

Paternalism and Right*

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I. INTRODUCTION

PATERNALISTIC laws, as customarily understood, are those that restrict a person's actions *for her own sake*. They coerce a person, for instance, with an eye to enhancing her well-being, or to promoting her flourishing, or to maintaining her virtue. Paradigmatic examples include seat-belt laws aiming to protect someone from injury, anti-tobacco policies intended to guard against cancer and disease, regulations designed to limit the extent to which someone may risk her financial future, and laws requiring citizens to behave righteously in their personal lives. Republicans and liberals traditionally look upon such laws with deep suspicion, as both prefer to leave individuals to live as they see fit so long as they commit no injustice in so doing. My goal in this article, though, is to suggest that a variety of paternalistic laws can be defended through appeal to republican and liberal values—that is, they can be defended through appeal to considerations of right, which republicans and liberals both believe justify state action. According to the account I'll advocate, laws that restrict a person's actions for the sake of the person herself are justified *not* on grounds that they promote her well-being, flourishing, or virtue, but on grounds that they're necessary to ensure that she treats herself rightly or justly. To support this view, I will argue that an individual can relate to herself in ways that parallel how she relates to other individuals—ways that, according to republican and liberal doctrine, legitimately engage the interest of the state.

II. ANTI-PATERNALISM

As a prelude to the article's main argument, I wish to clarify what I understand to be the core commitments of the republican and liberal traditions, and to explain how these commitments engender a suspicion of paternalism. Beginning with republicanism, its core commitment is that each individual has a claim to not be

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dominated by another. Authors have rendered this tenet in various ways. On a weaker version, the commitment to non-domination implies merely that persons have a claim to not be positioned in such a way that what they do can be determined by a foreign will that fails to track their interests.¹ So a person is wronged, according to the view, if she's subjected to the will of a sovereign who legislates for his own benefit, rather than for that of the people. But a more demanding species of republicanism—associated most often with Rousseau and Kant—understands non-domination as being positioned so that one's action cannot be determined by the will of another *even if that will tracks one's interests*. To illustrate: Fundamental to Kant's political philosophy is what he names the "innate right of humanity."² As Arthur Ripstein explains it, having this right means "you are entitled to use your own [practical] powers as you see fit."³ You have a right, that is, not to be used as a resource for the pursuit of others' ends and values *even if you stand to benefit by being so used*.⁴ So a person who is, say, forced by her government to avoid smoking, or to save for her future, or to pursue a risk-averse investment strategy, seemingly serves a master other than herself—a benevolent one, perhaps, but a master nonetheless. Paternalistic law, then, appears antithetical to the values upon which the republican tradition rests.

Consider, now, the liberal tradition—specifically liberalism of the stripe described and defended by John Rawls. That tradition proceeds from the idea that each person should be allowed to freely pursue the conception of the good life she endorses. Persons are, in Rawls's famous words, "self-authenticating sources of valid claims" who are "entitled to make claims on their institutions so as to advance their conceptions of the good (provided these conceptions fall within the range permitted by the public conception of justice)."⁵ So a person is, according to the view, entitled to live her life according to her conception of the good without interference from the state, so long as she commits no injustice in so doing. This amounts, more or less, to a presumption that a person be permitted to accept harm onto herself, even when her reasons for doing so are foolish or wrongheaded. So, for instance, if someone chooses to smoke, drink heavily, and eat a fatty diet, it's plausible to judge that she's bringing undue harm upon herself. But the default liberal presumption is that she's entitled to live hard, if that's what she chooses. And along similar lines, if someone prefers spending lavishly in the present over saving for the future, this might be imprudent, but she's entitled to "live for today" if that's what she chooses.

¹Philip Pettit, *Republicanism: A Theory of Freedom and Government* (Oxford: Oxford University Press, 1999).

²Immanuel Kant, *The Metaphysics of Morals*, trans. Mary Gregor (Cambridge: Cambridge University Press, 1996), pp. 30–1 (6: 238).

³*Force and Freedom: Kant's Legal and Political Philosophy* (Cambridge, Mass.: Harvard University Press, 2009), p. 17.

⁴A similar idea is found at the core of Rousseau's political work, as his fundamental question is whether positive law—which coerces a person against her will—can ever be consistent with autonomy.

⁵*Justice as Fairness: A Restatement* (Cambridge, Mass.: Harvard University Press, 2001), p. 23.

Liberals and republicans occasionally argue that the presumption against paternalistic law can be overcome under certain conditions—for example, when there’s reason to think such law would cause a person to achieve an end she already embraces, or would nudge her to overcome an irrational weakness of will (as when the government requires seat belt use).⁶ Others think that the presumption can be overcome when a person is likely to harm herself out of ignorance (as when the government prohibits purchase of overly complicated financial products that people are unlikely to understand).⁷ I am, for the purposes of this article, agnostic about whether these arguments succeed. For the moment, I wish simply to note that fundamental republican and liberal commitments seem to justify an anti-paternalism presumption—a presumption that must be overcome if paternalistic laws are to be justified.

III. LEGITIMATE REPUBLICAN AND LIBERAL LAW

That the state is sometimes permitted—and is, indeed, *required*—to coerce people is, however, also an important aspect of the republican and liberal views. Part of the state’s core function involves, for instance, preventing persons from acting in ways that are harmful to others, and collecting taxes to promote the general welfare. One might, then, suspect that there exists a fairly straightforward opening for defenders of paternalistic law. Coercing an individual *for her own sake* seems no more objectionable than coercing her for the sake of others, after all. And, since the coerced person is the beneficiary of the coercion, it can actually seem *less* objectionable.⁸ It’s a tempting line of thought. But in this section, I’ll explain why it’s more difficult for republicans and liberals to embrace paternalism than this bit of reasoning implies. I will begin by discussing the republican and liberal views of legitimate state action before raising a challenge for anyone who defends the legitimacy of paternalism within a republican or liberal state.

Republicans believe that living together in a rightful condition requires that each person be able to exercise her own practical powers, without being at the mercy of another person who can control the purposes toward which those powers are put. The state’s function, thus, is *not* to ensure that individuals use their practical powers for purposes that are the best, but instead to realize conditions in which individuals can use those powers free from domination.

⁶See John Rawls, *A Theory of Justice*, rev. ed. (Cambridge, Mass.: Harvard University Press, 1999), p. 219, and Gerald Dworkin, “Paternalism,” *The Monist*, 56 (1972), 64–84.

⁷Following John Stuart Mill, some liberals draw a distinction between “soft paternalism” (where the person interfered with is attempting to act without fully understanding what she’s doing) and “hard paternalism” (where the person interfered with is attempting to act with full understanding of what she’s doing), and insist that only the latter is objectionable (see Joel Feinberg, *Harm to Self: The Moral Limits of Criminal Law* [Oxford: Oxford University Press, 1986]).

⁸This point is made by Sarah Conly in *Against Autonomy: Justifying Coercive Paternalism* (Cambridge: Cambridge University Press, 2012), p. 35. See also Peter de Marneffe, “Avoiding paternalism,” *Philosophy and Public Affairs*, 34 (2006), 68–94 (esp. pp. 77–9, 83).

Now, modern society affords ample opportunity for domination. At the crudest level, inequalities of brute physical strength enable some individuals or groups to force others to act in particular ways. So, state power is required to prevent people from exerting physical force upon one another. But also, inequalities in wealth and social status enable the privileged to coerce the less privileged in ways that tend to offend republican sensibilities. As a result, the state must maintain institutions and practices that ensure each person has de facto control over her own purposiveness, for instance, by eliminating inequalities of wealth or outlawing social practices that facilitate relations of domination. Specifics aside, the general point here is just that the republican state's core function is to establish and to maintain these sorts of relationships of right.⁹

Moving on to liberalism, we said in section II that that tradition is committed to the idea that each person has a presumptive claim to live according to her own values. Now, Rawls conceives of society as a system of cooperation, within which people interact in ways that generate primary goods that individuals may use to advance their own conceptions of the good life. But this generation of benefits, and also of burdens, raises a normative question about distribution. It would, after all, be wrongful for some to shoulder a disproportionate share of the burdens associated with social cooperation while others enjoy the lion's share of the benefits. One of the core purposes of the state, then, is to ensure that the distribution of burdens and benefits conforms to principles of justice—the state must levy taxes in a way that ensures a fair distribution, it must distribute justly the offices necessary to maintain society, it must protect holdings of individuals who acquire property fairly, and so on. So here, too, the liberal state's core function is *not* to ensure that individuals conform to some particular conception of the good, or to correct ill-conceived ideas about how to live. Rather, it is to maintain conditions of justice within a socially cooperative society, in which people live freely as they choose.

So, if we hope to defend the permissibility of paternalism by showing it to be part of the legitimate function of the republican and liberal state, we must demonstrate that paternalistic law is necessary for realizing rightful conditions of non-domination, or for promoting justice. To see why this might prove to be a considerable challenge, consider that non-domination and justice are concepts that typically characterize the way that distinct individuals relate to one another. As Ripstein writes

[I]ndependence [or the state of non-domination] requires that one person not be the subject of another person's choice. Kant's account of independence contrasts with more robust conceptions of autonomy, which sometimes represent it as a

⁹For elaborations on the precise role of a republican government, and for more specific policy discussion, see Ripstein's *Force and Freedom: Kant's Legal and Political Philosophy* and Frederick Neuhouser's "Rousseau's critique of economic inequality," *Philosophy and Public Affairs*, 41 (2013), 193–225.

feature of a particular agent ... Kantian independence is not a feature of the individual person in isolation, but of relations between persons.¹⁰

Similarly, though it's easy to overlook, Rawlsian justice isn't just a property that society either has or lacks, but something that individuals *give to* or fail to *give to* one another.¹¹ An unjust society isn't just one in which some persons' situations are unenviable, but one in which some individuals are treated unfairly by others or by the collective. It's one in which beneficiaries *wrong* the less well off.

All of this suggests that both the republican and liberal traditions are fundamentally *second-personal*.¹² To clarify what I mean by "second-personal," consider a case discussed by Stephen Darwall.¹³ An individual steps on another's foot, causing her pain. The stomper, we can suppose, has reason to remove her foot. Now, we *might* contend, following G. E. Moore, that this reason consists in the fact that removing the foot "will cause more good to exist in the Universe than any possible alternative."¹⁴ But Darwall notes that a foot stomper who removes her foot only for this reason fails to appreciate the sense in which she's *accountable to the owner of the trampled-upon foot*. Were she to have such an appreciation, the appreciation would bring with it a battery of judgments, such as: "If I fail to remove my foot, I will *wrong this person*," or, "This person *has a right against me*, requiring me to remove my foot," or, "I *owe it to this person* to remove my foot." An agent who makes such judgments is concerned not merely with the states of affairs her actions produce but also with how her actions relate her to others. Returning now to the topic at hand, my suggestion is that the republican and the liberal traditions are built upon an essentially second-personal foundation. Each person *has a right against* each other person to not be dominated. Persons *owe it to* one another to give justice to one another. Within these traditions, the core function of the state is to ensure that we give to each other some particular things that we owe to each other. But this would seem to suggest that enacting paternalistic law is no part of the state's core function. Paternalistic law, after all, coerces a person for her own sake, whereas the core function of republican and liberal government is to realize second-personal relations of right. So paternalism involves coercion, about which the republican

¹⁰*Force and Freedom*, p. 15.

¹¹*A Theory of Justice*, pp. 444, 446, 500.

¹²Some recent works discussing "the second-personal" include: Stephen Darwall, *The Second-Person Standpoint: Morality, Respect, and Accountability* (Cambridge, Mass.: Harvard University Press, 2006); T. M. Scanlon, *What We Owe to Each Other* (Cambridge, Mass.: Harvard University Press, 1998); Michael Thompson, "What is it to wrong someone? A puzzle about justice," in *Reason and Value: Themes from the Moral Philosophy of Joseph Raz*, R. Jay Wallace, Philip Pettit, Samuel Scheffler, and Michael Smith, eds. (Oxford: Oxford University Press, 2004), pp. 333-84; R. Jay Wallace, "The deontic structure of morality," in *Thinking About Reasons: Themes from the Philosophy of Jonathan Dancy*, David Bakhurst, Brad Hooker, and Margaret Little, eds. (Oxford: Oxford University Press, 2013), pp. 137-67.

¹³*The Second-Person Standpoint*, pp. 5-10.

¹⁴*Principia Ethica* (New York: Dover, 2004), p. 148.

and the liberal are suspicious. And the coercion doesn't seem to be of the permissible sort—the legitimate sort that's necessary for the state to perform its function. Thus, the republican and liberal traditions seem to embrace values and to endorse a view about the role of the state that leaves little room for paternalism.

All of that said, I'll devote the remainder of the article to arguing that enacting some paternalistic laws is—contrary to appearances—part of what's involved in the state performing its core function. And because enacting some paternalistic laws is part of the state's core function, such laws are legitimate despite the presumption against interfering in people's lives.

IV. RELATING TO ONESELF SECOND-PERSONALLY

An individual person can stand in second-personal relationships of accountability to herself. This, at any rate, will be the conclusion for which I'll argue in this section.¹⁵ My strategy will be to demonstrate that a person can relate to herself in ways that relevantly parallel how two distinct individuals relate to each other when they're related second-personally. The assumption under which I'll be operating is that if like cases should be treated alike, and if a person's relationship to herself is like the relationship between separate persons, then we should accept that an individual can owe things to herself second-personally in the same way that distinct individuals within a society can owe things to each other. And showing that an individual really can owe things to herself second-personally is—for reasons articulated in section III—an important first step in linking paternalism to core legitimate functions of the state.

I'll begin by arguing that two separate persons relate to each other second-personally *not* by virtue of their being distinct persons per se, but by virtue of their each occupying a distinct “perspective” or “standpoint.” Very roughly, a perspective or standpoint is a point of view from which one perceives, feels emotions, has sensations, endorses a value, wills some end, and so on. The notions of a perspective and standpoint are, in the most familiar cases, used to highlight discrepancies between the actual points of view of distinct individuals. We say, for instance, that “The new tax policy is desirable from the perspective of the rich, but not from that of the poor,” or, “From the standpoint of those on Wall Street, deregulating seems reasonable, whereas from everyone else's standpoint it seems unreasonable.” Now Darwall, in elucidating the second-personal concepts that interest him, makes an appeal to what he calls the *second-person standpoint*. This is the perspective from which an individual holds another accountable, or is held accountable by another—it's a perspective from which individuals “make and acknowledge claims on one another's conduct and

¹⁵The section presents a condensed version of an account I develop in my “On the existence of duties to the self (and their significance for moral philosophy),” *Philosophy and Phenomenological Research*, 90 (2015), 505–28.

will.”¹⁶ Notions such as *duty to* or *right against* are inextricably tied to this standpoint—it’s only by virtue of the fact that we take it up that these concepts become available to us in the first place. To illustrate, consider a variation of the foot-stomping example mentioned earlier. Smith desires a footrest and decides to place his foot atop Jones’s. From Jones’s perspective, two things seem relevant. First, his own foot is interfered with, so that he cannot move it about and use it for the purposes he adopts. Second, he’s likely to be caused pain, especially if his foot is broken or gouty. From Smith’s perspective, the situation seems different—he’s not impeded in the use of his practical powers, he experiences no pain, and he has his desire satisfied. The fact that there exist these two points of view, and the fact that they’re asymmetrical in these respects, makes possible a second-personal relationship of the kind Darwall describes. Jones is able to counter Smith’s desire by addressing to Smith a demand that he move his foot, either on grounds that he (Jones) be allowed to use his foot for his own purposes or on grounds that his well-being be given some regard. Out of consideration for the fact that Jones occupies his own perspective from which he sets ends and has interests, and for the legitimate demands that can be issued from that perspective, Smith might then remove his foot. That is to say, from the standpoint of another person, claims are generated that affect Smith’s normative situation. Now, if we’re able to tell a story about an *individual person* that parallels in its essential elements this Darwallian account of two persons relating second-personally, then we’ll have strong reason to believe that an individual person can indeed take up the second-personal standpoint with respect to herself. My task here, then, is to establish the truth of this conditional’s antecedent.

Any individual, over the course of her life, will occupy many *temporal* perspectives from which she’ll adopt purposes and have interests. For instance a person might, from her perspective at age eighteen, assess her reasons and adopt a plan in which she attends an expensive art school and then works for decades to pay off her loans. But after growing a bit older, and assessing this plan through the lens of the values to which she’s committed at age twenty-five, she might reject the reasons that seemed earlier to support the plan. In such a case, it would be proper to say that she endorsed the plan from one perspective but rejected it from the other—there is a conflict of values, and a conflict of practical judgment, between a person and herself from different temporal points of view. Or, to give another kind of example, a person might take up smoking and enjoy the resulting pleasure from her perspective at age eighteen. But then she might experience excruciating pain from her perspective at age seventy when she’s afflicted with end-stage emphysema. In such a case, it would be proper to say that the decision to smoke benefited her from one perspective while burdening her from another.

Thus, despite an individual’s being one and the same enduring person, the ends she endorses and the interests she has from the different temporal perspectives

¹⁶*The Second-Person Standpoint*, p. 3.

can conflict in just the way that they did in the case of Smith and Jones. So, the very conditions that drive us into the second-person standpoint with respect to other persons seem to be present in the case of a single temporally-extended individual, relating to herself over time. Now, to complete the account, imagine that an individual occupies a perspective (P_1) from which she has certain ends or interests, and that later she will occupy a perspective (P_2) from which she will have ends or interests that conflict with those had from P_1 . From P_1 , she could judge herself accountable to the occupier of P_2 —the subject of a different set of ends and interests, who happens to be *her*. That is, she could, qua occupant of the present perspective, recognize a duty *to herself* qua occupant of the later perspective. And on these grounds, she might rightly refrain from taking on debt, or from smoking, or whatever else, out of a sense of obligation. Thus, by pointing out that a story mirroring the one told about inter-personal relations can be told about an individual person, I've argued to the conclusion that an individual could have, as a result of considerations generated from P_2 , a second-personal reason—or a duty—owed to herself to act differently than she otherwise would.

To forestall misunderstanding, I'd like to end this section with a brief clarification of the conclusion for which I've argued. It might be tempting to read the above as embracing a controversial view about personal identity, on which persons are composed of metaphysically distinct person-stages (or “temporal parts”), and on which these stages enter into relations of accountability to one another. Such a view, were I to advocate it, would carry considerable baggage. That there exist person-stages (or “temporal parts”), and that we persons are composed of them, is a metaphysical view about which there is considerable controversy. Worse still, that such stages are moral actors or agents, themselves able to enter into moral relationships, is a claim likely to be even more contentious. But I'm not, here, relying upon these controversial claims. My view—which I develop in more detail elsewhere—is that a single enduring person occupies multiple distinct perspectives over the course of her life, and that this enables the single enduring person to hold herself responsible in the ways characteristic of second-personal accountability.¹⁷ So even if an individual person is metaphysically unified in ways that a multitude of separate persons is not, her temporal extension makes it the case that she shares certain important features with the multitude.¹⁸ But none of this requires appeal to metaphysically distinct person-stages. An individual person can owe things to herself simply by virtue of the fact that she occupies multiple temporal perspectives from which she has interests and ends, and from which she can issue and receive moral demands.

¹⁷See my “On the existence of duties to the self.” See also Michael Cholbi, “On Marcus Singer’s ‘On duties to oneself,’” *Ethics*, 125 (2015), 851–3.

¹⁸Of course, there might be other reasons—reasons that don't pertain to temporal extension—for thinking that a person can relate to herself second-personally. Nothing said here is intended to exclude other possibilities. However, a defense of self-directed duties that does not appeal to temporal extension will encounter difficulties that the view I defend here will not. For a discussion of these difficulties, see my “On the existence of duties to the self,” esp. pp. 520–1.

V. RELATING TO ONESELF SECOND-PERSONALLY: OBJECTIONS AND REPLIES

Thus far, I've argued that second-personal claims can indeed be generated intra-personally. This is *not*, of course, sufficient to establish the legitimacy of paternalistic law, as the mere fact that we have a second-personal moral duty doesn't imply that it's permissible for the state to force us to perform it. But before completing my account and arguing that there are self-directed duties that the state should be tasked with enforcing, I wish to address misgivings that I suspect some readers will have about the account offered up to this point—misdemeanors about my argument that there could be intra-personal second-personal relations of moral accountability.

A. OBJECTION 1: I'VE MISUNDERSTOOD WHAT MORALITY IS

Someone might object to my argument for second-personal duties to the self on grounds that talk of duty is talk of morality, and morality is—as a conceptual matter—concerned exclusively with interactions among distinct people. A prominent philosophical dictionary, for instance, defines morality as “an informal public system applying to all rational persons, *governing behaviors that affect others*, having the lessening of evil or harm as its goal, and including what are commonly known as moral rules, moral ideals, and moral virtues.”¹⁹ If this is right, making use of moral concepts within the realm of the purely intra-personal amounts to a conceptual error.

But any way of understanding morality that restricts its domain to the inter-personal is plainly inadequate. The notion of self-directed duties has played an important and prominent role in the history of moral thought, with Pufendorf, Clarke, Wollaston, Butler, and Price—to name just a few—all including within their moral tracts discussions of duties to the self. And this, no doubt, is why Kant simply took it for granted in the *Groundwork* that the “usual division” of obligations includes those owed to oneself.²⁰ Now, all of this leaves open the possibility that there exist no duties to the self at all, and also the possibility that none of our actual duties to the self are ones that the state ought to, or is permitted to, force us to perform. The present point is simply that self-directed duties cannot be ruled out on conceptual or definitional grounds.

B. OBJECTION 2: THE RELEVANT DIFFERENCE BETWEEN DUTIES TO THE SELF AND DUTIES TO OTHERS IS INTRA-PERSONALITY ITSELF

In section IV, I argued that a person can relate to herself second-personally by highlighting similarities between the way distinct persons relate to each other and

¹⁹Bernard Gert, “Morality,” *The Cambridge Dictionary of Philosophy*, 2nd ed. Robert Audi (Cambridge: Cambridge University Press, 1999), p. 586. (The italics are mine.)

²⁰*Groundwork of the Metaphysics of Morals*, trans. Mary Gregor (Cambridge: Cambridge University Press, 1997), p. 31 (4: 421).

the way an individual relates to herself. But, of course, *dissimilarities* between the way that distinct persons relate to each other and the way an individual relates to herself could serve to undermine my case. And someone, upon hearing my account, might well contend that I've ignored the most crucial difference of all—namely, that in the one case, there are multiple persons relating to one another, whereas in the other case there is only one. *This* bald fact, the objection might go, constitutes the essential difference that prevents us from extending what we know about second-personal relations into the realm of the intra-personal.

Posed in this way, however, the objection clearly begs the question. As I've noted above, there's a long tradition of thinkers who believe in the possibility of self-directed duties. In light of this, certainly it's fair to ask the question: Are these thinkers correct? My discussion in section IV is an attempt to address this very question, and to argue for an affirmative conclusion. But this proposed objection—stating, as it does, that the inter-personal and intra-personal cases are relevantly different in that the former involve multiple people whereas the latter do not—simply assumes a negative answer to the very question I'm attempting to address. It assumes that intra-personal relations of second-person accountability aren't possible.

A perhaps non-question-begging objection within this vicinity complains that, according to my account, it's not persons who are owed things, as it is in the inter-personal case. Rather, it is person-stages who are owed things. And this is a relevant difference, as it's questionable whether person-stages are the kinds of things that can enter into relations of moral accountability. But this objection misses the mark for reasons I mentioned at the conclusion of the previous section. On my view, it isn't that one person-stage is morally accountable to another person-stage. Rather, a person is accountable *to herself* by virtue of her occupying more than one temporal perspective over the course of her life. Since it is the person herself—and not a person-stage—to whom the performance of duties is owed, this objection fails as well.

C. OBJECTION 3: TO SUGGEST THAT THE SOURCE OF SECOND-PERSONAL DEMANDS CAN SHARE AN IDENTITY WITH THE RECIPIENT OF THE DEMAND IS PROBLEMATIC²¹

In section IV, I argued that a person might be duty-bound to refrain from benefiting herself in the present when doing so would result in her future suffering. The argument hinged on an analogy between the way metaphysically distinct persons relate to one another and the way that a temporally extended individual relates to herself from different perspectives over time. However, one might object that the inter-personal and intra-personal cases I've discussed are disanalogous in a crucial respect. When we speak of metaphysically distinct persons making moral demands on one another, the source of the demands is

²¹I thank an anonymous referee for pushing me to address this objection.

distinct from the entities upon which the demands are placed. So, if Max places a demand on Herman, and Herman places a demand on Max, each is a source of normativity making claims on a metaphysically distinct entity. On the other hand, when we speak of an enduring individual making demands on herself, the source of the demand is identical to the entity upon which the demand is placed. And this breakdown in my analogy might appear devastating. Since the purpose of the analogy is ultimately to convince liberals and republicans that self-directed duties are possible, and since liberals and republicans traditionally take seriously the separateness of persons as distinct sources of normative claims, it appears that the analogy might ultimately be unable to serve its intended argumentative purpose.

I am happy to acknowledge that there exists this specific disanalogy between the inter-personal and the intra-personal cases. Nevertheless, I wish to insist that it doesn't undermine the purpose of the analogy I worked out in section IV. To begin, I'll note that most republicans and liberals believe it to be obvious that a person may permissibly treat herself in ways that she's simply not allowed to treat others. The most famous expression of this view comes from Rawls, who writes: "[E]ach man in realizing his own interests is certainly free to balance his own losses against his own gains. We may impose a sacrifice on ourselves now for the sake of a greater advantage later. A person quite properly acts, at least when others are not affected, to achieve his own greatest good, to advance his rational ends as far as possible."²² This, he thinks, marks a fundamental difference from cases involving multiple persons. In *those* cases, each person constitutes a distinct source of moral claims. This fact seemingly gives rise to the possibility of duties to one another, requiring that everyone concern themselves not merely with how things go overall, but also with how they go from the standpoints of the various other sources of moral claims—the standpoints of distinct persons, to which burdens and benefits attach. And this, more or less, is Rawls's most famous objection to utilitarianism—a view he accuses of fusing “the desires of all persons into one coherent system of desire” in a way that ignores how things go from the point of view of each.²³

The account I work out in section IV can be understood as operating somewhat analogously, I think. There, I pointed out that insofar as we treat a temporally extended person—who is, I've admitted, a single source of moral claims—merely as the occupier of a single standpoint to which interests attach, we lose sight of the fact that she occupies multiple temporal standpoints over time, we lose sight of the fact that different interests attach to those distinct standpoints, and we lose sight of the fact that moral demands can coherently be issued from those multiple standpoints. And to lose sight of these facts is to risk making a mistake like the one that Rawls accuses the utilitarian of making—it is

²²A *Theory of Justice*, p. 21.

²³*Ibid.*, p. 24.

to risk fusing together the temporal perspectives that an individual occupies over time, blinding us to the way that burdens and benefits attach to distinct temporal perspectives, and blinding us to the possibility that legitimate demands might be made from these perspectives.

Of course, the fact remains that in the intra-personal case, the source of the moral demand shares an identity with the entity upon which the demand is placed. But my suggestion is that insofar as an individual (understood as a single enduring source of normativity) can relate to herself over time in a way that mirrors the way that multiple persons (understood as distinct sources of normativity) do, then we ought to incline toward the surprising conclusion that the separateness of normative sources is less significant than liberals and republicans traditionally suppose. What matters, instead, is the distinctness of standpoints—whether that be a distinctness between the standpoints of multiple separate sources of moral claims or a distinctness between different temporal standpoints of a single enduring source of moral claims. And, if a reader is inclined to resist this admittedly surprising conclusion, my hope is to inspire him or her to clarify why a source of moral demands must indeed be distinct from the entity upon which the demands are placed.

D. OBJECTION 4: I'VE MISCONSTRUED THE WAY THAT A PERSON RELATES TO HER OWN WILL OVER TIME²⁴

I've been arguing that a person can have duties to herself, which implies that it would be possible for a person to make decisions that wrong herself. Someone might object, though, that this implies that it's possible for a person to be alienated from her will in a way that she simply cannot be. To see what I'm imagining, consider that we tend to talk about a person regretting mistaken decisions that she makes, or taking responsibility for them, or feeling embarrassed about them—all in a way that assumes that she identifies with her own will, seeing decisions that she makes as *hers*. Such identification, one might think, precludes the possibility of a person relating to herself second-personally. This would be devastating to my hope for giving a republican or liberal defense of paternalism, as both traditions draw a sharp distinction between one's own will and the will of another.

However, my account in section IV suggests that a person's own will, when temporally distant, can indeed be alien to her in important respects. For instance, an individual might willfully ignore her future well-being, simply refusing to give her welfare at a future date any normative weight, much in the way that she might ignore the well-being of others. Or she might plot against herself, committing herself to pursue values she endorses now in ways that will prevent her from exercising her will in the future if her values change—much in the way that she might plot against others to prevent them from pursuing their

²⁴I thank an anonymous referee for raising this objection.

values.²⁵ Or she might consciously use up resources in the present without concern for her future, much as some people consciously use up resources without regard for others. In other words, she might treat other portions of her life as if they're alien to her, suggesting that alienation from one's own will is a genuine possibility after all.

VI. REPUBLICANISM, LIBERALISM, AND PATERNALISTIC LAW

Making the case that the republican and liberal state's core function includes enacting particular paternalistic laws, and thus that enacting such laws is indeed permissible, requires more than simply demonstrating that an individual person can take a second-personal perspective on herself. After all, Kant famously thought it possible for an individual to owe things to herself as a matter of moral duty, but categorized those things owed to oneself as duties of virtue rather than duties of right—that is, he considered them to be among the duties that the state has no business forcing a person to perform. So, what's needed for my purposes is not merely an argument showing that a person can relate to herself second-personally, but a demonstration that a person can relate to herself in ways that republicans and liberals characteristically think justify state action. What's needed, to use Kantian language, is an argument showing that there are duties of *right* owed to the self. In this section, I shall offer the beginnings of such an argument, adopting, once again, the strategy of showing that some intra-personal cases mirror those inter-personal cases that republicans and liberals think call for state coercion.

A. LEGISLATION THAT PREVENTS A PERSON FROM HARMING HER BODY

To begin, recall the republican's commitment to a right against domination, requiring the state to counteract the ability of individuals to control the practical powers of others. Now, domination can take many forms, but its simplest manifestation involves interference with another person's body—the body is, after all, our most basic means for pursuing ends.²⁶ It's thus a legitimate use of state power to prevent a person from affecting someone else's body in a way that gives the person control over another's purposiveness.

Similar considerations, I wish to suggest, can serve to justify paternalistic uses of state power. It's unavoidable that we humans, through decisions that we make in the present, affect in many ways the future condition of our bodies. While many such decisions are innocuous, others greatly impact our ability to make use of our practical powers later in life. Smoking, for instance, affects the body's

²⁵For a famous example like this, see Derek Parfit, *Reasons and Persons* (Oxford: Oxford University Press, 1984), pp. 327–8. There Parfit discusses a socialist Russian nobleman who transfers control of his finances to his wife so that if he becomes more conservative as he ages, he'll lack resources to pursue conservative causes.

²⁶Ripstein, *Force and Freedom*, pp. 40–1.

constitution over time in such a way as to limit the purposes toward which it can be put. A person who smokes in her younger years will, at the very least, undermine her ability to engage in physically demanding activities like hiking or jogging, but might also render herself incapable of carrying out basic tasks related to self-care, such as preparing meals or bathing. So by pursuing the enjoyments of smoking at a younger age, she undermines quite generally her means for pursuing the purposes she adopts from a later standpoint. If I've characterized this scenario correctly, then from her perspective later in life, a person seems to be at the mercy of her earlier self—her *purposiveness* seems to be at the mercy of her earlier self—in much the way that an individual can come to be at the mercy of another person who is in a position to greatly interfere with her body. And this characterization of this scenario points, I think, to a more general feature of the way we all relate to ourselves over time, which is that when it comes to being able to exercise our own purposiveness later in life, we're at the mercy of our earlier selves.

Popular opinion, of course, holds that affecting only oneself with one's actions is, morally speaking, wholly unlike affecting another person. And traditional republicanism's fundamental concern is, I've acknowledged, with distinct persons dominating one another, and not with an individual dominating herself. But the parallel between the intra- and inter-personal that I'm underlining here serves to challenge popular opinion, and to give the republican a reason for broadening her concerns. If a person can bear to herself a relationship of the sort that republicans believe characteristically justifies state intervention, then it's more than plausible to suggest that republicans should look with sympathy upon interventions into a person's life, even when she's affecting no one but herself. So, to return to the example at hand, we appear to have identified a republican-sounding reason for regulating tobacco in order to shield the smoker from its effects. The reason is that, without such a regulation, a person's body—and thus her purposiveness from her standpoint later in life—is subject to the will of her earlier self. Should the republican wish to resist my conclusion, the onus, I would think, is now shifted to her. That is, the burden is on her to explain why domination is so problematic when it defines the relationship between two individuals, but not when it defines the relationship a person bears to herself over time.

My preceding remarks focus exclusively on the risk of domination posed to a person later on in her life when she's operating from an earlier perspective. The reason for this focus is that earlier and later perspectives are situated asymmetrically, with the former able to affect the latter in a way that the latter cannot affect the former. One might worry that an implication of this is that a person must always, in the present, seek to serve her future, never doing anything that could adversely affect how things will go from her future perspective. But this, I believe, isn't something that a republican should accept, as it would render a person enslaved to—or dominated by—her own future. So, the republican who

accepts the account I've offered above will not simply advocate policies that prevent a person from adversely affecting herself but will have to work out principles that enable a person to live on rightful terms with herself over the various portions of her life. This, of course, would be a prodigious undertaking. But it would not be unlike the project that the republican must carry out when considering how distinct individuals should relate to one another within a society. The republican doesn't, after all, insist that distinct individuals must never affect one another negatively, but rather tries to develop principles that, when codified in law, enable distinct individuals to exercise their purposiveness without dominating one another. My thought is that the republican might carry out a similar project on the level of the intra-personal, though such a project obviously falls outside the scope of this article.

Finally, one might object that placing decisions about the treatment of one's own body into the hands of the state constitutes a more troubling form of domination than allowing a person to make such decisions for herself. That is, even if—as I argued in section V—a person can relate to her own will as if it's a kind of foreign entity, the will of the state is still likely to be more deeply foreign to her, and so having to answer to the state seems even more problematic from a republican perspective than having to submit to the will of her earlier self. To respond to this, it helps to note that on the standard republican view, a government that implements policies ensuring non-domination among distinct persons simply creates conditions of right between persons, and is thereby understood to have created conditions of freedom rather than to have meddled in people's lives in a way that itself undermines some of their freedom. As Ripstein argues at length, the state isn't properly understood as a necessary evil that limits freedom for the sake of greater freedom. Rather, given that stateless people relate to one another in ways that make domination inevitable, the state is properly understood as a precondition for freedom.²⁷ Now, my suggestion—which functions as a response to the above objection—is that the republican could maintain something similar with regard to the state intervening in an individual person's life. That is, given how a person's temporal extension makes intra-personal relations of domination inevitable, the right sort of paternalistic action on the part of the state might be understood *not* as a problematic intervention of a foreign will. Instead, it might be understood as a precondition for living on rightful terms with oneself over time, exactly as rightful state interventions into inter-personal relationships are understood as a precondition for living on rightful terms with others. Of course, one might have any number of objections to the republican picture as a general matter. But insofar as one is a republican, this particular way of understanding how paternalism might be justified has a lot to recommend it.

²⁷*Force and Freedom*, pp. 145–81.

B. REGULATION OF PERSONAL FINANCES

Above, I attempted to exploit one of the more straightforward republican preoccupations—interference with the body—in order to make a case for paternalistic law. But another facet of the republican project consists of identifying ways in which social institutions and practices create systems of domination, and suggesting governmental action that will replace these practices with conditions of right. Ripstein, for instance, argues for an active government that collects taxes to fund education, facilitate transportation, and fight poverty, on grounds that an impoverished, immobile, uneducated person is very much at risk of having her practical capacities co-opted by those who are more privileged. This is a line of thought that a liberal can easily endorse as well. According to the liberal, people ought to be left to pursue—and also to revise—their own conceptions of the good life. And so the liberal will have a strong interest in combating conditions that make it impossible for a person to choose freely, or to make informed decisions, or that limit her resources so greatly that pursuing a conception of the good life is impossible.

The possibilities for applying this line of thought to individual persons are numerous, but here I'll mention just one. Economic practices that allow a person to run up enormous debt will leave the individual's later self to the mercy of her earlier self—particularly if she's permitted to take on so much debt that she commits her practical powers almost exclusively to the task of working off what's owed. We can easily imagine, for instance, someone who takes on so much credit card debt in order to travel at a younger age that she more or less commits all of her practical powers in the future to the continued contribution to this purpose. This raises the worry that, under these economic practices, the relation between the earlier and later selves is such that we need to begin to talk in terms of a person's dominating herself. For this very reason, we should, I suggest, be open to the government limiting the amount of debt an individual can take on.

Importantly, the justification for doing so would not be based upon a value judgment about the purposes the individual would likely pursue earlier in life with the borrowed wealth, or upon a judgment about how the debt is likely to hamper the individual's prospects for an overall happy life. Rather, the justification for limiting a person's maximum debt would be to ensure that she retain some control over her own purposiveness, instead of it being entirely committed to purposes selected from an earlier perspective. So once again, we've seen our way to a paternalistic policy proposal, grounded in fundamental republican and liberal values.

C. DISTRIBUTIVE JUSTICE WITHIN A LIFE

In section V, I compared my emphasis on the distinctness of standpoints within a life to Rawls's observation about the distinctness of standpoints among persons

within a society. Rawls's observation famously inspired him to declare that justice requires attention to the distribution of goods *among persons*. Here I wish to suggest that justice requires attention to the distribution of goods *within a life*.

To begin, Rawlsian liberalism does *not* hold that the distinctness of standpoints alone legitimates coercive action in the name of distributive justice. It's an important part of the view that through social cooperation, society's members generate burdens and benefits—primary goods that individuals may use to advance their conceptions of the good, and bads that stand in the way of individuals advancing their conceptions of the good, whatever those conceptions happen to be. According to the Rawlsian liberal, the terms of social cooperation must be justifiable from each member's perspective. So it is *as a participant* that a member is able to lay claim to a fair share of what's produced, demanding that she be given access to benefits and that she not be shouldered with undue burdens. To characterize the Rawlsian position, then, we might say that the separateness of persons makes it possible to raise concerns about distributive justice, but the unity that members exhibit in cooperating to generate primary goods gives the demand for a fair share its moral force.

Once again, a parallel with the individual suggests itself. Taking a cue from Christine Korsgaard, we might conceptualize the relationship between a person qua occupier of the present standpoint and the same person qua occupier of other temporal standpoints as a cooperative one. The subject of a multitude of temporal standpoints must, Korsgaard thinks, engage in inter-standpoint cooperation if she's to live any sort of life at all—if she's to have plans and projects that have any chance of being completed, or to have plans and projects to complete, and so forth.²⁸ Her idea, I take it, is that from earlier standpoints a person counts on her later standpoints to carry out the projects and plans she begins, and from her later standpoints she counts on her earlier standpoints to have initiated projects and plans to carry out. Now, this is a controversial claim, and I'm not in a position to defend it at length here. But if we're willing to grant it, it seems reasonable to suggest that this sort of cooperation will, just as social cooperation does, generate benefits and burdens—through coordinating one's own activity over time, one may produce things of worth that can be exchanged for wealth and resources needed to stay alive and to pursue one's ends. But this, obviously, requires sometimes doing unpleasant work, or living through periods of uncertainty or scarcity, and so forth—it requires generating burdens that are suffered from distinct temporal perspectives. In a Rawlsian spirit, then, we might say that given that we've shown the temporal perspectives to be morally relevant as a general matter, the terms of this cooperation must be justifiable from each of them. That is to say, it is *as a participant* in this cooperation that a person is, from

²⁸“Personal identity and the unity of agency: a Kantian response to Parfit,” *Philosophy and Public Affairs*, 18 (1989), 101–32 (esp. p. 113). Korsgaard makes this suggestion in the course of imagining that a person is a succession of rational beings. She ultimately finds this description of a person misleading, though she seems to be fine with talk of an individual cooperating with herself over time.

the various standpoints that she will occupy, able to demand a fair distribution of the burdens and benefits that she generates over time. So, here too, the distinctness of standpoints within a life makes it possible to raise concerns about distributive justice, but the unity that a person exhibits in cooperating with herself over time gives the demand for a fair share of benefits from various standpoints its moral force.

What I wish to suggest, then, is that laws that force an individual to save for later portions of her life—and that do so *for the sake of the individual herself*—can have a purpose in securing justice. Such laws acknowledge that a temporally extended individual generates goods over time that may be used to pursue values she endorses from her various temporal perspectives, and ensure that the distribution of these goods over the course of her life meets standards of fairness. The laws protect the individual from the injustice of having all her resources expended early on and of having no resources with which to pursue her values at later times.

I'll conclude this proposal about intra-personal distributive justice with two comments. First, I have made reference to various temporal standpoints of a person, from which burdens can be suffered and benefits enjoyed, and I've suggested that principles of distribution must be justifiable to the person from each standpoint. But how, one might ask, are we to individuate these standpoints? How long does a person occupy a standpoint? For a moment? A year? Several years? To choose any one of these seems arbitrary, after all. The best answer, I think, is that principles of intra-personal distribution should be justifiable to *any* standpoint within a life, no matter its duration. So, there will be the standpoint of a person at a particular moment, the standpoint of a person at the following moment, the standpoint of the person on the day that includes both of those moments, and the standpoint of the person during the year that includes that day. Burdens can be suffered, and benefits can be enjoyed, from any of these standpoints, and claims can be pressed, and claims can be received, from any of them as well. And we should attend to this fact, I think, when thinking about which principles should govern intra-personal distribution. We should attend to whether there is any standpoint—no matter its duration—from which a legitimate claim could be made.

Second, in the literature on distributive justice, we are usually offered a substantive answer to the question about which distributive pattern is the most just. So, most famously, Rawls offers us the device of the original position, through which he generates his two principles—including the difference principle. Now, nothing I've said here implies that the proper principles for distribution within a life, or the proper procedure for generating those principles, will be exactly the same as those proper for the inter-personal realm. That is, nothing I've said here implies that a Rawlsian should advocate distributing within a life according to the difference principle. There might, after all, be some relevant differences between the inter- and intra-personal that alter the content of

the principles. (I've already alluded to one possible difference—unlike with a multitude that constitutes a society, the standpoints within a single life over which we are to distribute can overlap.) Here I simply wish to show that the question of how to distribute within a life is a genuine one for a state interested in justice to take up, and that when it does take it up, it will be coercing a person *for that person's own sake*—it will be issuing paternalistic law.

In this section, I have sketched some ways that one might appeal to republican and liberal values, and to republican and liberal views about the proper function of the state, in order to justify paternalism. There might be many more. I offer these as illustrations of my idea that paternalism can be demanded by right, not as an exhaustive account of the paternalistic laws I believe to be warranted. My argumentative strategy in advocating for these specific policies has been much the same as my strategy for arguing for self-directed duties in section IV. That is, I've pointed to certain relevant similarities between the way distinct persons relate to each other within a society, and the way an individual person relates to herself over time. Insofar as there exist these similarities, and insofar as we think we ought to treat like cases alike, then I take it that there is strong reason to think that these policies really are demanded by republicanism and liberalism.

VII. CONCLUSION

As I said at the outset, republicans and liberals often view paternalism with suspicion. Though some have deemed there to be good reason to enact paternalistic law under fairly narrow circumstances, the argument of this paper shows that there exists, within a republican-liberal framework, a much more expansive role for paternalistic law. Such law is demanded by republican and liberal principles, and therefore may be enacted permissibly. And importantly, the purpose of such law is not, or is not simply, to lead a person toward ends she already values or endorses, or to nudge her in moments of irrationality or weakness of will, or to save her from her own ignorance and false beliefs—as some republicans and liberals allow. Its purpose is to establish and maintain conditions of right within the individual person's life. And this opens the door to a much wider array of paternalistic possibilities.