



meta(φ)

Zwischen Menschen

A Reinterpretation of Ayn Rand's Endorsement of Capitalism • Nadine Felber

Giving up the Gender Debate • Karen Poertzgen

Vereinbarkeit zwischen Erwerbsarbeit und Familienleben • Sabine Hohl

Ist therapeutisches Klonen mit menschlichen Zellen moralisch akzeptabel? • Khalil Staubli

Climate Change and Human Rights • Marzia Marastoni

I and the Non-Identity Problem • Thomas König

The Glow of Romantic Love • Sarah Gloor & Audrey Salamin

Interpreting Enthymematic Arguments • Andreas Freivogel

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Erste Worte

Liebe Leserin, lieber Leser

In der akademischen Philosophie beschäftigt man sich oft mit hoch komplexen theoretischen Fragen, mit ausgeklügelten Gedankenexperimenten und mit raffinierten Argumenten. Philosophische Theorien werden entwickelt, an Standards theoretischer Tugenden gemessen und mithilfe kritischer Einwände verbessert oder verworfen. All dies geschieht auf einem der Akademie angemessenen Level von Abstraktion. Die Kehrseite dieser Art des Philosophierens ist allerdings, dass manchmal das, was wirklich zählt, aus dem Blick gerät: das Zwischenmenschliche. Das bedeutet allerdings nicht, dass die akademische Philosophie keine Verbindung zum Verhältnis zwischen Menschen hat - sie steht nur oft nicht im Fokus.


Deshalb haben wir diese Ausgabe dem Thema „Zwischen Menschen“ gewidmet. Sie wird durch Nadine Felbers Essay „A Reinterpretation of Ayn Rand’s Endorsement of Capitalism“ eröffnet. Dort argumentiert sie auf Basis von Rands Theorie dafür, allen Schweizer Bürger*innen 100’000 Fr. zu schenken, sobald sie 21 Jahre alt werden. Danach folgt ein Essay von Karen Poertzen, in dem sie den Begriff „Frau“ im politischen Kontext und mit Blick auf Transgender-Personen analysiert. Den Abschluss der gesellschaftlich-politisch orientierten Texte macht Sabine Hohl. In ihrem Essay argumentiert sie dafür, dass der Staat aus Gerechtigkeitsgründen für die Vereinbarkeit von Erwerbsarbeit und Familienleben sorgen sollte.


Die nächsten Essays nehmen die Menschen in ihrer Umwelt in den Blick: Khalil Staubli geht der Frage nach, ob therapeutisches Klonen mit menschlichen Zellen moralisch akzeptabel ist und betrachtet dazu vor allem das bekannte Potentialitätsargument. Die Umwelt rückt im Text von Marzia Marastoni ins Zentrum. Sie spricht sich dafür aus, das Recht auf eine saubere Umwelt als Menschenrecht gelten zu lassen. Das moralische Gewicht zukünftiger Generationen, welches dabei eine grosse Rolle spielt, wird im Essay von Thomas König beleuchtet, der zum berühmten Non-Identity Problem schreibt.


Den Abschluss dieser Ausgabe machen zwei Texte mit Bezug zum Austausch zwischen Menschen. Sarah Glor und Audrey Salamin untersuchen die Phänomenologie der Liebe und arbeiten ein Gefühl heraus, das sie „Glow“ nennen, während sich Andreas Freivogel mit dem argumentativen Austausch zwischen Menschen befasst und dazu die Belief-Revision Theorie mit dem Reflective Equilibrium verbindet.

Nun wünschen wir Ihnen eine vielfältige, inspirierende sowie spannende Lektüre und hoffen, Sie erhalten einen Einblick in das philosophische Tun am Institut für Philosophie der Universität Bern.


Herzlichst, Michael A. Müller
im Namen des Redaktionsteams


Xenia Schmidli


Michael A. Müller


Joannes B. Campell


Timo Junger


Laura Leutwyler

«We must learn to live together as brothers or perish together as fools.»

Martin Luther King Jr.
Rede in St. Louis, Missouri, 1964

«Eine Welt, die Platz für die Öffentlichkeit haben soll, kann nicht nur für eine Generation errichtet oder nur für die Lebenden geplant sein; sie muss die Lebensspanne sterblicher Menschen übersteigen.»

Hannah Arendt
Vita Activa, 1960

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A Reinterpretation of Ayn Rand's Endorsement of Capitalism

Can her Arguments be shown to favor a Stakeholding System, financed by a significant Inheritance Tax?

Introduction

We live in a world where capitalism¹ is the most common form of states' economic organization; this entails the private ownership of the means of production, profit as the goal of production and transaction, and – so we are told – the equal opportunity for every citizen to achieve economic success. And yet, this economic system seems to leave the majority of us behind, as all states host citizens that suffer from a lack of financial means, making inequality a huge problem: In fact, after a study of Oxfam International of 2017, 8 people own as much wealth as the poorest half of the global population, around 3,4 billion people.² In Switzerland, a very wealthy country, a study of 2015 suggests that the richest one percent of the population holds 40 percent of the Swiss wealth (Schmid 2016). Even pro-capitalists should be shocked by such immense discrepancies. Hence, I see a need to reconcile this favored economic system of capitalism with a proposal of redistribution that can counterbalance these devastating effects for the majority of the population.

The idea is, of course, not new. Many people have been condemning capitalism for ages on the basis of the aforementioned inequalities. Unfortunately, the radical alternatives they suggested, such as communism or socialism,³ have yet failed to produce convincing results in practice, thus reinforcing the justification

for capitalism as the only viable form of economic organization (see for example Rand about Soviet Russia, Rand 1986, 22). In this paper, I will suggest that a more moderate adjustment in the form of a so-called stakeholding-system might constitute a better alternative. However, justifying even slight remediations with well-known arguments coming from the socialist or altruist corner does not work to convince capitalists. In fact, many pro-capitalist writers flinch away from such arguments, dooming them as too unrealistic. Thus, in order to convince pro-capitalist scholars of the applicability of said reforms, one has to beat them at their own game. This is why I will focus on one of the most radical pro-capitalist writers, which is Ayn Rand, while trying to use her rationalization of capitalism as a basis for an alternative and more meritocratic system of economic organization.

Thus, in this paper, I want to explore Ayn Rand's arguments for capitalism, hoping to demonstrate that these precise arguments speak for the institution of a stakeholding system, similar to the one proposed by Bruce A. Ackermann and Anne Alstott (2006, 43). This stakeholding system would be financed through a heavy inheritance tax and would grant each citizen a significant amount of money (around a 100'000 \$) when s/he reaches the age of 21.

To achieve this goal, I will focus on the five central notions of Rand's theory: rationality, freedom, individualism, survival and justice. Each of these notions is used by Ayn Rand to uphold capitalism as the best economic system. She argues that the first four aspects are essential for men,⁴ that only capitalism is capable

1 Definition of capitalism: "an economic system characterized by private or corporate ownership of capital goods, by investments that are determined by private decision, and by prices, production, and the distribution of goods that are determined mainly by competition in a free market", <https://www.merriam-webster.com/dictionary/capitalism> [accessed 26.08.2018].

2 <https://www.oxfam.org/en/pressroom/pressreleases/2017-01-16/just-8-men-own-same-wealth-half-world> [accessed 26.08.2018].

3 Definition socialism: "any of various economic and political theories advocating collective or governmental ownership and administration of the means of production and distribution of goods", <https://www.merriam-webster.com/dictionary/socialism> [accessed 26.08.2018].

4 Rand uses exclusively the male form in her writings, therefore I will adopt her language in order to stay closer to the original texts. Nevertheless, the reader should keep in mind that my arguments apply to both men and women.

of protecting these aspects (Rand 1986, VII) and that justice, the last one, is a natural consequence of capitalism. I will first define these notions and show how Rand uses them to construct her argument. In a second step, I will then reinterpret these notions, questioning if all these five central aspects would be as well, or even better, protected in a stakeholding-system. During my argumentation, I will frequently examine possible objections Rand could raise against my case, and try to refute them. In the end, a successful reinterpretation of her pro-capitalist theory will emerge.

An important remark

Before we start, I want to emphasize the fact that I am reinterpreting Rand's arguments. This means that I will leave her basic premises more or less untouched because the goal is to convince Rand of a stakeholding-system with her own arguments. Therefore, the reader might encounter moments where strong objections against Rand's arguments would be adequate; these objections will not be spelled out in this paper, however. As an example, take Rand's conception of distributive justice, which is entirely based on property rights and personal achievements (Rand 1986, 20; 23; 131) According to her, everyone will earn what one deserves, depending on one's effort. For many, this view is too simplistic. It overlooks social and cultural contexts, the genetic and geographical background of each person, as well as many more factors, all of which are likely to create unequal opportunities. Yet, I will not attack her for her view of justice. Instead, I will show that even her narrow conception of distributive justice will force her to accept some form of a welfare state, namely a stakeholding-system financed by a heavy inheritance tax.

Therefore, this paper might seem incomplete to some. But in my view, its focus is on the arguments of a single author, and challenging her conclusions, rather than her premises, is the strongest asset of this essay. It enables the rethinking of capitalism from a capitalist point of view, thus weakening the arguments against any form of welfare. A second advantage I see in this method is the possibility to reconcile the two opposed camps of capitalism and other systems (most commonly socialism and communism) up to a certain point. Each camp sees the members of the other as an antagonist. By producing a philosophical argument with capitalistic premises which permits a rather socialist conclusion, the two camps might learn to reach a more productive dialogue.

Laissez-faire Capitalism: A review of Ayn Rand's proposal Rationality

Those who have read the writings of Ayn Rand know that she is an ardent defender of laissez-faire capitalism which means that government interference in economic matters should be banned, mainly because capitalism is perfectly capable in regulating itself (Rand 1986, 187). She draws this conclusion not from empirical facts or economic systems but from philosophical premises. This is due to the fact that, according to her, true laissez-faire capitalism has never existed, and thus could never prove its true merit in the real world (Rand 1986, 45). Let us now examine how she develops her philosophical argument.

Rand starts from the adult, mentally and physically sane and independent human being (1986, 5). The distinguishing characteristic of the human – his nature – is his rationality (Rand 1986, 7). In addition, this characteristic is also the main tool that enables man's survival. Without thinking, a caveman would not have been able to fletch an arrow and kill a deer for food. Without his rational faculty, he would not have learned how to tan the deer's hide and use it to keep him warm. This is also true for our more advanced society: If Marie Curie had not used her intellect, she would not have discovered radioactivity, making a huge step towards the use of nuclear energy. If Steve Jobs had not thought about computers, the Apple-Company would not exist today, and none of us would be working on a MacBook. But Rand's premise is not as absolute as it might seem at first glance. After all, she seems to imply that only the intelligent, hardworking human beings have survived and will survive. However, this is not the case. Rand accepts the idea of the rationally incapable or unwilling man. He will survive by imitating those that are using their rational faculty (Rand 1986, 8). Other cavemen did not have to discover the process of fletching an arrow themselves but could just observe its inventor, and then do as he did. The fact remains that if the first caveman would not have discovered the fletching of arrows or the tanning of hides, others would have discovered it much later or not at all, thus slowing or even halting the development of human society.

To sum up, Rand claims that every human being is endowed with a functioning rational faculty, it is what makes him human (1986, 351). That said, she admits of varying degrees of intelligence, along with differences in motivation. The next step is to inquire why this rational faculty is better used in a capitalist system, rather

than in a socialist or communist one. I will examine the latter option first.

Socialism and communism differ from capitalism in the sense that the means of production are publicly owned. This means that everything that is produced does not belong to a certain individual or private group, but to the government. According to the defenders of socialism and communism, such an economic system would be much more egalitarian, according to the principle “from each according to his ability, to each according to his need” (Heller 2009, 40).

While the first part of this principle holds also true for capitalism and is strongly supported by Rand, she rejects rigorously the last part, claiming that it is against human nature. As man must use his rational faculty in order to sustain himself, not being able to dispose of the fruits of his intellect will harm him in achieving this goal. In addition, he will be discouraged from using his rational faculty in two ways: Firstly, a socialist system would be based on a planned economy where the government decides what should be produced. Hence, man has no place to develop ideas of his own and may even be punished if he ventures out of the line. This coercion is detrimental to man’s reason (Rand 1986, 8). Secondly, he may lose any motivation to use his rational faculty, as he knows that any reward from it will not be his. Only capitalism gives each man the reward he merits by allowing him to keep the earnings of his effort (Rand 1986, 44). This is an argument often found in discussions about patents and copyright laws. In the pharmaceutical industry, for example, the development of a new drug costs millions and takes many years. In line with the rationality-arguments, research would come to a halt if the pharmaceuticals would know that their achievements would not be protected (at least for a few years) by a patent, thus enabling all other pharmaceuticals to profit from their research for free. Every company would save itself the investment and wait for someone else to make a discovery, and in the end, nobody would do research anymore. Rand uses the same argument on the individual’s level: If man is not allowed to harvest the fruits of his effort, he will just stop to produce anything at all. Thus, rationality and socialism are incompatible with each other.

Freedom

From the previous argument, we can directly stir the discussion towards the next aspect – freedom: Rand claims that the rational faculty of man does only work properly as long as he is free (1986, 8). If anyone tries to

limit his rational faculty or to stir it in a certain direction, then man’s reason will fail to produce anything. We can accept this premise as well: If Madame Curie had been banned from studying Physics and Chemistry because she is a woman, her rational faculty would have been curtailed and her achievements prevented. If someone had prevented Steve Jobs from working in IT and instead had forced him to turn to the development of motorized vehicles, he probably wouldn’t have caused a revolution in that sector. But this is exactly what a socialist system does to the freedom of man, according to Rand. To understand her argument to the fullest, it might be a good moment to pause and elaborate on the notion of altruism, because it is altruism that is the root of all evil, in Rand’s view.

Altruism: The foundation of socialist and communist systems

The notion of altruism can be defined as the opposite of egoism, thus meaning to put the benefit or at least the non-harm of others above the benefit of oneself (Kraut 2018). This can mean, for example, me sharing my cookie with my friend, who does not have a cookie. I wanted to eat the entire cookie myself but seeing that she would also enjoy a treat, I give up my benefit of an entire cookie so that her and I can each have the benefit of half a cookie. Another example would be if I give the money that I have received for my birthday to a charitable organization, thus forgoing some luxury, such as a pair of shoes which I would have bought with it. It is important to note, that in both of these examples, at least part of my motivation must come from the idea that I want to benefit those other people for the sake of them, not for my own sake. It is not altruism, for example, if I give my friend half the cookie only because I know I can ask her for a favor afterwards. If I give my birthday money to charity only to prove a point to my mother, I am not being altruistic either. Thus, the concern for other people must be part of my motivation in order for it to be called altruism. Apart from this selfless element, there is another important component of altruism. It is the crucial belief that my act will truly benefit the person towards which the act in question is directed, or, in other words, that it will contribute to (or at least not diminish) her or his well-being (Kraut 2018). My act is only altruistic if I believe that half the cookie will promote a certain good for my friend. I know that she enjoys cookies and that tasting one now would bring joy and satisfaction to her. If I give her the cookie just because I think it is right to do so, I am acting morally correctly, but not

altruistically. Thus, altruistic acts involve a conception of well-being and certain goods which the altruistic agent wants to promote.

That said, we can see now the link between altruism on the one hand, and socialism and communism on the other. Such economic systems are based on an altruistic principle, defining first what well-being means for a society and then making sure that every member of this society can achieve this form of well-being. Take the example of the value of employment and work for women in former East Germany, a socialist republic. Gender equality in the work force was considered a high value in East Germany, along with the value of reproduction. Hence, the state created many incentives, especially for women, to bare children and participate in the work force at the same time. Examples include low-cost and widely available public child care (Matysiak & Steinmetz 2008, 333).

According to Rand, such public values and incentives to achieve them are fundamentally opposed to the individual's freedom. I think we can see why. If some women refuse to reproduce, or reproduce but refuse to return to their jobs afterwards, the government punishes them for their divergent behavior in denying them the benefits that the value-conform women would have received.

In addition, the more fundamental value of altruism, which is putting the well-being of others above one's own well-being, is contrary to man's nature and freedom, in Rand's view. Altruism-based economic systems ask their members to act, live and produce in order to sustain society as a whole, and assuring the well-being of others before accumulating more goods than necessary for themselves. If a citizen tries to gain something for himself, rather than for society, he will be condemned by society for such a goal because it is seen as selfish and therefore evil. This following quote of her summarizes her negative view of altruism:

Many people believe that altruism means kindness, benevolence, or respect for the rights of others. But it means the exact opposite: it teaches self-sacrifice, as well as the sacrifice of others, to any unspecified "public need"; it regards man as a sacrificial animal (Rand 1986, 146).

This combination of institutionalized selflessness and certain state-picked, promoted values limits an individual's freedom to the point where he can do nothing for himself anymore. As Rand puts it, the individual

becomes an "expandable cell" of the society in which he lives in, not allowed to be more than a means of production for goods he should not care to enjoy himself (1986, 3).

Another important point is the fact that we can understand now why supporters of laissez-faire capitalism, such as Rand, cannot be convinced or even accept arguments for welfare policies that are based on altruistic premises. Being libertarians who emphasize individual freedom above all other things, they will not accept any idea that endangers their freedom. Thus, proposing subsidies for maternity or paternity leave, public housing for the homeless, programs to help fight drug addiction, etc., will fail to strike them as necessary or even good. The only thing they will care about are the costs and the fact that they have to pay part of them, even if they do not want to, thus losing part of their freedom to dispose of their own money. Erik Olin Wright, the editor of the book "Redesigning distribution," which contains the stakeholding idea proposed by Ackerman and Alstott, has identified the same problem:

Redistribution reflects coercion; market-generated distribution reflects voluntary activity. This easily slides into the libertarian view that all redistribution is a violation of fundamental freedoms: taxation is theft; people have an absolute moral claim that whatever it is they can obtain from "voluntary exchange" is theirs (Wright 2006, IX).

Wright then proceeds to explain why such a view is too simplistic and thus wrong. As promised, I will not use the same strategy here, as I deem it futile in convincing hard-liners like Rand to abandon their premises. Instead, I will now recapitulate her argument why laissez-faire capitalism is the only system that protects man's freedom, according to Rand, as I have done before with her argument concerning man's rationality.

Freedom in capitalism: The right to private property

After having examined why socialist systems curtail an individual's freedom, we now have to understand why, according to Rand, freedom is much better protected in a capitalistic system. We shall see that this is not the only relation between capitalism and freedom, but that it is also the other way around – capitalism also profits from freedom, thus creating a relationship of mutual benefit between them. Being capitalists

makes us more free, and more freedom will enhance capitalism's productivity.

Firstly, it is important to note that capitalism allows man to put his own benefit above the benefit of others. This selfish behavior is the backbone of the whole economy and, according to Rand, the only natural way in which human beings are meant to interact and prosper. This self-interested way of trading will ensure that an exchange of goods and services only happens when each party sees a benefit in the trade, thus working only through mutual consent and peaceful interactions (Rand 1986, 44). If I am not happy with the quality of the tomatoes that my local shop offers, I am free to purchase tomatoes elsewhere in another shop. If I work as an accountant and realize one day that this whole number-crunching business makes me unhappy, I am free to quit my job and look for a more fulfilling employment. None of these decisions have to do with someone else. I only reflect upon my own well-being and try to maximize it with my decisions. Such behavior is only possible in capitalism because of one crucial element: property rights. Not only am I free to buy my tomatoes wherever I want, after I have bought them, they are also my property and I am free to dispose of them in any way I want (without harming other people). I can eat them immediately in a salad. I can dry them and store away for tougher times. Or I can try and plant them in order to grow my own tomatoes and making me less dependent on the local grocery stores. I have the right to do all this because no one has the right to take the tomatoes away from me anymore since they are my property. Thus, for Rand, property rights have a crucial role in ensuring one's freedom. She goes even as far as to claim that they are the basis of all other rights of individuals, claiming that the right to property ensures the right to disagree, on which are based all other rights to live one's life as one wants (Rand 1986).

We can see why there is a connection between the right to property and the right to disagree. Only if material goods belong to me by right, I am free to dispose of them as I please. For example, if I own a house, I have every right to establish a meeting-point there for, let's say, rat-enthusiasts. In a public place though, where I hold no ownership, I can be inhibited of doing so. A lot of people do not like rats and would quickly take action to dismiss me and my rodent-loving friends with our pets from the public place. Another example would be me holding property over a simple diary where I note all my thoughts and ideas. Since it is mine by right, I can write whatever I want in there, constructing plots

and scripts for pornographic movies, for example. If property rights were abolished, someone could claim access to my diary, read it, and then condemn me as a potential criminal because my writings are contrary to youth protection. Yet, I might disagree with the public opinion concerning youth protection, and only my private diary lets me live out this disagreement in peace. In this way, as I have tried to illustrate with my fictional examples, property rights do ensure my other fundamental rights of freedom of association and freedom of thought, because they allow me to disagree with the majority.

From this argument follows that property rights must be enforced effectively, and this is the point where Rand admits an active role for the government. Its only role is the protection of property rights, and thus of all the other individual's rights. This is made possible by granting the government the monopoly on retaliatory force but at the same time imposing strict boundaries how and when the government can use this monopoly (Rand 1986, 380). The goal is to eliminate acts of force between individuals. If an individual is harmed in his individual right by, for example, a case of theft, the monopoly of retaliatory force ensures that he will turn to the state in order to seek punishment for the thief, and not act on his own behalf. Any other form of governmental intervention, such as welfare programs, are seen by Rand as abusing its monopoly of force because it coerces citizens to participate in such programs whether they want to or not.

The second aspect of the relationship between capitalism and freedom is the other way around. Not only is capitalism needed for true freedom for individuals, but freedom is needed so capitalism can do its proper job. We can turn back to the rationality-argument here. As we have seen, it is the use of man's rational faculty that lets him discover new ideas and produce more sophisticated goods, thus improving not only his own life but those of many other individuals as well. As an example, take Thomas Edison. His invention of the lightbulb not only improved significantly the illumination of his own house, but brought eventually electric lightning to the entire world (Encyclopedia of World Biography 2004). As man knows that he will profit from such inventions in discoveries in multiple ways (from the property right on the product itself to the intellectual property right on the theoretical invention), he has an incentive to use his rational faculty. But in the end, according to Rand, the benefit will be much greater for society than for the individual himself, thus enabling a large creation of wealth. In our Edi-

son-example, this is true again. Many companies today still profit from his invention, not only in producing lightbulbs, but also in making derived products. After all, people do not only want to put a lightbulb in the socket to have light in the living room, they want to put it in a lamp that pleases them aesthetically, thus creating a market for lamps, and so on. Rand goes even as far as to claim that the inventors and discoverers of such important advancements are always underpaid in relation to the benefits they have brought for society, even if they earn millions with their intellect (1986, 21).

To summarize, capitalism enables man to freely dispose of his intellectual faculty, but also relies on this faculty to produce wealth and progress. We will now quickly examine the component of individualism in this relationship, noting that it also plays an important role in Rand's theory of capitalism.

Individualism: Me, myself and I

Individualism matters in Rand's theory because the individual is the basic, fundamental component of a capitalist system, of production and trade (1986, 5). This follows already from her theory. Only individuals possess a rational mind, there is no such thing as a mind of the group. Of course, Rand acknowledges that humans can work together, exchange ideas and thus make a joint discovery or invention. But the basis of such a cooperative development is still the individual. In addition, the concept of individualism is also linked to freedom. Only an individual can be free, and many free individuals can form a society that is free as a whole. But there is no truly free society where even only one of its members is unfree in his decisions and choices. Thus, even governmental decisions reached by a majority can be unfair to certain individuals, who did not opt for this outcome. Take this example: if every adult in Switzerland opts for the installment of paternity leave, except me, then this new welfare policy limits me in my freedom as I will be forced to pay through taxes for this new program. Thus, only pure laissez-faire capitalism, that rejects any form of the welfare-state, permits true freedom for each and every citizen, according to Rand.

Some might object that such a strong emphasize on the individual must necessarily result in chaos and anarchy. But not according to Rand. First of all, the freedom of an individual ends where he is limiting the freedom of others. This freedom is secured by the state, through its protection of property rights. Going back to my tomato-example, I am free to plant them, even

trying to make a business out of it. But I cannot plant them in my neighbor's garden without his permission. Hence, I might offer him to pay rent for his garden or promise him half of my harvest. I am free to persuade him to trade with me but I am not free to take his property by force. Thus, orderly and peaceful coexistence is possible, even if the state refrains completely from enforcing some sort of community by imposing public values.

Secondly, even if everyone is free to develop and pursue his or her own values, those individual values and life plans are likely to converge, according to Rand. Thus, there exists a greater demand for lipstick than for microscopes, as the majority of people value beauty more than scientific studies (Rand 1986, 17). The majority of us are interested in a secure and comfortable life. And in that sense, capitalism reinforces this convergence towards a certain consensus. After all, a product or service can only survive if it attracts enough buyers or costumers. Thus, innovations that fail to generate an interest in a great number of individuals will quickly disappear, not having passed the test of the rational majority. An example would be a highly caffeinated drink produced by Pepsi, that was marketed as a breakfast soda (The New York Times 1989, worldatlas 2017). The product failed, as people were completely satisfied with their caffeinated beverages such as coffee or tea.

And yet, as Rand insists, it is still the producers who are the driving power in capitalism, not the consumers. A product first must be available or at least advertised before it can be sold. This argument is also in line again with the rationality-argument. The more intelligent human beings will be the ones that create new products and cause the advancement of society as a whole. Without their intellectual achievements, the consumer would not have anything to buy. Thus, producers stir society in the right direction and the majority of consumers will follow (Rand 1986, 18). To summarize, the system allows for plenty of individualism, and still let society converge on matters of progress. Socialist systems do not allow such a strong emphasize on individualism, and thus halt progress. The producers are asked to invent and create for society as a whole, catering to fixed needs and values by the government. Their individual ideas and projects are ignored for the sake of the community and true innovative products will thus not come forth because the producer does not have any real incentive to create, as we have seen before. As Rand puts it, the creative mind does not work under coercion (1986, 8). On the other

side of the equation, the consumer is also inhibited in expressing his individualism, as the range of products is scarce and fixed by the state. As the society as a whole is more important than the individual citizen, it is expected of him to give up large parts of his individualism for the sake of the group. In East Germany, for example, one factory of chocolate produced 90% of the available chocolate bars for the population (Rotstern 2015). Developing an individual taste for another brand of chocolate was thus nearly impossible, as a different kind of chocolate could not be tried by the average consumer.

Survival: Being alive as a crucial condition

This short section will only briefly explain the importance of the concept of survival in Rand's theory of capitalism. The component of survival will be treated in a more in-depth fashion and unfold its whole potential later on, when I will try to justify the financing of my proposed stakeholding-system with Rand's own argument.

For the time being, it is only important to note that Rand's whole theory revolves around the living human being. As said before, the living individual is the core of the theory. Therefore, it loses its significance as it dies. Rand does not explicitly state this consequence of her theory but many other statements let us draw the conclusion implicitly. For example, Rand emphasizes that special groups do not deserve special rights, as they might limit the rights of others who are not part in that special group. Thus, she denies special rights for the group of the unborn (1986, 374) which lets us conclude that there are no special rights for the dead, either. In addition, let us remember that man uses his rational faculty in order to survive, which means that he must be alive in the first place and wants to stay in this condition.

The inference that only living human beings matter for Rand can be drawn most easily in her discussion about patents and copyrights, where Rand is stating the following: "By the very nature of the right on which intellectual property is based – a man's right to the product of his mind – that right ends with him" (Rand 1986, 143). Here, even though Rand is claiming that a special form of property right is ending with the death of the person who held said property right, we can infer from her theory that the general right to property disappears as well in death. And if this is true, all other rights of the individual vanish once s/he dies because they derive from the right to property.

And seeing that Rand is not concerned with the loss of (intellectual) property rights for the dead person, we can conclude that she does not see why such a person would need any of those rights. Thus, the dead person is insignificant for Rand's theory. The living person is what matters.

We can draw this conclusion even in discussing inheritance law directly. Rand addresses the topic in the same essay about patents and copyrights. She claims that intellectual property rights differ from material property rights precisely in the fact that the latter can be left for inheritance, while the former is sort of intrinsically attached to the person and cannot be transferred (Rand 1986, 143). The living descendants or the mentioned individuals in a deceased person's will can thus have a claim on the former wealth of that deceased person. But the claim is made by living human beings and the departed individual had to write the testament and/or form the consanguine bonds during his or her lifetime. The dead person himself does not cause or create anything. At most, the fact that the living person ceased to be alive, which causes the will to become effective, could be mentioned as something the dead person is actually causing. But here again, it is the fact that the living person stopped existing. The dead person does not matter, after the *living* person has gone. This concludes already our section of survival.

Justice: The difference between the earned and the unearned

The last concept of Rand's theory that we have yet to discuss is justice. As was mentioned before, her account of justice is very narrow. In her view, the fact that I am born to very wealthy parents and my best friend to very poor parents, thus enabling me to go to university and forcing her to work as a hairdresser to make ends meet is not unjust. On the opposite, if the state were to intervene and use the tax money of my parents to pay my friend's tuition fees, that would cause injustice because my friend has done nothing to earn the right to use my parent's money. Thus, capitalism is the only just economic system there is because it does not try to obliterate the difference between the earned and unearned (Rand 1986, 18) On the contrary, it rewards the creative and ambitious people with wealth and punishes laziness and thoughtlessness with poverty.

Even if we know that such a simplistic view of capitalism and justice can be refuted on many occasions in our complex modern world, the relation is very

embedded in our social thinking, and has been for centuries. After all, the fable of the ant and the grasshopper, where the former saves up for winter during summer and the latter is doing nothing, resulting in the grasshopper begging the ant for food in winter, which she refuses, was supposedly created by Aesop, a former slave who lived in ancient Greece around 600 BC (Brown 2005, 31). Those who hear the fable mostly think that the grasshopper deserves to hunger, as he had the chance to prepare himself for harder times in life but just did not care enough to do so and then tried to rely on those who did.

In an altruism-based system, the ant would have even been told from the beginning that it is expected to share at least part of his food stores with the grasshopper, as no one is working for themselves, but for the community as a whole. In such a system, the ant is robbed of the rewards of her hard work and the grasshopper is rewarded for his laziness because his urgent need of food is enough to give him a right to the ant's resources. The redistribution of goods to assure everyone's well-being is more important than the origin of these goods and this is unjust for their producers.

Turning now to capitalism, we can easily see why Rand considers it to be a just system. The institution of private property ensures that no one can claim access to the goods that I have earned. The grasshopper can beg for food, but the ant is not obliged to give any food to him. It is even plausible that the ant might enjoy her food even more knowing about the starving grasshopper, because it gives her a certain satisfaction to know that he is punished for his laziness, and that her hard work has paid off. Would the ant be forced to share its food with the grasshopper despite the fact that he did nothing to deserve such treatment, the ant would feel (perhaps justifiably) betrayed. According to Rand, capitalism keeps such betrayal to a minimum because it assures that everyone has to work for their resources. Now, we have discussed all central concepts of Rand's theory, and have developed how they are protected under capitalism and endangered in altruism-based systems such as socialism. The goal of this section was to familiarize the reader with Rand's arguments and thinking. In the next step, I will use these arguments to demonstrate how they would support a stakeholding-system, financed through a heavy inheritance tax. I will first briefly describe the system in more detail. Then, I will examine how each of the previously discussed notions will find its place in the stakeholding-system.

Stakeholding through inheritance: A modified version of Ackerman and Alstott

In their original proposal, Bruce Ackerman and Anne Alstott propose to give each citizen reaching the age of 21 a stake of 80.000 \$ of which the stakeholder can dispose however he or she wants. The only condition to receive the stake is a high school diploma and a clear crime record (Ackerman and Alstott 2006, 45). The system is financed first through a 2%-tax on any individual's wealth above 230.000\$. In addition, deceased citizens are expected to pay their stake back to the state, with interest. The goal of the system is to give each young adult citizen access to his fair share of resources created by the prior generations of the same community, thus enabling him or her to shape his or her own life plan according to their own wishes and values (Ackerman and Alstott 2006, 43).

The system I would like to propose is very similar, only the amount of the stake and the financing mechanism are slightly changed. In addition, I take Switzerland as the country where the stake should be implemented. All my changes are due to practical reasons and empirical data. According to a study from 2017, the inherited wealth in Switzerland in 2015 was about 63 billion francs (Morger and Stutz 2017, Bossard 2017). If we take the number of citizens who turned 21 in 2015, and let them inherit all the wealth, each adult 21-year old would have roughly inherited around 650'000 francs (Bundesamt für Statistik 2018).⁵ Admitting that this would be a very high stake, I propose to grant each citizen a stake of 100'000 francs. Considering the financing of the system, I would like to propose a 100% inheritance tax on any inherited wealth that exceeds 1 million francs. The statistics in the study claim that only around 17 percent of the inherited wealth exceeded the amount of 1 million per inheritance. But if we would tax these 17 percent of inheritance with a 100% tax, this would generate a revenue of around 10,7 billion francs. To finance a stake of 100'000 francs for the roughly 96'000 people who turned 21 in 2015, only 9,6 billion would be needed. Thus, the system would be able, at least for the first year, to finance itself without any other tax changes except the inheritance tax.

⁵ For this number, I used a statistic of the federal government that listed the population by age, but which stopped in 2009. Hence, I took the number of 15-year-olds in 2009, who would turn 21 in 2015. The number was 87'190. As the population can change rapidly during a short period of 6 years, I added an error margin of 10% to this number, which left me with 95'909 people. Dividing 63 billion with that number, the inheritance is roughly 650'000 francs per person.

The main advantage of this proposal is that only one new tax - a heavy inheritance tax – needs to be introduced in order to get the system started, thus making the political struggle easier. As Ackerman and Alstott note, any welfare program which needs financing from other taxes, such as the income tax, have a hard time to be realized because income is usually already heavily taxed (2006, 57). In addition, as my stakeholders are also expected to pay their stake back with interest upon their death, the system should be able to finance itself through the payback of the stakes, rather than through inheritance, after a few decades. Thus, it might even be possible to eliminate the inheritance tax in the future. But as we will see, an inheritance tax should actually be welcomed by Rand (and thus other capitalists), so there would be no need to eliminate the tax again once it has been established.

Rationality in the stakeholding-system: Giving everyone a chance to be rational

We have now reached the stage where we can apply Rand's reasoning to the stakeholding system. I will construct my argument in the same order as Rand's before and start with rationality.

If he is a very gifted individual, man's rational faculty is his tool to not only assure his proper survival, but the advancement of the whole human species. In the stone age, a sharp eye, a bit of patience and some thinking were sufficient to create the spear which was then used to hunt fish and game. But in today's more complex world, great inventions often need a solid foundation of education to be possible. What follows from this observation is that funded education might be the right path towards a more advanced society.

But Rand would object to such an idea since funded or free education would have freedom-limiting consequences. Concerning the costs, the bearers of it would again be the wealthy, forcing them to pay for the education of children and young adults which are not their own. In addition, state-controlled schooling might teach theories and values that some parents do not support, thus limiting their parental freedoms (Branden 1986, 93). Lastly, the child or teenager himself is limited in his freedom. What if he does not want to go to school but rather wants to start working at the age of twelve?

I personally reject all of these arguments, for many well-known reasons that I will not elaborate here. Education, in my view, is a right, and thus every child should have access to it. This is why I would not ch-

ange the condition proposed by Ackerman and Alstott that every stakeholder must have completed his or her mandatory education.

What I clearly would reject is a stakeholding-system that can only be used for higher education. We could interpret Rand's argument in order to support such a system. After all, intelligence seems to be the highest good of humankind, according to Rand, and giving everyone the chance to develop his or her rational faculty at a university would increase the chance of generating more geniuses which will result in society's advance even faster. We could use the analogy of a horse race here: Instead of letting only the expected champions (the children of wealthy parents) start on the academic turf towards the race to a degree, let us distribute the odds and admit all the possible candidates (the children of middle-class and poor parents). With more participants, the chance of having more finishers is therefore also much greater. In addition, the race would be prone to surprises, with the new candidates surpassing the expected champions. If they hadn't had the chance to participate in the race, no one would have ever known about their capacities. Thus, granting every young adult a stake for education would let us uncover the hidden intellectual treasures of our society. In addition, paying a tuition fee does not guarantee the reception of the degree. The student would still have to earn his grades and prove his merit. This is also in line with Rand's argument of justice.

So, why not impose a stakeholding-system for the purpose of higher education? Because it goes against Rand's notions of freedom and individualism. Rationality is not limited to university, and many businesses are created by people without any college degree, so people should not be forced to create their lives inside of auditoriums, but should be free to pursue their goals outside of universities and colleges. According to Rand, if their work has merit, they will succeed. Famous examples of people who became successful without a degree include Steve Jobs, who dropped out after his first semester, and Bill Gates, who left Harvard University after two years, without a degree (Hess 2017). Even more impressive are the careers of the oil mogul John D. Rockefeller and the industrialist Henry Ford, neither of whom ever set foot into a college (Schrodt 2017). This shows that great inventions are not exclusively created on university campuses. In our capitalist society however, a crucial ingredient to achieve any goal is money. The stake would give each individual enough financial means to invest it in his or her rational faculty, thus increasing the chances of

society as a whole to benefit from the fruits of their investment, as many more people are enabled to create great new products or businesses. Rand should support such a system because man's rational faculty is the engine of capitalism.

Still, we have to consider a possible objection of her here: Gates, Jobs and Rockefeller all did not have a stake at their disposal, yet they became successful – and also very rich – in the end. Hence, she might say, a stake is not needed to further geniuses. If they are truly geniuses, they will make it on their own. A stake would only distort this natural selection.

This objection is not easily deflected, at least not with Rand's own arguments. The only answer I can give her is that, in the cases mentioned above, also a good portion of luck was involved. This is obviously true for every successful life, as it is often bad luck in the case of an unsuccessful one. In addition, we have also seen that Rand does not care about luck in her theory. Nowhere she admits that some people might just be more fortunate than others due to lucky circumstances. Instead, she assures us that the hardworking and smart person will make it to the top anyways because capitalism will reward her for her efforts. But still, even Rand must admit that there are sometimes accidents that lie beyond an individual's control and yet determine his entire fate. For example, in 1921, Rand entered the Petrograd State University which then had begun to allow Jews and women to enroll, all free of charge (Heller 2009, 39). But what if these institutional changes had not taken place? What would have happened to Ayn Rand then? She would have never attended university, barred because of her family's religion and her sex. She might have never developed her rational faculty to the fullest and might have never constructed her theory about capitalism. In this case then, she profited from the communist rule which tried to give everyone at least some chance to develop their intellectual faculties, even though she despised communism back then already. And yet, she took the opportunity when it was offered to her. Thus, she might have accepted a stake as well, if one had been offered to her. And a stakeholding system would work in a similar way as the offer of higher education for free back then in Russia. Like the stake, the option of going to university for free offers an opportunity that was non-existent for some people before. Thus, a stake can give young citizens a certain amount of independence and a true chance to develop their rational faculty.

Freedom in the stakeholding system: Augmented freedom

As we have seen, freedom plays a double role in Rand's theory. On one hand, capitalism protects freedom, in enabling man to pursue his individual ideas and values, uncoerced by the government. On the other hand, capitalism needs free people to function because only then are they able to produce and innovate.

At first glance, this seems to imply that freedom is an absolute condition. Either I live in a capitalist society which protects property rights and permits my individualism, thus making me free, or I live in a socialist society with no property rights, which forces me to be one of its means of production, without any regard for my individual wants and needs. This clear-cut distinction is in line with parts of Philippe Van Parijs' arguments about freedom (Van Parijs 1995, 25). Security through protection of rights and self-ownership are thus two necessary conditions for man to be free. But they are not sufficient, according to Van Parijs. The last requirement needed is the *leximin* opportunity, which means that "(...) each person has the greatest possible opportunity to do whatever she might want to do" (Van Parijs 1995, 25).

For Rand, this added condition clearly goes too far since it sounds as if Van Parijs is proposing some sort of altruistic restraint in order to benefit other members of society. But capitalism requires selfishness. Thus, as we have seen before, any altruistic proposal will necessarily fail. Therefore, I argue that a stakeholding-system increases the individual opportunities of the stakeholders, without asking for any selfless sacrifices. It basically just increases competition, by allowing everyone aged 21 to enter the capitalist market with a significant amount of capital. The stakeholder is free to invest, waste or leave the stake untouched, according to his individual life plan. Thus, a young entrepreneur is not forced to accumulate capital until the age of 30 until he can start his own business. A very gifted author can live off the stake for some years to accomplish her first novel, not required to devote part of her time to an unfulfilling job to make her ends meet. A young couple can afford the mortgage on a house and immediately start a family, not condemned to wait until they make enough money to be accepted on the mortgage market.

These examples show that stakeholding increases the freedom of opportunities significantly for young individuals, by liberating them, at least in part, from the coercive power of the capitalistic market. Capitalism expects its members to be financially productive and

independent. Devoting one's life to low-paid or unpaid work is not seen as something valuable, thus preventing many people to engage in such work until they have accumulated sufficient wealth until they can sustain themselves without additional income, or forcing them to still devote part of their time to wage-labor. Thus, this side of capitalism does impose a certain restriction on individual freedom, confining certain life choices to special circumstances or periods in life. If I have rich parents that sustain me, I can devote myself already to my passion of reading and writing poetry. But if there is no one to pay for my life plan, I either can only pursue it part time, with a paying job on the side, or I postpone my life plan until my late forties, when I will have saved up enough money to quit my job and make poetry my full-time activity. With a stake, on the other hand, I can devote myself to poetry right at the age of 21 for some years, using the stake to pay for my basic needs. If I become a successful writer, I will be able to live off my work, granting me many years of paid work that I actually enjoy. If not, then the stake gave me at least a chance to try when I was young and ambitious. I would look back with thankfulness for that opportunity but accept that after those few years where I could concentrate myself on my own wishes and ideas, I have to turn towards different activities in order to sustain myself. This should convince Rand that a stakeholding-system would augment individual freedom significantly without forcing anyone to forgo some of his opportunities. The only people possibly deprived of an opportunity are the would-be heirs, whose inheritance has been heavily taxed. But we will discuss this aspect later.

Individualism in stakeholding: Being truly individual

The next aspect we have to discuss under stakeholding is individualism. As we have seen in the paragraphs above, individualism and freedom are closely linked. Therefore, it might suffice to point again towards the fact that a stake would grant young adults enough security to perceive and pursue truly their own, individual interests, untouched by the pressure of capitalism to earn money as quickly as possible. Of course, how strongly this pressure is felt depends not only on the financial situation of the individual (which would be changed through the stake) but also on its social and cultural background. The need to be a productive member of society can be deeply encoded into an individual's mind. Thus, the son of a wealthy family who

has made a fortune through a car company might be told from a young age that he is expected to continue the family business, thus either studying economics or engineering. At the age of 21, this young man does not face financial pressure in choosing a career but a social pressure, which is still linked to the productive premise of capitalism. The son might have a weak spot for animals and would want nothing more than being a veterinarian or owning an animal shelter. And yet, he is not able to withstand the pressure of his family that asks him to be an engineer or economist. A stake would do little to help this young man in pursuing his individualism, we might say. But since the stake is his and his alone, he might at least be able to use it in his free time to pursue his interests, thus already investing in an animal shelter or at least using a fraction of the money to get himself a homeless cat and care for it. He doesn't need anyone's permission to use his stake and it gives him a chance to fulfill at least part of his dreams.

This is even more true for those who are much worse off financially. As we have seen in the study about Swiss inheritance, the majority of deceased people leave their heirs less than 50'000 francs, which often is then again distributed among different individuals all entitled to the inheritance (Morger and Stutz 2017, Bossard 2017). This means that for the majority of people, receiving a stake of 100'000 francs at the age of 21 would make the difference of a lifetime, opening up opportunities they have never dreamed of so early in their lives. The daughter of two underpaid nurses might thus be able to pursue her passion for the Hindi language, travelling to India and learn it there. Another son of a mechanic and a cook will use the money for calligraphy lessons and then become a teacher himself later on. And another young woman might just use it to buy herself the car she always dreamed of. In any case, all these activities involve some form of spending money, and thus reinforce the capitalist system. The car might prove to be a very poor investment for the woman but the salesman from whom she bought the car has still gained something from the stake. Thus, every stake will not only enable the concerned stakeholder to pursue his or her individualism, it will also benefit the economy in any case, even if the spending was poorly chosen. Again, as in laissez-faire capitalism, we can still expect the majority of decisions involving the stake to converge towards sensible spending, as everybody is governed by his or her rational self-interest. The result is an enlarged space for individualism, and a beneficial learning effect for soci-

ety as a whole. This is also what Ackerman and Alstott expect of the stakeholding-system. According to them, after the implementation of the stakeholding-system, a national dialogue about the stake will soon emerge, and young people are sensitized to use their stake wisely (Ackerman and Alstott 2006, 50).

In conclusion, the values of rationality, freedom and individualism are enhanced through the stakeholding-system, at least for the receivers of the stake. But what about the givers, those who are expected to finance the whole thing? We will turn to them in the next chapter about survival.

Survival: Your death as opportunity for others

Let me remind you again that Rand is only talking about the living individual and seems to claim that a dead person has no rights and in fact does not need them either. In accordance with the Epicurean School of thought (Long and Sedley 1987, 150), a person's existence ends with her death and after her dying, there is nothing there anymore that could be this person. The soul is organic matter that dissolves with death, thus preventing any form of non-physical survival or the possibility of an afterlife. The soul disappears and hence, the former individual is gone, too. And if there is nothing that exists anymore, this nothing surely does not need any rights, according to the Epicureans. So, if nothing does not need any rights, then it also does not need the right to property. This makes sense even from a non-Epicurean perspective. Even if we would grant that a dead person somehow hangs around as an immortal soul, surely this soul cannot use its car, its toothbrush or its bank account anymore. Thus, there is no point in leaving their property rights intact. Property rights should disappear with the death of the person to which they belonged.

This is where the heirs come into play. After all, it is true that the property rights of a deceased person disappear. They just usually reappear immediately as property rights of the heirs, be they blood related or appointed by the will of the deceased person. But we can question this relationship.

The fact that heirs have a right to inheritance is established during the lifetime of the deceased person, when said person still possessed property rights. Thus, the son that inherits the wealth was created while his father was alive and well. And the best friend that is mentioned in the testate was added while the wealthy man was still able to think and write. And yet, we can suppose that when the man dies, not only does he dis-

appear as a person but his ties towards the people who are still alive disappear as well. Take this example: My father passed away four years ago. Before the date of his death, I was having a father. After his death, I had a father. Of course, I share part of his genetics, memories and other things with him, but the person with whom I was connected through a real relationship is gone. In his death, there is no father anymore that might care for the fate of his daughter, so it does not matter to him who inherits his wealth. Thus, even if he wanted to pass on his wealth to me in his death while he was still alive, the decision disappears with his death too. It is odd to suppose that a decision that can only take effect once the person is no longer, should actually survive that person, specifically if we accept the Epicurean idea of complete nothingness after death. Even if one might support the idea of a "dying wish" of a person on her deathbed, once the person is gone, the fulfilling of the wish does not matter, because we do not need to grant wishes to non-existent entities. The person who has made the decision is gone, and so are her property rights. Why should she keep the right to have her enforced while she was still alive when no other rights survive her death? Rights do not matter to the dead person anymore.

We can look at the case the other way around. In Switzerland, laws exist that attribute legal shares to family members (Swiss Parliament 1988). Thus, even if my father would have despised me and wished I would get not a single franc out of his inheritance, he could not inhibit that $\frac{3}{4}$ of a fixed portion of his wealth go to me, just because I am his daughter. We accept such laws without any concern, even if we know that in this case, the freedom of the deceased person is clearly curtailed. Thus, in such a situation, we either seem to accept the view that a deceased person has no rights and concerns and hence it does no harm to give her inheritance to a person she despised during her lifetime, or we seem to recognize some sort of special responsibility of the deceased person towards her family which weighs more heavily than the deceased person's freedom.

The first possibility already speaks for my argument. To the second possibility, we can reasonably object. On one hand, we can again use Rand's argument. Why should we allow that a blood relation curtails the individual freedom of a person? If my father potentially hated me upon his deathbed, he might have had his reasons. Why force him to pass on part of his wealth towards a person he did not appreciate anymore? According to Rand, there is no justification for such a law. The state meddles in business that is none of its

concern. Thus, such laws about legal shares should be abolished.

One might now reasonably object to this paragraph and make me aware of the fact that earlier on, I denied any rights to the deceased person, and now I am admitting his freedom to refuse an heir. This seems inconsistent, however, my argument is not yet done. I still stand by my claim that with the death of a person, all her rights disappear. Thus, the right to refuse an heir disappears, but also the right to appoint one. Property does not matter to the dead person. Therefore, it cannot matter who receives her former property, either. According to my view, then the wealth of a deceased person should go to the community, to fund the stakeholding-system.

This conclusion is of course somewhat arbitrary. I claim that the best way to use inheritances is to finance the stakeholding-system because I am arguing for such a system. But regarding the inheritance argument alone, I could also claim that all the inheritances should go to the seven members of the Swiss federal council. What matters to me is the argument that testaments and inheritance laws are not justified in my view, as well as in Rand's. It is true that this topic would need further discussion. However, provided by the arguments of Ayn Rand who was an atheist and did not believe in the survival of the soul (Heller 2009, 10), we can see that she should reasonably object to inheritance laws. And together with my development of the merits of a stakeholding-system through her arguments, we should be reasonably positive that she would agree to use the inherited money for such a system.

There is yet another argument that speaks for this conclusion. We can draw it from Rand's discussion of intellectual property rights. Here, she admits right away that the right to intellectual property should end with the death of the person who held this right (Rand 1986, 143). She offers two justifications for this: Firstly, she claims that the mind that created the value for which an intellectual property right was introduced cannot be passed on, and hence the right in itself should not pass on, either. Material property rights are different, in the sense that material property is easily transferred from one person to another. The second argument, however, applies to both intellectual and material property. According to Rand, if intellectual property rights could be inherited, they "(...) would lead, not to the earned reward of achievement, but to the unearned support of parasitism" (Rand 1986, 143). She imagines the case where all the descendants of Henry Ford are still paid a fee until this day for every automobile that

is constructed. But not only his descendants would be paid but the heirs of many others who contributed to the invention of the automobile (and to more modern inventions, such as the GPS-navigation system, etc.), thus artificially increasing the price of cars. The descendants of these great inventors would receive payments for inventions to which they did not contribute, and thus lead a life as unproductive parasites.

I argue that we can apply the same reasoning to the inheritance of material wealth. Rand would deny this extension. She claims that the heir of a fortune has to prove his worth in order to keep it. If he does not use his inheritance wisely and just consumes it, he will be soon left with nothing. According to her, "[i]n a free society, no one could long retain the ownership of a factory or of a tract of land without exercising a commensurate effort" (Rand 1986, 143).

I think we can easily reject this argument, at least if we apply it to today's global economy. Nowadays, it is easy to live idly on an inheritance because investing it in stocks and other profitable assets will generate automatic income. The heir need not even be smart for that task, he can simply delegate the job to a financial adviser. The possibility to generate money with money is precisely the mechanism that increases the wealth of the already wealthy (Smith 2017). And as the average person does not have enough money on the side to invest large enough sums that would generate a real profit, he cannot participate in this market, significantly limiting his options to become a wealthy person.

This means that a wealthy heir can indeed live as a parasite of the inheritance he received from his deceased family member. Some sums might even be large enough to enable them a luxury life throughout, without any further investments needed. Thus, any inherited wealth should be seen by Rand as a facilitator for a parasitic existence, granting easy survival to a person that has done nothing to merit such a bonus.

In that sense, distributing the inheritance through a stakeholding-system would be more in line with Rand's arguments. Giving a hundred young adults a stake of 100'000 can ease the survival of each of them a little bit and still asks from them an effort to make that stake work in their favor. On the other hand, one young adult receiving 10 million will see his survival secured. He can spend the rest of his life on a small Caribbean Island, living off the fortune his parents have made years ago. Rand would have to condemn such a life as a parasitic one, too, and thus be inclined to limit the possibility of leading such a life.

Justice in Stakeholding: No benefits for the unearned

The previous example of the lazy heir lying at a beach leads us directly to the next and last topic: justice. As we have seen, Rand sees capitalism as the only just system, where each gets what he deserves, according to his own abilities and merits. We have also seen that many of us agree up to a certain point with this conception of justice. I want to be rewarded for my efforts and I do not want to see lazy or sneaky people rewarded for their unfair and unproductive behavior. What we are omitting in this account, though, is the fact that in many situations, we start from very unequal positions and that, despite the same efforts, we end up in unequal positions as well. Reconsidering an example I used earlier, my friend who is now a hairdresser and I myself might have the exact same rational faculties. But since she was born to poor parents who had immigrated from Portugal, she was much less familiar with the German language which was used during our years of schooling. Thus, despite the same intellectual capacities and the same effort, I earned good grades and she did not. If the situation had been the other way around and I had had to attend a Portuguese primary school with no knowledge of the local language, it seems probable that I would have been the one with bad grades and a less promising future, not my friend. Thus, we can see that the prerequisites matter very much for a certain outcome and that personal effort is often not enough to make a difference. My friend who works as a hairdresser might now try desperately to earn enough money to study at least part-time and fulfill her dream of becoming a mathematician, but because she has no financial support whatsoever and the day has only 24 hours, she falls more and more behind with her homework trying to make ends meet with her job, and thus never achieves her full rational potential. She might have been a brilliant mathematician but since she was the daughter of poor parents, she was forced to sustain herself from a very young age, and the way to an academic career was closed for her. Rand would not go as far as admitting that such a case is unjust but could have maybe admitted that such a case is very unfortunate for my friend, especially if she has the potential to be an extraordinary mathematician. However, we will never know if she indeed has the potential because my friend never got the chance to try it out. Maybe she is just a good mathematician, or maybe she would not have lasted in the studies. All of these outcomes depend on the condition that she can at least attempt to study mathematics. And the fact

that she was unable to do so under her circumstances might be called unjust, even by Rand. What would Rand have said if she had been rejected from the St. Petersburg State University right from the start because she is a woman, thus never being given a chance to prove her academic worth? In this case, Rand would point to the unjust university policies. However, in the case of my friend, she has nowhere to point her finger to, except for her own ideal of capitalism. Capitalism has left my friend without any scholarship or other welfare program to finance her studies. In addition, she is not to blame for her poverty, as she was born to already poor parents. Thus, her freedom, individualism and rationality are all endangered, due to circumstances that are beyond her control. And this cannot be just in Rand's eyes, I would wager.

If we could bring Rand to admit the existence of such unjust starting points for young adults, would that not mean that we can bring her to accept all sorts of welfare programs? I would answer no, and point to the capitalistic merits of stakeholding discussed earlier. Stakeholding still upholds Rand's cherished distinction between the earned and unearned. But each stake would at least give everyone a fairer chance to actually take responsibility for their own lives. If they succeed, they have truly earned their success. If they fail, they only have themselves to blame. And that is just, according to Rand.

Conclusion: Stakeholding as a capitalist welfare idea

The point of this essay was to defeat Rand with her own arguments. With her basic premises about rationality, freedom, individualism, survival and justice, I have tried to show that these precise premises allow for the alternative conclusion of not a laissez-faire capitalist system but a stakeholding-system where each citizen receives a stake at the age 21. This stake preserves or even enhances the values Rand cherishes in her system and only deprives those of their rights and benefits that do not need them anymore, those persons being the deceased. As for the heirs who might feel deprived because of their confiscated inheritance, I want to remind them that Rand's account of justice does not grant them access to wealth that they do not have earned themselves. What is left, then, is a capitalist system but with more equal opportunities for everyone.

This paper does have some shortcomings. For example, we have not discussed the practical problem of wealthy parents just gifting their children all their

wealth during their lifetime, thus passing on their property without the necessity of inheritance laws. When the wealthy parents die, they won't have much property, as everything belongs to the heirs already. This is of course problematic. On one hand, we do not want that to happen since this behavior would cut the source to finance our stakeholding-system. On the other hand, restricting the right to gift property to friends and relatives would again be an infringement of individuals property rights and thus go against Rand's premises. We would need a compromise that balances the freedom of gifting wealth with the necessity to finance the stakeholding-system, at least during its first decades. Maybe we could think of a reasonable policy that would allow one gift per year which would not exceed the amount of a regular stake, thus limiting the possibility of passing on one's entire wealth via gifting before one dies.

Another issue that has been left undiscussed is the fact that wealthy children will receive their stake, in addition to all the financial support of their parents, thus still making them way better off than the average stakeholders who only have the stake to fulfill their life plans. This would possibly only be a problem during the first decades of implementation of the stakeholding-program, when inequalities between families are still very large. But still, it would be a problem that needs discussion.

Lastly, another important issue to debate are the requirements for the young adults to receive their stakes. Having completed high school and possessing a clear crime record might have discriminatory effects on certain social groups, in refusing many of their members the stake because they have not met the requirements when they turned 21. Thus, additional programs might be needed to minimize such equalities, but these again would go against Rand's premises.

In conclusion, this means that my essay has succeeded in arguing for a theoretical stakeholding system with Ayn Rands own arguments but considering the implementation, the structure might quickly fall apart, needing additional non-capitalist arguments to justify certain policies and strategies. Still, I am confident that some of these arguments succeed in giving the pro-capitalist some food for thought and scrutinize some of the conclusions s/he draws from seemingly pro-capitalist premises. Hence, I hope this essay serves at least to reawake the discussion between the capitalist and socialist camp by offering a different point of view about a welfare programs like the stakeholding-system.

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Giving up the Gender Debate

Problems for Trans Women and Intersectional Feminism

1. Introduction

Political feminism, as it is commonly understood, aims at ending the oppression of women. But who is a woman? The term “woman” can be understood to refer to the sex of a person. Sex is then understood as a biological or anatomical category referring to a certain set of chromosomes, primary and secondary sexual organs. Some other accounts include other factors, such as hormone levels as well (Bettcher 2013, 236). “Woman” corresponds to the ascription “female”, while “man” corresponds to “male”. This binary causes a first problem for feminism, because features determining whether a person is “female” or “male” may come apart. Indeed, we have reason to recognise more than two sexes (ibid.).

Alternatively, one may understand “woman” as a gender term. Gender is commonly understood as the social role based on observed, assumed or prescribed sex. As such, gender is a binary social and cultural construct. There are several prominent views according to which gender is either a mode of socialization, a matter of personality or a matter of sexuality (Mikkola 2017). It is along these lines that White feminism has been criticised for ignoring the experiences of women of colour and black women (Crenshaw 1989). Conditions of what it means to be a woman used to be constructed with underlying White normativity. Since Kimberley Crenshaw’s seminal article *Demarginalizing the Intersection of Race and Sex* (1989), so called intersectional feminism has started to examine how issues of race, class, gender-identity, age and sexuality (among others) work in conjunction with gender to form unique experiences of oppression. What we need therefore, is an understanding of these constructs and how they function socially that recognises and includes the intersection of the construct with others. Appeals to gender cannot be based on the experience of white women in America for instance, because this

erases and therefore further marginalises issues specific to black women or women of colour. This has led several scholars to argue that any attempt to provide an answer to the question of which conditions need to be fulfilled in order for a person to count as a woman are doomed to fail, because of historical, cultural and social varieties of being a “woman” which imply that there is nothing they all have in common (Mikkola 2009, 560). Further, as Judith Butler (1991, 1999) has pointed out, any attempt to define “woman” necessarily involves a normative account of the “correct way to be a gendered woman” (in Mikkola 2017, 8). Instead of falling into this trap, what feminism ought to do is to refrain from defining “woman” and understand it as an open-ended process of performativity. Feminism ought to function without the category of “woman” (Mikkola 2017, 9).

Based on Butler’s view, many feminists have endorsed a so-called “gender sceptical” position. This position holds that there are no “discernible shared conditions for satisfying the concept” of *woman* (Mikkola 2007, 364). This view has two problematic consequences for feminism: Firstly, it is not clear anymore who the subject of feminist politics really is. Who is included in the category “woman” and who is not? This undermines the basic organisational structure of feminist politics. Secondly, the lack of object and organisational structure creates a political impasse. Feminism without the category “woman” lacks a “clear subject matter” which leads to political paralysis due to confusion about mobilisation and subject (Mikkola 2007, 364.).

Feminist scholars take these problems very seriously. After all, how can we end the oppression of women if we do not know who they are? How can we make sense of the fact, for instance, that women experience considerably more sexual violence than men (Mikkola 2007, 370)? The argument goes that we need a concep-

tion of gender that allows us to address feminist issues effectively, while identifying and explaining persistent inequalities between genders, taking into consideration the intersection of different categories such as race and class and allowing for agency of women (Haslanger 2000, 36).

In this essay I examine two different positions on the issue. I begin by reconstructing and explaining Mari Mikkola's (2007, 2009) position that we ought to give up the debate around gender and that feminist politics does not need a conception of *woman* to work effectively. I then critique her proposed solution with two main objections from an intersectional, specifically trans feminist point of view. Firstly, I argue that Mikkola's proposal is exclusionary to trans women because of hidden normativity in her approach. Secondly, I argue that her approach is flawed in its methodology because it is not intersectional, meaning it does not take into account trans women as subjects of the feminist struggle. I then discuss the objection that my approach and trans inclusive feminism is based on a political decision that has nothing to do with the metaphysics of gender. This objection I reject before ending with some concluding remarks.

2. The gender sceptical view and its problems

Defining the term *woman* involves identifying the conditions women *qua* women share. The gender critical view holds that "social and cultural diversity undermines the thought that some shared conditions for satisfying *woman* exist to begin with. Ideas, norms and beliefs connected with womanhood along with women's lives, circumstances and experiences differ from one society and culture to the next" (Mikkola 2007, 363). The broad historical, cultural and social diversity in the lives of individuals called "woman" as well as the cultural and social expectations connected to the category of *woman*, imply that picking out common conditions and features that all of these individuals *qua* women share is impossible. Rather, what womanhood and being a woman means is different depending on context. What this means is that there is no feature that women *qua* women share across history, culture and society which marks all and only those individuals and around which feminism should organize itself. This consequence is also known as the *commonality problem* (Haslanger 2000, 37).

Additionally, gender sceptical feminists have pointed out that there is a *normativity problem* with defining *woman*. Judith Butler (1999) argues that the conditions

and features that were picked out to identify women have always been exclusionary. In her opinion, there is no way of creating a merely descriptive definition of women: "Identity categories are never merely descriptive, but always normative, and as such, exclusionary" (in Mikkola 2007, 366). Any attempt to define woman will inevitably contain some hidden normativity and therefore exclude those who do not conform to it. Instead, Butler argues, we ought to understand woman as an open-ended term and as something that is a performative process "open to intervention and resignification" (in Mikkola 2007, p367).

According to Mari Mikkola, these realizations lead gender critical feminist to endorse the following two claims (Mikkola 2007, 363):

Property claim: The concept woman does not pick out a single objective property or feature that all and only members of the category of women possess.

Epistemic claim: The conditions for the application of woman (that all and only members of the category of women satisfy) cannot be discerned.

The property claim itself does not generate the problems associated with a gender sceptical position. As a claim, it is limited and holds only that the *concept woman*, as currently used, does not refer to conditions or features of individuals that only they share. This leaves open the possibility of identifying such conditions or features. The epistemic claim however goes further than this. It holds that it is impossible to identify such conditions and features. It does lend itself to the claim that there are no women, and/or that the category is not politically useful.

This view has two closely related consequences (Mikkola 2007, 364). First, it leads to the so-called *extension problem*. This means that it is not clear who the subject of feminist politics is: who counts as a "woman" and who does not? This being unclear, it is debatable what the scope of feminist politics ought to be. Whose issues are relevant to feminist efforts and whose are not? Connected to this is the second problem: if this cannot be identified how can feminism mobilize individuals? This consequence is the *political problem* of the gender sceptical position. Without being able to identify the subject and correspondingly the objects of feminism, how can there even be such a thing as feminist politics?

While from a theoretical point of view, Butler's position that instead of defining woman we ought to

deconstruct its meaning and change the discourse to move to “release the term [‘woman’] into a future of multiple significations, to emancipate it from [false] ontologies to which it has been restricted” (Mikkola 2007, 367) may appear appealing, its (the gender skeptical view’s) consequences threaten feminisms viability. What is urgently needed, it seems, is a response to the gender skeptical position that avoids the pitfalls of earlier accounts of gender, while allowing us to do feminist theory and practice effectively and inclusively that is intersectionally.

But how can this be done? Before delving into a response offered to the gender skeptical position I think it is crucial to outline what we expect a successful approach to do. In the following I set criteria, which I based on the criticism gender critical feminists voiced against *conceptions of woman*. I believe that in order for a response to the problem to be successful, it needs to:

1. Avoid the problems created by attempting to define gender, i.e. avoid tacitly endorsing any kind of exclusionary normativity.
2. Be effective as a tool used by feminist policies, i.e. help identifying and explaining persistent inequalities as well as being ground for mobilization.
3. Acknowledging and respecting an individual’s agency, i.e. respecting their self-identification.

With these criteria in mind I now turn my focus to a creative response to the gender sceptical position and the gender debate by Mari Mikkola (2007, 2009). She argues that we ought to give up the debate on the content of gender, because we do not need it to be effective in feminist politics or to mobilize. She claims our intuitions regarding who the term *woman* applies to will do this job for us.

3. Giving up the gender debate

Mari Mikkola’s response to the problems posed by the gender sceptical position is twofold. Firstly, she argues that a gender sceptical position does not in fact generate these serious consequences (2007, 364) and that secondly, “feminists need not define *woman* in order to mark off the relevant social kind for feminist politics” (2009, 561). Her proposal is that we ought to give up the debate about the meaning of gender because uncertainty about the definition does not prevent us from doing feminist politics. In essence, Mikkola’s position is that attempts to define *woman* are not necessary and not useful for feminist politics. Rather, they take up energy and time better devoted to other issues (Mik-

kola 2009, 562). In the following sections I reconstruct and explain Mikkola’s arguments.¹

Mikkola argues that the extensional worry has been overstated. Instead of assuming that the concept of woman is empty and cannot be determined we should accept that we cannot supply a precise definition with fixed boundaries. However, this need not lead to us calling into question the category of women *per se*. To illustrate this point Mikkola makes an analogy to two vague concepts: *bald* and *child*. She argues that even though we are unable to fix necessary and sufficient conditions for both, we are nevertheless operating with both concepts in our daily live and are doing so successfully (Mikkola 2007, 371f). This is the case, she claims, because there are clear-cut cases for both: some individuals clearly satisfy the concepts while others clearly do not. The fact that there are boundary cases in which it is not clear whether or not they satisfy the concept does not call into question the concept of *bald* or *child*. Why should this then be the case for the concept of *woman*? Mikkola argues “Extensional confusion simply suggests that the boundaries of this category are not rigidly fixed and that there are *some* unclear borderline cases” (Mikkola 2007, 372). Her point is that only because the boundaries are blurry, this does not mean that there is nothing they delineate. Extensional unclarity should not lead to questioning the concept as such.

Mikkola acknowledges that her argument may appear to imply a reference to paradigm cases. This, however, has been shown to have the consequence of excluding and marginalising minorities. One should add here, I believe, that selecting paradigm women and orienting feminist politics around them would have a certain normativity we ought to avoid. Feminists should not prescribe a correct way of being a woman, which we would implicitly be doing by referring to paradigm cases of *woman*. This, however, would not be necessary in the case of the category of *woman*, Mikkola argues: “Quite simply, it is unnecessary because there isn’t much extensional confusion over ‘woman’.” (Mikkola 2007, 373). Ordinary language users use the term *woman* in a pretty uniform and consistent manner, and confusion over its application to an individual are rare, so Mikkola (2007). Paradigm cases, she holds, are only necessary when there is no such agreement and an illustration of the concept is required. Therefore, in the case of *woman*, any reference to such cases is not needed.

1 In doing so I use Mikkola’s terminology, even though some terms are outdated and even problematic. I discuss these issues in the following chapter or in footnotes.

It follows that the extensional problem, that we cannot know which individuals should be included in the category of women, is not a serious one. This is because there is wide agreement from ordinary language users as to whom the concept applies to. The political problem, which supposedly follows from the extensional problem, is not a serious one either because feminist politics function despite the philosophical discussion over the extension of *woman*: “Feminists ought to be and they *are* able to fight against women’s oppression even though the category of women does not have rigid boundaries.” (Mikkola 2007, 375). Even if there is serious philosophical confusion over the concept of woman, feminist politics are still effective because they do not rely on having a clearly defined concept in the first place. Thus, having confusion over the extension of woman does not paralyse feminist activism and politics.

This being the case, however, poses a problem for the inclusivity of feminist politics. Mikkola sees this point but argues that having feminist politics that take into account intersections and differences of race, class, culture and religion “is difficult, if not impossible” (Mikkola 2007, 377). There are still plenty of feminist policies. Admittedly, they are likely to be imperfect. The situation, according to Mikkola, is that feminist politics are still feasible, albeit being not as inclusive and representative of the diversity of women’s experiences as we might like. Mikkola’s argument here is an empirical one: feminist policies are being made; therefore it cannot be true that the extensional worry paralyse feminist activism. It is not correct to assume that the extensional problem will result in the political problem (Mikkola 2007, 377). Hence, Mikkola denies that the problems generated by the extensional claim are as serious as commonly assumed.

Mikkola argues further that while there may be philosophical disagreement and doubt about the category *woman* as such, ordinary language users are perfectly able to identify individuals belonging to the category of *woman*. There is no need for paradigm cases because people are not confused over the application of the category. Arguing this, Mikkola maintains, does not include the claim that ordinary language users know what the content of the concept *woman* is. Instead, her proposal relies on extensional intuitions, i.e. dispositions with regard to which cases the concept *woman* applies. While Mikkola agrees with Sally Haslanger that ordinary language users are confused with regards to the content, that is, the semantic function of *woman*, there is little confusion over the deployment

of the concept (Haslanger 2006, in Mikkola 2009, 573). We may be unsure or disagree about which conditions are necessary or sufficient for an individual to be a woman but we have intuitions about “which individuals we think the term applies to” (Mikkola 2009, 574). These extensional intuitions of speakers are valuable, she argues through “enabling feminists to usefully pick out women’s type around which feminism is politically organised” (Mikkola 2009, 573). We do not need to worry about identifying the content of the concept *woman*, as long as we can figure out to whom the concept is ordinarily applied.

Our intuitions about the application of the concept *woman* may, Mikkola argues, provide us with a starting point in identifying the semantic content of the concept. However, she points out that there is an important difference between properties, which are central to the concept, and those, which are merely indicative of category membership. Extensional intuitions rely on the latter. She illustrates this with the example of wearing a dress, which, in the United States, is indicative for being a woman without being a necessary or sufficient condition for being a woman. What language users commonly employ to identify a person as a woman are features such as “dress code, roles, social position, hairstyles, make-up, . . . anatomical sex features such as body type” (Mikkola 2009, 574). What this shows, according to Mikkola, is that *woman* is a mixed term. To be a woman is both a matter of sex and of gender.

In order for her approach to be useful for feminist politics, however, Mikkola needs to show how using extensional intuitions of ordinary language users to identify those individuals feminist action should be grouped around, lends itself to political action. How can her approach identify and explain those social inequalities that feminists are working against? Relying only on extensional intuitions does not yet tell us much about the circumstances of those individuals the concept *woman* is applied to. Mikkola argues that this objection to her proposal does not get off the ground because identifying and explaining social inequalities is a separate empirical task regardless of the concept of *woman* one uses. From there, one would begin the empirical challenge of identifying and explaining the inequalities between *man* and *woman*. She claims: “The explanation of persistent inequalities between females and males would begin from the fact that females tend overwhelmingly to be called ‘women,’ and that those individuals called ‘women’ are [*qua* women] systematically subordinated to those called ‘men.’” (Mik-

kola 2008, 581). How this subordination is perpetuated cannot, on this view, be explained with anything intrinsic to *woman*.²

Replying to another potential objection, Mikkola recognises that there are cases in which ordinary language users' intuitions about the deployment of *woman* may be confused. This, she argues, need not be detrimental to her solution. To illustrate these cases, Mikkola refers to the character Dil from the movie *The Crying Game*. Dil is a male-to-female (MTF) trans person who is assigned the label *woman* by others. Cases like Dil's can be dealt with, she argues. How this is done will depend firstly, on the theory of the scope of feminism the individuals in question employ and secondly, on the context (Mikkola 2007, 374). Hence, it may be the case that "hard cases" of *woman* may sometimes be included and at other times excluded. Mikkola explains "whether MTF transvestites [sic] like Dil can join an organisation for women will depend on the organisation's understanding of the conditions for satisfying woman and whether in this context MTF transvestites [sic] satisfy enough of such conditions"³ (Mikkola 2007, 374). The inclusion/exclusion of trans women therefore becomes a matter of politics of the specific feminist framework as well as context. Mikkola argues that prescribing one way to deal with trans persons would be "seriously misguided" and we ought instead to make decision about their inclusion on a case-to-case basis (Mikkola 2009, 576).

Additionally, Mikkola states, it is important to note that different feminists have different aims. Different campaigns focus on different issues to be effective. What they have in common is their aim to end women's oppression. Mikkola argues that focusing on some women and excluding others is only problematic if done in a discriminatory manner and if the voices of the excluded are not heard (Mikkola 2009, 579). For the cases of trans* persons, this means that each case should be carefully considered and those whose lives will be affected by the decisions ought to be consulted. Non-trans feminists ought to "engage in a dialogue with trans people in order to negotiate together where the boundaries of women's social kind in particular

circumstances will fall" (Mikkola 2009, 579).

Having reconstructed Mikkola's vision of extensional intuitions concerning the deployment of *woman* as a solution to problems generated by the gender sceptic position, I will critically discuss it in the following chapters. Before doing so, I need to point out that Mikkola no longer subscribes to the view discussed here (cf. Mikkola 2016). However, I still believe that discussing the problems of her argument is helpful.

4. Objection: Hidden normativity and exclusiveness

My first objection to Mikkola's approach is that in relying on extensional intuitions of ordinary language users, we are implicitly relying on their idea of what it means to be a woman. This means that we are implicitly relying on ordinary peoples' normative ideas of *woman*, which is bound to be exclusionary for minorities. Ordinary language users' ideas of *woman* are very confused, as Mikkola herself argues, making ordinary language users "poor and unhelpful sources of information about the *content* of the concept *woman* (or about what the conditions that make one a woman are)" (Mikkola 2008, 573). This being the case does not, she maintains, undermine their capacity to usefully deploy the concept. While applying the term *woman* seems to be easy enough, accounting for why a certain person is described as a woman and another is not, is difficult (Mikkola 2008, 573). That is, ordinary language users' semantic intuitions, i.e. both manifest and operative intuitions about the content of the concept are unhelpful; their extensional intuitions, i.e. intuitions about whether the concept applies in a certain case are not (Mikkola 2008, 573). Mikkola argues that linguistic intuitions, both extensional and semantic, have distinct "although not unrelated, functions" (Mikkola 2008, 573). This suggests that both intuitions cannot be completely separated from one-another. This would also explain why Mikkola believes that inquiring into extensional intuitions may provide a fertile starting point for an inquiry into the content of *woman* (Mikkola 2008, 574). In essence, the argument is that ordinary language users are too confused about the content of *woman* for us to make sense of their semantic intuitions. Nevertheless, they are able to deploy the concept successfully. We can, thus, step around the problematic semantic intuitions and rely on the extensional intuitions for clarity's sake.

What this really means is that we are implicitly relying on language users' understanding of the content of *woman* as mediated through their deployment of the

2 This follows also from the commonality problem: there is nothing across time, culture and society that women qua women share. Hence, their oppression cannot be explained by something intrinsic to woman. Rather the inequalities faced by individuals commonly called women are a result of social forces.

3 The term "transvestite" has derogatory implications and should not be used for trans* individuals unless they self-identify with it (c.f.: "GLAAD Media Reference Guide - Transgender | GLAAD," n.d.) As to my knowledge this is not the case for Dil in *The Crying Game*.

term. This is so, I submit, because language users' extensional intuitions cannot be separated cleanly from their semantic intuitions. Even with concepts like *child* and *bald*, what we are really surveying when we are asking people which individuals they believe these concepts apply to, is what their intuition about the content of these concepts are without having to justify their choices of deploying the concept. Without having an inkling with regard to the semantic meaning of a concept we would not know at all who it applies to – there has to be some underlying idea of the content of a concept for it to be operative.

This, I believe, is problematic: If we rely on ordinary language users' intuitions about the content of the concept *woman*, however implicitly, we cannot ensure that these intuitions are not shaped by normativity and are thus not exclusive of some individuals who ought to be included. This is especially troubling when we consider that extensional intuitions need not be justified to the same extent as semantic intuitions. What we use in order to rally feminists around, if we stick with Mikkola's solution, is in essence an aggregate of people's intuitions about what it means to be a woman. That this can be problematic is evident already from her discussion about indicative features that lead people to deploy the term *woman*. These are, among others, gendered features like "dress codes, . . . hairstyles, make-up" (Mikkola 2008 574) and sexed features such as "body type" (Mikkola 2008, 574). This makes *woman* a mixed term referring both to sex and gender. The features picked out relating to gender already illustrate how normativity can seep into our usage of the term *woman*. Ordinary language users seem to have an idea of either a correct way of being a woman or of some paradigm cases – either one of them shows that the deployment of *woman* is laden with normative assumptions. The fact that "body type" is part of the features taken as indicative for *woman* means that we are at least risking to revert back to an anatomical and biological essentialism regarding *woman* which has been shown to not be very useful as a basis for feminist politics because it naturalizes inequalities and injustices. One may now ask why this normativity in the application of gender terms should be a bad thing. Maybe there is a correct way of being a woman that we can uncover by examining extensional intuitions of language users. Here I would like to refer to Judith Butler's insight that any normativity has to necessarily be exclusionary. By picking out a correct way of being a woman we are essentially excluding all those individuals who do not conform to this norm. By relying

on ordinary language users' extensional intuitions we therefore risk a feminism that is exclusionary because we risk excluding minority women and those women who are already marginalized in our society. This is not compatible with a feminism aiming at ending the oppression of all women. In the following, I illustrate the exclusionary potential of Mikkola's proposal with the case of trans women because for them, being excluded by feminists is especially troubling and dangerous. Using extensional intuitions of ordinary language users as determination of whether to include or exclude trans women in any given context is very problematic for several interrelated reasons. First, language users' extensional intuitions relying on indicative factors of gender and sex exclude trans women if they do not "pass", that is: fulfil enough conditions required for the label *woman*. The notion of "passing" is in and off itself highly problematic: To say that a trans woman "passes" is to imply that she is a man living as a woman, a man *pretending* to be a woman – a "fake" woman who is successfully "fooling" others. This is denying her self-identification and puts her in a dangerous situation: Many trans women are murdered by men who feel cheated when they discover that the person they are attracted to is a trans woman, because they believe trans women to be men, who "trap" straight men. This reasoning has been successfully appealed to in United States courts to reduce murder charges to manslaughter or justified homicide and is known as the trans "panic" defence. The transgender status of the victim is construed as a provocation to the perpetrator who is therefore said to be less blameworthy.⁴ The trans phobic notion of "passing" has dire consequences and is dangerous for trans persons and, even if Mikkola does not endorse it, is unfortunately not prevented from playing a role if we rely only on extensional intuitions.

Additionally, arguing that feminist groups ought to decide case-by-case based upon their idea of the scope of feminism allows them to exclude trans women for political or ideological (trans phobic) reasons and/or for the fact that a trans woman in a certain context does not "pass" sufficiently (which as I explained is also trans phobic). Thus, the idea of case-by-case judgement of transgendered individuals does nothing to reduce or prevent trans phobia within the feminist community and society at large. This is because it allows the categorical exclusion of trans women by for instance "trans exclusionary radical feminist" groups.

⁴ For a summary of court cases in which the "gay or trans panic" defence was used see: The National LGBT Bar Association, n.d.

Moreover, relying on extensional intuitions to ground feminist action may reinforce normativity regarding what a woman is. This appears problematic to me because it may pressure trans women into performing an ideal of femininity/womanhood in order to achieve the status *woman*, that is “pass” and avoid being excluded. Marginalized as trans women are in our society, the threat of exclusion is real. This pressure to conform to the norm of *womanhood* takes away from trans women’s autonomous gender expression and entrenches gender norms most (non-trans) feminists would be happy to leave behind. It places trans women in a problematic double bind. Thus, relying on unmediated extensional intuitions based on indicative features such as hairstyles, make-up and body-type may do more damage than good to feminist politics and falls short by not relieving the dangerous situation of many trans women.

5. Objection: Exclusionary theorizing

My second objection to Mikkola’s proposal is that her methodological approach is flawed because it has an exclusionary bias against trans women. What I mean is that in her reasoning for relying on people’s intuitions concerning the deployment of *woman*, she reinforces dominant gender norms without allowing for their mediation. This prevents this proposal from being truly useful from the outset.

Before arguing exactly how Mikkola’s approach to reaching a useful delineation of *woman* for feminist politics is methodologically flawed, I will shortly make a point as to why I think that this exclusionary methodology is such a problem for feminism. After all, one may argue that trans issues and feminism are two separate, if interrelated, struggles. To do this, I have to make explicit a very general theoretical commitment of mine: Feminism ought to be intersectional. This means that it should acknowledge and take into account how race, class, age, and sexuality (among others) interact to form uniquely oppressive structures. Doing this requires us to use as a starting point not the experiences of otherwise privileged, that is white, straight, able-bodied, middle-class cis-women, but take seriously the experiences of women who are subjected to intersecting systems of oppression (Crenshaw 1989). I take it as given that transgendered persons in our current society suffer from massive discrimination, sexual violence and heightened murder rates⁵ and

are therefore especially vulnerable. This is one reason to include them into our theoretical considerations. The other reason is that making intersectional theory is only possible by including those individuals who are most marginalized. We can only be truly inclusive and effective feminists if we take their voices seriously and see their specific struggles as a part of feminism’s struggles. Having clarified this, I will now point out why the proposal Mikkola makes is detrimental to trans women and thus, to intersectional feminism.

The problem for feminist theory begins with Mikkola’s insistence on refraining from “arguing for an overarching feminist position on how to deal with trans persons in every single situation. Not only does my personal background as a non-trans feminist prevent me from doing so in a way that does justice to trans people’s experiences, it also seems to me that trying to prescribe such an overarching position would be seriously misguided because there is no one single way to settle every case” (Mikkola 2009, 578). What she means to say here, as I take it, is that firstly, because she is not a trans woman, she ought not speak on behalf of trans women. This admirable notion owes to the situatedness of our knowledge (Haslanger 2012, 24). However, recognising the limitations of our knowledge due to our social position and not speaking on behalf of others should in this case be accompanied by listening to what trans women have been saying. There are plenty of opportunities to engage in a dialogue with trans activists and to listen and take seriously their experiences and opinions.

Secondly, Mikkola claims that there is no one-fits-all solution regarding trans women. This makes trans women into special cases; they can be counted as women in special circumstances but certainly not automatically so. By refusing to include trans women in every case, the proposal further entrenches the view that trans women are “not really women”, which excludes and marginalises them. It risks pushing transgendered individuals into a space between genders where they are only visible as problems to the binary gender system.⁶ This does not take seriously the voices of trans* activists who identify as women or men. Furthermore, it causes problems for transgender activism. Take for instance the legal struggle concerning the usage of public bathrooms in the United States.⁷ With the status of trans women as women constantly in question

6 It is perfectly possible that some trans* individuals see themselves as beyond the binary (see Bettcher 2013, 234).

7 For a list of legislative proposals see: (Kraklig 2017).

5 For reference see transrespect, 2019 or FRA Agency, 2013.

and their inclusion a matter of context we allow the trans phobic idea that trans women are “not in fact women” or only “in some cases” to take hold. This makes it more difficult than necessary to defend their rights to, for instance, use the restroom fitting to their gender-identity.

Mikkola argues that we should “negotiate together where the boundaries of women’s social kind in particular circumstances will fall” (Mikkola 2009, 579). Unfortunately, she does not follow through by engaging with trans feminist perspectives on *woman*. Instead, she relies solely on her grasp of what ordinary language users’ intuitions are, thereby reinforcing dominant normativity which is exclusionary. This is, in her own assessment (Mikkola 2009, 579), a problematic approach because it ignores what trans women have been saying for years: trans women are women. In ignoring the voices of trans activists like this, Mikkola is complicit in silencing their voices. This further erases trans women from the discourse by ignoring their positions and makes them visible only as cases on the periphery of the concept *woman*. I think it is not unfair to say that Mikkola’s approach to the issues posed by the gender sceptical position contributes to marginalizing and potentially erasing trans women. Judging from the fact that she no longer defends this position, I conclude that this was unwittingly done.

Additionally, marking transgendered persons as “hard cases” (Mikkola 2007, 374), “difficult borderline cases” (Mikkola 2007, 373), or “unclear cases” for the deployment of *woman* (Mikkola 2009, 578) is problematic because it establishes an asymmetry between non-trans women and trans women. Talia Mae Bettcher (2013) argues that non-trans people are not required to justify their identity in the same way as transgendered individuals are. Accepting this asymmetry “is to effectively yield political ground from the very beginning” (Bettcher 2013, 235). What this means is that accepting the position of being a “difficult case” in any account of gender is for trans people to accept their marginalized status and relative subordination with regards to the power of framing the discourse. From a trans theory and politics point of view, this is a “bad place to start”, so Bettcher (2013, 235). From the perspective of intersectional feminism, this is the case as well. If we frame our discussion of *woman* in a way that marginalises certain individuals from the very beginning, it appears difficult, if not impossible, to me to end up with a truly inclusive approach. This is problematic from a theoretical as well as from a practical angle.

6. Metaphysics or politics of gender?

One could reply to my objections by arguing that defining or delineating the concept *woman* ought to be a matter of metaphysics and not politics. The argument would be that my objections to Mikkola’s proposal are flawed because they are somewhat circular. I begin by assuming that trans women should be included in the concept of *woman*, therefore any account that marginalises or excludes them is problematic. However, as the argument would go, I need to show that, from a metaphysical point of view, trans women are in fact women before I can problematize their exclusion. It appears that an inclusion of trans women may be a political choice that is at odds with extensional intuitions regarding *woman*, which are however faintly based on assumptions about the metaphysics of the concept. Thus, the charge is in essence that my objections are political in nature and not philosophically relevant or sound.

In responding to this, I rely on Talia Mae Bettcher’s (2013) discussion on the inclusion of concepts of *woman* from trans subculture and her defence of a multiple-meaning view relating to *woman*. She claims that excluding from the beginning the meanings and usage of *woman* as employed in trans subcultures and thus including only dominant meanings is an exercise “of cultural arrogance bolstered by institutional power” (Bettcher 2013, 242). It is an extension of the normativity of ordinary language users’ concepts of *woman* and the enforcement of a gendered way of life. Further, it entrenches the asymmetry in which non-trans women are not required to justify their identity in the same way trans women are. The idea that the inclusion of trans women is a political decision is a consequence of this asymmetry, because non-trans women are automatically included – there is no discussion about whether their inclusion is a political or metaphysical one. It is this asymmetry that requires justification. Let me reconstruct Bettcher’s argument in more detail.

Bettcher argues that dominant views of *woman* rely on a single-meaning view. This means that there is only one true meaning of *woman*. In Mikkola’s account this would be the hidden normativity that cumulates in the dominant view. Trans women are either included or excluded, based on whether they fulfil enough conditions (or, in Mikkola’s proposal, enough indicative features) of *woman*. This “correct” view of *woman* may be context dependent, as in the semantic contextualism view discussed by Jennifer Mather Saul, but there is still “a single rule-governed way in which the content

is determined” (Bettcher 2013, 238). Whether trans women are included depends on the standard that is applied in any given situation. While this allows for the inclusion of trans women, it does not go far enough because what is required for the claim of a trans woman, that she is a woman, to have weight is “surely not just the acknowledgement that her claim is true but also the acknowledgement that her opponent’s claim is false” (Saul 2012 in Bettcher 2013, 239). A single-meaning view always leaves open the possibility that trans women are excluded and even though they may claim womanhood as a metaphysical fact depending on the context, in other situations, their inclusion becomes a matter of politics again (Bettcher 2013, 239.). There may even be contexts in which a trans woman would count as a man, especially when sexed features become relevant for the ascription. Bettcher contests the view that XY karyotype, testicles, penises or prostates are considered male in the first place (Bettcher 2013, 240). In trans subculture, according to her experience, many trans women view their “male genitalia” not as *male*, but as an element of transgender femaleness. A trans woman with a penis does not then have a male genital that marks her as “really a man”, but rather has a “female penis” (Bettcher 2013, 240).

Bettcher argues that this view on *woman* has every right to be considered just as valid as the dominant view currently is. She therefore proposes a multiple-meaning view of woman. In it, she argues, *trans woman* is a basic expression and not a qualification of woman. The applicability of the term *trans woman* depends not upon the dominant view of *woman*. For a trans woman to be a trans woman, therefore, she does not need to fulfil certain identificatory features that determine whether *woman* applies to her or not. Rather, trans woman applies “*unproblematically* and *without qualification* to *all* self-identified trans women. For example, even if a trans woman has no surgical or hormonal changes in her body (while ‘living as a woman’), she can still count as a paradigm instance of ‘trans woman’” (Bettcher 2013, 241).

In a second step, *non-trans woman* becomes similarly basic. Both are independently sufficient conditions for *woman*. *Woman* applies to trans, cis or non-trans women equally. In this way, we make trans woman a paradigm case of *woman* instead of a “borderline” case (Bettcher 2013, 241). This, Bettcher argues, is not a political decision but owes “to the metaphysical facts that accord with the very meaning of the word ‘man’ and ‘woman’ as deployed in trans subcultures.” (Bettcher 2013, 242f.). A person denying that a trans woman is

a woman would, on this view, be just as wrong as a person calling a cis woman a man.

What this results in is a theory that takes seriously varying concepts of *woman*. This enables us to reject the dominant gender system and their ascriptions as wrong. A trans woman that is (potentially) excluded from *woman* under Mikkola’s approach of relying on extensional intuitions can agree that her exclusion follows from certain views on *woman* that are dominant. However, she can also reject these views as wrong. A trans woman who is confronted with the claim that she is “really a man” can reject this claim and argue that it is based on a philosophically flawed belief about gender that is not only wrong, but harmful and oppressive (Bettcher 2013, 243). This then takes seriously trans women’s self-identification and allows them to reject contradicting claims as false. It is crucial to point out that this multiple meaning view does not result in an anything-goes-approach to gender. Trans subculture has rules with regard to how *woman* is applied. The most basic aspect of the practice is that gender is a matter of avowal. Identities can be adopted and discarded “for personal and political reasons” (Bettcher 2013, 247).

Moreover, the fact that there are two parallel meanings of *woman* means that the claim that including trans women in the category of women is a political decision, is wrong. This is so because in trans subculture, the extension of the concept woman is such that it views trans women as paradigm cases. The subculture or resistant view on gender, then, is given as much weight as the dominant view and “the question, ‘Are trans women really women?’ does not get off the ground.” (Bettcher 2013, 244). The political decision is not whether trans women are women metaphysically, but whether we take seriously the subculture contexts and meanings where they clearly are. The political dimension is the question of which sources of meaning we take seriously. Considering only the dominant understanding and overlooking the meaning of *woman* in resistant contexts is to make the political decision to exclude and not take into account these meanings. It is not the case that the decision to stick to the dominant view is politically neutral. Hence, taking Bettcher’s approach and recognizing multiple meanings of *woman* means taking seriously the experiences of trans women and listening to their voices. Including the voices of minorities is the first step towards a truly liberatory, effective intersectional feminism.

One way to delineate the scope of feminist politics and solve the extensional problem without defining the

content of *woman* either in the dominant or subcultural context, is to include all those who self-identify as women, be they cis women, non-trans women, trans women or non-binary individuals who feel that the term applied to them. In this way we will not have to rely on the murky, potentially trans phobic extensional intuitions of ordinary language users and instead take seriously the agency of women in delineating their social kind.

7. Conclusion

Since Judith Butler published *Gender Trouble* (1999), the gender sceptical position has created problems for feminist theory and practice. This is because doubt over the possibility of defining woman put into question whether a delineation of the scope of feminist politics is at all possible. In this essay, I have examined Mari Mikkola's (2007, 2008) response to the problem. Mikkola argues firstly that the problems created by a gender sceptical position for feminism have been overstated. There is no reason to doubt that feminist politics can function effectively even without the concept *woman*. Moreover, she proposes that we give up the debate about the content of *woman* altogether and instead rely on our ability to deploy the term usefully. This means that in order to fix the of scope feminism, we allow case-by-case judgements based on our intuitions with regards to who the term *woman* applies to. While I agree that the problems posed by the gender debate are overstated, I believe that Mikkola's pragmatic proposal is flawed in its possible consequences. This is because in using extensional intuitions about the deployment of *woman*, we implicitly rely on dominant gender norms and, in doing so, this approach is exclusive and potentially trans phobic. In order to do better than other attempts to define gender and for Mikkola's response to be appealing, it would have to avoid this problem. Moreover, the potential exclusion and pathologization of trans women impacts on the usefulness of this approach for feminist politics. If the approach excludes trans women, it will not be able to identify and explain inequalities relating to them. This means that feminism would fail at being truly intersectional and would be overlooking a group of individuals that faces massive discrimination and gender based oppression. This is not only problematic for feminist theory but also for feminist practice. Lastly, Mikkola's argument does not include trans women's perspective on gender, which silences and further marginalizes them as well as undermines their self-identification. With regards to the three criteria I outlined in the

second chapter for a successful response to the gender critical position, Mikkola's pragmatic solution fails to convince. Additionally, the fact that Mikkola's starting point for her theory is the dominant view is by no means neutral. Rather, it is a (presumably unconscious) political decision to exclude trans culture perspectives. This means that before she begins to theorize, Mikkola has already taken a stance that is detrimental to trans politics. Her proposed solution frames trans women as "borderline cases" which entrenches an asymmetry between non-trans and trans women that requires justification.

Talia Mae Bettcher (2013) argues that in order to avoid taking this stance from the beginning what feminism needs to do, is to endorse and recognize multiple meanings of *woman*. This allows for a dialogue between traditional and dominant gender and sex norms and those prevalent in resistant and subculture contexts. This dialogue ought to help us redefine the content of *woman* and truly accept it as an open-ended construct. For practical purposes I submit that feminists* ought to respect all individuals' self-ascriptions of gender identity. Not because they are hard cases but because they are based on valid conceptions of *woman*. For feminist activism, this seems to be just as practical as relying on ordinary deployment of *woman* while having the advantage of being less normative and exclusionary.

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Vereinbarkeit zwischen Erwerbsarbeit und Familienleben

Eine Frage der Gerechtigkeit

Dieser Beitrag ist bereits 2015 erschienen in: *Zeitschrift für Praktische Philosophie* 2 (2): 311-338. Die Quellen in den Fussnoten 2, 5, 6 und 7 wurden mit aktuellen Angaben ersetzt bzw. ergänzt und weichen von der 2015 veröffentlichten Version ab.

¹Seit einiger Zeit wird in der politischen Philosophie vermehrt die Frage diskutiert, ob Eltern einen auf Gerechtigkeitserwägungen gründenden Anspruch auf staatliche Unterstützung besitzen (Alstott 2004; Bou-Habib 2013; Bou-Habib und Olsaretti 2013; Casal und Williams 1995; Olsaretti 2013). Eine mögliche Form der Unterstützung von Eltern ist die Förderung der Vereinbarkeit zwischen Erwerbsarbeit und Familienleben. Staatliche Maßnahmen, die der Vereinbarkeit dienen sollen, existieren heute in den deutschsprachigen Ländern, allerdings in einem unterschiedlichen Ausmaß: Deutschland und Österreich haben einen bezahlten Elternurlaub eingeführt, der unter den Elternteilen aufgeteilt werden kann, in der Schweiz gibt es hingegen nur einen 14-wöchigen Mutterschaftsurlaub.² Ob Vereinbarkeit zwischen Erwerbsarbeit und Familienleben gewährleistet wird und ob in dieser Hinsicht weitere staatliche Maßnahmen ergriffen werden sollten, wird in der Öffentlichkeit kontrovers diskutiert. In jüngster Zeit finden sich vermehrt Diskussionen zur so genannten ‚Vereinbarkeitslüge‘ – ein Begriff, der

suggeriert, dass Vereinbarkeit schlicht nicht machbar sei.³ Alexander Gau schreibt im *Cicero*⁴:

Kinder brauchen Zuwendung. Zuwendung braucht Zeit. Diese Zeit wird woanders fehlen. Deshalb müssen Eltern Abstriche machen: bei ihrem Sport, ihren kulturellen Interessen, ihren Freunden und auch bei ihrer Arbeit. Kinder sind nicht nur unvereinbar mit der Karriere, sie sind generell unvereinbar mit dem Lebensstil bislang Kinderloser. So ist das. Und wer Menschen, die über eine Familiengründung nachdenken, das Gegenteil einredet, handelt grob fahrlässig.

Vereinbarkeit mag zwar schwierig zu realisieren sein – sie ist aber dennoch ein wichtiges Anliegen. Ich vertrete in diesem Artikel die These, dass Vereinbarkeit zwischen dem Verfolgen einer Erwerbsarbeit und Betreuungsarbeit für Kinder ein Ziel staatlicher Politik bilden sollte. Die Behauptung, dass Vereinbarkeit ermöglicht werden sollte, kann auf unterschiedliche Weisen begründet werden. Im öffentlichen Diskurs zum Thema stehen oft volkswirtschaftliche oder demografische Erwägungen im Vordergrund – man erhofft sich eine erhöhte Arbeitsmarktbeteiligung der Frauen, was dem Wirtschaftswachstum dienen soll, oder eine höhere Geburtenrate.⁵ Im vorliegenden Artikel geht es hingegen

1 Ich bedanke mich bei den Herausgeberinnen des Themenschwerpunkts und einer anonymen Gutachterin/ einem anonymen Gutachter [der Zeitschrift für Praktische Philosophie (Anm. Red. meta(q))] für die hilfreichen Kommentare zu einer früheren Version dieses Artikels.

2 Deutschland: Bundesministerium für Familie, Senioren, Frauen und Jugend, „Elterngeld und Elternzeit“ <http://www.bmfsfj.de/BMFSFJ/Service/rechner.did=76746.html>. Österreich: Bundesministerium für Familien und Jugend, „Finanzielle Unterstützungen“, <http://www.bmfj.gv.at/familie/finanzielle-unterstuetzungen.html>. Schweiz: Bundesamt für Sozialversicherungen, „Mutterschaftsurlaub“: <https://www.bsv.admin.ch/bsv/de/home/sozialpolitische-themen/familienpolitik/vereinbarkeit/elternurlaub.html> (letzter Zugriff 02.07.2019).

3 Schweizer Studienstiftung, „Vereinbarkeitslüge - oder lassen sich Familie und Karriere vereinbaren?“, <http://www.studienstiftung.ch/blog/2015/03/13/vereinbarkeitsluege-oder-lassen-sich-familie-und-karriere-vereinbaren/> (letzter Zugriff: 17.10.2015).

4 Alexander Gau, „Mehr Verantwortung für die eigenen Lebensentwürfe“, <http://www.cicero.de/salon/fetisch-vereinbarkeit-kind-und-karriere-ist-unvereinbar/57158> (letzter Zugriff: 17.10.2015).

5 Der demografische Wandel wird vom österreichischen Bundesministerium für Familien und Jugend als Grund genannt: <http://www.bmfj.gv.at/familie/vereinbarkeit-familie-beruf.html> (letzter Zugriff: 9.10.2015). Die Webseite der schweizerischen Bundesverwaltung nennt prominent volkswirtschaftliche Ziele: <https://www.seco.admin.ch/seco/de/home/wirtschaftslage--wirtschaftspolitik/wirtschaftspolitik/arbeitsmarkt/frauen-am-arbeitsmarkt.html> (letzter Zugriff: 02.07.2019).

um eine Begründung aus der Perspektive der Gerechtigkeit. Eine Reihe unterschiedlicher Gerechtigkeitsargumente für die Ermöglichung von Vereinbarkeit sind denkbar. Der vorliegende Artikel konzentriert sich auf eine Rechtfertigung, die sich auf die Interessen von Eltern bezieht. Zwei andere mögliche Argumente sollen jedoch an dieser Stelle kurz erwähnt werden.

Erstens kann die Ermöglichung von Vereinbarkeit als Maßnahme zur Förderung der Geschlechtergerechtigkeit verstanden werden. Aufgrund der geschlechtsspezifischen Arbeitsteilung, bei der Mütter einen großen Teil der unbezahlten Sorgearbeit für Kinder leisten, bestehen für Frauen Hürden beim Zugang zur Erwerbstätigkeit, die sich in einer materiellen Schlechterstellung gegenüber Männern auswirken. Eine bessere Vereinbarkeit zwischen Erwerbsarbeit und Familienleben wird aus diesem Grund von feministischen Theoretikerinnen seit langem eingefordert (Okin 1989, 155f., 171, 176; Fraser 1994; Williams 2000, Kapitel 3).

Die Frage der Vereinbarkeit hat aber eine Bedeutung, die über die Geschlechtergerechtigkeit hinausgeht. Als Gedankenexperiment kann man sich die Frage stellen, ob eine Situation der mangelnden Vereinbarkeit zwischen Erwerbsarbeit und Familienleben aus Gerechtigkeitssicht auch dann problematisch wäre, wenn das Geschlecht bei der Verteilung von Erwerbs- und Familienarbeit keinerlei Rolle spielen würde – es also genauso häufig vorkäme, dass die Väter sich in erster Linie um die Kinder kümmern, während die Mütter erwerbstätig sind, wie umgekehrt. Lautet die Antwort auf diese Frage „Ja“ – und das ist meines Erachtens der Fall – dann gibt es neben Gründen der Geschlechtergerechtigkeit weitere gerechtigkeitsbasierte Gründe, eine staatliche Vereinbarkeitspolitik zu fordern.

Die Forderung nach Vereinbarkeit könnte *zweitens* auch mit dem Argument begründet werden, dass sie im Interesse von *Kindern* liegt, beispielsweise weil eine entsprechende Politik mit einer geringeren Armutsquote bei Kindern korreliert (vgl. Engster 2010, 255; Engster und Stensöta Olofsdotter 2011, 96-97). Es wäre denkbar, dass Eltern einen Anspruch auf Vereinbarkeit haben, der vollständig über die Interessen ihrer Kinder und die Pflichten der Eltern und der Gesellschaft, diese zu sichern, begründet ist. Davon zu unterscheiden ist die Behauptung, dass Eltern einen Anspruch auf Vereinbarkeit besitzen, der unter anderem mit Bezug auf ihre *eigenen* Interessen begründet wird. Um diese dreht sich der vorliegende Artikel. Ich werde argumentieren, dass es ein Erfordernis der Gerechtigkeit ist, Vereinbarkeit zwischen Erwerbsarbeit und Familienleben für alle Eltern zu ermöglichen und dass sich eine entsprechende staatliche Politik

auch gegenüber denjenigen Gruppen rechtfertigen lässt, die kein besonderes Interesse an Vereinbarkeit haben – gegenüber Erwachsenen, die keine Kinder haben, und gegenüber Eltern, die ein ‚Ernährermodell‘ mit einer klaren Aufgabenteilung zwischen den Eltern bevorzugen, bei der ein Elternteil erwerbstätig ist und der andere sich um die Kinder kümmert. Die Grundlage für einen Anspruch auf Vereinbarkeit bilden zwei gewichtige Interessen von Eltern: Das Interesse am Zugang zur Erwerbstätigkeit und das Interesse an der Eltern-Kind-Beziehung. In der Begründung des letzteren beziehe ich mich auf die ‚familial relationship goods‘-Theorie (im Folgenden als ‚Theorie der familiären Güter‘ bezeichnet) von Harry Brighouse und Adam Swift (2006, 2014).

Die Begründung von Vereinbarkeit als Gerechtigkeitsanspruch wird im folgenden Abschnitt entwickelt (1.). Anschließend wird die Frage diskutiert, ob eine staatliche Förderung von Vereinbarkeit gegenüber Erwachsenen ohne Kinder (2.) oder gegenüber Eltern, die das Ernährermodell vorziehen (3.), unfair ist. Im letzten Teil des Artikels wird die Förderung von Vereinbarkeit mit Blick auf die Geschlechterdimension betrachtet (4.).

1. Vereinbarkeit zwischen Erwerbsarbeit und Familienleben als Gerechtigkeitserfordernis

Die zentrale Behauptung, die ich in diesem Abschnitt begründen werde, ist die folgende: Aus Gerechtigkeitsgründen muss es allen Eltern ermöglicht werden, in einem bestimmten Ausmaß erwerbstätig zu sein und sich gleichzeitig auch in einem bestimmten Ausmaß ihren Kindern zu widmen.

Zunächst muss nun präzisiert werden, was Vereinbarkeit genau bedeutet. Eine erste mögliche Auffassung ist diejenige, dass Erwerbstätigkeit mit einer *Familiengründung* vereinbar sein muss. Dies könnte bereits mit einem kurzen Elternurlaub und einem daran anschließenden umfassenden Angebot für die familienexterne Betreuung von Kindern gesichert werden. Im Rahmen des vorliegenden Artikels geht es aber um mehr als nur um die Option zur Familiengründung, nämlich um die Möglichkeit, Kinder in einem bestimmten Ausmaß zuhause zu betreuen. Dies muss noch einmal präzisiert werden: In welchem Ausmaß muss eine Betreuung durch die Eltern ermöglicht werden, damit Vereinbarkeit als gesichert gilt? Bis zu welchem Alter der Kinder gilt dies? Die Antworten auf diese Fragen ergeben sich zumindest teilweise aus den Argumenten, die für einen Anspruch von Eltern auf Vereinbarkeit angeführt werden können. Deshalb

werde ich zunächst diese Argumente diskutieren und zum Schluss der jeweiligen Abschnitte auf diese Fragen zurückkommen.

Die Begründung eines Anspruchs auf Vereinbarkeit hat zwei Teile: Erstens muss gezeigt werden, dass Eltern (mit gewissen Qualifikationen) einen auf Gerechtigkeitsüberlegungen gründenden Anspruch auf Zugang zur Erwerbstätigkeit haben. Zweitens muss überzeugend dargelegt werden, dass Eltern einen Anspruch darauf haben, ihre Kinder (in einem gewissen Ausmaß) selber zu betreuen.

1.1 Die Bedeutung der Erwerbstätigkeit

Ich beginne mit der Frage, ob ein Anspruch auf Zugang zur Erwerbstätigkeit für Eltern begründet werden kann. Meines Erachtens ist dies der Fall. Ein eingeschränkter Zugang zur Erwerbstätigkeit aufgrund der Betreuung von Kindern, wie er in Gesellschaften mit mangelnder Vereinbarkeit besteht, benachteiligt eine bestimmte Personengruppe – nämlich diejenigen, die Betreuungsaufgaben für Kinder übernehmen – in einer Weise, die aus Gerechtigkeitsicht inakzeptabel ist. Der Zugang zur Erwerbstätigkeit ist aus zwei Gründen wichtig: *Erstens* bildet die Erwerbstätigkeit ein wichtiges Mittel, um sich materiell abzusichern. Nicht oder nur geringfügig erwerbstätig zu sein, stellt ein erhebliches Armutsrisiko dar. Eine staatliche Politik, die zur Konsequenz hat, dass bestimmte Gruppen von Personen keinen ausreichenden Zugang zur Erwerbstätigkeit haben, ist deshalb aus Gerechtigkeitsicht defizitär. Dies gilt zumindest dann, wenn der mangelnde Zugang zur Erwerbsarbeit aus einer Tätigkeit resultiert, auf deren Ausführung ein Anspruch besteht (siehe 1.2). Um den Zugang zur Erwerbstätigkeit zu sichern, ist es notwendig, Vereinbarkeit zwischen Erwerbstätigkeit und Familienleben zu ermöglichen.

Eine empirische Untersuchung zur Bedeutung der Erwerbstätigkeit mit Blick auf die materielle Sicherung ist im Rahmen dieses Artikels nicht möglich. Einige Zahlen, die einen Hinweis auf die Relevanz der Erwerbstätigkeit geben, lassen sich jedoch nennen: In Deutschland waren 2014 24,3% der Nichterwerbstätigen, jedoch nur 8,6% der Erwerbstätigen armutsgefährdet.⁶ Ein Fünftel der Personen, die 2012 in der Schweiz staatliche Transferleistungen als Haupteinkommen

angaben, erreichten das soziale Existenzminimum (definiert als das für ein gesellschaftlich integriertes Leben notwendige Minimum an Gütern) nicht. Von denjenigen, die als Haupteinkommen eine Erwerbstätigkeit angaben, traf dies hingegen auf weniger als jeden 20. zu.⁷ Besonders wichtig ist das Argument der materiellen Absicherung mit Blick auf alleinerziehende Eltern, die überwiegend Frauen sind. In Österreich waren beispielsweise 2014 50% der Einelternhaushalte ohne Erwerbstätigkeit armutsgefährdet, im Vergleich zu 23% der Einelternhaushalte mit Erwerbstätigkeit.⁸ Neben den kurzfristigen Effekten der Nichterwerbstätigkeit auf die materielle Sicherung sind zudem auch langfristige Effekte zu beachten, die anhalten, nachdem wieder eine Erwerbstätigkeit aufgenommen wurde. Eine deutsche Studie aus dem Jahr 2010 kam zum Schluss, dass „(...) Abweichungen von der Normalerwerbsbiografie in Form verschiedener Erwerbsunterbrechungen nicht nur kurz- und mittelfristig, sondern auch langfristig negative finanzielle Auswirkungen haben“ (Strauß und Ebert 2010, 227). Eine österreichische Studie aus dem Jahr 2003 schätzte den kumulierten Verdienstverlust von nichterwerbstätigen Müttern mit zwei Kindern, deren jüngstes Kind zwischen 7 und 10 Jahre alt war, im Vergleich zu einer kinderlosen Frau auf 137'400 Euro (Lutz 2003, 776). Wer keinen Zugang zur Erwerbstätigkeit hat, ist nicht nur kurzfristig besonders armutsgefährdet, sondern muss auch mittel- bis langfristig unter Umständen erhebliche finanzielle Nachteile in Kauf nehmen.

Zweitens bildet Erwerbstätigkeit ein wichtiges Mittel, um eine einseitige Abhängigkeit in der Partnerschaft zu vermeiden. Feministische Philosophinnen haben seit langem darauf hingewiesen, dass nicht oder nur geringfügig erwerbstätige Frauen durch ihre ökonomische Abhängigkeit in Beziehungen besonders verletzlich gemacht werden (Okin 1989, 137f.; Fraser 1994, 597). Für ökonomisch von ihrem Partner abhängige Personen wird ein Verlassen der Beziehung unter Umständen sehr schwierig. „The division of labor within marriage (...) makes wives far more likely than husbands to be exploited both within the marital re-

6 Statistisches Bundesamt (Deutschland), "Relatives Armutsrisiko unverändert bei 16,1%", https://www.destatis.de/DE/PresseService/Presse/Pressemitteilungen/2014/10/PD14_374_634.html (letzter Zugriff: 9.10.2015). Aktuellere Zahlen: Statistisches Bundesamt, Datenreport 2018, Kapitel 6 (Private Haushalte), S. 234-235 <https://www.destatis.de/DE/Service/Statistik-Campus/Datenreport/Downloads/datenreport-2018-kap-6.html> (letzter Zugriff: 02.07.2019).

7 Bundesamt für Statistik (Schweiz), "Lebensstandard, soziale Situation und Armut", <http://www.bfs.admin.ch/bfs/portal/de/index/themen/20/03/blank/key/07/01.html> (letzter Zugriff: 9.10.2015). Eine ähnliche Grundaussage findet sich in: <https://www.bfs.admin.ch/bfs/de/home/statistiken/wirtschaftliche-soziale-situation-bevoelkerung/soziale-situation-wohlbefinden-und-armut/armut-und-materielle-entbehrungen/armut.html> (letzter Zugriff: 02.07.2019).

8 Statistik Austria, "Armuts- oder Ausgrenzungsgefährdung", http://www.statistik.at/web_de/statistiken/menschen_und_gesellschaft/soziales/gender-statistik/armutsgefaehrderung/index.html (letzter Zugriff: 15.10.2015).

lationship and the world of work outside the home“ (Okin 1989, 138). Wenn die Beziehung endet, kann dies zudem mit einem erheblichen Verlust an materiellem Wohlergehen verbunden sein. Dieses Problem der aus ökonomischer Abhängigkeit resultierenden Verletzlichkeit würde zumindest in Teilen auch dann weiterbestehen, wenn sich die geschlechtsspezifische Arbeitsteilung auflösen würde – mit dem Unterschied, dass dann auch Männer vermehrt davon betroffen wären. Besteht keine Vereinbarkeit zwischen Erwerbs- und Familienarbeit, dann wird faktisch eine Arbeitsteilung zwischen Eltern notwendig gemacht, die einen Elternteil vom anderen ökonomisch abhängig macht. Dies ist eine Form von Ungerechtigkeit gegenüber denjenigen Personen, die Familienarbeit leisten, da diese in Gefahr gebracht werden, ihre eigenen Interessen aufgrund ökonomischer Abhängigkeit von ihren Partnerinnen oder Partnern nicht mehr adäquat sichern zu können.

Zwar könnte die Verletzlichkeit der in der Sorgearbeit für Kinder tätigen Eltern nicht nur durch eine Förderung der Vereinbarkeit, sondern beispielsweise auch durch höhere Unterhaltsansprüche nach einer allfälligen Trennung reduziert werden (Okin 1989, 183). Aber eine eigene Erwerbstätigkeit erlaubt eine direktere Kontrolle über die eigene materielle Sicherung als Unterhaltszahlungen, weil letztere von der Erwerbstätigkeit des Ex-Partners oder der Ex-Partnerin abhängig sind.

Daneben gibt es noch zwei weitere Argumente für einen Anspruch auf Zugang zur Erwerbstätigkeit, die nicht auf alle Formen der Erwerbstätigkeit gleichermaßen zutreffen und deshalb hier nur ergänzend angebracht werden. *Erstens* stellt die Erwerbstätigkeit für viele Menschen – wenn auch nicht für alle – auch eine Form der Selbstverwirklichung dar. Wo Vereinbarkeit nicht gesichert ist, sehen sich Personen, die Familienarbeit für kleine Kinder leisten, oft auf diese Rolle beschränkt. Die Erwerbstätigkeit kann eine wertvolle Ergänzung zum Familienleben bilden und erlaubt es Menschen, unterschiedliche Rollen auszuüben. *Zweitens* sind bestimmte berufliche Tätigkeiten mit besonderem gesellschaftlichen Einfluss und Status verbunden (vgl. Williams 2000, 43). Mangelnde Vereinbarkeit zwischen Familien- und Erwerbsarbeit führt dazu, dass Personen, die in der Familienarbeit engagiert sind, vom Zugang zu diesen besonders einflussreichen und angesehenen Tätigkeiten ausgeschlossen werden. Die zentrale Bedeutung der Erwerbstätigkeit kann nun natürlich selbst als ein Gerechtigkeitsdefizit aufgefasst werden, und es ist sicher eine Welt denkbar, in der die Erwerbstätigkeit eine weniger bedeutende

Rolle spielt. Die Bedeutung der Erwerbsarbeit für die materielle Absicherung würde beispielsweise reduziert, wenn es ein existenzsicherndes bedingungsloses Grundeinkommen für alle gäbe. Ich beziehe hier keine Stellung zu den entsprechenden Forderungen. Meine Annahme ist, dass sich auf absehbare Zeit wenig an der Bedeutung der Erwerbsarbeit ändern wird und die Aussichten, dass eine sozialstaatliche Absicherung für Nichterwerbstätige geschaffen wird, die einen ähnlichen Beitrag zur materiellen Sicherung leistet wie die Erwerbstätigkeit, gering sind. Die Argumentation für Vereinbarkeit als Gerechtigkeitsanspruch erfolgt vor dem Hintergrund dieser Annahme.

Was lässt sich nun zu den Bedingungen sagen, die bezüglich des Zugangs zur Erwerbsarbeit erfüllt sein müssen? Da der Anspruch auf Zugang zur Erwerbstätigkeit über die Bedeutung derselben für die materielle Sicherung begründet wurde, ergibt sich, dass Eltern die Option auf eine Erwerbstätigkeit haben sollten, die einen wesentlichen Beitrag zu ihrer materiellen Sicherung leistet. Das bedeutet, dass ein Zugang zu kleinen Teilzeitstellen nicht ausreichend ist. Zudem wurde argumentiert, dass eine Bedrohung für die materielle Sicherung nicht nur aus dem Einkommensverlust während einer zeitlich begrenzten Familienphase, sondern aus längerfristigen Effekten der Nichterwerbstätigkeit resultiert. Ein Ziel der Vereinbarkeitspolitik sollte daher die Verminderung dieses Problems sein.⁹ Weiter verlangt der Anspruch auf Zugang zur Erwerbstätigkeit, dass Kinderbetreuungseinrichtungen zur Verfügung stehen.

1.2 Anspruch auf die Betreuung eigener Kinder

Um Vereinbarkeit als Gerechtigkeitsfordernis auszuweisen, muss man nun zweitens geltend machen, dass Eltern (und zwar *alle* Eltern) einen Anspruch darauf haben, ihre Kinder – jedenfalls in einem bestimmten Ausmaß – selber zu betreuen, statt die Familienarbeit größtenteils an Dritte auszulagern.¹⁰ Ein Argument hierfür lässt sich aus der Theorie der familiären Güter, die Harry Brighouse und Adam Swift

⁹ Eine Möglichkeit, dies zu erreichen, könnte zum einen darin bestehen, längere Unterbrüche der Erwerbstätigkeit möglichst unnötig zu machen. Gleichzeitig könnte auch versucht werden, die Offenheit des Arbeitsmarkts für Personen, die längere Zeit nicht erwerbstätig waren, zu verbessern und nichtlineare Berufslaufbahnen zu fördern.

¹⁰ Ein weiteres Gerechtigkeitsproblem im Zusammenhang mit der Auslagerung von Betreuungsarbeit liegt darin, dass diese oft unter schlechten Bedingungen von sozioökonomisch benachteiligten Frauen ausgeführt wird, die ihrerseits zu wenig Zeit für die Betreuung ihrer eigenen Kinder haben (vgl. Tronto 2002, 40; zu transnationalen Aspekten Jaggar 2014).

vertreten, entwickeln (2006; 2014, Kapitel 3 und 4). Dieser Theorie zufolge haben Eltern ein Interesse an der Eltern-Kind-Beziehung, in der bestimmte spezielle Güter realisiert werden. Brighouse und Swift entwickeln ihre Argumentation, um Rechte von Eltern im Umgang mit ihren Kindern zu begründen. Im Rahmen dieses Beitrags beziehe ich mich auf ihre Theorie, um einen Anspruch auf die Schaffung von gesellschaftlichen Voraussetzungen zu begründen, die nötig sind, um die entsprechenden Beziehungsgüter realisieren zu können.

Brighouse und Swift identifizieren einige spezielle Eigenschaften der Eltern-Kind-Beziehung, die diese von anderen Beziehungen unterscheiden und die ein besonderes Interesse der Eltern an einer solchen Beziehung begründen (2014, 88-92). Dieses Interesse wiederum bildet die Basis von nicht-derivativen Rechten – das heißt, die Rechte von Eltern mit Bezug auf Elternschaft sind nicht *vollständig* durch die Interessen ihrer Kinder begründet (Brighouse und Swift 2014, 87).¹¹

Die spezielle Eigenschaft der Eltern-Kind-Beziehung, die für die Begründung des Interesses von Erwachsenen an derselben zentral ist, ist die Rolle der Eltern als ‚Treuhänder‘ (engl. *fiduciaries*) ihrer Kinder: Eltern sind in einer besonderen Weise für das Wohlergehen und für die gesunde Entwicklung ihrer Kinder verantwortlich (Brighouse und Swift, 94). Die Eltern-Kind-Beziehung unterscheidet sich von anderen Beziehungen dadurch, dass in ihr ein großes Machtgefälle besteht. Zudem ist sie durch eine besondere Form der Intimität charakterisiert, die durch die spontane Weise, in der Kinder ihre Emotionen zeigen, zustande kommt. Eltern kommt die Rolle zu, die Interessen ihrer Kinder (manchmal auch gegen deren Willen) zu sichern und sie in der Entwicklung ihrer Autonomie zu fördern. In der Wahrnehmung dieser Rolle liegt ein besonderer Wert:

Parents have an interest in being in a relationship of this sort. They have a non-fiduciary interest in playing this fiduciary role. The role enables them to exercise and develop capacities the development and exercise of which are, for many (though not, certainly, for all) crucial for their living fully flourishing lives (Brighouse und Swift, 95).

Man mag sich fragen, wie aus dem besonderen Interesse an Elternschaft ein *Anspruch* auf Unterstützung

bei der Erfüllung dieses Interesses abgeleitet werden kann. Es scheint eine argumentative Lücke zwischen dem Ausweisen des Interesses und dem Feststellen eines Anspruchs auf Erfüllung des Interesses zu bestehen, denn es gibt starke Interessen, die dennoch nicht erfüllt werden müssen. Ein Grund dafür liegt darin, dass nur begrenzte Ressourcen vorhanden sind. Zudem können Interessen anderer Personen der Erfüllung eines Interesses entgegenstehen. Aus diesem Grund ist die Behauptung, dass ein Anspruch darauf besteht, eine Eltern-Kind-Beziehung pflegen zu können, nicht als *all-things-considered*-Urteil zu verstehen (Brighouse und Swift, 53). Das heißt, es wird die Möglichkeit offengelassen, dass andere Erwägungen das Interesse an Elternschaft überwiegen. (Einige solcher Erwägungen werden bei der Diskussion der Einwände unter 2. und 3. angesprochen.)

Wie kann nun die Theorie der familiären Güter für die Begründung eines Anspruchs auf Vereinbarkeit eingesetzt werden? Die Pflege der Eltern-Kind-Beziehung benötigt Zeit. Wo nicht genügend Zeit zur Verfügung steht, weil diese für Erwerbstätigkeit verwendet werden muss, kann das Gut der Eltern-Kind-Beziehung nur defizitär realisiert werden. Dies verletzt die Interessen von Eltern *und* Kindern. Eltern müssen regelmäßig mit ihren Kindern interagieren können, um eine entsprechende Beziehung erhalten und entwickeln zu können. Dazu gehört auch eine regelmäßige Teilnahme am Alltag des Kindes (Brighouse und Swift, 72).

Es ist zunächst einfacher zu bestimmen, welche Formen der Erwerbstätigkeit *nicht* mit einer adäquaten Pflege der Eltern-Kind-Beziehung vereinbar sind: Dazu gehören sicher regelmäßige Überstunden, eine ständige Verfügbarkeit für den Arbeitgeber oder das Fehlen eines Elternurlaubs. Was lässt sich darüber hinaus bezüglich des Ausmaßes, in dem es Eltern möglich gemacht werden sollte, ihre Kinder zu betreuen, ableiten? Es ist plausibel, dass je mehr Zeit zur Verfügung stehen muss, je jünger das Kind ist: Nicht nur brauchen Babys und Kleinkinder eine besonders intensive Betreuung, damit ihre physischen Grundbedürfnisse erfüllt werden können. Die Baby- und Kleinkindphase ist auch die Zeit, in der die Grundlage für die Eltern-Kind-Beziehung gelegt wird und in der sich Kinder besonders rasch entwickeln (vgl. Brighouse und Swift 2014, 59). Dementsprechend muss in dieser Phase besonders viel Zeit von den Eltern investiert werden, damit sich die Eltern-Kind-Beziehung gut entwickeln kann. Die Theorie der familiären Güter bietet damit eine

¹¹ Selbstverständlich spielen die Interessen von Kindern aber eine zentrale Rolle in der Begründung von elterlichen Rechten und Pflichten (Brighouse und Swift 2014, 67-76).

Begründung für einen Elternurlaub für beide Eltern.¹² Die Begründung über die Eltern-Kind-Beziehung erlaubt es zudem zu argumentieren, dass Eltern auch *nach* der Babyphase einen Anspruch darauf haben, an der Sorgearbeit für ihre Kinder in einem wesentlichen Maß beteiligt zu sein. In den deutschsprachigen Ländern liegt die Arbeitszeit für Vollzeitbeschäftigte heute bei 38-42 Stunden. Ein typischer 8-Stunden-Arbeitstag lässt zwar morgens und abends etwas Zeit für die Kinderbetreuung, aber nicht viel. Bereits eine Arbeitszeitreduktion von einigen Stunden pro Woche könnte diesbezüglich einen großen Unterschied machen. Eine naheliegende Forderung ist deshalb diejenige nach Teilzeitarbeit für Eltern: Eltern sollten zumindest während einiger Jahre ihre Arbeitszeit reduzieren können, um sich vermehrt der Familienarbeit zu widmen (vgl. Okin 1989, 176-178; ähnlich auch Williams 2000, 54). Eine weitergehende Reform wäre eine generelle Arbeitszeitreduktion für *alle* Erwerbstätigen: Die heute bestehende Norm der 38-, 40- oder 42-Stunden-Woche würde so gebrochen und nicht nur um eine Teilzeitalternative für Eltern ergänzt (Williams 2000, 24; Fraser 1994, 612). Ein entsprechendes Modell wurde von Nancy Fraser unter dem Titel 'Universal Caregiver Model' vorgeschlagen (Fraser 1994, 612; siehe auch Gornick und Meyers 2008, 321-327). Der Vorteil für die Sicherung von Vereinbarkeit läge darin, dass Eltern in diesem System einen geringeren Bedarf nach speziell auf sie zugeschnittenen Teilzeitalternativen hätten, was einer Arbeitsmarktsegregation und einer Diskriminierung nach dem Kriterium der Elternschaft entgegenwirken würde. Eine generelle Arbeitszeitreduktion wirft aber natürlich viele Fragen bezüglich ihrer Finanzier- und Realisierbarkeit auf. Ein zentraler Punkt in diesem Zusammenhang ist, ob das bestehende Lohnniveau und der damit ermöglichte Lebensstandard bei einer kürzeren Arbeitszeit gehalten werden könnten. An dieser Stelle kann deshalb nur darauf hingewiesen werden, dass eine Arbeitsverkürzung zumindest mit Blick auf das Ziel der Vereinbarkeit eine wünschenswerte Reform darstellen würde.

Aus der Argumentation über die Pflege der Eltern-Kind-

12 Die Argumentation kann zudem dabei helfen, eine Politik zu rechtfertigen, die beiden Elternteilen einen Urlaub zugesteht, der nicht auf den anderen Elternteil übertragbar ist. Die für Väter reservierten "daddy quotas" beim Elternurlaub, die in einigen Ländern eingeführt wurden, werden kontrovers diskutiert. Selbst Anhängerinnen der Maßnahme sind besorgt, dass sie die individuelle Freiheit der Eltern, den Elternurlaub nach Belieben aufzuteilen, einschränkt (vgl. Gheaus und Robeyns 2011, 185). Wenn jedoch die Pflege der Eltern-Kind-Beziehung eine der Grundlagen für den Elternurlaub ist, ergibt es Sinn, dass dieser zumindest teilweise für Eltern als Individuen und nicht für Elternpaare angeboten wird. (Zusätzlich sind hier auch Erwägungen der Geschlechtergerechtigkeit und Interessen von Kindern relevant, vgl. Barclay 2013.)

Beziehung folgt nicht, dass eine Vollzeitbetreuung von Kindern durch ihre Eltern gefordert ist oder dass familienexterne Betreuung unerwünscht ist: Sofern die Eltern-Kind-Beziehung adäquat gepflegt werden kann, stellt es kein Problem dar, wenn auch andere Personen in die Betreuung involviert sind (letzteres könnte zudem auch im Interesse von Kindern liegen, vgl. Gheaus 2011). Zum Erreichen des Vereinbarkeitsziels sind familienexterne Betreuungsangebote für Kinder in jedem Fall notwendig: Wenn beide Elternteile Erwerbs- und Familienarbeit miteinander kombinieren, wird es oft allein aus logistischen Gründen notwendig sein, auch familienexterne Betreuung zu nutzen. Zudem wird auch eine familienfreundlichere Erwerbssphäre immer noch eine gewisse Mindestpräsenzzeit erfordern und so in den meisten Fällen eine ergänzende familienexterne Betreuung von Kindern notwendig machen. Entsprechend ergibt sich ein elterlicher Anspruch auf ein adäquates Angebot an Kinderbetreuungseinrichtungen.

Man mag sich an dieser Stelle fragen, ob die genannten Maßnahmen nicht vor allem gutverdienenden Eltern zugutekommen würden und die Situation gering verdienender oder arbeitsloser Eltern außer Acht lassen. Dies trifft auf einige der diskutierten Maßnahmen mehr zu als auf andere und hängt zudem von deren konkreten Ausgestaltung ab: Ein bezahlter Elternurlaub von einem Jahr ist beispielsweise grundsätzlich eine Maßnahme, die auch (oder gerade) für gering verdienende Eltern wichtig ist. Wird aber beispielsweise die Höhe des Elterngeldes an das zuvor erzielte Einkommen gekoppelt, profitieren Personen mit höherem Einkommen stärker davon als solche mit geringerem Einkommen.¹³ Teilzeitarbeit und eine Verkürzung der Arbeitszeit verhalten sich ebenfalls nicht neutral zur Höhe des Einkommens: Für sozioökonomisch bessergestellte Personen ist Teilzeitarbeit aus finanzieller Sicht eher eine zugängliche Option. Umgekehrt könnte aber eine Förderung der Teilzeitarbeit es auch einigen sozioökonomisch benachteiligten Frauen ermöglichen, eine Erwerbsarbeit aufzunehmen, die heute diese Option nicht haben. Allgemein gilt folgendes: Die genannten Instrumente zur Ermöglichung von Vereinbarkeit können generelle Probleme sozioökonomischer Ungerechtigkeit nicht lösen. Es ist nicht auszuschließen, dass unter heutigen Bedingungen die generelle sozioökonomische Ungleichheit ein dringen-

13 Bei der Koppelung des Elterngeldes an das Einkommen besteht ein Zielkonflikt zwischen den Anliegen der sozioökonomischen Gerechtigkeit und der Geschlechtergerechtigkeit: Ein höheres Elterngeld könnte Männer vermehrt motivieren, Elternurlaub zu beziehen, führt aber gleichzeitig zu einer Privilegierung Besserverdienender.

deres Problem bildet als die mangelnde Vereinbarkeit und dass Maßnahmen, die benachteiligten Eltern helfen, zurzeit Vorrang vor einer generellen Förderung der Vereinbarkeit haben (sofern die entsprechenden Maßnahmen im Konflikt zueinander stehen). Sollte dies der Fall sein, dann stellt dies aber den grundsätzlichen Anspruch auf Vereinbarkeit nicht in Frage.

Vereinbarkeit als Gerechtigkeitsanspruch von Eltern aufzufassen könnte nun Einwände von zwei Seiten hervorrufen: Erstens von Familien, die ein ‚Ernährermodell‘ (mit einem erwerbstätigen und einem sich ganz der Kindererziehung widmenden Elternteil) vorziehen und zweitens von Erwachsenen ohne Kinder. Beide Gruppen haben kein persönliches Interesse an einer Förderung von Vereinbarkeit. Würde beispielsweise die Vollzeit-Arbeitszeit für alle Erwerbstätigen verkürzt, um Vereinbarkeit zu fördern, so wäre dies zwar vorteilhaft für erwerbstätige Eltern mit dem Wunsch, mehr Sorgearbeit für ihre Kinder leisten zu können, aber nicht für Personen ohne Betreuungsaufgaben und für Familien mit Ernährermodell. Elternurlaub und familienexterne Betreuung generieren zudem Kosten, die bei einer Vereinbarkeitspolitik auch teilweise von kinderlosen Erwachsenen und Familien mit Ernährermodell mitgetragen werden müssen.

2. Benachteiligung von Erwachsenen ohne Kinder?

Betrachten wir zunächst die Situation von *Erwachsenen ohne Kinder*. Werden diese durch eine staatliche Vereinbarkeitspolitik, die sie persönlich nicht benötigen, aber dennoch mittragen müssen, auf ungerechte Weise benachteiligt? Eine Ungerechtigkeit könnte hier in zweierlei Hinsicht vorliegen: *Erstens* könnte man geltend machen, dass es unfair ist, Erwachsenen ohne Kinder die Kosten einer Vereinbarkeitspolitik mitaufzuerlegen, weil diese Kosten auf die freie Entscheidung der Eltern, Kinder zu bekommen, zurückzuführen sind. *Zweitens* könnte man argumentieren, dass sich der Staat nicht in der gebotenen Weise neutral verhält, wenn er bestimmte Lebensentwürfe – wie die von Eltern – besonders unterstützt, andere hingegen nicht. Zum ersten Argument: Viele Eltern entscheiden sich frei dafür, Kinder zu bekommen und aufzuziehen. Wenn man ein Prinzip für plausibel hält, demzufolge die Kosten von freiwilligen Entscheidungen mit Recht denjenigen auferlegt werden können, die diese Entscheidungen getroffen haben, dann erscheint es unfair, Erwachsene ohne Kinder mit den Kosten einer Vereinbarkeitspolitik zu belasten.

Ein entsprechendes Prinzip wird in der Literatur oft

mit Bezug auf Ronald Dworkins Theorie des Ressourcenegalitarismus auf den Fall der Elternschaft angewandt (Casal und Williams 1995, 110; Clayton 2006, 69; Rakowski 1991, 153). Die Grundidee von Dworkins Theorie ist, dass die Verteilung der Ressourcen innerhalb einer Gesellschaft nicht durch Umstände, die außerhalb der Kontrolle von Personen liegen, beeinflusst werden darf, aber unterschiedliche Präferenzen und Ambitionen von Personen widerspiegeln soll (Dworkin 1981, 311). Es erscheint daher gemäß dieser Theorie unfair, wenn Eltern die Möglichkeit gegeben wird, durch ihre auf persönlichen Präferenzen beruhende Entscheidung, Kinder zu bekommen, zusätzliche Ressourcenansprüche an die Gesellschaft zu generieren.¹⁴ Casal und Williams schreiben hierzu (1995, 110):

(...) though potential parents should be allowed to decide whether or not to increase family size, an injustice exists if resources are redistributed from others to their offspring as a result of their reproductive decision.¹⁵

Eine erste mögliche Antwort auf diesen Einwand besteht darin, auf die Interessen von Kindern zu verweisen. Die Entscheidung, Kinder zu bekommen, mag den Eltern zugerechnet werden können – aber die Kosten dieser Entscheidung können letzteren nicht auferlegt werden, ohne gleichzeitig die Interessen von Kindern zu gefährden: Wird Vereinbarkeit nicht ermöglicht, dann leiden entweder Eltern-Kind-Beziehungen, oder aber Eltern sind nicht oder nur in geringem Maße erwerbstätig, was das Familieneinkommen reduziert. Beides beeinträchtigt die Interessen von Kindern. Da offensichtlich ihre eigene Existenz außerhalb der Kontrolle von Kindern liegt, scheint es unfair, wenn ihre Interessen beeinträchtigt werden, indem Vereinbarkeit nicht gesichert wird. Diese Antwort gesteht aber zu, dass es zumindest *prima facie* unfair ist, wenn Erwachsene ohne Kinder die Kosten für eine Vereinbarkeitspolitik mittragen müssen – diese Unfairness wird bloß durch die gewichtigeren Interessen von Kindern überwogen (Casal und Williams 1995, 113).

Eine zweite Antwort lautet wie folgt: Das Prinzip der individuellen Verantwortung ist, sofern überhaupt plausibel, in seinem Anwendungsbereich beschränkt.

14 Bou-Habib (2013, 207-214) entwickelt allerdings ein Argument für eine gesellschaftliche Unterstützung von Eltern unter Bezugnahme auf Dworkins Idee einer hypothetischen Versicherung.

15 Dies ist als idealtheoretische Aussage zu verstehen. Casal und Williams machen deutlich, dass es aus verschiedenen Gründen dennoch insgesamt betrachtet angebracht sein könnte, Eltern zu unterstützen (1995, 113).

Treffen Individuen Entscheidungen, die der Sicherung dessen dienen, worauf sie ohnehin einen Gerechtigkeitsanspruch haben, dann folgt daraus nicht, dass sie die entstehenden Kosten tragen müssen. Der Einwand der individuellen Verantwortung beruht auf der Annahme, dass die Entscheidung, Kinder zu bekommen, eine ist wie jede andere Entscheidung des persönlichen Lebensstils – aber gerade dies ist strittig. Die Theorie, wie sie Brighthouse und Swift (2014) vertreten, verteidigt eine gegenteilige Annahme, nämlich dass das Interesse an Elternschaft ein besonderes Interesse darstellt und nicht eine bloße persönliche Präferenz. Diese Antwort zeigt nicht, dass ein Mittragen der Kosten von Vereinbarkeit durch Erwachsene ohne Kinder notwendigerweise fair ist – aber sie macht deutlich, dass dies nicht *allein deshalb* unfair ist, weil sich Eltern frei dafür entschieden haben, Kinder zu bekommen. Vielmehr müsste auch die Annahme zurückgewiesen werden, dass das Interesse an der Elternrolle ein besonderes Interesse ist.

In diese Richtung zielt denn auch ein zweites mögliches Argument gegen die Förderung von Vereinbarkeit. Dieses bezieht sich auf die staatliche Neutralität. Der Vorwurf lautet, dass sich der Staat in einer unangemessenen Weise parteiisch verhält, wenn er bestimmte Lebensprojekte – beispielsweise Elternschaft – besonders unterstützt (Archard 2010, 98). Eltern-Kind Beziehungen mögen zwar besonders wertvoll sein. Erwachsene ohne Kinder verfolgen aber ebenfalls Projekte, die für das Gelingen ihres Lebens sehr wichtig sind (vgl. Taylor 2009, 555), und diese bekommen keine spezielle Unterstützung. Eine staatliche Vereinbarkeitspolitik scheint parteiisch, da sie die Erwerbssphäre auf eine Weise reguliert, die speziell auf Eltern zugeschnitten ist. Dieser Einwand kann im Rahmen des vorliegenden Artikels nicht befriedigend behandelt werden. Hierzu wäre es nötig, sowohl eine Position hinsichtlich der Frage einzunehmen, inwiefern sich der Staat überhaupt neutral verhalten muss, wie auch dazu, was Neutralität im hier relevanten Kontext bedeutet. Allerdings sind zwei vorläufige Antworten möglich, die den Einwand entschärfen. *Erstens* wäre es ein Fehler, eine Situation, in der der Staat *nicht* in die Erwerbssphäre eingreift, um Vereinbarkeit zu ermöglichen, als neutral aufzufassen. Eine solche Situation könnte nämlich ebenfalls unter dem Neutralitätsgesichtspunkt kritisiert werden: Ohne staatliche Eingriffe in die Erwerbssphäre – so eine mögliche Position – werden Personen *ohne* Betreuungsaufgaben für Kinder auf eine ungerechte Weise begünstigt und Vereinbarkeitsmaßnahmen würden diese Bevorzugung bloß abschwächen (vgl. Brake

2004, 310). Was als eine neutrale Politik gelten würde, ist keinesfalls offensichtlich und bedarf einer tiefer gehenden Analyse.

Zweitens könnten einige der Maßnahmen, die zur Förderung der Vereinbarkeit vorgeschlagen wurden, zusätzlich auch mit Blick auf das Interesse von Erwachsenen ohne Kinder an der Verfolgung von Projekten, die viel Zeit benötigen, gerechtfertigt werden. Eine generelle Arbeitszeitverkürzung, Teilzeitmodelle und eine größere Flexibilität in der Berufslaufbahn machen es auch für Erwachsene ohne Kinder leichter, neben der Erwerbstätigkeit weitere Projekte zu verfolgen, die für das Gelingen ihres Lebens zentral sind. Die Behauptung, dass das Interesse an der Elternrolle ein besonderes sei, schließt nicht aus, dass es auch weitere Interessen mit besonderem Status geben könnte, deren Verfolgung ebenfalls aus Gerechtigkeitsgründen mit dem Ausüben einer Erwerbstätigkeit kompatibel sein muss.

3. Benachteiligung von Familien mit Ernährermodell?

Eine weitere Gruppe von Personen, die nicht von der Ermöglichung von Vereinbarkeit profitieren, sind diejenigen Eltern, die das Ernährermodell vorziehen. Dabei handelt es sich um ein Familienmodell, bei dem ein Elternteil erwerbstätig ist und der andere sich um die Kinder kümmert. Heute sind dies meist heterosexuelle Paare mit einer traditionellen geschlechtsspezifischen Arbeitsteilung, ein entsprechendes Modell der Arbeitsteilung kann aber natürlich auch von homosexuellen Paaren oder von heterosexuellen Paaren mit ‚Rollentausch‘ (Vater leistet Sorgearbeit für Kinder, Mutter ist erwerbstätig) gewählt werden.

Die Interessen von Eltern, die das Ernährermodell vorziehen, stehen in Konflikt zur Förderung von Vereinbarkeit. Beispielsweise ist es für eine in Vollzeit erwerbstätige Mutter wenig vorteilhaft, wenn ihre in Teilzeit arbeitenden Kollegen gleiche Aufstiegschancen erhalten, da sich so die Konkurrenz bei Beförderungen verschärft (Alstott 2004, 147). Eltern, die das Ernährermodell wählen, haben ein Interesse daran, dass sich eine hohe Zeitpräsenz in der Erwerbsarbeit lohnt, was im Gegensatz zu einer Politik der Vereinbarkeit steht. Zudem könnten Anhänger des Ernährermodells ein Interesse an einer finanziellen Entschädigung der in der Familie geleisteten Sorgearbeit haben. Ist es ungerecht, wenn der Staat Vereinbarkeit fördert, das Ernährermodell aber nicht unterstützt?

Der Einwand, dass Eltern, die das Ernährermodell vorziehen, durch eine staatliche Vereinbarkeitspolitik

benachteiligt werden, erscheint dann plausibel, wenn man davon ausgeht, dass grundsätzlich alle Eltern einen Anspruch auf Unterstützung besitzen und frei wählen dürfen, in welcher Form sie diese erhalten möchten. Hier habe ich jedoch argumentiert, dass ein Anspruch von Eltern auf eine bestimmte *Form* der staatlichen Unterstützung besteht, der sich daraus ableitet, dass diese eine adäquate Pflege der Eltern-Kind-Beziehung ermöglicht. Vor diesem Hintergrund ist es nicht unfair, wenn nicht alle Familienmodelle gleichermaßen unterstützt werden. Gleichzeitig schließt die hier vorgebrachte Argumentation aber natürlich die Möglichkeit nicht aus, dass auch eine Unterstützung des Ernährermodells (auf eine andere Weise, als dies mit Bezug auf die Förderung von Vereinbarkeit getan wurde) begründet werden könnte.

4. Die Dimension der Geschlechtergerechtigkeit

Die Forderung nach Vereinbarkeit zwischen Erwerbsarbeit und Familienleben wird, wie zu Beginn des Artikels erwähnt, oft im Zusammenhang mit Geschlechtergerechtigkeit gestellt. An der Verteilung der Familienarbeit zwischen den Geschlechtern hat sich in den letzten Jahrzehnten trotz zunehmender Erwerbstätigkeit der Frauen nur wenig geändert. 2012 waren in Deutschland sechs von zehn Müttern mit minderjährigen Kindern erwerbstätig, rund 70% von ihnen in Teilzeit (Statistisches Bundesamt 2014, 18). Als Motiv für die Teilzeitarbeit gaben über 80% dieser Frauen persönliche und familiäre Verpflichtungen an, unter den wenigen teilzeiterwerbstätigen Vätern (5,5% aller erwerbstätigen Väter) nannten diesen Grund nur 25% (Statistisches Bundesamt 2014, 19). 96% der Mütter beziehen nach der Geburt eines Kindes Elterngeld, bei den Vätern liegt der Anteil knapp unter 30% (Statistisches Bundesamt 2014, 23).

Die ungleiche Verteilung von Erwerbs- und Familienarbeit zwischen den Geschlechtern bildet ein Hindernis für die Chancengleichheit der Frauen in der Erwerbssphäre. Um dieses zu beseitigen, führt nichts an einer Vereinbarkeitspolitik vorbei, da eine vermehrte Übernahme von Familienarbeit durch Väter nur dann realistisch scheint, wenn diese die Erwerbstätigkeit nicht mehr so stark beeinträchtigt, wie sie es heute tut. Erwägungen der Geschlechtergerechtigkeit bilden deshalb ein zusätzliches Argument dafür, dass Vereinbarkeit für alle Eltern ermöglicht werden sollte.

Ein Problem der nichtidealen Theorie stellt sich allerdings bezüglich der Umsetzung: Werden beispielsweise als Teil einer Vereinbarkeitspolitik vermehrt Teilzeitangebote für Eltern geschaffen, dann ist auf-

grund der geschlechterspezifischen Arbeitsteilung zu erwarten, dass diese in einer ersten Phase besonders stark von Frauen genutzt werden. Ein mit Blick auf Geschlechtergerechtigkeit problematisches Szenario könnte sich dann entwickeln, wenn Vereinbarkeit zwar ermöglicht wird, aber nicht mit einer Verschiebung von Familienarbeit hin zu Männern einhergeht, weil diese die entsprechenden Angebote nicht nutzen (vgl. Case 2000, 1757-1759).

Um diesem Problem zu begegnen, können bei der Umsetzung von Vereinbarkeitsmaßnahmen besondere Anreize für Väter gesetzt werden, sich vermehrt in der Familienarbeit zu engagieren. Bei der Förderung von flexiblen Teilzeitmodellen und anderen Vereinbarkeitsmaßnahmen müsste speziell darauf geachtet werden, dass diese auch für Männer attraktiv sind (vgl. Gornick und Meyers 2008, 343). Eine Möglichkeit, dies sicherzustellen, besteht im Setzen von entsprechenden Anreizen wie beispielsweise durch ‚daddy quotas‘ beim Elternurlaub oder steuerliche Gutschriften für Eltern bei einer Teilzeiterwerbstätigkeit von Vätern.

5. Schlussfolgerungen

Ich habe in diesem Beitrag argumentiert, dass Vereinbarkeit zwischen Erwerbsarbeit und Familienleben für alle Eltern ein Erfordernis der Gerechtigkeit bildet. Eltern haben ein gewichtiges Interesse daran, die Eltern-Kind-Beziehung pflegen zu können und gleichzeitig den Zugang zur Erwerbstätigkeit nicht zu verlieren. Auf dieser Basis können staatliche Unterstützungsmaßnahmen für Eltern wie Elternurlaub, familienexterne Betreuung und eine familienfreundliche Reform der Erwerbssphäre mit einer Reduktion und Flexibilisierung der Arbeitszeit gerechtfertigt werden. Einwände gegen eine Ermöglichung von Vereinbarkeit, die sich auf die individuelle Verantwortung der Eltern und die staatliche Neutralität beziehen, können zurückgewiesen oder zumindest entschärft werden. Aufgrund der Tatsache, dass es heute zumeist Frauen sind, die Familienarbeit leisten, muss aber darauf geachtet werden, dass eine Vereinbarkeitspolitik nicht das Ziel der Geschlechtergerechtigkeit gefährdet.

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Ist therapeutisches Klonen mit menschlichen Zellen moralisch akzeptabel?

Einleitung

Gegen Ende des Jahres 2017 gelang chinesischen Forschern die erstmalige Klonierung von Affen. Die beiden Klonaffen heissen «Hua Hua» und «Zhong Zhong» (Cell 2018). Ebenso real wie «Hua Hua» und «Zhong Zhong» sind inzwischen das sogenannte «therapeutische Klonen» und die damit verbundenen Kontroversen. Beim therapeutischen Klonen wird das Erbgut eines Erwachsenen in eine entkernte Eizelle transferiert und die so entstandene Zygote zur weiteren Entwicklung angeregt, wodurch embryonale Stammzellen gewonnen werden können. Mit diesen Stammzellen kann der Erwachsene, dessen Erbgut eingeschleust wurde, therapiert werden, ohne dass es zu einer Immunabwehrreaktion kommt (Illies 2003: 239). Die Frage, ob therapeutisches Klonen moralisch legitim ist, bildet einen wichtigen Gegenstand, mit dem sich die angewandte Bioethik auseinandersetzt. Die Beantwortung dieser Frage wird auch Gegenstand dieses Essays sein. Die folgende Erörterung wird sich an einem Text von Christian Illies (2003) orientieren. Dabei wird von mir als Erwiderung auf das von ihm aufgeführte Potentialitätsargument eine Gegenposition zu den Kritikern des therapeutischen Klonens eingenommen.

Hauptteil

Ein zentraler Begriff, der bei der bioethischen Debatte um therapeutisches Klonen eine Rolle spielt, ist der Begriff der Würde (vgl. Illies 2003). Die Würde des Menschen fasst Illies der kantischen Tradition entsprechend als den Anspruch eines jeden «Vernunftwesen» (dazu gehören menschliche Individuen) auf bestimmte Rechte auf. Dazu gehöre unter anderem das Selbstbestimmungsrecht und das Recht auf Leben, welches das wichtigste Recht als Voraussetzung für die Geltung aller anderen zustehenden Rechte sei. Insbesondere betont er, dass das Lebensrecht beim Menschen

nicht verhandelbar sei. Der Besitz von Rechten, die moralische Ansprüche verkörpern, rechtfertige sich für ein Vernunftwesen dadurch, dass es mittels seiner Vernunft allgemein in der Lage sei, Rechten oder eben moralischen Ansprüchen anderer Anerkennung und Achtung entgegenzubringen. Der Anspruch auf Rechte wie das Lebensrecht beruhe darauf, dass dem wertschätzenden Individuum selbst ein Wert zukomme, beziehungsweise zukommen solle, da es die Kompetenz hat, Dinge in der Welt, die für uns bestimmte Werte verkörpern, zu befördern (Illies 2003: 235-237). In einem nächsten Schritt legt Illies dar, weshalb die Menschenwürde als Massstab beziehungsweise Orientierung zur Beurteilung bioethischer Fragen gegenüber dem utilitaristischen Argument präferiert werden solle. Er räumt allerdings ein, dass eine Anwendung dieses Massstabs auf menschliche Embryonen, die beim therapeutischen Klonen im Fokus stehen, nicht möglich scheint, da diese noch keine Vernunftbegabung besässen. Als typische sowie essentielle Disposition des Menschen rechtfertige die Vernunftbegabung aber seinen Rechtsanspruch. Menschliche Embryonen, aber auch Säuglinge, Kleinkinder oder Schwerbehinderte, besässen demzufolge aufgrund fehlender oder mangelnder Vernunft keine Rechte. Um trotz dieses Umstands eine Anwendung seines Arguments zu rechtfertigen, weist Illies auf das «Noch nicht» hin und macht darauf aufmerksam, dass Embryonen über das Potential verfügen, die Vernunft Eigenschaft vollumfänglich zu entwickeln. Diese Rechtfertigung geschieht über eine von ihm aufgestellte Annahme die er als «Erweiterungspostulat» bezeichnet. Dieses besagt, dass eine Eigenschaft aufgrund derer wir Wesen zu einer Gruppe mit einem bestimmten normativen Status zählen, in einem einzelnen Wesen nicht präsent sein muss, um dieses Wesen zu der Gruppe zuzuordnen. Der Besitz von Merkmalen zur Realisierung dieser

Eigenschaft, ist hinreichend dafür, denselben normativen Status zu geniessen wie Wesen die bereits Träger der Eigenschaft sind. Das «Potentialitätsargument» ist nun eine Spezifizierung dieser allgemeinen Annahme. Gemäss diesem Argument genügt für alle Wesen allein schon der Besitz des aktiven Potentials zur vollen Verwirklichung des Vernunftvermögens, um die gleichen Rechte zu geniessen wie erwachsene, vernunftbegabte Menschen.¹ Obwohl dieses Postulat an sich wiederum einer hinreichenden Begründung bedürfe, welche freilich nicht vorliege, sei es annehmbar, da es unseren moralischen Intuitionen gerecht werde. So erscheine es uns ja auch kontraintuitiv, schlafenden und betrunkenen Personen jegliches Recht abzuspochen, nur weil ihr aktueller, vorübergehender Zustand den Vernunftgebrauch und damit bewusste Achtung vernünftigen (Illies 2003: 240-241).

Wie Illies unter Verweis auf John Rawls' «reflective equilibrium» zugesteht, reichen moralische Intuitionen allein nicht aus, um normative Urteile zu stützen, sondern es sei immer auch eine rationale Reflexion notwendig. Die Intuition spiele eine ergänzende Nebenrolle (Illies 2003: 234-235). Nun liefert aber das Potentialitätsargument ausschliesslich eine rein intuitive Begründung, wie folgende Rekonstruktion der Argumentation verdeutlicht:

- P1:** Allein das Verfügen über (aktives) Potential zur Entwicklung eines Attributs, durch dessen Besitz einem Wesen bestimmte Rechte zustehen, ist hinreichend, damit einem eben diejenigen Rechte schon zukommen.
- P2:** Durch Vernunft steht einem Wesen als Träger desselben das Lebensrecht zu.
- P3:** Zygoten/Embryonen verfügen über (aktives) Potential zur Entwicklung von Vernunft.
- K:** Zygoten/Embryonen steht das Lebensrecht zu.

Während die Annahme der dritten Prämisse nicht weiter begründet werden muss, und Illies für die zweite Prämisse bereits eine Begründung erbracht hat, wäre zur Annahme der ersten Prämisse, welche das Ergänzungspostulat zum Ausdruck bringt, ein weiteres Ar-

gument notwendig.² Die Plausibilität der ersten Prämisse wird rein intuitiv gestützt. Da das Argument aber auf der ersten Prämisse aufbaut, erscheint es uns nur aufgrund des Einklangs mit unseren Intuitionen plausibel und lässt damit eine rationale Begründung für den Lebensrechtsanspruch von Embryonen missen. Mehr noch: Wenn die praktische Anwendung des Arguments und die aus ihr resultierenden Konsequenzen in bestimmter Weise theoretisch durchleuchtet werden, kann eine gewisse Irrationalität aufgedeckt werden. So ist es mit folgendem Gedankenexperiment möglich, das Potentialitätsargument abzuschwächen. Stellen wir uns vor, es sei Forschern seit neuestem gelungen, aus jeder x-beliebigen, totipotenten Zelle einen Menschen zu generieren, und in dieser Welt würde das Potentialitätsargument als richtig erachtet werden, sodass eine universale und absolute Achtung des Potentials solcher Zellen geboten sei. Es sei an der Stelle betont, dass diese Norm «bis auf die Zelle genau» ernstgenommen werde. In dieser Welt ist es der Fall, dass menschlicher Nachwuchs nicht mehr auf natürliche Weise heranwächst, sondern dank fortgeschrittener Technologie in grossen Kapseln mit Nährmedien. Diese Nährmedien bieten ideale Bedingungen, damit totipotente Zellen bis hin zu Säuglingen ausreifen können. Totipotente Zellen haben also solange sie sich im Nährmedium befinden aktives Potential. Jedoch kommt es, nicht immer, aber sehr oft vor, dass sich beim Teilungsprozess totipotenter Zellen die neu entstehenden, aber immer noch totipotenten Zellen voneinander trennen und sich separiert zu eineiigen Zwillingssäuglingen fortentwickeln. Diese Zellentrennung kann sich wiederholt ereignen solange die Zellen im Nährmedium noch totipotent sind und sich teilen. Über diese möglichen Vorkommnisse in den Kapseln haben die Wissenschaftler keine Kontrolle, weil sie die Ursache dafür nicht kennen. Da die Achtung der Potentialität dieser Zellen durch das bestehende Gebot vorgeschrieben ist, dürfen die Zellen auch nach solchen Ereignissen nicht aus den Nährmedien entfernt werden um zu verhindern, dass diese zu Säuglingen heranwachsen. So entstehen aus einigen einzelnen befruchteten Eizellen, beziehungsweise totipotenten Zellen, jeweils eine Mehrzahl von vollständigen Säuglingen, was letztendlich zu einer Übervölkerung in dieser Welt führt. Diese mögliche Konsequenz der praktischen Anwendung des Potentialitätsarguments ist inakzeptabel. So betrachtet wäre also die praktische Umsetzung des Arguments klar abzulehnen, was gegen das Argument selbst spricht.

1 Eine wichtige Unterscheidung, die Illies trifft, ist die zwischen aktiver und passiver Potentialität. Eine Entität ist im Besitz von aktivem Potential, wenn sie in ihr liegendes Potential durch sich selbst verwirklichen kann. Passive Potentialität bedeutet, dass diese Fähigkeit fehlt und die Entität nur das notwendige Material zur Realisierung eines bestimmten Potentials aufweist. Die Realisierung kann nur von aussen bewirkt werden. Nur die aktive Potentialität zur Vernünftigkeit genügt nach Illies, damit einem Wesen das Lebensrecht zugesprochen werden darf (Illies 2003: 243-244). Ich fasse jegliche Formen menschlicher Totipotenz als Entitäten auf, die dem Kriterium von Illies genügen.

2 Natürlich ist auch die zweite Prämisse anfechtbar. Auf diese und ihre Begründung werde ich hier aber nicht weiter eingehen.

Gilt es, dieses Argument aufzugeben? Nein, nicht unbedingt, denn es wurde nur aufgezeigt, was die praktische Konsequenz unter bestimmten Umständen wäre, wenn die Achtung der Potentialität «auf die Zelle genau» aufgefasst wird. Das Gedankenexperiment führt vor Augen, dass es Gründe für eine Neubestimmung gibt, was die Achtung der Potentialität als philosophisches Konzept beinhalten soll. Dem Gedankenexperiment zufolge manifestiert sich eine Missachtung schon darin, dass die vollständige Realisierung vorhandener Potentiale einzelner totipotenter Zellen verhindert wird. Da wir nun ein solches Konzept von Achtung-, beziehungsweise Missachtung der Potentialität, unter solchen gegebenen Umständen wie im Gedankenexperiment, verwerfen müssten, würden wir dem therapeutischen Klonieren automatisch moralische Legitimität einräumen. Denn die moralische Kontroverse bei dieser Praxis nimmt eben gerade ihren Ausgang von der unvollständigen Realisierung der Totipotenz einer einzelnen Zelle, nämlich der künstlichen Zygote, als zentrale Problematik. Mit der Potentialität zu argumentieren ist möglich, aber bei genauerem Hinsehen mit Schwierigkeiten gekoppelt, welche die Überzeugungskraft des Arguments abschwächen.

Auch weil sich das Argument hinsichtlich einer klar zeitlichen als auch parallel dazu gefühlbetonten Abgrenzung von nicht-Nutzniessern des Lebensrechts durch ein Kriterium schwermacht, ist eine alternative Lösung des Problems gefragt, die diese Defizite des Potentialitätsarguments kompensiert (Illies 2003: 242). Begründete Abgrenzungsformulierungen in Kontexten wie diesem sind oftmals mit Vagheit belegt. Das bedeutet, dass in den Formulierungen vage Begriffe verwendet werden die eine eindeutige Abgrenzung nicht leisten können. Ganz klare Abgrenzungen dagegen sind in den allermeisten Fällen gar nicht oder schlecht begründet und somit willkürlich. Zwar gibt es keinen «hinreichenden qualitativen Unterschied zwischen Neugeborenen, Embryonen oder Zygoten hinsichtlich ihrer aktiven Potentialität zum Vernunftwesen», der derzeit empirisch belegbar ist (Illies 2003: 245, 253), wohl aber hinsichtlich ihres Schmerzempfindungsvermögens. So ist das ungeborene menschliche Lebewesen dem aktuellen Standpunkt der Wissenschaft zufolge erst nach Überwindung des Embryonalstadiums, ab fortgeschrittener Fetalperiode, in der Lage, Schmerz zu empfinden, weil sich die Nervenbahnen zuvor noch nicht ausreichend ausgebildet haben (Allied academies 2016). Wann genau die Bahnen dafür hinreichend ausgebildet sind, ist momentan zwar nicht benennbar, es ist jedoch aus empirischer Sicht ausgeschlossen, dass

Embryonen Schmerzen haben können, was als Information für unser Anliegen genügt.³

Abgesehen davon, dass Schmerzempfinden als Kriterium eine Grenze formuliert, wer zur Gruppe der Würdeträger zählt, wage ich zu behaupten, dass es eher unseren Intuitionen entspricht als das Potentialitätskriterium und sich daher besser bewährt. Denn von der Zygote bis hin zum fortgeschrittenen Embryo schweigen unsere Gefühlsempfindungen. Sie kommen erst ins Spiel, wenn der Embryo zum Fötus wird, weil dieser dann allmählich anfängt Menschengestalt anzunehmen, wodurch unser Mitgefühl für das Geschöpf zunehmend sensibilisiert wird. Entscheidend ist aber, dass das Kriterium, da es Zygoten und Embryonen nicht als Würdeträger gelten lässt, therapeutisches Klonen erlauben würde und deshalb unserer Intuition gerecht werden könnte, dass es richtig ist Menschen in einer gesundheitlichen Notlage zu helfen. Verhältnismässig ist diese Intuition doch um einiges gewichtiger und ernster zu nehmen, als die Intuition, dass Wesen aufgrund ihres Potentialvermögens, zu einem rationalen Menschen heranzuwachsen, schützenswert sind. Der Grund zu dieser Annahme liegt darin, dass diese Menschen im Gegensatz zu den Embryonen schon in gesellschaftliche Strukturen integriert sind und dadurch gegenüber diesen eine höhere Wertschätzung zukommt. Als Mitglied einer menschlichen Gesellschaft erfüllt man Funktionen auf mehreren Ebenen. Eine Frau mittleren Alters die zwei Kinder hat und als Schullehrerin berufstätig ist, nimmt einerseits eine Funktion als fürsorgende Mutter ein und andererseits eine bildungsvermittelnde Funktion ein. Beiden Funktionen haben für eine Gesellschaft hohen Wert. Daher kann es als grösserer Verlust bezeichnet werden, wenn Embryonen, die (noch) nicht als Gesellschaftsmitglieder fungieren, zu Ungunsten von notleidenden Menschen die in gesundem Zustand funktionsfähig sind, geschützt werden.

Die Menschenwürde umfasst, wie die Tierwürde, auch pathozentrische Aspekte, die es zu berücksichtigen

3 Debatten zum Schmerzempfindungsvermögen und deren Ausbildung welche mit der Entwicklung neuronaler Systeme einhergeht, sind nach wie vor äusserst kontrovers. Zweifel daran, ob es überhaupt einen «genauen Zeitpunkt» gibt und ob dieser empirisch festgestellt werden kann, sind berechtigt. Es ist daher vielleicht eher angebracht, sich eine weite Zeitspanne vorzustellen, innerhalb derer der Fötus anfängt, (kontinuierlich) höhere Grade von Schmerzen empfinden zu können. Objektiv können Empfindungen ohnehin nicht festgestellt werden, denn sie sind allein durch das Subjekt erfahbar. Die empirische Sicht, aus deren Perspektive ich argumentiere, basiert letztlich auf Erkenntnissen zu physiologischen Anlagen, die das Wahrnehmen von Schmerzempfindungen bedingen, sowie Symptomfeststellungen bei Schmerz.

gilt. So stellt sich denn in Anbetracht der Tatsache, dass bei therapeutischem Klonen unter anderem durch die künstliche Heranzüchtung verschiedener Organe viel menschliches Leiden sowie Sterben erspart werden kann, die Frage, inwiefern ein Verbot therapeutischer Klonierung ein Akt der Achtung der Menschenwürde als Wert ist. Bezogen auf die Gruppe der Embryonen mag das vielleicht zutreffen, jedoch nicht für eine Vielzahl von erwachsenen Menschen, deren Wohlergehen durch therapeutische Klonierung gesichert werden könnte. Dieser betroffenen Gruppe von Menschen nicht entgegenzukommen, würde ebenfalls eine Verletzung der Menschenwürde, zusätzlich aber auch eine schwerwiegende Vernachlässigung der (kantischen) Hilfespflicht bedeuten. Eine Legitimierung des therapeutischen Klonierens mittels des neu vorgeschlagenen Kriteriums würde des Weiteren eine Zuwendung zu derjenigen Gruppe bedeuten, bei der ausser Frage steht, ob den Zugehörigen Menschenwürde als moralischer Status zukommt oder nicht. Bei den künstlichen Zygoten, sowie Embryonen, lässt sich derselbe Status bis jetzt im Wesentlichen über das Potentialitätsargument rechtfertigen und dieses Argument bringt einige Probleme mit sich, über die nicht hinweggesehen werden kann. Ob diesen Wesen Menschenwürde zugesprochen werden soll, ist demzufolge zumindest fragwürdig. Es lässt sich festhalten, dass im Vergleich zur Potentialität als Kriterium das Schmerzempfindungskriterium eine Achtung der Menschenwürde also mindestens genauso ernst nimmt. Infolgedessen plädiere ich dafür, den Sachverhalt aus einer abwägenden- und Handlungskonsequenzen miteinbeziehenden Perspektive zu betrachten. Dieses Abwägen ist aber nicht mit demjenigen des utilitaristischen Ansatzes zu verwechseln, da dasjenige sich ausschliesslich an einer Maximierung von Glück oder Wunscherfüllung als Werten orientiert und von Illies meiner Meinung nach zurecht zurückgewiesen wird. Mein Abwägen vollzieht sich hinsichtlich der Menschenwürde, um dieser als intrinsischem Wert in angemessener Weise gerecht zu werden. Dabei ist die Berücksichtigung der Leidensfähigkeit und tatsächlicher Leiden von Individuen unumgänglich. Dies berücksichtigen zu können, setzt in diesem Kontext aber gerade voraus, dass auch die Konsequenzen unseres menschlichen Handelns beurteilt werden.⁴ Genau diese Anforderung stellt Illies selbst an die kantische Ethik, wenn diese fähig sein will, die Realisierung des Heilungsauftrags der Me-

dizin- und damit die Erfüllung der Hilfespflicht zu begründen (Illies 2003: 239).

Fazit

Ich komme abschliessend zum Ergebnis, dass therapeutische Klonierung moralisch legitimierbar ist. Ich habe anhand meines Gedankenexperiments versucht aufzuzeigen, dass das Potentialitätsargument als der zentrale Einwand aufgrund seiner ersten Prämisse anfällig für Abschwächungen ist. Auch ist es zu einem gewissen Grad kontraintuitiv, weil es keine plausible Grenze zwischen Nutzniessern und nicht-Nutzniessern des Lebensrecht zieht. Das Schmerzempfindungskriterium stellt gerade in dieser Hinsicht, aber auch hinsichtlich der Achtung der Menschenwürde eine attraktivere Alternative dar und wäre eine plausible Begründung und damit Grundlage für die Legitimierung von therapeutischem Klonen. Ein Gesichtspunkt der in diesem Essay nicht behandelt wurde aber natürlich äusserst relevant ist, wären mögliche Einwände gegen das Gedankenexperiment und das Schmerzempfindungskriterium. In diesem Zusammenhang wäre aus meiner Sicht insbesondere eine Diskussion über die Inhalte bezüglich pathologischen Aspekten die im Konzept der Menschenwürde verankert sind, von Bedeutsamkeit und daher wünschenswert.

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⁴ Bewusstes Unterlassen einer Handlung, wie es bei einem Verbot von therapeutischem Klonieren der Fall ist, fasse ich ebenso als eine Form von menschlichem Handeln auf.

Climate Change and Human Rights

Is the right to live in a clean environment a *genuine* human right?

“I have become convinced that climate change is the biggest threat to human rights in the 21st century.”

~ Mary Robinson, former UN high commissioner for human rights

1. Introduction

The introduction of the UN Special Rapporteur on human rights and the environment claims:

All human beings depend on the environment in which we live. A safe, clean, healthy and sustainable environment is integral to the full enjoyment of a wide range of human rights, including the rights to life, health, food, water, and sanitation. Without a healthy environment, we are unable to fulfill our aspirations or even live at a level commensurate with minimum standards of human dignity (Knox 2017, 1).

The right to live in a clean environment was not a priority when the Universal Declaration of Human Rights was established in 1948, however, this issue is nowadays hotly debated in the human rights arena. As a matter of fact, it is important to underline that in the last several decades some signs of progress have been made and the issue of the environment-human rights relation has been recognized. For instance, the United Nations Conference on the Human Environment - held in Stockholm in 1972 - focused on human interactions with the environment. The meeting ended with an agreement upon a Declaration of 26 principles, especially based on the environment's concerns. Just to give an illustration, the Principle 1 of the Stockholm Declaration proclaims that:

Man is both creature and molder of his environment, which gives him physical sustenance and affords him the opportunity for intellectual, moral, social and spiritual growth. In the long and tortuous evolution of the human race on this planet a stage has been reached when, through the rapid acceleration of science and technology, man has acquired the power to transform his environment in countless ways and on an unprecedented scale. Both aspects of man's environment, the natural and the man-made, are essential to his well-being and to the enjoyment of basic human rights the right to life itself (United Nations Environment Program 1972).

However, this legal mechanism does not seem to be sufficient in order to protect ourselves against the threat of climate change. First of all, the solidity of these principles seemed to fade away when the international community had to face specific and concrete environmental problems. Secondly, it is important to point out that the human rights dimension is only implicitly mentioned. According to the UN Climate Change and Human Rights Report, it has long been recognized that “a clean, healthy and functional environment is integral to the enjoyment of human rights, such as the rights to life, health, food and an adequate standard of living” (United Nations Environment Pro-

gramme & the Sabin Center for Climate Change Law 2015, 8). Yet, this does not mean that the human right to live in a clean environment is recognized as such. Furthermore, it has been recognized that the “anthropogenic climate change is the largest, most pervasive threat to the natural environment and human societies the world has ever experienced” (United Nations Environment Programme & the Sabin Center for Climate Change Law 2015, 8). For this reason, appropriate preventive measures should be taken, and the aim of this essay is to give a philosophical support in order to shed some light.

With this in mind, my aim is to argue that the right to live in a clean environment is a *genuine* right. According to S. Matthew Liao: “To determine whether a human rights claim is *genuine* or not, we need a substantive account of human rights, that is, an account that tells us what human rights we have and why we have these rights.” (Liao 2015, 1). Embracing Liao’s *Fundamental Condition Approach*, I endorse the idea that *genuine* human rights are those rights that are necessary in order to have a good life (i.e. a minimally decent life). For instance, as I will show in more details later on, the right to life and the right to security are *genuine* human rights, since humans cannot pursue the basic activities (i.e. activities that are important for human beings’ lives as a whole) if they are not alive or if the security of their person is not guaranteed (Liao 2015, 84). On the contrary, the right of having paid holidays is *not* a *genuine* human right, considering that humans can pursue the basic activities even when they are not granted paid holidays. In light of this view, my aim is to show why the right to live in a clean environment should be morally considered as a *genuine* human right, i.e. humans cannot pursue the basic activities (i.e. activities that are important for human beings’ lives as a whole) inasmuch as they are threatened by climate change.

Hence, I shall begin with the premise that (a) living in a clean environment is a human right *per se*. In fact, as I have briefly illustrated, threats to the different forms of environmental degradation will undermine access to clean water, food, and other key resources that support human life. Consequently, I shall start from the assumption that having the right to live in a clean environment is a precondition for having another right (e.g. the right to food). In light of Amartya Sen’s famous example, according to which the right to subsistence is interdependent to the right to free speech (Sen 1999, 152-54), I believe that a similar argument can be made concerning the right to live in a clean environ-

ment. Hence, if I understood Sen correctly, without political rights, people will be unable to make their voice heard when food runs short; therefore they are interdependent (i.e. without the right to free speech, people cannot demonstrate or express by any means that they are starving). In the same way, I believe that (e.g.) the right to subsistence and the right to live in a clean environment are interdependent. In other words, without a right to live in a clean environment people will have undermined access to clean water, food, etc. For this reason, I believe that living in a clean environment is a precondition for other (human) rights, and therefore it is a human right *per se*. Yet, for space reason, I will take this claim as my first assumption. The aim of this essay is, however, to analyze the moral justification beyond the right of living in a clean environment, i.e. my aim is to investigate whether living in a clean environment is a *genuine* human right. In order to do so, I will start with some essential definitions to build up a solid argument.

First, I will define what human rights are, taking into account two fundamental questions: (i) Are human rights a subset of moral rights or are they legal rights?; (ii) What grounds or justifies human rights? *Second*, embracing one of the so-called instrumental justifications, I will spell out Liao’s Fundamental Condition Approach, i.e. human rights’ moral justification based on the concept of fundamental conditions for pursuing a good life. *Third*, applying Liao’s Fundamental Condition Approach, I will explain the reason why the right to live in a clean environment should be accepted as a *genuine* human right. In order to do so, I shall show that both the physical and the social consequences of climate change impede the pursuit of a good life. Therefore, I will conclude by stating that the right to live in a clean environment should be considered as a *genuine* human right, i.e. a fundamental condition to pursue a *good life*.

2. What are human rights?

The idea that human beings possess certain rights merely in virtue of their humanity had its heyday in the 18th century, was almost forgotten in the 19th and was rediscovered in the 20th century to become the most powerful moral, legal and political concept of our time. Hence, the specific phrase “human rights” only became common in English usage in the 1970s, and the concept has grown in institutional and rhetorical importance during the last two decades (Cruft, Liao and Renzo 2015, 2). However, despite its significance and prominence in politics and philosophy, it is far from

clear what human rights are, what rights we have, and how their possession can be justified.

Therefore, in order to investigate whether living in a clean environment can be considered as a *genuine* human right or not, I shall first briefly describe what I mean by *human rights*.

According to Cruft, Liao and Renzo (2015, 1): “Human rights are the distinctive legal, moral, and political concept of the last sixty years”. From this short sentence, we can easily deduce that one of the main questions that arise from the human rights’ discourse is whether they are a subset of moral rights or they are *legal* rights. This is also called the “Nature of Human Rights Question” (Cruft et al. 2015, 4).

Let me clarify this point. On the one hand, if we claim that human rights are legal rights, we imply that they are given by a legislator, i.e. legal rights presuppose a lawgiver. Yet, who is the human rights’ lawgiver, *if* they should be considered legal rights? One possible interpretation might be that the lawgiver of human rights is actually the Universal Declaration of Human Rights (from now on UDHR). The latter was adopted by the Third United Nations General Assembly in December 1948 and became a model for the constitutions of many countries and domestic and international non-governmental organizations, i.e. NGOs (Cruft et al. 2015, 1). Hence, the representatives of human rights *qua* legal rights would claim that human rights are something that all human beings possess, because they are encapsulated in the UDHR, which states that “all human beings are born free and equal in dignity and rights” (Cruft et al. 2015, 5). Furthermore, following the UDHR, human rights slowly entered international law through, among others, the European Convention on Human Rights (ECHR) in 1953, and the International Covenant on Civil and Political Rights (ICCPR) in 1966 (Cruft et al. 2015, 1). In light of this view, I believe that we can appreciate the link between human rights *as* legal rights (i.e. rights stipulated and recognized by the law) and the respective creation of legal documents (e.g. ECHR or ICCPR), which protect human rights status.

On the other hand, the claim that human rights are moral rights means that their existence does not depend on any legal system. An intuitive way of defining human rights *qua* moral rights is to turn to the notion of natural rights, whose main formulation can be found in the writings of Grotius, Pufendorf, and Locke (Cruft et al. 2015, 4). To put it shortly, natural rights are supposed to follow our human nature, and therefore, they do not originate in human conventions. In this

case, the concept of *natural rights* (i.e. inherit rights) is opposed to the concept of *artificial rights* (i.e. given by a legislator). In other words, we can assert that human rights *qua* moral rights are those rights that all human beings possess simply in virtue of their humanity, and which can be identified simply by the use of ordinary moral reasoning (“natural reason”), as opposed to the sort of conventional reasons created within particular social or institutional contexts (Cruft et al. 2015, 4). Hence, *if* they are moral rights, we have human rights because we are humans, i.e. in virtue of our humanity.

In light of what was just said, we can wonder whether moral and legal human rights are compatible, and if so, under which circumstances. Before providing some possible answers, let me clarify this point with an example. According to the Swiss traffic rules, if I drive on the left side of the road I am violating the Swiss traffic rules system, i.e. I violate *legal* rules. However, if I accidentally drive on the left side of a district’s street at night, I am not violating any moral rule. On the contrary, if I drive on the left side of the road and I kill someone, I violate both the legal and moral’s systems. For this reason, we can see that legal and moral rules can be connected; yet, they are not necessary two sides of the same coin. Hence, what happens when we refer to the human rights system? As Cruft, Liao and Renzo pointed out: “Allen Buchanan has argued that many human rights are morally justified legal rights rather than pre-legal moral rights, whereas Samantha Besson is developing the idea that human rights must be at once moral and legal” (Cruft et al. 2015, 6).

Referring to my main question, i.e. whether living in a clean environment is a *genuine* right, I would endorse Besson’s intuition. Living in a clean environment should be both considered as a moral and a legal right (i.e. I believe that this right should be integrated into the UDHR).¹ However, for space reason, I will not deal with this issue here, and I shall just focus on the moral side of the issue. In other words, I will take into account only the moral understanding of human rights and, therefore, I aim at providing a philosophical *moral* justification for the right to live in a clean environment. Another question that arises when we deal with human rights is the following: What grounds or justifies human rights? This can be called the Ground of Human Rights Question (Cruft et al. 2015, 4) and it is re-

1 Future generations can be considered as possible candidates for people having a human right to live in a clean environment and introducing this right in the UDHR will be of a great benefit for them. However, the ethics of future generations is as interesting as a complex matter, which I will not consider here.

lated to the nature of human rights (Cruft et al. 2015, 11). As a matter of fact, “accepting a certain view of what human rights are, will naturally incline us toward a certain family of justificatory theories” (Cruft et al. 2015, 11). However, even though we might agree on the nature of human rights (e.g. human rights are moral rights), we might disagree on their justification. As far as Cruft, Liao and Renzo are concerned, there are three possible human rights’ justifications: (a) *Instrumental justifications*, i.e. the justification for the existence of a special class of rights called “human rights” is that they protect certain distinctive features of humanity (Cruft et al. 2015, 11-16); (b) *Non-instrumental justifications*, e.g. they would argue that we hold human rights as a matter of our basic moral status and that our holding these rights is at least partially independent of whether and how they promote or protect further human values such as agency, needs, freedoms or interests. (Cruft et al. 2015, 16-18); (c) *Practice-based justifications*, e.g. which aim to provide the best interpretation of the normative principles underlying the international human rights practice as we know it (Cruft et al. 2015, 18-23).

Nonetheless, for the scope of this essay, I will not discuss the above-mentioned justifications in details. In the following part, I will spell out one particular theory within the (a) *Instrumental justifications*, i.e. Liao’s Fundamental Condition Approach (2015). As I will show in a moment, Liao defends the view that human rights protect the fundamental conditions for pursuing a good life. In other words, according to Liao, the justification of human rights is grounded in their being necessary for, or at least significantly contributing to, human well-being. I shall now take into consideration Liao’s Fundamental Condition Approach, before turning to the main question of my essay: Is the right to live in a clean environment a *genuine* human right?

3. Fundamental conditions for a good life

Let me start with the assumption that human rights are moral rights, i.e. rights that humans have in virtue of being humans. According to various instrumental justifications, which seek to provide a moral ground for these rights, human rights are a useful or essential means to realize or further valued features of human lives right (Cruft et al. 2015, 11). Three main answers have been offered to the question “Which are these valued features?”, i.e.: (a) one appeals to the notion of agency, (b) one appeals to the notion of the good life, and (c) one appeals to the notion of basic needs (Cruft

et al. 2015, 11). I will endorse (b), i.e. the idea that the concept of “good life” is what further values human lives. In light of this view, Liao argues:

We need a substantive account of human rights, that is, an account that tells us what human rights we have and why we have these rights. But what gives content to a substantive account of human rights? In this paper, I offer a new answer: human beings have human rights to what I call the fundamental conditions for pursuing a good life. I call this the Fundamental Conditions Approach (Liao 2015, 79).

To flesh this point out, I shall first explain what means with “pursuing a good life”. According to the author, a good life is a life spent in pursuing certain valuable, basic activities (Liao 2015, 81). To give an illustration of what he means, let me consider one specific example: I am a philosophy student and I wish to be a professional philosopher one day. Yet, this is not a “basic activity”, which allows me to pursue a good life. On the contrary, I could have a good life in pursuing some basic activities such as having deep relationships (with parents, friends, etc.) or being involved in active or passive activities (e.g.: creative work and play, appreciating beauty). *De facto*, with “basic activities” Liao means that kind of “activities that are important to human beings qua human beings’ life as a whole” (Liao 2015, 81). It seems clear that being a professional philosopher is not fundamental for every human being’s life. It might be very important for me; yet, it cannot be generalized for every human being. On the other hand, one cannot pursue a good life if one does not have the opportunity to work and play; or to have deep relationships; or also to appreciate beauty. In other words, according to Liao, a human’s life cannot be a good life if any of these basic activities are not involved.

Furthermore, here it is worth making explicit that for “good life” Liao means a “minimally decent life”. As a matter of fact, he differentiates an “excellent life” (for instance, an “excellent life” for a researcher could be discovering a cure for cancer) and a “minimally decent life”, which the author understands as “a good life in terms of pursuing the basic activities” (Liao 2015, 81). Yet, how could one pursue a good life? What are the conditions for pursuing the “basic activities” mentioned above? Let me explain this point by giving an analogy. One of my favorite cakes is the “carrot cake”. In order to prepare a carrot cake, one can follow the

original recipe, which includes eggs, vegetable oil, sugar and, of course, carrots. However, in case I want to follow a vegan recipe, I can prepare a carrot cake without eggs. Yet, there is one essential ingredient in the carrot cake without which one cannot prepare a carrot cake, i.e.: carrots. Following this example, we can say that in Liao's "Fundamental Condition Approach" the fundamental conditions are like the carrots in the carrot cake. In other words, one cannot pursue a good life – or make a carrot cake – without the fundamental conditions– or the carrots in the carrot cake. According to Liao, "the fundamental conditions for pursuing a good life are various goods, capacities, and options that human beings qua human beings need, whatever else they (qua individuals) might need, in order to pursue the basic activities" (Liao 2015, 81-82).

For instance, every human being needs some fundamental goods – such as food and water – in order to pursue basic activities. It seems straightforward that without food, water, and air a human being would die; therefore (s)he would not have the possibility of having deep relationship, work or play. Moreover, a human being needs certain capacity (e.g.: to think, to know, to have liberty, to have autonomy, etc.) in order to pursue a good life. Without these capacities, the abovementioned basic activities cannot be pursued. Lastly, human beings must have options, which Liao describes as "those social forms and institutions that human beings qua human beings require if they are to be able to exercise their essential capacities to engage in the basic activities" (Liao 2015, 82). For instance, being able to determine the direction of one's life is an option that allows human beings to pursue a good life. However, according to Liao, not all the human rights listed on the UDHR are *genuine* rights and, thanks to the Fundamental Condition Approach, it is possible to trawl through them. Let me consider two examples. According to the art.24 in the UDHR "Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay" (UDHR 1948, 50). Is this right a *genuine* human right? According to Liao, it is not. As a matter of fact, it is true that "without time for leisure, human beings would not have sufficient time to pursue the basic activities" (Liao 2015, 85), however there is no reason to claim that holidays must be paid so one could pursue a good life. Here it is worth making explicit that "while there may not be a human right to paid holidays, this does not mean that there could not be a legal right to paid holidays" (Liao 2015, 85). Nonetheless, the human right of having paid holidays cannot be considered a

genuine human right. On the other hand, according to the Art. 3, UDHR: "Everyone has the right to life, liberty and security of person" (UDHR 1948, 50). If we now take into account the Fundamental Condition Approach, we can easily understand that the Art. 3 is a *genuine* human right. Hence, "if [the human beings] are not alive; if they cannot freely choose to act to some degree; or if the security of their person is not guaranteed, they cannot pursue the basic activities" (Liao 2015, 84). In other words, liberty, security, and life are synonyms of goods, capacities and options. In fact, one cannot have social interaction or determine one's life if one has no security. Neither could one think or act freely if one has no liberty. So, thanks to this "essential ingredients", every human being can pursue certain valuable, basic activities.

Following this argument, my aim is to show that one could not pursue a good life in a world heavily degraded by climate change. For instance, climate change will reduce freshwater availability in arid regions that are already suffering from severe water shortages and drought, where residents had to collect water from dry riverbeds during a period of prolonged drought (United Nations Environment Programme & the Sabín Center for Climate Change Law 2015, 3). To put it differently, through Liao's Fundamental Condition Approach, I shall show why living in a clean environment is a *genuine* human right.

4. Is the right to live in a clean environment a genuine human right?

Unprecedented changes in climate, which are the result of the so-called "human-induced climate change" phenomenon (Hardy 2003, 10), are taking place. If we continue on our present course, life on Earth will be inextricably altered (Hardy 2003, 9). Consequently, a change of direction is needed, otherwise, in a not so distant future, the impacts of climate change will reach a dangerous crisis.

For this reason, human beings must be strongly protected by the human right of living in a clean environment. In other words, "given the strong protection that rights can offer to the right-holders, and given the importance of having these fundamental conditions to human beings" (Liao 2015, 83), it is fundamental to morally recognize the right to live in a clean environment as a *genuine* human right.

In order to provide a moral justification to the right of living in a clean environment, I shall use the Fundamental Conditions Approach as conceived by Liao.

As already said, according to this view, human rights are necessary for pursuing a good life and they are, at the same time, protecting conditions for human well-being. For this reason, I argue that the right of living in a clean environment should be considered as a *genuine* human right, i.e. a fundamental condition to pursue a *good life*. Let me flesh this point out.

As previously illustrated, according to Liao, human rights are *fundamental conditions* – that is to say: (i) goods, i.e.: “resources that human beings qua human beings need in order to sustain themselves corporeally” (Liao 2015, 82); (ii) capacity, i.e. “powers and abilities that human beings qua human beings require in order to pursue the basic activities” (Liao 2015, 82); and (iii) option, “social forms and institutions that human beings require to engage in the basic activities” (Liao 2015, 82). In order to demonstrate why living in a clean environment is a *genuine* human right, I shall now take into account what I call the “direct” impacts of climate change, i.e.: physical consequences, and secondly, I will consider the “indirect” ones, i.e.: social consequences. My aim is to show that the consequences of climate change – both the physical and social ones – are threatening human beings’ fundamental conditions (i.e.: goods, capacities, and options) for pursuing a good life.

Let me start with the physical consequences of climate change, i.e. what are the impacts on the ecosystems and on natural resources. Sea level rise, changes in precipitation and temperature, and increased natural hazards (such as floods, droughts, and hurricanes) are all examples of physical consequences and they are strong obstacles for pursuing a good life. To give a concrete illustration, in arid regions that are already suffering from severe water shortages and drought, climate change is reducing even more freshwater availability. It seems clear that the reduction of water surface and groundwater resources caused by climate change will have serious and harmful consequences for human beings (United Nations Environment Programme & the Sabin Center for Climate Change Law 2015, 3).

Consequently, I believe that these harmful impacts are a threat to what Liao calls *fundamental goods*, i.e.: “resources that human beings qua human beings need in order to sustain themselves corporeally and include such items as food, water, and air” (Liao 2015, 82). As Liao has shown, without food or water a human being would not be able to play or work or appreciate beauty. In other words, climate change is threatening human beings’ possibility to pursue a good life.

Moreover, climate change is also threatening the fun-

damental *capacities*, i.e. “powers and abilities that human beings require in order to pursue the basic activities” (Liao 2015, 82). For instance, according to Liao, having control of the direction of one’s life (autonomy) or choosing an act freely (liberty) are instances of fundamental *capacities* (Liao 2015, 82). In order to analyze whether climate change is a threat for the above-mentioned fundamental capacities, I shall take into account the social impacts due to climate change, i.e.: impacts on livelihoods, health, and security of the people.

Climate change will increase the exposure to health hazards, which will affect peoples’ livelihoods – for example destroying their homes and properties (United Nations Environment Programme & the Sabin Center for Climate Change Law 2015, 7). It seems clear that, due to those climate-related hazards, people cannot act and choose freely (e.g.: they cannot freely choose the location of their homes), and neither can they control the direction of their lives (e.g.: extreme weather events may destroy their crops yields). Therefore, if Liao is right and human beings need essential capacities in order to engage in the basic activities, such as *autonomy* – i.e.: have control of the direction of one’s life (Liao 2015, 82) and *liberty* – i.e.: choose an act freely (Liao 2015, 82), climate change is a real dangerous threat. It seems straightforward that whether people are starving due to environmental factors and, consequently, they are forced to migrate in order to obtain relief food, their autonomy and liberty are denied.

Furthermore, climate change is a threat to the so-called fundamental options, i.e. “social forms and institutions that human beings require to engage in the basic activities” (Liao 2015, 82). Hence, the right of living in a clean environment will protect human beings’ fundamental options, e.g. determine the direction of one’s life. Accordingly, climate change’s consequences such as food insecurity, malnutrition, health problems, but also increase of child mortality and decrease on education (e.g.: climatic disasters can threaten educational infrastructure making it physically impossible for children to go to school) will impede the autonomous and free determination of one’s life.

In light of this view, we can claim that the human right of living in a clean environment can be considered as *genuine* human right, i.e. a fundamental condition for pursuing a good life.² As I already claimed, there are certain valuable activities that are important to human beings as human beings’ life as a whole, such as experiencing active and passive pleasure. In light of what I

2 I.e. a life spent in pursuing certain valuable activities.

argued before, the goods, capacities, and options provided by a clean environment would allow every human being to pursue a good life. In fact, it is important to underline that living in a clean environment is a fundamental human right for every human beings' life, since climate change will cause damaging impact for people who both live in developing and developed countries.

It seems straightforward that climate change can affect the environment, individuals and, communities and, as illustrated above, it has been recognized that there are both physical and social consequences due to climate change. In light of this view, I have shown that both these consequences (i.e. physical and social) are a limitation for pursuing the basic activities. In other words, as long as we live in a world threaten by climate change, the fundamental conditions that enable human beings to pursue a good life are threatened as well.

In a nutshell, one can claim that climate change is threatening human security in several ways. First of all, it is increasing the scarcity of fundamental resources, such as water and food. Second, climate change is also destroying traditional livelihoods – damaging people's houses and properties. Third, climate change will cause an extensive environmental migration, which could lead to violent actions. Fourth, as the former Secretary-General Kofi Annan said, climate change is not just an environmental issue, but is “an all-encompassing threat” to human health, to the global food supply, and to peace and security (Oxfam Issue Briefing 2013, 2). To put it differently, climate change is a danger for human beings' security and, as argued by Liao, “if the security of their person is not guaranteed, they cannot pursue the basic activities” (Liao 2015, 84). In other words, they cannot pursue a good life.

5. Conclusion

The aim of this essay was to show that the right to live in a clean environment is a *genuine* human right.

Climate change is one of the greatest threats to human rights of our generation, putting in danger the right to life, health, food and an adequate standard of living of individuals. For this reason, I believe that a philosophical underpinning concerning the moral justification of the right of living in a clean environment is needed. In order to do so, I have:

1. Provided a brief definition of *legal* and *moral* rights, i.e. I have addressed to the so-called “Nature of Human Rights Question.” Then, I have turned to the “Ground of Human Rights Question”, which aims at providing philosophical theories that justify human rights.

2. Endorsed Liao's Fundamental Approach, which argues that human rights should be grounded in the fundamental conditions for pursuing a good life.
3. Illustrated the reasons why the right to live in a clean environment is a *genuine* human right, i.e. living in a clean environment is a fundamental condition to pursue a good life.

I have shown that, as far as Liao is concerned, human beings *qua* human beings need certain goods, capacities, and options in order to pursue a good life. To put it differently, human beings need the *fundamental conditions for pursuing a good life*. My aim was to illustrate that climate change is a constant threat to a *good life*, i.e. a life further valued by the fundamental conditions. For instance, if a person is starving or is dying of thirst (s)he cannot pursue the “basic activities”, such as playing, working, appreciating beauty, or having deep relationships. Similarly, if people are forced to migrate in order to obtain food, their autonomy and liberty are denied. Furthermore, serious consequences of climate change (e.g. malnutrition, health problems, child mortality, etc.) jeopardize the autonomous and free determination of one's life. In short, in an environment put in danger by climate change, human beings' *options*, i.e. social forms and institutions that human beings require to engage in the basic activities; *capacities*, i.e. powers and abilities that human beings *qua* human beings require in order to pursue the basic activities; and *goods*, i.e. resources that human beings *qua* human beings need in order to sustain themselves corporeally, are at risk.

Significantly, I believe that a further consideration is needed. Rights secure strong protection to the right-holder and, at the same time, imply the existence of duty-bearers. Thus, every human being needs a protection for living in a clean environment in order to pursue a good life. But who are duty-bearers? And what are these duties?

A possible solution might be the one suggested by the “Key Messages on Human Rights and Climate Change”:

Climate change impacts, directly and indirectly, an array of internationally guaranteed human rights. States (duty-bearers) have an affirmative obligation to take effective measures to prevent and redress these climate impacts, and therefore, to mitigate climate change, and to ensure that all human beings (rights-holders) have the necessary capacity to adapt to the climate crisis (OHCHR, n.d.).

A further consideration of the nature of the duties and on the duty-bearers, concerning the human right of living in a clean environment, remains to be established.

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I and the Non-Identity Problem

A Reply to Parfit

1. Introduction to the Non-Identity Problem¹

We typically think that we have a duty not to harm persons who depend on us, including persons who are not yet existing. It seems morally wrong not to care about the conditions of living we may impose on future generations, like depleting the planet of scarce natural resources, lastingly polluting the environment, or irreversibly changing the climate. There are however cases where it seems unclear on what moral ground such obligations towards future generations may be based. Such cases occur when the existence of particular future persons is tied to a type of acts that seems at the same time harmful to that person. If the person who is affected nevertheless lives a life worth living, it has been argued that there is nobody who is made worse off, and thus there is seemingly no harm done. This is so because the person considering to commit such a type of act (that I will from now on refer to as *questionable act*) seems to have only two options: Either, by commission, to bring into existence a person *A* who is affected by a questionable act, or by omission, to bring a *non-identical* person *B* into existence who is thus not affected. It seems however impossible to bring person *A* into existence without negatively affecting her by the questionable act. As *A*'s life is overall still worth living despite the negative effects of the questionable act, there seems to be no ground to say that *A* has been made worse off. As the problem arises because the questionable act is in some way tied to the identity of the person, Derek Parfit, who introduced the problem, called this the *non-identity problem* (Parfit 1984a).

Children of persecuted ethnic groups may constitute such a case. Being persecuted seems to be a bad thing to live through. However, the fact that being persecuted

very likely shook up the social structure of the affected community, there is a strong possibility that the persecution influenced when children were born, and to which parents. If there had been no persecution, other children would be born. Thus, the children born into the persecuted ethnic group seem to owe their particular existence to the fact that the group is persecuted. If they still consider their life worth living, it thus seems that they have not been made worse off by the persecution of the ethnic group they belong to.

There are various well-taken replies to the non-identity problem as Parfit presented it, and some of them will be presented below. In the present essay, I will attempt to develop another line of argument to answer the non-identity problem. This line of argument is based on the observation that what defines the identity of someone (the intension of the identity of this someone) varies substantially depending on whether a first-person or a third-person perspective is chosen, but that it is primarily the first-person understanding of being someone that yields the moral foundation of the value of being a person. Thus, the claim that I will try to justify is that the non-identity problem is based on an incomplete concept of identity. What defines the identity of someone from a third-person perspective, as it is the case for the non-identity problem, is not significantly different from what defines the identity of inanimate things and may thus be morally insufficiently informative. Thus, it may be no surprise that it does not yield the morally correct answers. I will furthermore try to show that arguing towards persons affected by the questionable acts in the way that the non-identity problem seems to justify constitutes itself an additional harmful act towards these persons: The speaker thereby systematically undermines what constitutes the moral status of the affected being.

¹ I thank Vera Moser for her constructive comments on an earlier version of this essay.

2. A prototypical case

Parfit has illustrated the non-identity problem with a series of prototypical examples. For the purpose of this essay, I will use the following example, as I find it particularly useful to illustrate the moral tension that the non-identity problem produces:

The 14-Year-Old Girl. This girl chooses to have a child. Because she is so young, she gives her child a bad start in life. Though this will have bad effects throughout this child's life, his life will, predictably, be worth living. If this girl had waited for several years, she would have had a different child, to whom she would have given a better start in life (Parfit 1984a, 358).

Imagine now that the child (let's call her Claire) has reached an age where she notices that she is systematically and significantly worse off than her peers, and that this is likely to be mostly explained by the age of her mother at the time she was born. She has a feeling that this is not fair towards her, and complains to her mother Martha. Martha, who happens to be familiar with Parfit's line of arguments, rejects that complaint. She explains to Claire that if she had not had her at the age of 14, she would not exist at all, but someone else. Martha tells Claire that at the age of 14, when she decided to have a child, she was well aware of the difficulties that the child would be facing because of her young age. But then, she also knew that her child that will happen to be born with these difficulties could only come into existence under the conditions that necessarily entailed these difficulties. In other words, while bringing *Claire* into existence, these difficulties were *unavoidable*, and if she had waited with having a child until the conditions had improved, not Claire, but someone else would have been born. Thus, she argues, from Claire's perspective, she only had the choice between either bringing Claire into existence with those difficulties, or not bringing Claire into existence at all. Martha then asks Claire if her existence is so bad that she regrets being born at all. As Claire denies that, Martha concludes that for Claire, the good contained in the fact of being born outweighs the harm of being born into those difficult but unavoidable conditions. Therefore, after all, Claire ought rather to be grateful to her for making that decision at the age of 14 instead of complaining about it. Actually, she should rather be ashamed about complaining to her, as she has benefited her more than she has harmed her. Thus,

she never wants to hear those complains again. This is, she remarks in addition, something that she takes as a sign of ingratitude towards her own mother as the most important benefactor for Claire, and that it is Claire who is to be blamed now for trying to make that point, but not herself. Claire, she concludes, has no right to complain about her behavior at the time. In addition, she angrily points out, as no-one else has been affected, no-one has a right to complain at all. In brief, she concludes, there is nothing wrong with the choice she made when bringing Claire into existence at the age of 14.

Claire is puzzled. She does find her life worth living, and does not regret being born. But somehow, the "sting" that she senses when seeing her peers having a better life than hers seems to be immune to this. While the argument that Martha presented to her seemed to be conclusive, she finds it at the same time very conceivable and natural to think that her life *could* have been easier, and that the fact that this is not the case was caused by Martha's decision. In fact, the more she thinks about this, the more she gets the feeling that the way Martha was arguing with her was in itself hurting her. At that point, I think we may begin to feel sorry for her. Is she really bound to accept the argument? Are the difficulties that she is facing something she should consider like a fate that is an a-priori part of how she must understand her existence? And should she even be grateful for that fate?

I think there are answers to Martha's arguments that come in support of Claire's complaint. And I think there is one type of answer that matters particularly for Claire, and that makes the arguments made by Martha something that is unjust specifically for Claire. The argument is based on how the non-identity problem presents itself for Claire as the eventual victim of harmful behavior committed by Martha. This type of answer may thus also be particularly well suited to explain the feeling of compassion towards Claire that we may have experienced during her dispute with Martha.

3. Third- and first-person views on identity

3.1. The third-person view

The non-identity problem, as Martha has employed it to defend her action, is based on the tie between acts which have detrimental consequences for a person and the identity of the person who is affected: Choosing an alternative to the questionable act can then only affect a non-identical person. This makes it seemingly impossible to wrong the affected person. However, in

order to evaluate the above argument further, we need to get a good grip on what defines the identity of a person. In general, we may say the following: To say that person *A* is identical to person *B*, it is necessary and sufficient to show that all relevant properties of person *A* are also properties of person *B*, and the other way around. For these properties to be relevant, it is, as Parfit notes (Parfit 1984a, 353), necessary that they are connected to a person's particular physical or mental characteristics. As a *Cartesian Ego* does not meet these criteria, he limits the scope of the potentially relevant properties that may serve to define personal identity to what can be observed from outside, i.e. to physical features.

Thus, from this point of view, these relevant properties must all be determinable objectively, and may, we can tentatively propose, be grounded in a particular set of genes and their interactions with the environment. Thus, significant alterations to this set of genes or the environment alter what defines the identity of a person from a third-person perspective. This objective approach to the identity a person is common sense, as it is very useful to define a particular person in a social and legal sense where we often rely on individual, maximally stable physical or even genetic traits of the person. Our passports have a picture of a person's face and a digital copy of her fingerprints, and can thereby serve as an official carrier of the identity of that person over time, and gene traces often serve to identify persons in criminal investigations.

But for Parfit to pose the non-identity problem as he did, it is only necessary to make a statement that is sufficient to assert the identity of a person in a way that contains a time-dependency of the properties that are relevant for the definition of the person's particular identity. For this purpose, these properties need to satisfy two conditions: They need to be *necessary* (i.e. with any those property missing, the identity of the person would not be sufficiently defined), and they need to be *distinct* (i.e. they cannot all be the same for two different persons) (Parfit 1984a, 352).

The following time-based statement seems to satisfy these two conditions:

If any particular person had not been conceived within a month of the time when he was in fact conceived, he would in fact never have existed (Parfit 1984a, 352).

Given a case where the above statement is true, the identity of a person thus depends on a particular procreative act.

3.2 The first-person view

However, what defines personal identity may be very different from a first-persons perspective. Searle, to name someone making this point, distinguished what he called the *first-person ontology* and the *third-person ontology* (Searle 2000, 561).

From that subjective point of view, the relevant properties I rely on to identify with myself are, I tentatively propose here in line with e.g. Gallagher (2000), primarily a continuous, direct and pre-reflective experience of bodily sensations and voluntary bodily actions that I am the subject of. This is, to counter eventual objections here up front, and in agreement with Parfit's concern, not suggesting that we base the identity of a person on an immaterial Cartesian Ego. The proposal is, as I will also argue later, perfectly compatible with views that posit a necessary connection between material properties of the body and the subjective experiences made being that body. But by changing the sensations produced by that body, or even by drastically changing essential properties of that body itself, "I" may still be the subject of the sensations and actions my body forms, and thus be, in this subjective sense, the same subject.

Thomas Nagel has made this point as follows:

When I consider my own individual life from inside, it seems that my existence in the future or the past — the existence of the same 'I' as this one — depends on nothing but itself ... My nature then appears to be at least conceptually independent not only of bodily continuity but of all other subjective mental conditions, such as memory and psychological similarity. It can seem, in this frame of mind, that whether a past or future mental state is mine or not is a fact not analyzable in terms of any relations of continuity, psychological or physical, between that state and my present state (Nagel 1986, 33).

The contrast to Parfit's statement is obvious: If, in some strange world, I woke up one morning and, when looking in the mirror, I would, by some mystery see Tina Turner, "I" would now probably be Tina Turner. But at the same time, "I" would still be the same subject that has been Thomas König the evening before.

However, while those mysteries do not happen, it is not necessarily so that nothing of this kind takes place at all, and when we carefully observe ourselves, there is a plethora of subtle dissociation between our objective and our subjective identity: Think for example of how your

body changed with age while you always felt being the same subject. Or consider for a moment the feeling of an anesthetized limb that strangely felt as not being part of your self, as you were, for the time of the action of the anesthetics, not the subject of the sensations and actions that limb may have produced. An outside observer on the contrary has no reason *not* to consider the limb as a part of your person, but may not recognize you as the same person if your physics has substantially changed.

Insisting on this point is not an exotic position. The fact that we have this “minimal phenomenal selfhood” has meanwhile developed into full-fledged research domains that encompass neuroscience as well as philosophy of mind (Blanke and Metzinger 2008). John Searle considers what he called the first-person ontology (Searle 2000, 561) as a constitutive element of any conscious experience, and the biological evidence gathered so far suggests that we sense our self in a way that is comparable to how we sense other things like color and taste. This sensing of “self” has now been systematically linked to brain processes that integrate information across intero- and exteroceptive input, representations of motor intentions, and memory (Blanke 2012). And like with all other senses, our subjective experience of self turns out to be constantly changing, plastic, highly adaptive, and prone to failures and illusions. Experimenters are meanwhile able to introduce an inanimate object into the body-scheme of an experimental subject (e.g. during the so-called rubber-hand illusion²) or induce out-of-body experiences, and some of the most severe disturbances of our sense of self, as for instance in patients with schizophrenia, are well-explained by experimentally and biologically supported models of faulty self-perception processes. The “I”, in this view, and in contrast to a Cartesian Ego, is thus a process and not a thing, and we may tentatively understand it as information that is integrated in such a way that the conscious quality of its experiential content is a sense of self (Tononi 2004).

Based on these observations, I want to make the following statement:

Our subjective and embodied sense of identity with our self is not necessarily identical to the particular material identity of the body that we experience as being our self.”

2 When inducing the rubber-hand illusion, a subject is made to see an artificial rubber-hand, while her actual hand is hidden from the subject’s view, but in a position close to the artificial hand. Next, her real hand is gently stroked while she simultaneously sees the rubber-hand being stroked. As a consequence, she will tend to identify the rubber-hand as a part of her own body, and respond fearful to events that threaten “her” rubber-hand.

3.3 Two views on the same person

It is not the aim of this essay to resolve the ongoing debate among competing definitions of personal identity. However, I think we can safely claim that the link between the objective and the subjective definition of identity is the link between a complex information integration process and the material substrate of that process, and that a reduction of the functional and experiential aspects onto its material base is likely to be problematic.³

What matters to me here is that these definitions of personal identity are not the same, and that probably neither can account for everything that we may want to account for: Ontologically, the materialistic dimension certainly precedes the subjective one (in the case of an embryo with a not yet functional nervous system), but the subjective experiential aspect of selfhood is likely to precede the objective one in an epistemological sense (in the case of a young child that has a stable minimal phenomenal selfhood, but does not yet have a sense of constancy of itself and others as persons). There are of course interesting, but non-trivial connections which often matter in practice, like when holding a person responsible for a past act: This requires a non-accidental co-presence of subjective and objective identities, as we want to hold responsible the person who is objectively identical to the person who committed the act, and that person must be expected to feel identical with the subject who committed the act in order to be considered as morally responsible. For the aim of this essay, it is however interesting to work out some important differences between the two definitions. I present the following:

- **Countability and comparability:** In the third-person ontology, persons behave like most other objects, in the sense that they can be quantified, there is a plural form of the noun, and that it is therefore possible that two persons can be compared. However, in the first-person ontology, the term “I” has no plural, as there is always just one subject of a particular bodily sensation or bodily action. It is thus not possible to compare two instances of an “I”. In a first-person ontology, the “I” is not defined in contrast to another “I”, but by constantly assessing (and this can be read both in a ontolog-

3 See e.g. Jackson (1986) for a classical argument against physicalist explanations of experiential phenomena. Parfit himself, and in the same book where he presented the non-identity problem, has claimed that personal identity may not be necessarily defined by the material identity of our body (Parfit 1984b).

ical and in a neurobiological sense) whether some event coincides in a non-accidental way with the experience of a bodily sensation (resolving whether I have been affected or not), or whether some events match the expected consequences of my actions (resolving whether I have been the author of the events) (Gallagher 2000). What an “I” compares against is thus not another “I” but merely “alien” or “not me”.

- **Possibility of non-existence:** In a third-person ontology, statements like the one Parfit made about persons can also be made for inanimate objects as long as some of their defining properties depend on their time of creation. We can, for example, think of wine. A corresponding statement then may look like this: Because wine is different each year, if no Merlot del Ticino has been produced in 2014, then “Merlot del Ticino 2014” does not exist. But interestingly, we cannot make a similar statement from the subjective perspective. The sentence “If I wasn’t conceived in October 1966, I don’t exist.” is in itself false, because there is nobody who can reasonably deny his or her own existence as a sentient being.
- **Value:** The third-person ontology of a person is equal to how we could define the identity of most other objects. If we damage such an object, say a shoe, this is only morally problematic in an indirect way, as the shoe is probably no subject who can perceive the damage as painful or as an obstacle to its intended actions. The shoe may of course be of instrumental value for someone who can walk better with the shoe being intact, but it is only through this someone that we may have reasons not to damage the shoe. However, given that we maintain such basic moral tenets towards others as reducing harm and helping, the moral value of this type of actions seems to require at one point in time a subject who directly experiences pain when being harmed, and who experiences agency when being helped. Harming nobody is simply not harming at all, and helping nobody is not helping at all, and the “body” that makes harming and helping relevant is making such actions relevant by forming, I suggest, experiences of bodily sensations and basic intentional actions. General moral tenets like reducing harm and help-

ing others thus require at least the possibility of the presence, at one point in time, of somebody who can say “This affects my self”. It is thus the subjective, but not the objective understanding of personal identity that can account for values that we typically consider as intrinsic.⁴

4. Taking sides

In order to show why the way the non-identity problem is presented gives the wrong answers to some morally relevant questions, it is not necessary to show that it is wrong from all points of view. It is enough to show that for each case of a non-identity problem, there is at least one case where the argument behind the non-identity problem is morally problematic for someone. This case materializes, I propose, as the being whose identity (understood in the objective sense) depends on the behavior that produced the foreseeable harm, but who evaluates the effects of the behavior from her own subjective point of view. As these two perspectives differ significantly in how they compare identities and in whether or not they permit non-existence, and as the way we assess identity and existence are premises of the non-identity problem, the conclusions drawn from the non-identity problem depend on the perspective we choose. And as the two perspectives differ in their access to normative values, we may have reasons to choose one perspective over the other when it comes to evaluating certain conclusions that the non-identity problem suggests are true. In the next three subsections, I will thus discuss the choice between the two alternative perspectives from an epistemic, an evaluative, and a practical point of view.

4.1 Why we ought to refer to subjects, and not to persons

In this subsection, I will develop an argument that we necessarily have to refer to a first-person ontology to morally evaluate actions in general. The argument runs as follows:

⁴ Within the ongoing debate about the nature of practical reasons, the position of the so-called “reason Internalism” similarly claims that access to (private) motivational states, and thus a subjective first-person perspective, is necessary in general for what constitutes a reason for someone to do something (Manne 2014, Schroeder 2007).

- P1:** All actions that factually or potentially affect a sentient being are potentially morally relevant
- P2:** The morally relevant content of being affected by something consists of bodily sensations or the (im)possibility to voluntarily⁵ act in certain ways. I will term this content of being affected *subjective experiences*.
- C1:** ∴ From P1 ∧ P2 follows that if we want to morally evaluate an action that affects another being, we necessarily need to refer to the subjective experience of the affected subject.
- P3:** Being the subject of one's subjective experiences is not necessarily identical to being a particular material person.⁶
- C2:** ∴ From C1 ∧ P3 follows that we must refer to the subject of experiences, and not to particular persons when we evaluate an action that potentially affects a sentient being.
- P4:** The non-identity problem, as Parfit has formulated it, refers to material persons, and not to subjects.
- C3:** ∴ From P4 ∧ C2 follows that in the way Parfit formulated the non-identity problem, we cannot expect morally informative conclusions.
- P5:** The full content of subjective experiences is accessible solely to the subject of the experiences, i.e. it is private.
- P6:** Subjective experiences can be communicated by the subject of those experiences from the first-person perspective.
- C4:** ∴ From P5 ∧ P6 ∧ C2 follows that insight into moral questions needs to refer to what affected sentient beings (as least assumingly) communicate.⁷

For this type of referring to communicated subjective experiences as postulated in C4, I will use the term *empathy*. It comes as no surprise that intuitively, we often consider a lack of empathy as a profound *moral* deficit of character. An empathetic referring to another subject is a perspective taking that requires the attempt, as good as it is possible, to perceive things as if one were experiencing it as the other being.

4.2. What does, and what does not matter to subjects

In this subsection, I will argue that it is the subjective, and not the material understanding of being that bears value to a sentient being. I will thus examine some relevant aspects of what defines us as being a subject, and what defines our material existence as person in terms of values that these aspects may, or may not convey for a sentient being.

4.2.1. Hedonistic values

Bodily experiences are traditional candidates for theories of moral values. They range from, to name just two version, the Epicurean view that a good life consists essentially of the absence of fear and pain to particular forms of utilitarian theories like the one proposed by John Stuart Mill (Mill 1863). And while there are strong arguments against the view that such hedonistic theories may be sufficient for a complete theory of moral values (see e.g. Nozick's thought experiment of the experience machine; Nozick 1974), the avoidance of pain and the gain of pleasurable feeling are undoubtedly basic pro-tanto reasons for the being affected by these experiences to value particular alternatives in a given situation.

Beyond this hedonistic aspect, there are traditionally "continental" and scientifically fruitful positions that argue that pre-reflective experience of bodily sensations matter because they are our primary means of understanding both of our selves and of our outer world. Gernot Böhme for example coined the term of the "birth of the subject through pain", as the subjective experience of pain is something that undoubtedly informs the subject that there is something that is in a direct and not further deducible way about her or his self (Böhme 2008). Mirroring John Searles term of a first-person ontology that is part of any conscious experience, being a subject is thus from these positions in a fundamental way identical to being the subject of particular private and subjective experiences. If others refer to the subjective sensations of a sentient being, they thus validate something that is essential for this

5 I understand the term "voluntary" as the property of being caused by something that some sentient beings attributes to its conscious self. This does neither imply nor exclude that what is being attributed to this self may at the same time obey the rules of physics and have a physical substrate.

6 We can in fact observe dissociations in either way: A person who suffers from agnosia after a stroke may for example not recognize parts of her or his body as "self" (personal identity of the body part persisting in the absence of the subjective experience that the body part is also part of the self), or a person with a complete retrograde amnesia may not be able to identify herself with the person she is explained she has been in the past (thus, we have a sense of self persisting independently of personal identity).

7 This coincides why we habitually work on interpersonal moral questions by asking one party to "put themselves into the shoes" of the other.

being. If others bypass these experiences, they act in a way that is oblivious to a basic quality of this being in a way that, as I will argue below, is per-se harmful.

4.2.2. Agential values

Given that the experiences we talk about are subjective and may therefore individually vary, it follows that valuing these experiences implies that we ought to have freedom of action: For Mill, who endorsed a hedonistic moral theory that aimed at maximizing the overall experience of pleasure and the overall minimization of pain, the issue of what these pleasures and pains consisted of, and how they ought to be weighted was not set commonly for all. He thus proposed that “there should be individual experiments of living” (Mill 1859, Ch. 3), and that in fact individuality is “one of the principle ingredients of human happiness, and quite the chief ingredient of individual and social progress.” Therefore, for Mill, “it is desirable [...] that in things which do not primarily concern others, individuality should assert itself.” This implied for him that “men should be free to act upon their opinions – to carry these out in their lives, without hindrance, either physical or moral, from their fellow-men, so long as it is at their own risk and peril” (Mill 1859, Ch. 3). And while the scope of this argument may be limited to the range of situations where a hedonistic moral theory gives reasonable answers, freedom of actions is by no accident a basic constitutional right in probably any modern legal system.

But again, there are more reasons than hedonism to value being the subject of voluntary bodily actions. Intuitively, this connects to valuating the agential basis of personal autonomy, i.e. “being the master in one’s own house”. It is this type of experiences that permits us to perceive ourselves and others as more than merely passive perceivers of events taking place in a merely physicalistic world, and as beings that are being able to act upon things we care about. So again, if others refer to the subjective experience of agency of a sentient being, they validate something that is essential for this being. Bypassing these experiences is, as I will argue below, a potentially harmful act against something that constitutes the core of the affected being.

4.2.3. There is no value in existing per se

Can a subject value existing as such? I think the answer is no, simply because not to exist is something that no subject will ever experience. Existence is, in other words, for all sentient beings an a-priori given fact, and it seems in general futile to argue about the value

of something in the absence of any possible alternative. For the same reason, a subject cannot reasonably regret existing per se in the first place, as existing is a necessary condition for being able to regret at all.

Note also that based on the way Parfit laid out the non-identity problem, I think he would have to agree with this conclusion. This is so because the idea that a person may value her own existence implicitly endorses a dualistic position: The notion that “giving” a physical existence to someone is a choice that is beneficial for this someone implies that there is the possibility not to do that. However, if that alternative shall exist, the potential beneficiary must be separable from the benefit, and thus, in the particular case we are dealing with, from its own physical existence. Making such a claim thus coincides with the standard definition of dualism and would therefore require something like a Cartesian Ego that already exists as beneficiary before being born as the person who benefits. But this is an option that Parfit explicitly needs to reject (Parfit 1984b, 353), as this would falsify the non-identity premise of his argument. Thus, Parfit cannot reasonably assume that there is any value in existence per se.

The only other benefit of existing that we are left with is thus the benefit of existing as a particular person, which is what I address next.

4.2.4. There is no value in being a particular person

Can a subject value the fact that it is born as a particular person? Again, I think the answer is no. Given that we do not endorse theses like a reincarnation under some Karma, the defining facts about the person whose body we are the subject of are probably best considered as largely due to a large series of quite random coincidences. And while these coincidences may obviously determine to a large extent what subjective experiences we make, how we make these experiences, and how valuable these experiences will be for us, it is these experiences that are up for evaluation, and not the fact that we are the subject of these experiences as a particular person. Therefore, there is no particular benefit that we can expect from existing as a particular person, apart from benefits and harms which apply to all persons born into a sufficiently similar particular time and place, and with sufficiently similar biological and evaluative predispositions. For the same reasons, we can strictly speaking also not be expected to regret or not to regret existing as a particular person. The rational way of formulating regret in this context is that we may or may not regret being made the subject of

certain beneficial or harmful subjective experiences. Thus, in the range that it is feasible for others (like Martha) to affect the causes of these experiences, standard ethical views like the notion that we have a right to be spared of experiencing avoidable harm imply that others have corresponding duties to prevent this from happening.

4.3. Why we sometimes must disregard the third-person ontology

The following section addresses the practice we apply when we interact with sentient beings on morally relevant issues, and clarifies the question whether this practice essentially refers to the first-person or the third-person ontology. I will argue in favor of the former being the essential one. At the same time, it is also the former one that is incompatible with the thesis that the non-identity problem is a conclusive argument against the rights of future generations. The reason for favoring the first-person ontology in the practice of moral reasoning lies in the observation that arguing about practical reasons with another person commonly contains an imaginary change of personal identity in the third-person sense in order to approach the subjective identity of the being we address. We use sentences like “If I were you, and considering the set of further facts F , I would rather φ than χ ,” or “If you were me, what do you think would it mean to me when you χ instead of φ ?” Assuming that Parfit formulated the non-identity problem correctly, such sentences would never be meaningful at all, as their antecedent (“If I would be you” or “If you would be me”) would always be false. Therefore, we would be confronted with the quite unwanted conclusion that nothing specific could ever follow from such sentences.

It is interesting here that in the domain of theories of practical reasons, a recent proposal of what practical reasons are is based on exactly such a perspective taking talk to others: Kate Manne defined practical reasons as “those considerations which would ideally be apt to be cited in favor of that action, when we are reasoning with her about what she ought to do” (Manne 2014, 97). Importantly, the person citing these considerations (whom she calls *ideal advisor*) must necessarily interact with the advisee in a mode that she calls (taking up a terminology introduced by P. F. Strawson) the interpersonal mode. This mode is defined by “treat[ing] them [the advisees] as a human being much like ourselves” (Manne 2014, 95) and is opposed to what she calls the objective mode where “we view the individual as a kind of human object to be

managed, cured, or navigated around” (Manne 2014, 95). Given that we grant Manne’s proposal plausibility, it follows that a purely objective understanding of other beings is unsuited to address important issues about practical reasons (and thus also about the ethical considerations regarding procreative acts). It is on the contrary necessary to cross the borders between different objective personal identities to actually be able to practically address probably most ethical issues.

Finally, I think it is safe to say that thinking beyond the borders of one’s own particular existence is a necessary condition for an empathetic understanding of others. Carl Rogers, an expert in emotion focused psychotherapy, defined empathy as the ability to see completely through the eyes of the other, and to adopt the others frame of reference (Rogers 1995, 85). And we intuitively, and probably for reasons similar to the ones presented here, consider a significant lack of empathy in someone as a trait that is per se morally problematic.

4.4. Harming others by disregarding the first-person ontology

Apart from the previous observation that the third-person ontology is epistemically in many ways deficient when it comes to understand values and practical reasons, I think we also have reasons to believe that using arguments based on the non-identity problem against victims of the relevant acts constitutes itself *another* harmful act.

One reason why arguing in this sense is harmful is because the way the non-identity problem is formulated, it attributes value to existing, thus to something that cannot be otherwise *for the affected subject*. However, something that cannot be otherwise seems to be unsuited to carry any moral weight, and to provide justifications in favor or against certain acts. In a first-person ontology, this is important, but a-priori and trivial, but not a moral fact for the affected subject. At the same time, in the logic of the non-identity problem, this factually “empty” value of existing is understood by Parfit as a benefit that compensates for some harm being done. The putative compensation of existing is something that is intrinsically already and always part of the subject, and thus not something that can be considered as being given in return for the harm, unless, and against Parfit’s own view, we would endorse a dualistic understanding of a person. Thus, one reason why the arguing based on the non-identity problem is harmful is because it seems to justify a foul deal. A further reason why this type of arguments is harm-

ful is that based on the foul deal we have discovered, they exert a pressure on those who experience the consequences of unnecessarily harmful proactive acts not to speak up and testify about the bad consequences of a questionable act. In the example of Martha and Claire, Martha makes use of this pressure to blame Claire for her complaining and thereby silencing her. We may thus consider the usage of this line of arguments against the those experiencing the consequences of the questionable acts special cases of what has been called *testimonial injustice* (Fricker 2007). Testimonial injustice is, in Fricker's words, the "... idea ... to explore [...] as a distinctively epistemic injustice, as a kind of injustice in which someone is wronged specifically in her capacity as a knower." (Fricker 2007, 20). In the way the argument behind the non-identity problem silences the victim, such testimonial injustice is particularly harmful, as it is wronging the subject experiencing the harm, and thus our primary source of access to the morally relevant negative subjective experiences which the questionable act has entailed.

5. Conclusion

Let me finish this text with helping Claire to justify and flesh out in words, from the point of view of practical philosophy, why the "sting" that she felt in her situation is pointing to something morally meaningful. Claire could reply to Martha that while it is true that her life is overall worth living, this is not due to the fact that she exists per se, and this is not due to the fact that she exists as a particular person. Existing, and existing as a particular person, is something that she has no reason to count in favor of anything, as for her, this is merely a necessary fact without alternative. She disapproves, however, that Claire engaged in an unnecessarily harmful proactive act that entailed someone suffering harm unnecessarily. She (Claire), as the subject experiencing this harm, has a right and a duty to testify how it is to be the subject of the experiences caused this harm, and to blame Martha as the one who had caused this harm. And finally, making usage of her own capacity as an attentive student of philosophy of mind, she points out that the non-identity problem, as Parfit has formulated it, is not conclusive in the first place, as it contains an ambiguity about monism and dualism, and that neither a monistic nor a dualistic position yield support for the argument that Martha had used to justify her questionable act.

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The Glow of Romantic Love

A phenomenological account

I. Introduction

The words of Tolstoy: “We are asleep until we fall in love!” point to an important phenomenon. They indicate that there is a transition from one state to another; romantic love seems to have a power to transform one’s way of being and completely change the lens through which the world is experienced. The question arises what exactly happens to the state of our consciousness when we fall in love and what makes this state of consciousness different to any other state? It is plausible to assume that it is similar to emotional states insofar that it has a unique epistemic value, intentionality as well as phenomenology (see Teroni and Deonna 2012, chap. 1). But in contrast to states such as “fear” and “anger” it possesses a far wider scope of characteristics and therefore comes closer to being classified as something like a syndrome (See for instance Prinz & Pismenny 2017, De Sousa 2015).¹ In this essay, however, we avoid using categories of emotions, sentiments and syndromes, as we do not want to define necessary and sufficient conditions that make the state of romantic love subject of any of these categories. Instead, we focus on one possible criterion only which makes romantic love different to any other state, namely its unique phenomenology. Firstly, it is precisely the richness in phenomenology that makes romantic love so hard to classify in the first place. Secondly, it might be in virtue of its phenomenology that romantic love is one of the most mysterious and sought for states of conscious-

ness. Lastly, by taking the perspective of “how it is like” to be romantically in love, we gain new insights into the diverse forces that impact the consciousness of people in love which will eventually allow us to define romantic love as a distinctive phenomenological state.

The first part of the essay is dedicated to developing an understanding of the specific type of state of consciousness induced by romantic love. In this section, we describe some of the unique characteristics of this state and introduce the term of “glow” in order to refer to how it is like to be in that state. We claim that it is precisely the experience of glow that explains whether romantic love is present or not. In the second part, two quibbles that may be given against defining romantic love as glow are presented. Whereas these quibbles are not a very serious threat to our account, a more serious objection is examined in the last section. Could it be possible that the altered state of consciousness which we want to uniquely attribute to romantic love can also be induced by other mediums, such as drug consumption? Given that this objection might be fatal for individualizing romantic love through phenomenology, the similarities between the phenomenology of the altered state of romantic love and the altered state induced by drugs are illustrated. It appears that nearly all the features of romantic love also arise in drug experiences. Only the feature of “effortless care” offers a possible direction to differentiate the two states. As such a feature might have something to do with the experience of “sharedness” between two lovers, we provide a reference to the shared emotions account. Although we don’t consider romantic love to be a shared emotion, this account offers some first insights into possibly distinguishing romantic love from drug states. However, further research is required to illuminate the particular experience of sharedness in romantic love.

¹ The following quote of De Sousa indicates why love can be hardly defined as an emotion, but rather as a syndrome. “Depending on circumstances—depending on where you are, in just what love story—love might be manifested in sorrow, fear, guilt, regret, bitterness, gloom, contempt, humiliation, elation, dejection, anxiety, jealousy, disgust, or murderous rage. Rather, think of love as a condition that shapes and governs thoughts, desires, emotions, and behaviours around the focal person who is the ‘beloved’. Like a kind of prism, it affects all sorts of experiences—even ones that don’t directly involve the beloved. I will call that a syndrome: not a kind of feeling, but an intricate pattern of potential thoughts, behaviours, and emotions that tend to ‘run together’” (De Sousa 2015, 43).

II. The glow of romantic love²

The following section is dedicated to exploring the altered state of consciousness induced by romantic love. In this essay, we do not address the path offered by neuroscience or behavioural theories. Rather, we offer to contemplate this issue through a phenomenological approach. More precisely, in order to describe such state, we want to introduce the term glow which refers to *how it is like* to be romantically in love. Such “being-state” is determined by the first-person perspective and can therefore vary from person to person. However, we believe that there are some common features which again vary by degree but still have to be present in order to qualify an experience as romantic love. When such features appear, they induce an altered state of consciousness which is felt as “glow”. In the following section, we describe these features to shed some light on how the glow of romantic love transforms the experience of lovers in various ways. Further, we claim that this glow cannot be reduced to any particular feature but instead is a unity of transformed experiences.³ We claim that it is the altered state of consciousness *per se* which is common to all experiences of romantic love. In order to illuminate these phenomenological features, we draw from our own experiences as well as from descriptions offered by the people around us. By doing so, we are confident that these descriptions offer an accurate insight into the phenomenon.

As a starting point, let us get inspired by Sousa’s words: “when manifested in mutual gaze, reciprocated love can produce ecstasy—a word that etymologically means ‘standing outside yourself’” (De Sousa 2015, 59). This quote exhibits elements that we consider fundamental in order to give rise to the phenomenon of *romantic love*. Before going into the description, there is a preliminary

2 In the present essay, we decided to focus on romantic love. However, love can take various and significantly different shapes. To illustrate such diversity, a reference to the Greek wording is useful. De Sousa, for instance, distinguishes three types of love: *Philia*, *Storge* and *Agape* that involve no sexual drive in contrast to *Eros*. “*Philia* evokes close friendship. *Storge* (pronounced store-gay) connotes caring in the sense of taking care of, implying concern for the beloved’s interests and welfare, such as we might feel for close friends or family. But *Storge* is not incompatible with sexual desire, unlike *Agape*, sometimes rendered as ‘charity’, which is a sort of indiscriminate, universalized, and sexless *Storge*” (De Sousa 2015, 41). Lastly “*Eros* is typically associated with intense sexual attraction. It is *Eros*, not *Agape* or *Storge*, or even *Philia*, that has inspired a greater number of poems, music, works of art—and crimes—than any other human condition” (De Sousa 2015, 41). Our definition of romantic love borrows mainly from the characteristics of *Storge* and certain sides of *Eros*.

3 The glow is made of these features but cannot be reduced to them. In that respect, we consider that a helpful insight is the concept of *mereology*. However, to engage in a full defense of the glow understood through mereology would go beyond the scope of this essay. We invite the reader to refer, for instance, to the work of David Lewis in his book *Parts of classes* (Lewis 1991, 72–82) for a framing and defense of mereology.

remark we want to make on the element of reciprocity. We consider that this a necessary condition in order to give rise to what makes romantic love what it is. We don’t want to deny that in cases where a person experiences unrequited attraction, it can give rise to intense sensations. However, we want to limit ourselves to the experiences which arise “in mutual gaze” and which are due to an experienced connection between two persons. We believe it is essentially the experience of sharing which enables a natural flow of mutual and effortless care⁴ which nurtures romantic love and therefore makes it a unique, powerful, and transformative experience.

Let us begin with describing the moment where the eyes between two lovers meet. De Sousa describes this moment as following: “In gazing, as we say, into another’s very soul, the lovers’ mutual desire is enhanced. They feel naked not only physically but in their sense of being exposed and vulnerable to one another” (De Sousa 2015, 59). It is in this process that we feel as though a window into another’s being opens. In such a moment, vulnerability is experienced as something beautiful and not something to feel ashamed of. Being lovers gives rise to an intimate bond where both are willing to embrace their full self to the other. This feeling between two lovers is experienced as something very fragile yet simultaneously, it gives rise to a blind and confident trust. When two people feel romantic love, it gives rise to a sense of belonging. Their fate is somehow sealed and therefore each destiny is painted in the colours and nuances of the other. In such process, the attentiveness to the other’s needs becomes effortless and triggers a desire to tenderly take care of them.⁵ The caring element is particularly powerful as it

4 As stated in footnote 2, our account of romantic love borrows from the characteristics of *Storge* and *Eros*. Those two types of love imply care. It is noteworthy to stress that it is nevertheless not the same type of care. *Storge* “connotes caring in the sense of taking care of, implying concern for the beloved’s interests and welfare, such as we might feel for close friends or family” (De Sousa 2015, 41). As for *Eros*, its link with care is not as straightforward since it is often depicted as a selfish type of love. However, we don’t share such condemning approach and are rather sympathetic to the understanding of *Eros* such as it is portrayed by Solomon. In the following quote, he defends the virtue of *Eros* in contrast to *Agape*, which is the type of love highly praised in Christianity (close to charity). “*Eros* differs from *agape* in the prevalence of self-interested desire, but it is not thereby selfish and the desire is not just sexual. It includes a much more general physical desire to be with, such personal desires as ‘to be appreciated’ and ‘to be happy together’, such inspirational desires as ‘to be the best for you,’ and such ‘altruistic’ desires as ‘to do anything I can for you’” (Solomon 2003, 27). The key in Solomon’s quotation is the “more general physical desire to be with”. The attraction between the two lovers goes beyond the mere sexual aspect. Their beings aspire to be in each other presence and to feel this very presence. The care has its origin, and is constantly reinforced through the reciprocated attraction. It follows that in what is specific to romantic love is that those two types of care are present (in contrast to care in parenthood or sibling relations).

5 An interesting analogy might be drawn with the concept of disinterested concern as understood by Harry Frankfurt in relation

nurtures the felt bond between two lovers.

Lastly, we want to mention the deeply ingrained desire to transcend. We agree with Lamy that romantic love is nurtured by such desire for transformation and liveliness. He writes: "I propose that love relies on a need for change and self-improvement. The impulse for love is aimed at escaping the despair of being only what we are; this is the reason why love goes together with idealization. Love can reach its goal only if the person for whom we feel an intense longing for union (Hatfield & Walster, 1978) has the potential to inspire us and elevate us. Everything inside us that would never have changed now has the possibility to change thanks to the power of accommodation, the capacity to accommodate others. Love might be defined as a consented and desired influence" (Lamy 2016, 102:). It is in such spirit that two lovers naturally adapt and easily recognise value they had previously not assigned to things. For instance, one person might have always considered dancing as a useless and ridiculous activity. Yet, by falling and being⁶ in love with someone who is deeply eager about it, one might forget its previous prejudice about dancing and decide to embrace it as a shared endeavour. Such adaptation can happen in various forms, from eating habits (e.g. accepting to trying tofu for the first time) to opting for a complete unfamiliar life environment (e.g. leaving friends and family without hesitation in order to start a life in a new country). As those examples reveal, loving prompts humans to potentially fully open themselves up and embrace unknown life directions.

To sum up, the glow of romantic love has the fundamental characteristics of the lovers experiencing vulnerability, the extension of the self, effortless caring, self-transformative aspects, and an overall enhancement of their experience by undergoing more vivid sensations, feeling an increased confidence in existence overall, and a tendency to live actively in the present moment. It is in virtue of the glow that a simple light touch between the lover's

to self-love. According to Frankfurt self-love is the purest form of love where the concern is disinterested (i.e. "not driven by any ulterior purpose but seeks the good for the beloved as something that is desired for its own sake" (Frankfurt 2004, 79)). Analogically, in the presence of glow such concern towards the lover might be fully disinterested.

6 Fromm makes a clear difference between falling in love and being/standing in love (Fromm 1965, 4). In our case, we consider that the glow of romantic love arises somehow in-between. We are aware of the fact that the glow may seem to involve many aspects of the transports accompanying the process of falling in love. Yet, the glow of romantic love does not emerge at the same time as infatuation. It happens after this first wave of intensity, when it is not a mere physical attraction between two lovers but an experience of deep connection that bonds them. Afterwards follows the phase of being in love in which the lovers actively decide to nurture and cultivate the glow.

hands may trigger tremendously more sensation than the strong feeling described by Proust's protagonist while eating the famous madeleine: "No sooner had the warm liquid mixed with the crumbs touched my palate than a shudder ran through me and I stopped, intent upon the extraordinary thing that was happening to me. An exquisite pleasure had invaded my senses, something isolated, detached, with no suggestion of its origin" (Proust 1946, 95-96).⁷ Because of the state of the glow of romantic love, the very thought of the beloved's existence, triggered by pure imagination or ridiculously banal things such a simple good morning message, can catapult a lover into higher spheres of being.

III. Some minor quibbles

If romantic love is only present when the altered state of consciousness of glow is felt, there might be not so many states we can call states of romantic love because such glow is (a) dubiously felt constantly and/or (b) it may decrease over time.

In regard to (a), we consider that the particular state of romantic love is always present but that the different features of the glow are not always present. In that respect, a parallel with Goldie's understanding of romantic love might be fruitful. He considers that the sentiment of love⁸ can "refer to a longer-term state which is not an immediate part of conscious experience, although it can be the source of the occurrent emotions which are. It is in this latter sense of the term emotion that I can say that I have loved her for more than 20 years" (Goldie 2010, 63). Analogically, not all of the features of romantic love are always *actually* present but can become occurrent when a certain situation arises. For example, when two lovers are together, they might experience mutual care when exchanging physical gestures of tendresse, whereas when they are apart, the glow does not give rise to the occurrence of expressing mutual care via physical gestures. However, it does not mean that in case where two lovers are apart, the glow of romantic love was not present at all. Rather, the state is constantly present, but people do not always give attention to it.⁹ In order to illustrate the

7 In original language: "et bientôt, machinalement, accablé par la morne journée et la perspective d'un triste lendemain, je portai à mes lèvres une cuillerée du thé où j'avais laissé s'amollir un morceau de madeleine. Mais à l'instant même où la gorgée mêlée des miettes du gâteau toucha mon palais, je tressaillis, attentif à ce qui se passait d'extraordinaire en moi. Un plaisir délicieux m'avait envahi [...]" (Proust 1946, 95-96).

8 For reasons that oppose the view that romantic love is a sentiment, we refer to the paper "Is Love an Emotion?" (Pismenny and Prinz 2018, 9-10).

9 Whether the case of the glow is always present in the periphery of your attention field (analogically to Searle's example of the

latter point, we can draw an analogy with Bramble's treatment of "unconscious displacer". He refers to this very banal moment when you suddenly notice that the fridge compressor is still. Such "glorious silence" that triggers huge relief. He writes: "But obnoxious it was, and all the while it had been, unbeknownst to you, fouling your experience as you went about your business. In short, you'd been having an unpleasant experience without knowing it" (Bramble 2013, 205). Such example exhibits an important nuance, namely the fact that something does not exist just because you do not have a direct felt access to it. Likewise, in romantic love, the glow might always be present despite of us not always phenomenologically accessing it. Furthermore, it is fruitful to distinguish between the cases where two lovers are not accessing the state because they are occupied with something that distracts them but could easily access it when thinking of the other and the cases where it might be there in potentiality, but they can no longer access it. It is the latter case that might be responsible for the phenomenon of quibble (b), namely that romantic love decreases over time.

In regard to (b) we argue that even though it is said that the glow of romantic love is about to decrease over time, the fact that it has been once felt has left a significant mark on the two lovers. Given this transformative impact upon our being we experienced in relation to our lover, we believe that even the memory of the intensity once felt is sufficiently powerful to give meaning to the possibly fading romantic love experienced between two lovers over time. Lamy offers a supporting argument in that regard. He says that "when long-term, dysfunctional relationships are maintained, it is possible that intimate partners, while being aware of the deleterious aspects of their relationship, keep holding the view that they have a unique and irreplaceable intimate relationship—which by most people is called love" (Lamy 2016, 99). We agree with his account and consider that this feeling of having a "unique and irreplaceable intimate relationship" finds its origin and current confirmation in the glow felt at some point during the relation. The experiences between lovers that were under the influence of glow were stored in memory and can therefore offer a possible explanation of why people have the tendency to carry on an unsatisfactory relation even when they acknowledge it as being no longer fulfilling or even harmful and toxic at a present moment. It is important to distinguish romantic love from the latter described phenomenon which is no longer romantic love but only a memory of the romantic love

which once has been present. Lastly, we leave the question open whether in these cases where romantic love is mainly present in memory rather than actuality, its potentiality still exists and the lovers just have no longer conscious access to it, or romantic love has completely vanished.

To sum up, we bite the bullet that only these experiences qualify as romantic love which are glow-states. Cases where the state of glow can no longer be realised are not cases of romantic love as such, but are either romantic love in potentiality, romantic love in memory or simply not romantic love at all.

IV. Major objection: The analogy with drugs

In the previous section we defined romantic love as an altered state of consciousness experienced as glow. Quite often an altered state of consciousness is thought to be induced by another medium, namely by drugs. It is certainly not due to chance that there is a metaphor 'Love is like a drug' which we encounter quite often in every-day conversations. It seems that love and drugs both offer to reach an ecstatic altered state of consciousness. Let us examine a bit more closely what the metaphor between love and drug seeking indicates. When we tell someone that he is beautiful as the sun, such a link between sun and person exhibits a fundamental feature of the sun that we find appropriate to relate to the person. Yet, the question arises: what are the fundamental features that we attribute to some psychedelic drugs that may make such metaphor relevant? The answer may stand in the experience of an altered state of consciousness, which might be that both, drug and love, can potentially trigger. Yet, whereas we seek and praise love, drug usage is condemned. In this section we explore the limits of the analogy between drugs and romantic love with the aim to identify possible dis-analogies that allow us to distinguish the phenomenology of romantic love from the phenomenology induced by drug-taking. Only if we find criteria that distinguish the phenomenology of romantic love from the one induced by drugs, it is possible to individualise romantic love by its phenomenology. The next section is dedicated to examining the similarities between the effects of drugs and romantic love; firstly, with regard to the description of the altered state of consciousness, and secondly, with regard to the addictive element such state inflicts upon the lover or drug taker.

pressure of a shoe which is only felt when one gives attention to it (Searle 2000: 565)) or whether it has to be treated differently has to be further investigated.



IV. A. Similarities between two types of altered states of consciousness

A.1. Similar features induced by drugs¹⁰ and romantic love

A.1.1. Analogies between the phenomenology of romantic love and drugs

Let us start with referring to some testimonies of what it is like to take drugs or be in love, offered in a paper of Robert Fuller. The testimony by David Wulff is a good starting point as it exhibits many crucial features that we also find in the core description of the altered state induced by romantic love: “Light and color become greatly intensified, objects seem plastic or alive, and fantastic imagery swirls through the visual field. Dramatic scenes of mythic proportions may unfold in a profusion of eidetic images. Sensitivity to sounds, tastes, and odors may be increased [...]. Time, the medium of these experiences, is also radically transformed. Intervals only minutes long are so full and rich that they seem almost of infinite duration [...]. More remarkable, perhaps, is the dissolution of the self, sometimes called depersonalization or derealization [...]. The awesome experience of union with the surrounding world, the sudden illumination of existence, the ‘sacramental vision of reality’” (Fuller 1999, 105).

First, this description puts on display the *intensification of senses* that is equally found in romantic love. Such intensity is accompanied by “a childlike openness to experience and a sense of wonder and awe” (Fuller 1999, 111).

¹⁰ The testimonies provided are not intended to offer a complete nor comprehensive account of the various effects of drugs. We only opt to give some insights into the phenomenology of drugged states in order to illustrate the analogy between being romantically in love and being drugged.

Second, there is a felt sense of connection with the surrounding world. Interestingly, Wulff uses the term *union*. This same effect is also described by Ayahuasca consumers as “the loosening of boundaries” (Shanon 2003, 141), which reminds us of the notion of the *extension of the self* that we defined as a crucial element found in romantic love. Thereby one experiences the world more rawly, or in the words of another attester, Huxley, there is a sense of “naked existence” (Fuller 1999, 103), where one submits oneself confidently to the hands of the lover or to the effect of drugs. Welcoming such *vulnerability* makes the lover as well as the drugged connected to the beloved or to the universe as a whole. “One may feel that one’s ‘I’ is blended with that of others, that one is immersed in the world as to become unified with it, that there is no neat distinction between one’s internal mental world and one’s perceptions of the external world” (Shanon 2003, 137). Third, it follows from those two powerful aspects that one’s *overall experience is enhanced*. Wulff uses evocative expressions such as “the sudden illumination of existence” and the “sacramental vision of reality” (Fuller 1999, 105). Such instantaneous illumination is also found when two lovers recognise the reciprocal adoration in each other’s gaze. Both the lover and drug taker alike experience the world in a more harmonious way. Reminding ourselves about Lamy’s view that “[r]omantic love might be an attempt to experience this feeling of harmony with at least one person, for want of being able to create it, most of the time, with the whole of our environment” (Lamy 2016, 104). Likewise, the experience of drugs can heighten the ability to find more meaning in existence. For example, “the attribution of meaningfulness”, “aesthetic sensitivity”, and “sense of holiness”



Figures from left to right:

- a) Leighton, Edmund Blair (1882) "Abelard and his Pupils Heloise" (<https://untexteunjour.fr/2016/08/22/heloise/>, accessed 02.07.2019).
- b) Maignan, Albert (1895) "Green Muse" Amiens: Musée de Picardie (<http://absinthemuseum.auvers.over-blog.com/2016/05/la-muse-verte-d-albert-maignan.html>, accessed 04.07.2019).
- c) Lou-Andreas Salomé with Nietzsche (right) and Paul Rée in 1882 (Simon 2004: 54).

are very salient features with Ayahuasca consumption (Shanon 2003, 143). Lastly, we find *self-transformative* elements in both experiences. For example, it is stated that psychedelics have the power to deconstruct "the world of waking rationality and temporarily transport the initiate into a whole new mode of thinking and feeling" (Shanon 2003, 114). Analogically, Lamy attributes to love the power to not only "add something to our personality, but also transform who we currently are" (Lamy 2016, 102). Assumingly, such transformations may leave lasting impacts on lovers and drug takers alike and change the way one experiences the world. Furthermore, a common feature arising from the altered state induced by romantic love and drug taking is *the time transformation*. The feeling of romantic love deeply grounds the two lovers into the moment and hence obscures the notion of time. The attention of the lovers is fully directed at the present and to all sensations it can offer. It follows, that for instance various types of responsibilities usually linked with a schedule are overlooked. The priorities change without active deliberation. A straightforward parallel can be drawn with a drug taker's experience. The following quote from Huxley describing one of his drug experiences clearly exhibits this emphasis on the present and the blurriness of time: "There seems to be plenty of it,' was all I would answer, when the investigator asked me to say what I felt about time. Plenty of it, but exactly how much was entirely irrelevant. (...) My actual experience had been, was still, of an indefinite duration or alternatively of a perpetual present made up of one continually changing apocalypse" (Huxley 1952, 6). The attention is diverted to such a degree that "interest in time falls almost to zero" (Huxley 1952, 7). Lovers as drug takers are fully absorbed

by their experience and therefore lose the usual sense of it. Lastly, we wanted to highlight that both altered states are used to nurture creativity. The painting of Maignan (b) exhibits the pertinence and interrelatedness of those two types of muses. Neither its title "la muse verte", nor the fact that the "drug" is painted under the trait of a beautiful woman owns anything to chance. Drug and love are two important alternative mediums in order to induce creativity and inspiration. Facing the power of altering one's consciousness, it is not surprising that love and drugs are the most classical *locus of inspiration* cited by artists. There are many figures of art associated with drug taking. Among the various examples we find Baudelaire and hashish, Kerouac and benzedrine, Burrough and the heroin, de Quincey and Laudanum. Likewise, there are many lovers who are cited to have been the muse of a lot of artists. To just mention some examples: there is Lou Andreas-Salomé who had a significant impact on Nietzsche and Rilke (c), the reciprocal inspiration between Camille Claudel and Auguste Rodin, Rosetti's hundreds of paintings of Jane Burden and the reciprocal philosophical inspiration of Heloise and Abelard (a). Inspiration being sometimes highly elusive, the easier access given by drug or romantic love is a powerful reason for seeking those mediums.

A.1. II. Addiction to access the phenomenological state

As described above, those phenomenological states are particularly powerful and attractive. Having experienced the vertiginous heights of romantic love or drug consumption, one is deeply impacted. The way life is normally experienced may seem quite gloomy

in contrast with the way life is under the altered state of consciousness. The two mediums may give rise to addiction. A clear parallel can be drawn between what we could call the different possible phases of romantic love and the phases of drug addiction. In romantic love, the first phase is characterized by a powerful, maybe even irrepressible, drive toward the beloved person. The two lovers' minds are saturated by the pictures of their lover, constantly supplying the fire of passion by remembrance. "Like all addicts, they focus on their beloved [salience]; and they yearn for the beloved [craving]. They feel a 'rush' of exhilaration when seeing or thinking about him or her [euphoria/intoxication]. As their relationship builds, the lover seeks to interact with the beloved more and more frequently [tolerance]" (Zou et al. 2016, 2). Analogically, drug takers also have a strong yearning for the experience of being drugged and crave the euphoria felt under intoxication. The second phase is present when drug takers and lovers alike are deprived of their object of longing. "If the beloved breaks off the relationship, the lover experiences the common signs of drug withdrawal, too, including protest, crying spells, lethargy, anxiety, insomnia, or hypersomnia, loss of appetite or binge eating, irritability and chronic loneliness" (Zou et al. 2016, 2). The third phase is characterised by the impossibility to reach the altered state of consciousness and the very strong longing to renew such state. They write: "[l]overs also relapse the way drug addicts do: long after the relationship is over, events, people, places, songs, and/or other external cues associated with their abandoning sweetheart can trigger memories and initiate renewed craving, obsessive thinking and/or compulsive calling, writing or showing up in hopes of rekindling the romance—despite what they suspect may lead to adverse consequences" (Zou et al. 2016, 3). As this description shows, the altered state of consciousness of both, romantic love and drug, has a dangerous side. Due to the strong effect, both the lover and the drug addict are longing for this altered state, and thus may be subject to a type of epiphany or type of abyss.

By having received access to a heightened state, the absence of such state leaves a bitter taste. Because this altered state creates a very profound impact, it quickly becomes an essential part of a lover's or a drug taker's identity. Before one even realises, a lover or a drug can become object of one's obsession and dominates one's thoughts, feelings and actions. Even harmless products such as coffee or cigarettes are so quickly incorporated into one's day that one no longer notices their domi-

nant presence but only suffers the more in case they no longer appear in one's day to day life. This implies that a beloved and drug can have *abusive power* over the seeker.

A2. Consequences of the analogy

The previous section has shown that the same features appear in the phenomenology of romantic love and in the one induced by drugs. Therefore, we face a classification problem.¹¹ Let us next explore whether we can find phenomenological dis-analogies between romantic love and drug taking.

It has been shown that in the case of drug and of romantic love, the *capacity to appreciate the world* is significantly enhanced. However, an attempt to show a dis-analogy could be to argue that (a) the scope of the enhancement and (b) the sustainability of the enhancement is different in the two experiences.

As for the scope (a), in romantic love, the enhancement is often limited to coupledness. For instance, when the object of love is physically present, the proximity of the beloved is usually absorbing the full attention of the lover. It follows that the two lovers may be so captivated by each other that the world, in their experience, is reduced to them. In that regard, it may be tempting to argue that drugs offer a more extensive enhancement of the world appreciation as it is not limited to one object. Nevertheless, such picture is rather simplistic. Although the attention of the two lovers is focused on each other when in each other's presence, the effect of romantic love goes beyond that. As we illustrated a lover experiences an overall enhancement of the senses which also impacts the lover's life as a whole. This is therefore not a pertinent path.

As for the sustainability (b), one can see the coupledness like a way for each lover to "charging batteries" when they interact with each other. Such contact allows that

¹¹ From such similarities, there is another particularly problematic element that potentially impacts the love debate in regard to the question of identifying the reasons why humans seek love. If the fundamental features of the phenomenology triggered by the glow and drugs are mainly similar, a bitter and detrimental consequence for love follows. Considering the case of drugs, the attractive effects that makes the state close to ecstasy can be attained through the simple gesture of swallowing a pill. Heaven is within easy reach. The ecstasy of love on the other side requires a tremendous higher level of unpredictability. Romantic love can flee from those who seek it, as well as happen to those who felt no need for it and thereby provoke intense confusion and pain. The deep elusiveness and uncertainty that punctuates "la vie amoureuse" comprises the potentiality of huge frustrations, disappointments and despairs, to quote the only best-known negative emotions. Facing such abyssal difference concerning the efforts required in order to feel ecstasy, it is therefore tempting to claim that it may be preferable for humans to take pills instead of seeking for romantic love.

the glow of romantic love continues beyond the contact and leaves both of them with a heightened level of energy which is present throughout the day and enhances the lover's energy level to undertaking their separate endeavours. Therefore, it seems tempting to conclude that the reach of the enhancement in romantic love is more lasting and less dependent on the medium's presence than in the case of drugs. Concerning drugs, it is undeniable that the effect of it heightens the drug takers general energy level. However, such effect is mostly dependant on the presence of the medium in the organism. Contrary to the effect of romantic love, most features of the drugged state vanished as soon as the medium leaves the body of the drug taker. It follows that when the drug leaves the system, so does most of the feature of the enhanced appreciation of the world. Even worse, the state that follows the heights of drug leaves the drug taker often in a significantly lower level of consciousness than the average level of a non-drug taker. However, such a dis-analogy doesn't really prove to be useful. If the lovers do not see each other for a long time, the enhancement hardly stays. Even worse, when the lovers miss each other their general well-being decreases and the craving to be in contact with the other becomes unbearable. As the drug taker, the deprived lover experiences a lower level of consciousness than someone who is not in romantic love at all. This aspect becomes particularly clear when the access to the medium (i.e. to the drugs or to the lover) becomes impossible. Therefore, it is not straightforwardly true that the life enhancement of romantic love is more lasting and less dependent on the medium.

A3. Possible outlook: the experience "sharedness"

Above section has shown that the phenomenology between romantic love and the drugged state are incredibly similar. However, this seems to be highly problematic due to the fact that it clashes with two main intuitions. Firstly, we expect that the experience of romantic love is unique and secondly, such state should not be possible to be incited by another medium which is the consumption of a simple pill in comparison with the complexity of a romantic love relation. In order to back up these intuitions, a lot of further thinking will be required. In this section, we offer to indicate some first potential steps.

There is one feature which hasn't appeared in the analogy between drugs and love. Namely, the element of *effortless care* which is present in romantic love. This element of care might be fundamental in distinguish-

ing the phenomenology of romantic love from the one in drug experience. A promising path to better grasp this element might lie in better understanding how two lovers experience "sharedness". Current literature provides some interesting exploration of the notion of "sharedness" in shared emotion accounts. However, it has to be noted that we do not consider romantic love to be a type of shared emotions. Instead, we believe that further research needs to develop a distinctive account of what the experience of "sharedness" in romantic love consists of. Nevertheless, applying the shared emotion account to romantic love offers an interesting direction and gives an idea on how to possibly distinguish the phenomenology between love and drugs.

As a preliminary remark there are some obvious, yet not fatal limitations to be addressed. Those limitations may explain why authors of shared emotions never mentioned the phenomenon of love. First, authors focus on groups such as "religious sects, workgroups, theatre ensembles, bands, orchestras, friends, and parents" (Salmela 2012, 40). As the glow of romantic love is mostly a state that is restricted to two people, it is not an obvious candidate. However, in order to give rise to sharedness, two people are the minimum, which is given in the case of romantic love. Secondly and more importantly, shared emotion accounts focus on emotions. As stated, we don't hold that love is an emotion. But this is only an apparent problem. Our main point is that we consider that even if love is not an emotion itself, our understanding of the glow nevertheless implies that lovers experience various emotions whilst being in the state of glow.

Salmela states that shared emotions arise when two conditions are fulfilled. Namely, there needs to be a shared concern (i.e. an evaluative content) and a synchronization of the affective response (Salmela 2012, 39). Furthermore, he distinguishes between three degrees of concern: weak, moderate and strong concern. Depending on the degree of concern, shared emotions give rise to various degree of a *phenomenological fusion of affective experience*. We believe that what differentiates romantic love from drug experiences is the degree of concern, which as a result leads to different intensity in the phenomenological fusion of affective experience. More precisely, romantic love gives rise to strongly shared emotions whilst drugs give rise to weakly shared emotions.

Salmela states that the *strongly* shared emotions, the "we-mode type are responsive to group reason that emerge from individual's collective commitment to a concern

as a group” (Salmela 2012, 43). Under the glow of love, two individuals form what could be qualified as a particular type of restricted group, namely *lovers*. The *strong* shared concern of the lovers can be directed at every aspect that is connected with the relationship (e.g. children, home, career etc.).¹² Love is a meaningful and highly invested project that happens through the commitment of the two lovers. From such commitment emerge numerous collective evaluative judgements such as *our* love, *our* relation, *our* future. Through the collective evaluative judgments, a synchronization of the affective responses arises. In the following quotation of Salmela we invite the reader to replace the word “members” with “lovers”: “The members appraise the emotions-eliciting event from the group’s point of view in relation to their collective concern, and the mechanisms of attentional deployment, emotional contagion, facial mimicry, and behavioural entrainment synchronize the lovers emotional response producing a strong rather than weak shared affective experience, either phenomenologically fused or aggregative, with mutual awareness that other group member are feeling the same” (Salmela 2012, 43). To us, those mechanisms (attentional deployment, emotional contagion etc.) are present in numerous moments of the emotional and more particularly in the phenomenological life of two lovers. The glow of romantic love naturally makes the lovers deeply attentive and reactive to events that are related to their relationship, which includes for a great deal of emotional states. For example, if one lover undergoes a strong disappointment in their career, the other also undergoes it since he shares the concern for the other’s career success. We think that we cannot apply the strongly shared emotions account to the state of drug taking. The reason for it is that in the case of drug taking, there is not such a *strong* concern to which a group of drug takers commits to. Although all of the drug takers may have a great concern to experience the effect of drugs, this type of concern falls in the category of what Salmela defines as a *weak* concern,¹³ since this types of concern corresponds to private concerns that may happen to be overlapping with other people’s private concern (Salmela 2012, 39). It follows

12 What needs further research is the fact that lovers are mainly concerned about each other (concern about shared events, such as children or career, seem to be of secondary importance) i.e. Maria’s concern is the well-being of Joseph, and Joseph’s concern is the well-being of Maria. Simultaneously, Maria is also concerned about Maria’s well-being and Joseph is concerned about Joseph’s well-being. How such scenario impacts the nature of concern and the notion of “sharedness” requires further elaboration.

13 Salmela defines weak concerns as “overlapping private concerns”. Insofar as people care about their own survival, security, attachment relations, health, wealth, happiness, and so on, these are private concerns (Salmela 2012, 39).

that drug taking is thus a *weakly* shared emotion. If such account is correct, drug taking, contrary to romantic love, does not give rise to same degree of phenomenological fusion of affect.

Although promising, this account only offers a preliminary consideration to individualise the phenomenology of romantic love from the one of drug taking. Firstly, we would need a more comprehensive description of the phenomenological fusion of affective experience. How does an affective experience from a weak concern differ from an affective experience from a strong concern? Secondly, and more importantly, is the fact that the affective experience of the sharedness of romantic love is possibly a new emotion, or even a completely different type of affective state. Perhaps, we can make the daring claim that such an entity is not of an individual nature but entirely different due to its sharedness. If the latter is the case, we would need new concepts in order to grasp this experience.

V. Conclusion

Firstly, the present essay suggested to understand romantic love as the phenomenological experience of *glow*. This state of glow is characterised by the lovers experiencing vulnerability, the extension of the self, effortless caring, self-transformative aspects, and an overall enhancement of their experience by undergoing more vivid sensations, feeling an increased confidence in existence overall, and a tendency to live actively in the present moment. Secondly, it examined one major objection against understanding romantic love as glow: the incredibly strong similarity between the glow and the experience of drug taking. Both, the altered state of romantic love and the state under drugs, lead to many transformations in consciousness. Lastly, it identified one feature of glow, namely the experience of mutual and effortless care, which does not appear in drug experiences. This feature might be particularly linked to the experience of “sharedness” between two lovers. We argue that experience of sharedness is a promising path to possibility individualise the phenomenology of romantic love from the state under drugs. As a first step, we offered a reference to shared emotions. Yet, future research is required in order to better grasp the experience of sharedness in romantic love.

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Interpreting Enthymematic Arguments as an Application of Reflective Equilibrium

1. Introduction

In scientific and everyday discourse, writers or speakers (henceforth: authors) make use of arguments. On many occasions these arguments are deductively invalid taken in their presented form, even though it may be reasonable to assume that the author intended to present a deductively valid argument. In this case we may aim for a charitable interpretation, i.e. a reconstruction of the argument and a re-evaluation of its validity according to theoretical considerations, and not merely everyday practice of understanding arguments. The usual strategy to interpret *enthymemes*, i.e. deductively invalid arguments, and by this, candidates for a charitable interpretation, is to find the missing premises, which are implicitly held by the author. Brun and Rott (2013) propose to radically change the perspective: In their view, interpreting enthymemes does not consist in adding implicit elements to the explicit elements put forward, but in adding the explicit elements to the implicit elements of the author's belief state (Brun and Rott 2013, 4044). The point is that authors always argue on the background of their beliefs, and for this reason Brun and Rott suggest evaluating enthymematic arguments against the background of the author's belief state. They apply belief revision theory (henceforth: BRT) to formally study the changes in the belief state, which is ascribed to the author, and they provide detailed steps for a process of interpreting enthymemes.

I am very sympathetic with their ideas for the following reasons: Firstly, there may be more appropriate strategies to reconstruct an argument as valid besides adding premises, e.g. weakening the conclusion or strengthening some premises (Jacquette 1996, 5). Secondly, the process of interpreting enthymemes elucidates why two interpreters may differ in their evaluation of the same argument in a justified manner. Thirdly, the approach of Brun and Rott provides a

deeper understanding of what makes an interpretation charitable. In particular, the process of interpreting enthymematic arguments described by Brun and Rott shares many characteristics of reflective equilibrium, which is commonly seen as a method of justification.

The goal of this paper is to elaborate on the third point by developing another BRT framework for the process of interpreting enthymemes, such that the conjectured connection to RE can be studied in a fruitful way. The work towards this goal is structured as follows: Section 2 introduces important notions and interpretation steps from Brun and Rott, as well as preliminaries in BRT. The most severe weaknesses of Brun and Rott's model are highlighted, which motivate an adaptation of their model. More technical terms from BRT are introduced in section 3 to prepare my model for operations on belief bases. These tools are then used to include the tests and interpretation steps of Brun and Rott into my model. A simple example is studied to illustrate that the model is operative. An account of what RE is and why it is considered to be a method of justification is provided in section 4. Subsequently, I argue that interpreting enthymemes, as modeled in section 3, exhibits sufficiently many aspects of an RE process to be treated as a genuine application of RE. This connection allows for interesting philosophical insights about charitable interpretations. The use of formal models requires a lot of simplification and idealization, leading to various limitations, which are discussed in the concluding section 5.

2. The Model of Brun and Rott

Brun and Rott (2013) introduce some formalization to describe their approach. An argument is a pair consisting of a set of sentences, called premises, and a single sentence, which is called conclusion. In order to prepare formal treatment, sets of sentences are denoted

by upper-case letters (A, B, C, \dots), whereas lower-case letters (a, b, c, \dots) represent single sentences. Thus, an argument with premises $P = \{p_1, \dots, p_n\}$ and a conclusion c is identified with the pair (P, c) . I also use $(p_1, \dots, p_n / c)$ to denote an argument in more detail. The formal language contains the usual connectives from classical sentential logic.

An argument is *deductively valid*, if its conclusion has to be true, if its premises are true. An argument, which is not deductively valid, but passes the test for enthymematic validity specified below, is called *enthymematically valid*. At last, an argument which is neither deductively nor enthymematically valid is labeled *invalid*.

In the course of her work, the author may express attitudes towards certain premises or conclusions: She may accept or reject certain premises or conclusions. In addition, an author may neither accept nor reject other premises or conclusions. According to this status of the premises and the conclusion, Brun and Rott distinguish three types of argument (2013, 4048): In an *effective* argument the author accepts all premises and hence the conclusion, too. If the author neither accepts nor rejects at least one premise, the argument is called *hypothetical* and if she rejects at least one premise, she makes this point *just for the sake of argument* (JFTSOA-argument). In the case of a hypothetical argument the author may accept the conclusion or remain silent, and only in a JFTSOA-argument she may even reject the conclusion. It is important to distinguish these type of argument, because the preparatory work before an argument is tested for its enthymematic validity depends on its type.

The belief state, which is ascribed to the author, is denoted by bold face, upper-case letters \mathbf{B} . There are mainly two operations of belief change in the framework of BRT. Both operations take a belief state and a single belief as an input and return a new belief state. On the one hand, contraction removes the input belief from the belief state, and it is denoted by $\mathbf{B} \div a$. On the other hand, the operation of incorporating the input belief while maintaining consistency is called revision and it is denoted by $\mathbf{B} * a$.

The process of interpreting enthymemes requires a starting point, which is given by an initial ascription of a belief state, which includes default beliefs and contextual evidence (Brun and Rott 2013, 4045). If a particular argument is up for interpretation, the currently ascribed belief state has to be adapted to the status of its premises and conclusion (Brun and Rott 2013, 4046). For example, if the author accepts a premise p_1 , it has

to be incorporated by a revision $\mathbf{B} * p_1$. Analogously, a rejected premise p_2 has to be accounted for by $\mathbf{B} * \neg p_2$. Finally, if the author remains silent on the conclusion c , it needs to be removed from the currently ascribed belief state, i.e. $\mathbf{B} \div c$. These adaptations of the currently ascribed belief state are executed one after another in a fixed order (Brun and Rott 2013, 4050). After the belief state has been adapted to the status of the premises and the conclusion of a particular argument, the interpreter can evaluate the validity of the argument according to the following test (Brun and Rott 2013, 4053): An argument $(p_1, \dots, p_n / c)$ is enthymematically valid if and only if the beliefs supported in $(\mathbf{B} \div c) * (p_1 \wedge \dots \wedge p_n)$ entail c .

If the argument fails the test for enthymematic validity, a second level of charity comes into play: It might be possible to adjust the ascribed belief state slightly, resulting in a belief state in which the argument passes the test. The idea is that the interpreter may have erred in ascribing a particular belief state to the author. In this case it is more charitable to ascribe a new belief state to the author, rather than to declare the argument invalid. Formally, Brun and Rott integrate this second evaluation by introducing revisions with conditional sentences $p > c$ that represent the sentence “If p , then c ” from natural language (2013, 4047).¹ In contrast to the test for enthymematic validity, there is no mechanical procedure to determine if a slightly adjusted belief state is similar enough to another one, but requires judgement of the interpreter (Brun and Rott 2013, 4057).

However, there are shortcomings or problematic features of Brun and Rott’s approach. In particular, I mention three points for which I hope to realize some progress. Firstly, the process of interpretation consists of a linear sequence of steps, that has no looping or backtracking structure for the correction of past decisions (Brun and Rott 2013, 4057). This results from the assumption that the most recent evidence takes precedence over previous belief ascriptions (Brun and Rott 2013, 4050). Although this assumption serves to simplify the matter, it may yield unwanted outcomes. The adjustment of the previously ascribed belief state to the current premises and conclusion may undermine the acceptance status or the validity judgements of previous arguments. Thus, the interpretation of multiple arguments may result in a belief state that does

¹ Note that $>$ is not to be confused with the material conditional \rightarrow . In fact the former conditional is supposed to be stronger. Formal accounts of $>$ in BRT are, for example, Gärdenfors (1986) or Hansson (1992a).

not respect the intermediate results, and this seems to be a very implausible feature if the interpretation involves more than one argument. Some sort of backtracking will be included in my model to overcome this problem.

The second problem concerns the fact that the order of operations matters in the case of iterated belief change, e.g. $(\mathbf{B} \div p_1) \div p_2 = (\mathbf{B} \div p_2) \div p_1$ does not hold in general. Consequently, the adaptation of the ascribed belief state (e.g. $((\mathbf{B} * p_1) * p_2) * c$ for an effective argument $(p_1, p_2 | c)$) depends on the order of the premise and the conclusion, but usually, the validity of an argument does not depend on the order of premises and conclusion. In addition, the approach of Brun and Rott is not able to account for a mixed status of premises and conclusion, since the consecutive application of revision and contraction may partially negate the effect of the first operation. As a solution to this problem, I suggest a shift towards belief bases that allow for contraction and revision by sets of sentences.

Finally, Brun and Rott include the conditional $p > c$ to the formal language of BRT. The classical AGM framework of Alchourrón, Gärdenfors and Makinson (1985) faces severe problems in dealing with $>$ -conditionals, as pointed out by Gärdenfors (1986). Although these problems of conditionals can be surmounted, the solutions require highly sophisticated extensions of the classical framework. This is clearly not a defect of Brun and Rott's approach, but I attempt to simplify the revision $p > c$ by dividing it into two steps: revision with $p \rightarrow c$ and a change in the selection mechanism.

3. Adapting the Model

3.1 BRT Basics for Belief Bases

One way to prepare belief states for formal treatment is to look at a propositional and a dynamic component of a belief state. The propositional component includes the beliefs, which are held to be true in a belief state. The dynamic component determines how the static component is changed for a given input. Typically, the dynamic component includes a selection mechanism or a plausibility ordering of possible worlds. In the AGM framework the operations of belief change specify the transition from a belief state with a propositional and a dynamic component to a new propositional component. However, there are no tools in the AGM framework to determine the new dynamic component of a belief state. This difficulty can be overcome by extensions of the classical framework (see Hansson 1992a and many others).

To capture the propositional component of a belief

state, the formal framework of BRT includes a language L , i.e. a set of expressions that is closed under the truth-functional operations \neg, \wedge, \vee and \rightarrow . Lower-case letters denote elements from L , whereas upper-case letters denote subsets of L .

A *consequence operator* Cn is a function from $P(L)$ to $P(L)$, where $P(\cdot)$ denotes the power set, such that $Cn(A)$ contains everything that can be derived from A by classical truth-functional logic.² A set A is *consistent* (relative to Cn) if and only if $\perp \notin Cn(A)$ for some contradiction $\perp \in L$. If A is closed under Cn , i.e. $Cn(A) = A$, then A is a *belief set*. Belief sets are taken to be parts of belief states, since they include all beliefs that an agent in a certain belief state holds or is committed to believe. For this project I resort to another representation of beliefs, which are held in a belief state, namely *belief bases*, i.e. finite sets of beliefs that are not necessarily closed under logical consequence. This move is motivated as follows: On the one hand, belief bases possess more expressive power (Hansson 1999, 20), because one belief set may have different belief bases that may act diversely under operations of belief change. On the other hand, operations on belief bases are traceable and can be processed by computers (Hansson 1999, 18), which is helpful for the exploration of examples. Note that consistent belief bases may be transformed into a belief sets by the application of Cn .

The consequence operator is used to define an important set of consistent subsets of A : The (*package*) *remainder set* consists of inclusion-maximal subsets of A that do not imply any sentence p of some set P (Fuhrmann and Hansson, 1994, p. 58). Formally $A \perp P$ is defined to be the set, such that $A' \in A \perp P$ if and only if

- i) $A' \subseteq A$
- ii) $P \cap Cn(A') = \emptyset$
- iii) There is no set A'' , such that $A' \subset A'' \subseteq A$ and $P \cap Cn(A'') = \emptyset$.

If P is a singleton, i.e. $P = \{p\}$, the brackets are omitted (e.g. $A \perp p$). Let me illustrate the motivation for introducing remainder sets: Suppose a rational agent has to remove a belief p from her set of beliefs A . It is not sufficient to remove p set-theoretically, because there

2 More precisely, the classical consequence operator, which is used for this paper, satisfies for subsets A, B of L and elements a, b of L :
Inclusion: $A \subseteq B \Rightarrow Cn(A) \subseteq Cn(B)$
Monotony: If $A \subseteq B$, then $Cn(A) \subseteq Cn(B)$
Iteration: $Cn(A) = Cn(Cn(A))$
Supraclassicality: If a can be derived from A by classical truth-functional logic, then $a \in Cn(A)$.
Deduction: If $b \in Cn(A \cup \{a\})$, then $(a \rightarrow b) \in Cn(A)$.
Compactness: If $a \in Cn(A)$, then $a \in Cn(A')$ for some finite $A' \subseteq A$.

still may be other beliefs in A that imply p . Thus, p would be reintroduced, if the set of beliefs is closed under logical consequence afterwards. According to (ii), the remainder set $A \perp p$ provides the elements to prevent such unsuccessful removal. That is, no element of P is allowed to remain among the consequences of an element of the remainder set. In addition, the elements of the remainder set are inclusion-maximal (iii) and this requirement can be motivated as follows: In order to effectively remove a belief p from her set of beliefs A , an agent could give up all of her beliefs. But such behavior would almost never be rational, because this operation would remove beliefs, which are not relevant for A to contain or imply p . Finally, (i) prevents that new beliefs emerge when a belief is up for removal. Operations that incorporate new beliefs are treated separately.

A remainder set may contain more than one element. In this case the agent may choose among these elements to determine the outcome of a belief change. This is modeled by a *selection function* γ , such that for every belief base A and for all $P \subseteq L$ (Hansson 1999, 134):

- i) If $A \perp P$ is non-empty, then $\gamma(A \perp P)$ is a non-empty subset of $A \perp P$.
- ii) If $A \perp P = \emptyset$, then $\gamma(A \perp P) = \{A\}$.

The selection functions belong to the dynamic part of a belief state and one can assume that every base is equipped with a selection function in an orderly manner (see the appendix for the underlying technical details). This allows to perform iterated operations of belief changes on belief bases.

Selection functions model the choice of elements from a remainder set by a rational agent but it was not specified what is required of a selection to count as rational. To ensure a rational selection mechanism, further constraints may be imposed on selection functions. A selection function γ is *relational* if the agent selects the most preferred elements according to some relation on the remainder set. This *preference relation* is denoted by \sqsubseteq , and $A \sqsubseteq B$ means that B is as least as much worth retaining as A (Hansson 1999, 82). Concretely, for all non-empty $A \perp P$, a relational selection is given by

$$\gamma(A \perp P) = \{B \in A \perp P \mid C \sqsubseteq B \text{ for all } C \in A \perp P\}.$$

In the previous section I mentioned the problems in the framework of Brun and Rott, which depend on the

order of operations. This problem can partly be overcome by simultaneously revising or contracting several beliefs. For finite belief bases and finite sets of input beliefs, this can be achieved by introducing package revision or contraction (Hansson 1993, 650). If B is a finite set of sentences, then $n(B)$ is defined to be

- i) $n(\emptyset) = \perp$
- ii) If $B = \{p_1, \dots, p_m\}$, then $n(B) = \neg p_1 \vee \dots \vee \neg p_m$

Informally, $n(B)$ can be understood to be the negation of a set of sentences: If a set of beliefs A has $n(B)$ among its consequences, $A \cup B$ cannot be consistent. *Partial meet package contraction* of a belief base A by a finite set of beliefs B is defined as follows:

$$A \div B = \cap \gamma(A \perp B)$$

And by the so-called Levi-Identity, this gives rise to *internal partial meet package revision*:

$$A * B = (A \div n(B)) \cup \{B\} = \cap \gamma(A \perp n(B)) \cup \{B\}$$

At the outset of the process an initial ascription of default beliefs and beliefs from contextual evidence are ascribed to the author, yielding an initial belief base B_0 . During the process the interpreter will adapt the ascribed belief base to the acceptance status of premises and conclusions of arguments by the revision and contraction operations presented before. Before an argument $(p_1, \dots, p_m \mid c)$ is tested for enthymematic validity, the premises and the conclusion of the argument are integrated into the belief base according to their acceptance status by revision. Take for example $Q = \{p_1, \dots, p_m, c\}$. Then, the adapted belief base is

$$B_1 := B_0 * Q = \cap \gamma(B_0 \perp n(Q)) \cup Q$$

This is unproblematic for any combination of accepted and rejected premises and conclusions and hence, the belief base approach can account for a mixed acceptance status of premises and conclusions. Furthermore, the order of accepted and rejected sentences does not matter for package revision.

Unfortunately, the problem of the order of operations persist for premises and conclusions of hypothetical arguments, which are neither accepted nor rejected. These sentences need to be contracted but the outcome depends on whether the contraction is applied before or after the revision with the accepted and rejected sentences. Even worse, one operation may partially

cancel the effect of the other operation. In order to handle hypothetical arguments with this approach, it is assumed that sentences, which are neither accepted nor rejected, are contracted from an ascribed belief base, after it has been revised with the accepted and rejected sentences.

The test for enthymematic validity proposed by Brun and Rott can be adapted to the belief base setting as follows: When the belief base has been adapted to the status of the premises and the conclusion of an argument $(p_1, \dots, p_m | c)$, the test for enthymematic validity (relative to B) checks whether $(B \div c) * \{p_1, \dots, p_m\}$ supports c , that is to say whether c is an element of $Cn((B \div c) * \{p_1, \dots, p_m\})$ or not.

3.2 A procedure to interpret enthymematic arguments

Now that all operations are at hand, a procedure for interpreting enthymematic arguments can be spelled out. It is assumed that the dynamic part is determined by selection functions that are relational with respect to one and the same preference relation. In the process the interpreter is allowed to change this preference relation to arrive at a charitable interpretation. A plausible change of a preference relation may alter the outcome of revisions in a reasonable way, such that the resulting belief bases are close enough to the results with the old preference relation. Brun and Rott implement a plausibility ordering of possible worlds (Brun and Rott 2013, 4059), but there are other methods to measure similarities between belief states (e.g. Hansson 1992a). To specify what “close enough” means exceeds a formal criterion and involves judgement of the interpreter. I cannot further investigate this matter in this paper and the situation in the examples will be stipulated. In any case, a plausible change has to result in an “orderly” preference relation.³ Finally, the arguments are assumed to be completely ordered, e.g. according to their role in the argumentation or according to the order of presentation. This assumption provides a basis for backtracking during the procedure. I cannot exclude that different orderings of arguments may result in different outcomes.

Procedure:

- (0) Start with the initially ascribed belief base.
- (1) If all arguments have been considered, stop and determine the validity of removed arguments relative to the current belief base.

³ Further constraints of rationality on the preference relation may include transitivity ($A \sqsubseteq B$ and $B \sqsubseteq C$ imply $A \sqsubseteq C$) or the maximizing property (If $A \subset B$; then $A \sqsubset B$) (Hansson 1999, 82).

- (2) Adapt the belief base to the first argument, which has not been interpreted yet.
- (3) Backtrack and check whether any previously interpreted argument fails the test for enthymematic validity relative to the current belief base.
 - (3.1) If so, look for a plausible change in the preference relation that prevents this outcome.
 - (3.2) If no plausible change in the preference relation is available, do not consider this argument in the process of interpretation any longer. Its validity will be determined relative to the final belief base after the process terminates. Repeat from (1).
- (4) Test for enthymematic validity relative to the current belief base and the preference relation.
 - (4.1) If the argument is enthymematically valid, scribe the current belief base to the author. Repeat from (1).
 - (4.2) If the argument fails the test, use backtracking as in step (2) to find a plausible change in the preference relation or a revision of the current belief base with $(p_1 \wedge \dots \wedge p_n) \rightarrow c$ for which the argument passes the test.
 - (4.2.1) If there is a plausible change in the preference relation or a revision such that the argument passes the test for enthymematic validity, ascribe this belief base to the author. Repeat from (1).
 - (4.2.2) If there is neither a plausible change in the preference relation nor a revision that render the argument enthymematically valid including backtracking, the argument is invalid. Resort to the belief base from step (2) and ascribe it to the author. Repeat from (1).

The intricacies of this procedure are best understood by means of an illustrative, simple example. Suppose that an author presents three arguments:

$$(s_p, s_5 | s_1) \quad (s_p, s_3 | \neg s_6) \quad (s_6, \neg s_3 | s_2)$$

It is assumed that the arguments are ordered, such that the interpretation will proceed from left to right. The beliefs, which the interpreter can ascribe to the author by default or from contextual evidence, are given by

$$B_0 = \{s_2 \rightarrow \neg s_p, (s_5 \wedge s_6) \rightarrow \neg s_p, s_1 \vee \neg s_4 \vee \neg s_3, \neg (\neg s_2 \wedge \neg s_3 \wedge s_6)\}$$

In this form the structure of the example is obscure, but a graphical representation may help to disentangle

le the interrelationships. In figure 1, the premises of an argument are linked by \vdash and the solid arrows point to the conclusion. If the arrow is dashed, the conclusion is negated. The arguments that are not explicitly presented by the author but arise from the initial ascription of default and contextual beliefs, are marked gray. Next, it is assumed, that the author makes explicit whether she accepts, rejects or remains silent on the premises and conclusions, which determines the types of her arguments. In figure 1 accepted sentences are green, whereas rejected sentences are red. If the author neither accepts nor rejects a sentence, it is blue. Corresponding to the status of premises and conclusion effective arguments are green, hypothetical arguments are blue and JFTSOA-arguments are red.

First Argument: $(s_4, s_5 \mid s_1)$ is an effective argument and hence the premises as well as the conclusion have to be integrated into the ascribed belief state to account for the acceptance status:

$$B_1 = B_0 * \{s_1, s_4, s_5\}$$

Since there is no conflict between B_0 and the input beliefs, the revision amounts to set-theoretical addition:

$$B_1 = B_0 * \{s_1, s_4, s_5\} = B_0 \cup \{s_1, s_4, s_5\}$$

Next, it needs to be tested whether $(B_1 \div s_1) * \{s_4, s_5\}$ supports the conclusion s_1 . The contraction of from

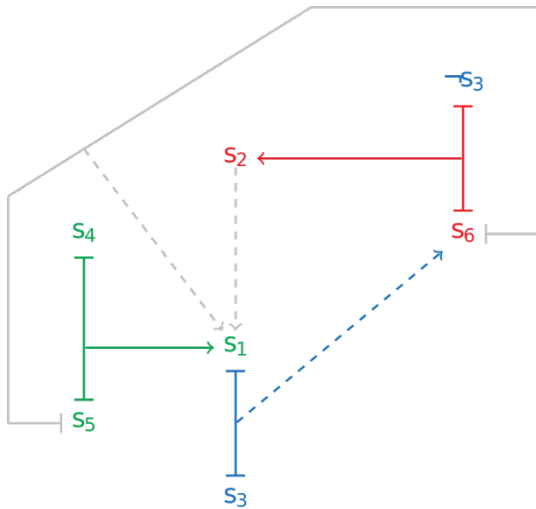


Figure 1: The structure and the status of the premises and the conclusion in the example.

B_1 requires a selection, since the remainder set $B_1 \perp s_1$ includes several elements (see appendix for more details). In fact, there is a selection function γ such that

$$B_1 \div s_1 = \{\dots, s_1 \vee \neg s_4 \vee \neg s_5\}$$

where the dots abbreviate all beliefs that are irrelevant to the current considerations. Consequently, the revision with the premises results in

$$(B_1 \div s_1) * \{s_4, s_5\} = \{\dots, s_1 \vee \neg s_4 \vee \neg s_5, s_4, s_5\}$$

This implies that s_1 is a logical consequence of this belief base, i.e. $s_1 \in \text{Cn}((B_1 \div s_1) * \{s_4, s_5\})$ and thus, the argument $(s_4, s_5 \mid s_1)$ is enthymematically valid. The interpreter ascribes B_1 to the author and continues with the next argument.

Second Argument: $(s_1, s_3 \mid \neg s_6)$ is a hypothetical argument because the author neither accepts nor rejects the premise s_3 . At first, the belief base is updated to the status of the sentences:

$$B_2 = B_1 * \{s_1, \neg s_6\} = \{\dots, \neg(\neg s_2 \wedge \neg s_3 \wedge s_6), s_1, \neg s_6\}$$

At this point s_3 would need to be contracted, but this is redundant, since it is not contained in B_2 or its consequences. Furthermore, the first argument still passes the test for enthymematic validity relative to B_2 .

The test for enthymematic validity requires to check whether the conclusion $\neg s_6$ is supported in $(B_2 \div \neg s_6) * \{s_1, s_3\}$. For a specific selection function, the contraction of $\neg s_6$ from B_2 removes s_1 and s_4 , but keeps s_5 , and hence

$$(B_2 \div \neg s_6) * \{s_1, s_3\} = \{\dots, (s_5 \wedge s_6) \rightarrow \neg s_1, s_1, s_3\}$$

which logically implies $\neg s_6$ and in consequence, the argument passes the test for enthymematic validity. B_2 can be ascribed to the author.

Third Argument: $(\neg s_3, s_6 \mid s_2)$ is a JFTSOA-argument, because the author rejects both s_6 and $\neg s_2$. The ascribed belief base is adapted to the status of the rejected premise and conclusion:

$$B_3 = B_2 * \{\neg s_2, \neg s_6\} = B_2 \cup \{\neg s_2, \neg s_6\}$$

Again, the author remains silent on $\neg s_3$, but a contraction is redundant, since B_3 does not imply $\neg s_3$. Backtracking shows that the first two arguments remain

enthymematically valid relative to B_3 . To prepare the base for the test, the conclusion has to be removed, i.e. $B_3 \div s_2$, but this has no effect, since B_3 is consistent and contains $\neg s_2$.

Consequently, it suffices to consider $B_3 * \{\neg s_3, s_6\}$. This revision inevitably removes $\neg s_6$ from the belief base, but to maintain consistency a selection has to be made whether $\neg s_2$ or $\neg(\neg s_2 \wedge \neg s_3 \wedge s_6)$ is removed, too. Assume that the interpreter applies a selection function resulting in the loss of latter belief, i.e.

$$B_3 * \{\neg s_3, s_6\} = \{\dots, \neg s_2, \neg s_3, s_6\}$$

But this belief base does not have s_2 among its logical consequences, and so the argument $(s_6, \neg s_3 \mid s_2)$ is not enthymematically valid. At this point, the interpretation of the third argument is not hastily aborted, but the interpreter considers the second level of charity. There might be a belief state in which the third argument passes the test for enthymematic validity. A revision with $(\neg s_3 \wedge s_6) \rightarrow \neg s_2$ is of no help, because B_3 contains an equivalent formula: $\neg(\neg s_2 \wedge \neg s_3 \wedge s_6)$. Thus, the problem is, that this formula is removed by the revision in the test for enthymematic validity.

In fact there is another selection function that is applicable in the test for enthymematic validity, namely the function resulting in the removal of $\neg s_2$ instead of $\neg(\neg s_2 \wedge \neg s_3 \wedge s_6)$ for the revision $B_2 * \{\neg s_3, s_6\}$. But, the removal of $\neg s_2$ requires the elimination of additional elements from B_3 : Either $s_2 \rightarrow \neg s_3$, or s_1 together with s_4 or s_5 has to be dropped. Changing this selection amounts to a shift in the underlying preference relation. For the sake of this example, it is assumed that both adjustments to the preference relation are implausible in the view of the interpreter. This forces the interpreter to declare the argument $(s_6, \neg s_3 \mid s_2)$ invalid. The interpreter ascribes B_3 to the author. Since there are no arguments left to check, the process of interpretation terminates.

4. Aspects of RE in the Interpretation of Enthymemes

Reflective equilibrium (RE) is a state of a system containing commitments and theories. The state is reached through a deliberative process, in which commitments and systematic elements are mutually adjusted to each other in order to achieve coherence among them. The term was coined by John Rawls (1999), although the idea can be traced to Goodman (1955). During the process, the commitments are systematized in theories that account for them, and in turn, the commitments

are revised in view of the theories.

The idea of RE was applied in a broad spectrum of philosophical research. Rawls (1999), for example, argued for his view of justice as fairness by describing a process, in which judgements and principles of justice are adjusted to each other. In contrast, Goodman (1955) equilibrated particular inferences and rules of inductive inference towards a justification of inductive inferences. Roughly, the idea is that the elements of a system in RE, are justified by cohering with each other, doing justice to epistemic goals and respecting the initial starting point of the process. RE played a prominent role in ethics and political philosophy as well as in logic and epistemology (Elgin, 1996). Some authors go even further and claim that RE is a philosophical method in general (see for instance Lewis 1983, 10 and Keefe 2007, 38).

Unfortunately, there is some lack of formal rigor in the literature on RE, even detailed accounts of RE do not provide precise definitions for core ideas. Beisbart, Betz and Brun (BBB) (2018) amend this situation by providing an operationalization of RE, i.e. a schematic model of central RE aspects (Beisbart, Betz and Brun 2018, 4). Furthermore, BBB develop a concrete RE model based on the theory of dialectical structures and thereby establish a proof of concept of RE. Their operationalization may also be used to construct or study other models of RE.

In the following paragraphs I indicate how the process of interpreting enthymemes can be understood as a process of RE by establishing correspondences between the interpretation of enthymemes and the schematic RE model of BBB.

The input to the method of RE in the schematic model consists of commitments that pertain to a subject matter (Beisbart, Betz and Brun 2018, 4). In the case under consideration the subject matter is given by the arguments that have been presented by an author and the commitments are validity judgements of the interpreter concerning these arguments. There may be some discrepancy with respect to the initial commitments that build the starting point of the process of RE. The interpreter may initially judge all considered arguments deductively invalid, which is actually the motivation for the interpretation in the first place. Alternatively, the interpreter may not have made up his mind about the validity of the arguments yet or he may want to reassure himself of his positive validity judgements. The process of interpretation then serves to make up the interpreter's mind. I suggest that all options are compatible with an RE process.

In the schematic model of RE theories aim at systematizing commitments (Beisbart, Betz and Brun 2018, 6). It is assumed that theories are more or less systematic and that a theory accounts for a commitment if the former entails the latter. In the process of interpreting enthymemes, the ascribed belief state, i.e. a belief base together with the selection function based on a certain preference relation, plays the role of a theory. A belief state accounts for a positive (negative) validity judgement of an argument if it passes (fails) the test for enthymematic validity relative to the ascribed belief state.

The process of mutual adjustments of commitments and theory is called equilibration and it is assumed that the theory-commitment-pairs are comparable according to desiderata that come in measurable degrees. BBB include three desiderata into their schematic model (Beisbart, Betz and Brun 2018, 7):

- **Account:** The theory accounts for the commitments.
- **Systematicity:** The theory is systematic.
- **Faithfulness:** The current commitments respect the initial commitments.

For the sake of a manageable model, these desiderata are a selection from a wide range of goals, which are generally relevant to theories, e.g. precision, simplicity, consistency, conceptual clarity, fruitfulness, explanatory power, completeness and broad scope of application (Baumberger and Brun 2017, 177). They are meant to establish theories that are systematic and credible, i.e. they provide reasons to assume that they are not loose collections of principles and that they suit to the facts (Baumberger and Brun 2017, 176).

An examination of interpretation processes independent of RE considerations reveals that they also aim at credibility and systematicity. Take for example the find-the-missing-premises approaches. It is not allowed to add a premise that forms a contradiction with the other premises to derive the conclusion by the principle of explosion. Similarly, the conclusion must not be added as a premise, because this renders an argument question-begging. This can be seen as an effort towards consistent and systematic outcomes.

Admittedly, the configurations of goals for the interpretation process may differ from the presented desiderata. Nonetheless, there is some motivation to include them in an interpretative process: The outcome of an interpretation should provide reasons why some validity judgements about arguments have to be revised. This amounts to the desideratum of account. The

examples from above indicate that systematicity guides the process of interpretation: Not all outcomes are acceptable as a charitable interpretation. Finally, the desideratum of faithfulness reflects the demand that an interpreter should take his initial commitments seriously, so Brun argues (2014), and that he should not change them without good reason (2014, 113).

The interpretation of enthymemes involves the desideratum of account, since belief states and validity judgements are linked by the test for enthymematic validity. The desideratum of account can be measured by counting the number of validity judgements, which are accounted for by a belief state in relation to those not accounted for.

The desideratum of systematicity concerns theories and it is reduced to simplicity in the model of BBB, which can be measured by counting the principles in a theory. This cannot be transferred straightforwardly to the interpretation of enthymemes. Even though the number of elements in a belief base may be a very crude way of measuring systematicity, it plays no role in the process of interpretation. Instead, I would like to tie the desideratum of systematicity to the plausibility judgements of changes in the preference relation. The idea is that an interpreter is unwilling to ascribe implausible preference relations that yield unwarranted belief states. To refrain from ascribing crazy beliefs contributes to the desideratum of systematicity.

The desideratum of faithfulness is harder to track in the interpretation of enthymemes. Nonetheless, there are some understandings of how the starting point and earlier stages can be faithfully reflected in a process of interpretation. Firstly, the process does not change the subject matter given by the arguments. Furthermore, the acceptance status of premises and conclusions expressed by the author is respected as far as revisions and contractions allow. Secondly, if changes on the preference relation are considered, the similarity to the previously ascribed belief base is evaluated. This amounts to favor small changes and respects the initial ascription of beliefs B_0 indirectly. Thirdly, the backtracking of previously evaluated arguments ensures that past interpretative achievements are not lost.

The operationalized equilibration in the schematic model proceeds in two steps that are repeatedly executed in succession (Beisbart, Betz and Brun 2018, 10-11). In one step the current commitments are systematized in a theory, in the other step the commitments are adjusted to the current theory. The adjustment of theories corresponds to the revision of belief bases and changes in the preference relation and adapting validity judge-

ments conforms to the adjustment of commitments. There is another feature in the literature on RE, which is not captured by the schematic model of BBB, namely that the process advances piecemeal (Goodman 1955), i.e. only one commitment or one principle of a theory is considered at a time. The interpretation of enthymemes is piecemeal in this sense: The belief base is adapted to the premises and the conclusion of one argument and the test for enthymematic validity yields one judgement.

In the schematic model, the process of RE terminates when a theory-commitment-pair is invariant for two consecutive steps, or when the so-called achievement function, which depends on the measures of desiderata, does not improve for both steps (Beisbart, Betz and Brun 2018, 11). The process of interpretation stops when no arguments are left to check. Note that this simple stopping rule could be amended to create a looping structure, in which arguments are evaluated more than once, but this would go beyond the scope of my current project.

Finally, not every theory-commitment-pair resulting from an equilibration is in a state of RE. The schematic model of BBB includes requirements of various strengths that have to be fulfilled (Beisbart, Betz and Brun 2018, 8).

- **T:** The theory is consistent.
- **CC:** The commitments are consistent with each other.
- **CCT:** The theory and the commitments are consistent with each other.
- **FA:** The theory fully accounts for the commitments, i.e. it accounts for all commitments.
- **FEA:** The theory fully and exclusively accounts for the commitments, i.e. it accounts for all commitments and for nothing more.

These requirements can be transferred to the interpretation of enthymemes and they can be motivated. The ascription of inconsistencies is not charitable, if we deploy a classical consequence operator C_n , hence (T) is required. However, if one wished to drop (T) due to its strong claim, my proposal could be adapted to paraconsistent consequence operators (see Priest 2001) that are able to handle inconsistent belief bases and sets. (CC) reflects that inconsistent validity judgements indicate that the interpretation went wrong. (CCT) ensures that the test for enthymematic validity relative to the belief base is consistent with the validity judgements. The process of interpretation should evaluate every argument, hence (FA) is plausible. The

requirement (FEA) seems to be too strong, since beliefs that are not relevant to the interpretation would have to be removed from the belief base. This may unnecessarily eliminate much of the initially ascribed common and contextual beliefs.

The example from the previous section terminates with B_3 as base of a belief state and the arguments $(s_4, s_5 | s_1)$ and $(s_1, s_3 | \neg s_6)$ are judged to be enthymematically valid, while $(s_6, \neg s_3 | s_2)$ is invalid. The belief state can account for all judgements, and hence (T), (CC), (CCT) and (FA) are fulfilled. Consequently, the example interpretation ends in a RE state.

However, pathological cases, in which the requirements are not satisfied, cannot be excluded and I am not in a position to state general results for arbitrary interpretations. But this flaw is not devastating in light of the achievements: The interpretation of enthymemes fits very well to the schematic model RE and an example illustrated that results are attainable, which satisfy RE requirements. On this ground, the interpretation of enthymemes can be understood as a process of RE, and this provides fruitful insights to the aspects of charity in the interpretation of enthymemes.

The interpretation of enthymemes is motivated by the principle of charity, which originated from Wilson (1959) and was heavily influenced and promoted by the work of Davidson (1984). By now, charity serves as a precondition as well as a methodological principle in all kinds of interpretative endeavors. It requires from an interpreter to maximize the rationality in the author's sayings (Blackburn 1994, 62), or to make an author's position or arguments as strong as possible, before eventually attacking them (Baggini and Fosl 2002, 115). Find-the-missing-premise approaches may achieve charitable interpretations, but only in a minimal sense. It is hard to see how these approaches maximize rationality, optimize agreement (Davidson 1984, 197) or strengthen the author's position, apart from merely eradicating invalid arguments or inconsistencies.

Instead, I argue that the connection between RE and the interpretation of enthymemes conveys a deeper understanding of what makes the latter an act of charity. Since RE can be understood as a method of justification, interpreting enthymemes can be seen as endeavor to ascribe a justified position to an author. The justificatory power of an RE state is derived from the fact, that it fulfills the requirements of equilibrium, strives towards epistemic goals, and pays respect to the starting point (Baumberger and Brun 2017, 173). Having validity judgements and an ascribed belief state in RE spells out what it means to strengthen an author's po-

sition by a charitable interpretation. A maximal number of arguments is deemed enthymematically valid with respect to a consistent set of ascribed beliefs. In addition, the outcome of this process of interpretation is not one-sided, conceding infallibility to the author. It also justifies the interpreter in his validity judgements, since both commitments and the theory are justified in a state of RE.

Note that the BRT framework offers further insights into the process of interpretation. The most sought-after results from BRT are so-called representation theorems that establish a close connection between explicit construction and axiomatic characterization of belief change operators. In fact, the operations from section 3, package contraction and revision, are also characterized by postulates of rationality (see below). In addition, the constraints on the preference relation are concerned with rationality, even though they are not captured in the representation theorems. Consequently, some operations in the process of interpretation (the adaptation of the belief base and the test for enthymematic validity) are also governed by axioms of rationality. For example, the axioms ensure that the ascribed belief bases are consistent, and that there is no unnecessary loss or acquisition of beliefs. This means that in the construction of a belief base, an interpreter observes the assumption that the author is rational. The axioms also demand that the operations are successful, irrespective of cases in which it may be more rational to let an operation fail. There are two points to be made here: Firstly, BRT offers more refined operations that do not prioritize the input beliefs. Secondly, the suggested test for enthymematic validity relies on the success of its operations. As it stands now, the test cannot guarantee the validity of arguments without successful operations.

I conclude this section with a general remark on the interplay of BRT and RE. Commonly, the justificatory power of RE is located in its endpoint, which is in a state of equilibrium, complying to epistemic goals and the starting point. From this perspective, the process leading up to the end point does not directly contribute to its justification. Modeling the method of RE with BRT may rectify this situation and strengthen by adding a procedural justification (Elgin 1996, 101). The RE operations of mutual adjustments can be described within BRT as operations of belief change, which are linked to postulates of rationality.⁴ Consequently, the

axiomatic characterization applies to certain steps in the RE process, which proves to be insightful. On the one hand, the plausibility of these axioms can be examined with respect to RE in general or the specific application. On the other hand, the endpoint is justified in virtue of being the result of a rational process. This supplements the method of RE with additional means of justification.

5. Conclusion

Adapting Brun and Rott's process of interpretation in a BRT framework with belief bases removes some implausible features in their approach. In particular, belief bases can be revised with packages of sentences without an order. A simple backtracking mechanism avoids that previous interpretative achievements are lost, and the examples illustrates that the procedure is operative. At this point, one can see that the process of interpretation shares many aspects of RE. Hence, we may take the process of interpretation as a RE process, and this provides a deeper understanding of how justification and the principle of charity relate.

One may object that the structural analogies are not sufficient to impose RE on the process of interpretation. Against this, one can try to independently motivate the desiderata and requirements of RE for interpretation. I allude to some points, but there is much more, and less formal work required. This includes a careful analysis of which epistemic goals guide the process of interpretation.

There are limitations to the model of which some may be overcome by further research.

- The procedure has no looping structure, whereas it is plausible that an interpreter has to go over a work of an author several times, before she arrives at a charitable interpretation. In addition, a looping procedure would strengthen the connection to RE process, which are commonly assumed to be looping.
- The RE desiderata are assumed to allow for trade-offs, because they pull in different direction. A more systematic theory may only be available if we are less faithful to our initial commitments.

(Success) $A \subseteq B * A$

(Inclusion) $B * A \subseteq B \cup A$

(Consistency) $B * A$ is consistent if A is consistent.

(Relevance) If $p \in B$ but $p \notin B * A$ then there is some consistent set $B \triangleright$ such that $B * A \subseteq B \triangleright \subseteq B \cup A$, but $B \triangleright \cup \{p\}$ is inconsistent.

(Uniformity) If, for all $B \triangleright \subseteq B$, $B \triangleright \cup A$ is inconsistent if and only if $B \triangleright \cup C$ is inconsistent, then $B \cap (B * A) = B \cap (B * C)$.

(Redundancy) If A is consistent and $A \cup \{p\}$ is inconsistent for each $p \in P$, then $B * A = (B \cup P) * A$.

⁴ The operator $*$ is an operator of unified internal partial meet revision for belief bases B and sets of sentences A if it satisfies the following postulates (Hansson 1993, 650-651):

While the present procedure puts a lot of weight to account, adaptations may reflect other weighings of the desiderata.

- There are formal approaches to model similarities and minimal belief change (see for instance Hansson 1992b) that may serve to make more explicit when belief bases are close enough at the second level of charity. This cannot completely replace the judgements on an interpreter, but it may reveal further aspects of rationality in the process of interpretation.
- From a formal viewpoint, analytic results about the model would be welcome. Another unsolved BRT matter is the axiomatic characterization of operations that are based on preference relations with further rational constraints.

The amount of unanswered and interesting questions is encouraging and another source of evidence that interpreting enthymematic with BRT is more fruitful than find-the-missing-premise approaches.

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