

Personal Value in the Analysis of Rights

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1. Introduction

Several well-known theories of claim-rights analyse this concept by relating one element from the side of the right-holder – namely, her interests or her “will” – and one feature of the correlative duty¹ – namely, its grounds, its purpose or what I call its “regime”. This paper addresses only the question concerning the side of the right-holder and argues that the notions of interest and will should be replaced by that of personal value. I will argue for this while accepting that both the right-holder’s interests and her will do play a special role in the grounds and in the regime of directed duties, that I take as correlative of claim-rights.

Personal value is constituted by reasons for actions or attitudes for the sake of some entity. In further analysing this concept, I argue against the “Kantian” view that, in a theory of claim-rights, the extrinsic personal value of states of affairs should be taken as necessarily derivative from the intrinsic value of an entity, especially of a person. I prefer the “Kelsenian” view that personal value is the product of a micro-aggregation of interests, preferences and similar items, whatever the reasons may be for such an aggregation.

2. Both the right-holder’s interests and her will matter

The starting point for my argument is that both the right-holder’s interests and her will are important regarding grounds and the regime of directed duties. In terms of grounds, the matter is conceptual. We should partially agree with interest-based grounds theories of rights, like those of MacCormick and Raz,² and believe that, if person R’s interests are, in the right way, part of the grounds of a duty, then the duty is directed to R. I am not currently concerned with what is “the right way” for the grounds of a duty to generate direction, but, for example, if D has the duty to give R something because R needs it, then D’s duty is, at least in the simplest cases, directed to R. The same, however, can intuitively be said in relation to the right-holder’s will: if D has the duty to give R something because R wants or asks for it, then D’s duty is, at least in the simplest cases (e.g., when R does not ask for it on behalf of someone else), directed to R, even if R wants or asks for something that goes against her interest.

I use the phrase “the regime of a duty” to pick the further deontic facts, including the existence of any other Hohfeldian positions, that in some way

1 I assume that claim-rights and (directed) duties are correlatives, following HOHFELD (1919, 36-38). But see KAMM (2007, 241-242), CRUFT (2013, 209), MAY (2015, 523-524) and CORNELL (2015, *passim*).

2 MACCORMICK (1976 and 1977), RAZ (1986, 165 ff.).

concern that duty. Say, the fact that the duty-bearer will have to compensate someone if the duty is breached, or the fact that the duty will disappear if a certain person says so. Similar phrases can of course be used concerning claim-rights, powers, etc.

It is a matter of substantive truth that the typical regime of directed duties, in morality and in some legal systems, protects not only the right-holder's choices, as will-theorists like Hart would have it,³ but also her interests. The typical duty to compensate the right-holder in case of violation is, for instance, a duty to satisfy some interests affected by the violation. Typically, a directed duty ought not to be fulfilled, and may even disappear, if its fulfilment turns out to be against the right-holder's interests and the latter makes no relevant choice on the matter. Also, when the right-holder has a representative who exercises the typical powers of a right-holder, such as an attorney or a guardian, the representative typically has the duty to exercise such powers in accordance with the interests of the right-holder.⁴

Interest-theorists and will-theorists alike may try and have tried to "turn will into interest", or vice versa, in some or all of the above examples. Interest-theorists may say that the will is important, in these matters, only as an indication of interest, since "people can be presumed to be the best judges of what is for their own good or in their own interest".⁵ Or they might claim there is a higher-order interest in freedom or autonomy,⁶ which is satisfied when the will is satisfied. Conversely, will-theorists might argue that interest is just a presumed will and that it yields before genuine will, and they may try to stress that the protection of a right-holder's interests is subject to her choice.⁷ The point of this paper is not to discuss these or similar arguments and the available replies. I surely believe the arguments are flawed. Inalienable positions are the greatest problem for will-theorists. Fully alienable positions, even against the right-holder's patent all-things-considered interests, are a symmetrical problem for interest-theorists. In short, one could perhaps say that both welfare and freedom have a special relation to rights, and they cannot be reduced to each other.

The point of this paper is to offer an alternative for those who accept these or similar objections to interest and will theories. One alternative is to analyse claim-rights with a mixed theory. One could say, for example, that a duty is

3 HART (1955 and 1973).

4 Some conceptual doubts may be raised in relation to this second example (who is really the right-holder in such cases?), but I cannot discuss them here.

5 MACCORMICK (1976, 315). SREENIVASAN (2005, 272) approvingly calls this a "traditional liberal dogma".

6 See SUMNER (1987, 47). Some of Raz's "derivative rights" seem also conceived as to turn will into interest. See his example of a right to walk on one's hands Raz (1986, 169, and, in general terms, 190-191).

7 See SKORUPSKI (2010, 311) on the right to compensation.

directed to some person if and only if it has a certain relation to that person's "interest-or-will", with the idea that to favour someone's interest-or-will, in some situation, is to favour both that person's interest and her will if they match, and to favour either her interest or her will if they do not, depending on what, as a substantive matter, should be given precedence in the situation. I do think it is possible to find an extensionally adequate analysis of claim-rights in this vein. The problem with such an analysis is not only that the concept of interest-or-will is somewhat obscure, but also that an explanation would be required as to what is common to interests and wills in relation to rights. It seems that some unifying concept should take their places in a better analysis. In the following sections I argue that the concept of personal value can play that unifying role.

3. The notion of personal value

In this section I give a general idea of what personal value is. In sections 5 and 6 I explicate the concept further, so that it can play an appropriate role in a theory of claim-rights. In the sense I use the phrase "personal value":

i) The (legal or moral) personal value of a state of affairs, related to a person or person-like entity P, is constituted by the (legal or moral) reasons to favour or disfavour that state of affairs for the sake of P.⁸

ii) A state of affairs can have only one personal value related to P. Personal value is an all-things-considered value, but only things for the sake of P are considered. A single state of affairs can have as many personal values as there are person-like entities.

The basic notion, then, is that of reasons to favour or disfavour something *for the sake of* someone.⁹ There is a clear connection between personal value, on the one hand, and interest and will, on the other. In the simplest cases where someone's interest or will constitutes a reason for you to act, you have a reason to act for that person's sake. Suppose you have a moral or legal reason

8 The first condition follows RØNNOW-RASMUSSEN (2011, 47), who argues for his analysis throughout the book, but puts no restriction on legal or moral aspects. Strictly speaking, the value-bearer is not the state of affairs, but the obtaining of it (RØNNOW-RASMUSSEN, 2011, 154).

9 Attitudes and actions "for the sake of" someone have become a staple subject for value-theorists. There may be some alternatives to the phrase: see ANDERSON (1993, 19-20: "with due regard for") and DARWALL (2002, 14: "on [someone's] behalf"). RØNNOW-RASMUSSEN (2015, 59-63) considers some difficulties in translating it into other languages. MAY (2012, 125) gives a decisive role to "for the sake of" in his theory of directed duties, to which I will return.

to promote that *q* and the reason is that person *P* would prefer that *q*, or, in a second supposition, the reason is that it is in *P*'s interest that *q*. Suppose further that the role of *P*'s interest or *P*'s preference is not incidental: it is not the case, e.g., that the interest or preference is a reason because it is a sign for something else or because it is a means for something. Our moral or legal reason is, so to speak, "just" that *P* would prefer that *q*, or that it is in *P*'s interest that *q*. Then, in both cases, save for less common situations, you have a reason to promote that *q* for *P*'s sake, and that *q* may have *P*-related positive personal value.

Every personal value is related to a person (etc.), but it is not "subjective" in the sense that it is what a person values, takes to be valuable, or wants. Sometimes, the fact that *P* values that *q* or wants that *q* makes this state of affairs personally valuable, as a matter of substantive fact, but that is not necessarily the case. On other occasions, the fact that *P* values or wants that *q* is irrelevant – for example, sometimes when *P* is a young child – or is outweighed by other reasons to act for the sake of *P* – e.g., when *P* is a child and that *q* would harm her.

Personal value, related to a particular person, is not necessarily what satisfies that person's interest.¹⁰ That personal value is significantly different from interest and will is, of course, what makes it useful in an analysis of rights. A person's interest is what is good for her,¹¹ while personal value, related to that person, is what is good because of her, in some appropriate manner. A person's interest is, by and large, what she has most reason to want, while personal value, related to some person, is what everyone, or at least some other person, has reason to want for her sake. Someone's interest is arguably constituted by that person's internal reasons, in Williams' sense,¹² while personal value is constituted by external reasons: for our purposes, legal or moral reasons.

A person's interests and will, and even the different kinds of items that may constitute her "will", may conflict. Personal value depends on the resolution of such conflicts according to substantive criteria.

Despite its name, personal value can be related not only to persons, but also to animals and other entities, provided they are significantly similar to persons. In section 5, I take a closer look at the different kinds of entities in relation to which a state of affairs can have personal value.

10 See RØNNOW-RASMUSSEN (2011, 86-88) and DARWALL (2002, 14). ANDERSON (1993, 20 and 26-30) considers an even wider category, not only personal value but the extrinsic value of states of affairs related to all kinds of entities that can be the object of non-propositional evaluative attitudes.

11 For some ambiguities related to "good for", "personal value" and "value for", see HEATHWOOD (2008, 53, at n. 10), ZIMMERMAN (2009, 429-431), RØNNOW-RASMUSSEN (2011, 104 and 170) and FRITZSON (2016).

12 WILLIAMS (1979).

4. Advantages of personal value in a theory of claim-rights

There are several reasons to consider personal value, instead of interests and the will, when analysing claim-rights. The first reason is, of course, that of simplicity: it is better, *ceteris paribus*, for an analysis to rely on one single concept, rather than on two. In my view, however, this reason should not carry too much weight, since I am not sure that an analysis of personal value will not in turn rely on the concepts of interest and will.

An analysis of rights in terms of personal value offers a better separation between conceptual and substantive matters. Directed duties are directed only to persons (and similar entities), which suggests that every right-holder, because she is a person (or the like), has some normative import related to such duties and to the states of affairs that constitute their contents. This is a purely conceptual assumption, which can be expressed, in an analysis of claim-rights, by mentioning the personal value of the contents of duties, in relation to the right-holders. On the other hand, under the same assumption, both the interest theory and the will theory, and indeed an interest-or-will theory, seem to offer a substantive thesis about which specific features of a person make states of affairs valuable. That does not seem appropriate for our conceptual analysis. That right-holders and duty-bearers, as persons, are important for directed duties is a conceptual thesis. Whether, in the general or in a particular case, such importance is grounded on interests, preferences or choices is a substantive matter. When analysing the concept of rights, only the conceptual thesis and the associated concept of personal value are necessary.

Analysing directed duties in terms of personal value opens the door for items other than interests and preferences to play significant roles in the grounds, regimes and purposes of those duties, in accordance with reasonable substantive and conceptual assumptions.

- Such an analysis allows for the various kinds of items than can be described as the right-holder's "will", including preferences, choices and related speech acts. When any of those constitutes a practical reason, it is often a reason to act for the sake of the right-holder, and so it constitutes right-holder-related personal value.
- Similarly, it allows for past and hypothetical wills. Several legal traditions make "hypothetical", "conjectural" and "implied" preferences and choices operative.
- Decisions of guardians, attorneys and other representatives may also constitute reasons for the sake of the person on behalf of whom they act.
- The right-holder's interests may have indirect importance. Guardians, e.g.,

generally have this status because they can presumably best protect their wards' interests. And one ought to respect their choices for the sake of the ward. Still, their decisions may not actually protect their ward.

- In a very different and significant kind of case, personal value also allows a person's dignity to play a role in the grounds and the regime of directed duties, even if this dignity does not match that person's choices or interests (assuming that is possible).¹³ In such cases, still, there is a reason (a person's dignity) for an attitude or action for a person's sake.

Conversely, personal value rightly excludes some other items from having any role in relation to certain rights. The preferences of young children or of severely mentally disabled adults are among them. Often, such preferences give us no reason to act for that person's sake.

Moreover, the notion of personal value gives a new sense to the resolution of conflicts between a right-holder's will and her interests. Sometimes, one has reason to act in line with a person's interests but against her preferences; at other times one has reason to act in line with her choices but against her interests, always for that person's sake. Personal value is the normative product of the resolution of whatever such "internal conflicts" there may be between the right-holder's (or the duty-bearer's) interests, preferences and other relevant features. It is what generally counts for the grounds and the regime of claim-rights.

A further advantage of considering personal value instead of interests and will is that it has a strong effect¹⁴ on the issue of involved non-right-holders. Several theories of claim-rights need important qualifications to avoid versions of Hart's famous third-parties argument against interest theories.¹⁵ Will theories, likewise, need qualifications in order not to include representatives and courts as right-holders. The concept of personal value renders most of these qualifications unnecessary. The guardian of a child who owns something is not the holder of claim-rights to no interference by other people, although her decisions prevail in such matter. The point is that it is not for the sake of the guardian that things are

13 KAMM (2007, 246 and 253-254) uses the dignity argument against the interest theory, but her main example concerns the right to be treated as equal, which is not as helpful for my present purpose. Some pages later she also mentions inviolability. See also MAY (2015, 530).

14 As strong as May's idea, in his (2012), of making claim-right-hood depend on the right-holder's moral status. I do not think, however, that personal value or moral status solve all problems of this kind.

15 HART (1955, 180, and 1973, 187). It is sometimes said that this argument does not affect interest theories fashioned as grounds theories (SREENIVASAN 2005, 265, CAMPBELL 2013, MAY 2015, 529), but they fall to arguments of the same kind as those of KAMM (2007, 230 and 244-248) and MAY (2012, 117-123), where non-right-holders play roles that could be played by "rare birds or old buildings", as Thompson puts it (2004, 344).

such, but for the sake of the child. I do not believe, however, that personal value can solve all these cases.

5. Personal value without valuable persons

At this stage, there may be some doubt as to whether “for someone’s sake” and “personal value”, as I use them, are sufficiently meaningful. It is certainly necessary to clarify these ideas. I will not discuss *the* concept of personal value, but *a* concept of personal value that is appropriate for certain issues in the theory of rights.

What is the essential feature of personal value? Anderson and Rønnow-Rasmussen claim it is a special kind of *attitudes*: attitudes for someone’s sake.¹⁶ This concept of personal value, however, seem to be of no use for an account of claim-rights, where the reasons for promoting the right-holder’s preferences, interests and the like are basically indifferent to the attitudes in promoting them. “For the sake of”, I suppose, is just a way to indicate reasons for attitudes and actions.¹⁷ It is what we normally use when coarsely pointing to an object as the locus of our reasons, rather than to a proposition-like fine-grained entity which may be a reason itself. In an account of personal value, I assume we have to identify a special kind of reasons, not a special kind of attitudes.

A number of authors, starting with Korsgaard – in her reading of Kant – and Anderson, have argued that personal value is derivative: it is because persons are valuable, they say, that their good (their interest) is valuable.¹⁸ Some of these authors have argued that (extrinsic) personal value is transferred from the impersonal, intrinsic value of persons.¹⁹ This may have drastic consequences.²⁰ There is, of course, a long way between the proposition that Mary is valuable and, say, the proposition that eliminating her pain is good or that it is good to give her what

16 ANDERSON (1993, 19-20 and, e.g., pp. 22 and 28), who characterises FSS attitudes as dual-ended, and RØNNOW-RASMUSSEN (2011, 47-28), who clarifies (pp. 55-56) that FSS attitudes are “discerning” attitudes “with an eye to” someone. DARWALL (2002, 1-2 and passim) presses a similar point. ORSI (2015, 121) says FSS attitudes are “essentially person-oriented”.

17 LeBar (2013, 14-15).

18 KORSGAARD (1983, 177-184), ANDERSON (1993, 20-21, 26-30), DARWALL (2002, 6-8 and 71-72), ROSATI (2008, 341-345; 2006, 127-128). The literal claim that personal value is derivative is to be found only in Rosati.

19 KORSGAARD (1983, 192-195) and ROSATI (2008, 342-344). Korsgaard has meanwhile changed her views (see her 1996, 407, and 1998, 63-64). Against Rosati’s position, see RØNNOW-RASMUSSEN (2011, 105).

20 See VELLEMAN (1999) on euthanasia and suicide.

she wants,²¹ but there are, anyway, some attractive elements in these authors' "Kantian" view.

In analysing rights, however, we are prevented from using such a concept of personal value if we accept that institutions and, especially, corporations and other "legal persons" can hold claim-rights. If I buy a pumpkin from Mary & Sons, Ltd., I would appear to owe the price to Mary & Sons, Ltd., rather than to the company's owners or workers at a given moment. I owe it to the company both legally and morally. According to a long and popular tradition, legal persons are "mere fictions" and, at any rate, they are merely legal,²² but it would be good if we were able to find a more intuitive way to allow for rights of person-like institutions, whose value is instrumental, and for rights of groups. It is actually possible for an institution to have no value at all or to have negative value: perhaps we would all be better off, including Mary and her sons, if they managed their business without the company. Even in relation to sentient animals, the idea that the personal value of states of affairs must derive from the positive value of an object is questionable. We can imagine a monster, with the sole instinct to kill humans – like Ridley Scott's "alien", but without its good points²³ – that can nevertheless feel pain. Someone may argue that such a monster has a *pro tanto* right to be killed painlessly, if one has to kill it, and it would surely be better, for its sake, to kill it painlessly. This claim does not depend on the monster's being a valuable object – it is far from clear that it is: after all, its nature may provide decisive reasons to destroy it – let alone its being intrinsically valuable. The argument that the monster is valuable in that it feels pain would render the idea of derivative value meaningless. That it feels pain, additionally, is an increase in the number of bad things in the world.

Related to the view of personal value as derivative value is the theory that moral status is an essential condition for being owed a moral duty. Scanlon argued that only creatures that can have "judgment-sensitive attitudes" can be owed something, and that is their special moral status.²⁴ Kamm, discussing Scanlon's views, takes "moral status" to pick "those entities that *in their own right* and *for their own sake* could give us reason to act". An entity gives us reasons in its own right when it has value as an end, *i.e.*, non-instrumental value, and gives us reasons for its own sake when it has a good, or has capacities

21 Pain, unlike death, is not the destruction of a valuable being. If an entity makes it the case that some states of affairs are good and that some others are bad, why should we think, then, that entity is good? I cannot, of course, address these issues here.

22 THOMPSON (2004, 355, n. 26).

23 Scott's aliens would have some aesthetical value and presumably a marvellous natural history, while our monster may be the uninteresting result of cheap genetic engineering.

24 SCANLON (1998, 177-187) added that infants, young children and severely disabled adults can also be owed something. Scanlon did not use, for this purpose, the language of rights.

to exercise or duties to perform, when it can be wronged. Kamm hints at the interesting idea that only when an entity's moral status is imbricated in someone else's duty is this duty owed to her.²⁵ She develops this idea as an argument against Raz's interest theory of rights, claiming that it is possible to have a duty justified by someone's interests without owing it to that person, and that persons have some rights "based on their nature as persons and not necessarily related to any aspect of their well-being".²⁶

May expands on Kamm's idea. May assumes with Sreenivasan that "the direction of a moral duty to an individual must reflect her moral [...] status", which implies some "moral value of the being itself", and concludes that, for a duty to be directed to some being, its "independent moral status as an end must be an essential part of whatever makes it the object of a moral duty".²⁷ May points to some convincing examples that show how a duty to promote the interests of an invertebrate is consistent with its having no moral status and the duty's lack of direction to it. He adds as an argument that acknowledging someone as a right-holder "expresses respect for a person."²⁸ Both Kamm and May take Feinberg's Nowheresville,²⁹ a place without rights but where individuals and their interests and choices are still assigned some roles in relation to each other's duties, as support for their views.

I certainly agree that an entity's interests or preferences may be the (incidental) grounds of someone's duty although that entity is not the correlative right-holder. I also agree that every living claim-right³⁰ involves reasons to act for the right-holder's sake.³¹ But I do not think that every right-holder must have non-instrumental value or that it must be valuable at all. If sentient animals can have rights, the apparently valueless monster from some paragraphs ago has a *pro tanto* claim-right not to be caused pain. And some right-holders may give

25 KAMM (2007, 227-234).

26 KAMM (2007, 230 and 244-248).

27 Following Sumner, May uses "object" (of a directed duty) to refer to the right-holder. For such syntax, I would certainly prefer "target" or some other word that implies direction.

28 MAY (2012, 117-123). May agrees with Sreenivasan (2005, 266) that a theory of claim-rights has to have the desideratum to preserve "the connection between the language of rights and liberal individualism". A similar requirement was postulated by MENEZES CORDEIRO (1988, 214-223) in his discussion of legal rights in the civil-law tradition.

29 FEINBERG (1970, 243-249). FEINBERG (1970, 252-253 and 257), too, assumes that "to be a human being", respect, and "personal dignity" are essential elements for a theory of rights.

30 A claim-right is a "Frankenstein-right", i.e., not "living", if it is constituted only by a regime, and not by a duty's grounds or purpose. I cannot elaborate on these notions here.

31 My favourite definitions of claim-rights are similar to May's definition P2 (MAY, 2012, 125), the main difference being that May reads his analysis as a grounds-theory and somehow also as an interest-theory. The second important difference is that P2 does not allude to the duty-bearer-related personal value of non-fulfilment, as I believe it should.

us reasons to act for their own sake, but not in their own right. One can act for some corporation's or some foundation's sake, while their value is instrumental, and sometimes it makes sense to say that such an organisation has rights.³²

Some situations are also possible where a mindless, non-sentient robot, rather than, say, its owner, is a right-holder. Suppose that robot enters into contracts in its own name, that is, presenting itself as the party to each contract, and contractors actually make promises to the robot; they address their promises to it. The robot then manages its profits and losses. In some situations, the robot, like an organization,³³ will be a right-holder. One reason for this is that the robot makes choices based on information different from that of its owner, and based on its own "motivational set", that is, its program, which may be inaccessible to the owner. Arguing that the owner is the party to the contracts could put the regime of claim-rights in unfair and inefficient places.

Kamm and May take rights too seriously. Consider Feinberg's Nowheresville: at a certain point, Feinberg introduces some "moderately complex forms of social organization", including "ownership of property, bargains and deals, promises and contracts, appointments and loans, marriages and partnerships", and he asserts that such social kinds are not possible without rights. "Rights have to come in somewhere", he says, and therefore *there are rights* in Nowheresville, albeit "with one big twist": all rights are held by a sovereign: God or some "sovereign under God". All other persons holding powers and privileges are just this sovereign's "delegated authorities".³⁴ May claims that the "sovereign monopoly of rights" is unnecessary in Feinberg's story.³⁵ For May, it seems to be sufficient, for there not to be a right, that the moral status as an end of the supposed right-holder plays no essential role in its position, even if everything else stays the same. That is apparently not Feinberg's position. He thinks that those "forms of social organization" necessarily involve rights, and so he just moved right-holding to a distant sovereign.

I believe the most interesting claim-rights, which I call "living rights", have some unifying point behind their regime. Kamm and May, however, also require this unifying point essentially to involve the right-holder's moral status as an end. That means opting for a restrictive concept of rights, for which I see no need. It would also imply that institutions like property, contract and all the others could

32 May believes collective agents can have moral rights and can have independent moral status as ends (personal communication), but the realm of "legal persons" is much wider than that.

33 Compare DAN-COHEN's (1986, 46-51) metaphor of organizations as "machines endowed with artificial intelligence". Part of Dan-Cohen's story has meanwhile become reality, since virtual machines now contract on behalf of corporations over the internet.

34 FEINBERG (1970, 247-249).

35 MAY (2012, 120, n. 17).

manage without rights. That seems to me to be contrary to a common concept of rights, and so it seemed to Feinberg. I am content with a concept of claim-rights – and one of personal value – according to which a right-holder does not have to have intrinsic value as an end.

6. Personal value as micro-aggregation and separation of reasons

For my analysis of claim-rights, it is sufficient to conceive personal value as an intraentity³⁶ aggregation of reasons. For some entities, it makes sense to speak of their interests or preferences. Those entities include persons, mushrooms and some mindless robots. For a subset of them, their preferences, interests or similar features constitute reasons to favour their contents. What is special about a possible right-holder is that such entity is, for moral or legal reasons as applicable, a *separate person* or other separate person-like being,³⁷ that is, a moral or legal “unity”.³⁸ What is special, then, is that a certain set of interests, preferences and similar items, in their role as reasons, is separated from the other interests, etc. (of all other entities), and therefore constitutes a unity. A state of affairs has positive and negative personal values in that each of some such unities provides a reason to promote it or to promote its opposite. This is my “Kelsenian” view of personal value.

Such separation of reasons, and their aggregation into unities, happens in two ways. Sometimes an entity’s interests, preferences and similar features have special treatment because some other fact involves that entity. That may be the case, e.g., if some promise is made *by Mary* or is addressed *to Mary*, if *Mary did* something that makes her deserve something else, or perhaps if *Mary is a*

36 I borrow this term from KAMM (2007, 255).

37 Parfit’s population paradoxes, especially the “repugnant conclusion” (1984, 381-390), which rely on the non-separateness of persons, are an argument for Anderson’s (1993, 27-29) view that “states of affairs are generally only extrinsically valuable” (p. 26). Only (separate) persons and similar objects may generally be intrinsically valuable. HAYWARD (2013, 290) claims that the direction of duties conveys “something about both the connection and the separation between persons”.

38 KELSEN (1934, 46-52; 1960, 168-191) (see also PAULSON, 2001, 51-55) argued that, in law, both a “physical” and a “legal person” is just the “unity of a plurality of obligations and rights” or “an expression of the unity of a complex of norms”, a unity generated by the legal system itself. “The person as a holder of obligations and rights is not something that is different from the obligations and rights”, he wrote (1960, 172). Kelsen added, to my view not convincingly, that the term “person” could be dispensed with in “legal science”, except for convenience of expression (1934, 48; 1960, 190). Let me point out three differences between my proposal and Kelsen’s: my unities can be either legal or moral, while Kelsen’s concern only the law; Kelsen considered deontic positions, whereas my subject is values; and he saw the unity of a set of legal positions in their being affected together by legally relevant facts, while I figure a unity of interests, preferences and the like when they count for just one of the many personal values of a single state of affairs.

human being. It may be that considerations of justice always separate entities in this manner.³⁹ Here we find, so to speak, “natural” unities of interests, preferences and similar features, identified by the very rules that make them important. But they are not fully so identified. Some of Mary’s preferences may be irrelevant because Mary is a child or is mentally impaired. Some decisions taken by Mary’s mother or attorney may, for the same reason, be part of the relevant unity. Mary’s actual interests may also be irrelevant due to her or her representative’s decisions. Accordingly, the class of preferences, interests and other features that determine the personal value, dependent on Mary, of a certain state of affairs is the product of normative considerations that turn that class into a unity. I see no reason to limit, as a matter of conceptual option, the kinds of normative considerations that identify such classes, and I suppose that, as a matter of substantive fact, they may be very diverse.

In another way, a class of interests, preferences, etc., is a unity because it can generate only one personal value for each state of affairs. Every state of affairs has exactly one personal value per relevant unity, as I stipulated earlier. But most entities can have conflicting interests and preferences that bear on a single state of affairs. This means that any such “internal” conflicts have to be resolved before some personal value is established. If, at a second moment, there is an (“external”) conflict between the positive and the negative personal values of a state of affairs – which is a conflict between personal values dependent on two or more entities – the internal resolution of conflicts may prove not to have been innocuous. The final result is not necessarily the same it would have been had the first aggregation not taken place – in the same way that the outcome of an election may differ if votes are counted by electoral districts. The resolution between internal conflicts of preferences, interests and the like *before* a personal value is weighed against other reasons for or against a state of affairs also justifies viewing the constituent reasons of personal value as an aggregated unity. The reasons why only some classes of reasons are aggregated in this manner are not of my concern.

I believe this provides a relatively clear idea of what personal value is, in the sense that interests me. One may object that the notion of personal value is insufficiently characterised until we discover what is distinctive about its possible constituents. I have mentioned “interests, preferences, and similar features” without suggesting that there is something common to all of them. I surely cannot attempt to solve this problem here. At least some interests and preferences are intrinsic features of an entity, have a propositional content and a world-to-word direction of fit, and are objective reasons to favour that content. The obtaining of

39 THOMPSON (2004, 333-340) claims that justice is the virtue that corresponds to all rights relations.

the states of affairs in their contents is valuable in virtue of them. I believe this is part of a better understanding of personal value.

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