

In Defence of Freedom Consequentialism

A dissertation submitted in fulfilment of the requirements for
the degree of Doctor of Philosophy
in Philosophy

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2017

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Acknowledgements

I would like to acknowledge and thank all those who helped me work on this thesis. In particular my supervisors Carolyn Mason and Michael-John Turp who provided considerably different but both indispensable advice and feedback on the writing and editing of this thesis. In the same vein, Sophia Bennetts who helped me work through various difficult philosophical problems over hot chocolate and my parents who helped however they could even when they had no idea what I was writing about. I would also like to thank all those who provided feedback and criticism to my ideas and arguments, especially Douglas Campbell who helped me work out some kinks with my free will wager argument and Peter Wenz who had several interesting and relevant arguments with me.

Abstract

Freedom consequentialism is a new consequentialist normative theory that puts personhood at the heart of morality. This theory's measure of value is the ability of persons to understand and make their own choices, which I call "freedom". Because its measure of value is the ability to use faculties which are, together, shared by all and only all persons, freedom consequentialism puts personhood at the heart of morality, while still being a consequentialist theory. Because of its measure of value, freedom consequentialism provides an answer the demandingness and supererogation objections which is not available to traditional consequentialist theories and which aligns with commonly-held moral intuitions on obligation and demandingness. This theory has interesting implications for normative ethics. It offers an intuitively-appealing approach to the moral status of children and gives us reason to rethink the distinctive wrong in lying. Freedom consequentialism also has interesting and useful implications for political philosophy. It gives us a method of justifying the state which allows us to maintain the common commitments to individual freedom, the justification of states and the existence of private property. It also allows us to evaluate the morality of ways in which states restrict persons' freedom in a simple and intuitively-appealing way. While this theory is still new, and requires further work in some areas, it has interesting and promising implications which are explored in this dissertation.

Introduction

In this thesis, I develop a new consequentialist moral theory, which I call freedom consequentialism. After discussing the measures of value used by other consequentialist theories, I argue in support of a different measure of value: the ability of persons to understand and make their own decisions, or “freedom”. Using freedom as the intrinsic value within a consequentialist theory requires thinking beyond the hedonic calculus approach to determining what ought to be done. So, I evaluate the optimum way in which freedom consequentialism can measure value. I examine whether this theory is open to the same demandingness objections as utilitarianism and explain how it can deal with moral obligation in a way that better fits our moral intuitions. I consider this theory’s implications for the ethical issues of the moral status of children and whether deception is wrong and demonstrate that it can give sensible recommendations that align with many commonly-held moral intuitions. I examine the theory’s implications for political philosophy, specifically how we can justify having a state and when that state is justified in breaching the freedom of its citizens. I consider potential criticisms of this theory and show why they are either not applicable or not fatal to the theory. The thesis concludes with a discussion some of the challenges freedom consequentialism faces in the future and some interesting future possibilities for the theory.

My goal in constructing my normative theory is to determine how free, rational agents ought to be or act, where “ought” is understood in an objective and universal sense, assuming that this question has an answer. Because this is my goal, I put free, rational agency, or “personhood” at the heart of my theory. The measure of value I use is the ability of persons to understand and make their own choices, as being able to do these two things in conjunction is the defining characteristic of free, rational agency. In this way, my theory shares the advantage deontology has of closely connecting moral value with moral agency. Because my theory is also consequentialist, it shares the advantages utilitarianism has of not having to draw a strong distinction between action and inaction, and of being able to make clear recommendations in most circumstances by analysing the consequences of the various courses of action available. So, to the extent that one thinks that morality should describe the way all persons ought to be or act, or that one finds both consequentialism and a close connection between moral value and moral agency appealing, one has a reason to be interested in my theory.

Some may object that focusing on how all free, rational agents ought to be or act is not or should not be the primary goal of ethics, and that a theory focused on this may miss important aspects of what it is to be human and what it is to be a good human. Even if this criticism is correct, it is still useful to seek a moral theory that is concerned with how all free, rational agents ought to act, in the same way that it is useful to have international laws even if they do not cover everything that individual states want to prohibit within their borders. We may eventually encounter other free, rational agents, perhaps ones artificially created by us, and if that time comes, we would do well to have a moral theory that could be used by both species in their interactions.

Further, even were one to think that the goal of creating a moral theory that can apply to all free, rational agents is worthless, freedom consequentialism could still be a useful theory. For the sake of the persuasiveness of my theory, I have advocated approaches that avoid significant conflict with commonly-held moral intuitions when these do not conflict with the other aims of my theory. This, combined with the existing appeal of freedom and consequentialism, has led to the creation of a theory which has appealing features even for those who take a different view on the point of morality. For example, freedom consequentialism’s ability to protect moral rights in a consequentialist way, its approach to moral demandingness and its ability to include entities that traditional, utilitarian consequentialist theories

cannot in the realm of moral consideration, are all appealing features. I have endeavoured to make these and other appealing features obvious in my thesis.

This thesis covers a lot of different material, ranging from determining what is of fundamental moral value and what we should say about moral obligation, to the practical implications of freedom consequentialism on contested questions in moral and political philosophy. The structure of the thesis is best understood in terms of sections as well as chapters. What follows is a brief description of each chapter of the thesis, and the four broad sections that they fall under.

Section One: Establishing the theory

The first section of this thesis, establishes the framework of a new normative theory, freedom consequentialism. This section includes discussions of my aims in creating this theory, what we should treat as having moral value, the form of consequentialism this new moral theory should take, what we should say about issues of moral obligation and demandingness and how freedom can be weighed and evaluated. By the end of this section, I have established the basic framework of freedom consequentialism.

Chapter One: A new normative theory

The first chapter of this thesis discusses existing kinds of consequentialism and how my theory fits within the consequentialist landscape. I discuss my aims in creating this normative theory and use these aims to determine what measure of value my theory should use and what form of consequentialism it should take. By the end of this chapter, I have laid the foundations for a new consequentialist theory that uses as its measure of value the freedom of persons over that which belongs to them.

Chapter Two: The measure of value

In this chapter, I discuss what I mean by “freedom”, what kind of freedom matters morally, and how freedom can be used as a measure of value for a consequentialist theory. I begin by arguing that we have good reason to believe that we have free will, which is important, as my measure of value rests partly on free will. I then discuss what I mean by “freedom” and how my use of the term relates to existing literature on freedom. Next, I discuss what we should think belongs to a person, and what this means for what we can say persons ought to be free to choose. Finally, I consider how freedom can be used as the measure of value in a consequentialist theory.

Chapter Three: Moral obligation and the demandingness objection

Chapter three examines what freedom consequentialism can say about moral obligation and supererogatory action. I argue that freedom consequentialism is not vulnerable to the demandingness objection that is often levelled at utilitarianism and that it can take a more nuanced approach to moral obligation that coincides better with our moral intuitions.

Chapter Four: Weighing freedoms

This chapter determines how we can weigh the freedom to make one choice against the freedom to make another. I discuss the problems with weighing the freedom to make different choices and whether we have reason to think that the freedom to make some choices can be of incommensurable value with the freedom to make others. I analyse possible methods of weighing the freedom to make different choices that use the number of choices involved, our intuitions, our preferences, and the objectively ordering freedoms and discuss the problems with each. Finally, I offer a practical solution that allows freedom consequentialism to be action-guiding.

Section Two: Application to ethics

This section deals with some specifics of how freedom consequentialism works and how it can be applied to ethical issues. It includes discussions of the moral status of children and whether there is anything inherently wrong with lying and under what circumstances it is permissible. In this section I demonstrate that freedom consequentialism can make sensible and intuitively-appealing recommendations to ethical issues such as how we should treat children and under what circumstances we should deceive one another.

Chapter Five: The moral status of children

In this chapter, I examine what freedom consequentialism can say regarding children, as they are often considered not to be persons. I discuss the position on the moral status of children taken by Kantian deontology, utilitarianism, Scanlon contractualism and those who think that genetic humanity matters. I analyse ways in which freedom consequentialism might include children in its moral calculation and argue that this can be done in a way that aligns with commonly-held moral intuitions without giving up freedom consequentialism's focus on persons as the subject of morality.

Chapter Six: Deception and lying

Chapter six examines what freedom consequentialism can say about lying and under what circumstances lying is wrong. In particular I consider the extent to which lying to someone can affect their ability to understand their choices. In this chapter I argue that while there are circumstances where lying is impermissible, lying is not wrong in itself. I also examine the potential intuitive conflict with claiming that lying is often not wrong, and argue that this conflict is not as significant as it first appears.

Section Three: Implications for political philosophy

In this section, I discuss the implications of freedom consequentialism for political philosophy. It includes discussions about how we can justify a state that restricts our freedom if freedom is what is valuable, and to what extent a state can be justified in restricting the freedom of its citizenry. In this section, I demonstrate how freedom consequentialism can be a useful and appealing theory in the realm of political philosophy.

Chapter Seven: Justifying the state

Chapter seven examines how a state can be justified according to freedom consequentialism. In this chapter I argue that although classical libertarians are correct, and taxation is theft, it is a justified theft when it leads to less freedom being breached overall. I also discuss what obligations a state has to its people.

Chapter Eight: Restriction of liberty

In this chapter, I examine what kinds of restrictions states are justified in placing on person's freedom according to freedom consequentialism. I do this by crafting a principle similar to John Stuart Mill's Harm Principle. I demonstrate that my principle is not vulnerable to the common criticisms of harm principles. I then use a case study relating to freedom of speech to demonstrate how such a principle can be applied.

Section Four: Criticisms and conclusion

In this section, I describe and reply to some criticisms of freedom consequentialism. I conclude with a summation of what has been shown in this thesis and what work is left to be done in the field of freedom consequentialism.

Chapter Nine: Objections

In this chapter, I examine criticisms and counterarguments that have been raised against freedom consequentialism, but that do not fit into the other chapters. I demonstrate why they do not pose a significant problem for my theory.

Chapter Ten: Conclusion

The conclusion summarizes what the thesis has shown and discusses the issue of risk as it relates to moral decision-making and explores some of the interesting possible future applications of the theory.

Chapter One: A new normative theory

In this chapter, I outline my new normative theory: freedom consequentialism. As freedom consequentialism is a consequentialist theory, I begin by discussing the kinds of consequentialist theory present in the existing literature. To do this, I first discuss the different measures of value that other consequentialist theories use, and then discuss the different forms a consequentialist theory can take. Next, I present the criteria for the theory I am developing here and explain what measure of value best fits those criteria. Finally, I locate the form of my theory in the existing consequentialist landscape and discuss why it takes that particular form.

Consequentialist measures of value

Before discussing what my new consequentialist theory will look like, we should first consider what measures of value are used by existing consequentialist theories. By “measures of value” I mean the particular feature or property that a consequentialist theory uses to determine the moral status of consequences, in other words, the thing which a consequentialist theory treats as the measure of goodness or badness. Several different measures of value are commonly used in consequentialist theories, and while some theories use only one measure of value, some use a measure of value and a measure of disvalue, and others theories use multiple separate measures of value. These various measures of value used by consequentialist theories are discussed to make clear the primary distinction between my theory and other, similar, theories. There is also a distinction to be drawn between versions of consequentialism that are concerned with happiness or well-being, and which have a measure of utility which they believe is synonymous with happiness or well-being, and consequentialist theories which are concerned with something else. I will not include happiness or well-being as a separate measure, or separate measures of value, as several measures of value used by consequentialist theories could be taken to be synonymous with, or proxies for, happiness or well-being (Mulgan, 2014, p. 61; Sen, 1979, p. 63). However, I will identify those theories that are concerned with something other than happiness or well-being.

Hedonism

Hedonism is the most well-known way of measuring value in consequentialism and is the method used by “classical utilitarians” such as Jeremy Bentham (Bentham, 1996). Hedonism treats pleasure and the lack of pain as having value, and pain and the lack of pleasure as having disvalue. To the hedonist, the utility of some consequence or set of consequences is determined by the amount of pleasure produced (and pain avoided) minus the amount of pain produced (and pleasure prevented). It is worth noting that a lack of pain is not the same as pleasure, or vice versa, in that one can be in a state of experiencing neither pain nor pleasure. Because of this, one could argue that hedonists actually use two measures of value, though ones that are similar and closely connected (Sinnott-Armstrong, 1985, p. 323). Whether or not this is a categorization that the hedonist would accept, it is a useful distinction to make here in order to understand the measure of value I present later in this chapter.

While hedonists focus on pleasure and the reduction of pain, there is significant debate on what exactly these are. Views on this can be separated into two broad categories: phenomenals about pleasure think

that pleasure is a phenomenal state or property, in that it is something one experiences (Schlick, 1961, pp. 36–55; Sprigge, 1988, pp. 127–149); and intentionalists about pleasure think that pleasure is an intentional state or property and is directed at something (Chisholm, 1986, pp. 24–32; Crane, 2001, pp. 78–88; Feldman, 2004, pp. 55–63). We could also talk about “internalism” (rather than phenomenalism) and “externalism” (rather than intentionalism) about pleasure, as these terms are used to refer to much the same distinction (Crisp, 2006).

There are versions of hedonistic consequentialism that use only one of these measures of value, such as negative utilitarianism, which uses only the reduction or avoidance of pain as the measure of value, but these are not as common (Acton & Watkins, 1963; Smart, 1958).

There is also a subtype of hedonism that treats some pleasures as more valuable than others, such that determining the utility of a consequence or set of consequences is not only a function of the amount of pleasure produced, but the kind of that pleasure. This kind of hedonism can claim that certain kinds of pleasure are more morally valuable than other, less-important pleasures. An example of this kind of hedonism is the case of Mill’s higher and lower pleasures where he claims that higher pleasures are more valuable than lower pleasures, because they would be preferred by those who have known both (Mill, 1863, pp. 16–21).

Preference satisfaction

Another common measure of value is preference (or desire) satisfaction or dissatisfaction. Consequentialists using this measure of value, such as preference satisfaction utilitarians, treat as valuable the satisfying of intrinsic preferences or desires, those things we desire or prefer for their own sake, not for their ability to get us something else (Mulgan, 2014, p. 71).

Preference satisfaction as a measure of value is further complicated by the issue of whether to include preferences that, if satisfied, would seemingly not increase the well-being of the person who has them. Such problematic preferences include those that have little or nothing to do with the person who has them, preferences that relate to things that happen after one’s death and preferences that are seemingly trivial (Mulgan, 2014, pp. 71–78).

Preference satisfaction consequentialists can avoid this problem by not using a person’s actual preferences as the measure of value, but rather the preferences they would have if they were appropriately informed or appropriately rational. So, there is a distinction to be drawn amongst preference satisfaction consequentialists between those who treat the satisfaction of actual preferences as the measure of value and those that focus instead on informed or rational preferences. (Griffin, 1986, pp. 10–18). This distinction is complicated by the fact that differing accounts of rationality yield different accounts of what preferences or desires are appropriately rational.

Pluralist forms of consequentialism

These previous methods of measuring value treat either only one thing as important, or two things that are intimately linked as important, but there are also consequentialist theories that treat multiple different, and sometimes unconnected, things as measures of value. These we can call the pluralist forms of consequentialism. Next, we will examine these forms of consequentialism.

Objective welfare list

Some consequentialists treat a list of things that they believe constitute happiness or welfare, as all being valuable. Tim Mulgan gives a list of items commonly included on these “objective lists” in his book *Understanding utilitarianism*. According to Mulgan (2014, pp. 83–84) common things considered to be of value in objective list theories are:

- pleasure or preference satisfaction
- basic needs (to survive and function properly)
- achievement or accomplishment
- understanding or knowledge
- agency, autonomy, or freedom,
- friendship, deep personal relations, or love,
- religion
- respect

Accepting more than one or two closely linked measures of value leads to more complicated forms of consequentialism. The simplest of these objective list theories adds the value of the different measures together. Others have more complicated systems of value calculation, such as one item on the list enhancing the value of another, one item acting as a precondition to the value of another or items having conditional value (Mulgan, 2014, pp. 85–86). Further, some of these values may be incommensurable with others, that is, it may be impossible to weigh the different values against one another. If the different measures of value used in a pluralist theory are incommensurable, then this can lead to irresolvable moral dilemmas (Railton, 2003, pp. 249–285; Sinnott-Armstrong, 1985).

We can group together versions of consequentialism which take their measure, or measures, of value as synonymous with, or constitutive of, happiness or well-being. We can call these kinds of consequentialism “welfarist”, in that they treat the welfare of individuals as the measure of moral value (A. Moore & Crisp, 1996; Sen, 1979). James Griffin’s theory of well-being, which focuses on accomplishment, autonomy, understanding, enjoyment, deep personal relations and living a life of point and substance as the main constitutive elements of welfare, is an example of a welfarist objective list theory (Griffin, 1986, pp. 75–124, 134, 2000, pp. 281–285).

Non-welfarist objective-list theories

Non-welfarist objective-list versions of consequentialism treat as valuable measures of value which are separate from welfare or happiness. One example of this kind of consequentialism is Hurka’s perfectionist consequentialism, which is not concerned with happiness or welfare (at least as the terms are usually understood), and is instead concerned with eudaimonia, or living the good, or desirable, life (Hurka, 1993, pp. 3–6). Hurka argues for measures of value based on the characteristics that are essential to being human (Hurka, 1993, pp. 37–51). These measures of value are: the development of our physical nature (physical perfection), the development of our theoretical rationality (theoretical perfection), and the development of our practical rationality (practical perfection) (Hurka, 1993, p. 51). These three measures are claimed to be constitutive of overall human perfection, and therefore living a good or desirable life.

Another non-welfarist objective-list theory is to be found in G. E. Moore’s *Principia Ethica*. Moore’s theory is more pluralistic than Hurka’s perfectionist consequentialism; Moore’s objective-list treats multiple things as of intrinsic value, rather than taking multiple measures of value to be constitutive of an

overarching, true, measure of value. Moore argues that identifying something like pleasure or desire-satisfaction as synonymous with the good is a mistake of definitions and commits a kind of naturalistic fallacy, as even if one of these things were the sole constituent of “the good” that would not be the same as them being identical to “the good”. (G. E. Moore, 1922, pp. 9–14). Moore goes on to argue that pleasure is not the only good (G. E. Moore, 1922, pp. 59–108). When determining what is of intrinsic value, he instead considers all those things that we would still judge the existence of to be good were they to exist in complete isolation, (G. E. Moore, 1922, p. 187). This leads to Moore claiming that pain has disvalue, or is an “evil” (G. E. Moore, 1922, p. 213), but not that pleasure has value, or is by itself “a good”, rather, he claims that pleasure in the wrong things, those which are positively ugly, can be of disvalue, or “bad” (G. E. Moore, 1922, p. 190). Moore also includes so-called “mixed goods” amongst those things he thinks as good; “mixed goods” are things which are good as wholes but contain something intrinsically bad, such as compassion, which Moore takes to be good, but which requires a cognition of something bad (G. E. Moore, 1922, pp. 214–219). However, this does not commit Moore to claiming that an ideal world should contain suffering, or other things that are bad, in order for people to be compassionate or courageous, as compassion or courage might be directed towards imagined evils, such as those in works of fiction (G. E. Moore, 1922, pp. 219–220). Moore’s list of things which are of value consists of: the love or admiration of beautiful things or good persons (or good actions or qualities); the hatred of what is evil or ugly; and compassion for pain (G. E. Moore, 1922, pp. 224–225). Moore’s list of things he takes to be of disvalue consists of: hatred of what is good or beautiful; and the consciousness of pain (G. E. Moore, 1922, p. 225).

Two measures of value

Another kind of pluralist consequentialism uses an additional measure of value as well as a traditional welfarist measure. Rights or fairness are a common additional and separate measure of value to a more traditional one such as hedonism or preference satisfaction. Theories of this kind can treat their non-welfarist measures of value as another thing that ought to be promoted alongside individual welfare, as Broome considers with regard to fairness (Broome, 1991, pp. 192–200), or as something which ought to be promoted and which always trumps considerations of welfare, such as in a consequentialist reading of Rawls’ Liberty Principle (Rawls, 2003, pp. 266–267), or as constraints to promoting or protecting their welfarist measure of value, such as treating rights as a constraint on promoting the good as discussed in Kagan’s *The Limits of Morality* (Kagan, 1989, pp. 204–230)

Distinctions between consequentialist theories

There are many hybrid views between two or more of these measures of value, but we can make some distinctions in how consequentialist theories measure value. There is a distinction to be made between those that attempt to measure one thing, such as happiness, welfare or eudaimonia, whether they do so using multiple different measures or proxies, and those that use multiple distinctly different measures, such as happiness and fairness. There is also a distinction to be drawn between the number of different measures used, regardless of whether those measures are constitutive of a greater whole which the theory attempts to measure. Along these lines, we can separate consequentialist theories into three broad categories. Single-value consequentialism: theories that treat a single thing as the measure of value such as negative utilitarianism. Dual-value consequentialism: theories that treat two closely-connected things as together being the measure of value, such as hedonism. And, pluralist consequentialism: theories that treat multiple different and potentially unrelated things as measures of value. These distinctions are not intended to be precise. Rather, they are intended to give some structure to our discussion of measures of value used by consequentialist theories in order to clarify the measure of value that my new form of consequentialism uses, and where that measure of value fits in the consequentialist landscape.

Forms of consequentialist theory

Which measure of value a consequentialist theory ascribes to is of fundamental importance to its moral recommendations as a normative theory. However, it is not the only important element of a consequentialist theory. Just as there are many different measures of value that can be used by consequentialist theories, there are many forms a consequentialist theory can take. Next, I examine the different forms a consequentialist theory can take. While there are many ways to differentiate between consequentialist theories, I focus on those distinctions between consequentialist theories that are useful in understanding the theory I present later in this chapter.

Consequences for everyone or for the individual

An important distinction to be drawn between consequentialist theories is between those that are concerned with the consequences for everyone and those that are concerned only with the consequences for the individual actor. This is a distinction in the scope of consequences considered valuable. Consequentialist theories of the first kind consider the consequences for everyone capable of experiencing the relevant value or values to be relevant to the morality of an action. This kind of consequentialism can be thought of as comparing the value of different states of the world and recommending the one with the greatest value. The second kind of consequentialism is concerned only with the consequences for the individual, and recommends that each person do what will increase value for themselves, whether or not this leads to a state of the world that has more value in it overall. The various forms of utilitarianism, and many other non-utilitarian consequentialist views, fall into the first category (Mulgan, 2014, p. 1), while consequentialist forms of ethical egoism fall into the second (Hospers, 1973; Regis, 1979, p. 45).

Recommending or ranking

Consequentialist theories can also be differentiated based on whether they identify certain actions as ones which ought to be done, or whether they only rank actions, or states of affairs, by their goodness. This is a distinction in whether the theory is action-guiding or not. Consequentialist theories which identify actions that ought to be done, or as “right” can be referred to as “recommending” consequentialist theories, as they tell agents what they ought to do. Consequentialist theories which do not identify certain actions that ought to be done, or as “right”, but instead only rank actions, or states of affairs, from better to worse, can be referred to as “ranking” forms of consequentialism. Recommending forms of consequentialism may also rank states of affairs or actions in terms of goodness or value, but the key distinction here is that ranking forms of consequentialism *only* rank actions or states of affairs, they do not recommend any as the right one or ones to do or pursue. Most forms of utilitarianism fall into the first category, measuring value produced by actions in order to determine which action or actions are right, and recommend you do those (Lang, 2013, p. 80; Mill, 1863, p. 14). Scalar utilitarianism falls into the second category as it does not identify a *right* action or actions, and instead only ranks actions according to how much good is produced. Scalar utilitarianism ranks actions, or states of affairs, as more good or more bad than each other, depending on how much good is produced by them, but does not categorize actions as right or wrong (Dreier & Norcross, 2009; Lang, 2013, pp. 80–81; Norcross, 2008). Scalar utilitarianism is discussed further in chapter three.

Consequences of actions or rules

Another distinction to be drawn between consequentialist theories is between those that are focused on the consequences of actions and those that are focused on the consequences of rules that your actions

fall under, if generally followed. Act-consequentialism evaluates actions by reference to their consequences (LaFollette & Persson, 2013; H. B. Miller & Williams, 1982, p. 5; Sinnott-Armstrong, 2015a), while rule consequentialism evaluates actions by reference to the rule those actions conform to and the consequences of that rule if generally accepted (Hooker, 2000, pp. 1–2; Martin, 2008, pp. 229–230; Rajczi, 2016, p. 858). Many consequentialists maintain that following certain “rules of thumb” may be the best general policy in order to achieve good consequences, due to the practical limitations of considering one’s options whenever one acts, or some measures of value potentially being better pursued indirectly. Here I will be using “rule consequentialism” to refer to the stronger position that it is the consequences of rules of action, rather than individual actions, that should be the focus of morality.

Act consequentialism, particularly act utilitarianism, has been criticized for significantly conflicting with our moral intuitions, both in allowing conduct which is commonly called “reprehensible”, such as punishing the innocent and owning slaves, as well as in not allowing for appropriate importance to be given to the kinds of rights which are required for democracy (Cowen, 2011, pp. 212–216; Martin, 2008, pp. 227–228). Rule consequentialism is thought to avoid this problem. Its focus on rules means that the rule consequentialist can forbid those actions we consider to be reprehensible and place strong importance on respecting the rights or liberty of others, and other things we consider good, so long as doing these things has better consequences overall (Cowen, 2011, p. 212; Martin, 2008, p. 228; Mulgan, 2014, p. 126). Rule consequentialism is also sometimes used as a response to the demandingness objection, as will be discussed in chapter three.

Rule consequentialism has been criticized on the grounds that it collapses into act consequentialism, as the extent to which a set of rules promotes value can be increased by adding additional complexity and exceptions to it, until the set of rules becomes indistinguishable from act consequentialism (Lyons, 1965; Mulgan, 2014, pp. 122–124). Rule consequentialists can respond to this objection by claiming that there is a limit to the complexity the rule set can have (Martin, 2008, p. 233). Alternatively the rule consequentialist can object that rule consequentialism poses an essentially different problem than act consequentialism and the claim that the former collapses into the latter is a misunderstanding of the differing problems posed by these different forms of consequentialism that could possibly coexist (Cowen, 2011, pp. 225–228).

While rule consequentialism could be compatible with the forms of consequentialism included here, I discuss evaluating actions, rather than rules for action, for simplicity’s sake.

Maximizing or satisficing consequentialism

Consequentialist theories can also differ in whether they focus on maximizing the good, or on satisfying some threshold of good. This is a distinction in how a theory determines the right action or actions. Maximizing forms of consequentialism, including classical utilitarianism, treat the right action or actions as the one, or ones, which bring about the most good of those available. Maximizing consequentialism is often thought to be faced with the demandingness objection, according to which these forms of consequentialism require too much from people in order to act rightly. Satisficing forms of consequentialism treat actions or states of affairs that meet some threshold of value as morally permissible and those that do not as morally impermissible.

Satisficing consequentialism can be further split into two categories. Absolute-level satisficing consequentialism holds that actions are permissible if they bring about good above a certain absolute threshold or, where no actions which do this are available, where they maximize good (Bradley, 2006, p. 98). Comparative-level satisficing consequentialism holds that actions are permissible if they are reasonably close to the best possible action available (Bradley, 2006, p. 98).

Maximizing and satisficing consequentialism will be discussed further in chapter three when I demonstrate how my normative theory can deal with the demandingness objection in a way that utilitarian theories cannot.

The consequentialist landscape

So, we have made some distinctions between different kinds of consequentialist theory. We can distinguish consequentialist theories by what measures of value they use and also by several different positions with regard to the form that the theory takes. When determining where a consequentialist theory fits into this landscape, we can go through these distinctive features like a kind of checklist to place the theory in relation to other ones. We can represent this with a table like this:

Name of theory	Measure of value used	Individual or everyone-focused	Recommending or ranking	Act or rule	Maximizing or satisficing

Not all of these distinctions are compatible with all others, in particular, forms of consequentialism that rank actions or states of affairs, but do not recommend them, may be incompatible with distinctions that relate to what a theory recommends. Further, consequentialist theories may not fit into either of the options in one of the above categories, or be a hybrid of both. However, this table need not be perfect in order to be useful, and we can use this table to present consequentialist theories in a clear and easy-to-understand manner. I use this table to present my theory in such a manner later in this chapter.

Aims of my theory

Before discussing where my new normative theory fits into the landscape of existing consequentialist theories, I should first discuss my aims in creating this theory. These motivate everything I do in this work, so it is important to make them clear from the start.

First, my theory aims to be true. This is both an obvious aim and arguably the most difficult aim to achieve for any theory in ethics. It is not a goal I can determine that I have achieved by the end of this thesis (or perhaps ever). However, it is an aim worth stating. It is worth stating because it is important to keep this goal in mind when creating a normative theory, as it is this aim which requires us to avoid internal inconsistencies and conflicts with other known truths (or beliefs we have very good reason to think are true).

With that said, my primary goal in creating this theory is to answer the question of how free, rational agents ought to live their lives, where “ought” is understood in an objective and universal way. This is what I take to be of primary importance in ethics, so this is what I shall be attempting here. I should note that I am not claiming that there *is* some objective and universal way in which free, rational agents ought to live their lives. It may be the case that there is no such way. What I am attempting to answer here is: if there is a way (or ways) in which free, rational agents ought to live, where “ought” is understood in an objective and universal way, what is it? This is the question I have set out to answer.

We can break this general aim into several specific ones to clarify what kind of theory I am setting out to create. As it is attempting to answer how free, rational agents ought to live in an objective and *universal* sense, the second thing my theory aims to be is universal, in that it aims to be applicable universally at any place and any time. Third, as my theory is attempting to answer how free, rational agents ought to live in an *objective* and universal sense, my theory aims to be objective, in that it aims to determine how free, rational agents ought to live, regardless of their culture or individual moral views. Fourth, as my theory is attempting to answer how all free, rational agents, possible as well as actual, ought to live, it aims to apply to all free, rational agents, possible as well as actual. Fifth, as this is a theory of how only free, rational agents, rather than some larger group they might belong to, ought to live, my theory aims to apply to only free, rational agents. Sixth, as this is a theory of how free, rational agents *ought* to live, my theory must have normative force, and so my theory aims to be action-guiding. Seventh, as my theory is one of what all and only free, rational agents ought to do and assuming that ought implies can, my theory must not require actions of agents which they cannot perform. Because of this, my theory aims to describe a moral system that is achievable by all free, rational agents, that is, that all free, rational agents can live up to.

Eighth, my theory aims to be consequentialist, by which I mean that it aims to be a theory in which “normative properties depend only on consequences” (Sinnott-Armstrong, 2015b). Consequentialism’s ability to determine the morality of actions by reference to their consequences allows it to give clear guidance on which actions one should perform. Because of this, being a consequentialist moral theory seems the best way to be strongly action-guiding which, as mentioned above, is another of the aims of this theory. Also, I am not convinced by a strong distinction between acting and allowing, which some forms of moral theory seem to require but consequentialist moral theories do not. For these reasons, my theory will aim to be consequentialist.

Ninth, following in the tradition of Occam’s Razor, and working under the assumption that postulating entities beyond necessity makes for a poorer theory (D. L. Anderson, 2002; Lauth, 1997; Stansfield, 2002), my theory aims to be simple, in the sense of not introducing entities or principles that it does not need in order to meet the other criteria.

Tenth and finally, my theory will aim to be in line with commonly-held moral intuitions. There are good reasons to doubt that our moral intuitions’ ability to lead us to a moral theory that will be applicable to all free, rational agents, as our own evolution and cultural development has almost certainly shaped our moral intuitions in ways that would seem strange to kinds of persons with very different evolutionary and cultural histories. As the theory I am creating here is intended to be of a morality for all persons, not only humans, intuitions derived from our specific biological and cultural history seem unlikely to be a reliable source of information about such a morality. However, there is still a reason to consider our moral intuitions. This is a practical one. The primary purpose of moral theories is not to be persuasive, but to describe the truth of morality as accurately as possible. It follows that moral intuitions are not a substitute for philosophical argument. However, being persuasive is of benefit to a moral theory. If my theory approximates how persons ought to live closely enough, then it would be a good thing, morally speaking, were it persuasive enough for people to want to follow it, and being somewhat in line with commonly-held moral intuitions, or at least not running directly counter to them, is a way to improve the persuasiveness of a theory. So, my theory will aim to be in line, or at least avoid significant conflict, with commonly-held moral intuitions where possible.

In summary, my theory aims to be:

1. True
2. Universal
3. Objective
4. Applicable to all free, rational agents
5. Applicable to only free, rational agents
6. Action-guiding
7. Achievable (possible to live up to)
8. Consequentialist
9. Simple (in the sense of not postulating entities beyond necessity)
10. In-line with commonly-held moral intuitions

Throughout this thesis I try to ensure that my theory meets these aims as best it can. I use these aims, or goals, as theory-selection criteria, and when faced with a choice between different possible principles or positions that this theory could include or take, I use these goals to determine which it should take. In cases where these goals cannot be reconciled with one another, I treat my goals with the following order of priority. Truth is the most important goal, so I will not claim anything which I do not think is true. My second most important goal is to answer the question of how persons ought to be or act, where “ought” is understood in a universal and objective way. This means that the goals of being universal, objective, applicable to all free, rational agents, applicable to only free, rational agents, action-guiding, and achievable are of equal importance. When resolving conflicts between my goals, I give these goals priority over the remaining three goals, and do not include any claims or principles in my theory which are incompatible with these goals. That my theory is consequentialist is my third in order of importance, so I do not advocate any positions or principles which require us to give up the central tenet of consequentialism: that normative properties depend only on consequences (Sinnott-Armstrong, 2015b). My fourth most important goal is simplicity, in the sense of not postulating entities beyond necessity. Finally, the least important of this theory’s goals is avoiding conflict with commonly-held moral intuitions. While I use this goal to determine which positions my theory should take on a range of issues throughout this thesis, I do so when deciding between positions that are all compatible with the other goals of the theory. In instances where aligning with commonly-held moral intuitions is incompatible with the more important goals of my theory, I opt to conflict with commonly-held moral intuitions.

So, with these goals in mind, we can begin constructing a new normative theory.

My measure of value

The first thing to determine in constructing a consequentialist normative theory is the measure of value, the thing which the theory uses to determine the goodness and badness, and potentially rightness or wrongness, of different actions, rules, or states of affairs.

In determining what measure of value to use for my new normative theory, we should consider the aims of the theory specified above. Because this theory aims to apply to all free, rational agents, we should look for our measure of value in things that can be applicable to all free, rational agents. In order to do this, we ought to first define “free, rational agent”, so let us look at these three conditions (of being free, of being rational and of being an agent) in turn. What I mean by something being “free” (when used in

the phrase “free, rational agent”) is that it has free will. By having free will, I mean that it meets these two conditions: first, it has the ability to make choices that are not wholly determined by external or preceding factors, but rather are a product of the agent itself; and second, the agents’ choices could have been different from what they were, without any difference in the state of the world prior to the making of those choices. By something being “rational” I mean that it is able to recognise reasons for making one choice over another and respond to them (Raz, 1985, p. 355), such that it can understand its actions and the reasons for carrying out certain actions over others. A possible way to define “agency” is being capable of acting intentionally, but I take “agency” to require that the agent must also be conscious. Without consciousness, that is, the ability to experience, there is no one acting, only a set of processes producing a result. A “free, rational agent”, then, is anything that fulfils these conditions. As I treat free, rational agents as the subjects of morality here, I treat the terms “moral agent” and “person” to mean free, rational agent from here on.

With our terms defined, we can now sensibly ask what candidates for moral value could be applicable to all possible persons. Because we want our theory to be applicable to all moral agents, we might first look for measures of value that are based on something that can be shared by all moral agents. If we were to use something as our measure of value that is shared by only some persons, rather than all of them, then we will create a moral theory that is applicable only to that subset of persons. This immediately shows us that some measures of value will not be appropriate for our new normative theory. For example, happiness, when understood as a involving certain kinds of mental states, does not seem to be a workable measure of value if our theory is to be applicable to all possible persons, as persons that do not experience mental states that could be identified as happiness are logically possible.

However, restricting our measure of value to one that can be shared by all persons still leaves us with several options for potential measures of value. Being free, being rational and being agents are all shared by persons as these are the constitutive parts of what it means to be a person as I have used the term. Arguably, preference satisfaction might be a value that can be shared by all persons, as one may need to have at least some preferences in order to be able to be rational, as without any preferences of any kind, one would arguably have no reasons to perform one action over another and could never consider and respond to reasons. One could also argue that some conceptions of “authenticity” or “virtue” can be shared by all free, rational agents, and just be expressed differently depending on the particular species of free, rational agent. There also seem to be trivial things shared by all possible persons, such as them being possible and, therefore, not containing any logical contradictions. In short, there are many possible measures of value that seem like they can be shared by all free, rational agents. In order for our theory to fulfil our criteria of simplicity, we need some way of narrowing the field.

However, because we are aiming for a moral theory that applies only to persons, we can use that aim to narrow our field of options for a measure of value. In addition to asking what characteristics are shared by all possible persons, we can ask what characteristics are shared by possible persons, but not shared by anything else. Because we are aiming to create a theory that applies to all and *only* persons, we should use a measure of value that can be shared by all and *only* persons. The essential features of a moral agent are that it can make free choices (that it has free will and is an agent) and that it can understand those choices (that it is rational). The ability to *understand and make choices* then, is a characteristic that can be shared by all, and only, moral agents. All possible persons can have this ability but nothing else can, having these faculties of free will, agency and rationality is essential to being a person. This is the kind of measure of value we are looking for, and it does not seem as if there are any other potential measures of value that fit the same criteria, as the characteristics shared by all persons discussed above can also be shared by other non-person entities. We can imagine entities that have preferences but do not possess free will, we can imagine entities that are authentic or virtuous examples of their kind without being

persons, and every entity we can coherently imagine is, presumably, logically possible. We cannot imagine a person, as I have used the term, that does not have the capacity for understanding and freely making choices, because, as mentioned above, the capacity to understand and freely make choices is required for personhood. So, I will use as my measure of value the ability to understand and make choices. From here on I will call this measure “freedom” as this seems the most closely analogous word to “the ability to understand and make choices”. How this kind of “freedom” relates to other philosophers’ concepts of freedom, and why this one is a better measure of value for this theory will be discussed in chapter two.

However, I will not treat the ability of persons to understand and make *all* choices as valuable. In order for this moral theory to be action-guiding, achievable, and consistent with moral intuitions, we should limit the kind of freedom that we treat as morally valuable. If we do not limit the kind of freedom that we consider morally relevant, then our theory would imply that whenever person A made a choice that person B did not want them to make, this would reduce the freedom B to choose that A does not make that the original choice and this would be a morally relevant reduction in B’s freedom. If this were the case, then it seems that every person’s freedom would be in constant conflict with everyone else’s and one could not live in a way that was not massively reducing our measure of value. Further, it seems very odd to say that one person’s freedom to kill another person, or otherwise limit that other person’s freedom, has moral value. This conflicts with our moral intuitions. For these two reasons, my theory will not treat the ability to understand and make all choices as morally valuable, rather it will treat the ability to understand and make a specific set of choices, those choices that belong to a person, a person’s *own* choices, as morally valuable. What this means and how we determine what choices belong to a person will be discussed in detail in chapter two, where I argue that this amounts to freedom over one’s own mind, body and property. For now, it is enough to say that the measure of value my theory uses is the ability of persons to understand and make those choices that belong to them.

Before we can go on, I must make a clarification about this measure of value. When talking about morality, the “ability to understand choices” could be read as meaning more than I intend it to. For example, it could be taken to refer to the ability to understand why actions are right or wrong, that is, moral understanding (Malatesti, 2010; Riaz, 2015). However, this is not what I mean when I talk about “the ability to understand one’s choices”. Rather “the ability to understand one’s choices”, is part of what it means to be able to exercise the faculties which define a moral agent, in this case, rationality. So, when I talk about “being able to understand choices”, I am referring to the ability to exercise one’s rationality with regard to those choices; the ability to consider the reasons one has for making those choices. A person cannot consider the reasons they have for making a particular choice if they do not know what choice they are making. For example, a person is not in a position to consider their reasons to drink the glass of poison in front of them if they believe it is a glass of water. Further, one cannot consider one’s reasons for making a particular choice if one does not appreciate what it means to make that choice. So, when I say that a person is “able to understand a choice”, what this means is that the person knows what choice it is that they are making and what it means to make that choice, such that they are able to apply their rationality to the making of that choice (by which I mean that they are able to consider and respond to the reasons they have with regard to making that choice).

To illustrate this, imagine that a man is about to throw himself off the roof of a building. However, the man in question is suffering from delusions which prevent him from realizing that this will result in his death. In this case, this person’s ability to understand the choice to cease his own consciousness is reduced as he does not know that it is this choice that he is making, and so does not have the ability to apply his rationality to that choice. As whether or not to continue one’s consciousness is a choice that belongs to that person, as I discuss in chapter two, and that is the kind of choice a person ought to have freedom over, not understanding the choice reduces their freedom in a morally relevant way.

Our measure of value is the *ability* of persons to understand and make their own choices and, in the same way that the ability to make a choice does not require that one actually makes it, only that they are able to do so, the ability to understand a choice does not require that the person in question does consider and respond to reasons in the making of a choice, only that one is able to do so. What is important for this theory is that a person is able to exercise their personhood with regard to their own choices, not whether they choose to do so. So, as we would not consider that a person's ability to make a choice is breached by their not making that choice, we should not consider a person's ability to understand a choice to be breached were they to make a choice without considering their reasons for doing so, so long as they appreciate what choice they are making and what it means to make that choice such that they are capable of applying their rationality to it. So, when determining whether a person is able to understand a choice we can ask the following questions:

- 1) Do they know what choice it is that they are making?
- 2) Do they know what it is to make that choice?
- 3) Are they capable of applying their rationality to that choice, by which I mean, considering and responding to their reasons relating to that choice?

If the answer to all three of these questions is "yes", then a person is able to understand the choice in question. This is a relatively low bar for being able to understand choices, as it does not require that the choice made is a rational one, only that a person knows what choice they are making, and what it is to make that choice, and is *able*, if they so choose, to apply their rationality to it.

Because the good being promoted is the ability to understand and make one's *own* choices, this theory does not seek to increase the number of choices that belong to a person. Talking of promoting or increasing the ability to understand and make one's *own* choices is unhelpful. Instead, we can talk about *protecting* the ability to understand and make one's own choices. In this way, this theory could be said to use a single measure of value in a similar way to negative utilitarianism. Why this is, and how protecting freedom can be a measure of value in a consequentialist theory, will be discussed in chapter two.

So, we have our measure of value: the freedom of persons over those choices that belong to them. In order to meet the aim of simplicity, I proceed with this as the only measure of value, rather than attempting to develop a pluralist theory. We can now consider the form that this new normative theory will take.

What my theory looks like

We can now discuss what form my new normative theory will take. A good place to start is determining whether this theory will be focused on the consequences for the individual or for everyone. Given our measure of value, it isn't totally clear how our theory could be focused on consequences for the individual and still be action-guiding. Were we to say that what matters morally is that individuals protect or promote their own freedom over that which belongs to them, then it seems we give each person an injunction to not allow their own freedoms to be breached, but no injunction to not breach the freedoms of others. So, when a person has their freedom violated by another, through violence for example, we can say that something bad has happened, and that a person knowingly and wilfully brought it about, but not that the person who brought it about has done something wrong. This seems very odd. Further, this kind of theory would recommend only protecting one's own freedom, but as choosing to risk one's own

freedom is an exercise of that freedom¹, this would amount to recommending that we each protect our own freedom, except whenever we choose not to. Because of this it seems a theory of this sort would not give us sufficient guidance to be considered a theory of how we ought to live. Also, an egoist morality of this sort conflicts with common moral intuitions, as even defenders of egoism will admit that acting *only* for the benefit of oneself is not the point of morality (Burgess-Jackson, 2013). So, for these reasons, my theory will be focused on the consequences for everyone, rather than the consequences for the individual.

As my theory aims to be action-guiding, it will be a recommending form of consequentialism, rather than a ranking form. That is to say, my theory will identify right actions rather than only ranking actions or states of affairs.

We must also consider whether this theory ought to be a form of act consequentialism or a form of rule consequentialism. Either of these positions could be consistent with most of my aims in creating this theory. Each of these positions also has the potential to conflict with one of my aims in creating this theory. Act consequentialism is often charged with conflicting with commonly-held moral intuitions and avoiding such conflict when possible is one of my aims in creating this theory. Rule consequentialism seems to be a more complicated form of normative theory than act consequentialism as it seems to require additional principles governing the allowed complexity of rules (Martin, 2008, pp. 232–244).

If my theory was a form of rule consequentialism, then it would need restrictions on the allowed complexity of its rules in order to avoid the slide into act consequentialism (Martin, 2008). As these restrictions would be additional principles added to the theory, the theory would be more complex with them than without them. This seems to conflict with the aim of being a simple theory. The fact that it would make for a somewhat more complex theory is not a reason to abandon it altogether though, as simplicity is not the only guiding aim in the creation of this theory.

The two most common reasons given for adopting rule consequentialism is that following rule-consequentialist rules leads to better consequences than acting to directly bring about good consequences and that act consequentialism, particularly act utilitarianism, leads to significant conflict with commonly-held moral intuitions or principles (Cowen, 2011, pp. 212–216; Martin, 2008, pp. 227–228; R. B. Miller, 2009, p. 8; Mulgan, 2014, p. 117; Sinnott-Armstrong, 2015b). The criticism of act consequentialism that states that it conflicts with many commonly-held moral intuitions would not have the same force for my theory that it does for act utilitarianism. My theory's measure of value allows it to strongly support things like political rights and personal autonomy that act utilitarianism is criticized for ignoring (discussed in chapter eight), and forbid some of the so-called "reprehensible" actions that act utilitarianism arguably allows. As for whether following rules leads to better consequences than acting to directly bring about good consequences, it is not obvious that this is the case. People do often exhibit poor judgement, and it may be the case that following a set of rules will reduce the moral costs of that poor judgment when determining the right course of action. However, there will also be situations where following a set of rules will produce suboptimal moral recommendations compared to act consequentialism. Also, the act consequentialist can endorse the use of "rules of thumb" or general guidelines for action, while allowing for those guidelines to be suspended in cases where they are insufficient to determine the best moral recommendations. Because it is not obvious that we have strong reason to accept rule consequentialism, I will opt for what appears to be the simpler theory. So, my theory will be a form of act consequentialism, rather than rule consequentialism. With that said, most of what I

¹ For example choosing to go rock climbing involves taking on an element of risk to my freedom (I might be injured, paralyzed or killed if things go wrong) but choosing to take that risk is an exercise of my freedom.

argue in future chapters is compatible with rule consequentialism, so one could easily convert my theory into a form of rule consequentialism.

Finally, we should consider whether my theory should be a form of maximizing consequentialism or a form of satisficing consequentialism with regard to moral obligation, permissibility, impermissibility and supererogation. In chapter three, I discuss a significant objection to maximizing consequentialism, the objection that it leads to morality being too demanding of us. I argue that this objection cannot be resolved by the responses usually given by maximizing consequentialists, in this case utilitarians, or by switching to either of the common forms of satisficing consequentialism, absolute-level or comparative-level consequentialism. I then formulate a different way of considering how agents ought to act. This method might be considered a kind of satisficing account, but it is so far divorced from how that term is commonly used, that to call it a form of satisficing consequentialism would cause confusion. Instead, I argue that my theory is not a form of maximising or satisficing consequentialism, and discuss how we should consider the issues of morality obligation, permissibility, impermissibility and supererogation more fully in chapter three.

Because this theory does not seek to promote or increase something in the same way that utilitarianism does, does not fit into the maximizing or satisficing accounts used by utilitarians, and does not equate moral value with utility for the individual, it ought not to be considered a form of utilitarianism. It is a form of consequentialism, in that it evaluates the morality of actions by reference to their consequences, and it uses freedom, admittedly understood in a very specific way, as its measure of value, so I call it “freedom consequentialism”. Earlier, when discussing the existing landscape of consequentialist theories, I proposed a table for identifying where new consequentialist theories fit in relation to those that already exist. We can use that table to demonstrate how freedom consequentialism fits into the landscape of consequentialist theories.

Name of theory	Measure of value used	Individual or everyone-focused	Recommending or ranking	Act or rule	Maximizing or satisficing
Freedom consequentialism	Freedom of persons over choices that belong to them	Everyone-focused	Recommending	Act	Neither

Conclusion

In this chapter I have established the aims of the theory I am creating, freedom consequentialism. I have established the measure of value freedom consequentialism will use: the ability of persons to understand and make their own decisions. I have also sketched out the form freedom consequentialism will take: an act-consequentialist theory which counts the consequences of actions for everyone and using neither a maximizing account nor a traditional satisficing account of moral obligation. We have the measure of value and form of our theory, but this measure has yet to be discussed in detail. In the next chapter, I discuss this measure of value in detail and how it works as the measure of value for a consequentialist theory.

Chapter Two: The measure of value

In chapter one we determined that our measure of value would be the ability of persons to understand and make choices, which I called “freedom”. In this chapter, I argue for why we should believe that we possess the kind of free will discussed in chapter one. I then, discuss how this kind of freedom differs from other kinds of freedom commonly used in ethics and why we should use my kind of freedom rather than those other kinds as our measure of value. In chapter one I also claimed that we should restrict the freedom that we consider morally relevant to that over a person’s own choices. This restriction to one’s own decisions was introduced primarily in order to avoid constant conflict between persons’ freedom, though it also has the benefit of avoiding significant conflict with commonly-held moral intuitions. After discussing why we should use my suggested kind of freedom rather than those commonly used by other philosophers, I discuss what a person’s “own choices” include and how we determine what choices belong to which persons. Then I discuss what should be on this list of choices that persons own. Finally, I discuss how this freedom can be used in a consequentialist theory as a measure of value, with a particular interest in how it can be calculated.

Why we should believe in free will

In chapter one I defined an agent with free will as one that has both:

- 1) the ability to make choices that are not wholly determined by external or preceding factors, but rather are a product of the “free thing” itself; and
- 2) the ability to make choices that could have been different from what they actually were, without any difference in the state of the world prior to the making of those choices.

This is a libertarian kind of free will, in that it is not compatible with determinism. This is not to say that compatibilists about free will could not be freedom consequentialists, but as I am an incompatibilist and my theory aims to be true, I am committed to defending libertarian free will if I am to defend free will at all. This kind of free will is a central part of the aims of my theory, in that it is free, rational agents which my theory seeks to apply to. This kind of free will is also a central part of the measure of value my theory uses, as it is the ability of agents to exercise their free will and rationality that is my theory’s measure of value, which I call “freedom”. However, whether we, or any other agents, possess libertarian free will is a controversial topic and many philosophers argue that we do not (Foot, 1957, p. 439; Honderich, 1996, pp. 855–856; L. Wood, 1941, p. 386). Because the exercise of free will is a part of my measure of value, I must give some justification for believing that we have libertarian free will, before I can talk further about that measure of value. So, here I present a pragmatic justification for believing that we do have libertarian free will—which is to say, a justification that turns on the idea that we have something to gain and nothing to lose by adopting this belief.

When I talk about us having pragmatic reason to believe in libertarian free will, I mean that if we have a preference for having true beliefs rather than false ones about whether we possess libertarian free will, then we have a reason to believe we have libertarian free will, because doing so gives us an opportunity to satisfy this preference and believing we do not have libertarian free will does not. This is not to say that having true beliefs rather than false ones is a pragmatic goal, or even that it is a goal we should have. Rather, I claim that if we want to have true beliefs rather than false ones about whether we possess libertarian free will, then we have pragmatic reason to believe we have libertarian free will, as doing so

gives us a chance to satisfy our preference for having true beliefs rather than false ones with regard to this specific belief, that believing we do not have libertarian free will does not afford us.

Other philosophers have discussed possible benefits of believing in free will, such as increases to self-esteem and happiness, respect for persons and moral responsibility (Fowler, 1996; Smilansky, 2005). Kathleen Vohs and Jonathan Schooler ran an experiment demonstrating that encouraging belief in determinism and the idea that free will is an illusion can encourage cheating on tests (Vohs & Schooler, 2008). Further, Roy F. Baumeister, E.J. Masicampo and C. Nathan DeWall have conducted experiments demonstrating that disbelief in free will was associated with being less helpful and more aggressive (Roy F. Baumeister, E.J. Masicampo, & C. Nathan DeWall, 2009).

However, the pragmatic argument I employ here is different from ones which rely on these benefits. While the benefits discussed above are completely separate from the issue of whether the belief that we possess libertarian free will is true or justified, the benefit to believing that we possess libertarian free will that my argument uses is directly related to our concern with having true beliefs. My pragmatic argument does not ask you to weigh the importance of believing true things against the importance of being happier, being more pro-social, or having greater self-esteem. Rather, my argument points out that one's interest in believing what is true, on this subject, gives one a reason to believe in libertarian free will, because doing so provides one an opportunity to satisfy a preference for having true beliefs about whether we possess libertarian free will which believing we do not have libertarian free will does not.

My argument is not like other pragmatic arguments for belief in free will. One might draw a parallel between it and Ernest Sosa's argument against dream scepticism in as much as they both argue that it is rational to believe in something regardless of what the odds of that thing seem to be (Sosa, 2005, pp. 14–15). However, while Sosa argues that believing we are awake is more rational because believing we are dreaming is self-defeating (Sosa argues that we cannot affirm anything while dreaming so we cannot both affirm that we are dreaming and have it be true) (Sosa, 2005), my argument does not rely on it being self-defeating or incoherent to believe that we do not possess libertarian free will. Instead, my argument demonstrates that believing in libertarian free will gives us an opportunity to believe the truth about whether we possess libertarian free will that believing we do not possess libertarian free will does not grant us, and this belief does not come with any additional risk of believing something incorrect about whether we possess libertarian free will. So, to the extent that we wish to believe the truth about whether we possess libertarian free will, we have a reason to believe that we do possess libertarian free will, regardless of what we estimate the odds of us actually possessing libertarian free will to be.

For the purposes of this argument I assume that it is logically possible for us to possess libertarian free will. This argument is not designed to convince those who think that libertarian free will is incoherent or logically impossible. Rather, it is aimed to show that, assuming one thinks it is logically possible that we possess libertarian free will, one has a practical reason to believe that we possess libertarian free will.

Basic version

Below is a simple version of my argument. This version of my argument makes use of the following matrix:

Metaphysical state	I have libertarian free will	I do not have libertarian free will
Epistemic state		
I believe I have libertarian free will	I have chosen a true belief over a false belief. I am right when I could have been wrong.	I could not have believed otherwise than I do.
I believe I do not have libertarian free will	I have chosen a false belief over a true belief. I am wrong when I could have been right.	I could not have believed otherwise than I do.

Table 1. A matrix of metaphysical possibilities and epistemic options.

The two columns of this table represent two mutually exclusive and exhaustive possibilities: that I have libertarian free will, and that I do not. The rows of the table represent two epistemic options: that of believing I have libertarian free will, and that of believing I do not. Suppose that we do not have libertarian free will. Then I could not have chosen to believe anything other than what I do in fact believe. If we do not have libertarian free will, and I believe that I have libertarian free will, then my belief will be false, but I will not have made an incorrect choice, for there was no other choice I could have made. Similarly, we do not have libertarian free will and I believe that I do not have libertarian free will, then I will have believed a truth, but I will not have made a correct choice. Suppose, on the other hand, we do have libertarian free will. Then I am free to choose what to believe from multiple genuine options. If we have libertarian free will and I choose to believe I have libertarian free will, then my belief will be true and I will have made the correct choice regarding what to believe. Similarly, if we have libertarian free will and I believe I do not have libertarian free will, then I have chosen to believe something false when a true belief was available to me. I have chosen incorrectly (at least if my goal is to believe true things rather than false ones about whether I possess libertarian free will). So, believing that I have libertarian free will is the only way I can make the correct choice.

Further, if ought implies can, then the top-left box is the only position where it can be said that I have believed what I should (assuming that I have a preference for having true beliefs about whether I possess libertarian free will). If I do not possess libertarian free will, then I could not have believed otherwise than I do, so it is not the case that I should have believed otherwise than I do. It can only be the case that I should believe other than what I do if I have libertarian free will, so, to the extent that I should believe anything, I should believe that I have libertarian free will. Because I do not know which of these two metaphysical possibilities obtains, then I have a reason to believe that I possess libertarian free will. This is because if I do possess libertarian free will, then I should believe that I do, and if I do not possess libertarian free will, then there is nothing I *should* believe, because I could not have believed otherwise than I in fact do. So, it may be the case that I should believe some things rather than others, and if it is, then one of the beliefs that I should have is that I possess libertarian free will. This is a pragmatic reason

to believe that I possess libertarian free will, as it may be the case that I should believe it, and it cannot be the case that I should not believe it.

The only position in the above matrix which offers potential gain is that of having chosen a true belief when one could have chosen a false one (top-left). This is the position we should want to be in if we prefer to believe truths rather than falsehoods. In order to be in this position, one needs to be metaphysically lucky, in that one needs to actually have libertarian free will, but one also needs to make the correct epistemic decision, in that one needs to believe that one has libertarian free will. While the former is out of our control, the latter may not be. In short, it is possible that we have a choice about what to think, and if we do, believing we have free will is the right choice to make.

Revised version

Compatibilists about free will might object to some of my language in the previous version of my argument. Specifically, they may claim that saying I could not have chosen otherwise ignores compatibilism about free will, and that I could have chosen otherwise, just in a compatibilist sense. Here I make a more complicated version of the same argument, without relying on concepts that the compatibilist will reject.

Let us imagine that I am playing a game where I am offered a choice of two different shells which may or may not have gold coins underneath them. I am allowed to pick one shell, and if I pick a shell with a gold coin underneath it, I win that coin. According to the rules of the game, which are known to me, there are three ways in which the man running the game can set up the shells and coins:

- 1) he can place a coin under the left shell,
- 2) he can place a coin under neither shell,
- 3) he can place a coin underneath both shells, but
- 4) he may never place a coin underneath only the right shell.

If I want to win a gold coin, I would do well to pick the left shell, as it has a possibility of having a coin beneath it when the right one does not, and the right one has no possibility of having a coin underneath it when the left one does not. So, picking the left shell is sometimes better and never worse.

The key thing to understand about this analogy is that the case where I do not have libertarian free will but believe that I do is a different state of the world than the case where I do not have libertarian free will and believe that I do not, and this difference is in the world *before* the point I decide what to believe. The antecedent conditions that led to my decision guarantee the outcome of that decision. Whether I am going to choose to believe I have libertarian free will or not is part of setup of the world. So, when considering whether or not to believe that I have libertarian free will, there are actually three relevant possibilities that could obtain, rather than two: the possibility that I do not have libertarian free will and I will believe that I do not, the possibility that I do not have libertarian free will and I will believe that I do, and the possibility that I have libertarian free will and either belief option is genuinely open to me.

If the possibility that in fact obtains is that I do not possess libertarian free will and I will believe that I do not, then I am metaphysically lucky in that I will choose to believe something that is correct. It is as though there are coins under both shells, though not because either choice I make is correct, but rather because the probability of me making the correct choice is 100%. If the possibility that obtains is that I do not possess libertarian free will and I will believe that I do, then I am metaphysically unlucky in that I will choose to believe something that is incorrect. It is as though there are coins under neither shell, but not because either choice I make will be wrong, but rather because the probability of me making the

correct choice is 0%. In both of these cases, what I will choose to believe is built into the world, it is as if the man running the game had set things up such that I either could not win or could not lose, though in the slightly disanalogous way that I have both the right and wrong choice available to me in these cases, there is just no chance of me making a choice other than the one I will actually make. However, if I do possess libertarian free will, then both choices are genuine options in that neither one is guaranteed. In this case, my being right or wrong in my belief about whether I possess libertarian free will are both possible. If I actually do possess libertarian free will, then obviously I would do well to believe that I possess libertarian free will. It is as though there is a coin under only the shell on the left as my making the correct or incorrect choices are both genuine possibilities.

This pragmatic argument about free will shows that the only state of the world in which there is a genuine danger of my being wrong in my belief about my possessing libertarian free will *and* a genuine opportunity to be right in my belief about my possessing libertarian free will, is the case where I do in fact possess libertarian free will. If I believe I possess libertarian free will, then this belief will either be correct or inescapably certain, in that if I am wrong, the probability of my being wrong was always 100%. Likewise, if I believe that I do not possess libertarian free will, then this belief is either incorrect or inescapably certain, in that if I am right, the probability of my being right was always 100%. Just as in the case of the coins and the shells, I am either guaranteed to be right, guaranteed to be wrong, or faced with a genuine opportunity to be either right or wrong. Just as in the case of the coins and the shells, I know which option is correct if I am in the situation where being right or wrong are both genuine possibilities, and that is believing I possess libertarian free will. Believing that I have libertarian free will offers me a chance to be right in my beliefs about my own libertarian free will, but does not cost me any chance of being right, as if I believe this and I am wrong, the chances of my being right were always 0%. Because of this, believing I have libertarian free will is the pragmatic option, in that it offers potential gain, but with no corresponding potential loss.

Doxastic voluntarism

One might object that my argument assumes the truth of doxastic voluntarism, the position that we can choose what we believe. Several philosophers have argued that doxastic voluntarism is in fact false and we cannot choose what we believe. (Alston, 1989, pp. 91–94; Rosell, 2009; Scott-Kakures, 1994; Williams, 1970). However, we need not presume doxastic voluntarism obtains. It is fairly uncontroversial that we can exert some control, at least indirectly, over what we believe. However, even if we were to have no control over what we believe, regardless of whether we have libertarian free will, then this would only be a contingent matter of fact, and one that might be subject to change. We can, for example, imagine a future time in which we have developed a kind of belief-editing technology, which allows us to reliably choose our own beliefs. In a world with such technology, we would do well to edit our beliefs to include the belief that we possess libertarian free will, for the reason outlined above. So, regardless of the truth or falsity of doxastic voluntarism, my argument gives us reason to believe we have libertarian free will if, when, and to the extent that, we can.

The problem with wagers

The argument I have made here is reminiscent of Pascal's wager (Pascal, 1995), in that it is an argument for believing in something that asks you to "bet on believing it" because there is something to be gained by doing so and nothing to be lost. Given the problems with Pascal's wager, this may strike some as worrisome, but my wager does not have the same problems that Pascal's does. Pascal's wager attempts to show that we should believe in God regardless of how much or how little evidence there is for His existence. According to the wager, believing in God will grant us an infinite, happy life after our deaths if we are right, and have comparatively little cost if we are wrong, in that we will be just as dead as had we

not believed in God. The argument goes that because the potential gain for believing in God is infinite and the cost of devoting our lives to believing in God is finite, belief in God has a much better expected value and is a better pragmatic option, therefore we should believe in God.

The main problem with Pascal's seems to be that the categories one is asked to wager between are greater than the simple dichotomy presented by the person making the argument. Pascal's wager faces this problem in the form of the Many Gods Objection (Carter, 2000; Gustason, 1998; Mouglin & Sober, 1994; Oppy, 1991; Rota, 2017; Saka, 2001). The Many Gods Objection points out that there is more than one possible god that one could believe in, and that believing in one may result in being punished by another. There may even be a god that punishes belief in any god (including itself), and rewards belief in no gods at all (Mouglin & Sober, 1994, p. 385), or an evil god that punishes the good and rewards the wicked (Carter, 2000, pp. 24–25). In fact, the Many Gods Objection can be taken further than this, as there are infinitely many logically possible gods that one could believe in, and, because we have infinite possibilities, infinitely many of those possible gods offer infinite reward for *any* possible action or combination of actions. Blueblark, the all-powerful god of crayfish-slapping rewards those who dedicate their lives to slapping crayfish with an infinite happy life after their deaths, and punishes all who do not slap crayfish with an eternity of torment and so, incidentally, do the infinitely many other gods of crayfish-slapping that we can dream up. We need only add some extra feature to Blueblark, perhaps just a +1 after her name, and we can invent a new logically possible god which we must factor into our calculations of what to believe, and indeed how to spend our life, in order to maximize our chances of attaining the infinite potential value that was the selling-point of Pascal's original wager.

This kind of expansion of possible categories one might wager on is, to say the least, problematic for a wager-style argument. However, my wager about belief in the existence of libertarian free will cannot expand the options one can wager on in this manner. There is not a comparable "Many Free Wills Objection" for my argument. The reason for this is that libertarian free will offers us the potential chance of being right in our belief about whether we have libertarian free will itself, which nothing else does. Were we to attempt to introduce another category to our wager, call it libertarian free will*, then when we came to defining this new category, we would find one of two things. We could define our new category as libertarian free will by another name, in that it would be the property of being able to make choices which are the product of the one making them, and not wholly determined by preceding events. If we defined this new category this way, my wager would work as an argument for why we should believe we possess it, but it would not be relevantly different from what we are already talking about, as it would be the same concept, but with a different name. Alternatively, we could define this new category as something else entirely, in which case it would not give us the same opportunity for benefit as libertarian free will does, and so my wager would not work as an argument for why we should believe in it. It is the particular property of being able to make choices that are not wholly determined by preceding events, so, could have been different, that gives us the chance of believing correctly with regard to whether we possess this property, and it is this property I am arguing for the belief in. So, while there are many logically possible entities that could offer infinite reward, whether or not one possesses libertarian free will is a binary issue.

In contrast with the metaphysical possibilities, belief about whether we possess libertarian free will is not a binary issue, as we have more options than believing something or believing it to not be true. We might, for example, suspend judgment on whether or not we have libertarian free will, in which case we would not be wrong in our beliefs, but we would also not be right. However, we can run the argument given above in a slightly modified form to show that there is a reason to believe in libertarian free will rather than lack any belief about libertarian free will easily enough by pointing out that believing in libertarian free will offers one an opportunity to be right which lacking a belief in libertarian free will

does not, and that believing in libertarian free will does not increase one's chances of being wrong for the reasons discussed above in our shell-game example. So, for the same reason that it is better to believe we possess libertarian free will than it is to believe we do not, that it offers us a potential benefit and no cost, it is also better to believe we have libertarian free will than it is to lack a belief one way or the other.

My wager has other advantages that Pascal's does not. As I have already pointed out, my wager does not ask you to suspend a desire to believe truths in order to gain a benefit, as some versions of Pascal's wager could be charged with doing. My wager also does not involve infinities; so, unlike Pascal's wager, my argument does not raise issues to do with we calculate rational expected value when infinities are involved (Duff, 1986). So, these objections to Pascal's wager are also not relevant to my argument.

So, we can say that if we have a preference for believing the truth about whether we possess libertarian free will, we have a reason to believe that we possess libertarian free will. As I do have a preference for believing the truth about whether we have libertarian free will, I will proceed with the belief that we do possess libertarian free will. Now that we have established a reasonable basis for believing that we possess libertarian free will, we can move on to talking about the ability to exercise that free will, which, combined with the ability to exercise our rationality, I call "freedom".

Kinds of freedom

"Freedom" is often said to be morally valuable, though it can mean several different things. Different conceptions of freedom can be broken into two broad categories: negative freedom, or freedom from interference; and positive freedom, the freedom to realize certain goals. Below, I differentiate positive and negative freedom from the kind of freedom I use as my theory's measure of value. I show that my conception of freedom is a more appropriate measure of value given my theory's stated goals.

Negative freedom

Negative freedom (or negative liberty) is a term popularized by Isaiah Berlin, who uses it to mean freedom from the interference of others (Berlin, 1969; Crowder, 1988; Silier, 2017, p. 1). One can be said to have this kind of freedom if one can pursue one's goals without others constraining or otherwise interfering with one's doing so. One can be said to have one's negative freedom impinged to the extent that others restrict one's actions through means such as violence, legal restriction or imprisonment. Advocates of negative freedom have denied that what some might call "constraints" should be considered real constraints on one's freedom, such as being incapable of doing something, internal or psychological constraints, or even falling into, and being trapped in, a crevasse. (Hayek, 1976, p. 86; Silier, 2017, p. 10). This conception of freedom treats freedom as something natural to the free thing in question and a lack of freedom as something imposed upon them by the actions of others, and attempts to determine the limits of this freedom such that each person's freedom can be protected from each other person (Berlin, 1969, pp. 121–122; Silier, 2017, p. 9). Negative freedom is also not something that belongs only to moral agents. Since it is the natural state of anything not being constrained the actions of another, negative freedom can be, and has been, applied to animals, as well as objects such as rivers (Hobbes, 2009, p. 298; Silier, 2017, p. 99).

The kind of freedom that freedom consequentialism uses as its measure of value cannot accurately be categorized as a form of negative freedom. "Freedom" here means the ability of persons to understand and make their own choices and this is something that can be affected by more than just the interference of other agents. For example, if a person injects me with a deadly disease and I die, then it seems

reasonable to say that they have prevented me from being able to understand and make choices that belong to me, such as whether I continue my consciousness, and so they have breached my freedom. However, if I were to contract the same deadly disease without their interference, perhaps by tripping and falling onto a nail coated with the disease, my ability to understand and make choices, and therefore my freedom, is affected in much the same way. It seems sensible in this instance, as the consequences to my freedom are identical, to claim that my freedom is breached in the same way, though not by an agent. Moreover, even were we to describe negative liberty as freedom from all external constraints, rather than only the constraints of other agents, it would not fully describe the kind of freedom that freedom consequentialism is concerned with, as this kind of freedom is the ability to understand and make one's own choices. The ability to understand one's decisions was included in my definition of freedom because understanding decisions, in the sense that one knows what they are and is able to consider and respond to reasons regarding those decisions, is a key part of what it is to be a free, rational agent. One's own ignorance can affect one's ability to understand a decision. One's ignorance can, therefore, cause one's freedom to be breached in cases where it prevents one from being able to understand a decision, such as when one thinks they are making one choice, but in reality they are making a different choice. For example, the classic case of drinking what one thinks is a glass of water but is really a glass of poison. Here a person's ability to understand and make their own choices is reduced, their "freedom is breached", as they are not understanding and making the choice to ingest poison and die, but that is nevertheless what will happen to them. So, we cannot accurately describe the freedom that freedom consequentialism seeks to protect as a negative freedom.

Positive freedom

Positive freedom (or positive liberty) is another term popularized by Isaiah Berlin, but, as he was strongly against positive freedom (Berlin, 1969, pp. 131–141), I will use Yildiz Silier's definition of the concept, as she is an advocate of this view. According to Silier, positive freedom has two aspects: rational self-determination and the power for self-determination (Silier, 2017, p. 2). Rational self-determination here refers to "the determination of the self . . . the determination of who one is" (Silier, 2017, p. 95). Rational self-determination, according to advocates of positive freedom, can only be achieved in the right kind of social context. The power to achieve rational self-determination is a necessary condition for having positive freedom. Because positive freedom includes the power for self-determination, it requires not only a lack of interference from others, but also other conditions, such as having enough resources, in order to for an agent to be considered free (Silier, 2017, pp. 80–81, 131). To have positive freedom then, requires not only the lack of restrictions from others, but also "being able to exercise one's formal freedoms, the presence of significant options and the cultivation of the capacity to make informed choices." (Silier, 2017, p. 133). Because positive freedom is concerned with rational self-determination, rather than a lack of restrictions imposed by others, it treats freedom as having a normative aspect, in that certain kinds and expressions of freedom more valuable than others. Positive freedom is often identified as having the goal of self-realization, (Silier, 2017, p. 135; Taylor, 1991, p. 144), and it is the freedom to achieve this that is considered valuable. Positive freedom, therefore, does not consider the freedom to do trivial things to be particularly valuable as those who do not pursue self-realization are not "positively free" (Silier, 2017, p. 136).

Berlin argued that this attribute of positive freedom, that of only valuing the freedom to pursue certain ends, causes it to slide into totalitarianism (Berlin, 1969, pp. 131–141). Advocates of positive freedom can argue that this is not the case for two reasons. First, though it might be the case that a person is wrong about whether or not they are positively free, this does not mean that others can better decide for that person (Silier, 2017, p. 136). Second positive freedom requires self-activity and self-government, it is something that a person must achieve for themselves, so while others can provide the conditions

necessary for achieving positive freedom (the power for self-determination) they cannot force a person to be positively free (make them achieve rational self-determination), individuals must develop this freedom on their own (Silier, 2017, p. 136). Whether or not positive freedom “slides into totalitarianism”, it would be reasonable to say that positive freedom is freedom to do the “right” things or make the “right” choices rather than freedom to do or choose whatever one wishes (Green, 1991, p. 23; Silier, 2017, p. 137).

Positive freedom also does not seem to capture the kind of freedom that freedom consequentialism uses as its measure of value. While the measure of value that freedom consequentialism uses is the ability of persons to understand and make a limited range of choices, specifically those that belong to them, it does not treat only a specific range of actions or actions aimed at a specific range of goals as being valuable. Rather, it treats as valuable the ability of persons to understand and make decisions that belong to them, regardless of whether they utilize this ability in a way in which we might consider trivial, or indeed choose not to utilize this ability at all. In this respect, the freedom that freedom consequentialism uses as a measure of value fits better with accounts of negative freedom, rather than positive freedom. This approach to freedom is taken primarily for the sake the simplicity of my normative theory. Claiming that only a specific kind of choice, which is understood and made by the agent in question, is a truly free one, would require postulating some other criteria of what makes those choices truly free and others not. Doing so is not necessary for this theory. Because simplicity, in the sense of not postulating entities beyond necessity, is one of my goals in creating this theory, freedom consequentialism will not add any extra criteria for freedom. For this reason, freedom consequentialism does not concern itself with the way in which a person utilizes their freedom over that which belongs to them, except inasmuch as it affects the freedom of others over that which belongs to them.

Another way in which the freedom that freedom consequentialism uses as its measure of value differs from the conception of positive freedom is that positive freedom is sometimes seen as something of a social endeavour, something achieved together as a group. Some advocates of positive freedom claim that the abilities involved in having positive freedom can only develop through social relations (Silier, 2017, pp. 79–80, 166), and others include relations to others in their definition of freedom (Green, 1991, p. 23). The freedom used by freedom consequentialism is not one that requires a society or interpersonal connections, but is instead much more individualistic. Because applicability to all free, rational agents was a goal in the creation of this theory, the measure of value used is one that can be shared by all possible free, rational agents, and it is possible to imagine free, rational agents that are not members of a social species. I can imagine free, rational agents that have evolved to have vast swaths of territory to themselves and only see one another rarely and briefly to procreate. Such persons would hardly be capable of a kind of freedom that required complex societies, and so such a freedom would not be applicable to all free, rational agents. The freedom of a species might still be dependant, either developmentally or continually, on relationships with other members of its species, but this would be a contingent fact about that species, rather than a feature of the type of freedom that freedom consequentialism uses as its measure of value.

For these reasons, the freedom used as a measure of value by freedom consequentialism cannot be said to be a form of “positive freedom” as the term is generally used.

My kind of freedom

I have spent some time describing why freedom consequentialism does not use negative or positive freedom, as these terms are commonly understood, as its measure of value. Now we must discuss what kind of freedom it does use as its measure of value. By “freedom” here, I mean the ability of persons to understand and make choices. This was what we determined to be our best candidate for a measure of

value as it is common to all moral agents and essential to their being moral agents, so this will be our starting point. However, this doesn't tell us everything we need to know about our kind of freedom.

One thing that I should clarify is whether my kind of freedom is something that persons have but which can be violated, similar to negative freedom, or whether it is something that requires certain conditions in order to achieve, similar to positive freedom. In chapter one, I was looking for a measure of value that could be shared by all free, rational agents, but this is not the same as something that all free, rational agents already possess. While all free, rational agents have the free will and rationality to understand and make their own choices, their ability to do so, which is what we determined as our measure of value, might be restricted because of circumstances in the world. This might initially seem like a problem for our measure of value, as it may seem as if the measure we have used is not actually shared by all free, rational agents. However, in order for our theory to be applicable to all free, rational agents, it need not be the case that they all already have the thing we call valuable. Freedom is the ability to exercise faculties that all persons have, their rationality and their free will, but it is not, itself, something that all persons always have. If I were imprisoned, I would still have my free will and my rationality, but my ability to exercise them, my freedom, would be reduced. This kind of freedom, similar to positive freedom, can be restricted not only by the actions of others, but also by the circumstances of the world. What is morally valuable for freedom consequentialism is the ability of persons to understand and make their own choices. To the extent that persons are unable to do this, their morally relevant freedom is being reduced, restricted or breached, whether that be by other agents or simply the circumstances of the world.

We must also consider how the freedom consequentialist kind of freedom works as a measure of value for a consequentialist theory. In chapter one I suggested that this theory used a single measure of value in a similar way to negative utilitarianism, which seeks to reduce pain but not to increase happiness. This is because what we are seeking to increase is the ability of persons to understand and make those choices which belong to them. So, what is morally bad is that which restricts the ability of persons to understand and make their own choices. However, that does not mean that giving a person the ability to understand and make more choices is always good, as it is only a person's *own* choices, as discussed below, that morally relevant according to freedom consequentialism. For this reason, increasing the number of options that are available to a person beyond the choices that belong to them is not a moral good. Also, the threshold for "being able to understand" one's choices is fairly low; it only requires that one know what the choice they are making and what it means to make that choice such that they can apply their rationality to it. Because of this, increasing the amount of information a person has about their choices beyond this threshold is also not morally valuable, as once they have reached this threshold they are already able to understand it. So, the kind of freedom that freedom consequentialism uses as its measure of value is not one that one can increase ad infinitum. Because the bar for understanding and making choices is relatively low, and it is only those choices which belong to persons that are morally valuable, it would be logically possible for each and every person to be maximally free. Each person could, in theory, have the full ability to understand and make all their own choices. We can think of such a world as one in which no one's freedom is restricted, and the difference between such a world and ours in terms of the amount of persons' freedom being restricted, or "breached". For this reason, it would be confusing to talk about "promoting" or "increasing" freedom in relation to freedom consequentialism, as this is likely to give the wrong impression. Instead, I shall talk about freedom consequentialism "protecting" the freedom of persons.

What we own

In the previous chapter I argued that our ability to understand and make choices is the best candidate for moral value. However, if freedom consequentialism is to be action-guiding, the morally relevant freedom of moral agents must not be in constant conflict. Because of this, we must limit the scope of the things we ought to have freedom over. In the last chapter I argued that we should do this by reference to the concept of ownership. Below, I explain why this is necessary, what I mean by ownership and what things we should be considered to own.

The reason I suggested we ought to limit the choices a person ought to have freedom over is twofold. First, if we assume that there are certain choices that each person ought to be able to understand and make, and that whether they are able to understand and make others is not non-instrumentally morally relevant, then it allows our theory to be action guiding in a way that it cannot be if we take the freedom to make all choices to be morally important. For example, if what mattered morally were the ability of persons to understand and make *any* choices, then my ability to understand and make the choice to have a risky but potentially life-saving medical treatment would be as important as everyone else's ability to understand and make the choice for *me* to have a risky but potentially life-saving medical treatment. If this were the case, then we would be left with a moral system where we need to poll the entire world in order to recommend the right course of action in any situation. This is what I mean by freedom being in constant conflict. This is not a workable system of determining right actions for a moral system to use, and so if we do not to limit the kind of freedom that we consider morally relevant, our theory will not fulfil the criteria of being action-guiding. However, if we assume that there are only certain choices that each free, rational agent, ought to be able to understand and make, then we can solve problems like this easily. In the example given, we could determine who, if anyone, the choice at hand ought to be made by, and then it would be morally relevant only that they were able to understand and make that choice. Second, assuming that persons ought to be able to understand and make only certain choices is also in line with commonly-held moral intuitions. The idea of someone halfway around the world having a legitimate moral claim to whether or not I have a medical treatment, despite it not affecting them in any way, seems very odd indeed. If we assume instead that persons ought to be able to understand and make only certain choices, then we can talk about freedom in a way that is much more in line with commonly-held moral intuitions.

For the above reasons, I assume that certain things "belong" to individual persons, in the sense that there are things that those persons should have freedom over, and only freedom over these things is morally relevant. In this thesis, to say something belongs to someone, or that someone owns something, is to say that the choices regarding what to do with that thing are theirs to make, that they ought to have control over what is done with that thing, nothing further. Over the course of this work, I refer to choices that belong to a person, freedom over that which belongs to a person, and freedom to make one's own choices, but these all refer to much the same thing. What is crucial to understand is that I am assuming that there are some things which persons ought to be able to make choices over, that are "theirs" to do with as they choose, and that it is the ability to understand and make choices regarding what is done with these things that is our measure of moral value.

Although we have assumed that some specific choices, or choices regarding some specific things, belong to persons, we have not yet determined what those choices or things are. So, next we must consider what things might belong to a person. In doing so, I consider what choices we could consistently say belong to

each person, such that our theory could be action-guiding as well as in line with commonly-held intuitions regarding what qualifies as an individual's own choice.

So, we must ask, what belongs to each person. The first thing we should put on our list of things a person owns is themselves. No other entity could have a better claim to the freedom over a person than that person him or herself, as a person is a free, rational agent and therefore responsible for their own actions in a way that no one else could be. If we are to say that persons should be able to understand and make decisions over some things but not others, then the first thing it seems we should include on this list of things is that which they have at all times and are responsible for, their own selves. This concept of self-ownership is a very popular one (Preston J Werner, 2015; D. C. Russell, 2010; Uyl, J, 1950-, & Rasmussen, 2003; Wall, 2009). This means that including the self among things that belong to a person not only puts us in good philosophical company (Locke, 2010, p. 20), it also allows us to be in-line with a commonly-held moral intuition. Furthermore, we must have freedom over ourselves, at least to some extent, in order to have freedom over anything else. We could not reasonably say that a person is able to understand and make choices of their own free will regarding what to do with a piece of land, for example, if we are exerting direct control over what they think and choose. For these reasons, we should include the person's own self on the list of things they ought to have freedom over, or that "belong to" them. From this principle of self-ownership, we can determine that a person ought to have freedom over their mind. It would be reasonable to say that one's mind, if we include consciousness as being a part of the mind, *is* oneself. Further, it is minds that possess the qualities of free will and rationality that make one a person in the first place, so if we are looking for entities that are persons, and therefore own themselves, we are looking for minds. So, the first thing we can say belongs to each of us is our own minds.

After their minds, the next thing we can add to our list of things that belong to persons is their bodies. Whether our bodies are us, a part of us, or a container for us is a metaphysical issue that I will not broach here, but I will make the modest claim that *if* bodies are a part of us, then we must own our bodies if we own ourselves. As it seems that this is the case for us as humans, I will say that we indeed own our bodies. So, by virtue of self-ownership, we can say that all persons own their minds and if bodies make up a part of them, then also their bodies.

Determining how we come to own previously unowned property is more difficult. Various philosophers have provided methods by which we come to own unowned property (Breakey, 2011, p. 240; Friendman, 2011, pp. 34–37; Nozick, 2013, pp. 122–141; Toren, 1994). However, it is not clear whether an existing account of acquiring property can be used to justify acquisition of previously unowned property in the sense that would make one's freedom over that property morally relevant according to freedom consequentialism. However, let us proceed under the assumption that persons can, in some way, come to own previously unowned property as we generally understand it, including that multiple people can come to share ownership of the same piece of property. When I say "come to own previously unowned property", I mean in a way that brings it into the realm of things that those persons ought to have freedom over. This assumption seems to be in line with the commonly-held moral intuition that certain objects can belong to a person and that it is wrong to use, take or destroy them without permission. If this is the case, then each person also owns their property and ought to be able to do what they choose with it (so long as what they choose to do with it does not breach the freedom of others).

So, there are, broadly, three things that belong to each of us: our minds, our bodies and our property. If what matters is that we have freedom over those things that belong to us, then these are the things we must have freedom over. Next, I examine what it means to have freedom over each of these different things.

What kinds of freedom we have

Next, we must consider what it means to have freedom over these things that belong to us, as we must determine what choices we ought to be able to understand and make more specifically than “those regarding our minds, bodies and property” if we wish to create an action-guiding theory that can be practically applied. While it is freedom that matters morally, regardless of what kind of person is under discussion, here I will focus on what it means to have freedom over one’s mind, body and property for a human. There might well be alien persons with radically different psychologies and biologies, such as having one consciousness spread across multiple bodies or having no affective states whatsoever. In such cases, what it means for them to have freedom over their minds, bodies and property may be quite different from what it is for humans to have freedom over these things. The following list must then be considered a species-specific list of what constitutes having freedom over one’s mind, body and property. So, with that in mind, let us examine what it means for us to have freedom over our minds, bodies and property.

The mind

Let us begin by analyzing what it means to have freedom over one’s own mind. In order to figure out what specific choices a person *ought* to be able to make with regard to their own mind, we must consider what it is one *can* choose to do with their mind. Assuming that ought implies can, we cannot say that a person ought to be able to choose to do something that they cannot do. It would be a mistake, for example, to say that a person ought to be free to flap their arms and fly because they have freedom over their body. The process of determining what one ought to be free to do with something that belongs to him or her, then, is a process of determining what choices are available to be made with regard to that thing. We must also keep in mind that our original purpose in limiting the scope of freedom which we take to have moral value is ensuring different persons’ freedom is not in constant conflict as, if it were, our theory of morality could not be action-guiding. So, here I consider what choices one can make with regard to their mind, as well as whether those choices can be consistent with the freedom of others, in order to determine what we ought to be free to choose with regard to our minds.

First, and most obviously, freedom over one’s own mind seems to entail freedom to continue or cease one’s own consciousness or, put more simply, the freedom to live or die. Forcing someone’s consciousness to cease permanently, killing that person against their will, denies that person the choice to continue to exist as a person. Whether something is destroyed or not a crucial part of what it means to be free to decide what to do with that thing². Further, forcing someone to continue their consciousness, to live, against that person’s will, also breaches that person’s freedom, and does so in similar kind of way to killing them. The person in question wishes to forsake all choices in favour of oblivion, and by keeping them alive you are denying that person this freedom.

A potential freedom over one’s mind worth considering is the freedom to avoid, or not avoid pain. Pain, as an experience, exists within our minds, and it if we are to have freedom over our minds, we might be inclined to say that we ought to be able to decide whether or not pain is allowed entry therein. Having an unwanted, intruder qualia in our minds seems like a breach of our freedom over our minds. Because of

² This does not mean that it will always be morally permissible to end one’s own life. One’s moral obligations to not breach the freedom of others must also be considered. For example, it would not be permissible to kill oneself while driving at high speed with passengers in the back of your car, as this would result in their deaths as well. One may also have obligations to dependants such as children, as discussed in chapter five.

this, it seems, at least initially, as though it is a breach of someone's freedom to inflict pain unbidden upon them.

However, pain is not the only qualia we may want to avoid that might intrude into a person's mind against that person's will. It is tempting to say that we ought to be free to choose whether to avoid other qualia as well, such as images, sounds and tactile sensations, but this runs into problems, as one cannot reasonably claim to have their freedom breached by simply seeing or hearing something one does not wish to. These experiences are perceptions of external events. So, it seems more sensible to say we ought to have some degree of freedom to avoid particular sensory experiences, but it would, at most, be a reduced, non-absolute freedom, to avoid particular sensory experiences. For example, it might breach this freedom to follow someone wherever they go screaming at them or waving dung near their nose, but it would not be a breach of their freedom to perform music or smell bad in a public place that they could avoid if they chose to.

Pain is also a form of sensory feedback that can inform one about the environment. So, while there is some intuitive appeal of saying it is wrong to cause someone pain, perhaps we should not categorize it any differently from these other qualia. However, causing a person pain often involves other breaches of that person's freedom, such as the damage of their body, and we cannot reasonably say that it is up to the person in question to avoid feeling pain if that pain is being caused by another person breaching their freedom over their body. In these cases, we should treat pain differently from other sensory qualia and say that the causing of pain to this person is a breach of their freedom. So, we should consider the introduction of pain to a person's mind without their consent to be morally similar to the introduction of other unwanted qualia when it is the result of a person gaining sensory feedback about their environment but not when it is caused by otherwise breaching that person's freedom, such as by damaging their body. However, because pain is often caused by circumstances that otherwise breach a person's freedom, such as by damaging their body, we should often treat pain differently than we treat other unwanted qualia in practice.

Other choices a person ought to have freedom over, or "freedoms", relating to one's mind are even less straightforward. For example, it might be intuitively appealing to say that a person ought to be free to experience whatever affective states they wish, that is, to feel whatever emotions or moods they like. However, it is not clear that this is how affective states work. While there is research suggesting we have some control of our emotions (Ochsner & Gross, 2005; Sheppes, Scheibe, Suri, & Gross, 2011), it would be a very bold claim to say that our affective states are totally voluntary. However, we can certainly choose to cultivate certain affective states, for example, choosing to stoke anger with bitter thoughts and reinforcing behaviours, or to quash or distract oneself from it, potentially making us less prone to rage in the future (Brad J. Bushman, 2002; Ray, Wilhelm, & Gross, 2008). The extent to which we choose our affective states and the extent to which we only cultivate them is not an issue I will attempt to solve here. However, this distinction does not make a practical difference in what freedom consequentialism can say about the wrongs in bringing about an affective state in a person. Regardless of the extent to which we can choose our affective states and the extent to which we can merely cultivate them, it would not be immoral to say something to someone which leads to them becoming, for example, angry. If our affective states are strongly voluntary, then that person is choosing to be angry, so this is not a breach of freedom. If our affective states are not strongly voluntary, but rather only something that we cultivate, then they are not something that the person can be said to have freedom over. In this second case, so long as that person's reaction is the result of their own affective character which they have had the opportunity to cultivate, there has been no breach of freedom. So, while these ways of generating our affective states are different, they lead to the same recommendations about what actions we should or should not take towards others. Without knowing to what extent our affective states are voluntary, I will say that we ought

to have the freedom to generate our own affective states, though to what extent that is through choice and what extent that is through cultivation is not yet clear. This stance on affective states may seem counterintuitive as it seems to ignore emotional distress, and this issue is discussed specifically in chapter nine.

Related freedoms that are also not straightforward are the freedoms to determine what we believe and desire. When we consider whether we ought to be free to determine what we believe, this initially seems to be something we cannot actually do, and therefore not a freedom that can belong to us (Peels, 2013; Steup, 2011). When I see a car coming towards me, I seem not to choose whether to believe in it, and William Alston has argued convincingly that we do not have direct control of our beliefs by challenging his readers to attempt to take up or change their beliefs at will (Alston, 1989, p. 122; Nottelmann, 2006, p. 560). Although direct control of our beliefs seems unlikely, we may have some indirect control over what beliefs we cultivate or quash. There are examples of wishful thinking, wilfully ignoring contrary evidence and acting as though one believes in order to make it the case that one believes, and these seem to be genuinely effective (Bastardi, Uhlmann, & Lee Ross, 2011; Gigerenzer & Garcia-Retamero, 2017; Kunda, 1990). Likewise, there are cognitive exercises for those with delusional beliefs which, at least sometimes, are effective in helping them to quash those beliefs (Serruya & Grant, 2009; Waller, Freeman, Jolley, Dunn, & Garety, 2011), as well as sceptical reasoning tools one can employ which may disabuse one of beliefs that are not well founded. So, while we cannot say that we ought to have the freedom to believe as we want, as this is not a choice we can make, it might be the case that we ought to have the freedom to cultivate and form our own beliefs and lack of belief.

Desires are also not obviously within our control. However, as with beliefs, we may have some indirect control over them through choosing whether or not to pursue them. Human minds have a great capacity for relieving cognitive dissonance, and we can sometimes find things less desirable if we decide not to pursue them in favour of pursuing other things (Henkal, 2007; Mather, Shafir, & Johnson, 2003). In this way, as well as others, such as fixating upon desires (Caselli, Soliani, & Spada, 2013), thinking reinforcing thoughts and perhaps therapeutic methods for altering unwanted desires, it does seem we have some ability to cultivate our own desires. If this is the case, then we can say we ought to be free to cultivate and form our own desires.

The question of whether, and to what extent, our beliefs and desires are within our control cannot be answered properly with a brief discussion. Whether, and to what extent, we ought to have freedom over our beliefs and desires depends on the extent to which we are capable of having freedom over them. However, I will include the freedom to cultivate and form our own beliefs and desires among those freedoms that we ought to have, as it seems more likely than not, because of the reasons mentioned above, that these are indeed choices we can make to some degree, at least indirectly, with regard to our minds.

Freedom over what to think, in the sense of what thoughts to form in a given moment, seems to be more within our control than what we believe or desire. While thoughts may sometimes form unbidden in our minds, we do seem to be capable of imagining, remembering or otherwise thinking about something voluntarily. So, while it is not clear whether our thoughts are entirely within our control, we can say that we can choose what to think to at least a significant extent, and that we should be free to choose what to think and imagine to the extent that we can.

The body

Much as we considered what one can choose to do with one's mind, and whether those choices can be compatible with the ability of other persons to understand and make their own choices, in order to

determine what it means to have freedom over one's mind, we can now consider what one can choose to do with one's body, and whether those choices can be compatible with the ability of other persons to make their own choices, in order to determine what it means to have freedom over one's body.

Freedom over one's body includes the freedom to use the body's functions and, as freedom over something must include the freedom to determine whether that thing is destroyed, freedom over one's body must also include the freedom to retain or damage or destroy one's body or bodily functions. For example, a person ought to be free to damage or destroy their eyesight or hearing, but it would be a breach of that person's freedom if these things were damaged or destroyed against their will, as this would breach that person's freedom to retain and use these functions. This obviously also applies to internal organs. However, destroying your body's ability to perform some functions, such as breathing, may result in death. This does not mean a person is not free to do that, but in order for this to be morally neutral, rather than morally bad, that person must understand that the choice they are making includes their death and agree to that (and the act needs not to breach other persons' freedom).

Freedom over one's bodily functions does not entirely capture the choices one can make with regard to the removal or damage of what constitutes one's body. A person can also choose to remove or retain, or indeed damage or destroy their bodily matter in ways that may not affect the functions of that person's body, such as the removal of some blood or the cutting of one's hair. A person then ought to be free to remove or retain, damage or destroy parts of their body, and it would be a breach of that person's freedom to remove a part of their body without their consent. Once a body part is removed from the body, it is no longer a part of them, as this is what it means to remove a part of one's body. There is a significant literature debating whether or not body parts and tissues, once removed, can be considered property (Beyleveld & Brownsword, 2000; Boulter, 1994; Gold, 1997; Munzer, 1994), but it seems obvious from the standpoint of this theory, that if the tissues in question are no longer a part of a person, then they can be treated similarly to any other object that could be considered property. As to who owns this new object, it was previously owned as a part of the person's body that it constituted, so unless we have some reason to think that this relationship of ownership has changed in some way, such as the person in question passing the ownership of this object onto another person, then it seems we ought to say that this object is owned by the person of whose body it once was a part.

One seems to have the choice to consume things by eating, drinking or breathing them. However, one does not have the choice to consume something that is not available as this is a not choice that a person can make. What persons are free to do is assent or refuse to consume something. This means that the relevant freedom one ought to have here is a freedom to assent or refuse to consume available things, rather than a freedom to consume whatever they wish. What this means in practice is it would be a breach of a person's freedom to force-feed them, but it would not be a breach of someone's freedom to deny them access to your supply of caviar or expensive wine. Also, it is worth noting that one's freedom can be breached through unwanted starvation or deprivation of water or air, but the freedom being breached here is not that to consume, but rather the freedom over one's bodily functions and to continue one's consciousness, which can be breached as a consequence of lack of sustenance.

Another bodily freedom that persons have is the freedom to determine who and what comes into physical contact with them. It seems we are capable of choosing to physically touch, or avoid physically touching other people and things with our body. However, this does not mean that a person is free to touch or physically interact with whatever they wish, as this freedom is over one's own body, but, if freedom is not to come into constant conflict, it does not extend to being free to touch the bodies and property of others without their consent. A person, therefore, ought to have the freedom to refuse or allow physical contact with another person or object, but they are not free to touch whatever they wish. For example, it is a

breach of someone's freedom to grab them in the street and begin licking their face against their will, but it is not a breach of the licker's freedom to prevent them from doing so. Some ways of preventing the would-be licker, such as imprisoning them, would indeed breach their freedom. What I mean here is only that the freedom to lick another person's face, against that person's will, does not count as a morally relevant freedom that we ought not to restrict.

Although it is related, freedom to choose who engages in sexual contact with you is such an important bodily freedom for human beings that it warrants being mentioned separately. Again, freedom over one's body must include freedom to determine who comes into direct contact with it and especially who physically enters one's body or has one physically enter them, and again this freedom cannot, if the freedom of different persons not to be in constant conflict, be a freedom to engage in sexual contact with whomever a person wants. Rather, this freedom must be the freedom to allow or refuse sexual contact from those who are willing. To give what should be a fairly obvious example, it is not a breach of a rapist's freedom to prevent them from raping and it is a serious breach of someone's freedom to have sex or sexual contact with them against their will.

Another choice we are capable of making with our bodies is where to move them, so we can say that we ought to have freedom of movement. However, this is a freedom that could potentially lead to significant conflicts of freedom of the kind that we are trying to avoid by limiting the kind of freedom that is morally relevant. For example, you might claim that it was a breach of your freedom of movement if I prevent you from moving into my house and living in my closet. Even without raising issues of property, we can see that freedom of movement could be in near constant conflict, as two or more people may want to be in the same place, such as in the front row of a concert, but be unable to coexist at the same spatial location due to the laws of physics. So, as we said with the freedom to avoid certain qualia, this freedom must be a, reduced, non-absolute freedom. Limiting freedom of movement in this way does not mean that freedom of movement could never come into conflict with another person's freedom, such as in extreme cases of land ownership where there is nowhere to go that is not owned by someone else. However, by limiting this freedom to being a reduced freedom rather than an absolute one, we can avoid the kind of constant conflict with no clear means of resolution that would threaten the ability of morality to be decision guiding.

When I talk about a "reduced freedom" I mean a choice that a person ought to have, but not to the same extent as the other choices that belong to them. We cannot claim that we ought to have complete freedom over these choices without being in danger of the freedom of persons being in constant conflict, but they still seem to be freedoms over things which belong to the individual in question. So, we must say that we ought to have freedom to make these choices, but to a lesser extent than over our other choices. However, the precise extent to which we ought to have freedom to make these choices requires further work to determine and is related to the problem of weighing different freedoms which is discussed in chapter four.

Mind and body

Some choices, or freedoms, constitute both a part of having freedom over one's mind and a part of having freedom over one's body. Freedom of expression is one such freedom. Though many philosophers have discussed freedom of expression, particularly freedom of speech (Devrim Kabasakal Badamchi, 2015; Gelber, 2002; Jarno Hietalahti, Onni Hirvonen, Juhana Toivanen, & Tero Vaaja, 2016; Mill, 2010; Yong, 2011), grounding this freedom for freedom consequentialism is relatively simple. The ability to communicate and express one's thoughts, ideas and emotions is a choice that we can make with our bodies and minds, and, as freedom of expression does not require others to take notice, it is not a freedom that leads to constant conflict. So, we can say that persons ought to have the freedom to express

themselves, through speech as well as other forms, so long as the expression does not breach persons' freedom to avoid certain qualia as discussed above. For example, it would not be a permissible use of one's freedom of expression to chase someone around all day singing into a loud-speaker, as they ought to be able to avoid the sensory qualia of your singing if they wish to.

Another freedom over the mind and body that it seems we ought to have is the freedom to pursue many and varied projects. An important part of our lives is the ability to pursue different kinds of projects and goals, and it is hard to see how we could ever be considered free if we could not do this. So, we can say that persons ought to have the freedom to pursue many and varied projects. It is important to mention that this is a freedom to *pursue* many and varied projects, not to attain many and varied goals. It is also worth mentioning that this is not the freedom to pursue any specific project, as this could potentially lead to constant conflict. Rather this freedom is only to pursue many and varied projects. For example, it would not breach this freedom if a person was not able to watch television because they did not have one. However, it would be a breach of this freedom if a person was unable to pursue many and varied projects because that person lived in a society where they could choose only from a life as a farmer or a life as an accountant, with all other vocations, avocations and activities strictly prohibited from them by those who own the means of engaging with those other activities, or whose consent might be necessary to the engagement in those activities forbidding the person in question from taking part in any of them. This freedom amounts to having a wide range of things one can pursue available such that one has a choice about what one devotes their time to and so long as this is the case, this freedom is protected. Protecting this freedom does not require us to ensure that persons are successful in the pursuit of their projects, or that the pursuit of their projects is easy. Protecting this freedom only requires that persons are not prevented from having a wide range of varied projects they can pursue.

Some freedoms obtain when there are other persons to engage in certain activities with you, such as the freedom to congregate with other consenting individuals and be a part of institutions and associations that permit your membership or involvement. While we cannot say that one always has the choice to associate, congregate or be part of institutions with others, as there may be no others around or all others may be unwilling to engage in these activities with them, it does seem that a person can choose to engage in these activities together with other persons, through mutual consent. So, we can say that persons ought to have the freedom to congregate with other consenting individuals and be part of institutions or associations that are willing to include them, so long as there are any such individuals or institutions.

Property

I have argued that we can create property through the removal of portions of our own body as we own these things by virtue of them being a part of our body, and there being no good reason to think that this relationship of ownership would cease upon the removal of that part. So, we can rightly talk about property as a category of things that a person owns. However, how we come to own other kinds of property, such as land, houses, cars and all other manner of things which were not once a part of ourselves, is more difficult to determine. As mentioned above, I will be assuming that there is some way in which unowned property can come to be owned, but if there is no such way, then it causes no significant problems for my theory. If this were the case, then discussions of property would then only apply to things that were once a part of a person and other all things commonly thought of as property would only be instrumentally valuable in as much as they affect persons' freedom.

As with the mind and body, freedom over a thing must include the freedom to destroy or maintain that thing. As it seems that destroying or damaging our property is indeed a something we can do, we might want to say that persons ought to have the freedom to destroy, damage, maintain or preserve their property. Obviously, as ought implies can, we could not say that a person has been wronged when the

banana that they own begins to rot, as this is what it is to be a banana. The person is, and ought to be, free to preserve it as they can, but a person's inability to protect something from the inherent dispositions of the thing itself cannot be said to be a breach of that person's freedom, as the person owns that particular thing, and part of what it is to be that thing is, in this case, to decay. So, we can say that we ought to have the freedom to destroy, damage, maintain or preserve our property to the extent that we can. It is worth noting that where I speak of maintaining or destroying property here, I am including removal of parts and functions of that property.

Another important freedom over one's property is determining who can access and use that property. Much as a person is able to decide who and what comes into physical contact with their body, a person also seems to be able to decide who and what uses and comes into physical contact with their property. This freedom however, has the potential to lead to constant conflict of freedom in certain circumstances. Assume two persons own all the birds and all the mammals in a forest respectively. Any time an owl ate a mouse, or a stoat devoured some eggs, the freedom of one of these persons is breached. While this is not a constant conflict of freedom, it is easy to see how we might expand the example to make it so. This freedom then, seems one we must categorize as a reduced freedom, such as we did with freedom of movement, rather than an absolute freedom. Persons should have the freedom to determine who and what comes into contact with their property to a reasonable degree, but not to the degree where they can claim to be wronged by air passing out of a person's lungs, through the air and coming into contact with the hood of their car, though no mark or damage to the car was caused. This categorization of freedom to determine who and what uses and comes into contact with one's property will not necessarily remove all conflicts between this freedom and others, but the goal here is not to conceptualize freedom in such a way as to avoid all conflicts between the freedom of different persons. Indeed, if we wanted to avoid all conflict between persons' freedom, we would need to conceptualize freedom in such a limited way as to make it almost useless as the basis of a moral theory and completely divorced from our intuitions about what it means to have freedom. Our goal here is to conceptualize freedom in a way that avoids *constant* conflict between persons' freedom, especially if it is freedom to make the same choice, as it threatens the ability of morality to be action-guiding and leads to significant conflict with commonly-held moral intuitions.

Another choice which we are able to make with our property is that of how, if and to whom its ownership is passed. We are able to relinquish our ownership of property in a way that we cannot relinquish ownership of ourselves, and because of this we are capable of giving property to, or exchanging property with, others, as well as discarding it entirely and causing it to be unowned. We are able to choose whether or not to take up ownership of property which others attempt to give to us. So, persons ought to have the freedom to choose how, if, and to whom, their property is passed, as well as whether they accept ownership of property passed to them. This can be done through gifts, discarding of property entirely and through contractual agreements.

Contractual agreements, such as the exchange of one thing for another by mutual agreement or the giving of property under certain conditions, allow for varied kinds of property exchanges to take place. However, contractual agreements can lead to breaches of freedom through the breaking of contracts, as this often involves breaching a person's freedom to determine how, if, and to whom, ownership of their property is passed. For example, Jim agrees to pay Jerry fifty dollars in exchange for painting Jim's fence while he is out of town, but Jerry takes the money and then does not paint the fence at all. In this case, Jerry has breached Jim's freedom over his fifty dollars, as the money only became Jerry's on the condition that he performed certain actions, in this case painting Jim's fence. Jerry's actions are morally similar to having stolen fifty dollars from Jim in that he has deprived another person of their property against their will.

How one can wrong another through deception as it relates to contracts will be discussed further in chapter six.

It is also tempting to say that we ought to be free to acquire unowned property. If we are to own property that was ever unowned, we must be able to acquire ownership of unowned property in some way. However, it is unclear how exactly we do this and whether there is a limit to how much we can acquire. Remember that “ownership” here is a kind of moral entitlement, so when I talk about acquiring ownership of previously unowned property, I mean more than acquiring legal ownership of it. I mean that property becoming something that the person in question has a moral claim over and ought to be able to decide what happens to. As mentioned earlier in this chapter, many philosophers have provided methods by which we come to own unowned property (Breakey, 2011, p. 240; Friendman, 2011, pp. 34–37; Nozick, 2013, pp. 122–141; Torek, 1994), but it is not clear whether an existing account of acquiring property can be used to justify acquisition of unowned property in a way that would make one’s freedom over that property morally relevant. Coming to own previously unowned property, according to freedom consequentialism, requires coming to have some metaphysical connection to a piece of external matter such that one’s freedom over that piece of matter is intrinsically valuable. It is not yet clear how, or indeed whether, one could do this. In this thesis, I assume that it is possible for persons to own previously unowned property and discussed it accordingly. However, I leave open the possibility that persons cannot own previously unowned property and if this is the case, almost all references to freedom over one’s property in this thesis can be ignored. So, I will leave the determination whether or not we ought to have the freedom to acquire ownership of unowned property, and how we might do this, for another time and proceed under the assumption that we can.

Summarizing this type of freedom

In order to make clear the kind of freedom that freedom consequentialism seeks to protect, we can use Gerald MacCallum’s triadic relationship of freedom. In the paper *Negative and Positive Freedom* MacCallum argues that we should not talk about positive and negative freedom as two different kinds of freedom, but rather consider all claims about freedom to be claims about the same kind of triadic relation (MacCallum, 1967, p. 312); “Whenever the freedom of some agent or agents is in question, it is always freedom from some constraint or restriction on, interference with, or barrier to doing, not doing, becoming, or not becoming something” (MacCallum, 1967, p. 314). MacCallum claims that any proposed claim about freedom is a claim about a an agent that is free (X), a thing they are free from (Y) and a thing they are free to do or become (Z) (MacCallum, 1967, p. 314). Any disagreement about what freedom is, or in this case what kind of freedom is morally relevant, can be properly treated as a disagreement about the ranges of these term variables, that is, about what agents ought to be free, what they ought to be free from and what they ought to be free to do or be (MacCallum, 1967, pp. 312, 320). This method of defining what is meant by a claim about freedom is reasonably precise, and allows us to talk about what things a person ought to be free to do clearly and without confusion. In order to define what kind of freedom I am claiming as morally relevant, I need only fill in the ranges of these term variables; which is to say, describe which agents I am claiming should have this freedom, what constraints I am claiming those agents should be free from, and what I am claiming those agents should be free to do or become. So, to make clear what kind of freedom I am claiming ought to be protected, I have created a chart below that describes the kind of freedom that freedom consequentialism seeks to protect using MacCallum’s triadic relationship of freedom.

Agents (X)	Constraints (Y)	Freedom to do or become (Z)
Free, rational (by which I mean capable of rationality, not necessarily acting rationally), conscious agents	<ul style="list-style-type: none"> • Actions of others • The external world • Disease or illness • The threat of the breach of freedom (coercion) • Ignorance about the choice being made 	<ul style="list-style-type: none"> • To be able to understand and make those choices that belong to them: those regarding their mind, their body, and their property. (Specific choices listed below).

The external world: I am not claiming that persons must be, or ought to be, free from the external world, but many things in the external world can breach a person’s ability to understand and make the choices that belong to them: large rocks can fall upon them, volcanos can erupt, non-person animals can attack, lightning can strike, and when this happens it is morally relevant. For example, a person’s freedom to maintain or destroy their bodily functions is breached when another agent attacks their eyes and renders them blind, and their ability to make and understand this choice, their freedom over it, is breached in the same way if a non-person animal were to attack their eyes and render them blind, or lightning were to hit a nearby rock and flying debris left them blind. In all of these cases, the person’s ability to understand and make the choice of whether to maintain or destroy the function of their eyes is removed and it is this ability of persons to make their own choices, this freedom, which freedom consequentialism seeks to protect. So, when a person is blinded against their will, whether it be by an agent or not, we can describe that as morally bad, similar to the way a utilitarian might describe pain as bad regardless of whether it was caused by an agent. This, obviously, does not mean we should say that non-person animals or bolts of lightning have acted wrongly, but we can say, in cases such as these, there is more moral badness in the world because of them and we can, and often ought to, take steps to prevent or reduce the moral badness they cause. The same can be said of disease, we cannot hold bacteria morally accountable for making us sick against our will, but nevertheless their doing so brings about more moral badness in the world and it is of moral value to reduce that badness.

Ignorance about the choice being made: I use “freedom” to refer to the ability to understand and make a choice, which is what we determined was our best candidate for moral value. As previously discussed, the ability to understand the choice being made requires that one knows what choice one is making and what it means to make that choice, such that one is able to apply one’s rationality to it. The ability to understand one’s choices is a part of the freedom that freedom consequentialism seeks to protect, and, as such, this freedom could be breached due to ignorance of fact in cases where a person’s ignorance leads them to not know what choice they are making or what it means to make that choice. Such as in cases like that of a person unwittingly drinking poison where the person believes they are making a particular kind of choice, but the reality of the situation is different. So, in this way, ignorance can be a constraint on one’s freedom.

Coercion: In cases where a person threatens to breach the freedom of another person unless they do what they say, this puts the one being threatened in a position where they are forced to act in a certain way, or have one of their other freedoms breached. Because of this, coercing people in this way to choose one thing over another is a form of breach of their freedom to choose between those things, whether or not the threat is actually carried out. However, it would not be wrong to threaten someone with the

breach of their freedom in order to make them refrain from breaching the freedom of another person, such as telling someone to give back a stolen wallet or you would punch them in the face, as the choice they are being threatened out of making is not theirs to make in the first place. Also, it is worth noting that only threats to a person's morally relevant freedom can be considered morally relevant coercion. If the action being threatened would not, if performed, breach the freedom over those choices that belong to them of the person being threatened with it, then the threat of that action cannot be considered a case of morally relevant coercion.

Specific choices: While I have discussed the specific choices that we should say belong to persons in the previous section, it is worth repeating in a clearer format. So, the list of freedoms that I will be treating as belonging to persons, and as such as choices which persons should be able to understand and make consists of:

Mental freedoms

- To continue or cease one's own consciousness
- To think and imagine what one chooses to the extent that one can
- To generate one's own emotional reactions
- To cultivate and form your own beliefs and desires
- A reduced freedom to avoid pain and other specific qualia

Bodily freedoms:

- To keep or remove parts of yourself
- To damage, destroy, maintain or preserve your body parts
- To allow or deny access and physical interaction, including sexual interaction, to others
- To maintain or destroy your bodily functions
- A reduced freedom of movement
- To allow or deny the ingestion of nutritional and narcotic substances

Mental and bodily freedoms:

- To congregate with other consenting individuals
- To speak one's mind and express opinions publicly and privately
- To participate, or not, in institutions or associations that will accept you
- To pursue many and varied projects

Proprietary freedoms:

- To use your property in ways that do not breach the freedom of others
- To damage, destroy, maintain or preserve your property to the extent that such actions are possible
- A reduced freedom to allow or deny access to your property to others
- To enter into contracts for the use or exchange of your property with consenting others
- We may also have the freedom to acquire previously unowned property but, as previously discussed, it is not obvious that this is the case or how it might work

What I am not claiming

To avoid confusion, I will mention some of the things I am not claiming about freedom and which agents I am not claiming ought to be free. This second chart describes some of the kinds of agents I am not claiming ought to have freedom, what constraints I am not claiming agents ought to be free from and what things I am not claiming agents ought to be free to do or become.

Agents (X)	Constraints (Y)	Freedom to do or become (Z)
<ul style="list-style-type: none"> • Agents without free will • Agents without the capacity for rationality • Non-conscious “agents” • Groups of agents 	<ul style="list-style-type: none"> • Bad habits • Lack of complete information • Acting irrationally • One’s own desires • One’s moral obligations 	<ul style="list-style-type: none"> • To know or be told the truth (beyond the information necessary to be able to understand one’s own choices) • To live a thriving or flourishing life • To be treated equally • To be treated fairly • To be accepted by others

Things that are not our choice to make: The members of the Z column of the above chart are often said to be of value, but are not choices which can be said to belong to a person. For example, to be accepted by others is not a freedom that belong to a person, as it pertains not to what they do with their own body, mind and property, but rather to what others do with theirs. Freedom to know the truth or all the relevant information regarding a decision also cannot be said to be choices that belong to a person, as a person cannot choose to know the truth or all of the relevant information regarding a decision and this degree of knowledge is not required for the ability to understand one’s choices. A person might choose to seek these things, but they cannot choose to have them. Likewise, one cannot choose to live a flourishing or thriving life, as that is both not something we seem to be able to choose to do and not a choice over only what to do with your own body, mind or property, but also a choice that relates to our environment and to others. We might choose to cultivate our desires in such a way as to make our lives successful or we may choose to pursue those things which we think will make us flourishing or thrive, but we may not choose, for example, to win a gold medal in the Olympics as the other competing athletes may be better than us, or choose to be married to an attractive and intelligent spouse, as we may be undesirable to such people.

“Fairness” and “equality” are both used to mean a variety of different things by different philosophers and there is significant discussion on what these terms mean and what they require (Armstrong, Tormey, & Simons, 2013; Hoskins, 2010; McDermott, 2004; Neale, Mannix, Mullen, & Neale, 2010; Scheffler, 2010; Sypnowich, 2016; Tomasi, 2012). When I say that neither equality nor fairness is something a person ought to have, I am not picking out a particular definition. Rather, I am saying that whether one is treated fairly, or equally, under almost any definition, are not choices that belong to persons, and so are not non-

instrumentally relevant for freedom consequentialism. The only sense in which freedom consequentialism treats equality or fairness as non-instrumentally morally relevant is that freedom consequentialism treats the freedom of all persons as equally valuable. However, while freedom consequentialism as a theory treats persons equally, it does not require persons to treat each other equally or fairly beyond counting the freedom of all persons equally when determining morally acceptable actions. It is a permissible exercise of one's freedom to treat some people differently from others, even to the point where most of us would consider it unfair, so long as doing so does not breach their freedom over the choices that belong to them. This is because how one treats others, so long as one does not breach their ability to understand and make their own choices, is up to the individual.

In short, many things which are often considered to be morally relevant cannot be considered freedoms that belong to a person as they either require the actions or agreement of others or they are simply things that we do not seem capable of choosing to do or to have. While this leads to some conflict with commonly-held moral intuitions, it does not lead to as much conflict with commonly-held moral intuitions as one might expect and many of the moral intuitions my theory does conflict with seem to lead to unpalatable conclusions when properly examined. This issue is discussed further in chapter nine.

One's moral obligations: It is also worth noting that, under freedom consequentialism, one's moral obligations do not count as a restriction of one's freedom. When one is morally obligated to act in some way, this does not reduce their ability to understand and make the choice to act in that way. For example, if I come across a drowning child while walking by a lake, I may be obligated to save that child, but my ability to understand and make the choice between saving and not saving that child is not reduced by that obligation. I could understand and make the choice to let the child drown. I ought not to do this, but I certainly have the ability to. The fact that I ought to do something does not reduce my ability to not do that thing and the fact that I ought not to do something does not reduce my ability to do that thing. It is our ability to understand and our choices that is what is meant by "freedom" here, and as this is not reduced by having a moral obligation to act in a certain way, our moral obligations do not count as constraints on our freedom.

Acting irrationally: Freedom consequentialism seeks to protect the ability of persons to understand and make the choices that belong to them. As discussed in chapter one, the "ability to understand choices" here means the ability to exercise one's rationality with regard to those choices and one can be said to have this ability with regard to a choice if the following conditions are met: 1) They know what choice it is that they are making. 2) They know what it is to make that choice. 3) They are capable of applying their rationality to, by which I mean considering and responding to their reasons relating to, that choice. As discussed in chapter one, it is this ability to apply one's rationality to choices that forms a part of the freedom that freedom consequentialism uses as its measure of value, not the actual application of that rationality. If these conditions are met, whether the person in question *does* apply their rationality is up to them. So, acting irrationally is not a constraint on one's freedom, so long as one is able to act rationally, but rather an exercise of it.

As a consequentialist measure of value

In this chapter I have discussed the kind of freedom my theory uses as its measure of value. Now, we should consider how this measure of value can work for a consequentialist theory. To do this we must first clarify what we mean by a "consequentialist theory". As discussed above, the kind of freedom used as the measure of value by freedom consequentialism does not lend itself to being maximized in the same way that happiness or preference satisfaction can be maximized. Some philosophers might object

that nothing is being maximized, then my theory is not really a type of consequentialism. Many philosophers treat maximizing value as an essential part of consequentialism. Roger Crisp, when offering an account of consequentialism which would be accepted by the consequentialist, gives this account: “P.1. An action is right iff it promotes the best consequences. P.2. The best consequences are those in which happiness is maximized”³. This account does not fit my theory. Even were we to change happiness to freedom, neither of these principles would accurately describe my theory. Dealing with these principles in reverse order, my theory does not seek to maximize freedom, but rather to protect it. Were we to change the second principle to “the best consequences are those in which the protection of freedom is maximized”, then that would be more accurate. However, my theory also does not endorse the first principle, that actions are right if and only if they promote the best consequences. Why freedom consequentialism does not endorse this principle, and how we are to determine right actions, is discussed at length in chapter three, but for now it is enough to say that how freedom consequentialism determines right actions is more complicated than whether that action has the best possible consequences. My theory is not a consequentialist theory in this sense, but instead is a consequentialist theory according to the broad definition of consequentialism as “the view that normative properties depend only on consequences” (Sinnott-Armstrong, 2015b). This is the form of consequentialism that my theory aims to be, that which determines normative properties, specifically goodness, badness, rightness and wrongness, by reference to consequences.

Some might argue that the measure of value my theory uses, the ability of persons to understand and make their own choices, cannot coherently be used as a measure of value for a consequentialist theory. In *Utilitarianism and Accomplishment*, Roger Crisp argues that consequentialism cannot use accomplishment as part of its measure of value and remain welfarist, because it introduces assessment criteria that are cannot be reduced to well-being (Crisp, 2000, p. 266), and consequentialist because it introduces the importance of agent-causation in evaluating actions, and the notion that the value of an action can be intrinsic to it (Crisp, 2000, pp. 266–267). Whether or not accomplishment can be welfarist is not relevant here, but if Crisp were right about accomplishment not being usable as a consequentialist measure of value, and those objections also applied to freedom, then that would be a significant problem for my theory.

However, my measure of value is not vulnerable to this objection. First, my measure of value does not rely on agent-causation in evaluating the value of actions. While my measure of value is much more closely connected with agency than is something like happiness, it does not require a consideration of which agent-caused an action in order to determine the value of that action. Let’s consider Bernard Williams’ example of Jim and the Indians as this is the example that Crisp uses when discussing agent-causation being incompatible with consequentialism (Crisp, 2000, p. 266). In this example, Jim must either shoot an Indian himself or refuse, in which case that Indian and nineteen others will be shot. Consequentialism, Crisp alleges, must require Jim to shoot the one to save the nineteen, as it must treat the issue of which agent-caused the deaths as irrelevant (Crisp, 2000, p. 266). David McNaughton and Piers Rawling argue that Crisp is wrong in claiming that consequentialist theories must make this recommendation, claiming that consequentialism must deny agent-relative rules but can allow for references to agent-causation in agent-neutral rules (McNaughton & Rawling, 2001, p. 160), but even assuming that Crisp is right, my theory makes the exact same recommendation as traditional consequentialist theories here. Freedom consequentialism comes to the same conclusion as utilitarianism in the case of Jim and the Indians. If Jim shoots the Indian, then that Indian’s freedom will be breached by her unwanted death, which has significant disvalue. However, if Jim does not shoot the

³ Crisp is actually quoting Hursthouse here but Hursthouse refers specifically to act utilitarianism here, rather than consequentialism in general.

Indian, then that Indian and nineteen others will have their freedom to continue their consciousnesses breached, which has much greater disvalue (twenty times as much disvalue assuming all else is equal). So, freedom consequentialism evaluates shooting the one Indian as much better than refusing to, and recommends it. Who brings about the deaths of the Indians is not relevant to how good or bad the action is, only its consequences. Crisp and agent-causation will be discussed again in chapter three as it relates to evaluating actions and obligatoriness.

Also, my measure of value does not suggest any intrinsic value, or disvalue, to actions beyond the extent to which they protect, or breach, the ability of persons to understand and make their own choices. While it is true that stealing someone's car, against their will, always involve breaching their freedom over their car, this is no more introducing intrinsic value to the action than when the preference utilitarian says that slapping someone in the face, against their will, always involves dissatisfying their preference for not being slapped in the face. In both of these cases, the disvalue is in the consequence of the action, whether it be a person having their ability to understand and make choices relating to their car breached, or their preference for not being slapped in the face dissatisfied. So, neither of charges Crisp makes against accomplishment as a measure of value for a consequentialist theory are applicable to my measure of value, freedom.

Conclusion

In this chapter, I have argued for why we should believe we have libertarian free will. Then, I examined the kind of freedom that freedom consequentialism uses as its measure of value and how it relates to some common conceptions of freedom. I discussed why we should consider only freedom over that which the person owns to be morally relevant, and examined what kinds of things we should consider to be owned by persons and what choices this means that persons ought to be able to make. Then, using MacCallum's concept of freedom as a triadic relationship, I clarified which agents ought to be free, what they ought to be free from and what they ought to be free to do, according to freedom consequentialism. Perhaps as importantly, I clarified which agents are not morally entitled to freedom, what things agents are not entitled to be free from and what things agents are not entitled to be free to do. Finally, I examined how this measure of value can work for a consequentialist theory. Now that we have clarified our measure of value, we can move on to considering what freedom consequentialism should say about obligation, and whether it is vulnerable to the same demandingness objections as utilitarianism.

Chapter Three: Moral obligation and the demandingness objection

One issue that divides moral theories is the question of what is morally obligatory, what is morally permissible and what is morally impermissible. In this chapter, I discuss what freedom consequentialism should say about moral obligation. I compare the position on moral obligation of freedom consequentialism to that of the most popular consequentialist theory, utilitarianism and show that freedom consequentialism can solve the problem of demandingness that is often raised as a criticism of classical utilitarianism.

Action, inaction and the demandingness objection

The question of what is morally obligatory is complicated, in part, because it contains several different issues. In order to answer this question, we must first determine whether there is a difference between action and inaction. When the utilitarian says that choosing to act or not act is choosing between a world where one set of consequences occur and one where a different set of consequences occur, I find it persuasive. If you pass a man drowning and you could save him, but you choose not to, you are choosing a world in which the man dies, and the distinction between that and you pushing him into the water yourself seems morally irrelevant. If we accept this, then it seems that the consequences of you not acting are just as much your fault as the consequences of you acting. However, this has unpalatable implications. For example, let us imagine you choose to give fifty percent of your income to charity, when you could give ninety percent and still continue to live and earn more money. In such a situation, you are choosing a world in which more children starve. Further, because there is no morally relevant difference between action and inaction, you are responsible for them starving in a morally similar way to the way you would be if you had taken the food from their hands yourself. This gives rise to the demandingness objection.

The demandingness objection points out that classical utilitarianism, because it does not distinguish between action and inaction and because it counts everyone's utility equally, asks far more of us than it appears to at first glance. For example, imagine you are deciding whether to help your friend move house or go to a movie. According to the demandingness objection, classical utilitarianism should recommend you do neither. Instead, classical utilitarianism should recommend that you sell any possessions that you do not need to live or continue to make money, donate any money you do not need to live or make money to the charity that best puts it to use, and spend the rest of your life working at the best paying job you can get, without causing significant disutility, donating nearly all of your pay to whatever charity best puts that money to use, while spending any free time lobbying for positive political and social change in the most effective way possible. Needless to say, this is asking a lot, and this level of demandingness has caused many philosophers to discount utilitarianism as a viable moral theory (Hills, 2010; Hurley, 2009; Lang, 2013, p. 80; Mulgan, 2005).

Another part of the demandingness objection is that it seems to demonstrate that classical utilitarianism is not capable of identifying any actions as supererogatory. This conflicts with the moral intuition that some actions go above and beyond the call of moral duty. It is commonly objected that there is no place in classical utilitarianism for doing more than is required, as what is required is the most that one can do (Archer, 2016; H. B. Miller & Williams, 1982, p. 226; Vessel, 2010, p. 299). When we can call this criticism the supererogation objection.

Utilitarian responses to the demandingness objection

Utilitarians can respond to the demandingness objection in several ways. They can claim that utilitarianism is not as demanding as it seems, change to a form of utilitarianism that is less demanding or claim that the demandingness of utilitarianism is not as big a problem as it seems. I now examine these responses.

Utilitarianism does not require we devote our lives to poverty relief

A very simple kind of response available to utilitarians faced with the criticism that their theory demands too much, is to claim that it does not. Utilitarians could claim that doing good in our own communities is more efficient and more likely to produce happiness than constantly working for the betterment of communities you have never visited and, thus, do not truly understand (St-Marie, 2015a).

This response is weak, however, as it does not take seriously the difference in the magnitude of suffering between a relatively poor community in a wealthy and relatively well-run country, and a poor community in a country that is devastated by poverty, corruption, war or disease. The living conditions of a relatively poor person living in New Zealand are likely substantially better than those of a poor person living in a third world country (“WHO | World Health Statistics 2014,” n.d.; “Worldwide, Median Household Income About \$10,000,” n.d.). Also, the amount of time and money it takes to, for example, house a homeless person in a developed country is much more than it is in the developing world. There are a number of relatively inexpensive interventions that could be made in the developing world that can massively reduce human suffering, such as providing mosquito nets, worming tablets or water decontamination (“Against Malaria,” n.d.; “Impact Report,” n.d.; Milman, 2015). Simply speaking, you get much more ‘bang for your buck’ when you give to charities that help the worst off in the world in the most efficient way possible than you do when you do good things in your own community (unless of course you live in one of the worst off communities in the world).

Claiming that we do not understand the needs of communities with cultures different from our own to such an extent that we cannot provide aid to them is also incorrect. While differences in culture can lead to significant misunderstandings, the needs of clean water to drink, enough food to eat, being free from disease and not being shot are universal. While we might, arguably, cause more harm than good trying to combat practices we see as wrong, but which are culturally ingrained, providing clean water to drink or medicine to combat outbreaks of malaria, tuberculosis, or parasitic worms will create significant utility (McKay, 2013, p. 37).

An argument that is not specifically aimed at the demandingness objection, but rather at the notion that we should give a large portion of our income to charity, is that projects designed to help the poor may actually seriously harm them. For example, it has been argued that any contribution to the relief of the HIV epidemic in South Africa would be dwarfed by that country’s president’s views on the disease (Singer, 2002). This response is not compelling, as it completely ignores uncontroversial programmes with obvious benefits, such as immunizing against the most common child-killing diseases, which are unlikely to meet with any real resistance. The proponents of this argument can also claim that donating money to countries that are ruled by corrupt governments can increase the power of those governments, rather than helping the people who need it the most. This is also easy to refute, as it is only an argument against donating to organizations that are ineffective, corrupt or incompetent; there are plenty of charitable organizations that are none of these things and that have a great deal of experience getting aid to where it is needed most (Singer, 2002).

Another option for the utilitarian is to claim that we need not all go to extreme lengths in order to prevent the massive amounts of suffering in the world; if we all did our share, perhaps all contributed five to ten percent of our income to programmes to help the developing world, we could remove and prevent the wide-scale suffering that afflicts large parts of the world without having to give our entire lives to the effort. This may be true, but it does not help the utilitarian here. There are two major problems with this kind of response. The first is that while it might work in an ideal world, we do not live in an ideal world. Much of humanity does not do its share, so, much greater, indeed crushing, responsibility must be shouldered by those of us who want to do what we ought. The second problem with this response is that even if we all worked together and ended global poverty, the demandingness objection would still stand. Classical utilitarianism requires us to *maximize* utility in order for us to act rightly. In a world free of crippling poverty, corruption and war, to maximize utility, people would still need to ignore their own projects and desires and act only in ways that produce the most utility possible, even when those projects were foundational to their personal integrity⁴ (Bernard Williams, 1993, pp. 108–118).

Alternative forms of utilitarianism

An alternative response for the utilitarian is to change to a different form of utilitarianism. For example, the utilitarian could switch to satisficing utilitarianism by abandoning maximizing consequentialism in favour of a form of satisficing consequentialism. The utilitarian could also switch to scalar utilitarianism.

One possible response to the demandingness objection, is for the utilitarian to abandon the maximizing element of their theory and instead switch to a form of satisficing consequentialism. On a satisficing account of consequentialism, as discussed in chapter one, you need not always maximize utility. There are two major forms of satisficing consequentialism: absolute level satisficing consequentialism and comparative level satisficing consequentialism. On the absolute level view, an action is right if the consequences of that action either reach a certain utility threshold or, if that threshold cannot be reached, produces the maximum amount of utility possible (Bradley, 2006, p. 98). On the comparative level view, actions are right as long as they produce an outcome that is reasonably close to the best (Bradley, 2006, p. 98).

Before we look at whether satisficing consequentialism solves the demandingness objection, we should examine the problem with satisficing consequentialism in general. Satisficing consequentialism can arguably judge an action to be right when it actively prevents a very good thing from happening by instead making a slightly good thing happen, as it meets the minimum threshold of goodness (Bradley, 2006, p. 103). This is particularly the case with regard to actual level satisficing consequentialism (ALSC), Ben Bradley demonstrates this issue:

“ALSC: There is a number, n , such that: An act is morally right if either (i) it has a utility of at least n , or (ii) it maximizes utility. Let n be 20. Suppose that, were I simply to mind my own business and continue sitting on my couch, there would be consequences with intrinsic value of +100. Alternatively, I could get off my couch and undertake a course of action to prevent that outcome. This would involve bringing about a different outcome, with intrinsic value of +20. ALSC entails that both acts are morally permissible.” (103)

This kind of action seems obviously wrong, from the perspective that what matters is how much utility one’s actions produce, yet satisficing consequentialism seems to support it.

⁴ The reason this is the case will be discussed later in this chapter when I look at the “moral emergency” response to the demandingness objection.

Bradley's objection prompted Jason Rogers to propose a new form of satisficing consequentialism that is not open to this objection. He calls this view 'situational absolute-level self-sacrifice satisficing consequentialism, or SASSC for short. He states SASSC as follows:

"There is a number, n , such that: An act, A , performed by agent S , is morally right iff either (i) the value of the situation after A is at least n , and is at least as high as the value of the situation prior to A , and any overall better alternative to A , A^* , is such that: [were A^* to be enacted instead of A , either S 's resultant personal welfare level after the enactment of A^* would be comparatively significantly less than it was prior to the enactment of A^* , or the value of the situation after the enactment of A^* would not be appreciably greater than the value of the situation after the enactment of A]; or (ii) A maximizes utility." (Rogers, 2010, p. 216)

So, according to SASSC, there is an absolute threshold of value such that, if situations do not meet this threshold, maximizing is required. When situations do meet that threshold, satisficing is permissible only if the following conditions are met:

"First, it must be that the satisficing action results in a situation with a value at least as high as the value of the situation preceding the action; no permissible satisficing action can make a situation worse. Second, it must be that any alternative action that results in greater overall utility than the satisficing action satisfies at least one of the following conditions: either (i) enacting the alternative instead of the satisficing action would require a comparatively significant self-sacrifice (i.e. a sacrifice of 'appreciable importance') for the agent, or (ii) the overall utility that would result from the enactment of the alternative is not appreciably greater than the value of the situation that results from the enactment of the satisficing alternative" (Rogers, 2010, pp. 216–217)

When the situation in question meets the absolute threshold and these two further conditions are met, an action is morally permissible according to SASSC (Rogers, 2010, pp. 216–217).

Rogers' version of satisficing consequentialism avoids Bradley's objection without becoming significantly more demanding than other forms of satisficing consequentialism, and it also allows for supererogatory actions. However, while it might solve the demandingness objection in a world significantly better off than this one, it does not solve it for the world we currently live in. SASSC requires us to maximize utility if the value of a situation is less than some absolute threshold. Meaning that unless an objective threshold of "good enough" with regard to a situation is met, maximizing in that situation is still required. Rogers does not specifically state exactly what this threshold is, but unless this threshold is so low as to allow massive suffering, which would seem to be unacceptably low from a utilitarian perspective, then it would be safe to say the situation of those in countries ravaged by poverty, war and famine does not meet that threshold. Given current levels of global poverty and starvation, it seems that satisficing is not permissible and we must maximize utility. So, given the world we currently live in, SASSC does not seem to allow for a person in an average position in a developed country to act in any way other than that which maximizes utility. Similarly, SASSC cannot call any actions a person could perform in the world we currently live in supererogatory. Roger's form of satisficing consequentialism might solve the problem articulated by Bradley, but it does not solve the demandingness objection. Further, other forms of absolute-level satisficing consequentialism seem to have the same problem, in that they need to either set their threshold that allows for satisficing unacceptably low, or face the demandingness objection. Comparative level satisficing consequentialism faces a similar problem. It seems the comparative-level satisficing consequentialist must set the bar for being "reasonably close to the best possible action" so low as to make the term almost meaningless in order to allow actions that most would consider morally permissible, such as helping a friend move, to meet that threshold. Otherwise, the comparative-level satisficing consequentialist also faces the demandingness objection.

The utilitarian might also adopt scalar utilitarianism to avoid the demandingness objection. Scalar utilitarianism, as discussed in chapter one, ranks states of affairs from better to worse according to their utility, but does away with the notion of right action or wrong action, as well as duties, obligations, and demands (Lang, 2013, pp. 80–81). This position, championed by Alastair Norcross, is primarily supported by the Persuasion Argument, which argues that the standard utilitarian threshold between doing right and doing wrong is arbitrary. The Persuasion Argument asks us to imagine that someone is obligated to give, at a minimum, ten percent of their income to charity. Then the argument points out that the difference between nine percent and ten is the same, in an obvious sense, to the difference between eleven percent and twelve. It further goes on to point out that, if there were two people with identical incomes, one of which is deciding whether to give nine or ten percent of their income to charity and the other deciding between eleven or twelve percent, utilitarianism will recommend you spend the same amount of time convincing each of them, as each outcome, the additional, amount of money being given to charity, is of the same value (Dreier & Norcross, 2009, p. 41). It is argued that because the utilitarian has no additional reason to persuade a person to do what is obligatory for them to do over the reasons they have to persuade a person to do what it is supererogatory for them to do, when the consequences of either are the same, then the threshold for doing right and doing wrong in utilitarianism is arbitrary and should be done away with in favour of scalar utilitarianism.

The Persuasion Argument has two significant problems. First, it assumes that utilitarians can say that the amount of utility one ought to produce is somewhat less than the maximum possible amount, in that it assumes the amount one is obligated to give could be ten percent while one could do more good by giving eleven or twelve percent, and it is not yet obvious how they would get to that point. Second, and more importantly, it rests on the assumption that the utilitarian's indifference to the rightness or wrongness of another person's actions when taking the role of a persuader means that the theory of utilitarianism ought not to distinguish between rightness or wrongness at all. There is no reason to think that the specific sensitivities of a utilitarian, when acting in the role of persuader, are indicative of what is important or not important according to the theory of utilitarianism (Lang, 2013, p. 86). It is entirely coherent for utilitarianism to determine the amount of good one is doing to be sufficient to be morally permissible, assuming it is a form of utilitarianism that does not require maximizing, but for an individual utilitarian to spend as much or even more time persuading that person to do more good as they do on persuading those who are acting impermissibly, even to the point of lying to them about whether utilitarianism suggests that person is acting permissibly or not. This is because utilitarians need not consider whether others are acting rightly or wrongly when determining how they themselves ought to act, only what the consequences, or expected consequences, of their actions will be. In short, there is potentially a big difference between what utilitarianism can imply about the permissibility of actions and what a utilitarian would, or should, say in order to achieve better consequences.

There is also a larger problem with scalar utilitarianism as it relates to the kind of moral theory I am aiming to create here; as mentioned in chapter one, scalar utilitarianism is not action-guiding. Norcross says of this: "Once a range of options has been evaluated in terms of goodness, all the morally relevant facts about those options have been discovered. There is no further fact of the form "x is right," "x is to-be-done," or "x is demanded by morality."" (Norcross, 2008, p. 228). Scalar utilitarianism tells us that some actions are better than others, but it does not tell us how we ought to act or be because it does not deal with obligations. Norcross argues that there may be prudential reasons to use phrases such as "right" and "wrong" and "ought to be done", but that they, in a sense, do not refer (Norcross, 2008, p. 228). On this view, morality is not about how persons ought to be or act, but rather a determination of which actions have more value.

One might respond to this by claiming that determining how one ought to be or act is not the purpose of morality, and that Norcross's theory is a good one if "morality" is understood in a different way. This may well be true, and Norcross and I may be talking about different things when we talk about "morality".

However, if what we are concerned with is figuring out the way in which persons should be or act, then our theory must be action-guiding. If this is the kind of moral theory we are looking for, then Norcross's theory does not help us to solve the demandingness objection as the cost for using it to solve this problem is that our theory is not action-guiding. The cost of adopting a scalar approach to consequentialism is too high in that it requires giving up being action-guiding altogether. So, while Norcross's theory might solve the demandingness objection for a different conception of morality, it does not do so for the conception of morality I am interested in developing a theory of in this thesis, that is, the way in which persons ought to be or act, where "ought" is understood in an objective and universal manner.

As well as not being the conception of morality I am interested in here, we have reason to reject the conception of morality that Norcross's theory describes as a poor one. If "morality" is the rating of the different levels of goodness and badness, or moral value, of various actions or circumstances, then it is without normative force. There is no sense in which one morally *ought* to do something, as there is no normative force to morality; it makes no demands. Moral value seems to be connected to the notion of normative force, that one *ought* to do, or not do, something, which I will call "oughtiness". To say something is morally good is sometimes thought to imply a reason to pursue that thing, or at least implies that pursuing that thing would be morally permissible. Without the notion of normative force, it is unclear what saying something is "good", or has "moral value", even means. We can evaluate actions by their differing levels of moral value, but this evaluation is meaningless unless moral value is *valuable* and, without the normative force, or oughtiness, of morality, there is not a substantive answer to why moral value is any more important than any other kind of value or why one should care about morality⁵. We could equally evaluate actions according to their *schmoral* value and these evaluations would have equal normative force (which is to say, none at all) and, without any moral demands or obligation, exactly as much reason we ought to care about them. Morality then, becomes no more important than any other system of value we might want to invent. Norcross might argue that the best moral theory is utilitarianism, but, if he is right about what morality is, we need not disagree with him. We can say that we prefer *schmorality* and that the best *schmoral* theory is deontology, or ethical egoism, or virtue ethics; there is no principled reason he can give to prefer one theory over any other.

Biting the bullet

A third kind of response utilitarians can make to the demandingness objection is to bite the bullet; they can accept that utilitarianism is indeed very demanding, but say that this is not a significant problem for their theory. One way to do this is to claim that utilitarianism is so demanding because the world is in a state of moral emergency and that if we were to make significant political reforms to improve the state of the world, utilitarianism would not demand so much of us (Ashford, 2000, p. 438). However, even if we ended global poverty tomorrow, utilitarianism would not be significantly less demanding. Because we must treat everyone's happiness equally, we could still be obligated to spend our entire lives in the pursuit of the happiness of others; our actions would just take a different form, such as giving out free ice cream, supplying video game systems to those who do not have them, or doing odd jobs around the houses of the lazy. There are a lot of ways to make others happy, and many of them come at relatively little cost to yourself, so it seems unlikely that, even if the world was not in a state of moral emergency, utilitarianism

⁵ There might sometimes be prudential reasons to care about morality, but performing good actions is unlikely to always be in one's own prudential interest and, if it were, it would only be because circumstances were such that it always happened to be in one's own interest.

would stop being so demanding. Also, even in a world that is in a state of moral emergency, it seems utilitarianism demands too much. It seems too demanding, no matter the state of the world, that an average person is required, by utilitarianism, to spend the entirety of their life working for the betterment of others and never pursuing their own projects.

Another option in this ‘bite the bullet’ vein is to say that although utilitarianism might conflict with our intuitions about what it is to be too demanding, it may be those intuitions that are wrong. One could argue that we set the bar for helping others too low, and that if we were socialized to accept giving more to those in need, we would likely find moral notions we currently consider to be too demanding to be acceptably demanding (Braddock, 2013; Sin, 2010). This may well be the case, but regardless of how we are socialized, it seems there is a level of demandingness that is too great, and given the maximizing nature of classical utilitarianism, it asks the most of us that it is possible to give. We might have our intuitions about demandingness set too low but, if anything at all can be too demanding, classical utilitarianism can be, as it asks us to constantly do the maximally good thing. Moreover, the maximizing aspect of classical utilitarianism means that whenever we do something less than the best possible action, such as spending our time and money helping those that are very badly off, but not as badly off as some others, we are acting wrongly. Few people would disagree that spending your life maximizing the good for other people is a very good thing, but this notion that if you only do some good for others, but not the maximum amount possible, you are acting wrongly grates against people’s intuitions about moral obligation.

Alternatively, the utilitarian might offer no defence of the demands of utilitarianism, but instead claim that it is the best theory we have and that other alternatives are as, if not more, demanding. Elizabeth Ashford, for example, claims that utilitarianism would not be so demanding if the world was not in a state of moral emergency, but that other theories, such as contractualism, because it does not endorse certain trade-offs of welfare, would be extremely demanding in almost any practically possible state of the world (Ashford, 2000, pp. 298–301, 438). But, this response fails as, even ignoring deontological, rights-based and virtue-based theories of ethics, which all seem to be less demanding than classical utilitarianism, freedom consequentialism, the theory I argue for here, is a less demanding alternative.

Finally, the utilitarian can bite the bullet of demandingness wholeheartedly and attack the position of “ordinary morality” that we are not required to promote the maximum good. Shelly Kagan makes something akin to this move in her book *The Limits of Morality*, arguing that the “moderate” position that we can permissibly perform actions which do not promote the maximum good is indefensible (Kagan, 1989). Kagan demonstrates significant problems with the common-sense view of “options” to act in various ways even if they do not maximize the good, and “constraints” on acting in certain ways even if those ways do maximize the good (Kagan, 1989). Kagan argues that moral systems that include “options” to allow harm to come to others, will consistently include “options” to bring about harm to others, and that this is unacceptable (Kagan, 1989, pp. 19–24). She also argues against the idea of a maximum cost that morality can demand of an individual (Kagan, 1989, pp. 231–270). However, these problems do not arise for freedom consequentialism’s position on obligation and the demands of morality as discussed below. The position I defend allows for a range of moral options without allowing options that cause harm to others, or constraints on specific actions regardless of their consequences. It also allows for morality to be less demanding without claiming that there is a maximum cost morality can require of the individual.

In short, the demandingness objection is a difficult one for the utilitarian to answer. It seems to be a very effective moral intuition pump against utilitarianism. A moral intuition pump, no matter how powerful, is not enough to defeat a normative theory entirely, as our intuitions could be wrong. However, it might be cause for us to re-examine our understanding of the good, the right and the relationship between them.

That is what I do below. I construct an account of obligation and the demands of morality that aims to be consistent with the earlier principles of my theory and coherently consequentialist, while also avoiding this significant conflict with our moral-intuitions.

The Solution

Now let us consider what freedom consequentialism should say about which actions are permissible, impermissible, obligatory and supererogatory. The method I discuss here leads to less conflict with commonly-held moral intuitions than the maximizing model used by classical utilitarianism, and captures the notion of supererogation as well.

In order to determine whether an agent's action is permissible or impermissible, we must have a method of determining whether that action leads to consequences which are, on balance, good, bad or neutral. We must determine whether the agent, in acting in a certain way, is making the world better or worse (or neither). So, we must be able to determine what counts as the consequences of a particular agent's action before we can say whether that agent acted in a way that was morally permissible, impermissible, obligatory or supererogatory.

It seems the best way to determine what qualifies as the consequences of a particular agent's action, or actions, is to have some way of considering what the world would be like without their actions in order to compare the state of affairs brought about by their actions to what would have occurred had they not acted. However, as it seems that one could choose not to act, and in doing so bring about terrible consequences, it would be a mistake to not attribute moral responsibility to someone for a choice because that choice was not to act. What we want is a way of comparing what happens in reality to what would happen if the agent in question were not "in play" as an agent, which is to say not having an effect on consequences whether directly or indirectly through action or inaction. Doing this would allow us to determine whether the agent's action, or inaction, brings about, on balance, good consequences or bad consequences. In the following discussion about how we should determine the morality of an agent's actions, I use "action" to include inaction.

A way that we can compare reality to what would happen or would have happened had the agent not been "in play" as a moral agent is by imagining how the world would be if the agent in question did not exist and then comparing that to reality. Then we can ask, if this person carries out this action, will the action breach more freedom than if this person were to not exist? If the answer is yes, we can call that action *bad* (by which I mean that it has, on balance, bad consequences). We can also ask, will this action prevent the breach of more freedom than would happen if this person did not exist. If this is true, and the protection of that freedom either costs no additional breaches of freedom (not including opportunity costs) or includes breaching some lesser amount of freedom than the amount being protected and that freedom could not be protected except by breaching this lesser amount of freedom (An action is not good if it protects a greater amount of freedom than it breaches, but the breach of freedom it causes could be avoided while still protecting the greater amount of freedom), then we can call that action *good* (by which I mean it has, on balance, good consequences). We can also use this method to determine morally neutral actions, as they are the ones that have neither good nor bad consequences.

However, the list of actions that could be considered good, or bad, if you stopped existing *now* is different from the list of actions that could be considered good, or bad, if you had *never* existed. Neither one of these options seems correct by itself. If we were to determine good and bad actions based on what would have happened if you had never existed, then it seems it would not be a bad action to steal money from

a charity that you set up, as that charity would not have existed without you. If we were to determine good and bad actions based on what would happen if you stopped existing now, then it seems we cannot say what is wrong with not paying a person back money they are owed or not fulfilling your end of a contract for which you have been paid because the person would not be paid back and the work not done, if you were to stop existing. So, neither of these alone is an acceptable way to determine which actions are good or bad. Bad actions then, are actions that have worse consequences (for the freedom of persons) than the consequences that would follow if had you never existed *or* if you stopped existing now. If either or both of these hypotheticals would lead to better consequences than those that will result from your action, then the action in question is a bad one. Good actions are actions that have better consequences (for the freedom of persons) than the consequences that would follow *both* if had you never existed and if you stopped existing now, where those good consequences either cost no additional breaches of freedom (not including opportunity costs) or include breaching some lesser amount of freedom than the amount being protected which could not be protected except by breaching this lesser amount of freedom.

This definition is still unsatisfactory as, if you were to stop existing now, your property would be acquired by others and it seems likely that some of it would be donated to charity, regardless of how much you have personally given. Because this would have better consequences, in that more freedom is protected, than most actions one might consider performing, this would mean that most potential actions other than giving the majority of your wealth to charity would be considered bad actions. This could only be avoided by having very little property in the first place. This returns us with the demandingness objection, which is exactly the issue we are attempting to solve. This approach also seems to treat property as though it were communal, which seems incorrect if property is something that belongs to the individual and something individuals have freedom over in a similar way to their body. This can be solved by amending “if you stopped existing now” to, “if you, and all your property, stopped existing now”. So, when we consider the list of actions that can be considered bad or good, we consider it against the situation if the person *and* all their property were to stop existing.

This is still not sufficient for determining good actions from bad, as a person ceasing to exist could prevent them from carrying out good actions in the future, so the objections to using only the idea of having never existed as the demarcation criterion between good and bad could still be applied if any breach of freedom the person is considering committing is less than the amount of freedom they will protect in the future. So, we must include a third clause, that of the individual in question, but not their property, ceasing to exist briefly instead of committing whatever action is being considered, and then popping back into existence again after they would have committed that action. We can further stipulate that any transfers of property that were going to take place do, but that nobody inherits the other property the individual owned while they briefly do not exist. We can add this to the other two clauses already discussed to create a complete set of criteria for separating good actions from bad ones, such that a bad action is any action that produces worse consequences than any one of these three possibilities and a good action is one that produces better consequences than all of these three possibilities.

This method is, so far, primarily of use when differentiating between several actions that do not involve breaching one’s own freedom. It is problematic when we consider breaches to our own freedom. For example, we can imagine that we are on a lifeboat with another person and we are stranded out at sea with limited supplies. If we used this method of determining good and bad actions, we would conclude that it would be wrong of us to eat and drink half of the rations because, were we not to exist, the other person could have those provisions as well and stand a better chance of surviving long enough to be rescued. This clearly ignores the breach of our own freedom in starving to death, which is problematic. Your own freedom counts just as much as other persons’ freedom. So, when faced with such a situation, one needs to “add oneself back into” the moral calculation of good and bad actions. We can do this by

adding the proviso that an action is bad if it causes more breaches of freedom than would occur were we to not exist in any of the above ways *and* that the action does not breach our own freedom to a greater extent than the breach of freedom that would occur were we to carry out that action. We can also say that an action is good if it prevents more breaches of freedom than would occur if you were to not exist in any of the ways described above and it either breaches no one's freedom, including your own, or it prevents a greater amount of freedom being breached, and that amount could not be protected without breaching at least as much freedom as is breached by that action. This means that in the example above of being stranded in a lifeboat with limited supplies, it is not a bad action to prioritize your own survival as highly as that of the other person or even, were the rations only able to sustain one of you, to prioritize your own life at the expense of theirs.

I should also note that when I talk about imagining a person had never existed, or that they ceased to exist, I am talking about a possible world in which either that person had not existed, or one in which they ceased to exist but which apart from this change, and the consequences of it, is just like our world. As this is a principle for determining what kind of impact the agent's actions are having on the world, we should not make any other changes to the possible world.

The method to demarcate good actions from bad actions we have been formulating can be formally stated like this:

An action is bad if it has worse consequences (more freedom is breached) than had the actor never existed or had they ceased to exist rather than commit that action then started to exist again after the time they were going to commit the action or had they, and all their property, ceased to exist permanently rather than commit that action *and* to not carry out that action would not breach an equal or greater amount of freedom, including breaches of one's own freedom, than the amount of freedom that would be breached by carrying out that action. An action is good if it has better consequences (less freedom is breached) than had the actor never existed and better consequences than had they ceased to exist rather than commit that action and then started to exist again after the time they would have committed the action and better consequences than had they, and all their property, ceased to exist permanently rather than commit the action *and* the action either caused no additional breaches of freedom, including breaches of one's own freedom but not including opportunity costs, or included breaching some lesser amount of freedom than the amount being protected and that larger amount of freedom could not be protected except by breaching this lesser amount of freedom. All other actions are morally neutral.

Upon reading this, one might object that in the previous chapter I claimed that my theory does not use agent-causation to evaluate actions, and now it seems I am doing exactly that by claiming that we should evaluate actions as good or bad using a method which looks at what the world would be like without the specific agent that caused those actions. However, this consideration of agent-causation is not the sort that Crisp objects to. The above method evaluates actions by reference to the consequences of those actions, and the measure of value by which these actions are evaluated is one which is objective and not agent-relative or related to agent-causation. What makes an action good according to this method is the amount of freedom it protects, and what makes an action bad is the amount of freedom it causes to be breached. Where agent-causation is considered is in which consequence sets we compare proposed actions to in order to determine whether we should consider them good or bad on balance. Classical utilitarianism considers agent-causation in this way as well when considering which action is right, in that it compares the consequence sets of all actions that the agent in question could perform to determine the right one. For example, classical utilitarianism might claim that Jim ought to shoot the Indian to save nineteen others, but it does not claim that some other person who is on the other side of the world should shoot the Indian to save the nineteen others because this is not an option that is available to them.

Assuming that ought implies can, one can only be obligated to perform those actions that one could perform, so a moral theory cannot claim that the action a person should perform is one that is not available to them. In short, because different agents have different sets of actions available to them, consequentialist theories need to know which agent is under discussion in order to know which possible consequence sets are relevant to consider. My proposed method is not considering which agent is acting in a new or anti-consequentialist way. It is just comparing the consequences of actions against the consequences that would occur had the agent in question not existed, rather than against the consequences of all that agent's other possible actions.

So, we have our method of demarcating good actions from bad actions. From here on I will use "do good" to mean perform actions which the above principle would determine to be good.

However, though we have a principle that allows us to differentiate good actions from bad ones, it does not tell us which actions we are obligated to perform or not perform. Like scalar utilitarianism, it allows us to rate the consequences of actions, but it does not provide us with a guide to action. So, the question then becomes, which actions are we obligated to perform?

It should be obvious enough that one should do no bad actions⁶. If what is morally valuable is that persons' freedom is not breached, then one should not perform actions which, on balance, cause more freedom to be breached. It is tempting to say the same thing of goodness and say that good actions are actions which cause less freedom to be breached, and that is morally valuable, therefore we have an obligation to carry out such actions. However, because ought implies can, and we can only bring about a certain amount of good, the amount that we are obligated to bring about must be something less than the amount of potential good that could be brought about.

Classical utilitarians claim that the amount of good we are morally obligated to bring about is the maximum amount that we can bring about, but we have already seen the problem with that view. If we were to say that we should maximize value, then we would quickly be faced with the demandingness objection. However, I did not create this theory with the assumption that value should be maximized. I created this theory with specific goals in mind, one of which was avoiding significant conflict with commonly-held moral intuitions. So, I suggest that we need not assume we are obligated to bring about the maximum amount of good that we can. Instead we can say we have an obligation to not perform any bad actions and an obligation to bring about some amount of good. As this position allows my theory to avoid significant conflict with commonly-held moral intuitions, and does not conflict with any of the other aims of my theory, I will proceed under this assumption.

Because of the connection between ability to do good and obligation to do good, in that the latter cannot exist without the former, we can reason that the amount of good a person is obligated to do is dependent upon the amount of good they are capable of doing. It also seems reasonable to assume that those who are in a unique position to do some particular good have a greater obligation to bring about that good, all else being equal, than those in a relatively common position to do a particular good, as it seems that those in a relatively common position to do a particular good share in that responsibility and thereby lessen their share of it. So, we will say that obligation is also proportional to the uniqueness of one's ability to do a particular good action. What these two principles mean together is that the more capable you are of doing good, through having greater intelligence, more money or the ability to influence others, the more good you are obligated to do *and* that you have a greater degree of obligation to produce some specific good if you are in a unique position to bring about that good. Imagine, for example, that one is in a

⁶ Except in cases where the only options available are all bad actions. In these cases, one should opt for the least bad action.

relatively common position to bring about some particular good, such as being in a first-world country and having some amount of disposable income that could be donated to charity. The fact that many other people are in a similar position to bring about that good reduces the extent to which that person is obligated to bring about that good. There is still some obligation to donate to charity, but it is lessened by the number of others in a similar position. We can compare this to the classic case of a person passing a child drowning in a pond when no one else is around. In this case, the person is in a unique position to bring about the good of saving that child from drowning, so the obligation to dive in and save them is much greater.

However, this still does not tell us what this minimum required threshold of good that we need to bring about is. Saying that it is proportional to our ability to do good is all very well, but the classical utilitarian could say that, and still maintain that the amount of good we are required to do is the maximum we are able to. After all, a direct one-to-one relationship is proportional. They could even include the uniqueness of our position to do good and still say the same thing, by saying that you should first take those actions that maximize the good that you are in a unique position to perform, and then move on to those that many others are able to perform as well. In order to escape the demandingness objection, we need a way of determining what this minimum required threshold of good is, below which you are considered to be acting wrongly and above which your actions are supererogatory.

One possible way of determining this minimum goodness threshold is by reference to the world if you had not existed. We have already used a counterfactual possible world in which you never existed to determine which actions are good and which are bad, and we could potentially do the same for which actions are obligatory. We can imagine that if we had not existed, the resources we have acquired and the positions in society we occupy might well have been acquired and occupied by someone else. So, if we do less good than someone else would have had they occupied the social positions we do or acquired the resources we have, we can say that we are, in a sense, causing less good to be done and, because good in freedom consequentialism is the protection of persons' freedoms, we are essentially causing, by our very existence, the breach of persons' freedoms. We could use this to argue that we are obligated to do at least as much good with the resources and social positions we have as someone else would have, had we not existed. There is something appealing about responding in this way, as it seems that it determines obligation by reference to responsibility for harm, which seems to fit with our intuitions. However, this response does not seem to be satisfactory for two reasons. First, it seems to imply that moral obligation changes with the zeitgeist, in that if people become generally more inclined to do good, then this hypothetical person, or persons, who might have acquired the resources you have or occupied the social positions that you do, is likely to do more good and, as such, your obligation to do good with those resources and positions increases. Likewise, if the general tendency of people to do good decreases, your obligation to do good would similarly decrease. This is problematic as it seems to introduce a strong status quo bias to our calculations of moral obligation. Also, it seems odd to say that our obligation to do good increases when others do more good and decreases when others do less good. Secondly, this response does not explain why someone has a particular obligation to save, for example, a drowning person that they encounter while out on a walk. That person not existing does not give us any reason to assume that some other person would have been walking the same way and encountered that drowning person, so this response provides no reason why they are obligated to save them. For these reasons, we will not use this method of determining a minimum goodness threshold.

Before stating my solution to how we can find this minimum goodness threshold, I should point out once again that freedom consequentialism does not promote value in the same way that classical utilitarianism does. The value it is seeking to promote is the freedom of persons over those things that belong to them: their mind, their body and their property, or, to put it another way, the ability of persons to understand

and make their own choices. Freedom consequentialism does not seek to increase the number of choices that belong to a person, it seeks only to protect the person's ability to understand and make those choices belong to them⁷. As such, in a world where nobody's freedom was being breached, there would be no positive obligations, that is, no obligations to do some certain thing. The only obligation that would exist in such a world would be the negative obligation to not do any evil. This is substantially different to classical utilitarianism in that even if the world was free of suffering, there would still be obligations to increase happiness or preference satisfaction. Freedom consequentialism allows us to imagine a world in which our only obligation is to do no evil in a way that is, at the least, very difficult for the utilitarian. So, we can see that what gives us our positive obligation to prevent or reduce the breach of freedom is that such a breach exists, or is likely to exist, in the first place. I suggest then, that the best way of determining how much good a person is obligated to do is by reference to how much good they are able to do, how many others are in a similar position to do that good *and*, how much good needs doing.

So, when determining how much good you are obligated to do, you need to consider how much good needs doing, that is, how much freedom is being breached or likely to be breached, then your ability to do that good, to prevent or reduce the breach of that freedom, and how many people are in a similar position to do that good. We can use these three things like X, Y and Z coordinates to locate the minimum required threshold of good a person is obligated to do. This threshold will be different for different people and will change as circumstances change. What we are left with is a kind of satisficing consequentialism, but one that determines the minimum goodness threshold in a different, and somewhat agent-dependant, way. Because of this way of determining the minimum required goodness threshold, freedom consequentialism does not leave itself open to the same criticisms of satisficing consequentialism discussed earlier. Specifically, freedom consequentialism is not vulnerable to the charge that an agent could bring about a lesser amount of good in order to prevent a greater amount of good and still be considered to be acting rightly.

To demonstrate this, imagine Darren, the CEO of a large car company, receiving information that much smaller rival company is about to release a new technology that would make car crashes significantly less likely to result in fatalities or serious personal injury. Further, it is estimated that this new technology will become widely popular. Let us imagine that this new technology would, on balance, bring about +1000 good, by preventing breaches of freedom. Darren does not want this to happen, as it would hurt the bottom line of his company. Darren talks to his research and development team and they say that they can develop a similar technology, but it would be significantly less effective. Darren has an excellent marketing team and he knows that if he releases his inferior version of the technology first, the rival company's technology will never become widely popular. If this were to happen, a significant number of fatalities and serious injuries would be avoided, but less than would be avoided were he to do nothing and allow the rival company to release its product. Let us imagine that this course of action would, on balance, bring about +750 good. Actual-level and comparative-level versions of satisficing consequentialism must say that Darren is acting rightly, or at least permissibly, by releasing his inferior technology, as he is bringing about +750 good, even though he is doing so knowing that it will prevent +1000 good from occurring. However, freedom consequentialism can say that, because doing this would bring about worse consequences than if Darren was to not exist in the way described above, this a bad action and, as such, Darren would be acting wrongly if he performed it.

This method of determining moral obligations draws from several of the proposed solutions to the problem of demandingness that have been discussed so far. We started with a ranking of consequences,

⁷ When a person is imprisoned or enslaved, the number of choices that belong to them does not decrease. Rather the ability to make those choices is denied them.

or possible states of affairs, but unlike Norcross's scalar utilitarianism, our method provides a way to differentiate the good states of affairs from the bad ones, rather than only ranking them as better and worse. In order to provide a guide to action, we introduce a kind of satisficing consequentialism with an agent-dependant way of determining the minimum required goodness threshold. Next, in order to determine where that goodness threshold is, we appeal to not only the ability of the person to do good and the uniqueness of their position to do so, but also to the state of the world.

Advantages

The advantages of this position are that it resolves, or at least significantly weakens, the demandingness objection and also allows our moral theory to sensibly talk about supererogatory actions without having to give up consequentialism. It also has the advantage of coinciding with commonly-held moral intuitions about moral responsibility and obligation. It seems intuitively correct to say that a person is obligated to do their share to prevent suffering in the world, but that they are not obligated to devote their entire life to doing so at the expense of their own projects. It also seems intuitively correct that the more good people are able to bring about, the more they are obligated to bring about or, to put this intuition in more popular terms, "With great power, comes great responsibility" (Lee, 1962). It also seems intuitively correct that people have a greater obligation to bring about specific goods that are relatively unique to the position they find themselves in. For example, it seems a heart surgeon has a specific, and very strong, obligation to perform life-saving heart surgery on the patient that is currently cut open on her table as she is the only one in a position to do so and that this obligation is greater than her obligation to donate some money to a charity, even if that donation is guaranteed to also save a person's life.

Interestingly, while the classical utilitarian cannot employ this method of determining moral obligation, as their commitment to maximizing happiness prevents them from establishing the "amount of good that needs doing" parameter, negative utilitarianism potentially could. Because negative utilitarianism focuses on reducing pain, and not increasing pleasure, the negative utilitarian could establish the amount of good that needs doing in the world by reference to the amount of pain there is in the world. With this established, my method of determining moral obligation would then become available to the negative utilitarian as an option for avoiding the demandingness objection, though they would need to abandon the position that actions must maximize value (or minimize disvalue) in order to be utilize it.

Objections

There are some potential objections to this position. First, one could object that this position seems to require different degrees of rightness and obligation. Second, one could argue that the number of people in a similar position to do good to us does not reduce our obligation if they not going to do their share. Third, one could object that we cannot ever truly fulfil our obligations in a way that lets us move on to our own projects. Fourth, one might object that people could refuse to better themselves in order to escape having greater moral obligation. Finally, one could object that the process of determining your minimum required obligation is too vague. I will now examine these objections and demonstrate that they are not significant problems for this position.

First, this position could be criticised because it seems to assume that there are differing degrees of oughtiness and obligation in that some actions are required but other actions, with better consequences, are not required. My response to this is to bite the bullet and say that yes, there are degrees of oughtiness and the strength of obligation lessens the further it gets beyond the minimum required goodness threshold, where it is obligatory, until it reaches actions agents are not capable of performing and becomes zero. Conversely, the strength of obligation to *not* perform some action increases with the badness of the consequences; one is always obliged to do no evil, but the more badness an action brings

about the stronger the obligation not to carry out that action. This obligation increases up till the point where it reaches actions the agent cannot perform, where it also becomes zero since, assuming ought implies can, it does not make sense to talk about impossible actions being impermissible. This may seem odd, but it does not seem strange that one has a strong obligation to not cause X amount of badness, but an even stronger obligation to not cause X+10 amount of badness. One can think of this continuing into good actions, such that the strongest obligations are to not do the greatest wrongs, and the smallest degrees of oughtiness are attached to those actions that bring about the most good, and, hence, are beyond the obligatory and into the supererogatory.

A potential objection to saying that a person's obligation to bring about good is lessened by the number of other people in a similar position to bring about that same good is that many people will not live up to their moral obligations. For example, if you and a large group of people are witnessing a horrific crime, it seems as though your obligation to render aid is lessened by the number of other people in a similar position, but the bystander effect, where people do not render aid because they believe others will, complicates the situation. It may be the case that none of the individuals in the large group of people help the victim. In cases such as this, where no one else is likely to help, the state of the world is different to one where others are likely to help, and therefore your obligation is different. However, if we are to take into account whether everyone else who is in a position to help is going to or not when determining our "share" of the good that needs doing and only count those who are going to help when determining how unique our position to do that specific good is, then it seems we will be quickly faced with the demandingness objection again as many people do not live up to their moral obligations.

My response to this is that the number of other people who are in a position to help does indeed reduce our moral obligation, but the fact that they are not likely to help also increases it. So, in a world where everyone does their bit to help reduce starvation, for example, and you know that to be the case, the degree to which you are obligated to help is lessened by that fact about the world. However, in a world where only some people do their bit to reduce starvation, such as this one, your obligation to render aid is nevertheless reduced by those who could help but are not doing so, but to a lesser extent than if they were already helping, as this would affect not only the uniqueness of your position to do good, but also the state of the world. Also, it is worth pointing out that, in the case of bystanders, everyone who witnesses the horrific crime and sees that others are not intervening is obligated to render some amount of aid; this obligation is lessened by the number of other people in the same position, but, this does not mean that doing nothing is justified.

Another possible objection to this position relates to determining when one's obligations are fulfilled. Assume that you correctly determine how you ought to act at time T and act in that way, say by donating 10% of your pay to charity. Then, one second later, at T+1 you re-examine your situation and determine that you ought to donate 8% of your remaining pay to charity to meet the minimum required goodness threshold. Then, at time T+2, you determine that you need to donate 7% of your remaining pay to charity, and so on, until there is barely anything left. This would leave us back where we started with the demandingness objection.

However, we need not determine moral obligation using a moment by moment approach. If we consider our moral obligation up until a specific point in time, we can avoid this problem. We can again appeal to what the world would have been like without us in it, in order to determine whether our minimum required goodness threshold will be met up until some particular time. We could, for example consider that if we live until our next pay-check, our "share" of the good that needs doing in the world is to donate 15% of our current pay and then we can do so. Then one second, or ten minutes, or one day later, when we are determining whether we are obligated to bring about some amount of goodness, we can

determine that our positive obligations are, for the moment, met (except of course any obligations which come about by being in a relatively unique position to do some specific good). Our obligations may change over time as our ability to do good, the uniqueness of our position to do specific goods and the amount of good that needs doing, change, so we cannot predict the amount of required good for our entire lives. However, predicting your share of required good, at least where good actions that you are in a relatively common position to do are concerned, for a few days or a week does not seem so difficult as to be impractical.

One might object to this position by claiming that it would allow persons to avoid moral obligations by not advancing or bettering themselves. One might claim that because my proposed method of determining moral obligation considers a person's ability to do good and the uniqueness of their position to do good, people could avoid moral obligations by limiting their ability to do good. Perhaps persons would avoid higher education or significant wealth as these would be accompanied by greater ability to do good and so greater obligation to do good. My response to this is that while my position does allow this to some degree, this is not a problem for my position, but rather a reason to favour it. My position does not allow persons to avoid all moral obligation by refusing to advance themselves, as they would still have some obligation to do good, even if it were lessened, but it does allow persons to avoid some obligation to do good. Persons could, under my method of determining moral obligation, choose to avoid increasing their ability to do good, such as through amassing wealth, becoming more educated or taking positions of power, in order to avoid having greater moral obligation. For example, one could choose not to study medicine because they do not wish to have the greater moral obligation attached to being a doctor, and instead pursue a career that involved less ability, and thus obligation, to do good⁸. However, this is not a problem with my position, but rather it seems to be another way in which my position aligns with commonly-held moral intuitions as it allows persons to choose to take up obligations. This also allows for persons to determine the direction of their own life better than were we to say that persons were always obligated to try to increase the amount of good they are able to do.

Another possible objection to this position is that the process of determining one's minimum obligation, how much good one is minimally obligated to do, is too vague. One could argue that determining your ability to do good, how many others are in a position to do good and how much good needs doing is not practically possible and that in reality this will all be pure guesswork; in other words, this process cannot be applied practically. This is not the case. For example, when determining how much we are required to give to help end global poverty, which is a significant cause of breaches of freedom, we could take the amount of money required to put an end to global poverty, divide that by the number of people in a position to help end global poverty and then determine our relative ability to help end global poverty by reference to our income compared to the average income of those that are in a position to help end global poverty. The resulting number would be the minimum amount we are required to donate to help end global poverty. However, there is some truth to the criticism that this method may require some guesswork. You are not always in a position to know all the relevant information regarding a moral decision and sometimes you just have to make your best estimate and act upon that, but this is also the case for utilitarianism and any consequentialist theory and it does not preclude them from being practically applicable. So, while there is some truth to this objection, it is not a significant problem for this method of determining moral obligation, or freedom consequentialism as a whole, that we must

⁸ Assuming both that there was not a pressing shortage of doctors, and that the person in question was not a medical prodigy uniquely qualified to be a doctor, as these would change the amount of good that needs doing and the uniqueness of the person's position to do good respectively.

sometimes rely on educated guesses and our best judgement in determining what we are obligated to do in a particular set of circumstances.

Conclusion

In this chapter, I have developed a way of determining when actions are morally obligatory, permissible, impermissible and supererogatory. First, we can distinguish good, bad and neutral actions from one another by reference to what would happen if the agent in question were to not exist. With those classes of action differentiated, we can set a minimum required goodness threshold for any individual based on the amount of good that needs doing in the world, the individual's ability to do good and the uniqueness of their position to do specific goods. From there we can say that it is obligatory for people to avoid doing bad actions and live up to their minimum required goodness threshold. Exceeding this goodness threshold is supererogatory and, so long as the minimum goodness threshold is met, anything that is not a bad action is permissible. This position allows freedom consequentialism to avoid the problem of demandingness as well as be more in line with our intuitions on moral responsibility, obligation and supererogatory action than utilitarianism. However, we have not yet discussed how we ought to weigh freedom to make different choices against each other, which is important for the application of this principle. How we can weigh freedom in consequentialist calculus is the focus of the following chapter.

Chapter Four: Weighing freedoms

Because freedom consequentialism is a consequentialist theory, it must be able to weigh people's freedom to make different choices. An inability to do this, would severely limit the theory's ability to be action guiding, as moral decisions often involve protecting the freedom to make one choice at the expense of another. As freedom consequentialism aims to be action guiding, it needs a way to weigh these different freedoms against one another to determine which freedom a person ought to protect when they must choose between them. In this chapter, I examine the ways in which freedom consequentialism could do this. I begin by discussing the problem of weighing the freedom to make different choices. I then discuss incommensurability of values as it relates to this issue. I discuss why adopting indirect consequentialism does not help us to solve this problem. Then, I examine some of the possible methods we might use to weigh the freedom to make different choices and the problems with these methods. Finally, I combine these methods in order to create a method which allows freedom consequentialism to weigh the freedom to make different choices in a way that allows this theory to be action-guiding.

Freedom consequentialism has only a single measure of value: the ability of persons to understand and make their own choices, which I call "freedom". However, this freedom is the ability to understand and make many different kinds of choices. I refer to the freedom to make different choices as different "freedoms" for the sake of clarity and readability. When I do this, I am referring to the ability to understand and make different choices.

The problem of how to measure our measure of value is not unique to freedom consequentialism and there is significant disagreement and discussion about how we ought to measure happiness (Abdel-Khalek, 2006; de Boer, 2014; eDambrun, eDesprès, & eLac, 2012; Hossenfelder, 2013; Husser & Fernandez, 2017; Kavetsos, Dimitriadou, & Dolan, 2014; Weimann, Knabe, & Schob, 2015). Freedom, of the kind that freedom consequentialism is concerned with, does not seem any easier to measure than happiness, and the problem of how we ought to measure the kind of freedom that freedom consequentialism uses as its measure of value is much newer than the problem of how we ought to measure happiness. For these reasons it is perhaps not surprising that the question of how we ought to weigh different freedoms against one another is not one I have a definitive answer for. I simply do not know how we ought to weigh different freedoms against one another. However, if we want our theory to be able to be action-guiding, we need a method to do this and, until someone determines what the correct method is, we must make do with an imperfect, practical, method. So, my goal in this chapter is not to discover the correct way of determining the order of importance of different freedoms. Rather it is to create a practical method that allows our theory to meet its goals as outlined in chapter one, that we can use until someone is able to come up with a better method.

The problem

Freedom consequentialism's measure of value includes freedom over multiple different things, our minds, bodies and property, and to understand and make multiple different choices relating to each of these. Sometimes, these different freedoms come into conflict with one another. Circumstances arise where we must balance the freedom of one person to make one kind of choice, against the freedom of another person to make a different kind of choice. Whether someone should steal food to feed a starving person, whether someone should physically attack another person to prevent a robbery, and whether the state should restrict the ways in which businesses can transfer property if doing so leads to a reduction in homelessness are all examples of conflicting freedoms. In each of these cases, the breach of one kind of

freedom needs to be weighed against the breach of another. The problem is how we determine the right course of action in cases like this. As freedom consequentialism is a consequentialist theory, the obvious answer is that whichever act breaches less freedom is better. However, when the breaches in question are of different freedoms, it is not clear how we should determine which one is a breach of more freedom. What we need, in order for our theory to be properly action guiding, is some method of determining what to do in these cases.

In order to weigh the value of protecting one against the value of protecting the other, it seems we need some way of determining the moral importance of different freedoms relative to one another. Of course, we are faced with choices more complicated than simply choosing between preventing a breach of one of these freedoms and another. Our method of determining the importance of different freedoms must also give us guidance about how to weigh one breach of one kind of freedom against multiple breaches of another kind of freedom, or multiple breaches of multiple kinds of freedom against multiple breaches of other kinds of freedom. We want a method that will allow us to determine how many rapes are as bad as a murder (or how many breaches of a person's freedom to give or not give sexual consent are of equal disvalue to one breach of a person's freedom to continue their own consciousness).

Further, it seems that breaches of freedom can be considered not only by number, but by intensity. If I were imprisoned in my house this would breach my freedom of movement, but less so than if I was imprisoned in my car boot. These are breaches of the same kind of freedom, but to different degrees. We need to determine not only how *many* breaches of one kind of freedom we ought to consider to be equivalent to one of another, but how *much* of that freedom is breached. It seems as though a significant enough breach of one kind of freedom could be worse than a less significant breach of another freedom, even if that second freedom were of a more important kind. For example, we might say that freedom to maintain one's bodily functions is more important than the freedom to determine how and to whom our property is passed, but it would be very counterintuitive to say that it is worse to break someone's little finger than it is to take everything they have and leave them destitute. So, if we are to avoid this conflict with commonly-held moral intuitions, we need a method that allows us to consider also the severity of the breach of freedom in question.

So, what we want is a method that allows us to weigh different freedoms against one another when faced with the choice between breaches of some and breaches of others. Our method needs to be able to account for differences in number of breaches, the type of breaches, and severity of the breach involved in a way that allows for our theory to be action-guiding and avoids significant conflict with commonly-held moral intuitions. We must also keep in mind the other aims of our theory, such as simplicity, universality, and truth in our search for a workable method.

Incommensurability and incomparability

Before we attempt to find a method of determining the value of different freedoms relative to one another, we should consider whether these freedoms can even be measured against one another. Objective-list consequentialists, particularly non-welfarist objective-list consequentialists, as discussed in chapter one, can have problems with performing consequentialist calculations if the different measures of value they use are incommensurable with one another (Railton, 2003, pp. 249–285; Sinnott-Armstrong, 1985). That is, these different measures of value cannot be measured against one another. If the different freedoms that freedom consequentialism treats as valuable are incommensurable with one another, this would cause significant problems for freedom consequentialism as a theory.

Before we discuss incommensurability and the problems it could cause for my theory, I should make clear the kind of incommensurability I am talking about here, as philosophers use “incommensurability” to refer to several different things. For example, James Griffin refers to values as incommensurable when one “trumps” the other, in that “any amount of A, no matter how small, is more valuable than any amount of B, no matter how large” (Griffin, 1986, p. 83), or when there is “discontinuity” between the two, in that “so long as we have enough of B any amount of A outranks any further amount of B; or that enough of A outranks any amount of B” (Griffin, 1986, p. 85). This kind of incommensurability is not the sort I am discussing here. Rather, when I talk about “incommensurability” I mean it in the sense that Ruth Chang argues we should use the term, where two values are incommensurable “if there is no cardinal scale of value according to which both can be measured” (Chang, 2015, p. 2595). Using this definition of incommensurability, there is no difference either of discrete units or of comparative ratio between incommensurable values, they simply cannot be measured against one another (Chang, 2015, p. 2595). This is the kind of incommensurability that could undermine freedom consequentialism.

This kind of incommensurability, when two or more different moral values or moral duties cannot be measured or weighed against one another, leads to dilemmas that are not easily solvable using the kind of moral calculus that allows consequentialism to be so readily action-guiding. Peter Railton gives us the example of choosing whether or not to enroll one’s four-year-old daughter, who has a great natural talent for the violin, in intensive violin lessons, knowing that this will cause tension within the family with her older siblings and remove the opportunity to have a “normal” childhood (Railton, 2003, pp. 269–272). In cases like this, we are asked to choose between one value or set of values, in this case accomplishment and aesthetic value of being a virtuoso violinist, and another value or set of values, in this case that of a normal childhood, fairness in treatment of one’s children, and potentially the happiness of one’s other children. If these values are things that can be measured against one another, that is, if they are reducible to some single value, such as happiness, then a consequentialist theory could, given enough information, evaluate which was better and make a recommendation about which of these options a person in this situation ought to perform. However, if these values are incommensurable, in the way discussed above, then our options in this situation are incomparable.

“Incomparability” is a possible relationship between different bearers of value, which for freedom consequentialism means consequence sets and the actions that lead to those consequence sets. For a pair of options to be incomparable, it must be the case that neither option is better or worse than the other, and the options are not equal to one another (Sinnott-Armstrong, 1985, p. 324). If there are values that are incommensurable, in the way discussed above of being not measurable against one another in any way, then, according to a standard view, choices between bearers of those different values are incomparable (Chang, 2014, p. xvii). Incomparable sets of options are a significant problem for consequentialist theories as they prevent them from being action-guiding in those situations. They provide moral dilemmas for which these theories can offer no solution. Importantly, these incomparable dilemmas are different from moral dilemmas where either option is morally equal.

Consequentialist theories in general, and freedom consequentialism in particular, as discussed in chapter three, can deal with sets of options that are morally equal to one another. In cases such as this, freedom consequentialism can simply recommend that the person in question choose one of the available, morally-equivalent, options according to whatever criteria they wish. This is not a case of a theory failing to be action-guiding, but rather a situation where multiple actions are equally morally supported, and the moral theory in question recommends doing any of them. Walter Sinnott-Armstrong presents a case involving the film *Sophie’s Choice*, where a mother must choose one of her two children to be killed, and claims that this is an example of an irresolvable moral dilemma, as the recommendation to choose one lest both die does not tell us which one to choose and so does not resolve the dilemma (Sinnott-Armstrong, 1985,

pp. 323–324). Freedom consequentialism would not resolve this dilemma by telling Sophie which child to save and which to let die, but it can say that she ought to pick one rather than not picking either. As Sinnott-Armstrong put it, there is a disjunctive moral requirement to choose either child (Sinnott-Armstrong, 1985, p. 324). Further, freedom consequentialism is a consequentialist theory. So, this disjunctive moral requirement to choose one child to save is not, under freedom consequentialism, opposed by other, non-consequentialist, concerns such as the act of choosing making one complicit in one child’s murder. The freedom of each child is equally valuable, and when faced with two options that yield equal value, a consequentialist theory recommends performing one of them. This could be decided with the flip of a coin, or any other arbitrary decision-making procedure, as both options are equally valuable. The important thing, in cases such as those discussed here where failing to choose will lead to worse consequences, is to choose one of them. This is a moral dilemma of a sort, but it is not one that is problematic for our theory as it does not prevent it from being action-guiding.

Incomparable moral dilemmas, are much more problematic. Were we faced with a situation where we must choose between two incomparable options, then our theory could not simply recommend that we choose one of them, because the value in each option is not equal, it is incomparable. Let’s assume for the sake of argument that the different freedoms that freedom consequentialism treats as valuable are incommensurable. We are faced with a choice to either prevent an assault on one side of the street, or a robbery on the other side of the street. We can add that we will definitely be successful in preventing one of these crimes, and our intervention will not worsen either one, but that the culprit of the other will certainly commit the offence and escape, and there is no time to take any alternative course of action. Because these different kinds of freedom are incommensurable, we cannot evaluate the difference in value between the two acts available to us. We cannot say that either outcome is preferable to the than the other, or that they are equal; they are incomparable. In such a case, our theory can make no recommendation for which action we should take over the other. Further, unlike Sophie’s dilemma, our theory cannot claim that we ought to choose one or the other, but that it does not matter which, as these two options are not equal to one another. Our theory cannot be action-guiding here.

So, incommensurable values lead to incomparable dilemmas, which threaten the ability of a theory to be action-guiding. That leaves us with the question, does freedom consequentialism contain incommensurable values?

In short, no. Freedom consequentialism does not contain incommensurable values. This is because freedom consequentialism only has one measure of value: freedom. The ability of persons to understand and make their own choices is the only thing that freedom consequentialism treats as valuable. When I talk about the freedom to make different choices, or different “freedoms”, I am not talking about different measures of value, but rather the same measure of value expressed in different ways. Just as the classical utilitarian can say there are different ways to attain and experience happiness without introducing multiple measures of value, the freedom consequentialist can say there are multiple choices one ought to be able to understand and make without these constituting separate measures of value. So, as there is only one measure of value at play here, and presumably something cannot be incommensurable with itself, it seems we can avoid the issue of incommensurability.

However, the fact that we can avoid the problems of incommensurable values does not help us solve the problem of how we ought to weigh different freedoms against one another. Further, Ruth Chang argues that incomparability can arise even for moral theories with a single measure of value. Chang points out that in theories where there are not only quantitative differences between bearers of value, but also qualitative differences between bearers of value, incomparability can arise (Chang, 2014, pp. 73–74). The example Chang uses is between different kinds of pleasures, such as the “luxurious, wallowing pleasure

of lying in the sun and the intense, sharp pleasure of hearing much-anticipated good news” (Chang, 2014, p. 74), while these are both pleasures, they are qualitatively different. The freedom that freedom consequentialism uses as its measure of value arguably does contain freedoms which are qualitatively different from one another. It seems as though there is a qualitative difference between, for example, one’s ability to understand and make choices over what happens to one’s body and one’s ability to do so with regard to what happens to one’s car. Further, it would lead to significant conflict with commonly-held moral intuitions were we to claim that all persons’ freedom over all the choices that belong to them are equally important, as it seems, at least intuitively, that some of our choices are more important than others. This would, arguably, be a qualitative difference, as it does not seem that more freedom is always breached in cases where one’s freedom over a “more important” choice is breached than when a “less important” choice is breached. Rather, the intuitive position seems to be that freedom to make some of our choices is worth more than the freedom to make some of our other choices.

Qualitative differences in bearers of value do not have to lead to incomparability of course. The utilitarian might say that some kinds of pleasure are more valuable than others, either proportionally or in the senses that James Griffin refers to as incommensurable as discussed earlier, and this would allow them to compare options that include one kind of pleasure against options that include another. Likewise, we could say that there are indeed qualitative differences between different freedoms, but that we have a way to compare the two. As it seems as though there are qualitative differences between different freedoms, and it may cause significant conflict with commonly-held moral intuitions if we assume there are not, I aim to create a method of weighing freedoms against one another that can account for qualitative differences as well as quantitative ones. That is the project of this chapter, to determine a method by which we can compare different freedoms against one another, even if they are qualitatively different, so that our theory can be action-guiding.

Possible solutions

Number of choices

Perhaps the most obvious method for determining what to do in cases where we must weigh breaches of one kind of freedom against another is to simply claim that each choice is worth the same as each other choice. We could say that for each choice a person ought to be able to make that they are denied, we can count that as one unit of value. Then, we could determine what the right thing to do is by the number of choices a person ought to have which have been denied them. I will call this the Choice Counting Method (CCM). There are some significant problems with CCM. One is that I do not know how we could count choices in a way that is precise enough to be action-guiding while also taking account of things like duration and intensity of breaches of freedom. Another problem is that, as discussed above, it seems, at least intuitively, that the freedom to make some choices is more important than others. It would be deeply counterintuitive to say that someone’s freedom over their arm is of equal importance to their freedom over their cheese grater. For these reasons, we will not use CCM as a method of weighing different freedoms against each other.

Objective order

Another possible solution to this problem is the ranking different freedoms by objective importance. Then, when there is a choice to be made between breaching two different kinds of freedom, we can say that one ought to breach the less important one. We can call this position the Objective Order Method (OOM). OOM has the advantage of resolving dilemmas relatively easily. Once one has determined the objective

order of importance of different freedoms, one can easily determine which freedoms one should choose to protect at the cost of which others in would-be moral dilemmas. Because freedom consequentialism aims to be objective and universal, it seems that it should rank different freedoms by which are more objectively important than others, and to what extent. So, OOM seems to be an attractive position.

However, there is a significant problem with OOM. I do not know how we would determine the objective value of different freedoms. All we could do is guess at a method to do so. Worse, it is not clear that even were we to stumble onto the correct method, we would recognize it. For this reason, OOM does not seem to be a viable option for us at this time.

Intuitive order

Many philosophers believe that our moral intuitions are a useful guide to moral decision-making (Daniels, 2018; Sandberg & Juth, 2011; Sias, 2014; Tropman, 2009). We could use these intuitions to determine the importance of different freedoms. In circumstances where we need to choose between breaching one kind of freedom or another, we could fall back on what is best supported by commonly-held moral intuitions. We can call this position the Intuitive Order Method (IOM). Adopting IOM has the advantage that it would allow our theory to be more in-line with commonly-held moral intuitions, as its recommendations on which freedoms to protect, when faced with moral dilemmas, would be whichever are best supported by commonly-held moral intuitions.

However, IOM has some significant problems. The moral intuitions of different people often conflict with one another (Haidt & Graham, 2007; McAdams et al., 2008). People's moral intuitions can also be influenced by cognitive biases and seemingly morally irrelevant factors (eCaviola et al., 2014; Slovic & Vastfjall, 2010; Tobia, Buckwalter, & Stich, 2013). For example we seem to have biases towards maintaining the status quo and things which are considered "natural" rather than artificial (eCaviola et al., 2014). This lack of consistency between moral intuitions, and their tendency to be influenced by morally irrelevant factors, could lead to the same possible sets of consequences being judged one way at one point in time, when supported by moral intuitions, but in a different way at another, when the moral zeitgeist has changed. This seems to go against freedom consequentialism's goals of being objective and universal. Therefore, using IOM does not seem to be a good way of determining which freedoms are most important.

Preferred order

Another way of determining the relative importance of different kinds of freedom is to use a *preferred order of wrongs*; that is, we could rank different freedoms by the order in which the individual in question would choose to have them breached. For example, we can imagine someone who would prefer to get beaten than to be imprisoned for even a few days. For this person, we could say that breaching their freedom of movement through imprisonment is more morally significant than breaching their bodily freedoms via a beating. When a person's order of preferred wrongs is not known, one can use the norm or average for the species, a kind of "man on the Clapham omnibus", to make an estimate. We can call this position the Preferential Order Method (POM). POM has the advantage of being about the choice of the individual, which is what freedom consequentialism's measure of value is about. This also means that POM aligns with our goal of simplicity as it does not require adding additional criteria of valuableness to our theory.

One might object that POM introduces an additional measure of value, that of preferences, and so does not align with our goal of simplicity, but this is not the case. Preferences need not be valuable in order to use them to rank the order of different freedoms. Rather, preferences are being used to determine which of the person's freedoms they value the most. As the morally relevant kind of freedom here is the ability

of persons to understand and make the choices that *belong to them*, persons ought to be able to choose which of their freedoms are breached. POM allows persons to rank their own freedoms in order of value, and uses their preferences as a way of determining the order they are in. So, as it allows persons to choose the order of importance of their own freedoms, POM seems like an attractive method.

However, POM seems to have serious trouble calculating breaches of freedoms between different people. For example, if we know that one person cares more about their car than anything else, and they consider their freedom over that car of utmost importance, would it be wrong to steal that car, even for only a few hours, if it was the only way to stop the savage beating of a woman who considered that a significant, but not the most significant, breach of her freedom? This method would seem to suggest that it would be. Because some persons care a great deal about freedoms most others would consider trivial, then this method of ordering freedoms will lead to significant conflict with commonly-held moral intuitions.

Also, when applied to groups of persons, it seems as though POM has us consider persons' preferences to determine whose freedom to breach and in what way. When applied to a single person, POM only has us use preferences as a guide to which of a person's own freedoms they would choose to have breached, and this can be justified because a person ought to be able to choose which of their freedoms is breached under freedom consequentialism. When applied to groups, it seems POM would have us consider persons' preferences regarding which of their freedoms is breached in relation to other persons' preferences regarding the same. This does not seem to be justified by persons being able to choose which of their own freedoms is breached, as this no longer concerns only their freedoms, but the freedoms of other persons. This would mean we were using preferences to determine whose freedoms ought to be breached, which would be treating preferences as morally-relevant. In order to justify this move, it seems we would need to include preferences as a morally relevant feature of situations. Freedom consequentialism does not consider preferences as a morally relevant feature of a situation and adding preferences as an additional moral consideration would not align with its goal of simplicity. For these reasons, we will not be employing POM for ordering freedoms.

A solution

These methods do not seem to be viable options for determining the importance of different freedoms relative to one another. However, as my theory aims to be action guiding, we need some method of weighing freedoms against one another. While none of the methods discussed above seem to be viable options for determining the order of importance of different freedoms, perhaps we can combine elements of several of them in order to create a practical method to do this. Let us begin with what we might take from OOM.

While it is hard to see how we could precisely determine the objective order of importance of different freedoms, perhaps we can manage the broad strokes. We can ask what it is that we know of the nature of persons, of freedom and of moral value and use this knowledge to consider which freedoms are more or less important.

First as freedom is the ability to make and understand choices and there are only so many choices a person can make in a given amount of time, we can say that breaches of person's freedom that are ongoing, long-lasting or permanent are, all else being equal, worse than breaches that are transient. This appears to be the case when we consider specific examples such as the act of stealing a person's car for a day and then returning it against the act of stealing a person's car permanently; while both are clearly wrong, there is clearly more freedom breached, more of the owner's choices obviated, by keeping the car permanently.

This is also in line with the commonly-held moral intuition that it is worse to permanently remove a person's choice than do so temporarily.

As we discussed in chapter one, our theory counts each person's freedom equally, so it must be worse, all else being equal, to breach the freedom of many than to breach the freedom of a few. This is also in line with the commonly-held moral intuition that, all else being equal, it is worse to wrong more people than it is to wrong fewer.

When trying to determine the importance of different kinds of freedom relative to one another, we can consider the nature of the things that a person has freedom over. A person, it seems, is necessarily a mind. It seems possible to conceive of a mind without a body and assuming conceivability provides at least a strong indication of possibility, we can say minds without bodies seem possible (Goff, 2012; Strawson, 2003, p. 115). The conceivability of disembodied minds is disputed by philosophers like Greg Janzen, who argues that we cannot conceive of a conscious entity without it being embodied, as consciousness requires a perspective, a perspective requires spatial location and spatial location entails embodiment (Janzen, 2012).

However, we can construct our disembodied mind in such a way as to allow it a perspective without granting it embodiment. For example, the disembodied mind could receive qualia that appear to be from a particular point in space, but are simulated within a greater mind, similar to Descartes' demon, and transmitted to the entity such that they experience things from a perspective. The disembodied mind could believe they are standing on a road looking at a tree, but that experience is actually just created within the mind of a demon. We might even conceive of ourselves as such an entity, in a similar way to Philip Goff's suggestion that we might imagine ourselves as "lonely ghosts", phenomenal duplicates of human beings that lack any non-trivial properties beyond their state of consciousness (Goff, 2012). However, even if Janzen is right and perspectives require spatial location, we can conceive of minds that can be spatially located in a sense that would allow for a perspective without them having a body of their own. For example, we might imagine a kind of "passenger mind" that moves between the bodies of existing persons and experiences whatever they experience, but does not exert any control over them as it has its own thoughts that are separate from theirs. We can imagine that the entity in question can choose to move to the body of any other person that its current host sees, and so can act, can think separate thoughts from its host and understand the decisions to do these things and make them freely.

It would be fair to say of such entities as discussed above that they do not have bodies, at least as the term is generally used and certainly in the sense that it is used with regard to freedom over one's body, but that they do have minds. Such entities, could, potentially, be persons, in that they may have free will, the capability to understand their choices and be agents in the sense of being conscious and capable of acting. However, a body without a mind cannot be said to be a person, and therefore have any freedom because to possess consciousness, free will and the ability to understand its choices, requires a mind. The mind is, as it were, more important to personhood and therefore freedom, than is the body because it is logically necessary, whereas the body seems to be, at most, physically necessary. Because of this, it seems reasonable to say that mental freedoms are more central to a person than bodily ones and, as a general rule, to say that it is worse to breach a mental freedom than a bodily one or a proprietary one.

Likewise, the body seems more necessary to persons, or at least to persons that have one, than their property. It is possible for a person to own no property, but whether it is possible for a person to not have a body is not obviously the case. In all creatures that we take to have minds, and certainly all persons that we have encountered, it seems likely that the mind is something produced by, or at least intimately linked to, the body in a way that property is not. We can see this connection in many of the practical examples given below of the breaches of mental freedoms, as they often also involve the breaches of bodily

freedoms because, in humans at least, it seems the only way to get to the mind is through the body. The body then, seems more important to personhood, and therefore freedom, than does one's property. So, we could reasonably say that, generally, it is worse to breach a bodily freedom of persons that are embodied as we are than a proprietary one of such a person.

However, it seems the case that a significant breach of a bodily, or proprietary freedom, is worse than a minor breach of their mental freedom and likewise that a significant breach of one's proprietary freedom is worse than a minor breach of their bodily freedom. Our theory would be in significant conflict with commonly-held moral intuitions were we to say that any breach of a person's mental freedom is always worse than a breach of their bodily or proprietary freedom, or that any breach of a person's bodily freedom is always worse than a breach of their proprietary freedom. This would commit us to views such as that it is better to steal a person's life-savings than it is to slap them in the face. So, if we want our theory to be somewhat in-line with commonly-held moral intuitions, we must say that although a person's freedom over their mind might be more important than that over their body or property, a significant enough breach of either of the latter can outweigh a less significant breach of the former, and the same seems to be true for freedom over the body when weighed against freedom over property.

Further, freedom over one's mind, body and property are each constituted by multiple different choices that a person ought to have freedom over. So, saying merely that one kind of freedom is generally more important than another, does not tell us anything about which specific freedoms we ought to consider more important than others. Also, the problem discussed in the paragraph above applies equally to weighing significant violations of less important freedoms against minor violations of more important freedoms. For example, freedom over who one engages in sexual contact with seems intuitively as though it is more important than the freedom to preserve one's property but a serious breach of that proprietary freedom, such as burning down a person's house, seems a much more significant wrong than a relatively small breach of that bodily freedom, such as an unwanted grope.

So, considering what we know about the nature of persons, moral value, and kinds of freedom can tell us something about how we ought to weigh different freedoms against one another, but this does not give us enough to be practically useful. The above consideration tells us that mental freedoms are generally more important than bodily ones, and that bodily freedoms are generally more important than proprietary ones. However, this does not allow us to practically weigh specific breaches of freedoms against one another or when a breach of a lesser kind of freedom outweighs that of a greater kind of freedom. In order to do that, let us turn to IOM and consider what, intuitively such an order might look like.

Intuitively it seems that there are differing degrees to which a person's freedoms can be breached. So, we could determine when the breach of one freedom is more important than the breach of another by rating breaches of freedom by severity and categorizing them into four main classes of breach: Extreme, major, moderate and minor. We could use our intuitions to determine which breaches of freedom belong in each category. We could then say that it is always worse to breach a person's freedom to a greater degree of severity than it is to breach a person's freedom to a lesser degree of severity, but that within each class of breach, it is worse to breach a mental freedom than a bodily or proprietary one and a bodily one than a proprietary one. This is not to say that each act represented within these classes is exactly comparable, but actions that breach the same kind of freedom (mental, bodily or proprietary) within each of these classes are more comparable with one another than with the actions of the other classes. Let us look at what each of these would mean in practice.

A minor breach of freedom breaches a person's freedom, but only a little. For example, a minor breach of someone's freedom over their property might be taking one of their biscuits against their will, parking in

a private carpark without paying or giving someone incorrect change. A minor breach of bodily freedom might be grabbing someone, detaining them for a very short time or causing a small cut or bruise. A minor breach of mental freedom might be causing someone to experience a small amount of pain or forcing someone to stay alive for a very short period of time against their will.

A moderate breach of a person's freedom is more substantial than a minor one. An example of a moderate breach of proprietary freedom might be the theft or destruction of something with not-insignificant value, or the damaging of something of more significant value, such as damaging their car or their house. Although what constitutes "significant value" is somewhat complicated, as it seems that while it is worse to destroy or steal more property than less property, it is also worse to steal or destroy a greater percentage of a person's total property than it is to steal or destroy a smaller percentage of a person's total property. This is because doing so affects their freedom to engage in exchanges with others, as well as being left with less property over which they have freedom as a percentage. So, it is worse to destroy the car of someone who has very little property than to destroy the same kind of car belonging to a person who has a great deal of property. A moderate breach of bodily freedom might be causing someone a non-trivial injury or detaining them for a relatively short amount of time. A moderate mental breach might be causing someone a significant amount of pain, such as by breaking their arm, or making it very difficult indeed to escape from a sensory experience or forcing someone to stay alive for a relatively short period of time against their will. This class is probably the broadest and it is likely that the relative wrongness of moderate breaches of freedom will be the most difficult to determine.

Major breaches of freedom are severe. An example of a major breach of proprietary freedom might be the theft or destruction of something of significant value, such as a person's car or house, though, of course, this may have other consequences which could breach their freedom in other ways, such as health issues caused by homelessness. A major breach of bodily freedom might be causing a significant, long-term, injury, detaining someone for a long period of time, removing a non-essential organ without consent or even rape. A major breach of mental freedom might be causing someone a large amount of pain or forcing someone to stay alive for a long time against their will.

Extreme breaches of freedom are the most severe wrongs people are ever likely to encounter. The only thing that might qualify is the theft or destruction of everything a person owns. An extreme bodily breach, might be something like crippling a person in a way that significantly reduces their ability to use their body, such as leaving them paralyzed or some forms of extreme, and very long-term, imprisonment. An extreme mental breach would be something like prolonged torture, or murder.

I have only explained a fraction of the things that might fit into these categories of breaches of freedom, but we could use this as a guide to determine the approximate severity of a breach of a person's freedom. Of course, this does not tell us how much of a breach of a person's freedom to one degree of severity is equal to or greater than a single breach of a person's freedom to a greater degree. It does not tell us, for example, how many rapes equal one murder. In these cases, we could take another page from IOM, and rely on our moral intuitions. However, as our intuitions are often based on considerations that freedom consequentialism considers morally irrelevant, and they often conflict with one another, this seems as though our pre-theoretical intuitions may lead us astray. Instead, I suggest that we hone our moral intuitions with careful consideration of morally relevant freedom, what choices belong to a person and what it means to make certain choices, in order to make them more reliable tools for solving moral dilemmas. We can then use these intuitions when faced with questions like whether we should prevent the robbery or the assault.

However, our moral intuitions, even when honed with careful consideration of freedom consequentialist principles, may be unreliable. The list of severities of breaches discussed above may also be unreliable, as

it also relies on intuitive considerations. Further, freedom consequentialism seeks to protect the freedom of the individual and, as discussed above, the individual ought to be able to decide on the order of importance of their own freedoms. We ought not to allow the intuitions of the masses, or of myself, to override the choice of the individual with regards to which of their freedoms are protected at the cost of which others. So, to avoid these problems, we should look to POM. From POM we can take the concept that, as the freedoms under discussion are ones that belong to the individual, their preference for which of their freedoms are breached ought to be considered. We can take this into consideration when weighing different freedoms against one another, in that we can say that if we must breach a person's freedom in one of two ways (in order to prevent a greater breach of freedom), we should opt for the way they would prefer to have breached.

We can also take preferred freedoms into account when weighing the breaching of one person's freedom against another. However, in order to avoid the problems POM has with evaluating the preferred freedoms of one against the preferred freedoms of another, we ought to apply it only when *all* those whose freedom is affected by the choice at hand have a preference for one option over the others. This allows for persons to decide on the order of importance of their own freedoms and mitigates some of the problems with the unreliability of our own intuitions, without leading to the problems that arose with trying to use POM to weigh the freedoms of different persons against one another. So, if we must breach one person's freedom or another, we should take into account whether they have a shared preference for one breach over another. This means we should take into account whether one of them (person A) would rather have their freedom breached, in the way in question, in order to save the freedom of the other (person B), and person B would also rather this occurred, and opt to breach the freedom of person A. If for example, we are trapped in a building that has been rigged to explode by a dastardly villain and we must kill one of two other men in the building with us or else all of us will die in the explosion and man A claims that if one of them has to die, he would prefer it was him as he was not very happy with his life anyway, and man B also would rather it was man A that die, then we should kill man A rather than the man B. This is distinctly different from man A exercising his freedom to cease his own consciousness, as he is not freely choosing to do so. Rather it is a case of a group of people (in this case two men) having a shared preference for which of the group's freedom ought to be breached.

So, the method I suggest we use for resolving situations where we must weigh different breaches of freedoms against one another is to first consider whether one of the options in question is preferred by all those whose freedom it affects. Then we ought to consider the kind and severity of the breaches involved using the method discussed above. Then, if it is still unclear which is the better option, we ought to rely on our moral intuitions, that we ought to hone with careful consideration of freedom consequentialist principles, in order to make the decision. I call this the Combination Ordering Method (COM). I do not argue that COM is the best possible method for weighing different freedoms against one another, but it is a practically usable method of doing so. Ultimately, we should seek a method of weighing freedoms against one another that does not rely on moral intuitions, due to issues with their reliability. In the meantime, using COM will allow freedom consequentialism to be action-guiding until we can determine a better method of weighing different freedoms against one another.

I recognize that COM is a complicated method. However, that a moral theory is more difficult to implement than some does not indicate that it is false. Living morally may, at least on occasion, be a difficult endeavour.

This method for determining the importance of different freedoms relative to one another allows us to evaluate consequence-sets, that is, sets of consequences that result from a certain action. In the previous chapter, I outlined a principle which determines which actions are good or bad, and how good or bad they

are, based on their consequence sets, and a principles which determines which actions are obligatory, supererogatory, permissible and impermissible based on their goodness or badness, as amount of good that needs doing in the world, the agent's ability to do good, and the uniqueness of the agent's position to do good. When combined, these three principles allow our theory to be action guiding, as we can evaluate the value of consequence-sets, determine the goodness, badness or neutrality of those actions based on those consequence sets, and then use that information, along with other facts about the world and the agent's position in it, to determine what the agent in question ought to do (as well as what they ought not to do and what it is permissible to do). In short, we now have an action-guiding moral theory.

Conclusion

In this chapter I have examined the problem of how we weigh different freedoms against one another and offered a solution. I explained why this is a problem for my theory and discussed how it relates to the incommensurability of values and in incomparability of bearers of those values. I considered several possible methods of solving this problem and discussed the problems with each of these methods. Finally, I offered my solution, which draws from several of these methods, as a practical solution to this problem. I do not offer this solution as the correct or best solution, but as the best I can come up with in order to meet the goals of freedom consequentialism until such time as someone comes up with a better one. So, we have a method of weighing different freedoms against one another which, combined with the principles outlined in the previous chapter, allows our theory can now be action guiding. We can move on to discussing the implications of freedom consequentialism for ethical issues such as the moral status of children and the distinctive wrong in lying.

Chapter Five: The moral status of children

A moral theory that claimed that children do not matter morally, and that there are no moral constraints on how one should treat them, would strike us as deeply counterintuitive to say the least. However, it is not clear that children, especially very young children and infants, are persons in the sense described in chapter one. As one of my goals in the creation of this thesis was to create a theory that was applicable to all and only persons, it may seem as though my theory must exclude children from moral consideration. In this chapter, I discuss how other moral theories treat the moral status of children and demonstrate how freedom consequentialism can take account of children, including very young children and infants, in a way that aligns with many of our commonly-held moral intuitions, without conflicting with its other goals.

As freedom consequentialism is a consequentialist theory, it will consider anything to be instrumentally morally relevant to the extent that it affects the freedom of persons, but saying that children are morally relevant to the extent that they affect the freedom of others is not enough to avoid conflict with our commonly-held moral intuitions on children. So, when I talk about whether freedom consequentialism should consider children to be morally relevant, I mean non-instrumentally morally relevant, in the sense that either their freedom matters, or we have some other reason to act, and not act, towards them in certain ways even when doing so does not affect the freedom of persons.

Other theories' positions on children

To avoid serious conflict with commonly-held moral intuitions, freedom consequentialism needs a way to include children in its moral considerations. However, this way should not conflict with the other aims of this theory. To begin, let us examine four common theories on the moral status of children that are used in current discourse on why and at what point children become worthy of moral consideration and determine whether any of these options can be used by freedom consequentialism.

Utilitarianism

Classical utilitarianism has a simple approach to determining the moral status of children, or any entity for that matter. Because classical utilitarianism counts the happiness of any entity equally, regardless of mental ability, their way of determining moral status is by asking what capacity for happiness and unhappiness the entity in question has (Beauchamp & Childress, 2009, pp. 75–78; Warren, 2005, p. 442). For classical utilitarians “the question is not, Can they *reason?* nor, Can they *talk?* but, Can they *suffer?*” (Bentham, 1996, p. XVII.6 note 122). This means that classical utilitarianism will consider morally relevant, in some measure, any entity capable of experiencing happiness and unhappiness. According to utilitarianism the weight of consideration in moral calculus of an entity is determined by the extent to which it can experience happiness and unhappiness (Singer, 1980, p. 328). So, what to say about the moral status of children is then a purely empirical matter. Children that possess sufficiently similar capacity for happiness and unhappiness to adults, have, according to the classical utilitarian, equivalent moral status (Bentham, 1996, p. XVII.6 note 122; Singer, 1990, 2011, Chapter 3 Equality for animals?). Children that possess a lesser capacity for happiness and unhappiness are due moral consideration, under classical utilitarianism, in proportion to this capacity.

Other forms of utilitarianism, which use other measures of value, can take account of children to the extent that they can experience whatever the measure of value in question is. Preference utilitarians will give children moral consideration to the extent that they have preferences, objective list utilitarians will

give children moral consideration to the extent that they can attain the things on their list. Utilitarianism is concerned with promoting utility, so one's capacity for the measure of that utility determines one's moral considerability. As many of the measures of value used by utilitarian theories are designed to be proxies for, or definitions of, happiness or wellbeing, most of them are likely to be able to treat children as morally considerable as it seems that they can be happy and have wellbeing. Of course, utilitarianism need not only focus on the current state of a child in order to determine how we should act towards them. Because utilitarianism is a consequentialist theory, the child's future utility is morally relevant. For example, killing an infant would deprive that infant of all its future happiness, preference satisfaction, or other measure of value, and this can be taken into account to provide a seemingly sensible account of why we should not kill or otherwise damage infants.

This position on the future utility of children has led to the objection that utilitarianism cannot account for a morally relevant difference between infanticide and contraception or chastity. As D. S. Hutchinson has argued, if what matters morally is the future utility of the child and not the current state of the child, or foetus, then the utilitarian cannot make a significant distinction between the cases of infanticide, abortion, contraception and chastity (Hutchinson, 1982, pp. 61–63). If Hutchinson is right that utilitarianism cannot draw such distinctions, this would be a significant conflict with our commonly-held moral intuitions.

Because utilitarianism is concerned with promoting value, whether that be happiness, well-being or some other measure of value, it can treat children as morally considerable in the same way as adults so long as they can attain whatever it is that is used as the measure of value. Because of this, most forms of utilitarianism are able to include children in their moral calculations relatively easily. Utilitarianism can treat even quite young children as morally considerable in the same way adults are without having to consider them moral agents, which seems to align with commonly-held moral intuitions regarding children. Freedom consequentialism is also a consequentialist theory, but the key difference is that because its measure of value is the ability of persons to understand and make their own decisions, it cannot easily include non-persons in its moral calculations. Further, because freedom consequentialism is focused on protecting freedom, rather promoting it, it cannot appeal to the child's future freedom in order to forbid infanticide. On the plus side, however, this also means that freedom consequentialism is not vulnerable to the objection that it cannot distinguish between infanticide and contraception in the same way that utilitarianism is because it is this appeal to future freedom that leads to this objection. For these reasons, the utilitarian approach to the moral status of children will not be helpful to freedom consequentialism.

Being human matters

Another position on the moral status of children is the genetic humanity approach. That is, human beings all have the same moral value, or scheme of moral rights, by virtue of being human, and anything genetically human has that same moral importance (Beauchamp & Childress, 2009, pp. 67–68; Warren, 2005, pp. 441–442). A similar approach is to claim that human beings have moral value by virtue of having a soul (Schwarz, 2011, p. 186). While these are different positions, they come to similar conclusions, as those who determine entities' moral status on the basis of having souls tend to assume that all human beings have souls and that animals either do not have souls, or they do not have souls in the same way that human beings do (Porter, 2012). Either way, for both of these theories, all human beings are considered to have significant moral relevance in a way that non-human animals are not. On this approach, being human is a sufficient and, proponents of this view also often believe, a necessary condition for being worthy of moral consideration or moral rights (Warren, 2005, p. 441). So, the genetic humanity approach, as well as those who believe that moral status is determined by the possession of a

soul, grant significant moral consideration to children because they are human, regardless of mental capacity, generally from the point of conception⁹.

Because freedom consequentialism is concerned with persons, rather than humans, species membership is not a relevant consideration in determining the moral status of something. So, the “being human matters” approach to the moral status of children will not be helpful to freedom consequentialism.

Contractualism

“Contractualism” is a term that refers to several distinctly different moral theories, broadly connected by the idea of some form of contract or agreement (Peri, 2016, p. 301; Phillips, 1998, p. 183). Here I focus on T.M. Scanlon’s contractualism. Scanlon’s contractualism holds that right and wrong are a matter of what would be permitted by principles that could not be reasonably rejected (Scanlon, 1998, p. 4). Thinking about right and wrong, according to Scanlon’s theory, is thinking “about what could be justified to others on grounds that they, if properly motivated, could not reasonably reject” (Scanlon, 1998, p. 5). This may seem to imply that Scanlon’s contractualism limits moral relevance to only rational beings, with perhaps instrumental moral relevance for non-rational beings based on their relationship to a rational being, but this is not the case.

Scanlon certainly does think that rational beings are worthy of moral consideration, as he thinks the scope of morality includes all “those beings to whom we have a good reason to want our actions to be justifiable” (Scanlon, 1998, p. 179), and rational agents fit within that category as Scanlon uses it, but he makes the case that other entities should be afforded moral consideration as well. Scanlon claims that this category contains all entities capable of making judgements about things being better or worse and acting accordingly (Scanlon, 1998, pp. 179–183), which encompasses most children. Scanlon also argues that we have a prima facie reason to alleviate pain and an even stronger one not to cause it (Scanlon, 1998, pp. 180–181). Because of this, he argues that we should consider justifying our actions to anything that feels pain. He claims that his contractualist account of morality can take account of this by saying we should act in accordance with principles that trustees for such groups could not reasonably reject (Scanlon, 1998, pp. 182–184). So, Scanlon’s contractualist theory will grant at least some moral consideration to any entity that can experience pain, as well as any entity that can make judgements about things being better or worse and act accordingly with those judgements. Scanlon also leaves open the option that there may be moral reasons not covered by his contractualist theory to not act in certain ways towards certain things, as his theory is not designed to cover all of morality, but just to explain what we owe to each other (Scanlon, 1998, pp. 178, 180–181, 183). In practice, this means that Scanlon’s contractualism will grant significant moral relevance to children as our actions towards them must be either justifiable to them or to a trustee of theirs.

Freedom consequentialism does not treat morality as being about what others would find justifiable, so Scanlon’s method of determining the moral status of children will be of limited use here. The idea of a hypothetical trustee of their interests could be applicable, but we would need to determine that their interests were morally relevant first. As the sole measure of value for freedom consequentialism is the ability of persons to understand and make their own choices, we would need to determine that children were persons in order to consider them, and their interests, more than instrumentally morally relevant.

⁹ There are some religious traditions, such as Judaism, that believe that the soul is instilled at a point during gestation, in which case the foetus would gain the same moral status as an adult at that point.

The Kantian approach

According to the traditional Kantian view, the only entities that are directly morally relevant are persons, which is to say free, rational agents capable of engaging in moral reasoning. Any entity that is a person must be respected and treated as an end unto itself, and never merely as a means to our ends (Kant, 2002, p. Ak 4:428-429). Anything that is not a person is a thing, which has no intrinsic value and to which no moral obligations are owed (Kant, 1996, p. 6:442; Warren, 2005, p. 440). Our actions towards things can have various moral constraints on them, but these constraints are not due to any duties to the things themselves (Kain, 2009, p. 63; Kant, 1996, p. 6:442). Instead, these constraints on our conduct are grounded in our duties to ourselves, as cruelty to animals may harm our moral character and properly relating to nature is part of living a moral life (Altman, 2011; Kain, 2009, p. 63; Kant, 1996, p. 6:442; Warren, 2005). So, while our actions towards things might be constrained, we do not owe any duties to them and they do not have direct moral relevance. Since Kant regards only rational agents as persons and every other entity as a mere thing, we might expect children to be denied moral consideration. However, Kant regards children as persons with an “innate right” to the care of their parents (Kain, 2009, p. 63; Kant, 1996, pp. 6:280-281; LaVaque-Manty, 2006, p. 368).

It is sometimes claimed that Kant’s approach cannot sensibly consider children to be persons, and thus if Kant were consistent, he would not grant them any moral consideration (Altman, 2011, p. 460; Warren, 2005, p. 440). A related approach to the moral status of children, given in response to this objection is to say that though children are not yet persons, but they will, or have the potential to become, persons in the future and this grants them significant moral relevance. On this account, a child’s moral relevance is due not to their current personhood but to their future personhood or their potential to develop into persons (Altman, 2011, pp. 468–471; Warren, 2005, p. 441). There are a few versions of this position, but the one that is of most interest here is the position that the child, or foetus as this argument is commonly applied to abortion, is morally valuable and worthy of respect because it is identical with the person it will be in the future, and that person is valuable and worthy of respect (Altman, 2011, p. 470). This position makes use of Kant’s moral theory and moral concepts, so we will call this account of moral status the “neo-Kantian” approach in order to distinguish it from the view described above where only persons are considered morally valuable. Generally, it is thought by advocates of the neo-Kantian approach that a potential person gains moral relevance at the point of conception, as from that moment on the foetus is not only a potential person, but a ‘being’ that has the potential to develop into a person (Bigelow & Pargetter, 1988, p. 177; Eberl, 2008, p. 45).

While freedom consequentialism is consequentialist, rather than deontological, it does treat persons as the sole focus of morality. Because of this, if Kant is right and we should consider children to be persons, then this would allow freedom consequentialism to include them in its moral considerations. Alternatively, it is worth considering whether we have reason to treat children as valuable because of their future personhood, as advocates of the neo-Kantian approach argue we should.

Can freedom consequentialism treat children as morally relevant?

When discussing the approaches of different theories to the moral status of children there are two main questions we should ask: first, what moral status the theory assigns to children, and second, at what point in their development the child receives that status. For freedom consequentialism, it seems that the best way to assign children moral relevance without conflicting with our other aims and established principles

is to categorize them as persons. However, as one of our aims is for our theory to be true, we cannot do this unless we have some good reason why we should consider children to be persons. The questions we must ask then, are whether we should consider children to be persons, and from what point in their development we should do so.

Before we consider whether children should be considered persons, let us recap our criteria of what it means to be a person. By “persons” I mean free, rational agents. To be “free”, an entity must have free will. As discussed in chapter one, to have free will an entity must be able to make choices that are not wholly determined by external or preceding factors, but rather are a product of the “free thing” itself, and make choices that could have been different from how they actually were. To be an “agent” an entity must be capable of acting intentionally and must have consciousness. Finally, to be “rational” an entity must be able to understand choices and recognize reasons for taking one action over another and respond to them. Essentially, we are looking for whether an entity can ask and answer itself the questions “should I perform this action?” and “why should I/what reason do I have to perform this action over some other action?” (though this need not necessarily be represented linguistically). It is this kind of rationality, as well as consciousness, the ability to act and the possession of free will, that we are looking for in order to determine whether something is a person. So, let us consider whether children meet our criterion of personhood.

First, are children, particularly very young children, agents and if so, when does this agency develop? That is, when are children conscious and capable of acting? Children are capable of acting in the sense that they can do things, but this is not enough to be an agent. An agent must be conscious, and when children develop consciousness is a question that needs to be answered with empirical testing. There are studies purporting to show consciousness in infants by demonstrating an imitation of adult behaviour that would require self-awareness, for which consciousness is a prerequisite (Lymer, 2014, pp. 235–237; Meltzoff & Keith Moore, 1994). However, these have been recently called into doubt due to a study which found the imitation behaviours were not replicable when additional controls were added (Oostenbroek et al., 2016). However, other significant recent findings suggest that consciousness is present in humans from early infancy. At two months old, babies seem capable of holding information in their working memory for a few seconds, which is often considered a sign of consciousness. These infants also pass “local-global” tests of neural activity in response to novel stimuli. These “local-global” tests test for a whole-brain response to an novel stimulus and are used to check for residual consciousness in vegetative state patients (Dehaene, 2014, pp. 239–240). At five months old, babies demonstrate differing neural responses to stimuli shown to them for an amount of time below a conscious perception threshold to stimuli that were shown above such a threshold, suggesting that there is both unconscious and conscious processing occurring (Dehaene, 2014, pp. 241–243). While this is not conclusive, these results suggest that we have a strong basis for thinking that very young children, to the point of infancy, possess consciousness. When children come to possess consciousness is not so easy to answer. It would be reasonable to claim that it does not occur before the development of the neocortex at about six and a half months of gestation (Dehaene, 2014, p. 237), but some have claimed that it may not occur until birth due to the sedative effects of the womb and the surge of hormones and stimulating neurotransmitters that occurs during the birthing process (Dehaene, 2014, p. 244), and it may not develop until even after birth. So, when children develop consciousness is not a question that can be answered definitively, but evidence suggests this occurs between six months of gestation and two months after birth. Whenever this development of consciousness occurs is the earliest we can consider infants to be non-instrumentally morally relevant, as without consciousness they cannot be considered agents.

Second, are children free? This is a difficult question to answer as there are no tests for free will. We cannot even determine whether we, as adults, have free will. However, if we assume human beings do

indeed have free will, as I have argued earlier that we should, then it seems sensible to assume that we have that free will from very early on, as there does not seem to be any compelling reason we should assume free will develops later in life. So, we will assume children have free will because we are assuming adults do.

Finally, are children rational? This question is complicated. I defined rationality as having the capacity to understand choices and recognize and respond to the reasons for choosing one action over another. It seems as though children, at least young children, do not meet this condition. A baby cannot understand a choice or rationally weigh up the reasons for making one choice over another. However, one might respond that babies do have the brain structures that allow us to do these things. In healthy brains, these structures are developing in such a way as to lead to personhood, given some time and environmental stimulation, through increased neural connections (Brierley & Barlow, 1987, pp. 24–26). We could say then that these infants are not yet persons but, as they fulfil two out of three conditions of personhood and have the necessary architecture of the brain in place to fulfil the third given time to develop it, that they are nearly persons. Also, while a baby may not be able to understand any choices, a child of seven may be able to understand some, and a child of twelve may be able to understand many more. Whether or not an entity is “rational” as used in this work, is a binary distinction, either something is capable of understanding choices and considering their reasons for performing them in the way described above, or it is not. So, from the point that an entity can understand and consider their reasons for making any of their choices, in the way described above, we must consider them to be rational. If that entity also possess free will, is conscious and is capable of acting (at all, as these are also binary distinctions), then that entity counts as a person and we ought to protect its freedom, even if it cannot understand all of its choices yet. So, we could say that children go from being near personhood, to being persons who are only capable of understanding some of their choices, to being persons in the same way as any other.

As for what this means for the moral status of children, one might say that it is not the freedom of things that are nearly persons which we determined to be of moral value. It is the freedom of persons that is of moral value, and we should not grant the moral status of a person to something just because it looks as though it will one day be a person. However, it is not clear when a child is able to understand, and recognize and respond to the reasons to make, some of their choices for the first time and, in doing so, moves from this state of near personhood to one of being a person that cannot understand all the choices that belong to them, but can understand some of them. Further, the consequences of assuming that a child is not yet a person when it is could be severe, in that it may lead to breaching the freedom of a person because we believe they are not yet one. So, because we cannot be certain when children first become persons, and the consequences for being wrong are much graver if we treat a child as though they were not a person when they are than if we treat a child as though they were a person when they are not, then we have some reason to adopt a kind of precautionary principle by assuming that children are persons unless we have a compelling reason to think that they are not, or at least err on the personhood when we have unclear cases.

However, it seems fairly clear that a newborn infant is not a rational agent, so even if we were to grant children moral consideration using a precautionary principle, we would not grant that status to infants. It seems that excluding infants from the sphere of moral consideration is in significant conflict with our commonly-held moral intuitions. So, applying a precautionary principle to the moral status of children will not, by itself, allow us to avoid significant conflict with commonly-held moral intuitions.

It does not appear that children, particularly very young children, meet our criteria of personhood. However, there is still a way in which we might consider children to be persons and therefore to be morally relevant, and that way is by using the neo-Kantian approach to the moral status of children. The neo-

Kantian approach, as described earlier in this chapter, claims that the reason we ought to treat infants as morally relevant is that they will eventually become persons (Altman, 2011, pp. 468–471; Warren, 2005, p. 441). The reasoning goes that because the foetus’s future self is morally relevant, and the foetus is identical with that self, it too is morally relevant (Altman, 2011, p. 470). However, as Matthew Altman points out, the kind of “identity” that a foetus shares with its future self, that of genetic identity, is not one that Kant, with his focus on personhood, would consider morally relevant (Altman, 2011, p. 470). The kind of identity Kant would consider morally relevant is consciousness over time (Altman, 2011, pp. 471–472). According to Altman, while the foetus and the adult it will eventually become may share the same DNA, they do not share a unitary consciousness, so they are not the “same person” in the way that matters (Altman, 2011, p. 472). As we share Kant’s commitment to the moral relevance of personhood and the necessity of consciousness to personhood, it seems we should agree with Altman.

However, this does not mean that the neo-Kantian approach is useless to us. We can adapt the neo-Kantian approach using the concepts we have already employed and avoid the problems the neo-Kantian faces and the additional complexity of introducing further concepts into our theory. We have already used consciousness as a requirement for agency, and we can use it again here. As consciousness is necessary for something to be considered an agent, and each different agent has a separate consciousness, we can use consciousness as the basis for agent identity. So, if the children in question are conscious, and if we are to take consciousness as the basis for agent identity, then those children are the same agents as they will be later in life when they are free, rational agents. So, perhaps we should not think of children and infants as “near persons” at all, but instead as persons who are temporarily incapable of making any of their own decisions.

At this point I should explain what I mean by using consciousness as the basis for agent identity. Because “personal identity” is the term used in the literature, and what I am interested in is the identity of agents which are, at some point in their life, persons, I will use “personal identity” rather than “agent identity” from here on. Personal identity is a complicated philosophical issue consisting of multiple distinct philosophical questions (Garrett, 1998; Olson, 2017). The question I am primarily interested in here is what makes an agent “the same” as its past-self: how identity persists over time. What I am suggesting here is that we take the view that person A and person A+1 (who appears to be the same person later in their life) are the same person if and only if they share the same consciousness. Consciousness is required for our definition of personhood after all, and it seems reasonable to say that persons always share the same consciousness as themselves. Of course, answering the question of what it *means* for two persons to share the same consciousness would require a theory of personal identity. It does little good to say that person A and person A+1 are the same person if they have the same consciousness, but say nothing about what it means for consciousness A and consciousness A+1 to be the same, or about how to determine whether consciousness A and consciousness A+1 are the same. However, I need not advocate for a particular theory of personal identity here, as any of the common views in the literature on what criteria determine personal identity will yield the result that a child is the same person as their adult self. The most commonly-held views on what are necessary and sufficient for personhood are, broadly speaking, that personal identity is determined by holding some relation of physical continuity over time (such as sharing the same body or the same brain), holding some relation of psychological continuity over time (such as remembering the experiences of one’s past-self or retaining one’s beliefs, desires, character and other mental traits), or some combination of these two criteria (Garrett, 1998, pp. 41–57; Noonan, 2003; Olson, 2017). Any intuitively plausible version of any of these views will yield the result that an adult is the same person as their younger self as an adult is both physically and psychologically continuous with their younger self. So, you can plug almost any intuitively plausible theory of personal identity you like into the position I am suggesting, and it will yield the same result for the identity of children and infants. The only caveat is that the child or infant must possess consciousness, as consciousness is required for our

definition of agency and therefore personhood and a child cannot share a consciousness with their future self if they do not possess consciousness.

I suggest we adopt this view of personal identity, and therefore consider children and infants to be the same person as their adult self from the time they are conscious, because of the potential consequences of not adopting it. The moral consequences for, as it were, a false negative in determining the correct conceptualization of the personhood of infants and small children are much more severe than for a false positive. So, we have reason to apply a precautionary principle here, but instead of adopting a precautionary principle with regard to empirical matter of the rational capacity of particular children, we should instead adopt a precautionary principle with regard to our philosophical conceptualization of the personhood of children. Because the potential consequences of conceptualizing the personhood of children in a way that excludes infants and very young children would be so severe if we were wrong, we should opt to err on the side of caution and adopt the view of personal identity described above. Adopting this view of personal identity also allows our theory to align with the commonly-held moral intuition that children are morally considerable. For these reasons, freedom consequentialism will use consciousness as the basis for personal identity and consider children to be the same agent as the person they will grow up to be.

What this means is we should conceptualize the personhood of infants and small children so as to treat them as persons who are temporarily incapable of understanding their own choices. However, we should only grant them this moral consideration if they have developed consciousness. This is because we are grounding their current moral status by reference to the moral status of their future self once they come to understand their choices, and consciousness is required for agency and is what we are using to determine personal identity. In short, we should treat infants and young children that possess consciousness as though they are persons, though ones who cannot currently understand their choices, on the basis of their consciousness making them the same agent as their future self who does have personhood. I will call this moral status “honorary personhood”.

When moral theories ground the moral value of infants in their potential to be persons, this leads to problems with potentiality, such as how one distinguishes a sperm and an egg from a zygote, foetus or infant (Oderberg, 2000, pp. 37–40). The position I advocate here avoids these problems because it does not ground the moral value of children in their potential, but in the fact that they are the same agent as their adult self, who is a person. Because consciousness is our means of determining personal identity, we can easily distinguish between infants and foetuses near the end of gestation, which seem likely to have consciousness, and a zygote or a sperm and egg, which do not have consciousness. This does mean that we cannot make a morally relevant distinction between a sperm and egg and a zygote, as neither one of these possesses consciousness so neither can be considered a person. However, the goal of this chapter is to find a way to consider children to be morally relevant, not zygotes. The fact that this principle does not forbid abortions, at least in the first two trimesters, does not seem to be a problem for the theory. The Kantian could also use this approach to the moral status of children if they wish to grant infants moral considerability, without granting sperm, eggs and zygotes similar considerability, and ground the moral status of children in something that is central to their conception of personhood. Although my adoption of this conception of personal identity due to the potentially undesirable consequences of not doing so would conflict with the methodology of Kantians.

What does all this mean for the moral status of children? It means that we should begin by treating infants as honorary persons that we should protect until they are capable of making their own choices. Then, as the child grows and develops, we should treat them as a person who temporarily cannot understand some of their choices, giving them control over those choices they are capable of understanding and making,

and not over those choices that they cannot make or understand. Finally, once a child develops to the stage where they can understand all the choices that belong to them, they should be afforded the same moral status and freedom as any other person. As for when a child first acquires this status of honorary personhood, it begins when the child first has consciousness, as this is what we are using as the basis of personal identity. Determining when consciousness first appears must be investigated empirically, but this seems unlikely to be any earlier than when cortex and higher brain functions begin to develop, so it will be after twenty-eight weeks of gestation and seemingly no later than two months after birth (Dehaene, 2014, p. 237). In practice though, we may want to apply the same “better safe than sorry” logic that we did above to the time we assume infants become conscious, as the consequences of assuming that infants that are conscious are not conscious may be much more severe than those of assuming that infants that are not conscious are conscious. One assumption may result in unjustified regulations prohibiting late-term abortions but the other may result in the deaths of persons. So, while we should follow the best available empirical evidence to determine when infants develop consciousness, we should err on the side of caution when choosing our actions and policies towards infants who fall within the period of development in which their possession of consciousness is undetermined.

From this, we can consider how we ought to treat children. As children begin life unable to understand, and therefore make, their own choices, we must make choices for them. However, these choices do not belong to us. We are treating the child as a person, so the choices of the child belong to them. We are caretakers of that freedom, until such a time as the child can use it themselves. This means that we must act on assumptions about what the child would choose if they were capable of choosing. We should try to preserve as many of the choices that cannot be unmade as we can for the child to make when they are mature enough to make those choices for themselves. This means we should assume the child wants to live, remain healthy, keep all the functions of their body and their mind and maintain all of their non-regenerative body parts. We should also not instill beliefs in the child that will lead to them not being able to understand particular choices in the future due to ignorance about what choice they are making or what it means to make that choice, as this will lead to future breaches of their freedom¹⁰. Regarding decisions that do not affect the future ability of the child to make their own choices but involve a significant invasion of the child’s body or mind, we should assume a position of non-consent on the part of the child until they mature enough to make the decision for themselves. This is because non-consent for the invasion of others into one’s body or mind is the default position. What this means is that we should protect the child from things like unnecessary pain and prevent any persons from engaging in sexual encounters with that child, until such time as they are capable of making these choices for themselves. Beyond these considerations, and secondary to them, we can make some assumptions based on what an average person would want. For example, we can assume that the child would, if they could understand the choices involved, prefer to have an education rather than not. We then ought to provide the child with an education, even against their will, until they are able to understand the choices involved in receiving that education for themselves.

This means freedom consequentialism allows for paternalism using the principles outlined above, in cases where children cannot yet understand the choice in question. We must protect children from being damaged, even if they are the ones doing the damage, until such a time as they are capable of making the choice for themselves, we must protect children from entering into agreements they cannot yet understand, and we can make children get an education, even against their wishes. However, freedom

¹⁰ This might prohibit some kinds of religious indoctrination to the extent that it prevents people from being able to understand what it means to make certain choices, such as the choice to die. However, due to the importance of freedom of expression, as discussed in chapter eight, we should not prevent religious indoctrination through force.

consequentialism does not allow us to make whatever choices we like for our children, even when we believe doing so will be in the child's best interests overall. As mentioned above, the requirement to act in the child's interests is less important than the requirements to protect their future freedom and, in cases that do not affect their future freedom, to assume non-consent to significant invasions of the child's body or mind. What this means in practice is whether a person beats a child or not, even if they believe it will ultimately be in that child's interest, is not their choice to make, as it is a breach of the child's freedom over whether they experience pain and, potentially, of their freedom over their health and the function of their body. Also, decisions that impact a child's freedom but which the child cannot yet understand, such as the decision to refuse medical treatment for one's child must be made to best protect the freedom of the child. Such choices are the child's to make, and the parent is only making them because the child cannot yet understand them. This means that freedom consequentialism will support the growing view that genital-normalizing surgery of intersex children should be deferred until they are able to understand the choice (Edmund M., 2017; Lareau, 2003; Newbould, 2016).

As for when we, as a society, should consider children to be capable of making their own choices, not all choices are equally easy to understand, so having different specified ages after which it is assumed the child in question can understand a specific choice for different specified choices seems a sensible policy for a society to adopt. However, different children will develop their ability to understand certain choices at different rates from one another. Because of this, competency tests for specific choices should be implemented to the extent that practicality allows. Tests such as Gillick competency testing for medical procedures and Nicholas Munn's proposed test for the ability to vote in those that would be otherwise excluded (Munn, 2013; Wheeler, 2006). These tests would allow those who fall below the specified legal-age threshold to obtain the legal right to make a specific choice by demonstrating that they are indeed able to understand it. This is particularly important when making decisions that affect a child's future freedom, such as giving consent to medical procedures. How we ought to test for the ability to understand these choices is a complicated issue (Grootens-Wiegers, Hein, van den Broek, & de Vries, 2017; Jeremic, Sénécal, Borry, Chokoshvili, & Vears, 2016), but freedom consequentialism supports the involvement of children in their medical decision-making to the extent they are able to understand those decisions, and allowing them to make those choices that they are able understand. This aligns with the common view that children and adolescents should be involved in medical-decision making to the extent that they can be (Dickens & Cook, 2005; Grootens-Wiegers et al., 2017; Jeremic et al., 2016; McCabe, 1994).

While anyone can be obligated to help a child in need just as they can be obligated to help anyone for the reasons outlined in chapter three, the parents of the child have the primary obligation to help that child. How a parent gains a moral obligation to care for their child is an important issue relating to the moral status of children. Freedom consequentialism can explain this relatively simply. A person who chooses to have a child chooses to make themselves the caretaker of that child's freedom and obtains particular obligations with regard to the care of the child, in much the same way as choosing to borrow someone's car imposes particular obligations of care with regard to that car. This is similar to Kant's view that because parents choose to bring a new person into the world without that person's consent, they have an obligation to care for that child (Kain, 2009, p. 63; Kant, 1996, pp. 6:280-281). Also, as they are the caretaker of the child, they are in a unique position to care for that child, and so they take on a corresponding unique moral obligation to provide that care. However, this position of caretaker, and the obligations that come with it, can be given up, provided there is someone else willing and able to take it. For example, a new parent could give their child to an adoptive family if there was one that would sufficiently protect the child's freedom available, though it would be wrong to give the child to someone who will not protect the child's freedom.

To summarize, although it does not seem that children, especially at the time of birth, fully fulfil the definition we have used for personhood, they seem to both possess consciousness and be developing into persons. If this is the case, and we use consciousness as the basis for personal identity, we have good reason to grant them the same moral status as their future self. They ought to be treated as honorary persons from the point that they possess consciousness and then as persons that have the ability to understand some of their decisions but temporarily cannot understand others as they develop, then eventually as a person like any other. During this period, from the time of consciousness and as the child develops the ability to understand their choices, their freedom must be safeguarded and those choices that they cannot understand must be made for them. The caregiver of the child, usually its parent or parents, must act as guardian of the child's freedom and make the choices that the child cannot yet understand. Taking this stance on children allows freedom consequentialism to not only avoid significant conflict with commonly-held moral intuitions regarding children but align with these intuitions and many common views in medicine and medical ethics as well.

Conclusion

In this chapter, I have discussed how freedom consequentialism can include children in the sphere of moral consideration and how this relates to other popular theories on the moral status of children. I have demonstrated that freedom consequentialism can adapt the neo-Kantian position on the moral status of children in order to treat children in a way that is consistent with many commonly-held moral intuitions, while still being consistent with its measure of value applying to only persons. I have then discussed what this move means for how we ought to treat children. Next, I discuss a commonly-considered moral issue, and one which has particular relevance to the ability of persons to understand and make their own choices: deception and lying.

Chapter Six: Deception and lying

Lying and deceiving are often thought to be morally objectionable. In this chapter, I consider what freedom consequentialism ought to say about whether there is a distinctive wrong in lying and deceiving, and in what circumstances lying or deceiving might be permissible. I begin by considering how lying and deceiving can breach one's freedom. Then, I examine whether lying or deceiving always breaches the freedom of the deceived and argue that in many cases it does not. I consider some objections to this position and demonstrate why they are not problematic for this theory. Finally, I consider whether a person deceiving others about the kind of person that they are breaches those others' freedom to understand decisions the relate to how they interact with that person, with a specific focus on sexual consent.

The terms "lying" and "deception" have been defined in many different ways by many different philosophers (Bok, 1978, p. 13; Carson, 2012, pp. 13–64; Mahon, 2016; Stokke, 2013, p. 348), and there is an ongoing debate as to what qualifies as a lie. We can use the definition of a lie given by Bok, which is "any intentionally deceptive message which is *stated*" (Bok, 1978, p. 13), and when I talk about deception here, I mean deception of others, rather than self-deception. For "deception" I use the relatively broad definition that to deceive is "to intentionally cause another person to acquire a false belief, or to continue to have a false belief, or to cease to have a true belief, or to be prevented from acquiring a true belief, or to intentionally allow another person to acquire a false belief, or to continue to have a false belief, or to cease to have a true belief, or to be prevented from acquiring a true belief." (Mahon, 2016). This definition is used primarily because we are discussing deception within the context of a consequentialist theory, so intentional deceptive omissions have the same moral content as intentional deceptive actions. While I talk mostly about lying in this chapter, as it leads to simpler examples and more clear conflicts with commonly-held moral intuitions, what I say in this chapter applies not only to lying, but also to the deception of others generally. This is because whether a deceptive message is stated or not is not relevant for freedom consequentialism because freedom consequentialism is a consequentialist theory and is only concerned with the consequences of deception, not the form that deception takes. I have excluded unintentional deception because, while unintentional deceptions can cause the same harms as intentional ones, it is less useful to discuss when a person should not deceive another unintentionally, as the person doing so, presumably, does not realize they are doing so.

Before we discuss whether there is anything inherently wrong in lying, it is worth noting that freedom consequentialism does not hold many of the positions that lead other theories to say that lying or deceiving is, at least *prima facie*, morally wrong. Unlike utilitarianism, it is not concerned with the emotional consequences of lying. It does not require us to act upon universalizable maxims¹¹ or treat the humanity of ourselves and others never as a mere means as Kantian deontology does. Freedom consequentialism is concerned only with the freedom of persons over their own choices, which is to say, with the ability of persons to understand and make those choices that belong to them. If we accept freedom consequentialism, then if there is some feature of lying or deceiving that makes it, at least *prima facie*, morally wrong, then that feature of lying or deceiving must restrict or breach this freedom in some way. Freedom consequentialism is also a consequentialist theory, so is only instrumentally concerned with people's intentions. Whether some situation was brought about intentionally by a person does not affect whether that situation is morally good or bad. So, if lying to someone is wrong, it must be the case that

¹¹ Though it has been argued by some Kantian scholars that this does not entail a complete prohibition against lying in all circumstances (Korsgaard, 1986, p. 330) or against all kinds of deceptive false statement (A. W. Wood, 2011), it seems to provide a prohibition against what we would normally call lying in many circumstances.

whatever feature of that action's consequences that is causing that action to be wrong, would be morally bad were it not caused by someone lying.

The distinctive wrong in lying

Let us consider whether there is a distinctive wrong in lying according to freedom consequentialism, and what it might be. As freedom consequentialism is a consequentialist theory, lying, like any other action, can be wrong according to freedom consequentialism when it leads to bad consequences and right according to freedom consequentialism when it leads to good consequences. The question here is whether we should consider lying *prima facie* wrong, which is to say that we have a moral reason to avoid lying in general, though one that can be overcome by other relevant considerations. So, when I talk about the "distinctive wrong" in lying, what I mean is the distinctive *prima facie* wrong, the distinctive badness, in lying. As to whether there is such a distinctive wrong in lying, it does seem that there is, at least in some kinds of lies. There appear to be ways in which lying can breach persons' freedom in a way that honesty cannot. These ways are discussed below.

One way in which lying to someone can breach their freedom in a way that the truth cannot is through fraud. Defrauding a person in cases of proprietary agreements is wrong, though in a different way to lies which cause someone to not understand their own choices. To illustrate the difference, imagine you are buying a house sight-unseen from an unscrupulous seller. The seller tells you that the house is safe, clean and that everything is in good working order. However, after you buy the house, you find that the wiring is faulty, the roof leaks, the toilets are not plumbed in and a family of badgers is living in the walls, which are held together with Blu-tack and hope. In this case, you and the seller have entered into an agreement to exchange a house with particular properties, such as being safe, clean and having working amenities, for an agreed upon sum of money and, after you have paid them the money, they have provided you with a house of a very different kind than that which was agreed upon. This then, can be thought of as a kind of theft, in that the seller has taken money as part of a contract to provide a specific kind of thing, and then not provided that thing. A more clear-cut example of this would be to imagine case where you attempt to purchase the Sydney Opera House, only to find that the person whom you paid had no connection with the Sydney Opera House and you had fallen victim a scam similar to Victor Lustig's "sale" of the Eiffel Tower in 1925 (Bolt, 2014, p. 229). These are both cases where you have agreed to exchange your money for some specific kind of object, and the person with whom you made the agreement has taken your money without providing that object. In both of these cases one's freedom over their property has been breached in that what one exchanges one's property for is a choice that belongs to a person and in this case that choice has been taken away through deception by another person offering an exchange and then, money in hand, failing to live up to their end of the bargain. In this way, fraud is morally equivalent to theft.

There are also times when a person has an obligation to tell the truth, or at least not to lie, because they have obligations specific to their position. For example, if one's job involves reporting only true findings, and one is paid in part to do this, then one has an obligation to do so in order to live up to their end of the contractual agreement in order for that payment to be rightfully theirs. If they were to lie about their findings while fulfilling that role, they would be doing something wrong as they would be accepting money for providing a service which they did not provide. Also, a person can have an obligation to be truthful on some topics if they are in a position that requires transparency on those topics. For example, because politicians' decisions affect our freedom and our collective property and we charge them with making those decisions in accordance with the will of the people, it would be wrong for them to lie about the

circumstances or consequences of a law or policy, except in cases where telling the truth would lead to the breach of a significantly greater amount of freedom than lying.

Lying and the ability to understand choices

So, there are ways in which lying can be distinctively wrong according to freedom consequentialism, but the ways discussed so far only cover certain kinds of lies or lies in certain circumstances. However, there is another way in which lying can be distinctively wrong according to freedom consequentialism. As discussed in chapter one and two, “freedom” here is the ability of persons to understand and make the choices that belong to them. Being able to understand one’s choices requires that the person:

- 1) Know what choice it is that they are making.
- 2) Know what it is to make that choice.
- 3) Is capable of applying their rationality to, by which I mean considering and responding to their reasons relating to, that choice.

So, lying to someone in a way that prevents them from understanding the choice they are making, by making them think that it is a different choice than is available in reality, breaches their ability to understand their choices, and therefore their freedom. A good example of this is the case of telling a person that the liquid in front of them is water when it is in fact poison. Though the person drinks the poison, they do not choose to ingest poison and they do not choose to die from doing so, the choice they believe they are making is one of ingesting water (Bernard Williams, 1993, p. 102). The liar here has breached the drinker’s freedom in a way similar to if they had poisoned their water.

The case of drinking poison thinking it to be water is obviously an extreme one, but we can imagine less outlandish examples. We could imagine a doctor lying to or misleading a patient about the particulars involved in their surgery, perhaps hiding the fact that they would need to receive blood transfusions during the procedure. This would be wrong as the patient would not be consenting for the doctor to do what they are actually going to do, but rather some other thing. A patient may understand the risks involved but not that blood transfusions would be required and hiding this information prevents the patient from being able to exercise their freedom over their own body in regard to this choice. While one might say that refusing surgery, especially life-saving surgery, because it involves blood transfusions is not in that person’s best interests, it is (assuming the patient is a free, rational agent) the patient’s decision to make and we do not get to make it for them because we think we know what is best for them¹².

One might argue that lying, when successful, generally reduces a person’s ability to understand their choices in the way described above. Marcia Baron argues that in order to make autonomous decisions, one must have an adequate amount of information about the world and that choices made with inadequate information or a “warped view of the circumstances” are not autonomous¹³ (Baron, 1988, p. 436). While freedom consequentialism is not concerned with autonomy, it is concerned with persons’ ability to understand their decisions and Baron’s point can easily be rephrased into freedom consequentialist language, by framing it in terms of needing adequate information about the world in order to understand one’s choices, in order to make it applicable here. One could argue that deceiving someone about information relevant to a person’s choices reduces their ability to understand those choices and therefore restricts their freedom with regard to those choices.

¹² This is similar to Kolber’s arguments showing that deception can violate patient autonomy in medicine, for example, by the use of placebos (Kolber, 2009).

¹³ This was mentioned in the context of self-deception but it is applicable to deception of others as well.

However, as discussed in chapter two, lacking complete information relevant to making a choice, or even having false beliefs about the information relevant to making a choice does not mean one's freedom is breached. Freedom consequentialism does not require a person to know the relevant information about a choice before they make it in order for them to be able to understand and make that choice freely. As discussed above, it only requires that they understand what choice they are making and what it means to make that choice such that they can apply their rationality to it. This is a fairly low bar for the ability to understand choices, and it can be reached even with many false beliefs relevant to the making of those choices. For example, we can imagine persons that have unshakeable false beliefs about every decision they make, perhaps they believe that every choice they make will make a purple space hippo, which does not exist but which they firmly believe in, either happy or unhappy. Persons such as these could still know what choices they made and what it was to make those choices such that they could apply their rationality to them, though they may have false beliefs about those choices. They may not be able to understand various choices involving the purple space hippo, as it does not exist, but this is not morally relevant according to freedom consequentialism. What matters is that persons are able to understand and make those choices that belong to them. Whether or not the purple space hippo is happy is not a choice that belongs to the persons in question (or anyone, as there is no purple space hippo), so it is morally irrelevant if they do not understand it. They can still understand what it is to risk one's life and bodily safety by, for example, diving off a cliff into an ocean, even if they do so under the false belief that it will make the purple space hippo happy.

Further, freedom consequentialism is a consequentialist theory and is not directly concerned with the motivations behind persons' actions. It is concerned with the motivations behind actions only instrumentally. Because of this, it can consider lying to be *prima facie* wrong on the grounds that it involves concealing information from a person or causing them to have a false belief, *only* if it would be morally bad were that person to lack that information, or to have that false belief, without the lie or deception. As we have just discussed, being able to understand choices does not require having the relevant information to make those choices, or lacking false beliefs about the information related to making those choices. So, lying cannot be wrong on the grounds that it involves concealing information from a person that is relevant to their making a choice or causing them to have a false belief about information relevant to their making a choice, as this is not required in order to be able to understand and freely make a choice. This is not to say that false beliefs, and therefore lying, cannot undermine or breach a person's ability to understand and make their own choices, their freedom. Rather it is only to say that we, when applying freedom consequentialism, cannot use the mere fact that lying keeps information relevant to our decision making from us as a justification for saying that lying is *prima facie* wrong. This is because the fact a person does not have information relevant to the making of a choice, or has false beliefs about that information, does not breach that person's morally relevant freedom unless it causes them to not be able to understand one of the choices that belong to them in the way described above.

Since some types of lie do not seem to breach the ability of a person to understand and make their own choices, it seems freedom consequentialism must take the position that only certain kinds of lying are *prima facie* wrong.

Conflict with moral intuitions

Claiming that lying is not *prima facie* wrong seems to put freedom consequentialism at odds with our commonly-held moral intuitions. There seems to be a strong intuition that lying is, at least *prima facie*, morally wrong. While freedom consequentialism can capture some of the ways in which lying is thought to wrong people, as discussed in the section above, it seems that it treats other ways as morally irrelevant. This appears to lead to significant conflict with our commonly-held moral intuitions, which is a problem

as avoiding such a conflict was one of the goals of this theory. However, I suggest that if we critically consider our moral intuitions here, we will find that some of them lead us to unpalatable conclusions. To demonstrate this, consider the following thought experiment.

Let us imagine a woman, who we will call Mona. Mona is moving to Morocco from Montreal. Mona also has a boyfriend, who we will call Bill. Bill is upset that Mona is leaving and to make him feel better, she lies and tells him she loves him and that if they were in the same country she would want to be with him, when in fact she thinks Bill is a bit of a boor, has grown tired of being with him and sees her upcoming move as a convenient way to end their relationship without an awkward breakup. Bill, buoyed by Mona's lie, decides to move to Morocco as well and surprise her, thinking she will be very pleased with his grand romantic gesture and that they will live happily ever after. Bill uproots his entire life at significant financial and social cost to himself and moves to Morocco to be with Mona, who then informs him of the lie she told and that she does not want to continue dating him. Bill is emotionally devastated, far more so than he would have been if Mona had been honest with him in the first place, and has quit his job and spent a lot of money on airfares to and a house in Morocco. It is intuitively appealing to say that Mona has wronged Bill by lying here.

However, we can imagine a different version of this thought experiment where the same consequences result, but Mona does not lie. First, let us imagine that Mona is not lying when she tells Bill she loves him and would continue to be with him if they were in the same country. When she says this she truly believes it, and she secretly hopes that Bill will move to be with her, though she does not feel comfortable asking so much of him. However, upon arriving in Morocco and receiving the attention of the local men, she realizes what a boor Bill is and comes to believe that she deserves better. Then, when Bill does move to Morocco a few days later, she has fallen thoroughly out of love with him and no longer has any desire to be with him. We would not say that Mona is obligated to continue dating Bill. Whether she continues to be engaged in a romantic relationship with someone is, after all, her choice to make. This version of the thought experiment has nearly identical consequences, but it seems that Mona has not wronged Bill as continuing to date him is her choice and hers alone.

Because freedom consequentialism is a consequentialist theory, it cannot draw a distinction between two actions that lead to the same consequences simply because of the form that the action took. If it is to consider lying to be *prima facie* wrong, lying must, at least generally, lead to bad consequences. So, if we want to say that Mona has wronged Bill in the first scenario, then we must say that she has also wronged him in the second scenario or else give up on direct consequentialism. Claiming that Mona is in some way acting wrongly by breaking up with Bill, and is therefore under some obligation to continue dating him, is an unpalatable conclusion, as it seems we want to say that people ought to be free to break up with people if they wish to. Giving up consequentialism and claiming that there is a distinct difference between lying to someone and telling the truth when they lead to identical consequences is also not a viable option for freedom consequentialism, as it aims to be a consequentialist theory. So, there is a conflict with moral intuitions here, but making freedom consequentialism align with those moral intuitions would either cause conflict with other commonly-held moral intuitions, or require giving up consequentialism. For these reasons, freedom consequentialism must be in conflict with the moral intuition that all kinds of lies are *prima facie* wrong.

One might respond that Bill was choosing to move to Morocco and be with Mona, but what was actually happening was some other thing, much like the case mentioned earlier of the patient consenting to a procedure without knowing it involves blood transfusions. However, the crucial difference here is that whether a person agrees to receive blood transfusions or not is a choice that belongs to them, as it is over their own body, but a person can make no moral claim over the life or affections of another. Whether

Mona agrees to engage in a romantic relationship with Bill is not Bill's choice to make, it is Mona's. Bill has the ability to understand his choices involved in moving to Morocco in that he appreciates what choices he is making and what it means to make those choices and can apply his rationality to those choices. However, choosing to move to Morocco *and* be with Mona is not a choice that belongs to Bill. One person can never have a claim on the choices of another. So, it is morally irrelevant whether Bill understands the choice to move to Morocco *and* be with Mona, as this is not a choice that belongs to him.

One might also respond that the act of intentionally lying itself can be considered morally bad under freedom consequentialism, as earlier I said that there were cases where someone has a particular obligation to tell the truth, such as if it is a contractual obligation as part of one's job. One could argue that cases such as Bill and Mona's are analogous and that their relationship constitutes an implicit agreement to tell one another the truth, which Mona is in breach of in the first scenario but not the second. However, the problem with this is that in the case of it being a part of one's job to tell the truth, the bad consequences come in the form of not fulfilling one's contracting obligations *and yet* still receiving the money for doing so. If one's job involves a contractual obligation to tell the truth and one does not then the bad, assuming no other morally relevant consequences occur as a result, is not in the lying itself, but rather in the *stealing* from one's employer, through accepting money for a contract one has not upheld their end of. This may seem like an odd way to conceptualize the wrong these kinds of lies, but it is a way that is consistent with freedom consequentialism's consequentialist commitments.

One might also respond that in the first scenario Mona lies to Bill about the kind of person she is, specifically that she is one who is in love with him, and, like the case of lying about the kind of house one is buying, this reduces Bill's ability to understand choices involving her. This issue, that of whether lying about the kind of person you are affects others' ability to understand choices involving you, is discussed later in this chapter.

So, it seems that not all types of lying should be considered *prima facie* wrong by freedom consequentialism. This may be a conflict with moral intuitions, but avoiding this conflict would require either going against another of freedom consequentialism's aims or causing a conflict with a different commonly-held moral intuition. Further, it is not clear that commonly-held moral intuitions support all kinds of lies being even *prima facie* morally wrong. It seems that some types of lies, commonly referred to as "white lies", such as lies which help others, particularly at one's own expense, are generally considered to be acceptable (Broomfield, Robinson, & Robinson, 2002; Erat & Gneezy, 2011; Levine & Schweitzer, 2014). Because of this, the position that some types of lie are generally morally acceptable seems not, by itself, to be in significant conflict with commonly-held moral intuitions.

Although freedom consequentialism considers some of the kinds of lies morally acceptable that commonly-held moral intuitions would not, this conflict is not as great as it first appears. Freedom consequentialism can account for the wrong in lying in many of the kinds of lies that we intuitively find objectionable, and does not consider the kinds of lie we intuitively find unobjectionable to be wrong. There is some conflict with commonly-held moral intuitions here, but I do not think it is so significant as to negate the other persuasive features of freedom consequentialism. As the reason this theory aims to avoid significant conflict with commonly-held moral intuitions is to be a persuasive moral theory, this conflict with commonly-held moral intuitions is not a significant problem for freedom consequentialism. Of course, ignoring the emotional pain and suffering that lying can cause also appears to be in conflict with commonly-held moral intuitions, but this point, that freedom consequentialism ignores emotional pain and that this causes significant conflict with our commonly-held moral intuitions, will be discussed in chapter nine.

Lying treats persons as means

One might object to the stance on lying taken so far, that only certain kinds of lies are prima facie wrong, by claiming that lying does not appropriately respect persons' personhood. One could argue that lying is wrong because deceiving people treats them as mere means to one's own ends and if we are concerned with the freedom of persons to make their own decisions, then we should not condone any actions that treat others as though they are mere tools to be used rather than free, rational agents capable of making their own choices. Baron has claimed that "The central harm done in deception is an affront to others' agency" (Baron, 1988, p. 435) and some Kantian scholars have argued that it is Kant's Formula of Humanity, which can be understood here as treating persons as ends unto themselves, rather than the Formula of Universal law which led him to say that lying is always wrong (Korsgaard, 1986, pp. 330–334). An argument could be made that when I say that freedom consequentialism does not concern itself with treating other persons as ends unto themselves and not merely as means, I have misunderstood the implications of my own theory. It might be argued that freedom consequentialism ought to consider treating other persons as a mere means to one's own ends, and not as ends unto themselves, to be wrong, given its commitment to personhood as the qualifying condition for moral consideration. This could be considered as a separate, additional moral consideration to the consequentialist calculus of freedom that we must consider in determining the morality of actions, in a similar vein to David Ross's theory of prima facie duties (Ross & Stratton-Lake, 2002). On this account, we could treat persons as means to our ends, and not as ends unto themselves, only when the consequences from doing so will be sufficiently good, but not otherwise. This would mean we would have a strong reason to avoid most lies and forms of deception, as they would qualify as treating a person as a mere means to one's end and not an end unto themselves, but would allow us to excuse some lies where the consequences of doing so outweighed the wrong in lying, or in cases where the lie is told in order to respect other person's personhood, in that they have chosen to be lied to under certain circumstances. This seems, at first glance, like a coherent and intuitively appealing alternative form of freedom consequentialism, in that it allows us to condemn lying but excuse it under many of the circumstances that people tend to think allow lying.

My response is that once we recognize a person's freedom, that is, their ability to understand and make their own choices, as morally valuable and treat it as such, then there is, as it were, no more to do in order to respect their personhood. As I discussed in chapter one, the capacity to have freedom, as it is used here, is a characteristic that is not only common to all free, rational agents, but also specific to them alone. To have the capacity for freedom is what it is to be a free, rational agent, what it is to be a person. When we treat the freedom of other persons with appropriate moral consideration, which is to say, equal to that of anyone else including ourselves, that is respecting their personhood. We can treat persons as a mere means to our ends, as tools to be used, while still treating their freedom in this way. This is because using someone as a means to our ends does not require breaching their ability to understand and make their own choices. In short: to respect freedom is to respect personhood, and freedom consequentialism respects freedom. So, we need not introduce an additional requirement to treat persons as ends unto themselves in order to respect personhood, as freedom consequentialism already does respect personhood.

Lying about yourself and sexual consent

It appears as though freedom consequentialism must treat only certain kinds of lies, rather than lying in general, as prima facie wrong. However, there is a kind of lying we have yet to discuss. We have not yet

determined whether lying about the kind of person you are breaches the freedom of the deceived to make choices about how they relate to you. When one lies about the kind of house they are selling, they breach the freedom of the person who is buying it from them, it seems plausible that lying about your character could breach the freedom of those looking to interact with you in a similar way. This is discussed below, specifically as it relates to sexual consent.

Lying in order to attract sexual partners is reasonably commonplace (Benz, Anderson, & Miller, 2005; Rowatt, Cunningham, & Druen, 1999; Rowatt, Cunningham, & Druen, 1998), so whether doing so constitutes a breach of the deceived person's freedom is important to determine. When a man who works in an office tells a woman that he is a sports star, a doctor or an astronaut, he may be doing so, primarily, to deceive her into going out with or sleeping with him. Some people would say that these kinds of lies are anything but harmless, and that, if sex occurs because of the lie, the person being lied to is effectively raped through deception, as they would not have agreed to have sex with the liar if they had known the truth (Dougherty, 2013). If it were the case that these kinds of lies were a kind of rape, then they would certainly be morally objectionable, as breaching the freedom of another person over who they want to have sex with is, obviously, a serious wrong. However, whether deceiving a person into sleeping with you could be considered rape depends on what kind of decision sexual consent is. If sexual consent is similar to consenting to buy a house that has particular properties, then lying about your own characteristics to a potential sexual partner would indeed breach their freedom as they would be choosing to engage in sexual activity with a person with different characteristics to those presented to them. However, I contest that sexual consent is a different kind of decision to that of, for example, buying a house. In chapter five, we determined we would use consciousness as the basis for personal identity in order to allow us to consider children to be persons though they did not yet have the characteristics of rationality. If this is our basis for personal identity, then an individual person is not identified by their characteristics but specified. If we use this conception of personal identity, then sexual consent is a matter of agreeing to have sex with a particular entity, not one with particular attributes. Persons are not like houses or lamps to be picked out by a list of characteristics. Rather, one agrees, or does not agree, to have sex with a specific person whom they are acquainted with in some way, such as having been on a date with them or having been married to them for twenty years, rather than with a person who has specific qualities. To illustrate how this position would affect our theory's recommendations let us consider how we would apply it in practice.

Let us imagine that you go to a store to buy a lamp. You bring the lamp to the counter and you pay for it. However, the lamp is a display model and instead of giving you that one, they give you an identical lamp in a box. This is not an act of theft. You have gone into a shop to purchase a specific kind of thing, and they have given you that exact kind of thing. Unless you specify to them that you want one not in a box, then they have met their obligation to you, imposed by your mutual agreement to exchange money for a particular kind of lamp, and have not breached your freedom. In short, it is the qualitative sameness, rather than the quantitative, or numerical, sameness that matters when purchasing goods, with a few notable exceptions such as items that have specific sentimental value and objects of historic significance, for example.

Now, let us imagine a similar scenario with sexual consent: A woman goes to a bar and meets a man, she finds the man attractive, funny and is impressed by his job on Wall Street. The woman goes back to the man's apartment and has sex with him. The man then leaves the room under the pretence of going to the bathroom. A few moments later the man's identical twin enters. The twin looks the same as the first man, has the same sense of humour, and works with his brother on Wall Street. The twin takes the first man's place in bed and the woman has sex with him, believing him to be the same man she went home with. This seems clearly wrong. The woman in this situation has been duped into having sex with someone while believing they are having sex with someone else. The fact that the two men have the same qualities she

liked is not relevant. The choice she made was to have sex with the man she met at the bar that evening, and had spent the night getting to know, not a perfect stranger who happens to have the same or similar qualities.

In this second case, the choice made was to have sex with a particular individual, but the sex actually involved a different individual. The choice being made when giving sexual consent is to have sex with “that” person, where “that” person picks out a particular entity that the person giving their consent is agreeing to engage in sexual activity with. It is not a conditional kind of decision making of the form “I agree to have sex with that person if and only if they are an astronaut”. On this account, it is fairly clear why the example given above is morally objectionable. To be clear, I am not suggesting that there are not people who only want to have sex with someone if they are an astronaut. What I am suggesting is that this is not morally relevant. Whether or not sexual partners are astronauts is not a choice that belongs to a person. The morally relevant choice here, the one that belongs to the person, is to decide which other persons to consent to sexual activity with, and personal identity is determined through consciousness, not by a list of qualities. In the above case the woman is giving consent to have sex with a specific person but what is happening is sex with another, different person. The woman has not given consent to have sex with this person, but rather some other person, so her freedom is breached.

Now let us apply this method of determining personal identity and sexual consent to a case where a person has lied about their attributes and characteristics. Let us imagine a man and a woman are out on a blind date. The woman is honest with the man and tells him she is looking to settle down and have kids and that she loves animals. The man lies to the woman and says he is also looking to settle down, when he is not, that he also loves animals, when he does not, and that he is a successful corporate attorney, when he works as a janitor at McDonalds. The woman has sex with the man that night based largely on the lies he told. Had he told the truth, she would not have had sex with him. However, she has still given her consent. She has not agreed to have sex with a conceptual web of attributes, attitudes and desires, she has agreed to have sex with a person. Specifically, she has agreed to have sex with the person whom she went on that blind date with.

Many philosophers might object that sexual consent must be informed consent and, that unless consent is informed, it is not truly consent at all. One could argue that when a person consents to have sex with another person based on a lie, especially if they would not have given consent had they known the truth, they have not truly given consent at all. However, as we have already discussed, one does not need to have all relevant information to understand and freely make a choice. The only kind of information that it is wrong to conceal from a person, according to freedom consequentialism, is information that means they are making a different choice than they think they are, such as in the example given above of deceiving a potential sexual partner into thinking you were a different person, or concealing from them that you have a contagious disease.

However, when one obtains a person’s sexual consent through deception, it intuitively seems they have wronged that person. For this reason, it appears that this understanding of sexual consent is in significant conflict with commonly-held moral intuitions. This is a problem for my theory as it aims to avoid significant conflict with commonly-held moral intuitions. However, I contest that, as with our more general intuitions about the wrong in lying, when we examine at least some of these intuitions, we find that they would lead to unpalatable conclusions. So, let us consider what it would mean for freedom consequentialism to align with the intuition that attaining sexual consent through deception is wrong.

Let us imagine that sexual consent is genuine only if neither party has concealed information about themselves that, if known, would cause the other party to not consent to sex. Now let us imagine a young man named Dave out on a date with a young woman named Amy. Amy and Dave have a pleasant evening

out, they attend a movie and then eat dinner at an upscale restaurant. After dinner, Amy invites Dave back to her home ostensibly to watch a DVD. At Amy's home one thing leads to another and it becomes obvious that sex is about to occur. Dave, believing that sexual consent can only be genuine if it is informed and fearing accidentally raping Amy, immediately recounts all information about himself that might conceivably be a "deal breaker". He tells her of every embarrassing moment and unkind thought he can remember, from the first time he wet his bed to thinking she looked chubby when they first met. Amy, either put off by one of the many secrets Dave shared or simply bored after Dave's hours-long confession, declines to have sex with Dave and sends him home. Not only does this seem like a ridiculous requirement, I suspect that almost no two sexual partners in history have known all relevant information that might, alone or in conjunction with other pieces of information, cause them to decline sexual consent, at least not upon their first sexual encounter. In other words, to say that a person must give genuinely informed sexual consent in this way, is to suggest that almost every person throughout history who had sex was a rapist. This is obviously taking the idea of informed consent to an extreme, but given we cannot know exactly what information about us would cause a potential sexual partner to decline giving their consent, it seems we must confess all or risk inadvertent rape. This seems very counterintuitive, and would not help our theory better align with commonly-held moral intuitions.

One might object that there is a difference between actively deceiving a person into giving their consent and not telling them everything about yourself. However, freedom consequentialism is a consequentialist theory and is only instrumentally concerned with the intentions behind actions. The intentions themselves do not change the moral goodness or badness of an action's consequences, and it is the consequences of actions that determine their moral status. Because of this, lying can only be wrong if the consequences of that lying would be bad were they brought about without lying. So, if the reason it is wrong to lie to a person in order to gain their consent is that they must give informed consent, then it must be bad were they to give their consent not knowing whatever information it would be wrong to lie to them about, as this consent would also not be informed.

Also, as was the case with Bill and Mona, we cannot treat engaging in a sexual act in the same way that we treat a contractual agreement that involves exchanging property. When one fails to live up to their end of a contract, but still accepts the exchange of money or other property as though they had, they are stealing through fraud. In this case no one is being deprived of their property through fraud, one person is tricking another into performing an action that they would not perform if they knew the truth. This, as discussed earlier in this chapter, is not *prima facie* wrong unless the person in question has their ability to understand the choices that belong to them reduced. As we are identifying persons by their consciousness, lying about one's personal characteristics does not reduce one's sexual partners' ability to understand the choice to consent to sex, so doing so is not *prima facie* wrong.

While this may still seem counterintuitive, this position treats sexual consent in a way that aligns, in practice, with the way we generally think about it. When determining whether a person has given their consent according to freedom consequentialism, there are essentially only two questions one needs to ask. One: was the person in question capable of giving their consent? And two: did the person in question give consent to engage in that act with that person (where "that person" is determined in the relational way described above)? If the answer to both of these questions is yes, consent has been given. This way of determining whether sexual consent was given does not seem that counterintuitive. Rather, it seems that the intuitions at play here are either ones about the potential emotional harm involved in this situation, which will be discussed in chapter nine, or intuitions that are fundamentally non-consequentialist about intentionally deceiving, regardless of consequences. As freedom consequentialism aims to be a consequentialist theory, it cannot avoid all conflict with non-consequentialist moral intuitions. So, while there is a conflict with commonly-held moral intuitions here, it is both not as

significant as it may first appear, and unavoidable if freedom consequentialism aims to be a consequentialist theory.

Conclusion.

To conclude, certain types of lying and deception can be considered prima facie wrong under freedom consequentialism, but others cannot. There seem to be many instances where deceiving someone, even about facts that are relevant to the choices they are making, does not breach their freedom to make their choices. Further, lying about the kind of person that one is, does not seem to breach the freedom of others over their choices regarding that person. This position seems to conflict with our commonly-held moral intuitions, but as I have shown here, trying to align freedom consequentialism with these intuitions would lead to other, potentially greater, conflicts with commonly-held moral intuitions or would require giving up consequentialism. Also, as I have demonstrated here, the conflicts with commonly-held moral intuitions caused by this position are not as great as they first appear. For these reasons this conflict with commonly-held moral intuitions is not a significant problem for the aims of freedom consequentialism. So, freedom consequentialism does account for a distinctive wrong in certain kinds of lying, but we should not consider all types of lies to be, even prima facie, wrong.

Chapter Seven: Justifying the state

In this chapter, I begin to discuss freedom consequentialism's relationship to political philosophy. Specifically, I discuss how freedom consequentialism can justify the existence of states and their taxation of their citizens. First, I discuss what justifies the existence of a state, according to freedom consequentialism. Then I consider the responsibilities and obligations of a state. Finally, I demonstrate how freedom consequentialism can justify taxation while maintaining the concept of self-ownership, and without giving up the concept of private property.

Justifying the state

From a freedom consequentialist perspective, the freedom of persons is all important and states seem to breach the freedom of their citizens. States imprison people for not doing what the state wants, states restrict where people can go, states take people's money in the form of taxation, and this is by no means an exhaustive list of the ways states commonly restrict the freedom of their members. Some have argued that states have rightful authority over us in order to justify these breaches of our freedom, arguing that we have an obligation to obey the government because we have consented to do so or because we ought to be fairly contributing members of the group (Beran, 1977; Dagger, 2000; Edmundson, 2011; Hoskins, 2010; McDermott, 2004; Simmons, 1976). However, using freedom consequentialism, we do not need to make these kinds of claims in order to justify having a state, even though states breach the freedom of their members. What we can do instead, is ask whether having a state or not having a state will lead to more breaches of freedom. The state provides police and a legal system to deter and prevent breaches of freedom and provides stability to a society which, arguably, allows for greater safety. If these benefits would not occur without the state, and they protect more freedom than the state breaches, then we can be justified in having a state to provide these benefits. However, justifying a state's existence does not justify any and all actions that the state may take; a state may be justified in existing, but perform some action, or pass some law, that is not justified. Also, in cases where the state government causes substantial harm to its people, that is, more than would be caused by overthrowing that government, overthrowing it and replacing it with a better alternative may be justified.

The obligations of states

Any state, or government, has specific responsibilities. As outlined in the chapter on obligation and demandingness, a person's, or group of persons', responsibility to do good is a function of their ability to do good and the uniqueness of their position to be able to do good. Governments, generally, have a large amount of ability to do good, so their responsibility to do good is, generally, going to be very high. The government is also in a unique position to do good for the people of its country. The government is in a position to make laws, maintain a police force and court system and do many other things that can protect its citizens that others in the community are not in a position to do. Because of this, the government has a unique responsibility to, first and foremost, protect the freedom of its citizens. Further, in states where the government is a representative of its people, it is employed and paid to act in their interests and makes decisions regarding property that is collectively owned by the citizens of the country. Governments of this kind, that are paid to act in the interests of their people and are custodians of shared property, have an additional responsibility, though a lesser one to their responsibility to protect their citizens' freedom, to act in the interests of their people and make decisions that best represent the will of the citizenry with regard to their shared property. So, governments have two kinds of responsibility, or duty, that come out of their position of being a government, a primary duty to protect their citizens' freedom

and secondary duties to act in their citizens' interests and to act according to their citizens' wishes regarding shared property. The state also has a further duty to do good, that arises out of them being in a position of great power, by which I mean a duty to prevent breaches of freedom generally, even for those who are not their citizens.

Justifying taxation

The idea of self-ownership is central to freedom consequentialism, and also one that is quite appealing. However, there is a tension between this concept and the commonly-held view that taxation, to some extent, is justifiable, as classical libertarians argue that taking someone's money by force in order to benefit others violates that person's rights (Nozick, 2013, pp. 132–136). Left-libertarianism allows for both self-ownership and taxation, but does so by arguing against the private ownership of property (Fisher, 2015; Vallentyne, Steiner, & Otsuka, 2005, p. 201). Giving up the notion of private property seems to conflict with commonly-held moral intuitions, as does giving up the view that, at least some, taxation is justifiable, as does giving up the concept of self-ownership. Freedom consequentialism allows us to justify taxation without giving up the concepts of self-ownership or private property. Because freedom consequentialism is a consequentialist theory, it allows us to justify breaching freedom when doing so is necessary to prevent the breach of more freedom, and this allows us to justify taxation without giving up these other concepts. Below I demonstrate how we can justify taxation using the same starting point of self-ownership as classical libertarians like Robert Nozick, and without giving up the concept of private property as it required by left-libertarianism.

Libertarians such as Robert Nozick have argued that taxation, by which I mean the state taking money from its citizens either completely without their consent or through the threat of punishment if they do not pay, breaches citizens' property rights and is a form of theft. Freedom consequentialism does not refer to property rights, but rather freedom over one's property, but in this context, they amount to practically the same thing. Therefore, it seems as if freedom consequentialism must agree that the libertarians are right. States do take property which their citizens own away from them against their will, whether by taking it out of their pay before they receive it or through threat of punishment. Arguably, this is theft. However, while freedom consequentialism considers taking someone else's property away from them against their will to be bad and as counting against that course of action, it is not always wrong. If given a choice between breaching a small amount of freedom to protect a larger amount that could not be protected except through that breach, and allowing the larger amount of freedom to be breached, then we should choose to breach the small amount. Freedom consequentialism is, after all, a consequentialist theory, so when considering whether or not taxation is justifiable, we must consider whether the amount of freedom breached in stealing a certain amount from members of the population protects a greater amount of freedom that could not be protected without doing so.

Classical advocates of libertarianism, such as Robert Nozick, in his book *Anarchy, State and Utopia*, argue that we should not take a consequentialist view of the non-violation of rights (Nozick, 2013, pp. 74–80). Nozick argues that rights should not be treated as something to be promoted in consequentialist way, a so called "utilitarianism of rights" (Nozick, 2013, p. 75). Rather rights should be considered as constraints upon actions, such that whatever action you perform, you must not breach another person's rights in doing so. He bases this on the Kantian principle that persons are ends unto themselves, and not mere means (Nozick, 2013, p. 77). He claims that we cannot sacrifice the good of some for the good of others, as if we were sacrificing our present good for our future good, as there is no social entity which has a good: "There are only individual people, different individual people, with their own individual lives. Using

one of these people for the benefit of others, uses him and benefits the others. Nothing more.” (Nozick, 2013, p. 80).

I agree with Nozick that there is no social entity that has a good, and that breaching the rights, by which I mean freedom, of one person to protect the rights of others is indeed using them as a means to achieve an end. However, where freedom consequentialism diverges, is that Nozick believes that we must never use others as a means to an end and, as discussed in chapter six, freedom consequentialism maintains no such prohibition. Moreover, the idea of treating rights as constraints that must not be breached, even if not breaching those rights will lead to a greater breach of rights, seems to draw an unwarranted distinction between action and inaction. These two are not as different as Nozick’s argument suggests. We can demonstrate this by imagining a near-omnipotent, near-omniscient being who would, by virtue of his ability to do good and his unique position to do so, have an almost infinite moral obligation to do good. Imagine this being is forced to choose whether to breach the rights, or the freedom over what they already own, of a small group of people in order to protect that of a larger group of people. This god-like being is choosing between two worlds, one in which a small number of rights are breached and one in which a large number of rights are breached. The fact that this being can console itself that it was not the one that specifically breached the larger number of rights does not mean that they were any less breached or that the persons in question were any less wronged. Even though the god-like being does not actively breach the larger group of persons’ rights, they have still acted wrongly. They have failed to live up to their moral obligations to do good. We do not need to suppose the existence of a social entity or social good for us to say that we should choose to breach the freedom of a small number of people in order to protect the freedom of a large number of people. This does not mean that the breach of the freedom, or rights, of persons for the sake of others is trivial. Every breach is as real and significant as Nozick asserts. However, when faced with the choice of breaching a small amount of freedom or allowing a large amount to be breached, the thing that is best to do is to breach that small amount of freedom. It is not a question of a social entity with its own good, it is a question of math.

So, the state can be justified in breaching a small amount of its citizens’ freedom in order to protect a greater amount of the same. But that does not tell us what the state can be justified in taxing us to pay for. One of the primary reasons often given for having a state in the first place is to prevent persons from aggressing against one another and, thereby, breaching the freedom of others through violence (Nozick, 2013). This, combined with enforcing contracts and preventing fraud, are traditionally given by libertarians as roles a state can be justified in fulfilling. It seems that the amount of theft, fraud, and violence would be significantly higher if we did not have a court system and a police force. If that is true, weighing that against the relatively small amount of money the state will have to take from its citizens in order to pay for them, it seems the state is justified in having a court system and a police force, and also a military force for similar reasons to the police force if there is a real chance of invasion by foreign powers.

This is what classical libertarians advocate, that the state should provide a police force, court system and perhaps military, or at least ensure that such is provided, and nothing more (Hasnas, 2003; Levin, 1982; Nozick, 2013; D. Wood, 1978). But we have gotten there in an importantly different way. Nozick justifies this kind of state by arguing that it does not breach persons’ rights (Nozick, 2013, p. 239). Freedom consequentialism recognizes that even this kind of state breaches the freedom of its citizens, as it takes their money against their will to pay for it, but that such a breach is justifiable, even obligatory, as without it the state could not prevent greater breaches of freedom. With that distinction in mind, we can now explain how the state can be justified in taxing its citizens a great deal more than this, even though it is theft, to pay for things that classical libertarians are generally opposed to. Below I show how states can be justified in taxing their citizenry to pay for things like healthcare, fire and disaster prevention and relief

services, reducing pollution, animal control, education and even welfare for the same reasons they can be justified in taxing their citizenry to pay for a police force, court system and military.

The examples given here only justify a state taxing its citizens to provide things like healthcare, education and a fire service if those things are not sufficiently provided, or would not be sufficiently provided, by private individuals or companies. By “sufficiently provided” I mean that the service is provided, or would be provided, to the extent such that the government taxing its people to pay for it would breach more freedom (through taxation and other governmental restrictions) than it would protect (through providing the service). The libertarian may well object that these things would be provided satisfactorily by the private sector in the absence of government, and that might be the case. This empirical matter, and many others, are important to determining how we should set up our governments, and may differ from state to state as the societal attitudes may be different, but determining the precise way that a government should be set up is not the purpose of this chapter, rather it is to demonstrate how a large state can be justified by reference to the protection of the freedom of its citizens over that which belongs to them in circumstances where the private sector does not, or would not, protect that freedom satisfactorily. Whether governments are justified in taxing their people to pay for certain things then becomes largely an empirical matter. Not everything a state can be potentially justified in doing is discussed here. For example, traffic lights may well prevent significant breaches of freedom caused by accidental car crashes. Rather, I provide many of the main examples in order to demonstrate the freedom consequentialist way of considering whether a state is justified in taking some particular action.

Freedom can be breached by the aggression, larceny or even idiocy of other people, but this is not the only way in which freedom can be breached. Diseases can cripple and kill as effectively as any murderer and, except in cases where the person in question wants to have the disease, they breach the freedom of their host. A person who contracts a terminal illness has their choice to live or die taken away from them just the same as if another human being attacked them with a gun. Freedom, which is after all what matters, is affected in the same way, regardless of what is the cause of that effect. There is reason to believe that healthcare is unlikely to be available to all unless the government pays for at least part of it (S. Russell, 1996; Timmins, 2013). If this is the case, to protect the freedom of its citizens against things like disease and accidents, the government is justified in setting up hospitals and clinics and paying for them by taxing the populace.

Non-person animals, while not morally responsible for doing so, can also breach the freedom of persons. Because of this, states have an obligation to protect their citizens from the threat of non-person animals unless the citizens in question have knowingly and willingly assumed those risks. So, the state has an obligation to prevent non-person animals from attacking its citizens, except those who have accepted that risk through being a lion tamer or some such, and, if this is a significant risk to the populace, the state is justified in using taxed revenue to prevent it from occurring.

Freedom can also be breached by natural disasters and fires. So, in cases where the breach of freedom caused by these events is not being well-mitigated by private organizations, then the government have an obligation to combat the destructive effects of these events, such as by providing a fire service and ensuring that reasonable measures are taken to reduce the likelihood of, and mitigate the effects of, natural disasters.

Persons’ freedom can be breached by being forced to breathe and ingest toxic substances as this can lead to unwanted health problems. Because of this, the state has an obligation to ensure the environment is not polluted to the point where it could negatively affect the health of its citizens.

Governments also have a partial responsibility for their citizen's children. While the raising of children is primarily the responsibility of parents, children are members of the state and, as such, the state has an obligation to protect their freedom as it does to its other members. So, the state has an obligation to protect children, which means that, if neglect and child abuse are significant problems that are not or will not be sufficiently addressed by private organizations or individuals, the state must establish some kind of body to ensure that their parents are capable of raising children, and are treating them appropriately, and is capable of taking action if they are not.

Also, because children below a certain age need supervision lest they hurt themselves or destroy the property of others, the state may need to ensure there is a place to put children during the day such that their parent or parents can work and provide for them, at least in cases where this is not sufficiently provided privately. This place to put children should also be in the children's best interests because, as discussed in chapter five, when dealing with young children who can only understand some of their choices, we should act in the way that leaves the most options open to them when they reach a point where they can understand those choices, and then, secondarily, in the way that we can assume they would want based on an average person. Because it is generally in a person's interest to know more and have more useful skills, we should assume that the average person would choose to have received education while they were a child and, if the state is providing supervision for children anyway, it should take this opportunity to educate those children. So, the state can be justified in, and indeed obligated to establish and pay for schools at least up until an age where children can be left alone. This still does not justify paying for anything like the amount of schooling we have now, as children can be left alone without hurting themselves or destroying things from a relatively early age, and acting in the best interests of children is not enough, by itself, to outweigh the freedom of those we must tax in order to pay for a state-run school system. However, another thing we need to consider in favour of education is that educating children, especially educating children for free, might result in a reduction of breaches of freedom. It has been suggested that more education leads to less crime (Fella & Gallipoli, 2014; Lochner & Moretti, 2004; Machin, Marie, & Vujić, 2011). If this is the case, and if it is the case that sufficient education is not being provided or likely to be provided by private organizations or individuals, then it provides us a powerful reason why states ought to provide free education for children as it will lead to significantly fewer breaches of freedom in the future.

Lack of free education is not the only thing that could lead to a significant rise in crime that breaches persons' freedom. Some ways of setting up society are more likely to result in violent crime than others. For example, it seems likely that if a group is disenfranchised or are unable to attain desirable positions in that society, they are more likely to commit crime (Fajnzylber, Lederman, & Loayza, 2002, p. 26; Hamilton-Smith & Vogel, 2012). Also, if the country goes bankrupt, crime seems likely to rise (Box, 1987; Fajnzylber et al., 2002, p. 26). So, if this is the case, governments can, and should, intervene in order to create a stable society and reduce the chances of people breaching the freedom of others through violent crimes. This will always be something of a balancing act as, unlike children with whom we can be justifiably paternalistic, states must ensure that they are not breaching the freedom of their citizens unnecessarily or to a greater degree than will be breached if they do not act.

We have seen how freedom can be actively breached by things other than persons. However, freedom can also be breached by the circumstances one is in and is often breached by extreme poverty. Those who have no money for food, or who do not have a warm place to live, will have their freedom to maintain their bodily health breached by the circumstances they are in and potentially even have their freedom to live or die breached by these circumstances. Because of this, if poverty is a significant problem in a state and is not, or will not be, addressed sufficiently by private individuals and organizations, then that state

is justified, and in fact obligated, to tax its citizens in order to support those without the means to support themselves.

Coercion can also breach persons' freedom through forcing them to make a choice. This is relevant because if citizens must work in order to avoid starvation and homelessness, then most employment agreements are made under the threat of serious breaches of freedom. In such circumstances, the choice to work is a coerced one. Unions and labour laws do not solve this problem either, as although these things can, if implemented well, ensure greater "fairness" and less exploitation, they do not remove the need to work in order to feed and home oneself, and exploitation or "fairness" are not the issue here, coercion is. Therefore, except in circumstances where much of the population is independently well-off enough to afford food and shelter, or these things are freely and widely available, the government can be justified in taking measures to reduce or eliminate this coercion, through a welfare system, providing basic necessities to all who need them, or perhaps even a universal basic income.

Advocates of Isaiah Berlin's two concepts of liberty may think I have moved from discussing negative liberties to discussing positive liberties with this talk of freedom being breached by one's circumstances. However, as discussed in chapter two, the kind of freedom that freedom consequentialism seeks to protect is not well described using Berlin's distinction between positive and negative liberties. The kind of freedom that freedom consequentialism seeks to protect cannot be described as a negative liberty, as it is not only freedom from interference or from external constraints. Although describing the freedom that freedom consequentialism protects as a positive liberty might be the more accurate of these two options, it does not share the features of positive liberty that lead opponents of positive liberty to claim that it "slides into totalitarianism" (Berlin, 1969, pp. 131–141; Silier, 2017, p. 136). Freedom consequentialism only seeks to protect the freedom over those choices that belong to persons and freedom consequentialism does not require persons to act in their own best interests, or even sensibly, in order to be free, only that they are able to understand and make their choices. These features mean that freedom consequentialism is not paternalistic in the way that positive liberty is often accused of being.

More importantly, the freedom that is being used here to justify taxation to pay for these things is freedom over those choices that already belong to you as a result of self-ownership and private property. We need not give up self-ownership or private property in order to justify taxation, even to the point of a universal basic income, we need only be consequentialists about freedom.

Obviously whether the things described above are actually justified in a country will depend on the existing infrastructure and how well they could be implemented there. The point of this chapter is not to advocate for expansive government and extensive taxation, as whether these things are justified in a specific place and time depends on their consequences. Rather, the point of this chapter is to demonstrate how freedom consequentialism can justify states and taxation using the same starting point of self-ownership as classical libertarians and without giving up private property. Freedom consequentialism can do this because it is a consequentialist theory. Further, because freedom consequentialism uses the freedom of persons over the choices that belong to them as its measure of value, it does not justify taxation beyond that which protects this freedom. Taxation is a real breach of freedom and must be weighed against the freedom that can be protected with the money taxed. This means there are significant demands on states to use their collected taxes wisely in order to meet their obligations as described earlier in this chapter.

Conclusion

In this chapter I demonstrated that freedom consequentialism allows us to justify government and taxation on the basis of a kind of freedom rooted in self-ownership and without giving up the concept of private property. I considered some of the things taxation can be justified in paying for and demonstrated that, when services are not, or will not be, sufficiently provided by the private sector, freedom consequentialism can justify a state that looks almost Rawlsian on the basis of protecting freedom. I also discussed the responsibilities of the state, which are significant as the taxation of citizens is a significant breach of freedom and this breach requires states to use that tax to protect a greater amount of freedom in order to justify it. Freedom consequentialism allows us to justify taxation, maintain the concepts of self-ownership and private property, and require states to protect their citizens and act in their citizens' interests. Also, because freedom consequentialism is a consequentialist theory, it can justify different amounts of government and taxation depending on what will be most effective for the country or group of people in question. So, freedom consequentialism has several intuitively appealing features when applied to political philosophy. However, taxation is not the only way in which states can breach the freedom of their citizens. Next, let us examine the other ways in which states restrict or breach the freedom of their citizens, and whether they can be justified.

Chapter Eight: Restriction of liberty

We have now determined that freedom consequentialism can justify having a state and that state taxing its citizens to pay for services that protect the freedom of those citizens, so long as those services are not sufficiently provided by the private sector. However, taxation is not the only way states restrict the freedom of their citizens. In this chapter, I discuss when it is justifiable, according to freedom consequentialism, to breach the freedom of another person, with a particular focus on when states are justified in breaching the freedom of their citizens. To do this, I offer a principle similar to Mill's Harm Principle that allows us to determine when it is justifiable to breach the freedom of another person. Then I demonstrate why my principle is not vulnerable to the underinclusiveness and overinclusiveness objections often levelled at various versions of the Harm Principle. Finally, I use the principle in question to discuss a real case and demonstrate how freedom consequentialism can be applied to real political cases.

The Freedom Principle

Let us start with a principle which we can use to apply freedom consequentialism in practice. We can state this principle as:

The only cases where breaching the freedom of a person over the choices that belong to them is justified, is to prevent the breach of an equal or greater amount of persons' freedom, over those choices that belong to them, that could not be protected except through at least as great a breach. That person's own good (except in cases where a person is about to have their freedom breached unknowingly, in which case you may stop them temporarily in order to explain the reality of the situation) is not a sufficient warrant. Persons cannot rightfully be compelled to do or forbear because it will be better for them to do so, because it will make them happier or because, in the opinions of others, to do so would be wise (Adapted from Mill, 2010, p. 14).

This principle, which I will call the Freedom Principle, is very similar to Mill's Harm Principle. This is no accident. Mill's Harm Principle is a principle for differentiating when states, or indeed persons, can be justified in removing another person's freedom to make their own choices. Given that freedom consequentialism is concerned only with the freedom of persons to make their own choices, Mill's Harm Principle is a logical place to start. So, while the Freedom Principle is not a "harm" principle as such, as it does not concern itself with harm but rather with the breach of persons' freedom, it is similar enough to both Mill's principle and modern variations that it is worth discussing how the Freedom Principle relates to them and whether it is vulnerable to the same objections as they are.

There are significant differences between my principle and Mill's Harm Principle that ought to be discussed before we explore why my principle does not face the same problems as most versions of the Harm Principle. First, let us look at Mill's original statement of the Harm Principle:

That the sole end for which mankind are warranted, individually or collectively in interfering with the liberty of action of any of their number, is self-protection. That 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. His own good, either physical or moral, is not a sufficient warrant. He cannot rightfully be compelled to do or forbear because it will be better for him to do so, because it will make him happier, because, in the opinions of others, to do so would be wise, or even right. (Mill, 2010, p. 14).

There are several differences between this principle and my Freedom Principle, ranging from what harm to others justifies restriction of liberty and what kinds of power over the individual require justification, to who this principle protects. Let us now examine these.

Mill considered harm to others to include not only physical harm, but economic, psychological and emotional harm. So, the first difference between the Freedom Principle and Mill's Harm Principle, is in what kind of thing we are justified in violating a person's liberty to prevent. According to Mill's usage of "harm", many things could potentially be considered to harm another by strongly conflicting with their interests or eliciting negative emotional responses from them. Harms of this kind are not morally relevant according to freedom consequentialism. What matters morally is that every person is free to do what they will with those things that belong to them: their mind, their body and their property. The only kind of harm that is morally relevant is the kind that breaches a person's freedom over these things. Instead of saying "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, 2010, p. 14), we can instead say that the only purpose for which power can be rightfully exercised over any person, is to prevent the breach of other's freedom.

Mill included the "force of opinion" as a type of power that cannot justifiably be used to prevent people from doing things that we might disapprove of (Mill, 2010, p. 26). However, exerting social pressure is the exercise of one's freedom over their body, mind and property. When one does not hire a particular employee because they espouse views that one finds unconscionable, one is using one's freedom to form contracts, or not form contracts, with other willing participants. When one denounces the views expressed by another as disgusting or imbecilic one is using one's freedom of speech. If we were to prevent these forms of social pressure, that would, in itself, be a breach of the freedom of those who would exert such pressure. This kind of power requires no justification in order to be exercised, as it is rightly the choice of those who wield it whether to use it. However, the power that states wield to create laws and then enforce them with punishment is one that requires justification because it involves, almost always, the breach of the freedom of others. To justifiably breach the freedom of others it must be the case that said breach protects some equal or greater amount of freedom, and that freedom could not be protected without the breach of the lesser one. It is this kind of power, the kind that involves breaching the freedom of others or the threat of breaching the freedom of others, that requires justification, so when we talk about when the state can exercise power, we are concerned with power of this kind.

Another difference between Mill's Harm Principle and my Freedom Principle, is in who it seeks to protect. Mill's principle requires a specific justification for using power to restrict the liberty of members of a "civilized community". However, Mill thought that it was justifiable to be paternalistic to communities that were "barbarians" so long as the consequence is their improvement. He claims that "Liberty, as a principle, has no application to any state of things anterior to the time when mankind have become capable of being improved by free and equal discussion." (Mill, 2010, p. 15). This is a product of his utilitarianism and the fact that he did not recognize the intrinsic value of freedom, but rather thought of it as instrumentally valuable. However, as we are not utilitarians, we can ignore whether freedom will improve a person or not, as the end which we seek is not improvement, but rather the protection of freedom. As such, any group of persons, that is, free agents capable of understanding their choices, is subject to the same principle of when it is permissible to restrict their freedom. Moreover, this principle is not only relevant to communities or groups of people, but also to individuals. An individual can apply the same principle when determining whether they should forcibly restrain a friend from driving drunk as can the state in determining whether they should pass laws against doing so. This is not a departure from Mill, as he starts his discussion of the Harm Principle by saying "that the sole end for which mankind are warranted, individually or collectively in interfering with the liberty of action of any of their number, is

self-protection” (Mill, 2010, pp. 13–14), although we can assume that in “self-protection” he included the protection of others. This chapter focuses on what states, rather than individuals, are justified in doing, as there are specific obligations held by states that are not held by most citizens as well as significant practical differences between states and individual citizens, but it is worth noting that the Freedom Principle is not only applicable to persons in civilized communities, but to any persons.

In stating his Harm Principle, Mill says “He cannot rightfully be compelled to do or forbear because it will be better for him to do so, because it will make him happier, because, in the opinions of others, to do so would be wise, or even right.” (Mill, 2010, p. 14). This sentence requires clarification. I agree with Mill that whether a person’s actions are, in the opinion of others, right or wrong is not sufficient cause to restrict that person’s freedom. However, if the person’s actions are actually wrong, by which we mean that they breach the freedom of others, then they can, and should, be restricted from doing so or otherwise prevented. This clarification is not anything additional to the Freedom Principle itself, but it does slightly affect how it is to be understood in comparison to Mill’s Harm Principle.

We must also make a clarification relating to the sentence “His own good, either physical or moral, is not a sufficient warrant.” (Mill, 2010, p. 14). While we cannot justify breaching a person’s freedom in order to prevent them from harming themselves knowingly, we are justified in protecting their own freedom against accidental breach or breach through not being able to understand a choice. What this means is that although we would not be justified in preventing a person from making a choice that they understand and which harms them or has a risk of harming them, it would be justifiable to temporarily prevent a person who might not understand the choice they are making from doing something harmful or potentially harmful in order to explain the choice they are about to make. For example, let us imagine the classic case of a man about to drink a glass of clear liquid which he believes to be water but which is, unbeknownst to him, actually poison. In such a circumstance, it would not be wrong to prevent the man from drinking the poison and explain to him what is really in the glass. If the man does not believe you, you would even be justified in throwing the poison away to prevent him from having his freedom to live breached by ingesting it. However, if you stop the man from drinking the liquid and explain that it is in fact poison and he says that he knows that and he is trying to kill himself (and he is a person capable of making that choice, and is not making this decision under coercion), then you must not interfere. The state can justifiably intervene to prevent harm to the individual in much the same way if they have reason to believe that the person may not understand the consequences to, or risk to, their freedom over what belongs to them associated with the choice they are making. However, the state may only intervene temporarily to explain the reality of the situation, they may not paternalistically decide which of a person’s own choices that person can and cannot make, unless doing so prevents an equal or greater breach of persons’ freedom.

Mill said that causing harm to others could be done through inaction as well as action and, as such, states could sometimes force people to act to prevent harm to others, rather than just refraining from causing it (Mill, 2010, p. 16). While freedom consequentialism has a different theory of moral obligation to utilitarianism, it is still a consequentialist theory and recognizes that refraining from doing evil is not always enough. Because of this the state can compel its citizens to do good in two different ways. It can compel people in positions of power to, at least attempt to, live up to the unique moral obligations that come with that position. For example, the state could justifiably compel doctors to take care of their patients’ health, rather than neglecting them, as they have a unique obligation to do so born out of being the doctor to that patient and therefore being in a unique position to take care of their health. Forcing a person to live up to their obligations, and punishing them if they do not, is a breach of their freedom. However, the amount of freedom that could be breached if those in positions of power were not required

to live up to their unique moral obligations could be significant enough to warrant some state intervention.

The other way that the state can require people to do good rather than just refrain from doing evil is by requiring citizens in general to act in certain ways to produce good. This may also be justifiable in some circumstances, such as a dire emergency, but, as Mill rightly pointed out, it should be the exception rather than the rule (Mill, 2010, pp. 16–21). His reasoning was that such attempts to control people might lead to greater evils than if they were left to their own devices, and this might well be true, but more importantly for freedom consequentialism we must remember that it is freedom that is morally important. Freedom over those things that belong to you, your mind, body and property, is what is of moral value, and forcing people to do good against their will is a breach of that freedom, often a significant one. There is a significant difference between what one ought to do, and what it is justifiable to force one to do. So, states might be justified in forcing their citizens to do good, but only in extreme circumstances, and it should be, as Mill said, the exception rather than the rule (Mill, 2010, pp. 16–21).

While the Freedom Principle determines whether any act that breaches persons' freedom is justified, I focus specifically on criminalizing behaviour in the discussion below. I focus on criminalization of behaviour because it, along with taxation, is one of the most significant ways in which states breach the freedom of their citizens and the focus of this chapter is in what circumstances states can be justified in breaching their citizens' freedom.

Thus far I have differentiated my principle from Mill's Harm Principle. However, the Harm Principle is often interpreted in different ways by different philosophers, such that today there is not one Harm Principle, but rather many Harm Principles (Edwards, 2014, p. 253). James Edwards in his work *Harm Principles* points out that some philosophers advocate for harm being a necessary but not sufficient condition for criminalizing a behaviour, others advocate for it being a necessary and sufficient condition, others advocate for it being neither a necessary nor sufficient condition but a necessary part of a sufficient but not necessary condition set (2014, pp. 253–256). He also separates harm principles that claim that the fact that an action causes harm removes a reason not to criminalize some behaviour from those that claim it provides a reason to criminalize some behaviour (Edwards, 2014, pp. 256–257). Finally, Edwards differentiates between harm principles that are instrumental, those that are act-centred and those that are purposive. Harm principles that are instrumental concern themselves with whether criminalizing a behaviour will prevent or reduce harm. Harm principles that are act-centred concern themselves with whether the criminalized behaviour is harmful in itself. Harm principles that are purposive are concerned with whether the ones criminalizing the behaviour in question aim at reducing harm or preventing what is harmful (2014, pp. 263–266). So, we have many ways in which a harm principle can be formulated, let us examine where my principle fits in.

First, we can say of my principle that it is an instrumental one in that it justifies criminalizing certain behaviour, or indeed taking any action that will breach of a person's freedom over that which belongs to them, by whether doing so will prevent greater breaches of persons' freedom, rather than whether the behaviour that one is stopping is itself causing those breaches. However, it is worth noting that breaching the freedom of another is not a freedom that belongs to a person; there is no breach of a person's freedom involved in preventing them from murdering someone, though there may be in the way that this prevention is implemented, such as imprisonment. Second, the Freedom Principle identifies the fact that the breach of freedom in question will prevent a greater or equal breach of freedom, and that such a prevention could not occur without at least the proposed amount of freedom being breached, as a necessary condition to justify that breach. Also, in cases where the breach being prevented is a greater than, rather than equal to, the amount of freedom being breached by the proposed breach, this also

constitutes a sufficient condition to justify that breach. Finally, the Freedom Principle, as I have stated it here, identifies the prevention of the breach of an equal or greater amount of freedom, that could not be prevented except through breaching at least the proposed amount of freedom being breached, as removing a reason not to perform the proposed action. In order to get a positive reason to perform actions sanctioned by this principle, it will need to be combined with the method of determining what is morally obligatory, and indeed supererogatory, found in chapter three, and, in the case of states, the discussion of the specific obligations of states found in chapter seven.

Objections to harm principles

Two major objections that are often posed to harm principles are the underinclusiveness objection, that harm principles do not allow for the restriction of behaviours that we would all agree ought to be restricted, and the overinclusiveness objection, that harm principles allow for the restriction of behaviours that we would all agree ought not to be restricted. Here I will demonstrate why my principle is not vulnerable to these objections.

The underinclusiveness objection, utilized by Arthur Ripstein in *Beyond the Harm Principle*, is claimed to show that the Harm Principle would not allow for the criminalization of behaviours that all, or at least those that espouse the Harm Principle as a good method of determining which behaviours can be rightfully limited, would agree ought to be criminalized (Duff, 2007, pp. 130, 135; Edwards, 2014, p. 272; Ripstein, 2006; Tadros, 2011, pp. 46–47). The example Ripstein gives is of breaking into a person's house while they are out and taking a nap in their bed, with the use of such precautions that the owner never knows the trespasser was there and no damage is done to the owner's property (2006, p. 218). Ripstein argues that this trespass, and ones like it, do no harm to the one trespassed against, by any normal understanding of harm, but that nevertheless there is a wrong done in this action and it should be criminalized, which the Harm Principle cannot adequately explain (2006, p. 218).

Edwards argues that this objection does not pose a problem for harm principles that are instrumental constraints, as they are not committed to decriminalizing all harmless behaviours, since their focus is on whether criminalizing behaviours will likely lead to a reduction in harm, not necessarily whether the specific behaviour causes harm (2014, pp. 272–274). This takes some of the bite from this objection, but not all. Edwards asks us to imagine that we are given a choice between two worlds, one in which harmless trespasses, such as the type Ripstein suggests, as well as harmful trespasses are prohibited and one in which only harmful trespasses are prohibited. Edwards argues that it is reasonable to think that the first of these worlds would create less harm, because not prohibiting harmless trespasses might lead to people committing harmful trespasses through ignorance or cause people to spend additional resources protecting against trespass that might limit their ability to pursue valuable opportunities in the world (Edwards, 2014, p. 273). However, we can imagine that, given the right initial societal set-up, prohibiting harmless trespasses, such as Ripstein's nap, prevents no more harm than would be prevented were we not to prohibit them, perhaps because all potential trespassers are especially careful or because the resources to outlaw and police these acts could prevent an equal amount of harm if applied elsewhere. In such a world, a harm principle viewed as an instrumental constraint would, presumably, not allow the criminalization of harmless trespasses, and yet it seems, at least according to Ripstein, that we would still want to outlaw this behaviour.

Ripstein uses this objection as a reason to throw out the Harm Principle, and instead adopt his "sovereignty principle", which states that "each person is entitled to use his or her own powers as he or she sees fit, consistent with the ability of others to do the same" (2006, p. 233). Ripstein goes on to say

that what constitutes wronging a person is interfering with their powers, either through usurping their powers for one's own purposes, or by destroying them (2006, p. 234). He gives examples of fluoridating the teeth of a prominent anti-fluoridation campaigner secretly and against their will and explains that, though this does not harm the campaigner, it is wrong in that it breaches their sovereignty by depriving them of their ability to veto what purposes they pursue with their powers (Ripstein, 2006, pp. 234–235). Ripstein also says that failing to accomplish one's purposes, such as by being defeated in a fair contest, does not breach one's sovereignty, even if it has a significant cost to the defeated party (Ripstein, 2006, pp. 238–239). He uses this principle to explain the wrongness of the harmless trespass by saying that it is a case of using one's external powers, their property, without their permission and, as such, affects their freedom over it (Ripstein, 2006, p. 240)

This sovereignty principle, at first glance, sounds a lot like the Freedom Principle I am advocating, and one might therefore wonder whether my alternative principle is redundant. The Freedom Principle answers the cases of harmless trespasses in the same way as Ripstein's sovereignty principle, that is, they involve the wrong of using another person's property without their consent, either explicit or implicit, and therefore breach that person's freedom over their property. However, there are some significant differences between my Freedom Principle and Ripstein's sovereignty principle which mean that Ripstein's principle is not appropriate for the application of freedom consequentialism. Perhaps the most important difference is that according to Ripstein "Sovereignty can only be breached by the intentional deeds of others, because it is an interest in the independence of those deeds" (2006, p. 239). This is a sharp contrast from the understanding of freedom as the ability to understand and make one's own decisions that is defended throughout this work, as this can be breached by things other than the intentional deeds of other persons. Further, freedom consequentialism is a consequentialist theory and is not concerned with the motives of actors but rather with the consequences of their actions. In essence, my principle conserves the same intuitions that Ripstein's does in cases such as this, while still taking account of the bad that can be brought about through things other than the intentional actions of others.

So, my principle is not vulnerable to this version of the underinclusiveness objection, but harm principles are also charged with being overinclusive. The overinclusiveness objection claims that harm principles, at least of the instrumental constraint variety that my principle is most similar too, are too weak a constraint on what kinds of behaviour can be justifiably restricted and allow for the criminalization of the kinds of "victimless crimes" that harm principles are meant to prevent from being criminalized (Dan-Cohen, 2009, pp. 152–153; Duff, 2007, pp. 136–138; Edwards, 2014, p. 281; Stewart, 2009; Tadros, 2011, pp. 50–51). Victor Tadros points out that we could, according to this kind of harm principle, be justified in criminalizing gay sex so long as doing so would prevent some people from entering into harmful relationships (Tadros, 2011, p. 51). Edwards points out that this applies equally well to criminalizing heterosexual sex so long as that would prevent some people from entering into harmful relationships (Edwards, 2014, p. 281). It seems that if a harm principle only restricts criminalizing some behaviour if doing so will prevent no harm, then it provides almost no restriction at all.

There are two features of the Freedom Principle which allow it to avoid the overinclusiveness objection. First, the Freedom Principle restricts the breach of person's freedom over that which belongs to them, such as through imprisonment or punitive fines, to only those cases where it will prevent a greater breach of freedom that could not be prevented except by breaching at least this much freedom. Second, as the threat of breaching one's freedom is coercive, the threat of imprisonment or fines would strongly count against outlawing any behaviour that did not breach the freedom of another, but not against behaviours that do breach the freedom of others. This is because, as discussed in chapter two, freedom consequentialism does not consider it bad to use coercion to prevent someone from a choice that did not belong to them in the first place, such as whether to assault another person or destroy their property.

Tadros's example of the criminalization of gay sex would breach a large amount of freedom, both of those we punish for performing this act and of the population generally whose choice not to engage in gay sex is coerced by the threat of state retribution. There is also very little to be said in favour of criminalization, as being able to enter into potentially harmful relationships is also a choice that belongs to the participants in those relationships, not the state. So, when taken together, these two features prevent the Freedom Principle from being overinclusive and only in extreme circumstances will the Freedom Principle be in favour of states prohibiting behaviour that does not directly breach the freedom of others.

Another objection that is not about harm principles in general, but which is sometimes made against Mill's Harm Principle in particular, is that it directly conflicts with his principle of utility (Scriven, 1997, p. 16). While my theory is, like Mill's, a consequentialist theory, my Freedom Principle does not conflict with freedom consequentialism in the way that Mill's Harm Principle is sometimes claimed to conflict with utilitarianism. Because freedom consequentialism is entirely focused on protecting the freedom of the individual, the Freedom Principle falls naturally out of the theory. The Freedom Principle can be correctly thought of as the application of freedom consequentialism to political issues, rather than a different principle to be considered in addition to the recommendations of freedom consequentialism.

A real case

With my harm principle established and explained, we can now apply it to a real case. I will be using a case involving freedom of speech, as it is one of the most discussed ways in which a state can restrict the freedom of its citizenry.

In 2014, the Australian state of New South Wales introduced a collection of law changes to combat drug and alcohol-related violence, among these laws was an increase in the potential penalty for offensive language, which was already a fineable offence, to five-hundred Australian dollars (Methven, 2014; O'Farrell, 2014; Thomsen, 2014). While this is not introducing a new law against free speech, the case does give us a good opportunity to discuss whether this kind of law, which prevents offensive language in or near public places or schools, is justified, as this increase in penalties reaffirms the commitment to the law. So, while other states in Australia also have similar laws against offensive language (FindLaw Team, n.d.), here I will focus on New South Wales and whether it is justified in punishing offensive language in this way.

The law in question is part of the New South Wales Summary Offences Act of 1988 and states "A person must not use offensive language in or near, or within hearing from, a public place or a school" unless they have a "reasonable excuse for conducting himself or herself in the manner alleged in the information for the offence" (New South Wales Summary Offences Act, 1988, p. Section 4A). While the law does not specify which words are considered offensive, it is an unstated assumption that these laws target a small selection of swear words, and police in New South Wales tend to target the words "fuck" and "cunt" and their derivatives (Methven, 2014).

So, is this "swearing law", and the recent increase in penalties for breaking it, justified? The first thing to note is that the behaviour being prohibited here, that of swearing in a public place, is an expression of a freedom that belongs to the individual in question, their freedom of speech. Freedom over one's body and mind involves (at least for humans) the ability to speak or otherwise express oneself. The difference between prohibiting something like this and something which is not a choice that belongs to the person is significant. When prohibiting, for example, the theft of another's property, we must weigh the amount of freedom that will be protected against the amount we must breach to protect it, by imprisoning

offenders for example, but not the restriction of persons' ability to steal from other persons, as this was never their choice to make in the first place. Here we must also consider the freedom of those who might wish to swear in public but choose not to, out of fear of being issued a large fine, as they are also having their freedom breached through coercion. So, the fact that the law is directly against making a choice that belongs to the person in question counts strongly against it, and we will need powerful instrumental reasons to overcome those concerns.

It is also worth noting that the specific freedom at issue here, freedom of expression, is of significant instrumental value as well as its intrinsic value as a choice that belongs to persons. Freedom of speech is instrumentally valuable to other expressions of freedom over what belongs to a person, such as freedom to associate with consenting individuals and participate in institutions or associations that will have you. Freedom of speech is also important in a state which includes any shared property, so that the individual can have a role in deciding what happens to those things that they partially own.

However, these are not the only things that make freedom of speech valuable. In *On Liberty*, Mill makes the case that to quash the opinions or ideas of others is to assume one's own infallibility (Mill, 2010, p. 22). He argues that we cannot be sure of the truth of our own opinions, as we are fallible, and we know that many opinions currently accepted as true will likely be rejected as false in the future, just as many opinions previously accepted as true are now regarded as false (Mill, 2010, pp. 23–24). He deals with the objection that we must act on the information we have, and the fact that we might be wrong is not sufficient warrant to refrain from action by pointing out the difference "between presuming an opinion to be true, because, with every opportunity for contesting it, it has not been refuted, and assuming its truth for the purpose of not permitting its refutation." (Mill, 2010, p. 25). He points out that the ability for others to refute our point is what allows us to assume its truth when acting, as without that ability, we cannot be confident that our view is not vulnerable to compelling objections we have never considered (Mill, 2010, p. 25). Mill further argues that even if it were the case that we were right about a particular view, the silencing of dissenting opinions would still not be justified as it would lead to a view of the truth that is stagnant and dogmatic. If we prevent dissent, we prevent people from learning about the objections to truth and seeing how it can overcome them and cause truth to be believed without proper understanding of the proof and argument that justifies it over falsehood (Mill, 2010, pp. 41–45).

Whether this second branch of Mill's argument for freedom of speech is true seems to be a matter that could be settled with empirical investigation, and not a particularly important one, as we already have a reason for valuing freedom of speech for its own sake. However, the first branch of Mill's argument, that we cannot assume our own infallibility to the extent that we silence the views of others, is an important one. Obviously knowing the truth can be instrumentally valuable in a number of ways, as it allows us to better make decisions and can, in some cases, even make the difference between being able to understand a choice that belongs to you and not, but there is a more subtle reason for freedom of speech's importance here. That reason is that we cannot be sure that our theory of morality, or our application of that theory, is correct, no matter how well-reasoned it might be. I am reasonably convinced that freedom consequentialism is, if not correct, at least close to a correct theory of what we ought to do, but I cannot be sure that I am right. I could be hugely mistaken. It might be the case that the correct theory of morality is radically different or it might be the case that morality, or at least the kind of morality discussed in this work, does not exist at all. We cannot be completely sure of our moral positions and, in light of that, we must take even more care not to silence dissenting opinion on important matters lest we accidentally silence the truth.

So, we must be especially careful of restricting freedom of speech. However, the law in question is not being used to restrict the expressions of opinions or speech that would allow groups to congregate, but

rather the use of specific words. So, while any encroachment onto free speech must be taken seriously, this particular law is unlikely to have significant negative effects on these other freedoms or indeed prevent people from espousing moral or empirical views that might enrich the marketplace of ideas.

It seems there are three possible justifications for this “swearing law”. It could be that swearing, especially in an abusive manner, often leads to violence and that preventing this violence justifies prohibiting the swearing that leads to it. This makes a certain kind of sense as a rationale in the case of New South Wales, as the increase in penalty was part of a batch of law changes designed to combat alcohol induced violence. It could be the case that swearing harms some of the people that hear it, particularly children who are young and impressionable. This also makes sense as a rationale for this law given that it specifies schools as places one cannot swear within earshot of. Finally, it could be argued that the law protects persons’ freedom to avoid specific, unwanted sensory qualia. Let us analyse these potential justifications one at a time in order to determine whether any, or any combination, of them justifies this law and, if so, whether they also justify the increase in penalties in this law.

The most obvious kind of speech that is restricted, or called to be restricted, is speech that incites others to violence. We can see how swearing might, in some contexts, lead to violence. Although in many contexts swearing does not lead to violence, scenes of drunk people swearing at each other, only to devolve into physical fighting are easy to bring to mind. However, the violence incited by the swearing must be against someone other than the speaker for us to be justified in restricting their freedom of expression as engaging in behaviour that is a risk to oneself is a choice that belongs to the individual. We may restrict a man from telling a hitman that he will pay him a large sum of money to kill his wife, as this kind of speech is very likely to lead to the killing of his wife, but we may not restrict the speech of a person speaking offensively about Islam, even if they place themselves at risk in doing so. This poses a problem for justifying the “swearing law”; perhaps a drunk person swearing at another person may, in a sense, invite a violent reaction against themselves, but it does not seem likely to provoke violence against others. One could argue that drunken fights sometimes develop into brawls involving multiple people, which gives us some reason to justify censorship. However, preventing the use of particular words is unlikely to prevent those who wish to do so from insulting one another, or indeed provoking a fight. Even if the law in question was completely effective in preventing the use of language it seeks to control, it seems that those wishing to insult one another, outside a bar or other such setting, have plenty of options at their disposal that are just as likely to provoke a violent reaction. For example, it is difficult to imagine that telling a drunk person that their mother is a “fat prostitute” is going to produce any less of a reaction than if one had called them one of the swear words the law prohibits. Without even resorting to offensive language, there are a range of “fighting words” that could lead to violence in the context in question, such as “what you looking at?” and “you got a problem?” and these phrases could instigate drunken fights without resorting to the swearing this law is designed to control. While some may see this as a reason to extend the application of this law to these other forms of insulting or belligerent language, this would require even more justification as it would restrict speech even further to include entire modes and motivations for speech. So, while the potential for causing violence that could involve those not doing the initial swearing, could go some way to justifying this “swearing law”, it does not do so by itself. If the New South Wales government is to be justified in restricting swearing in the way it does, it will need further justification for doing so.

There are some activities and expressions of ideas that it is generally considered not appropriate to show to children, such as graphic violence and graphic sexual acts. Showing these things to a child can even be considered an act of abuse. This is certainly where my intuitions point, though I am aware that my thinking on this is shaped by my social conditioning and that my finding something distasteful is not an indication of it being morally wrong. However, in saying that, the potential for exposure to such acts to be

detrimental to the development of children, in a way that leads to breaches of their freedom, could be a good reason for preventing children from being exposed to these things. Also, it is worth noting that some content may be detrimental to a child's development in part because of the cultural norms or expectations surrounding that content. So, if hearing the kind of language that the New South Wales law prohibits is harmful to the development of children in a way that harms their freedom, it would be a reasonable justification for restricting it in many of the ways that the New South Wales government have done, such as preventing it from being said at or within hearing distance of a school or public place, as these are areas one might expect to find children. This rationale would not justify the restriction of swearing outside bars in the central city at night, as children are unlikely to be there, but it would go a long way to justifying the restriction of swearing and offensive language in general. So, the question then becomes, does hearing swearing harm the development of children in a way that leads to breaches of their freedom? Some recent research suggests that the "common sense" view of swearing as corrupting children is wrong (Bergen, 2016, pp. 181–184; Jay, 2009; Jay & Janschewitz, 2012). Further, even if swearing does have an impact on children's development, to justify prohibiting it we would need to show that it either breaches their freedom or restricts their future freedom, such as by leading to mental illness. While there is ample evidence that some expressions, such as verbal abuse, of which swearing aggressively could be a part, can "mess up" a child in a way that might lead to increased risk of mental illness later in life (Johnson et al., 2001; Ney, 1987; Vissing, Straus, Gelles, & Harrop, 1991), we lack evidence to suggest that merely hearing swear words used by others is liable to have any such effect. Further, if children were not to learn swear words at all, that may indeed restrict their freedom with regard to feeling pain, as swearing when in physical pain can help to reduce that pain, so long as the individual in question does not swear too often as a baseline (Jay & Janschewitz, 2012; Stephens, 2011). So, as well as not having good evidence to suggest that swearing near children is harmful to them, there is a case to be made that if no one swore near children they may indeed be having their future freedom breached by being denied access to an effective, internal and relatively side-effect free¹⁴ pain-relief method when they need it. So, at least based on current evidence, we cannot justify prohibiting swearing in the way that the New South Wales Government has based on potential effects on children.

When it comes to offensive language in public places, there is also the person's freedom to avoid specific qualia or sensory experiences to consider. Remember this is a reduced freedom, like that of movement, so if the qualia could be avoided as easily as avoiding a specific public place at a certain time then this freedom would not be breached. However, if a person followed another person around whilst swearing loudly, then this would breach their freedom to avoid those sensory experiences. So, while a person or group can go to a public place, even to express something that may not be welcome by the people they find there, such as swearing, they may not chase those people down to continue doing so. This is of particular relevance in the case of schools, as the students in them are often required to be there by law, so if a person set up a megaphone outside the school and then swore at them all day, they may not be able to reasonably avoid it. However, this does not justify the law in question as these kinds of activities can already be prevented and deterred with existing laws against harassment, noise pollution and disorder, which can be justified using this principle by reference to persons' freedom to avoid particular sensory experiences as discussed above. Neither the fact that the offensive language is occurring in a public place, nor that people may not want to hear it, does anything to justify this law.

Some philosophers have argued that it is justifiable to restrict the expression of certain ideas or material from the public eye because it is offensive and does not contribute significant social value (Cohen-Almagor, 1993; Feinberg, 1983, 1985; Shoemaker, 2000). This is traditionally applied to things such as hate speech or exposing one's genitals in a public place, and could also be applied to the "swearing law"

¹⁴ At least with regard to physical side-effects. There may be social ones.

in question here. However, this misses the point of free speech, or expression, entirely. When we say that someone ought to be free to express an idea or publicize some material, it is not with the caveat that it be considered valuable by others or that it not offend others. Nowhere among the freedoms that belong to a person is the freedom to not be presented with things that offend that person. This is not a freedom that belongs to a person, but rather an attempt to restrict the freedom of others to fit with one's own ends. Freedom of speech or expression is not simply the freedom to express ideas that others consider of social value, it is also the freedom to say frivolous nonsense and the freedom to be vindictive, nasty, petty, and cruel.

It is worth noting that this stance on language, and other acts, which are generally deemed offensive being performed in public is an example of a significant difference between my Freedom Principle and Mill's Harm Principle. In *On Liberty*, Mill said that many acts which ought not to be prohibited when done privately are, if done publicly "a breach of good manners and coming thus within the category of offences against others may rightfully be prohibited." (Mill, 2010, p. 186). This could potentially be used to justify laws such as the New South Wales "swearing law" on the grounds that the swearing being restricted is a breach of good manners in a public place and therefore an offence against others that can be justifiably prohibited. As discussed above, the Freedom Principle does not concern itself with whether an act is a breach of good manners, whether in public or private, or is liable to offend others in a public place, rather it only concerns itself with whether the proposed action breaches the freedom of another.

So, we have looked at the possible arguments for this law being justified according to the Freedom Principle, that it may prevent violence, that it may protect the freedom of children and that it may protect persons' freedom to avoid specific, unwanted sensory qualia, and found them insufficient to justify this law. We can say, according to the Freedom Principle, that the government of New South Wales is not justified in its restriction of offensive language in a public place in the first place, so they are not justified in increasing the penalty for breaking that restriction. In short, section 4A of the New South Wales Summary Offences Act 1998 should be repealed.

Conclusion

Because of states', and to a lesser extent smaller, more local governmental bodies', obligations to protect their citizens' freedom, act in their citizens' interests where shared property is concerned and to do good generally, what a state is justified in doing can be a complicated question. However, using the Freedom Principle, we can determine what restrictions of their citizens' freedom states are and are not justified in enacting in a way that avoids the underinclusiveness and overinclusiveness objections. Using this principle, freedom consequentialism can be applied practically to real cases in political philosophy in a way that is action-guiding and avoids significant conflict with commonly-held moral intuitions. In this and the previous chapter I have discussed the implications that freedom consequentialism has for political philosophy and demonstrated that it can allow us to answer questions in the realm of political philosophy in a way that aligns with several popular views and maintains many intuitively-appealing concepts. In short, freedom consequentialism can be a useful and intuitively-appealing theory in the domain of political philosophy. So, having explored the implications of freedom consequentialism for political philosophy, we can now look at freedom consequentialism's criticisms and potential problems.

Chapter Nine: Objections

In this chapter, I discuss objections to freedom consequentialism that do not fit into any of the previous chapters, either because they require more detailed discussion, because they are not relevant to the central point I was making in the chapter or because they concern freedom consequentialism as a whole. I had feedback and objections from many different people but this chapter includes only those objections that are the most troubling, the most interesting or the most common. I respond to these objections and show that they are either not applicable to freedom consequentialism, or not significantly problematic for freedom consequentialism.

Objections

Freedom consequentialism makes some person's lives worth more than others

It has been objected that freedom consequentialism places greater value on some lives than others (Briand, 2015b; St-Marie, 2015b). A case posed to me to make this point was one where a nurse is forced to choose between saving the life of a healthy baby and saving the life of a baby who is disabled, either physically or mentally or both. It was objected that the nurse should, according to freedom consequentialism, save the healthy baby and that this means freedom consequentialism undervalues the lives of those with disabilities. Another, related case was one where the same nurse was instead choosing between saving a rich and a poor baby, the argument being that freedom consequentialism should recommend saving the rich baby because it has more freedom over property (Briand, 2015b).

There is nothing in freedom consequentialism that would lead to the valuing of the lives of the rich over the poor because the rich own more stuff. As for the case of the healthy baby versus the baby born with a disability, having a disability does not make one's freedom to continue one's consciousness any less valuable. Having a mental disability does not prevent someone from being a morally relevant person so long as they are still a free, rational agent, and as long as they meet these criteria, their freedom to continue or not continue their consciousness is as important as anyone else's. Freedom consequentialism is not concerned with the maximization of freedom, but rather the protection of it, and protecting the freedom of the poor and the disabled is just as important as protecting that of the rich and the healthy.

However, while it is not true that freedom consequentialism values the lives of some more than others, this objection does raise an interesting problem: that of life expectancy. In the above cases the babies in question may have different life expectancies. Rich people tend to live longer than poor people and healthy people tend to live longer than those born with certain disabilities. Those with a longer life expectancy have a greater chance to live to a point where they no longer want to and choose to cease their own consciousness without being under duress. This may be a very slight increase, but it does seem to be an increase. Because of this, it seems that life expectancy should play some role in our moral calculations of who to save. However, this leads to recommendations which conflict with commonly-held moral intuitions, such as saving people from ethnic groups that have longer life expectancies on average being better than saving people from ethnic groups who have shorter life expectancies on average. So, the issue of life expectancy poses interesting future challenges for freedom consequentialism and how we should consider life expectancy when making moral decisions is something that requires further work to answer.

Freedom consequentialism ignores emotional distress

A common objection to freedom consequentialism is that it ignores emotional pain, or any reduction in positive emotions, when determining whether an action is morally acceptable (Bennetts, 2016; Grinder, 2015; Saint, 2017; Wyld, 2017). It is generally considered that causing someone genuine emotional distress is *prima facie* wrong (Coeckelbergh, 2010; Feinberg, 1983). So, the fact that freedom consequentialism does not consider emotional distress morally relevant seems to be in significant conflict with commonly-held moral intuitions.

Freedom consequentialism ignores emotional distress because, as argued in chapter two, whether or not we can choose our emotional reactions, saying or doing things which lead to others generating particular emotions, even very negative ones is not, in itself, a breach of their freedom over their own choices. If we choose our affective states, then the person in question is choosing to be distressed, so this is not a breach of freedom. If we do not choose our affective states but they are rather something that we cultivate, then they are not something that the person can be said to have freedom over. In this second case, so long as that person's reaction is the result of their own affective character which they have had the opportunity to cultivate, causing them to generate that reaction is not a breach of their freedom.

One might object that causing someone to experience certain affective states can breach their freedom to act in certain ways. For example, person A might say that they cannot bring themselves to do X (where X is some action that they ought to be free to do) because they are too sad as a result of person B's actions, so B's actions have reduced A's ability to do X and therefore breached A's freedom. However, this description of the situation conceptualizes ability to act in a way which tends to conflate motivation with ability. I suggest that a more reasonable way to describe this situation is that person A can do X but is no longer motivated to, and so chooses not to. This way of describing the situation aligns with the common distinction we draw between motivation and ability as well as a fairly standard view of what it means to be able and not able to do something (Stocker, 1971, p. 311; Vranas, 2007). However, even if one thinks that the first way of describing this situation is more reasonable, the breach of A's freedom would be a contingent consequence of B causing them to feel the negative emotion. B causing A to feel the negative emotion does not *in itself* breach the A's freedom.

This position seems to be in significant conflict with commonly-held moral intuitions. However, there are a few considerations which mitigate this apparent conflict.

First even though freedom consequentialism does not consider emotional distress to be morally relevant for its own sake, it can still be instrumentally valuable. Because of this, if emotions are not voluntary, causing emotional reactions in others can be instrumentally wrong in some cases. For example, if causing an emotional reaction is likely to trigger mental illnesses or handicaps that breach the person's freedom over their mind, then this would be wrong because it would lead to a breach of freedom. So, there may still be very good reason to avoid causing people emotional distress in some ways or circumstances, particularly in children as distress associated with things like verbal abuse can be a significant risk factor in future mental illness (Teicher, Anderson, & Polcari, 2012).

Second, that freedom consequentialism does not consider persons' emotional reactions to be non-instrumentally morally relevant does not mean that we cannot, or should not, consider them relevant at all. There are good reasons to consider how one's actions affect the emotions of others, from how it affects one socially to empathizing with others to wanting to be a kind person or to treat others in a way congruent with how one would wish to be treated oneself. These considerations need not be a part of morality for them to be important to people. How our actions affect the emotions of others is not a moral

consideration according to freedom consequentialism, but it is a very important consideration for most of us as humans and these facts need not be in conflict. There is a distinction to be made here between what is relevant to how we ought to act as persons, and what is important to us personally as human beings. Something can be very important to us without it being (non-instrumentally) morally relevant, and I suggest that emotions fit into this category.

Freedom consequentialism ignores the rights of the individual

Freedom consequentialism is a consequentialist theory and, as such, will occasionally recommend breaching the freedom of some to protect the freedom of others. Because of this, freedom consequentialism receives some of the same objections as utilitarianism with regard to the rights of the individual. For example, I have been asked how freedom consequentialism can deal with the popular intuition pump, often used against utilitarians, of the doctor and the patients in need of an organ transplant (Briand, 2015a). The intuition pump asks us to imagine that a doctor has five patients, generally with a rare blood type, all in need of a different organ who will soon die without it. This doctor comes across an individual, usually a homeless man with no friends or family though this is less relevant for freedom consequentialism than it is for utilitarianism, who is a perfect match for these five patients. This objection then asks the utilitarian, or in this case the freedom consequentialist, whether the doctor should kill the one person in order to transplant their organs into the five and thus save their lives. If the utilitarian says yes, presumably after adding many caveats and addendums to the situation, they are then accused of condoning immoral actions because it is presumed on the basis of our intuitions that the doctor killing the one to save the five is immoral.

The first response of a freedom consequentialist to this intuition pump would be similar to that of the utilitarian: that of making the person proposing the hypothetical situation to add several addendums and caveats to it. For example, even if the doctor was justified in killing the one to save the five, allowing this kind of behaviour may set a dangerous legal precedent that could be open to significant abuse, which would lead to bad consequences, so we would have to add to this hypothetical that the doctor was going to get away with killing this person and others were not going to find out. As well as these standard caveats, freedom consequentialism requires that the freedom protected by saving the five people could not be protected without at least as much of a breach of freedom as would result from killing the one person. So, if the doctor could have obtained the organs to save the five in some other way, then killing the one person would not be morally justified. All that being said, once all the caveats and addendums are added to this situation, then freedom consequentialism, much like utilitarianism, must bite the bullet and say that yes, the doctor is justified, perhaps even obligated depending on the particulars of the case, to kill the one person and harvest their organs to save the five.

However, it would be a mistake to say that because of this recommendation freedom consequentialism ignores the rights of the individual. All that matters for freedom consequentialism is the ability of persons to understand and make their own decisions, which is called “freedom” here, but which seems to be the same concept that underlies many rights-based theories of morality (Griffin, 2008). The choice to continue one’s own consciousness, to continue living, is of great importance to freedom consequentialism. Biting the bullet in this case is not discounting the value of the freedom, or rights if you prefer, of the individual being killed, it is recognizing the fact that it is worse for five people to die against their will than for one person to die against their will.

Freedom consequentialism ignores special relationships

An objection that is often posed to utilitarianism, but can be posed to freedom consequentialism as well, is that it ignores the importance of special or interpersonal relationships (Mulgan, 2014, p. 97; Rachels,

2003, p. 110). This objection is posed to utilitarians in two basic forms, one is that there are special obligations that come from particular relationships, such as doctor-patient, parent-child or spouse-spouse which utilitarianism, and here freedom consequentialism, ignore and thus miss out on some of the moral picture. The other is that one should not care as much about strangers as one does about one's friends or family, the "would you really want to be friends with a utilitarian" objection. Certainly it is not usual for a human to care equally about strangers and their closest friends and family, and there is a strong intuition that we have particular obligations to those we stand in particular relationships to, so it is easy to see how someone might think that freedom consequentialism is missing something when it claims that all persons are morally equivalent regardless of what relationships one has to them.

However, freedom consequentialism does not entirely ignore special relationships. As discussed in chapter three, moral obligation is partially determined by the uniqueness of your position to do some particular good. For example, doctors have unique obligations to help their patients because they are in a unique position to do so. Similarly, as discussed in chapter five, parents act as caretakers for their children's choices until such time as children are able to make choices for themselves, and have unique obligations with regard to those children derived from that unique position.

With that said, freedom consequentialism does consider personal relationships to be morally irrelevant in most circumstances. When faced with a choice between rescuing two people from a fire, the fact that one of them is your mother has, according to freedom consequentialism, no impact on the morality of the situation. However, these cases, when properly examined, do not present a significant conflict with our moral intuitions. The approach to moral obligation and responsibility that freedom consequentialism takes, as discussed in chapter three, as opposed to that of utilitarianism, has a significant impact on this. First, let us deal with the example of coming across a burning building in which are trapped both your mother and some figure who does a great deal of good, perhaps a neurosurgeon. When posed to utilitarians, the objection here is that they claim that one ought to save the neurosurgeon, but that is not what freedom consequentialism claims. Assuming we only have time to save one person and there are not others around to do it, and depending on the degree of risk to ourselves, we may be obligated to save one of these people from the burning building or it may be supererogatory to save either. However, unless the person that is not your mother is a truly exceptional individual that has a tremendous moral impact on the world, perhaps if one was saving Norman Borlaug in his youth, then saving one's mother would not be considered wrong. Rather, it would be considered a good action and while saving the surgeon would be better, as the surgeon would prevent more breaches of freedom during their life, doing so is not obligatory. To those who say that one should not save the surgeon because one should care enough about one's mother to save them instead, my response is twofold. First, we cannot lay moral claim to one's emotions, as not all persons may have the capacity to feel as we wish them to. So, while we may not feel as fond of one who dispassionately makes their decisions based on a moral calculus, we ought not say that doing so is wrong. Second a person choosing to save the surgeon does not mean they care less about their mother than one who chooses to save her, it may mean that they are possessed of incredible moral conviction and particular courage. To say of such a person that they could not have cared as much or they would have done the lesser good is to disregard the level of self-sacrifice of which persons are capable.

Finally, in reply to the objection that one would not want to be friends, or married, or the child of a freedom consequentialist, I suggest that this does not apply to my theory. While utilitarianism is vulnerable to the demandingness objection as discussed in chapter three, freedom consequentialism can avoid this objection. Freedom consequentialism does not require persons to spend all their time and money maximizing value but rather only requires them to meet a minimum required goodness threshold. Because of this, freedom consequentialism allows people to pursue their own projects, such as being good friends, spouses or parents, if they so choose. As to the idea that one would not wish to be close to

someone who takes them to be of equal worth to any other person, I suggest that this misunderstands how people value things. While there may be no difference in the moral value of two persons, there can certainly be a difference in the degree to which one might value them on a personal level. We are capable of feeling affection for or disliking people without thinking that they are of different moral worth. I would also question whether people would prefer to think that their close friends, family and spouses are acting in their interests because they believe they have a moral obligation to do so, as opposed to caring about them and wanting them to be happy. It would seem very odd were someone we care about to tell us that the reason they act in a considerate manner towards us is not because they care about us, but rather because they feel an obligation to do so. In short, freedom consequentialism does not ignore or belittle the importance of interpersonal relationships because deeming relationships not morally relevant does not mean they are unimportant for the individuals involved in them.

Freedom consequentialism focuses only on duties to others

It has been objected that freedom consequentialism ignores important dimensions of morality by focusing only on how we should act towards other people, while ignoring how we should act towards, for example, ourselves or the world (Agustino, 2016; S. Anderson, 2016a). Many moral theories that deal with the actions of agents claim that there are separate duties or moral obligations that pertain to dealing with oneself or the world. Kant discusses duties to oneself, or one's own humanity, at length (Kant, 1996). Scanlon writes on "what we owe to others", but accepts that there are separate moral duties that do not relate to how we act towards others (Scanlon, 1998). Even utilitarians arguably ought to be concerned with our actions towards ourselves, as we have just as much potential to affect our own happiness or preference satisfaction as others do, if not more so. So, when freedom consequentialism ignores these other potential kinds of moral duties, it could be argued that it misses something important about morality.

As discussed in chapter three, breaches of one's own freedom count towards the morality of a course of action in the same way that breaches of another person's freedom do, so in that sense freedom consequentialism includes duties to oneself. However, because freedom consequentialism's measure of value is the ability of persons to understand and make their own choices, the kind of obligations to oneself that many other theories talk about do not make sense within the context of this theory. One can have one's freedom breached because one is ignorant, such as in the classic case of drinking poison believing it to be water, but drinking the poison willingly would not breach their freedom, rather it would be an exercise of freedom to choose to cease one's own existence. For classical utilitarianism it would be morally wrong to cut off one's own legs, all else being equal, if it would diminish the happiness one will experience in the future. However, it does not make sense to say that a person breaches their own freedom by cutting off their own legs (assuming they are able to understand this choice and are not being coerced), as the choice to damage, destroy or remove parts of their body is part of what it is to have freedom over their body. What is important morally is that persons are able to make their own choices with regard to those things that belong to them, and that includes the choice to destroy or damage those things in ways which will make that person unable to utilize them in the future. This is not a breach of that person's freedom, but an exercise of it. Because this is not a breach of that person's freedom, but rather an exercise of it, it does not count against that action. So, freedom, of the sort discussed here, does not lend itself to the same kind of duties to oneself as other theories. Further, as entities that are not persons cannot have freedom, freedom consequentialism does not lend itself to duties or obligations to the world or to entities that are not persons.

However, it is important to remember that we can value things without them being of moral value. We might value the beauty of nature or self-improvement or the search for truth a great deal, but this does

not mean that they have moral value. Likewise, whether these other things have moral value need not affect how much they matter to us. We need not have moral obligations to ourselves in order to care about our own dignity, knowledge or integrity and we need not have obligations to the world in order to care about non-person creatures, conservation of diversity or aesthetic beauty, but we must not let how much we care about these things convince us that this means they *must* be of moral value.

Summary

Many of the objections discussed here, as well as many other objections that have been put to me (S. Anderson, 2016b; Faust, 2016; Phyllo, 2017; Saunders, 2016), point out that freedom consequentialism conflicts with a commonly-held moral intuition. While one of the goals of freedom consequentialism was to avoid significant conflict with commonly-held moral intuitions where possible, the other goals of freedom consequentialism have led to it conflicting with these intuitions. However, these conflicts are mitigated by two factors which I have highlighted throughout this thesis. First, freedom consequentialism often aligns with the recommendations of our intuitions, even if its reasons are counterintuitive. Second, many of these intuitions would themselves lead to counterintuitive results were we to align with them. So, while freedom consequentialism does come into conflict with commonly-held moral intuitions, I think these two factors mitigate that conflict enough that it can still be an intuitively appealing, and therefore persuasive, moral theory.

The point I must highlight regarding all of these things which are important to many people, but which freedom consequentialism does not consider morally relevant, is that being morally irrelevant does not mean it must be irrelevant to the individual. Freedom consequentialism is about the freedom of the individual. Morality according to freedom consequentialism is about each individual being free to make their own choices so long as those choices do not breach the freedom of others. Whether what matters to the individual is aesthetics, kindness, justice, joy, self-improvement, truth, or anything else, freedom consequentialism protects one's freedom to pursue it so long as that pursuit does not cause breaches of the freedom of others. Freedom is a precondition to many things that people consider to be of value, and to agents' pursuit of things they consider to be of value. So, while it may seem counterintuitive to say that these things do not matter morally for their own sake, freedom consequentialism protects these things by protecting the freedom of moral agents to pursue them.

Conclusion

In this chapter, I have discussed some of the more popular, important or interesting objections that have been levelled at freedom consequentialism. I have demonstrated that several of these objections do not apply to freedom consequentialism. I have demonstrated that those objections that do apply to freedom consequentialism are not significantly problematic for the theory. However, this is not to say that there are no problems in freedom consequentialism and no work left to be done. In the next and final chapter, I discuss some of the questions left to be answered in the field of freedom consequentialism and the work that is to be done in the future.

Chapter Ten: Conclusion

In this chapter, I summarize the work done in this thesis and what makes it important. Then, I identify and discuss the work left to be done in freedom consequentialism. This future work includes the unsolved problem of how we should treat risk when evaluating moral actions, and interesting future applications of freedom consequentialism such as being a moral system that could be taught to psychopaths, building algorithms to determine one's moral obligation, and having a moral system that can potentially be understood by and applied to persons different from ourselves.

Summary

This thesis constructs a normative theory called freedom consequentialism. This theory is an attempt to answer the question of how free, rational agents ought to be or act, where "ought" is understood in an objective and universal sense. This is what I take to be the central question in ethics and it motivated a lot of my goals in creating this theory. The other things motivating my goals in creating this theory were my being convinced by consequentialism, the assumption that ought implies can, the principle of Occam's Razor, and that my theory should be persuasive. My aims for this theory were for it to be: 1) True. 2) Universal. 3) Objective. 4) Applicable to all free, rational agents. 5) Applicable to only free, rational agents. 6) Action-guiding. 7) Achievable. 8) Consequentialist. 9) Simple. 10) To avoid conflict with commonly-held moral intuitions where possible. These goals shaped the creation of freedom consequentialism. In chapter one, I considered what measure of value could be used by a theory that meets these goals. I determined that the ability of persons to understand and make their own choices, which I called "freedom", was a viable candidate for a measure of moral value for a theory that applies to all persons. Further, because the ability to understand and make choices is the defining feature of moral agents, this ability is the best candidate for a measure of moral value for a theory that aims to apply to all *and only* persons. In this chapter, I also considered what form of consequentialism this theory should take and determined that it should be one that focuses on the consequences for everyone, one which recommends courses of action rather than only ranking them, and one which considers the consequences of acts rather than rules.

The second chapter discussed why we should believe we have free will and what the kind of freedom that freedom consequentialism uses as its measure of value is, and how it relates to other conceptions of freedom. This chapter also analysed what kind of choices we should consider to be morally relevant and argued that, in order for freedom consequentialism to be action-guiding and achievable, we should only consider choices a person can make with regard to their own mind, body and property as morally relevant.

Chapter three analysed how we ought to talk about moral obligation, permissibility and supererogatory actions and determined that if we do not make some of the same assumptions about morality that utilitarians do, we can avoid the demandingness objection that is so often levelled at them and can develop a method of determining moral obligation that is more sophisticated and is more consistent with commonly-held moral intuitions.

Chapter four considered how we can weigh freedoms against one another and offered a method of doing so. While this method is imperfect, it, when combined with the principles introduced in chapter three, allows freedom consequentialism to be action-guiding.

After these initial chapters in which I was largely focused on the basis and framework of this new normative theory, called "freedom consequentialism", I moved on to discussing more practical moral issues and analysing how freedom consequentialism could deal with them. In these chapters, I

demonstrated how my theory allows us to analyse and resolve these issues in a more philosophically robust way, but also in a way that preserves many of our important moral intuitions regarding them. Chapter five discussed the moral status of children, and how they can be morally considerable under freedom consequentialism even though they do not appear to be persons. I argued that we should adopt a view of personal identity which involves considering children to be the “same person” as their adult self from the point of consciousness as failing to conceptualize personal identity in this way could have potentially catastrophic consequences if we are wrong. I then demonstrated how this move allows freedom consequentialism to be in line with commonly-held moral intuitions about children.

Chapter six discussed the morality of lying and deception and whether they are prima facie wrong. In this chapter, I argued that while there is a distinctive wrong in several types of lying and deception that breach persons’ ability to understand our choices, several types of lying and deception are not prima facie wrong. I argued that being able to understand one’s choices cannot require having true beliefs about those choices beyond knowing what they are and what it means to make them such that one is able to apply their rationality to those choices. I discussed how this position conflicts with commonly-held moral intuitions and demonstrated that this conflict is not as great as it first appears, and that freedom consequentialism is able to align with many of our commonly-held moral intuitions on lying and deception.

In my seventh and eighth chapters I moved on to discussing what impact freedom consequentialism could have in political philosophy. Chapter seven demonstrated how we can use freedom consequentialism to justify having a state and taxation while still treating freedom as the measure of moral value and without giving up private ownership of property because states can be much more beneficial to freedom than anarchy. Chapter eight discussed when states ought to restrict the freedom of their citizens. This chapter developed a version of Mill’s Harm Principle based on freedom consequentialism and then showed how this principle can be used in a real case involving restrictions on free speech. In both of these chapters I demonstrate how freedom consequentialism can be a useful tool in political philosophy and can align with many of our commonly-held moral intuitions in these areas.

While I have considered counterarguments that could be given to my theory throughout this thesis, such as the objection that we do not possess free will that is discussed in chapter two, or the demandingness objection that is discussed in chapter three, in chapter nine I considered some objections that do not fit into the remainder of the thesis. In this final chapter, objections such as that freedom consequentialism ignores emotional distress, and that it ignores an important class of moral duties were discussed. These objections and others were demonstrated to either not be applicable to freedom consequentialism or not be significantly problematic for the theory.

So, in this thesis I have created a moral theory called freedom consequentialism that is consequentialist, but also puts personhood at the heart of morality. Freedom consequentialism is action-guiding and does not require us to draw a strong distinction between action and inaction but is not vulnerable to the demandingness objections that utilitarianism faces. Freedom consequentialism can apply universally to all free, rational agents, but also aligns with many of our commonly-held moral intuitions on a broad range of topics. For these reasons, freedom consequentialism can be a useful and appealing moral theory.

Work left to be done

In the following section, I discuss an unresolved problem in the theory of freedom consequentialism which I have not discussed in detail in the main body of this work, and some of the interesting possible future applications of freedom consequentialism.

Risk

The extent to which it is permissible to put the freedom of others at risk without their consent is a question which requires more work to answer. While it seems on the face of it that one should not put other people's freedom at risk if one can help it, it is not clear when such risk becomes sufficiently great to say that one ought not to act in a particular way. For example, it seems easy to say that one should not engage in unprotected sex with another person if one has a sexually transmitted disease that one has not informed them of, as this puts them at significant risk without their consent. The morality is less clear for a person who does not know if they have a sexually transmitted disease but has engaged in some moderately risky behaviour since their last medical test, or a person who has a sexually transmitted disease but is using a condom and perhaps medication to reduce the likelihood of being contagious. These cases still involve risk, but it is not obvious that the person is acting wrongly. Risk is not just associated with contagious diseases. Many actions involve an element of risk to ourselves and others, from driving a car to running a country. A standard response that a utilitarian could give here is that whether a risk is acceptable or not depends on its expected value (Hansson, 2014; Mulgan, 2014, pp. 159–160; Scarre, 2002, pp. 136–137). The problem for freedom consequentialism is that, there will be many circumstances where it seems intuitively that a risk should be considered acceptable but where there is not any expected moral gain to outweigh the risk of more loss, so it has negative expected value. For example, driving to a friend's house for lunch seems like an acceptable risk. However, it contains an element of risk in that driving a car sometimes leads to crashes which can breach persons' freedom. Further, driving to a friend's house does not have any expected moral benefit. Unlike utilitarianism, freedom consequentialism does not consider my enjoyment of the lunch we will share, or my preference to go there, morally relevant. No freedom is protected by my having lunch with my friend rather than having lunch at home, so there is no gain of moral value to offset the risk of loss of moral value. If we are to say that taking this kind of risk is acceptable, we need to be able to say that some level of risk is acceptable even when there is no compensatory chance for moral gain. However, what this level is, and how it can be justified are questions that require further work to answer.

Psychopaths

An interesting area for future work in freedom consequentialism is in how morality applies to persons who do not have the same emotional range or reactions that most of us do, particular psychopaths. Because freedom consequentialism uses as its measure of value something that is common to all free, rational agents, and does not rely on empathy or sympathy or require that persons have particular emotional reactions, it would be informative to attempt to teach it as a moral system to those without a normal human emotional range. While many consequentialist theories do not require particular emotional reactions from persons, freedom consequentialism, unlike traditional utilitarian theories, does not require trying to determine what will make others happy or what it is that others want, which may be difficult without empathy, in order to determine the morally correct course of action. Also, as discussed in chapter three, freedom consequentialism is able to answer the demandingness and supererogation objections in a way which allows persons to be self-interested and pursue their own projects as long as they meet their moral obligations as well. These features, taken together, make it an excellent moral

system to teach to those without the capacity for empathy, or with some of the other deficits that psychopaths have been proposed to have (Schramme, 2014). Testing whether psychopaths and other individuals with similar deficits could be taught morality using freedom consequentialism, and to what extent they care about following its precepts, could be informative in learning how empathy and other related mental states relate to ethics and could also have implications for the debate between motivational internalism and externalism (Schramme, 2014).

Moral obligation at the push of a button

In chapter three, I discussed how freedom consequentialism can answer the demandingness and supererogation objections in a way that classical utilitarianism cannot and proposed a way of determining the minimum amount of good a person is required to do in order to meet their moral obligations. This method allows a person with sufficient knowledge of their situation in life, relative to the rest of the world, and the amount of freedom being breached in the world, to determine what it takes to meet their moral obligations. Further, were we to find a more precise solution to the problem of weighing different freedoms discussed in chapter four, this method could allow us to create an algorithm to estimate one's moral obligation. If we could do this, then persons could input the relevant features of their life into a computer, or perhaps an application on their phones, and get an estimate of their minimum moral obligations with regard to things like charitable giving. This would make consequentialist morality and moral obligations more accessible and understandable to everyday persons, so would be a worthwhile area for further research.

Ethical systems between persons

Because freedom consequentialism's measure of value is something that can be shared by all free, rational agents, it can apply between different kinds of persons, that is, persons of different species. For this reason, freedom consequentialism could have interesting applications for the field of artificial intelligence. Because freedom consequentialism is a consequentialist theory, it allows the right course of action to be calculated given sufficient information and so is more easily formalized than some other forms of moral theory (S. L. Anderson, 2011, p. 162). Freedom consequentialism is also focused on preserving the freedom of persons, so is not likely to result in perverse outcomes that might come about from promoting safety or happiness, such as imprisoning humans to keep us safe or forcing us into Nozickian experience machines to maximize our happiness (Nozick, 2013, pp. 48–49). For these reasons freedom consequentialism could be an ideal moral code, or set of constraints, for building "friendly" or safe AIs (Muehlhauser & Bostrom, 2014; Yampolskiy & Fox, 2013). Also, should an artificial intelligence ever develop personhood, freedom consequentialism could also guide us in how we ought to interact with it. Freedom consequentialism could also form the basis of a code of conduct should we ever encounter intelligent, alien life. While intelligent aliens may not value the same things as us, the freedom that freedom consequentialism uses as its measure of value can be shared by all free, rational agents, so is more likely to be an area of common ground than something particular to our evolutionary or cultural history. Further, as discussed in chapter nine, freedom is a prerequisite for many other things that persons might value, so agreeing to protect one another's freedom can protect many things that persons might value, even if we do not understand what those things are. In short, there are interesting possible applications to having a consequentialist theory that is applicable to all persons and further work is warranted to determine what insight freedom consequentialism can have in these and other fields.

Final thoughts

Freedom consequentialism still has some problems to solve, but it also opens up several promising opportunities for new research. Further, whether one agrees with all the goals of freedom consequentialism or not, this theory does offer us solutions for existing philosophical problems in ways that preserve many of our commonly-held moral intuitions as discussed throughout this work. For these reasons, I hope that some other philosophers will see the wisdom or the appeal of freedom consequentialism and help to answer these questions, explore these applications, and advance the theory.

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