

A Thesis Submitted for the Degree of PhD at the University of Warwick

Permanent WRAP URL:

<http://wrap.warwick.ac.uk/148656>

Copyright and reuse:

This thesis is made available online and is protected by original copyright.

Please scroll down to view the document itself.

Please refer to the repository record for this item for information to help you to cite it.

Our policy information is available from the repository home page.

For more information, please contact the WRAP Team at: wrap@warwick.ac.uk

Why Care about Reactions?

The case for a sensitive state

Catalina Carpan

Thesis submitted for the degree of Doctor of Philosophy

Politics and International Studies

University of Warwick

September 2019

Contents

ACKNOWLEDGEMENTS

DECLARATION

ABSTRACT

1. WHY CARE ABOUT REACTIONS?	8
1.1 REACTION-INSENSITIVITY DEFINED	10
1.2 FRAMING THE CONTRIBUTION	10
1.2.1 <i>Recognition and Redistribution Theories</i>	10
1.2.2 <i>The Ethics of Discrimination</i>	16
1.2.3 <i>Oppression</i>	17
1.3 BRIEF PREVIEW OF THE THESIS	19
2. A TAXONOMY OF HARMFUL REACTIONS	22
2.1 REACTIONS CONCERNING THE SELF	26
2.1.1 <i>Loss of Recognition Self-Respect</i>	27
2.1.2 <i>A Limited Normative Self-Conception</i>	30
2.1.3 <i>Loss of Self-Confidence</i>	33
2.2 REACTIONS CONCERNING OUR RELATIONSHIP WITH OTHERS	34
2.2.1 <i>Perception of Costs to Opportunities</i>	35
2.2.2 <i>Learned Helplessness</i>	37
2.2.3 <i>Stereotype Threat</i>	39
2.2.4 <i>Feeling Ashamed in Public</i>	42
2.3 REACTIONS CONCERNING OUR RELATIONSHIP WITH THE STATE AND SOCIETY	44
2.3.1 <i>Perception of Costs to the Exercise of Rights</i>	44
2.3.2 <i>Distrust in the State</i>	47
2.3.3 <i>Feeling Unwelcome</i>	51

3. REACTIONS AND RAWLSIAN SELF-RESPECT	54
3.1 A WIDE CONCEPTION OF RAWLSIAN SELF-RESPECT	56
3.1.1 <i>Conceptual Claims</i>	56
3.1.2 <i>Normative Claims</i>	60
3.1.3 <i>Empirical Claims</i>	62
3.2 THE SOCIAL BASES OF SELF-RESPECT	66
3.3 A REACTION-SENSITIVE READING OF RAWLS	70
3.3.1 <i>Publicly Affirmed Basic Equal Liberties</i>	71
3.3.2 <i>Fair Equality of Opportunity</i>	73
3.3.3 <i>The Difference Principle</i>	78
3.4 EXPANDING RAWLSIAN SELF-RESPECT	80
3.4.1 <i>Ideal Theory and Reaction-Insensitivity</i>	81
3.4.2 <i>The Severely Disabled</i>	83
3.5 THE BASIC STRUCTURE AND REACTION-INSENSITIVITY	84
3.5.1 <i>Ideologies about the Inferiority of the Working Class</i>	84
3.5.2 <i>The Issue of ‘Stunted Ambition’</i>	86
3.5.3 <i>Consumerism and Competition</i>	88
 4. REACTIONS AND AUTHENTICITY	 91
4.1 AUTHENTICITY AS LIVING WELL	93
4.2 SELF-RESPECT	97
4.3 ETHICAL INDEPENDENCE	100
4.4 ACTING ON OUR DEEP COMMITMENTS	105
4.5 ETHICAL APPRAISAL	109
 5. REACTIONS AND DISCRIMINATION	 114
5.1 DISTINGUISHING BETWEEN DIRECT AND INDIRECT DISCRIMINATION	117
5.2 INDIRECT DISCRIMINATION THROUGH INSENSITIVITY.....	121
5.2.1 <i>Stigma-consciousness</i>	121
5.2.2 <i>Structural and Non-structural Indirect Discrimination</i>	125
5.3 MAINSTREAM ACCOUNTS OF DISCRIMINATION	126

5.3.1 <i>The Harm-based Account</i>	126
5.3.2 <i>The Dignity Account</i>	131
5.3.3 <i>The Deliberative Freedom Account</i>	137
6. THE GROUNDS OF A DUTY OF REACTION- SENSITIVITY	142
6.1 THE INTEREST TO BE TREATED IN A SENSITIVE WAY	143
6.2 ENFORCING A DUTY OF SENSITIVITY	147
6.2.1 <i>The Insensitive Agent</i>	149
6.2.2 <i>The Victims of Insensitivity</i>	160
6.2.3 <i>The Reaction</i>	165
6.3 A TAXONOMY OF CAUSALITY	167
7. THE CONTENT OF A DUTY OF REACTION-SENSITIVITY	176
7.1 THE CONTENT OF THE DUTY OF REACTION-SENSITIVITY	177
7.1.1 <i>The General Requirement</i>	179
7.1.2 <i>The Derivative Requirement</i>	182
7.1.3 <i>Foreseeable Reactions as Justification for Further Sensitive Action</i>	184
7.2 SOME OBJECTIONS AND QUALIFICATIONS	185
7.2.1 <i>The Instrumental Value of the Thin Requirement</i>	186
7.2.2 <i>Should People Just Toughen up?</i>	188
7.2.3 <i>Imposing a Conception of the Harm?</i>	190
7.2.4 <i>The Problem of Adaptive Preference Formation</i>	193
7.2.5 <i>The Duty of Sensitivity in Ideal and Non-Ideal Theory</i>	197
CONCLUSION	200
 BIBLIOGRAPHY	

Acknowledgments

First and foremost, I would like to thank my supervisors – Matthew Clayton and Andy Mason – for their intellectual guidance and support during this project. This thesis owes an immeasurable amount to their patient and conscientious engagement with my work. Any confidence I have gained in my work over these five years can probably be attributed in some way to their invaluable support and reassurance. Simply put, I could not have wished for better supervisors.

There are numerous other people, both at Warwick and further afield, who have made my PhD years a fun and fruitful experience. First, Warwick's Centre for Law, Ethics and Public Affairs (CELPA) has provided both an academically stimulating environment and an important sense of community. Second, I wish to thank Paul Bou-Habib and Chandran Kukathas, who supervised my undergraduate and MSc dissertations, and who encouraged me to pursue a PhD. Third, I have been very fortunate to have made many friends through my doctoral studies, including: Alex Underwood, Fay Niker, Clare Heyward, Helen McCabe, Adam Slavny, Tom Parr, and Hwa Young Kim.

Pursuing this PhD has only been possible due to the support of my family. I owe the most to my mother, who has been a constant source of love and support. One often finds themselves reaping the rewards from seeds that others have sown. This PhD is one example of this, and I thank my mother, Mihaela Carpan, and my grandmother, Elena Penencea, in particular for sowing so many seeds into my life. For their emotional support, I would also like to thank my chosen family: my partner Dane who grounds and inspires me, as well as to the friends who have kept me sane throughout this long process: Emma, Jamie, David and Paul.

Finally, I would like to dedicate this thesis, for all that it is worth, to my dad, Stefan Carpan, who, in more ways than one, has inspired me to pursue Political Theory. Although he never got to read it, I hope that he would have approved of the way that it turned out. Here's to you, dad!

Declaration

I declare that this thesis is my own work and that it has not been submitted for a degree at another university. It does not contain work published elsewhere.

Abstract

Drawing on insights into human psychology, this thesis takes seriously the idea that perceived social status may shape individual interpretations and responses to state action and aims to frame it within mainstream debates in Political Theory. Its central concept, reaction-insensitivity, characterizes coercive institutional policies and actions whose justification does not give sufficient weight to the reactions they may trigger among vulnerable citizens. Some of these reaction-harms include perceptions of costs to the exercise of rights and to accessing opportunities, adaptive preference formation and the development of debilitating dispositions, such as stigma-consciousness and learned powerlessness. It argues that, in some cases, political agents ought to give due weight to the foreseeable reactions triggered by their actions, because, in failing to do so, they may threaten core individual rights and entitlements. The aim of this discussion is three-fold. First, it sets out to offer a non-exhaustive taxonomy of reaction-harms which, in light of the existing political theory literature, are either non-instrumentally or instrumentally significant. Second, it seeks to argue that, although the treatment of these cases has been limited so far, the concerns raised by reaction-insensitivity are compatible with several mainstream accounts such as Rawlsian self-respect, Dworkin's conception of authenticity and several views about the wrongness of discrimination. Thirdly, it considers when political actors may be unjustified in acting insensitively and it lays the foundation for a state duty of reaction-sensitivity. The thesis uses its normative analysis as the basis for engaging with current policymaking and for setting out a reaction-sensitive policy framework to guide the design state action in practice. The extended argument presented in these pages offers a distinctive and timely contribution to this underexplored issue, setting out arguably the most sustained and complete philosophical assessment of this kind in the literature to date.

Chapter 1

Why Care about Reactions?

In her remarkable book on political emotions, Martha Nussbaum argues that any decent liberal society based upon stable, enduring principles ought to be concerned with the emotions of its citizens (Nussbaum M. , 2013). Liberal theorists such as Locke, Mill and Rawls have downplayed the role of the state in cultivating a public culture that breeds the right kinds of emotions – compassion, altruism and love – and, when appropriate – disgust, envy and shame. Nussbaum’s account aims to fill in the emotion-shaped gaps in the liberal tradition in a way that is more ambitious than Kant and Locke, less likely to turn dictatorial than Rousseau, and fit to match the Rawls’s call for a ‘reasonable moral psychology’ (Rawls,1971). In several ways, this thesis seeks to celebrate Nussbaum’s profoundly simple insight – that human emotions can be enlightening and enriching when harnessed correctly, and destructive if they are exploited in the name of oppression, hatred and greed.

Like Nussbaum, I aim to contribute to a conception of a ‘reasonable moral psychology’ which acknowledges the importance of affective states within public culture, in a way that is conceptually refined and supported by empirical considerations about the beliefs and dispositions of the stigmatized. At the heart of my project there is a concern that some important considerations about the affective mental states of individuals have been neglected by political theory. Although theorists like Rawls make some empirical claims in support of their views, their engagement with the literature on psychology is limited, which may leave their arguments open to criticism. For example, the Rawlsian account of self-respect has been attacked precisely because it underestimates the effect of socioeconomic inequalities on the mental states of the worst off (Eyal, 2005). Political theorists would benefit from a deeper engagement with psychology partly because, as Nussbaum notes, they would have a better understanding of what is possible and what is impossible to ask and to expect from a theory of justice. Further, I add, by paying attention to the mental and emotional states of disadvantaged individuals, we may also gain a more extensive perspective on how they perceive and experience social injustices.

For instance, examining oppression not just from the objective vantage point of structural disadvantage but also from the perspective of the oppressed may enhance our understanding of how these injustices are reproduced. The psychology of stigma, in particular, can illuminate previously obscured gaps in our understanding of oppression. It can help us explain why stigmatized individuals interpret and respond to laws and institutional practices differently, why they are more vulnerable to developing self-limiting dispositions and beliefs, and why they may appear to embrace their oppressive contexts. Although this thesis draws on some of the psychological literature on stigma, it is intended as an exercise in political theory and it is aimed at explaining why we ought to care about emotional and behavioral reactions and how we may incorporate them as consideration in policymaking.

This thesis argues that the justifications for laws and institutional practices ought to give due weight to the reactions that they foreseeably trigger among disadvantaged individuals, at least in some cases. This introductory chapter has three main aims. First, I offer a brief outline of the concept of reaction-sensitivity in order to lay the foundations for the remainder of the thesis by issuing some remarks which serve to clarify the thesis's main assumptions. Second, I frame my contribution to the political theory literature as sitting at the nexus of theories of oppression and discrimination on the one hand, and broader accounts of recognition and redistributive justice. This section also seeks to identify the gap within this existing literature which my thesis is intended to fill, broadly, that political theorists have often neglected the full range of subjective considerations that are relevant for determining whether laws and policies are justified. I argue that the current treatment of reactions within the literature is far too limited particularly in that it lacks a comprehensive account of when and why insensitivity is wrong in an extensive range of cases. Third, I provide a brief preview of each of the chapters and their main conclusions, which affords me the opportunity to sketch the shape of the extended argument and to clarify the links between chapters.

1. Reaction –Insensitivity Defined

I take reaction-insensitivity to characterize individual and institutional policies and actions whose justification does not give sufficient weight to the reactions they may trigger among citizens. On this broad definition, insensitive actions can not only affect the members of disadvantaged groups, but all citizens, regardless of their social status: laws that support western capitalist countries may lead people to become more engrossed in consumerism and less so in self-government. Equally, on this conception there is a wider range of insensitive agents which may be held accountable to different extents. For example, the mass media coverage of the US presidential election could be accused of trying to elicit particular reactions out of voters by playing up sensitive issues such as immigration, healthcare and abortion. The reactions captured by this broad definition and the ways in which they are triggered may also be wide-ranging. My aim is to elaborate an account that would enable us to spell out when reaction-insensitivity is objectionable and the reasons why political theorists ought to care about them. In my final two chapters, I narrow down this definition to what I call *the standard case*, which involves disadvantaged groups as the victims and coercive institutional agents as the insensitive agents.

2. Framing the Contribution

Reaction-insensitivity is a versatile concept that may be of interest to political theorists subscribing to a broad range of principles of justice. In this section, I spell out how some mainstream theories could benefit from taking into account reactions as subjective considerations that are relevant for determining whether laws and policies are justified.

2.1 Recognition and Redistribution Theories

I begin this exploration from the broadest vantage point of the redistribution-recognition spectrum along which most mainstream theories are situated. Theories of distributive justice seek to address socioeconomic inequalities by identifying just patterns for the distribution of benefits and burdens within society (Rawls, 1971). At

the other end of the spectrum, recognition theories focus on cultural injustices by championing a politics of difference that seeks to affirm group identities (Taylor, 1992; Honneth, 1995). Somewhere in the middle of this spectrum there are also hybrid views which combine insights from pure recognition and pure redistribution theories by positing that people can simultaneously suffer from injustices that are cultural and economic (Fraser, 1995).

First, some of the cases of reaction-insensitivity that I discuss throughout the thesis are concerned with the sort of remedies which may be prescribed by theorists of redistribution and recognition; I argue that, sometimes, these may be problematic because they are insensitively designed and implemented. As an example of a recognition policy, consider hiring quotas for women and racial minorities. These affirmative action policies are intended to benefit individuals who are structurally disadvantaged on account of their race or sex? [cultural identity], yet surprisingly their design may be insensitive to the psychological reactions of the would-be beneficiaries and may consequently generate counterproductive outcomes. For instance, women who are aware that the company that hired them operates under a female hiring quota may suffer losses to their self-esteem and self-confidence, as well as engage in self-limiting behavior by waiving opportunities and leadership roles (Heilman M. E., 1987). This may also be true of redistribution remedies, such as conditional benefits schemes, which may force the unemployed to make a *shameful revelation* (Wolff, 1998). Asking for social aid is generally prompted by a lack of access to adequate opportunities which may be caused either by an objective lack of possibilities or a subjective and painful realization that one lacks the talents and abilities to secure employment. The conditionality aspect requires claimants to articulate their shortcomings publicly and to make a convincing case that they are unable to provide for themselves. This perception of public humiliation may, in turn, trigger harmful reaction such as a loss of self-respect, the beliefs that others view them in a negative and perhaps hostile way and, quite possibly, behavior adjustments and inappropriately adapted preferences.

Second, reaction-insensitivity may be of interest for recognition and distributive justice theorists because it would enable them to identify a more extensive range of injustices.

The reaction-harms brought about by institutional insensitivity may undermine things that are of great importance to individuals, such as self-respect, autonomy and authenticity. However, these normatively significant threats become evident only when subjective considerations concerning foreseeable reactions are taken into account when generating principles of justice and when examining existing laws and institutional practices. Consider Charles Taylor's recognition view which attaches a great deal of importance to the concept of authenticity which he defines as staying true to oneself (Taylor C. , 1992). According to his view, the misrecognition of culturally situated identities may undermine this capacity for authenticity because those who are disvalued may internalize a distorted self-image. To this I add that institutional insensitivity may also undermine the processes that make up the individual capacity for autonomy by failing to give weight to certain reactions. As I show in Chapter Four, the victims of insensitivity may form harmful beliefs about themselves, about how others see them and about their relationship with the wider society, which may amount to adaptive preference formation and a perception of social costs that negatively affect their capacity to endorse and revise authentic values and to live in accordance with them.

The concept of reaction-insensitivity may also be useful for expanding our interpretation of some of the mainstream distributive theories, such as Rawls's *justice as fairness*, which takes self-respect as a central value. Dubbing it as 'perhaps the most important primary good', Rawls argues that the parties in the Original Positions would avoid social conditions which threaten self-respect, as without it 'nothing may seem worth doing' (Rawls, 1971: 440). Despite making some empirical claims about the sorts of institutional and socioeconomic conditions that may promote or threaten self-respect, justice as fairness fails to capture some significant subjective considerations about the reaction-harms of insensitivity. In the third chapter, I examine the implications of this neglect for Rawlsian self-respect and argue that a just basic structure ought to be reaction-sensitive if it aims to secure it. From an ideal theory perspective, a state that helps its citizens develop a secure sense of their objective importance and safeguards their access to pockets of esteem throughout society is enough to satisfy the requirements of justice. The premise of Rawls's ideal theory presupposes an idealized human nature and it puts aside socially and historically constructed attitudes that

discriminate against those who are different from us in gender, race, culture, and religion. An ideal society would still need a legal system in Rawls's view, and presumably that legal system might prohibit certain kinds of disrespect. An ideal society lacks systemic injustices, but may still contain isolated unjust acts, such as insensitivity, that would need to attract legal sanctions.

Third, my thesis seeks to make a contribution to the mainstream recognition and redistribution literature, by drawing on the empirical literature to shed new light on the special kind of relationship between disadvantaged, stigmatized or oppressed individuals and the state. My thesis draws together institutional and psychological understandings of politics, and takes seriously the idea that members of groups, depending on where those groups may sit in society, may have very different perceptions of and responses to political institutions, policies, and actions. I believe this insight to be valuable for theories all across the redistribution and recognition spectrum because it improves our understanding of how vulnerable citizens perceive institutional actions and draws on the psychological literature to provide an explanation for their reactions. This may further help us explain not only why some laws have different effects among distinct cultural and socioeconomic groups but also how they contribute to exacerbating existing disadvantage by shaping the mental states of their members.

This insight may be incompatible with some of the identity politics views that take a narrow conception of recognition whereby all injustices can ultimately be traced back to and remedied through the dominant cultural norms. For instance, Taylor argues that to adequately recognize an individual requires treating him in ways that confirm and affirm their distinctive identities (Taylor C. , 1992). Although his justification for the moral relevance of differences does appeal to the subjective notions of authenticity, self-respect and self-image, his theory is still hinged on generalizations about the members of socially salient groups. But making generalizations about misrecognized collectivities is not simply a matter of describing their identity; it can also have a disciplinary function, by indirectly making prescriptions as to how those people should see themselves. When a state takes an essentialist view and issues regulations as to how others should treat the members of a group, it may inadvertently inhibit rather than enhance their autonomy,

or as Anthony Appiah puts it, replace “one kind of tyranny with another” (Appiah, 2001). Furthermore, these culturalised views may fail to capture important economic injustices that may affect those seemingly sitting at the top of the cultural pyramid. Conversely, reaction-insensitivity may pick out cases in which white cisgender males may suffer losses to their recognition self-respect because, for instance, they are treated insensitively by the benefit allocating agencies. Finally, reaction-insensitivity manages, I believe, to sidestep the accusations of essentialism and failure to acknowledge intersectionality that are usually raised against identity politics views.

The struggle for recognition in the last decades has prompted a number of theorists to examine how identity politics and socioeconomic claims can be pursued simultaneously. The attitudes towards these two kinds of political morality vary across the literature. Some are of the view that there is no transition from one kind of politics to the other to speak of, but simply a necessary change prompted by the ever-expanding value-pluralism of Western states. Others argue, to their dismay, that recognition claims have superseded socioeconomic matters by shifting the focus from a difference-blind application of justice to a politics of difference (Rorty, 1999). In spite of these disagreements, there is a wide-spread consensus that a theory of justice that aims to explain as wide of a range of social injustices as possible and address them in the most adequate manner needs to be concerned both with recognition and redistribution. Nancy Fraser and Axel Honneth have advanced theories of justice that borrow elements from both kinds of political morality and have sought to resolve the tensions between them (Fraser, 1995; Honneth, 1996). These ‘hybrid theories’ generally take one of two approaches to the distinction between recognition and redistribution either by acknowledging them as analytically distinct views that ought to be reconciled, or by denying that dichotomy altogether. While Fraser’s dual systems theory maintains that the cultural order and the economy are distinct entities, Honneth advocates a wide conception of misrecognition that encompasses, but is not limited to distributive and cultural claims.

Whether reaction- sensitivity is compatible with mainstream hybrid theories which combine economic and cultural concerns depends entirely on how they classify

injustices and how broad a definition or recognition they subscribe to. For reaction-insensitivity to be accommodated within mainstream theories a few conditions have to be met: first the view must not be based on the redistributive/recognition dichotomy, given that reaction-sensitivity is neither cultural nor economic while at the same time applying to both. Secondly, the view must not assume a narrow and culturalized definition of recognition, by exhaustively characterizing injustices as a matter of identity politics; reaction-insensitivity may be more visible in the case of culturally defined groups but it also applies to 'the white male worker'. Thirdly, a view must also allow for the possibility of a subjective component to political morality that goes far beyond simply acknowledging the distinct identities of certain collectivities. Reaction-sensitivity is, par excellence, a subjective aspect of political morality that does not always align the view of a group from the outside; it is individualistic and sensitive to the fact that not every member of a group will feel or be affected in the same way by a political decision.

There are a number of views in the mainstream literature that are entirely compatible with reaction-insensitivity but which nevertheless fail to acknowledge it explicitly. James Tully, for example, argues that proper recognition requires that people are included in the ongoing collective activity through which identities are made and remade (Tully, 2007). Envisaging recognition as a public negotiation over identities implies that politics should be sensitive to the beliefs, reactions and perspectives of individuals. As Tully himself puts it, 'the most reliable way to determine how a proposed amendment to the existing rules of mutual recognition will affect those whose interaction is coordinated by the rule, especially in identity-diverse societies of today, is to ask them: that is, to ensure that they have a say in the deliberations' (Tully, 2007, p. 475). Honneth views recognition as a treatment of inter-subjectivity within which all sorts of moral issues can be encompassed (A. Honneth, 2004). Although his conception is wide enough to be compatible with reaction-insensitivity he does not explicitly include it in his classification of disrespect (Honneth, 1994).

2.2 The Ethics of Discrimination

The concept of reaction-insensitivity may contribute most significantly to the literature on the ethics of discrimination. This is partly because some of the most serious cases that I discuss in the thesis involve the members of socially salient groups who are often victims of discriminatory treatment.

Some recent papers argue that certain forms of discriminatory treatment are only or partly wrongful because they trigger certain responses among the discriminatees. For instance, Adam Omar Hosein makes a compelling case that racial profiling is morally objectionable because it gives those who are profiled reason to perceive themselves as having a politically inferior status. In turn, this belief about the self and about how one is viewed by others may trigger normatively significant outcomes such as civic exclusion and alienation (Hosseini, 2018). Furthermore, Sophia Moreau argues that discrimination may be wrongful when it undermines the deliberative freedom of the discriminatees who are led to factor their normatively extraneous features into account when making important decisions about their lives (Moreau S. , 2017). These insights are valuable because they reinforce our objections to certain institutional practices, workplace regulations and laws by taking into account some previously neglected subjective considerations. However, the current literature on discrimination tends to underestimate the range of morally problematic reactions and, consequently, fails to provide a wide-ranging approach to how these considerations ought to be incorporated in our lawmaking and institutional reform processes.

My account of reaction-insensitivity aims to cover these existing concerns about deliberative freedom and the beliefs about one's political status, as some among many normatively significant responses to insensitive institutions. The ethics of discrimination may benefit from such an account, as an additional consideration in a pluralist theory of when and why direct discrimination is wrongful. Sometimes, insensitive laws may only be wrongfully discriminatory because they trigger harmful reactions, even when they do not impose an objectively visible disadvantage; this may mean that paying attention to these responses will expand the range of cases that

discrimination theorists are concerned with. Furthermore, implementing a duty of reaction-sensitivity may also ensure that the remedies proposed by discrimination theorists are designed and implemented in a way that does not trigger harmful reactions. One of the cases of insensitivity that I discuss in my thesis involves transparent affirmative action quotas which have been shown to generate losses to self-confidence, self-limiting behavior and self-doubt among female employees (Heilman M. E., 1992)¹.

My concept may also prove useful in developing our understanding of disparate impact or indirect discrimination. Part of the difficulty in showing that this form of discrimination is wrongful is that it is difficult to establish whether there is a strong enough causal relation between the neutrally formulated action and its disparate impact on some that is suitably explained by reference to their group membership. One of the key insights of my thesis is that the members of stigmatized socially salient groups may interpret and respond to laws and institutional practices differently than others, because they have developed dispositions such as stigma-consciousness and learned powerlessness. The idea that these individuals interpret their social environments through the lens of their perceived status in society may help explain why neutral policies will have a disparate impact on them. In examining these issues through the lens of reaction-insensitivity, we may find that, even when non-institutional agents cannot be held responsible for indirect discrimination, the state may nevertheless have a duty to regulate their actions or to address the disadvantages that they generate.

2.3 Oppression

My thesis also aims to make a more modest contribution to the literature on oppression by bringing considerations about the mental states of the oppressed to the forefront, and by addressing the issues of adaptive preference formation. My general point is that institutional insensitivity may entrench oppression and contribute to reproducing structural disadvantage when it shapes the beliefs, dispositions and capacities of the

¹ I should note that these empirical claims may be disputed. For example, *The Shape of the River* (Bowen & Bok, 1998) and its treatment by political theorists like R. Dworkin may cast doubt on the side-effects of some forms of affirmative action. I do not engage with this dispute here, as it suffices to say that the two studies differ sufficiently with respect to the site and nature of affirmative action, so that the conclusions they yield may be plausible.

vulnerable to the extent to which it makes them powerless and seemingly embracing their oppressive contexts. My view is compatible with Young's *five faces of oppression* as an extension of her concept of *powerlessness* which is concerned with lowering the social status and power of vulnerable groups, through continuous exposure to mistreatment and disrespect, and the inhibition of their capacities for decision-making (Young I. M., 2004). Insensitivity, particularly of the institutional kind, could then constitute an additional explanation of why some disadvantages are routinely reproduced, by reference to the mental states of the oppressed.

My discussion chimes with a growing literature on inappropriately formed adaptive preferences which are often regarded as indicative of autonomy deficits. Some of the most significant reactions that I discuss involve deformed desires which shape the behavior of the members of oppressed groups to the extent to which they appear to be embracing their oppressive contexts. While much has been written about this phenomenon from a conceptual perspective, there is still a normative gap to be filled by an explanation of the state duties that may arise in respect to it. In my final two chapters I develop an account of an institutional duty of reaction-sensitivity that can adequately capture concerns about the distinction between the autonomy deficit involved in adaptive preference formation and the conscious, autonomous phenomenon of character planning.

In sum, the concept of reaction-insensitivity may be useful for a number of reasons. First, it picks out previously neglected cases that involve reaction-harms that constitute or contribute to undermining things that both recognition and redistribution views deem important, like autonomy, self-respect and authenticity. Second, in taking these subjective considerations about the reactions of the disadvantaged seriously, we may gain a better understanding of how social injustices are experienced and may generate further negative consequences. Third, an institutional duty of reaction-sensitivity may also help us design more sensitive remedies, institutions and policies, which seems to be valuable, regardless of reaction-harms.

3. Brief Preview of the Thesis

In my second chapter, my task is to set out a taxonomy of normatively significant reactions which may foreseeably be triggered by the actions of insensitive agents. The point of this exercise is two-fold. First, I aim to provide a non-exhaustive, yet extensive account of some important reaction-harms as they have been captured by the empirical literature and to explain, for each, why political theorists ought to care about them. Second, my taxonomy captures the isolated concerns about particular reactions raised by the likes of Moreau, Stoljar and Hossein, by framing and unifying them in a comprehensive account that is able to generate normative prescriptions.

In my third chapter, I examine reaction-insensitivity as possible concern for Rawls's account of self-respect and, more broadly, for his basic structure. In the real world, Rawls's account of subjective recognition is insufficient in two different respects: firstly, it is not enough for the state to engage in redistribution or recognition in order to protect self-respect; the government should also review its law-making processes in a way that is sensitive towards pre-existing biases and the reactions of vulnerable members in society. Secondly, self-respect is only one among the many beliefs of citizens that ought to be taken into account by the state, which should not be limited to how people see themselves, but also include beliefs about how they are perceived by others.

In the fourth chapter, I argue that a reaction-insensitive action of the state can place immense costs on the individual's capacity for authentic expression. I will begin by giving a brief account of Ronald Dworkin's conception of authenticity and why it is important and then I will set out four conditions that an authentic life must meet. The first of these is that our beliefs and desires are consistent with our deeply held values, which entails not only that people have a sense of who they are but also that they are allowed to revise that self-perception in the pursuit of their authentic self. Secondly, these beliefs and desires must be formed in the right way, which means that they cannot be the result of manipulation. Thirdly, one must be able express one's values authentically by acting on one's independently formed values and beliefs. Lastly, one

must be the author of one's life and take responsibility for it. In this chapter, I aim to show that reaction- insensitivity may undermine each of these conditions.

The fifth chapter considers the role of reaction-insensitivity in the literature on the ethics of discrimination. Here, I aim to show that insensitive actions may have discriminatory effects, amounting to either direct or indirect discrimination and often contributing to entrenching oppressive cultural norms. Reaction-insensitivity may be compatible with some of the mainstream theories of discrimination if these are formulated in a way that explicitly includes subjective considerations about the mental states of the discriminatees.

In Chapter Six, I examine the grounds for an institutional duty of reaction-sensitivity. Based on Raz's account of derivative rights, I argue that, sometimes, people may have a right to be treated sensitively because, otherwise, their core interests may be undermined. To that end, I set out the standard case of insensitivity which involves institutional actions that foreseeably trigger harmful reactions among disadvantaged individuals – this is where the duty of sensitivity is most likely to be incurred. In this chapter, I also offer a taxonomy of the ways in which institutional agents may bring about these reactions and highlight the different implications for the duty of sensitivity.

In the final chapter, I develop an account of the duty of reaction-sensitivity, which aims to spell out what it means to give sufficient weight to reactions. Here I distinguish between the thin and thick requirements of this institutional duty. The former involves identifying the groups that may be adversely affected by a decision, either because their perceived social status might distort their interpretation and responses or because the policy intends to affect them. This thin requirement also demands that the state seeks to determine whether these vulnerable groups will suffer reaction-harms as a consequence of the policy and the likelihood of these being triggered. This assessment may require extensive empirical research and consultations with the members of these groups for a firsthand account of their perception. Further, there may be an ex ante need for a greater representation of these groups in the decisions –making processes, particularly those concerning policies that target them. If, following this assessment, it

is found that harmful reactions are unlikely to be triggered by the message, design and implementation of a policy, then the duty of sensitivity has been fulfilled. If, on the contrary, it emerges that the reaction-harms are significant, then policymakers incur a further, thick requirement of sensitivity which involves weighing these against other considerations for the policy. This cost benefit analysis will have to be sensitive to the conflicting interests that are being weighed against each other, according to the level of threat involved. If, following this assessment, it is found that the policy is justified because its benefits outweigh the reaction-harms that it foreseeably triggers, then, once again, the state has fulfilled its duty of sensitivity. Conversely, if these reaction-harms are deemed more significant than the benefits of a prospective policy then the thick requirement may further demand that the state tries to find and implement an alternative, sensitive course of action. This may involve redesigning the policy or, if that is impossible, minimizing its impact on the vulnerable groups. In this chapter I also discuss a few objections and offer some qualifications to my view.

To conclude the thesis, I make some remarks as to whether this duty of reaction-sensitivity may be enforceable with respect to institutional design, policy making and courts of law. This brief discussion is only one of the areas for future development of the concept of reaction-insensitivity and of the case for a sensitive state.

Chapter 2

A Taxonomy of Normatively Significant Reactions

Political agents may act in a morally problematic way when they fail to give sufficient weight to the harmful reactions that their actions may foreseeably trigger among individuals who are disadvantaged. In this chapter, I provide empirical evidence for a wide range of reaction-harms that, despite having received considerable attention from psychologists, remain relatively neglected by political theory. I also provide instrumental and non-instrumental reasons why theorists ought to care about reactions and to take them seriously as a weighty consideration in resolving conflicts of interests and in generating prescriptions for policymaking. To that end, I aim to develop a taxonomy of reactions that, while not exhaustive, will nevertheless be wide enough to motivate interest in the concept of reaction-insensitivity.

Before I proceed with examining these normatively significant reactions, a few preliminary explanations are in order. First, I distinguish between reactions with respect to the dimension in which they affect the individual – her self-image, her relationship with others, and her relationship with the state and the wider society. Notably these responses may overlap, as, for instance, a poor self-image may have implications for how we think others see us and the rights that we believe that we can meaningfully exercise. This distinction highlights the far-reaching impact of reactions which pervade every aspect of people's lives and allows me to spell out their harm in relation to concepts which have been widely examined in political theory. The first category includes cases in which the victims of reaction-insensitivity suffer losses to their *self-worth* and *normative-self-conception*. The normative significance of these losses and the urgency of correcting them through state duties depends on which component of self-worth is at stake and on whether the victim ought to take responsibility for her responses. For instance, while a reaction involving a loss of recognition-self-respect ought to be avoided at all costs, according to most political theorists, fluctuations in one's self-confidence may be seen a valuable tool in our quest for self-actualization. The second category involves reactions which condition us to think that, and behave as if, the unqualified pursuit of our life

plans and higher order preferences would be met with hostility from others or incur other kinds of social costs. This anticipation of hostility and sanction, in turn, leads to the development of non-rational dispositions, inappropriately adapted preferences, and behavior adjustments which diminish our pursuits of authentically endorsed values and goals. Finally, the third category is concerned with reactions which affect the individual's perceived relation with the state and the wider society. These kinds of responses, which involve beliefs about one's place within society and one's relative vulnerability against the coercive apparatus of the state, contribute most directly to internalized oppression.

Secondly, I distinguish between comparative and non-comparative reactions and reaction-harms. Comparative reactions involve subjective judgments, which may be founded or not, about our status within society as compared to the members of relevant comparison groups. For instance, the firsthand and vicarious experience of stigmatization may lead an African American to form the belief that regardless of how fervently she displays her moral virtues or how hard she works, she will always be seen and treated as morally lesser than white citizens. Reaction-harms, which include the disadvantages and injuries that result from us reacting to the actions of insensitive agents, may also be comparative, in the sense that they may make us worse off relative to others who do not react in the same way. Notably, observing patterns of comparative reaction-harms in which some groups tend to always fare worse than others, may suggest that, in some cases, neutrally formulated actions may amount to disparate impact. In contrast, non-comparative reactions do not refer to one's perceived relative standing within society, but rather to responses which are triggered independently of our judgments about how we compare with others which may constitute harms in themselves. Some of these are rational, such as the beliefs we have about ourselves and about our worth qua human beings. Others operate at a subconscious level, undermining our most basic self-valuing process and the security of deeply held beliefs about our self-worth as well as leading to adaptive preference formation and a severely limited normative self-conception. Reaction-harms may also be non-comparative, in the sense that while they do not make one worse off relative to how others are faring, they may nevertheless constitute bad outcomes for the individual (Feinberg, 1974). Some of the reactions I discuss cut across the comparative- non-comparative distinction. What I

mean by this is that some of these reactions may be comparative, others may not, and some may simultaneously be both. For example, the belief that, as a Muslim, one is being denied the full citizenship status may entail both a comparative claim, that one is treated as a second-class citizen, and a non-comparative belief, that one does not belong in society.

Thirdly, I distinguish between three different kinds of reactions: beliefs, adaptive preferences and non-rational dispositions². The first denotes a situation where, in response to a reaction-insensitive act or practice, an individual forms a belief about herself, about how others treat her or about her relationship with the state and her place within the wider society. Some of these beliefs are rational, for instance that one's gender will impose a cost on one's employment opportunities. Others are not. The belief that, as a woman, one is of inferior moral worth relative to men, however one manages to justify that to oneself, is irrational in the sense that it is the product of external manipulation through the dominant cultural norms, rather than endorsed through the exercise of reason. Secondly, I take preference adaptation to involve cases where an individual's are superseded by other considerations which are usually unjustly imposed on her through manipulating external influences, usually generated by oppressive contexts. For instance, given the ever-increasing stigma against symbols of Islamic faith, a hijab-wearing woman may give up her customer-facing bank job, acting on the fear of hostility rather than on her conception of the good. Here, I assume that the distinction between adaptive preference formation and character planning to be correct, where the former expresses an autonomy deficit and the latter an autonomous adaptation to one's circumstances (Christman, 2014)³. Thirdly, non-rational dispositions denote learned and often automatic reactions to one's environment, often, but not always, as a result of a lifelong exposure to bias and reaction-insensitivity. For example, a woman who has been constantly treated in a patronizing way may suffer a

² It is in this sense that my project is distinct from Nussbaum's work, which focuses primarily on political emotions. Notably, many of the reactions that I discuss may be experienced as and accompanied by emotions, which are a significant aspect of the affective mental states that ought to be taken into consideration by political theorists.

³ Notably, the distinction between adaptive preferences and character planning that I endorse differs from that of Jon Elster (1983), who holds that adaptive preferences can come about without injustice, as illustrate by the sour grapes case.

loss to her self-confidence that may be reflected in her lack of assertiveness or self-esteem. Buried in these three kinds of reactions there is a fourth sub-category which I broadly conceptualize as behavior adjustment. The reason why I do not class it as a standalone category is that it is often an effect of one of the primary reactions that I listed. Forming certain beliefs about costs attached to particular occupations may result in us not pursuing those options. Similarly, a lack of confidence in ourselves may inhibit our social behavior and the pursuit of our life plan. Nevertheless, there is good reason for mentioning behavior adjustment as a result of the other, primary reactions because it helps us spell out more clearly why they are wrong and why we should care about them.

Fourthly, for each of these reactions, I distinguish, where applicable, between instrumental and non-instrumental reasons why political theorists ought to care about them. The instrumental concerns raised by reaction-insensitivity refer to harms or losses of those things that are valuable insofar as they bring about or help us enact what is non-instrumentally valuable. They include some rights and liberties, opportunities, access to public goods, and political participation, among other things. Conversely, non-instrumental concerns refer to the things that are valuable in themselves because they are potential ingredients of the good life and sometimes essential for a flourishing existence. They include capacities that linked to agency, such as rationality, autonomy and authenticity, to the self, such as recognition self-respect, the development of identity and of our normative self-conception and to external social conditions that people are entitled to, equality of some kind, freedom from domination and being in public without shame. It important to note here, that even where the reaction-harms involve losses of things which are of instrumental value, such as opportunities, these may, if continuously imposed over time, lead to long-lasting and deeply ingrained feelings of powerlessness among disadvantaged groups. This cumulative effect over time may give us a non-instrumental reason to care about reactions, since it may be bad in itself that disadvantaged individuals internalize their oppressive contexts and experience a de facto lowering of a group's political status and freedom. For instance, if Muslims routinely refrain from publicly expressing their grievances with government, out of the fear that they will be misconstrued as extremists, over time, they may be pushed further away towards the margins of public discourse, without any power to challenge stereotypes and

make claims against those who mistreat them. Some of the concepts that I will appeal to are both instrumentally and non-instrumentally valuable, which often depends on how they are conceptualized. For instance, self-respect in the Rawlsian sense has been interpreted by some as only being instrumentally valuable for human pursuits or for political stability (Zink, 2011). Other Rawls scholars interpret self-respect as non-instrumentally valuable (Stark, 2012).

Having explained the distinctions that underpin my taxonomy, I will proceed with outlining the normatively significant reactions that may be triggered by the actions of insensitive agents, the resulting reaction-harms and normative reasons why we ought to care about them. This list is by no means exhaustive, but it is, I hope, sufficiently extensive and far-reaching to merit the attention of political theorists, regardless of the principles of justice that they subscribe to. My discussion proceeds in three parts. First, I discuss the reactions concerning the self by unpacking the notion of self-worth and showing which of its elements can be affected by reaction-insensitivity. Secondly, I expand on possible reactions concerning our relationship with others, drawing on empirical evidence, where appropriate. Lastly, I list the reactions concerning one's relationship with the state and the wider society. For each of the reactions I discuss, I will aim to provide empirical evidence that can attest to the relevant reaction-harms and philosophical arguments that explain in what way they are normatively significant.

2.1 Reactions concerning the self

In this first section, I examine a few reactions which affect the individual's self-image or her normative self-conception, which may be both comparative and non-comparative. The reaction-harms associated with these responses may, however, have important comparative consequences, particularly when they befall the victims frequently, over long periods of time. For instance, part of the wrongness of the Stepford Wives case is that the women in question have developed a severely limited normative self-conception and a diminished sense of their worth through exposure to harmful cultural norms, entrenched and amplified by insensitive practices (McKinnon, 1997). These beliefs and learned behaviors may, over time, make the Stepford Wives worse off compared to less subservient women and men, both socioeconomically and in terms of how they are

treated by others. Conversely, we may also conceptualize it as a non-comparative harm – no one, regardless of how their gender comes up in the cultural hierarchy, should see themselves as morally unimportant.

The reactions addressed in this section are closely linked to self-worth: a diminished sense of recognition self-respect, the loss of self-confidence and a limited normative self-conception. Ferkany defines self-worth as ‘the totality of a person’s evaluatively and normatively charged self-regarding character traits of self-esteem, self-confidence and recognition self-respect’ (Ferkany, 2009, p. 266). Similarly, many agree that although self-respect is always understood in relation to some notion of worth, there can be several kinds of worth and, as a result, several kinds of corresponding conceptions of self-respect (Hill, 1973, p. 128; Massey, 1983, pp. 246-61; Darwall, 1977, pp. 34-49). The first component of self-worth is recognition self-respect which involves an understanding and appreciation of oneself as having dignity and moral status just in virtue of being a person and of the moral constraints that arise from dignity and status (Dillon, 2016). Essential here is the belief that one’s life matters objectively, regardless of merit based comparisons and that one is morally equal to everyone else. Secondly, appraisal self-respect is concerned with the belief that we have done well, in some shape or form, in light of our conception of the good (Darwall, 1977, pp. 34-49). Thirdly, our normative self-conception, which is partly informed by our sense of self-worth, includes beliefs about the roles we ought to be performing, our aspirations and goals. To perform badly in pursuing this conception may cause one to suffer a loss to one’s self-esteem; conversely, doing well in pursuing our values and goals may increase our self-esteem. The final component of my conception of self-worth is self-confidence which is defined as ‘a trust in the self, in the rightness or appropriateness of one’s wants, needs, beliefs, plans, intentions or actions’ (Ferkany, 2009, p. 267).

2.1.1 Loss of Recognition Self-Respect

Reaction-insensitive actions may undermine the development of recognition self-respect by leading people to form distorted beliefs about their moral worth. Luck egalitarian theories of distributive justice have been criticized for forcing citizens who are

untalented or unable to provide for themselves on account of their bad brute luck to publicly reveal their shortcomings and claim help from the state. This *shameful revelation* may humiliate and undermine the self-respect of citizens, who, through no fault of their own, have become part of the worst off (Wolff, 1998). Along similar lines, the empirical literature found that claimants who are subject to conditional benefits schemes may experience a number of negative reactions, which may negatively affect their recognition self-respect. Evidence suggests that the use of ‘carrots’ (rewards) and ‘sticks’ (sanctions) is perceived by claimants as sending the message that they are blameworthy for their situation as they are seen as needing the state to motivate them through incentives and threats (Patrick, 2011). With respect to disability benefits, Dwyer et al. found that the Work Capability Assessment is intrusive, leaving claimants feeling humiliated and triggering profoundly negative impacts in their personal lives (Dwyer P. , Jones, MacNeill, Scullion, & Stewart, 2018). This humiliation is particularly pervasive in the case of claimants with invisible, mental disabilities, as they may refrain from making claims so as to avoid shameful revelations, even when this will leave them with less than dignified living conditions (Dwyer P. , Jones, McNeill, Scullion, & Stewart, 2016).

Reaction-harms involving losses of recognition self-respect may also affect the members of socially salient groups whose identities are denigrated by the dominant cultural norms and stigmatized by public attitudes. Hill’s *Uncle Tom*, an extremely deferential black man, develops beliefs about his moral inferiority compared to that of whites, having been exposed to stereotypes about his race, and mistreatment from others, amplified by institutions which are designed to systematically disadvantage and demean him (Hill, 1973, p. 77). We could assume that, the insensitivity with which others treat his racial group may provide an explanation for why he suffers from a diminished sense of self-respect. Insensitive institutional actions that may appear to validate ideas about the inferiority of his race may reinforce his distorted sense of self-worth and his passivity towards those who demean and mistreat him. Sometimes, it is not immediately obvious that the victims of insensitivity genuinely believe that they are less worthy of recognition respect; rather this reaction becomes visible in the way in which they behave, which in itself may be a reaction triggered by insensitivity. For instance, since the implementation of Prevent, moderate Muslims in the UK routinely avoid expressing their political grievances, reporting hate crimes and challenging demeaning stereotypes in public, out

of the fear that they will be viewed as radicalized by others⁴. While this response may be bad itself, it may also be symptomatic of a loss of their recognition self-respect. We may think that, even when powerless, truly self-respecting individuals seek to be taken seriously by others, especially by those who demean them, they emphatically declare their sense of worth, and protest against mistreatment to affirm their rights (Boxill, 1976).

The non-instrumental value of recognition self-respect has been widely explored in the philosophy and political theory literature. Most famously, Kant's Categorical Imperative holds that we have a fundamental moral duty to 'act in such a way that [we] treat humanity, whether in [our] own person or the person of any other, never simply as a means but always at the same time as an end' (Kant, 1996). Being self-respecting in the recognition sense precludes us from accepting mistreatment and from acting in a way that is beneath our dignity as persons (Wood, 1999). Those who have a sense of their recognition self-respect understand that they have an equal status in the moral community, a position which allows them to make claims against others (Darwall 2004, 43, 44). Thus, this kind of self-worth may also be seen as non-instrumentally valuable because it involves conferring authority on people to function as self-authenticating sources of claims (Rawls J. ,1999).

Instrumentally, recognition self-respect is valuable because it is conducive to a *decent society* where individuals protest against humiliation and mistreatment (Margalit, 1998). On some interpretations, Rawls argues that self-respect is instrumentally valuable since without it, 'nothing may seem worth doing, or if some things have value for us, we lack the will to strive for them. All desire and activity becomes empty and vain, and we sink into apathy and cynicism' (Rawls, 1972, p. 440). On his view, without recognition-self-respect people are unable to form, revise and pursue their conception of the good and they are therefore prevented from having a flourishing life. A loss of recognition self-respect does not only affect people in their capacity of project-pursuers but also as actors embedded in social structures since a sense of recognition self-respect is instrumental in fulfilling our status based social duties (Middleton, 2006).

⁴ For more testimonies and evidence, see Concerns on Prevent issued by the Muslim Council of Britain (2015).

2.1.2 A Limited Normative Self- Conception

Insensitive actions may also trigger reactions which constitute or contribute to the impositions of limitations on the individual's normative self-conception. I take the term *normative self-conception* to mean the set of beliefs that a person has about what actions they ought to perform as an experiencing, functioning being in interaction with the world (Epstein, 1973). As a product of reflexive processes, of experiences and social interactions, this self-conception is normative in the sense that it generates beliefs, perceived duties and commitments that shape the individual's conception of the good and life plan (Gecas, 1982). This concept is related to self-worth, since the extent to which an individual is self-respecting, in the recognition sense, may shape her beliefs about the roles that she thinks she can occupy and her ability to pursue them. For instance, a woman who internalizes oppressive norms about her moral inferiority may pursue a limited normative self-conception, where her interests are always subordinated to those of men.

Often, unjust limitations on our normative self-conception may be linked to harmful cultural norms, biased public attitudes and parental priming. What is troubling, however, is that insensitive laws and institutional practices may reinforce and entrench these norms either by appearing to validate public bias against certain social identities or by shaping the mental states of vulnerable individuals, to the extent to which they appear to embrace the contexts that subordinate and disparage them. To illustrate, consider laws prohibiting abortion which are enforced in roughly 25% of all the countries in world. The usual grounds on which we object to abortion bans are objective because, for instance, that they involve a limitation on the freedom of women who wish to terminate a pregnancy. Yet these bans may also be objectionable from a subjective point of view since they may shape the normative self-conception of women long before they are in a position to need an abortion. They may perceive the state as validating social norms whereby a woman's duty is to bear children simply because they are biologically conditioned to do so and, as a result, develop a host of self-limiting dispositions and beliefs. Consequently, they may create a normative self-conception which is more limited, as any career and education choices may appear subordinated to

their future duties of motherhood. Many options will appear closed to them, especially if they seem to conflict with traditional gender roles, which may constitute a limitation on their deliberative freedom (Moreau, 2010).

Empirically, we may account for how these reactions are triggered through the concepts of *adaptive preference formation* and *automaticity*. Adaptive preference formation is generally regarded as a particularly insidious, indirect form of psychological harm that arises from oppression, through which the victims come to believe, act and develop preferences and desires that appear to internalize their oppressive contexts (Stoljar N. , 2014, p. 227). Sometimes, this phenomenon may entail an internalization of a particular normative conception, such as what Bartky calls the *fashion-beauty complex*, in which agents come to believe that self-worth is tied to their appearance (Bartky, 1991, p. 42). In other cases, oppression, reinforced by insensitivity, may create deformed desires ‘in which the oppressed come to desire that which is oppressive to them ... [and] one’s desires turn away from goods and even needs that, absent those conditions, they would want’ (Cudd, 2006, p. 181). Although often disguised as legitimate expressions of taste, adaptive preferences are often the result of autonomy deficits triggered by coercive norms and the insensitive actions that appear to validate them (Stoljar N. , 2014, p. 228). In fact, some argue that all adaptive preferences are ‘paradigmatically non-autonomous’ and thus, they point to a case in which the agent is oppressed (Taylor J. S., 2009, p. 71). In contrast with character planning, which involves a rational, autonomous adaptation to one’s environment, inappropriately adapted preferences are formed as a response to irrelevant causal factors that operate ‘behind the back’ of the person” (Elster, 1985).

Furthermore, Bargh et. al (2001) argue that a potential mechanism by which the social environment can directly influence an agent’s behavior is through the activation and operation of *goal representations* that have become strongly associated with a particular situation. If an individual repeatedly chooses to pursue a certain goal in a situation, then eventually merely encountering that situation is enough to automatically activate the goal and put it into operation. Similarly, beliefs that are continuously reinforced through insensitive laws and social norms, such as the duties of motherhood, become

automatic and fixed, as non-rational dispositions happening behind the back of the victim. When the individual is repeatedly conditioned to pursue a certain goal, for instance those goals that seem 'appropriate for women', she may accept and act upon a diminished normative self-conception where her interests are subordinated to those of the others, without an opportunity for rational revision.

Wollstonecraft views these limitations on the development of one's normative self-conception as a matter of non-instrumental value. What seems morally troubling here is that limitations on normative self-conception are achieved through the subversion of the rationality and of agency among women (Wollstonecraft, 2010). This concern about agency is also reflected in Hill's work on servility, which highlights the non-instrumental importance of being autonomously self-defining, a capacity which may be undermined by insensitivity (Hill, 1982). The freedom to form a normative self-conception that is consistent with the worth one thinks one has as a person is essential for a flourishing life because it enables people to pick out ideals and goals and to shape their self-image. This autonomy deficit in forming one's normative self-conception may also undermine the capacity for the authentic endorsement, revision and pursuit of values. Instrumentally, we may also think that insensitive actions gradually undermine the deliberative freedom of women, by forcing them to take their gender into account when making important decisions about their lives (Moreau, 2010, p. 149). Moreover, when insensitive actions lead people to assume certain duties that are prescribed by their gender, they may subsequently allow the failure in performing that duty to affect their self-respect. One study found that women who struggle to conceive suffer losses to their self-respect, as the respondents admitted that infertility makes them feel flawed and inadequate. (Schering-Plough and Merck & Co., Inc., 2009)

Notably, what is objectionable about these cases is not the reaction itself, however limiting it may appear; rather we object to cases in which these limitations have been imposed or entrenched through the manipulating influence of insensitive laws and institutional practices. This enables us to distinguish between cases in which motherhood is the authentic calling of a woman and situations when that perceived duty is the product of a patriarchal mentality. Following Gerald Dworkin, we may only

object to the latter case, because the seemingly limited normative self-conception indicates an autonomy and authenticity deficit as a result of intentionally manipulative or reaction-insensitive institutions (Dworkin, 1988)⁵.

2.1.3 Loss of Self-confidence

Rawls defines self-confidence as the ‘confidence in one’s ability, so far as it is within one’s power, to fulfil one’s intentions’ (Rawls, 1972, p. 440). This concept is distinct from the sort of confidence implied by recognition self-respect which denotes a security of the belief that one is a rational agent capable of fulfilling the duties raised by dignity (Thomas, 1978, p. 263). Self-confidence in our sense involves self-appraisal; a confident individual is one that believes that she has, or is able to do well in regards to her goals and the things that she values (Eyal, 2005). Conversely, a loss to one’s self-confidence involves the belief that one is not able to pursue one’s life plan. As a reaction to insensitive action, the loss of self-confidence may entail a belief that one is not able to pursue projects as well as a general disposition towards pessimism and defeatism towards one’s prospects.

To illustrate how insensitive practices can affect the levels of self-confidence of individuals, consider the case of affirmative action hiring policies that are completely transparent about having to fulfill a quota of female workers. Empirical evidence shows that women who perceive themselves as the beneficiaries of affirmative action quotas report a lower level of self-confidence while women who are unaware of quota requirements do not suffer any losses to their self-confidence (Heilman M. E., 1992). The belief that one has been hired or promoted solely on the basis of one’s gender may trigger feelings of inadequacy and self-doubt about one’s abilities. For instance, it was found that women selected for a leadership position based solely on their gender reported more negative perceptions of their leadership ability, took less credit for successful outcomes, and indicated less interest in continuing in the leadership role

⁵ As G. Dworkin notes, manipulation is an ambiguous concept in political theory. In particular, it is unclear whether an influence ought to be intentional to count as manipulation. As I show in the later chapters, reactions may be triggered both on the intention of political agents, or as foreseeable effects that have been ignored.

relative to women selected solely for their leadership skill (Heilman M. ., 1987). Similarly, other research has found that informing women that they were selected for a leadership role based solely on their gender led to impaired performance on a brainstorming task (Turner, 1993) and a test of analytic ability (Bown, 2000).

The reasons why we ought to care about the erosion of self-confidence through insensitive practices are largely instrumental. Self-confidence is seen as conducive to the security ‘in the experience of needs and feelings, but also in their expression’ and thus indispensable for ‘autonomous participation in public life’ (Honneth, 1996). In other words, we cannot function as fully autonomous agents if we are not confident in our ability to pursue our projects and more broadly, our conception of the good. Similarly, Rawls captures the notion of self-confidence maintaining that without it, ‘nothing may seem worth doing, or if some things have value for us, we will lack the will to strive for them’ (Rawls, 1972). Furthermore, some empirical accounts hold that self-confidence is instrumentally valuable because without it people become discouraged (Maslow, 1943), lose motivation (Benabou, 2002) and self-esteem (Fleming, 1980).

In the first part of my taxonomy, I discussed some of the reactions that may be triggered by insensitive acts and institutions which concern the self, which include losses to recognition-self-respect and self-confidence and a distorted normative self-conception. The conception of self-worth that I use is intentionally general, but I nevertheless acknowledge that there may be more elements of worth that can be affected or shaped by insensitive action, including self-trust, self-acceptance and self-esteem.

2.2. Reactions concerning our relationship with others

In this section, I discuss some of the potential reactions concerning others to insensitive action undertaken by both private and institutional agents. What I mean by this kind of the reaction is that they denote our perceptions about interactions with other people and about how they see us. Most of the beliefs, dispositions and preference adaptations that I examine here are rooted in the mental states linked to perceived discrimination

and stigma which appears to be amplified or validated in some way by reaction-insensitive action.

2.2.1 Perception of costs attached to the pursuit of jobs and opportunities

One way in which we may react to insensitive actions is by forming the belief that some of the significant choices that we make are more costly for us on account of our normatively extraneous features. For example, a hijab-wearing Muslim woman may perceive difficulties in getting customer-facing roles, particularly so in the context of insensitive international laws that allow employers to ban religious symbols within the workplace⁶. The perceived cost of being Muslim and displaying visible symbols of affiliation to Islam is particularly weighty when the law appears to be confirming and promoting the pre-existing stigma. The reaction that is troubling here is comparative in nature, since it is reflected in the belief that our standing in society is inferior in some way relative to those from other religious groups. More importantly the belief that we have to choose between our religious attachments and our occupational freedom may lead to harmful preference adaptations. The desire to avoid increased stigma and perhaps the employer's rejection may supersede our initial first-order preference to work in our first-choice roles. The consequences of cost-perceptions are two-fold: first, we may adjust our behavior by limiting the exercise of our deliberative freedom, and secondly we may develop non-rational dispositions such as being overly and continuously pessimistic about our employability which may discourage us from applying to certain jobs. In some cases, these dispositions are not purely non-rational, since people may have reasons for developing them, even if these are insufficient to justify them.

This kind of reaction is neither an isolated case nor peculiar to members of religious groups. In fact, there is substantive empirical evidence to suggest that perceived discrimination can influence the exercise of capacities and performance, career and achievement expectations and aspirations and most significantly, decision-making. For one, individuals who perceive discrimination anticipate more obstacles in their careers

⁶ I am referring to decision ECLI:EU:C:2017:204 of the European Human Rights Court.

than those who did not perceive their identity as disparaged (McWhirter, 1997). It was found that women who have experienced gender discrimination, directly or vicariously, are more likely to base their occupational decision-making processes on their desire to avoid hostility (L. & Ginter, 1999). Ghumman and Jackson found that Muslim women wearing religious headdress had lower expectations of receiving a job offer than Muslim women who do not wear the hijab. Moreover, the anticipation of discrimination towards one's religious attire was particularly visible in customer-facing roles as well as in high-status occupations (Ghumman & Jackson, 2009).

The instrumental harm of cost perception is fairly straightforward. In having a perceived limited choice in terms of jobs, education and perhaps other important respects, we are able to access far fewer opportunities that are essential for a flourishing life. If, for instance, the beliefs people hold prevent them from making the most of their educational opportunities, they will likely have lower employment prospects and worse financial outcomes. Similarly, if the decision-making process vis a vis their occupational choice is hindered by unjustifiable constraints, such as the perceived costs associated with their gender or race, they will not have as wide scope for socioeconomic success that they would otherwise have had. Lastly, negative reactions towards reaction-insensitive social environments may also consist of overly risk-averse economic behavior on the part of the discriminatee. Agneman found that perceived discrimination negatively influences economic aspirations even when those perceptions do not align with real discrimination (Agneman, 2017). But this reaction also matters from a non-instrumental point a view because it constitutes a limit on our deliberative freedom. Sophia Moreau argues that people are entitled to make important decisions without external pressures relating to normatively extraneous features, such as those brought about by certain kinds of social stigma and insensitive action (Moreau, 2010).

We may further argue, that the unjust imposition of constraints on individual freedom by the state, fails to respect and actively subverts their capacity for autonomy. On Gerald Dworkin's conception, an autonomous preference is characterized by autonomously formed first-order motivations which have to be consistent with our second-order preferences (Dworkin, 1988). In the example above, the hijab-wearing woman cannot

be said to act in an autonomous way since the constraints on her initial first-order motivation to work in a customer-facing role are unjustly imposed by insensitive laws. Moreover, her second order preferences, that is to say preferences about her first-order motivations, are inconsistent with her choice, since she would rather not have to take her religious attachments into account when choosing a job.

2.2.2 Learned Helplessness

Learned helplessness denotes a situation where people who perceive discrimination learn that even when they put their best foot forward their outcomes are beyond their control. For example, black people's experiences of racially-biased treatment reinforce their powerlessness in achieving good outcomes (Seligman, 1975, 1978). Decisions that further stigmatize and alienate them contribute to the formation of the belief that one is set up for failure and to the development of harmful non-rational dispositions⁷. The effects of learned helplessness are three-fold (Abramson, 1989). First, this belief of powerlessness may create a motivational deficit in that people will be discouraged from initiating action that they believe will be futile. This discouragement, best seen as a disposition, affects people in important aspects of human activity such as education, occupational choice and political participation. Secondly, the learned expectation that their actions are irrelevant to particular outcomes may make people suffer a cognitive deficit which is particularly visible in education (Steele, 2010).

Thirdly, learned helplessness can lead to psychological afflictions such as depression. More significantly, this powerlessness coupled with the discouragement to act and assert themselves as moral equals has been correlated with a lowered sense of mastery. For example, the relevant literature suggests that blacks possess a lower sense of control than whites (Jenkins, 1982). Hughes and Demo (1989) argue that this is because black experiences in American society deprive them of opportunities to experience themselves as being powerful and having autonomy (Demo & Hughes, 1990). This then contributes to the 'inferiorization' of African-Americans who are acutely aware of their

⁷ Beliefs about others (e.g., that they will discriminate against me) may lead to beliefs about myself (e.g., that I'm powerless). So in practice some cases can be classified as involving *both* 'reactions concerning the self' and 'reactions concerning one's relationship with others'.

powerlessness vis-à-vis Whites in U.S. society (Adam, 1978). This reaction is simultaneously comparative, in the sense that one may form the belief that, compared to members of other racial groups, he has a lesser standing in society, and non-comparative, since it directly affects the motivation and ultimately, the prospects of the individual.

These effects may point to the instrumental reasons why we should care about learned helplessness. Operating under the belief that no matter how hard they try, they are bound to fail, people may limit their access to opportunities that are essential for a flourishing life. They may be discouraged from aiming high in terms of job applications, promotions, applying for well-regarded schools and from entrepreneurial ventures. Additionally, they may fail to take full advantage of the entitlements that are guaranteed by the welfare state. For example, Croker & Major (1989) argue that environments that make people feel that they are unfairly treated can increase their suspicions that they are being evaluated on the basis of social prejudices towards their group rather than their merit. This 'attributional ambiguity' may lead students to discount negative internal attributions and thus minimize self-blame (Kelley, 1973). This subconscious process may be detrimental in regards to the development of accurate, realistic, and stable knowledge about one's strengths and weaknesses. Disregarding potentially instructive feedback may rob students of the chance to learn about themselves, develop a self-conception and identify their aptitudes and talents (Major, et al., 2002). More significantly, the belief that one's prospects are doomed by default because of one's race may also be correlated with a sense of resignation towards discriminatory treatment. People may be less likely to protest when others mistreat them and to affirm their worth publicly. As a potentially permanent disposition, learned helplessness may lead to an effective loss of recognition self-respect, if people become used to letting others treat them in ways that do not befit their dignity as persons.

Reaction-insensitive actions that promote the development of learned helplessness also raise non-instrumental concerns since they involve negatively shaping the mental states of vulnerable individuals. As Steele argues: 'each instance of victimization by discriminatory behaviour reinforces the Black individual's view that being victimized by

racially biased treatment is an uncontrollable event when one is a minority in American society' (Steele C. M., 1997). Even though the state may lack the intention to dominate, we may still want to reject insensitive decisions where learned helplessness is a reasonably foreseeable consequence because of the unjust limitations on freedom. Specifically, on the republican conception of freedom as non-domination, people are entitled to a sort of structural independence—as the condition of not being subject to the arbitrary or uncontrolled power of a master. Pettit argues that a person or group enjoys freedom to the extent that no other person or group has “the capacity to interfere in their affairs on an arbitrary basis” (Pettit, 1999, p. 165). This does not seem to be the case in our example about racial minorities. Insensitive decisions made by the government may reinforce the feeling of inferiority and resignation against stigma and, thus force people to adapt their behavior in ways that leave them vulnerable to the arbitrary exercise of power by others. This reaction cannot be compatible with liberty in the non-domination sense.

2.2.3 Stereotype threat

Stereotype threat denotes a situation in which people form the belief that certain actions will appear to fit stereotypes about their identity and consequently they adjust their behavior to avoid confirming those biases. Stanford psychologist Claude Steele captures this case quite vividly in his example of a black young man who, being fed up with whites purposely ignoring or avoiding him in the most mundane of social settings, adopted the habit of whistling Vivaldi music while in public (Steele C. M., 2011). The social attitudes appeared to change immediately; by displaying an interest and knowledge of white culture, and a high-brow white culture at that, the young man fashioned himself in a way that would dissociate himself from the stereotype of blacks as uncultured, poorly educated and prone to violence. In psychology, stereotype threat refers to a case in which one is in a situation or doing something for which a negative stereotype about one's group applies. This fear can become self-threatening in situations when people modify their behavior and adapt their preferences to the point to which they sacrifice important parts of their conception of the good or act in a way that threatens their wellbeing.

This fear of confirming the stereotypes about our normatively extraneous features is a comparative reaction triggered by insensitive actions or practices. It concerns our relative standing because it stems from the belief that fitting certain pre-conceived ideas will impose a social disadvantage. In addition to forming this belief, the victims of reaction-insensitivity may also adapt their preferences in harmful ways, for example by repressing or hiding those features that are subject to stigma out of the fear of hostility. To illustrate this consider the following case of a reaction-insensitive policy drawn from Hellman's work on discrimination:

In 2005 the U.S. Food and Drug Administration (FDA) approved the first drug specifically targeted to a particular racial group. BiDil won approval for use in the treatment of African Americans for heart failures. Shortly after its approval, NitroMed (which holds the patent for and markets the drug) announced that it would sell BiDil for a significantly higher price than analysts had predicted. At the same time, the company announced a complimentary charitable program intended to provide the drug to the 75.000 or so patients the company estimates could benefit from the drug but who have no prescription drug coverage. "We believe it's a mandate", said B Jones, "that BiDil should be available for every black heart-failure patient. (Hellman, 2011)

According to Hellman, what is problematic about the FDA- approved drug is that it sends a demeaning message that appears to be confirming certain stereotypes about black people as prone to illness, obesity and laziness. The wrongness of this decision, she argues, is that it demeans those that it is trying to benefit. To this I add that the decision is also wrong because it is insensitive to the reactions of black patients, who wanting to avoid confirming stereotypes about their lifestyle may avoid seeking health care when they need it. For instance, one possible preference they may develop is to not claim the subsidized drug even if they would benefit from it. It is not just racial minorities that are vulnerable to the fear of fitting stereotypes, but also gender. In 1964, it was found that "women who value intellectual attainment feel they must reject the woman's role" as if intellectual attainment is a masculine preserve and incompatible with femininity (French, 1964).

Instrumentally, the fear that one might be judged in light of a stereotype may affect the conscious behavior as well as subconscious aspects of cognition (Cross, 1991, p. 195). If a particular perceived bias is self-relevant, perceiving it may awaken the fear of conforming to it and being judged according to it. Through long exposure to negative stereotypes about their group, members of prejudiced-against groups often internalize the stereotypes, and the resulting sense of inadequacy becomes part of their personality (Allport, 1954). For instance, when faced with the stereotype that their group is not proficient in academic tests, African-Americans may feel anxious about being judged along stereotypical lines, and behave in a way that ironically confirms the very stereotype they were trying to refute; they may underperform. In a similar vein, a study found that women who were primed to become aware of the stereotype that females are worse than males at mathematics, got lower scores on standardized tests (Steele C. M., 1997). Similarly, Eccles found that because of this internalization of perceived 'rumors of inferiority' women are less motivated to pursue science-related disciplines (Eccles-Parsons, et al., 1983). The underperformance and demotivation among students that perceive self-relevant discrimination can be explained through anxiety, lower levels of self-confidence and distracting thoughts (Goffman, 1963).

A distinct reaction triggered by the fear of fitting stereotypes is when students engage in self-censorship because they perceive a cost to their freedom of expression. For instance, Muslim students may avoid discussing politics or religion even in classes where such topics are relevant, out of the fear that they may be seen as having radicalized views. Consequently they may have an overall worse educational experience because they are unable to express their views in a space that they perceive as unsafe and because this might alienate them from their peers and the educational establishment as a whole. Further, in modifying their behavior and fashioning themselves in a way that is palatable and inoffensive to group outsiders people may end up living less authentic lives and sacrificing important parts of their conception of the good. Non-instrumentally, we may find it problematic that reaction-insensitive policies lead people to feel that their identities are socially unacceptable or that they need to be changed.

2.2.4 Feeling Ashamed in Public

Amartya Sen argues that alongside other complex capabilities, being able to go about without shame is of fundamental importance as a social dimension of wellbeing. In explaining this capability, Sen appeals to Adam Smith's point that in 19th century Britain having a linen shirt and leather boots meant that one could go about without shame (Sen & Nussbaum, 2003). These items of clothing were indicators of status and of a particular socioeconomic situation; displaying these symbols of wealth and social success would protect one from the stigma towards the working class (Smith, 2012). Although Sen is reluctant in extending those indicators of socioeconomic status so as to include cultural features, some have attempted such an extrapolation. Pattanick argues that expressions of one's culture and religion may be equated to indicators of human development, which could affect whether the level of human development of one ethnic group is higher than that of another and could lead to cultural hierarchies (Pattanaik, 1998). In response, Sen himself argues that 'the freedom and opportunity for cultural activities are among the basic freedoms the enhancement of which can be seen to be constitutive of development' (Sen, 2004).

Insensitive laws, policies and decisions may also put vulnerable people in danger of feeling ashamed while in public. One telling example in this sense is the burkini ban in France, which prevented Muslim women from wearing modest swimwear on the beach. When this ban came into force, women were forced to undress in front of everyone else and fined if they refused, as documented by several media outlets⁸. The context in which this decision was made is very important; as a result of recent terrorist attacks, the number of hate crimes have increased greatly across the country. The victims were often women who wore modest clothing, burkas and hijabs. This matters because when the state supports such a dress ban, it does little to tackle the hate and bias against Muslim women, who may come to believe that the hostility they have to endure is, in a way, institutionally approved. This belief about their denigrated status and their inferior standing in society, by others' accord, may lead to harmful preference adaptations. For

⁸ See, for example, *French police make woman remove clothing on Nice beach following burkini ban*, published online on the 24th of August 2016 on the Guardian.

example, they may feel forced to live more privately and to limit their interactions with group outsiders out of the fear of stigma and even hate crimes. Equally, their religious garb, which for them may be an essential aspect of their conception of the good rather than a mere preference, may become a reason for public shame. Testimonies of Muslim women in France seem to suggest that the headdress ban in public place has made many turn to housework or to online retail businesses where they can be both active members of the economy as well as maintain a lifestyle that is authentic to their religion. One of them confesses:

‘If society didn’t reject us, we could really flourish’, she says. ‘This way we’re a bit isolated. But whatever we do, our image won’t change. And yet we’re contributing to society, paying tax. But as we are hidden away, no one will know’⁹.

Sen’s thought seems partially relevant in situations where members of disparaged groups try to conceal their cultural attachments by wearing inconspicuous clothing or by purposely displaying a preference for elements of the majority culture when in public. Although what is being seen as socially shamed is not one’s economic status, but rather one’s cultural affiliation, the analogy still holds. Particular cultures and specifically cultural attires are associated with stereotypes; turbans, hijabs and burkas, even facial hair can all trigger the majority gaze and suspicion. They may even be the criteria through which some are selected for so-called random searches in airports. We may argue that the ‘shame of being seen as poor’ is analogous to the stigma that one feels when others look at him only through the lens of his disparaged identity because both are equally debilitating. People may find it impossible to go about without stigma unless they fashion their social persona in a particular way. That may mean that they will sacrifice morally significant aspects of their conception of the good and live less authentic lives, which gives us a non-instrumental reason to object to insensitive action.

⁹ See *France’s burqa ban: women are ‘effectively under house arrest’*, published online on the 19th of September 2011 on the Guardian.

In this section, I presented some of the potential reactions concerning the relationship people have with others which may be triggered by reaction-insensitive action. Once again, this list of reactions is not exhaustive, but broad enough to show why we ought to be concerned with them.

2.3 Reactions concerning our relationship with the state and the wider society

The final section of my taxonomy focuses on reactions that concern one's relationship with the state that often reflect a particular set of beliefs about how one is viewed institutionally. The harmful messages sent by reaction-insensitive actions may, in addition to apparently confirming bias, make people believe that the state views them in a negative light, as a risky community, as helpless or perhaps as a second-class citizen. When these institutional images are perceived by people they may react in a number of harmful ways.

2.3.1 Perception of costs attached to the exercise of rights and access to public goods

The belief that if one has certain features one will find it more costly to exercise rights is similar to the reaction I discussed in the previous section. In this case however, the perceptions of costs are triggered by our beliefs about our relationship with the state and they affect the exercise of specific rights, such as freedom of religion and expression. To illustrate this reaction, consider a decision that singles out Muslims as vulnerable to radicalization and allots more resources towards policing their community, which may appear to inflame pre-existing biases towards them. In particular, those that will be most affected by such a decision will be moderate, non-violent Muslims who will start believing that the state views them as dangerous and risky. While some may object to statistical discrimination, we may think that some sacrifices must be made in cases where national security is at risk and even that, statistically, most religiously - motivated terrorist acts have been committed by those claiming to defend the Islamic faith. After all, statistical discrimination is generally an effective way of structuring investigations of

this kind and may lead to a safer society for everyone, including for moderate Muslims (Rasmussen, 2007).

This justification however does not take into account the effects of these kinds of policies on the members of the Muslim community and in particular, on their reactions. They may form the belief that the state views them in a negative way, as potentially dangerous to the extent to which they ought to be under constant surveillance. This belief is comparative, since it may express a concern about the relative standing of Muslims in society, as second-class citizens who seem to be treated worse than others. Equally, this belief may also be interpreted as non-comparative, when it concerns the individual's relation with the state. The thought that as a member of a religious group, one will find it more costly to exercise rights and liberties may result in the development of non-rational dispositions, such as powerlessness in asserting one's standing and national identity:

Someone who has got an Arab-sounding name, or who doesn't eat a certain foodstuff, is seen as dubious. It is as if at some point, to be French, you have to have the right name, and eat the right things (Porter, 2016).

The anticipation of increased hostility, such as heightened policing, may also lead to harmful preference adaptations since people may adjust their social and political behavior out of the fear that they will be targeted. For one, they may limit their freedom of speech, as shown by testimonial evidence:

I must constantly be cautious about what I am Googling, what I write and publish on blogs, or whether or not I should retweet something about politics, religion or even humanitarian crises – anything which might possibly be misconstrued as “extremism.” (Zubair, 2017)

Equally, they may seek to limit their freedom to practice their religion when in public by giving up their religious garb, or conversely by avoiding interactions with group outsiders. Even political participation may appear to be costly, since expressing

mundane grievances against the government may be interpreted as hate speech or extremism. It is significant to note that these individuals are often already at the margins of the political discourse and their interests are underrepresented. Consequently, reaction-insensitive policies will be particularly devastating to them; their political disenfranchisement will rob them of the opportunity to protest institutional mistreatment and to challenge biases about them.

Instrumentally, freedom of speech and expression, of religion and association are fundamental for most conceptions of citizenship precisely because they enable individuals to bring claims and to protest against institutional mistreatment. Insensitive state action may trigger harmful cost perceptions that ultimately force people to limit their exercise of these fundamental rights, essentially disenfranchising them. More importantly, this may allow the state to interfere within their communities even further and to attempt to reform and discipline their behavior (Heath-Kelly, 2013). The empirical literature seems to reflect the idea that, under conditions of institutionalized perceived discrimination, people adjust their behavior in a way that seems almost irrational and counter-productive. Mavelli argues that the state's response to terrorism can sometimes lead to the wholesale reorganization of the political rationality of suspect communities (Mavelli, 2013). Similarly, Brown argues that the insensitivity to the reactions of oppressed individuals may leave them with very little scope to participate as autonomous or effective actors within governance (Brown, 2010). The instrumental value of political authenticity can also be justified by appealing to democratic principles. The capacity for political authenticity that enables people to express their desires and convictions in public is a necessary condition of being an effective political agent. In society where political authority is legitimized and derived from the consent of the governed, promoting the social conditions that support political authenticity is a precondition for a healthy democracy (Guignon, 2008, p. 288).

Further, these reaction-harms involve a limitation on the capacity for authenticity both ethically, in terms of how they live their lives, and as political agents. In the recent philosophical literature, authenticity and its expressions are viewed as embodying an element of self-transcendence (Taylor, 1991, p. 15). Taylor argues that an authentic life,

that is to say, a life lived in accordance with one's normative self-conception, involves the development of a relationship and commitment to what is good or important (Taylor, 1989, pp. 34-5). This relationship is, however, dependent on our membership in a 'language community' where, through dialogue with others, we develop the vocabulary and associated meanings that help us articulate our self-image and our conception of the good. Thus, authenticity in individual ethics requires social conditions that are sensitive to our ties with others and the role that they play for us (Taylor, 1991, p. 35). Insensitive action is clearly incompatible with this conception of authenticity, since it forces its victims to act upon the fear of sanction rather than their normative self-conception. Their first-order authentic motivations, to practice one's religion or express one's view, are superseded by beliefs resulting from manipulation.

Additionally, if we are to regard identity as a dialogical concept, as Taylor argues, then the belief that the state views us in a negative way that confirms the social stigma against us may also be devastating. We may internalize all of the labels that are attached to us by others and we may find ourselves forced to reduce our dialogical interactions. Guignon also highlights the 'fundamentally and irreducibly social' nature of authenticity (Guignon, 2004, p. 151). He argues that, to live an authentic life, one must be able to discern what is really worth pursuing in one's social context and that is only possible in a free society with established social virtues. Drawing on Rousseau, his conclusion is that we must commit to pursuing and maintaining the social conditions which promote the ideal of authenticity (Guignon, 2008, p. 288). If the role of a just state is partly to promote those conditions that foster individual authenticity, then justice is clearly incompatible with reaction-insensitivity.

2.3.2 Distrust in the state

Another way in which people may react to insensitive action is by losing trust in the state in its institutions. A good example in this sense is the Prevent anti-radicalization initiative in the UK which places a duty on professionals in certain state-sanctioned jobs to identify individuals that are vulnerable to extremism and refer them to the government's de-radicalization program. This is particularly problematic when we look

at the potential reactions of individuals from the so-called suspect communities and their subsequent preference adaptations. The relevant non-comparative belief that Muslims may form is that the state will treat them with suspicion because they are part of a group that is statistically associated with extremism. This belief may lead to the development of a general attitude of distrust, not only in the political authority, but also all of its institutions and branches, such as the healthcare system, the police and public schools. In turn, this loss of trust may make people limit their claim to all of the public services provided by the state, which are fundamental for their welfare and the pursuit of their goal.

This limiting behavior adjustment is reflected by empirical studies. A lack of trust in the provision of state-sanctioned healthcare may negatively impact the affective tone of subsequent patient-provider communication which may affect their diagnosis and treatment (Hausmann, et al., 2011). Equally, imposing duties on healthcare professionals to identify citizens who are vulnerable to radicalization, may make some individuals lose trust and consequently fail to seek treatment, particularly for mental illnesses. This seems particularly serious since perceptions of discrimination and of biased attitudes in themselves are negatively associated with psychological and physical wellbeing and positively associated with tendencies to engage in unhealthy behavior such as overeating and smoking. Some studies have found a strong correlation between perceived discrimination and mental health (Kesler, Mickelson, & Williams, 1999); perceptions of social bias are correlated with depression (Noh & Kaspar, 2003) , subclinical paranoia (Rippy & Newman, 2006) and aggressive behavior (Inzlicht & Kang , 2010). More generally, perceptions of bias and unfair treatment can negatively influence the self-acceptance processes of individuals which enable them to become aware of and accept their strengths and limitations (Pascoe & Smart Richman, 2009). Perceived discrimination has also been correlated with high blood pressure and a propensity to take up smoking or to overeat (Landrine & Klonoff, 1996). Krieger (1990) found that how one responds to perceived discrimination can also affect physical health. His study shows that Black women who stated that they usually accepted or kept quiet about unfair treatment were significantly more likely to report hypertension than women who said that they took action or talked to others about the discriminatory

treatment (Krieger, 1990). So, it is possible that reaction-insensitive policies such as Prevent might affect the perceptions of people to the extent to which they are fail to claim the help that they may very well need.

This also seems to be true in terms of the police. Studies show that the trust of Muslim communities in the police has been eroded by over-surveillance and their labelling as a suspect group (Ben Bowling, 2007). This lack of trust may hinder the collection of community intelligence, and more generally, counter-terrorism efforts (Virta, 2008, p. 30). This reaction is also reflected in the testimony of a Muslim man who was interviewed for the Spooked! Report 2009:

[t]he main impact of Prevent work locally has been greater mistrust of the police. It's impacted all the wrong way. And there is more reluctance on the part of the Muslim community to engage at all (Kundnani, 2009).

More importantly, a large percentage of anti-Muslim crimes remain unreported because people feel that the complaint of Islamophobia has often invited criticism of the Muslim victims (Meer, 2008). Equally, the failure to report hate crimes has been linked with distrust in the police and in the justice system and the perception that the complaints will not be taken seriously (J. Githens-Mazer, 2010). More generally, this distrust in the police may reinforce community anger, frustration, and paranoia (Murphy, 2008). Another consequence is that the members of suspect communities engage in self-censorship, particularly in higher education (B. Murtuja, 2017). Muslim students may avoid discussing politics or religion even in classes where such topics are relevant, out of the fear that they may be seen as having radicalized views. Consequently they may have an overall worse educational experience because they feel unable to express their views in a space that they perceive as unsafe and consequently they alienate themselves from their peers and the educational establishment as a whole.

This is especially significant, given that prior literature suggests that there can be an erosion of trust between communities and law enforcement when certain groups feel that they are being over-policed. (Bowling and Phillips 2007). Virta (2008, 30) views

trust and confidence toward the police as a precondition of community intelligence, thus, she argues that “trust and confidence towards the police is a precondition to community intelligence. It would be very difficult for the police to get community intelligence if people do not trust the police.” Innes and others (2007) found that low trust in the police and the state can inhibit the willingness of individuals to pass on community intelligence concerning several issues, and a report by Demos (2007) highlights the importance of high trust relationships between communities and the police for effective national security in the age of ‘home-grown terrorism’. According to Hillyard (1993, 2005), a breakdown of police-community relations can have serious consequences for policing, and, in the context of counter-terrorism, it can halt the flow of vital information from communities. A lack of community intelligence may then lead to further, intrusive, ‘hard’-based policing strategies to be employed because suspicion tends to be of the community as a whole rather than being limited to specific groups or individuals and so generating and reinforcing community anger, frustration and paranoia (Murphy, 2005).

The distrust in the state may have dire consequences for the lives of some of the most vulnerable citizens. For one, they may sacrifice opportunities that are instrumental for the pursuit of their goals, such as education. Engaging in self-censorship and failing to identify with one’s school may mean that students will fail to make the most of their educational opportunities and thus suffer a loss to their self-development process. Secondly, the limitation of access to healthcare, particularly in terms of mental health, may hinder the prospects of vulnerable citizens and their ability to have flourishing lives. Lastly, there is the matter of security. A lack of trust in the police may force people to remain quiet about harassment and violence against them, as well as live in a constant state of anxiety and paranoia. The importance of trust in the government has long been highlighted by political theorists as a means of creating a peaceful and stable society. Locke argued that trust among citizens and the state is what holds society and the social contract together (Locke, 1980). More recently, it was argued that establishing or sustaining a social frame that facilitates human flourishing does depend upon establishing and sustaining structures of government and responsibility which in some measure merit and earn trust (Dunn, 2003).

2.3.3 Feeling unwelcome

The final reaction that I discuss in this taxonomy is the feeling that one does not belong in society and the failure to identify with the institutions of the state. When insensitive actions lead people to form the belief that the state views them in a negative light and inflames pre-existing stigma, they may find it difficult to feel at home in their society. This reaction may entail the non-comparative belief that one does not belong and that the institutions and social life itself are incomprehensible. Also, we may develop a harmful disposition that forces us to alienate ourselves from the spheres of social activity. Contexts in which social life takes place, such as schools, require a certain degree of identification on the part of the individuals. Identification in this sense requires forming a relationship between oneself and the domain, one that would provide the opportunity of a positive self-evaluation. At the basis of this relationship is the need for positive self-regard, a self-perception of "adaptive and moral adequacy" (Steele C. M., 1999). Thus, identification is dependent on our understanding of a social context as being potentially conducive to a positive outcome in the development of our self. Conversely, if a social domain supports attitudes that are biased against us then we are unlikely to identify with it which can have dire consequences in regards to our performance and motivation.

This seems particularly true of education. Consider, again, the case of Prevent. The teaching staff in state-sanctioned schools and universities is under a duty to identify and refer students that are vulnerable to radicalization. This insensitive action may make some of the already stigmatized students feel as though they do not belong or as though they are under continuous surveillance. It may be nearly impossible for them to identify with the school, in a sense in which they view it as an opportunity for their self-development. This case reflects the instrumental harm caused by feeling unwelcome. A substantive body of research argues that students who perceive discrimination find it more difficult to identify with their school which can have dire consequences for their academic performance and aspirations (Zubair, 2017). An educational environment in which people perceive stereotypes may not offer them the positive self-evaluative

prospects that they require in order to feel like they belong (Tesser, 1988); this failure to identify with the school can affect a student's motivation, performance, academic success and even career prospects (Steele C. M., 1997). More generally, this may mean that the victims of reaction-insensitivity will have more limited opportunities, since they may be prevented from making the most of public services that they are entitled to.

Feeling at home in one's society is also a matter of non-instrumental value¹⁰. Hegel argues that without certain social conditions, such as a political attitude of acceptance and affirmation, people will experience alienation in an incomprehensible social world (Hardimon, 1992, p. 172). On his view, feeling at home in the world is of non-instrumental value, because it is in itself important for people to identify with their roles and responsibilities within the family, civil society and the state (Hegel, 1991). This identification is an essential part of a flourishing life since it includes the development of individuality as well as a sense of community. The concept of reaction-insensitivity seems to parallel Hegel's notion of subjective alienation, for on his view the belief that one does not belong is enough for one's alienation to count as genuine (Hardimon, 1992). In the example illustrated above, what seems problematic is that the Prevent duty may lead people to feel as though they are not at home and consequently to fail to identify with the institutions and state-sanctioned environments. Just like it is with Hegel's conception of alienation, it does not matter whether the belief that one does not belong is founded or not – the harm is genuine and altogether normatively significant.

Concluding Remarks

The present chapter aimed to develop a taxonomy of normatively significant reactions and to draw attention to the empirical evidence concerning how a variety of different normatively significant reactions are elicited by policies and institutions. The first section was concerned with self-regarding reactions, such as the loss of recognition-self-respect, a diminished self-confidence and a limited normative self-conception. In the second section I discussed some of the possible reactions concerning our relationship

¹⁰ In the opening sections of the Restatement, John Rawls raises a similar concern.

with others – cost perception, learned helplessness, the fear of fitting stereotypes and feeling ashamed in public. Lastly, I looked at some reactions concerning the individual's relationship with the state, which include perceptions of costs in relation to the exercise of rights, the loss of trust in the state and not feeling at home.

For each of these, I have sought to not only to classify and explain the reaction, but also to highlight the instrumental and non-instrumental reasons why we ought to care about it. For the most part, there is considerable empirical evidence that sheds light on the harm brought about by reaction-insensitive action. My aim in bringing up this evidence was to highlight the need for further engagement of political theory with the relevant psychological and sociological literature. Although reaction insensitivity has largely been neglected as a form of discrimination there is extensive proof that theorists ought to take it into account when theorizing about just institutions. Insensitive institutions that give no weight to the reactions they foreseeably trigger among vulnerable groups are incompatible with a just society.

Chapter 3

Reaction-Insensitivity and Rawlsian Self-respect

In the previous chapter I offered an extensive taxonomy of normatively significant reactions and specified instrumental and non-instrumental reasons why political theorists ought to care about them. In the following three chapters, I examine the role of reaction-insensitivity with respect to key concepts and theories within the mainstream literature – Rawlsian self-respect, Dworkin’s conception of authenticity and the ethics of discrimination.

While in the literature there are many conceptions of self-respect which could benefit from taking reactions seriously, there are good reasons for focusing on Rawls’s in my discussion. First, although he is widely regarded as a distributive justice theorist, his view also captures some recognition aspects which chime with reaction-insensitivity. For example, the demand that the equal distribution of liberties is publicly affirmed resonates with one of the key ideas in my thesis – that the state has the power to shape both public attitudes with respect to disadvantaged groups and the mental states of vulnerable individuals. Second, on a wide interpretation, Rawlsian self-worth encompasses recognition and appraisal self-respect as well as self-confidence which, as I argue in my previous chapter, may be threatened by insensitive action. Third, his conception of self-respect draws on a number of empirical claims about the role of the state in the development of self-respect and in facilitating the access to its social bases. Likewise, my concept of reaction-insensitivity draws together social and psychological insights about the relationship between the individual to herself, to others and to the state; this suggest that the two views are, at least partly compatible. Finally, although he theorizes from an ideal-theory perspective, Rawls argues that his view ought to be supplemented by non-ideal considerations which may include the reactions of stigmatized individuals and which may contribute to a reasonable moral psychology. In this chapter, I argue that, on a wide interpretation, Rawls’s conception of self-respect anticipates some of the concerns raised by reaction-insensitivity, and may be further expanded in the non-ideal realm by engaging with these kinds of subjective considerations.

My discussion proceeds in three parts. First, I offer a brief sketch of Rawlsian theory of self-respect that includes both empirical and normative claims and which is compatible with reaction-sensitivity. To that end, I subscribe to a wide interpretation of his concept which includes elements of recognition and appraisal self-respect, as well as self-confidence, all of which, I argue, may be threatened by the state and other agents. As ‘perhaps the most important primary good’ self-respect plays a two-fold role in Rawls’s Justice as Fairness as it is used to justify the lexical priority of the liberty principle and to ground the case for a stable conception of justice. On his view, self-respect is a basic entitlement which ought to be secured, at all costs, by a just basic structure that gives people an opportunity to access its social bases and which promotes institutions which do not threaten the self-worth of individuals. The fair distribution of the social bases of self-respect is realized through the principles of justice as fairness, that is, equal liberty, fair equality of opportunity (hereafter FEO), the difference principle (hereafter DP), and their lexical ordering.

Second, I provide a reaction-sensitive reading of Rawls’s principles of justice which has two main aims. The first of these is to argue that justice as fairness is compatible with reaction-sensitivity and that, in fact, it gives considerable weight to a wide range of subjective considerations, including to foreseeable reactions. The second aim is to highlight some important cases of reaction-insensitivity which would be objectionable on Rawls’s view and which would occur within a just basic structure. This discussion seeks to show that a just basic structure would have to be reaction-sensitive, at least in some cases, even if Rawls himself does not explicitly state it.

The third part of my chapter seeks to show that there are still some cases of insensitivity which are not captured by justice as fairness and which would be objectionable in light of the Rawlsian conception of self-respect. Part of the reason why some of these cases are not captured on Rawls’s account is that they pertain to non-ideal theory, because, for instance, they involve stigmatized groups. This is not to say that justice as fairness is incompatible with reaction-insensitivity, but rather that it needs to be supplemented by non-ideal concerns about the mental states of the victims of discrimination and

oppression. However, the notion of reaction-sensitivity, and by contrast reaction-insensitivity, is relevant even in ideal theories which assume that there is no history of oppression or stigmatisation of minorities in a society. Rawls's basic structure may still fail to give due weight to the foreseeable reactions of those who may be affected by its laws. For example, the worst off may develop feelings of inferiority that undermine their self-respect because of the inequalities that are generated by the difference principle.

The reaction-harms concerning the self, which I have identified in my previous chapter are relevant for Rawls's theory either because they directly affect the development of self-respect or because they prevent people from accessing its social bases. The present chapter is not intended as a critique to Rawls, but rather aims to highlight his engagement with these underexplored subjective considerations. If further developed and complemented by non-ideal theory, justice as fairness is a promising avenue for exploring the issues raised by reaction-insensitivity.

3.1 A wide conception of Rawlsian self-respect

3.1.1 Conceptual Claims

On the face of it, Rawlsian self-respect is different from other established conceptions in the literature because it does not explicitly distinguish between the various elements of self-worth. One of the most widely used distinctions in the literature is between recognition self-respect, which is concerned with having a sense of one's value as a person, and appraisal self-respect, which denotes a positive evaluation of oneself in light of one's successes, character traits and other attributes (Darwall, 1977). Rawls's interchangeable use of 'self-respect', which sometimes denotes recognition self-respect, and 'self-esteem', which suggests appraisal self-respect, may suggest that he conflates the two; nevertheless, he admits that they are distinct in his later work (Rawls, 1999, p. 260). The conceptual vagueness of Rawls's account has led some to take a very narrow interpretation of Rawlsian self-respect as being concerned solely with a disposition of confidence that conditions us to see some things as being important, to care about these things, and to follow through on the things that one cares about (Kramer, 2017).

Other commentators offer a wider interpretation of Rawlsian self-respect, which in addition to self-confidence, includes both a need for self-recognition and self-appraisal which are expressed through a social dimension and an agent-relative dimension, respectively (Zink, 2011, p. 332). The social dimension of self-respect is concerned with the perceived status of the individual, or how she thinks others value her (Rawls J. , (Revised Edition), 1999, p. 477). In order to maintain the conviction that our ends are worth advancing we need to believe that others respect our endeavours and that they approve of our goals in some way (Rawls J., 1999, pp. 155-6). The agent-relative dimension of self-respect is closely connected to the Aristotelian Principle which holds that “other things equal, human beings enjoy the exercise of their realized capacities (their innate or trained abilities), and this enjoyment increases the more the capacity is realized, or the greater its complexity” (374). When properly cultivated, this principle of individual motivation plays into the agent-relative dimension of self-respect, as people have a natural tendency to complexify their endeavours, specialize and develop their skills, and to consistently pursue their interests. Rawls’s conception of human motivation suggests that individuals will not have a sense that their conception of the good is worth pursuing, as an aspect of self-respect, if it does not have certain properties (those picked out by the Aristotelian Principle), because those properties make the activity both attractive to the person herself and elicit admiration from others:

I assume then that someone’s plan of life will lack a certain attraction for him if it fails to call upon his natural capacities in an interesting fashion. When activities fail to satisfy the Aristotelian Principle, they are likely to seem dull and flat, and to give us no feeling of competence or a sense that they are worth doing. A person tends to be more confident of his value and his abilities are both fully realized and organised in ways of suitable complexity and refinement (Rawls, 1999, pp. 386-7).

On this interpretation, Rawlsian self-respect appears to capture some of the issues raised by reaction-insensitivity as it takes seriously the idea that our perceptions about

ourselves, about our status within society and about how others see us may shape our self-worth. Below, I offer a sketch of the elements of Rawlsian self-respect that is consistent with this wide interpretation and, as I will argue in the following sections, with reaction-sensitivity. Rawls defines self-worth as:

...a person's sense of his own value, his secure conviction that his conception of his good, his plan of life is worth carrying out. And second, self-respect implies confidence in one's ability, so far as it is in one's power, to fulfil one's intentions (Rawls, 1999, p. 386).

Confusingly, this definition appears to involve not just two, but several beliefs and dispositions which are constitutive of self-respect and which are interrelated (Eyal, 2005, p. 204). First, it includes *a person's sense of his own value* which may involve several kinds of beliefs and dispositions which are constitutive of *recognition self-respect*. For one, it may denote status respect for oneself as a person and member of a moral community that deserves equal dignity (Hill T. E., 1973). This form of self-worth is hinted at throughout Rawls's work, as he argued that people ought to function as self-authenticating sources of claims of justice who are able to recognize and denounce treatment that is beneath their dignity as people. This kind of self-valuing prompts the individual to create and to pursue a normative self-conception that she deems worthy of herself (Hill, 1982). This chimes with the following requirement – that the individual has the '*secure conviction that his conception of his good, his plan of life is worth carrying out*'. If an individual lacks a sense of her worth as a person and views her interests as subordinated to others, she may fail to author, endorse and pursue a conception of the good and life plan that are *her own*. In addition to these kantian forms of recognition self-respect, Rawlsian self-respect may require viewing oneself as an agent with moral aspirations and duties, within a concrete basic structure where one has to take on various roles and status – related responsibilities (Middleton, 2006). Rawls may have had this form of recognition self-respect in mind as precursor to the development of *a sense of justice* which disposes individuals to act in accordance with the principles of justice for their own sake and to experience moral emotions of guilt and shame when they have failed to do so (Baldwin, 2008).

Second, developing a plan of life that one believes is valuable, and confidence in one's abilities to fulfil it, seems to be an achievement of some kind, so it might form the basis of *appraisal self-respect*. In light of the Aristotelian Principle, self-respect in the appraisal sense may be promoted by the belief that our endeavours are suitably complex to continuously engage our interests and to motivate us to keep on pursuing them. This drive, in turn, may lead us to develop our abilities, specialize our skills and goals, approach human excellence and elicit the esteem of others, all of which may promote our appraisal self-respect. One may also evaluate the worthiness of one's plan in terms of whether it is appropriate for her dignity as a person and compatible with her normative self-conception. Further, she may question whether she is able to freely pursue her life plan given her social context; although compatible with human dignity, some life plans may be justifiably costly in some social circumstances, thus the individual ought to evaluate whether she is prepared to assume the costs of her endorsement. The outcome of the evaluation of our ends may also be shaped by our beliefs about how others view it, for 'unless we feel that our endeavours are respected by them, it is difficult if not impossible for us to maintain the conviction that our ends are worth advancing' (Rawls, 1999, pp. 155-6). Likewise, the evaluation of our ability to pursue our life plan may be dependent on our beliefs about how others see us, about how the roles that we choose to occupy are regarded by the wider society and about how they stand against our own standards.

Third, Rawls argues that these beliefs in one's worth and conviction in one's life plan must meet a condition of *security*, meaning that they endure over time and are resilient against blows to one's self-esteem. This element of Rawlsian self-respect resembles a form of self-valuing that, in the literature, has been referred to as "basic psychological security" (Thomas 1989), or "basal self-respect" (Dillon 1997). This basic form of self-worth is viewed as precursor to the development of the more sophisticated beliefs and dispositions associated with recognition and appraisal self-respect. When adequately developed, basal self-respect can protect individuals against the blows of their personal failings and social denigration and help them interpret their moral worth and their achievements appropriately. This form of self-worth seems necessary for the security of

one's conviction in one's life plans and in one's own value as otherwise people would lose their self-respect and experience self-doubt about their life plans whenever they are faced with adversity from others.

Fourth, '*self-respect implies confidence in one's ability, so far as it is in one's power, to fulfil one's intentions*'. Self-respecting project pursuers need to be confident not just in the agent-relative value of their life plans but also in their ability to pursue them. This element of *self-confidence* is important for developing and maintaining both recognition and appraisal self-respect. If individuals lack confidence in their ability to carry out their life plan, they may come to believe that they have failed to fulfil the duties which are elicited by their agency and personhood, which may undermine their recognition self-respect. Furthermore, lacking self-confidence may also affect self-appraisal because when doubting one's abilities involves a negative appreciation of oneself as a failure.

3.1.2 Normative Claims

In the wider context of Rawls's work, self-respect appears to be a condition for the development of the two moral powers which allow people to advance and pursue a conception of the good and to develop a sense of justice, and which are both instrumentally and intrinsically valuable. The first is characterized by *reasonableness*, "the capacity to understand, to apply, and to act from (and not merely in accordance with) the principles of political justice that specify the fair terms of social cooperation" (Rawls, 2001, pp. 18-9). The second is the ability to "have, to revise, and rationally to pursue a conception of the good ... which specifies a person's conception of what is of value in human life" (Rawls, 2001, 18-9). So we view the parties in the OP as moral persons in a rather specific sense:

...characterized by two moral powers...the capacity for an effective sense of justice...[and] the capacity to form, to revise and to rationally pursue a conception of the good. Corresponding to the moral powers persons are said to be moved by two highest-order interests to realize and exercise these powers. By calling these

interests 'highest-order' interests, I mean that ... [they] are supremely regulative as well as effective. This implies that, whenever circumstances are relevant to their fulfilment, these interests govern deliberation and conduct cf. (Pogge, 1989, p. 97).

In order to develop the two moral powers, people need to develop certain secure beliefs that are constitutive of Rawlsian self-worth. Consider the first moral power, the capacity to understand, to apply, and to act from (and not merely in accordance with) the principles of political justice that specify the fair terms of social cooperation" (Rawls, 2001, 18-9). The fairness of the cooperative social venture is dependent on people developing a sense of justice that enables them to view each other as moral equals that are entitled to a fair share of rights, liberties, opportunities, duties and obligations. If the first moral power is developed in the right kind of way, then it must also entail a reflexive perspective about oneself through which one recognizes one's own moral status and equal citizenship. As Rawls puts it, the second moral power involves people regarding themselves as 'self-authenticating sources of valid claims'. That is, they regard themselves as being entitled to make claims on their institutions so as to advance their conceptions of the good (provided these conceptions fall within the range permitted by the public conception of justice).' (Rawls, 1993, p. 32) It seems that one cannot have an adequate sense of justice without believing that one has equal value, the same standing as other persons.

The second moral power is the ability to "have, to revise, and rationally to pursue a conception of the good ... which specifies a person's conception of what is of value in human life" (Rawls, 2001, 18-9). The development of this ability seems to require and be conditional upon all the elements of Rawlsian self-respect. Recognition self-respect allows us to acknowledge the importance of authoring a conception of the good that is our own, one that has to be appropriate for our dignity, and of revising our values when they no longer befit our moral standing. Moreover, developing appraisal self-respect can help us value our life plans and conceptions of the good and our achievements in pursuing them and, consequently, renew and strengthen our motivation as project

pursuers. Finally, the confidence in our abilities enables us to continue pursuing our projects, without the setbacks of self-doubt and apathy.

3.1.3 Empirical claims

The Rawlsian account includes empirical claims about the kinds of beliefs and dispositions that are conducive to self-respect, which makes it a prime candidate for engagement with the issues picked out by reaction-insensitivity. What is distinctive about Rawls is that he takes seriously the idea that certain social, political and economic factors may affect the development of self-respect and shape the beliefs of individuals. In this sub-section, I offer a brief account of how these social circumstances can promote, or inhibit self-respect; this discussion is useful as it sets the foundations for determining the social bases of self-respect and, more generally, the principles of justice that support them.

First, consider basal self-respect, which secures the beliefs in our moral importance and the convictions that our ends are valuable. The empirical roots of this basic form self-valuing can be traced back to attachment theory (Rawls, 1999, p. 406). Sue Gerhard argues that the nature of the relationship that babies have with their primary caregivers may be a factor in the security of their self-worth as adults (Gerhardt, 2014). When infants receive unconditional support and attention they are more likely to have a basic psychological security that enables them to form the belief that they are morally important and worthy of love and respect from others. If, on the contrary, the infant receives inconsistent attention and is exposed to abusive behaviour, she may grow up with doubts as to whether she is worthy of love and respect from others. The insecurely attached child therefore becomes an adult who is handicapped in her ability to handle emotions and develop feelings of self-worth. So, part of the conditions that can shape Rawlsian self-respect concern the family, a social institution that may ‘define men’s rights and duties and influence their life prospects, what they can expect to be and how well they can hope to do. Since its effects are so ‘profound and present from the start’ the family is part of the basic structure and constitutes one of the social bases of self-respect (Rawls, 1999, p. 7). Importantly, Rawls resists the claim that the principles of

justice should apply to the internal life of the household in spite of Okin's argument that the family is the lynchpin of gender injustice. On her view, the family ought to be governed by the principles of justice as fairness, partly because, otherwise, the self-respect of women may be undermined. Conversely, Rawls believes that it is possible for women to acquire a sense of equal worth whilst living in a family which takes the view that women's primary role is to look after children and tend to housework (Rawls J. , 1997).

Second, recognition self-respect is dependent on both social and agent-relative beliefs that affirm one's worth as person and moral agent. Socially, this sense of our own value is supported through others' recognition of our personhood, and through appropriately formed beliefs about our place within society. We gauge these forms of recognition with respect to our perceived status, how we think we are positioned within the social hierarchy and the sort of treatment that we receive from others. Given the wide array of status indicators, it would be impossible to try to equalize all of them in order to promote self-respect; instead, Rawls believes it is important to "affirm equality of status along some key dimension" since "even a just society will be characterized by various kinds of inequalities (e.g., income differentials) that may erode the self-respect of the poorly ranked" (Taylor R. S., 2003, p. 249). For Rawls, the most meaningful way in which our recognition self-respect may be promoted through the equalization of our social status is the equal distribution of basic rights and liberties:

The basis for self-respect in a just society is not then one's income share but the publicly affirmed distribution of fundamental rights and liberties. And this distribution being equal, everyone has a similar and secure status when they meet to conduct common affairs of the wider society. No one is inclined to look beyond the constitutional affirmation of equality for further political ways of securing his status. Nor, on the other hand, are men disposed to acknowledge a less than equal liberty (477).

The agent-relative dimension of recognition self-respect is also supported by the first principle of justice. An individual who is self-respecting in this sense will require the

freedom to author, endorse, revise and pursue a conception of the good that is compatible with beliefs about their moral standing and which are sufficiently complex to engage their interests. Some of the basic freedoms which are distributed through the liberty principle, such as the freedom of speech and association, facilitate the endorsement, evaluation, and where appropriate revision of one's life plan (Cohen G. A., , 1989). Without these freedoms, individuals will find their options unjustly constrained which may threaten their conviction in their life plan, breed self-doubt and, in time, erode the sense of their own value.

Third, certain social conditions may either promote or inhibit the motivation that is captured by the Aristotelian Principle and which, in turn, shapes our appraisal self-respect and our self-confidence. Rawls argues that a society that provides an array of communities of shared interests contributes to us 'finding our own person and deeds appreciated and confirmed by others who are likewise esteemed and their association enjoyed' (Rawls, 1999). These pockets of esteem 'will provide people with the opportunity to develop the talents that they are naturally inclined towards' and to receive the esteem of others. (Thomas, 1978, pp. 261-62) The access to these communities may be protected by the liberty principle which would secure the freedoms of association and expression and by the fair equality of opportunity which would enable people to access them regardless of their socioeconomic background.

Finally, in order to exercise the second moral power one must form the belief that their life plan is valuable from whatever conception of the good they choose within the bounds of reasonable pluralism. This belief is not the same as claiming that a particular conception is objectively valuable, nor that it is only valuable from one specific perspective (the one that the individual finds the most attractive at a given time). It is a secure, enduring conviction that one's ends are worth pursuing and it is always solidly justified rather than adopted on account of alterations in mood, impulses and momentary inclination.' (Hill, 2012, p. 335). Valuing our ends in this way provides us with normative reasons to act and choose in ways that promote them and which are justified by our conception of the good (Smith, 1987, p. 38). The social conditions which facilitate this normative endorsement are closely associated with freedom, as,

otherwise, individuals may be unable to form a conception of the good that they can endorse and enact through their life plans.

Furthermore, the belief that one's ends are valuable in the meaningful sense must be formed in the right kind of way in order to properly develop the second moral power. This requirement would preclude cases in which one's justification for valuing one's ends is the result of "political indoctrination, cultural pressures, irrelevant associations and desires unrelated to the valued object." (Hill, 2012, p. 337) People may not be justified in believing that their ends are valuable if they hold them simply as a result of a manipulating influence because that would prevent them from acting as self-authenticating sources of claims and from endorsing a conception of the good that they have themselves authored. McKinnon argues that self-respect in the Rawlsian sense requires that choosing a life plan must be done under conditions of full deliberative rationality, which entails 'full awareness of the relevant facts and after careful consideration of the consequences' (McKinnon, 2002). Even while considering our epistemological limitations (e.g. we cannot predict whether we are suited for a particular life plan) we may still be able to satisfy this condition of Rawlsian self-respect since if 'the agent does the best that a rational person can do with the information available to him, then the plan he follows is a subjectively rational plan' (Rawls, 1971: 417). This condition is necessary in achieving self-worth for Rawls:

Free persons conceive of themselves as beings who can revise and alter their final ends and who give first priority to preserving their liberty in these matters. Hence they not only have final ends that they are in principle free to pursue or to reject, but their original allegiance and continued devotion to these ends are to be formed and affirmed under conditions that are free (Rawls, 1999, pp. 131-2).

Otherwise, we would be forced to accept that individuals who are successful in and esteemed for pursuing subservient self-conceptions, such as the *Stepford Wives*, are self-respecting (McKinnon, 1997).

3.2 The social bases of self-respect

Although self-respect cannot itself be distributed, its development and maintenance do depend on certain social circumstances that facilitate the satisfaction of its empirical conditions; thus, Rawls believes that these conditions can be promoted through his principles of justice and their lexical ordering, the anti-perfectionist justification of liberalism and the availability of a diversity of communities of shared interests (Ferkany, 2009, p. 263).

In order to spell out how the principles of justice can require us to promote the social conditions upon which self-respect depends, I begin by examining the social bases of self-respect more closely. A few distinctions are in order. First, we may distinguish between beliefs about one's social status, on one hand, and beliefs about oneself or the other, each of which may require social conditions of a certain kind. For instance, to facilitate the formation of positive beliefs about oneself, justice may require that institutions refrain from humiliating and degrading citizens. Second, following Cohen, we may further distinguish between two kinds of social bases which foster the development of the two dimensions of self-respect (Cohen J. , 1989). Resource bases of self-respect include practical means which ensure that individuals live their lives in accordance with their non-subservient self-conceptions. Recognition bases of self-respect are concerned with the attitudes of others towards the individual which foster the development of one's non-subservient normative self-conception. Notably, the social dimension of self-respect may require both resources, to ensure that one lives a dignified life, and recognition, in order to form the belief that one is a moral equal. Likewise, in the agent-relative dimension, self-respect may require resources that provide meaningful access to pockets of esteem, as well as the recognition of our achievements from others. Thirdly, we may distinguish between two contexts in which resource and recognitional social bases may be distributed. The associational bases of self-respect are the communities of shared interests providing the conditions of reciprocal esteem, and the framework bases are 'the framework of institutions and associated forms of public argument [which] support and foster the associational conditions' (McKinnon, 2011). Both of these contexts, which are in themselves social bases, may provide both the

recognition and the resources that are needed to develop and maintain Rawlsian self-respect.

A just basic structure will ensure that social institutions have certain features that encourage people to develop self-worth and to respect others; these features are the social bases of self-respect. Justice as fairness demands that:

1). Each person has the same infeasible claim to a fully adequate scheme of equal basic liberties, which scheme is compatible with the same scheme of liberties for all;

2). Social and economic inequalities are to satisfy two conditions:

They are to be attached to offices and positions open to all under conditions of fair equality of opportunity (hereafter FEO);

They are to be to the greatest benefit of the least-advantaged members of society (hereafter DP) (Rawls, 2001, pp. 42-3).

Principles are to be assessed according to how they promote the resource and recognition bases of self-respect in aspects of the basic structure, and according to how they promote these bases within communities of shared interests. Notably, the just basic structure is constituted by social institutions, which may directly distribute resource or recognition social bases, but its scope does not include the communities of shared interests. This means that although the institutional framework may not directly shape the associational bases of self-respect, it may nevertheless try to promote the social conditions that foster reciprocal respect within these pockets of esteem and to ensure that there is a diversity of associations. Generally, however, a just distribution of primary goods would enable people to access the social bases of self-respect.

Equal freedom allows people to create, revise and pursue their non-subservient conceptions of the good by satisfying both their recognition and resource needs. The

freedom of speech and of association allows people to enter communities of shared interest, freely consider other possibilities and challenges and to adjust their life plans accordingly (Cohen J., 1989). Allowing for a diverse range of communities and protecting the rights of entering and exiting them, may also shape the conditions for mutual respect within them. The public affirmation of their equal citizenship status may also satisfy recognition needs by nurturing the belief that one's interests are not morally inferior to anyone else's. The other requirements of justice as fairness also contribute to the development of self-respect. FEO demands that social and economic inequalities are to be attached to offices and positions open to all under conditions of fair equality of opportunity. This principle lends support to the social dimension of self-respect, since it promotes the belief that one has a fair chance to access to advantaged positions, which include political and legislative offices. Depending on how we interpret the requirements entailed in 'a fair chance', FEO may also satisfy the resource needs upon which access to such positions is dependent, especially educational needs (Anderson, 2007). In terms of the agent-relative dimension, FEO may promote the development of self-esteem by establishing conditions in which people are able to develop their skills and pursue their inclinations, as well as elicit the esteem of others, all while supporting reciprocal respect.

That the DP plays a lesser role in the development of self-respect as compared to equal liberties or FEO, is not to say that it has no bearing on the beliefs and dispositions that people form. Visible socioeconomic inequalities are, for Rawls, one of the primary triggers of feelings of envy and resentment among people, which, in turn, may lead to morally troubling behaviour adjustments and motivations:

We may think of envy as the propensity to view with hostility the greater good of others even through their being more fortunate than we are does not detract from our advantages. We envy persons whose situation is superior to ours (estimated by some index of goods . . . [the primary goods]) and we are willing to deprive them of their greater benefits even if it is necessary to give up something ourselves . . . The individual who envies another is prepared to do things that

make them both worse off if only the discrepancy between them is sufficiently reduced. Thus Kant, whose definition I have pretty much followed, quite properly discusses envy as one of the vices of hating mankind (Rawls, 1999, p. 532).

Rawls seems to suggest that the DP is able to minimize feelings of envy, when these are rationally formed, because rational people would rather cut their losses by accepting inequalities that are to their greatest advantage (Rawls, 1999, p. 534). Commentators have charged Rawls with underestimating the role of one's socioeconomic status in the development of self-worth (Miller, 1978); however, I do not discuss these criticisms here. I do note, however, that Rawls is open to limiting inequalities if they do have these consequences.

Finally, the development of Rawlsian self-respect is also dependent on the state remaining neutral among different conceptions of the good when legislating on constitutional essentials and matters of basic justice (Caney, 1995). This anti-perfectionist approach promotes a basic structure where people that have different conceptions of the good that they find valuable may co-exist on terms of democratic equality and within the bounds of reasonable pluralism (Cohen, 1993, pp. 281-2). A state that does not seek to advance a particular conception of the good, at the expense of (reasonable) others, will, for Rawls, not give any causes for anyone to feel morally inferior, or to believe that their life plans are being demeaned or devalued by the state. Other commentators have argued that Rawls's basic structure is consistent with a moderate liberal perfectionism that allows the state to cultivate certain political emotions and cultural excellences (Sheppard, 1998).

In this section, I have given a wide interpretation of Rawlsian self-worth, as including elements of basal self-respect, self-recognition, self-appraisal and self-confidence, each of which are dependent on people forming certain beliefs about themselves and about how others see them, in a non-subservient way. Highlighting the psychological aspects of his conception of self-respect offers a solid indication that Rawls was concerned, to an

extent, with reaction-sensitivity, as he wished to avoid the social conditions that undermine self-respect and the beliefs that are constitutive of it.

3.3 A Reaction-Sensitive Reading of Rawls

In the previous section, I offered a wide interpretation of Rawlsian self-worth as including elements of recognition self-respect, self-appraisal and self-confidence, and outlined his empirical claims and normative prescriptions with respect to state action. In this section, I argue that the Rawlsian conception of self-respect may not only accommodate, but also anticipate some of the worries that are raised by reaction-insensitivity.

To reiterate, reaction-insensitivity characterizes public and private actions whose justification does not give sufficient consideration to the harmful reactions they may trigger. Some reactions give us non-instrumental reasons for concern, since they express, and are constitutive of, a loss to one's self-respect. For example, studies have found that conditional benefits schemes may be perceived as so humiliating by the mentally ill that they refrain from making claims, even in cases where this means living a less than dignified life (Dwyer, 2006). On Rawls's view, this case would indicate a loss of recognition self-respect, as people do not see themselves as 'self-authenticating sources of claims' and thus are prevented from functioning as members in a fair cooperative venture which act on their sense of justice. Other reactions matter instrumentally, because they undermine the conditions that foster the development of self-respect such as access to its social bases. For instance, the perceptions of costs to the exercise of civil rights that are triggered by insensitive laws may in time lead to a loss of self-respect. Although Rawls does not specifically refer to reaction-sensitivity, his work does make reference to the mental state of the individual and, specifically, to the idea that state action can not only influence the psychological makeup of people but also that it should seek to promote certain beliefs and dispositions. Here, I document these textual references in his defence of the principles of justice as well as in some more specific points and examine them in relation to reaction-insensitivity.

3.3.1 Publicly Affirmed Equal Basic Liberty

The first principle of justice requires that liberties and rights are distributed equally among individuals and that this distribution must be publicly affirmed. Anything less would, for Rawls, 'have the effect of publicly establishing their inferiority as defined by the basic structure of society,' which in turn would be 'humiliating and destructive of self-esteem' (Rawls, 1999, p. 477). One concern shared by Rawls and my conception of reaction-insensitivity is that the distribution of rights within society should not humiliate individuals, as that may negatively impact their self-worth. An insensitive institutional arrangement, such as the conditionality aspect of benefits for the mentally ill, may be perceived as humiliating by the potential claimants; in turn this belief may trigger other negative reactions. Likewise, Rawls argues that justice requires that the basic structure does not humiliate individuals because that may be destructive of their self-respect. It is unclear, in this passage, whether the public affirmation of rights and liberties is a subjective condition as well as an objective one. The next passage may be illuminating in this respect.

Equal liberty will ensure that people will have 'no cause to consider themselves inferior and the public principles generally accepted underwrite their self-assurance' (Rawls, 1999, p. 470). It is clear, here, that Rawls is concerned with the mental state of the individual, as he argues that the public affirmation of equal liberty is justified partly because it would prevent people from forming the belief that they are inferior. What is more, on my interpretation, Rawlsian self-respect does not merely require that equal liberties are publicly affirmed but also that this affirmation is done in a way that helps cultivate the belief that they have an equal moral and social status. Similarly, one of the set of cases that I am concerned with denote insensitive actions that are perceived as demeaning only by the victims. In fact, Rawls seems to move beyond the idea that insensitive institutional arrangements ought to be reformed, in arguing that a just basic structure ought to be organized and justified with potential individual reactions in mind. The public affirmation of equal liberty does not only serve the role of directly promoting certain beliefs about one's worth, as it may also promote social attitudes of

the right kind, which indirectly shape how we view ourselves and how the social bases of self-respect are distributed within our communities.

Rawls makes the empirical claim that the security of self-respect is affected by an individual's perceived status in society – 'how we think others value us'. Our sense of self-worth depends on our perceived approval from others, for 'unless we feel that our endeavours are respected by them, it is difficult if not impossible for us to maintain the conviction that our ends are worth advancing' (155-6). Similarly, some of the reactions captured by my taxonomy entail the formation of beliefs that others view us in a negative way. This empirical common ground may mean that Rawls may be able to accommodate some of the reaction-harms discussed in my taxonomy, such as distrust in fellow citizens and the perception of costs to jobs and other opportunities. From an ideal-theory perspective, the justification of the first principle is undeniably concerned with people forming beliefs and dispositions of the right kind and sets a pretty high threshold of institutional sensitivity, which demands that state action and arrangements should not cause people to feel inferior.

Also relevant here is Rawls's defence of the lexical priority of equal liberty, contested as it may be by commentators. Rawls argues that 'parties [in the Original Position] regard themselves as having a highest-order interest in how all their other interests, including even their fundamental ones, are shaped and regulated by social institutions' (Rawls, 1999, p. 131). This highest-order interest in the shaping of other interests (including the religious interest and the interest in integrity of the person) is lexically prior to all other interests, that is, it cannot be sacrificed to promote them (Taylor, 2004, p. 334). This suggests that the Rawlsian conception of self-respect may also account for cases in which insensitive actions subvert the development and exercise of individual agency, such as the development of one's normative self-conception. To illustrate, consider the case of abortion bans which may be objectionable partly because they fail to give weight to the responses they may foreseeably trigger among women, particularly in their developmental stage. If people have a higher-order interest in how their motivations and life plans are formed, then it could be that a just basic structure would condemn insensitivity in this case as a manipulating influence that hinders rational

deliberation. This point is reinforced by McKinnon, who argues that the social bases of Rawlsian self-respect require that people pursue their projects with a non-subservient self-conception' (McKinnon, 2003).

3.3.2 Fair Equality of Opportunity

The second, yet lexically prior, part of the second principle of justice is FEO, which demands that 'social and economic inequalities are to be arranged so that they are ... attached to offices and positions open to all under conditions of fair equality of opportunity' (Rawls, 1999, p. 266). This principle may be interpreted as making a demand that is both formal, prohibiting arbitrary discrimination and monopolistic privilege in the labour market, and substantive, in giving all citizens a fair chance to attain advantaged social positions regardless of their social contexts (Taylor, 2004). In terms of the formal requirement, Rawls is vague as to what 'careers being open to talents might mean'; some argue that on the Rawlsian view, careers would not be genuinely open to talents if selectors were permitted to exclude some groups altogether (Mason, 2006), which suggests that selectors must not engage in wrongful discrimination. If this interpretation is correct, then FEO does share some common ground with reaction-insensitivity, as both are concerned with eliminating some of the factors that make people develop high levels of stigma-consciousness. It is however, unclear whether Rawls would advocate non-discrimination with the reactions of individuals in mind; more likely, this demand of FEO is rooted in his conception of citizens as free and equal.

A more promising connection between the formal demand of FEO and reaction-insensitivity is highlighted in Nagel's discussion of a Rawlsian take on affirmative action, which would be sensitive to disadvantages that are 'economic, political, and, very importantly, psychological - due to the psychology of the minority as well as of the majority' and which would lead to more systematic injustice. Nagel then concludes that 'Rawls, a white southerner whose historical hero was Abraham Lincoln, regarded slavery and racial segregation as paradigms of injustice. I believe, speaking for myself, that it is a natural consequence of his ideal of justice that exceptional measures such as affirmative action are warranted if they serve in the long run to rectify the distinctly non-

ideal situation in which those injustices have left us' (Nagel, 2003). On this interpretation, the Rawlsian conception is equipped to address a key concern raised by reaction-insensitivity – that one's perceived social status and experiences of discrimination may trigger reactions that lead not only to disadvantages, but also, to forming a preference for one's oppressive circumstances¹¹. The formal demand of FEO is particularly relevant for some of the issues brought to light by reaction-insensitivity, since it takes seriously the idea that one's psychological makeup may be shaped by external social conditions, and, in turn, can influence the extent to which the individual has access to opportunities.

The second, substantive principle is a necessary complement to the formal demand, which allows 'distributive shares to be improperly influenced by... factors ... arbitrary from a moral point of view' (72). By introducing the substantive demand, Rawls avoids cases in which morally arbitrary factors such as one's social class become detrimental for a person's prospects even under conditions of open competition for advantaged social positions (Mason, 2006). The concern about having 'a fair chance', not just formally, but also substantively, pre-empts some important cases flagged by reaction-insensitivity. For example, we may think that Rawls would object to cases in which an insensitive basic structure drives the members of socially salient groups to perceive their morally arbitrary characteristics as costs or hindrances when choosing a career (Moreau, 2010). That is because the threshold of FEO may be interpreted as including a subjective aspect; to have a fair chance it may not be enough that advantaged positions are open and that selection techniques are in themselves fair and discrimination-free. For FEO to work, people also need to believe that those positions are open to them and that the selection process will not discriminate against them, a belief whose security would partly be shaped by the basic structure. Whether Rawls meant to include the formation of this belief as part of the demands of FEO is of course, an exegetical matter that is further complicated by the realities of a non-ideal perspective. For now, I shall assume that this is what Rawls meant¹².

¹¹ Here, I take 'the Rawlsian conception' to include the non-ideal theory that emerges from the ideal theory applied to real world circumstances.

¹² I discuss Arneson's stunted ambition objection to FEO towards the end of the chapter.

The lexical priority of FEO over the DP may strike us as odd, since it is difficult to imagine a case in which ‘the greatest benefit of the least advantaged’ would require us to sacrifice FEO. In response, Rawls argues that ‘it may be possible to improve everyone’s situation [including the least advantaged] by assigning certain powers and benefits to positions despite the fact that certain groups are excluded from them. Although access is restricted, perhaps these offices can still attract superior talent and encourage better performance’ (73). In justifying the priority of FEO over the DP, Rawls argues that:

I should note that the reasons for requiring open positions are not solely, or even primarily, those of efficiency.... [The priority of FEO] expresses the conviction that if some places were not open on a basis fair to all, those kept out would be right in feeling unjustly treated even though they benefited from the greater efforts of those who were allowed to hold them [as was the case with ‘natural aristocracy’]. They would be justified in their complaint not only because they were excluded from certain external rewards of office but because they were debarred from experiencing the realization of self which comes from a skilful and devoted exercise of social duties. They would be deprived of one of the main forms of human good.
(TJ, p. 73)

Once again, Rawls gives textual clues that his approach is, to some extent, reaction-sensitive. It is not just the case that the justification of the priority of FEO takes into account some of the reactions that it may trigger, but it actually seeks to promote certain beliefs, for instance that no one should feel that they are unfairly treated. Some of the reactions that my conception covers are rooted in the perception of stigmatization and the anticipation of discrimination. In one such case, a Muslim woman forms the belief that she has to choose between her religious headdress and applying for a customer facing role, in the context of discretionary religious symbol ban within the EU. Formally, FEO bans arbitrary discrimination on grounds of religion and substantively, it requires,

among other things, that people believe that they have a fair chance, at least on this interpretation. This belief seems incompatible with the case above, as it is unlikely that one will believe that one has a fair chance to attain a job while also perceiving one's religion as a cost to that opportunity. Furthermore, Rawls may be able to accommodate some subsequent reactions that may arise from that belief: feelings of exclusion and marginalization, learned helplessness and discouragement in pursuing the job one wants, and further material and esteem-based disadvantages. Once again, whether these reactions are captured by Rawls depends on whether he would accept my subjective interpretation of FEO – that the substantive requirement demands that people actually believe that they have a fair chance. Otherwise, it is possible that even if advantaged social positions are open to all and arrangements are in place to ensure that everyone has a fair chance, some people may still perceive costs to these opportunities which may prevent them from accessing them.

This passage also offers clues in respect to the correlation between FEO and the development of self-respect. If people do not have a fair chance to attain advantaged social positions then they are 'debarred from experiencing the realization of self which comes from a skilful and devoted exercise of social duties'. One of the empirical conditions of self-respect is the development and exercise of one's capacities and talents, as per the Aristotelian Principle. The justification of FEO and of its priority aims to further the nurturing of our capacities by creating and safeguarding an institutional space for the exercise of our skills and to provide people with the resources that are needed in this respect, particularly through education (Taylor, 2004, p. 339). Reaction-insensitivity also raises concerns about the sorts of perceived constraints that may hinder people's access to education. For example, attributional ambiguity denotes a situation in which a stigma-conscious student interprets negative feedback as discrimination rather than an actual comment on her performance. This dismissal may, in turn, negatively affect her prospects and her educational experience, which may, in time, leave her with fewer opportunities to access the social bases of self-respect (Crocker, Voelkl, Testa, & Major, 1991). Since FEO also plays a role in the development of self-confidence, the confidence in one's ability to carry a life plan out, there is yet another type of case that Rawls might be able to accommodate. The fair chance to advantaged

social positions, in conjunction with the freedom of association with likeminded individuals, provide people with access to pockets of esteem, where they can develop their skills and be appreciated by others. On this interpretation, FEO would presumably avoid cases in which insensitive action would trigger feelings of self-doubt. One such case is illustrated by transparent affirmative action quotas, which have been shown to lower self-confidence among female employees and to discourage them from applying for promotions and leadership positions (Heilman, 1987).

A more specific point which is related to FEO is that "[t]he lack of ... the opportunity for meaningful work and occupation is destructive ... of citizens' self-respect" (Rawls, 2001, p. 50), which qualifies it as a social base of self-respect (Freeman, 1999, p. 366). This 'opportunity for meaningful work' may be interpreted in light of the Aristotelian Principle, as an opportunity for people to develop their skills and capacities and to form suitably complex ends. This becomes clearer in the following passage:

...no one need be servilely dependent on others and made to choose between monotonous and routine occupations which are deadening to human thought and sensibility. Each can be offered a variety of tasks so that the different elements of his nature find a suitable expression...The division of labour is overcome not by each becoming complete in himself, but by willing and meaningful work within a just social union of social unions in which all can freely participate as they so incline (Rawls 1971, 529).

This passage suggests that it matters what choices people believe they have, and whether they think they have the freedom to pursue them. Specifically, the opportunity for meaningful work is a social base of self-respect because meaningless work requires little intelligence and skill development so it will likely fail to satisfy the Aristotelian Principle (Moriarty, 2009). If we agree with this interpretation, then the Rawlsian conception might be able to account for cases in which insensitive actions and arrangements make people perceive costs to the access of opportunities as well as for cases in which people adapt their preferences when subordinated by the institutionally

validated dominant norms. For example, some insensitive laws and policies might inadvertently send the message that some occupations are more valuable than others through funding and other subsidies. This message may, in turn, shape the normative self-conception of people who might become more interested in social validation and wealth and less so in finding what is meaningful to them, according to their ‘elements of nature’. It seems that Rawls’s account of the ‘opportunity for meaningful work’ might be able to pre-empt cases of this kind. Notably, the same may not be true of some cultural norms, that may shape the ambition people have and their beliefs about the roles they may occupy in light of their morally arbitrary attributes (see section 3).

3.3.3 The Difference Principle

The Difference Principle (hereafter DP) entails that ‘social and economic inequalities should be arranged so that they are ... to the greatest benefit of the least advantaged persons’. While the correlation between the DP and reaction-sensitivity is not immediately obvious, there are some relevant clues in the discussion of the psychological effects of socioeconomic inequalities. Rawls acknowledges, as per his critics, that in non-ideal circumstances, one’s socioeconomic status or income might affect one’s self-worth, but he found that the dependency of self-respect on one’s socioeconomic status is problematic and should be eliminated by a just society (Shue, 1975, p. 201). In his theory, he tries to accomplish this by highlighting the importance of equal liberty which cuts to the core of human moral personality (206). Institutional arrangements that are perceived as expressing a deep commitment to individual liberty will therefore shape human self-evaluations such that they too give a similar priority to the affirmation of equal liberty when arriving at a sense of their own worth (Nielsen, 1979, p. 213). The thought that comparisons between one’s socioeconomic status and that of others may affect self-worth and that a just basic structure should reduce them in accordance with the DP resonates with my conception of reaction-sensitivity. Similarly, my view objects to insensitive institutions that promote beliefs about class ideology and dispositions that lead people to tie their self-worth to how they compare with others.

Furthermore, Rawls argues that even under conditions of publicly affirmed equal liberties people may have less of an opportunity to affect political processes. He argues that not only would the worst off resent others' position but they would also feel powerless in affecting the rules of the game that put them in the lower socioeconomic positions (Shue, 1975, pp. 198-9)¹³. Both resentment and the feeling of powerlessness are debilitating reactions that a just basic structure should seek to avoid. An insensitive state marked by socioeconomic inequality may create dispositions of learned helplessness among those that are born in a trap of inherited poverty which may, in turn lead to a loss of self-respect. It is not clear whether the demand of the DP, that inequalities are only permitted when they maximize the situation of the worst off, will suffice to avoid these reactions. But, regardless of whether justice as fairness can accommodate these reactions, it is clear that Rawls has taken them into account since he gives concrete examples of laws and arrangements that appear to be reaction-sensitive, such as the public financing of political parties and public debates (Shue, 1975, pp. 198-9). These measures are aimed at weaning individuals from considering socioeconomic factors as indicators of their worth and avoiding the formation of dispositions of powerlessness (Rawls, 1999, p. 478).

Furthermore, Birnbaum argues that Rawlsian commitments could be interpreted as a case for universal basic income, in light of the DP and the importance of self-respect (Birnbaum, 2010):

My central argument is that a basic income scheme has the capacity to help boost the economic prospects of the least advantaged in ways that also (1) promote their access to opportunities for social recognition and (2) secure important conditions for each person's non-subservience at each stage of their lives. In contrast to distributive schemes that rely on stringent forms of means-testing and/or work conditionality a firm layer of unconditional and universal payments

¹³ Notably, in his later writings, Rawls holds that in an ideal society not only would citizens possess equal basic political liberties, these liberties would also possess roughly the same value for all.

offers a path to realize our Rawlsian objectives without causing fundamental trade-offs between them.

While I do not examine the plausibility of this argument¹⁴, it is worth noting that, if correct, it would establish a further connection between justice as fairness and reaction-sensitivity. Basic income policies are often justified with reference to the mental states of the individual, as a source of motivation in the pursuit of opportunities as well as contributing to beliefs about oneself and about one's worth.

In this section, I have examined some of the references related to reaction-sensitivity from the Rawlsian conception of the social bases of self-respect. Notably, this discussion is not exhaustive as Rawls's preoccupation with how institutions shape the mental states of individuals extends beyond his defence of the principles of justice. For instance, self-respect also justifies Rawls's argument for stability, as he argues that a society that is stable can help foster a psychological commitment to justice that is instrumental in developing self-worth (Zink, 2011).

3.4 Expanding Rawlsian self-respect

In the previous section, I highlighted the common ground between the Rawlsian conception of self-respect and reaction-sensitivity as both views hold that institutional action is capable of shaping the beliefs and dispositions of individuals and aimed at preventing harmful reactions. In this section, I argue that some cases of reaction-insensitivity that may undermine self-respect are not captured by justice as fairness and suggest a few ways in which Rawls's theory may be expanded so as to cover them. For one, Rawls's ideal-world perspective may preclude some significant non-ideal realities about the effects of laws and policies on stigmatised minorities. Viewed from a non-ideal perspective, reaction-insensitivity may pick out cases in which individuals interpret

¹⁴ A similar view has been previously elaborated by Andrew Williams in *Basic Income and the Value of Occupational Choice* (2006).

and respond to neutrally formulated laws in a way that is harmful, because, for instance, they have developed stigma-consciousness. Rawls acknowledges that his view ought to be complemented by the right kind of non-ideal theory, to which my discussion aims to make a contribution. In addition to this, I also suggest that there may be ways in which Rawls's theory is reaction-insensitive even at the level of ideal theory, since the Rawlsian basic structure may still allow some forms of insensitivity which may damage self-respect.

3.4.1 Ideal Theory and Reaction-insensitivity

Contemporary liberal egalitarian theories of justice, such as justice as fairness, are often constructed from an ideal-world perspective, under idealized assumptions which simplify social reality (Holtman, 1999, p. 34). This perspective has been widely criticised. For instance, Sen argues that ideal theory "is of no direct relevance to the problem[s] of [public] choice that [have] to be faced" by existing societies (Sen, 2009). C.W. Mills goes even further in his criticism, arguing that ideal theory "reflect[s], and contribute[s] to perpetuating, illicit group privilege" as the idealizing assumptions often express and further the interests of dominant groups (Mills, 2005, p. 166). Notably, Valentini argues that some idealizations may deprive ideal theory of any action-guiding role, and in that way generate bad ideal theories (Valentini, 2009).

However, some argue that Rawls's dismissal of past injustices from the scope of his basic structure is an indication that for him, these injustices are simply self-evident and uncontroversial (Robeyns, 2008). By his own admission, Rawls sought to answer a set of questions that is different from that of non-ideal theory but which was intended to be action-guiding within the real world. He argues that 'the problems of [non-ideal] partial compliance theory are the pressing and urgent matters. These are the things that we are face with in everyday life'. But ideal theory 'provides, I believe, the only basis for the systematic grasp of these more pressing problems' (Rawls, 1999, pp. 8-9). In defence of ideal theory as action-guiding for non-ideal realities, commentators argue that theories that posit idealized subjects can support the full realization of justice by indicating the ultimate goals that political institutions should set themselves in the process of reforming real - world social processes and practices (Stemplowska, 2008). In

this sub-section, I do not discuss criticisms of ideal theory; instead, I subscribe to the idea that justice as fairness needs to be supplemented with non-ideal considerations, which include those about the mental states of stigmatized individuals.

The distinctiveness of Rawlsian self-respect rests in its acknowledgement of the idea that the state can play an extensive role in promoting the social conditions that lead to the development of self-respect. It recognizes, among other things, that our perceived social status and, in particular, how we think others regard us, may shape our sense of self-worth. When translated in a non-ideal situation, these Rawlsian insights may resemble and support the conclusions drawn by some mainstream recognition theories. These argue that cultural norms that devalue and subordinate certain categories of persons may lead to a loss of self-respect (Honneth, 1995, p. 134) or to a distorted sense of self-worth (Dillon, 1997, p. 244). In a non-ideal context, cultural recognition and the elimination of discrimination may facilitate the access to the social bases of self-respect. Importantly, the sort of non-ideal theory that would chime with Rawls's basic structure may be deeply concerned with the mental states of the stigmatized, given the empirical claims that underpin his conception of self-respect.

It would, for example, give some weight to dispositions such as stigma-consciousness, which conditions the members of socially salient groups to anticipate stigmatization and discrimination and to interpret otherwise neutrally formulated laws as identity threatening (Crocker, Voelkl, Testa, & Major, 1991). Stigma-conscious individuals are those who have experienced discrimination and racially motivated injustice both directly or vicariously or who have been primed by parents who also had high levels of stigma consciousness. To illustrate, consider the case of the Prevent anti-radicalization initiative, which places a duty on state-sanctioned employees to identify and refer individuals that appear to be vulnerable to radicalization¹⁵. Stigma-conscious individuals, such as Muslims, may form the belief that expressing their political views might be perceived as extremism and that they must refrain from participating in the political discourse in order to avoid sanctions. In this case, insensitivity may have

¹⁵ See Prevent Duty Guidance retrieved from: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/445977/3799_Revised_Prevent_Duty_Guidance_England_Wales_V2-Interactive.pdf

devastating consequences for Rawlsian self-respect since it may undermine perceptions about one's social status and about one's relationship with others and the state. Further, it may place unjust constraints on the individual's access to some of the social bases of self-worth, such as the exercise of basic liberties and the freedom to enter pockets of esteem.

3.4.2 The Severely Disabled

Rawls's theory of justice may also be expanded through the addition of considerations about the mental states of individuals with physical and mental disabilities. In *Political Liberalism* he argues that the members of the ideal society for which his principles of justice are chosen are 'normal and fully cooperating member[s] of society over a complete life' (Rawls, 1993, p. 18). Being a 'normal' member of society that is able to fully cooperate 'over a complete life' imposes a nearly impossible threshold on individuals, as 'not a single citizen approaches the ideal of full functioning throughout a lifetime' (Kittay, 1999, p. 88). Furthermore, by excluding those with impairments and the care for the elderly and children from the basic structure, justice as fairness may allow for injustices not only against them, but also against their caregivers (Nussbaum, 2006, p. 127).

The Rawlsian basic structure may include people whose disabilities do not prevent them from exercising their moral powers (Cureton, 2008). However, people with severe disabilities, who are also likely to end up as part of the socioeconomically worst off, may require a more extensive set of provisions that corresponds to their needs and which facilitates the access to the social bases of self-respect. Reaction-sensitivity may be useful in implementing justice as fairness within non-ideal societies as it may enable it to cover a more extensive range of cases which appeal to the same sort of empirical considerations that Rawls subscribes to. For instance, it may cover the case of the mentally ill who refuse to make benefits claims because they perceive the benefits system as forcing them to make a shameful revelation. Reaction-sensitivity may also suggest that a just basic structure ought to give more weight to the foreseeable reactions of the

severely disabled, since their needs that are associated with self-respect may be more pressing.

3.5 The Basic Structure and Reaction-Insensitivity

So far, I have argued that Rawlsian self-respect is compatible with my concept of reaction-sensitivity and that, when viewed alongside non-ideal concerns, a just basic structure would object to an extensive range of cases. In this sub-section, I examine the basic structure from an ideal-theory perspective and argue that it may not capture some significant reaction-harms that may threaten self-respect. This is partly because of empirical disagreements about the effect of socioeconomic inequalities and other social factors on the development of self-worth. I suggest that paying attention to reaction-harms may be useful in expanding Rawls's ideal theory as it may highlight a need for distributive remedies to be allocated sensitively. More generally, my concept may also contribute to a 'reasonable moral psychology' by introducing a very weak form of liberal perfectionism which remains compatible with state neutrality.

3.5.1 Ideologies about working class inferiority

Some commentators hold that Rawls downplays the effect that the socioeconomic inequalities generated by the Difference Principle on the development and security of self-respect. Nir Eyal, among others, argues that Rawls's conception of self-respect commits him, in fact, to endorsing absolute equality of wealth and income and to denying priority to equal liberty (Eyal, 2005). Short of corroborating it, I argue that Eyal's objection is merely based on an empirical disagreement which could be resolved if the basic structure were to give sufficient weight to the mental states of the worst off.

In the *Hidden Injuries of Class*, Sennet and Cobb argue that, in addition to a limited access to opportunities and material advantages, blue-collar workers also believe that they are misrecognized which, in turn, may lead to harmful reactions. Premium occupations which, on the Rawlsian view, include those that warrant a higher income because they are to the greatest benefit of the worst off, are often more highly esteemed

than blue-collar jobs. And this esteem does not merely arise from communities of shared interests; surgeons, for example, are esteemed on a society wide scale and repeatedly validated by institutional structure that compensates their achievements. When reinforced by insensitive institutions, this occupational divide may lead the worst off form the belief that they are at the bottom of a pyramid of achievement, for even the 'the world's best welder [receives] less respect than the most mediocre doctor' (Sennet & Cobb, 1973). The 150 in-depth interviews with blue - collar workers, revealed feelings of humiliation, anger and, most surprising of all, the belief that they have to take responsibility for their social position, that even if 'I never had a chance', 'I didn't have what it takes'.

Rawls might respond that his principles of justice would prevent these feelings of humiliation because they are aimed at maximizing the situation of the worst off and creating a diverse array of pockets of esteem. However, even in the context of a just basic structure, there is nothing to prevent some occupations, such as those involving manual labour, from being less esteemed by others, such as office jobs, even in cases where the former is more lucrative than the latter. Furthermore, the interviews suggest that the working class believe that they are regarded as a faceless mass by those who, in being more widely esteemed, have more freedom to develop their talents and to help others. This reaction of the members of the working class suggest that they will rarely fill as though they are in a position to help others and to exercise their sense of justice in this way. As an interviewee puts it: "It's not the money, see . . . if you could be in a position like that, at least nothing stands in the way of your doing good . . ." (Sennet & Cobb, 1973).

The Rawlsian conception of self-respect requires that people view themselves as fully functioning members on fair terms of cooperation. However, the inequalities permitted by his basic structure may be insensitive to the reactions of the worst off who, in their perpetual crisis of self-respect, believe that they will never be on the giving end of justice. Notably, these social inequalities may not only affect the worst off, but also those who are at the top of the pyramid of achievement, so to speak. Sennett recognizes this in passing: "The position we take in this book is that everyone in this society, rich and

poor, plumber and professor, is subject to a scheme of values that tells him he must validate the self in order to win others' respect and his own." (Sennet & Cobb, 1973) Thus the Rawlsian basic structure may also affect the well-off, who, in their scramble for self-legitimization, may suffer losses to their self-respect. Incorporating reaction –sensitivity within the basic structure may not only help avoid these feelings of inferiority which Rawls himself acknowledged as potential consequences of inequality, but also improve the redistributive remedies that are prescribed by Difference Principle. In particular, it may be useful in designing systems of social aid that do not humiliate claimants by introducing subjective considerations that may guide conditionality processes.

3.5.2 The issue of 'stunted ambition'

Richard Arneson suggests yet another way in which the Rawlsian basic structure, particularly the FEO, is insensitive:

Imagine a society in which positions of advantage such as jobs and places in schools are assigned by selection according to merit, and effective educational and compensatory institutions operate to offset the advantages of fortunate family position, so that Fair Equality of Opportunity is perfectly satisfied. Any two persons of equal talent and ambition will have the same prospects of success in competition for positions of advantage. However, this characterization of the society is compatible with a further, disturbing description: all individuals are socialized to accept an ideology which teaches that it is inappropriate, unladylike, for women to aspire to many types of positions of advantage, which are de facto reserved for men, since only men come to aspire to them. Any man and woman with the same native talent and ambition will have the same prospects for success in the society we are imagining, but the rub is that individuals' ambitions are influenced unfairly by socialization (Arneson, 1999, p. 78).

The underlying aim of the principle of Fair Equality of Opportunity is to neutralise the effects of differences in social circumstances. This may require that non-discrimination measures are in place so as to facilitate access to advantaged social positions and that unchosen factors do not affect one's chances of success. However, as Arneson notes, some of the roots of stunted ambition may be traced back to one's upbringing and more generally, to the family to which, on Rawls's view, the principles of justice do not directly apply. Acknowledging this issue, Rawls argues that '[t]he consistent application of the principle of fair opportunity requires us to view persons independently from the influences of their social position. But how far should this tendency be carried? It seems that even when fair opportunity (as it has been defined) is satisfied, the family will lead to unequal chances between individuals' (Rawls, 1999, p. 511).

To ensure compatibility with Rawls, the solution that is required here cannot involve state intervention in the inner life of the family, as this is something that he resists in his dialogue with Okin. My account of an institutional duty of reaction-sensitivity, which I develop in the last two chapters of the thesis, may come in useful in this case. On my view, a strong version of this duty may require the state to prevent people from forming certain harmful reactions, while a thin one simply demands that laws, policies and institutions are designed in a way that give individuals the opportunity to avoid reacting in ways that harm them. While Rawls may resist the former, since in the case of stunted ambition it may involve interference with the family, he may be able to accommodate the latter. By introducing subjective considerations about how people form their normative self-conceptions to the Rawlsian basic structure, we are essentially broadening the substantive requirement of fair equality of opportunity. On its vague formulation, this demand holds that people ought to have a substantive opportunity to attain offices and positions of power, regardless of their unchosen circumstances. On a reaction – sensitive reading, this substantive requirement may also include promoting or at the very least facilitating the development of the belief that one genuinely has a fair chance to attain these positions, regardless of their gender or other normatively extraneous factors. Short of interfering in the family, the state may design and implement laws, curriculums and institutions that aim to balance out upbringings which impose limitations on the development of normative self-conceptions.

It is worth noting that Rawls, who rejects perfectionism, may object to a state that seeks to promote or inhibit certain aspirations, projects or conceptions of the good. A strong duty of reaction-sensitivity that requires the state to ensure that people do not form certain reactions may be more difficult to defend as part of the Rawlsian basic structure. If the foreseeable reaction-harm consists of a direct loss of self-respect, then the basic structure would seek to avoid it which would legitimize reaction-sensitive state intervention. But in most cases, the damage to our self-respect happens gradually, over time, and can be rooted in a number of factors pertaining to our specific psychology, upbringing and social conditions. Often times, this loss remains unnoticeable to the individual as she begins to form lesser opinions about herself, her ends and her abilities. Some of these beliefs are substantive and appear to conform to specific conceptions of the good which, on Rawls's view, the state should refrain from promoting. Yet, if the state merely seeks to give people an opportunity to avoid reactions that damage their self-respect, it need not commit to any specific conceptions of the good, but merely to expose them to a more extensive range of options and possibilities, none of which have to appear devalued. In promoting openness and awareness of alternative projects, the state creates the possibility for increased autonomy and, consequently, a better chance for individuals to create the sort of life plan that is complex enough to satisfy the Aristotelian Principle. The only substantive commitment here is to the idea that self-respect ought to be promoted as part of anyone's conception of the good and that institutions that undermine it ought to be rejected.

3.5.3 Consumerism and competition

The rise of consumer cultures in market democracies has been objected to because it is believed to give rise to a tendency for self-absorption that distracts people from issues of social justice and, instead, prompts them to engage in comparison and competition with one another. Rawls argues that his just basic structure can be realized in the form of a property-owning market democracy as it guarantees fair terms of cooperation (Rawls, 2001, pp. 135-40). His argument appears to be hinged on the idea that, in developing self-respect, people would form and be driven by a sense of justice that would condition

them to welcome the endeavours of others as part of their own good (Rawls, 1999, p. 438). Thus, if a consumer culture arises in a just democracy, it will remain a manageable feature of public life. Rawls argues that his brand of market democracy, which is characterized by equal liberty, the DP and associational diversity, will be equipped to control consumerist tendencies and avoid morally objectionable tendencies, such as an inflamed amour-propre.

Rawls argues that his principles of justice would diminish the extent to which material considerations would influence individual self-respect, both by shaping people's attitudes towards themselves and by ensuring non-materialistic ways of eliciting esteem and recognition. Even if it may be true that justice as fairness avoids social conditions that inflame amour-propre, there is yet another aspect of a market democracy that may undermine the conditions for securing self-worth. G. A. Cohen argues that the competition between firms, whose interest rests in making profit, will necessarily shape consumer behaviour through marketing and advertising:

... what advertising may be said to do, on the most generous account, is to draw attention to and emphasize the independently desirable qualities of the product it displays. This is balanced by no similar campaign stressing the good of leisure. ...There are no "leisure ads" because firms have no interest in financing them, nor in paying for public reminders of the unpleasant side of labour which buys the goods (Cohen G. A., 2000, p. 318).

In a bid to maximize profits, firms are not bound by a sense of justice and are thus insensitive to the morally troubling reasons for which we object to consumerist tendencies. For one, they give no regard to the reactions that consumers might have, such as developing a disposition of self-absorption that distracts them from self-government and from pressing issues of social and intergenerational justice, such as the effect of rampant industrialization of the environment. Furthermore, it is argued that advertising conditions people to believe that certain goods or material situations are symbols of esteem, which will elicit social recognition. For instance, Apple markets the

iPad as the prime tool for creative endeavours and may lead people to form the belief that buying the product will support their self-esteem, because it will earn them the admiration of other like-minded consumers (Hussain, 2012). In contrast, when consumer goods are believed to be markers of recognitions, individuals that cannot afford them may experience feelings of failure and worthlessness. Justice as fairness may be concerned with these issues and require, in some cases, that the state refrain from encouraging hyper-consumerist tendencies which may lead to losses of self-respect.

Concluding Remarks

In this chapter, I examined the concept of reaction-insensitivity in the context of Rawls's conception of self-respect. I made the case that a wide interpretation of his account captures some important subjective considerations about the foreseeable reactions of individuals that may bear on law-making and, more generally, on a just basic structure. Further, I argued that reaction-insensitivity may be useful in expanding Rawlsian self-respect by contributing to an appropriate kind of non-ideal theory that may accompany justice as fairness. Finally, I offered a few cases of potentially wrongful insensitivity that may play out within an ideal – theory perspective and suggested some ways in which they may be incorporated into a just basic structure.

The point of the exercise was not to dismiss justice as fairness, but rather to show that it may be further developed so as to capture a more extensive range of social injustices which may affect self-worth. Further, the sort of non-ideal theory that may accompany justice as fairness would be mindful of foreseeable reactions because it ensures that the implementation of redistributive remedies does not damage self-respect. Since ideal theory is envisaged as a guiding force for non-ideal issues, Rawls's justice as fairness offers a promising foundation for a reaction-sensitive institutional framework.

Chapter 4

Reaction-Insensitivity and Authenticity

In my previous chapters, I argued that some of the reactions that are foreseeably triggered by insensitive actions may be morally problematic because they threaten individual authenticity. This concept of authenticity has received an extensive treatment in the literature. Herder put forward the idea that each of us has a way of being human, that each person has his or her own “measure”. In a similar vein, Charles Taylor argues that ‘there is a certain way of being human that is my way. I am called upon to live my life in this way, and not in imitation of anyone else’s life’ (Taylor C. , 1992). Others view authenticity as a journey of self-discovery; Meyers argues that living authentically requires “a competency which involves diverse self-reading and self-actualizing skill” (Meyers, 1989). While theorists may differ in how they define authenticity, they broadly agree that it is something of great normative significance. Undoubtedly, there are many accounts of authenticity which could be interpreted in a way that can accommodate some of the concerns I raised in my taxonomy of normatively significant reactions. This is because many of these views, such as that of Taylor, take seriously the idea that some constraints on authenticity may arise from the mental state of the individual.

The first task is to outline an attractive conception of authenticity that has non-instrumental value and which is compatible with reaction-sensitivity. In this chapter, I focus on Ronald Dworkin’s conception of authenticity which involves acknowledging and fulfilling a responsibility towards ourselves to live well in accordance with our conception of the good life. On his view, authenticity is viewed as a responsibility to pursue the good life within the constraints of dignity that the individual assumes towards herself and which gives rise to particular right-claims which can be enforced against others and the state. Specifically, I identify four requirements: self-respect, ethical independence, acting in accordance with one’s deepest commitments, and ethical appraisal.

My second task is to show how each of these requirements may be undermined by reaction-insensitive actions when these impose unjustifiable constraints. Certain

reactions indicate a diminished capacity for authenticity, while others threaten the sorts of conditions that foster an authentic life. For example, we may think that a devout Muslim that changes her appearance in public out of the fear of being profiled is acting in an inauthentic way because her actions are not motivated by her deeply held beliefs, but by other externally imposed concerns that she would rather not have to take into account in the first place. Other reactions might not be constitutive of inauthenticity, but may inevitably lead to it over time. For instance, the repeated humiliating experience of claiming conditional benefits for disability may in time erode an individual's recognition self-respect which is a precondition for developing and endorsing authentic ethical values.

Throughout this chapter, I distinguish between objective and subjective constraints on authenticity, both of which may be morally problematic in some cases. Objective constraints are those that directly prevent the individual's from making ethical judgements or from acting in accordance with her deeply held values. They include laws and institutions that deny people power to make their own decisions about matters of fundamental ethical importance in respect to how they live their lives, such as abortion bans or imprisonment as a punishment for being gay. Subjective constraints are those which do not limit people's freedom to make ethical decisions, but rather make them less disposed or willing to exercise their capacity for authenticity by affecting their mental states and beliefs. These are the constraints that I focus on, since they are underexplored and may have important implications for individual authenticity as understood by Dworkin. I argue that some insensitive policies may impose subjective constraints on individuals in that they lead them to perceive significant costs to some options, opportunities and even the exercise of basic rights and liberties. For example, enforcing statistical discrimination in stop and search policies may make those that are profiled form the belief that their exercising their right to religious expression may attract hostility from others as well as legal sanctions. In turn, these beliefs about their relationship with others and with the state, may lead them to adapt their preferences and modify their behavior in ways that appear to be self-limiting and inauthentic. They may, for example, choose to travel less or try to conceal their ethnic affiliations while in public, which may undermine the pursuit of their life plan.

With this distinction in place, my discussion proceeds in five parts. In the first section, I give a brief outline of Dworkin's conception of authenticity that sets out its demands and explains why it has non-instrumental value. Briefly, authenticity requires the individual to develop a sense of recognition self-respect, to form a conception of living well and of the good life, to act in accordance with these deeply held commitments and to be open to the possibility of ethical appraisal. Each of these demands have to be fulfilled under particular conditions and social contexts, as required by human dignity. In the remainder of the paper, I devote a section to each of these conditions by showing how insensitive action may impose unjustifiable subjective constraints on them. I conclude that the concerns raised by Dworkin about policies that undermine authenticity can and perhaps should be extended to include reaction-insensitive state action.

4.1 Authenticity as Living Well

Dworkin distinguishes between morality, which is concerned with how we ought to treat others, and ethics, which examines what makes a life a good one and what it means to live well. The two principles that dictate what we owe to others are grounded on, and framed to serve, human dignity, in a distinctive account of that integrates questions of ethics with those of morality (M. Clayton, 2014). The first of these is the 'equal objective importance of everyone's life' (260), which also involves a Kantian type of recognition self-respect: 'each person must take his own life seriously: he must accept that it is a matter of importance that his life be a successful performance rather than a wasted opportunity' (Dworkin R. , 2011, p. 203). The second principle holds that individuals ought to assume a special kind of responsibility to identify for themselves and to live by a conception of living well that grips them as right, given their ambitions and circumstances. This responsibility is premised upon Dworkin's view that people can live dignified lives only if they identify, endorse and pursue authentic ethical ideals.

As the second constraint of dignity, authenticity entails that '[e]ach person has a special, personal responsibility for identifying what counts as success in his own life; he has a

personal responsibility to create that life through a coherent narrative or style that he himself endorses' (Dworkin R. , 2011, p. 204). Living an authentic life requires the individual to assume assignment responsibility, in undertaking the task of living well, and liability responsibility, in the sense that she accepts the outcomes of her ethical choices (209-14). Fulfilling this responsibility must be done under conditions of ethical independence. Although external influences affect us to a certain extent, we must resist domination in the sense that our ethical values are formed independently rather than unthinkingly adopted as dogma. Once we arrive at a conception of living well and of the good life, we must also express it through our choices, to the extent to which our actions match our normative motivations. In cases where our ethical judgements no longer grip us right, or where the actions that they motivate strike us as a form of self-betrayal, we must also remain open to the possibility of ethical revision. This means that we may also need to engage in retrospective ethical appraisal given changes in our circumstances.

It is possible that the judgements that we arrive at under conditions of ethical independence may commit us to immoral ways of living. Since authenticity does not require us to adhere to any specific moral values, but merely to reflect on them and to develop a certain sense of character that commits us one way or the other, we may be faced, yet again, with repugnant conclusions. Consider the case of an individual that, having fully considered and weighed his ethical possibilities, is committed to stealing other people's property. The case of the authentic thief may lead us to question the value of authenticity, which appears to justify immoral actions. As a hedgehog¹⁶, Dworkin would reply that authenticity should be qualified by the principle of respect for other people's dignity, which may involve a duty to respect their property. Without acknowledging everyone's equal objective importance, we may be unable to form a sense of recognition self-respect that ensures our own lives will be dignified. This suggests that authenticity has non-instrumental, but extrinsic value – it is valuable in itself only when

¹⁶ Dworkin opens his *Justice for Hedgehogs* (2013) with the following sentence: 'The fox knows many things, the Greeks said, but the hedgehog knows one big thing'. So, a hedgehog would know that what truth is, life means, morality requires, and justice demands are different aspects of the same large question.

people develop and act on ethical principles of the right kind, for example, those that respect other people's dignity (Korsgaard, 1983).

Dworkin believes that one lives well only if one's authentic lifestyle respects oneself and others. Living authentically involves developing a set of capacities and virtues which make one a fully-fledged moral agent with dignity. An authentic individual is clear about her convictions which she expresses and enacts in the public sphere, constant in her commitment, honest, at least with herself and has a capacity for self-knowledge, among other things. These self-regulatory virtues are important in themselves because they are constitutive of our capacity as moral agents. The sort of freedom that authenticity entails, to pursue worthy ends, to evaluate and endorse distinct and often conflicting moral values and to express our views publicly is only possible within a particular kind of free society.

If we value the kind of society where something like authenticity is possible, and if indeed we value authenticity as an ideal, then we must acknowledge its demands. Understood as a duty of the individual to herself, authenticity makes some important requirements. First, it requires that people develop recognition self-respect, which is defined as the non-instrumentally valuable conviction that our lives are objectively important (Dworkin R. , 2011, pp. 112-3). This conviction is also instrumentally valuable for authenticity, since without a sense of our objective moral worth we would not be able to grasp the importance of designing our life for ourselves and to assume responsibility for the consequences of that design. Second, ethical independence is constitutive of authenticity and it requires that we find 'a way of being that [we] find suited to [our] situation, not one drawn mindlessly from convention or the expectations or demands of others' (Dworkin R., 2011). Whatever life we design for ourselves, it is crucial that it is a result of our own independent ethical judgements about what it means to live well, what a good life is and how we ought to treat others. Third, authenticity requires that we act in accordance with our independently formed ethical principles, and more mundanely, that the goals and relationships we pursue in life are one's we believe are important. Acting in accordance with our deeply held, authentic commitments involves taking responsibility for the design of our lives, by showing

others that we identify with an ethical ideal and that we are prepared to live with its consequences.

Fulfilling the requirements of authenticity requires that we develop certain capacities that enable us to discern between ethical possibilities which we may inhabit and for expressing them through our actions. These include a capacity for self-knowledge, ethical judgement, and a disposition of honesty towards ourselves, among others. To these we may also add certain dispositions such as self-confidence, without which we would struggle to pursue our life plan, and constancy, which ensures the continuity of lives as a performance as opposed to disparate instances of authentic actions. The development of these capacities and dispositions are instrumental for forming, pursuing and revising a life plan. First, some of these capacities are necessary for developing a conception of living well and for identifying the ethical principles that we may identify with. For example, we need to develop a capacity for self-knowledge in order to distinguish between the conceptions of the good that are appropriate for us and those that are not. Likewise, in order to choose between different, often conflicting ideas about what it is to live well we need to be able to deliberate and discern between them. Second, we must be able to act autonomously in order to pursue our life plan and express our ethical commitments. Even after we have formed a conception of the good and about what it means to live well, pursuing it may require us to have certain developed capacities and dispositions: autonomy, courage, self-confidence and self-expression among others. Third, the revision of our life plan may require that we are responsive towards alternative lifestyles by being open to ethical appraisal and revision. I argue that reaction-insensitive institutions may undermine the development of some, if not all, of these capacities and dispositions and consequently, threaten the four requirements of authenticity.

The development of these capacities, in turn, may be shaped by our external social and political contexts. Our duty to identify, pursue and revise a conception of living well gives rise to a claim-right that we can enforce against others which is that they refrain from usurping our ethical judgements (Clayton, 2017). We have a right to not be manipulated or coerced by others or by the state into adopting a certain lifestyle or to

unthinkingly accept certain principles as intrinsically valuable. The demands imposed by authenticity on the state are not just concerned with refraining from political action that undermines any of these requirements, but also with actively challenging the social conditions that may subvert authenticity. For example, we may think that is morally permissible for someone to live a life of petty crime if they were born in a trap of inherited poverty which deprives them of an adequate range of opportunities from the start. Whether authenticity yields the right kind of conduct may also be dependent on certain social conditions, for example, that everyone has an equal share of resources. Additionally, Dworkin argues that in order to ensure conditions of ethical independence a society must protect certain basic rights and liberties such as the freedom of speech and of religion.

In this section, I outlined Dworkin's duty of authenticity as requiring the fulfillment of four conditions: gaining a sense of recognition self-respect, ethical independence, acting in accordance with one's deepest commitments and ethical appraisal. In the remainder of my paper I aim to show how each of these demands could be undermined by reaction-insensitive political actions. Drawing on the distinction that I made in my introduction, I focus on subjective constraints which affect how the individual perceives himself, others and the state and distinguish between instrumental and non-instrumental reasons to care about them in relation to authenticity.

4.2 Self-respect

In the previous chapter, I made the case that reaction-insensitive laws may undermine self-respect, as understood by Rawls. Short of reiterating my argument, I now turn to Dworkin's conception of self-respect as the other side of dignity, which share some similarities with that of Rawls, such as that they agree that recognition self-respect is important, perhaps non-instrumentally so. But, in spite of their common ground, Dworkin's account is distinct from that of Rawls, and compatible with the demands of reaction-sensitivity, which is why, I believe, it merits independent discussion.

Dworkin argues that self-respect entails a recognition of our objective moral worth which prompts us to take our lives seriously. When an individual believes that her life is less important than others' she may subordinate her interests to the whims of those she finds more important and fail to see why she needs to pursue her own conception of a life that is well lived. Recognition self-respect is essential for and constitutive of authenticity:

Authenticity is the other side of self- respect. Because you take yourself seriously, you judge that living well means expressing yourself in your life, seeking a way to live that grips you as right for you and your circumstance (Dworkin R. , 2011, p. 209).

How does Dworkin's account differ from Rawls's? For one, he does not view self-respect merely as an entitlement, but as a responsibility to develop the right kind of attitude towards one's life - *to take it seriously*. He makes it explicit that his view differs from the orthodox principle of equal worth, a version of which Rawls defends, since he understands self-respect as both an ethical and moral principle. For Dworkin, self-respect is not something to which people are entitled because they are equally worthy and which demands, as a matter of morality, that people are treated in a certain way. Rather, he insists that self-respect is an ethical duty which requires individuals recognize the objective importance of their lives and, notably, to adopt a set of critical attitudes towards their choices, often manifesting as intense emotions of pride, shame, guilt, regret, and so on.

Dworkin's conception of self-respect suggests, at least on my interpretation, that what he is most concerned with is whether the attitudes that people take with respect to their lives can serve as justifications for their actions, choices and emotions. A self-respecting person makes choices that are compatible with her dignity in the sense that her ethical values and her actions were chosen precisely because she takes her life seriously. When she feels ashamed for making a decision that does not befit her dignity, her emotional response is triggered because she takes her life seriously, and, consequently, she should have known and done better. The narrative of her life, to use Dworkin's language, is

coherent since her emotions and justifications are aligned with her self-respecting attitude.

There are several ways in which reaction-insensitive actions may damage self-respect as understood by Dworkin. Cases in which people form adaptive preferences as a response to circumstances that oppress or severely disadvantage them are relevant here, since they often involve a dissonance between an individual's justification for action and the demands of their self-respect. This may be the case with young women who choose pink-collar, temporary or part-time jobs, foregoing the opportunities to advance their careers, because they expect to have children in the near future. Short of generalizing, at least some of these women may have their preferences shaped by the societal expectations derived from insensitive (and unjust) traditional gender norms. I don't deny that, for some, motherhood is a choice that can be explained with reference to their self-respect – I take my life seriously and to live well involves having and rearing children. But, for others, I assume, the choice to forego the possibility of a lifelong career, is not so straightforwardly justified with reference to their self-respect.

As I argued in my second chapter, not all adaptive preferences are purely irrational; the agent may be able to justify his change in preferences but that justification is insufficient because it omits facts about the changes in her external circumstances. Quite possibly, the need to justify our out-of-character decisions to ourselves may stem from a self-respecting attitude, since it indicates an attempt to take responsibility for a choice – to make it ours-, and to reject the possibility that we may have been manipulated. Yet, adaptive preferences, which are distinct from character planning, always involve an autonomy deficit, as a result of direct or indirect manipulation, where the latter may be an insensitive or oppressive context (Christman, 2014). This means that even when we justify them to ourselves, had it not been for the manipulating influence, we would not have changed our preferences in this way, because other alternatives were more readily compatible with our dignity and our endeavour to live well.

Similarly problematic are case in which reaction-insensitivity leads people to believe that there are significant costs to taking their lives seriously. The case of conditional benefits

for the disabled are just as problematic on Dworkin's account as they were on Rawls's. The condition on which disabled people receive or lose benefits is concerned with whether they manage to articulate, with categorical proof, that they are what we would otherwise view as a failure. The burden of showing that one is helpless and unable to provide for oneself may take a toll on the claimant's recognition self-respect, in that it forces them to make a shameful revelation which could be perceived as an unbearable cost. It is problematic if potential claimants form the belief that they have to choose between the humiliating experience involved in claiming benefits and not making a claim at all, because whichever option they choose will be perceived as demeaning. On the one hand, if they perceive the claims as humiliating then going for them may be acknowledged as repeated self-betrayal, which eventually may lead to a loss of recognition self-respect. The belief that one has no choice but to be in a demeaning relation of dependence on the state and able-bodied tax payers matters instrumentally, because in time it may completely erode one's self-respect. On the other hand, if they refuse to make a claim in order to avoid humiliation they may forfeit resources that are essential for their dignity as people and for independently designing a conception of living well. As Dworkin argues, self-respect entails that people have a certain attitude towards their own lives - 'they should think it is important to live well' (Dworkin R. , 2011, p. 205). The duty to live well may demand that we take every opportunity that is available to us in order to develop and to exercise the ethical conception that grips us as right, from educational and professional opportunities to our most basic requirements, food, shelter and healthcare. If a genuinely self-respecting, but unlucky person is unable to meet her basic needs, we might think not only that she is entitled to benefits but that she has a duty to herself to claim them and to live in the best way possible.

4.3 Ethical Independence

Ethical independence is constitutive of authenticity in the sense that an individual can only live authentically if she identifies for herself what it is to live well and what a good life is. The idea is not that we need to identify our ethical principles in opposition to external influences or in spite of the limitations of our historical context; rather that,

whatever ethical principles we identify with, ought to be the result of our own independent ethical deliberations. Constraints on the right to design our life are not unjustifiable when they merely limit our range of options, but rather when they threaten the independence of our ethical judgement. (Dworkin R. , 2011, p. 212) Dworkin acknowledges that people form their ethical values and design their lives within their social context and that they are often exposed to influences that they cannot escape. But not all these influences undermine autonomy, so long as they are created organically, through the collective decision-making of people who are free to make these choices, rather than as a result of political elites or tyrannical majorities that impose their convictions on others (371). Conditions of ethical independence are thus not those that seek to prevent people from being influenced by others, but rather those that give them the opportunity to choose what will influence them and in what way.

Dworkin identifies two kinds of impermissible constraints on ethical independence. First, as he argues, 'some coercive laws violate ethical independence because they deny people power to make their own decisions about matters of ethical foundation – about the basis and character of the objective importance of human life that the first principle of dignity declares. These include choices in religion and in personal commitments of intimacy and to ethical, moral and political ideals' (368-9). Second, the other kinds of constraints on ethical independence are indirect, 'in virtue, not of the foundational character of the decisions they inhibit, but rather of government's motives in enacting those laws. Government must not restrict freedom when its justification assumes the superiority or popularity of any ethical values' (369). To illustrate this indirect concern, Dworkin offers the example of mandated demonstrations of patriotism such as flag salutes in schools, which depend on choices about ethical values that the good life reflects. Thus, he argues, 'ethical independence is not jeopardized when a matter is not foundational and government's constraint assumes no ethical justification' (369).

In what follows, I argue that reaction-insensitive institutions and policies may undermine ethical independence in three ways. First, even if laws and institutional practices are not justified with reference to particular ethical ideals they may still impose impermissible constraints on the members of socially salient groups which are

disadvantaged or stigmatized. I argue that an insensitive state may shape the ethical choices of individuals through laws that are merely perceived as promoting particular conceptions of living well and of the good life. Second, insensitive laws may undermine some of the capacities and dispositions that are essential for ethical independence, in that they prevent people from forming accurate responses and interpretations within their social environment. Third, reaction-insensitivity may also prevent individuals from exercising basic rights and liberties which promote conditions of ethical independence, such as freedom of speech and of religion.

First, Dworkin's latter kind of unjustifiable constraint seems to overlap with some of the concerns I raised about reaction-insensitive laws and actions. In some cases, laws may not be justified with reference to specific conceptions of living well or of the good life, but they may nevertheless be interpreted as such by some groups. For example, racial profiling policies may appear to send the message that looking as though one is part of the majority culture is good, and that visible marks of religious affiliation are considered to be a mark of danger that may attract hostility and sanction. The law appears to lack the sort of motivation that would make it impermissible on Dworkin's account, since it is not directly concerned with a foundational matter, nor does its justification appeal to a particular ethical ideal. Nevertheless, it may pose a threat to the authenticity of the members of the groups that are being profiled since, in response to it, they may limit the public display of their religious affiliations by changing the way they dress and act in public and failing to express their deeply held commitments.

In this case, the sort of constraint that is imposed through reaction-insensitivity is a subjective one, in the sense that it shapes the mental states and ethical deliberations of the victims. One may question, here, whether the victims of insensitivity ought to take responsibility for these reactions; given their stigmatized status, as an issue of bad brute luck, or at the very least one that is not entirely under their control, they may not have to assume full responsibility for their interpretations and reactions. In order to determine when people should be held responsible for their beliefs, interpretations and responses, it is useful to refer to Dworkin's capacity principle. It holds that 'someone lacks control in the pertinent sense when he has insufficient capacity to form true and

pertinent beliefs about the world in which he acts, or to match his decisions to his normative personality' (244). The two capacities which ought to be developed in order to satisfy the demands of this screening filter are concerned with, are responsiveness, which involves forming accurate beliefs about the world one inhabits and, second, matching our decisions to our ethical judgements about living well and about the good life. Our perceived social status may lead to the formation of dispositions and beliefs that undermine our capacity to form accurate, responsive judgements to our environments. For example, the members of historically denigrated groups may be conditioned to interpret some situations, interactions and laws as a threat to their identity because they are routinely subjected to discriminatory treatment and stigmatization.

Second, the development of some capacities which are essential for forming an ethical conception may also be undermined by reaction-insensitivity. Consider the capacity for ethical deliberation, which entails that we are able to weigh various options that are available to us against one another and to figure out which one is the most appropriate for ourselves. Sometimes, laws may impair our deliberative freedom because they force us to take into account certain morally arbitrary factors about ourselves when making important decisions. For example, a Muslim job applicant may be forced to take her religious affiliation into account when applying for jobs if some employers are allowed to ban religious symbols in the workplace. Her deliberation about her occupation may not only include relevant criteria such as her aptitudes and career preferences, but also normatively extraneous factors, such as her religious affiliation and call into question whether she ought to sacrifice the visible practice of her faith for a career she desires, or vice versa. Some argue that the freedom to deliberate about important decisions in our lives is something that people are entitled to and which must be protected or at least not infringed by the state. (Moreau, 2010, p. 149) Laws and institutions that are insensitive to the effects they might have on people's capacity to deliberate arguably impose unjustifiable limits on their decision-making and eventually on their prospects for an authentic life. This case may elicit non-instrumental concerns if people fail to pursue their authentically formed goals because they believe that some important options involve various costs. Our capacity to deliberate is also necessary for articulating

our self-image: 'choices of personal identity- play the critical role they do because they are constructed not of what we just find we like but of what we find we admire and think appropriate' (Dworkin R. , 2011, p. 208). Thus, limits on deliberative freedom may also raise an instrumental worry, because they may eventually lead to people failing to pursue the lifestyles that they think are most appropriate for them, given their ethical values.

Thirdly, Dworkin argues that ethical independence is fostered through the protection of some basic rights and liberties, such as freedom of speech and of religion. If some individuals are unable to meaningfully exercise these civil freedoms, then the independence of their ethical judgements may be undermined. The meaningful exercise of freedom of political speech facilitates authenticity in the sense that it prevents coercive institutions from imposing particular conceptions of the good life and of living well. As Dworkin argues:

Free speech must be part of any defensible conception of self-government for at least two distinct and equally important reasons: self-government requires free access to information, and government is not legitimate, and so has no moral title to coerce, unless all those coerced have had an opportunity to influence collective decisions (371).

As a response to insensitive laws, some of the most vulnerable groups in society, which are stigmatized or disadvantaged, may limit their exercise of these basic freedoms. For example, following the implementation of the Prevent duty, moderate Muslims may form the belief that if they were to publicly express their grievances against the government, they may be perceived as spreading extremist beliefs. They may further anticipate even more serious costs to the exercise of their freedom of speech, such as hostility from the public, and even legal sanctions.

4.4 Acting on our deep commitments

On Dworkin's view, the second requirement of authenticity involves acting on the principles that we identify as a result of reflecting upon how we should live, expressing them publicly and taking responsibility for the consequences of this endorsement. He argues that living well does not only entail that we 'make choices, but that we live with the consequences of those choices' which would not be possible unless we enacted them publicly through our behaviour (Dworkin R. , 2011, p. 211). For example, an animal rights advocate must be ready to make certain sacrifices and deal with potential negative outcomes: she may have to live a vegan lifestyle that may be more costly, make important changes that may affect her social life and perhaps even face disparaging attitudes from others. If she failed to endorse her convictions, because, for example, she does not want to give up meat and dairy products, then she would essentially fail to act in an authentic way because she does not take responsibility for her convictions. Even when people have a sense of their objective moral worth and independently formed ethical principles, their authenticity can still be violated if they are prevented from acting in accordance with them.

Some of the reactions that may be triggered by the action insensitive agents may undermine authenticity in that they prevent us from expressing and acting on our deep commitments. For one, adaptive preference formation may lead people to act on motivations that they do not genuinely endorse. Second, people may perceive costs to accessing opportunities and to endorsing their authentic values in public, as well as to the exercise of basic rights and liberties, such as the freedom of speech and of religion. Finally, insensitive institutions may impose unjustified subjective constraints on the development and exercise of capacities required by endorsement.

Firstly, even if people believe that they are able to express their independently formed values, they may still fail to act for the right reasons – those that they genuinely endorse. As Harry Frankfurt notes, an authentic act is possible only when the desire or reason for it is derived from 'the essential character of [one's] will' (Frankfurt, 1982). This requirement of authenticity is distinct from that of mere autonomy, even though the two ideals are often misleadingly conflated. On Dworkin's view, unjustified constraints

on autonomy are those that limit the range of options available to the individual while authenticity is threatened when our ethical judgements are undermined. It is possible, for Dworkin, that one can live authentically even under conditions that severely limit his options, as he may not 'have many colours on his palette, but the life he designs with the colours that he has may be just as fully authentic, just as firmly the life that he rather than anyone else designed' (Dworkin R. , 2011, p. 212).

Some of the preference adaptations elicited by insensitive action would indicate a loss of the capacity for enacting our conception of living well, particularly when the victim remains oblivious to her preference adaptations. Consider the case of a Muslim teacher working in a private school who decides to retire because she starts believing that her job is no longer fulfilling. Coincidentally, the state she lives in had adopted a religious dress ban in public schools, which is unlikely to affect private educational establishments. The causal relation between the dress ban and her decision to retire, if any, remains unknown to her and what is more, she finds a justification for it that appears to be consistent with her first-order desires. But if there really is a causal relation, we may think she is not acting authentically because her second – order preference would not be genuine, but rather the by-product of institutional manipulation. Even when conscious, this reaction may still indicate an authenticity deficit, because they may involve the perception of unjustifiable costs to enacting one's conception of living well. How do we determine whether these perceived costs are truly unjustifiable rather than merely a result of an expensive preference? We may think that the people in question prefer to not have to choose between important aspects of their conception of the good, such as their religious garb and a good job. That is to say, their preference would be to not have to factor arbitrary facts into their decision- making which is inconsistent with their behaviour adjustment. I may not want to choose between wearing a hijab and working in a customer-facing role, but nevertheless I am forced to choose the lesser evil because of the internal constraints that have been unjustly imposed on me. Indeed, I may think that letting myself act out of fear rather than my genuine motivations is a failure to fulfil a duty I may have towards myself to act in accordance with my conception of living well. In this case, authenticity is undermined by reaction-insensitive policies because these foster alien and unjustified motivations for our actions, such as fear and the anticipation of hostility that supersede our deeply held commitments.

What we are concerned with here is whether the actions and choices of the individual are aligned with his deeply held authentic commitments, and whether the constraints on her reasons to act are impermissible. In cases of adaptive preference formation, motivations and constraints may not function as independent entities, since, for instance, an agent may appear to choose her own constraints or ‘the preferences underlying a choice may be shaped by the constraints’ (Elster, 1985, p. 7). These cases of adaptive preference formation, where one’s desires are shaped by the conditions of an action are referred to as Sour Grapes examples. The expression refers to the La Fontaine fable of the fox who discovers some sweet, ripe grapes which he wants very much, but since he cannot reach them, he says to himself that they are sour and therefore not worth having. In this example, the fox adapts his preference for grapes because of a constraint of the situation: the grapes are high on the vine and he is unable to reach them. What is more, he finds a way of justifying his preference change to abandon the pursuit of the grapes by assuming that they will be sour rather than by accepting his inability to reach them. In assessing whether the adaptation of our preferences is the result of a rational process, we need to scrutinize the substantive nature of the beliefs and desires that led to the action and determine not only that the actions are rational given the desires and beliefs of the agent but also whether the beliefs themselves are rational (Elster, 1985, p. 15). According to Elster, this involves finding out how desires and beliefs came to be formed as “we may hesitate to call them rational if they have been shaped by irrelevant causal factors, by a blind psychic causality operating ‘behind the back’ of the person” (15-6).

Second, as a result of insensitive laws, vulnerable individuals may come to anticipate costs to the public expression of their deeply held commitments. For instance, in the case of racial profiling policies, some groups may form the belief that displaying their group affiliations through religious clothing and symbols, may attract hostility and result in public humiliation and perhaps legal sanction. On any plausible view of political morality this kind of costs should not be tolerated so if the perception of such a cost is likely, this also seems problematic from the point of view of authenticity. Even when unfounded, the perception of these costs may be morally problematic because it leads to behaviour adjustments that do not reflect their conception of living well; instead

these costs appear to be imposed through state action which may be interpreted by some as validating biased public attitudes.

Further, endorsing our independently formed ethical values may also be undermined if we are unable to meaningfully exercise certain rights and liberties. Dworkin argues that the civil rights of liberal society—freedom of thought, expression, and association, for example—must be protected for each individual (Dworkin R. , 2013, p. 140). But even when these are guaranteed on paper through a constitution, for example, people may still be find it costly to endorse their authentic values under insensitive institutions. For instance, take the freedom of speech which is essential for endorsement and for an authentic life. Anti-radicalization initiatives such as Prevent, which devote heightened surveillance and policing resources to Muslim groups and impose a duty on teachers and NHS staff to identify those that are vulnerable to extremism may trigger such a harmful reaction. Moderate Muslims may anticipate hostility and perhaps legal sanctions attached to the exercise of their freedom of speech, particularly when they express grievances towards the government. The fear that they will be identified as potential terrorists for exercising a freedom that every citizen should have might make them refrain from voicing their opinion and protesting against the misrepresentations of their group. What is problematic about this case is that although Muslim citizens have the same right of expression as others, they perceive a cost attached to its exercise.

Sometimes, this may raise an instrumental concern, because the repeated failure to express ourselves may, in time, mean that we have failed to live authentically. But we may also think that sometimes, the one-time failure to exercise our civil rights because of perceived costs, may matter non-instrumentally as an inauthentic, self-betrayal act. Consider the case of the passionate environmentalist who, let's assume, is also a Muslim. His right and self-assumed duty to protest irresponsible environmental decisions made by the government seems to be far too costly because he may be deemed as embracing extremist values simply by expressing his concerns. In either case this kind of subjective constraint seems unjustified, because it undermines one of the requirements of authenticity; the political protection of freedom of speech may mean that the state ought

to secure conditions under which every citizen believes that they are able to exercise it and to do so without excessive cost.

4.5 Ethical Appraisal

For Dworkin, being able to revise our ethical principles when they no longer grip us as right is essential for dignity and for living an authentic life:

You do not live as well as you might if you have never had occasion to reflect on what living well means for you in your situation. Skepticism might be the cost of that examination: you may come to think that nothing matters in how you live. But living with that thought, right or wrong, gives you more dignity than never even to have considered the possibility. For many people a good life is one observant in a particular religion. They may be right or wrong in the cosmology this assumes, but in either case their lives lack full dignity if they have never even pondered that cosmology (Dworkin R., 2011, p. 420).

Ethical appraisal is the other side of taking responsibility for our convictions. It is not enough that we take responsibility by enacting our life plan publicly because we are prepared to live with the consequences; we also need to revise our principles in cases where, upon endorsing them, we perceive them as self-betrayal or as no longer appropriate for us. Just as when we make our initial judgements on what it means to live well, we also need to have an opportunity to develop an attitude of skepticism towards them and to revise them under conditions of ethical independence. Thus, ethical appraisal may be threatened by reaction-insensitivity, in the ways that I have described in my second section. Similarly, ethical appraisal makes a two-fold requirement: first, that we revise our code of ethics when it no longer grips us as right and, second, that we act upon our revised convictions. This duty also gives rise to a two-fold claim right – others must refrain from undermining our ethical revision and from

preventing us from endorsing our revised convictions. Likewise, we may think that the state has a duty to protect this right by promoting conditions where ethical revision is possible or, at the very least, not threatened.

Let's begin with the first requirement which I take to be that people must not be denied the opportunity to revise their beliefs. What would such an opportunity entail? For one, it may mean that the individual has an adequate range of options available to her, that in addition to her religious upbringing she is able to experience other cultures and interact with non-members (Feinberg, 1980). It is contentious whether that entails a parental duty to expose the child to other cultures and other ways of living because that may result in an overscheduled, confused childhood. It is also unlikely that Dworkin himself would impose such a duty on parents as he argues that unjust constraints are not those that merely limit one's range of options, but those that threaten the independence of our ethical deliberation. As such, I take the opportunity to revise our beliefs as a context in which the independence of our ethical reassessment is not threatened.

In the case of parental duties that would be translated as a duty to not impose certain ethical values as intrinsically valuable and unquestionably true on their children. Some of us may think that state interference in the upbringing of children is not always justified, particularly when such interference conflicts with parental rights. Of course, we may be ready to agree that the state ought to take action in cases of physical and mental abuse and violence, but it is more controversial to argue that religious upbringing should be sanctioned by the state. Nevertheless, the state does have influence over some of the conditions that facilitate the indoctrination of children by minorities and at times may even subsidise it. Allowing practices such as baptism, communion and circumcision, which symbolically commit children to a particular creed and notion of divinity, may be objected to because it may impose subjective constraints on the child that may endure all through adulthood. Although they may not be sufficient for indoctrination, these practices may lead adults to believe that the religious

choice has already been made for them and that they have a duty to obey the group norms¹⁷.

The opportunity to ‘ponder the cosmology’ also entails that we are not denied interaction with the outside world or knowledge of alternative lifestyles. Sometimes, people fail to question their personal ethics, because they do not have access to other conceptions of the good, which conflict with, or at the very least, are different from theirs. In the absence of ethical adversity, they may never have a chance to form the belief that their conceptions of the good ought to be revised in the first place. This reaction may be brought about by insensitive group-differentiated policies that reinforce the integrity of the cultural group and which allow communities to be insulated from outside influences. For example, this may happen when the state tolerates faith academies which have free reign in the design of their curriculum and in their admission policies¹⁸. Religiously homogenous classrooms where children are being taught what we can assume is a deeply religious curriculum may facilitate indoctrination in two different ways. First, we may think faith academies impose objective constraints on children because these are denied an education of a certain kind as well as interaction with group outsiders.

Second, there may be some subjective constraints because such an education may irreversibly alter both people’s capacity to question their religion and their attitude towards outsiders, for instance, by forming certain beliefs about group outsiders. This matters instrumentally because it may eventually lead people to be dismissive of all outside influence and of ethical adversity. Other insensitive policies that prevent people from developing a disposition of skepticism that is instrumental for ethical appraisal are those that promote benign neglect or that help entrench elites in minority groups. Sometimes, the state may inadvertently cause the opposite effect, by imposing subjective constraints on the majority which prevent them from interacting with those that belong to different socially salient groups. The culture of political correctness which is supported by laws that allow people to bring claims if they feel others addressed them

¹⁷ It is likely that Dworkin agrees with Joel Feinberg’s ‘open future’ account, one element of which is the belief that different options are open to one.

¹⁸ I assume here that faith schools are distinct from faith academies. In the case of academies, religious groups can limit admissions and design their own curriculum although they are still subject to government regulations.

in a way that is demeaning may actually alienate citizens. People may be confused about how to refer to the disabled, or those from a minority racial group and they may develop a fear that whichever way they go about it, they will likely be offensive. Thus insensitive laws that promote political correctness of this kind raise an instrumental worry, because they may impose subjective constraints that alienate individuals from one another. On the other hand, this issue raises the possibility of conflicts of troublesome reactions, because freedom to be politically incorrect may produce problematic reactions in the disadvantaged.

Further, people may still fail in fulfilling their responsibility to live authentically even after engaging in ethical revision of the right kind because they are prevented from endorsing their reformed life plan. For one, we may think that all of the subjective constraints discussed under ethical endorsement would apply here as well. Nevertheless, we may raise concerns that are specifically tailored to cases where one is in a position to revise ethical values. What is problematic about the second case is that the individual believes that she would be unable to cope with the pressures of financial independence as well as with the affective costs of dissociating from her group. For some, the right to dissociate for a group is inherent in the freedom of association and as such it imposes a duty on the state to protect the individual against objective constraints that might violate their right of exit (Kukathas, 2003, p. 15). But for that right to be meaningfully exercised we may also need to account for the subjective constraints that affect the member's perception of the obstacles she may face upon exiting the group.

We may think it would be difficult if not impossible for the state to be able to affect the perception of affective costs. Nevertheless, some insensitive policies may impose subjective constraints, either because they fail to prevent a context in which an individual forms the belief that they would not be able to make it on the outside, or because they promote the view that one has to have certain qualifications or be wealthy in order to function as full-fledged citizens. Consider the case of exemptions from compulsory education which are sometimes awarded to Irish travellers and the Amish. Leaving the task of education up to parents may mean that their children will not receive as good of an education as others and that they will not have as much of an opportunity

to form certain conceptions of the good life. Insensitive policies which allow parents to make educational decisions in the name of their children which leave them worse off than others, impose not only objective constraints but also a subjective ones. Should the children-turned-adults decide that they want to exit the group they may be constrained by the likely founded belief that they are not qualified to work in the outside world. Or, we may object to insensitive educational policies because they dispose children to form goals that are less ambitious than they would otherwise be, for example because they perceive their home schooling as lacking.

Concluding Remarks

The aim of this chapter was to examine the ways in which reaction-insensitive laws may undermine authenticity. Although these concerns may chime with a number of conceptions of authenticity from the literature, I have limited my focus to Ronald Dworkin's account, which argues that, alongside self-respect, it is constitutive of dignity and has non-instrumental importance. His view is also appealing because it spells out certain capacities, social conditions, and basic rights and liberties which enable people to live authentic lives.

In reconstructing his conception, I have identified four requirements of authenticity which may be threatened by reaction-insensitivity: self-respect, ethical independence, acting in accordance with one's deepest commitments and ethical appraisal. My taxonomy of reactions that may threaten authenticity is not, by any means exhaustive, particularly in terms of the various capacities and dispositions that they may undermine. Nevertheless, my aim was to show that reaction-insensitive policies do affect important processes and requirements of authenticity, at least to the extent to which, reaction sensitivity could amount to a social base of authenticity. In conclusion, Dworkin's account of authenticity gives rise to certain duties on part of the state to refrain from undermining the processes, capacities and dispositions that are demanded by authenticity. However, we may have good reason to extent his view so as to include subjective considerations about foreseeable reactions in the justification of laws and institutional practices.

Chapter 5

Reaction-Insensitivity and Discrimination

So far, I have sought to show that insensitivity may undermine things such as self-respect and authenticity, which give us both instrumental and non-instrumental reasons to care about reactions. In this chapter, I argue that reaction -insensitivity may also be objectionable sometimes because it has discriminatory effects on vulnerable individuals and may contribute to entrenching oppression.

Some of the most serious cases that I have discussed in my taxonomy involve victims who have a stigmatized status on account of their membership of groups whose identity is denigrated by the dominant cultural norms and who have historically been mistreated and disadvantaged. They may include racial, ethnic, religious and cultural minorities, women, despised sexualities and the socioeconomically worst off who may be denigrated by ideologies about social class hierarchy. These socially salient groups are often captured by the ethics of discrimination as vulnerable both culturally and economically, as they are consistently disadvantaged and stigmatized. They are likely to become victims of direct discrimination, in that they are denied opportunities, jobs, university places and even access to certain places when decision-makers act on an intention to disadvantage them or another objectionable state of mind. Most often, they may also be vulnerable to disparate impact, as they may face disadvantageous effects of formally neutral laws and practices, because of their social identity. Finally, these vulnerable groups may also be victims of social and institutional oppression, in that they exercise a subordinate status relative to privileged groups and repeatedly suffer from structural disadvantage.

These concepts of direct discrimination, disparate impact and oppression are deeply intertwined. A social context that oppresses some groups may generate and reinforce conscious and subconscious public bias, thus making it more likely for agents to directly discriminate against them. Institutions that have been designed on the basis of oppressive cultural norms are more likely to make laws that, although formally neutral, have unequal outcomes at the disadvantage of the oppressed. Most interestingly,

repeated instances of direct discrimination and the aggregate injustice of disparate impact over time may contribute to engendering oppression by making the oppressed worse off both economically and in terms of social respect, and keeping them in subordinate positions. The case is not just that the oppressed end up in their subordinate position because of the material effects of the disadvantages that were imposed on them by others or their limited access to opportunities, however much these things matter. More insidiously, repeated exposure to mistreatment on account of one's unchosen and often immutable identities may lead to the formation of beliefs, dispositions, adaptive preferences, and stunted capacities, which condition the oppressed to embrace and justify the norms that subordinate them. This is where, I believe, the concept of reaction-insensitivity may prove useful.

To reiterate, reaction-insensitivity involves actions, decisions, laws, practices and institutions whose justification and design fail to give sufficient weight to the foreseeable reactions that they may trigger. This concept may be relevant for the ethics of discrimination by introducing considerations about the mental state of the discriminatee into our assessment of the wrongness of discriminatory actions. Some cases of insensitivity may amount to direct discrimination if they involve decisions that single out a socially salient group, such as the blood pressure drug that is marketed exclusively towards African Americans (Hellman D. , 2008). Since these kinds of state policies intend to affect the lives of specific groups, they may have all the more reason to take into consideration the foreseeable effects. This is particularly true of cases where the insensitive agents are institutional, because of their capacity to foresee these reactions being triggered; sometimes, I argue, some neutrally formulated laws may also amount to direct discrimination, if the agent can be expected to foresee the reaction-harms that will result from the insensitive action. The concept of reaction-insensitivity may also contribute to the literature on direct discrimination as it picks out some cases that have so far been neglected, but which involve disadvantages that theorists deem normatively significant. In my discussion, I hope to show that this concept has a place in the literature as an additional consideration in a pluralist theory of why discrimination is wrong.

Sometimes, insensitive actions may amount to indirect discrimination because, although they are neutrally formulated, they may impose disadvantages on the members of stigmatized groups. Taking into account a wider range of subjective considerations which includes those about the mental states of potential discriminatees may help develop our understanding of disparate impact¹⁹. Most of the literature on the topic holds that the disproportionate effect of neutrally formulated actions can be explained through social circumstances that are external to the discriminatee. Additionally, I argue, certain dispositions that have been empirically associated with having a stigmatized status may help explain why some groups are more likely to interpret neutral laws as identity- threatening and react to them in a way that disadvantages them.

My discussion proceeds in three parts. First, I offer a few cases of insensitive actions that may impose disadvantages on stigmatized individuals by triggering reactions that affect their beliefs, preferences, and behaviour. I suggest that cases of direct discrimination of this kind involve insensitive actions which either intend to affect the lives of these groups, or are neutrally formulated, but trigger reaction-harms that are foreseeable by the agent. To illustrate the latter, I offer a brief discussion of institutional agents who are prime candidates for engaging in direct discrimination through their insensitivity. Second, I offer a possible development in our understanding of cases of disparate impact by introducing considerations about the mental states of the discriminatees and taking seriously the idea that, depending on where they are placed in society, they may interpret and respond to neutral laws differently. Third, I examine three views about the wrongness of discrimination – the harm-based account, the dignity view and the deliberative freedom argument – and suggest that these may not only be compatible with reaction-insensitivity but also be further refined so as to explicitly include the concerns raised by it. In my concluding remarks, I sketch some possible implications of taking reactions into account, for the literature on oppression and the ethics of discrimination and, more generally, for institutional design and processes.

¹⁹ While I acknowledge that some draw a distinction between disparate impact and indirect discrimination, I will use the terms interchangeably for the purpose of the chapter.

5.1 Distinguishing between insensitivity as direct and indirect discrimination

Some cases of reaction-insensitivity amount to direct discrimination, and others to disparate impact, all which could contribute to entrenching oppression. It is, therefore, important to explain why these differences may occur. Consider these following cases:

Racial profiling: In the wake of a religiously – motivated terrorist attack, the government enforces a policy of statistical discrimination which requires security officials in airports to stop and search the members of a specific religious group. In response, many moderate members of this group avoid international travel, change the way they dress so as to attract less attention and downplay their affiliation to their religion while in public.

Anti-radicalization: In an effort to counter terrorism, the state imposes a duty on teachers and healthcare professionals to survey, assess and identify individuals who are vulnerable to extremism and refer them to a government de-radicalization program. This institutional decision is made in a social context where a particular religious group is regarded as prone to developing terrorist tendencies and extremist ideas and often stigmatized. In response, many moderate, non-violent members of this group come to believe that they are politically inferior, that the exercise of their basic freedoms may result in suspicion and hostility from others and that they ought to be careful as to how they behave in the presence of those who are under this duty.

Dress code: A small company posts a job ad for a position as a receptionist with a commonly used dress code that prohibits any visible religious symbols. Samira, a devout Muslim who always wears a headaddress in public, believes that she meets all the criteria for the role but is discouraged from applying because she wants to dress modestly. After this experience, she comes to believe that all customer

- facing roles will involve similar dress requirements, particularly since hate crimes and discrimination against her religion have been on the rise.

Of all of these cases which involve some form of reaction-insensitivity, I suggest that *Dress code* amounts to indirect discrimination, whereas *Racial profiling* and *Anti-radicalization* amount to direct discrimination. Before I proceed, it would be useful to give a brief account of what I mean by direct and indirect discrimination, respectively. I take direct discrimination to include both cases in which the discriminator intends to disadvantage the discriminatee, and, following Garcia, instances where the discriminator lacks intention but nevertheless acts on an objectionable state of mind, such as indifference or insensitivity (Garcia, 2018). Indirect discrimination happens in cases where an action is not intended to discriminate and where the discriminator does not act on an objectionable state of mind, but the discriminatees are nevertheless harmed by the action in a way that is suitably explained by their socially salient features.

Racial profiling appears to be a paradigmatic case of direct discrimination, albeit statistical. In implementing this policy the state intends to promote particular aims related to national security by imposing a disadvantage on the members of the group, a higher level of scrutiny, which may have the unintended, but foreseeable effects of longer times for getting through security and exposure to public humiliation, among other things. Even if the policy does not solely intend to disadvantage the members of that group, on some views, it is enough that it intends to use them as means to an end, by foreseeably making them worse off, or merely affecting their lives (Tadros, 2015). In addition to imposing objective disadvantages, the policy may also harm the members of the group in a way that only becomes apparent by considering their foreseeable reactions and mental states. These reaction-harms are significant and suggest that the insensitivity of a state that could foresee them also amounts to direct discrimination.

To pre-empt a possible concern, I want to clarify why I have unequivocally classified *Racial profiling* as a case of direct statistical discrimination. Lippert – Rasmussen (2007) distinguishes between direct and indirect statistical discrimination defining the former as:

A policy, P, constitutes statistical discrimination against a certain socially salient group of people, X-people, in relation to non-X-people (or some subgroup thereof) if, and only if, (i) there is statistical evidence which suggests that X-people differ from non-X-people in dimension, D, (ii) P involves treating X-people worse than non-X-people, and (iii) P is in place because of (i).

Indirect statistical discrimination, on the other hand, does not involve singling out a particular group that is to be profiled and, consequently, intentionally disadvantaged; the case is rather that the members of that group are more likely to have a particular feature that is subject to profiling, which, on the whole, makes them worse off than others. For example, in a modified version of the case, the policy profiles individuals with darker skin, rather than those belonging to religious group X. It just so happens that most individuals who belong to group X have darker skin, which makes them more likely to be affected by the policy than any other religious group. Since their religious affiliation is not a consideration in the application of the policy, they are more likely victims of indirect statistical discrimination²⁰.

Consider now, *Anti-radicalization* and *Dress Code*. Both of these cases involve an insensitive, but neutrally formulated decision that triggers important reaction – harms. In *Anti-radicalization* the state acts insensitively because it does not give sufficient weight to the serious and foreseeable reaction – harms suffered by the members of the group. Although the policy is formally neutral, its effects foreseeably affect the members of the religious group more than others because of the social context in which it is implemented. In *Dress code* the job ad is also neutrally formulated because it does not single out a particular group, but nevertheless has disproportionate effects on some prospective applicants because symbols of their religious affiliation are more visible and often generate rules that they live by. The employer appears insensitive to Samira's reaction, which involves taking her religion into account as a factor in making decisions about her career which threatens her deliberative freedom.

²⁰ Of course, that is not to say that the policy does not amount to direct discrimination in respect to skin colour.

Yet, these cases are distinct in an important respect which concerns the capacity of the insensitive agent to foresee the reactions that may be triggered by their actions. Cases of direct discrimination generally require that the discriminator acts upon an intention to impose disadvantage on the members of certain groups motivated by particular attributes, or marks of stigma. However, Garcia points out that sometimes, an action that lacks intent, but is nevertheless motivated by an objectionable state of mind such as indifference or in this case, insensitivity, may still count as direct discrimination (Garcia, 2018). Insensitive agents that can reasonably foresee that some individuals with a socially salient identity will react in harmful ways to their actions seemingly act upon an objectionable state of mind. But this may not always be feasible for agents within the private sector, such as in *Dress Code*, who may not have the time or resources to determine how a particular policy will affect the members of certain groups, which often requires substantial empirical research. Agents that operate under unconscious bias in particular, may not even be aware that their practices and actions have discriminatory effects, much less be able to appreciate when they ought to be reaction-sensitive. In contrast, in *Anti-radicalization* we may have more grounds to argue that the state is directly discriminating against the members of the group because its insensitivity to their reactions may be objectionable. Institutional agents have access to a wealth of research resources which puts them in a much better position to be able to foresee these reactions; further, they may even be under a duty to take a wide range of possible effects into account when designing a policy that is so pervasive.

While not a deciding factor, whether the agent may foresee the reactions may suggest that in *Anti-radicalization* more likely amounts to direct discrimination and may elicit a duty of sensitivity. This discussion will be revisited in the final chapters of the thesis which provide an account of the institutional duty of reaction-sensitivity. For now, however, it suffices to note that failing to give weight to foreseeable reactions may amount to either direct or indirect discrimination, depending on who the insensitive agent is. Some of the most serious reaction-harms are triggered through the actions of an insensitive state that usually amount to direct discrimination.

5.2 Indirect Discrimination through Insensitivity

Indirect discrimination or disparate impact (used interchangeably here) refer to cases in which agents impose a disproportionate disadvantage on the members of some socially salient groups without the intention to do so or any objectionable state of mind. To illustrate, consider the landmark case of *Griggs v. Duke Power* (1971). A North Carolina company decided to base promotions on a written tests, which nearly all of the black employees failed. The company did not directly discriminate against them, since the decision was not based on considerations about race; rather, it was charged with indirect discrimination because the skills relevant for the test were not essential for the job²¹. In the social context at that time, where black citizens received grossly inadequate and inferior education, the disproportionate impact of the test could be explained on account of racial considerations.

The concept of reaction-insensitivity highlights a different kind of explanation for why some neutrally formulated decisions, practices and laws seem to have harmful effects on some groups and not on others. In addition to external conditions of structural disadvantage, such as those in *Griggs v. Duke Power Co*, I examine the idea that there may be certain factors internal to the discriminatees which make disparate impact more likely to befall them. Empirical evidence suggests that there are specific mental states, dispositions and beliefs that are likely to develop among stigmatized individuals, and which condition them to interpret and respond to their contexts in self-limiting ways. In the following sub-section, I examine one of these dispositions, stigma-consciousness, by reviewing some empirical considerations about its effects on individuals and their interpretation of laws.

5.2.1 Stigma – Consciousness

One possible explanation for why the members of socially salient groups react to neutral political actions differently is that they have higher levels of stigma-consciousness as

²¹ Notably, the verdict might have been different if the test was an appropriate indicator of the skills required to do the job.

compared to group outsiders. Although this may not provide us with an exhaustive understanding of why reaction-insensitivity affects individuals the way it does, it is nevertheless a promising line of enquiry. The recent empirical literature has found that the perception of stigma and discrimination, whether founded or not, has a range of psychological effects on individuals, some of which may affect how they interpret and react to political actions and how they interact with others. Based on this evidence, I make the case that they are more likely to interpret neutrally formulated laws as identity-threatening and for their harmful reactions to be triggered by insensitive state action. This psychological and cognitive particularity, which has been extensively documented in the empirical literature, but so far neglected by political theorists, may help us better understand disparate impact.

The phenomenon of stigmatization occurs when a person bears, or is believed to bear, a characteristic that 'conveys a social identity that is devalued in a particular social context' (Brenda N. Major, 2005). Stigmatizing dispositions are manifested in the form of stereotypes and negative evaluations (Jones EE, 1984), which are generally widely known throughout society (Steele, 1997) and which may become grounds for marginalization or mistreatment of the members of stereotyped groups (Major B, 2004). This public knowledge that one's group has been and is being stigmatized is generally correlated with high levels of stigma consciousness, the expectation that one will be stereotyped and that one's stigmatized status will affect how others treat one (Pinel, 1999). This disposition is often learned through parenting styles that try to prepare and protect their children against mistreatment in their childhood and throughout their adult lives (Pinel, 1999). The rationale for this parenting approach is to prime children from stigmatized groups to expect to be stereotyped and discriminated against in order to grow 'a thicker skin' (Hilton, 1985). Alternatively, direct or vicarious experience of injustice based on the attributes that we identify with may increase our levels of stigma consciousness. Although developing such an expectation may serve as a self-protective function (Crocker, 1989), it may nevertheless have negative consequences as well.

Increased stigma-consciousness may have harmful interpretative effects, which alter the way in which individuals interpret laws or institutional actions and, consequently, how

they react to them. For example, stigma-conscious individuals may develop a predisposition to quickly identify stigma against themselves (Bem, 1981). Experiences of rejection based on membership in a devalued group can lead people to anxiously expect, readily perceive, and intensely react to status-based rejection (Mendoza-Denton, 2002). This anticipation of stigmatization has interpretive effects as it may lead people to interpret ambiguous situations, or in this case, institutional decisions, as identity threatening.

This explanation seems to fit some important cases of reaction -insensitivity. For example, moderate Muslims are more likely to interpret neutrally formulated anti-radicalization legislation as targeting their community, because they are aware of their stigmatized status and have been primed to anticipate hostility. Their interpretive particularities which arise out of their elevated stigma consciousness levels may then result in harmful reactions such as forming the belief that there are costs attached to the exercise of their freedom of speech and adapting their preferences to the extent to which they are exercising a lesser citizenship status. Moreover, stigma consciousness may also affect how some people interpret the way in which some policies are enforced. Sometimes, even if a policy is applied neutrally, its enforcement may nevertheless be perceived as demeaning by those who anticipate stigma. For example, it was found that mentally ill patients often feel demeaned when claiming conditional disability benefits as compared to claimants with physical disabilities (Peter Dwyer, 2006). Their awareness and experience of stigma towards mental illness primes them to anticipate mistreatment and to interpret the conditionality of benefits schemes as stigmatizing towards them.

Second, heightened stigma consciousness may have non-interpretative effects, which capture cases where the stigmatized individual does not interpret laws differently from a non-stigmatized individual, but is nevertheless more prone to reacting in a harmful way. Empirical evidence shows that people high in stigma consciousness may forfeit opportunities to invalidate stereotypes about their group (Pinel, 1999). Stereotype threat denotes a situation in which people form the belief that certain actions appear to fit stereotypes about their identity and consequently they adjust their behaviour to avoid confirming those biases. Stanford psychologist Claude Steele captures this case quite

vividly in his example of a black young man who, being fed up with whites purposely ignoring or avoiding him in the most mundane of social settings, adopted the habit of whistling Vivaldi music while in public (Steele, 2011). The social attitudes appeared to change immediately; by displaying an interest and knowledge of white culture, and a high-brow white culture at that, the young man fashioned himself in a way that would dissociate himself from the stereotype of blacks as uncultured, poorly educated and prone to violence. Although in Steele's example, the behaviour adaptation may not strike us as particularly significant, there may be other cases in which the response to insensitive actions is far more serious. This fear of fitting stereotypes can become self-threatening in situations when people modify their behaviour and adapt their preferences to the point to which they sacrifice important parts of their conception of the good or act in a way that limits their access to opportunities and threatens their wellbeing.

Thirdly, learned helplessness denotes a situation where people who perceive discrimination learn that even when they put their best foot forward their outcomes are beyond their control. For example, Black people's experiences of racially-biased treatment reinforce their powerlessness in achieving good outcomes. Reaction-insensitive decisions that further stigmatize and alienate them contribute to the formation of the belief that one is set up for failure and to the development of harmful non-rational dispositions. The effects of learned helplessness are three-fold (Abramson, 1989). First, this belief of powerlessness may create a motivational deficit in that people will be discouraged from initiating action that they believe will be futile. This discouragement, best seen as a disposition, affects people in important aspects of human activity such as education, occupational choice and political participation. Secondly, the learned expectation that their actions are irrelevant to particular outcomes may make people suffer a cognitive deficit which is particularly visible in education. Thirdly, learned helplessness can lead to psychological afflictions such as depression. More significantly, this powerlessness coupled with the discouragement to act and assert themselves as moral equals has been correlated with a lowered sense of mastery. For example, the literature suggests that, as a result, Blacks possess a lower sense of control than Whites (Jenkins, 1982). Hughes and Demo (1989) argue that this is because Black

experiences in American society deprive them of opportunities to experience themselves as being powerful and having autonomy (Hughes, 1990). This then contributes to the ‘inferiorization’ of African-Americans who are acutely aware of their powerlessness vis-à-vis Whites in U.S. society (Adam, 1978). This reaction is simultaneously comparative, in the sense that one may think others see them as having a lesser standing in society, and non-comparative, since it directly affects the motivation and ultimately, the prospects of the individual.

5.2.2 Structural and Non-structural Indirect Discrimination

Young objects to conceptualizing disparate impact as a form of discrimination, which, according to her, ought to be limited to ‘intentional and explicitly formulated policies of exclusion or preference’ (Young I. M., 1990, p. 196). What we call indirect discrimination, she adds, is best understood as rooted in oppression, as one of the many manifestations of structural disadvantage that subordinate groups face. The danger in conflating discrimination with oppression is that we may downplay the pervasive impact of the basic structure on the prospects of individuals. Others argue that disparate impact may be both structural and non-structural which is partly consistent with Young’s criticism (Pincus F. , 1996). In its structural form, disparate impact may be traced back to oppressive cultural norms which consistently disadvantage and subordinate some groups. Yet this view also allows for the possibility that some cases of indirect discrimination are non-structural, in the sense that the disadvantage they impose cannot be explained by reference to oppression.

I suspect that most cases of reaction-insensitivity that involve disparate impact will take a structural form. The disposition of stigma-consciousness seems to come up, most likely, among members of groups that have been historically stigmatized and whose identities have been devalued by the dominant cultural norms. This disposition functions as a defence mechanism often formed during childhood through parental priming, as a form of protection against an oppressive background. In *Dress code*, Samira is part of a religious group that is routinely subordinated and even targeted by violence,

which explains why she interprets the job ad as identity-threatening and readily anticipates more hostility and rejection on account of the visible marks of her affiliation.

5.3 Mainstream accounts of the ethics of discrimination

Taking reactions into account may be useful in cases of direct discrimination as an additional explanation of their wrongness. Sometimes, we may object to a discriminatory act only because it generates foreseeable reaction-harms that do not constitute a visible disadvantage. They may affect the discriminatee's psychological wellbeing by diminishing their self-esteem and self-confidence and their perception of costs attached to their options and opportunities. In time, these harms may also become visible in ways that have been captured by the existing literature, by affecting their socioeconomic status and eroding their self-respect. Picking up on them early on as disadvantages in their own right and recognizing their subsequent effects may prevent injustices which are widely condemned by the mainstream literature.

In this section, I outline three views about the wrongness of discrimination and suggest some ways in which they may be expanded so as to include the concerns raised by reaction-sensitivity. First, I argue that Lippert-Rasmussen's harm-based account is compatible and even anticipates some of the concerns of reaction-insensitivity even if he does not explicitly state so. Second, I examine Deborah Hellman's account, which may be expanded to include more cases in which discriminatory acts may be demeaning from the perspective of the discriminatees. Finally, I look at Sophia Moreau's account of deliberative freedom and suggest that she ought to take a wider range of reactions into account either because they are a threat to deliberative freedom or because they constitute distinct, yet normatively significant harms.

5.3.1 The harm-based account

So far, I have argued that stigma-conscious individuals interpret and react to insensitive laws in harmful ways. In this section, I aim to show that the harm-based account of

wrongful discrimination advanced by Lippert-Rasmussen appears to neglect these cases, and suggest that his formulation may be modified so as to explicitly include them.

Lippert – Rasmussen defines generic, non-moralized discrimination as follows:

‘An agent, X, discriminates against someone, Y, in relation to another, Z, by Φ -ing (e.g., hiring Z rather than Y) if, and only if:

- (i) There is a property, P, such that Y has P or X believes that Y has P, and Z does not have P or X believes that Z does not have P,
- (ii) X treats Y worse than he treats or would treat Z by Φ -ing, and
- (iii) It is because (X believes that) Y has P and (X believes that) Z does not have P that X treats Y worse than Z by Φ -ing’ (Lippert-Rasmussen, 2014).

On his view discrimination may be wrongful when it makes discriminatees worse off. In establishing whether this is the case, we need to assess the nature of the harm and the baseline in respect to which the discriminatee is made worse off. In terms of the latter, the Lippert-Rasmussen’s harm-based account remains neutral between two possibilities: how well off the discriminatee would be if the discriminatory act had not taken place or how well off the discriminatee would be in the just, or morally best outcome. Second, we need a definition of harm. Lippert-Rasmussen offers a range of ways in which individuals are made worse off by discriminatory acts: limitations on their access to opportunities, resources and welfare and harms that affect individuals in particular dimensions such as social status, income, education and freedom from subordination and oppression (Lippert-Rasmussen, 2006, p. 177).

Depending on how we define these variables, some versions of the harm-based account may be able to accommodate reaction-insensitivity and others may not. For example, if we interpret harm as a limited access to opportunities, we may fail to capture other important reaction-harms picked out by my concept. In contrast, by defining harm as including the exacerbation of existing injustice, among other things, we may be able to make the case that insensitive actions are morally objectionable because they lead to

preference adaptations and the subversion of human capacities. Both views are concerned, to a certain extent, with cases in which members of socially salient groups are harmed by institutional actions through a limited access to resources and opportunities. But this overlap is often incidental, only occurring in cases where the perceptions of costs to opportunities among stigma-conscious individuals are founded, in the sense that actual constraints are being imposed.

First, consider the potential interpretations of harm. If the harm-based account defines 'worse off' as having access to fewer opportunities it will usually be concerned with objective constraints such as racist attitudes, gender pay gaps and discriminatory laws, among others. These are objective constraints in the sense that a reasonable, non-stigma-conscious agent would regard them as discriminatory towards the members of the target socially salient groups. On the reaction-insensitivity view, it is possible that cases where objective constraints are imposed are also morally objectionable because they impose subjective disadvantages, such as adaptive preferences and perceptions of costs to opportunities. For example, if a black candidate for a well-paid job is rejected in t_1 because the employer is racist, she may be discouraged from seeking employment or from applying for other high paying jobs in t_2 , because she anticipates that other prospective employers will also be biased against her. The harm-based account would object to the first part of this example, to the rejection based on racist attitudes, because it represents an objective limitation of the access to job opportunities. However, it would not be able to fully accommodate the harm that comes to the job seeker in the second part, particularly the subsequent subjective constraints on opportunities. Lippert-Rasmussen remains neutral between most of the currencies of being well-off, so perhaps he could incorporate all of these harms on a wide conception that explicitly takes into account subjective considerations about reactions.

Furthermore, in extending its formulation so as to cover reactions, the harm-based account may fail to capture cases in which although there are no objective constraints on opportunities, the stigma-conscious individual perceives costs and adapts her preferences. For example, in the case of Prevent, a Muslim patient may not have any objective constraints that prevent her from seeking treatment for her mental health

issues, especially if those medical services are free of cost. Nevertheless, if her stigma consciousness is elevated, she may perceive interactions with healthcare professionals as identity-threatening, and more so, as situations in which she may be viewed as vulnerable to radicalization and as a result she may avoid them altogether. However we choose to define harm, it is clear that a limited access to healthcare would count as an injustice for Lippert-Rasmussen, not just as a mere loss of opportunity but as something that is essential for a flourishing life.

On a different version of the harm-based account, 'worse off' may be interpreted as being subjected to subordination and oppression, which seems to cover a wider selection of the cases picked out by reaction-insensitivity. On this view, we are able to argue that discrimination is wrong because it makes its victims powerless, unable to decide for themselves and to act autonomously. It is, however, unclear what Lippert-Rasmussen takes 'freedom from subordination' to require as he remains vague about it. I resolve this ambiguity by suggesting that the freedom from subordination does not only involve the lack of objective constraints that keep some groups in a subordinate position, but also the absence of laws, practices and institutions that make these groups powerless by shaping the mental states of their members. Understood in this way, the harm-based account may capture cases in which people react to insensitive action by forming the belief that exercising freedom of speech will attract hostility and suspicion. In Anti-radicalization, there are no objective constraints on the group members' freedom of speech, but they are nevertheless lead to believe that there are costs that they may incur should they exercise their civil rights. As a stigmatized minority, the perception of cost is particularly devastating to them, because it may leave them powerless, unable to protest institutional mistreatment and to challenge public attitudes towards them. It would seem that in this case, the victims of insensitivity are being subordinated and oppressed even without the imposition of objective constraints.

Consider now the question of the relevant baseline. Two possibilities arise. First, we may ask whether, had it not been for the discriminatory act, the individual would be better off. In respect to this baseline, Lippert-Rasmussen argues that 'this would imply that when someone who is subjected to discrimination that perversely makes her better

off than she would have been had she not been so subjected, the discrimination is not bad' (Lippert-Rasmussen, 2006, p. 175). It is clear that a black job applicant would be better off had she not been rejected by a racist employer. However, there may be cases in which the discriminatee is harmed by insensitive actions while simultaneously being made better off all things considered, in regards to opportunities. Consider, the case of transparent affirmative action quotas, in which women are aware that they are being hired because of their gender. On all the views about the currency of harm, female employees are better off than they would otherwise be. They have increased access to opportunities, more resources, a better social standing, and so on. Nevertheless, they may suffer a loss in self-confidence which may discourage them from pursuing those opportunities, a consequence which is not expressly captured by the harm-based account, at least on its first baseline. This could be because the harms picked out by the first baseline do not take into account the mental state of the discriminatee, but rather the consequences of the act as compared to a situation where the act had not occurred at all. Alternatively, we may interpret this first baseline as explicitly including the bad psychological consequences of reaction – insensitivity, which may allow us to refine our analysis of the wrongfulness of ambiguous cases.

The second, moralized, baseline we may use to determine whether an individual was harmed by a discriminatory act is whether she would be better off in a just or, the morally best, outcome (175). On this view, there is more scope for capturing the sort of cases that I am interested in, for instance, if the theory that informs the morally best outcome takes issue with reaction-insensitivity. However, the harm-based account does not make any explicit reference to such issues, instead defining the moralized baseline as a just distribution of benefits and burdens (176). If we are to interpret Lippert-Rasmussen's baseline broadly, as concerned with just political and economic arrangements, then the issues raised by reaction-insensitivity could be incorporated in his harm-based view.

5.3.2 The dignity account

In this section, I examine the dignity-based account as the other powerful contender in explaining when and on what grounds discrimination is wrongful. Noting that there is some overlap and compatibility between this view and the cases picked out by reaction-insensitivity, I suggest that the dignity account could be expanded so as to cover more subjective considerations about the mental states of the discriminatees. I do not agree with Hellman that discrimination is only wrongful when it demeans, but rather subscribe to a pluralist theory that includes her concerns among others.

Hellman argues that the inherent dignity of persons requires that we treat each other with respect and that any action that demeans or disrespects is morally objectionable. This duty applies universally, since people are equally important from an objective point of view, regardless of their merits or their unchosen attributes. On the dignity view, actions amount to wrongful discrimination when they are objectively demeaning and when the discriminator has the capacity to demean. Let's unpack this. The first criterion operates in an expressive dimension as it requires us to interpret the message sent by an action within a given social context, where possible, as she allows that some acts have meanings that are not grasped or understood. Wrongful discrimination occurs when a policy dehumanizes by expressing the thought that some groups are morally inferior to others, in regards to their capacities, interests or social standing. In some cases, the *objective social meaning* of a discriminatory act can be determined straightforwardly. The public transport division between white and "coloured" seats is easily interpreted as wrongful discrimination against blacks in the context of racism and racial segregation which was prevalent in America in the 50s. Other cases are not so clear-cut. For instance, it would be difficult to determine objectively and uncontroversially whether a mandatory retirement age denigrates the elderly. To do so we may have to look beyond the social circumstances of the law such as pensions, employment rates and the attitudes towards old people. We may have to look at the negative effects on the elderly and ask whether there are solid justifications which may outweigh them. The second criterion proposed by the dignity view is that the discriminator has the power to demean. As Hellman argues, 'it is easier for a boss to order or to demean than it is for an employee'

(Hellman, 2011) and much easier indeed for a political authority to denigrate some by sending demeaning messages about their unchosen characteristics. For example, institutional agents, which hold both the power to coerce and punish and symbolic cultural standing, are prime candidates for wrongful discrimination as understood by the dignity view.

The dignity view and reaction-insensitivity are tangentially similar because, depending on circumstances there may be an overlap between the sets of cases that they examine – those in which an institutional action is both objectively demeaning and perceived as dehumanizing by its victims. Nevertheless, there are still important distinctions between the two views. First, while Hellman argues that whether an act amounts to wrongful discrimination depends only on the objective meaning of a policy, I contend that there may be cases where an action is only wrongful because it is interpreted as demeaning by stigma-conscious individuals. We may ask whether this would include cases in which these groups have misunderstood the message of a policy. This may be the case, sometimes, if the development of stigma-consciousness is a reasonable response to one's social status; for instance, it may be that the profiling of visible Muslims is not intended to convey messages that demean them, but it may be reasonable for them to interpret it as such given the society-wide bias against them. Further, political theorists may also be concerned with cases in which individuals misinterpret a policy as demeaning and, as a result, adjust their preferences and their behavior in a way that does not befit their dignity. For example, those who develop a disposition of learned helplessness may, as a result of a policy which they perceive as demeaning or oppressive, give up on protesting against the institutional mistreatment of their group. Likely, the misinterpreted policy is not wrongful in itself, but it can serve as the catalyst for deeper issues which make some groups feel institutionally demeaned, which may give us good reason to reformulate it in a more sensitive way.

Second, while I agree that policies which are perceived as demeaning raise important normative issues, the dignity-based account seems to be overly limited in terms of the range of problematic cases that it identifies with wrongful discrimination. Feeling demeaned or acting upon a diminished sense of self are only a sub set of the reactions

which may convey wrongful discrimination. The subjective constraints in accessing opportunities, jobs and making social aid claims which are imposed by insensitive actions may also amount to wrongful discrimination, even when they are not demeaning. Taking these reaction-harms into account may offer an additional explanation of why discrimination is wrong within a pluralist theory that incorporates Hellman's concerns about dignity, among others. I do, however, acknowledge that she may disagree with my view, since she argues that discriminatory acts can have bad consequences, but those bad consequences do not show that discrimination is wrong in itself.

There are two points of convergence between the dignity view and reaction-insensitivity. Firstly, both views hold that capacity is important. The social standing of the insensitive agent is essential in determining whether a potential victim is likely to have a harmful reaction. It is generally accepted that although both the powerful and the powerless may negatively evaluate others, it is usually the case that the beliefs of those in power that will prevail, due to their social standing and greater access to resources (B. G. Link, 2001). Likewise, stigma-conscious individuals may also act insensitively, but they likely lack the power to trigger the sort of reactions discussed in my taxonomy. Political authorities, the police, the mass media, on the other hand, are equipped with power and resources which may amplify and trigger stigma-consciousness.

Secondly, the two views capture sets of cases which sometimes overlap, although only incidentally. The dignity account holds that institutional actions that demean amount to wrongful discrimination even when the agent lacks the intent to denigrate. Hellman illustrates this with the example of an FDA- approved blood pressure drug which is marketed exclusively to African American patients. The intention behind this action is not to demean, but rather to make a potentially life-saving drug readily available among a group of patients which statistically have higher blood-pressure. Nevertheless, when examining the current social landscape in the US and in particular the racial tensions and racist attitudes, the message of this state-sanctioned action may be interpreted as objectively demeaning. But, from an interpretive standpoint, the denigrating nature of the message is particularly harsh on stigma-conscious African Americans, who may form

the belief that the state is validating stereotypes about their lifestyle and thus increasing the stigma against them. Similarly, reaction-insensitivity captures cases in which the message of an institutional act is demeaning both objectively, as interpreted by a reasonable agent, and subjectively, as interpreted by the stigma-conscious victim. It is noteworthy that the subjective interpretation picked out by reaction-insensitivity is not merely a negligible side effect of objective denigration, but may add a second moral objection and strengthen the dignity case. Furthermore, by taking into account the interpretive particularities of some groups we may be able to make more sense of unclear cases and their contexts, such as the mandatory retirement age, which Hellman does not discuss at length.

More distinctively, on my view it is possible that an insensitive action that is not objectively demeaning can still amount to wrongful discrimination only because it is perceived as such by stigma-conscious individuals. On the dignity view, whether the victim of discrimination feels demeaned or not does not factor into the moral justifiability of the action – an objectively demeaning law is objectionable regardless. In illustrating this point, Hellman appeals to the example of Rosa Parks who was arrested for refusing to give up her seat in the ‘coloured’ section of a bus to a white. Even if the police have the power to lower her social standing, particularly in a context of racial segregation and mistreatment, Rosa Parks becomes a symbol of black resistance and social justice. Even if she benefited from the arrest, Parks was nevertheless discriminated against, as for Hellman, ‘demeaning depends on capacity, not on effect’ (Hellman, 2011).

Although this may be true of this case, it is possible that some neutrally formulated laws, by the standards of a reasonable agent, may only be objectionable because they are interpreted as demeaning by some groups. For example, Dwyer et al found that individuals with mental health issues which claim conditional disability benefits have demeaning experiences in dealing with the state and believe that their impairments are not taken seriously, that others view their claims as fraudulent and that responses to their situations are often inappropriate (Dwyer, 2006). On Hellman’s account, it is unclear whether this would count as a case of wrongful discrimination since they do not

appear to demean on an objective social meaning. Social aid schemes are often intended to be dignity-enhancing by ensuring that those who cannot provide for themselves live in accordance with their moral status.

Admittedly, one may interpret the condition on which benefits are awarded, admitting that one has tried to obtain work but failed because one lacks the qualities required for success, as potentially objectively demeaning. However, a reasonable, non-stigma-conscious agent would be hard pressed to interpret conditionality as demeaning. Its justifications, broadly concerned with an effective administration of tax funds, do not convey the message that the mentally disabled are morally inferior to the physically impaired. Even if, objectively, one interprets conditionality as conveying the message that mental disabilities are less urgent than physical ones, it would be a stretch to argue that it is demeaning, particularly against a background of scarcity.

Nevertheless, assessing conditional benefit schemes from the subjective point of view of the claimant may strengthen our case against them. In contrast, from the perspective of reaction-insensitivity, we can make the case that conditional benefits schemes are morally objectionable because their justification fails to take into account the reactions they trigger among the mentally disabled. The empirical evidence shows that the mentally ill believe conditionality is demeaning because it fails to take their afflictions seriously. But why should policy be informed by the perspective of a small subset of claimants when a reasonable agent would not interpret it as demeaning? One possible avenue is to look at the social context in which conditional benefits are awarded and to determine whether the mentally ill are distinct from other disabled claimants in a way that is morally significant, for instance by having higher levels of stigma-consciousness. Despite a recent increase in mental health awareness initiatives, there is still a sense in which such illnesses are stigmatized and easily dismissed. Hinshaw (2007) found that mental illness is ranked near the bottom of other illnesses in terms of public acceptance and according to the US Surgeon General's report stigmatizing attitudes pose barriers to mental healthcare because many taxpayers do not want to pay for it. In contrast, social attitudes are more acknowledging of physical disabilities, which is reflected in the public opinion of how tax money ought to be allocated. This may be because mental illnesses

are less visible and notoriously difficult to diagnose, or perhaps because of the remnants of an old fashioned mentality that people should just toughen up and 'deal with it'. Whatever the case may be, it is clear that mental illnesses are widely stigmatized, which may drive the mentally disabled to readily anticipate public and institutional stigma. Although conditionality may not be objectively demeaning, as required by the dignity view, it may still amount to wrongful discrimination because its justification is insensitive to the psychological and interpretive peculiarities of stigma-conscious individuals with mental illnesses and to their foreseeable reactions.

Reaction-insensitivity may also capture a different kind of case which is neglected by the dignity view. Sometimes, a policy that is not objectively demeaning and not consciously perceived as such by stigma conscious individuals may nevertheless lead to people acting upon a diminished sense of self-worth. Consider, once again, the example of conditional benefits schemes for disabilities which seem to reinforce stigma against mental illness. This state-sanctioned decision may not always be perceived as demeaning by those that it could potentially affect. It has been found that individuals with mental disabilities often seek to conceal their condition or deny it to themselves, which prevents them from seeking care (Corrigan, 2004), leading to more intense (and perhaps less successful) and expensive treatment options later (Kupfer, Frank, and Perel, 1989). As a result, the negative effects of stigma have been hypothesized to be as harmful as the direct effect of mental disorder (Hinshaw, 2007). It is possible that part of the reason why people refuse to accept that they are mentally ill is that, given the public stigma which is seemingly reinforced by institutional action, they subconsciously form adaptive preferences. This dismissal of their conditions and the refusal to seek treatment and make benefits claims means that they may forfeit resources that are essential for their dignity as people and for pursuing a flourishing life. Thus, insensitive institutional actions may lead people to act upon a diminished sense of their own importance by reinforcing and amplifying their stigma consciousness. Although this kind of case is neglected by the dignity view, it should nevertheless be accommodated within Hellman's concern for dignity and treated as a case of wrongful discrimination.

On a more general note, the dignity view is limited in a similar way to the harm- based account because it does not appear to take seriously the idea that people may interpret and react to the law differently depending on their perceived social status and mental states. As a result, it neglects important cases of wrongful discrimination by means of institutional insensitivity, which have harmful consequences on some of the most vulnerable individuals in society. Most notably, by discounting the subjective interpretation of laws, the dignity view is unable to account for situations where insensitive actions drive stigmatized individuals to adapt their preferences in a way that reflects a diminished sense of self.

5.3.3 The deliberative freedom account

So far, I argued that harm-based and dignity accounts of wrongful discrimination may fail to capture the concerns raised by reaction-insensitivity because they do not explicitly take into consideration the mental state of the discriminatee. In this section I examine Moreau's pluralist conception precisely because it avoids these pitfalls, by combining concerns of dignity with those raised by consequentialists, on the one hand, and taking the mental state of the discriminatee seriously on the other. I make the case that, although the deliberative freedom view is, in many ways, conceptually similar to reaction-insensitivity, it requires further development so as to cover a wider range of reaction-harms.

Views about the wrongfulness of discrimination are in themselves a reflection of an even broader distinction between two kinds of political morality, distributive justice and recognition. For the latter group of theorists what is most objectionable is a failure of recognition of some kind; for the former, what matters is how and to whom benefits and burdens are distributed across society. This dichotomy, much like the recognition - redistribution debate, is not intended to offer two alternative ways of thinking about discrimination but rather to affirm one over the other. The case may then be that both of these views offer an incomplete explanation of why discrimination is wrong. Claims of discrimination are never just about one's status, but also about socioeconomic disadvantage, employment, opportunities and access to healthcare and education. Much

in the same way, consequentialists may be mistaken in downplaying the significance of disrespect and demeaning treatment, which make discrimination a special kind of harm. Sophia Moreau suggests that as a multi-faced experience, discrimination warrants a pluralist normative account, one that includes both recognition and redistribution concerns. The difficulty of such a justification would be offering an explanation for how the distinct wrong-making features cohere. To fall short of that would, for Moreau, mean that for an act to count as discrimination both issues must be present, since neither are sufficiently weighty to render an act wrong on their own (Moreau, 2016, pp. 16-17).

Moreau proposes a pluralist account that aims to identify wrongful discrimination by appealing to the concept of deliberative freedom which she defines as enabling people 'to deliberate about and decide how to live in a way that is insulated from pressures stemming from [their] extraneous traits' (Moreau, 2010, p. 147). She argues that this decision-making process is limited by various constraints, some which are legitimate – the cost of an apartment, the needs of our dependents, our legitimate share of resources and so on. Other constraints are unjustly imposed on us. Specifically, when people are subject to discriminatory treatment, they start experiencing costs attached to pursuing particular options. For example, the exclusion of non-heterosexual orientations from the military, effectively reduces the options that are available to some and forces them to factor their unchosen characteristics into their decision-making process when choosing a career. Moreau's key insight is that discrimination is objectionable because people are entitled 'to live in a way that is insulated from the pressures or burdens caused by certain extraneous traits' (Moreau, 2010, p. 149). Her account attempts to reconcile distributive concerns with those related to dignity since an unjust limitation of one's deliberative freedom denies people the opportunity to live as they choose, which they are entitled to, while at the same time making them socioeconomically worse off.

Another feature that sets her view apart from others is her focus on the mental states of the discriminatees. Both consequentialist and status-based theories object to discrimination for reasons that are unrelated to the discriminated against individual's feelings or reactions and in doing so they may fail to capture morally significant kinds

of harm. Some actions may constitute wrongful discrimination only because they trigger certain reactions or promote particular beliefs that limit the deliberative freedom of individuals. For example, a conditional benefits scheme for the disabled, which is aimed at reducing inequality, may be objected to because it brings up feelings of humiliation among the claimants. In requiring them to make a case for their helplessness and to publicly articulate their shortcomings, these welfare actions may trigger powerful reactions of resentment and shame. In turn, these emotions may force one to factor their disability into their deliberations to the extent to which the desire to avoid public humiliation takes priority over claiming the help that they need. This kind of case appears to be neglected by the mainstream theories but can nevertheless be accommodated within them. Dignity theories may acknowledge conditional benefits schemes as demeaning, because they fail to treat people with the dignity that is due to them which may require taking their feelings and reactions into account. This case may also appeal to defenders of harm-based accounts, since it adds a new layer of harm to the plight of the worst off, by affecting their perception of the costs attached to those opportunities.

It is important to explain at this point how my view differs from the *deliberative freedom account*. For one, there may be cases in which insensitive actions trigger reactions that denote an injustice in their own right and which may only subsequently lead to limits on deliberative freedom. In the case of conditional benefits schemes for the disabled, one distinct reaction is forming the belief that one's interests matter less than those of others. Certainly, we may think, like Rawls, that this kind of self-worth is also of instrumental importance, since without self-respect people might be more likely to base their decision-making on their normatively extraneous features. However, in most situations where people perceive costs and experience harmful adaptive preferences, they are usually driven by the belief that they are unwelcome in society or that they are unable to trust others and the state. On some views, the initial reaction, the belief that one is not welcome, is a matter of non-instrumental value, regardless of the subsequent chain of reactions which affect deliberative freedom.

Further, Moreau argues that her view implies ‘that the demeaning messages sent by discriminatory actions are a side effect of the wrong rather than a constituent feature of it’ (Moreau, 2010). This suggests that her account is not truly pluralist, as advertised, since it subordinates concerns about dignity and those about harm to the importance of deliberative freedom. In contrast, on my view, it is possible that an insensitive act is only objectionable because it is perceived as demeaning by stigma-conscious individuals, or only because it deprives people of opportunities, or even only because it limits deliberative freedoms, without it being necessary to specify which of these concerns are more important. In her more recent writings, Moreau has a softer stance with respect to these concerns: ‘freedom might be a part of the story of why discrimination is unfair, but it may only be one part’ (Moreau S. , 2017), which seems to be more accommodating of the concept of reaction-insensitivity.

Concluding Remarks

In this chapter, I argued that the actions of insensitive agents may have discriminatory effects that theorists ought to care about. Some reaction-harms are best understood as disparate impact and others as direct discrimination, depending on how they are brought about and the capacity of the insensitive agents. This discussion will be reprised, in greater detail, in the following two chapters which outline an account of an institutional duty of reaction-sensitivity. For the purpose of the present chapter, I left these normative prescriptions aside, simply focusing on the benefits of taking these kinds of subjective considerations into account for theories of direct and indirect discrimination. My concept may be useful in expanding our understanding of the latter by introducing an additional, psychological explanation for why certain neutrally formulated actions may affect groups differently. As for direct discrimination, reaction-insensitivity may provide an additional explanation for why discrimination is wrongful in some cases. Accommodating it within the existing literature is, in most cases, a matter of re-formulation of existing accounts so that they explicitly incorporate these subjective considerations. In these concluding remarks, I want to take the opportunity to sketch a few other ways in which reaction – insensitivity may contribute to the existing literature on oppression, the politics of presence and stratification.

Additionally, reaction-insensitivity may be useful in developing our understanding of oppression, particularly in its institutionalized form. Even if disparate impact always arises out of oppression as a manifestation of structural disadvantage, the fact that the oppressed are routinely exposed to it, often as a result of institutional action, may further shape their mental states. It may deepen their feelings of powerlessness, of inferiority and marginalization, by contribute to the development of dispositions like stigma-consciousness which in turn leads to inappropriately adaptive preferences and limiting behaviour adjustments. This suggests that there may be some value in looking at disparate impact as a standalone injustice that can be prevented or at the very least redressed, in a bid to contain the mental changes which lead the oppressed to embrace and internalize their circumstances. While this will not address the root cause of structural disadvantage, it may nevertheless constrain it, by placing limits on institutional action.

Chapter 6

The Grounds of a Duty of Reaction-Sensitivity

In the previous chapters, I argued that insensitive actions, laws, and practices may cause reaction-harms that political theorists ought to care about for both instrumental and non-instrumental reasons. These reactions may constitute, or contribute to, a loss of self-respect, a diminished capacity for authenticity and may impose significant disadvantages. In some of the cases I discuss, justifications for actions that disregard these responses, especially when they are foreseeable, appear to be morally problematic, because there are good reasons to take them into account. In this chapter, I examine the circumstances under which these reactions may give us decisive reasons to place agents under a moral duty of sensitivity and when this duty may be enforceable.

Individuals may not have a freestanding right to sensitive treatment that can be spelled out without reference to other entitlements, rights and liberties; instead, since some core individual interests may be threatened or violated if their foreseeable responses are disregarded, it may appear that they may also have an interest, at least in some cases, in being treated sensitively by others. Following Raz, I argue that the interest in being treated sensitively may generate a derivative right and corresponding duties that may be enforced against others. In the first part of my discussion I offer a brief account of Raz's *derivative rights* and of what counts as a sufficient *justificatory connection* for establishing that one right is derived from another interest. If such a correlation exists between the actions of an insensitive agent and harmful reactions then it will serve as a justification for a derivative duty of reaction-sensitivity.

Notably, not all the cases that I have discussed throughout my thesis will generate such a duty. I have previously defined reaction-insensitivity as characterizing actions that do not give sufficient weight to the reactions that they may foreseeably trigger. This general definition may apply to a wide range of cases, involving any number of possible insensitive agents, where virtually all citizens could be victims and where the spectrum of reactions may be infinite. For one, its victims may range from stigma conscious

members of socially salient groups to virtually all citizens, such as in the case of state-encouraged consumerist tendencies. Second, although my focus has been, for the most part, on the insensitive actions of coercive institutional agents, I argue that all agents who satisfy a certain threshold of authority and influence, such as mass media and employers, may be reaction-insensitive in a way that is morally objectionable. In this chapter, I ultimately focus on a state duty of reaction-sensitivity, which may, in some cases, require the regulation of the activity of private agents or actively challenging biased social attitudes. Third, insensitivity, as I have interpreted it, can mean many things: a failure to act, indifference, or actively seeking to elicit certain reactions, without due consideration for the consequences. The multitude of possible variables within this triadic definition may make it difficult to establish when, and to what extent, an agent or an organization might be under a duty of sensitivity.

Thus, in my second section, my task is to make sense of the different intuitions that we have about two counterintuitive cases spelling out the normatively significant distinctions between them. In order to narrow down the scope of reaction-sensitivity, I aim to spell out, more schematically, the triadic combination of variables – agent, victim, reaction – under which a duty of sensitivity is incurred. In brief, I argue that the duty of reaction-sensitivity arises in cases where the reactions pose a high enough level of threat against the core interests of the individual, the individual is not responsible for his responses, and the insensitive agent meets a number of conditions. Finally, my third section offers a taxonomy of the possible ways in which the state may be insensitive towards individuals and gives some suggestions as to when the causal connection between this insensitivity and the reactions may be strong enough to ground the duty. In my concluding remarks, I sketch a standard case in which the duty of sensitivity will be incurred. Briefly, a state is wrongfully insensitive towards relatively powerless groups when it does not give any weight to the foreseeable reactions of their members, and in doing so, causes or contributes to their stratification and other injustices affecting them.

6.1 The interest in being treated in a reaction-sensitive way

In the previous chapters, I argued that reaction-insensitivity may undermine things that are instrumentally or non-instrumentally valuable and in which people might have an

interest: recognition self-respect, authenticity, autonomy, and so on. In the third chapter, I argued that institutional insensitivity may lead to a loss of self-respect, either directly, through fostering harmful beliefs or dispositions, or indirectly, by imposing unjustified constraints on the access to its social bases. In the fourth chapter, I argued that reaction-insensitivity may be objectionable because it may unjustly undermine the development of beliefs and capacities that are essential for the exercise of authenticity. Lastly, in the fifth chapter, I argued that reaction-insensitivity may impose immediate disadvantages on the stigma-conscious members of socially salient groups which include socioeconomic harms and mistreatment, which may ultimately promote patterns of oppression. In all of the cases that I have discussed so far, there is no freestanding right to reaction-sensitivity, one that could be justified without appealing to any other interests, rights or entitlements. Rather, in some cases, people have an interest to be treated sensitively by the state and perhaps by other agents, because, otherwise, their other, more fundamental, interests might be undermined. The question that I must then answer is whether the interest in being treated sensitively is strong enough to generate a duty of reaction-sensitivity.

In this section, I make the case that being treated sensitively is a derivative right which is grounded in other interests and entitlements that people may have. To illustrate, consider Raz's theory of rights which seeks, among other things, to explain their role in practical reasoning and how they relate to individual and collective interests on one hand, and duties and obligations on the other. He defines rights as follows.

Definition: 'X has a right' if and only if X can have rights, and other things being equal, an aspect of X's wellbeing (his interest) is a sufficient reason for holding some other person(s) to be under a duty.

Capacity for possessing rights: An individual is capable of having rights if and only if either his well-being is of ultimate value or he is an 'artificial person' (Raz, 1988, p. 166)

Raz's theory of rights is important but it may be that it captures only a partial truth. A right to recognition-respect might be understood as a right that is independent of well-being, instead being grounded on the idea that persons should be treated as ends rather than as means only. Assuming a wider, more pluralist justification of rights, what I pick out from Raz is the idea that some duties are rooted in the various interests that people have, including those concerning their well-being or their recognition-respect. These rights, in turn, may generate some duties, which are incurred by agents or groups that have a prior obligation to protect, or to refrain from undermining, the interests from which these rights are derived. Raz argues that:

Some rights derive from others. Just as rights are grounds for duties and powers so they can be for other rights. I shall call a right which is grounded in another right a derivative right. Non-derivative rights are core rights. The relation between a derivative right and a core right (or any other right) from which it derives is a justificatory one. The statement that a derivative right exists must be a conclusion of a sound argument (non-redundantly) including a statement entailing the existence of the core right. (Raz, 1984)

To establish that, in some cases, people have a derivative interest to be treated in a reaction-sensitive way, we need to examine whether it is justified by other, normatively significant interests. While it is plausible that all rights are derivative from a core entitlement, such as that to being treated as free and equal, for instance, I assume that a right is derivative if we can identify a further right from which it is derived without insisting that this further right is a core one. What matters, for a right to be derivative, is that it is in a suitable justificatory relation to another interest or entitlement, which in itself is significant enough to provide grounds for duties on other agents (1988:180).

Nickel offers a three-fold account of the circumstances in which some interests may provide reasons for derivative rights (Nickel, 2006). First, the scope of the former may include the scope of the latter (Raz, 1988, p. 101). Rights are often abstract in their

formulation and they may require additional specifications as to what it entails and what it requires of others in specific circumstances. For example, a right to healthcare may involve a variety of other rights involving much more specific things such as vaccines and treatment by healthcare professionals when one is ill. There is a justificatory relation between the right to health and the derivative one to medical treatment as the latter is a concrete part of what the latter entitles one to - this relation, depends, in no small part, on establishing empirical and normative correlations between the two. This justificatory relation may also apply to reaction-insensitivity. Individuals have a right to not be demeaned and, in some cases, this may entail a right to have their foreseeable reactions taken into account when legislative bodies create and implement laws. If, for example, they have high levels of stigma-consciousness, this may mean that they are predisposed, through no fault of their own, to interpret neutrally formulated laws as identity threatening and as demeaning²². Insensitivity to their reactions in the formulation of laws is a specific way in which their right to not be demeaned may be infringed by the state, making reaction-sensitivity a derivative right.

Second, one right may derive from another if it makes it less likely that the second right is violated, even when the two operate in different spheres. For instance, freedom of the press is often used to expose corrupt politicians and its exercise may deter government officials from engaging in misconduct. In this case, part of the justification for freedom of the press is that it prevents the violation of duties that the state might have towards its citizens with respect to their rights and the administration of taxpayer money. A right to be treated in a reaction-sensitive way may be justified in the same way, at least in some cases. Insensitivity towards moderate Muslims may lead them to limit their exercise of their freedom of speech, leaving them powerless against a society that is biased against them. Unable to challenge stereotypes about their religion and to protest against mistreatment at the hand of others, they are eventually pushed to the margins of political discourse and of second-class citizenship. Their derivative interest in being treated sensitively is justified as it prevents the violation of their other interests or entitlement.

²² For an account of neutrally – formulated laws, see section 3 of this chapter. Briefly, I am referring to policies, practices and decisions that do not target specific socially salient groups, but rather apply to everyone.

Third, a right may be viewed as derivative if it is essential for the implementation of another right, even when they do not normally operate in the same sphere. Despite potential overlap, this justification may cover distinct cases than the previous one which holds that derivative rights may come up as a way to minimize the likelihood of other, core interests being violated. In this case, the derivative right may be incurred as a way to ensure that other rights are meaningfully exercised. For instance, the freedom of assembly in public places may also require that one is guaranteed security against violence. In this context, security is a derivative right which is justified as part of a de facto exercise of the freedom of public assembly. In some cases, safeguarding people's rights and equal citizenship status may require acting in a reaction-sensitive way towards them. For example, in order to protect the freedom of speech of moderate Muslims, so that they can exercise it in a meaningful way, the state may have to reform some of its insensitive laws, such as the Prevent duty. It is not the case that the insensitive law makes their freedom of speech more likely to be threatened by others; rather that, sensitivity to their mental states will ensure that they are able to exercise their freedom of speech in a meaningful way, without anticipating hostility.

In the remainder of the chapter, I focus on cases in which insensitive treatment may lead to violations of other interests, rights and entitlements. In the following section, I argue that, even if there may be a strong justificatory connection between an insensitive action and the violation of individual interests that does not always mean that the insensitive agents will be under a derivative duty to give foreseeable reactions their due weight. This is because not all agents are unjustified in acting insensitively, some possible victims may have to take responsibility for their interpretations and responses, and not all foreseeable responses ought to be avoided.

6.2 Enforcing a Duty of Reaction-Sensitivity

So far, I have argued that people have a derivative right to be treated sensitively, in some cases, because otherwise, some of their core interests may be undermined. The fact that some of these cases are morally problematic does not automatically generate a duty of

reaction-sensitivity on part of others, as often, some agents may be justified in acting without consideration for how others would react because there are no strong reasons to give weight to their foreseeable reaction - harms. For instance, a judge may not have to give much, if any, weight to the foreseeable reactions of a criminal when sentencing her to prison. Other times, there seem to be strong moral reasons to give weight to foreseeable reactions, as it is the case with laws that aim to target particular disadvantaged groups. In this section, I aim to sketch an account of when a duty of sensitivity may be enforced, by reference to the following counter-intuitive cases:

Prevent: The duty of identifying individuals who are vulnerable to radicalization and referring them to the government's anti-radicalization program is imposed on teachers, police officers and healthcare professionals. Although the policy condemns extremism of all kinds, most referrals involve members of the Muslim community. As a result, moderate Muslims suffer a number of reaction-harms, some of which involve self-limiting behaviour adjustments. They refrain from wearing religious clothing in public, they avoid international travel, fail to report hate crimes against them and to exercise their freedom of speech, and they refrain from using mental health services – out of the fear that they will be misconstrued as extremists.

Hyper-consumerism: Through aggressive marketing techniques used by corporations and the mass media people develop hyper-consumerist tendencies which may indirectly be supported by insensitive laws that lower environmental taxes. All consumers become vulnerable to losses of self-esteem and self-confidence, by forming the belief that their self-worth is tied to accumulating material possessions or to the pursuit of unachievable standards promoted by the advertisement industry.

Both of these cases involve insensitive actions and practices which may trigger foreseeable reaction-harms that contribute to undermining core individual interests. Even if, in both cases, people may have an interest in being treated sensitively, I suspect our intuition might tell us that there may be a duty of sensitivity in the former, but not in the latter. My task in this section is to explain the different intuitions we might have about the two cases so as to set out an account of when the duty of reaction-sensitivity may be incurred by insensitive agents. Almost all cases of reaction- insensitivity may be expressed as a three-fold formula involving (i) an insensitive agent²³, (ii) a victim, and (iii) a harmful reaction. I suggest that if there is a moral distinction between *Prevent* and *Hyper-consumerism*, spelling it out will necessarily appeal to differences between the three variables in the two cases.

6.2.1 The Insensitive Agent

Consider, first, (i), the insensitive agent who may be an individual, group or organization that does not give due weight to reactions that it may foreseeably trigger through its action or inaction. On this wide definition, virtually everyone could act insensitively to others' reactions, from parents and friends, to employers and the mass-media and to the state and everyone could be under a general moral duty to give due weight to others' reactions. Yet, in practice, holding everyone responsible for their insensitive behaviour and putting them under a duty of reaction-sensitivity would likely have repugnant implications. It would be counter-productive and potentially unreasonably demanding to enforce a duty of sensitivity on virtually all agents; forced to take into account everyone else's foreseeable reactions, people might engage in self-censorship so as to not offend, live less authentic lives and limit the pursuit of their conceptions of the good and perhaps even incur financial costs associated with taking a more sensitive course of action. Furthermore, if individuals are left to decide when they have been treated insensitively, they may be partial to their own feelings being hurt. So, even if a general

²³ I use the phrase 'almost all cases' so as to leave room for the possibility that a state of affairs can be reaction-insensitive. For example, socioeconomic inequality under conditions of sufficiency may still be objectionable for triggering feelings of inferiority among the worst off or of superiority among the well off. Even if the inequality is not the clear result of injustice committed by the state, or by individuals or groups, we may still think that it is objectionable, because of the foreseeable reactions it triggers and because it may be avoidable. This argument needs further development and, because of space constraints, it cannot be discussed here.

moral duty exists for every agent, there may be good reasons not to enforce compliance with this duty. In order to exclude trivial claims, I suggest that a duty of reaction-insensitivity may be incurred in cases where agents are not justified in acting insensitively. That means that even where reaction-harms are morally problematic an agent is justified in acting in a way that foreseeably triggers them because there are no powerful reasons to do otherwise.

Before I set out some of these powerful moral reasons to act sensitively, it is useful to draw some preliminary distinctions between the kinds of agents that may be reaction-insensitive. First, we may distinguish between institutional and non-institutional agents. Following Rawls, I take the former category to include the social and political arrangements that constitute a society's basic structure: systems of government and law, the economy, the family, and mass-media, among others. These institutions are distinct from non-institutional agents in that they structure the way in which benefits and burdens are distributed among individuals even if not all are subject to the principles of justice according to Rawls. Non-institutional agents usually include private individuals or organizations that do not affect the basic structure of society and whose actions are not normally constrained by the principles of justice. It is worth noting that an agent may be both institutional and non-institutional, depending on the capacity in which they are acting. For instance, an individual may act insensitively as a non-institutional entity, by making offensive comments about passers-by, on one hand, and as an institutional agent, when parenting her child. Sometimes, what matters is the social context in which the insensitive agent acts. If an individual makes offensive remarks about another as part of a pattern of behaviour that a number of individuals engage in, then this may have the same consequence as institutionalised mistreatment.

Second, institutional agents may further be distinguished as coercive and non-coercive. The former category involves political and judicial institutions that may impose sanctions, punishments and constraints on individual freedom through the law, and through coercive organizations such as the police. Non-coercive agents usually include social institutions that are not operating as part of the state, such as the family and the mass-media. Notably, parents may be perceived as part of a coercive institution to the

child, but their mandate to sanction and punish only exists in relation to their family. In this discussion, I take coercive institutions to involve those that may legitimately sanction the entire population through legal and constitutional means.

In light of these distinctions, I make the case that the duty of reaction-sensitivity applies primarily to coercive institutional agents, while acknowledging that there may be some exceptions. Whether agents may legitimately incur a duty of sensitivity depends partly on whether they have any prior duties to protect the interests that may be undermined through insensitivity, whether they meet a threshold of influence in a key dimension and whether the agent can be reasonably expected to bear the costs of taking a sensitive course of action.

I have argued that the duty of reaction-sensitivity is derived from other, core interests rights and entitlements, which suggests that it may be incurred by agents that have a *prior duty* to protect, or, at the very least, to not undermine those interests, rights and entitlements which would be threatened by their insensitivity. In this case, agents may not be justified in acting insensitively if the reaction harms that they foreseeably trigger are in violation of their prior, core duties. For instance, a small employer that refuses to hire women wearing headscarves for customer-facing roles, out of the fear of financial consequences, may be acting insensitively, but may nevertheless be justified, because she may not, in some cases, have a duty to protect the range of opportunities that are available to some Muslims. Conversely, a state that bans headscarves in all workplaces can be said to act in a wrongfully insensitive way, as in doing so it may violate a pre-existing duty to protect and secure the access to opportunities among minority group members. The state, in its legislative, coercive and political capacities, is, thus, a prime candidate for possessing a capacity for wrongful insensitivity.

The existence of a prior obligation to protect individual interests may be a sufficient condition to place some agents under a duty of reaction-sensitivity, but it is not always necessary. Sometimes, agents that meet a certain *threshold of influence* may also incur a duty of sensitivity, on account of their ability to shape public opinion and to indirectly affect the lives of wide sectors of the population. For instance, mass-media trusts may

end up commanding such a great deal of influence over public attitudes, democratic outcomes and even political debates, that they may justifiably be held responsible when they negatively affect vulnerable individuals or groups. As a rule of thumb, the more influence an agent has, the more likely it is to incur a duty to refrain from undermining the rights and interests of vulnerable individuals. For instance, widely-read national newspapers which seek to report on social issues and current affairs are more likely to be unjustifiably insensitive than a small-time publication which publishes opinion pieces.

Importantly, this influence must be exercisable in a key dimension, for instance, because it affects a significant portion of the population. As a coercive and legislative apparatus, the state has the power to shape beliefs, dispositions and behaviour, as well as public attitudes towards stigmatized groups. Mass media trusts may also exert a great deal of influence in normatively significant aspects of social life: voting outcomes, public attitudes towards minorities, preferences and even the beliefs that individuals have about themselves. Other non-coercive institutional agents, such as parents, may satisfy the threshold of influence because their actions shape the formative years of their children, often with huge repercussions throughout adult life. For instance, we may argue that insensitive minority members who give a patriarchal upbringing to their children could have a capacity for wrongful insensitivity since the influence of their parenting style may cause a lifelong harm to the child. Under these circumstances, girls may grow up to be less autonomous than boys and have a more limited capacity for acting upon their authentically endorsed values. The question is whether parents are ever justified in disregarding these morally problematic reaction-harms when deciding how to bring up their children.

On the one hand, we may argue that they satisfy some threshold of influence, as their parenting styles may directly affect the self-image and self-worth of their children. As primary caregivers, they may also have a pre-existing duty to protect the interests of their children which, on a liberal view, may include the development of the capacities for autonomy and authenticity. On the other hand, not all groups within liberal societies aim to promote individual autonomy and authenticity since these values may conflict

with those of their community. In these cases, whether parents are justified in acting insensitively may depend on whether they act on an *objectionable state of mind*, such as an intention to harm or to trigger harmful reactions. For instance, if a parent, motivated by sexist beliefs, intends to frustrate the development of a capacity for autonomy of her daughter, whilst being aware of the harm that will cause, she can be said to act on an objectionable state of mind. Conversely, non-liberal parents may genuinely believe that the adequate parenting styles are those which differentiate between children on the basis of gender, and that in enacting these values, they are providing their children with the best start in life. In this case, strong agent-relative reasons such as those generated by religious affiliations may provide a justification for their actions, even when the foreseeable reaction-harms are morally problematic. Depending, in part, on whether we think autonomy is essential for individual flourishing, we may still conclude that communities that fail to promote these values harm the children who belong to them, and thereby wrong them, even when parents have good reasons for endorsing a particular parental style. This agent-relative justification should not outweigh considerations about the reactions of children; instead it may suggest that parents have a weak moral duty of sensitivity, which requires them not to close off their children's minds to liberal values and to the possibility of an autonomous life.

Even if the family is part of the basic structure, Rawls resists the claim that the principles of justice ought to apply to the inner life of the household, partly because it is difficult to justify state intervention of this kind (Rawls J. , 1997). This would suggest that even if parents may have a moral duty to be sensitive in the upbringing of their children that duty is not directly enforceable through the instruments of the law. Even in this case, the state may still be under a duty to protect the children's derivative interest to have a sensitive upbringing by shaping other environments in which their formative development takes place. In outlining the conflict between personal and impersonal standpoints, Nagel notes that we have reasons to delegate certain duties to the state so that we as individuals are freed to pursue our own interests (Nagel T. , 1995). For example, a duty of reaction-sensitivity may require the state to impose harsher regulations on faith schools, to potentially ban faith academies, and to ensure that public schools and the national curriculum are designed in a way that facilitates

autonomy and authenticity, and exposes pupils to a wide range of normative self-conceptions. This way, parents are free to pursue the parenting styles to which they are partial, while children are given an opportunity to access impartial basic goods, such as the social bases of self-respect and to develop their autonomy.

So far, I presented some of the criteria we might consider in assessing whether agents are justified in acting insensitively – their social and political influence, their prior duties and whether the insensitivity is motivated by an objectionable state of mind, or intention, in the case of collective non-coercive agents, such as mass media. This latter possible condition needs some elaboration. Insensitivity constitutes an objectionable state of mind if the agent can reasonably be expected to foresee that her actions will negatively affect some, but does not give sufficient weight to these considerations in justifying her action.

Coercive political agents satisfy the conditions of influence and prior duties and additionally they can readily access information about individuals and vulnerable groups and their foreseeable reactions. This access to information, which is most extensive in the case of law-makers, may place coercive agents under a duty of sensitivity, regardless of their intentions, especially in respect to laws that target vulnerable groups. Having said that, determining the intentions of coercive agents may help us prioritize conflicting claims, assessing the level of threat involved in the reaction –harms, and, in some cases, the content of a state duty of reaction-sensitivity. For example, institutional agents may act in a way that is intended to trigger harmful reactions, as is the case with deeply patriarchal states that seek to make women feel powerless by imposing gender-differentiated bans on driving and voting. This case clearly indicates an objectionable intention and requires an extensive set of remedies, some of which may pertain to reaction-sensitivity. In other cases, however, there may not be a clear intention to harm vulnerable individuals. For instance, a drug made available exclusively to African Americans may be approved by the state with the intention to benefit them, given statistical evidence about the prevalence of high blood pressure and heart disease among them. Nevertheless, when the state puts its seal of approval on this medication, it may be perceived as confirming stereotypes about the health and lifestyle of African

Americans and as being both subjectively and objectively demeaning. In this case, the demands of sensitivity may be more modest, requiring, for instance, that the drug is marketed in a different way.

Furthermore, a moral duty of reaction-sensitivity may only be enforced against agents who can reasonably be expected to bear the costs of complying with it. Giving due weight to foreseeable reactions involves including responses in the decision-making process, weighing them against competing considerations, and, in some cases, pursuing a sensitive course of action. Empirical research about vulnerable groups and their foreseeable reactions may be costly and lead to delays in the decision-making process. Taking a sensitive course of action may also impose huge costs as it may require scrapping lucrative and efficient decisions whose justification is outweighed by foreseeable reaction-harms. Enforcing such a duty may not be justified with respect to non-institutional, individual agents, since in complying with it, they may have to bear unreasonable burdens, which may include onerous costs, constraints on individual freedom, or on their agent-relative reasons to act (Dancy, 2004, pp. 38-43). As Rawls notes, a duty to support just institutions should not be unreasonably demanding in the sense that it does not require us to do everything in our power to promote a just basic structure or to counter threats to just institutions (Rawls J. , 1999, p. 177).

The duty of reaction-sensitivity may be reasonably enforced against coercive institutional agents which are involved in law-making as well as a number of state-sanctioned entities whose social influence is wide-ranging and pervasive, and which are often under a duty to promote a just basic structure. In addition to the state, we may reasonably expect some non-coercive institutional agents, such as the mass-media and corporations to give due weight to the foreseeable harmful reactions triggered by their actions. Unlike individuals or smaller organizations, they have more influence, more authority and more resources to devote to empirical research on the potential implications of their actions as well as for taking a sensitive, albeit more costly course of action. Often enough, they do engage in various forms of qualitative and quantitative research on market preferences, consumer behaviour and so on, which suggests that it may not be unreasonably costly to expect them to extend the scope of their research.

Enforcing a thicker duty of sensitivity, which would require taking a sensitive course of action, in addition to conducting research, may be more difficult to defend in the case of some institutional agents. The state, understood as an administrative organization rather than as a governing party, does not have any agent-relative reasons that may make it permissible for it to act in an unjust way. All of its work is, or should be, aimed at promoting and protecting the rights, entitlements and interests of its citizens. The only justification for undermining the interest of a citizen is that, in doing so, the state is protecting other, more weighty, claims of justice, as per an objective balance of considerations. This suggests that it may be impermissible for coercive institutional agents to act insensitively, in cases where the foreseeable reaction-harms outweigh other reasons to act. In contrast, non-coercive institutional agents, such as corporations and the mass-media have agent-relative reasons to act, which may include, among other things, the maximization of profits and espousing particular values and beliefs. These agent -relative reasons, may give rise to a moral prerogative which permits leaders or representatives of these organizations to act unjustly, for instance by not taking a sensitive course of action. These moral prerogatives are often found to outweigh other, objective considerations, purely because the insensitive agents are more partial to, and have more of a stake in them. This means that even if, from an impersonal standpoint, an interest to maximize profits is less weighty than the interests of consumers to not suffer losses to their self-worth, a corporation may still permissibly give priority to the aims to which it is partial. Furthermore, even if we want to argue that some influential, non- coercive agents should take more responsibility for the responses that they may foreseeably trigger, the case may be that they may be unable to police themselves and their justifications for action, because, for example, they are too engrossed in capitalist competition. We may further contend that the limits of aggressive advertising and the extent of legitimate free market competition has traditionally been set by the state to various laws and policies aimed at protecting the consumer. Insensitive non-coercive agents of this kind may not have to comply with the thick requirement of reaction-sensitivity, but rather be subjected to further state regulation.

Now we can apply my discussion to the counterintuitive cases that I outline in the beginning of this section. For each, we want to determine whether the agents are justified in acting in a reaction-insensitive way and whether they can reasonably be expected to bear the costs of a duty of sensitivity. In *Prevent*, the insensitive institutional agents include the state and its legislative bodies that formulate the duty, the institutions that implement and oversee it, as well as the state-sanctioned bodies that have to discharge that duty, which include public schools, the NHS, and the police, among others. Most officials and employees of the government are justified in acting insensitively when discharging the Prevent duty because a failure to comply may have unreasonably costly consequences for them. Ironically, imposing the Prevent duty on individuals who work in these institutions may be insensitive to their reactions. For instance, a teacher may be unable to choose not to comply with the prevent duty either because it is a compulsory part of her job role or out of the fear that she may be fired or otherwise sanctioned. What is most problematic in this case is that the lawmaker's justification for the policy does not give sufficient weight to the foreseeable reaction-harms.

In *Hyper-consumerism*, there are many potentially insensitive coercive and non-coercive institutional agents that may be placed under a duty of sensitivity. For one, the state may legislate in a way that promotes the development of consumerist tendencies which may contribute to losses of self-esteem, the causal relation would be rather weak. For example, a government that implements lower environmental taxes for manufacturing industries may indirectly pave the way for the expansion of the supply of goods on the market, the emergence of new competing suppliers and, consequently, for the need for more aggressive marketing and advertisement techniques. Yet, we may argue that the causal relation between the environmental law and the reaction-harms is too weak to generate a duty of sensitivity.

We may, more promisingly, attempt to argue that the state ought to constrain the insensitivity of other agents which contribute more directly to triggering losses of self-esteem. For instance, we may think that it should be within the role of the government to sanction media outlets and advertising agencies in cases where they may trigger

harmful reactions. ASA, the body responsible for assessing advertising in the UK, describes its role as regulation in '*a way that is transparent, proportionate, targeted, evidence-based, consistent and accountable*'²⁴. While a great deal of their work focuses on whether the quality of a product lives up to the way in which it is advertised, there are also some provisions which may pre-empt harmful reactions. For example, the ban on marketing weight loss aids to people who are under 18 may, in part, be motivated by the assumption that the young may be more impressionable and thus more likely to suffer a loss of self-esteem. However, throughout the outline of ASA's mission, the foreseeable reaction of a loss in self-esteem is only alluded to, rather than explicitly stated, with the focus remaining firmly on issues of physical health.

Second, consider the manufacturers and suppliers of products. Under capitalism, the producers and distributors of goods have agent-relative reasons to act which sometimes involve the maximization of profits. Assuming their compliance with consumer regulation and fair competition, we may argue that these agent-relative reasons may give rise to a moral prerogative which make it permissible for these agents to act insensitively. In particular, small, self-advertising producers may not have access to the empirical resources needed for establishing whether an ad will likely trigger harmful responses which may limit their capacity to act sensitively. They may not have a duty of care towards consumers that goes beyond health and safety regulations, in the same way state institutions might. Finally, depending on the size of the manufacturing or distributing company, they may be unable to take a sensitive course of action, which may be costly and time-consuming, or which may conflict with their agent-relative reasons to act. Put simply, they appear to lack a capacity for wrongful insensitivity as well as the capacity to take a sensitive course of action.

Non-coercive institutional agents, such as corporations and the mass-media may also be insensitive to the reaction-harms in *Hyper-consumerism*. At a first glance, it seems more permissible to enforce a duty of reaction-sensitivity on them on account of their social influence and the wealth of resources that is available to them. For one, they have more resources to conduct empirical research so as to establish how their advertising

²⁴ See asa.org.uk.

and marketing strategies might affect consumers which means that they may reasonably be expected to take on the financial and time burdens of sensitivity. They may also have more opportunities to take a sensitive course of action in cases where research shows that harmful reactions will be triggered. However, even if it would be valuable for them to consider how the self-esteem of consumers might be affected by their marketing techniques, they may permissibly neglect these considerations. In addition to possible moral prerogatives of these agents, we may also think that consumers ought to take some degree of responsibility for their consumption and for their reactions.

Part of why we may want to say that there is a duty of reaction-sensitivity in the case of Prevent, but not in Hyper - consumerism, is because of the differences between the insensitive agents. In the former case, there is a reasonably straightforward causal relation between the actions of coercive institutional agents and the reaction-harm. In its legislative capacity, the state has a prior duty to protect the basic rights and liberties which are undermined by insensitivity, exerts a pervasive influence in virtually all aspects of life and can reasonably be expected (and, in fact, required) to bear the costs of the duty of sensitivity.

In *Hyper-consumerism*, it is difficult to draw a causal connection between the potentially insensitive actions and the reaction-harms, at least in a way that is strong enough to generate a duty of sensitivity. In the case of the state, the correlation between insensitivity in its action or in its inaction and the harm is not strong enough to suggest that the state is treating people unjustly. While the causal relation between the harmful reaction and aggressive marketing techniques of non-institutional agents might be stronger, questions may be raised as to whether these agents should incur a duty of reaction-sensitivity. I suggest that, in this case, even if the reaction-harms are morally problematic and give rise to a moral duty, it may still be impermissible for that duty to be coercively enforced against these agents. Notably, I do not wish to categorically argue that, aside from the coercive institutions, no other agents should be placed under a duty of reaction-sensitivity. Rather, for purposes of simplicity, I focus on a state duty of sensitivity in the remainder of the thesis.

6.2.2 The Victims of Insensitivity

The counterintuitive verdicts we reach in the two cases may also be explained by the different pool of potential victims. In *Prevent*, the victims that may react in a harmful way include moderate Muslims who are often subjects of hate crime, discrimination and stigma, as well as social and institutionalized oppression. In enacting a policy that fails to give due weight to their foreseeable reactions, the state may exacerbate existing injustices against them, by appearing to validate bias, and by shaping their mental states and behavior. In contrast, in *Hyper-consumerism*, the insensitive actions could affect virtually all of the consumers operating in the free market. Importantly, some groups of consumers may be more vulnerable when driven by increased tendencies to consume, for instance because they are part of the socioeconomically worst off. This suggests that, in this case, there may be a duty of sensitivity with respect to some, but not all of the victims.

In determining whether particular groups of would-be victims are owed sensitive treatment by coercive institutional agents it is necessary to establish whether they ought to take responsibility for their reactions. In *Prevent*, there is a clear sense in which the neutrally-formulated policy affects a socially salient group more than others. This disparate impact may be explained by biased social attitudes and perhaps the mental states of moderate Muslims who, on account of their stigma-consciousness, may interpret and react to the policy in a way that harms them. Since these mental states are shaped partly by their external conditions, such as their upbringing, stigma and institutionalized mistreatment, we may think that the victims should not be held fully responsible for their reactions. Conversely, in *Hyper-consumerism*, it is not clear that consumers should not be held responsible for their responses, especially since some of them may not be victims of structural disadvantage. In fact, the potential victims in this case may include the wealthy, who may become entirely absorbed by the consumption of luxury goods, and who may develop a sense of superiority which affects their interactions with others. Intuitively, we may want say that these reactions indicate faults of character, rather than a by-product of social conditions, and that a duty of sensitivity

does not arise in respect to these victims because they ought to take responsibility for their responses. This is a key point for spelling out the distinction between the two cases - what is needed here is a principle of justice that can explain why we have these intuitions.

Dworkin argues that coercive governments are legitimate only when they attempt to show equal concern for the fates of all those it governs and full respect for their personal responsibility for their own lives.' (Dworkin R. , 2011, p. 352). Treating individuals with equal concern involves responsiveness and sensitivity to their distinctive ambitions—their goals, relationships, and judgements about what living well involves. Sometimes, authentic individual choices and gambles pay off, other times they don't; regardless of whether option luck leaves the individual better or worse off, respecting her involves allowing her to take responsibility for the outcomes of her choices. Correcting bad option luck, by compensating individuals whenever their gambles turn out badly, may undermine the authenticity of their choices and constitute a lack of respect for their agency. Thus, justice ought to be ambition-sensitive, in the sense that the socioeconomic status of individuals may permissibly be shaped by their choices, and endowment-insensitive, in the sense that disadvantages that result from bad brute luck ought to be compensated.

Dworkin's principle of equal concern may have important implications for our discussion about the two counterintuitive cases. A sensitive state would, in virtue of endowment-insensitivity, not hold the victims in *Prevent* responsible for their reactions, assuming that these responses are statistically likely to be triggered and entirely generated by external conditions that are beyond the control of the victims. Notably, these assumptions may raise some concerns which undermine the strength of my argument. For one, assuming that all Muslims are vulnerable to developing stigma-consciousness or interpreting and reacting to the policy in this way may be an overgeneralization. One possible solution would be to specify a particular threshold to determine how many members of a stigmatized group ought to display the symptoms of stigma-consciousness before we can give their reactions due weight in policy making. In *Prevent*, the prevalence and seriousness of harmful reactions among moderate Muslims

has been highlighted by reports of the Muslim Council of Britain and other organizations, which purport to represent the interests of the community. While it is possible that these reports are exaggerated by group representatives who may have their own agendas, the likelihood of these reactions being triggered could be assessed empirically, with samples that also include non-elites.

Another possible concern is that, even when prevalent throughout their group, stigma-consciousness may not entirely absolve moderate Muslims of responsibility for their interpretations and reactions. Even if this disposition is often rooted in external conditions such as stigmatizing public attitudes that does not necessarily mean that individuals cannot or should not control the extent to which it affects their responses. Sometimes, the interpretation of neutrally formulated laws as identity threatening is not a result of a first-hand experience of stigma or discrimination, but parental priming or beliefs supported by second-hand accounts of mistreatment of members of the group, even when these beliefs are unfounded. We may think, for instance, that individuals that have been brought up so as to anticipate hostility against their group may have a responsibility to revise their beliefs and control their dispositions in light of their experiences in their adult life. Much in the same way, we may want to hold the wealthy responsible for acting upon a sense of superiority, even when the development of this disposition was nurtured throughout their upbringing. This has a counter-intuitive implication, that Muslims only have a right to be treated in a reaction-sensitive way when their interpretations and reactions are entirely based on founded beliefs and dispositions that they are unable to control.

In response, I suggest that Dworkin's capacity principle may constitute an ethical test of responsibility for the two cases. It holds that 'someone lacks control in the pertinent sense when he has insufficient capacity to form true and pertinent beliefs about the world in which he acts, or to match his decisions to his normative personality' (Dworkin R. , 2011, p. 244). When people are below a certain level of this capacity, they may be justifiably exempt from responsibility for their decisions, interpretations and responses. This screening filter may provide a more promising explanation for our intuition that a duty of sensitivity applies in *Prevent*, but not *Hyper-consumerism*. Instead of assessing

interpretations and responses based on the accuracy or roots of the beliefs that generate them, this principle enables us to examine victims with respect to their capacity for control. So, Moderate Muslims ought to assume responsibility for their decisions only if they are in charge, in the sense they operate under conditions of ethical independence. As Dworkin explains, this means that 'our conscious decisions are, in principle, crucially and independently important in their own right and that their importance is in no way contingent on any remote causal explanation' (Dworkin R. , 2011, p. 229). So, what might distinguish moderate Muslims in *Prevent* from the wealthy in *Hyper-consumerism* is that they do not operate in conditions of ethical independence, because their mental states are shaped by remote factors such as their perception of stigmatization. Their reaction - decisions involving behavior adjustments would be largely subconscious and often contingent on forces that are exerted behind their backs, rather than generated by the agent's 'crucially and independently important' ethical motivations. Since they may be exempt from taking responsibility for these reactions and interpretations, the victims of *Prevent* appear to have a right to have their reactions taken into account when assessing and reforming the policy.

So far, I have taken a very simplistic interpretation of *Hyper-consumerism*, by bracketing the possibility that some groups of consumers may be more vulnerable to insensitivity than others. For example, under conditions of socioeconomic inequality, not all consumers will have the same purchasing power which may trigger feelings of envy that are detrimental to self-respect and which may be internalized as a sense of inferiority among the worst off. This is particularly problematic when the dominant cultural norms are structured on the basis of ideologies about class hierarchies. Perceiving themselves as devalued and stigmatized, the consumers that are part of the worst off may also develop stigma-consciousness which may affect their consumption. For example, in order to avoid being stereotyped by others as lazy, the poor may spend beyond their means on goods that would make them appear as if they have successful, high-paying jobs. The question that we need to answer in this case is whether poverty constitutes a basis for exempting the worst off from taking responsibility for their reactions and, consequently, for granting them a right to sensitive treatment. It is unclear whether all

of them are below the threshold level of control, since they do not appear to suffer from any pertinent incapacity.

In some cases, Dworkin suggests that ‘we are tempted to find diminished responsibility in these circumstances because – but only when – [...] poverty is the product of injustice’ (Dworkin R. , 2011, p. 251). That may be an appropriate test in the example that he discusses, which involves someone born into a ghetto of poverty who engages in criminal behavior to improve her socioeconomic status. The picture that my case paints with respect to the victims is more complicated because it does not only take into account how they came to be part of the worst off, but also the cultural norms that may shape their mental states. On my view, unlike on Dworkin’s, even if the poor are responsible for their situation they may still have a right to be treated in a way that is sensitive to how they are affected by class ideologies and stigmatization. Having said that, however, it may be difficult to argue that the state has a duty to take their reactions into account when issuing the environmental tax law because the causal connection between the two is considerably weaker than in *Prevent*. Additionally, it is not a sensitive course of action that would prevent them from reacting in this way is the most obvious and efficient remedy in this case; rather, coercive institutional agents may seek to shape the harmful cultural norms and conditions external to the victims.

I think it is possible to defend the value of reaction-sensitivity in *Hyper-consumerism*, though not necessarily as a duty that requires reforming that environmental tax policy in light of reactions. Regardless of where they are socioeconomically situated, women may be particularly vulnerable to losses of their self-esteem and even the subversion of their normative self-conception when exposed to aggressive advertising and marketing²⁵. Many marketing techniques are designed with an intention to harness these kinds of reactions and to reinforce certain tropes and norms about femininity, subservience and other gendered values. Bartky argues that ‘the fashion-beauty complex is a major articulation of capitalist patriarchy. [...] it is a vast system of corporations- some of which manufacture products, others services and still others information, images, and ideologies- of emblematic public personages and of sets of techniques and procedures’

²⁵ Even more so when they are also subordinated by racialized beauty norms.

(Bartky, 1970, p. 39). These agents of capitalism seek to trigger certain reactions among women, such the loss of self-esteem and narcissism, which often lead to deformed desires to increase their consumption so as to conform to these gendered ideals. In turn, this hyper-consumerist tendency leaves them with a poor body image, and demands their money and time, in a self-reinforcing loop of harmful reactions. This phenomenon is regarded by some as a form of psychological oppression because it shapes the mental states of the oppressed so that their choices and decisions harm them while benefitting the privileged (Cudd, 2006, p. 157).

If we take this view, then the reactions of women that are foreseeably triggered in Hyper-consumerism are undoubtedly problematic. Yet, as I previously noted, it is not obvious that the causal relation between the environmental tax and the reaction-harms is strong enough to establish a duty of sensitivity on the state. Even if the decision may contribute to the conditions under which agents of capitalist patriarchy oppress female consumers, it may still be justified in disregarding these foreseeable reactions. Additionally, there is considerable disagreement over the question of whether women should have an obligation to resist their own oppression, or in this case, to take responsibility for their consumerist tendencies and their subsequent reactions. Some note that, women who understand their oppression and are not under the sway of deformed desires should assume this responsibility depending on the risk of harm to themselves involved in resisting their oppressors (Hay, 2005). Depending on the case, a sensitive state may seek to give women an opportunity to avoid these reactions and promote the conditions that would facilitate their resistance to oppression. This suggests that even where there are not solid grounds for a duty of reaction-sensitivity, it may still be valuable for the state to take pre-emptive autonomy-facilitating sensitive action.

6.2.3 The Reaction

The third variable in the triadic definition of reaction-insensitivity that may explain the different intuitions that we have about the two cases, is the reaction. In both cases the reaction-harms may be morally problematic, but there may still be good reasons to disregard them in deciding to act. I argue that whether a foreseeable reaction may

generate a duty of sensitivity depends on the level of threat that it poses to the would-be victim. The threat posed by insensitivity may, in turn, depend on various factors, such as the nature and normative significance of the response, or of the interest that is being threatened, the likelihood of that reaction being triggered, and the normative significance of the loss relative to the social status of the victims.

First, consider the normative significance of the reaction. Sometimes, responses triggered by the actions of insensitive agents may not constitute harms in themselves, but merely contribute to undermining other things that are valuable, over long periods of time. This seems to be the case with respect to some of the victims in *Hyper-consumerism*. In response to aggressive advertising, a wealthy male consumer may, first, increase his consumption which, in time, may lead him to develop a sense of superiority and materialistic motivations. This tendency for hyper-consumption is, thus, a reaction that we care about for instrumental reasons, rather than as a harm in its own right. Conversely, in *Prevent*, the foreseeable reactions may also give us non-instrumental reasons to care about them as they are indicative of, rather than merely contributing to, harms. They may include the formation of beliefs that one's identity and cultural membership has a disparaged and inferior status, that one is viewed as a second-class citizen and that should one exercise certain civil rights, such as freedom of speech, one may experience increased hostility and perhaps even legal sanctions.

Reactions may pose a greater level of threat when they exacerbate existing injustice or contribute to entrenching oppression, rather than when they amount to a disadvantage that does not fit within a pattern of subordination. In *Prevent*, the victims may develop self-limiting dispositions such as stigma-consciousness, learned powerlessness and a decreased capacity of self-mastery, which in time, may amount to internalized oppression. These beliefs and dispositions may have further effects on the behaviour and interactions of the would-be victims – a limitation on the exercise of rights and on making claims of justice, losses of self-confidence and of recognition self-respect, the self-imposed alienation from others and the development of less authentic preferences with respect to careers, education, access to healthcare, religious expression and so on. These harms are problematic not just as standalone disadvantages, but also because they

are indicators of psychological oppression and structural injustice. While this may also be true of some of the potential victims in *Hyper-consumerism*, it looms larger in *Prevent*.

Establishing whether they elicit a state duty of sensitivity may also depend on the likelihood of the reaction-harms being triggered by the insensitive actions. In *Hyper-consumerism*, the causal connection between the environmental tax policy and the reaction-harms is weak, and, because of that, it may be difficult to assess whether lawmakers could have foreseen them. In *Prevent*, on the other hand, the likelihood of the reactions being triggered was much higher partly because the causal connection is stronger. Lawmakers are normally aware of the stigmatized status of certain groups and have access to a wide enough range of empirical research so as to foresee that the policy will have negative side effects.

6.3 A taxonomy of causality

In the first section, I argued that, sometimes, people have a derivative right to be treated sensitively, because otherwise, their core interests might be undermined. In the second part of my chapter, I made the case that state institutions are a prime candidate for undertaking a duty of reaction-sensitivity because of their authority, influence and coercive power. However, as evidenced by my discussion of *Hyper-consumerism*, the causal relation between certain kinds of state action and reaction-harms is not strong enough to place the state under a duty of sensitivity. In this section, I examine a range of ways in which coercive institutional agents may act insensitively, so as to determine in which of these cases the relation between the agent and the reaction-harms is strong enough to generate a duty. Additionally, this discussion may also be useful in determining the content and urgency of this duty; we may think there is a stronger duty to reform an oppressive government that acts with an intention to demean some groups than a political authority that merely allows foreseeable reactions to be triggered. This may essentially allow us to prioritize between different competing claims or make sense of cases in which one's interest in being treated sensitively conflicts with the claims of others.

Before I proceed, it is useful to draw a few distinctions. First, we may conceptualize institutional insensitivity by distinguishing between doing harm and allowing people to be harmed. This distinction plays an important role in common sense morality, by helping us solve ethical dilemmas where agents have conflicting duties. Doing harm is associated with a violation of negative duties, which makes it weightier, in some cases, than merely allowing harm, which conflicts with our positive duties to aid (Thompson, 2010). Although this distinction is commonly applied to private agents, some argue that it may be extended so as to include the actions (or failures to prevent) of the state and its institutions (Hosseini, 2013). Others contend that, given the particularity of its duties and remedies, the distinction does not apply to state action and that allowing harm is not morally different to doing harm (Stephen Holmes, 1999). For the purpose of this paper, I assume that the doing/ allowing distinction has significance, both from a taxonomical point of view, helping us distinguish between different kinds of insensitive actions, and from a normative perspective, by suggesting that cases of doing are more serious than those of allowing. Sometimes, the state may trigger harmful reactions because of a failure to aid or to prevent with respect to an existing situation such as biased public attitudes, discriminatory and otherwise unjust practices. In other cases, harmful reactions are triggered by decisions, laws and other actions made by the state and the social spheres that it sanctions, such as education, healthcare provision and benefits schemes, among others.

Secondly, the doing and allowing dichotomy may further be supplemented by introducing a distinction between intending and foreseeing. The latter involves cases in which an agent merely foresees that her actions will have harmful consequences. Intending refers to cases in which the agent has an intention to achieve an end through what she believes are the means to that end. When applied to the standard case of reaction-insensitivity, this distinction is essentially concerned with whether oppressed individuals are incorporated into the plans of the state as means to an end. The answer to this question is highly significant from a normative point of view. Cases in which the state acts so as to trigger certain reactions with the intention of keeping some groups in a subordinate position, are more likely objectionable than those in which these reactions are merely foreseen. In some cases, merely foreseeing a negative consequence is not

enough to argue that an action is wrong. The doctrine of double effect holds that it is morally permissible for an action to bring about both a good effect and a bad one if the good is greater than the bad and if the bad is not a means to achieve the good, but rather merely foreseen as a side effect (Boyle, 1980).

This view has many critics. Foot argues that intending/ foreseeing should not be confused with doing/ allowing and that it is only the latter distinction that matters in establishing responsibility because it is based on the unequivocal precedence of negative rights of non-interference (Foot, 1972). Similarly, Quinn argues that an agent is most directly related to a harmful consequence when her contribution to the harm is an action, although both distinctions matter from a normative point of view. (Quinn, 1989). Furthermore, Enoch argues, that whatever reasons we might have to be suspicious of the moral significance of this distinction in general, there are very good reasons to believe that it lacks intrinsic moral significance when applied to state action (Enoch, 2007). Most criticisms of this kind appear to be aimed more at the significance of the doctrine of double effect and less so at the actual intention/ foreseeability distinction. In its defence, Nagel argues that cases of intention are morally different to those of mere foreseeability because actions are necessarily motivated and guided by an evil goal which, in its essence, should repel us (Nagel, 1986, pp. 181-2). Following Nagel, I argue that cases where reactions are merely foreseen, but not intended can still give rise to a duty of reaction-sensitivity. In what follows, I attempt to base my observations regarding the moral permissibility of institutional insensitivity (and remedies) on the both the doing/ allowing and intending/ foreseeing distinctions. Cases of state action (doing) may be further classified as *doing with an intention* and as *doing despite foreseeable consequences*. Likewise, cases entailing inaction (allowing) may be distinguished as *allowing with an intention* and *allowing despite foreseeable consequences*.

Thirdly, we may also distinguish between insensitive actions that aim to affect the lives of some groups but not others, and those which are neutrally formulated. The former may include both policies designed to benefit certain groups, such as affirmative action, and measures that in one way or the other, sanction socially salient communities, such as increased police surveillance in Muslim neighborhoods or racial profiling. Neutrally

formulated laws are those which do not target a particular group but which have a disparate impact on some individuals but not others. The neutral/ non-neutral distinction is different from the intending and foreseeing dichotomy, as it is not concerned with whether oppressed individuals are used as means to an end, but rather with whether a policy aims to affect their lives in some way, be it positive or negative. The rationale for drawing this distinction is to refine the taxonomy of institutional insensitivity and to add more criteria that may help us prioritize conflicting claims and state duties. State action that exclusively targets one group may incur a stronger duty to give due weight to the reactions of those that will be directly affected. This kind of institutional action almost involves an intention to affect or to shape the lives of some groups and for that reason it elicits more responsibility on the part of the legislature.

6.3.1 Allowing despite foreseeable reactions

One way in which the state is insensitive is by being passive with respect to biased social attitudes and practices that might foreseeably trigger harmful reactions which ultimately contribute to entrenching oppression. This is the case with non-institutional employers who are allowed to disclose to prospective female employees that they have a quota of women that they need to hire. Transparent affirmative action has been shown to cause decreased self-confidence and to lead to a limited access to opportunities in cases where women perceive subjective constraints (Heilman M. E., 1992). In this case, the state may have a duty to reform these practices by regulating employment laws and by implementing a more sensitive application of affirmative action.

The idea that the state has a duty to challenge stereotypes and harmful practices is not novel and has been widely argued for in the literature in the form of specific remedies such as anti-discrimination laws, affirmative action, harsh punishments for hate crimes and hate speech. Introducing concerns about foreseeable reactions may add more strength to the case for an institutional duty to challenge bias, by establishing empirical connections to specific violations of other, core duties and to psychological harms. These insights may contribute to refining our anti-discrimination efforts, so as to

include subjective goals, such as giving stigma-conscious individuals meaningful assurance that they need not anticipate discrimination.

More seriously, the state may be insensitive by failing to reform the existing practices of its own sanctioned bodies despite foreseeable harmful reactions. One such practice is the brutal and disproportionate treatment of African Americans by the US police which appears to be tolerated by the higher political authorities. In addition to the objective harms, including the violation of basic rights, this mistreatment may also be objected to by appealing to considerations about the foreseeable reactions that they may trigger among black citizens: stereotype threat, the perception of costs to opportunities and the exercise of rights, feeling unwelcome and demeaned by the state, among others. These reactions may lead African Americans to modify their behavior in a way that becomes severely limited out of the fear of hostility and violence. So, in addition to the objective harm, police brutality against black citizens may also have an inhibiting effect on those who have not directly experienced it, since they may live less authentic, less flourishing lives. The seriousness of these stakes suggests that the state has a strong duty to take into account foreseeable reactions in reviewing the practices of the police.

6.3.2 Allowing with an intention to trigger reactions

A more serious case of insensitivity by allowing is one in which a state does nothing to challenge bias or practices against certain socially salient groups with the intention of keeping them at the margins of political discourse. Although this inaction with intent may be difficult to establish in most Western countries, it is still noteworthy with respect to illiberal, patriarchal states. In these countries, traditional views about the moral inferiority of women remain unchallenged by the political authority which is in itself male dominated. The intention to reinforce the belief in a limited citizenship status for women is clear, particularly in the context of other actions and laws that seek to limit their civil rights and their freedom.

6.3.3 Doing despite foreseeable reactions

Some of the most straightforward cases of institutional insensitivity are those in which the state acts despite the reactions it may foreseeably trigger. This is often the case with legislation aimed at preventing radicalization and other counter-terrorism initiatives, which often involve heightened policing of the so-called ‘suspect communities’ and unjust intrusions in the lives of moderate non-violent individuals. Reactions may include not only the perception of costs to opportunities and the development of stigma-consciousness, but also behaviour adjustments in virtually all spheres of public life. For one, people may sacrifice their freedom of religion and expression by concealing their cultural attachments while in public so as to not attract more hostility. Freedom of speech may also be undermined when the victims of insensitivity form the belief that in expressing their convictions or grievances towards the current political authority they may be misconstrued as vulnerable to radicalization. In this case, institutional insensitivity may once again foreseeably lead to violations of core state duties to protect fundamental civil rights and perhaps to prevent the systemic oppression of some socially salient groups.

Another case of doing despite foreseeable reactions is one in which an insensitive state acts in a way that is perceived by vulnerable individuals as authorizing or validating bias. Authorizing bias is distinct from merely allowing it to happen, as the former requires that the state acts in some way that indirectly legitimizes these public attitudes, whereas the former entails inaction (Hosseini, 2013). In Hellman’s example of the state-approved blood pressure drug that is marketed exclusively to African Americans, the main concern is that the political authority appears to validate and perpetuate harmful stereotypes about the health and lifestyle of a denigrated racial group (Hellman, 2011). Although the policy itself is meant to benefit African Americans, its message is interpreted in reference to a continuing history of racism and segregation in the US which viewed them as lazy or prone to self-destructive habits and medical issues. This may lead to losses to self-respect, the development of stigma-consciousness and the belief that, if one seeks medical care for heart issues, one is reinforcing the stereotypes about race. The state may incur a duty of RS in this case because through its insensitivity it

may violate positive duties to provide healthcare to African American citizens as well as negative duties to not undermine the development of their self-worth and contribute to the denigration of their identity.

Concluding Remarks

This chapter examined the grounds for a duty of reaction-sensitivity. Some reaction-harms are morally problematic when they undermine core individual interests, rights and entitlements, such as self-respect, authenticity and freedom. Drawing on Raz's theory of rights, I argued that, in some cases, this may give us decisive reasons to place some agents under a derivative duty of reaction-sensitivity. Whether this duty is enforceable, however, may differ from case to case, given the virtually infinite ranges of insensitive agents, victims and reactions. First, the duty is more likely to be incurred by agents that have a prior duty to protect the core interests that may be threatened by insensitivity, or who are acting on objectionable intentions or mental states. Since duties of justice should not be unreasonably demanding, I add a further condition, which holds that the duty may be enforced only against agents who can reasonably be expected to take a sensitive course of action. Second, I argued that victims may only have a right to sensitive treatment in cases where they should not be expected to take responsibility for their interpretations and reactions. Third, reactions differ in terms of the level of threat that they pose to the potential victims, which may serve as an additional consideration in assessing whether a duty of sensitivity may be enforced. Finally, I argued that, even if the state is a prime candidate for upholding this duty, there are cases in which it may be justified in disregarding reactions, because they are not foreseeable or caused by coercive institutional action or inaction.

Having examined these variables shared by all cases of reaction-insensitivity, I can now spell out a standard case, one in which the duty to take foreseeable responses into account is incurred as an all things considered obligation. This standard case involves:

- (i) An insensitive institutional agent that is not justified in disregarding foreseeable reactions;

- (ii) A potential victim, that should not be expected to take responsibility for her interpretation and reactions;
- (iii) A foreseeable reaction that involves a significant harm, either as a standalone disadvantage or as exacerbating existing injustice.

For specificity purposes, I take a narrower version of the standard case that involves insensitive coercive institutional agents, victims that include the members of disadvantaged or stigmatized groups and reaction-harms that contribute to exacerbating existing inequality and structural disadvantage.

Even if the duty is not incurred with respect to all the ways in which a state may be possibly be insensitive, taking subjective considerations about reactions into account may nevertheless be valuable for lawmakers and institutional design. Most kinds of state action would be made better if they gave some weight to the reactions that they may foreseeably trigger; it is in this sense that reaction - sensitivity may be seen as valuable. On this understanding, sensitivity to reactions may not only improve the outcome of institutional actions that are yet to take place, but also help us revise existing policies and social systems that may be deemed insensitive. Further, reaction-sensitivity may also prove valuable in motivating stand-alone institutional action that is meant to nudge individuals to develop the right kinds of dispositions and beliefs and to give them the opportunity to counter harmful reactions. For example, a government may promote the wellbeing of citizens through initiatives aimed at changing outdated, harmful mentalities that attach stigma to mental illnesses. In these kinds of cases, the state is likely not under a duty to give weight to reactions even if it may be good for it to do so; at most, we may cast its insensitivity as failing to do good to individuals which is distinct from harming them or even allowing them to be harmed. In addition, since the harm in these cases does not pose an immediate threat to fundamental interests, and is not always clearly or strongly correlated with an insensitive state's action or inaction, we may assume that it may also be counterproductive to place the state under a duty of

sensitivity. Arguably, if governments were under an obligation to consider everyone's foreseeable reactions to every single decision that it made, the legislative process would become lengthy, cumbersome and inefficient.

Chapter 7

The Content of the Duty of Reaction-Sensitivity, Objections, and Qualifications

In the previous chapter, I argued that a state may be under a duty of reaction-sensitivity in cases where its actions (or inaction) do not give due weight to the harmful reactions of vulnerable individuals in the standard case. The requirement to be sensitive towards these responses arises as a general duty justified by appeal to other interests, rights and entitlements which may be violated by insensitivity. Having established the grounds for an institutional duty of reaction-sensitivity, we must now turn our attention to its content. Specifically, I aim to first answer the question of what it means *to give due weight* to reactions. The answer will depend on the weight of the harm involved in the reaction as compared to other competing considerations and justifications for a particular state action. Giving due weight always entails a general duty and, in some cases, other derivative demands.

The state is under a general duty of sensitivity, to give due weight to foreseeable reactions, but this duty has different implications in different cases, depending on certain factors such as the severity of the harms. In some cases, giving due weight to foreseeable reactions may involve simply giving them some weight, by taking them into account in the early stages of policy making, for instance, by consulting with the political representatives of the potentially affected groups. If the probability of their coming up is sufficiently low and their severity does not raise significant moral concern, then the state has satisfied the requirements of reaction-sensitivity. If upon satisfying the minimal requirement, to give some weight to reactions, it is found that these are normatively significant because they are potentially severe or widespread, this general duty may generate other derivative requirements such as conducting empirical studies or referring to existing research, adjustment to the content of the policy and to the way in which it is publicly presented. In this section I offer some criteria to help us determine how much

weight is due in the case of reactions and, implicitly, how demanding the duty of reactions-sensitivity may be.

In this chapter I also examine some potential difficulties which may arise with my view. The first of these questions whether there is much point in imposing the general requirement when the competing considerations are extremely weighty, as it is the case with matters of national security. In response, I argue that even if the general requirement does not generate and justify a further call for sensitive actions, it may still be both instrumentally and non-instrumentally valuable, particularly for understanding the perspective of the oppressed and for improving our pre-emptive strategies. Second, I discuss a difficulty that arises against the derivative requirement and which may be formulated in a number of different ways. On the most general terms, it holds that a state should not take all possible steps to ensure that people avoid certain reactions, or more so, that they have responses of the right kind; rather, people should toughen up on their own. I then proceed to reformulate this objection in a more compelling way: a state that seeks to avoid or trigger certain reactions is actually undermining the freedom and autonomy of vulnerable individuals. Third, I argue that even if most cases that elicit a derivative duty involve stigmatized individuals, reaction-insensitivity also applies to ideal theory.

7.1 The content of the state duty of reaction- sensitivity

In this section, I offer some observations concerning the content of the institutional duty to give due weight to individual reactions. To claim that reaction-sensitivity is an all things considered obligation may be misleading. What I mean by this is not that reactions should always outweigh other considerations in the decision-making processes of the state. Rather, in cases where the harm and causality thresholds are satisfied, foreseeable reactions should always be given their due weight as competing considerations in institutional decisions. Sometimes, giving due weight to reactions may involve identifying them, weighing them against other interests and potential costs, and also generate additional calls to action and require policy reform. It is, thus, helpful to distinguish, at this point, between the general and derivative requirements of the duty

of reaction-sensitivity. Under a general requirement, the state is required to take into account foreseeable reactions in its decision-making processes, by identifying the individuals or groups that are vulnerable and, in some cases, conducting empirical research about their foreseeable responses. If these harms are substantial and likely to come up, the state incurs a further, derivative requirement to weigh them against other interests and potential costs of taking a sensitive course of action. Notably, the picture is complicated by two considerations that might be worth mentioning. First, it may be impossible to predict the effects of a policy on the reactions of those subject to it, so it may be a matter of pure speculation. Sometimes, it is foreseeable that a policy will trigger reactions, because, for instance, it is intended to affect the lives of the members of particular groups. This is the case with transparent affirmative action quotas which aim to benefit women and statistical discrimination policy that may impose certain costs on individuals belonging to a particular racial or religious group. The case of policies and institutional arrangements that have been in place for an extensive period of the time and have been met with public disapproval is also fairly straightforward; for example, conditional benefit schemes for the disabled and the Prevent anti-radicalization initiative have been found objectionable not just by the affected groups but also by multiple empirical studies. With other kinds of policies, the foreseeability of reaction-harms by the state may indeed be a matter of speculation which requires taking them on a case-by-case basis. Here, some practical questions may arise with respect to the probability of reactions being triggered. How high ought the probability of occurrence be for a reaction to factor as a considerations into policymaking? What if only some members of a socially salient group are likely to have the reaction? So, just to illustrate, take the starting case of affirmative action that may lead to feelings of inadequacy or doubt. What if only a handful of women feel this? What if only a few do? How many is enough? These questions are important because they suggest that there may be limits to how seriously the state ought to take subjective interpretations of a policy. For instance, we may not want to give any weight to an individual who interprets a policy as demeaning if the rest of her socially salient group disagrees with her. To satisfy a general duty of sensitivity, the state may, at the very least, consider whether there are any foreseeable reactions, through consultation with the potential affected group representatives, and later decide whether the probability of these reactions coming up

is enough to justify moving to the empirical stage.

Second, even if we can attach probabilities to the different possible reaction-harms a policy might generate, we might also ask how much weight we should give to reaction harms when they have different probabilities of occurring. This may depend, in part, on how high the possibility of those reactions coming up is; if, for example, these reactions are going to be predictably widespread among a group then we may have good reason to give them considerable weight. Second, even if the foreseeable reactions have a high probability of coming up, we may still ask how much they will affect the lives of the group members by weighing them against other justifications for the policy. A foreseeably widespread reactions may not in itself justify further demands of sensitivity, if it only involves a minor annoyance that is easily outweighed by the justifications of the policy.

If, following this assessment, the harmful responses are found to be outweighed by other interests and costs which prevent the state from taking a sensitive course of action, then the general duty or reaction-sensitivity is fulfilled. If, conversely, the foreseeable reactions are found to outweigh other interests and costs, the state may also have to take a sensitive course of action in order to avoid, or minimize these harmful responses. Thus, the general demand of giving due weight may mean different things, depending on the nature of reactions and the normative significance of other, competing considerations. In what follows, I examine the general and derivative requirements in more detail and offer some observations in regards to a pre-emptive approach to reaction-insensitivity.

7.1.1 The general requirement

On a general duty of sensitivity, giving due weight to foreseeable reactions may be interpreted as taking them into account as serious, competing considerations in the legislative decision-making process. Importantly, on this interpretation, it is sufficient that the foreseeable reactions are factored into the decision-making process to satisfy RS, even if the state ultimately decides to take a course of action that triggers them. The

requirement to take foreseeable responses into account may include both process-based and substantive steps.

At least in the standard case, the first step that a sensitive state should take is to identify the individuals and socially salient groups that might be vulnerable to a particular decision. Although it is difficult to pinpoint which individuals are likely to have elevated stigma-consciousness, it is much easier to assess what groups have experienced past or current injustice, stigma, disadvantage or discrimination, which may be strong determinants of how people interpret ambiguous institutional action. These groups may include minority religious, ethnic or racial groups, women, denigrated sexual orientations, and, at least according to some (Cobb, 1972), the socioeconomically worst off. While it is not certain that the members of these groups are automatically going to respond to insensitive laws in a way that is harmful, they are nevertheless to be seen as more vulnerable than others. Since I focus on the standard case which necessarily involves pre-existing disrespect of some kind, I do not address the case of well off cisgender white males. It is worth noting however that they may also be harmed by reaction-insensitivity in some situations; for example, institutional action that allows elite private schools may be seen as predisposing rich white male students to developing a sense of superiority, which may affect their relationships and interactions with others in the long run.

Having identified the vulnerable groups in the standard case, the state may also have to conduct empirical research which may entail either appealing to existing studies on similar institutional actions or commissioning new ones. This requirement is aimed at determining the reactions that people might have to policies that target them as well as the way in which institutional messages of neutral state actions are perceived by vulnerable individuals. This empirical step is common practice for many redistributive policies, even though it has not always been specifically aimed at gathering information about potential reactions. For instance, both Universal Credit in the United Kingdom and Basic Income in Finland have been tested through an initial trial period, with the latter aimed primarily at seeing whether a guaranteed income might incentivize people to take up paid work by smoothing out gaps in the welfare system. Given this precedent,

it would not be entirely unfeasible to extend this empirical requirement to other kinds of policies, particularly in cases where they target vulnerable groups. This may apply to institutional actions that may foreseeably affect some groups, such as anti-radicalization and terrorism-prevention initiatives, and even to measures that aim to benefit vulnerable individuals such as affirmative action and state-approved drugs that are marketed exclusively to them, among others. Furthermore, the requirement to conduct empirical research as part of the duty of reaction-sensitivity may also apply to neutral laws, whose message may be misinterpreted by stigma-conscious individuals, as well as to help review and reform existing institutional practices, such as conditional benefits schemes.

At this stage, we may also want to acknowledge the costs of conducting empirical research before deciding on and implementing institutional action, which may constitute a difficulty for implementing the duty of reaction-sensitivity. This requirement may not only incur financial costs but also legislative delay, which may be problematic in respect to time-sensitive decisions. For instance, institutional decisions with respect to acts of terrorism and radicalization must often be made in a timely fashion, since national security is at stake. The need for quick action may appear to conflict with the research process aimed at gathering information on the responses of vulnerable individuals. Although that may be true, not all kinds of empirical exercise need to be that lengthy, since there is already an extensive literature on the response to anti-terrorism legislation at an international level. Furthermore, another relatively quick research method is conducting interviews and consultations with some members of the so-called 'suspect communities' which may be valuable not only in respect to identifying harmful reactions, but also getting a better understanding of the roots of extremism and radicalization. Moreover, it is precisely policies of this kind that target particular socially salient groups that may have the direst effects on non-violent members, as they may be intrusive and send harmful messages that inflame biased social attitudes. This great potential for harm makes institutional sensitivity all the more important in dealing with these issues. Lastly, it is worth noting that most decisions of the state will not be equally time-sensitive, which means that the time and financial considerations involved in the empirical step may be assessed as less weighty, at least compared to the benefits of a sensitive institutional approach and fulfilling the duty towards the most vulnerable.

Finally, a more substantive step that may be part of this general requirement may involve the increased representation of vulnerable groups in institutional decision -making. In cases where policies target a particular minority, and therefore have a greater potential to be insensitive, it is useful to incorporate first - hand accounts of how their members might perceive and react to it. The inclusion of their viewpoint may also help ensure that the policy will avoid some harmful reaction-harms in its implementation (Phillips, 1995).

7.1.2 The derivative requirement

Assume now that the state has identified the groups that may be vulnerable to a particular decision and that it has found, through empirical research, that the policy under consideration will foreseeably trigger harmful reactions among the members. The next step pertains to the derivative requirement of institutional sensitivity and demands a comparison of this harm to other competing considerations. They may include the benefits or justifications for implementing the policy as well as the costs involved in alternative courses of action. This step is important for those situations in which the state has to deal with competing interests and has to assign higher priority to some over others. There are a few different criteria that the state may use to compare conflicting claims and goals. First, we may look at the level of threat elicited by the insensitive action, by assessing the nature of the reaction-harm and the probability of it being triggered. If what is at stake is a core liberty, such as the freedom of speech, or entitlement, such as self-respect, then considerations about reactions may be very weighty. In contrast, if insensitivity merely violates the pre-emptive duties of the state to nudge individuals to develop the right kinds of dispositions and tendencies, reactions may appear less important than other, more urgent, competing social issues.

Second, we may look at the causal relation between the insensitive action and the foreseeable reactions to it. If a policy's goal can only be achieved by triggering harmful reactions, there may be more reason to reassess it from the perspective of sensitivity. According to official documents, the Social Credit System in China is aimed at

reinforcing the idea that 'keeping trust is glorious and breaking trust is disgraceful' among its citizens (Creemers, 2015). The goal of promoting trustworthiness within society is pursued through various sanctions for dishonest individuals and rewards for those that are seen as reliable and trustworthy. In this example, the harmful reactions of self-disciplining and living what we can assume will be a less authentic life are intentionally triggered through a punishment and reward system. Since the causal relation is strong and intentional, the justification of promoting a valuable disposition, such as honesty, ought to be weighed against the other, harmful, reactions which it involves and which may outweigh it. In addition to these two, there may also be other grounds for comparison, which may depend partly on the view on justice that we take.

Once the foreseeable reactions are weighed against other interests and potential costs, the state may reach different conclusions. For one, the state may find that although the reactions are normatively significant, they do not outweigh other interests and therefore do not generate additional calls for action or for policy change. For example, police surveillance in a neighborhood where a known terrorist is hiding may trigger harmful reactions among the non-violent individuals living there, but it may nevertheless be justified in the interest of national security. In this case, we may assume that removing the police force from the area might have devastating consequences which outweigh considerations about how locals might respond. Importantly, eliminating surveillance may endanger the lives of many, especially of those who live in close proximity to the terrorism suspect which include moderate, non-violent members of the same socially salient group. Their foreseeable responses may be justified and normatively significant, if they affect the exercise of their rights and of their capacity for authenticity, but nevertheless considerations about the safety of the population and national security appear to be weightier in this case. Even if the state decides to take a reaction-triggering course of action, the duty is still fulfilled as long as the reactions were given their due weight in the decision-making process as important, competing considerations weighed against the goals of the policy.

Another variation of the first conclusion is one in which although the responses to a particular institutional practice are harmful, there is no feasible course of action that

would avoid them. Consider the case of a state that has to allocate very limited resources to disabled claimants and which uses a conditionality system to distribute benefits to those that need it the most. On the one hand, the assessment of needs may be perceived by some as humiliating and deflating, but on the other, doing away with the conditional system will mean that the most urgent needs will remain unsatisfied. As with the first case, the duty of reaction-sensitivity is fulfilled if the responses of potential benefit claimants have been taken into account as a genuine consideration among others and have been given due weight. Furthermore, having assessed the foreseeable reactions, the state may be in a better position to justify why it decided to keep the conditionality aspect despite the feelings of humiliation of some. This open and transparent approach to justification with reference to scarcity and need, may alleviate the effects of the practice by sending a more sensitive message to those that may be affected.

In sum, the duty of reaction-sensitivity requires that people's foreseeable reactions are given their due weight in the justification of policies. Sometimes, the requirement to give due weight is a general one, and may be satisfied by merely taking into account people's responses as genuine considerations in its decision-making processes. This happens in cases where the foreseeable reactions are outweighed by the goals or benefits of a policy or by the costs of an alternative course of action. After fulfilling the general requirement, if the state is unable to justify further sensitive action by appealing to reactions, then it can be said to have complied with its duty of reaction-sensitivity. Furthermore, although perhaps outside of the scope of the general requirement of the duty of sensitivity in general, identifying, researching and considering foreseeable reactions may help phrase institutional messages in a better way even if the reactions were ultimately outweighed by other considerations and no further sensitive course of action is taken.

7.1.3 Foreseeable reactions as justification for further sensitive action

In some cases, giving due weight to reactions may go beyond merely taking them into account in the institutional decision-making process. If, upon weighting them, the reactions are found to outweigh other considerations for a policy then they must also

be seen as a strong enough reason for further sensitive action or as a justification for not implementing insensitive policies. Determining exactly what a sensitive course of action entails varies from case to case, depending partly on the causal relation between insensitivity and the reaction. In the standard case, the state is insensitive by taking action that unintentionally but foreseeably triggers harmful reactions among stigma-conscious individuals. If these reactions are found to outweigh other considerations, then the state may be required to not issue the particular policy or to change its formulation and implementation. For instance, in the example of the FDA- approved blood pressure drug marketed exclusively to African Americans, the humiliation and perceived stigma appear to be weightier than other considerations; a sensitive course of action, as required by the duty, may involve changing the constituency to which the medicine is marketed.

In other cases, reaction-sensitivity may require reforming existing practices. For example, urging companies to conceal their affirmative action quotas to prospective female employees is justified because it is, on balance, much less weighty than the foreseeable reactions which include losses suffered to self-esteem and self-confidence as well as limited opportunities. With respect to its possible derivative requirements, the duty of RS involves remedies that are much more substantive and which may require recognition or redistribution policies. For example, the state may seek to promote the development of certain dispositions and beliefs through changes to how wealth and income is distributed. Universal basic income unconditionally provides everyone with monetary resources that satisfy a threshold of sufficiency and is often justified with reference to the potential reactions it may trigger. Having a safety net as well as the means for a decent life, people would be encouraged to seek employment, to develop their talents and skills as well as to pursue their non-work related interests.

7.2 Some objections and qualifications

Having set out an account of the grounds and content of the duty of reaction-sensitivity, I now consider some objections to my view. The first of these questions whether cases where the general requirement is fulfilled, but does not generate further calls to action,

ultimately triggering harmful responses, fulfil the duty of reaction- sensitivity. Second, I discuss the view that holds that, rather than being sensitive, the state should allow people to toughen up and avoid being triggered on their own. While this may be true of some cases, I argue that this is not a serious difficulty for my view, at most suggesting that it may need to be qualified. Thirdly, I examine whether the duty of reaction-sensitivity may be incurred within the bounds of ideal theory, where issues such as stigma-consciousness would not be relevant.

7.2.1. The instrumental value of the general requirement

To reiterate, the duty of reaction-sensitivity demands that foreseeable reactions are taken into account and given due weight as genuine considerations in the decision-making process. Some may contend that in cases where following the fulfilment of the empirical requirement, the state chooses to act in a way that triggers harmful responses, still counts as insensitivity. To take this objection one step further, we may also question the need to undertake the derivative requirement in cases where the competing considerations are extremely weighty and will almost always take priority over foreseeable reactions, such as where national security is concerned. In order to fulfil the general duty in cases where the reaction-harms involved are sufficiently weighty to justify further action. In some cases, such as when national security is at stake, if the harms aren't sufficiently weighty in comparison, then clearly further action isn't justified.

However, if we establish that the people affected by an insensitive policy have a strong interest to be treated sensitively because otherwise they may suffer violations of their core entitlements that may be enough to put the state under a duty to at least take their reactions into account or to adjust the way in which the policy is publicly presented. Furthermore, it would be difficult to assess, in most cases, whether the harm involved in these reactions outweighs all other considerations without appealing to empirical research and to comparisons based on their normative significance. In these cases the general duty is satisfied by doing the research, and then assessing whether the harms are sufficient to require changing the policy or its public presentation, even if the answer is, 'no change is required'.

We may also make the case that the derivative requirement has instrumental value, that it makes legislation and state action better in some respects. Firstly, having taken foreseeable reactions into account as genuine considerations, the justification of any policy will be much stronger, even when it ultimately triggers harmful responses. Reaction-sensitivity picks out a psychological aspect of the relationship between the state and the individual, which is often neglected, but which may add another justificatory hurdle in passing legislation that may be harmful to some individuals who are already disadvantaged. Moreover, when laws are publicly justified there can be a lot more transparency about the process of weighing various claims against one another. At the very least, the burden on vulnerable individuals may be diminished through the knowledge that their interests were given due weight in the legislative process, thus avoiding situations in which they perceive state action as validating bias against them. Additionally, the general requirement of sensitivity may also shape the message sent by actions that are likely to trigger harmful responses, by phrasing it in a way that is more sensitive to those who may interpret it in a negative way. Second, gathering information about the social perceptions of disadvantaged individuals may be instrumental in assessing and reforming existing practices and social aid systems. Fulfilling the general requirement may also improve the way in which we design and implement anti-discrimination laws and affirmative action initiatives.

In taking a sensitive approach, we may, for instance, be able to avoid cases in which the beneficiaries of affirmative action suffer losses to their self-esteem, by changing the ways in which these directives are implemented. Lastly, empirical research on how vulnerable and disadvantaged people respond to certain laws may be helpful for deciding on future legislative action that may pre-empt harmful dispositions and reactions. For example, institutional action aimed at fostering a dialogue between minority and majority groups may help eradicate social bias as well as diminish the anxieties of those who expect to be stigmatized. While I am not making the case that this type of pre-emptive action is required as part of the fulfilment of the duty of reaction-sensitivity, it is worth noting that these kinds of requirements may be part of other institutional duties, such as the obligation to prevent discrimination.

7.2.2 Should people just toughen up?

In the previous sub-section, I argued that the general requirement of reaction-sensitivity, to take reactions into account in institutional decision making-processes, applies as an all things considered obligation across all the standard cases. Here, I discuss one objection that may be raised against the fulfilment of the additional requirement which demands that the state take a sensitive course of action. Before I proceed with outlining and responding to this objection, I must clarify one conceptual matter. To that end, I draw a distinction between three possible remedies aimed at addressing harmful reactions triggered by insensitive action. The first one involves the state taking all possible steps to ensure that people do not react in harmful ways. This derivative remedy may include policy reform, the widespread political inclusion of representatives from minority groups, the regulation of insensitive behavior among some private agents as well as nudging vulnerable individuals so as to ensure that they do not have harmful responses. The second concerns merely giving people the opportunity to avoid reacting badly to insensitive laws on their own. What I mean by this is that, in some cases, the only justified kind of state intervention is that which aims to alter the conditions external to the individual, but not her reactions, beliefs, dispositions and behavior. Depending on the response in question, the derivative requirement may require either, more strongly, ensuring that people do not form certain responses or, more weakly, that they are merely given the opportunity to avoid these reactions on their own.

There is a third possible kind of state intervention which may shape how people react to insensitive laws, but which is not directly required by the duty of reaction-sensitivity. Pre-emptive action includes anti-discrimination measures, tackling systemic oppression and attempting to change stigmatizing mentalities among other things. While the state may have a duty to implement such measures, they are not best justified by appeal to reaction-sensitivity and are thus not required by the derivative requirement. Most, if not all of my standard cases, involve responses denoting harms that are assessed independently of the oppressive contexts in which they occur. While it may be true that without those oppressive circumstances, people may not have harmful reactions, those responses are also harms in their own right, which merit independent concern. For one,

it is not always the case that oppressed individuals will react badly to insensitive actions, or, contrariwise, that people who are not victims of oppression can never be harmed by insensitive state action. Moreover, eliminating oppression and discrimination is no easy or short-term feat for even the most egalitarian of states, but avoiding the additional harms of reactions may be much more achievable through legal reform. Notably, reducing discrimination and oppression may serve to pre-empt vulnerable individuals from having negative reactions, by eliminating contexts in which stigma-consciousness and adaptive preferences develop. Short of that however, reaction-sensitivity is aimed as a more immediate solution to a particular set of harms and at containing the reach of institutionalized oppression.

We may now advance a general objection to the derivative requirement. Perhaps, instead of the state taking all steps to avoid harmful reactions, people should simply take responsibility for their interpretation and responses to legislative action. In other words, vulnerable individuals should simply toughen up. The role of the state should be limited to implementing redistribution measures to alleviate socioeconomic inequality and promote dignified standards of living and recognition measures aimed at reducing stigma and discrimination. On this generic iteration, the toughening up objection does not have much strength against most of my cases. First, people do not develop stigma-consciousness, or similar dispositions, by choice, but rather as a result of direct or vicarious stigmatization and mistreatment of their socially salient group. We would be hard-pressed to argue that victims of injustice should be the sole bearers of responsibility for its consequences, especially for those that are psychological and manifest subconsciously. Second, part of the role of the state is to protect the interests, rights and entitlements of all citizens and to refrain from undermining them. Thus, we may object to insensitive policies because they violate more general state duties and argue that the state may be under an obligation to correct these harms. Thirdly, even if we accept that the role of the state should be limited to redistribution and recognition policies, these measures may still be implemented in a counterproductive, or humiliating way if they do not give due weight to the reactions of their supposed beneficiaries. This claim is illustrated by the case of transparent hiring and leadership quotas aimed to benefit females on the job market; these have been shown to trigger

the loss of self-confidence as well as the waiving of opportunities among women (Madeline E. Heilman, 1997).

Now consider a more promising rendition of the toughening up objection. It is not so much that people need to take responsibility for their reactions; rather, if the state takes steps to ensure that those reactions are not triggered, then it may unjustifiably interfere in people's lives. In what follows, I discuss two potential ways in which a state might harm vulnerable individuals by taking a sensitive course of action. Firstly, we may argue that in seeking to avoid reactions that it deems harmful, the state is actually imposing a derivative *conception of the bad*, thus limiting people's capacity for autonomy and authenticity. In response, I show that while this may be true of some cases, it does not hold in cases where people suffer losses to their recognition self-respect. The second objection that I address holds that adaptive preference formation should not motivate institutional action or justify state interference. Critics argue that, in giving normative weight to adaptive preference formation, powerful state actors may actually diminish the agency of oppressed individuals by preventing them from modifying their behavior in ways that are, in fact, self-governing.

7.2.3 Imposing a Conception of Harm

The duty of reaction-sensitivity demands that the foreseeable responses of stigma-conscious individuals are given their due weight in institutional decision-making processes. Earlier in the chapter, I argued that *giving due weight* to reactions always incurs a general requirement (at least in the standard case) to identify vulnerable groups, research their foreseeable reactions and weigh them against the other justifications for the policy. If it is found that the harm involved in the foreseeable responses outweighs other competing considerations, then the state also incurs a derivative requirement to take all possible steps to ensure that the reaction is not triggered. This may include nudging individuals away from certain reactions and towards developing beliefs and dispositions of the right kind. As an enactment of what the state deems to be harmful, the derivative requirements of sensitivity may justify a great deal of state intervention in the lives of vulnerable individuals. In taking steps to ensure that people do not have

certain reactions, the state may be pursuing a particular conception of what counts as harm which may not be endorsed by all citizens. The imposition of this *conception of harm* may undermine the autonomy and authenticity of individuals whose normative worldviews are distinct from those of the majority culture. Implicitly, whatever we decide amounts to harm is derived from some conception of the good, such as one that highlights the importance of individual autonomy, authentic endorsement of values and extensive civic engagement. The thicker this conception of the good is, the greater the risk that it may unjustifiably interfere with people's life plans, beliefs and dispositions. Is then the strong derivative requirement of reaction-sensitivity ever morally permissible?

At least in respect to some of my cases, I argue that it is since the conception of harm that forms my view is sufficiently widely endorsed and, therefore, represents no threat to individual freedom. Some theorists, particularly those of Rawlsian descent, go further in asserting that recognition self-respect is not only valuable but also that the access to its social bases ought to be protected by the state. The implications of this view are particularly promising for reaction-sensitivity as they may suggest that a state should not humiliate its citizens, or trigger reactions amounting to a loss of self-worth through insensitivity. Furthermore, this view may also imply that there are certain beliefs, dispositions and attitudes, associated with recognition self-respect, which, invariably, across all cultural and ethical backgrounds, ought to be protected and promoted by the political authority. In cases where the reaction at stake is a loss of recognition self-respect, the derivative requirement may be very derivative indeed, demanding both that the state reform its insensitive policies and take further action to ensure that people form the right kinds of beliefs about their moral worth. For instance, when a state is testing pilot conditional benefit schemes for the disabled, research might show that those with invisible mental disabilities might feel humiliated by the claims process (Adler, 2018).

Furthermore, being conscious of the enduring stigma surrounding mental illness, the beliefs of potential claimants that they are somehow defective, or unable to 'toughen up' may be intensified by insensitivity and, over time, amount to a loss of recognition self-respect. The derivative requirement of insensitivity might require, in this case, that

the assessment of need is done in a more sensitive way, that the staff receives additional training in how to deal with vulnerable claimants, and, perhaps, other external measures aimed at securing the self-worth of the mentally ill. Thus, we may argue that a state may justifiably interfere in the lives of vulnerable individuals to ensure that they do not form the beliefs and dispositions associated with a loss of recognition-self-respect and perhaps also other related dispositions and beliefs, such as self-confidence and self-esteem.

We may additionally argue that recognition self-respect is a moral duty that the individual has towards herself, to appreciate herself as an agent with the responsibility to act autonomously and in accordance with her dignity as a person (Tefler, 1968). This duty may also demand that she recognize and protest against degrading treatment from others as well as develop a conception of being and living that she regards as worthy of her as the particular person she is (Hill, 1973). On this view, the derivative requirement of sensitivity may justifiably require giving vulnerable people the opportunity to avoid losses of self-respect by eliminating the external social and political conditions which may promote this harmful response. However, it would be more difficult to justify the stronger derivative requirement which would demand ensuring that people do not form the belief that they are moral inferiors or preventing them from behaving in a way that is self-demeaning or servile. While it may be valuable that people believe they are moral equals and that they live in accordance with that belief, it may also matter that they do so for the right kinds of reasons. If we view self-respect as generating a collection of moral duties to oneself, we may think it important that people fulfil these duties independently and consciously, for themselves, rather than as a result of institutional nudging. Yet, we may contend that what matters here is the form that this nudging will take; if it involves drawing attention to relevant reasons, it is hard to see why anyone should regard it as problematic.

In addition to losses of self-respect, we may think that it is unjustifiable for some policies to trigger feelings of humiliation among people who are members of vulnerable socially salient groups. This is particularly true of cases in which institutional action targets certain groups. To illustrate, consider Hellman's example of the state-approved blood pressure medication marketed exclusively to African American patients. Without

making any reference to the reactions of African Americans, Hellman argues that the message of the approval is objectively humiliating to them, by adding an institutional seal of approval to pre-existing stereotypes and stigma against them. What we mean by objective humiliation is that, given the social context of a particular action, an impartial observer would regard it as humiliating. But this humiliation is all the more damaging when experienced subjectively, by Black citizens, who are part of a historically disadvantaged and oppressed racial group. In addition to feeling demeaned by the state, they may have other harmful responses, such as forfeiting medical treatment out of the fear of confirming stereotypes about their race. The derivative requirement of sensitivity may demand that steps are taken to both eliminate the social circumstances and policies that are perceived as humiliating and perhaps even nudge vulnerable citizens to be more trusting of the state and its institutions.

7.2.4 The Problem of Adaptive Preference Formation

In the previous sub-section, I argued that in cases where reactions involve subconscious adaptive preference formation, the state may be justified in taking a strong approach to fulfilling the derivative requirement of reaction-sensitivity. At the least controversial end of the spectrum, this may involve eliminating or reforming the social and political factors which may lead people to unconsciously adapt their preferences and act upon an internalized sense of oppression. Additionally, the strong derivative requirement may also demand that the state nudge vulnerable individuals so as to make them avoid harmful responses and perhaps even form beliefs of the right kind and act in accordance with them. In its strongest iteration, this derivative requirement may appear to justify a great deal of state interference in the lives of individuals who are vulnerable and often victims of systemic and institutionalized oppression.

However, many commentators have expressed concerns about giving so much normative weight to the formation of adaptive preferences. Some view this phenomenon as a 'red herring' that promotes the view that the members of some socially salient groups are irrational or psychologically damaged, as opposed to having to make difficult decisions under circumstances of severe disadvantage and lack of

genuine options (Barber, 2007). These people are not to be seen as victims of adaptive preferences, but rather as agents that are actively negotiating with their oppressive circumstances in order to achieve the best possible outcome (Narayan, 2002, p. 424). Branding their choices as adaptive preferences operating behind their backs may promote a misleading understanding of their agency as diminished and allows powerful actors to substitute their voices and judgements for those of more vulnerable actors (Jaggar, 2006, p. 317). This general critique of the concept of adaptive preferences may also apply to some of the cases of reaction-insensitivity which involve behaviour adjustments as a response to insensitive laws. When claiming that a modification of an agent's behaviour is equivalent to adaptive preference formation, we appear to be saying that she has diminished agency and that she is not pursuing her genuine preferences. More importantly, when defending a state duty to prevent people from modifying their behaviour, or from acting on their presumably 'adapted preferences', we may in fact, be denying, the opportunity for autonomous actions to already disadvantaged individuals.

With reactions involving behaviour and preference adaptation, state intervention in the name of sensitivity may strike us as 'forcing people to be free', to put it in Rousseau's language. These reactions include forfeiting opportunities and one's access to public services, and limiting the exercise of civil rights and liberties and are significantly trickier to remedy through extensive state intervention. This is because they bring to light cases in which people seem to be acting on a stunted capacity for authenticity or making choices that appear irrational. However, it is often difficult to ascertain whether these responses are conscious and authentic or not. Consider, again, the case of transparent affirmative action quotas which have been found to lower self-confidence and inhibit the pursuit of promotions and leadership roles among female employees. A sensitive course of action would entail in this case that employers are put under a duty to not disclose whether they operate quota schemes to their employees. But imagine now that the women in question have been working at the company since before this new sensitive policy was implemented; they may still believe that every opportunity for promotion is only open to them because of their gender, so as to fulfil the previously transparent quota. In this case, it is unclear whether the seemingly irrational behaviour is actually a genuine expression of the preferences of female employees or a case of

irrational, adaptive preference formation triggered by the knowledge of quotas. Assuming that waiving opportunities is a genuine, rational choice, state intervention aimed at avoiding this response may be morally impermissible, as it would interfere with individual autonomy and authenticity. Contrariwise, if the reactions are, in fact, the result of subconscious adaptive preference formation, then in its inaction, the state may be insensitive to the plight of the women in this case.

Therefore, the question I must attempt to answer is this: What does the derivative requirement of sensitivity demand in cases where the reaction appears to denote stunted rationality or authenticity? For one, we may think that the derivative requirement may demand some state intervention in respect to how the employers manage their company, without directly trying to shape the preferences of female employees. For instance, company owners may be nudged or rewarded if they provide some form of subtle reassurance that the promotion and leadership opportunities are, in fact, awarded meritocratically, or if they encourage female employees to take leadership roles. This seems morally permissible. Or, we could make the stronger claim that the state ought to take a more paternalistic approach to weeding out adaptive preferences from conscious authentic reactions. Specifically, instead of trying to shape the management of the employers, the state should try to nudge women towards taking opportunities and communicating the dangers of the alternative²⁶. However, initiatives of this kind may be objectionable when they are motivated by derivative and specific conceptions of the good which state, for instance, that a good life for women is one in which they single-mindedly follow their career goals.

One possible solution is to ask how the preferences and behaviour of the agent change in the first place. Christman argues that we may distinguish between cases of adaptive preferences, as the subconscious submission to oppressive norms, and character planning, which involves the alteration of preferences as a conscious response to one's circumstances and which may sometimes be autonomy-enhancing (Elster, 1985). The state may have a strong duty to ensure individuals avoid reactions involving adaptive

²⁶ Much like in Mill's example of the Japanese –speaking man who needs to be warned of the danger involved in crossing a broken bridge.

preference formation, especially in cases where they denote internalized oppression and diminished autonomy. In contrast, where responses to insensitive action involve character planning, the state may not be entirely justified in taking steps to avoid behaviour and preference modifications, as these are made in a self-governing way and may even enhance individual autonomy. Specifically, the derivative requirement may demand, in this case, that state action be limited to eliminating external social conditions which triggered the need to engage in character planning. For instance, the state may still have a duty to eliminate or address systemic oppression and alleviate the effects of discrimination. In reducing oppression, the state may eliminate perceived costs and social hostility, thus pre-empting the need for some people to engage in character planning. This may involve pre-emptive action intended to tackle discrimination and systemic oppression as well as educational policies aimed at changing stigmatizing mentalities and preventing the development of stigma-consciousness.

More extensive requirements to nudge may be unjustifiable in this case, as they may prevent people from acting on their autonomous choices and on the conceptions of living well that they authentically endorse. However, for many of the cases that I have discussed so far, it is difficult to determine, even with empirical research, whether the adaptation of preferences is made in a self-governing way. Often, individuals find justifications for their changes in behaviour so as to reinforce their own agency to themselves, even if the real reasons for the adaptation remain unbeknownst to them. Furthermore, in some cases, changes in their behaviour and their life plans may have several justifications, subconscious or conscious, all of which may provide good, strong reasons for the adaptation.

Although there is no straightforward answer to the question of how derivative the derivative requirement ought to be, I offer the following approach. If the reactions involve things to which people are entitled to, such as recognition-self-respect, self-confidence and freedom from discrimination, then the requirement may be very derivative indeed. It may not only require that the state takes all steps to avoid harmful responses, but also to nudge vulnerable individuals to form the right kinds of beliefs about their moral worth. If what is at stake is the foregoing of opportunities, exercise of

rights and access to public services, then the derivativeness of the duty of sensitivity depends on whether the behaviour modification is authentic or not. More often than not, the social science evidence gathered in the empirical research stage of the general requirement may be useful in determining how these reactions came about. If no such evidence is found, and it remains impossible to determine whether the preferences are authentic, then the state may have to take some steps to eliminate and shape the external conditions which may lead vulnerable individuals to perceive costs. This may involve reforming the way policies such as racial profiling or affirmative action are implemented, so as to eliminate the obstacles which may be perceived as costs by some. However, the derivative requirement does not require, in this case, that the state take further steps to ensure that individuals form certain beliefs or act in ways which are considered *good for them*.

7.2.5 The Duty of Reaction-Sensitivity in Ideal Theory

Many of the cases that I examine involve individuals or groups with elevated levels of stigma-consciousness which predisposes them to interpret and respond to laws in a harmful way. The assumptions made by an ideal theory perspective exclude stigma, and by extension, stigma-consciousness from the scope of our questions about justice. This may suggest that reaction-insensitivity may only be an issue that comes up in non-ideal circumstances, where past injustices, bias and stigma are not assumed away. In this section, I revisit my discussion of ideal theory from chapter 3, and rephrase it as a general possible limitation of my view, rather than a point that solely concerns Rawlsian self-respect. This is necessary because there may be other, non-Rawlsian assumptions about what a fair share might entail which may raise concerns of reaction-insensitivity in an ideal world.

First, assuming that reaction-insensitivity is a strictly non-ideal issue, it would still be useful for expanding ideal theory. The Rawlsian theory of justice is formulated from an ideal world perspective, which is to say that it assumes strict compliance and favourable circumstances. Full or strict compliance entails that “(nearly) everyone strictly complies with...the principles of justice” (Rawls, 2001, p. 13) whereas favourable circumstances

are the “conditions that, provided the political will exists, make a constitutional regime possible” (2001: 101). Rawls’s idealized assumptions bracket, among other things, facts about historical injustice, disadvantages and stigma against some socially salient groups such as oppressed races (Mills, 2009). In motivating his ideal-world theorizing, Rawls argues that it provides ‘the only basis for the systematic grasp of [the] more pressing problems [of non-ideal theory]’ (Rawls, 1999, p. 8). As an end goal of justice, ideal theory informs the goals of transitional, non-ideal theory which asks ‘how this long-term goal might be achieved, or worked toward, usually in gradual steps’ (Rawls 1999: 89).

Even as an issue strictly relegated to non-ideal theory, reaction-insensitivity retains much of its normative significance, by highlighting the way in which we may understand and address real-world problems in our pursuit of an end-state of justice. If in a perfectly just society, there is no need for institutional sensitivity, because, for example, there is no stigma-consciousness to trigger harmful responses, this may suggest, that non-ideal theory that would accompany Rawls’s view might have to identify and eliminate the roots of this disposition. By Rawls’s own admission, ideal theory needs to be complemented by an understanding of non-ideal constraints, circumstances and issues. So understood, reaction-sensitivity merely bridges the divide between the two, by adding a psychological dimension to the relation between the state and vulnerable individuals and by spelling out what counts as a sensitive treatment towards them. The empirically supported idea that, depending on their circumstances, people interpret and respond to laws differently is thus important not only for non-ideal-circumstances, but also for ideal theory.

More importantly, while the set of stigma-consciousness examples have been the most prominent in my discussion of reaction-insensitivity, there are other important cases which may fall under the remit of ideal theory. On Rawls’s view, socioeconomic inequalities are permitted as long as they are to greatest benefit of the worst off which means that his ‘realistic utopia’ may accommodate redistributive claims. Conditional benefits schemes could, even within the bounds of ideal theory, trigger feelings of shame and humiliation among potential claimants. This means that some of the cases picked out by reaction-insensitivity could amount to injustice even when assuming away

information about stigma and historical denigration. Furthermore, some of the examples of insensitivity that go beyond the standard case, such as the issue of states promoting consumerist tendencies, may constitute a much more serious issue for ideal theory rather than for non-ideal circumstances. When looking at the end-state of a just society, one of the tasks that we may have is to determine what the right kinds of beliefs and dispositions that individuals should form are, and to design institutional action in ideal circumstances in a way that promotes those attitudes. Therefore, cases of harmful insensitivity may not only crop up in ideal circumstances, but they may also add another line of enquiry to the questions of ideal theory.

Concluding Remarks

In this chapter, I argued that the institutional duty of reaction-sensitivity involves giving due weight to the reactions of vulnerable individuals. The general requirement demands that the state take foreseeable responses into account when deciding on policy matters, identifying vulnerable groups and their foreseeable reactions whereas the derivative requirement involves weighing them against other, competing considerations. If the reactions are found to be normatively weightier than other justifications for the policy or interests, then the state may incur a further requirement to take a sensitive course of action. This may involve either a weak demand to give vulnerable groups the opportunity to avoid harmful reactions on their own, or a strong one, to take all possible steps to ensure that certain reactions are avoided.

I then proceeded to outline and respond to some objections raised by my view. Firstly, I questioned whether cases that, upon fulfilment of the general requirement, generate no further calls to action or remedy, satisfy the duty of reaction-sensitivity. Although the state may permissibly take an insensitive course of action under some circumstances, cases of this kind may still suggest that that foreseeable reactions are, at the very least, a weighty consideration in the legislative decision-making process. Secondly, I responded to the toughening up objection on its several variations and offered some qualifications to my view. Lastly, I examined the implications of the institutional duty of reaction-sensitivity for ideal theory.

Conclusion

The aim of this thesis was to contribute to a ‘reasonable moral psychology’ that unifies some of the isolated concerns raised by political theorists in an account of normatively significant reactions. First, I identified some normatively significant reactions that have been largely neglected by the political theory literature, which should be of interest because they may pose threats to non-instrumentally valuable things such as self-respect and authenticity. Second, I examined these reactions in the context of some of the mainstream views of self-respect, authenticity and discrimination and showed how the concerns raised by insensitivity may be accommodated by political theorists. Third, I outlined a duty of reaction-sensitivity by giving an account of its grounds and content.

Rather than summarize my arguments for this account, I wish to conclude by briefly issuing a few remarks. First, this thesis has taken a very broad view of normatively significant reactions and investigated, on the most general terms, how they may be incorporated within some key views in political theory. There is much more to be done in considering the potential implications of these subjective considerations, particularly when assessing and reforming particular institutions, practices and designing laws. Reaction-insensitivity may characterize both the specific features of an institution, and the process by which the institution was created in the first place; depending on the case, it may have important implications. In the former case, the specific features of institutions may involve particular decisions, policies, and practices which may have discriminatory effects because their justification does not account for the foreseeable responses to it. For example, as Hossein notes, racial profiling may be objectionable as an institutional practice as it may trigger feelings of political inferiority among the profiled and the groups that they are members of (Hossein, 2018). In this case, reaction-insensitivity appears to be an issue of process and may suggest a role for greater representation by potentially marginalized groups in the decision making and institutional design processes. This may strengthen the arguments advanced by those who defend the politics of presence, by suggesting that minorities ought to be more

prominently represented in both law-making and institutional design so as to minimize the likelihood of insensitivity (Phillips, 1998).

Additionally, insensitivity may also characterize the design of institutions when it does not pay adequate attention to potentially stigmatizing effects or which does not create opportunities for those who experience insensitivity to raise objections to and potentially change the institution. On this formulation, there is a presumption of responsibility by state actors to either try to foresee the outcome of institutions and institutional actions on different stigmatized groups, or perhaps even to design institutions that if they cannot pick up on these potential outcomes *ex ante*, are at least open to later adaptation as stigmatization becomes more evident.

Second, questions about the enforceability of a duty reaction-sensitivity may further be examined so as to develop our understanding of disparate impact as applied in courts of law. For one, my concept may provide an additional connection between the disadvantage and the membership of socially salient groups and shift the burden of proof from the claimant to the state. Second, courts normally view actions that have a disparate impact as permissible if they have a legitimate aim that is proportional to the means; however, discussions about the legitimacy of the aim and proportionality of means do not normally involve considerations about the mental state of the claimant and these may be quite weighty. Thirdly, actions that have a disparate impact are usually deemed permissible if there is no better course of action; presumably the alternative courses of action have not been concerned with sensitivity so far.

Finally, reaction-insensitivity also chimes with the literature on stigmatization and stratification, and may help develop our understanding of how welfare policies may have a disciplinary effect on the members of different socially salient groups. The literature on stratification identifies the mutually affecting relation between gender relations and the character of welfare states (Andersen, 2015). Gendered norms, the sexual division of labour, distinctions between masculinity and femininity have a profound effect on the character of welfare states. For instance, ideas of maternalism as "ideologies and discourses which exalted women's capacity to mother and applied to society as a whole

the values they attached to that role: care, nurturance and morality', lead to the development of feminine social aid (S. Koven, 1993). This form of welfare relation was focused on providing women with relief that would enable them to fulfil their maternal duties. In turn, the masculine forms of welfare were created with the idea of the male as a breadwinner in mind, providing them with assistance to get back into work and comply with their gendered duties (Orloff, 1996). In a vicious circle, this policy stratification contributed to deepening the labour division and gender inequality.

Bibliography

- Abbadie, J. (2003). *L'art de se connaître soi-meme*. Paris: Librairie Arthème Fayard.
- Abizadeh, A. (2007). Cooperation, Pervasive Impact, and Coercion: On the Scope (not Site) of Distributive Justice. *Philosophy & Public Affairs*, 35(4), 318-358.
- Abramson. (1989). Hopelessness Depression: A Theory-Based Subtype of Depression. *Psychological Review*, 96(2), 358-372.
- Adam, B. D. (1978). *Survival of Domination: Inferiorization and Everyday Life*. Elsevier Science Ltd.
- Adler, M. (2018). *Cruel, Inhuman or Degrading Treatment? Benefit Sanctions in the UK*. Palgrave Pivot.
- Agneman, G. (2017). *The Economics of Perceived Discrimination - An empirical investigation on the relationship between subjective views on job market hindrances and economic aspirations*.
- Alexander, L. (1992). What Makes Wrongful Discrimination Wrong Biases, Preferences, Stereotypes, and Proxies. *University of Pennsylvania Law Review*, 141(149), 149-219.
- Ali, S. R., Torricia, R., & Mahmood, A. (2015). Relationships of the Practice of Hijab, Workplace Discrimination, Social Class, Job Stress, and Job Satisfaction Among Muslim American Women. *Journal of Employment Counselling*, 52(4), 146-157.
- Allport, G. W. (1954). *The Nature of Prejudice*. Reading, MA: Addison-Wesley Pub. Co.
- Anderson, E. (1999). What Is the Point of Equality? *Ethics*, 109(2), 287-337.
- Anderson, E. (2007). Fair Opportunity in Education: A Democratic Equality Perspective. *Ethics*, 117(4), 595-622.
- Appiah, K. A. (2001). Stereotypes and the Shaping of Identity. In R. Post, *Prejudicial Appearances: The Logic of American Antidiscrimination Law*. Durham: Duke University Press.
- Arneson, R. (1999). Against Rawlsian Equality of Opportunity. *Philosophical Studies: An International Journal for Philosophy in the Analytic Tradition*, 93(77), 77-112.
- Arneson, R. (1999). Discrimination, Disparate Impact, and Theories of Justice. In S. M. Deborah Hellman, *Philosophical Foundations of Discrimination Law* (pp. 87-111). Oxford: Oxford University Press.

- Arneson, R. (1999). Egalitarianism and Responsibility. *Journal of Ethics*, 3(3), 225–74.
- Arneson, R. J. (1987). Meaningful Work and Market Socialism. *Ethics*, 97(3), 517-545.
- Ayto, J. (1999). *Twentieth Century Words*. New York: Oxford University Press.
- B. G. Link, J. C. (2001). Conceptualizing Stigma. *Annual Review of Sociology*, 27, 363-385.
- B. Murtuja, W. T. (2017, August 22). *Regenerating Prevent: A Case for an Alternative Approach*. Retrieved from JUST Yorkshire: <http://regeneralkingprevent.org.uk/>.
- Baldwin, T. (2008). Rawls and Moral Psychology. In R. Shafer-Landau, *Oxford Studies in Metaethics* (pp. 247 - 272). Oxford : Oxford University Press.
- Barber, H. E. (2007). Adaptive Preferences. *Social Theory and Practice*, 33(1), 105-126.
- Bargh, J., Gollwitzer, P., Lee-Chai, A., Barndollar, K., & Troetschel, R. (2001). The automated will: Nonconscious activation and pursuit of behavioral goals. *Journal of Personality and Social Psychology*, 81(6), 1014–1027.
- Barlett, K. (1994). Only Girls Wear Barrettes: Dress and Appearance Standards, Community Norms, and Workplace Equality. *Michigan Law Review*, 92, 2541-2553.
- Barry, B. (2001). *Culture and Equality: An Egalitarian Critique of Multiculturalism*. Cambridge, MA: Harvard University Press.
- Bartky, S. L. (1970). *Femininity and Domination Studies in the Phenomenology of Oppression*. New York: Routledge.
- Bell, D. (1996). *The Cultural Contradictions Of Capitalism*. Basic Books.
- Bem, S. L. (1981). Gender schema theory: A cognitive account of sex typing. *Psychological Review*, 88(4), 354-364.
- Baumberg, K. B. (2012). *Benefits stigma in Britain*. Turn2us.
- Bowling, B. and Phillips, C. (2007), Disproportionate and Discriminatory: Reviewing the Evidence on Police Stop and Search. *The Modern Law Review*, 70: 936-961
- Benabou, R. J. (2002). Self-Confidence and Personal Motivation. *The Quarterly Journal of Economics*, 117(3), 871–915.
- Bertram, C. (2004). *Rousseau and the "Social Contract"*. London: Routledge.

- Birnbaum, S. (2010). Radical liberalism, Rawls and the welfare state: justifying the politics of basic income. *Critical Review of International Social and Political Philosophy*, 13(4), 495-516.
- Bloom, A. (1988). *Closing of the American Mind*. Simon & Schuster.
- Bown, R. C. (2000). Putting the "affirm" into affirmative action: preferential selection and academic performance. *J Pers Soc Psychol.*, 79(5), 736-47.
- Boxill, B. R. (1976). Self-Respect and Protest. *Philosophy & Public Affairs*, 6(1), 58-69.
- Boyle, J. (1980). Towards Understanding the Principle of Double Effect. *Ethics*, 90(4), 527-38.
- Brandom, R. (2002). *Tales of the Mighty Dead: Historical Essays in the Metaphysics of Intentionality*. Harvard University Press.
- Brown RP, C. T. (2000). Putting the "affirm" into affirmative action: preferential selection and academic performance. *J Pers Soc Psychol*, 79(5), 736-47.
- Brown, D. (2010). *The European Union, Counter Terrorism and Police Co-operation, 1991-2007: Unsteady Foundations?* Manchester: Manchester University Press.
- Caney, S. (1995). Anti-perfectionism and Rawlsian Liberalism. *Political Studies*, 43(2), 248-264.
- Cavanagh, M. (2002). *Against Equality of Opportunity*. Oxford: Oxford University Press.
- Chambers, C. (2008). *Sex, Culture, and Justice*. University Park, PA: Pennsylvania State University Press.
- Christman, J. (2014). Coping or Oppression Autonomy and Adaptation to Circumstance. In A. V. Piper, *Autonomy, Oppression, and Gender*. Oxford Scholarship Online.
- Ciftci, A., Jones, N., & Corrigan, P. (2012). Mental Health Stigma in the Muslim Community. *Journal of Muslim Mental Health*, 7(1), available online.
- Clayton, M. (2017). Is Ethical Independence Enough? In C. L. Bardon, *Religion in Liberal Political Philosophy*. Oxford Scholarship Online.
- Cohen, G. A. (1989). On the Currency of Egalitarian Justice. *Ethics*, 99(4), 906-944.
- Cohen, G. A. (2000). *Karl Marx's Theory of History: A Defense*. Princeton: Princeton University Press.
- Cohen, J. (1989). Democratic Equality. *Ethics*, 99(4), 727-51.
- Cohen, J. (1993). *The Idea of Democracy*. Cambridge: Cambridge University Press.

- Cohen, J. (1997). The Natural Goodness of Humanity. In B. Herman, A. Reath, & C. Korsgaard (Eds.), *Reclaiming the History of Ethics: Essays for John Rawls*. Cambridge: Cambridge University Press.
- Cohen, J. (2010). *Rousseau*. Oxford: Oxford University Press.
- Cooper, L. (1999). *Rousseau, nature, and the problem of the good life*. University park, PA: Pennsylvania State University Press.
- Corrigan, P. (2004). How Stigma Interferes With Mental Health Care. *American Psychologist*, 59(7), 614-625.
- Cotter, A. M. (2006). *Race Matters: An International Legal Analysis of Race Discrimination*. Burlington, VT: Ashgate.
- Crocker, J., & Major, B. (1989). Social Stigma and Self-Esteem: The Self-Protective Properties of Stigma. *Psychological review*, 96(4), 608-630.
- Crocker, J., Voelkl, K., Testa, M., & Major, B. (1991). Social stigma: The affective consequences of attributional ambiguity. *Journal of Personality and Social Psychology*, 60(2), 218- 228.
- Cross, W. (1991). *Shades of Black: Diversity in African American Identity*. Temple University Press.
- Cudd, A. (2006). *Analyzing Oppression (Studies In Feminist Philosophy)*. Oxford: Oxford University Press.
- Cureton, A. (2008). A Rawlsian Perspective on Justice for the Disabled. *Essays in Philosophy*. 9(1), Article 5.
- Dancy, J. (2004). *Ethics without Principles* . Oxford: Oxford University Press.
- Darwall, S. L. (1977). Two Kinds of Respect. *Ethics*, 88(1), 36-49.
- Davies, P., Spencer , S., & Steele, C. (2005). Clearing the Air: Identity Safety Moderates the Effects of Stereotype Threat on Women's Leadership Aspirations. *Journal of Personality and Social Psychology*, 88(2), 276-287.
- DeCastro-Ambrosetti, D., & Cho, G. (2011). A Look at "Lookism": A Critical Analysis of Teachers' Expectations Based on Students Appearance. *Multicultural Education*, 18(2), 51-54.
- Demo, D., & Hughes, M. (1990). Socialization and Racial Identity among Black Americans. *Social Psychological Quarterly*, 53(4), 364-374.
- Dillon, R. (1997). Self-Respect: Moral, Emotional, Political. *Ethics*, 107(2), 226-249.

- Dreyfus, H. L. (1990). *Being-in-the-World: A Commentary on Heidegger's Being and Time, Division I*. Cambridge, Mass: MIT Press.
- Dunn, J. (2003). *Locke: A very short introduction*. Oxford: Oxford University Press.
- Dworkin, G. (1988). *The Theory and Practice of Autonomy*. Cambridge University Press.
- Dworkin, R. (1981). What is Equality? Part 2: Equality of Resources. *Philosophy & Public Affairs*, 10(4), 283-345.
- Dworkin, R. (1985). *A Matter of Principle*. Cambridge, MA: Harvard University Press.
- Dworkin, R. (2011). *Justice for Hedgehogs*. Cambridge, Massachusetts: Harvard University Press.
- Dworkin, R. (2013). *Religion without God*. Harvard University Press.
- Dwyer, P., Jones, K., McNeill, J., Scullion, L., & Stewart, A. (2016). *First wave findings: Disability and conditionality*. York: ESRC Welfare Conditionality Project.
- Eccles-Parsons, J., Adler, T., Futterman, R., Goff, S., Kaczala, C., Meece, J., & Midgley, C. (1983). Expectancies, values and academic behaviours. In J. T. Spence (Ed.), *Achievement and Achievement Motivation* (pp. 75-146). San Francisco: W. H. Freeman.
- Eidleson, B. (2015). *Discrimination and Disrespect*. Oxford: Oxford University Press.
- Elster, J. (1985). *Sour Grapes: Studies in the Subversion of Rationality*. Cambridge: Cambridge University Press.
- Enoch, D. (2007). Intending, Foreseeing and the State. *Legal Theory*, 13(2) 69-99.
- Epstein, S. (1973). The self-concept revisited: Or a theory of a theory. *American Psychologist*, 28(5), 404-416.
- Esping - Andersen, G. (2015). Welfare regimes and social stratification. *Journal of European Social Policy*, 25(1), 124-134.
- Eyal, N. (2005). 'Perhaps the most important primary good: self-respect and Rawls's principles of justice'. *Politics, Philosophy and Economics*, 4(2), 195-219.
- Feinberg, J. (1974). Noncomparative Justice. *The Philosophical Review*, 83(3), 297-338.
- Ferkany, M. (2009). Recognition, Attachment and the Social Bases of Self-worth. *Southern Journal of Philosophy*, 47(3), 263-283.
- Ferrara, A. (1993). *Modernity and Authenticity: A Study of the Social and Ethical Thought of Jean-Jacques Rousseau*. New York: State University of New York Press.

- Fleming, J. S. (1980). The dimensionality of self-esteem: Some results of a college sample. *Journal of Personality and Social Psychology*, 39(5), 921-929.
- Foot, P. (1972). Morality as a System of Hypothetical Imperatives. *Philosophical Review*, 81(3), 305-316.
- Ford, R. T. (2008). *The Race Card: How Bluffing About Bias Makes Race Relations Worse*. New York: Farrar, Straus and Giroux.
- Frankfurt, H. (1971). Freedom of the Will and the Concept of a Person. *The Journal of Philosophy*, 68(1), 5-20.
- Fraser, N. (1995). From Redistribution to Recognition? Dilemmas of Justice in a 'Post-Socialist' Age. *New Left Review*, I(212), 68-93.
- Freeman, S. (1999). *Collected Papers*. Cambridge, MA: Harvard University Press.
- French, E. &. (1964). Some characteristics of the achievement motive in women. *The Journal of Abnormal and Social Psychology*, 68(2), 119-128.
- Garcia, J. L. (2018). Discrimination and Virtue. In K. Lippert-Rasmussen, *The Routledge Handbook of the Ethics of Discrimination* (pp. 174-182). New York: Routledge.
- Gecas, V. (1982). The Self-Concept. *Annual Review of Sociology*, 8:1-33.
- Gelven, M. (1989). *A Commentary on Heidegger's Being and Time*. Northern Illinois University Press.
- Gerhardt, S. (2014). *Why Love Matters: How affection shapes a baby's brain*. London: Routledge.
- Ghumman, S., & Jackson, L. (2009). The downside of religious attire: The Muslim headscarf and expectations of obtaining employment. *Journal of Organizational Behavior*, 31(1), 4-23.
- Goffman, E. (1963). *Stigma*. London: Penguin.
- Goldman, A. (1979). *Justice and Reverse Discrimination*. Princeton, NJ: Princeton University Press.
- Guignon, C. (2004). *On Being Authentic*. New York: Routledge.
- Guignon, C. (2008). Authenticity. *Philosophy Compass*, 3(2), 277-290.
- Hamermesh, D. S. (2011). *Beauty Pays: Why Attractive People Are More Successful*. Princeton, NJ: Princeton University Press.
- Hardimon, M. (1992). The Project of Reconciliation: Hegel's Social Philosophy. *Philosophy and Public Affairs*, 21(2), 165-195.

- Hausmann, L., Hannon, M., Kresevic, D., Hanusa, B., Kwoh, C., & Ibrahim, S. (2011). Impact of Perceived Discrimination in Healthcare on Patient-Provider Communication. *Journal of Medical Care*, 49(7), 626–633.
- Hay, C. (2005). Whether to Ignore Them and Spin: Moral Obligations to Resist Sexual Harassment. *Hypatia: A Journal of Feminist Philosophy*, 20(4), 94–108.
- Heath-Kelly, C. (2013). Counter-terrorism and the counterfactual : producing the ‘radicalisation’ discourse and the UK PREVENT Strategy. *British Journal of Politics & International Relations*, 15(3), 394-415.
- Hegel, G. (1991). *Elements of the Philosophy of the Right*. Cambridge: Cambridge University Press.
- Heidegger, M. (1978). *Being and Time*. Wiley-Blackwell.
- Heilman, M. . (1987). Intentionally Favored, Unintentionally Harmed?: Impact of Sex-Based Preferential Selection on Self-Perceptions and Self-Evaluations. *Journal of Applied Psychology*, 72(1), 62-68.
- Heilman, M. E. (1992). Presumed incompetent? Stigmatization and affirmative action efforts. *Journal of Applied Psychology*, 77(4), 536-544.
- Heilman M.E. (1997). The Affirmative Action Stigma of Incompetence: Effects of Performance Information Ambiguity. *The Academy of Management Journal*, 40(3), 603-625.
- Hellman, D. (2011). *When is Discrimination Wrong?* Cambridge, MA: Harvard University Press.
- Hill, T. (2005). Servility and Self-Respect. In B. B. Boxill, *Reason, Value, and Respect*. Oxford: Oxford University Press .
- Hill, T. (2012). Finding Value in Nature. In J. Thomas E. Hill, *Virtue, Rules, and Justice: Kantian Aspirations*. Oxford Scholarship Online.
- Hill, T. E. (1982). Self-Respect Reconsidered. *Tulane Studies in Philosophy* , 129-137.
- Hilton, J. L. (1985). Constructing other persons: A limit on the effect. *Journal of Experimental Social Psychology*, 21(1), 1-18.
- Hinman, L. (1978). Heidegger, Edwards and Being Towards death. *Southern Journal of Philosophy*, 193–212.
- Holmes, C. S. (1999). *The Cost of Rights: Why Liberty Depends on Taxes*. New York: W. W. Norton & Company.

- Holtman, S. W. (1999). Kant, ideal theory, and the justice of exclusionary zoning. *Ethics*, 110(1), 32-58.
- Honneth, A. (1994). The social dynamics of disrespect: on the location of critical theory today. *Constellations*, 1(1), 255-269.
- Honneth, A., N. F. (2004). *Redistribution of Recognition? A Political- Philosophical Exchange*. Verso.
- Honneth, A. (1995). *The Struggle for Recognition: The Moral Grammar of Social Conflicts*. Cambridge: Polity Press.
- Hosseini, A. O. (2013). Doing, Allowing, and the State. *Law and Philosophy*, 33(2), 235-264.
- Hosseini, A. O. (2018). Racial Profiling and a Reasonable Sense of Inferior Political Status. *The Journal of Political Philosophy*, 26(3), 1-20.
- Hughes, D. H. (1990). Socialization and Racial Identity Among Black Americans. *Social Psychology Quarterly*, 53(4), 364-374.
- Hussain, W. (2012). Nurturing the Sense of Justice The Rawlsian Argument for Democratic Corporatism. In T. W. Martin O'Neill, *Property-Owning Democracy: Rawls and Beyond* (pp. 180-200). Oxford: Blackwell Publishing.
- J. Githens-Mazer, R. L. (2010). *Islamophobia and Anti-Muslim Hate Crime: a London Case Study*. London: European Muslim Research Centre.
- Jaggar, A. (2006). Reasoning about well-being: Nussbaum's method of justifying the capabilities approach. *Journal of Political Philosophy*, 14(3), 301-22.
- Jeffreys, S. (2005). *Beauty and Misogyny*. London: Routledge.
- Jenkins, G. M. (1982). Some practical aspects of forecasting in organizations. *Journal of Forecasting*, 1(1), 3-21.
- Jones EE, F. A. (1984). *Social Stigma: The Psychology of Marked Relationships*. New York: Freeman.
- Jubb, R. (2011). Rawls and Rousseau: Amour-propre and the Strains of Commitment. *Res Publica*, 17: 245-260.
- Kahlenberg, R. (1996). *The Remedy*. New York: Basic Books.
- Kant, I. (1996). Groundwork of the Metaphysics of Morals. In M. Gregor, *Immanuel Kant Practical Philosophy*. New York: Cambridge University Press.

- Kelley, H. H. (1973). The processes of causal attribution. *American Psychologist*, 28(2), 107-128.
- Kiesel, T. (2002). *Heidegger's Way of Thought: Critical and Interpretive Signposts*. A&C Black.
- Kittay, E. F. (1999). *Love's Labour: Essays on Women, Equality and Dependency*. New York: Routledge.
- Kolodny, N. (2010). The Explanation of Amour-Propre. *Philosophical Review*, 119(2), 165-200.
- Korsgaard, C. (1983). Two distinctions in goodness. *Philosophical Review*, 92(2), 169-195.
- Koven, S. M. M. (1993). *Mothers of the New World: Maternalist Politics and the Origins of the Welfare State*. New York : Routledge.
- Kramer, M. H. (2017). *Liberalism with Excellence*. Oxford Scholarship Online.
- Kray, L. J., Thompson, L., & Galinsky, A. (2001). Battle of the sexes: Gender stereotype activation. *Journal of Personality and Social Psychology*, 80(6), 942-958.
- Kukathas, C. (2003). *The Liberal Archipelago: A Theory of Diversity and Freedom*. Oxford: Oxford University Press.
- Kundnani, A. (2009). *Spooked! How not to prevent violent extremism*. London: Institute of Race Relations.
- L., R. T., & Ginter, E. (1999). Racism: Healing its effects. *Journal of Counseling & Development*.
- Link, B. G., Phelan J. C. (2001). Conceptualizing Stigma. *Annual Review of Sociology*, 27: 363-85.
- Lippert-Rasmussen, K. (2006). The Badness of Discrimination. *Ethical Theory and Moral Practice*, 9(2), 167-185.
- Lippert-Rasmussen, K. (2014). *Born Free and Equal?* Oxford: Oxford University Press.
- Locke, J. (1980). *Second Treatise of Government*. Indianapolis: Hackett.
- Lombroso, C. (2006). *Criminal Man*. Duke University Press.
- M. Young, I. (1990). *Justice and the Politics of Difference*. Princeton University Press.
- MacIntyre, A. (1985). *After virtue: A study in moral theory*. London: Duckworth.
- Mahajan, R. (2007). The Naked Truth: Appearance Discrimination, Employment, and the Law. *Asian American Law Journal*, 14: 165-203.
- Major, B. N., L. T. (2005). The social psychology of stigma. *Annual review of psychology*, 56: 393-421.

- Major B, E. C. (2004). Stigma and Social Exclusion. In J. M. D Abrams, *Social Psychology of Inclusion and Exclusion* (pp. 63-87). New York: Psychology Press.
- Major, B., Gramzow, R., McCoy, S., Levin, S., Schmader, T., & Sidanius, J. (2002). Perceiving personal discrimination: the role of group status and status legitimizing theory. *Journal of personality and social psychology*, 82. 269-82.
- Margalit, A. (1998). *The Decent Society*. Harvard University Press.
- Maslow, A. H. (1943). A Theory of Human Motiavation. *Psychological Review*, 50: 370-396.
- Mason, A. (2006). *Levelling the Playing Field: The Idea of Equal Opportunity and its Place in Egalitarian Thought*. Oxford Scholarship Online.
- Mason, A. (2011). Putting story-reading to bed: a reply to Segall. *Critical Review of International Social and Political Philosophy*, 14(1), 81-88 .
- Massey, S. J. (1983). Is Self-respect a Moral or Psychological Concept? *Ethics*, 93(2), 246-261.
- Mavelli, L. (2013). Between Normalisation and Exception: The Securitisation of Islam and the Construction of the Secular Subject. *Millennium: Journal of International Studies*, 41(2), 159-181.
- McKinnon, C. (2002). *Liberalism and the Defence of Political Constructivism*. London: Palgrave Macmillan.
- McKinnon, C. (2003). Basic Income, self-respect and reciprocity. *Journal of Applied Philosophy*, 20(2), 143-158.
- McKinnon, C. (2011). *Climate Change and Liberal Priorities*. London: Routledge.
- McKinnon, K. (1997). Self-respect and the Stepford Wives. *Proceedings of the Aristotelian Society*, 97: 325-30.
- McWhirter, E. (1997). Perceived Barriers to Education and Career: Ethnic and Gender Differences. *Journal of Vocational Behavior*, 50: 124-140.
- Meer, N. (2008). The politics of voluntary and in voluntary identities: are Muslims in Britain an ethnic, racial or religious minority? *Patterns of Prejudice*, 61-81.
- Mendoza-Denton, R. D. (2002). Sensitivity to status-based rejection: Implications for African American students' college experience. *Journal of Personality and Social Psychology*, 83(4), 896-918.
- Middleton, D. (2006). Three types of self-respect. *Res Publica*, 12(1), 59-76.

- Miller, D. (1978). Democracy and Social Justice. *British Journal of Political Science*, 8(1), 1-19.
- Miller, D. (1992). Deserving Jobs. *The Philosophical Quarterly*, 42: 161-181.
- Mills, C. (2005). Ideal theory as Ideology. *Hypatia*, 20(3), 165-184.
- Mills, C. (2009). Rawls on Race/ Race in Rawls. *The Southern Journal of Philosophy*, 47(51), 161-183.
- Mirage, L. C. (1994). Development of an instrument measuring valence of ethnicity and perception of discrimination. *Journal of Multicultural Counseling and Development*, 22(1), 49-59.
- Moreau, S. (2010). What is Discrimination? *Philosophy & Public Affairs*, 38(2), 143-179.
- Moreau, S. (2017). Discrimination and Freedom. In K. Lippert-Rasmussen, *The Routledge Handbook of the Ethics of Discrimination*. Routledge.
- Moriarty, J. (2009). Rawls, Self-respect, and the Opportunity for Meaningful Work. *Social Theory and Practice*, 35(3), 441-459.
- Mullhall, S. (2005). Human Mortality: Heidegger on How to Portray the Impossible Possibility of Dasein. In M. A. Hubert L. Dreyfus, *A Companion to Heidegger* (pp. 297-310). Wiley-Blackwell.
- Murphy, K. (2008). Encouraging public cooperation and support for police. *Policing and Society*, 18 (2), 136-155.
- Nagel, T. (1986). *The View from Nowhere*. Oxford: Oxford University Press.
- Nagel, T. (1995). *Equality and Partiality*. Oxford: Oxford University Press.
- Nagel, T. (2003). John Rawls and Affirmative Action. *The Journal of Blacks in Higher Education*, 39: 82-84.
- Narayan, U. (2002). Minds of their own: choices, autonomy, cultural practices, and other women. In L. M. Witt, *A Mind of One's Own* (pp. 418-32). Boulder, Co: Westview Press.
- Neuhouser, F. (2008). *Rousseau's Theodicy of Self-Love: Evil, Rationality and the Drive for Recognition*. Oxford: Oxford University Press.
- Nickel, J. (2006). *Making Sense of Human Rights*. Wiley-Blackwell.
- Nielsen, K. (1979). Radical Egalitarian Justice: Justice as Equality. *Social Theory and Practice*, 5(2), 209-26.

- Nussbaum, M. (2013). *Review of Political Emotions: Why Love Matters for Justice*. Cambridge, MA: Belknap Press.
- Nussbaum, M. C. (2006). *Frontiers of Justice: Disability, Nationality, Species Membership*. Cambridge, MA: Harvard University Press.
- O'Hagan, T. (1999). *Rousseau*. London: Routledge.
- Okin, S. M. (1989). *Justice, Gender, and the Family*. New York: Basic Books.
- Oliver, E., & Lee, T. (2005). Public Opinion and the Politics of Obesity in America. *Journal of Health Politics, Policy and Law*, 30(5), 923-954.
- Orloff, A. (1996). Gender in the Welfare State. *Annual Review of Sociology*, 22: 51-78.
- Otsuka, M. (2006). Prerogatives to Depart from Equality. *Royal Institute of Philosophy Supplements*, 95-112.
- Patrick, R. (2011). The wrong prescription: Disabled people and welfare conditionality. *Policy and Politics*, 39(2), 275-280.
- Pattanaik, P. (1998). Cultural Indicators of Well-being: Some Conceptual Issues. UNESCO.
- Pettit, P. (1999). Republican Freedom and Contestatory Democratization. In I. S. Hacker-Cordon, *Democracy's Value* (pp. 163-90). Cambridge: Cambridge University Press.
- Phillips, A. (1998). *The Politics Of Presence: The Political Representation of Gender Race and Ethnicity*. Oxford: Oxford University Press.
- Pincus, F. L. (1996). Discrimination comes in many forms: Individual, institutional, and structural. *The American Behavioral Scientist*, 40(2), 186-194.
- Pincus, F. L. (1994). *Race And Ethnic Conflict: Contending Views On Prejudice, Discrimination, And Ethnoviolence*. Routledge.
- Pinel, E. C. (1999). Stigma consciousness: the psychological legacy of social stereotypes. *J. Personal. Soc. Psychol*, 76(1), 114-28.
- Pogge, T. W. (1989). *Realizing Rawls*. Ithaca: Cornell University Press.
- Pogge, T. W. (2008). *World Poverty and Human Rights*. Polity.
- Polt, R. (1999). *Heidegger: An Introduction*. Cornell University Press.
- Porter, L. (2016, April 11). *How does it feel to be a Muslim in France today?* Retrieved from New Statesman:

<https://www.newstatesman.com/world/europe/2016/04/how-does-it-feel-be-muslim-france-today>

- Quinn, W. (1989). Actions, Intentions, and Consequences: The Doctrine of Double Effect. *Philosophical Review*, 18(4), 287-312.
- Rasmussen, K. L. (2007). Nothing Personal: On Statistical Discrimination. *The Journal of Political Philosophy*, 15(4), 385-403.
- Rasmussen, K. L. (2014). *Born Free and Equal? A Philosophical Inquiry into the Nature of Discrimination*. Oxford: Oxford University Press.
- Rawls, J. (1971). *A Theory of Justice*. Cambridge, MA: Harvard University Press.
- Rawls, J. (1993). *Political Liberalism*. New York: Columbia University Press.
- Rawls, J. (1997). The Idea of Public Reason Revisited. *The University of Chicago Law review*, 64(3), 765-807.
- Rawls, J. (1999). *A Theory of Justice (revised edition)*. Cambridge, MA: Harvard University Press.
- Rawls, J. (2001). *Justice as Fairness: A Restatement*. Cambridge, MA: Harvard University Press.
- Rawls, J. (2001). *The Law of Peoples*. Cambridge, MA: Harvard University Press.
- Rawls, J. (2007). *Lectures on the History of Political Philosophy*. (S. Freeman, Ed.) Cambridge, MA: Harvard University Press.
- Raz, J. (1984). On the Nature of Rights. *Mind*, 93(370), 194-214.
- Raz, J. (1988). *The Morality of Freedom*. Oxford: Oxford University Press.
- Richardson, W. J. (1963). *Heidegger: Through Phenomenology to Thought*. The Hague, Netherlands: Martinus Nijhoff Publishing.
- Robeyns, I. (2008). Ideal Theory in Theory and Practice. *Social theory and Practice*, 34(3), 341-362.
- Rorty, R. (1999). *Achieving Our Country Leftist Thought in Twentieth-Century America*. Cambridge, MA: Harvard University Press.
- Schiek, D. B. (2007). *Cases, Materials and Text on National, Supranational and International Non-Discrimination Law*. Hart Publishing.
- Sen, A. (2004). How Does Culture Matter. In V. Rao, & M. Walton, *Culture and Public Action: A Cross-Disciplinary Dialogue on Development Policy (Stanford Social Sciences)*. Stanford Social Sciences.

- Sen, A. (2009). *The Idea of Justice*. London: Penguin Books.
- Sen, A., & Nussbaum, M. (2003). *The Quality of Life*. Oxford Scholarship Online.
- Sennet, R., & Cobb, J. (1973). *The Hidden Injuries of Class*. New York: Vintage Books.
- Sheppard, S. (1998). The Perfectionisms of John Rawls. *Canadian Journal of Law & Jurisprudence*, 383-415.
- Sher, G. (1988). Qualifications, fairness and desert. In N. Bowie, *Equal Opportunity*. Boulder, CO: Westview Press.
- Shin, P. (2009). The Substantive Principle of Equal Treatment. *Legal Theory*. 15(2), 149-172.
- Shue, H. (1975). Liberty and Self-Respect. *Ethics*, 85(3), 195-203.
- Sigelman, L., & Tuch, S. (1997). Metastereotypes: Blacks' Perceptions of Whites' Stereotypes of Blacks. *The Public Opinion Quarterly*, 61(1), 87- 101.
- Skhlar, J. (1969). *Men and Citizens*. London: Cambridge University Press.
- Skhlar, J. (1989). *Liberalism and the Moral Life*. Cambridge, Massachusetts: HARVARD UNIVERSITY PRESS .
- Smith, A. (2012). *Inquiry into the Nature And Causes of the Wealth of Nations*. University Of Chicago Press.
- Smith, M. (1987). The Humean Theory of Motivation. *Mind*, 96(381), 36-61.
- Stark, C. A. (2012). Rawlsian Self-Respect . In M. Timmons, *Oxford Studies in Normative Ethics: Volume 2*. Oxford University Press,.
- Steele, C. M. (1997). A Threat in the Air: How Stereotypes Shape Intellectual Identity and Performance . *American Psychologist*, 52(6), 613-629.
- Steele, C. M. (1999). The psychology of self-affirmation: Sustaining the integrity of the self. In R. F. Baumeister, *Key readings in social psychology. The self in social psychology* (pp. 372-390). New York: Psychology Press.
- Steele, C. M. (2011). *Whistling Vivaldi: How Stereotypes Affect Us and What We Can Do*. W. W. Norton & Company.
- Steele, C. M., Spencer, S., & Aronson , J. (2002). Contending with group image: The psychology of stereotype and social identity threat. In *Advances in experimental social psychology* (pp. 379-440). New York: Academic Press.
- Stemplowska, Z. (2008). What's Ideal about Ideal Theory? *Social Theory and Practice*, 34(3), 319-340.

- Stier, S. P. (2008). Stigma as Related to Mental Disorders. *The Annual Review of Clinical Psychology*, 4: 367–93.
- Stoljar, N. (2014). Autonomy and Adaptive Preference Formation. In M. P. Andrea Veltman, *Autonomy, Oppression, and Gender*. Oxford: Oxford University Press.
- Tadros, V. (2015). Wrongful Intentions without Closeness. *Philosophy & Public Affairs*, 43(1), 52-74.
- Taylor, C. (1989). *Sources of the Self: The Making of the Modern Identity*. Cambridge, MA: Harvard University Press.
- Taylor, C. (1992). The Politics of Recognition. In A. Guttman, *Multiculturalism and The Politics of Recognition: An Essay by Charles Taylor*. Princeton University Press.
- Taylor, C. (2003). *The Ethics of Authenticity*. Cambridge, Massachusetts: Harvard University Press.
- Taylor, C. (2012). *Human Agency and Language*. Cambridge: Cambridge University Press.
- Taylor, J. S. (2009). *Practical Autonomy and Bioethics*. New York: Routledge.
- Taylor, R. S. (2003). Rawls's Defense of the Priority of Liberty: A Kantian Reconstruction. *Philosophy & Public Affairs*, 31(3), 246-271.
- Taylor, R. S. (2004). Self-Realization and the Priority of Fair Equality of Opportunity. *Journal of Moral Philosophy*, 1(3), 333-347.
- Tefler, E. (1968). Self-Respect. *Philosophical Quarterly*, 18(71), 114-121.
- Tesser, A. (1988). Toward a self-evaluation maintenance model of social behavior. In L. Berkowitz (Ed.), *Advances in Experimental Social Psychology* (pp. 181-227). New York: Academic Press.
- Thomas, L. (1978). Morality and Our Self-Concept. *The Journal of Value Inquiry*, 12(4), 258–68.
- Thompson, J. J. (2010). Turning the Trolley. *Philosophy and Public Affairs*, 36(4), 359-374.
- Tully, J. (2007). Recognition and dialogue: the emergence of a new field. *Critical Review of Social and Political Philosophy*, 7(3), 84-106.
- Turner, M. E. (1993). Effects of preferential and meritorious selection on performance: An examination of intuitive and self-handicapping perspectives. *Personality and Social Psychology Bulletin*, 19(1), 47–58.

- Valentini, L. (2009). On the Apparent Paradox of Ideal Theory. *Journal of Political Philosophy*, 17(3), 332-355.
- Velma McBride Murry, P. A. (2001). Racial Discrimination as a Moderator of the Links Among Stress, Maternal Psychological Functioning, and Family Relationships. *Journal of Marriage and Family*, 63(4), 915-926.
- Virta, S. (2008). Community Policing Meets New Challenges. In S.Virta, *Policing Meets New Challenges: Preventing Radicalization and Recruitment* (pp. 15–41). Tampere: University of Tampere Press.
- Waldron, J. (1989). Rights in Conflict. *Ethics*, 99(3), 503-519.
- Walzer, M. (1983). *Spheres of justice : a defense of pluralism and equality* . New York: Basic Books.
- Wolf, N. (1990). *The Beauty Myth*. London: Vintage.
- Wolff, J. (1998). Fairness, Respect, and the Egalitarian Ethos. *Philosophy and Public*, 27(2), 97-122.
- Wollstonecraft, M. (2004). *A Vindication of the Rights of Woman*. Harmondsworth: Penguin.
- Wood, A. W. (1999). *Kant's Ethical Thought*. Cambridge: Cambridge University Press.
- Young, I. M. (1990). *Justice and the Politics of Difference*. Princeton, NJ: Princeton University Press.
- Young, I. M. (2004). Five Faces of Oppression. In L. H. O'Connor, *Oppression, Privilege, & Resistance*. Boston: McGraw Hill.
- Zink, J. R. (2011). Reconsidering the Role of Self-Respect in Rawls's A Theory of Justice. *The Journal of Politics*, 73(2), 331-344 .
- Zubair, Y. (2017, March 6). *Voices*. Retrieved from Independent: <http://www.independent.co.uk/voices/muslim-young-british-islam-fundamentalist-terrorism-isis-mosque-religion-why-feel-like-one-a7613491.html>