Ignorance, Incompetence and
the Concept of Liberty*

MICHAEL GARNETT
Philosophy, Birkbeck College, London

WHAT is liberty, and can it be measured? Much attention has been deservedly lavished on these critical political questions, and the result has been some hard-earned philosophical progress.[1] In this article I hope to inch us a little further. I shall argue that the only way to have a liberty metric is to adopt an account of liberty with specific and controversial features. In particular, I shall argue that we can make sense of the idea of a *quantity* of liberty only if we are willing to count certain purely agential constraints, such as ignorance and physical incompetence, as obstacles to liberty in general. This spells trouble for traditional 'negative' accounts, against which I argue directly. My aim is to establish the following somewhat surprising claim: that if a political theory is to contain a principle regarding the protection, maximisation or equalisation of some liberty, it must concern itself—*on pain of conceptual incoherence*—with the positive preconditions (in addition to the negative preconditions) of that liberty's effective exercise.

Many political theorists have denied that political theories ought to contain any principles that make essential reference to quantities or extents of liberty. If correct, this would render my conditional claim relatively uninteresting. I shall therefore begin by arguing that such theorists are mistaken.

I. A DISTINCTION

Consider the following two liberty claims:

(1)   *A is at liberty to go to the park*
(2)   *A has liberty of movement*

[1]See, especially: L. Crocker, *Positive Liberty* (London: Nijhoff, 1980); S. I. Benn, *A Theory of Freedom* (Cambridge: Cambridge University Press, 1988); H. Steiner, *An Essay on Rights* (Oxford: Blackwell, 1994); I. Carter, *A Measure of Freedom* (Oxford: Oxford University Press, 1999); and M. Kramer, *The Quality of Freedom* (Oxford: Oxford University Press, 2003).

These claims are logically distinct. Let me explain what I have in mind, beginning with (1).

Say that I can only get to the park by bus, and that there are two buses I can take, the 12 or the 88. They take different routes but are equally efficient means of travel. Plausibly, I am at liberty to go to the park if I have *either* the liberty to take the 12 to the park *or* the liberty to take the 88 to the park. If I am banned from taking the 12, but can still take the 88, I remain at liberty to go to the park. Thus the liberty to go to the park requires merely the *disjunction* of more specific liberties: intuitively, I am at liberty to go to the park if there is at least one way I can get there. Let me call this 'disjunctive liberty' or 'liberty in the disjunctive sense'.

This may be contrasted with (2). Suppose that I am held in a straightjacket, able to move only my little finger. Intuitively, this is a case in which I pretty much *lack* liberty of movement. So liberty of movement requires more than just the liberty to move in at least one specific way: it requires that one have open to one some (sufficiently extensive) *range* of liberties of movement. It requires an *aggregation*, not a disjunction, of more specific liberties. Let me call this 'aggregative liberty' or 'liberty in the aggregative sense'.

This distinction concerns the logical form of liberty statements and is independent of their content. In principle, any liberty may be understood in either sense. One could, if one wished, consider my *liberty of park-travel*: something that increases the more ways I have of getting to the park and decreases the more restricted I am in my travel to the park (as when I am banned from taking the 12). Similarly, we may speak of a person's *liberty to move*, where this is understood disjunctively as the liberty to move *at all*. As this suggests, natural language tracks the distinction with its two contrasting formulations, *the liberty to x* and *liberty of x* (though this is only a rough guide).

Plausibly, aggregative liberty involves an aggregation of more particular disjunctive liberties: the extent of a person's liberty of movement, for instance, seems to depend in some way upon the number of specific movements that person is at liberty to make. And it seems that the simple claim that a person 'has liberty of movement' should be understood as the claim that the person has some (unspecified but sufficient) *number* of more specific liberties of movement. But this idea—that it is possible to 'count up' a person's liberties—has been widely rejected. The problem concerns liberty individuation; in Isaiah Berlin's words, 'possibilities of action are not discrete entities like apples, which can be exhaustively enumerated'.[2] If Berlin is correct—and if, as widely feared, this spells disaster for any attempt to sum liberties—then the notion of aggregative liberty will have to be abandoned as conceptually incoherent.

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[2]I. Berlin, 'Two concepts of liberty', *Four Essays on Liberty* (Oxford: Oxford University Press, 1969), p. 130.

Later in this article I shall discuss the charge of conceptual incoherence in detail. For now, I want to stress the importance of the issue for political theory. I shall argue that no reasonable liberal theory can get by without the aggregative notion of liberty.

II. THE IMPORTANCE OF AGGREGATION

Sometimes we speak of a person's liberty *tout court*. Let me call this *completely general* liberty. Other times, we talk about specific subsets of this liberty, such as one's liberty of speech, of assembly, of conscience, and so on. Let me call these *somewhat general* liberties. In addition, we often speak of liberties to perform certain act-types more specifically defined, such as the liberty to go to the park, or the liberty to criticise the government. Let me call these *somewhat specific* liberties.

It is often assumed that the problems of conceptual incoherence concerning the aggregation of liberties apply solely to completely general liberty. This encourages the idea that we may avoid these problems simply by doing away with completely general liberty as a notion relevant to political theory. Instead of aiming to maximise 'overall freedom', we should aim to protect 'particular liberties', thus avoiding the problem that 'judgements of greater and lesser freedom may be impossible to make'.[3]

One of the most prominent partakers of this strategy has been John Rawls, who famously abandoned his original commitment to 'the most extensive total system' of equal basic liberties, opting to cast his theory instead in terms of 'certain specific liberties', specified 'by a list'. The list includes 'freedom of thought and liberty of conscience; the political liberties and freedom of association, as well as the freedoms specified by the liberty and integrity of the person; and finally, the rights and liberties covered by the rule of law'.[4] In stating his principle in this way Rawls takes himself to have avoided any commitment to contentious claims regarding the possibility of measurements of liberty.[5]

Yet this move in fact offers no such reprieve. This is because the somewhat general liberties on Rawls's list *are still themselves aggregative*. Take any item from the list, for instance, freedom of assembly. Were this understood disjunctively (as *the freedom to assemble*) it would require merely the possession of at least one specific liberty to assemble in a certain time and place. But while a group free to assemble only for five minutes on one day of the year atop a mountain peak has, *a fortiori*, the freedom to assemble, it does

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[3]W. Kymlicka, *Contemporary Political Philosophy: An Introduction* (Oxford: Oxford University Press, 2002), p. 144.
[4]J. Rawls, *Political Liberalism* (New York: Columbia University Press, 1993), pp. 291–2.
[5]See also Kymlicka, *Contemporary Political Philosophy*, pp. 141–8; and R. Dworkin, *Taking Rights Seriously* (London: Duckworth, 1977), pp. 169–73.

not, in the ordinary sense, enjoy freedom of assembly. For freedom of assembly, one requires some reasonable *variety* and *number* of such somewhat specific liberties.[6]

Yet surely, it may be objected, if the government passes no laws restricting freedom of assembly, then freedom of assembly is protected; no aggregation is necessary. This is correct, but it does not get us very far. Two points need to be made. First, the mere absence of a *legal* restriction is insufficient to yield a liberty: most theorists hold that political liberty may be restricted by private individuals as well as by lawmakers. Very well, the objector may respond, but broadening the relevant sense of liberty from the narrowly legal raises no new problems. To have freedom of assembly, we shall say, one must be unprevented in one's attempts to assemble; if any attempted assembly is prevented, one lacks freedom of assembly. Still no aggregation is required.

This leads to the second point. *Perfect* or *total* freedom of assembly is unnecessary for freedom of assembly. One may have freedom of assembly while being prevented from assembling at some specific time and place. For instance, groups A and B are mutually prevented from assembling at the exact same time at the exact same place, since bodies cannot interpenetrate. But neither group thereby lacks freedom of assembly. This is fortunate, since otherwise no more than one group could enjoy freedom of assembly; and no more than one person could enjoy freedom of movement, freedom of expression, or freedom of religion. As Keith Dowding and Martin van Hees point out, we do not want to say that at least some individuals lack freedom of religion because it is physically impossible that all attend a Sunday service.[7] Rather than requiring perfect unpreventedness, liberties such as these operate as threshold concepts: they require the possession of some sufficient amount of the relevant liberty, where this may fall short of the total amount possible (though obviously not by too much).[8]

This means that in order to determine whether, say, freedom of assembly is protected in some society, we must have a way of determining *how much* freedom of assembly the society's citizens enjoy, in order to see whether it is above the threshold amount. So protection of something like freedom of assembly presupposes the conceptual coherence of aggregative liberty claims. It follows from this that any plausible liberal theory must employ the aggregative notion of liberty. This is the case even if we believe (and there are many good reasons for

[6]One may also require some significant number of *valuable* freedoms of assembly. If so, this shows that objections to the 'neutral counting' conception of completely general liberty—e.g. that levelled by Charles Taylor in his 'What's wrong with negative liberty', *Liberty*, ed. D. Miller (Oxford: Oxford University Press, 1991), pp. 141–62—apply also to the somewhat general liberties.

[7]K. Dowding and M. van Hees, 'The construction of rights', *American Political Science Review*, 97 (2003), 281–93 at p. 288.

[8]For further discussion on this point, see Dowding and van Hees, 'The construction of rights', especially pp. 290–2. See also Steiner, *An Essay on Rights*.

so believing) that *overall* liberty is not an important political good. This is because overall liberty is not the only aggregative liberty. The most important liberal freedoms—such as those specified by Rawls's list—are logically aggregative as well.

There is no easy way around the charges of conceptual incoherence that plague aggregative liberty: such problems are problems for us all. Luckily, I shall argue, they are not insuperable. But an adequate solution comes at a price: specifically, it requires us to adopt a conception of liberty that recognises positive as well as negative constraints on freedom.

III. AGENTIAL CONSTRAINTS

Much of the debate over the nature of liberty has focused on the issue of *constraints*. I wish to address two questions at the centre of this. The first is: must constraints always be external to the agent? The second is: must constraints always be attributable to other agents? Though it is not my aim in this article to propose a complete account of liberty, I shall seek to place limits on any such account by arguing for negative answers to both of these questions.

More specifically, I shall argue for two related claims. First, that internal obstacles such as ignorance and physical incompetence are potential constraints on action in a sense relevant to liberty; second, that these constraints must be counted as such regardless of whether they are attributable to other agents. Hence there may be internal constraints on liberty, and constraints on liberty need not be attributable to other agents. I shall argue that we must accept these claims if we are to save the notion of aggregative liberty from conceptual incoherence.

Though I shall not be proposing a full account of liberty, it will be helpful for us to get into focus what an account consistent with these claims might look like. As it happens, these claims are embodied by perhaps the simplest and most familiar classical account of liberty, namely

(L)   *A is at liberty to x iff A would x were A to try to x*

I am not interested in the details of this account; in fact, my preferred formulation is slightly different.[9] What matters for my present argument is that it elegantly encapsulates the above two conditions on possible constraints on liberty: I shall argue in favour of accounts *like L*, where the relevant similarity is the accounts' acceptance of the relevance of ignorance and incompetence to assessments of liberty.

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[9]Perhaps most importantly, L leaves open the issue of costliness: if terrible consequences attach to A's doing x, does this reduce A's liberty to x? Those who think it does may wish to see L modified to reflect this. Since this issue is tangential to my main argument, I do not treat it here. The same goes for time-indexing, and certain complications arising from the concept of *trying*.

On L, ignorance is a constraint on liberty: if I have no idea how to x then I will not succeed in an attempt to x. Incompetence is also a constraint: if successful x-ing is beyond my physical power, I will fail in attempting to x. Moreover, L recognises the relevance of such constraints regardless of whether their existence is attributable to other agents. I call accounts of this type *agential* accounts, since they assess liberty simply from the point of view of agents' interests in successful action; the constraints they recognise are agential as well, since they include all obstacles to the successful implementation of action.

Accounts of this type stand directly opposed to the currently dominant 'negative' account of liberty, according to which an agent's liberty is reduced iff (i) the agent's option-set is reduced and (ii) this reduction is attributable to another agent.[10] Condition (ii) commits negative libertarians to a positive answer to the second of my two questions concerning constraints (must constraints always be attributable to other agents?).[11] My strategy is to argue that this defining feature of the negative account is untenable if we wish to employ the aggregative notion of liberty, as it seems that all liberals must. Accordingly, I shall now examine in detail the charges of conceptual incoherence levelled at the aggregative notion of liberty, arguing that they can be met only if we are willing to accept an agential account.

IV. AGGREGATING LIBERTY

It is a sign of how battle-worn the notion of aggregative liberty is that the objections against it may profitably be grouped by kind. Allow me, then, to distinguish between aggregative liberty's *coherence* and *plausibility* problems. The former include challenges such as: Is there any such thing as 'the number of options open to an agent'? Is there any answer to the question of how many liberties I exercise in raising my arm? By having one liberty (say, the liberty to

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[10]Negative libertarians disagree over the details of both conditions. As regards the first requirement, some hold that one's option-set includes *all physically possible* alternatives for action; see e.g., H. Steiner, 'Individual liberty', *Proceedings of the Aristotelian Society*, 75 (1974–5), 33–50. Others hold that it includes merely all *eligible* alternatives; see e.g., S. I. Benn, and W. L. Weinstein, 'Being free to act, and being a free man', *Mind*, 80 (1971), 190–211. As regards the second requirement, some merely require that another agent be *causally responsible* for the reduction in range of choice (e.g. F. E. Oppenheim, *Political Concepts* (Chicago: University of Chicago Press, 1981)); others require, more strongly, that another agent must *intend* it (e.g. J. P. Day, 'Threats, offers, law, opinion and liberty', *American Philosophical Quarterly*, 14 (1977), 257–72); and still others require that an agent must be *morally responsible* for it (e.g. D. Miller, 'Constraints on freedom', *Ethics*, 94 (1983), 66–86, and K. Kristjánsson, *Social Freedom: The Responsibility View* (Cambridge: Cambridge University Press, 1996)). However, for current purposes the general characterisation will serve us adequately.

[11]As regards the first (must constraints always be external to the agent?), it should be noted that negative libertarians have the luxury of theoretical flexibility. Indeed, despite a traditional deep-seated suspicion of internal constraints, most contemporary negative libertarians allow that ignorance and incompetence (as well as phobias and compulsions) may present obstacles to liberty, so long as their presence is attributable in the right way to other agents. See e.g. Kristjánsson, *Social Freedom*, p. 100; and Carter, *A Measure of Freedom*, p. 222.

raise my arm) do I thereby have an indefinite number of liberties (say, to raise it by twenty centimetres, by ten centimetres, by five centimetres . . .)? Do all agents turn out to be infinitely free?

These problems pertain to the possibility of having a workable metric for assessing extents of freedom in the first place. Objections in the second group concern the plausibility of the idea that any measurement of mere *extent* can capture what really matters to us about aggregative liberty. The tricky questions in this group include: Are all liberties weighted equally when making overall assessments, or does the liberty to vote for the political party of your choice count for more than the liberty to buy the ice-cream of your choice? If it counts for more, does it count for more *liberty*? If so, how? Do we take into account subjective importance or objective importance? Does the *variety* of one's options increase one's overall liberty?

In this article I shall address only the coherence problems. I shall argue that we require an agential account of liberty to make sense of the bare idea of 'the number of options open to an agent'. How the account is developed from there—whether, for instance, we deem it necessary to weight options, and, if so, how we assign the weights—is beyond the scope of this paper.[12] The solutions I offer to the coherence problems are consistent with almost any set of responses to the plausibility problems. Moreover, the plausibility problems cannot even arise until the coherence problems have been answered; answering them is the task to which I now turn.

The theoretically simplest account of aggregative liberty would be one on which A's (aggregative) liberty of x is calculated by adding together all of A's disjunctive liberties to perform actions under descriptions that are specifiers of x. For example, to calculate A's liberty of speech, we would add up all the disjunctive liberties enjoyed by A which are liberties to speak. Yet such an account will not do. In fact, it faces at least three problems, which have been called *the problem of indefinite subdivision*; *the problem of indefinite numbers of descriptions*; and *the problem of indefinite causal chains*.[13] These problems have been addressed by a number of theorists with an encouraging degree of success. Most comprehensive of the responses have been those by Ian Carter, which build usefully on earlier responses by Hillel Steiner.[14] However, I shall argue that

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[12]For useful discussions of these issues, see Taylor, 'What's wrong with negative liberty'; Kymlicka, *Contemporary Political Philosophy*, pp. 141–8; Crocker, *Positive Liberty*, pp. 54–65; Carter, *A Measure of Freedom*; Kramer, *The Quality of Freedom*, pp. 425–71; P. Pattanaik and Y. Xu, 'On ranking opportunity sets in terms of freedom of choice', *Recherches Economiques de Louvain*, 56 (1990), 389–90; and R. Sugden, 'Opportunity as a space for individuality: its value and the impossibility of measuring it', *Ethics*, 113 (2003), 783–809.

[13]Carter, *Measure of Freedom*, pp. 175–89.

[14]*Ibid.*, pp. 169–218; Steiner, *An Essay on Rights*, pp. 42–54. Kramer has also addressed these problems, offering various improvements on Carter's account. As many of these are solutions to problems with that account which I do not raise here, I shall not discuss Kramer's view in detail.

Carter's solutions ultimately fail to address these problems. I shall demonstrate that successful solutions are available—but only if we are willing to recognise the relevance of agential constraints.

V. INDEFINITE SUBDIVISION

Onora O'Neill states the basic problem:

> If liberties are liberties to do certain actions, and actions can be individuated in diverse ways, then liberties can be individuated in diverse ways. If so it would always be possible to show that any given set of liberties was as numerous as any other merely by listing the component liberties more specifically. We can, if we want to, take any liberty—e.g. the liberty to seek public office or the liberty to form a family—and divide it up into however many component liberties we find useful to distinguish—or for that matter into more than we find it useful to distinguish.[15]

Let me put this more precisely. Liberties may be more or less specific, depending on the specificity of their act descriptions. Following A. J. Ayer, we may say that an act description x' is more specific than another act description x iff x is not a component of x', x' entails x, and x does not entail x'.[16] Hence *hitting a bull's eye* is more specific than *hitting the darts board*, since *hitting the darts board* is not a component of *hitting a bull's eye*, *hitting a bull's eye* entails *hitting the darts board*, and *hitting the darts board* does not entail *hitting a bull's eye*. In Ayer's terms, x' is here a *specifier* of x.

The problem is that including *all* specifiers, at all levels of specificity, will lead to an account which is at least distorted and at worst incoherent. The distortion will arise from a double counting that comes from including, for instance, *both* the liberty to hit a bull's eye *and* the liberty to hit the darts board. Since the latter is an entailment of the former, it seems wrong to include both in our calculation of an agent's liberty. The threat of incoherence arises from the fact that any liberty may have an indefinite number of specifiers.

Clearly, any aggregative calculation of liberty will be distorted so long as it double-counts by including logical entailments of liberties already included. The obvious way to avoid this is to sum only those specifiers that occur at some certain level of specificity. But the question is then: which level?

The more specific the level at which we aggregate liberties, the more complete will be our metric—the less we will leave out. We should therefore aim to aggregate liberties at the most specific level possible. However, at the *most* specific level there may be an indefinite number of specifiers. This is because the most specific liberties conceivable will be so complete that they pick out possible act *tokens*; that is, they will represent *perfect* descriptions of the possible careers

[15]O. O'Neill, 'The most extensive liberty', *Proceedings of the Aristotelian Society*, 80 (1980), 45–59 at p. 50.
[16]A. J. Ayer, 'Negation', *Journal of Philosophy*, 49 (1952), p. 813.

of relevant portions of the universe. Yet the number of possible act tokens, and hence the number of completely specific liberties, may be non-denumerably infinite. If it is, then we can expect every incompletely specific act description to have an indefinite number of specifiers. So aggregating at the most specific level offers no advance on the issue of conceptual coherence.

It appears that we must aggregate at some less specific level. This is the strategy taken by Carter. Not wanting to rule out the possibility that space and time are indefinitely divisible and non-granular, he proposes that we nevertheless 'need to *think of* space and time *as* granular'. Hence (as regards liberty of movement):

> While it is true that space and time can in theory be divided up indefinitely, then, the division of space and time into equal finite units allows us to represent what we do as a matter of fact see as the possibility of greater or lesser possibilities of movement.[17]

Carter makes no general pronouncement concerning how large or small these notional units should be. He writes that:

> nothing in the foregoing analysis fixes the *size* of the space-time units on the basis of which we are to make our comparisons. Clearly, the smaller the units we are working with, the more accurate our measurements will be in reflecting what is commonly meant by 'the extent of movement available to us'. Ideally, the units will be smaller than any of the distances of the movements (or differences in sizes of objects) that we are interested in measuring.[18]

However, Carter has no explanation of *why* we should treat the units of space-time as finitely small, other than that this is the only way to make the calculus workable. Carter says that the smaller the units, the more accurately they will reflect 'what is commonly meant'. But the worry we are supposed to be addressing is that *what is commonly meant* is incoherent. Carter has shown that we can approximate to what is commonly meant without falling into incoherence. But then what are we approximating *to*? To a calculation in terms of the smallest possible units? Surely not. Then to what?

Carter's shift to talk of 'approximation' is simply a change of subject. Once we have a clear conception of a property we are interested in measuring, then we can discuss better and worse ways of measuring it. But the problem is that we do not yet have a clear conception of what we are measuring. What we need is an independent *rationale* for treating the units as finitely small. Agential accounts provide exactly such a rationale. Indeed, they even dictate precisely *how* small the units should be in any given case, as I shall now explain.

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[17]Carter, *Measure of Freedom*, p. 185.
[18]*Ibid.*, p. 186. Kramer, *The Quality of Freedom*, p. 381, makes a similar response, claiming that 'the optimal size for each [unit of measurement] will vary in accordance with the purposes of our analyses'.

No human being is competent to perform a completely specific action. Suppose that you came up with a completely specific description of a possible action of mine: say, a movement of my arm, described right down to the path of every subatomic particle. Barring special fantastic assumptions, it is the case that were I to try to move my arm in this way, I would fail. I simply lack anything like the close control of my body required to perform such an action competently. If physical incompetence is counted as a general obstacle to liberty, it will follow that I am not at liberty to perform this action.

On an agential account, no ordinary human agent is ever at liberty to perform a completely specific action. And *this* is why such liberties are not included in the aggregation. Their non-inclusion follows from a principle already accepted, that we only aggregate liberties actually enjoyed by the agent in question.

Moreover, the level of specificity at which we aggregate may be determined by the agent whose liberty we are assessing. To answer O'Neill's basic charge, we need to settle on a single level of specificity at which to aggregate. The agential account provides a natural answer to this: we aggregate the most specific liberties actually open to the agent in question. This leaves nothing out, since more specific liberties are, *ex hypothesi*, not liberties open to the agent, and more general liberties are entailed by these more specific liberties. In addition, it captures the fact that the more agentially competent a person is—that is, the more precisely he can control his actions—the greater his range of possible actions, and hence the greater his liberty.[19]

Treating agential incompetence as *in general* a potential constraint on liberty allows us a satisfying answer to the problem of indefinite subdivision. This response is not available to the negative libertarian, who at most treats agential incompetence as constraining only in certain special cases (that is, when it is attributable to another agent). The best solution to this problem, therefore, requires the adoption of an agential account.

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[19]A complication arises concerning liberties that are completely or near-completely specific in one dimension while being incompletely specific in another. Consider, for instance, my liberty to be in Hyde Park at exactly 9:07.32.004 on some day. Do I have this liberty? Yes, since were I to try to be in Hyde Park at that exact moment, I could easily succeed, simply by being there from, say, nine until ten o'clock. Yet possession of this precise temporal liberty is dependent upon the liberty's imprecise physical specification—were my required physical location specified as precisely, I would not have the competence to be in that exact place at that exact time. Yet in virtue of being at liberty to be in Hyde Park from nine until ten, it follows that I am also at liberty to be there at an indefinitely large number of more precise times. From this it follows that I have an indefinitely large number of liberties, and so an indefinitely large amount of aggregative liberty. (Cf. Steiner, *Essay on Rights*, pp. 50–1). The solution is to treat liberties as conjunctive sets of compossible actions. While I have the liberty to be in Hyde Park at 9:07.32.004, I do not have the liberty to be in Hyde Park only at 9:07.32.004. The closest I have to this, if I leap through the gate and out again, is (say) the liberty to be in the park from 9:07.31 until 9:07.34. Hence my liberty to be in Hyde Park at exactly 9:07.32.004 is a liberty available to me only as part of a plan that involves being in the park for at least a three second period. So when we aggregate, we must aggregate plans. This will ensure that even in these cases there will be a finite number of most specific liberties available to an agent.

VI. INDEFINITE NUMBERS OF DESCRIPTIONS

The next problem arises from the fact that any action may be picked out by a potentially infinite number of true descriptions. So, with a single physical movement, I score a goal, I score a penalty, I win the match, I relieve the fans . . . and so on. How many actions do I perform? Some (such as Alvin Goldman) will say I perform at least four actions, that is, that each redescription picks out a different action. Others (such as Donald Davidson) will say that I perform one action, which can be described in at least four ways.[20] More immediately pressing, however, is the question of how many liberties I have exercised. The worry is that if each new act-description also describes a new liberty, then the potential infinity of true act-descriptions will translate into a potential infinity of liberties. By virtue of the liberty to perform one action, a person will have the liberty to perform infinitely many actions (that same action under infinitely many true redescriptions).

Carter's response is to deny that liberties can be generated by redescribing actions. Hence he treats the liberty to x and the liberty to x under a different description as the same liberty, in essence applying to liberty-individuation Davidson's strategy for act-individuation.[21]

Yet although Davidson may have provided a correct account of act individuation, Carter's attempt to apply this to the rather different matter of liberty individuation is deeply problematic. In particular, his strategy faces two related problems. The first is that it commits Carter to an implausible reading of ignorance cases. Suppose that I am trapped in a cell the door of which has a combination lock. It is undeniable in this case that I have the liberty to punch any series of numbers into the lock—no agent prevents it, no costs attach to it, I am not incapacitated from doing it in any way. This includes the liberty to punch in what happens to be the correct combination, 7-3-5-1-9-2-8. Intuitively, however, I lack the liberty to open the lock. Yet punching in the numbers 7-3-5-1-9-2-8 *just is* opening the lock. On Davidson's view, these are alternative ways of describing the same action. And on Carter's view, the liberty to punch in 7-3-5-1-9-2-8 just is the liberty to open the lock: these are alternative ways of describing the same liberty. Carter is therefore committed to saying either that, since I am at liberty to punch in 7-3-5-1-9-2-8, I am therefore at liberty to open the lock (my captors have failed to incarcerate me), or that, since I am not at liberty to open the lock, I am therefore not at liberty to punch in the numbers 7-3-5-1-9-2-8 (though nothing prevents it). Neither of these options is appealing.

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[20]A. Goldman, *A Theory of Human Action* (Englewood Cliffs, N.J.: Prentice-Hall, 1970); D. Davidson, *Essays on Actions and Events* (Oxford: Oxford University Press, 1980), pp. 105–21.

[21]Carter, *Measure of Freedom*, pp. 175–83. The only exception is for redescriptions based on what he, following Goldman, calls 'causal generation'—Carter allows that scoring a goal and relieving the fans describe relevantly different actions, but denies that scoring a goal and winning the match (an instance of 'conventional generation') describe relevantly different actions.

Whatever the correct theory of act individuation, it is difficult to deny that <u>liberties</u> multiply under different descriptions. To confirm this, consider again the football case above. Any of the relevant liberties in that case (the liberty to score a goal, to win the match, and so on) can be had without the others. If we are losing 4-0 in the final minute and I am suddenly faced with an open goal, I have the liberty to score a goal but not the liberty to score a penalty, win the match, or relieve the fans. If we are having a penalty-kick training session, I have the liberty to score a penalty but not to win a match or relieve any fans. And so on. Were any of these apparently different liberties in fact *the same liberty* then it would be inconceivable that anyone could have one without thereby having the other. Since this clearly is conceivable, these must be different liberties.

The conclusion that each liberty must be included separately in a calculation of an agent's aggregative liberty is therefore unavoidable. The concern is then that this will mandate the inclusion of indefinitely many liberties (since the number of true descriptions of any action is indefinitely large). Conceptual incoherence threatens once more.

Again, agential accounts have the resources to meet this threat. In this case, the solution stems from their recognition of ignorance as a general constraint on liberty. Consider a more exotic redescription of my act of goal scoring, such as: the only action I performed at the exact moment an asteroid collided with Alpha Centauri. This is, let us assume, a true description of my act of scoring the winning goal. Yet it is not a description of an action I am at liberty to perform. On plausible assumptions about my ignorance of astronomical events, were I to attempt to perform a unique action at the exact moment an asteroid collides with Alpha Centauri I would fail. I would fail because I have no idea *how* to perform such an action—I lack relevant instrumental knowledge. It is not therefore the case that each time we truly redescribe the act component of a liberty enjoyed by an agent, we get another liberty enjoyed by an agent.

Negative accounts cannot adopt this solution to the problem of indefinite numbers of descriptions, since it requires treating ignorance as a general obstacle to liberty. Again, if we are to have a conceptually coherent notion of aggregative liberty, we must abandon the negative account and recognise the relevance of agential constraints.

VII. INDEFINITE CAUSAL CHAINS

Every action serves as the cause of an indefinitely large number of other events. Some of these further consequences clearly count as actions of mine, and some—for instance, consequences that obtain long after my death—equally clearly do not. I pull the trigger, I fire a bullet, I kill the Archduke, I start a World War . . . and so on. How far down a sequence such as this do we go?[22]

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[22]Cf. G. E. M. Anscombe, *Intention* (Oxford: Blackwell, 1957).

Again, we are not here interested in the problem of act individuation for its own sake. The question is: by virtue of having the liberty to initiate such a sequence, how many other liberties do I thereby have? In particular, do I thereby have an indefinite number of liberties? The worry is that, if this is the case, aggregations of liberty will again prove impossible.

Matthew Kramer offers the following proposal. He writes:

> When we can judge with confidence that some particular consequences are highly likely to ensue if a person exercises this or that freedom, we should incorporate those consequences (with probabilistic qualifications) into our calculations. . . . Moreover, we should also take account of causal consequences even if they are not highly likely to ensue from the exercise of an opportunity, so long as we can confidently assign probabilities to their ensuing.[23]

On Kramer's account, we are to include each item of the causal chain, but discount each in our overall calculation in proportion to the likelihood of its occurring. Yet we cannot rule out the possibility that, in performing a single ordinary action, the number of causal results thereby generated with non-zero probability might be infinite. To get round this, Kramer requires that we include only those outcomes to which 'we can confidently assign probabilities'.

Much like Carter's response to the problem of indefinite subdivision, however, this proposal suffers from a confusion between pragmatic and conceptual concerns. In evaluating someone's liberty, we would certainly do well to restrict ourselves to dealing only with probabilities we can 'confidently assign'. This would help us approximate as well as we can to the person's actual extent of liberty. Yet there is no reason to think that the *object* of our approximation—the actual extent of the person's liberty—should be restricted by our contingent epistemic limitations in this way. What possible *conceptual* (as opposed to merely pragmatic) reason could there be for excluding difficult-to-assign probabilities from our account? Again, Kramer's sole reason seems to be that this is the only way to save the notion of aggregative liberty from conceptual incoherence—and those who believe the notion to be fundamentally incoherent are unlikely to be reassured by this.

Carter has a different solution. It is to assess liberty 'in terms of the *foreseeable* consequences of given possible (or actual) actions, rather than in terms of what *would actually happen*'.[24] This answer is simple and intuitive. However, in the absence of other epistemic conditions, Carter's introduction of one to solve this problem is *ad hoc*. Why should ignorance about the consequences of one's actions render one unfree to bring about those consequences, when ignorance in general does not contribute to unfreedom? By not counting lack of knowledge as necessarily constraining, Carter is unable to explain why liberty should be assessed only in terms of foreseeable consequences.

[23]Kramer, *Quality of Freedom*, p. 416.
[24]Carter, *Measure of Freedom*, p. 188.

On an agential account, by contrast, a lack of relevant knowledge is in *all* cases a restriction on liberty. It therefore agrees with Carter that we should include only foreseeable outcomes in our calculation; but it avoids the charge that this is simply an *ad hoc* condition. Again, recognising the general relevance of agential constraints to the concept of liberty allows us a clean and elegant response to the coherence problems faced by the aggregative notion of liberty.

VIII. THE IRRELEVANCE OF UNFREEDOM

Put simply, no person is infinitely free because there is a limit to what any person can do. Agential accounts capture this simple fact. Though the numbers involved may be very large, the notion of an aggregation of liberty is not conceptually incoherent, and may support interpersonal and intersocietal comparisons, as well as absolute judgements, in something at least approaching the ordinary sense. Adopting an agential account of liberty—that is, recognising natural constraints such as ignorance and physical incompetence—allows us a convincing response to the coherence problems dogging the aggregative notion of liberty. I stated above that problems pertaining to the plausibility of a simple summation as a *complete* account of aggregative liberty lie beyond the scope of this paper. That is, all such problems except one, which I now discuss.

There is currently something of a consensus to the effect that an agent's overall liberty must be calculated as a proportion of the total *possible* amount of liberty available to her. According to Steiner, Carter and Kramer, we must measure not only an agent's freedoms but also her unfreedoms. On their accounts, an agent's overall freedom is measured as a proportion of her total freedoms *plus unfreedoms*: the formula is (some version of) F / F + U (where F represents her total freedom and U her total unfreedom).[25]

The deep reason for adopting this proportional account of overall liberty is acceptance of the negative account of liberty. On Steiner's view, for instance, one is only unfree when prevented by other agents from performing actions: 'freedom is a social relation, not a technological one . . . it's a relation between persons and persons, not between persons and nature'.[26] This means that $(F + U)$ is not constant. A technological innovation may increase both a person's freedoms and her unfreedoms. For instance, the invention of nuclear power increased our freedom (we now have a new option concerning how to generate electricity) but also our unfreedom (we are now prevented from building reactors in our back gardens). Before the invention of nuclear power we were not unfree to build reactors in our back gardens, on Steiner's view, since no one prevented it. As the

[25]H. Steiner, 'How Free: Computing Personal Liberty', *Of Liberty*, ed. A. Phillips Griffiths (Cambridge: Cambridge University Press, 1983), p. 74. See also Carter, *Measure of Freedom*, pp. 182, 190–1; and Kramer, *Quality of Freedom*, p. 359.

[26]Steiner, *Essay on Rights*, p. 44.

sphere of prevented action has now increased, Steiner wants his account to reflect this. This principle is also accepted by Carter and Kramer.[27]

If instead of a negative account we begin with an agential account, however, all of this complexity may be avoided. On an agential account (such as L, above) the number of unfreedoms for any finite agent is always infinite—and thus constant. Accordingly, we do not need our aggregation to take unfreedoms into account. We need measure only an agent's freedoms. For those who like formulas, the agential formula is simply F. This simplicity is one of the agential account's many advantages.

The refusal to count unfreedoms follows from the rejection of the negative account of liberty. I have already offered what I take to be one of the best arguments against the negative account: that any plausible liberal theory is committed to aggregative liberty claims, and that only an agential account is able to make conceptual sense of liberty in the aggregative sense. This is a powerful argument against the negative libertarians' commitment to treating only *humanly* imposed constraints as relevant to assessments of liberty. Despite this, however, I expect that negative libertarians may be unswayed, as I shall explain in the next and final section.

IX. ORDINARY USAGE AND CONCEPTUAL CLARITY

To my argument as presented so far, the negative libertarian may respond as follows. You have succeeded in showing that *not everything* faces an aggregation problem. You have demonstrated that *something*—ability, power, freedom in some special sense—may be aggregated without falling into conceptual confusion. But the problem was that *liberty* could not be aggregated, and on this issue you have made no progress. No purely agential account is an account of liberty in the relevant sense. So your solution misses the point of the problem.

Against this I maintain that agential accounts have as much claim to the title of liberty as do negative accounts. Given that they do, their ability to deliver coherent aggregative liberty judgements is a strong reason for preferring them to rival negative accounts. Yet establishing this first claim requires arguing against a wide consensus, one summed up in Kristján Kristjánsson's contention that the negative account is to be preferred both 'for the sake of ordinary usage . . . and that of conceptual clarity'.[28] In this section I shall address these claims.

First, ordinary usage. Arguments on this matter are always likely to be fruitless in the absence of empirical linguistic research. It is with caution that I note, then, that my linguistic experience is very different from that reported by most negative libertarians: that is, no non-philosopher *I* know would naturally describe a man born with no legs as at liberty to get up, walk around and dance the *bolero*, as

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[27]Carter, *Measure of Freedom*, p. 173; Kramer, *Quality of Freedom*, p. 359.
[28]Kristjánsson, *Social Freedom*, p. 11.

would be the case if natural language understood 'liberty' in its negative sense. Perhaps I move in atypical linguistic circles. At any rate, it is, I am sure, at least safe to say that there is sufficient variation in ordinary uses of the term 'liberty' to render such appeals indecisive.

However, this may be too quick a dismissal of the linguistic case for negative liberty. For it has also often been argued, on historical grounds, that non-negative uses of the term represent deviations from its 'core' or 'original' meaning. Hayek, for instance, calls liberty in the agential sense 'a metaphorical use of the word', representing a 'confusion of liberty as power with liberty in its original meaning'.[29] Berlin levels a similar charge of etymological ignorance: after introducing 'the notion of "negative" freedom' he claims that 'this is what the classical English political philosophers meant when they used this word', adding in a footnote a quotation from Hobbes: 'a free man is he that . . . is not hindered to do what he hath the will to do'.[30]

However, the idea that the major figures of Anglophone political philosophy understood liberty in its negative sense is demonstrably false. Berlin's reference to Hobbes is particularly egregious, since Hobbes counts all external impediments as restrictions on liberty, regardless of their origin. Hobbes writes: 'Liberty is the absence of *all* the impediments to action that are not contained in the nature and intrinsical quality of the agent. As for example, the water is said to descend freely, or to have liberty to descend by the channel of the river, because there is no impediment that way, but not across because *the banks are impediments*'.[31] When he says that a free man is 'he that is not hindered' he means hindered *by anything* and not, as Berlin would have us believe, *merely by other agents*.

John Locke also understands liberty as a type of ability. He writes: 'the idea of *liberty* is the idea of a power in any agent to do or forbear any particular action, according to the determination or thought of the mind. . . . Our idea of liberty reaches as far as that power, and no farther'.[32] Finally, and for good measure, we may note that Hume also understood liberty in this same sense: 'By *liberty* then, we can only mean *a power of acting or not acting, according to the determination of the will*; that is, if we choose to remain at rest, we may; if we choose to move, we may'.[33] Contrary to Hayek and Berlin's claims, therefore, the historical considerations in fact tell *against* the negative account. So much for ordinary usage.

[29]F. A. Hayek, *The Constitution of Liberty* (Chicago: University of Chicago Press, 1960), pp. 16–17.

[30]Berlin, *Four Essays on Liberty*, p. 123.

[31]T. Hobbes, 'Of liberty and necessity', *English Works*, ed. W. Molesworth (London, 1840), vol. 4, pp. 273–4, emphasis added. Needless to say, however, that Hobbes did not accept a fully agential account as I have characterized the notion in this article; he did not recognize internal constraints as obstacles relevant to liberty (instead he saw them as affecting one's *power*).

[32]J. Locke, *An Essay Concerning Human Understanding* (Oxford: Clarendon Press, 1975), pp. 237–8.

[33]D. Hume, *An Enquiry Concerning Human Understanding* (Oxford: Oxford University Press, 1999), p. 159.

The second common reason for understanding 'liberty' in its negative sense is 'that of conceptual clarity'. Berlin made the point thus: 'everything is what it is: liberty is liberty, not equality or fairness or justice or culture, or human happiness or a quiet conscience'.[34] This is uncontestable—but many negative libertarians would wish to add 'ability' and 'agential power' to the list. Yet to do so in this context is simply to beg the question. Compare the following: 'everything is what it is: a bachelor is a bachelor, not a horse or a table or a woman or a man'. This is false; a bachelor is a certain type of man. Accordingly, the claim before us is that liberty is a certain type of agential power. Stating that it is not is all very well, but the negative libertarian requires an argument.

Kristjánsson tries a different tack:

> For surely, we often want to distinguish in our language between natural and man-made impediments, and, by categorising them all as constraints on freedom, we obliterate that very distinction in the same way as we would obliterate the distinction between cars and bicycles by calling both 'cars'. If only for the sake of conceptual clarification, we are well advised to accept that, just as we are often *unfree* to do what we are *able* to do, we are also often *free* to do what we are *unable* to do.[35]

Yet the distinction between negative and agential constraints is importantly different from that between cars and bicycles. Negative constraints and agential constraints are not contraries: agential constraints *include* negative constraints. Negative constraints form a subset of agential constraints. Categorising all impediments as constraints on liberty is thus *not* like using 'car' to refer both to bicycles and to cars, but like using it to refer both to sports cars and to family cars. As this makes plain, agential liberty obliterates no distinctions. A man-made constraint is a particular kind of constraint, just as a sports car is a particular kind of car.

S. I. Benn proposes a different conceptual argument. Of the negative libertarian's intentional interference requirement he writes:

> This condition is consequent upon the primary functions of the concept of freedom in practical discourse, as a counter for expressing grievances, claiming rights, and defending interests. . . . For a restriction of options to give rise to a discussion of freedom and unfreedom and not merely of possibility and impossibility, it must make sense to ask, 'What justifies that restriction?' But it is pointless to ask for a justification unless one supposes that things might be different from the way they are but for the will or the negligence of a responsible being. . . . It follows, then, that freedom in the full sense is about the absence of restriction of the options available to independent agents or choosers, by persons having the capacity for deliberate and intentional interference, who might have made things otherwise had they so decided.[36]

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[34]Berlin, 'Two concepts of liberty', p. 125.
[35]Kristjánsson, *Social Freedom*, p. 129.
[36]Benn, *A Theory of Freedom*, p. 133.

Liberty, as opposed to other related modal concepts, is marked out by its specific normative function.

Now I do not, of course, deny that liberty plays this role. Given a commitment to the principle of non-interference, any intentional restriction of options on the part of another is going to generate, at the very least, a demand for justification. This is not enough, however, to get Benn his conclusion. Benn requires the much stronger claim that this is the *only* role played by the concept of liberty: that it is never (or never properly) used in contexts in which questions relating to violations of the principle of non-interference do not arise. This is what I deny. Moreover, Benn has no argument for this stronger claim. His argument involves simply pointing to the fact that the concept of liberty often plays a role in adjudicating culpability for violations of various moral principles. This does not, however, show that the concept of liberty never plays any other role.

The negative libertarian could perhaps respond by reminding us that we are in the business of political philosophy, and that our target is therefore that of *political* liberty narrowly construed. Politics, having to do with relations between persons, has special use for the negative conception, which focuses our attention on the social aspects of liberty. This is why the negative account is to be preferred to the agential account for the purposes of political theory. While the agential account may be important for certain purposes, he could argue, it will not do as an account of political liberty, for such an account must be fundamentally social.

Yet such a move, though reasonable enough on the surface, disguises assumptions about the methodology of philosophical and political argument that are quite astonishing. Consider, for instance, what is to be said about the liberty of those born with physical disabilities. On a standard negative account, these disabilities do not count as impediments to freedom. A negative libertarian responding along the lines sketched above will defend this result by saying that, while there is *some* sense in which the physically disabled are unfree, it is not one relevant to liberty in its political sense. Now I am ultimately unsure exactly what force is supposed to be behind the charge that a type of liberty is not a type of *political* liberty; I can only presume it means that such a liberty is not of political relevance. Interpreted in this way, then, the negative libertarian's claim is that natural limitations of options, such as those faced by the physically disabled, are in themselves irrelevant to political theory.[37]

Many will find this claim implausible. But even those sympathetic to it should find unreasonable the way at which it is arrived. If the negative libertarian wishes to deny the political relevance of natural constraints as the result of some

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[37]Negative libertarians may of course allow that certain *consequences* of this reduction in options—such as a reduction in utility—are politically relevant. This is fine, but the claim about the options themselves is controversial enough. It is also interesting to note that utility is not a distinctively political concept: political theorists could insist on dealing only with *political utility*, i.e. utility brought about by the actions of other agents, but they do not. I do not see why 'political liberty' is any more appealing.

substantive political argument, that is one thing. In making this move, however, the negative libertarian seems to take the claim as self-evident; indeed, the supposed political irrelevance of natural constraints appears to be taken to follow simply from the pre-theoretic meaning of the word 'political'. Revealing this assumption is sufficient to refute it: the way to substantive political doctrines is not by conceptual analysis of the word 'political'. It is doubtful in the extreme what argumentative force should be accorded to such an analysis—even if we share enough of the relevant intuitions to agree upon one in the first place, which is rather unlikely. Better to adopt a broad definition of liberty and leave issues of political relevance to substantive political debate. Agential accounts serve us well in this.

X. CONCLUSION

Only an agential account of liberty has the features required to rebut the charges of conceptual incoherence levelled at the aggregative notion of liberty. If we are to make conceptually coherent aggregative claims regarding liberty, we must be willing to recognise agential constraints, such as ignorance and incompetence, as potential obstacles to liberty in general. Moreover, all of the central liberal freedoms are logically aggregative. This means that anyone who wishes to include such freedoms in their theory of justice must adopt an agential account of liberty. If a theory is to exhort the value of, say, freedom of expression, it must concern itself not only with that freedom's negative requirements, such as the absence of legal restrictions on speech, but also on its positive requirements: the provision of the necessary means for the freedom's exercise.

Put in general terms, the consequence is that the promotion of liberty requires the acquisition and propagation of knowledge, and the general development and protection of human capacity.