through the right kind of endorsement of our psychologies, since it also requires an appropriate extra-psychological setting. On this view, autonomy is not only fostered or helped along by a suitable environment but must be realised within one, such that some surroundings and social ties, such as grinding poverty and patriarchal oppression, may simply be incompatible with attaining full autonomy.

Psychopathology and Values

Mental disorder can influence what people value. Consequently, some have argued that value judgements which are deemed to be distorted by the presence of disorder can deprive people of mental capacity and autonomy. For instance, Jacinta Tan and colleagues argue that despite anorexic patients possessing “excellent understanding, reasoning, and ability to express a choice,” their adherence to ‘pathological values’ can impede their capacity to make decisions about food and treatment.²⁴ Tan does not claim that it is the content of the values that disrupts capacity but rather their relationship to psychopathology. In terms of the conceptual

²² Marina Oshana, ‘How Much Should We Value Autonomy?’ *Autonomy*, Ellen Frankel Paul, Fred Miller, and Jeffrey Paul (eds.) (Cambridge: Cambridge University Press, 2003), 99-126.

²³ Joel Anderson and Axel Honneth. ‘Autonomy, Vulnerability, Recognition, and Justice,’ *Autonomy and the Challenges to Liberalism: New Essays*, John Christman and Joel Anderson (eds.) (Cambridge: Cambridge University Press, 2005), 127-149.

²⁴ Jacinta Tan, Tony Hope, Anne Stewart and Raymond Fitzpatrick, ‘Competence to Make Treatment Decisions in Anorexia Nervosa: Thinking Processes and Values,’ *Philosophy, Psychiatry and Psychology* 13 (2006), 270. For scepticism about the appeal in Tan et al to ‘pathological values,’ see the reply to the above article: Thomas Grisso and Paul Appelbaum, ‘Appreciating Anorexia: Decisional Capacity and the Role of Values,’ *Philosophy, Psychiatry and Psychology* 13 (2006), 293-7. See also, Jacinta Tan, Anne Stewart and Tony Hope, ‘Decision-Making as a Broader Concept,’ *Philosophy, Psychiatry, and Psychology* 16:4 (2009).

framework developed above, this is a proceduralist rather than substantivist strategy, insofar as it is not primarily what we value that is important but how we came to value it.²⁵ It is the supposedly disordered aetiology of valuing thinness and bodily control so absolutely that marks these values as pathological.

Proceduralist accounts of the relationship of autonomy to psychopathologically suspect values faces some problems. Firstly, there is an epistemic difficulty: how do we tell when decisions are underpinned by values produced by a disorder? When dealing with persons with mental disorder, ordinary unwise or eccentric decisions would need to be differentiated from those with a psychopathological source. Psychiatrists typically acquire this know-how implicitly, being able to recognise similar psychological patterns in their patients, but this knowledge can be hard to codify. Secondly, where such judgements have a legal implication, there is an issue of discrimination, namely why the effects of mental disorder, as opposed to other potentially problematic contributors to ethical commitments, should be the basis for denying rights to certain liberties. This problem looms larger in virtue of the propensity of many people with mental disorders to identify with the disorder and the way that it has shaped their identity and outlook. In such cases of ‘ego-syntonic’ disorder, disqualifying the values it is bound up with can be experienced as a delegitimising of the identity and experience of the person themselves.

Commentators have often claimed that the adjudication of rationality, in both medical and legal contexts, has been heavily informed by value-laden judgements.²⁶ For instance, according to Fulford, Thornton and Graham, assessments of rationality “have in practice

²⁵ For more on this distinction, see Owen et al, ‘Mental Capacity and Decisional Autonomy,’ 87f.

²⁶ For more on the law’s so-called ‘pragmatic’ approach to this question, see Genevra Richardson, ‘Mental Capacity at the Margin: the Interface Between Two Acts,’ *Medical Law Review* 18 (2010), 70f.

turned on how ‘sympathetic’ the court is to the patient’s point of view.”²⁷ However, the importance of neutrality has been reiterated in some contexts, especially as regards the misuse of mental health legislation in compelling people who make seemingly unwise or unusual decisions. For example, in a case of a pregnant woman refusing a Caesarian section against medical advice, the ruling warns against “detention of an individual against her will merely because her thinking process is unusual, even apparently bizarre and irrational, and contrary to the views of the overwhelming majority of the community at large.”²⁸ Despite the neutral rhetoric though, it is notable that the Caesarean section on what Fulford et al identify as the “even more unlikely ground” that “fear (of needles) had ‘paralysed the [woman’s] will.”²⁹

If someone is found to lack mental capacity, carers, doctors or judges are then called upon to make decisions on the person’s behalf in their ‘best interests.’ The courts have made the evaluative dimension of such best interest judgement explicit, such that “the decision maker must then form a value judgment of his own giving effect to the paramount statutory instruction that any decision must be made in P’s best interests.”³⁰ Initially, such best interests had tended to be interpreted narrowly, with a strong paternalistic assumption that consideration of the person’s safety and health were to be primary. However, the notion is now understood more widely, and relevant factors have been taken to include the legally incompetent person’s actual wishes as well as ‘substituted’ decision-making standards that attempt to reconstruct what someone would have wanted were they to have had mental capacity.³¹ Thus, medical beneficence has begun to be displaced by more autonomy-based

²⁷ Bill Fulford, Tim Thornton and George Graham, *Oxford Textbook of Philosophy and Psychiatry* (Oxford: Oxford University Press, 2006), 540.

²⁸ *Re MB* [1997] 8 Med LR 217.

²⁹ Fulford et al, *Oxford Textbook of Philosophy and Psychiatry*, 554.

³⁰ *Re P* [2009] EWHC 163 (COP).

³¹ For an example of wider best interest judgements, see *R. v the GMC* [2004] EWHC 1879.

reasoning, even when psychopathology is found to be responsible for undermining a person's actual autonomy.

State Neutrality

The neutrality of our conception of autonomy can also be significant in shaping our views about the proper relationship between the individual and the state. Some requirement that autonomy be respected has often featured as a justification for political value neutrality.³² 'Value neutrality' here means the state's refraining from endorsing any particular comprehensive conception of the good life and what is truly valuable. Neutrality about *the good* need not extend to neutrality about *the right*, and neutral states still aim to uphold a set of moral and legal norms that provides a framework that can both enable and potentially constrain individual citizens' pursuit of their conception of the good life.³³ Thus, states respecting conditions on value-neutrality can still consider activities like criminal violence and coercion to be illegitimate, but without this extending to taking a stance on the particular kinds of life which are ultimately valuable. The hope is retain normativity – standards for being right and wrong – whilst jettisoning the sorts of partiality that would interfere with people's self-determination, such that the state does not pursue policies that can only be justified on grounds that are unreasonably contentious amongst its citizens, due to the values they presuppose. In doing so, the vast majority of defences of state neutrality do not demand neutrality of effect or outcome, which is seen as an unattainable ideal, but simply neutrality concerning the reasons adduced in justifying some state policy or constitutional feature.³⁴

³² For a number of argumentative strategies that argue from autonomy to state neutrality, see Andrew D. Mason, 'Autonomy, Liberalism, and State Neutrality,' *The Philosophical Quarterly* 40 (1990), 433-52.

³³ For the canonical discussion of the distinction between the good and the right, see John Rawls, 'The Priority of Right and Ideas of the Good,' *Philosophy and Public Affairs* 17 (1988), 251-76.

³⁴ See Will Kymlicka, 'Liberal Individualism and Liberal Neutrality,' *Ethics* 99 (1989), 883.

How such a stable society is possible which admits a genuine plurality of conceptions of what is genuinely valuable, and yet converges on the framework of right governing political legitimacy, has been a vexed problem for many political theorists. Consider the cluster of issues raised by the ideal of multiculturalism, which seeks to foster or tolerate real diversity within the cultural practices prevalent in society, whilst preserving both a public space in which political governance is possible and the apparatus to ensure that citizens can decide for themselves how to live. Recent attacks upon multiculturalism by politicians such as David Cameron and Nicholas Sarkozy, based upon the notion of ‘muscular liberalism,’ have sought to argue that acceptance of cultural diversity in liberal states has spilled into a problematic indulgence of anti-liberal values which liberal states should confront. Arguably, this integrationist rhetoric, which seeks to defend a core set of ‘national values,’ has often been deployed with undue partiality, marginalising Muslims in particular through authoritarian measures like France’s recent ban on ‘conspicuous’ religious clothing, such as the *hijab*. Either way, the limits of state neutrality and their relation to individual autonomy remains a live political issue.

Perfectionism, Neutrality and Autonomy

Perfectionists mount an important challenge to certain sorts of state neutrality. The perfectionist advocates an account of what properly realised human lives would look like; and, at least insofar as they think that legitimate political action can be undertaken on the basis of such an account, which other citizens may not share, then strict state neutrality is forsaken. For instance, Thomas Hurka defends a perfectionist position on which the most valuable human lives are those which best develop integral human capacities, and which he

thinks can legitimately guide public policy.³⁵ One way of framing this perfectionist suspension of value neutrality would be to depict it as in potential conflict with autonomy, since it may provide reasons to intervene in someone's life in ways they do not endorse but are nevertheless warranted by their own good. However, in our foregoing discussion, we have seen that substantivists take self-governance to require not merely meeting procedural constraints upon how we value, but rather a fuller account of what kinds of self-governing life are worth promoting, in virtue of what a self-governing person ought to be able to do. Perfectionism might help to fill out such an account, providing substantive conditions detailing what a valuable sort of self-determination would consist in, thereby shaping a value-laden conception of autonomy itself.

One source of scepticism concerning more perfectionist approaches to matters of autonomy comes from advocates of value-pluralism, who are suspicious of the compatibility of autonomy and a conception of human flourishing or self-realisation that extends beyond what people empirically do value about their own lives.³⁶ Isaiah Berlin, for example, warns of the dangers of disregarding people's own evaluative choices:

In the end, men choose between ultimate values; they choose as they do because their life and thought are determined by fundamental moral categories and concepts that are, at any rate over large stretches of time and space, a part of their being and thought and sense of their own identity; part of what makes them human.³⁷

This may easily stretch to our choices about what capabilities are worth promoting, as much as how to exercise any such capabilities. Berlin thinks that value-laden conceptions of self-determination risk ignoring the possibility that different goods can actually clash, with there being no decisive answer to how I must choose, and thus that choices must be made in which

³⁵ Thomas Hurka, *Perfectionism* (Oxford: Oxford University Press, 1993).

³⁶ However, we should note that Nussbaum herself take value-pluralism and tragic conflict of values to be an integral part of human life. See her, *The Fragility of Goodness: Luck and Ethics in Greek Tragedy and Philosophy* (Cambridge: Cambridge University Press, 1986).

³⁷ Isaiah Berlin, 'Two Concepts of Liberty,' in *Four Essays on Liberty*, Henry Hardy (ed.) (Oxford: Oxford University Press, 2002), §8.

something genuinely valuable is actually lost. Absent this context, “the necessity and agony of choice would disappear, and with it the central importance of the freedom to choose.”³⁸ Ultimately, Berlin’s concerns seem to rest on metaethical premises, namely that deliberation is not so much epistemic, and thus about knowing how it is best to choose, but rather metaphysical, such value springs from our evaluations. If there are few constraints on what I ought to choose, before I choose it, then intervention, in order to prevent me making decisions so poor as to threaten the sense in which I can be said to governing myself, becomes harder to justify (at least, on non-procedural grounds). This tension between epistemic and metaphysical conceptions of decision-making often underlies the differences between advocates of value-neutral and value-laden approaches.

How does state neutrality (however established) bear upon respect for autonomy? English legal rhetoric often suggests that the state has no place in gainsaying the decisions of its citizens and therefore cannot intervene merely because someone makes unusual or inexplicable evaluative judgements. For example, ruling on a case of refusal of medical treatment, Lord Donaldson says, “the patient’s right of choice exists whether the reasons for making that choice are rational, irrational, unknown or even non-existent.”³⁹ Similarly, the Mental Capacity act states: “A person is not to be treated as unable to make a decision merely because he makes an unwise decision.”⁴⁰

Whether these lofty words are adhered to is another matter; for instance, the patient in Donaldson’s case was nonetheless found incapable of refusing the medical treatment in question. Another significant ruling was *R v Brown* in which the conviction of a group of men under the Offences of the Person Act was upheld for consensual sadomasochistic acts sustaining no permanent injuries. Two Lords dissented, and the decision has since been

³⁸ *Ibid.*

³⁹ *Re T (Adult: Refusal of Treatment)* (1993) Fam. 95, 113

⁴⁰ Mental Capacity Act 2005, 1(4).

criticised, but nevertheless the case provides a striking example of how neutrality about conceptions of the good outlined in liberal theory often does not appear to be realised in nominally liberal states, with Lord Templeman opining, “Pleasure derived from the infliction of pain is an evil thing. Cruelty is uncivilised,” and there being warnings of “a cult of violence which contained the danger of the proselytisation and corruption of young men.”⁴¹ The willingness to weigh such a deeply contestable conception of the public good against the self-determination of citizens, and to find the latter wanting, suggests that there is at least some significant mismatch of the normative ideals often appealed to in liberal rhetoric with the actual practice of lawmaking and the judicial process.

Value-Neutrality in the History of Autonomy: Ancient and Medieval

The contemporary prominence of autonomy reflects distinctively modern concerns with selfhood and individuality. But the ideal of self-determination was not the invention of modernity, and intimately related themes appear throughout pre-modern periods. For example, praise of rational self-control and emotional self-discipline is commonplace throughout the history of ethics. Modern discussions are often distinctive for championing autonomy for its own sake though, whereas older strains of thought tend to emphasise its contribution to other higher ends, such as achieving the right relationship to the natural, social or divine order.

The idea that genuinely autonomous activity must be oriented by suitable values and goals arises from early assumptions about the purpose of freedom. Forms of self-determination were lauded for their ability to facilitate harmonious psychological life, virtuous action, or communion with God, for example; but they were rarely hailed as an ends in themselves, or

⁴¹ *R v Brown and other appeals* (1993) 2 All ER 75, 84.

aligned with the claim that a person's freely-made decisions should command respect. On most of these views, liberty, decision-making capacity, and other psychological skills, without being properly directed, do not amount to autonomy, nor deserve special protection or promotion.

For many modern proponents of autonomy however, it is precisely our own authority to decide *how* to determine ourselves which constitutes the core of the concept. Thus, autonomy becomes deciding for oneself, by one's own lights. This might still require individuals to be competent to act in the way they take to be best; yet, it does not demand they be correct according to any evaluative standard other than their own. Dissociating autonomy from wider evaluative criteria concerning the best way to make decisions, or conduct one's life, gives a value-internalist rather than value-externalist interpretation to the concept.

The origins of the term 'autonomy' (αὐτονομία) are in classical Greek political vocabulary, where it is ascribed to minor states which retain relative independence from their more powerful allies.⁴² This sense of self-governance or self-legislation—literally being a law (νόμος) to oneself (αὐτο, as a reflexive prefix)—was retained in rare uses which were not directly political. The most prominent is found in Sophocles' *Antigone* when the chorus claim that Antigone is 'autonomous,' bringing her impending death upon herself, through intransigent obedience to religious laws she declares to have a higher claim upon her than the political laws of the state.⁴³ Antigone's autonomy, in decreeing for herself what she must do, and which leads to her defiant act of burying her brother, appears as an entrancing yet nonetheless wilful and reckless kind of self-sufficiency. In the fourth century BCE, Xenophon and Isocrates also use the term in a condemnatory fashion in referring to unruly

⁴² See Martin Ostwald, *Autonomia: Its Genesis and Early History* (Chico, CA: Scholars Press, 1982).

⁴³ See l. 821-3. Discussion of this passage can be found in Patricia M. Lines, 'Antigone's Flaw,' *Humanitas* 12:1 (1999) and Simon Goldhill, *Reading Greek Tragedy* (Cambridge: Cambridge University Press, 1986), 103f.

youths whose behaviour has not been legally regulated.⁴⁴ So, despite praise for state autonomy, personal autonomy is regarded as a problematic ideal, since individuals should not be following their own laws but rather those of their political communities.

Dio Chrysostom, writing in the first century CE, was notable for exhorting individuals, rather than merely the state, to be ‘autonomous.’ Indeed, he claims that the prized freedom arising from membership of an autonomous political community, which citizens have been willing to take up arms to protect, counts for little if individuals are themselves no more than slaves. Dio argues that being free requires a person to be autonomous, thereby following their own law and not whatever political legislators happen to have convinced the members of their community to accept. But it is crucial to understand what following one’s own law means here. For Dio, through people’s willingness to follow laws that others have framed, “the law which is true and binding and plain to behold they neither see nor make a guide for their life,” namely, “the law of nature.”⁴⁵ So understood, autonomy need not involve following principles that one decides to give to oneself, but is rather acting as one should in virtue of the kind of being one is. Thus, ethical knowledge, concerning both oneself and acting properly, becomes a condition of achieving autonomy.

Both ancient conceptions of autonomy met so far were deployed in deeply value-saturated contexts, where the primary question is how people should orient themselves and their activity. In Sophocles, Isocrates and Xenophon, the answer is that we should look to our social community when deciding what to do, such that promoting individual autonomy would count as a misguided and destabilising goal. Whereas in Dio, we ought not look to our communities so much as ourselves, in the form of the universal laws which suffuse our own being. This autonomy is thought to be a worthy end, but precisely because it involves turning

⁴⁴ The use of *αὐτόνομος* and *αὐτονομία* in texts by Xenophon and Isocrates respectively is recounted in John M. Cooper, ‘Stoic Autonomy,’ *Social Philosophy and Policy* 20:2 (2003), 2.

⁴⁵ Dio Chrysostom, ‘On Freedom,’ in *Discourses* trans. H. Lamar Crosby (London: W. Heinemann, 1971), 319.

our backs upon our immediate aims and impulses, and instead attending to the kind of being we are and how we stand in relation to the divinely ordained rational order. Thus, insofar as autonomy involves about deciding for oneself, by one's own lights, and upon one's own authority, then it dismissed as dangerous; whereas, if it means acting upon the appropriate ethical standards, then it is to be sought (at least, according to some, like Dio). In this early usage then, we find a presumption in favour of value-laden autonomy, which would now be heavily contested in contemporary theory and practice.

Whilst Dio is perhaps the first to use the term 'autonomy' in this second, personal and positive way, he draws on a Stoic and Platonic background which forged similar links between self-determination, value, knowledge and human freedom. For the Stoics, wisdom was the route to freedom, understood as self-sufficiency. The wise person is not moved by their passions but by their understanding of what accords with nature. Doing so is acting virtuously, performing the function proper to this person's own nature and contributing to the rational providence of nature as a whole. Thus, the wise are self-acting, since they consistently enact their own will to 'follow nature,' rather than being passively subject to their appetites and fears, which circumstances impose upon them. Since someone following nature involves them performing their proper function as human beings, through purposive rational activity, then they can also be said to be following their own law—although the Stoics themselves only talk of *αὐτοπραγία* (self-action) rather than *αὐτονομία* (autonomy).⁴⁶ In sum, for the Stoics, free action cannot be dissociated from rightful action, and so evaluative competencies are integral to self-determination.

In their emphasis upon the capacity for rational control and appraisal, the Stoics echoed an earlier Platonic conception of self-mastery. For Plato, the human psyche risks being overrun

⁴⁶ Cooper, in his 'Stoic Autonomy,' makes a compelling case that the Stoics do have a developed account of autonomy in its familiar sense even though they do not use the word itself.

by appetitive desires, which are endless, conflicting, and ultimately insatiable.⁴⁷ He thinks that if we are to impose order within our souls, avoiding being simply swept along by the torrents of our passions, then our rational part must rule over us. Only when this happens, and we begin to successfully integrate, shape and privilege some desires, do we manage to govern ourselves. The wise person, whose rationality commands their appetitive and spirited parts, counts as self-governing insofar as rationality involves the capacity to grasp what is best for each aspect of their psyche and then co-ordinate themselves in pursuit of their overall good.⁴⁸ By contrast, the lawless person, whose desires run free, is thought to be enslaved.⁴⁹ Once again, self-determination gets taken to require rational capacities to know how one should act, and so remains deeply value-laden.⁵⁰

Self-knowledge is integral to the Platonic conception of self-determination, but it is important to distinguish this from more recent appeals to authenticity. The Socratic maxim, ‘Know thyself,’ taken from the Temple of Apollo at Delphi, might still be read in some sense as an encouragement to live authentically and be true to oneself. However, the exhortation to self-knowledge should not be taken to promote a kind of self-determination whereby we turn inward in an attempt to discover and then pursue our deepest desires or most dearly cherished projects.⁵¹ For Plato, self-knowledge consists in knowing what is good for us, and fundamentally this is a matter of recognising our place and function in society (and ultimately the cosmos).⁵² Thus, we are most ourselves when, through shaping our psychologies, we are as we should be: occupying our proper place in the world.

⁴⁷ Plato, *Republic*, 442a.

⁴⁸ The phrase Plato uses for this self-determination is being ‘stronger than oneself.’ Plato, *Republic*, 430e. Later, he will claim that this victory over oneself is the best kind there is. Plato, *Laws*, 626E.

⁴⁹ Plato, *Republic*, 577c.

⁵⁰ This association of freedom with rightful action has recently been termed ‘orthonomy.’ See Phillip Pettit and Michael Smith, ‘Freedom in Belief and Desire,’ *The Journal of Philosophy* 93: 9 (1996), 442.

⁵¹ Charles Guignon criticises such interpretations in his *On Authenticity* (London: Routledge, 2004), 8-9.

⁵² For example, as in Dio and the Stoics, the Athenian stranger makes the anti-individualist tenor of this thought clear: “one of these portions of the universe is thine own, stubborn man, which, however little, contributes to the

In the Socratic dialogues, self-determination, knowledge and goodness are even more closely connected. Socrates thinks people always aim for the good, though ignorance can lead them to act mistakenly. Such mistakes are deficiencies of self-mastery because people fail to do what they wish, namely to do what *is* best. If Socrates' assumptions about human psychology hold, then ethical knowledge will be important in ensuring we govern ourselves as we see fit. In contrast, even the tyrant, who has few limits on what actions they can carry out, lacks power if he does not possess ethical knowledge, since such a person will "do literally nothing which they will, but only what they think best."⁵³ Thus, self-mastery supposedly extends beyond liberty, depending upon the capacity to act well.⁵⁴ Similar arguments have been advanced by more recent thinkers, such as Susan Wolf, who stresses freedom's dependency upon abilities to reason and act well.⁵⁵

Plato's mature position allows that ignorance is only one obstacle to doing as we wish.⁵⁶ He gives the example of Leontius, who was moved by his desire to look at corpses, even though he realised this was shameful and wrong.⁵⁷ Knowledge of the good does not suffice for rule by our rational part, since we are able to choose what we realise to be a worse course of action. To combat such incontinence, Plato recommends cultivating or training emotions such as pity, anger and self-esteem, so that our rational part finds instinctive support, rather than opposition, when we are called follow it.⁵⁸ This late Platonic position shows how self-determination can require more than knowing what we should do, encompassing

whole; and you do not seem to be aware that this and every other creation is for the sake of the whole, and in order that the life of the whole may be blessed; and that you are created for the sake of the whole, and not the whole for the sake of you." Plato, *Laws* (trans. Benjamin Jowett), 903c.

⁵³ Plato, *Gorgias* (trans. Benjamin Jowett), 466.

⁵⁴ This association of freedom with rightful action has recently been termed 'orthonomy.' See Phillip Pettit and Michael Smith, 'Freedom in Belief and Desire,' *The Journal of Philosophy* 93: 9 (1996), 442.

⁵⁵ Susan Wolf, *Freedom Within Reason* (Oxford: Oxford University Press, 1990).

⁵⁶ For discussion of the contrast between the Socratic and Platonic views on this point, see Terence Irwin, *The Development of Ethics: From Socrates to the Reformation, Volume I* (Oxford: Oxford University Press, 2007), ch. 2 and 5.

⁵⁷ Plato, *Republic*, 439e.

⁵⁸ In Aristotle, we find these thoughts come to fuller expression in his account of virtue and character.

psychological capacities to overcome countervailing motivations and shape our characters. All of these thoughts, once more, take place against the backdrop of a heavily value-laden conception of what it means to govern oneself.

While, for Plato, self-governance requires we look to the world to discover our proper place within it, Augustine of Hippo counsels making an inward turn, directing our gaze towards the terrain of psychological interiority and the state of our souls: “Do not go outward; return within yourself. In the inward man dwells truth.”⁵⁹ There is something strikingly modern about this injunction to engage inwardly with ourselves; but we must understand any connection to self-determination with care.⁶⁰

Augustine follows the mature Plato in his scepticism that knowledge of the good alone can preclude weakness of the will (*akrasia*). This problem looms large for Augustine—who no doubt confronted it often during his notoriously hedonistic youth—and it comes to take on a theological as well as practical dimension for him. Our fascination with the material world around us is, he thinks, the source of these difficulties. The solution to them is in many ways more radical than the Platonic strategies for self-mastery, since Augustine thinks that our psychological weaknesses can only be decisively broken by a loving orientation towards God:

Everyone becomes like what he loves. Dost thou love the earth? Thou shalt be earth. Dost thou love God? then I say, thou shalt be God.⁶¹

Therefore, far from establishing our self-sufficiency, the turn inwards that Augustine urges we take is meant to reveal our utter dependence upon God’s grace, both for any psychological

⁵⁹ *De vera Religione*, XXXIX. 72, quoted in Charles Taylor, *Sources of the Self: The Making of Modern Identity* (Cambridge, MA: Harvard University Press, 1989), 129.

⁶⁰ For an excellent account of Augustine on the inward turn, see Taylor, *Sources of the Self*, ch.7.

⁶¹ See Gilson, *Saint Augustine*, 250 n. 24, quoted in Taylor, *Sources of the Self*, 128.

capacity to act as we resolve to do, and for our very being itself.⁶² Autonomy, even of a heavily value-laden kind, may be hard to reconcile with this radical dependence on the divine, though Augustine tried to show that human freedom was still possible in such conditions.⁶³

One of Augustine's far darker legacies was his influential defence of religious persecution (albeit falling short of torture and slaying). Religious freedom is now typically seen as a fundamental liberty which the right to self-determination protects. But Augustine, albeit with some reluctance, recommends coercion in some circumstances, appealing to Proverbs: "Thou shall beat him with the rod, and shall deliver his soul from hell."⁶⁴ This principle, backed by Augustine's authority, was repeatedly taken up by Catholics and Protestants well into the eighteenth century.

Value-Neutrality in the History of Autonomy: Modern

Religious conflict has itself been important in shaping the modern constellation of ideas surrounding liberty and self-determination. Martin Luther, whose teachings sparked the Protestant Reformation, had at first urged clergy that they "should impose no law or decree on others without their will and consent."⁶⁵ But, as the political power of Protestantism grew, he later took a much harsher line, claiming, "that seditious articles of doctrine should be punished by the sword needed no further proof," such that "[s]ecular authorities are also

⁶² Guignon puts the conclusion starkly: "What constitutes self-realization on this view is what would look like total self-loss to most moderns: release from the ego and acceptance of one's dependence on the source of one's being." *On Authenticity*, 9.

⁶³ For Augustine's protracted grappling with this problem, see 'On Grace and Free Choice,' in *On the Free Choice of the Will, On Grace and Free Choice, and Other Writings*, Peter King (ed.) (Oxford: Oxford University Press, 2010).

⁶⁴ Proverbs 23:14

⁶⁵ Luther quoted in Benjamin Kaplan, *Divided by Faith: Religious Conflict and the Practice of Toleration in Early Modern Europe* (Harvard, MA: Harvard University Press, 2007), 22.

bound to restrain and punish avowedly false doctrine.”⁶⁶ Despite this, Luther is often associated with the notion of free conscience, and thereby the liberty to live according to one’s deeply held beliefs.⁶⁷ However, the notion of ‘Christian freedom’ advanced by Luther is limited, simply emphasising that a person’s salvation did not depend upon good works, such as prayer or alms, where even this did not free them of the obligation to perform such works. In many ways, Luther’s own conception of religious authority is inimical to self-determination, especially if this means that people are to be ascribed authority to decide for themselves what to value and how to live. For instance, speaking of the first four commandments, he says that they “take man prisoner, rule him and bring him into subjection so that he does not rule himself, does not think himself good, but rather acknowledges his humility and lets himself be led, so that his pride is restrained.”⁶⁸

Toleration did begin to emerge as an important ideal in the seventeenth and eighteenth centuries, albeit by fits and starts. The intellectual case was made by thinkers such as John Locke, whose influential 1689 *Letter Concerning Toleration* argued against the intervention of government in religious affairs (but without extending this protection to Catholics and atheists).⁶⁹ Amongst the learned public and much of the European upper middle classes, toleration came to be regarded as civilized, even *de rigueur*, not least because “imposing

⁶⁶ Luther, ‘Pamphlet of 1536’ in *Zeitschrift für histor Theol.*, vol 28, 560 quoted in Johannes Janssen, *History of the German People at the Close of the Middle Ages: Volume 10* trans. M.A. Mitchell and A.M. Christie (London: fol., 1986), 223.

⁶⁷ For instance, there is a glowing assessment of Luther’s contribution in this respect by David Johnston: “Luther’s thinking led to the notion that nothing can be more important to a person than freedom of conscience and, by extension, the freedom to shape his or her own life in accordance with his or her beliefs. To him, of course, it was imperative that those beliefs be the one and only true ones, and he was confident that Christians would arrive at these true beliefs if only they were allowed to free themselves from the corrupting influences of common clerical practices. The course of the Reformation over the next century or more undercut the faith of Luther’s successors in the unifying tendencies of unchained Christian faith. But his insistence on the importance of individual conscience was taken up by innumerable disciples and spread throughout Europe, signalling an enormous shift in values and priorities and heralding an era in which social relations were transformed by a newly acquired sense of the importance and, indeed, the sanctity of individual consent.” David Johnston, ‘A History of Consent in Western Thought,’ *The Ethics of Consent: Theory and Practice*, F. Miller and A. Wertheimer (eds.) (Oxford: Oxford University Press, 2009), 44.

⁶⁸ Luther, *Good Works*, 182 quoted in Herbert Marcuse, *A Study on Authority* trans. Joris De Bres (London: Verso, 2008).

⁶⁹ John Locke, *A Letter Concerning Toleration* (Indianapolis: Hackett, 1983).

upon Conscience, in matters of religion” was “a mischief unto Trade, transcending all others whatsoever.”⁷⁰ But religious strife and even persecution remained a feature of everyday life long after this, particularly in eastern European states. Nevertheless, the idea that individuals should be free to follow their consciences in religion, which was a matter of fundamental existential import for them, set a precedent for the protection of other strongly held values from intervention by other citizens or the state.

The demand for individual liberty and a non-coercive relation to authority was extended in Immanuel Kant’s thought. He was responsible for reintroducing the language of ‘autonomy’ in this context, which is now used so ubiquitously in framing contemporary debates around self-governance. For him, autonomy is a property of the will, and has both negative and positive dimensions. Negatively, the autonomous will is one that can function without direction from outside of itself, such as the influence of inclinations or desires. Yet, absent such influences, if the will is to avoid being in an arbitrary and lawless state (*anomie*), it must legislate for itself:

the will is not merely subject to the law but subject to it in such a way that it must be viewed as giving the law to itself and just because of this as first subject to the law (of which it can regard itself as the author).⁷¹

Kant thinks that, whilst we are free to choose how we do act, being self-legislating does not imply that we can always choose how we *should* act. Instead, the autonomous will follows a principle presupposed by its very nature as a will, namely that all rational agents could also will the same thing under these circumstances. This same principle is supposed to be the fundamental principle of morality, and so an autonomous will is one that acts in a morally

⁷⁰ Slingsby Bethel, Sheriff of London, quoted in Kaplan, *Divided by Faith*, 351.

⁷¹ Immanuel Kant, *Practical Philosophy*, trans. Mary Gregor (ed.) (Cambridge: Cambridge University Press, 1999), Ak 4:431, Akademie edition pagination.

permissible fashion. In some sense, these moral norms binding the will originate within it, and so in obeying them the will can be thought to positively determine itself.⁷²

J.S. Mill provides a hugely influential, and perhaps more familiar, account of self-determination which, unlike Kant, severs it from questions of rightful action. He defends what he calls ‘character’:

A person whose desires and impulses are his own — are the expression of his own nature, as it has been developed and modified by his own culture — is said to have character. One whose desires and impulses are not his own, has no character, no more than a steam engine has a character.⁷³

Mill does not refer to ‘autonomy,’ following the Greek political tradition in reserving this word for states; but the kind of authenticity that many later advocates of autonomy embrace is clearly expressed here. The wider framework in which Mill is operating is both a naturalistic and empiricist one whereby actions are motivated by the ‘desires and impulses’ Mill mentions, along with the instrumental input of cognitive attitudes such as beliefs. In this context, character arises through ensuring that our desires are related to us in a certain way, such that they can be said to express our nature.

The Millian conception of character—possessing desires and impulses of which we can claim ownership—admits of a more value-neutral interpretation than the Platonic, Stoic, Augustinian and Kantian approaches to self-determination which we have met. We are not required to adopt any specific desires, commitments or values in order to possess such character, and nor do value-laden judgements feature prominently in determining whether

⁷² This is a highly delicate point because Kant does not think that the will determines the content of morality. In his lectures, he distinguishes two ideas, being a moral “lawgiver, though not an originator; just as God is no originator of the fact that a triangle has three corners.” *Lectures on Ethics*, Peter Heath (trans.) (Cambridge: Cambridge University Press, 1997), Ak 27: 282-83.

⁷³ John Stuart Mill, ‘On Liberty’ in *On Liberty and Other Essays*, John Gray (ed.) (Oxford: Oxford University Press, 1991), 67.

someone achieves this kind of authenticity.⁷⁴ Of course, Mill is not alone in placing great value on self-authorship, and the appreciation for the importance of the free emotional and intellectual development of the individual had been growing throughout the nineteenth century. This had been bolstered by the earlier cultural impact of movements such as Romanticism, with Goethe's 1774 *Sorrows of Young Werther*, for instance, with its valorisation of a new individual sincerity and emotional honesty (sometimes bordering on sentimentality), capturing the social mood.⁷⁵ So too, figures like Ralph Waldo Emerson and Friedrich Nietzsche echo the need for us to creatively forge our own identities, albeit in very different registers than Mill. For all these writers, taking self-determination seriously means ensuring that people (or at least some of them) have scope to make their own valuations, rather than pressuring them to accommodate the orthodoxies of wider society. In this, the conception of autonomy in play displays a distinct kind of value-neutrality, which is aptly articulated by Mill: "The only freedom which deserves the name, is that of pursuing our own good in our own way."⁷⁶

Insofar as Mill thinks that character should be promoted as an ideal, such that society should accommodate lives with a characterful shape to them, then this does, however, involve higher-order normative claims about entitlement to self-determination. For instance, Mill urges us to recognise that "the free development of individuality is one of the leading essentials of well-being."⁷⁷ Furthermore, his defence of the liberty of the individual, and its bounding by the 'harm principle' that this liberty cannot be breached except to prevent harm

⁷⁴ If Mill thought that the nature which character expresses must be fundamentally ethical, and that our desires and impulse must reflect this in order to display character, then such neutrality would not follow. However, there is no indication that Mill does think this (and his stance against paternalism concerning evaluative preferences militates against it); and nor is this how his thought has been subsequently taken up.

⁷⁵ Johann Wolfgang von Goethe, *The Sorrows of Young Werther* trans. Michael Hulse (London: Penguin, 1989)

⁷⁶ John Stuart Mill, *The Collected Works of John Stuart Mill: Volume 18* ed. John M. Robson (Toronto: Toronto University Press, 1996) 226.

⁷⁷ Mill, 'On Liberty,' 73.

to others, relies upon similarly value-laden claims about the utility of liberty.⁷⁸ Neutrality in the conditions for describing someone as self-determining does not therefore extend to similar neutrality in justifying why we should protect such self-determination.

The understanding of self-determination exhibited in the Millian account of character stands in contrast to the earlier Kantian conception of autonomy. In a sense, they both proceed from the thought that freedom involves marshalling suitable motives for our actions and which reflect our own nature. Yet, Kant insists these are moral motivations evincing our status as rational agents who can stand back and reflect upon our histories and culture; whilst Mill thinks it is our desires as beings shaped by such history and culture that self-determining people express in their actions. Furthermore, the Kantian unification of autonomy and morality means that the former cannot be achieved without cleaving to a particular value-laden ideal.⁷⁹ When autonomy is at stake, the Kantian thinks we should abandon any hope of coming to a normatively neutral understanding of its nature or the justification for safeguarding it. However, Mill's more normatively neutral understanding of what self-governance is has come to dominate the contemporary landscape.

Our historical investigation has revealed a number of ways in which self-determination can be associated with value. Firstly, self-determination can be thought to presuppose value-based commitments. The Stoic and Platonic approaches articulated a conception of self-determination which depended upon ethical knowledge; and Augustine, more radically still, how it can be dependent upon an existential commitment to the divine. Similarly, Kant links the autonomous will with moral motivation, such that this kind of freedom requires people to

⁷⁸ The so-called 'harm principle' states: "the only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others." Mill, 'On Liberty,' 30.

⁷⁹ Due to the assumption in Kant's philosophical psychology that we can never know what 'maxims' people act upon, then we are precluded from confidently discerning motivations. This has the result that *assessing* whether particular wills achieve autonomy is not possible for him, and so the issue of value-neutrality in assessments of autonomy is moot. We can ascribe the *capacity* for autonomy (and the dignity that this bestows) to all rational agents though.

cleave to a moral ideal which binds all rational agents. But Mill develops a conception of self-determination that can be understood in neutral fashion, namely that character consists in expressing our nature, however that it shaped.

Three further connections between self-determination and value can also be forged. In assessing autonomy, insofar as their theories allow this, the former group would also deny that we can say whether someone is self-governing without our having some grasp of what they ought to do. But since all those we have discussed—with the exception of Sophocles and possibly Luther—think that there is something admirable or worth promoting about self-determination, then in this respect they all forsake normative neutrality. That is, since autonomy itself is treated as an ideal rather than a mere psychological descriptor, then values enter the frame. Finally, Kant introduced another relationship between autonomy and value, because for him the autonomous will can be thought as the author of moral obligations. Whereas The Stoics, Plato and Augustine agree with Kant in their rejection of neutrality, they insist upon the need for the self-determining person to be oriented by value that is grounded outside of the subject, in the natural or divine order; but, for Kant, self-determination involves following moral norms that we give ourselves rather than find outside of us.