Introduction

1.1 The Assault on Autonomy

Autonomy is amongst the most-praised modern ideals; and the rhetoric of the self-determining individual — who authors their own life, free from the arbitrary authority of others — saturates liberal-democratic societies. Moral philosophy, bioethics and political theory have, for the most part, shared this enthusiasm. Similarly, the past few decades have seen the language of autonomy increasingly colonise politics, law and the care professions, particularly in the guise of giving individuals ever-more choice in certain aspects of public service provision.

Critics of autonomy have not, however, been cowed by its dominance, and many attacks upon it are excoriating. For instance, feminist opponents have decried autonomy as “a thoroughly noxious concept”\(^1\) which shares in a “myth of masculinity”\(^2\) that requires disavowal of relationships that sustain us. Radical critiques of psychiatry lament an “illusion of autonomy” which suppresses social explanations of action and emotional distress, leading to a ‘magical

voluntarism' vastly exaggerating the power of the human will. Moral philosophy, in its valorisation of individual and rational autonomy, is said to admire “a naked Emperor of questionable legitimacy.” In medicine, an “autonomy cult” has been accused of tyrannising patients and medical staff alike. Similarly, commentators on social policy have bemoaned an “uncompromising and rigid worship of personal autonomy” and warned that the “mythology of pure and rational autonomy” leads to a false image of ourselves which is “naive, out of touch with an adequate understanding of human motivation, and, ultimately, philosophically and morally untenable.” Condemnation from communitarians, social scientists, and religious thinkers, amongst others, is no less damning, as we shall see.

The charges facing autonomy are varied: it is impossible or impracticable to achieve; it displaces other fundamental goods, such as solidarity or dignity; it is itself worthless or loathsome; it leads to or entrenches atomisation and other social ills; it is inappropriate for vulnerable, fallible and communal creatures like ourselves; it is an ideological fiction reinforcing a moribund rights-based liberalism; and so on. This report seeks to untangle these diverse and often-contradictory criticisms so that the case against autonomy can be assessed more readily. We will range over philosophy, politics, law, and other areas, with special attention paid to autonomy in medicine, psychiatry and care practice.

1.2 Autonomy as Normative and Non-Normative

What is autonomy? We might gloss it as self-governance or freedom achieved through the independence of the self from ‘external’ forces — such as the dictates of other people or emotional distress which threatens to overwhelm us. However, any simple definition of personal autonomy is likely to be controversial, incomplete and unable to capture the many different

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senses which the term ‘autonomy’ has acquired. Unfortunately, the sheer variety of conceptions of autonomy tends to lead to critics and defenders talking past one another. What one person praises as ‘autonomy’ can be quite different from what another condemns. Thus, it is important to be clear about how the term is being used.

We should bear in mind a key distinction between normative uses of ‘autonomy’ — roughly, those saying what should or ought to happen — and non-normative uses — roughly, those saying how things are. Claiming that people have a right to autonomy, that someone’s autonomy deserves respect, or that autonomy should serve as an ideal, would all be normative uses. This sense of ‘autonomy’ is primary when asserting that the state should not mandate religious observance or that doctors are not permitted to operate on people without consent. In contrast, non-normative uses concern the psychological and social factors that determine whether autonomy has actually been achieved, such as being under house arrest, addicted to painkillers, experiencing a manic episode, or, conversely, help received from a carer that enables someone to decide where to live. For example, an elderly person with dementia living in a care home might be said (normatively) to have a right to autonomy, but due to their cognitive difficulties and a lack of support services they might in fact fail to be (non-normatively) autonomous.

Often these different modalities of autonomy will be entwined. For example, the psychosocial state of lacking mental capacity can legally permit restriction of liberty under the Mental Capacity Act, insofar as it allows certain decisions to be made against a person’s will if deemed in their best interest. Thus, in this area of law, a kind of normative autonomy (liberty rights) can depend upon non-normative autonomy (mental capacity).

1.3 Revision versus Revolution

Critiques of autonomy can, of course, have different targets and purposes. Two main groups of critics — revolutionary and revisionary — are particularly important to distinguish. The revolutionary camp rejects autonomy itself as a flawed concept for explaining or guiding human action; whereas, the revisionary camp thinks that we should reject certain conceptions of
autonomy but develop better ones to take their place. Both take at least some kinds of autonomy to be destructive or illusory, but they differ over whether autonomy can be redeemed by being reconceived in other ways.

Feminist discussions of autonomy are a good illustration of this distinction. Some early feminist discussions of autonomy are revolutionary because they reject it wholesale. For instance, Sarah Hoagland claims that autonomy is a fundamentally poisonous idea which “encourages us to believe that connecting and engaging with others limits us”. Other feminist thinkers are revisionary critics, arguing that despite often being formulated problematically — in ways promoting atomisation, sidelining relations of dependence, support and care, or fostering misleading assumptions about human psychology — autonomy can nevertheless be reimagined. For example, Jennifer Nedelsky rejects liberal individualist conceptions of autonomy, yet she claims that “the basic value of autonomy” remains “central to feminism” and should be reconfigured in ways that “reject the stark opposition between autonomy and collectivity”.

1.4 Criticisms of Autonomy in Practice

Disputes about autonomy can be forbiddingly abstract, so it might help to tether our discussion to the turf, so to speak. The circumstances surrounding Kerrie Wooltorton’s death serve as a stark example through which to think about some of these issues.

On the 17th September 2007, Kerrie Wooltorton walked into an accident and emergency department having drunk antifreeze. She had a history of self-harm and had been diagnosed with an emotionally unstable personality disorder. The community team involved in supporting Kerrie believed her low mood was exacerbated by distress about her infertility, and this was the latest of several occasions on which she had poisoned herself. This time, she was carrying a note explaining that she “would like for NO lifesaving treatment to be given” and only “medicines to

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help relieve my discomfort, painkillers, oxygen etc.” to which she directed medical staff, saying only that “it’s in the letter, it says what I want”. Kerrie was deemed neither to lack mental capacity to make this decision nor to be detainable under mental health legislation, and thus to have the right to refuse treatment. She agreed to have a cannula and catheter fitted but no invasive treatment. Two days later, she died from ethylene glycol toxicity.

Kerrie’s death prompted a great deal of discussion — much of it focused on whether, in fact, medical staff had the legal power to intervene under the Mental Capacity or Mental Health Acts. Legal matters aside, Kerrie’s situation crystallises many of the problems which arise in assessing autonomy, and also shows how agonising and fractious they can be in practice. Three issues are introduced and illustrated here with reference to Kerrie: that there are a variety of conceptions of autonomy, and that there are disputes as to the explanatory as well as evaluative success of these conceptions.

In interrogating autonomy, we must first ask what conception of autonomy we are probing. Consider two ways of understanding autonomy. When autonomy is understood narrowly as non-interference and respect for others’ explicit wishes, then Kerrie looks to be autonomous and to have had her autonomy honoured by the medical staff who administered only palliative care. However, on more demanding conceptions of autonomy, which require that our decisions or actions are authentic or free from psychopathology, then (notwithstanding the specific legal assessments regarding mental health and mental capacity she cleared) there could be grounds for thinking that Kerrie was not in fact autonomous. For instance, the tumultuousness of her emotional life may raise doubts about how much her actions were self-directed rather than driven by feelings that washed over her without being genuinely ‘her own’. Similarly, controversial as

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diagnoses of personality disorder can be, were her behaviour to have been driven by psychopathology, then some theorists would be wary of attributing autonomy to her.\textsuperscript{11}

Once we specify a relevant kind of autonomy, we can ask when (if ever) it has a useful descriptive or normative function. Let us take the descriptive question first. If a conception of autonomy was never informative, then this would be a reason to reject it. For instance, insofar as autonomy requires authenticity, and none of us ever achieve authenticity — because we are always thrown into environments beyond our control, with passions and projects already thrust upon us — then wondering whether Kerrie’s emotional distress made her heteronomous would be moot and uninteresting. Accounts implying none of us could be autonomous could be deeply revealing about the nature of human existence in general but may struggle to shed light on the particularities of a life like Kerrie’s or the predicament of the professionals facing her.

Alternatively, exploiting a conception of autonomy can aid understanding in some contexts but not others. For example, kinds of autonomy foregrounding non-interference with others may be helpful in analysing the relation between a state and its citizens but fail to elucidate the relationship between people with very severe intellectual disabilities and their carers (because pervasive intervention becomes unavoidable in these relationships). Similarly, framing certain sorts of situation in terms of autonomy might be beside the point; say, if the salient factors for understanding suicidal patients like Kerrie are their insight, interpersonal relationships and perspectives on their past and future, rather than how autonomous they are. In sum, an account could be rejected for descriptive purposes because it implies autonomy is impossible, unachievable in the context that interests us, or explanatorily irrelevant.

Autonomy’s normative functions — its use as an ideal, value or guide in deliberating about what to do — can also be attacked in various ways. The simplest way would be to deny that the relevant kind of autonomy is valuable, or even to claim that it is actively harmful. Take libertarian autonomy requiring non-interference, which has been condemned for encouraging a

corrosive atomism across economic, political and social life. Specifically, in Kerrie Wooltorton’s case, someone might argue that it was precisely the wrong ideal for her or the professionals dealing with her, and that people struggling with depressive thoughts and suicidal ideation are those most in need of paternalistic care. Less strongly, autonomy might be thought to be genuinely valuable but capable of being outweighed by other factors. One common form of complaint is that autonomy dominates ethical and political discussion when it should be only one consideration amongst many in deciding what is to be done. For instance, critics of the way Kerrie was dealt with could recognise that treating her against her will would have been a grave matter, albeit justified by the prospect of her future wellbeing, the unconditional value of life, or some combination of other factors.

If some conception of autonomy can never be realised, then it risks not only being descriptively empty but also normatively inert. To return to the above example, if no-one could be autonomous, because authenticity is unattainable, then it can seem futile for hospital staff to try to respect Kerrie’s autonomy when deciding whether to treat her against her wishes, since this would be impossible. Similar considerations may also tell against conceptions of autonomy which are not strictly impossible to achieve but which are currently impractical given constraints like resources scarcity and well-entrenched social institutions. Thus, when assessing the normative merits of a conception of autonomy, questions to bear in mind are whether it presents us with a genuine good, which does not crowd out other valuable achievements, and which could be realised in some form.
Critics

We shall now survey a range of criticisms of autonomy in its descriptive and normative uses before considering autonomy in medicine, psychiatry and social care settings in more detail.

2.1 Free will incompatibilism

Classic philosophical discussions of freedom have focused on free will. The central problem is to explain how human freedom is possible in a deterministic universe where all events are caused by a chain of preceding events that is ultimately outside our control. Contemporary discussions of autonomy typically bracket the traditional problem of free will, insofar as this concerns matters like determinism, predestination and foreknowledge. One reason is that the cluster of issues discussed under the heading of autonomy—such as paternalism, authenticity, dignity and coercion—are sometimes thought to be tractable without adverting to ‘metaphysical’ arguments about the relation between human agency and natural causality. However, the prospect of autonomy without a robustly kind of free will can seem counterintuitive—how could mere automata be autonomous?

Compatibilists believe that free will can and should be understood in a way that does not preclude causal determinism—the claim that antecedent events causally necessitate everything that happens, including all human thought, decision and action. Thus, compatibilists attempt to allow for determinism whilst refusing to accept that free will is an illusion. For example, if free will requires no more than an ability to act on our desires, then determinism need not pose a threat to this ability. Incompatibilists reject this approach and maintain that free will and determinism are mutually exclusive. Some cleave to determinism and so must deny free will.

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‘hard determinists’); others cleave to free will and so must deny determinism (‘metaphysical libertarians’).\textsuperscript{13}

Metaphysical libertarianism is often resisted on the grounds that it is hard to reconcile with natural-scientific models of the universe. Self-determination would be understood literally here, such that our actions could not be autonomous unless we were their source, through spontaneously causing them. Yet, insofar as the independence required for personal autonomy depends upon this causal independence of the will, then proponents of autonomy face a further litany of objections mounted against metaphysical libertarianism. The main demand would be to show how our actions could be underdetermined by the world, without them amounting to mere anomie or arbitrariness (which would equally preclude free will).

If we turn away from metaphysical libertarianism and hold that autonomy simply requires compatibilist versions of free will, then another set of worries arise. Kant famously attacks compatibilist responses as a “miserable compromise” resting on “a little quibbling about words” if they maintain that freedom can still be attributed to agents considered as beings whose actions are determined by temporally prior events.\textsuperscript{14} According to him, this merely ‘comparative’ conception of freedom would be “nothing better than the freedom of a turnspit,” and such an agent can no more be said to be free than a wound clock can in virtue of its moving of its own accord.\textsuperscript{15} If Kant is right, accounts of autonomy that presuppose or even permit compatibilism may struggle to maintain the intuitive connection of autonomy to freedom. Thus, whatever position they take on the free will problem, even neutrality or indifference, proponents of autonomy might attract criticism.

\subsection*{2.2 Social and clinical psychology}

\textsuperscript{13} An overview of these debates can be found in Robert Kane, \textit{The Significance of Free Will} (Oxford: Oxford University Press, 1998). For a relatively accessible review of scientific research into volition and free will, see Patrick Haggard, ‘Human volition: towards a neuroscience of will’ \textit{Nature Reviews Neuroscience} 9 (2008), pp.934-946.


\textsuperscript{15} ibid. Ak 5:97.
Other opposition to the reality of autonomy is avowedly “not metaphysical or political but psychological,” and draws upon evidence from social psychology. The target of these criticisms are conceptions of autonomy which require that agents reflectively choose principles which they use to guide their actions. However, social psychology research has been thought to cast doubt on the prevalence of such capacities. Human behaviour is predominantly determined by situational cues, it is said, rather than through an enduring character or reflectively adopted principles, yet our ‘folk psychological’ understanding of ourselves fails to take this into account. For instance, one often-cited study showed that subjects were fourteen times more likely to help a passerby who had dropped some papers if they had just found a small amount of change in a phone box. Such experiments threaten autonomy insofar as they suggest that much of our self-understanding is mere rationalisation, and that our behaviour is driven by our environments, rather than self-chosen general principles or cultivated character traits, much more than we realise.

The clinical psychologist David Smail has advanced a similar (but more politicised) critique of “the illusion of autonomy” in psychiatric contexts. Smail attacks the ‘magical voluntarism’ which supposes that the primary factors in shaping human thought and action (especially regarding mental health) are “personal acts of will.” This, he believes, ignores the hugely more influential effects of our social and economic environment, and fatally decouples the therapeutic enterprises from the political action that would be needed to secure the conditions needed to ensure lasting improvements in the lives of those suffering psychological distress. The danger of exaggerating the prevalence of non-normative autonomy would be to misdirect efforts to alleviate the effects of psychopathology.

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18 David Smail (2005), Power, Interest and Psychology: Elements of a Social Materialist Understanding of Distress (Ross-on-Wye: PCSS Books), 44.
19 ibid. p.7.
20 For more on the relation between agency and socio-political explanations of psychopathology, see Mark Fisher, Capitalist Realism: Is There No Alternative? (Ropley: Zer0 Books, 2009), ch.4.
2.3 Marxism

The Marxist tradition has also sought to foreground the structural causes of action. Karl Marx criticises the one-sided set of freedoms available to citizens of liberal capitalist states — such as rights of contract and exchange — which conceal their deeper unfreedom. In this respect, he distinguishes formal and real freedom.21 Formal freedom is a legally recognised power of choice; e.g. freedom to choose whether or not to work for a particular employer, in contrast with the lot of feudal serfs. Real freedom is self-realisation, whereby people are able to act on goals they give themselves. Self-realisation depends upon opportunities and abilities that often fall outside the scope of kind of freedom and equality that political citizenship of a liberal state grants. To illustrate the distinction, consider a different kind of example: a young woman, deemed to be ‘intentionally homeless’ by her local council, decides to find a permanent residence. Despite her formal freedom, which she has in virtue of her legal right to enter into a tenancy agreement, she lacks real freedom in this respect because she has no money for a deposit nor references from former landlords, and so cannot secure a home.

Marx believes that trumpeting formal freedoms can obscure the fact that economic, political and social conditions prevent people from achieving real freedom.22 The main danger is that a narrow

21 Karl Marx, Grundrisse, trans. Martin Nicolaus (Hammondsworth: Penguin Books, 1973), p.464 and p.611. Other Marxists pick up the distinction between formal and material freedoms. Alain Badiou opposes the thought that parliamentary democracy ensures that people are free because adult citizens each have a vote in electing some political officeholders. For him, parliamentarianism alone does not guarantee of our freedom: “I must tell you I absolutely do not respect universal suffrage in itself; it depends on what it does.” Alain Badiou, The Meaning of Sarkozy, trans. David Fernbach (London: Verso, 2008), p.32. Peter Hallward also questions the sufficiency of representative forms of democracy in securing human autonomy. Like Badiou, he does not reject autonomy as illusory — recognising “the primacy of self-determination and self-emancipation” — but locates it first and foremost in the general will of the people, where it is “a matter of material power and active empowerment, before it is a matter of representation, authority or legitimacy.” Peter Hallward, ‘The Will of the People: Notes Towards A Dialectical Voluntarism’, Radical Philosophy 155 (2009), p. 19-21. In other words, self-determination cannot simply be granted to individuals and delegated to others who act on their behalf (such as through a right to cast a ballot), but must be formed and experienced in a community where the individual’s will is realised in communion with others.

22 Sometimes Marx seems to suggest that formal freedoms are little more than fig-leaves: “The Roman slave was held by fetters: the wage-labourer is bound to his owner by invisible threads. The appearance of independence is
focus on autonomy in relation to a series of specific decisions can ignore the structural forces that shape the circumstances of individuals and groups as a whole in relation to which such decisions are made. For example, the legal right to refuse to labour for any specific capitalist looks to be a less potent form of autonomy when satisfying one’s basic needs requires one to contract with some capitalist; and the ability of particularly skilled and lucky individuals to escape wage-slavery is little advance when, as Marx believes, it is premised on the continued subjection of others to these social relations. Furthermore, the kind of society which the formal freedoms of the liberal-capitalist state fosters — organised around competitive market relations between atomised individuals — are themselves taken to stand in the way of the communal self-determination that Marx thinks is integral to self-realisation.

Later Marxists develop these claims. For instance, Louis Althusser highlights false presuppositions in discussions of human autonomy, which he thinks mystify social relations. In his anti-humanist reading of Marx, Althusser aims to dispense with

a concept of man as an originating subject, one in whom originate his needs (homo oeconomicus), his thoughts (homo rationalis), and his acts and struggles (homo moralis, juridicus and politicus). 

kept up by means of a constant change of employers, and by the ficto juris of a contract.” Karl Marx, *Capital: A Critique of Political Economy, Vol. I. The Process of Capitalist Production*, trans. S. Moore and E. Aveling (New York: International Publishers, 1967), p.574. At others times, he acknowledges that formal freedoms, such as discretion over the use of wages, are genuine increases in freedom, but wryly notes some deleterious side-effects: “The worker can squander his wages on liquor for himself instead of buying meat and bread for his children, a thing he cannot do when he is paid in kind. His personal freedom has thereby been extended, i.e. more latitude has been allowed to the rule of liquor.” Karl Marx, ‘Reflections on Money’ in *Collected Works, Volume 10* (London: Lawrence and Wishart, 1978). p.591. However, at some points Marx is more ambivalent, recognising that workers do have some limited choices as consumers, such as over what newspaper to purchase, and that this control engenders responsibility: “He can save or hoard a little. Or else he can squander his money on drink. But even so he acts as a free agent; he must pay his own way; he is responsible to himself for the way he spends his wages. He learns to control himself, in contrast to the slave, who needs a master.” Karl Marx, ‘Results of the Immediate Process of Production’, Appendix to *Capital, Volume One*, trans. Ben Fowkes (New York: Vintage Books, 1977), p.1033. This self-control is double-edged: whilst edifying, it also makes for harder workers, who are more apt to be exploited by their employers. Free workers work harder because they are motivated by their wants rather than exogenous fears, which leads wage-labour to be highly productive: “The consciousness (or better: the idea) of free self-determination, of liberty, makes a much better worker [...]”ibid. p.1031.

For Marx, the championing of formal freedoms can also obfuscate the nature of the relationship between workers and capital, helping to blunt opposition to capitalism as an economic form. Jon Elster frames Marx’s argument in terms of the identification of two fallacies of composition: that workers are independent of any specific employer implies that they are free of all employers, i.e. of capital as such; and that any worker can become an independent capitalist (if he is gifted and exceptionally fortunate) implies that all workers can gain this freedom, i.e. that working people as a class can. Both fallacies overstate the powers that possessing formal freedoms accords.

Althusser thereby rejects standard conceptions of autonomy as accurate descriptions of human beings as they are or might be. He also claims that hyperbolic illusions about human freedom ("the temptation of believing in the omnipotence of liberty") serve to cloud the fundamental source of thought and action for us, namely the economic formation of capitalism. Autonomy, although a fiction, becomes a dangerous one, insofar as foregrounding individual self-determination serves to legitimate the power of capital by clothing its operations in such a way that subjects appear to freely accept them. People take responsibility for what is, in fact, their own servitude to external forces.

Other Marxists pick up the distinction between formal and material freedoms. Alain Badiou opposes the thought that parliamentary democracy ensures that people are free because adult citizens each have a vote in electing some political officeholders. For him, parliamentarianism alone does not guarantee of our freedom: "I must tell you I absolutely do not respect universal suffrage in itself; it depends on what it does." Peter Hallward also questions the sufficiency of representative forms of democracy in securing human autonomy. Like Badiou, he does not reject autonomy as illusory — recognising "the primacy of self-determination and self-emancipation" — but locates it first and foremost in the general will of the people, where it is "a matter of material power and active empowerment, before it is a matter of representation, authority or legitimacy." In other words, self-determination cannot simply be granted to individuals and delegated to others who act on their behalf (such as through a right to cast a ballot), but must be formed and experienced in a community where the individual’s will is realised in communion with others.

2.4 Sociologists

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24 ibid.
27 ibid. p. 21.
Leftists outside the Marxist tradition have also pursued aspects of Marx’s discussions of freedom. The Weberian sociologists, Luc Boltanski and Ève Chiapello, examine capitalism’s response to the anti-capitalist critique of the late 60s which demanded greater autonomy in the workplace.\(^{28}\) Just as Marx argues that the idea of self-determination is an important element of the motivational structure of workers under mid-nineteenth century capitalism, Boltanski and Chiapello argue that contemporary capitalism has had to adapt to psychological changes in workers. However, they caution that calculated attempts to exploit authenticity — to manufacture ‘authentic’ relationships with people or things in the service of more effective management or consumption — has led to a new “era of suspicion” in which we must increasingly ask of seemingly spontaneous and sincere actions whether they are premeditated attempts to manipulate us.\(^{29}\)

Governmentality theorists, influenced by philosopher and historian Michel Foucault, have argued more broadly that fostering autonomous individuals has become an increasingly important strategy in governing modern society. In this respect, Nikolas Rose distinguishes between “freedom as a formula of resistance from freedom as a formula of power” or “freedom as it is deployed in contestation and freedom as it is instantiated in government.” \(^{30}\) It can seem natural to oppose freedom and power — freedom being understood as the domain where the power of others over us ceases. However, for proponents of governmentality, this would be misleading. Rose explains:

> The demand for freedom is undoubtedly a potent weapon in ‘saying no to power’. But [...] we can perhaps gauge something of the space between freedom as an ideal, as articulated in struggles against particular

\(^{28}\) In order to provide a more tangible moral justification for capitalism, and so keep workers and particularly managers invested in the roles, Boltanski and Chiapello argue that managerial practice began to emphasise ‘horizontal’ over ‘hierarchical’ ways of working, relying on information-sharing and bringing diverse perspectives to bear on problems. In this way, “neo-management aims to respond to demands for authenticity and freedom,” particularly as a “response to demands for autonomy from more highly-qualified wage-workers”. Luc Boltanski and Ève Chiapello, *The New Spirit of Capitalism*, trans. Gregory Elliott, (London: Verso, 2005), p. 97. This shift helped to revivify capitalism, they claim, aligning management techniques more closely with the psychology of those they manage.

\(^{29}\) ibid. p. 446.

regimes of power, and freedom as a mode of organizing and regulation: freedom here as a certain way of administering a population that depends upon the capacities of free individuals.  

This ‘government of freedom’ can be understood through the use of techniques like ‘responsibilisation’: the attempt to accomplish public policy objectives through inculcating individual responsibility. Consider nineteenth-century efforts to promote moral education, abstinence and personal hygiene within poor families which sought to achieve public goods concerning crime, unemployment and public health not by direct exercise of state power but by the reshaping the ethical horizons of citizens, so that they became self-governing.

Governmentality theorists often confine themselves to genealogy instead of critique. However, it is not hard to be cynical about the techniques they map when they are sold in terms of individual autonomy and empowerment. Pat O’Malley notes that the term ‘responsibilization’ takes on the implication that the subject being responsibilized has avoided this duty or the responsibility has been taken away from them in the welfare-state era and managed by an expert or government agency.

Commentators have identified attempts to offload what are genuine state responsibilities under the guise of promoting autonomy as a cause for concern. The fear is that responsibilisation of people leaves them responsible, in the sense of being without recourse, when things go wrong in some aspect of their lives – whether “of physical and mental health, of unemployment, of poverty in old age, of poor educational performance, of becoming victims of crime”. The same might be said of the introduction of ‘personal budgets’ as part of the ‘personalisation agenda’ in

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31 ibid. p. 64.
32 “The home was to be transformed into a purified, cleansed, moralized, domestic space. It was to undertake the moral training of its children. It was to domesticate and familialize the dangerous passions of adults, tearing them away from public vice, the gin palace and the gambling hall, imposing a duty of responsibility to each other, to home and to children, and a wish to better their own condition. The family, from then on, has a key role in strategies for government through freedom. It links public objectives for the good health and good order of the social body with the desire of individuals for personal health and well-being. A ‘private’ ethic of good health and morality can thus be articulated on to a ‘public’ ethic of social order and public hygiene, yet without destroying the autonomy of the family – indeed by promising to enhance it.” ibid. p. 74.
33 For discussion of governmentality analysis’ ethico-political aims (or lack of), see Rose ibid. p.10 and 19-20.
social care. In short, autonomy may leave people vulnerable to the response, ‘you’ve made your bed, now lie in it’.

2.6 Receptivity

One popular philosophical approach to autonomy has sought to develop Kant’s metaphor of self-legislation:

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).36

Constructivists have argued that Kant demonstrates that, as rational agents, we are the ultimate sources of normative authority over ourselves – such that autonomy is the origin of reasons. More simply, the idea is that our autonomy means that humans valuing things is what makes those things valuable.

Critics of this proposal have argued that supposing autonomy to be the foundation of normativity is incoherent: any norms based upon autonomous endorsement alone will be little more than products of what Donald Regan calls ‘arbitrary self-launching,’ and so neither rationally binding nor expressive of human freedom. Charles Larmore has argued that this interpretation of autonomy has marginalised attentiveness to reasons which we do not legislate for ourselves, and without which, “choosing what to do and thinking for ourselves would be unintelligible,” where “it has been a failing of modern philosophy to have denied or neglected these forms of dependence that make being our own person possible.”37 Similarly, John McDowell has argued for the need for any claims to individual self-determination to be tempered with proper respect for receptivity to reasons that we confront in our perceptual and ethical experience of the world,

and which prevents human activity being a “frictionless spinning in a void”. In other words, autonomy is a mistaken ideal when it is construed in ways that encourage us to see ourselves as unaccountable to other people and the world around us.

In addition to normative receptivity – an openness to reasons or values which affect us – phenomenologists stress the passivity and bodily receptivity integral to being a material agent, which, they fear, an overemphasis on self-determining subjectivity can cause us to forget. Heideggerians have also argued that the modern obsession with autonomy has inexorably lead to a ‘consummated nihilism,’ in which our culture has become desiccated and lacking in shared meaningful concerns. Against such autonomy-induced nihilism, Heidegger notoriously claims that “[o]nly a God can save us,” and that “[a]t best we can awaken a readiness to wait” for him.

2.7 Dependency: Communitarianism and Fallenness

Alasdair Macintyre’s opposition to autonomy focuses on the individualist identity it fosters. For Macintyre, our identities are always forged through the communities to which we belong, which in turn each have histories; and to “cut myself off from that past, in the individualist mode, is to deform my present relationships.” The championing of autonomy has, he thinks, hastened the modern rise of liberal individualism, especially with respect to moral agency. To be a modern moral agent is to be able to stand back from any and every situation in which one is involved, from any and every characteristic that one may possess, and to pass judgment on it from a purely universal and abstract point of

39 For a recent popular exploration of these phenomenological themes, see Hubert Dreyfus and Sean Kelly, All Things Shining: Reading the Western Classics to Find Meaning in a Secular Age (New York: Simon and Schuster, 2011).
view that is totally detached from all social particularity — it is in the self and not in social roles or practices that moral agency has to be located.\textsuperscript{42}

Whilst many moderns would characterise this as an “achievement by the self of its proper autonomy,” Macintyre thinks it disastrous, since morality has been severed from the social roles (or understanding of divine law) that could make either its force or content intelligible.\textsuperscript{43}

Autonomy extracts a cost:

the price paid for liberation from what appeared to be the external authority of traditional morality was the loss of any authoritative content from the would-be moral utterances of the newly autonomous agent.\textsuperscript{44}

Macintyre does not, however, reject autonomy wholesale. He claims

Modern moral philosophy has understandably and rightly placed great emphasis upon individual autonomy, upon the capacity for making independent choices.\textsuperscript{45}

Instead, he wants to ensure that we recognise how the independence that we gain from being autonomous must be accompanied by what he calls ‘virtues of acknowledged dependence’. Thus, for Macintye, human flourishing requires some form of autonomy; but this must be realised within the bounds of our dependence upon traditions, social practices and institutions that make rational agency possible. In our terms, he is yet another revisionary critic of autonomy.

Religious-motivated criticism of autonomy has stressed similar themes of human dependency and opposition to excessive individualism.\textsuperscript{46} Consider Martin Luther’s rejection of the ideal of self-rule, when he says of the ten commandments 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

\textsuperscript{42} ibid. p. 30.
\textsuperscript{43} ibid, p. 60. Here Macintyre echoes an earlier critique of autonomy in Elizabeth Anscombe’s landmark article, ‘Modern Moral Philosophy’ Philosophy 33 (1958).
\textsuperscript{44} ibid. p. 68. Furthermore, the modern privileging of choice and the possibility of acting otherwise, which is so evident in Kant and Reid, is taken to be highly problematic, since it precludes an Aristotelian understanding of the virtuous person as precisely someone whose character means that they cannot but act otherwise than they do.
\textsuperscript{46} For a brief contemporary account of these debates, see John Hare, \textit{God’s Call: Moral Realism, God’s Commands, and Human Autonomy} (Grand Rapids, MI: Eerdmans, 2000).
acknowledges his humility and lets himself be led, so that his pride is restrained.”\textsuperscript{47} The injunction here is not to be autonomous, in the sense of following one’s own laws, but rather to be heedful of divine laws and not take oneself to be able to adequately direct one’s life without the support of God.\textsuperscript{48}

2.8 Feminism

Feminist critics, such as Wendy Brown, have also objected to the valorisation of autonomy on the grounds that it reinforces liberal individualism. She claims that the autonomous self that liberalism posits is self-reliant, self-interested and unencumbered by the need to care for others – all in sharp contrast to the social expectations of emotional dependence, selflessness and caregiving that shape women’s lives. Brown takes it that “the putative autonomy of the liberal subject partakes of a myth of masculinity requiring disavowal of dependency, the disavowal of relations that nourish and sustain the subject”, such that, ultimately, “[i]f liberal autonomy were universalised, the supports upon which it rests would dissolve.”\textsuperscript{49} If autonomy is to be a viable feminist concept, Brown believes it must be rearticulated in terms which can accommodate connection or dependency.\textsuperscript{50}

While some feminists, such as Sarah Hoagland, engage in what we have called revolutionary critiques of autonomy – which she has dismissed as “a thoroughly noxious concept,” insofar as it

\textsuperscript{47} Martin Luther, \textit{A Treatise on Good Works}, p.182 quoted in Herbert Marcuse, \textit{A Study on Authority} (London: Verso, 2008).
\textsuperscript{48} Cf. Patrick Nowell-Smith: “The idea of heteronomy is also strongly marked in the Christian morality. ‘Not as I will it, but as thou wilt.’ The demand made by Christianity is that of the surrendering self, not in the ordinary sense of being unselfish, of loving our neighbour and even our enemy. It is the total surrender of the \textit{will} that is required.” ‘Morality: Religious and Secular’ \textit{Rationalist Annual} (1961), pp.13-4. For a more positive account of the place of autonomy in the Judaeo-Christian tradition, see Kenneth Seeskin, \textit{Autonomy in Jewish Philosophy} (Cambridge: Cambridge University Press, 2001).
\textsuperscript{50} Cf. Lauren Berlant’s recent remarks that “new social movements are not presuming prosperity, property, accumulation, and kinship as the grounds for making life. Reinventing work and care, they’re also attempting to change the affective resonance around dependency. In neoliberal normativity, to be dependent is to be non-sovereign: but in the era of austerity, it is the first step to solidarity.” Earl McCabe, ‘Depressive Realism: An Interview with Lauren Berlant’ \textit{Hypocrite Reader} 5 (2001) [Available: http://hypocritereader.com/5/depressive-realism].
suggests that interaction with people limits us – others have been at the forefront of the revisionary project of developing a relational account of autonomy. For instance, thinkers like Jennifer Nedelsky have argued that autonomy can be reclaimed as a feminist value so long as it can be suitably reconfigured to “move beyond a conception of human beings that sees them as exclusively separate individuals” and which only “focuses on the threat of the community.” For Nedelsky, as for other relationalists about autonomy, “[t]he collective is not simply a threat to individuals, but is constitutive of them, and thus is a source of their autonomy as well as a danger to it.”

At this point, it may help to distinguish some different strands in feminist critiques. Some target metaphysical presuppositions of traditional conceptions of autonomy, arguing that individuals are constituted by or otherwise inseparable from those they stand in social relationships with – relationships are thought to be part of who they are. Others target weaker presuppositions: those which would suppress or ignore empirical relationships of dependence. For example, people are to varying degree dependent upon one another for their material needs (such as nutrition, clothing, and shelter) and emotional bonds (of friendship, love, solidarity, and so on); but this need not imply the more radical thesis that these relations of dependence constitute our selves, over and above our sense of ourselves. However, most such critics would agree with Eva Feder Kittay when she warns of the dangers of falsely idealising human beings in a way that “fosters a fiction that the incapacity to function as a fully co-operating societal member is an exception in human life, not a normal variation”. In other words, it is important not to lose sight of the fact

52 ibid.
54 Eva Feder Kittay, Love’s Labour: Essays on Women, Equality and Dependency (London: Routledge, 1999), p.92. Kittay problematises the role of autonomy in political theories of justice and has claimed that: “Autonomy in the sense of self-governance is surely of special importance. But this Kantian consideration must find its way into a more adequate representation of persons, one capable of acknowledging dependency as an obligatory limitation to self-governance.” ibid. One of her concerns is that dominant theories of justice – John Rawls’ being the paradigm example – utilise a pernicious idealisation of the person which overestimates the degree of autonomy people actually achieve. She takes this normalisation of autonomy in standard accounts of justice to conceal caregiving relationships from consideration in discussions of justice and to distort our thinking about the distribution of the costs and burdens of dependency and vulnerability when reasoning about the design of the social order.
that autonomy is a contingent achievement, which can ebb and flow, rather than an ever-present feature of our lives.

Health and Social Care

3.1 Autonomy as a Contested Value in Health and Social Care

Autonomy has come to dominate bioethics. The standard textbook used in teaching – Beauchamp and Childress’ Principles of Biomedical Ethics – lists four fundamental principles: autonomy, nonmalfeasance, beneficence and justice. However, the first of these has attracted the lion’s share of attention; and some argue that “it has become the ‘default’ principle of applied principlism, the principle to be appealed to when principles conflict.”

Another commentator notes that “thoroughgoing autonomists – people who think that autonomy is the only principle we need” are particularly well-represented outside of academic ethics, crowding the “ranks of the professional guideline drafters.” One explanation for autonomy’s prominence is that “only autonomy is easily codified into a set of rules and regulations pertaining to day-to-day clinical health care”, which can be ritualised and administered with relative ease. Whether it is ease of administration or commitment to self-determination that is most responsible, the ideal of autonomy now holds a reigning position in much professional and legal rhetoric.

Some critics take direct aim at autonomy. Charles Foster has attacked what he sees as an overweening deference to autonomy in medical law, arguing that over a whole range of issues – including medical research, abortion, end of life decisions and organ donation – that respect for

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57 Charles Foster, ‘Autonomy: Amorphous or Just Impossible?’ http://blog.practicaledics.ox.ac.uk/2011/03/autonomy-amorphous-or-just-impossible (accessed: 10/2/12)
autonomy must be proportionate and balanced by regard to other rights and values, such as justice, professional integrity and human dignity. In short, he cautions against the ‘tyranny’ of autonomy in legal regimes, claiming that it “should not be the only voice at the table in medical ethics or medico-legal discussions.”59 For instance, in discussing medical research, Foster notes that the Helsinki declaration’s demand that “considerations related to the well-being of the human subject should take precedence over the interests of science and society” precludes “the balancing of societal benefits against personal benefits that we have previously seen in (for instance), the structure of Article 8 of the European Convention on Human Rights.”60

Carl Schneider, with substantial empirical evidence, challenges the notion that patients want to be autonomous – at least, to the extent to which they are forced to be. He critiques “mandatory autonomism”, which consists in making patients decide for themselves even when, as it were, they decide not to decide.61 Schneider claims that although patients want to be kept informed, many would prefer not to shoulder the burdens of making treatment decisions. Patients want only delimited forms of autonomy, along with “personal concern” (that is, a relationship built upon sympathy and understanding).62

Onora O’Neill has also attempted to shift our focus from autonomy to the nature of the relationship between professionals and clients, and the need to foster trust within it.63 She argues that insufficient justification has been given for contemporary respect for autonomy – that is, insofar as autonomy is usually interpreted in practice, namely either as mere choice, or as engaging in a minimally rational deliberative process meeting some broad formal constraints as to the cause of our thought and action. O’Neill claims that practices like seeking consent, which are often legitimised by appeal to the importance of autonomy, can be supported on other grounds, such as ordinary ethical principles of non-coercion and non-deception, and the need for

59 Charles Foster, Choosing Life, Choosing Death: The Tyranny of Autonomy in Medical Ethics and Law (London: Hart, 2009), p.15
62 ibid. p. xiii.
trust in public institutions of medicine, social care and science, and in the interpersonal relationships that people have with professionals.

In addition to normative disagreements over autonomy, it is often said that autonomy itself is harder to come by on the ground than it is in textbooks. One longstanding concern is that respect for autonomy amounts to no more than a ritualised and heavily manipulated process of obtaining the necessary evidence to justify a course of action which professionals have already decided upon – that it becomes a matter of “producing assent”.64 Furthermore, institutional changes are making the standard model of the consent process – in which clients consult with a professional about a single decision to be made, who then obtains consent from them – evermore antiquated. The profusion of bureaucratic structures throughout health and social care now mean that many decisions (particularly those with cost-implications) are now taken at a higher level, divesting both frontline professionals and their clients of autonomy that might otherwise wield.65 Agledahl et al note the increase in the use of large care teams and remark that medical care is a “process over time and space in which several participants guide the actions that are taken” which “makes it harder to define who has made the decision, identify who has the moral responsibility and understand what respecting a patient’s right to autonomous choice could mean.”66 Ultimately, they conclude that autonomous choice is the wrong lens through which to pursue patient autonomy, insofar as “Autonomous choices play a marginal part in clinical practice.”67

3.2 Criticism of Current Tests of Autonomous Decision-Making

Louis Charland has claimed that dominant theories of decision-making “tend to be exclusively cognitive in nature and orientation” and that this is mirrored in a “cognitive inertia” and “cognitive bias of the law, which remains stubbornly institutionally and historically entrenched:

65 “[T]he bureaucratization of modern medicine seems to be shifting the authority to make medical decisions away from both doctor and patient and toward the organizations that increasingly dominate American medical care.” Schneider, op cit p. xiii
a legal noose around the theoretical neck of capacity."\(^{68}\) This manifests itself in deficits in at least two areas: emotion and value.

Charland acknowledges that it is often noted that the presence of emotions can impair the cognitive abilities required for competence. Yet, he claims that these *cognitive* abilities include emotion as a positive necessary condition. In particular, appreciation, as it figures in the MacCAT-T is said to require emotion: “appreciation in the sense of significance requires that one be capable of appraising events as personally meaningful. Since appraisal is part of the overall capacity for emotion, appreciation in that sense requires emotion.” \(^{69}\)

In reply, Paul Appelbaum makes two main criticisms of Charland. First: “To say, ‘Since appraisal is part of our capacity for emotion, appreciation requires emotion’ is a logical error.” \(^{70}\) At most, Charland’s argument suggests emotion and appreciation have similar prerequisites. Second: that Charland falls victim to the cognitive bias he condemns, since the emotional capacities he invokes are merely the “addition of a new cognitive element—i.e., appraisal—that is closely related to an existing component of competence—i.e., appreciation.” \(^{71}\) Appelbaum claims that there are other grounds for considering whether emotional capacity is required for competence—for instance, Damasio’s work on patients with injuries to parts of the brain required for ordinary emotional functioning, whose lives and relationships were ruined by an inability to reason and decide, but who remained of normal intelligence—but the burden of proof needed to recommend change has not been met.

Charland claims that objectivity is a desiderata of conceptions of competence, and this partially explains the attraction of information-based cognitive capacity accounts. This is because these capacities are thought to have little to do with *value*, which helps justify the claim to objectivity.

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\(^{71}\) ibid, p. 386.
However, this strategy is rejected as “empirically inadequate” because decision-making capacity is always normative, insofar it requires possessing values and an internalist rationality.\textsuperscript{72}

Tan and her colleagues argue that empirical evidence from disorders such as anorexia nervosa demonstrate that values are significant for (some) assessments of decision-making capacity in ways that “a narrow interpretation, that is, focusing on the cognitive ability to understand and believe the relevant information and weigh it up to come to a decision” fails to capture.\textsuperscript{73} To locate the relevant capacity-undermining element, they propose the concept of ‘pathological values’, which are inauthentic values attributable to mental disorder. In response, Grisso and Appelbaum claim that the appreciation component of the MacCAT-T already accounts for capacity-undermining effects of anorexia nervosa.\textsuperscript{74} Tan et al reply that their primary aim is to determine whether the grounds for overriding refusal they identify are legitimate and not whether they are novel.\textsuperscript{75}

Jochen Vollman agrees that “[t]he qualitative data from patients with anorexia nervosa underline the problem of the cognitive bias of the MacCAT-T assessment and the illusion of value-free categories” and that “values and emotions should be considered in addition to cognitive functions in assessing competence”.\textsuperscript{76} Whilst recognising the importance of issues of personal identity and authenticity, he questions whether they should be framed in terms of pathological values, since being caused by a mental disorder is not sufficient to render a value a threat to capacity.

Hilary Brown claims that the standard of mental capacity in \textit{Mental Capacity Act 2005} is based on “a cognitive, linear model of decision-making” which “assumes that decisions are made on the basis of a cool assessment of the future outcomes of various options and alternatives through


\textsuperscript{76} Jochen Vollmann, “‘But I Don’t Feel It’: Values and Emotions in the Assessment of Competence in Patients With Anorexia Nervosa’ \textit{Philosophy, Psychiatry, & Psychology}, 13: 4 (2006) p. 290,
some type of cost-benefit analysis.”\textsuperscript{77} Her concern is that a lack of explicit discussion of emotional factors means that they are not being used to guide capacity assessment; and she suggests that “a person’s emotional state, their personal history, and their relationship history or family dynamics should be taken into account in the evaluation of their ‘mental capacity’ rather than screened out of the assessment process.”\textsuperscript{78} This is meant to be a better way of upholding the principles of the MCA rather than being a challenge to them.

More radical critics have attacked the very use of mental capacity assessment more widely. In particular, radical disability organisations have attacked pervasive assumptions about the legitimacy of challenging the legal status of people with significant developmental and mental health issues on grounds of a failed assessment. One of their main legal victories has been in shaping the drafting and subsequent interpretation of the UN Convention on the Rights of Persons with Disabilities, particularly Article 12, which requires that “persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life”. On more radical construals, this puts the Convention in conflict with much existing law based around mental disorder and mental capacity.

Proponents of radical disability approaches have claimed that insofar as current assessment of mental capacity and competence makes legal rights to make decisions for oneself conditional upon a test that excludes some persons with disabilities from having their decisions accorded equal status under the law with others, then such legislation must be jettisoned. In Bach and Kerzner’s words: “mental capacity can no longer serve as a proxy for legal capacity.”\textsuperscript{79} When someone with a mental disorder or developmental disability has an identifiable will or set of preferences, then these critics maintain that proxy decision-making, such as acting in their stead in line with their legally-adjudicated ‘best interests’, cannot be countenanced. At most, they claim, other people should be called upon to help articulate the person’s will. Whether this approach is feasible is a much-disputed live issue in discussions of disability law.

\textsuperscript{78} ibid., p.201.