

**THE AUTONOMY-FOSTERING STATE: CITIZENSHIP AND SOCIAL SERVICE  
DELIVERY**

**by**

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## Chapter 1 Introduction

Can the state foster autonomy in addicted drug users—without requiring abstinence? When these users participate in the *delivery* of state-funded services for which they are also *recipients*, how can we understand the role of the state? Is a battered woman who *chooses* to remain in an abusive, even potentially lethal, relationship acting autonomously? What, if any, is the role of the state in intervening in her decision making process? Do harsh sanctions, including loss of all benefits, levied by a paternalistic state on welfare recipients who fail to meet rigid work and conduct requirements facilitate autonomy-competency? Can autonomy and coercive relations of domination coexist? This dissertation begins to reconcile the sometimes paradoxical questions surrounding the role of the state in fostering autonomy through social service delivery, often in our most vulnerable citizens, citizens that conventional theories of autonomy largely fail to accommodate.

Despite the complexity of these questions, I argue that the state does indeed have an obligation to foster autonomy, wherever possible, in its individual citizens. Moreover, I suggest that despite the apparent tensions that emerge in extant practical and theoretical attempts to engage in autonomy-fostering practices, it is possible – and desirable – for the state to endeavor to do so. Such an obligation clearly exists in states that lay claim to standards of equal citizenship rights for all members of the community – liberal democracies that are founded on particular notions of justice and inclusion. Simply by

virtue of focusing on this particular attribute – autonomy – this study makes two claims. First, I participate in the project of “reclaiming” autonomy from its conventionally individualistic context. That is, I argue that autonomy ought to be valued. Though feminists and other critical scholars have at some points seen this concept as exclusionary, a growing number of theorists have reconceived of autonomy in a way that, I am convinced, highlights its importance. Second, I suggest that autonomy is a capacity that *can* be fostered. This claim follows from the first insofar as it is related to the reconceived notion of autonomy as *relational*. I will discuss relational autonomy in greater detail below, but briefly, on this conception, autonomy develops not in isolation but out of particular enabling social relations.

With these initial claims in mind, in the chapters that follow I draw on empirical examples of social service delivery models in order to develop a theory of the “autonomy-fostering state.” Moreover, I consider the implications of such a theory for our conceptions of autonomy, citizenship, service delivery practices, and the state itself. In this introductory chapter, I lay out the theoretical starting points for my consideration of each of these interrelated concepts and anticipate how they will come to life in the context of the “case studies” I offer. The theory of autonomy I offer is closely tied to citizenship insofar as I claim that the capacity for autonomy is a central requirement for access to and exercise of the rights and status associated with citizenship; that is, citizenship is in many ways the political realization of autonomy. My theory of the state also follows from the account of autonomy I put forth. I suggest that given a notion of autonomy as socially constituted, the state-citizen relationship must be seen as a pivotal site at which such constitution occurs. Furthermore, I turn to service delivery because it is

for many the primary site at which interaction with the state takes place. As well, my concern with the autonomy of vulnerable and marginalized people makes service delivery particularly illuminating. This project, then, contributes to theories of autonomy and the state in two different but related ways. I offer a normative account of what the autonomy-fostering state might look like. Following from this account, I offer a set of analytic tools that help us to better make sense of the contradictions and tensions that emerge from the practices of existing liberal-democratic states.

### *I. Autonomy*

Feminist political theorists have rightly been concerned with problems of autonomy for some time. The broadly conceived feminist project of overcoming gender oppression (understood in a far ranging array of ways) is necessarily connected to the notion of individual autonomy; where such oppression has denied women, and those ideas, institutions, and relationships gendered “feminine,” proper respect, recognition, and access to resources, it has often also (or consequently) denied them the opportunity to develop and exercise autonomy. By autonomy, I mean the capacity to live one’s life according to one’s own plans, that is, the capacity for “self-government.” Despite the relevance of autonomy to feminism, feminists have also been concerned about the implications of such notions of “self-government,” which are sometimes criticized for being overly individualistic, for referencing only atomistic, unencumbered, and independent individuals, categories that have conventionally excluded most women, and

for ignoring the inherent sociality of human beings. In response to these claims, many theorists, feminist and otherwise, have argued that autonomy is a “relational” concept.<sup>1</sup>

Given that humans are socially embedded creatures, autonomy cannot be theorized as though such interdependence does not exist. Rather, as Jennifer Nedelsky explains, we must navigate the path between acknowledging the “constitutiveness of social relations” and the “value of self-determination.”<sup>2</sup> Autonomy can be understood then, as Joel Anderson and Axel Honneth write, “as an acquired set of capacities to lead one’s own life”—that is acquired in the context of our various relationships.<sup>3</sup> Furthermore, as John Christman notes, the capacities associated with autonomy “do not merely emerge naturally, but must be developed through various processes involving educational, social and personal resources.”<sup>4</sup> In turn, Anderson and Honneth argue, given the importance liberal societies often place on protecting the vulnerable, “[they] should be especially

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<sup>1</sup> Among the many pieces that take up relational autonomy (some without using the term) are: Seyla Benhabib, *Situating the self: gender, community, and postmodernism in contemporary ethics*, (New York: Routledge, 1992); Paul Benson, "Autonomy and Oppressive Socialization," *Social Theory and Practice* 17, no. 3 (1991); John Christman, "Saving Positive Freedom," *Political Theory* 33, no. 1 (2005); John Philip Christman, *The Inner citadel: essays on individual autonomy*, (New York: Oxford University Press, 1989); Nancy Fraser and Linda Gordon, "A Genealogy of *Dependency*: Tracing a Keyword of the U.S. Welfare State," in *The subject of care: feminist perspectives on dependency*, ed. Eva Feder Kittay and Ellen K. Feder (Lanham, Md.: Rowman & Littlefield Publishers, 2002), ix, 382; Marilyn Friedman, *Autonomy, gender, politics*, (Oxford ; New York: Oxford University Press, 2003); Eva Feder Kittay, *Love's labor: essays on women, equality, and dependency*, (New York: Routledge, 1999); Catriona Mackenzie and Natalie Stoljar, *Relational autonomy: feminist perspectives on autonomy, agency, and the social self*, (New York: Oxford University Press, 2000); Martha Minow, *Making all the difference: inclusion, exclusion, and American law*, (Ithaca: Cornell University Press, 1990); Jennifer Nedelsky, "Reconceiving Autonomy: Sources, Thoughts and Possibilities," *Yale Journal of Law and Feminism* 1, no. 7 (1989); Jennifer Nedelsky, "Law, Boundaries and the Bounded Self," *Representations* 30 (1990); Iris Marion Young, *Justice and the politics of difference*, (Princeton, N.J.: Princeton University Press, 1990); Iris Marion Young, *Inclusion and democracy*, (Oxford ; New York: Oxford University Press, 2000); Joel Anderson and Axel Honneth, "Autonomy, Vulnerability, Recognition, and Justice," in *Autonomy and the challenges of liberalism: new essays*, ed. John Philip Christman and Joel Anderson (Cambridge: Cambridge University Press, 2005), 127-49

<sup>2</sup> Jennifer Nedelsky, "Reconceiving Autonomy: Sources, Thoughts and Possibilities," *Yale Journal of Law and Feminism* 1, no. 7 (1989): 9.

<sup>3</sup> Joel Anderson and Axel Honneth, "Autonomy, Vulnerability, Recognition, and Justice," in *Autonomy and the Challenges of Liberalism: New Essays*, ed. John Philip Christman and Joel Anderson (Cambridge: Cambridge University Press, 2005), 129.

<sup>4</sup> John Christman, "Saving Positive Freedom," *Political Theory* 33, no. 1 (2005): 87.

concerned to address vulnerabilities of individuals regarding the development and maintenance of their autonomy.”<sup>5</sup> Anderson and Honneth identify three “relations-to-self” that are central to autonomy and therefore require particular social-supports: self-respect, self-trust, and self-esteem.<sup>6</sup> It is relationships of recognition that are central to establishing each of these “relations-to-self,” and where such recognition does not exist, one’s autonomy is threatened. That is, “one’s autonomy is *vulnerable to disruptions in one’s relationship to others.*”<sup>7</sup>

This attention to the vulnerability of our capacity to act autonomously brings into focus the relations of power that are so pivotal in determining what contexts will be most conducive to developing autonomy-competency. The trajectories of power extant in given social contexts are important for our understanding, in particular, of what types of relationships *constrain* Anderson and Honneth’s “relations-to-self,” and therefore the development of the capacities required for autonomous action.

For example, Marilyn Friedman discusses autonomy in relation to male dominance.<sup>8</sup> Friedman points out just how damaging and contraindicated relations of dominance are to autonomy. One response to the experience of being dominated, Friedman explains, is to “abandon wants and values that dominance relationships prevent [the dominated] from realizing. A dominated person may try to convince herself that she never really wanted those things in the first place.”<sup>9</sup> In addition, Friedman notes, a chronically dominated person may come to rely on certain structures and institutions for

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<sup>5</sup> Joel Anderson and Axel Honneth, "Autonomy, Vulnerability, Recognition, and Justice," in *Autonomy and the Challenges of Liberalism: New Essays*, ed. John Philip Christman and Joel Anderson (Cambridge: Cambridge University Press, 2005), 127.

<sup>6</sup> *Ibid.*, 132-37.

<sup>7</sup> *Ibid.*, 130.

<sup>8</sup> Marilyn Friedman, "Autonomy and Male Dominance," *Ibid.* (Cambridge, UK; New York).

<sup>9</sup> *Ibid.*, 157.

protection. She may subsequently be reluctant to criticize these sources of protection; “My capacity for critical thinking would be constrained by my need for protection.”<sup>10</sup>

The likelihood of, first, abandoning one’s desired means or ends or, second, losing the opportunity and/or capacity to level criticisms at dominant institutions in society, which happen to afford some of us protection from some kinds of domination, clearly represents a serious assault on the opportunity to develop the capacity to or to act autonomously. In turn, where the state delivers social services in such a way that leads those dependent on it to be embedded in relations of dominance, autonomy is threatened.

This relational conception of autonomy and, in turn, the reasons motivating scholars to pursue such a conception are central to my argument in this dissertation, especially given that they fundamentally make the possibility of fostering autonomy coherent. But in addition to drawing upon existing accounts of relational autonomy, in the chapters that follow I use the empirical examples that serve as “case studies” to present a richer account of the nature of the specific social relations that enable and hinder autonomy, and the empirically situated problems or discontinuities that suggest a need for greater nuance in our theories of autonomy. For example, one chapter on services for domestic violence survivors draws our attention to, on the one hand, the complexities of the effects of oppressive socialization on autonomy, and on the other hand, the contextual nature of the criteria we ought to use to evaluate the extent to which agents and their actions are autonomous. Further, in a chapter on the “new paternalism,” the relationship between

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<sup>10</sup> Ibid., 162. In a situation that is *not* characterized by chronic domination, however, one might also be more likely to take advantage of needed protection, while maintaining the appropriate critical stance in relation to the source of protection. For example, in Chapter 3, I explore potentially autonomy-enabling services for domestic violence survivors that can be understood as a form of protection.

autonomy and paternalism is complicated in light of a more nuanced conception of paternalism that takes into account power relations.

In order to better grapple with these problems of autonomy, I offer elements of a theory of autonomy that differ from other theorists' accounts. I do this first, in my treatment of the debate over procedural vs. substantive accounts of autonomy and second, in my use of both the ascriptive and capacity-related notions of autonomy. The debate between procedural and substantive accounts of autonomy has preoccupied autonomy theorists for some time. For Marilyn Friedman, the relational conception of autonomy is most feasible when understood as content-neutral. Theorists who understand autonomy as "content-neutral" or "procedural" argue that "the *content* of a person's desires, values, beliefs, and emotional attitudes is irrelevant to the issues of whether the person is autonomous with respect to those aspects of her motivational structure and the actions that flow from them."<sup>11</sup> That is, what matters for autonomy is not the substance of the autonomous belief, action, etc., but the way in which one arrives at this belief, action, and so on. There are no particular values that the autonomous individual must choose in accordance with in order to count as such. Rather, the key to autonomy for proceduralists is some form of self-reflection, indicating that actions are taken in accord with certain values held by the individual, rather than impulsively or according to the values one does not perceive to be "one's own." Friedman explains: "That something matters deeply to a person when she attends to it, and that this concern partly directs her choices and actions,

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<sup>11</sup> Catriona Mackenzie and Natalie Stoljar, "Introduction," in *Relational Autonomy: Feminist Perspectives on Autonomy, Agency, and the Social Self* (New York: Oxford UP, 2000), 13.

imparts a special significance to her behavior that it is appropriate to call determination by herself as the self she is.”<sup>12</sup>

However, such a conception of autonomy is limited, many theorists have noted, by the pervasive existence of oppressive socialization and the internalization of values that serve in effect to *limit* one’s autonomy. This does not mesh well with the high value proceduralists place on the individual’s perception of herself as engaging in critical self-reflection that enables her to make choices and take actions that are “her own.” In response to such objections, theorists of procedural relational autonomy note that what is “her own” will always be a product of social relations: we cannot dismiss perception of self-reflection out of hand simply on account of socialization. But Paul Benson highlights an important problem with this response.<sup>13</sup> He writes, “Certain forms of socialization are oppressive and clearly lessen autonomy. In some prominent cases, the general means by which oppressive socialization operates are no different than those through which benign socialization takes effect.”<sup>14</sup> Thus, unless we are willing to concede that decisions made under the constraints of seriously oppressive socialization are equally autonomous to those taken within the context of socialization that, for example, takes place within the context of a supportive family to endow children with a sense of self-esteem, critical reflection may not fit the bill as a means for discerning between autonomous and non-autonomous behavior.

In contrast, substantive views of autonomy require that autonomy be consistent with certain conditions that go beyond the procedural requirements of self-reflection. While

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<sup>12</sup> Marilyn Friedman, *Autonomy, Gender, Politics, Studies in Feminist Philosophy* (Oxford; New York: Oxford University Press, 2003), 21.

<sup>13</sup> Paul Benson, "Autonomy and Oppressive Socialization," *Social Theory and Practice* 17, no. 3 (1991).

<sup>14</sup> *Ibid.*: 385.

some strong substantive theories require that autonomous individuals have the capacity to direct their own lives in accord with quite specific values or norms (for example, they may require a high degree of rationality or rejection of specific norms), others are less stringent, requiring that one's autonomous decisions, preferences or actions be formulated or taken in accord with broader content-guidelines. For example, in a related account of responsibility, Benson suggests that "self-worth" is an ideal condition for evaluating standards of personal responsibility (and autonomy) that helps us to make normative claims about the oppressive socialization.<sup>15</sup>

I defend a substantive account of autonomy in this dissertation. I develop this account most fully in Chapter 3. In that chapter I stress that the "substance" of autonomy must be figured with attention to the specificity of a given context. As critics of substantive accounts of autonomy have rightly noted, the risk of a substantive approach figured wrongly (for a particular context) is that such an account runs the risk of being exclusionary or further marginalizing groups that do not conform to the account that fails to be contextually sensitive. Instead, particular arenas, be they policy arenas, cultural arenas, political contexts, etc., may serve as spaces within which the specificities of the substance of autonomy can be worked out. As I explain in the later chapters, this methodological approach—moving back and forth between concrete intuitions and more general theories—can be understood as contiguous with the general sense in which attention is paid to the relevance of experience in much feminist theoretical work. Moreover, ultimately, it is the ability to make normative claims about oppression that is central to my defense of a substantive account of autonomy. Rather than generating

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<sup>15</sup> Paul Benson, "Feeling Crazy: Self-Worth and the Social Character of Responsibility," in *Relational Autonomy: Feminist Perspectives on Autonomy, Agency, and the Social Self*, ed. Catriona Mackenzie and Natalie Stoljar (New York: Oxford University Press, 2000).

exclusionary criteria for autonomy, a substantive account of autonomy generates much needed mechanisms for criticizing dominant social structures that constrain autonomy.

The second way in which I expand on the existing accounts of relational autonomy is by making use of and further developing an account of ascriptive autonomy. As I note above, I understand autonomy to be the capacity to pursue one's own ends or life plans. But there is a finer distinction to be made in specifying what it means to be autonomous. Following other theorists,<sup>16</sup> I view autonomy as not only referring to a capacity but to a status. That is, one is *recognized* as autonomous; autonomy is ascribed to some individuals and not to others. It may well be the case that autonomy is ascribed to individuals who possess the capacity referred to initially. However, given the politically charged and conceptually muddled ways in which the concept is sometimes deployed in popular and academic contexts, the attribution of recognition and the existence of capacity may also fail to overlap. Nevertheless, the two senses of autonomy are indeed interwoven. Recognition theorists, as I discuss in greater depth in Chapter 3, have noted that the psychic effect of misrecognition can often impede our sense of self and following from this, I argue, our capacity to act autonomously.<sup>17</sup> On the other hand, the ascription of autonomy to one who is not necessarily fully endowed with the capacities for autonomy may in fact promote the development of these capacities: the experience of

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<sup>16</sup> See Richard H. Fallon, "Two Senses of Autonomy," *Stanford Law Review* 46, no. 4 (1994); Mika LaVaque-Manty, "Kant's Children," *Social Theory and Practice* 32, no. 3 (2006).

<sup>17</sup> Axel Honneth, *The Struggle for Recognition: The Moral Grammar of Social Conflicts* (Cambridge, Mass.: Polity Press, 1995); Charles Taylor and Amy Gutmann, *Multiculturalism and the Politics of Recognition: An Essay* (Princeton, N.J.: Princeton University Press, 1992). Nancy Fraser also discusses the effects and implications of misrecognition, but she focuses more on the institutional effect, expressing some wariness about exploring the psychic effects. See further Chapter 3. Nancy Fraser, "From Redistribution to Recognition? Dilemmas of Justice in a 'Postsocialist' Age," in *Justice Interruptus: Critical Reflections on the 'Postsocialist' Condition* (New York and London: Routledge, 1997); Nancy Fraser and Axel Honneth, *Redistribution or Recognition? A Political-Philosophical Exchange* (London; New York: Verso, 2003).

being recognized as autonomous may create certain expectations, responsibilities, and feelings of inclusion that themselves promote autonomy. This interrelatedness makes attention to the dual nature of autonomy important to a fully fleshed out theory of the autonomy-fostering state.

I use this notion of ascriptive autonomy to further elucidate the relationship between harm and autonomy in Chapter 4 and to complicate our understanding of paternalism in Chapter 5. Simply by breaking autonomy down in this way, we are able to get a better handle on what it means to foster autonomy. Indeed, both autonomy understood in the ascriptive sense and in the capacity sense are relationally constituted. The ascription of autonomy is often a function of the expansiveness of our conception of the autonomous individual; in disentangling autonomy from independence, I seek to widen the possibilities for such ascription – or to theorize the institutional and social conditions under which relations of recognition are more justly configured.

An understanding of autonomy as both a capacity and status highlights the link between autonomy and citizenship. I turn next to a brief overview of the notion of citizenship that I develop in the dissertation, and that in a sense motivates the concern with autonomy to begin with.

## *II. Citizenship*

The link between relations of power and the ability or inability of individuals to develop and exercise the capacity to act autonomously is made particularly salient when we consider the relationship between autonomy and citizenship in contemporary welfare states. In a similar sense to the way in which I have described autonomy above,

citizenship has been importantly theorized as referring to a status. Autonomy, both in its capacity and status form, I suggest, is critical to the status of citizenship and the related claims to the rights and duties associated with citizenship. The limitations placed on an individual's development and exercise of the capacity to act autonomously by, for example, relations of dominance, directly bear on first, her attainment of recognition as a full rights bearing citizen, and second, her capacity to exercise the rights and perform the duties associated with the status of citizenship.

The notion of citizenship-as-status is most famously explored by T.H. Marshall. Over half a century ago, Marshall referred to this status as one that “admitted [men] to a share in social heritage” and recognized them as “full members of the society.”<sup>18</sup> In the nineteenth century, Marshall explains, the growing conflict between the equality claims of the citizen and the inequalities in social class created by the market system created increased tension between what he refers to as social rights on the one hand and civil and political rights on the other hand. Civil rights, and political rights (which Marshall sees as a secondary offshoot of civil rights), are associated with the new competitive market—the equality of opportunity afforded to all (male) citizens—while social rights, “the right to a modicum of economic welfare and [...] to live the life of a civilized being according to the standards prevailing in the society,” are associated with relatively static, pre-determined rights based on *needs*.<sup>19</sup> The Poor Law Act of 1834 in England made a particularly striking move in the process of attempting to slice social rights out of the status of citizenship. The poor were required to make their claims to social rights as an *alternative* to the rights afforded citizenship, including civil rights of personal liberty and

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<sup>18</sup> T. H. Marshall, *Citizenship and Social Class, and Other Essays* (Cambridge [Eng.]: University Press, 1950), 6.

<sup>19</sup> *Ibid.*, 8.

any political rights they may have possessed.<sup>20</sup> The status of citizenship was revoked from those who were “dependent” on the state. The protection of the state was available only in exchange for the renouncement of one’s rights as a citizen.

Marshall claims that social rights encountered a revival in the twentieth century. Indeed, within the U.S. context, there was a growing movement toward increased social rights, perhaps reaching its height in the form of the Great Society pursued by President Johnson. However, the status of citizenship has increasingly, since the 1970’s and particularly in recent years, been regressing in the direction of the stigma and disenfranchisement that characterized the era of the Poor Law; for example, welfare reforms in Britain and the United States at the end of the 20<sup>th</sup> century challenged entitlement-based approaches to welfare provision (to varying degrees). Moreover, though his theory has proved useful for feminist accounts of welfare, dependence, and autonomy, feminist theorists and scholars of welfare policy have criticized Marshall’s account for its failure to fully account for the experience of women. For one, his chronology of the development of civil, political, and social rights, in that order, does not describe the experience of women in most places in the world. Linda Gordon notes, “throughout the world women won important social rights from the state *before* they got the vote.”<sup>21</sup> Beyond simply perverting the chronology of the development of citizenship rights, this failure to fully consider the role of women leads Marshall to overlook various forms of dependence. While dependence on the state is, for him, mistakenly stigmatized, Marshall primarily considers dependence (in adult males) as emerging from exclusion,

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<sup>20</sup> *Ibid.*, 15.

<sup>21</sup> Linda Gordon, “The New Feminist Scholarship on the Welfare State,” in *Women, the State, and Welfare*, ed. Linda Gordon (Madison: University of Wisconsin Press, 1990). See also Ruth Lister, *Citizenship: Feminist Perspectives*, 2nd ed. (Washington Square, N.Y.: New York University Press, 2003).

temporary or permanent, from the wage-labor workforce. Therefore, my focus on feminist conceptions of autonomy in the dissertation pushes Marshall's approach to dependence further by reinserting experience of women in the development and provision of social rights of citizenship, thereby moving beyond a solely market-focused account of the appropriate provisions entailed in social citizenship status.

Throughout the dissertation I therefore explore the implications of explicitly focusing on autonomy-fostering in theories of citizenship. In the chapter that follows, I argue for a revised notion of social citizenship, founded on a relational conception of autonomy, which highlights the necessity for autonomy-fostering service delivery as a component of the resources required for full citizenship. In the cases I explore in the remainder of the dissertation, more inclusive notions of citizenship are always at the normative foundation of the claims I make regarding potentially autonomy-fostering service delivery. Accordingly, I view service delivery as a key site at which the assumptions and stigmas associated with vulnerability in our society may be challenged and the appropriate resources for developing the capacity for autonomy provided. With this in mind, I turn next to the implications of and motivations for choosing service delivery as a site of importance for the autonomy-fostering state.

### ***III. Service Delivery***

I focus on service delivery in the dissertation because it is a key juncture at which the relationship between state and citizen plays out. As Michael Lipsky argues in his seminal work *Street-Level Bureaucracy*, "in a sense street-level bureaucrats implicitly mediate aspects of the constitutional relationship of citizens to the state. In short, they

hold the keys to a dimension of citizenship.”<sup>22</sup> Street-level bureaucrats—the public bureaucrats by whom social welfare services are primarily delivered—play a central role, through the practice of service delivery, in determining the access service users have to the status of citizenship and, in turn, to autonomy, both as capacity and status. It is therefore unsurprising that the delivery of social welfare services has been a site of considerable criticism, debate, and frustration, both in the academic fields of political science and public policy and within public discourse. Nevertheless, this arena remains relatively uninvestigated by political theorists; though considerations of justice and liberty in the context of social welfare provision have been of interest to theorists, there is little theorizing of service delivery practices specifically as an arena within which citizenship – and autonomy – is constructed. I begin to fill this gap whilst relying on the empirical evidence that our colleagues in the other subfields of political science provide and analyze.

The challenges of effectively delivering social services are both structural and ideological. With regard to the structural limitations that street-level bureaucracies face, Lipsky argues that there are almost insurmountable difficulties in achieving sufficient accountability within these settings, where workers possess a high degree of discretion, an attribute that is indeed necessary for the jobs they do.<sup>23</sup> Accountability, Lipsky notes, “is the link between bureaucracy and democracy.”<sup>24</sup> Yet, while it seems evident that we ought to work to sustain this link, attempts to impose measures of accountability within

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<sup>22</sup> Michael Lipsky, *Street-Level Bureaucracy: Dilemmas of the Individual in Public Services* (New York: Russell Sage Foundation, 1980), 4.

<sup>23</sup> *Ibid.*, 162.

<sup>24</sup> *Ibid.*, 160.

the context of social service delivery have threatened the quality of service delivery.<sup>25</sup> For example, efforts at greater accountability, perhaps in the form of a expanded or more intrusive efficiency and accuracy measures, may ultimately “erode workers’ sense of responsibility for clients,” leading them to carry out their duties in a more mechanistic, potentially less productive, and less empathetic manner.<sup>26</sup>

The reasons for this chasm in the maintenance of, on the one hand, accountability, and on the other, flexibility or discretion, are manifold. Some are related to the manner in which federal and state level funds are distributed, bearing on the resources specific street-level bureaucracies have available to them. Constantly pressured resources lead to overloaded workers, who, while they require discretion, may come to rely on this discretion as away of streamlining their work and potentially acting in unfairly exclusionary ways.<sup>27</sup> In addition, the ideological underpinnings of social welfare service provision in general also bear considerable responsibility for the problems facing street-level bureaucracies. That is, as Lipsky writes, “American street-level bureaucracies must be understood as organizational embodiments of contradictory tendencies in American society as a whole.”<sup>28</sup> While the welfare state generates programs built to respond to the insecurity and inequality that the economic system inevitably produces, these programs—and the workers who deliver them—are also designed to maintain and reproduce the system. In this sense, street-level bureaucrats are indeed involved in a project of social control; their job is to deliver services in such a way that they do not undermine the status

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<sup>25</sup> Ibid., 178.

<sup>26</sup> Ibid.

<sup>27</sup> For a feminist critique of bureaucracy, see Kathy E. Ferguson, *The Feminist Case against Bureaucracy, Women in the Political Economy*. (Philadelphia: Temple University Press, 1984).

<sup>28</sup> Michael Lipsky, *Street-Level Bureaucracy: Dilemmas of the Individual in Public Services* (New York: Russell Sage Foundation, 1980), 183.

quo, which often requires that they impose disciplinary constraints on clients, with the objects of this discipline ranging from the nature of clients' appearance to other aspects of their self-presentation. Yet, street-level bureaucrats are also, in fulfilling the first imperative of the welfare state—that of responding to *needs*—often a manifestation of society's humanitarian impulses. These contravening impulses complicate our understanding of the state as an agent of social control, as I discuss further below.

The form and function of social service delivery in the context I pay particular attention to here – the United States – is also very much a product of popular conceptions of poverty and dependence. Lipsky, whose book was published in 1980, describes Americans' "deep conviction that poor people at some level are responsible for the conditions in which they find themselves, and that receiving benefits labeled 'for the poor' is shameful."<sup>29</sup> Certainly, this sentiment remains prevalent if not stronger in 2006, with the popular welfare reforms of 1996 relying heavily on such assumptions.<sup>30</sup> Public intellectuals and politicians emphasize the pathology of poverty—referring to an alien "underclass"—and on the undeserving nature of those who, they claim, receive benefits in exchange for doing no work (participating in the wage-labour economy, that is). As well, Lipsky notes, social services delivered to the poor (or other marginalized groups) are seen, in general, as a cost, rather than as a benefit.<sup>31</sup> These troubling attitudes and the consequent tensions in social service delivery that Lipsky describes manifest themselves

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<sup>29</sup> *Ibid.*, 181.

<sup>30</sup> The passage of PRWORA has some interesting implications for service delivery, which I will discuss in my dissertation. For example, the institution of conditional benefits that give rise to new sanctioning procedures, which may result in permanent loss of benefits for some recipients.

<sup>31</sup> Michael Lipsky, *Street-Level Bureaucracy: Dilemmas of the Individual in Public Services* (New York: Russell Sage Foundation, 1980), 181.

in on-the-ground practices that directly affect the distribution of citizenship rights in the U.S.

As I mention above, service delivery is perhaps *the* key site of state-citizen relationships. As Joe Soss writes, “[t]hrough welfare participation, individuals enter a relationship with government that may be designed in a variety of ways.”<sup>32</sup> Lipsky too notes that most citizens have their sole interactions with the state (or what they think of as the state) by way of their engagement with street-level bureaucracies, be they schools, welfare offices, or police officers. The relationship that is formed, I suggest, determines the extent to which she will be given the opportunity to develop her capacities to act autonomously and whether she will be recognized as autonomous. Joe Soss argues that welfare participation teaches clients how government and bureaucracy in particular will respond to their claims, and what sorts of claims they are entitled to make upon it; “it teaches citizens lessons about whether they can be effective in petitioning government and whether they have standing to act without fear of retribution.”<sup>33</sup> The “dilemma of action,” as Soss puts it, that citizens are conditioned to respond to via welfare service delivery experiences, is a central component of both the exercise and development of autonomy-competency. Political or social action, whether in response to the welfare system or elsewhere in the public sphere, can be a key arena for building and exercising the skills necessary for autonomous activity.

Soss’s fascinating study of welfare participation as a site of political action highlights the important *political* function of making claims on the welfare state.

Through interviews and participant-observation, Soss finds that welfare participation can

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<sup>32</sup>Joe Soss, *Unwanted Claims: The Politics of Participation in the U.S. Welfare System* (Ann Arbor: University of Michigan Press, 2000), 153.

<sup>33</sup>Ibid.

be a key cite for making claims on the government that are, more so than elsewhere, effective in yielding them “tangible, immediate, and helpful actions from government.”<sup>34</sup> Soss argues that through the process of claiming welfare rights—which is mediated by service delivery practices—clients “can enhance their power to accomplish goals and serve as capable members of the polity.”<sup>35</sup> Even in the context of mechanisms of social control, welfare may at some junctures afford recipients the opportunity for greater autonomy than they likely otherwise would have had. Soss’s view of service delivery is thus, to an extent, more optimistic than Lipsky’s. While he by no means exonerates the system of the sorts of contradictions and tensions that Lipsky finds, he acknowledges that social welfare service delivery plays an important role in clearing the way for disadvantaged, traditionally marginalized individuals to *exercise their capacity to act autonomously*. In turn, I want to take Soss’s observations one step further in proposing that, through service delivery, the welfare state cannot only allow for autonomous activity, it can and should directly engage in the task of fostering autonomy. Soss’s observations do not demonstrate that such activity is occurring. For the most part, delivery of public assistance in the United States<sup>36</sup> has not been undertaken in a manner that serves to foster autonomy. However, elsewhere in the welfare state, in sometimes equally politicized and stigmatized arenas, some service delivery does seem to fulfill the goal of fostering autonomy. In the dissertation, I consider several examples of these programs, which I will introduce in the “plan of the dissertation” below, and extract from

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<sup>34</sup>Ibid., 16.

<sup>35</sup> Ibid.

<sup>36</sup> At the time of Soss’s study “public aid” or what is generally known as “welfare” took the form of Aid to Families with Dependent Children (AFDC). Since 1996, AFDC no longer exists. In its stead, eligible individuals receive Temporary Assistance for Needy Families (TANF) on the condition of meeting relatively stringent work requirements.

them some general ideas and principles that may be applicable to the delivery of public assistance as well.

It is important to note that no definitive prescription for service delivery practices emerges in the course of the dissertation. This is the case for a number of reasons. First, as I stress throughout, contextual details are of much importance to conceiving of the relational conditions that best foster autonomy. As I note above, I consider the “substance” of autonomy to be constituted in a manner that goes between theoretical principles and given political and social contexts. Of particular relevance, the structure of relations of power is critical to our understanding of what distinguishes autonomy-fostering practices from paternalistic practices (as I discuss in Chapter 5). Moreover, my discussion of harm reduction in Chapter 4 emphasizes, service users can (and perhaps, ought to) play an important role in the delivery of services and the structuring of principles according to which such delivery is organized. Given this input, it is difficult to delineate autonomy-fostering practices with great specificity. Finally, as I turn to next, the “state” is not a singular entity, but a fragmented, diverse, and sometimes contradictory set of entities. Given this multiplicity, what constitutes fostering autonomy in one manifestation of the state, may not do so in another.

#### ***IV. The State***

Some theorists view the goal of fostering autonomy as contrary to the interests of the state as a whole, while others argue that turning to the state as a tool with which to resist the oppression of marginalized groups, especially of women, is inherently misguided.

The state, they claim, is either (or both) a mechanism of social control or an instrument of

patriarchal power. These theorists pose an important challenge to both the normative and empirical claims in this dissertation. Of course, most theorists recognize that the state is not a monolithic entity; it is an amalgam of various institutions and practices that are not always aligned with one another with regard to each one's interests. However, even when viewed as a complex, if abstract, entity, many theorists still question the plausibility of the state as a mechanism of "empowerment"—as the popular buzz-word might be used to describe "autonomy fostering"—arguing that the state is too fraught with gendered, racialized, power dynamics that privilege the independent, white, male citizen to serve this purpose. However, I argue, along with a number of other feminist theorists writing over the course of the past two decades, that out of the competing and often contradictory interests and goals emerging from the network of institutions and actors that comprise the state come important opportunities for and examples of programs that can and do foster autonomy, even in the most vulnerable and traditionally marginalized members of our communities.

In Chapters 2 and 3 – indeed, throughout the dissertation, though sometimes less directly – I engage with the understanding of the state that views it as primarily mechanisms of social control and masculinist power. Frances Fox Piven and Richard Cloward present the most well known, and perhaps most compelling, approach to the former critique.<sup>37</sup> Piven and Cloward's model of the welfare state pays particularly attention to the social-ordering role of work, or paid employment. When the poor are working, they will think and act as required to preserve the source of their subsistence. However, non-work has the opposite effect, especially when it is a condition endured by

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<sup>37</sup> Frances Fox Piven and Richard A. Cloward, *Poor People's Movements: Why They Succeed, How They Fail* (New York: Vintage books, 1979); Frances Fox Piven and Richard A. Cloward, *Regulating the Poor: The Functions of Public Welfare*, Updated ed. (New York: Vintage Books, 1993).

many people. In the absence of work as a source of order, potential unrest threatens to disrupt capitalist production and, in turn, profit-making. Without the regulating function of work, and in combination with the effects of material deprivation, people turn to various forms of protest and resistance that may, at their most extreme, “threaten to overturn existing social and economic arrangements.”<sup>38</sup> On this model, welfare does not simply attend to the deprivation brought about by unemployment. Its primary function is to restore order. Order is restored by way of conditionality; relief depends on fulfilling certain requirements. On the other hand, the stigma associated with welfare promotes the compulsion to work under any conditions, no matter how unjust or unsatisfactory with regard to meeting basic needs or respecting fundamental rights.

Wendy Brown, in turn, offers a version of the social control critique that sees the state as being necessarily a masculinist entity.<sup>39</sup> As I discuss in Chapter 3, despite the gradual diminishment of the power differential between individual men and women, Brown argues that the state has come to occupy these same positions of power once held by men. Moreover, the state does not deliver on its claims to neutrality, instead taking up a masculinist perspective, built on historically male-held leadership roles, masculinist institutions and modes of protection and regulation, and the reproduction of dominant notions of femininity. Therefore, Brown rejects the notion that the state can be an agent of liberation or progressive challenges to gendered forms of oppression; rather, to seek out the state as an ally in feminist aims is to turn to an agent of masculine power as a mechanism for protection from, paradoxically, masculine power. Though rationalized and bureaucratized, state power represents a continued assault on women’s freedom.

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<sup>38</sup> Frances Fox Piven and Richard A. Cloward, *Regulating the Poor: The Functions of Public Welfare*, Updated ed. (New York: Vintage Books, 1993), 7.

<sup>39</sup> Wendy Brown, "Finding the Man the State," *Feminist Studies* 18, no. 1 (1992).

Though Brown does disaggregate the state in her discussion of its different functions,<sup>40</sup> she maintains a relatively unnuanced view of the state's interests, even in its multiple functions: all arms of the state ultimately make use of their power for patriarchal ends, she argues. While I do not reject the claim that patriarchal power exists to a widespread extent within the various arms of the state, I challenge the notion that these various arms, even given the continued existence of patriarchy, can never act in enabling ways in the lives of women or other feminized subjects. As I will point to in greater detail in later chapters, other theorists do offer more nuanced accounts, challenging the category of "patriarchy" as an adequately cohesive way of characterizing the state. In her essay on "The New Feminist Scholarship on the Welfare State," Linda Gordon calls into question the value of the term "patriarchy" as a descriptive or analytic category for study of the welfare state. First, she notes the fuzziness of the word: "By using a word so filled with fatherly, familial, organic, fixed hierarchical relations to describe today's male supremacy, situated in a nonfamilial, inorganic, meritocratic society, we lose much of its power and nuance and we makes significant historical change."<sup>41</sup> Moreover, even if the state has come to occupy positions of domination previously held by individual men, notes Gordon, there is a certain imprecision in describing both individual male subordination of women *and* the gender oppression emerging from the state as examples of the "patriarchy." Gordon further notes that the use of the "state patriarchy" model is inflexible insofar as it fails to acknowledge the genuine gains that women have made, instead representing "them as an inevitable epiphenomenon of modernization or

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<sup>40</sup> Brown divides the state into its the liberal, capitalist, prerogative, and bureaucratic dimensions.

<sup>41</sup> Linda Gordon, "The New Feminist Scholarship on the Welfare State," in *Women, the State, and Welfare*, ed. Linda Gordon (Madison: University of Wisconsin Press, 1990), 22.

secularization rather than as the result of collective political struggle, that is, of feminism.”<sup>42</sup>

Picking up on this critique of the state patriarchy model is presenting only a picture of the state as oppressor, Barbara Cruikshank’s Foucaultian account of the welfare state highlights the complexities of the inevitable power relations between state and citizen.<sup>43</sup> Explaining the workings of state power, she defines a “technology of citizenship” as “a method for constituting citizens out of subjects and maximizing their political participation.”<sup>44</sup> Such “technologies of citizenship,” she suggests, do not cancel out the autonomy and independence of citizens but are modes of governance that work upon and through the capacities of citizens to act on their own.<sup>45</sup> Thus Cruikshank takes seriously welfare policy that seeks to “empower” recipients; she does not simply dismiss such policies as modes of social control. Nevertheless, she notes that the process of making citizens “self-governing” also renders them “governable.”<sup>46</sup> Thus, while Cruikshank’s approach to the welfare state is more subtle than the “state patriarchy” model, she remains suspicious of welfare programs that claim to foster self-government in recipients, noting that such self-government often entails the self-directed but highly conditioned assent of the recipient to align her goals with those of, for example, individuals and groups situated in bureaucratic or therapeutic positions of power.

Throughout this dissertation, while taking heed of the great potential for the state to act as an agent of disempowerment, even if in the less apparent but equally deleterious

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<sup>42</sup> Ibid.

<sup>43</sup> Barbara Cruikshank, *The Will to Empower: Democratic Citizens and Other Subjects* (Ithaca, N.Y.: Cornell University Press, 1999).

<sup>44</sup> Ibid., 67.

<sup>45</sup> Ibid., 4.

<sup>46</sup> Ibid., 90.

manner Cruikshank points to, I present a more optimistic account of the state – that is, of the “autonomy-fostering state.” While I don’t claim that such a state exists in entirety in any one place, by pointing to the workings of particular arenas of the states’ many arms, and to the interactions between these arms, I begin to offer a picture of a state that generates the relational conditions necessary to foster autonomy.<sup>47</sup> Sometimes, as in Chapter 3, these conditions arise out of the contradictory impulses of the various arms involved in a particular type of service delivery, even if the intentionality of each arm is not itself aligned with the aim of fostering autonomy. In other cases, the notion of the “state” is complicated when its agents – the individuals delivering the state funded services – are service users themselves. When users, as in the cases described in Chapter 4, run their own harm reducing needle-exchange program at the behest of the state, who is state and who is client? This confusion is a productive one, I argue. Further, in the case of many social welfare services, the recipients of benefits lay claim to needs that are explicitly embodied; our understanding of the state must take into account the ways in which it accounts for such embodiment. Such attention to “embodied autonomy,” I argue, can be found in the autonomy-fostering state, as demonstrated by some of the programs I explore in the case studies.

As with service delivery, no singular theory of the state or “road map” of the autonomy-fostering state in particular emerges from this dissertation. Nevertheless, the various accounts of autonomy fostering that I offer in this dissertation challenge the social control and patriarchy models of the state (while acknowledging the existence of

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<sup>47</sup> Chapter 3 presents an account of the loosely coupled arms of the state, drawn from work by Lynne Haney. See Lynne Haney, "Feminist State Theory: Applications to Jurisprudence, Criminology, and the Welfare State," *Annual Review of Sociology* 26 (2000); Lynne Haney, "Homeboys, Babies, Men in Suits: The State and the Reproduction of Male Dominance," *American Sociological Review* 61, no. October (1996)..

these motivations at certain junctures of state power). As well, these accounts contribute and further more complex accounts of the state, like Cruikshank's, which nevertheless tend to focus primarily on the constraining elements of state power, rather than the enabling ones, which themselves are often depicted as implicitly constraining.

#### V. *Plan of the dissertation*

In Chapter 2, I further develop the account of citizenship, specifically social citizenship, that underpins my concern in this dissertation with fostering autonomy. I argue for a revised notion of social citizenship that has at its core a relational conception of autonomy. The standard notion of social citizenship, often attributed to T.H. Marshall, does indeed have autonomy at its core; it seeks to correct the economic inequalities that compromise one's ability to act autonomously. However, it fails to consider autonomy relational. That is, as I note above, as a capacity that is not only hindered by material barriers, but that is also fostered only in the context of well-structured social relationships. This feminist conception of autonomy brings to light an understanding of social citizenship rights as concerned with actively promoting autonomy by establishing and cultivating the relational support necessary to foster this capacity. In the chapter, I take up two prominent critiques of the concept of social citizenship serve as an entry point to theorizing the autonomy-focused model I propose. On the one hand, some critics charge that the rhetoric of social citizenship fails to consider the mechanisms of social control that always accompany, and often overshadow, social welfare rights. On the other hand, the language of social citizenship rights is criticized for its so-called "passive" conception of citizenship, focusing only on rights without accounting for the

role of duties or obligation. By reconceiving of social citizenship as a status that grants individuals not only the right to freedom from material constraints on autonomy, but also the right to access services and resources necessary to foster and develop the capacity to act autonomously, we can effectively respond to these critiques.

Beginning with Chapter 3, the chapters that follow take up specific practices that may fulfill the requirements of social citizenship, as reconceived in Chapter 2, while also developing the theoretical accounts of the state and autonomy that are at the core of the dissertation. The first case explores a particular model of service delivery for survivors of domestic violence: “coordinated community response” programs (CCRs). This chapter is centrally focused on theorizing the state in the context of autonomy-fostering practices. I conceptualize the state as a fragmented and plural entity comprised of various “loosely coupled” arms that are sometime in conflict with one another. Given this conceptualization, the notion of what I refer to as the coordinated fragmented state helps us to understand the dynamics that can enable the state to foster autonomy. The case helps to elucidate this notion of coordinated fragmentation: CCRs take advantage of the tensions inherent in the state in such a way that they are able to foster autonomy more effectively than conventional forms of service delivery. Moreover, the multiplicity of this model offers opportunities for a balance to be struck between care-oriented and justice-oriented elements of the autonomy-fostering state. This balance is made effective partly because of the mechanisms of self-critique extant in the coordinated fragmented state. Additionally, domestic violence services are particularly revealing as a site for considering the dynamics of an autonomy-fostering state, since questions of state

intervention, power relations, and individual autonomy are at the forefront of discussions of domestic violence in a wide range of disciplines.

In second case, explored in Chapter 4, my theoretical focus is the relationship between harm and autonomy. Although I argue that harm impedes autonomy, I resist the intuitive notion that harm and autonomy exist in a zero-sum relationship – more harm, less autonomy. This account does not sufficiently allow for the varieties of harm that exist, the multiple sites at which harm is produced and inflicted, and the plural set of actors that are affected by harm. Seeking to complicate this account, I suggest that harm reduction, a model of response to drug use and addiction that seeks to minimize the harm associated with drug use, without necessarily requiring abstinence, is a unique location at which the state can foster autonomy in vulnerable citizens. Examples of programs include needle exchanges and methadone maintenance. I explore two forms of harm, here. First, I suggest that successful harm reduction programs respond to the harm of *misrecognition* by enabling a space for recognition not just by the state, but by the community too—especially including “peers.” In these spaces a measure of ascriptive autonomy, described above, can be achieved. Second, this case demonstrates that autonomy competency requires attention to *embodied* forms of harm, where the notion of harm must be flexible and open to continual reinterpretation. In the case of harm reduction service users, the terrain of such contestation often revolves around the politics of pain and pleasure. Both forms of harm point to the fact that the notion of an autonomous addict is *not* oxymoronic, but simply an example of the confluence of a variety of harms with other potentially autonomy enabling forces. Even in situations of extreme dependence, this case demonstrates, autonomy is, and ought to be, possible.

In Chapter 5, I turn to a final case wherein I consider whether a theory of an autonomy-fostering state ought to be understood simply as a version of “forced to be free”: is the very notion of the state “fostering autonomy” imbued with some elements of paternalism? Moreover, *can* the state force us to be free; that is, can paternalistic social service delivery ever be autonomy-fostering? I approach these important questions by distinguishing autonomy-fostering from paternalist practices, specifically those associated with the “New Paternalism,” the influential theory of “supervisory” approaches to social welfare service delivery that can be linked to recent welfare reforms in the United States and Britain, as well as some other European countries. I consider two instances of new paternalist service delivery: workfare and pregnancy-prevention programs, both directed at welfare recipients. These two programs respond to what many new paternalists claim are the two primary causes of poverty: nonwork and unwed pregnancy. A careful look at each of these programs sharpens our view of what it means for the state to foster autonomy – or to fail to do so, as is the case here. Throughout, I suggest that this incompatibility between autonomy-fostering and paternalist social policy makes most sense when founded upon a notion of paternalism that highlights its implication in oppressive power relations rather than solely its association with interventionist policy. In this light, the assumption at the core of New Paternalism – that of service users’ incompetence – reveals the autonomy-constraining implications of such intervention, which is characterized by a lack of respect and recognition.

Finally, the concluding chapter (6) takes note of some recent developments in policy and media treatment of both harm reduction and domestic violence services, trying to reconcile what seem to be continued difficulties at establishing an autonomy fostering

state, or at least autonomy fostering practices within the state. Despite the challenges that continue to arise, I argue, a theory of the autonomy-fostering state helps us to better make sense of the contradictions and tensions that arise on the ground, and to respond to these challenges with appropriate political and analytical tools.

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## **Chapter 2**

### **Towards a Revised Conception of Social Citizenship: An Autonomy-Focused Model**

#### ***I. Introduction***

Advocates of social citizenship—the status that, as T.H. Marshall wrote, guarantees “the right to a modicum of economic welfare and [...] to live the life of a civilized being according to the standards prevailing in the society”—have seen their notion of the welfare state dissolve in the past decade or so, with a growing number of Western states undertaking radical welfare reforms that impose onerous conditions and limitations on welfare payment receipt.<sup>48</sup> With this challenge to the practices of the modern century welfare states in the West, the conceptual terrain occupied by citizenship in general, and social citizenship more specifically, has become a particularly relevant and lively location for work in political theory.<sup>49</sup> Within the framework of this dissertation, specifying a vision of citizenship proves particularly crucial. Implicit in the theory of the autonomy-fostering state that I put forward is a particular notion of what constitutes full citizenship in the modern state and the obligations and institutions that accompany such a notion. This chapter makes explicit this conception of citizenship, focusing on the social dimensions of citizenship. Social citizenship, in the form I elaborate in the following pages, both reflects and acts as a benchmark for the extent to

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<sup>48</sup> T. H. Marshall, *Citizenship and Social Class, and Other Essays* (Cambridge [Eng.]: University Press, 1950).

<sup>49</sup> Will Kymlicka and Wayne Norman, "Return of the Citizen: A Survey of Recent Work on Citizenship Theory," *Ethics* 104, no. 2 (1994); Ruth Lister, *Citizenship: Feminist Perspectives*, 2nd ed. (Washington Square, N.Y.: New York University Press, 2003).

which the state is able to fulfill the autonomy-fostering mandate I envision in this dissertation.

The most prevalent critiques of welfare in both the United States and Western Europe come from conservatives who invoke pathologizing notions of “a culture of dependency” or ring the alarm bells of “intergenerational dependence,” with these charges sometimes taking on a racialized and gendered tone. Though public and scholarly attention has recently been focused on conservative critiques of welfare, which have been the basis for dramatic policy changes on both sides of the Atlantic, social citizenship has also come under fire from voices on the opposite side of the political spectrum. In this chapter I explore two such critiques of social citizenship. First, some critics charge that the rhetoric of social citizenship fails to consider the extent to which mechanisms of social control—overwhelming disciplinary power, bureaucratic lapses in accountability, and degrading tools of surveillance—always accompany the rights associated with the welfare state. Second, the language of social citizenship rights has also been criticized for its so-called “passive” conception of citizenship, focused only on rights without taking into account the role of duties or obligation.

These two important critiques of social citizenship provide an entry point to theorizing a revised (or at least clarified) version of social citizenship. I argue that we need a richer notion of social citizenship, one that has at its core a relational conception of autonomy. While the standard Marshallian version of social citizenship does seem to be at bottom about autonomy—it seeks to correct the economic inequalities that compromise one’s ability to act autonomously—it fails to consider autonomy as a capacity that is not only hindered by material barriers, but that is also fostered only in the

context of well-structured social relationships. In this sense, a standard view of social citizenship is often concerned only with removing (material) barriers, and rarely with actively promoting autonomy by establishing and cultivating the relational support necessary to foster autonomy. This revised conception of social citizenship helps us to respond to the critiques mentioned above and therefore to defend a notion of social citizenship rights more generally. First, if we think of social citizenship rights as explicitly concerned with fostering autonomy, the social control critique no longer points to flaws in social citizenship as a concept, but to *incomplete realizations* of the (revised) ideal of social citizenship. Second, we can also undermine concerns about the passivity of rights-focused accounts of citizenship and the failure of social rights to emphasize duties and obligation when we shift the focus of social citizenship to an autonomy-fostering model. This is because, I claim here, autonomy is a necessary condition for the exercise of one's capacity to fulfill duties and meet obligations. Therefore, if social citizenship actively fosters autonomy, it can hardly be thought of as promoting something that runs counter to citizens' abilities to fulfill their duties and obligations.

In advancing this conception of social citizenship, I am not making an empirical claim about the current state of social rights in the United States or elsewhere.<sup>50</sup> Rather, I want to articulate a conception of social citizenship that can serve both as an ideal and as a benchmark with which to evaluate social policy and programs. It is essential that we engage in this conceptual exercise if we are to advance an argument for something we call "social citizenship," and in order to provide justifications for and a defense of critical social welfare programs that have so often come under attack. My discussion of social

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<sup>50</sup> Some programs advanced by particular arms of the state do reflect the model of social rights I propose in this chapter, such as the ones I discuss in the cases that appear in following chapters. Nevertheless, I don't claim that any one state as a whole successfully offers social rights as defined in this chapter, as of yet.

citizenship here is also not an attempt to provide a “correct” interpretation of Marshall’s original conception of social citizenship. Rather, I take up the concept of social citizenship as it appears in the context of its defense and criticism by other scholars, in particular in the cases of the critiques I examine here. What I ultimately put forth is an argument for how we ought to conceive of social citizenship if we are to hold true to the values that have motivated this concept’s widespread usage in the first place— notions of inclusion, community, and participation—while also responding to the critiques that have these days rendered it a beleaguered concept in the context of actual policy. Moreover, this notion of social citizenship is one that takes seriously the obligations of the state to foster autonomy in its citizens. In the chapters that follow I look more concretely at examples of such autonomy-fostering practices, but for now an exercise in conceptual clarification will clear the way for these later analyses.

I begin, then, with two important critiques of social citizenship leveled by other theorists. Section II considers the social control critique, while Section III turns to critiques of the rights-focused orientation of theories of social citizenship. Both critiques, though coming from different vantage points, start from a similar understanding of social citizenship and its relationship to autonomy. On these accounts, social citizenship rights are primarily focused on the provision of material resources in order to provide the basic level of material wealth necessary to exercise individual autonomy. When viewed in light of this notion of autonomy, the critiques may indeed be warranted. However, Section IV offers a revised conception of social citizenship, which, I argue, helps to resolve some of the conceptual tensions we find in the former definition. This revised conception also supports arguments for a just and equitable distribution of both material resources *and*

optimally structured service delivery. At the core of this conception of social citizenship lies the feminist (“relational”) conception of autonomy, which draws our attention to the structure of relationships that may either foster or hinder autonomy. Furthermore, this feminist conception of social citizenship rejects the aspiration to overcome need and dependence, instead acknowledging their centrality to human life. In the context of this discussion, autonomy can be thought of as both a need in itself and as a mechanism that allows citizens to engage in the ongoing contestation over “needs interpretation.”<sup>51</sup>

Section V puts this revised conception of social citizenship into action, arguing that it can help us to respond to the critiques discussed in Sections II and III. Finally, Section VI concludes the argument.

## ***II. Social Citizenship as Social Control: The Politics of Empowerment***

Painting a particularly rosy picture of the early days of social citizenship rights,

Marshall writes:

Social integration spread from the sphere of sentiment and patriotism into that of material enjoyment. The components of a civilized and culture life, formerly the monopoly of the few, were brought progressively within reach of the many, who were encouraged thereby to stretch out their hands towards those that still eluded their grasp. The diminution of inequality strengthened the demand for its abolition, at least with regard to the essentials of social welfare.<sup>52</sup>

To be sure, Marshall’s treatise on citizenship and social class does not proceed only in such laudatory terms. He later notes the effects of stigma and other tensions in the social democratic state. However, like Marshall, contemporary proponents of social citizenship

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<sup>51</sup> Nancy Fraser, “Struggle over Needs: Outline of a Socialist-Feminist Critical Theory of Late-Capitalist Political Culture,” in *Women, the State, and Welfare*, ed. Linda Gordon (Madison: University of Wisconsin Press, 1990).

<sup>52</sup> T. H. Marshall, *Citizenship and Social Class, and Other Essays* (Cambridge [Eng.]: University Press, 1950), 28.

are optimistic that, when fully realized, social rights will alleviate the pressures of material want and free citizens to live their lives according to their own wishes, as full members of the community. But, primarily among those advocates of social justice who are associated with the political left, the promise of social welfare provision as a means to autonomy has been met with skepticism. These critics worry that as it provides the poor with welfare subsidies, the state also exerts excessive power over recipients. Social rights, especially public assistance provision (like Temporary Assistance for Needy Families (TANF) payments in the U.S.), are a mechanism adopted by the state primarily for the purpose of exerting “social control,” claim such critics.

In his essay “Social Citizenship and its Fetters,” Eric Gorham is critical of social citizenship, arguing that the concept does not adequately describe on-the-ground practices associated with the welfare state.<sup>53</sup> Furthermore, Gorham argues that while the discourse of social citizenship highlights the increased participation and economic status of members of a community, it obscures “the increasing failure of those members to act in, and against, the modern state and market.”<sup>54</sup> Welfare state policies associated with “social citizenship,” Gorham claims, both empower and disempower citizens. The accepted notion of citizenship is therefore inadequate as a descriptive of “the modern political subject.” Gorham explains, “citizens must subject themselves to the procedures and institutions necessary to ensure that the state can continue to provide rights.”<sup>55</sup> This notion of “subjection,” which I further discuss and problematize in Section IV, is fleshed out by Gorham as he describes the means by which the citizen, or “political consumer,” must learn the “correct procedure” necessary to be a citizen and access the commodities

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<sup>53</sup> Eric Gorham, “Social Citizenship and Its Fetters,” *Polity* 28, no. 1 (1995).

<sup>54</sup> *Ibid.*: 27.

<sup>55</sup> *Ibid.*: 29.

that are on offer via civic, political, and social provision.<sup>56</sup> Though social citizenship rights may meet immediate material needs, Gorham (following Foucault) argues that the disciplinary power of the welfare state establishes “[s]tability [...] often at the prices of individual autonomy and self-determination.”<sup>57</sup> Though he ultimately rejects the concept, Gorham’s working definition of social citizenship is one of those that take material resources as the barrier to autonomy. Ultimately, because it fails to offer autonomy even in the face of material relief, Gorham questions the conceptual and practical value of the concept.

Among the most prominent social control theorists are Francis Fox Piven and Richard Cloward.<sup>58</sup> Though Piven and Cloward do not lodge any conceptual complaints against social citizenship per se, their depiction of the (American) social welfare state, its failings, and its oppressive motives suggests that they too are skeptical of social citizenship, as it has materialized over the past 50 years.<sup>59</sup> Though we may think of social welfare services such as public assistance as directed primarily at those who are unemployed, Piven and Cloward argue that “poor relief” functions to exert social control over those in the wage labor economy too. According to Piven and Cloward, work is the primary mechanism for establishing order in modern societies.<sup>60</sup> They write, “So long as people are fixed in their work roles, their activities and outlooks are also fixed; they do

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<sup>56</sup> Ibid.

<sup>57</sup> Ibid.: 36.

<sup>58</sup> Frances Fox Piven and Richard A. Cloward, *Poor People's Movements: Why They Succeed, How They Fail* (New York: Vintage books, 1979); Frances Fox Piven and Richard A. Cloward, *Regulating the Poor: The Functions of Public Welfare*, Updated ed. (New York: Vintage Books, 1993).

<sup>59</sup> In this sense, I am in a way *stipulating* that Piven and Cloward are offering a critique of social citizenship. While they might actually advocate for social citizenship broadly speaking, what I want to show here is that their analysis of the current (and past) state of social citizenship in the United States highlights what “social control” focused critiques of the *concept* of social citizenship have in mind. That is, Piven and Cloward argue that social citizenship, as it has been instantiated in the U.S., fails because it has at its core an impetus to control the poor, to “regulate” the poor.

<sup>60</sup> I return to a discussion of the ways in which “work” is conceived of in welfare debates in Chapter 5.

what they must and think what they must.”<sup>61</sup> When this fixity is disrupted—when unemployment rates rise—disorder may ensue, and the threat of it is ever present.

Welfare, then, serves to restore order and is the means by which the state regains social control.

At the same time, the welfare enterprise also regulates citizens who are not current recipients of welfare. Piven and Cloward contend that in times of relative stability, the market may fail to provide incentives to work for all people; some have not been socialized fully to the “ethos of the market.”<sup>62</sup> The welfare system attempts to correct this failure. Those who remain on the welfare rolls in times of stability “have been universally degraded for lacking economic value and ordinarily relegated to the foul quarters of the workhouse, with its strict penal regimen and its starvation diet.”<sup>63</sup> By maintaining such terrible conditions and fostering the stigmatization that renders recipients of relief pariahs, the state in effect “spur[s] people to contrive ways of supporting themselves by their own industry, *to offer themselves to any employer on any terms.*”<sup>64</sup> On this account, then, social citizenship in the modern state determines the “shape” of its entitlements in such a way that the ideal of providing material resources as a way of protecting autonomy becomes undesirable, indeed almost intolerable.

The above is just a brief sample of the variations of “social control” focused critiques of social citizenship that exist in the literature. The key point is, however, that these critiques turn on the argument that, though the conventional account of social citizenship suggests that by providing the material resources necessary to elevate the

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<sup>61</sup> Frances Fox Piven and Richard A. Cloward, *Regulating the Poor: The Functions of Public Welfare*, Updated ed. (New York: Vintage Books, 1993), 6.

<sup>62</sup> *Ibid.*, 33.

<sup>63</sup> *Ibid.*

<sup>64</sup> *Ibid.*, 35.

individual bearer of “social rights” to a reasonable level of comfort, the state eliminates the constraints that prevent her from acting autonomously, the concept itself cannot stand up to scrutiny. In actuality, as it provides these resources, theorists of the social control school argue, the welfare state necessarily also exercises, sometimes subtly and not necessarily through obviously “state initiated” entry points, an overwhelming disciplinary power over recipients of social rights related entitlements, suppressing their autonomy as it claims to protect it.

### ***III. Social Citizenship as Passive Entitlement: The Politics of Rights and Duties***

Unlike the previous critique of social citizenship, which tends to emerge from the left, another critique has found its greatest currency on the right, but also holds sway in the center of the political spectrum. In their early nineties review of the growing field of citizenship focused political philosophy, Will Kymlicka and Wayne Norman outline the New Right critique of social citizenship that weighed heavily on supporters of the post-war welfare state in both the United States and Britain.<sup>65</sup> Social citizenship, they explain, “is often called ‘passive’ or ‘private’ citizenship, because of its emphasis on passive entitlements and the absence of any obligation to participate in public life.”<sup>66</sup> Though advocates of the welfare state and its companion notion of citizenship traditionally argue that entitlements help to reconcile the inequalities created by the market and therefore remove barriers to the exercise of political and civil citizenship rights, critics claim that the promise has not been fulfilled. Explaining this charge, Kymlicka and Norman write,

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<sup>65</sup> Will Kymlicka and Wayne Norman, "Return of the Citizen: A Survey of Recent Work on Citizenship Theory," *Ethics* 104, no. 2 (1994).

<sup>66</sup> *Ibid.*: 354-55.

“Far from being the solution, the welfare state has itself perpetuated the problem by reducing citizens to passive dependents who are under bureaucratic tutelage.”<sup>67</sup> From critiques of this nature popular buzz words and phrases such as a “culture of dependency” and “intergenerational dependence” emerged. In turn, these phrases have been liberally bandied about in the debates leading up to the mid-nineties welfare reforms in both the U.S. and Britain.

Resisting the critiques of those who view social welfare provision as a threat to civic participation, defenders of social citizenship argue that welfare rights are indeed the basis for a more vibrant participatory democracy insofar as they aim to curb *need*. For example, Desmond S. King and Jeremy Waldron focus on the account of the relationship between *need* and *the political* that has been prominent in what they refer to as “the tradition” of political theories of citizenship.<sup>68</sup> Citing political theorists from Aristotle to Tocqueville to Arendt, King and Waldron point to the contention that people cannot participate in the *polis* or cannot do so well if a certain attention has not been paid to their material well-being.<sup>69</sup> That is, need undermines civic politics and renders questionable the value of an individual’s contributions to the public sphere; “desperate need is conceived to interfere with the processes of reflection and deliberation that civic politics requires.”<sup>70</sup> Whilst acknowledging that need is unlikely to be banished from society, King and Waldron nevertheless describe social citizenship rights as aspiring to remove need from society in order to foster adequate political debate.

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<sup>67</sup> Ibid.: 356.

<sup>68</sup> Desmond S. King and Jeremy Waldron, "Citizenship, Social Citizenship and the Defence of Welfare Provision," *British Journal of Political Science* 18, no. 4 (1988).

<sup>69</sup> Ibid.: 426.

<sup>70</sup> Ibid.: 428.

But this defense of social citizenship as a tool to overcome “need,” and therefore to provide the basis for civic participation, has been challenged by not only conservatives but also those to the left of center. The grounds for these critiques are not only theoretical but also empirical. If needs have been met, participation has not followed, and in many cases, needs have not been sufficiently met. Michael Ignatieff condemns critiques of conservative rhetoric that fail to acknowledge the genuine shortcomings of social citizenship as it has emerged in practice.<sup>71</sup> The welfare state, he concedes, “did encourage the emergence of new styles of moral self-exculpation.”<sup>72</sup> Despite claims to the contrary, “a structure of collective entitlements does not necessarily increase social solidarity,” writes Ignatieff.<sup>73</sup> While acknowledging that the transfer of care-work to the state has freed those formerly confined to caring roles (largely women) to participate in the labor market, Ignatieff also notes that such a transfer may lead to a weakened sense of familial and community obligation. As we saw in the previous section, entitlements that purport to empower citizens may be accompanied by the exertion of limiting power over citizens. To this Ignatieff adds that such “empowerment” has rarely brought about participation or any other form of active citizenship: “The entitled were never empowered, because empowerment would have infringed on the prerogatives of the managers of the welfare state.”<sup>74</sup> The tensions between the interests of the welfare bureaucracy and those of the so-called empowered citizen-recipient proved too weighty to bring about any genuine

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<sup>71</sup> Michael Ignatieff, “Citizenship and Moral Narcissism,” *Political Quarterly* 60, no. 1 (1989).

<sup>72</sup> *Ibid.*: 71.

<sup>73</sup> *Ibid.*: 70.

<sup>74</sup> *Ibid.*: 69.

empowerment, rendering references to “the enabling and facilitating state” that Ignatieff attributes to post-war social democrats contrary to empirical evidence.<sup>75</sup>

These critiques of the passive nature of social citizenship, then, also rely on an understanding of social citizenship as primarily focused on overcoming basic material needs in order to “enable” citizens to participate in community life and politics. The critics charge that first, dependency renders the recipient-citizens passive and therefore unlikely to participate in civil and political life, and second, the very structure of welfare receipt is so fraught with tensions that the bureaucracy itself tends to stifle the impetus and ability of recipients to participate. The latter of these critiques is related to the social control argument; insofar as welfare acts to pacify those who are driven to protest or unrest by their wants, as Piven and Cloward argue, it also drives them away from their duties to participate in general. Despite the differences in the two critiques I have discussed, they both presuppose a similar notion of social citizenship, which they go on to find fault with.

#### ***IV. Relational Autonomy and Social Citizenship: Conceptual Clarity as a Tool***

At the beginning of the chapter, I suggested that a revised conception of social citizenship ought to have a particular notion of autonomy at its center. In the previous two sections, I outlined two broadly conceived categories of critiques aimed at the concept of social citizenship. Both categories, I claim, are premised upon a similar notion of what exactly the target of the critique—social citizenship—consists of, in theory and in practice. Indeed, the critics may be construed as viewing social citizenship as *a status*

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<sup>75</sup> Ibid.

*that grants individuals the rights to freedom from material constraints that may impede their ability to act autonomously, and therefore to exercise the rights associated with civil and political citizenship.* Social citizenship, then, does indeed seem to turn on the concept of autonomy. However, my argument is that inherent in this definition are inadequacies in both (1) the notion of autonomy at the core of this conventional definition of social citizenship and (2) the conception of the conditions under which such autonomy can be exercised. In this section, I describe the “remedies” I propose to these inadequacies, and how the elaboration and discussion of such remedies can be conceived of as part of an ongoing process of contestation over what Nancy Fraser refers to as “the politics of needs-interpretation.”

The insights of theorists of relational autonomy, which, as Marilyn Friedman notes, are now relatively widely accepted even by mainstream theorists, have considerable significance for our conception of social citizenship.<sup>76</sup> There are two points that emerge here. First, if the capacity for autonomy is developed in the context of relationships, and if this capacity can also be disrupted, curbed, or threatened in the same context, we must consider not only the lack of material resources that may act as a constraint to the exercise of autonomy. We must also explicitly turn our attention to the *provision* of these resources and to the provision of other services, both of which will serve to constitute a set of especially pivotal relationships in the lives of recipients of the entitlements associated with social citizenship rights. Whether or not these relationships are appropriately structured—whether, for example, they entail relations of domination—will be crucial in determining their likelihood of fulfilling the goal of promoting autonomy.

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<sup>76</sup> Marilyn Friedman, *Autonomy, Gender, Politics, Studies in Feminist Philosophy* (Oxford; New York: Oxford University Press, 2003).

The second point follows from John Christman's argument: autonomy is developed in the context of a complex mixture of resources, extending well beyond material resources (though they are certainly important). Christman, writing in defense of the closely related concept of positive freedom, explains:

Seeing freedom as more than a set of opportunities created by removing constraints from the path of thought and action [...] is to set out a view of human agency as a set of powers and abilities, ones regarding the development and expression of authentic and effective self-government. Certain political institutions and policies may well remove or minimize constraints faced by an agent but do nothing to establish or protect those powers.<sup>77</sup>

Specifying a relational conception of autonomy as central to this conception of social citizenship, then, is critical in defining the contours of what social citizenship rights will look like. If social citizenship is concerned with ensuring the ability of individuals to act autonomously, the rights associated with it will look significantly different depending on what we mean by autonomy.

The second point discussed above—the implications of a relational notion of autonomy for our understanding of what resources are required in order to facilitate the development of that autonomy—is closely linked to the second of the two “inadequacies” I described above. The conventional notion of social citizenship, I argue, inadequately theorizes the conditions under which autonomy is developed. Political scientists and policy analysts have devoted considerable attention to the question of service delivery; ranging from considerations of the plausibility of a just welfare system given the vast bureaucracy of many welfare states, to more specific, empirical questions about the levels of accountability and discretion required of a successful (however it may be defined) system, these analyses place service delivery high on the list of relevant concerns for

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<sup>77</sup> John Christman, "Saving Positive Freedom," *Political Theory* 33, no. 1 (2005): 87.

questions of social rights.<sup>78</sup> But political theorists examining *normative theoretical accounts* of social citizenship rarely develop a clear account of what service delivery ought to look like if it is to be consistent with the goal of fostering autonomy. This concern, I argue, must be accounted for in a theory of social citizenship.

This discussion of the role of autonomy in the conception (and practice) of social citizenship is, I want to argue, congruent in some ways with Nancy Fraser's discussion of the politics of needs interpretation.<sup>79</sup> Fraser wants to shift our focus from the discussion of needs to a discussion of the "discourses of needs, from the distribution of need satisfactions to 'the politics of need interpretation.'"<sup>80</sup> The particular salience of "need" to this discussion in general is an important point that I will return to in greater detail in the next section when I respond to critics in the "duties and obligations" category, as discussed above. I do, in fact, want to think of autonomy as a unique type of need, but also as a key instrument in the very politics of "needs interpretation." But for now, I turn to Fraser's argument aims to help us generate a helpful framework for further distinguishing the conventional conception of social citizenship from the one I am proposing.

Fraser divides the politics of needs interpretation into "three analytically distinct but practically interrelated moments."<sup>81</sup> Keeping in mind the interrelation of these moments, we can identify the contours of a discussion of social citizenship within the

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<sup>78</sup> See for example Michael Lipsky, *Street-Level Bureaucracy: Dilemmas of the Individual in Public Services* (New York: Russell Sage Foundation, 1980); Joe Soss, *Unwanted Claims: The Politics of Participation in the U.S. Welfare System* (Ann Arbor: University of Michigan Press, 2000).

<sup>79</sup> Nancy Fraser, "Struggle over Needs: Outline of a Socialist-Feminist Critical Theory of Late-Capitalist Political Culture," in *Women, the State, and Welfare*, ed. Linda Gordon (Madison: University of Wisconsin Press, 1990).

<sup>80</sup> *Ibid.*, 200.

<sup>81</sup> *Ibid.*, 202.

framework of Fraser's "moments." The first moment is a struggle for validation of a need; it is the pursuit of "political" status (or some other status) for the need. In a sense, Marshall's conception of social citizenship does this with regard to autonomy; Marshall's notion of social citizenship highlights the importance of autonomy to both inclusion in the political community and to the exercise of rights, both explicitly social (i.e. welfare), and those related to the other types of citizenship he discusses, political and civil citizenship.

The second moment Fraser describes revolves around "the struggle over the interpretation of the need, the struggle for the power to define it and, so to determine what would satisfy it" (202). It is within this moment that I want to situate both the critics of social citizenship I refer to above and my own discussion here. While I argue that there is general agreement about the centrality of autonomy to questions of social citizenship, there is not only disagreement over, but also a lack of clarity regarding the meaning and place of "autonomy" in the context of social citizenship. Moreover, the contested nature of needs interpretation that Fraser brings to our attention points to the fact that when we consider the concept of social citizenship, we must be very clear about the meaning of autonomy, who constructs this meaning, and what interests such meanings serve. Fraser argues that analyses of needs that appeal unquestioningly to "socially authorized forms of public discourse" often "neglect the questions whether these forms of public discourse are skewed in favor of self-interpretations and interests of dominant social groups and, so, work to the disadvantage of subordinate or oppositional groups."<sup>82</sup> Indeed, conceptions of autonomy that *do not* take into account its relational character often presuppose an image of the autonomous individual that is exclusionary

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<sup>82</sup> Ibid.

along various axes. Even if we would not necessarily associate the critics above with such an outlook, the conventional account has infected their interpretations in such a way that, intentionally or not, has exclusionary implications. Such a conception of autonomy, where it shapes the ideal of social citizenship, may arbitrarily (or even pointedly) limit the potential for policies associated with social citizenship to genuinely do the work of fostering autonomy. This “work,” as it were, helps to expand the category of individuals who will be both recognized as autonomous, and genuinely enabled to develop autonomy.

***V. Responding to the Critics: The Normative (and Practical) Implications of the Model***

The account of social citizenship developed in Part IV provides a *normative* basis for responding to the critiques of social citizenship outlined above. That is, this account in and of itself clearly cannot remedy the practical problems of contemporary welfare states; a theoretical conception cannot serve as the antidote to the shortcomings and antipathies that exist in service delivery, political culture, and resource allocation. However, as a benchmark—a way to measure whether in fact the welfare state is providing the services and resources necessary to genuinely afford all members of the community the status of social citizenship—this revised conception, I argue, can help us to evaluate and therefore work towards remedying the problems of contemporary welfare states. In this sense, both critiques leveled against the welfare state that I have discussed above can be challenged when the target of the critique is the *ideal* of social citizenship,

in its reconstituted form. The critiques, then, no longer point to flaws in social citizenship as a concept, but to *incomplete realizations* of the ideal of social citizenship.

*i. Social Control*

The critique of social citizenship that expresses concern over the potential (or, some argue, necessary) coincidence of social rights and social control is on one level relatively easily displaced by our revised notion of autonomy. First, let's quickly rehearse the critique, where the conventional conception of social citizenship remains in place. Gorham argues that in order to attain the entitlements associated with social citizenship, recipients are subject to the disciplinary forces of the welfare state bureaucracy that coercively motivate them to conform to whatever qualities it has deemed appropriate for the subjects of social welfare benefits to embody. That is, social citizenship rights, which provide the material resources necessary to alleviate constraints on the exercise of autonomy, are accessible only to the "good" recipient—the individual who conforms and acquiesces to the demands of the disciplinary state. Thus, Gorham argues that social citizenship has an inherent contradiction in it: in order to attain autonomy via social citizenship rights, an individual must also *sacrifice* her autonomy. He writes, "the stability that permits the exercise of liberty for the citizen," that is, the material resources provided by the state, "also holds the subject in a network of tutelary power constituted by school, psychiatry, social work, etc."<sup>83</sup>

However, when we revisit this critique wielding the revised conception of social citizenship, the contradiction is no longer sustainable. Social citizenship rights now refer to something well beyond material resources provision; these rights refer explicitly to the provision of services and resources that actively foster (relational) autonomy. Therefore,

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<sup>83</sup> Eric Gorham, "Social Citizenship and Its Fetters," *Polity* 28, no. 1 (1995): 36.

if social citizenship rights are realized only in conjunction with social control, the notion itself is incoherent. We cannot refer to a system as engaged in advancing social citizenship status if it provides a monthly check to a single mother, but also dictates, for example, how she will conduct her intimate relationships and what counts as “work” for her. Such a system clearly violates the single mother’s ability to live according to her own ‘law’—to act autonomously.<sup>84</sup> Furthermore, suppose the services—the check or whatever else—are delivered in a way that reproduces relations of domination, simply with regard to the professional-client relationship established in welfare offices, or extending to other relations of power, including those organized along lines of gender, race and sexuality. In this case, our revised model highlights the extent to which these so-called social rights fail to develop the relationships out of which the *capacity* for autonomy is always partially constituted. Instead, the relationships extant in the service delivery context are particularly *constraining* with regard to the development of autonomy. Indeed, in our society, characterized as it is by ongoing inequalities and discrimination, many individuals and families who are compelled to rely on entitlement based programs are already subject to relations of domination in various aspects of their lives and may therefore be particularly in need of the (relational) resources needed to assist them in developing the capacity to act autonomously.<sup>85</sup> Thus, the contradiction that

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<sup>84</sup> This is not to say that all attributes of conditionality that may be found in a given welfare system are disqualified. Only perhaps a system of guaranteed annual income would achieve this, but it would fail on other fronts I cannot discuss here. The point is simply that any social rights must be evaluated not only on whether they provide material resources but on whether (in this case) the conditions accompanying these resources foster or hinder autonomy competency.

<sup>85</sup> I do not mean to claim that certain classes or categories of people are “less autonomous” than others by nature, or even by virtue of their social location. However, on my account of autonomy, there is reason to believe that those who have been subject to recurring and sustained experiences of domination may be more likely to have been limited in their abilities to develop and exercise the capacity for autonomy. See further Marilyn Friedman, “Autonomy and Male Dominance,” in *Autonomy and the Challenges of*

Gorham, and to an extent Piven and Cloward, point to in their critique of social citizenship, is no longer a contradiction in the concept, but a failure to realize the requirements of the concept itself.

While the more overt forms of social control that Gorham and Piven and Cloward point to are relatively easily excluded from the revised conception of social citizenship, some theorists point to more subtle forms of coercion that may in fact operate by “enabling” citizens, rather than overtly constraining them. Barbara Cruikshank cites Foucault’s notion of bio-power in explaining the ways in which welfare “is a form of government that is both voluntary and coercive.”<sup>86</sup> That is, the simplistic view that welfare necessarily dominates and controls recipients in an entirely coercive fashion is put to the side, in favor of a model that points to a much more subtle and, in some sense, insidious form of power. Cruikshank explains, “welfare recipients are not excluded or controlled by power so much as constituted and put into action by power.”<sup>87</sup> Foucault’s bio-power helps her to elucidate this mode of working through rather than against citizens “agency”; “Instead of excluding participation or repressing subjectivity, bio-power operates to invest the citizen with a set of goals and self-understandings, and gives the citizen-subject an investment in participation voluntarily in programs, projects and institutions set up to ‘help’ them.”<sup>88</sup>

Cruikshank’s model of what she refers to as “relations of empowerment” may sound a lot like the ideal of social citizenship as explicitly seeking to foster autonomy

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*Liberalism: New Essays*, ed. John Philip Christman and Joel Anderson (Cambridge, UK; New York: Cambridge University Press, 2005).

<sup>86</sup> Barbara Cruikshank, *The Will to Empower: Democratic Citizens and Other Subjects* (Ithaca, N.Y.: Cornell University Press, 1999), 38.

<sup>87</sup> *Ibid.*, 41.

<sup>88</sup> *Ibid.*

that I have laid out. However, as the scare quotes around the word “help” in the previous quotation might tip us off to, she is wary, even cynical, about the prospects of this empowerment. While Cruikshank claims, first, that her conception of the will to empower is “*neither* clearly liberatory *nor* clearly repressive,” and second, that “empowerment is a power relationship, a relationship of government; it can be used well or badly,” she focuses most on the destructive possibilities empowerment affords.<sup>89</sup> Claims to empowerment, she seems to suggest, may create a self-understanding of autonomy and self-sufficiency within recipients, but since empowerment is necessarily a power relationship, these “self-understandings” emerge from what she calls “technologies of citizenship.” Technologies of citizenship that operate on the basis of the knowledge culled by “experts” that seek to “know” the target of empowerment and construct a particular kind of subjectivity among them that, Cruikshank believes, still fits a model determined by the state to be worthy of the status of citizenship. The question is, then, whether such a mode of empowerment, still so fraught with power relations and prescriptive forms of agency, can be thought of as fostering autonomy.

While Cruikshank’s argument here is convincing in some respects—it serves us well to recognize the always-already present power relations that must surround even projects of “empowerment”—it also seems to foreclose the possibility of actually fostering autonomy, and it does so without showing us any way out. Furthermore, it in some ways reverts back to an individualist model of autonomy, rather than a relational one. For Cruikshank, the project of empowerment is always suspect because embedded within it are relations of power that can never simply stand by neutrally. Empowerment also means exercise of power *over* some individual(s). Yet, this also seems to indicate

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<sup>89</sup> Ibid., 72, 86.

that no one can truly be empowered from without—that relationships that claim to assist us to develop our capacities for autonomy are always somehow suspect. Is it the case, then, that for an individual to be “truly” autonomous, her capacities must develop in a vacuum? The paradox, then, is that autonomy cannot be developed in isolation and where it is developed in the context of social relations, it is not really autonomous. But the latter option is also unsatisfying. In specifying a relational account of autonomy, I have already rejected a notion of autonomy as “perfect independence.” But seeking to provide services that enable individuals to better or more easily choose their own life paths, even in the context of dependency, remains, I believe, a realistic and necessary pursuit, especially with regard to feminist concerns. Thus, the revised conception of social citizenship that I have suggested here responds to Cruikshank’s concerns insofar as it highlights *relations* of power endemic to the delivery of welfare services, but it does so without foreclosing the possibility for autonomous agency. Rather, it helps us to distinguish configurations of relationships that hinder autonomy from those that enable autonomy.

*ii. Duties and Obligations*

There are two grounds on which to address the concerns of critics of social citizenship who express worries about the effects of welfare receipt on individuals’ fulfillment of obligations to the state, or more broadly, their engagement in the polity as duty-bearing members of a community. The first point of departure takes us back to the question of needs. While Ignatieff claims that need-satisfaction is no guarantee of civic engagement, and in fact often renders citizens passive, King and Waldron counter that it is by virtue of the *removal* of needs that citizens become more likely and better

contributors to the polity. The second point of departure more broadly addresses the relationship between autonomy and community engagement and obligations. Autonomy, I argue, is a necessary condition for the capacity to fulfill obligations and duties.

King and Waldron, following Arendt's concerns about need, argue that social citizenship, insofar as it is able to eliminate the most desperate of need through the provision of material resources, protects autonomy and therefore renders individuals more able to participate in politics. The Arendtian line, they note, is that not only does an individual's own desperate need make it difficult to call upon the public spiritedness necessary for effective political participation, but it also hinders other, non-needy, individual's abilities by invoking in them the apolitical sentiment of compassion.<sup>90</sup>

However, I do not think the aim of eliminating need from the public sphere is a desirable or plausible one. To seek out an end to "need" as a way of overcoming the particularity and potential irrationality of participation in civic politics obscures our constant and inevitable state of human interdependence, which must always imply some sense of need. Furthermore, this argument has the effect of marginalizing from civic politics those who have particularly obvious or pressing needs, those who are "dependent" in ways that come to be highlighted in the context of our society, and those who care for "needy" individuals. This points back to the politics of needs-interpretation I discussed above. Politics is very much about needs; not only welfare politics, but much of our political discourse hinges in some way or another on questions of needs and needs interpretation. Therefore, to try to vanquish need from the politic sphere is to claim that we can initiate interpretations, make arguments, and take decisions with regard to needs, all without

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<sup>90</sup> Desmond S. King and Jeremy Waldron, "Citizenship, Social Citizenship and the Defence of Welfare Provision," *British Journal of Political Science* 18, no. 4 (1988): 428.

acknowledging that such need is ever present in all of our lives, including in politics. Allowing those who are “needy” into the public debate—and such need does not have to be “desperate” and therefore impairing of our decision making abilities—is essential to rendering the politics of needs-interpretation inclusively “political,” rather than dominated by the voices of those who claim to transcend need. Thus, need itself is a valid point from which we might fulfill our obligation to participate in politics and from which we may better be able to identify with other members of the community.

The politics of need and its relationship to duties and obligations also returns us once again to the centrality of relational autonomy to our conception of social citizenship. The wariness we may have in the face of need is very much related to the dominant sense in our society that *dependence* is undesirable and threatening to the “impartiality” that is demanded of “good” political participants. As Nancy Fraser and Linda Gordon describe in their genealogy of the term dependence, “[i]n the age of democratic revolutions, the developing new concept of citizenship rested on independence; dependency was deemed antithetical to citizenship.”<sup>91</sup> This sense of dependence as incompatible with citizenship remains in place today. Furthermore, note Fraser and Gordon, dependence has been pathologized and reduced to an individualized affliction, rather than a product of social relations and a “condition” that affects virtually all of us. Need is seen as putting us in a perpetual state of dependence, and therefore banishing us from civic participation. But the relational conception of autonomy is especially important in highlighting the extent to which autonomy and dependence are *not* antithetical; since autonomy develops in the context of relationships, interdependence is not only compatible with autonomy, it is a

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<sup>91</sup> Nancy Fraser and Linda Gordon, “A Genealogy of *Dependency*: Tracing a Keyword of the U.S. Welfare State,” in *The Subject of Care: Feminist Perspectives on Dependency*, ed. Eva Feder Kittay and Ellen K. Feder (Lanham, Md.: Rowman & Littlefield Publishers, 2002), 19.

necessary condition for the development of autonomy. Since the autonomy that we now seek to cultivate via social citizenship is “relational,” the notion that both need and dependence compromise one’s ability to act as an autonomy citizen is rendered incoherent.

Finally, the aim of social citizenship both under the revised formula and the conventional one is related to autonomy; autonomy is seen as a precondition for exercising the rights associated with citizenship. But some theorists argue that a focus on rights is in itself atomizing, leading to a diminished sense of community and, indeed, a sense that other community members are primarily entities that threaten to infringe on our rights. Thus, “fellow” citizens are seen not in a solidaristic sense, but as jeopardizing our autonomy. Now, clearly the relational conception of autonomy rejects the claim that social relationships in and of themselves threaten our autonomy. But what of rights? Isn’t the language of rights counter to the language of duties and obligations? Although I cannot launch a defense of rights here, I do want to point to an alternative way of thinking about rights as a potentially fruitful way of resisting this opposition between rights and duties. Martha Minow argues that we should think of rights as embedded in and constitutive of relationships. Thus, to briefly highlight an implication of this way of thinking, Minow writes, “[b]y invoking rights, an individual or group claims the attention of the larger community and its authorities.”<sup>92</sup> But, Minow explains, the rights claimant not only claims attention in an abstract sense, she reaffirms her connection to the community. “At the same time,” Minow notes, “this claim acknowledges the claimant’s membership in the larger group, participation in its traditions, and observation of its

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<sup>92</sup> Martha Minow, *Making All the Difference: Inclusion, Exclusion, and American Law* (Ithaca: Cornell University Press, 1990), 293.

forms.”<sup>93</sup> This is especially true if we think of claims to social citizenship rights as claims to the opportunity or possibility to develop the capacity to act autonomously, a capacity through which one is able to become—and to become *recognized*<sup>94</sup> as—a full member of the community. It is *only* in making this claim that the possibility for fulfilling ones duties to the community can emerge.

## **VI. Conclusion**

Social citizenship rights, though under attack for several decades now, are worth standing up for. In order to pursue an inclusive and just society, we should seek to provide all members of the community with the social welfare services necessary to ensure that they may access and exercise full citizenship rights. But, if we are to defend this notion of social citizenship rights, we must be clear about what such rights entail and what form they will take on the ground in order to fulfill their promises. The conventional conception of social citizenship as a status that grants individuals the rights to freedom from material constraints that may impede their ability to act autonomously, and therefore to exercise the rights associated with civil and political citizenship, leaves open the possibility of charges of incoherence and contradiction. Because this conventional conception of social citizenship presupposes a notion of autonomy that does not take into account the social relationships from which this capacity emerges, it cannot adequately conceive of what must be present in order not only to protect autonomy but foster its development. The revised conception of social citizenship that I propose in this chapter suggests that social citizenship rights should explicitly seek to provide the services that

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<sup>93</sup> Ibid.

<sup>94</sup> See discussion of ascriptive autonomy in later chapters.

are necessary to foster the capacity for autonomy. Because this capacity is a product of well-structured relationships, social citizenship rights must be particularly focused on enacting social service *provision* that is conducive to this development; where relations of domination or other constraining relations are prevalent in service delivery situations, autonomy cannot flourish. In the following chapters, I explore further what such relationships might look like in the context of service delivery and how a state that facilitates and maintains such service delivery relationships – an autonomy-fostering state – can be theorized.

Given this revised conception of social citizenship (and given the case studies that follow), I argue that assertions that social citizenship must always masquerade as social control or that social rights claims hinder citizens' sense of obligation and duty are no longer salient. Though on the ground instances of social control and limitations on obligation may well continue to exist and even thrive at this moment in welfare state development, a revised conception of social citizenship allows us to identify these problems as failures to live up to social citizenship rather than failures within the concept of social citizenship itself. Furthermore, as a benchmark or ideal, this conception of social citizenship helps point the way to the strategies and solutions necessary to remedy the practical problems extant in today's welfare states.

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## **Chapter 3**

### **“Coordinated Fragmentation” and Domestic Violence Services**

#### ***I. Introduction***

Together, two important strands of recent work in feminist political theory point to the need to reconsider the structure of the relationship between the state and the (gendered) citizen. First, as I explore throughout the dissertation, feminists have challenged individualistic notions of autonomy that ignore the constitutive role played by social relationships in its development and exercise. Second, an increasing appreciation of the complexities of the state has emerged in feminist work, with monolithic interpretations of the state increasingly falling out of favor.<sup>95</sup> Insofar as the relationship between state and citizen is one of those constitutive relationships highlighted by the feminist relational account of autonomy, the now more nuanced feminist accounts of the state should consider the possibilities for autonomy-enabling relationships to emerge. We need an alternative theory of the state in order to integrate the relational account of autonomy with the various other complexities now highlighted in feminist accounts.

In this chapter, I conceptualize the state as a fragmented and plural entity comprised of various “loosely coupled”<sup>96</sup> arms that are sometimes in conflict with one another. Given this conceptualization, the notion of a “coordinated fragmented” state

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<sup>95</sup> A recent, prominent example of new feminist theorizing of the state is Cruikshank (1999).

<sup>96</sup> See Haney (2000), who appropriates this term from work by criminologist J. Hagan, in which he conceives of the criminal justice system as a series loosely coupled subsystems. See Section IV below.

helps us to understand the dynamics that may, or may not, enable the state to foster autonomy, where autonomy refers to an individual's capacity to determine his or her own life plans. I come to this understanding of the state by examining a particular mode of service delivery for survivors of domestic violence, "coordinated community response" (CCR) programs. CCRs, I argue, take advantage of the tensions inherent in the state in a way that allows them to foster autonomy more effectively than conventional forms of service delivery. In articulating this vision of the state through an analysis of how CCRs can effectively harness its multiple and contradictory aims, I also describe a larger notion of what I refer to as the "autonomy-fostering state," a normative (and sometimes descriptive) conception of the state as a set of fragmented but coordinated arms that may work together to foster autonomy in our most vulnerable citizens. In the context of such a state, as the CCR model shows, feminist commitments to particularity and partiality have the potential for realization. Moreover, within the multiplicity that defines CCRs, a balance is struck between the care-oriented aspects of the state<sup>97</sup> and those more committed to notions of impartial reason. This balance is made effective partly because of the mechanisms of self-critique extant in the fragmented coordinated state – mechanisms that can be responsive to feminist critiques of impartiality and universalism.

Though many feminist accounts of the state reject the view that sees it as purely a constraining means of social control, Wendy Brown is skeptical of feminist projects that call upon the state to support their emancipatory aims.<sup>98</sup> Even as the distribution of power and resources has shifted to alter the relationship between individual men and women in our society, Brown suggests, the state has come to wield great (masculinist) power over

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<sup>97</sup> For discussions of "care" see for example: Chodorow 1978; Gilligan 1982; Feder and Kittay 2002; Noddings 1984; Tronto 1993; White 2000.

<sup>98</sup> Brown 1992.

women's lives, rendering "male" power potent as ever. Yet, by framing the state as necessarily threatening to women's autonomy, views like Brown's all but rule out the possibility of an autonomy-enabling relationship between state and citizen and lose sight of the intricacies revealed by a relational approach. The notion of the "coordinated-fragmented state" is conversant not only with theorists who recognize the complexities of the state, but also provides one of the tools necessary to take on the challenge presented by theorists like Brown.

The issue of domestic violence is a particularly appropriate location at which to theorize this revised notion of the state and service delivery. For many years, feminists struggled to move the issue of domestic violence from the "private" sphere to the "public." Though this struggle has proven successful—the state recognizes domestic violence as a serious public offense and pursues and punishes offenders in this vein—the appropriate role of the state in the lives of women survivors is still a contentious issue. The fear that increasing women's dependence on the state for protection may imperil women's autonomy is widespread in both academic work and within the movement against domestic violence. I offer an approach to theorizing the state that helps us to reconcile state intervention and relational autonomy without forgoing the important aim of publicizing domestic violence.

CCRs encompass "a system of networks, agreements, processes, and applied principles created by the local shelter movement, criminal justice agencies, and human service programs."<sup>99</sup> This system is built around a community approach to domestic violence that draws upon multiple resources, including police, legal practitioners, housing services, financial and employment services, advocacy services, and mental and physical

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<sup>99</sup> McMahan and Pence 1997, p. 1.

health services. Advocates of this model suggest that without such coordination, “batterers will take advantage of the fragmentation, misunderstanding, and bias of the criminal justice system to avoid prosecution and subsequent consequences for their acts of violence, often further isolating, manipulating and controlling their victims in order to do so.”<sup>100</sup> In contrast, CCRs acknowledge and respond to the systems of power relations service users are embedded in, which may compromise autonomy.

In order to elucidate the nature of this distinctive mode of service delivery as well as the notion of “fragmented coordination,” I will proceed as follows. Section II lays the groundwork for the rest of the chapter as I lay out a relational account of autonomy and present a broad account of the coordinated-fragmented state. Section III describes coordinated community response programs. Section IV recapitulates the debates over one particularly controversial aspect of CCRs: mandatory arrest and prosecution policies, which require that all cases with sufficient evidence proceed through the criminal justice system. These debates highlight the perceived conflict between publicity and autonomy in the context of service delivery. Moreover, they bring to the fore the distinction between a substantive and procedural account of autonomy. Whereas procedural accounts of autonomy usually require only certain processes of self-reflection or higher order endorsement of preferences, substantive accounts of autonomy require that autonomous action be consistent with certain normative conditions, for example those that are consistent with the *value* of autonomy itself. Finally, focusing in particular on the balance that emerges between ethics of care and justice under this model, Section V explains how CCRs put the notion of fragmented coordination into practice, and therefore effectively foster autonomy.

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<sup>100</sup> Thelen 2000, p. 1.

## *II. Complicating Autonomy and the State*

In order to conceptualize the autonomy-fostering state we must rethink conventional notions of not only the state but also autonomy. Moreover, it is not only dominant narratives of the atomistic, unencumbered individual located within a supposedly neutral, universalizing state that must be called into question, but also some of the more severe feminist critiques of the state and the notions of autonomy that are implicit in these critiques.

Questions regarding domestic violence services bring debates over the relationship between intervention, non-intervention, and autonomy to the fore – debates that lie at the center of my concerns with a relational conception of autonomy in this dissertation. Some writers suggest that the publicization of domestic violence and the ensuing intervention of the state severely limits women’s autonomy. For some, such a loss is a price that must be paid for the now *public* treatment domestic violence receives, while for others it is intolerable. However, such an analysis mistakenly equates autonomy with privacy; the erection of boundaries around the individual is seen as a viable means to achieving autonomy.<sup>101</sup> But, whereas autonomy is best understood as developed in the context of relations to others,<sup>102</sup> this boundary-focused notion of autonomy reproduces an untenable and unrealistic notion of atomistic man. In addition to obscuring the fundamentally interdependent nature of human beings, it also suggests the desirability of what can plainly be seen as both impossible and *undesirable*: existence in a vacuum that somehow entirely restricts incursions into any and all aspects of the individual’s life.

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<sup>101</sup> For a critique of this model see Nedelsky (1990).

<sup>102</sup> See note 1.

In contrast to this unrealistic notion of autonomy, the contextual and relational conception of autonomy that emerges from the feminist critique is the basis for Marilyn Friedman's understanding of an *autonomous person* as "one who has these capacities [for autonomy] and exercises them at least occasionally."<sup>103</sup> For example, the experience of being a survivor of domestic violence or of finding oneself compelled to conform to certain regulations established by the state (even contrary to one's will) at some point during one's life does not exclude the possibility of an *autonomous life*, "one lived by someone who has the capacities for autonomy and is able to exercise them frequently over a substantial stretch of time."<sup>104</sup> Indeed, in the case of the state's regulations, this instance of coercion may ultimately make the "autonomous life," as Friedman defines it, more feasible.

What kind of state can actively foster such a relational notion of autonomy? For an important aspect of such a revisioned state, I turn to sociologist Lynne Haney. She takes up a concept used by criminologist John Hagan in his analysis of the state: the state as a "loosely coupled system." Trying to make sense of the conflicts, tensions, and even contradictions replete in the modern state, she argues that feminists can use this notion to "make sense of the diversity of gender regimes within particular state apparatuses."<sup>105</sup> This helps us to see the state as a series of different arenas linked more or less tightly to one another. Haney's objective is to urge feminists to theorize "the nature of the links within state subsystems," complicating feminist state analysis beyond models oriented, for example, wholly toward a "social control" model of Brown's masculinist state. I argue that in some cases it is the "looseness" of the linkages, visible by way of

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<sup>103</sup> Friedman 2003, p. 13.

<sup>104</sup> Friedman 2003, p. 13.

<sup>105</sup> Haney 2000, p. 659.

conflicting perspectives in a given mode of service delivery, that serves to foster autonomy more effectively than is possible within more tightly bound systems. The latter systems may not have the mechanisms to mediate the types of tensions that are particularly relevant for questions of autonomy.

Using Haney's concept of "loose coupling" alongside my analysis of the workings of the "linkages" that comprise these couplings, we can begin to configure a feminist theory of the (autonomy-fostering) state. This theory runs contrary to the model of the state as primarily or solely an agent of social control and male dominance, a model that has led some feminists to be reluctant to view the state as an ally in feminist struggles. Though individual power relations between men and women have shifted, social control theorists like Brown claim that the effects of "male" power have hardly been neutralized. Brown writes, "[the state] mediates or deploys almost all the powers shaping women's lives – physical, economic, sexual, reproductive, and political – powers wielded in previous epochs directly by men." The state's various arms, she writes, are collectively involved in a "politics of protection," an exclusionary system of regulation that hinges on the claim that women require the protection of men. This protection, she charges, provides women with a choice between the arbitrary force of violence, harassment, discrimination, deprivation, and a host of other typically gender-based forms of oppression on the one hand—not the least of which is domestic violence against women—and what she refers to as "rationalized, procedural unfreedom" on the other hand. Given these circumscribed options, Brown argues that that to turn to the state to foster the autonomy of (vulnerable) women is inherently misguided; it "involves seeking protection against men from

masculinist institutions, a move more in keeping with the politics of feudalism than freedom.”<sup>106</sup>

On Brown’s account, the nature of the domination exerted by the masculinist state is equally if not more constraining than the oppression women have long faced at the hands of individual men. She argues, despite its appearance of neutrality and its intangible vastness, the state is a highly masculinized set of practices, institutions, and discourses. Explaining what she interprets as the essentially masculinist nature of the state, Brown writes:

The state can be masculinist without intentionally or overtly pursuing the ‘interests’ of men precisely because the multiple dimensions of socially constructed masculinity have historically shaped the multiple modes of power circulating through the domain called the state – this is what it means to talk about masculinist power rather than the power of men.

The oppressive power of the masculinist state as conceptualized by Brown is exacerbated by the dependence of (American women), who are, she notes, now dependent on the state for their survival in unprecedented numbers.<sup>107</sup>

Brown’s exposition of protection as the exploitation and misappropriation of power held over the vulnerable is deeply pessimistic; it almost entirely closes the door to state-centered solutions to women’s subordination. Rather than abandoning the state as a source of protection, where protection can never be a conduit to liberation, I argue that we might instead reconsider which practices we include as “protection,” in particular insofar as protection can be read in relation to the explicit enablement of the capacity for autonomy. Despite the ways in which “protection” has manifested itself in the masculinist arms of the state to date, elsewhere in the complicated and plural state we *can*

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<sup>106</sup> Brown 1992, pp. 29, 8 (emphasis in original).

<sup>107</sup> Brown 1992, pp. 8, 14, 7.

find instances of alternative manifestations of protection. Domestic violence emerges as a poignant example of where the need for protection is evident, while the possibilities – especially when we examine the model of the CCR – for autonomy fostering, even in the context of dependence, can be realized. Although Brown acknowledges that the state is complex and has multiple functions, she does not provide a comprehensive analysis of the effect of this multiplicity on such appeals to the state for “protection.” I argue that the tensions and even contradictions between the various arms of the state, which CCRs acknowledge and harness, may prove *useful* for feminist aims, where they are exploited effectively.

Pointing to the importance of conceptualizing the multiplicity of the state, and the configuration of this multiplicity at given points in time, Haney suggests that it is “fruitful to conceive of the state as fragmented and layered, with various sites of control and resistance.”<sup>108</sup> With this *fragmentation* a productive balance emerges. Where some arms of the state pursue care-based forms of service delivery, others attend to more traditional justice-based forms, and hybrids of these forms emerge in still other arms. But this variety alone does not instantiate the autonomy-fostering state; rather it is a *coordinated* fragmentation that brings about such a possibility.

The emphasis on coordination flags two important aspects of this model of the state. First, despite their different and contradictory aims, various arms of the state may adapt, evolve, or shift their modes of service delivery in response to the other arms of the state that they are connected with via a coordinating body, the nature of which will depend on the particular service to be delivered. In this sense fragmentation allows for a plurality of approaches to service delivery, each potentially structuring their relationships

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<sup>108</sup> Haney 1996, p. 773.

to the service user in different autonomy enabling configurations; coordination, in turn, links these different arms together in such a way that they offset one another's (often) otherwise unitary understandings of the ideal approach to service delivery. Second, and of particular importance, the conflicts that the fragmentation of the state inevitably lead to are important "checks" on potentially paternalistic and confining modes of service delivery that may crop up within some arms. However, such conflicts only become "checks" in the context of some mode of coordination that institutionalizes processes of evaluation and resolution. With this mechanism in place, the coordinated-fragmented state is endowed with something like a mode of immanent self-critique. Combining accommodation to a plurality of approaches to service delivery, which inevitably shape one another, and the mode of immanent self-critique fostered by the unavoidable conflict of the fragmented state, a theory of the coordinated-fragmented state complicates feminist understandings of the state, particularly in its service-delivery role.

While abstract in the foregoing pages, the example of CCRs developed below fleshes out the contours of one version of a service delivery system that, in theory, effectively coordinates the fragmented state; in doing so, it begins to approximate the ideal of the autonomy-fostering state.

### ***III. Coordinated Community Responses: From "Bad" Victims to Multifaceted System***

After a decades-long struggle to bring the issue of domestic violence to the attention of the community, removing it from the shadows of the so-called "private sphere" and into the domain of the state, in particular the criminal justice system, the

women's movement succeeded in fundamentally changing public response to this gendered form of violence. By the 1980s, Melanie Shepard and Ellen Pence write, the movement had successfully argued that the state has an obligation to intervene in "personal" relationships and "private" homes, protect women from batterers, and arrest and prosecute batterers.<sup>109</sup> Yet, despite these victories, advocates of battered women were frustrated by the lack of implementation of the state's expanded powers. In addition to state actors who failed to take seriously the issue of domestic violence and held otherwise sexist beliefs, even those committed to taking domestic violence against women seriously were often disillusioned by their limited ability to prosecute such cases effectively. Survivors of domestic violence frequently refused to testify against their batterers and substantial evidence against the batterer was often hard to produce and defend. Although increased criminal justice intervention still represented significant gains, advocates were finding that the strategy often failed.

Explaining this failure, Pence and Shepard point to the structural disjuncture between domestic violence as a gendered phenomenon of power and control and the criminal justice system as an incident- and individual-focused mechanism of achieving justice. As a result of this misfit, survivors of domestic violence were often seen as "bad victims" because "domestic assault needs to be understood in terms of ongoing patterns of behavior rather than as a single criminal act or incident."<sup>110</sup> The *contextual* variables out of which specific incidents arise are often more telling than a given incident itself. This coheres with an understanding of domestic violence as a systemic issue that reflects gender oppression in society as a whole but is instantiated in particular and concrete acts

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<sup>109</sup> Pence and Shepard 1999, p. 5.

<sup>110</sup> Pence and Shepard 1999, p. 2.

of violence experienced by actual women. Cognizant that a different approach was required in order both to resist the social conditions that make domestic violence possible in our society and to foster autonomy in survivors of domestic violence—whose autonomy had been drastically constrained both by their relationships to their abusers *and* by the failing criminal justice system—advocates formulated an alternative approach: the CCR. Organized by a coordinating institutional body, CCRs attempt to overcome the aspects of the criminal justice system that are conceptually and practically ill-fitted to respond to domestic violence, where it is understood as an ongoing attempt to gain power and control over individual women within the context of unequal power relations, stratified across gendered lines.

Pence and McMahon describe the fragmentation of agencies and individuals involved in domestic violence cases as a key motivating factor for the development of the CCR model. This fragmentation can often depersonalize and distance the case from the actual survivor's experience—the woman becomes a “case”—while reproducing unequal power relations not only between the batterer and the survivor, but also between the survivor and the bureaucratic system that she is now engaged with. They write: “Individual women's experiences of violence become translated into and ‘absorbed’ by bureaucratically sanctioned, objectifying accounts, designed for ‘case management’ and the control of those people who are part of ‘the case.’” During this process, Pence and McMahon explain, “officially sanctioned ‘knowledge’ is expressed in terms of management-relevant categories and becomes part of the way power works in the reproduction of gender inequality.” Coordination of services, orchestrated by often explicitly feminist organizations such as the Domestic Abuse Intervention Program

(DAIP) in Duluth, aims to overcome the relations of domination exacerbated by the bureaucracy's orientation towards expertise. Instead, the focus is shifted back to the survivors' own experiences, in particular their safety. They explain, "The DAIP reduces the consequences of bureaucratic fragmentation by promoting the coordination of the activities of the different agencies around the practical goal of victim safety."<sup>111</sup>

Coordinated Community Response Programs are often mistakenly associated *solely* with mandatory arrest and no-drop prosecution policies. These policies were developed in response to the limited success the criminal justice system found in arresting and prosecuting batterers, often because of the perceived lack of cooperation of survivors in the process. Seeing this problem as a result of the coercive behavior of batterers, most states have passed laws that mandate battered women's participation in prosecution and that require police to arrest where they see evidence of assault. I describe this controversial aspect of CCRs in greater detail in the next section. It is important to keep in mind, however, that mandatory procedures are *not* synonymous with CCRs in their entirety, as is sometimes suggested. Rather, explain Pence and Sheppard, successful CCRs include a strong base of services for battered women.<sup>112</sup> These include shelter and housing services, employment services, primary health care services, children's programs, counseling, and individual, legal, and institutional advocacy, etc. These aspects of the CCR are administered by a variety of partners in the system, extending well beyond the criminal justice system, yet still acting on behalf of "the state."

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<sup>111</sup> McMahon and Pence 1997, pp. 10-11.

<sup>112</sup> Pence and Shepard 1999, p. 13.

#### IV. *Public Gains, Private Losses? Autonomy and Mandatory Policies*

As suggested above, the nature of domestic violence has often made effective criminal justice intervention difficult. Many supporters understand mandatory policies as both a further manifestation of the shifting understanding of domestic violence as public rather than private and as a response to the shortcomings of conventional methods used by police and prosecutors. In this section, after briefly laying out the dynamics of public and private that have shaped the movement against domestic violence, I describe how this analysis is linked to the advent of mandatory policies. I consider both critiques and defenses of mandatory policies; the former are often founded on claims regarding affronts to women's autonomy as a result of the increased role of the state, especially police, in women's lives, while the latter are often founded on the claim that publicity in this and other cases *warrants* some sacrifice of autonomy. I criticize the equation of privacy and autonomy that seems to frame both sides' arguments. I further suggest that attention to the difference between substantive and procedural autonomy, as well as to the *political* nature of individual autonomy, is important to clarifying this debate.

In the context of the feminist argument that the public/private division renders domestic violence private, individual and episodic, feminists have lobbied for greater intervention by the criminal justice system. Supporters of mandatory policies suggest that they are necessary in order to both effectively uphold the state's responsibility to respond to these *public* wrongs enacted against the community and to ensure the eventual elimination of domestic violence.<sup>113</sup> On the other hand, some feminists have worried

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<sup>113</sup> The research on the efficacy of increased arrest and prosecution with regard to deterring future violence is ambiguous. A small selection among the many studies showing that pro-arrest policies are effective (in terms of reduced deterrence and reduced levels of violence) includes: Buel 1988; Dutton et al. 1992; Zorza 1994; Hanna 1996. Studies and analyses showing evidence to the contrary (i.e. *increased* recidivism or

about mandatory arrest policies increasing state control of women's lives. This latter concern is part of a broader claim suggesting that these policies undermine and fail to recognize women's autonomy. Critics charge that, in assuming that they are best able to make choices and determine "life plans" for survivors of domestic violence, these policies are paternalistic and also reproduce the relations of domination already extant in the abusive relationship. Such policies assume that women's choices to stay with their batterers are "wrong" and often nonautonomous choices. Critics note, however, that women are often correct in predicting increased violence if they leave, that they may face a lack of access to material resources, and that they may incur problems with child custody.<sup>114</sup> Coker argues, "[a] woman who opposes prosecution is taking a calculated risk, as is the woman who pursues prosecution."<sup>115</sup> A decision to stay or desire to avoid prosecution can reflect autonomy, on Coker's terms. Even where norms of adherence to ideals of, for example, self-sacrifice and a desire to "save" one's partner motivate staying, survivors of domestic violence may be acting autonomously; that is, for Marilyn Friedman, they may be "living their lives in accord with norms that are evidently very important to them."<sup>116</sup>

On the other side of the debate, many feminists argue that policies mandating victim participation *do* protect women, individually and as a group, from subsequent acts of domestic violence. Though they may acknowledge that these policies compromise autonomy, they see women's interests and liberation as advanced by them. Cheryl

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failure to deter some groups of batterers) include: Davis, Smith, and Nickels.1998; Hirschel, Hutchinson, and Dean. 1992; Mahoney 1991; Sherman et al 1992. See also a recent New York Times editorial by Iyengar 2007.

<sup>114</sup> On the genuine risks of "leaving" and motivation for not doing so, see also Mahoney 1991.

<sup>115</sup> Coker 2001, p. 826.

<sup>116</sup> Friedman 2003, p. 146. I will return to whether such beliefs and the actions that follow from them are actually "autonomous" below.

Hanna's argument in favor of strong mandatory policies is framed around the significance of retaining the public understanding of domestic violence that such policies have reinforced.<sup>117</sup> Whilst recognizing the tensions arising when state intervention is increased and individual women's choices removed, Hanna defends mandatory policies primarily on two grounds: First, mandatory policies, insofar as they both remove the *responsibility* for action from the survivor and deny her the opportunity to choose a course of action, highlight state accountability for domestic violence, rejecting the notion that, as a private issues, individual women must deal with the problem themselves.<sup>118</sup> Second, publicity shifts the focus from the individual to the community by seeking to protect not only the woman in a given case, but also other women who may face abusers in the future. With regard to loss of autonomy, Hannah claims, "such an infringement on her liberty is necessary to protect women overall."<sup>119</sup> If autonomy is compromised as a result of this process of publicization, Hanna argues, it is worth the sacrifice.

Like Hannah, Friedman argues that "going public" is worth the sacrifice in autonomy. In the context of the social changes advocates of battered women have sought to make (and continue to pursue), Friedman claims, "Gaining respect for our autonomous—and our nonautonomous—preferences about how our abusers are to be treated ceases to be an overriding concern." Rather, the publicity attained by introducing such measures *in itself* enhances women's access to citizenship. That is, "Citizenship transforms violence to oneself into an injury to the community of which one is a

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<sup>117</sup> Hanna 1996.

<sup>118</sup> This parallels the larger structure of criminal law. Hanna, 1996, p. 1872 writes: "...the criminal justice systems serves the state; thus, prosecutors should not consider the individual wishes of abused women if those wishes conflict with community goals. Under this rational, mandated participation would be justified in any case in which prosecution is in the state's interest," as it would be in any type of case that reflected "the state's interest."

<sup>119</sup> *ibid.*, p. 1870.

member.”<sup>120</sup> Thus, Friedman concludes, “the deterrent and citizenship benefits to women [as a whole]” are worth the loss of autonomy such policies entail.

*i. Disentangling Privacy and Autonomy: Reframing the Debate*

On the basis of empirical evidence, it is difficult to resolve the debate over the utility, or perils, of state intervention in the form of mandated arrest and prosecution.<sup>121</sup> I return to the question of state intervention broadly speaking in the next section. I argue that *in the context of CCRs*, state intervention, including mandatory policies, can be seen as autonomy fostering rather than as disempowering. But the debate over mandatory policies on their own highlights a problem with the frame of reference many scholars use to ask and respond to questions regarding autonomy, the private/public distinction, and state “interference.” In this section, I do not aim to resolve the debate over mandatory procedures; the contours of this debate have been extensively traversed, in particular in the law reviews. Rather, insofar as my aim is to theorize a feminist conception of both autonomy and the “autonomy-fostering state,” I use this controversy in order to set up the conception of the state I develop in the next section. By paying attention to the distortion of the privacy – autonomy relationship that exists even in the feminist literature, we can reconceptualize the state in the more nuanced manner feminist thinkers have already made great strides towards.

Arguments that equate the loss of privacy with loss of autonomy when the state intervenes in domestic violence cases perpetuate a problematic notion of autonomy. Indeed, in the case of domestic violence, the irony is that such a lack of intervention has been deeply constraining to our ability to protect and develop autonomy. With police

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<sup>120</sup> Friedman 2003, pp. 151, 150.

<sup>121</sup> See note 19 above.

historically treating battering as “noncriminal” and, when they did respond, rarely arresting the assailant, the pervading notion was that “[w]omen’s bodies were the province of others, and women’s bodily integrity within marriage was fictitious.”<sup>122</sup> Women living under this system see their autonomy compromised in order to sustain their partner’s autonomy. Privacy, here, is not equivalent to autonomy for battered women; indeed, the rejection of privacy as a shielding mechanism for the brutality of domestic violence against women has been a founding principle of the movement against domestic violence. Yet, some feminist arguments have weakened the power of such publicity by equating it with the (necessary, they concede) loss of autonomy. This argument relies primarily on a procedural view of autonomy.<sup>123</sup> I argue that we can more usefully understand such interventions as mechanisms by which various arms of the state are engaged in the task of fostering *substantive* autonomy.

Substantive views of autonomy require that autonomy be consistent with certain conditions that go beyond the procedural requirements of, for example, self-reflection.<sup>124</sup> While some strong substantive theories require that autonomous individuals have the capacity to direct their own lives in accordance with quite specific values or norms, others are less stringent, requiring that one’s autonomous decisions, preferences or actions be formulated or taken in accord with broader content-guidelines. For example, in a related account of responsibility, Benson suggests that “self-worth” is an ideal condition for evaluating standards of autonomy, especially in the context of oppressive

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<sup>122</sup> Miccio 2005, p. 269.

<sup>123</sup> As an anonymous reviewer notes, the proceduralist view does not commit theorists to saying that mandatory policies *always* undermine autonomy; if women endorse intervention they can be seen as autonomous on this view. However, it is the cases wherein women do not endorse intervention that require the most explanation: here I want to suggest that in some cases even where such endorsement is lacking, the state’s policy (and “the state,” in turn) may be autonomy fostering (and substantive).

<sup>124</sup> For an example of the procedural account see Friedman 2003; see also Mackenzie and Stoljar 2000, Introduction. “Self-reflection” is an oversimplification of the proceduralists account.

socialization.<sup>125</sup> While self-worth may well be an appropriate substantive marker for discerning autonomous agency in many cases, I argue that the substance of autonomy is always constituted within a given political and social context. In this sense, establishing a specific substantive marker for autonomy may not be appropriately figured within a broad theory of the autonomy-fostering state. Rather, I want to endorse an alternative methodological approach to theorizing autonomy, one that holds that the content of autonomy must necessarily be established with attention to the details of a given context; this is especially important given the risks of a substantive approach, which, figured wrongly (for a particular context), runs the risk of being too restrictive or potentially marginalizing for certain individuals. Indeed, this account of a particular policy arena suggests one “space” within which the specificities of the substance of autonomy can be worked out. Such a methodological approach can be understood to follow a similar trajectory – moving back and forth between concrete intuitions and more general theories – to that which has been taken up by feminist theorists, in their emphasis on the relevance of “experience.”<sup>126</sup>

The importance of a substantive account, then, is vast, especially if our approach to it is not rooted in abstract values, but in empirical realities. A substantive account of autonomy gives us the tools to criticize dominant social structures – including the misogynistic pursuit of power and control that characterizes domestic violence – that constrain the exercise of and limit the development of autonomy within a given political context. With the focus shifted from a politics of non-intervention to one of relationality,

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<sup>125</sup> Benson 2000.

<sup>126</sup> I am very grateful to my colleagues and mentors at the University of Michigan for their suggestions in formulating this approach to substantive autonomy. In particular, Mariah Zeisberg provided very valuable feedback on this issue.

the substance of autonomy comes into view within a given context, allowing us to discern between contexts that appear to grant “free choice”<sup>127</sup> but maintain relations of domination and exclusion, and those that are genuinely supportive of autonomy.

The need for such scrutiny is evident in the case of domestic violence. Although it is uncontroversial that women in battering relationships face added and intensified constraints on their autonomy, this does not mean that they are not or cannot be autonomous. Similarly, where the state’s mandatory policies are clearly coercive in many cases, their application does not imply that battered women who are subject to these policies are not autonomous. In each case, instances of coercion, domination, or limitation of available options compromise women’s autonomy at a given moment. Yet, neither negates the possibility of autonomy as a capacity developed *over* time that one exercises more or less frequently over the course of her life, nor does either case suggest that women cannot resist the constraints and oppression they may face.

In the case of domestic violence, some of the reasons why survivors may object to the arrest and prosecution of their violent partners are a function of gender socialization that runs counter to the value of autonomy. Whether these survivors believe that their abuse is warranted, that they will be bad mothers if they leave their abusive partners, or that they have a duty to help their partners overcome their “problem,” we can reasonably assume that the pervasive gender norms that exist in our society are in some significant way responsible for generating such potentially self-injurious commitments. It is here that bringing the “substance” of autonomy into view allows us to make the alternative

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<sup>127</sup> Of course, entirely free choice is mythological, but I use the term here to echo the rhetoric that such claims take up. Rather the distinction is between always relationally situated decisionmaking processes, some of which are more or less constraining.

normative claims.<sup>128</sup> That is, the reasons for staying reflect commitments that, in addition to being largely inconsistent with future autonomy, fail to reflect a number of values we see as reflecting a lack of autonomy (self-respect or self-preservation are two possible candidates among many). An examination of this context leads us, quite reasonably, to the intuition that they are not decisions made “freely,” nor are they decisions that impose constraints in the present but that imply future access to autonomy. This *does not* mean that women who subscribe to such normative commitments are to blame for their continued abuse or that they are guilty, incompetent mothers, or lesser citizens. On the contrary, the acknowledgement that autonomy is compromised when decisions of this nature are taken reflects a deep acknowledgement of the insidious nature of domestic violence as a reflection of the oppressive gender norms that exist in our society.

However, women’s reasons for resisting their partners’ arrests and prosecutions are also based on very real material circumstances that make the loss of the batterer’s income and child-care support a threat to the family’s livelihood, on fear of retaliation by the batterer, or on the concern for the well-being of their children who they view as better off with their fathers in their lives, rather than in jail.<sup>129</sup> In these cases neither the choice to remain in the relationship nor the choice to leave, or have the batterer extricated, is wholly consistent with future (substantive) autonomy; *both* options are potentially threatening to autonomy.

Despite the admittedly difficult dilemma that such an array of options poses for the survivor of domestic violence, it is still arguable that remaining in the battering relationship is most often a *greater* threat to autonomy than is facing the alternative

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<sup>128</sup> For one feminist account of substantive autonomy, see Stoljar 2000.

<sup>129</sup> Friedman 2003, p. 145.

material or familial barriers, considerable as they in many cases are. Domestic violence poses a real and persistent threat to women's lives. Research convincingly shows that such violence typically escalates as time passes. Approximately 30% of female homicide victims in the United States are killed by their current or former intimate partners.<sup>130</sup> To fail to acknowledge the threat to survival that domestic violence poses is to significantly underestimate the seriousness of this crime perpetrated against women. Thus, although the reasons for staying in a battering relationship may reflect autonomy insofar as they are concerned with preserving future autonomy, an autonomous decision in the final determination should reflect a choice of the option or set of options that is *most* consistent with future autonomy, as well as with the maximal possible realization of values associated with autonomy, such as self-respect or self-worth. It is useful to think of autonomy here as existing on a continuum.<sup>131</sup> My account of autonomy does not deny these acts of autonomous agency; instead it highlights the potentially greater—given threats to survival—autonomy possible where the batterer is removed.<sup>132</sup>

The forgoing analysis, then, suggests that the argument in defense of mandatory policies is more helpfully framed around a defense of autonomy. But such a defense only makes sense when we understand autonomy in the substantive sense. A procedural account will not provide us with the tools to distinguish between the options that are based on oppressive socialization and those that are not, or between those that are more or *less* autonomy fostering in the long run. Rather than equating privacy and autonomy—a move that threatens to reproduce both individualistic notions of autonomy and idealized

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<sup>130</sup> US Department of Agriculture 2002.

<sup>131</sup> See Friedman 2003.

<sup>132</sup> Joseph Raz's 1986, p. 374 account of "The Hounded Woman" provides a relevant account of the limitations threats to survival pose to autonomy. See also LaVaque-Manty 2001.

notions of privacy, both of which have historically *excluded* women—a focus on substantive autonomy as a *benefit* of publicization, reframes the debate in a more helpful manner.

This reframing by no means resolves the dilemma posed by mandatory policies. Although I suggest that in most cases the negative outcomes of arrest—material and familial—are outweighed by the positive, there may be some instances where this is not the case. In some circumstances, the hardships associated with the batterer’s arrest and with the state’s intervention into women’s lives may indeed turn out to be extremely destructive—even life threatening. Such cases indicate that the state’s response is severely inadequate, and highlight the fact that, on their own, mandatory policies do not solve the problems associated with domestic violence. The next section puts mandatory policies back into the context of coordinated community response programs. These programs can contribute the resources, material and relational, that are much more likely to make mandatory policies tolerable and indeed to swing the balance in their favor with regard to concerns about autonomy (among others).

#### ***V. Navigating the State: The Fragmented-Coordinated State in Practice***

Commentators on domestic violence services have noted the importance of situating criminal justice responses to domestic violence within a framework of community care. Following these commentators, I argue that the tensions associated with mandatory arrest and prosecution in our current social and political context, while not resolved, are much more readily mediated when they emerge in the context of the diverse set of services of

effective CCRs.<sup>133</sup> Though they note this possibility with some optimism, few provide an extensive analysis of why exactly this structure is promising: why does state service delivery in this form promote autonomy while other modes of state intervention pose serious threats to women's autonomy? I have argued above that the potentially autonomy-fostering state can be realized where the fragmented state is coordinated effectively. Here, I flesh out this claim by arguing that CCRs are effective because, via coordination, they "exploit" the fragmentation of the state. Although the CCR philosophy emphasizes *coordination*, the system still represents a fragmented patchwork of programs and institutions rather than a unitary "state" delivering services. By bringing together these programs and institutions, CCRs manage to effect a balance between justice and care, and in turn between commitments to both impartiality and partiality. Moreover, the structure of this mode of service delivery reflects and acknowledges the political nature of service delivery. This politicization is critical to averting the threat of relations of domination often arising in service delivery contexts.

*i. Fragmentation meets Coordination: CCRs and the "Loosely Coupled" State*

As my analysis of mandatory policies above suggests, it is only in the context of the other services offered (or not offered) by the state that we can judge the value of state intervention in the lives of survivors of domestic violence. In this case, where CCRs are administered adequately, the various arms of the state, which are sometimes in conflict with one another, may work to create an overall *system* that has autonomy-fostering potential.

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<sup>133</sup> See, for example Coker 2001 and Miccio 2005.

Above, I briefly described some of the key tenets and institutions of the CCR; let's now consider a brief sketch of their typical day-to-day workings:<sup>134</sup>

- Jennifer and John's neighbors telephone police to report a domestic dispute. Police dispatch officers to the specified location. At the scene, police review evidence and interview the victim and assailant; they record evidence in a specific manner and ask particular questions, in keeping with the protocols that have been negotiated among law enforcement, advocates, community members, and others. For example, they ask about previous instances of abuse in order to document a pattern and they note the presence of factors – for example John's suicide threats or aggressive behavior toward household pets – that have been identified by domestic violence experts as evidence of "lethality" or particularly grave danger. In keeping with mandatory arrest policies, police arrest John because there is evidence to suggest that a domestic assault has taken place: Jennifer has red marks on her face and there is broken glass on the floor. Her story about his attack is credible and supported by this evidence.
- Once the arrest has been made, police contact advocates from a local organization and pass on information about the situation. Advocates record this information and then make contact with the survivor. At the survivor's home, the advocates ask her about the incident and the history of John's abuse. They allow her to relate her experience without imposing any particular framework or narrative on it; when she expresses her reluctance to leave the situation because of the welfare of her children, advocates affirm the difficulty of the situation, while still noting that neither she nor her children deserve the abuse. Advocates provide her with some basic information

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<sup>134</sup> This example is based both on my experience as a volunteer advocate in a CCR in Washtenaw County, Michigan and on examples given in Pence and Shepard (1999) and Thelen (2000).

about domestic violence as well as specific information about the services available in her community. Jennifer indicates that she is interested in a Personal Protection Order; advocates make note of this and a legal advocate from the organization contacts Jennifer to assist her with this process the next day. In the course of their discussions, Jennifer notes that when the police arrived at her home, one officer was particularly sarcastic, commenting on the fact that she had called them on other occasions and yet had allowed her husband to return to the home. This upset Jennifer and she suggests that it made her weary of telephoning police. When John is released from jail on bail the next day, the jail first calls Jennifer to inform her (as agreed upon by the members of the CCR), then contacts advocates to provide the same information. Advocates contact Jennifer to check in and help her with possible safety planning.

- In days following, a coordinator reads advocates' report on this situation, and at a meeting of members of the CCR she raises the issue of ongoing reports of inappropriate police behavior. The representative of police at the meeting pledges to address the issue among her staff. At the same meeting a government representative solicits members of the coordinating body to participate in consultations regarding new sentencing recommendations for domestic violence offenses.

CCRs still involve arms of the state that may create exclusionary conditions through problematic conceptions of impartiality, and which may be paternalistic. However, as I suggest in Section II, the coordinated-fragmented state manages to overcome some of the perennial feminist critiques of service delivery by (1) accommodating a plurality of

modes of service delivery that influence one another and (2) providing mechanisms that instantiate a mode of immanent self-critique within the system. Concretely, the CCR model responds to feminist critiques of impartiality in two ways. First, in accordance with the potential influence of participating and coordinating organizations within the system, services under the umbrella of CCRs sometimes self-consciously act partially even *within* those institutions that conventionally understand themselves as impartial decision-makers. Second, in capitalizing on the fragmented nature of the state, CCRs support the perpetual questioning of “impartial” decisions and procedures undertaken by the criminal justice and legal system via a system of institutionalized self-critique initiated by those arms of the state that are *outside* the impartiality-oriented “ethic of justice.” In this sense, a critique of the impartiality-oriented aspects of the state is immanent within this mode of service delivery. Thus, CCRs also respond to a key concern for those who are critical of the notion of a blindly neutral or impartial state: the seeming elimination of the need for democratic decision-making practices and/or politics itself. Rather, CCRs have “politics” embedded within their framework insofar as they embody the negotiation, compromise, and patchwork that define politics.

Nevertheless, on the surface, the criminal justice aspect of CCRs—the arena of mandatory policies—seems at first glance to be committed to notions of impartiality, applying one standard to all perpetrators of domestic violence, and hence to their victims. It is plausible, then, that such a framework might be seen as an instance of Wendy Brown’s “rationalized, procedural unfreedom.”<sup>135</sup> However, other agencies and agents involved in CCRs more closely approximate an ethic of care in their approach to service delivery, taking up an explicitly partial agenda. These institutions ideally seek to foster

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<sup>135</sup> Brown 1992, p. 10.

the relationships necessary to reintegrate women into their communities, once it is safe to do so. Perhaps most distinctive among the various care-based services offered within the framework of CCRs is the role of “advocacy” in this model of service delivery.

“Individual advocates” offer support and guidance to survivors as they navigate the social institutions from which they require resources and protection from further abuse.<sup>136</sup>

Systems advocacy is aimed at institutional responses to battered women. On both fronts, advocates working with and on behalf of individual survivors provide the relational support that helps survivors to make decisions regarding their course of action following a reported incident of domestic violence. An important contrast emerges here: whereas the criminal justice system does not permit the survivor to guide the direction of its intervention, advocates may endorse a contrasting, if not conflicting, form of support that is directed by the wishes and needs of the survivor herself. That is, although the survivor does not have the option to prevent arrest (at least where the letter of the law is followed), there are other decisions to be made – whether to get a Personal Protection Order (P.P.O.), whether to leave the home and enter shelter, whether to seek out legal assistance for possible separation or divorce proceedings, how to handle issues relating to children – that advocates can support in a non-coercive way, promoting women’s autonomy.

How ought we to understand the apparent conflict between the mode of service delivery advocates subscribe to, and that of the criminal justice system, especially when these two may be closely linked within the structure of the CCR? For example, in the CCR responsible for Washtenaw County, Michigan, following police notification advocates intervene, providing support without directing the survivor toward any particular course of action. The training manual for advocates working in the Washtenaw

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<sup>136</sup> Thelen 2000, p. 1.

program emphasizes, “[The survivor] is responsible for her own life decisions and the advocate’s role is to help her tap her own strengths and abilities and to recognize and experience her potential as a woman.”<sup>137</sup> There seems to be significant tension between this approach to non-coercive “empowerment” and the approach of police, which applies the mandatory policy.

Yet, when we look more closely at the criminal justice arm of CCRs, the picture of mandatory arrest as an impartial policy embodying the values of impartial justice is not entirely accurate. Rather, recall the plural, yet mutually influencing, nature of the coordinated-fragmented state. In fact, there is a fair amount of (partial) attention to the particularity and lived experience of battered women even by the criminal justice system in this context. It does this insofar as it refocuses agents of the criminal justice system to recognize the power imbalances inherent in domestic violence cases; although still reflecting many of the standard philosophical stances of the criminal justice state, we should not ignore the extent to which by its very participation in the CCR, this arm of the state has acknowledged the unique power dynamic – the gendered pursuit of power and control – that characterizes domestic violence and requires unique responses.

Moreover, the function of impartiality in the context of such attention to particularity may be somewhat different than a standard critique reveals. In the case of mandatory arrest, the impartiality of arrest and prosecution decisions—the mandate to proceed in all instances of domestic violence—actually protects the interests of the less powerful, namely women, by putting the weight of the state behind her rather than rendering her individually responsible for ending her abuse. Here, though initially assumed to embody aspirations to impartiality, given the feminist origins of these policies

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<sup>137</sup> Center 2006, p.20.

and the ongoing interaction between the criminal justice system and feminist advocates and agencies, mandatory policies may not be as rigidly committed to norms of impartiality as they appear.

Another way in which CCRs complicate our notion of the power relations endemic to service delivery can be seen in the mechanism of systems level or institutional advocacy, mentioned briefly above. Here, a particularly clear picture of the dynamics of self-critique emerges. Thelen describes systems advocacy as “an effort to reform institutional responses to battered women, collectively, so that the totality of their experience is taken into account, leading to greater safety for victims and greater accountability for batterers.”<sup>138</sup> Systems advocacy, now an important part of CCRs, has also helped to forge the structure of CCRs themselves; mandatory arrest, the coordination of various services in the community, and the overall shift of domestic violence from private to public, can be understood as *results* of systems advocacy. Insofar as systems advocacy has shaped CCRs since their initiation, it continues to be a critical part of ensuring that changes made in the legal and social service systems actually result in increased safety for survivors.

Beyond the work of ensuring that survivors are able to access the services that enhance their safety, the structure of CCRs institutionalizes sources of criticism and demand for change from the system as a whole. In doing so, it also preserves a baseline of participatory decision-making in the system, “institutionalizing ongoing feedback from advocates on the effect of any reform on the victim.”<sup>139</sup> Advocates, as the term “advocate” implies, are explicitly partial; as Thelen writes, their “primary allegiance is to

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<sup>138</sup> Thelen 2000, p. 1.

<sup>139</sup> Thelen 2000, p. 3.

the victim.”<sup>140</sup> Advocates may not be employed directly by the state, or even where the funding for organizations that train and employ advocates comes from the state, they are generally independent agencies. Hence, from the position of their institutionalized role in the CCR system, advocates act on behalf of the interests of the diverse set of women they encounter in their individual advocacy and other work with survivors.

In the DAIP CCR, the site of the pioneering program, Thelen’s research suggests, “the voice of battered women [via their advocates] at the table provides a valuable perspective which leads to solutions that do not pathologize her behavior but rather take the totality of her experience into account.”<sup>141</sup> For example, advocates shed light on the reluctance of women to participate in the criminal justice system’s response to domestic violence, highlighting the system failures that work to make her participation an apparent or genuine risk to her safety and communal ties. In the Washtenaw County CCR, legal advocates participate in systems advocacy by monitoring the legal system and “deal[ing] directly with the errant individual” in the system, or where this is unsuccessful, consulting with supervisors and taking public action to remedy injustices in the system.<sup>142</sup> Through specific instances of inter-agency communication, designated “coordinating counsels,” one-to-one transmission of knowledge, and public action, CCRs are effective in part because they have mechanisms within themselves to criticize the system, often from very different perspectives.

This mode of self-critique points to a larger point about this mode of service delivery: its political nature. Mary Asmus and Denise Gamache suggest that “victim

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<sup>140</sup> Thelen 2000, p. 4.

<sup>141</sup> Thelen 2000, p. 7.

<sup>142</sup> Thelen 2000, p. 10.

safety” should be the primary commitment of coordinating counsels.<sup>143</sup> But, they note, this does not necessarily mean that the counsel (the body that “coordinates” the CCR) must have a “common goal.” Rather, with safety in mind, these goals are negotiated and modified over time as feedback from advocates, survivors, and agents of the legal system arises. Because of the fragmentation, albeit coordinated fragmentation, that characterizes this mode of service delivery, an explicitly political vision of both the state and service delivery emerges. The state is not a uniform entity that imposes “social control” on service users, nor is the mode of service delivery an already manifested structure that limits autonomy. Instead, both the contours of the state and the particular service delivery mode in operation are continually negotiated by a variety of actors. Because some of these actors, feminist activists among them, reject dominant commitments to impartial reason, their interactions with survivors may disrupt the hegemonic rational-legal legitimacy of, for example, the criminal justice system.<sup>144</sup> Thus, by virtue of its political nature, this mode of service delivery overcomes concerns about the anti-participatory tendencies of impartial decision-making by promoting system-wide contestation.

*ii. Threats and Obstacles to the CCR Model*

While I have argued above that the innovative structure of CCRs effectively responds to some critiques of the impartial state lodged by feminists and others while forging a unique, autonomy-fostering relationship between the ethics of justice and care, it is important to note that there are numerous threats to the effectiveness of this model. First, the self-critique aspect of the system relies heavily on the presence of diversely populated

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<sup>143</sup> Asmus and Gamache 1999, p. 79.

<sup>144</sup> The system also attempts to take into account the potential and extant power inequalities within the CCR system itself through a variety of mechanisms, including the use of private meetings (excluding criminal justice officials) to gather feedback from community members, ongoing training and education of officials in the justice system, flexibility in problem-solving strategies, and so on (Asmus and Gamache, pp. 80-82).

institutions within the care-oriented arms of the state. Donna Coker highlights the importance and often limited existence of diverse advocacy. She writes, “Law and policy that is based on the experiences of poor women, and especially of poor women of color, is likely to result in reforms that benefit all battered women.”<sup>145</sup> It is important to acknowledge, as well, that the self-critique function of the CCR I have described will be ineffective if not only the legal system, but the advocacy system too, is administered from the perspective of the white middle-class survivor. That is, though advocacy may mediate the impartiality of criminal justice for white women with material resources insofar as it is “partial” to them, it may fail to do so for other women, already disadvantaged in our society.<sup>146</sup>

Professionalization poses a threat to the potentially radical effects of the “loose coupling” of state arenas described above. Haney notes, “[a]t historical junctures, when the political environment makes proactive demands on [a particular] state sphere, there is often a ‘tightening’ of the links among subsystems.”<sup>147</sup> That is, “the system’s boundaries tend to tighten in an attempt to maximize desired outcomes...[or to] direct public attention to certain political goals.”<sup>148</sup> Increased professionalization of advocates and other system actors may also result in such a tightening, which *reduces* the partiality that is crucial to the ongoing self-critique of the system.<sup>149</sup> When the perspectives or orientations of service delivery personnel working within “care-oriented” arms of the state become increasingly close to the orientations of those arms of the state that tend

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<sup>145</sup> Coker 2001, p. 811.

<sup>146</sup> The concept of “mestiza autonomy” recently proposed by Edwina Barvosa-Carter (2007), may be a helpful way of theorizing the experience of minority women or women who lack class and racial privilege, and the multiple commitments and loyalties they may have in their communities.

<sup>147</sup> Haney 2000, p. 659.

<sup>148</sup> Haney 2000, p. 659.

<sup>149</sup> See for example Coker 2001, Fraser 1990, and Miccio 2005.

toward an ethos of universality and impartiality the advantages of fragmentation, as such, are lost. Professionalization may also be accompanied by a de-radicalization of domestic violence services and an ensuing depoliticization of the movement.<sup>150</sup> The political nature of CCRs, I have argued, is crucial to their success.

Finally, as Coker and others note, there are too few CCRs and often a lack of funding for the services and programs within CCRs that enable it to provide meaningful options to survivors of domestic violence. As I have noted, mandatory policies on their own *do not* constitute CCRs; the autonomy-fostering benefits accrued by CCRs are not found in locales where mandatory policies exist outside of the context of a community response plan.

## **VI. Conclusion**

Many feminists agree that significant gains have been made in modifying both societal and state responses to domestic violence over the past few decades. Yet, as with many other areas of state service delivery, there remain controversies about how and whether the state should be seen as an ally to which we ought to turn, both as theorists and activists, in furthering feminist aims of equality, inclusion, self-determination, and freedom. But, as Frances Fox Piven writes, it is not just a naïve belief in the state's emancipatory potential that is problematic; "it is an indiscriminating antipathy to the state that is wrong."<sup>151</sup> That is, the constructed polarity between autonomy on the one hand and dependence on the state on the other is misguided. "All social relations involve

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<sup>150</sup> See further Garofalo and McDermott 2004.

<sup>151</sup> Piven 1990, p. 250.

elements of social control,” Piven writes, “and yet there is no possibility for power except in social relationships.”<sup>152</sup>

The model of service delivery found in coordinated community response programs suggests a novel way of understanding how such power can be manipulated in order to serve feminist ends, even when it must be garnered in the nearby presence of state arenas that are often understood as taking up perspectives that exclude women and other oppressed peoples through social control or other mechanisms. I have argued that when viewed through the lens of a (substantive) relational conception of autonomy, a perspective which I defend, CCRs suggest a model of service delivery that responds both to critiques of loss of autonomy in the face of publicization of what was once private, and to critiques of the claims to impartial reason made by some arms of the liberal state. Considering the most controversial aspect of CCRs, mandatory policies, I have argued that both critiques and defenses of mandatory policies often misguidedly suggest that in shifting domestic violence from the private to public sphere, feminist have sacrificed women’s autonomy. Rather, I suggest, we ought to frame the debate in terms of the state’s ability to *enhance* substantive autonomy via publicization and intervention. In making this claim, I acknowledge the hardships that arrest and prosecution of batterers may cause for survivors, yet I find that in most cases, these hardships are ultimately a lesser threat to autonomy than is the failure to hold the batterer accountable.

As I have shown, CCRs — and possibly other similar practices — can lessen the hardships. The varied elements of CCRs politically and ideologically mediate the conceptual tensions (for feminists) inherent in state service delivery. In particular, such services as individual and systems-level advocacy are delivered from a perspective that

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<sup>152</sup> *ibid.*

embraces a sometimes particularistic and partial approach. However, in the context of CCRs, even the criminal justice system self-consciously embraces partiality in some aspects of its work, while upholding its (aspirational) claims to impartial application of the law. The combination of the two ethics in the different aspects of service delivery under the umbrella of CCRs demonstrates how the “loose coupling” of state arenas can work to create mechanisms of self-critique that undermine potentially anti-participatory and exclusionary aspects of some purportedly neutral or impartial state policies. The system of service delivery found in CCRs is potentially successful in fostering autonomy in our most vulnerable citizens, I suggest, *because of* the “coordinated-fragmentation” of the state.

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## **Chapter 4**

### **Embodied Recognition, Ascriptive Autonomy, and Harm Reduction**

#### ***I. Introduction***

The possibilities for an autonomy-fostering state rest, as we have seen, on a conception of autonomy as developed in the context of social relations, which may foster or constrain its development and exercise. In order to further comprehend the complexities of an autonomy-fostering state, then, we must consider not only the facilitating relationships for autonomy, but also the factors and relationships that impair autonomy – and the remedies administered through service delivery that these constraints on autonomy make necessary. Chapter 3 offered an account of a model of service delivery for domestic violence survivors that highlighted the potentially fruitful implications of a “coordinated-fragmented” state, wherein the fragmentation of the various arms of the state can be exploited to effect a balance between alternative ethics (care and justice) and to instantiate mechanisms of self-critique in the system. That account highlighted in particular the importance of conceiving of the state as multiple and plural, and directed our attention to the spaces where autonomy-fostering relations emerge, disrupting monolithic social-control notions of the state. In this chapter I offer a corrective to another conceptual relationship that may hinder our ability to theorize those space in the state that are potentially autonomy-fostering. I turn here to the relationship between harm and autonomy.

Intuitively, we might initially suggest that things that *harm* us necessarily impede our autonomy. A cursory reading of John Stuart Mill's *On Liberty* might pick up on this intuition, citing Mill's contention that what makes something harmful is the limitation it places on our ability to determine our own ends – to act autonomously, that is. The harm principle, then, evaluates the extent to which such autonomy constraining factors are present and, in turn, the legitimacy of various actions. On this reading, we might suggest that autonomy and harm are connected in a zero-sum relationship: more harm, less autonomy, and *vice versa*. But a closer look reveals that this evaluation is not so straightforward; complications follow when we ask, for example, what counts as harm or who determines what counts as harm? Moreover, what is the status of these harms when they are self-inflicted? The zero-sum hypothesis doesn't appear particularly illuminating, nor accurate once such questions enter the mix.

In order to better grapple with what now emerges as a complex conceptual relationship, I want to turn to a set of policies and practices that fall under the umbrella of “harm reduction.” Harm reduction is a model of response to drug use and addiction that seeks to minimize the harm associated with drug use, without necessarily requiring abstinence. With the rise of HIV/AIDS and the prevalence of other blood borne infections such as Hepatitis B and C, policy makers and advocates around the world have championed harm reduction interventions as potentially more effective than abstinence-based or criminalizing models of “treatment.” This particular service delivery model is fruitful for our consideration of harm and autonomy because it explicitly and actively targets something going under the name of “harm.” Furthermore, users of harm reduction services – people who use drugs – are typically cast as non-autonomous; a closer look at

harm reduction philosophy, and the harm-autonomy relationship that is central to the theoretical foundations of this philosophy, complicates and adds important nuance to our understanding of autonomy, disrupting the supposed antithesis between dependence and autonomy. Below, I provide two divergent glimpses of each of the programs I will examine in this chapter; the tensions and paradoxes that exist in these services foreshadow both the difficulties and possibilities this case presents for theorizing the autonomy-fostering state, and the notion of harm that it can potential take up.

**Steve:** In the documentary “Methadonia,” the narrator interviews Steve, who is attempting to come off of methadone.<sup>153</sup> Charismatic and effervescent in earlier scenes, now there are tears running down Steve’s face as he experiences the withdrawal effects of methadone cessation, which is marked by a pained expression as he speaks to the camera:

I feel real bad. It’s like destroying my whole life. Methadone is the worst thing you can get on...’cause they treat you like fucking shit once they...once they get you hooked. You’re nothing but a junkie. Come get your fix in the morning. And I want to be a normal citizen. Now I’m on 60 [ml] today. Today is when they hit me with 60...and I feel like shit. I’m being honest with you: I’m very suicidal right now. Because if I don’t have something to make me happy, to make me worth living for, and I’m in a lot of pain...this methadone...what, they want me to come back to beg and plead, “oh no I can’t take it, put me back on.” Yes, they want me to do that so they can have me back! Back in their clinches...*liquid handcuffs*. But I would rather drop dead with this shit on me than ever go back.

**Lisa:** Lisa Torres is a middle-aged lawyer and methadone advocate. In an extra feature on the *Methadonia* DVD entitled “Methadone 101,” she explains that she has been on methadone since she was 16 and addicted to heroin. At first, she resented methadone, attributing various physical ailments to her use of it and believing it to be a “crutch”: “It was a real badge of shame. I remember I didn’t tell many people.”

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<sup>153</sup> Michael Negroponte, “Methadonia,” (USA: HBO, 2005).

Despite this initial reticence, Lisa describes the evolution of her attitude toward methadone:

There was no controlling my addiction...but methadone allowed me to have some consistency [...] [On methadone] you can have your life back. I mean you can literally do just about anything. And I remember going back to law school, allowing myself first of all to get on an effective dose. And the effective dose for me was a lot higher than I would have allowed myself to go before; I never wanted to go too high because I was just a “visitor” in methadone clinics. I was going to get off eventually and I didn’t want to go too high because I didn’t need it and all this stuff...but my effective dose was a dose at which I acquired blockade and I stopped getting cravings.

**VANDU’s Needle Exchange Program:** In Vancouver, Canada, the Vancouver Area Network for Drug Users (VANDU), an organization consisting primarily of heroin and cocaine users, began operating a Needle Exchange Program (NEP) in September 2001 to respond to a serious limitation of extant NEPs – their early closing time (8pm). VANDU, which is funded in part by provincial and federal government funds, began to operate an unsanctioned NEP after hours, dispensing an average of 1200 syringes per night. The site, which, like VANDU, is virtually entirely user-run, later gained sanction. The experience of user-involvement is captured by one user’s description of VANDU:

“It brings together a collective experience and wisdom, but also you begin to get a different feeling about yourself. To become a part of something for who I am and not for who I am not. For who I am as an addict, I’m poor, I’ve got Hep C, I lived in wretched housing and all this, and then someone says, ‘Yeah, that all makes you a really valuable person. You have a lot to contribute to try to help people and to save other lives, and your experience can do that.’ Then I get a different feeling about myself.”<sup>154</sup>

**“Operation 24/7”:** At the same time that VANDU began to operate its unsanctioned but well-used NEP, Vancouver police mounted an intensified effort to alleviate the city’s

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<sup>154</sup> Thomas Kerr et al., "Responding to an Emergency: Education, Advocacy, and Community Care by a Peer-driven Organization of Drug Users: A Case Study of Vancouver Area Network of Drug Users (VANDU)," (Ottawa, Ontario, Canada: Health Canada Hepatitis C Prevention, Support, and Research Program, 2001), 33.

illicit drug use problem. In accordance with “Operation 24/7,” the renewed police effort, “a plan to place a constant and highly visible police presence on the street corner in front of the VANDU NEP” was launched. Wood et. al. found that the presence of police near the table where clean needles were being provided produced a dramatic (26.7%) reduction in distribution of sterile syringes. The police ultimately shut down the VANDU site in 2002, alleging that criminal activities were taking place at the site. Though the police chief later apologized and the NEP was reopened, this incident prompted considerable outcry in the IDU and IDU advocate community, also commanding the attention of the group Human Rights Watch, which issued a report condemning the city and in particular the police force for its actions.<sup>155</sup>

In the foregoing examples, methadone is at once a paralyzing substance that allows the state<sup>156</sup> to hold clients hostage, to impose “liquid handcuffs,” and an enabling, even freeing mechanism that provides opiate addicts with a chance to live normal lives and pursue their goals. Needle-exchange programs are both a state-supported but user-run way of reducing harm to injection drug users while also providing a space for user mobilization and self-realization, and a target of the policing functions of the state who view the programs as challenging or violating the state’s prohibition-oriented narcotic control objectives. Even the users of harm reduction services, it seems, have divergent views of what constitutes harm, and in turn what constitutes the appropriate remedies to

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<sup>155</sup> Human Rights Watch, “Abusing the user: police misconduct, harm reduction and HIV/AIDS in Vancouver,” (2003).

<sup>156</sup> Some methadone clinics in the United States are public, while increasingly more are privately owned and require clients to pay much higher dispensing fees. However, the state intervenes in methadone treatment in a sense regardless of whether it actually administers the “treatment” insofar as it regulates the legality of and conditions under which methadone can be dispensed.

harm. How, then, can we begin to understand harm, and in particular harm in the context of the “difficult case” (for autonomy theorists) of addiction?

In this chapter, I want to embark on an investigation of harm that proceeds from three questions: *What or who* harms? *Who* experiences harm? *How* do they harm or experience harm? If we accept conventional academic and popular views of addiction, the answers to these questions are relatively straightforward: drugs cause harm and, since this harm is “self-inflicted,” drug users, too, cause harm; drug users experience the harm of drugs; harm is caused by physiological effects of drugs. Yet the examples above already suggest, and the chapter will argue, that this narrative fails to capture the multiple dimensions of harm. Harm, I will argue, comes in a number of forms, their implications for autonomy varying accordingly. While harm can be physical, it can, among other things, also be a result of misrecognition – of needs, of identity, of rights to citizenship and participation, etc. Moreover, even the physical facets of harm, as the cases below demonstrate, are not as clear cut as they may seem, since ideological forces always shape our conceptions of pain and pleasure. Although in this chapter I will argue that harm indeed impedes autonomy, I resist the zero-sum relationship that often follows from a first reading of Mill’s work on the harm principle, instead suggesting that only a complicated typology of harm (though I will not endeavor to provide it here) – and even then, one that is always open to contestation – can fully point us towards the relationship between harm and autonomy. Since harm takes on these various forms, it follows, I suggest, that the notion of an autonomous addict is not oxymoronic, but rather an example of the confluence of a variety of harms with other potentially autonomy enabling forces. Even in situations of extreme dependence, autonomy is, and ought to be, possible.

The purpose of theorizing harm and its relationship to autonomy via this example is primarily to gain ground on the larger aim of theorizing the autonomy-fostering state. Harm reduction programs, I argue, are a unique location at which the state can foster autonomy in some of its most vulnerable citizens. The central features of this model are elucidated when we understand both harm and autonomy as emerging out of relationships – personal and institutional – that are structured in various ways and manifest themselves in the form of various state practices. In this chapter I pay most attention to two forms of harm that I think are particularly relevant to the case of addiction and harm reduction programs. First, this case demonstrates that autonomy competency requires attention to *embodied* forms of harm. While such attention may take on straightforward material forms, this type of harm is also developed in a context marked by contestation and reinterpretation of dominant discourses of harm: the what, who, and how questions described above. In the case of harm reduction service users, the terrain of such contestation often revolves around the politics of pain and pleasure. Second, I suggest that successful (in the sense of “fostering autonomy,” but often on other measures, too) harm reduction programs respond to the harm of *misrecognition* by enabling a space for recognition not just by the state, but by the community too—especially including “peers.” It is only within these spaces of multifaceted recognition that a measure of “ascriptive autonomy”<sup>157</sup> can be achieved in a meaningful sense. As they facilitate recognition, or ascription of autonomy, to service users, harm reduction programs also provide the mechanisms for the development of the *capacity* for autonomy—a capacity that may be underdeveloped in the context of the stigma and material constraints of addiction.

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<sup>157</sup> On ascriptive autonomy, see also Mika LaVaque-Manty, “Kant's Children,” *Social Theory and Practice* 32, no. 3 (2006); Richard H. Fallon, “Two Senses of Autonomy,” *Stanford Law Review* 46, no. 4 (1994)

I develop this account of harm and autonomy in the case of a harm reduction model of service delivery through an analysis of two types of harm reduction programs: methadone maintenance treatment (MMT) programs and needle exchange programs (NEP). Before delving into the analyses of the programs, I provide an overview of the philosophy and practice of harm reduction. I then turn to the cases. Each example fleshes out certain elements of the embodied and inclusive politics of harm reduction that I suggest is required in the autonomy-fostering state. Whereas MMT programs are sometimes depicted by critics as exemplary of the social-control practices of the state, my analysis complicates this picture by pointing to the role of methadone in facilitating the material requirements for autonomy and in challenging conventional notions of the relationship between embodiment, pleasure, and autonomy. My engagement with the service delivery practices entailed in needle exchange programs draws out the value of user-involvement and user-run service delivery; these forms of service delivery emerge as a site for the organization and politicization of typically marginalized individuals and groups. Though at times intervening state and other forces threaten to either co-opt or foreclose the empowering possibilities of user-run organizations, ultimately so-called social control tactics are tempered by the necessary expansion of the boundaries of the “acceptable” emerging out of the forms of service delivery such organizations are engaged in. In each case, the particular interaction between physical or psychological addiction, dependence on the state, and extreme stigmatization presents a unique lens through which to view and complicate our understanding of a relationally conceived notion of autonomy and the various forms of harm that threaten to constrain it.

## II. *Harm Reduction: An Overview*

As the accounts of MMT and NEPs in the following sections make clear, not all programs delivering (nominally) harm reduction services strictly subscribe to the “official” principles of harm reduction. Despite problems in practice, as a potential means to theorizing an embodied politics of recognition that effectively fosters autonomy, the *theory* of harm reduction presents some important clues.

Drug policy and treatment, particularly in North America, are politically charged realms. Harm reduction is an increasingly advocated alternative to the “moral model” approach favored by the dominant forces in public policy and administration today. Rooted in public-health principles and emerging from advocacy among drug users themselves, harm reduction seeks to minimize the harms of drug use (and other risky behaviors) in our society, while acknowledging that complete abstinence may not be possible or desirable for a person at a given time. In addition to rejecting the “moral model,” harm reduction also diverges from the increasingly prevalent medical model of addiction.<sup>158</sup> This model categorizes drug use and addiction as illness. Although positive insofar as it “has the advantage of lifting the moral, or criminal, stigma from the deviant,” this model is problematic for harm reductionists because it shifts the “control of deviance” from “legal authorities to the medical profession.”<sup>159</sup> Furthermore, in making this move, the medicalized approach takes notice primarily if not exclusively of individualized physiological factors, failing to acknowledge psychological, social, and cultural factors.<sup>160</sup>

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<sup>158</sup> Patricia G. Erickson, "Introduction," in *Harm reduction : a new direction for drug policies and programs* (Toronto: University of Toronto Press, 1997), x, 476

<sup>159</sup> *Ibid.*: 6

<sup>160</sup> *Ibid.*

Examples of harm reduction programs include NEPs, MMT, safe injection and inhalation sites, safer sex education, smoking reduction programs, controlled or moderate drinking programs, and a host of other programs for specific communities or issues. These programs all implicitly or explicitly found their practices in part on the fact that drug users are marginalized and stigmatized populations; they therefore aim to be “user-centered” programs.<sup>161</sup> Critical to this notion of user-centeredness is the recognition of the multiple axes of oppression that a user may experience; the user is seen not just in terms of her relationship to the treatment program or to a given drug, but also as an individual embedded in various relationships that are always structured by power dynamics.

In viewing drug use itself from a more complex vantage point, harm reduction has an advantage over traditional models of drug treatment. Rod Sorge, the late AIDS activist, explains, “Harm reduction focuses largely on the social and environmental aspects of drug taking, looking at the way that drug use is ‘produced,’ learned, experienced, organized, and controlled and then implementing interventions based on this information.”<sup>162</sup> Sorge claims that this outlook shifts the understanding of how to respond to the needs of drug users: “Because most drug users do not have the luxury of leaving their drug-using circumstances behind after or even during treatment, interventions are focusing more and more on helping them make use of their contexts and communities to survive.”<sup>163</sup> Harm reduction moves us away from a model that imposes a dominant view of how an acceptable lifestyle looks, instead focusing on the service

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<sup>161</sup> Ibid.: 9

<sup>162</sup> Rod Sorge, “Harm Reduction: A New Approach to Drug Services,” *Health/PAC Bulletin* 21, no. 4 (1991)

<sup>163</sup> Ibid.

user's own needs and desires.

Given this focus on the user as the central figure in the creation and implementation of harm reduction programs, programs are not meant to be based on a single model or set of procedures. Many programs are thus geared towards the needs of particular populations that are uniquely situated, for example particular ethnic, racial, or linguistic groups. These programs are built with community input and structured in a way that makes sense for the population who will be using its services. Moreover, an emphasis on “bottom-up” approaches to service development and delivery is particularly important for successful programs, according to harm reductionists. Whereas traditionally power differentials between providers and users have acted as barriers to genuinely assisting the user in better accessing the tools necessary to reduce harm, a growing number of harm reduction programs are user-run or heavily involve users. When such user-involvement is put in place, “those affected are accepted as partners who are capable of assuming responsibility for making personal changes in their behavior and helping others to do the same.”<sup>164</sup>

Finally, harm reduction theory typically embraces a low-threshold approach to service delivery. Low-threshold access refers to the provision of services without extensive requirements, in particular the requirement of abstinence.<sup>165</sup> In meeting users where they are, harm reduction programs access a much broader range of participants. Instead of adopting punitive measures where, for example, service users continue to use drugs or somehow deviate from certain relatively trivial norms (i.e. lateness, standards of

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<sup>164</sup> G. Alan Marlatt, *Harm reduction : pragmatic strategies for managing high risk behaviors*, (New York: Guilford Press, 1998), 55

<sup>165</sup> Contrast this type of service delivery with the paternalist model of conditionality that I discuss in the next chapter.

“politeness”), as some other treatment programs have traditionally done, low-threshold approaches focus on making contact with users and forging an ongoing relationship with service users.

### ***III. Methadone, Social Control, and the Politics of Pain and Pleasure***

Addiction has often captivated autonomy theorists, including theorists of rational choice, in particular because the conventional understanding of addiction suggests that to be an addict is necessarily to act against one’s own will.<sup>166</sup> However, by turning our attention to the physiological, phenomenological, and ideological nuances that characterize addiction, and the perceived harms it is associated with, a more complicated picture emerges. Methadone is particularly illuminating as a site for such complication because it is at once a “treatment” for addiction and a physiologically addictive substance. Moreover, in its service delivery context, it presents unique configurations of dependence.

First discovered during World War II as an analgesic, methadone is a synthetic opiate used in “maintenance” treatment as a way to prevent withdrawal symptoms associated with cessation of the use of opiates (such as heroin and prescription opiates like Vicodin or OxyContin). At a high enough dosage, it blocks the euphorogenic effects of other opiates, ostensibly eliminating incentives to use these other opiates. American doctors Vincent Dole and Marie Nyswander were the first to experiment with maintenance treatment in the mid-1960s. Dole and Nyswander, along with some other

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<sup>166</sup> See for example the essays in Jon Elster, *Addiction : entries and exits*, (New York: Russell Sage Foundation, 1999); Jon Elster and Ole-Jørgen Skog, *Getting hooked : rationality and addiction*, (Cambridge, UK ; New York: Cambridge University Press, 1999)

colleagues, published a significant amount of research reporting the findings of their studies.<sup>167</sup> In addition to demonstrating the physical effects of the drug, they found a host of other psychosocial outcomes of the drug. Though now reconceived by harm reductionists as consistent with their philosophy, Dole and Nyswander conceived of heroin addiction on a disease model, arguing that the drug induces “a metabolic disorder that places patients in need of continue use of heroin or other opiates.”<sup>168</sup> Dole et. al. explain: “Because of the short period of action of heroin, [the addict] oscillates between the limits of ‘high’ and ‘sick’ with insufficient time in the normal condition of ‘straight’ to hold a steady job. Addiction leaves little time for a normal life.”<sup>169</sup> In contrast, methadone, which is usually taken once a day, was found to enable addicts “to redirect their time away from obtaining and using drugs.”<sup>170</sup>

Methadone maintenance treatment (MMT), I argue in this section, provides a useful example of how an embodied notion of recognition rooted in a relational conception of autonomy can yield a form of service delivery that is conducive to the aims of an autonomy-fostering state, attending to some of the harms that follow from the experience of addiction in social contexts where dependence in general and illegal drug use in particular are stigmatized and pathologized. Recognition theorists emphasize the centrality of recognition to identity, specifically to the development of an *authentic*

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<sup>167</sup> See, among others, Vincent P. Dole and ME Nyswander, "A Medical Treatment for Diacetylmorphine (Heroin) Addiction. A Clinical Trial with Methadone Hydrochloride.," *The Journal of the American Medical Association* 193 (1965); VP Dole, ME Nyswander, and MJ Kreek, "Narcotic blockade," *Archives of Internal Medicine* 118, no. 4 (1996); VP Dole, ME Nyswander, and A Warner, "Successful treatment of 750 criminal addicts," *The Journal of the American Medical Association* 206, no. 12 (1968)

<sup>168</sup> Peggy L. Peterson et al., "Harm Reduction and HIV/AIDS Prevention," in *Harm reduction : pragmatic strategies for managing high risk behaviors*, ed. G. Alan Marlatt (New York: Guilford Press, 1998), 218-97

<sup>169</sup> Dole, Nyswander, and Kreek, "Narcotic blockade," It's interesting to not this emphasis on work (labor market participation) as a primary source of meaning, or at least order, in one's life. See further discussion of work in Chapter 5.

<sup>170</sup> Peterson et al., "Harm Reduction and HIV/AIDS Prevention,"

identity, an identity that enables us to be “true” to ourselves.”<sup>171</sup> This authentic self is always socially constituted, and in turn, where social messages reflect a negative or disparaging image back upon individuals or groups, they may experience profound damage and distortion to the self.<sup>172</sup> While some theorists emphasize the importance of relations of recognition to the psychical development of the individual<sup>173</sup> – her sense of self and ability to imagine herself as an individual worthy of dignity and rights – others suggest that a more structural, less individually focused theory of recognition, rooted in concerns about justice, is more appropriate.<sup>174</sup> These conceptions are obviously not unrelated; both share a sense that the structure of social relations, relations of recognition here, importantly shape one’s identity, and in turn one’s ability to act autonomously – and that misrecognition is harmful to this development. Through this case, I want to suggest that in addition to attending to both the psychical and institutional aspects of relations of recognition – both of which constitute responses to forms of misrecognition, or as we might view it, harm – we need to consider the *embodied* aspects of recognition as vital to the development and exercise of autonomy. The importance of viewing recognition from this vantage point emerges, then, on the bodies of the service users who depend on both methadone (the substance) and MMT (the service delivery model) and in the arguments of critics of both the substance and the service model.

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<sup>171</sup> Charles Taylor and Amy Gutmann, *Multiculturalism and the politics of recognition : an essay*, (Princeton, N.J.: Princeton University Press, 1992), 30

<sup>172</sup> *Ibid.*, 25

<sup>173</sup> See for example Nancy Fraser and Axel Honneth, *Redistribution or recognition? : a political-philosophical exchange*, (London ; New York: Verso, 2003); Axel Honneth, *The struggle for recognition : the moral grammar of social conflicts*, (Cambridge, Mass.: Polity Press, 1995); Taylor and Gutmann, *Multiculturalism and the politics of recognition : an essay*, Taylor also point to the work of Fanon as demonstrating particularly poignantly the psychical effects of misrecognition. See for example Frantz Fanon, *Black skin, white masks*, (London,: MacGibbon & Kee, 1968)

<sup>174</sup> See Fraser in Fraser and Honneth, *Redistribution or recognition? : a political-philosophical exchange*, 29

*i. Critiques of Methadone Maintenance Treatment*

Despite findings suggesting that it is the sole significantly successful manner of establishing abstinence from heroin,<sup>175</sup> MMT remains controversial. The relevant controversies typically fall into three categories. First, some critics argue that MMT simply substitutes one form of addiction for another: methadone is an addictive opiate, withdrawal from which causes painful and debilitating symptoms. Second, others worry that because methadone is an opiate, and for the non-opiate dependent (or, for the dependent under some circumstances) may have euphorogenic effects, some individuals may exploit the system to attain methadone not for “treatment” purposes, but for the purposes of “getting high” or seeking pleasure. Finally, a group of critics charges that MMT is a harmful disciplinary practice, seeking to normalize the criminalized addict and increase social control over those who do not conform to dominant bourgeois ideals.

Each of these categories of critique highlights on the one hand, problematic conceptions of autonomy that conflate independence and autonomy, and on the other hand, a failure to attend to the implications of embodiment in the face of the necessarily constructed nature of the regulation of pain and pleasure. Building on one of the key insights of a relational conception of autonomy – the rejection of the dependence/autonomy opposition<sup>176</sup> – an analysis of the limitations of these critiques

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<sup>175</sup> See citations in Peterson et al., "Harm Reduction and HIV/AIDS Prevention," 154

<sup>176</sup> In their genealogy of the concept of dependency, Nancy Fraser and Linda Gordon give an historical and theoretical account of the factors that contribute to the ideological production of this concept. They highlight the extent to which dependence has been feminized, and hence stigmatized, despite the illusory nature of, for example, the white working man's independence, as contrasted to the economic and sociolegal dependence ascribed to the housewife. They site also the absence of a history of feudalism or aristocracy in the United States as an explanation of the particularly virulent antipathy to an understanding of the interdependent nature of social life. Even with movements for suffrage and challenges to gender norms taking hold in more recent times, Fraser and Gordon argue that the language of independence has

allows us to draw out the contours of an embodied notion of recognition, which I claim underpins the philosophy of this harm reduction service. Thus, in spite of these critiques – or rather, by way of them – MMT is recast here as a potentially autonomy-fostering form of service delivery. However, I do not dismiss the deeply problematic nature of MMT service delivery, in particular in the U.S.; the problems associated with this form of service delivery highlight the need for a multifaceted politics of recognition in the context of the autonomy-fostering state, a model further explored in the following section on needle exchange programs.

A common mantra of those who criticize MMT for the physical and psychological dependence it is thought to perpetuate is that MMT users are “replacing one addiction with another.” Tapert et. al. note that both resistant politicians and some people who use drugs themselves express this sentiment. They explain, “the notion of maintaining a methadone dose level indefinitely is unappealing to some people, because participants are not truly ‘drug free.’”<sup>177</sup> Abstinence oriented programs like Alcoholics and Narcotics Anonymous also generally reject methadone use as an incomplete form of adherence to their programs. Phillippe Bourgois describes one arm of the dependence-focused critique group as framing its resistance around notions of morality; he refers to these opponents as the “Just-Say-No camp.”<sup>178</sup> Members of this camp are “oblivious or else hostile to the

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only taken further hold with dependence even more abject: “With all legal and political dependency now illegitimate, and with wives’ economic dependency now contested, there is no longer any self-evidently good adult dependence in post-industrial society” (26). Thus all that is left is the pathologization – see for example the inclusion of “dependent personality disorder” in the DSM – and hence further individualization of dependency. See Nancy Fraser and Linda Gordon, “A Genealogy of *Dependency*: Tracing a Keyword of the U.S. Welfare State,” in *The subject of care : feminist perspectives on dependency*, ed. Eva Feder Kittay and Ellen K. Feder (Lanham, Md.: Rowman & Littlefield Publishers, 2002), ix, 382. Addiction provides a particularly poignant window into this pathologization.

<sup>177</sup> Peterson et al., “Harm Reduction and HIV/AIDS Prevention,” 155

<sup>178</sup> Phillippe Bourgois, “Disciplining Addictions: The Bio-Politics of Methadone and Heroin in the United States,” *Culture, Medicine and Psychiatry* 24 (2000): 173

‘addiction is a metabolic disease’ discourse [...] they exhort citizens to personal abstinence based on individual willpower and spirituality.”<sup>179</sup>

Critics also express concern about the pleasurable effects of methadone. That is, if the drive for using heroin and other opiates in the first place is the pursuit of illegitimate pleasure – pleasure that extends beyond the “natural” and appropriate forms that are constructed as legal and legitimate in our society – the “treatment” for this unwieldy need for excessive pleasure ought not to generate further pleasure. In fact, in opiate-dependent individuals, methadone does not have euphorogenic effects.<sup>180</sup> For those who are not dependent, however, such effects are present. As Bourgois notes, critics fear that those who are “not truly addicts will wheedle their way into methadone addiction – or worse yet, that individuals who actually enjoy methadone may become addicted to methadone for its latent euphorogenic properties.”<sup>181</sup> Critics are also wary of the potential abuse of methadone in combination with other licit and illicit substances, a phenomenon documented particularly forcefully in the documentary *Methadonia*, wherein many of the profiled MMT clients are seen to abuse benzodiazepines, a class of sedative drugs that enhance the effects of methadone, generating euphoria.<sup>182</sup> The methadone black market that exists in most jurisdictions where MMTs exist, with some clients receiving “take-home” doses (doses that need not be consumed in the clinic) and diverting them to the street, is further fuel for the fears of the “illegitimate pleasure” camp.

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<sup>179</sup> Ibid.

<sup>180</sup> Bourgois claims that “a significant number of addicts actually managed to enjoy the methadone high,” either by requesting higher doses than needed for “maintenance purposes” or because of the variations in the effects of methadone depending on one’s metabolism. However, at the appropriate dose, most sources suggest that euphoria is minimal to non-existence in dependent individuals. Ibid.: 181

<sup>181</sup> Ibid.: 175-76

<sup>182</sup> Negroponte, “Methadonia.”

Perhaps the most pressing critique for the purposes of my argument here falls into the “social control” category. This critique suggests that MMT is a vehicle for both state and other actors to exert control over those deemed “deviant”; by way of this form of service delivery, the “deviant” is disciplined, monitored, and reconstituted in the form of an idealized “straight” subject. In fact, this critique incorporates several of the attributes found in the preceding two critiques, albeit in a somewhat different light. On the one hand, the dependence created by the substance and the form of service delivery is seen to undermine the service-user’s autonomy and make the intrusion of disciplinary power into the user’s life is imminent. On the other hand, concerns about the regulation of pleasure are seen to embody the “bio-power” exerted by the state, as it produces and manages the particular bodily experiences of these subjects. However, unlike the other two critiques, the social control critique is not concerned about the moral failings of the addict (and the failure of methadone to remedy these) or the potential for transgressors to exploit the program; instead, the critique is targeted at relations of domination that are perceived to emerge through the subtle manipulations of the service user – with these relations acting *on* and *through* the user via *his* or *her* agency.

In the case of methadone, the perceived medicalized approach of this service is seen as emblematic of the forms of social control most concerning to those theorists who view the welfare state as necessarily involved in the project of social control. In particular, it is the embodied nature of the power relations present in these contexts that stands out. Writing critically about the structure of and meanings associated with MMT programs, both Phillipe Bourgois and Jennifer Friedman and Marixsa Alicea draw on Foucault in order to conceptualize the problematic dynamics they observe in the

clinics.<sup>183</sup> Bourgois claims that MMT is an example of the use of biopower, Foucault's term for the ways in which "historically entrenched institutionalized forms of social control discipline bodies."<sup>184</sup> According to Bourgois, the medicalization of methadone as drug treatment – as opposed to the non-medical, criminal status given to heroin or other offending drugs, for which users must be alternately punished or treated – already suggests the ways in which normal and abnormal, legitimate and illegitimate come to be constructed via biopower. Additionally, Bourgois points to the study of MMT by scientists and social scientists as a site for this configuration of power relations. Social scientific, as well as medical and juridical, accounts of methadone maintenance, he argues, focus on quantified data, failing to capture the imbrication of this "treatment" modality in "a Calvinist-Puritanical project of managing immoral pursuits of pleasure and of promoting personal self-control in a manner that is consonant with economic productivity and social conformity."<sup>185</sup> Debates over the adequate dosage of methadone, for example, are common in work produced by disciplines that study methadone; Bourgois sees this technical tinkering as masking the actual disciplinary functions of methadone, manifested somewhat differently at both high and low dosages.

Friedman and Alicea emphasize the way the medicalization of methadone treatment provides a language with which the service user is seemingly able to define herself (as having a "metabolic disease," for example), in an apparently agentic manner, yet always through the lens provided by the "institution" of methadone. As they are

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<sup>183</sup> Bourgois, "Disciplining Addictions: The Bio-Politics of Methadone and Heroin in the United States," Jennifer Friedman and Marixsa Alicea, *Surviving heroin : interviews with women in methadone clinics*, (Gainesville: University Press of Florida, 2001)

<sup>184</sup> Bourgois, "Disciplining Addictions: The Bio-Politics of Methadone and Heroin in the United States," 167

<sup>185</sup> *Ibid.*: 168

transformed into “safe deviants” through methadone maintenance, the authors explain, the women are often silenced; they are co-opted into the “machinery controlling themselves and others who fail to conform.”<sup>186</sup> They adopt a medicalized and therapeutic discourse rather than a political one and, in turn, “learn to distrust their perceptions and doubt their critical assessments of the dominant culture.”<sup>187</sup> This runs counter to the way Friedman and Alicea conceptualize (illicit) drug use. Women’s heroin use, on their account, is a form of resistance, which they frame as a response to oppression, by virtue of which “women are often denied the vision and means to create their own subjectivities.”<sup>188</sup> Though they acknowledge that heroin use is neither entirely “resistance,” nor is it solely passive dependence, their emphasis is on the former, highlighting it as a counterpoint to the biopower extant to the methadone. According to this narrative, the physical effects and aftermath of heroin addiction paint a picture of agency and self-government that is subsequently quashed by the methadone institution: “By scarring their body through needles, women refuse to accommodate patriarchal expectations of them and maintain control of their bodily self-expressions, gestures, and appearances. Through their own agency, these women transcend feminine passivity and invisibility.”<sup>189</sup>

*ii. Refiguring Methadone: Autonomy, Embodiment, Recognition*

Each of these critiques raises important and challenging questions for our consideration of the practices of an autonomy-fostering state, as well as for how we conceive of autonomy and recognition. The first two critiques figure largely in highly

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<sup>186</sup> Friedman and Alicea, *Surviving heroin : interviews with women in methadone clinics*, 131

<sup>187</sup> *Ibid.*, 130-31

<sup>188</sup> *Ibid.*, 88

<sup>189</sup> *Ibid.*, 91

politicized public debates over MMT programs; the third critique is a significant site of contention in academic and activist discussions of methadone service delivery. Here I suggest that each critique presents, to varying degrees, impoverished notions of the relationality and embodiment that are pivotal to an adequate conception of autonomy.

Addiction situates questions regarding dependence and autonomy in a unique light. While it may be intuitive to imagine one who is addicted – one who physically and psychologically *depends* on some substance or behavior – as utterly lacking in autonomy, I want to suggest that such a view conflates independence and autonomy. The potentially (and at times, actually) fruitful dynamics of methadone maintenance programs, in fact, suggest that there are conditions under which someone who is dependent in this way can be self-governing in many respects, enabling the individual to determine and pursue her life plans. Though this self-government or autonomy may be partial – it is determined in part by dependence on another substance, methadone – to discount it for this reason elides the fact that all human beings are dependent on at least some other persons or substances. Such dependence, as this case shows in particular, can actually be an enabling relational basis for the development and exercise of autonomy.

The arguments advanced by those who see MMT as simply substituting one addiction for another reflect the stigmatized and pathologized conception of dependence noted above, obscuring important aspects of what may aid in the development of autonomy. If we turn to these enabling aspects, a different picture of MMT emerges. If autonomy is developed in the context of enabling social relations, as I have suggested, one such relation, at the most functional level, must be that between the clinic and the methadone user; by dispensing methadone, by responding to the physical and

psychological need of the opiate dependent individual, the clinic (and the service delivery system) affords her *part of* the recognition that is necessary for her autonomy-competency. Taylor argues that the notion of equal dignity stems from a claim that all human beings deserve our respect because they possess what he refers to as “*universal human potential*,” which he interprets as “the potential for forming one’s own identity.”<sup>190</sup> Setting aside what may be (and often is) the inadequate respect afforded MMT clients in the clinic setting, the provision of the material benefits of this service itself reflects some respect for the service user’s ability to develop her identity, to live an autonomous life, despite her dependence on opiates. This form of recognition, then, is one component of the relational support necessary to foster autonomy.

Where recognition is a key component of endeavors to foster autonomy, misrecognition, I argue, is a distinctive type of harm that hinders autonomy on a number of levels. At the outset of this section, I noted the variation in approaches to recognition, with some theorists adopting an institutional approach and others taking up the psychological aspects of recognition, suggesting as well that a third dimension of recognition – an embodied one – ought to be highlighted. Harm can be inflicted at every junction: structural failures of recognition that impair participatory possibilities, psychological violence that weighs upon the subjectivity of those who are misrecognized, or the failure to recognize the bodily needs, desires, and experiences of some subjects. By harm we may mean limitations on political and social freedoms that exclusionary structures generate, we may mean the development of unfavorable relations-to-self that limit who we are, who we aim to be, and how we can achieve our life plans in a given society, or we may

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<sup>190</sup> Taylor and Gutmann, *Multiculturalism and the politics of recognition : an essay*, 41-42, emphasis on original

mean, in both of the preceding interpretations, embodied forms of such harm, both institutionally located and psychically located. These forms of harm resulting from misrecognition, it is quite clear, are certainly not discrete; rather, one always inhabits the terrain of the others. Remedies, therefore, must take note of each dimension.

MMT makes the importance of such an embodied approach to recognition more concrete: it is not just the recognition of need in an abstract sense that characterizes the dynamics of MMT programs, it is recognition of actual, intense, bodily need. Methadone meets the physical needs of the opiate dependent; the fact that it can relieve the pain caused by withdrawal symptoms is uncontested. Critics who are skeptical of providing a “treatment” that potentially provides forms of illegitimate pleasure to the user first, ignore the constructed nature of notions of pleasure, legitimate or illegitimate, and second, reflect a view of autonomy that excludes the body, locating it as yet another source of autonomy-limiting dependence. From the perspective of such critics, certain types of pleasure – either legal/legitimate pleasure or pleasure that is not related to addiction/dependence – as well as certain types of pain relief – relief from pain that is not “one’s own fault” or that is not caused by supposedly hedonistic excesses of pleasure – are seen as warranted and not necessarily compromising to autonomy. In contrast, in the case of addiction, these critics police the morality and legitimacy of pleasure, effectively denying that the bodily needs of methadone users are valid sites of recognition that must be attended to in order to adequately foster autonomy.

It may seem simplistic to consider the mere provision of a chemical substance as a form of “recognition” – indeed, as I will explain below, it is *insufficient* on its own in the pursuit of fostering autonomy. However, the politically fraught nature of this substance –

navigating the politics of pain and pleasure as it does – makes its provision more complicated than the provision of other substances (medical, nutritional, etc.). Moreover, because this realm of pain and pleasure is deeply rooted in experiential knowledge that cannot necessarily be accessed through straightforward attempts at establishing moral respect, in particular those rooted in notions of taking up the other’s position via some form of substitution,<sup>191</sup> MMT presents an opportunity to conceive of respect and recognition in a somewhat different manner – one that allows for difference that need not be transparent. Iris Young writes, “Through dialogue people sometimes understand each other across difference without reversing perspectives or identifying with each other.”<sup>192</sup> In moving away from the notion that we must entirely inhabit the rational thought processes or reasons of those around us in order to be able to achieve reciprocity and avert misrecognition, another way of viewing and acknowledging the other moves into focus: in her capacity and sensitivity as an embodied agent.<sup>193</sup> Whereas theorists like Honneth and Taylor lay emphasis on the psychic needs associated with recognition – “feelings of discontent and suffering [...] coincide with the experience that society is doing something unjust, something unjustifiable”<sup>194</sup> – and Fraser emphasizes the institutional structures required for recognition – “institutionalized patterns of cultural

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<sup>191</sup> The most well known version of this is found in Habermas’s theory communicative action. See, among others, Jürgen Habermas, *The theory of communicative action* (Boston: Beacon Press, 1984). Seyla Benhabib also takes up a substitution model, though she is more attentive to the role of difference. See Seyla Benhabib, *Situating the self: gender, community, and postmodernism in contemporary ethics*, (New York: Routledge, 1992)

<sup>192</sup> Iris Marion Young, "Asymmetrical Reciprocity: On Moral Respect, Wonder, and Enlarged Thought," in *Intersecting voices: dilemmas of gender, political philosophy, and policy* (Princeton, N.J.: Princeton University Press, 1997), 38-59: 39

<sup>193</sup> Ibid.: 50 Young writes, “While comparing the situation and desert of agents according to some standard of equality is ultimately necessary for theorizing justice, prior to such comparison there is a moment of respect for the particular embodied sensitivity of the person.”

<sup>194</sup> Fraser and Honneth, *Redistribution or recognition? : a political-philosophical exchange*, 129

value express[ing] equal respect for all”<sup>195</sup> – the space for recognition that emerges out of an embodied sense of recognition opens up an arena in which to contend with the highly subjective realm of such notions of pain and pleasure.

The distorted notion of pain and pleasure that some critics of methadone endorse – their failure to recognize the contingent phenomenology of these sensations – extends beyond the morality based critiques to the social control critiques advanced by others. Bourgois argues that the social control function of methadone is advanced by its use as a tool to *deny* opiate users the pleasure they gain from using the substance for which methadone substitutes (i.e. heroin). The difference between the two drugs, he claims, turns entirely on the question of pleasure: “Ultimately, it can be argued that the most important pharmacological difference between the two drugs that might explain their diametrically opposed legal and medical statuses is that one (heroin) is more pleasurable than the other (methadone).”<sup>196</sup> Methadone is thus “a biomedical technology that facilitates a moral block to pleasure.”<sup>197</sup> However, Bourgois too, despite his effort to call into question the particular construction of pain and pleasure extant in the late capitalist liberal state, ends up freezing in place a static notion of pleasure (and, ultimately, identity) in advancing this claim. In claiming that methadone necessarily “blocks” the user’s pleasure, Bourgois ascribes a narrow notion of pleasure to the drug user. It is as though by virtue of being an opiate user, one is necessarily interested only in a hedonistic lifestyle; pleasure for the drug user as conceived by Bourgois, must be “getting high,” and not the stability – and ensuing lack of periodic discomfort associated with withdrawal

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<sup>195</sup> Ibid., 36

<sup>196</sup> Bourgois, "Disciplining Addictions: The Bio-Politics of Methadone and Heroin in the United States," 167

<sup>197</sup> Ibid.: 169

– that methadone may bring, or the ability to pursue other life goals, as described, for example, by Lisa in the opening vignettes in this chapter. Such an argument, then, reinscribes the bourgeois notions of pain and pleasure that Bourgois wants to call into question insofar as it characterizes “addicts” as monolithically in pursuit of “deviant” pleasure.

In conceptualizing methadone as a tool for delegitimizing and denying addicts the pleasure of heroin, Bourgois may be understood to suggest that the pursuit of the heroin high is, at least in some significant part, an autonomous pursuit, one that users prefer, after reflecting on their own values and priorities, to the effects of methadone. In fact, in explaining this apparently autonomous preference and the context out of which it emerges, Bourgois’ argument may seem to accord with the relational conception of autonomy I defend in this dissertation, and in turn the role played by recognition in structuring the relational context that is best suited to fostering autonomy. Bourgois argues that “the search for cultural respect” importantly informs and shapes the dynamics of methadone on the streets.<sup>198</sup> Methadone, he explains, occupies an “unsatisfactory location in street-based status hierarchies.”<sup>199</sup> Thus to be “recognized” as an equal or as legitimate on “the street” may preclude the use of methadone. Moreover, Bourgois adds, the problematic dynamics of the clinic (to which I return below), which may be degrading or unjust, also fuel antipathy towards methadone.

But both of these constraining factors – street based respect and clinic climate – do not sufficiently show that methadone maintenance, as a treatment modality and as a

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<sup>198</sup> Ibid.: 189 See also Philippe I. Bourgois, *In search of respect : selling crack in El Barrio*, 2nd ed., (Cambridge ; New York: Cambridge University Press, 2003)

<sup>199</sup> Bourgois, "Disciplining Addictions: The Bio-Politics of Methadone and Heroin in the United States," 189

source of embodied recognition, necessarily generates social relations that restrict autonomy. Moreover, as with the notion of pleasure Bourgois associates with users of heroin, the ideal of respect put forth here also implies a static notion of the “addict’s” identity.<sup>200</sup> It assumes that street-based respect is the only configuration of respect that the user values. In contrast, the provision of methadone in and of itself may signify a type of respect (for the needs and goals of the user) outside the realm of street respect. As well, the service users’ broadened possibilities, afforded by methadone, may well open the door to other relations of respect and recognition. This is not to discount the ethnographic work that informs Bourgois’ conceptualization of the “search for respect” that shapes the experience of the heroin user; rather, the point is to call into question “street respect” as a determinative structure for the addicts current and future life situation. Autonomy may be developed in the context of a various types of relationships; no one set of relationships is necessarily ideal in this respect. However, some contexts are *better* than others, and given the political and social climate in North America, i.e. the war on drugs and the ensuing criminal penalties for drug use and the extant social welfare system, the dynamics of (an ideal) MMT program may be better than those of “street respect” for the purposes of autonomy fostering.<sup>201</sup>

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<sup>200</sup> Patchen Markell suggests that in all instances of recognition, as it is defined both by those who, following Taylor and Honneth, focus on the psychic consequences of misrecognition and by those who, following Fraser, focus on the institutional consequences, a problematic aspiration for sovereignty over the self emerges. He writes, invoking “identity as a *fait accompli* precisely in the course of the ongoing and risky interactions through which we become who we are (or, more precisely, who we will turn out to have been, [the politics of recognition] at once acknowledges and refuses to acknowledge our basic condition of intersubjective vulnerability.” Patchen Markell, *Bound by recognition*, (Princeton, N.J.: Princeton University Press, 2003), 14 I do not agree that all forms of recognition require this type of limited notion of identity; instead, I suggest that some forms of recognition can attend to identity as a flexible, relationally constructed, unfixed entity, while still – adopting something like a time-slice approach – attending to the institutional and psychic needs of the subjects whose ability to achieve autonomy, I believe, still depends on some form of recognition.

<sup>201</sup> This distinction between more or less ideal contexts for the development of autonomy reflects the weak substantive view of autonomy that I adopt. I discuss this notion of autonomy – as opposed to the procedural

Like Bourgois', Friedman and Alicea's critique of the social control function of methadone relies on a limited view of the conditions under which autonomy and agency are developed and exercised by heroin users, in this case women heroin users. On Friedman and Alicea's account, because of the image of heroin as particularly destructive and deviant, women who use heroin conceive of themselves as transgressing particularly precipitous boundaries. They write, "[b]y using heroin, [women] can break through the confining walls of objectification and envision themselves living beyond preestablished traditional gender boundaries."<sup>202</sup> Imagining themselves—and imagined by society—as “wild” rather than manageable, women who use heroin resist the norms of passivity and silence expected of them, instead taking up the oppositional qualities of being “loud, critical, uncontrollable, and unpredictable.”<sup>203</sup> Demonstrating this phenomenon, Friedman and Alicea quote “Jane,” a client at a methadone clinic where they conducted interviews:

It made ya [you] feel like ya had confidence even though you didn't. You know what I mean? You didn't feel like that when you were straight because I never had any confidence in myself. I always felt stupid. So when I got high it made me feel like I was somebody, I guess, you know what I mean, in the beginning, anyway.”<sup>204</sup>

Interpreting Jane's comments, Friedman and Alicea situate the lack of confidence and other self-defeating feelings she describes, as a function of, among other societal constraints, oppressive gender norms.

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view of autonomy which would likely make no normative distinction between street respect and alternative forms of respect and recognition as contexts for the development of autonomy – elsewhere in the dissertation.

<sup>202</sup> Friedman and Alicea, *Surviving heroin : interviews with women in methadone clinics*, 89

<sup>203</sup> Ibid.,

<sup>204</sup> Ibid., 90

Although this account of women's heroin addiction in general and the experience of the particular women the authors encounter in their research is compelling, Friedman and Alicea's interpretation of their subjects accounts of heroin use at times masks the *illusory* nature of the resistance they are engaged in, an illusiveness captured in Jane's comments, quoted above. Introducing Jane's comments, the authors write, "Free from the pressures of living up to traditional expectations they feel confident—and unlikely feeling for those who often are subjugated."<sup>205</sup> But, in fact, this analysis doesn't exactly convey the limited nature of the confidence – it's short-lived status and its *contrast* to the reality experienced when "straight." Thus, when Friedman and Alicea shift to their critique of the methadone clinic, they rely on a somewhat misleading counterpoint in order to conceptualize what they take to be the autonomy-constraining function of the clinic.

Once they are "on the clinic," or begin a MMT program, the women "become 'safe deviants' by becoming dependent on social service systems, being processed through conventional institutions, and being watched by 'straight' people—clinic staff and doctors."<sup>206</sup> Disciplined, yet infused with an illusive but ubiquitous sense of self-government that reflects the dominant norms of the methadone institution and the larger society, these women begin to "regulate their own behaviors," Friedman and Alicea write. Such regulation is the target of their criticism. Whereas the context of "resistance" out of which the women's heroin use emerges apparently reflects the capacity for autonomy, the authors claim that the methadone clinic creates relations of domination that constrain autonomy.

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<sup>205</sup> Ibid., 91

<sup>206</sup> Ibid., 130

Again, the particular conditions of the methadone clinic are probably represented accurately in their account. Nevertheless, the contrast between the *substance* heroin and the *social relations* of the “heroin world” and the substance methadone and the social relations of the methadone clinic does not suggest that the latter is necessarily an arena where autonomy cannot be fostered. On the contrary, the autonomy that Friedman and Alicea ascribe to the women *while* they are in active heroin addiction assumes a static condition under which the “heroin addict” identity will remain in place and that the oppressive relations that contribute to the women’s motivation to use drugs in the first place are fixed. This is not to say that dependence on heroin rules out autonomy, but again, that a possibility for greater autonomy may be possible and to preclude the possibility of alternative enabling-relational contexts is to place a limit on the human potential of the subjects in question.

*iii. Recognition as multifaceted: the limits of methadone*

MMT presents an interesting case of a mechanism for fostering autonomy through relations of embodied recognition. In conceptualizing MMT this way, I want to call into question critiques that fail to consider the possibility that first, methadone as a substance (even as a substance upon which one becomes dependent) may provide the embodied support (remedy to physiological harms) necessary to foster autonomy, and second, MMT as a service that *recognizes* bodily need may structure enabling relations of recognition that act as remedies to the harm of misrecognition – even if this remedy is admittedly incomplete. An ideal form of recognition (with regard to the aim of fostering autonomy) is not only an embodied, relationally attuned one, but one that emerges from multiple locations – that is “multifaceted.” As I will explain further in the next section,

because autonomy is, at least in part, ascriptive, it matters both *if* one is recognized as autonomy and *who* is ascribing autonomy to whom. Unfortunately, though the provision of methadone itself may reflect a recognition of bodily need in a context of interdependence that allows for the development of autonomy, the often problematic service provider-service user relationships as well as the social stigma attached to MMT services make the recognition afforded by these programs a highly impoverished form of recognition. Ultimately, this limited form of recognition may be outweighed by the dignity-harming treatment that many experience in these settings.

There are a number of practical aspects of MMT service delivery that have been shown to improve the experience of service users: a “low-threshold approach” (see above), adequate dosing (for moralistic and financial reasons, as well as out of apparent ignorance, many clinics under-dose clients, a self-defeating practice that results in a failure to effectively block the effects of other opiates and removing cravings), and improved therapeutic services, to name a few. But one category of remedies in particular speaks to the problems of recognition described above: user involvement. Involving users in service delivery may generate conditions under which a wider set of actors is “empowered” to ascribe autonomy to one another. Moreover, the experience of engaging peers and the community may be an important tool for both building wider relations of recognition (creating institutional change to enable participatory parity) and developing the skills and sense of self necessary to develop the capacity for autonomy (creating psychic change). As Suzy Hodge and Peter Beresford write, successful attempts at involving users in service delivery “show us how there can be a much closer relation between people’s needs and the services provided. They also offer insights into a

different relationship between citizenship and human need.”<sup>207</sup> Attending to needs, as I have argued, is critical to fostering autonomy; at the same time, allowing for opportunities for service users to create and define needs, as well as participate in their satisfaction, is an important site for expanded participation. In the following section, I explore a model of harm reduction service delivery that adopts such an approach.

#### *IV. Needle Exchange and User-Run Service Delivery*

NEPs are one of the most politically visible and controversial forms of harm reduction services. With the HIV/AIDS crisis coming into the public eye in the mid-1980s, the public health implications of injection drug use became particularly urgent. Further, with injection drug use as the fastest-growing risk factor for HIV infection, the need for strategies to reduce this risk cannot be overstated.<sup>208</sup> The first NEP was started in Amsterdam by a self-organized group of illicit drug users, the *Junkiebond*, which received support from municipal authorities despite official legal constraints on the distribution and sale of syringes in the Netherlands. In the United States, early NEPs were often formed as acts of “civil disobedience,” forging ahead despite legal restrictions. The first official NEP in the U.S. to receive support from its county health department after its establishment was formed in Tacoma, Washington. Subsequently, NEPs have been established in many jurisdictions in the U.S., as well as around the world. Nevertheless, limitations on resources, political opposition, and social stigma, have severely limited the availability and scope of NEPs in North America.

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<sup>207</sup> Suzy Croft and Peter Beresford, "User-Involvement, citizenship and social policy," *Critical Social Policy* 16 (1989): 17

<sup>208</sup> Peterson et al., "Harm Reduction and HIV/AIDS Prevention," 230

Like MMT programs, NEPs face a host of moral condemnations that both reject the validity of providing such services to the “deviant” population they are intended to reach and fear that these services will result in increased drug use. Moreover, the establishment of the actual venues for needle exchange is difficult, with NIMBY politics prevailing in many instances. Political opposition to NEPs often flies in the face of statistical evidence pointing to epidemic levels of HIV/AIDS and the effectiveness of provision of clean needles as a mechanism for halting the spread of this devastating phenomenon. For example, in Washington D.C., where an estimated *1 in 20* residents live with HIV, federal law prevents the investment of local tax dollars NEPs.<sup>209</sup> Moreover, the political resistance to NEPs often limits the effectiveness of these services even where they do exist. Police interference (as described in the opening vignettes), limitations on the number of syringes exchanged, limited hours of operation, and so on, can severely restrict the number of people who can access this service.<sup>210</sup>

Where effective NEPs exist, they are often primarily user-run or heavily involve service users, as well as other community members, in their design and implementation. In this section, I explore user-involvement in service delivery and user-run service delivery as mechanisms for fostering autonomy. The theoretical foundation for this analysis of user-involvement rests on a notion of autonomy as ascriptive. In configuring the appropriate relations necessary to generate the embodied relations of recognition described above, individuals, groups, and institutions are engaged in the *ascription* of autonomy to certain individuals, individuals with various types of bodies and bodily

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<sup>209</sup> Prevention Works, "Prevention Works! Washington DC Needle Exchange," <http://www.preventionworksdc.org/>. At present, Congress has approved an appropriations bill that will remove this nine year old ban. Senate Republicans intend to oppose this move.

<sup>210</sup> See for example Evan Wood et al., "The Impact of a Police Presence on Access to Needle Exchange Programs," *Journal of Acquired Immune Deficiency Syndromes* 34, no. 1 (2003)

needs. As Mika LaVaque-Manty describes, “Autonomy is [...] at least partly *ascriptive*: I am autonomous if someone ascribes self-authorization to me.”<sup>211</sup> Therefore, ascription of autonomy is an outgrowth or manifestation of recognition. But it is also intimately linked to the development of the actual capacities necessary for autonomy. LaVaque-Manty writes, “There is a complex interaction between acquiring the capacity for responsible agency and coming to be recognized (in one’s closer and wider social environment) as capable of being responsible.”<sup>212</sup> That is, if others – especially those in positions of power – recognize me as autonomous, even if I lack some of the requirements associated with the capacity for autonomy (for example, self-esteem or a sense of self-worth), the very ascription of autonomy may cultivate these requirements. In turn, if others refuse to recognize me as a self-governing individual, I may be utterly incapable of conceiving of myself as such, and therefore lack (or continue to lack) the psychic and institutional resources necessary for the development of autonomy.

But who is responsible for such ascription? One aspect of the “autonomy-fostering state,” I argue, is the configuration of relational support via the delivery of social services in such a way that these ascriptive practices are overdetermined in favor of broad and meaningful relations of recognition that provided the tools for the development of autonomy. Service delivery that allows for sites of recognition at multiple locations presents meaningful opportunities for such development. In the case of user-involvement or user-run NEPs, the fact that state agents are not the sole ascriptive body in relation to “clients” is key. Rather “clients,” here reimagined as *citizens*, derive recognition as autonomous individuals from their peers and the wider community. Furthermore, such

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<sup>211</sup> LaVaque-Manty, “Kant’s Children,” 369

<sup>212</sup> *Ibid.*

relations take different forms, in accordance with the fact that recognition may follow from speech acts, recognition of bodily needs and provision of embodied forms of support, simple moments of symbolic respect, and so forth; to be effective, then, enabling relations of recognition must attend to a variety of potential and extant harms. Of particular importance to a multifaceted recognition politics is the need for participation by community members (including service users) in service delivery, advocacy, and support work with one another; though symmetrical reciprocity (substitution) is still not achieved (or desirable) here because of the diversity of members of these groups, shared experiences of identity and/or ascription of identity form one side of a community's ability to "reason[] about the connected implications of the actions and effects on one another that multiple narratives and critical questioning reveal to us."<sup>213</sup>

Following, I look at the example of VANDU, a Vancouver organization of drug users engaged in service delivery, including an NEP. I then situate the successes of VANDU in the context of the politics of recognition that I have argued is most conducive to fostering autonomy. Despite the positive implications of this form of service delivery – many of which attend to the concerns raised by MMT in the preceding section – there are some tensions and questions that arise, which I also explore below.

*i. A Case of User-Involvement: VANDU*

Advocates of user-involvement, emerging particularly out of Britain where this mode of service delivery has gained considerable traction, point to the benefits of user-involvement for enhanced citizenship, inclusion in the politics of needs-interpretation, and individual empowerment. However, even supporters of this approach have raised important critiques of the manner in which service-users have been incorporated into the

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<sup>213</sup> Young, "Asymmetrical Reciprocity: On Moral Respect, Wonder, and Enlarged Thought," 59

system and the effects of the institutionalization of the originating movements' agendas. The push for user-involvement is not only a product of user-initiated activism. Croft and Beresford point to right wing critiques of the welfare state that look to user-involvement as a way of *reducing* government intervention and as an expression of distaste for the "nanny state."<sup>214</sup>

Croft and Beresford divide approaches to user-involvement into two main categories. First, from the right, "consumerist" approaches shift the language of service provision to that of the market, no longer referring to service users or clients, but instead to "consumers." In addition to emphasizing the needs and wants of the consumer, this approach engages in a process of "converting [consumers'] needs into markets to be met by the creation of goods and services."<sup>215</sup> Second, the "democratic" approach has emerged primarily from user-groups and organizations, rather than from service providers as is the case for the latter approach. Beyond just a focus on services and their delivery, this approach more broadly "is concerned with how we are treated and regarded more generally; with the achievement of people's civil rights and equality of opportunity."<sup>216</sup> Or, in other words, the democratic approach to user-involvement is concerned with establishing a just politics of recognition.

An important aspect of the benefits of the "democratic approach," wherein we find the confluence of need-satisfaction with a broader, more solidaristic, attention to social justice, is that such programs are more likely to carefully consider the social context of the user in their design and implementation. For example, the widespread acknowledgement of the racism of drug policy and laws in the U.S. is often a critical

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<sup>214</sup> Suzy Croft and Peter Beresford, "The politics of participation," *Critical Social Policy* 35 (1992): 31

<sup>215</sup> *Ibid.*: 32

<sup>216</sup> *Ibid.*

factor in how a program catering primarily to people of color will be structured. Thus, successful user-involved programs consider the varying social pressures and layers of oppression in which users may be embedded. Furthermore, by considering the user as not just a product of her relationship with the drug itself but as situated within a complex web of social relations, such programs are engaged with assisting the user in a holistic sense. Walter Cavalieri, an activist who runs a needle exchange program in Toronto writes, “Workers here have pushed the limits to make our exchanges safe places to receive assistance, friendly help, good information, attention, validation, and so forth. We are involved with peoples' lives, not exclusively with their veins. With the whole person. With their families/communities. With the community as a whole.”<sup>217</sup>

VANDU, the user-run organization of people who use drugs introduced in the opening pages of this chapter, is a useful example of Croft and Beresford’s notion of the “democratic” approach to user-involvement; moreover, it embodies the contextualized, relationally aware approach to service delivery described above. VANDU was formed in 1997 by a group of local drug users, activists, and other community members who, in the face of the growing public health emergency that gripped the Downtown Eastside neighborhood in Vancouver, felt that something had to be done. Through postering and word of mouth, organizers held a series of meetings from which they gathered information on the needs and issues of concern facing their peers. A report on the organization notes, “By bringing the meetings to drug users and allowing all to

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<sup>217</sup>Walter Cavalieri, "Working With Lives and Not Just Veins," *Harm Reduction Communication* Spring (1998)

participate, no matter how high they were or how bizarre their behavior, the organizers were able to successfully document users' concerns using a low threshold format."<sup>218</sup>

VANDU eventually gained funding from the Vancouver/Richmond Health Board (and later from other sources), a development that required certain features of the institution to become more formalized (i.e. registration as a non-profit charity). But the organization remains true to its initial emphasis on user-run service delivery. The mission statement of VANDU reads, "The health of our participants is enhanced by including users and former users in decision-making and task fulfilling opportunities which build self-esteem, trust, informal networks of support, and a sense of community."<sup>219</sup> With this framework in mind, one of the key aims of the organization is to "[challenge] traditional client-provider relationships and empower people who use drugs to design and implement harm reduction interventions."<sup>220</sup> In order to maintain the emphasis of user-run service design and delivery, relatively fixed rules regarding participation are in place. VANDU includes full members—former or current drug users—and supporting members—those who are not or have not been users. The latter group must not exceed 10% of membership and cannot vote, though such members are permitted to express their views and participate in other ways.<sup>221</sup>

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<sup>218</sup> Kerr et al., "Responding to an Emergency: Education, Advocacy, and Community Care by a Peer-driven Organization of Drug Users: A Case Study of Vancouver Area Network of Drug Users (VANDU)," 10.

<sup>219</sup> *Ibid.*, 15.

<sup>220</sup> *Ibid.*, 16.

<sup>221</sup> The report on VANDU notes that although the organization is indeed user-run, the (paid) program director, Ann Livingston, is not a current or former user. However, members interviewed in Kerr et. al.'s report claim that Livingston's actions are very much guided by the voices of users. As an advocate for users who are subject to the illegality of drug use in Canada, Livingston has the advantage of increased stability and some immunity from the various risks that drugs users face which may at time compromise the consistency of their service. Though some questions have been raised about this dynamic (i.e. the leadership of a non-user) externally, internally, the group is supportive of her role. *Ibid.*, 21.

With services like the NEP, as well as the provision of basic first aid, supervision of after-hours toilets, syringe recovery effort in local low-income hotels, etc., one of the key features of VANDU is the decoupling of dependence, physical and social, from autonomy and choice, more broadly. The report suggests, “In realizing that drug users can make a difference through choice, members are able to reinvent or reframe themselves in a more positive and productive light that stands in stark contrast to the disabling stigma typically afforded to drug users by society.”<sup>222</sup> Central to this stigma is the notion of the addict as overcome by her body, unable to resist its desires, and therefore capable of neither acting autonomously nor participating effectively in social and political life.<sup>223</sup> The use of the needle itself, insofar as it violates the imagined boundaries of the body in what is perceived to be an unnatural manner, is particularly potent as a symbol of the self overcome by embodied existence; the barriers between body and world, inside and outside, no longer exist, or are severely compromised.

This example, then, demonstrates that by minimizing the harm associated with drug use – in a manner that necessarily is concerned with attending to the needs of the body by making continued drug use safer – the services delivered by VANDU foster autonomy even in the face of dependence, including dependence that is deeply embedded in bodily need. NEPs enable users to make the choice to use clean needles, but they also make possible the autonomy gained by users *because* of the choice to use clean needles.

The latter form of autonomy-fostering is a function of not only the physical freedom

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<sup>222</sup> Ibid., 33.

<sup>223</sup> Erving Goffman describes the Greek conception of stigma as closely related to “bodily signs designed to expose something unusual and bad about the moral status of the signifier.” While he claims the modern notion of stigma is less concerned with bodily evidence and more focused on “the disgrace itself than [to] the bodily evidence of it,” his further analysis of stigma still demonstrate the key role of the body in generating such disgrace. Erving Goffman, *Stigma; notes on the management of spoiled identity*, (Englewood Cliffs, N.J.: Prentice-Hall, 1963), 1-2

associated with averting blood-borne diseases, but also the minimization of the *social* harms of failure to recognize the embodied and relational needs of, in this case, people who use drugs.

The manner in which user-run programs like the NEP, and organizations like VANDU, meet these relational needs is central to their distinction from the somewhat limited autonomy-fostering potential of the harm reduction program discussed in the previous section (MMT). In both cases, external forces are also critical sources for affording members recognition; in the former case, the structure of the service delivery does not effectively enable such recognition, stopping short at meeting the bodily needs of the service user, an important but insufficient configuration of relations of recognition. In contrast, by cultivating an organization that attends to the needs of its members while developing their capacities for autonomy (as described by the members' accounts of their experiences of empowerment and personal growth via participation), the user-run structure of VANDU has allowed members to access a measure of *ascriptive* autonomy, as described in sections above. As it gained members, became increasingly organized, and effectively met the needs of its members, VANDU has become a key stakeholder for local, provincial, and federal government; the state recognizes VANDU members collectively as autonomous actors that provide key input regarding their own access to social services. Officials are known to pay particular attention to the voices of VANDU representatives when making and implementing policy decisions.<sup>224</sup> Moreover, media outlets turn to VANDU as a key source, while other community organizations regard it as an important partner. Thus, relations of recognition here are multifaceted: they extend

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<sup>224</sup> Kerr et al., "Responding to an Emergency: Education, Advocacy, and Community Care by a Peer-driven Organization of Drug Users: A Case Study of Vancouver Area Network of Drug Users (VANDU)."

from a variety of sources, fostering autonomy both through the actual acknowledgement of service user's autonomy and through the opportunities to develop the capacity for autonomy that ensue from the acknowledgement of the *potential* for autonomy on the part of these citizens. This acknowledgement is critically related to the fact that VANDU is run by users.

*ii. Limitations: Origins, Cooptation, and the Conflicting Imperatives of the State*

Let me summarize the qualities I have attributed to user-involvement in service delivery, in particular use-run service delivery, which might exist in an autonomy-fostering state. Such a service delivery model generates relations of recognition that are both attentive to the embodied nature of autonomy and that extend from multiple locations to provide ideal *ascriptive conditions* for autonomy. In providing the resources necessary to meet the bodily needs of users, and more importantly because of their ability to gain access to peers in a way that client-service provider hierarchies have traditionally thwarted, user-run organizations and programs like VANDU and NEPs, respectively, offer an embodied form of relational support. At the same time, through self-organization, both empowerment and development of capacities follow, presenting further opportunities for user-run organizations to gain ascriptive autonomy. These, then, are qualities that offer a more complete model of harm reduction, and therefore an ideal basis for fostering autonomy. But there are limitations to the possibilities of user-run service delivery and user-involvement. First, some commentators point out that user-involvement schemas emerging out of social movements, rather than the service delivery sphere itself, are most likely to be successful, with the latter point of origination generally failing to achieve desired goals. Second, though the state may make claims to support the

values associated with user-involvement, the power dynamics already embedded in our social structures, as well as underlying social control agendas, may impose discursive constraints that undermine the aims a user-involvement model aspires to in the first place. In such cases, the result is a subtle cooptation and depoliticization of service users by the state. Finally, the multiplicity of the state – its various institutions, each with their own interests and imperatives – may result in conflicting goals and clashes of values that hinder rather than foster autonomy.

The first concern is, I think, difficult to overcome. It is an empirical question whether social-movement originated user-involvement supersedes state originated user-involvement with regard to meeting the sorts of objectives described here. In their article on user-involvement, Croft and Beresford note that the “political process” (they emphasize that it is political) of involving people in need-definition and interpretation “has most often grown from political rather than welfare movements.”<sup>225</sup> They point out, “the gay switchboards, lesbian lines, rape crisis and women’s centres have grown out of women’s and gay liberation movements and not a social policy tradition.”<sup>226</sup> Many NEPs and VANDU also largely emerged organically, though public health imperatives have fostered their continued existence (while other political forces have constrained them). If it is true that user-involvement stemming from such organic social justice struggles is more likely to yield positive outcomes for users, one implication is that the state has an obligation to enable the social and political conditions out of which citizens can engage freely in such struggles; freedom of organization, freedom of speech, availability of public spaces in which to organize, and so on, are all examples of the types of conditions

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<sup>225</sup> Croft and Beresford, "User-Involvement, citizenship and social policy," 16

<sup>226</sup> Ibid.

that makes such struggles possible. However, it is worth noting that organization occurs even where, and perhaps especially when, such conditions are *not* present.

A more complicated question is whether state actors should actively organize citizens (service users) to form user-run organizations or to organize them to lobby on their own behalf for user-involvement. Indeed, if there is to be an “autonomy-fostering state,” one aspect of it might even necessarily require such intervention by the state. The second limitation highlighted above points to a potential problem with such state-initiated user-mobilization. Some scholars argue that the power dynamics between state institutions/actors and service users, particularly marginalized and vulnerable service users, are so stark and so ingrained, that it is impossible to create conditions under which free and equal participation by users will be possible. In a study of service user involvement that seeks to use “analysis of discourse [to shed] light on the politics of service user involvement,” Suzanne Hodge finds that power dynamics are played out through subtle manifestations in “patterns of linguistic interaction” that bound and discipline the shape of permitted discourse.<sup>227</sup> These findings seem to suggest that there are major obstacles to state-led user-involvement strategies.

Though the organization Hodge studies makes some self-conscious adjustments to its practices in order to contend with potential power disjunctures (having service users chair meetings, for example), Hodge argues that the terms of the discourse in the forum she observes are still largely determined by a dominant normative framework that is not meant to be challenged. When users stray from this dominant framework, though they are not *prevented* from participating, they may have to overcome multiple attempts to divert

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<sup>227</sup> Suzanne Hodge, “Participation, discourse and power: a case study in service user involvement,” *Critical Social Policy* 25, no. 2 (2005): 165

discussion from controversial or challenging issues. In the case that she describes, where the hot-button issue of electroconvulsive therapy (ECT) is discussed, users challenge the legitimacy of this practice, yet an official tells Hodge, “[t]hat isn’t the view within the current clinical practice, clinical evidence within health services.”<sup>228</sup> With this appeal to expertise of professionals, the official suggests that discussions of the issue are not particularly fruitful. Hodge’s interpretation of the official’s comments suggests that “although, on [the official’s] account, members are not prevented from raising the topic, there is no potential for it to become the subject of debate oriented to changing policy” because the forum is not set up “to be a mechanism by which contested norms such as the use of ECT would be opened to change.”<sup>229</sup>

However, despite these objections, it is not clear that even within such discursive boundaries productive change, including change that ultimately fosters autonomy, cannot occur. The disorderly suggestions of users in the context of the somewhat resistant but not prohibitive forum may actually be part of the process of expansion of discursive boundaries and/or the shifts in thinking that are required of institutions. In this sense, while Hodge raises valid concerns, she does not acknowledge any possibility for the (admittedly frustrated) efforts of users to raise controversial issues, to gradually shift the terms and substance of the discourse they are both engaged in and resisting. Though the immediate response is “no response,” in fact it may be the pressure they exert on the *discursive boundaries* of the forum that is most important in expanding the scope and nature of relations of recognition in this context. Given this potential for gradual change in the face of the potential limitations of state-led user-involvement initiatives, I think it

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<sup>228</sup> Ibid.: 168

<sup>229</sup> Ibid.

is hasty to dismiss such initiatives out of hand. Hodge ultimately suggests that user-involvement that evolves from the service-led initiatives is less productive than “independent, user-led organizations,” which “engage with the kind of issues that are off the agenda for most user involvement initiatives”; the latter, she argues, should be “promoted,” though she does not explore how such promotion works here.<sup>230</sup> While this may be true broadly speaking, where user-led organization do not exist at present, it is misguided to eliminate the possibility for state- or service-led initiatives. Even where the motivations of such state-led initiatives are not always consistent with the goal of fostering autonomy in service users, they may inadvertently have this effect.<sup>231</sup>

Yet, while sometimes, whether intentionally or inadvertently, the imperatives of the state align themselves with the goal of fostering autonomy and extending relations of recognition to further social justice aims, some commentators worry that at other times the *multiplicity* of the state and the resulting conflicting imperatives may thwart such progressive outcomes. The example given in the opening pages of this chapter helps to explicate the concern raised here: while on the one hand the state (the federal and provincial governments that fund VANDU and the NEP) lends its support to the NEP and to the work done by VANDU members, the goals of another arm of the state, the criminal justice arm, seem to run counter to this goal. With goals of harm reduction and prohibitionism espoused by different arms of the state (or by the same arm in different contexts or to different audiences) at the same time, sometimes devastating outcomes

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<sup>230</sup> Ibid.: 177

<sup>231</sup> See Domestic Violence chapter, where I explore fragmented state potential for creating space for fostering autonomy where not necessarily intended. In this case, Hodge notes, “the impetus for [the forum’s] creation came primarily from the key statutory mental health agencies in the locality which need to be seen to be promoting user involvement.” But even if the motivation was driven by statutory requirements, this does not rule out progressive implications. Ibid.: 166

follow: in this case, the increased police presence and ultimate crackdown at the NEP led to a substantial decrease in the number of clean needles accessed by users.<sup>232</sup> Both the bodily benefits of clean needles and the relational resources provided by user-delivered programming are lost in this case, at least over a period of time.

Despite the serious obstacles such clashes pose for the aims of harm reduction and autonomy-fostering more generally, user-run services may be particularly well equipped to handle the potentially conflicting messages directed at them by various arms of the state. The organization of VANDU, its connections to the community, the dedication of its volunteers, among various other factors, served to bolster a strong response to the police crackdown. In fact, going further than the status quo, service users became frustrated with the slowness of the implementation of a long discussed Safe Injection Site (SIS). Thus, describing the action as “a direct community response to the reallocation of 44 VPD [Vancouver Police Department] officers to the DTES [Downtown East Side] [...] also intended to protest the government’s failure to open a sanctioned SIS,” a coalition of community organizations and individuals (including VANDU) opened an unsanctioned SIS.<sup>233</sup> Kerr et. al. describe the concurrent efforts of coalition members to document and protest police harassment. But despite the police presence and multiple efforts to force the SIS out of its quarters, the unsanctioned site was in operation for 181 days. Kerr et. al. write. “The injection drugs users involved in this particular project organized themselves in the face of a police crackdown despite the health and legal risks associated with this type of action, and in doing so focused the attention of politicians and the public on the harmful effects of the police crackdown and the outstanding need for a

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<sup>232</sup> Wood et al., "The Impact of a Police Presence on Access to Needle Exchange Programs,"

<sup>233</sup> Thomas Kerr, Megan Oleson, and Evan Wood. "Harm-reduction activism: a case study of an unsanctioned user-run safe injection site." *HIV/AIDS Policy and Law Review* 9, no. 2 (2004):14.

sanctioned SIS within the DTES.”<sup>234</sup> Despite the conflicting, discontinuous aims of the state, in its multiplicity, the presence of user-run services, even when they come under attack, proves to be a fertile ground for organizing against those interventions that threaten to limit autonomy. Moreover, the recognition already afforded service users by community organizations and community members, in this case expanded as the public’s attention was drawn to the unsanctioned SIS; surely, the police had the physical power to shut down the SIS, but they did not make use of this power to its fullest extent for a long period of time. Finally, as I discussed in the last chapter, given appropriate coordination, state fragmentation can indeed produce conditions that foster autonomy.

Although there are obstacles to fully effectuating the potential benefits of user-involvement in service delivery as a means for fostering autonomy, there are many reasons to believe that the resilience of user groups is such that the benefits outweigh the threats. Moreover, even seemingly small shifts in the power dynamics of the traditional service provider-client relationship go a long way in addressing what emerge as the shortcomings of otherwise autonomy-enabling programs like MMT. By making space for a multifaceted politics of recognition, emerging from multiple sites to generate enabling ascriptive conditions for autonomy, and attending to the embodied nature of autonomy and the relational conditions this understanding points to, user-involvement and user-run service delivery present a useful model for theorizing the autonomy-fostering state.

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<sup>234</sup> Ibid.:17

## V. *Conclusion*

In an article criticizing what he takes to be the overemphasis on neutrality and cost-benefit analysis in current harm reduction rhetoric, Andrew Hathaway argues that this positivistic approach has hampered harm reduction as a *political* movement. He writes, “Discursive efforts to persuade based on strict rationality reinforce *endangerment* themes over drug use *entitlement* [...] unduly overlooking the deeper morality of the movement with its basis in concern for human rights.”<sup>235</sup> Hathaway is concerned that advocates of harm reduction are emphasizing the “cost” savings associated with the programs the movement encompasses – both in terms of economic resources and other measures such as health and employment – while overlooking questions of marginalization, domination, and exclusion. Moreover, this approach, which often relies on scientific data to back up its claims, neglects one of the key tenets of harm reduction theory: “Harm reduction in principle recognizes that there are both costs and benefits to drug use, and is chiefly respectful of the motivation and decision to use drugs.”<sup>236</sup> Because, as I have discussed above, pleasure is not easily incorporated into our extant frameworks for evaluating autonomous behavior, this “benefit” side of drug use is particularly fraught. Ultimately, Hathaway’s main concern is that the rhetoric of neutrality adopted by harm reduction means that its “underlying respect for human rights is sacrificed in exchange for an illusion of neutral standing.”<sup>237</sup> He continues, “Arguing for social change requires we make a choice between rival *traditions of argumentation*,”

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<sup>235</sup> Andrew D. Hathaway, "Shortcomings of harm reduction: toward a morally invested drug reform strategy," *International Journal of Drug Policy* 12 (2001): 125

<sup>236</sup> *Ibid.*: 128

<sup>237</sup> *Ibid.*: 134

here between prohibitionism and tolerance.<sup>238</sup> The language of “harm,” Hathaway argues, has been used in a way that prevents such normative claimsmaking.

By imbuing the notion of harm with the normative content provided by aspirations to fostering autonomy and remedying misrecognition, we can salvage, if not bolster, harm reduction as a political movement. Harm, as Hathaway’s argument suggests, and as the complexities of the cases of harm reduction services discussed in this chapter demonstrate, cannot be conceived of as existing in a zero-sum relationship to autonomy. It is not the notion of harm itself, but rather the failure to theorize and operationalize plural and contested notions of harms and their remedies – rather than one-dimensional ones – that renders the rhetoric of harm reduction potentially impotent, as Hathaway worries.

In this chapter I have argued that harm reduction may provide a useful model for theorizing the autonomy-fostering state, wherein a multifaceted, embodied politics of recognition serves to enable the social relations that best allow for the development of autonomy competency and minimization of autonomy-constraining harms. Understood as a form of harm, misrecognition can be considered in light of both institutional and psychical concerns, with particular attention to the needs of the body and the regulation of pain and pleasure – aspects of harm that are often overlooked in contemporary accounts. As Hathaway notes, harm reduction, as is perhaps the case for all radical political movements, is constantly in danger of “cooption and negation [...] by competing mainstream interests.”<sup>239</sup> However, when its principles are used as the foundation for the development of service delivery that incorporates users and offers the material and

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<sup>238</sup> Ibid. Emphasis in original.

<sup>239</sup> Ibid.: 135

physiological resources necessary to enable autonomy, it presents an instructive challenge to the stigmatized notion of dependence, decoupling independence and autonomy. Even in this stark case of dependence, the ideal of the autonomy-fostering state offers possibilities for a more inclusive notion citizenship in the context of social service delivery.

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## **Chapter 5**

### **The New Paternalism: Forced, but not Free**

#### ***I. Introduction***

In the foregoing two chapters, I explored several aspects of the autonomy-fostering state: the enabling possibilities of “coordinated fragmentation,” an embodied notion of recognition, and the multifaceted recognition that may emerge from user-run or -involved services. In keeping with the notion of an autonomy-fostering state, all of these aspects reflect the understanding that state “intrusion” into the lives of (vulnerable) citizens is potentially an enabling mechanism for the development and exercise of autonomy. This understanding is consistent with the relational conception of autonomy I have defended throughout: rejecting a notion of autonomy that conflates the concept with either independence or privacy, autonomy should be understood to emerge out of the context of social relations, rather than in a vacuum or protective buffer zone that prohibits the entry of other citizens. This chapter examines a third case of service delivery in order to respond to an important concern that has lurked on the margins of the other two cases: is the theory of the autonomy-fostering state simply a version of “forced to be free”? Is the very notion of the state “fostering autonomy” imbued with some elements of paternalism? Moreover, *can* the state force us to be free; that is, can paternalistic social service delivery ever be autonomy-fostering?

In this chapter, I distinguish autonomy-fostering from paternalist practices, and in doing so demonstrate that a theory of the autonomy fostering-state is largely consistent with the commonly held assumption that paternalism and autonomy are incompatible. In keeping with the larger orientation of the dissertation toward contextualized theoretical claims, I turn to specific *practices* and from them seek to understand the theoretical and empirical shortcomings of paternalist policy, on the one hand, and the distinctive nature of autonomy-fostering policy, on the other hand. In developing such a contextualized critique of paternalism – and highlighting how autonomy-fostering policies and practices differ from paternalism – I look to “New Paternalism,” the influential theory of “supervisory” approaches to social welfare service delivery that can be linked to recent welfare reforms in the United States and Britain, as well as some other European countries. Because it has been so directly influential in the U.S. context following the welfare reforms of 1996 (under the Personal Responsibility Work Opportunity Reconciliation Act, PRWORA), I direct my attention there in this chapter. Although much philosophical work has been done on paternalism in general, little theoretical work specifically targets this supposedly “new” genre of paternalist policy.

I look specifically at two instances of new paternalist service delivery: workfare and pregnancy-prevention programs, both directed at welfare recipients. These two programs respond to what many new paternalists claim are the two primary causes of poverty: nonwork and unwed pregnancy. Workfare is by far the most pronounced and largest scale paternalist program in the reformed welfare states; pregnancy prevention provides a useful lens through which to examine in particularly crystallized form, first, the destructively gendered nature of paternalist policy, and second, the specifically moral,

rather than solely material implications of paternalist policy. A careful look at each of these programs sharpens our view of what it means for the state to foster autonomy – or to fail to do so, as is the case here.

In making this distinction, I suggest that this incompatibility between autonomy-fostering and paternalist social policy is best understood when premised upon a particular notion of paternalism – one that, as I explain below, highlights its implication in oppressive power relations rather than solely its association with interventionist policy.<sup>240</sup> I further existing analyses of paternalism by applying an understanding of autonomy as *both* an ascriptive attribute and a capacity developed from within social relations. I emphasize that while interventionist policy is necessarily a part of the autonomy-fostering state, the interventions associated with new paternalism fail to produce the social relations necessary to foster autonomy, on either account, and are therefore incommensurable with such a model of the state.

In highlighting the distinction between autonomy-fostering and new paternalism, I use the relational conception of autonomy to expose the failings of the assumptions that underpin the latter approach to service delivery. A number of “techniques” emerge out of new paternalism: conditionality, increased discretion, and sanctioning, for example. For reasons of clarity and space, my focus here is on conditionality. Because conditionality in new paternalist policy is premised upon the faulty assumptions underlying paternalism – primarily the claim that the values of the poor or of service users are inconsistent with their actions, i.e., they are incompetent – they only serve to replicate the relations of power that already constitute the structural reasons for poverty and associated problems,

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<sup>240</sup> Such conceptions of paternalism are offered by Julie Anne White, *Democracy, Justice, and the Welfare State: Reconstructing Public Care* (University Park, Pa.: Pennsylvania State University Press, 2000). and Marion Smiley, "Paternalism and Democracy," *Journal of Value Inquiry* 23, no. 4 (2004)..

while also contributing to the erosion of relational support necessary to foster autonomy. Though conditionality itself might be justifiable under conditions where its use is founded on assumptions of *respect*, in the cases I describe, this is (often explicitly) not the case. The negative effects of conditionality and other techniques used by new paternalists play out both on the axis of autonomy as status and that of autonomy as capacity. Both implications draw out the gendered notions of the autonomous self that are at the core of paternalist thought, contributing to a misguided (and often unsubstantiated by research) analysis of the conditions under which autonomy is developed or even possible.

Recurrently, these ideal conditions are conceived of as those that have as their end result the attainment of an individualistic sense of self, bolstered neither by familial relationships or relations of care, tellingly both feminized configurations of social relations. Indeed, the private sphere is seen alternately as an inadequate site for meaning making in the lives of poor women or in a distorted manner that highlights the devaluation of care-related interdependence. On the first count, contemporary notions of “liberated” womanhood suggest that to turn to the household for fulfillment is an indication of oppression. On the second (related) count, care and the relational connections that follow from it are devalued; such activities and social relationships exist at the bottom of a hierarchy of activities that autonomous agents may engage in, with labor market participation resting at the top of this ranking. In both the case of pregnancy prevention and that of workfare, the targets of the paternalist policies are women, upon whom conceptions of the ideal mother and ideal worker are cast at once, often at odds with one another. The claim that these policies expand access to citizenship is unsettled by the tension between two sets of underlying assumptions: on the one hand, the idea that

prevention of pregnancy will allow women to pursue other goals and/or prevent them from bearing ill-fated children and, on the other hand, the notion that work confers status upon the workfare participant. In fact, these conflicting, misconceived ideals only serve to narrow the boundaries of access to the autonomous agency required for citizenship.

I begin with a brief discussion of paternalism: conventional accounts of the debates surrounding it, the feminist recasting of this debate, and finally the ideas upon which the “new paternalism” hinges. With a broad critique of paternalism in place, I then move on to an examination of the two programs: workfare and pregnancy prevention. I draw from these two “case-studies” a more focused critique of the autonomy-impairing aspects of new paternalist policy, as well as a clearer account of the contrast between an autonomy-fostering state and a paternalist state.

## ***II. Paternalism, New Paternalism, and Autonomy***

### *i. Two accounts of paternalism*

Paternalism has justifiably been a key concern for autonomy theorists. It cuts at the very core of what autonomy refers to: on my account, the capacity to determine one’s own life plans. Paternalistic policy and the programs that emerge from it hinge on the claim that some individuals ought not to have the opportunity to exercise this capacity in given contexts, where such constraint has been deemed to be in accordance with the individuals’ “own good.” How, then, can such a claim be justified, if at all, if autonomy is accepted as (at least one) primary value in our society? This is the question that political theorists have grappled with in their treatments of paternalism. Even more, the

question of state *intervention* into citizens' lives has often been a proxy for the question of paternalism.

What I refer to here as the “conventional” accounts of paternalism often begin from the work of John Stuart Mill, the consummate (it is claimed) champion of liberty and trusty resister of most forms of infringement upon such liberty.<sup>241</sup> In his classic account, Gerald Dworkin defines paternalism as “the interference with a person’s liberty of action justified by reasons referring exclusively to the welfare, good, happiness, needs, interests or values of the person being coerced.”<sup>242</sup> Explaining Mill’s opposition to paternalistic measures, Dworkin emphasizes that Mill views paternalism as an affront to the essence of what it means to be a human being—and that is deeply tied to recognition as an autonomous agent. Dworkin explains, “It is the privilege and proper condition of a human being, arrived at the maturity of his faculties, to use and interpret experience in his own way.”<sup>243</sup>

In Chapter 4 I noted, following other theorists, that autonomy can be understood as both a status and a capacity, the two of which are closely related but distinct. On both accounts, I suggest that autonomy emerges out of social relations. Our capacities are developed or restricted in the context of enabling or constraining arrangements of social relations. Our status as autonomous agents is often constituted by larger social relations that configure the distribution of recognition and respect in our society: institutional, cultural, and market relations, among others. Where forms of misrecognition restrict the latter notion of autonomy, the former notion may also be impeded, since the development

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<sup>241</sup> See, John Stuart Mill and John Gray, *On Liberty, and Other Essays, World's Classics* (Oxford [England]; New York: Oxford University Press, 1991).

<sup>242</sup> Gerald Dworkin, "Paternalism," in *Morality and the Law*, ed. Richard A. Wasserstrom (Belmont, 1971), 108.

<sup>243</sup> *Ibid.*, 117.

of the capacity for autonomy may be closely tied to such qualities as self-esteem or self-respect – qualities that misrecognition may quash.

The conventional critique of paternalism addresses infringements on each of these dimensions of autonomy in some respects. Insofar as autonomy is ascriptive, Dworkin and other liberal theorists' critiques of paternalistic measures suggest that these measures fail to ascribe autonomy to their targets. Dworkin's exegesis of Mill, then, proceeds as follows: "it is because coercing a person for his own good denies [his] status as an independent entity that Mill objects to it so strongly and in such absolute terms. To be able to choose is a good that is independent of the wisdom of what is chosen."<sup>244</sup> The target of paternalist measures is unjustly denied his status as a "chooser," which I want to suggest is equivalent on these accounts to being denied his status as an autonomous individual. Moreover, on this critique, which stresses the potentially deleterious effects of state intervention into citizen lives, the opportunity to develop autonomy as a capacity, and to exercise this capacity, is also limited. Dworkin's account of the most plausibly palatable forms of paternalism demonstrates this claim; he argues that "a concern not just for the happiness or welfare, in some broad sense, of the individual but rather a concern for the autonomy and freedom of the person" is most tolerable.<sup>245</sup> He goes on to suggest that a potentially justifiable form of paternalism "preserves and enhances for the individual his ability to rationally carry out his own decisions."<sup>246</sup>

This last statement by Dworkin points to the source of criticisms of the conventional critique raised by feminist and other theorists. Insofar as Dworkin suggests it is possible for paternalism to be autonomy-fostering – or at least autonomy preserving

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<sup>244</sup> Ibid.

<sup>245</sup> Ibid., 125.

<sup>246</sup> Ibid.

– what is noteworthy is that such a configuration of relations is still termed “paternalism.” The Dworkin view, Marion Smiley writes, leads us to view “all forms of government protection as paternalistic.”<sup>247</sup> Smiley explains, the accepted definitions “ignore the context of paternalistic choice-making – or in other words, the relationships of domination and inequality that exist between a paternalist and those subject to paternalistic treatment.”<sup>248</sup> The problem with paternalism, then, is not only or entirely its infringement on individual free choice, but the fact that it “perpetuates (or at least expresses) relationships of domination and inequality among individual members of a community.”<sup>249</sup> With this problem acknowledged, Smiley suggests that we no longer need to accept the assumption that all government protection is paternalistic, including that autonomy-enhancing form referred to by Dworkin above.<sup>250</sup> Smiley’s rejection of Dworkin’s version of paternalism points to one of the key insights of a social relational understanding of autonomy: the necessity of distinguishing between different types of intervention in the lives of individuals (and the relationships upon which such intervention hinges), rather than equating intervention with diminished autonomy.

A power differential between state and citizens or state agents and citizens in itself does not signal paternalism; it is specifically when such power is used in a coercive fashion that serves oppressive ends that paternalism can be seen. This is central to the distinction Smiley makes between paternalism and non-paternalistic “protection.” To make this distinction, which highlights one of the important distinctions between paternalism and autonomy-fostering (though in somewhat different terms), Smiley

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<sup>247</sup> Marion Smiley, “Paternalism and Democracy,” *Journal of Value Inquiry* 23, no. 4 (2004): 308.

<sup>248</sup> *Ibid.*: 309.

<sup>249</sup> *Ibid.*: 310.

<sup>250</sup> *Ibid.*: 311.

emphasizes how protective legislation can challenge systems of domination and inequality, whereas paternalistic legislation perpetuates them. She notes, “protective legislation enables individuals to organize themselves collectively against powerful actors who, because of their institutional positions of strength, are able to lead other individuals to take serious physical risks.”<sup>251</sup> Or, more generally, protective legislation, which might include the provision of autonomy-fostering services, gives the marginalized and weak the collective power that they may inherently lack given their societal positioning. In contrast, the conditionality that characterizes new paternalist services, which I will turn to below, compounds domination by explicitly deeming service users incompetent and ignoring contextual details that contribute to their marginalization.

Given this revised understanding of paternalism, it is useful to return to the ascriptive/capacity-building dual notion of autonomy I referred to above. When cast in this light, the differences between the first critique of paternalism and the second become more lucid; the importance of this distinction, moreover, becomes clearer when I discuss the “new” paternalism, shortly. As the quote above suggests, Dworkin claims (along with Mill) that paternalism limits autonomy as status insofar as autonomy is understood to be an individual’s status as “an independent entity.” Immediately, the conflation of independence and autonomy suggests a problem. Where paternalism is understood to be government interference in individual’s lives that perpetuates relations of domination and inequality, the status is denied not because it signifies a lack of independence, but because of the power relations that, in many cases, are tied to the assumption of incompatibility between autonomy and dependence. When the state imposes certain restrictive conditions on women on welfare, it acts paternalistically not simply because it

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<sup>251</sup>Ibid.: 314.

fails to view her as independent (we know she is not, nor any of us), but because *her* dependence is stigmatized. It is stigmatized in this context in such a way that it is inconceivable that her status as welfare dependent (as well as her race, gender, marital status, etc., which may connote “dependence” within a given context) could be consistent with a status as an autonomous agent, or one who deserves to be treated as such.

The distinction between the two understandings of paternalism can also be seen in light of an understanding of autonomy as a capacity. Again here it is useful to turn to Dworkin’s potentially acceptable cases of paternalism; Dworkin suggests that an acceptable form of paternalism might allow for the enhanced ability to carry out “his own rational decisions.” Putting aside the fact that we might want a more expansive notion of autonomy than one that requires rationality as a primary marker, the difference between the revised understanding of paternalism and Dworkin’s is that the former situates the ability or capacity within a given social context. So for example, in the context of the broad based coordinated community response program service model for domestic violence survivors, the mandatory arrest policies I discuss in Chapter 2 seek to enhance battered women’s abilities to develop and act autonomously in a situation where relations of domination (between both individuals and individuals and the state) specifically hinder this ability. I think Dworkin would deem this an acceptable form of paternalism. The approach Smiley takes, however, might suggest that this intervention resists rather than perpetuates relations of domination and equality, and therefore need not be thought of as paternalistic. In contrast, without the autonomy-enhancing features of the larger response program (which provides resources for various social welfare needs and individual advocacy), the mandatory arrest policy might be deemed paternalistic, insofar as the

imposition of the state's will on the battered woman without the crucial supportive resources offered by the response program perpetuates relations of domination and equality.<sup>252</sup> Dworkin's account, however, might not be able to make such a distinction, since it does not highlight the contextual details that contribute to power relations in such a situation. This too, might be considered a form of acceptable paternalism.

*ii. New Paternalism*

With this revised critique of paternalism in mind – here recast in the language of autonomy as both an ascriptive and capacity-related quality – I now shift to paternalism in (one of) its contemporary form(s). The “new paternalism” is a philosophy of social service delivery, coined as such by political scientist Lawrence Mead, that seeks to reinforce and further the trend of more paternalistic social welfare policies. This philosophy has been very influential in welfare reforms in the United States and abroad. It is worth considering here both because of its ubiquity on the ground, and because, I argue here, it is sharply marked by the relations of domination and inequality that, according to the more attuned definition of paternalism, characterize such programs. While new paternalists acknowledge the centrality of coercion to their mode of service delivery, their writings suggest that these programs ultimately foster autonomy, even if they temporarily restrict it to attain this end. I contest the theoretical bases of this claim here, and in doing so demonstrate this philosophy's incompatibility with the theory of an

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<sup>252</sup> See Ch. 2. Some charge these policies with perpetuates relations of domination along lines of race, gender, and class.

autonomy-fostering state. Moreover, in the process, the features of the latter model of the state come into clearer view.

According to Mead, the new paternalism involves “social policies aimed at the poor that attempt to reduce poverty and other social problems by directive and supervisory means.”<sup>253</sup> Such means impose penalties or restrict benefits when recipients fail to conform to certain behavioral requirements – work, mandatory attendance at various programs, abstinence from drugs, etc. According to Mead, “[t]hese measures assume that the people concerned need assistance but that they also need direction if they are to live constructively.”<sup>254</sup> The relations of power involved in new paternalist measures are configured, in part, by this claim regarding the need for direction: Mead’s argument rests on the notion that the poor are specifically lacking in some capacities – not least among them what I would conceive of as autonomy. This is because, on his account, it is misguided to assume (with regard to the welfare dependent) that “behavior is consistent with intention.”<sup>255</sup> He argues, the poor do not have the capacity to live according to their life plans, even when they have generated these plans and express a desire to pursue them. New paternalist policy is therefore not coercive in the sense that it dictates what values individuals ought to have; rather, “the clients of paternalism commonly do accept the values being enforced. [...] However, they commonly fail to conform to these values in practice. Paternalism seeks to close that gap.”<sup>256</sup>

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<sup>253</sup> Lawrence M. Mead, “The Rise of Paternalism,” in *The New Paternalism: Supervisory Approaches to Poverty*, ed. Lawrence M. Mead (Washington, D.C.: Brookings Institution Press, 1997), 2.

<sup>254</sup> *Ibid.*

<sup>255</sup> *Ibid.*, 5.

<sup>256</sup> *Ibid.* New paternalist thought shares with earlier analyses of poverty the notion that the poor are somehow “different” than the rest of society. However, on the new paternalist account, the poor are different insofar as they cannot actualize the values they espouse. Unlike previous accounts of what is referred to as a “culture of poverty,” Mead and his followers provide a much more individualized account. Moreover, the *justification* for the policies new paternalist suggest is based on the fact that with regard to

As it suggests that the problems at the root of poverty ought to be seen as rooted in individual pathology, the new paternalism makes its most obvious cuts against autonomy insofar as it denies its targets' status as autonomous agents, or as agents capable of autonomy. The programs described by Mead and his cohorts in a collection of essays on new paternalism rely heavily on the claim that poverty can only minimally be explained by structural conditions – social, economic, or political. Rather, as Sanford Schram points out in his review of the collection of essays, the emphasis laid in particular on mental health “represents a veritable medicalization of the topic, reducing the poor to ‘damaged people,’ who are unable to act like everyone else. This implies an infantilization of the poor.”<sup>257</sup> It is perhaps the case, Schram goes on to say, that such pathologization is necessary to justify new paternalist policy.<sup>258</sup> Mead acknowledges that the assumptions of paternalism can be seen as demeaning, specifically because of the lack of recognition of autonomy: “By assuming that recipients cannot be trusted to pursue their own interests, paternalism in effect treats adults like children.”<sup>259</sup> Moreover, although he initially refers to paternalist policy as “postracial social policy,” he notes that the demeaning nature of such policy “is especially egregious in the case of black Americans,” ostensibly because of the historical injustices inflicted upon them. Despite

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*values* the poor are not different; rather it is the “implementation” of these values that is the key site of difference. In contrast, Daniel Moynihan’s account of African-American poverty, which brought widespread attention to the notion of a culture of poverty, suggests that the non-work of African-American men cultivates within them, and subsequently within their families a dependence and lack of autonomy that ultimately perverts the values of the men and their now matriarch-headed families. Moynihan’s account, then, is both structural (with regard to the reasons for unemployment) and focused on the cultural differentiation of values among the poor. Daniel Patrick Moynihan, “The Negro Family: The Case for National Action,” in *The Moynihan Report and the Politics of Controversy; a Trans-Action Social Science and Public Policy Report*, ed. Lee Rainwater and William L. Yancey (Cambridge, Mass.: M. I. T. Press, 1967).

<sup>257</sup> Sanford F. Schram, “Review: The New Paternalism,” *Journal of Public Administration Research and Theory: J-PART* 9, no. 4 (1999): 671.

<sup>258</sup> *Ibid.*

<sup>259</sup> Lawrence M. Mead, “The Rise of Paternalism,” in *The New Paternalism: Supervisory Approaches to Poverty*, ed. Lawrence M. Mead (Washington, D.C.: Brookings Institution Press, 1997), 26.

the obvious affronts of paternalism to recognition of the status of autonomy, Mead concludes, “[t]he assumptions of paternalism no doubt are demeaning, but the problems the poor have with working and other civilities are far more damaging to them.”<sup>260</sup>

The demeaning nature of new paternalist services, I want to show in the latter half of this chapter, stems not only from the assumption of incompetence, but from the *structure of the policies* that respond to these assumptions. In particular, I emphasize one aspect of this structure: conditionality. As implemented, this strategy adopted in new paternalist service delivery philosophies limits autonomy, whether autonomy is understood from an ascriptive perspective or from a capacity-related perspective.

In order to respond to supposed incompetence, many new paternalist programs employ a strategy of conditionality, making vital services conditional upon conformity to behavioral requirements. The power relations that follow from the demeaning assumptions of new paternalism in combination with the use of this strategy of conditionality not only affect recognition of autonomy status, but also the development and exercise of the capacity itself. While conditionality on its own doesn’t necessarily imply a violation of autonomy – under the right circumstance, it could be a sign of respect rooted in expectations that individuals can be responsible agents – because paternalist conditionality is so closely tied to a *lack* of respect, it becomes autonomy constraining. Nevertheless, eliding this distinction, new paternalists suggest that although autonomy constraining in the immediate application, these policies ultimately should enable the poor to become more autonomous. In the sense that parents may place limitations on their children’s autonomy in order to enable them to become fully autonomous in the future, new paternalists suggest that programs like workfare make the

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<sup>260</sup> Ibid., 27.

same sacrifices in the interests of long-term gain. Mead refers to the strategy of service delivery employed under such a philosophy as “help and hassle.”<sup>261</sup> Case managers under an entitlement system once acted “as advocates for the poor who helped them get all the benefits to which they were entitled.”<sup>262</sup> In contrast, paternalist case managers “do this but they are authority figures as well as helpmates.”<sup>263</sup> Such “authority,” in the context of welfare service delivery, however, creates relations of domination; authority in the context of parenting has fundamentally different implications, and does not necessarily constitute domination.

To make more sense of this distinction and further consider the implications of the conception of agency underlying paternalists’ use of conditionality, we might say that on the one hand, it is plausible that behavioral expectations that follow from the authority expressed by these caseworkers are a marker of respect. That is, the existence of expectations indicates that the authority figure understands the service user to be an autonomous agent *capable* of conforming to these expectations; such respect, one could say, is thus autonomy fostering. Indeed, we might understand expressions of parental authority this way. However, in the context of new paternalism, as I have noted, the assumption is not that the service user is an agent, but rather that she is incompetent. Rather than offering a type of enabling respect, new paternalist services do quite the opposite, if occasionally “pretending” to view users in such a respectful light. Therefore, the constraining social relations that emerge hinder the development of the capacity for autonomy. Moreover, in addition to the recognition-limiting starting point of the

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<sup>261</sup> Lawrence M. Mead, *Government Matters: Welfare Reform in Wisconsin* (Princeton, N.J.: Princeton University Press, 2004), 158.

<sup>262</sup> *Ibid.*

<sup>263</sup> *Ibid.*

incompetence assumption, conditionality isolates and stigmatizes service users by virtue of the existence of regulations imposed upon some, rather than all citizens and therefore compounds obstructions to recognition. While other citizens are subject to reciprocal obligations in order to access certain goods, unlike service users they have much greater latitude in negotiating and consenting to the terms of such agreements.

One example of a the way in which such “authority” is expressed in the context of new paternalism helps to highlight the ways in which such intervention is distinct from what I refer to as autonomy-fostering. Mead quotes a caseworker in a paternalist program, John Gardner:

I’ll do anything to help you [get] a job. But if you disappoint the employer—if you make me look bad—if you screw me over—you better watch out. I’m coming after you. *I’m in your face*. You’ll wish you’d never been born.<sup>264</sup>

According to Mead, although to the sensibilities of middle-class people such a statement may seem harsh, on new paternalist accounts the poor are in fact *enabled* by such an approach.<sup>265</sup> On such an account we might take this to be an example of an attempt to enable relational autonomy: the relationship between caseworker and service user develops in such a way that it enhances the user’s ability to pursue her own ends. But in fact, even in Mead’s assertion about the differences between communication styles of middle-class and poor people, the lack of respect that premises such an approach is evident. Though I believe caseworkers of some form might play an important role in a genuinely autonomy-fostering state, here as described above, the required recognition and respect is absent, and reinforced as such by the language of the caseworker. It is hard to see how the relations of domination evident in such an approach foster autonomy, even in

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<sup>264</sup> Ibid.

<sup>265</sup> Ibid.

the long run; instead, a culture of intimidation pervades, hardly the sort of conditions that enable an individual to ultimately define her own life plans.

### ***III. Workfare Programs***

In Daniel Patrick Moynihan's 1965 report entitled, "The Negro Family: The Case for National Action," the crisis of the African-American family is traced to the figure of the emasculated African-American male.<sup>266</sup> With black women taking on the role of primary bread winner and dominant source of disciplinary force in the family, the black male experiences a total loss of self; he is dependent, Moynihan argues, not just on his wife but on the state in the form of *female* relief workers. Whereas the idealized conception of the American citizen was (and remains, for the most part) the autonomous—independent, self-sufficient, self-supporting—white male, the emasculated, dependent, black male, lacking entirely in both self-ownership and property, is the antithesis of autonomous. Central to his fall from his already compromised position as a black man in a still racist polity is the transition from employment to dependence on the state. Moynihan writes: "*The critical element of adjustment was not welfare payments, but work.*"<sup>267</sup> About thirty years later, with welfare rolls vastly increased and a politically charged battle to "end welfare as we know it,"<sup>268</sup> political actors, popular media, and scholars maintained the belief that work – understood in these debates as labor market participation – was alternately the conduit through which welfare rolls could be reduced

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<sup>266</sup> Daniel Patrick Moynihan, "The Negro Family: The Case for National Action," in *The Moynihan Report and the Politics of Controversy; a Trans-Action Social Science and Public Policy Report*, ed. Lee Rainwater and William L. Yancey (Cambridge, Mass.: M. I. T. Press, 1967).

<sup>267</sup> *Ibid.*, 65.

<sup>268</sup> Slogan of 1996 welfare reforms (Clinton?)

and poverty ended, or the poor “cured” of the deviant qualities that have positioned them in poverty in the first place.

Workfare, now a part of poverty policy in the United States and Britain, as well as some other Western European states, is the most developed and known example of new paternalist policy. Spun as the ultimate rehabilitative program for the often pathologized poor, work is now not simply strongly encouraged but required as a condition for receiving aid from the state; therefore, it is an example of paternalist programming.<sup>269</sup> In my analysis of workfare here, I explore what makes work, and thus workfare, appear to be a panacea for the ills of society. One possibility is expressed by President Bill Clinton; while touting the value of his proposed reforms, he claimed that work “gives meaning and self-esteem to people who are parents”<sup>270</sup> Work, Clinton said, is a source of “dignity, order, and hope.” If this is the case, according to a theory of relational autonomy, work ought to be a significant element of the relational support necessary for the development of autonomy. Below, I will consider this possibility, noting the assumptions underlying new paternalist views of work. Ultimately, misconceptions about the intentionality of service users and about the values associated with work of various kinds make the claims to a refit between values and actions that characterize this theory of welfare provision tenuous.

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<sup>269</sup> PRWORA requires recipients to work within two years of receiving aid in order to continue receipt of aid. However, states can avert this requirement if they demonstrate reduced caseloads of a certain level. Since the rolls have fallen dramatically in most states, it is not the case that work for welfare has actually increased immensely.

<sup>270</sup> Cited in Jason DeParle, *American Dream: Three Women, Ten Kids, and a Nation's Drive to End Welfare* (New York: Viking, 2004), 265.

*i. Theorizing Work: Meanings and Assumptions*

There are two assumptions at the foundation of paternalists' claims about workfare. First, in keeping with the widely held beliefs of many western societies, "work" is valorized as a good in itself, one that is somehow constitutive of our identities as citizens and human beings. Moreover, the boundaries of what is considered work are relatively narrow and inflexible. Second, the primary reason for nonwork is assumed to be incompetence – not lack of opportunity, not discrimination, and not an alternative set of values that discounts the valorization of work. I elaborate both of these claims in the pages that follow. In the next subsection I discuss how the paternalist policies founded on these assumptions are flawed both because of their foundation on faulty assumptions and because they fail to address the problems of poverty and nonwork that actually exist.

Work, in the rhetoric of welfare policy and beyond, is the antithesis of dependence. It is, for most able-bodied individuals, a marker of citizenship and a gateway to all the rights that citizenship bestows upon us.<sup>271</sup> I do not wish to dismiss the possibility that work indeed is an important source of meaning-making in people's lives and, in the context of our society and economic system, a primary means of gaining recognition, which itself is a condition for meaning-making. Nevertheless, given that most workfare jobs, as well as those jobs that welfare recipients who leave the rolls take, are low-wage, low-flexibility jobs, that tend to be associated with low levels of personal

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<sup>271</sup> For a discussion of the role of work in conceptions of American citizenship see Judith N. Shklar, *American Citizenship: The Quest for Inclusion, The Tanner Lectures on Human Values* (Cambridge, Mass.: Harvard University Press, 1991).

fulfillment. This is not to say that these jobs are necessarily wholly burdensome, and never enabling, but rather that the conditions are hardly ideal.<sup>272</sup>

If autonomy is ascriptive – if it is in part constituted by recognition, and not only by capacities – advocates of workfare can be understood to lay claim to this policy as an important key to enhancing recognition of service users as citizens, or as potentially autonomous agents. In making this claim, they welcome work as a tool to distinguish between the deserving and undeserving poor – a distinction whose loss some conservative writers had lamented during the era of entitlement beginning with Johnson’s Great Society programs.<sup>273</sup> Since, as Carole Pateman writes, in the United States under the workfare policies emerging from PRWORA, “employment is [characterized as] the social contribution owed by citizens,” those who fail to fulfill this obligation—the able but unwilling—are deemed undeserving. But this distinction means that the “deserving” poor can unburden themselves of the stigma once placed upon those who receive “something for nothing.” Mead claims that by moving welfare recipients into the workplace, their dependency becomes acceptable and they can be integrated into broader society.<sup>274</sup> Even though income may not increase significantly for these recipients, “gains to equal citizenship, however, were significant.”<sup>275</sup> Even though they may still be

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<sup>272</sup> Some studies make claims about the value of low-wage jobs, despite middle-class perceptions of their fulfillment value. See for example Katherine S. Newman, *No Shame in My Game: The Working Poor in the Inner City*, 1st ed. (New York: Knopf and the Russell Sage Foundation, 1999).

<sup>273</sup> In *Losing Ground* (1984), Charles Murray laments the loss of this distinction, brought about by the structuralist view of poverty, which he claims renders all the poor a “homogenous group of victims.” He complains that the term “deserving poor” had come to be ridiculed for its willingness to distinguish between the poor (181).

<sup>274</sup> Lawrence M. Mead and Christopher Beem, *Welfare Reform and Political Theory* (New York: Russell Sage Foundation, 2005).

<sup>275</sup> Lawrence M. Mead, “Welfare Reform and Citizenship,” in *Welfare Reform and Political Theory*, ed. Lawrence M. Mead and Christopher Beem (New York: Russell Sage Foundation, 2005), 177.

dependent on the state, like social security recipients,<sup>276</sup> welfare recipients who work will be accepted because “[i]n citizenship terms, fulfilling the demand to function is far more important than minimizing one’s demands on the society.”<sup>277</sup> Mead claims that work serves to “rebuild ties between the poor and the rest of society.”<sup>278</sup>

The second assumption, also stemming from the general value-action disjuncture claim advanced by paternalists, is that nonwork is a problem not of lack of opportunity or structural constraints, but rather one of competence on the part of the jobseeker. Deterred by previous experiences of failure, preoccupied with other concerns, or simply lacking in motivation, the poor fail to find work because, without the coercive force of the state, they cannot organize themselves to do so. Mead presents a psychosocial explanation for this failure. The poor share with the rest of society the value placed upon work; indeed “[n]ot working...causes shame and discouragement, since they are not living by their own values.”<sup>279</sup> However, the “gap between intention and behavior makes work enforcement necessary.”<sup>280</sup> But this enforcement is facilitated by the fragmented yet existing “work ethic” that already exists among the poor; “Mandatory work programs do

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<sup>276</sup> As Mead and others have noted, social security recipients are dependent on the state, yet they do not face the same stigma that social assistance recipients under the “welfare regime” are subject to. Mead claims that this is because they are seen as having worked for their benefits – despite the fact that these benefits are clearly subsidized by the state – whereas the mere claim to need is insufficient or questionable as a justification for dependence. Though Mead uses this as an argument to demonstrate why dependence is not really pathologized in American society, in fact the notion of dependence that predominates in American political culture is constructed in such a way that Social Security recipients and others are exempted from the category of “dependent.” Therefore, Mead is correct in pointing out the distinction between different types of dependence. However, rather than conveying a sense of acceptance for what I, along with other feminists, regard as the universal condition of human dependency, the example of Social Security simply reinforces the differential application of the notion of “dependence,” which allows some forms of reliance on the state to escape its stigmatized confines.

<sup>277</sup> Lawrence M. Mead, “Welfare Reform and Citizenship,” in *Welfare Reform and Political Theory*, ed. Lawrence M. Mead and Christopher Beem (New York: Russell Sage Foundation, 2005), 177.

<sup>278</sup> *Ibid.*, 178.

<sup>279</sup> Lawrence M. Mead, “Welfare Employment,” in *The New Paternalism: Supervisory Approaches to Poverty*, ed. Lawrence M. Mead (Washington, D.C.: Brookings Institution Press, 1997), 64.

<sup>280</sup> *Ibid.*

not ask people to do something alien to them...*They now have to do what they always wanted to do.*"<sup>281</sup> Despite these shared values, the poor are "different" psychologically from more successful members of society, Mead argues. It is in the realm of intentionality where this difference is seen:

Better-off people generally behave according to their own intentions. If they do not do something, it is because they do not want to. They will resist anyone telling them to do otherwise. Middle-class analysts too readily assume poor people are equally consistent.<sup>282</sup>

In our blurry middle-class analysis, we mistakenly believe that those who do not work choose not to, according to Mead.

Further evidence presented by Mead continues to emphasize the individualized nature of the explanation provided for non-work. Though some explanations of joblessness refer to what William Julius Wilson calls "spatial mismatch" – "a growing mismatch between the suburban location of employment and minorities' residence in the inner city" – Mead rejects such structural explanations of poverty.<sup>283</sup> Although he acknowledges that the mismatch between skills and jobs that resulted from deindustrialization in major cities in the U.S., Mead for the most part dismisses this as relatively insignificant. A study conducted in Chicago by Wilson, he notes, "found...that low-skilled immigrants worked at high levels in the same ghetto areas where poor blacks and Puerto Ricans worked at low levels."<sup>284</sup> Therefore, this argument goes, if some groups are able to find work while others are not, the problem is with the intention-behavior relationship and not the system.

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<sup>281</sup> Ibid. Emphasis added.

<sup>282</sup> Ibid., 65.

<sup>283</sup> William J. Wilson, *When Work Disappears: The World of the New Urban Poor* (New York: Knopf: Distributed by Random House Inc., 1996), 39.

<sup>284</sup> Lawrence M. Mead, "Welfare Employment," in *The New Paternalism: Supervisory Approaches to Poverty*, ed. Lawrence M. Mead (Washington, D.C.: Brookings Institution Press, 1997), 49.

New paternalist workfare policy, then, follows from these assumptions, creating coercive systems of service delivery in order to respond to both the assumptions of work as a conduit to recognition and of nonwork as a product of voluntary or incompetent behavior. But, as I will expand upon below, these assumptions are faulty. Moreover, both the reasoning behind and the response to these assumptions serve to perpetuate relations of domination and oppression, conforming to the understanding of paternalism as not just interventionist policy, but policy that reinforces and reproduces oppressive conditions.

*ii. Conditions, Care, and Community: The Limits of Paternalist Work Policy*

Conditionality is a key aspect of the service delivery practices favored by paternalist workfare programs. As James Q. Wilson writes, “Paternalism works when paternal commands cannot be ignored.”<sup>285</sup> While advocates of workfare claim that workfare improves the image of welfare recipients in the eyes of other citizens by virtue of participation in the labor market, a highly valued marker as noted above, we must consider the ways in which the conditionality that accompanies this participation modifies its potential for expanding the boundaries of citizenship.

In order to evaluate whether workfare can produce the recognition that entitlement apparently failed to produce, which instead has been met by great stigma and, as new paternalist rhetoric makes clear, pathologization of recipients, it is useful to consider the basis for attitudes held by citizens towards the poor and those who receive social assistance. A significant amount of research has been done in this area in the U.S. context. While Americans react negatively to survey questions about “welfare” or

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<sup>285</sup> James Q. Wilson, “Paternalism, Democracy and Bureaucracy,” in *The New Paternalism: Supervisory Approaches to Poverty*, ed. Lawrence M. Mead (Washington, D.C.: Brookings Institution Press, 1997), 339.

associated terms, they have positive reactions<sup>286</sup> to questions about “poverty.”<sup>287</sup> Indeed, Hugh Heclo notes that *both* advocates and critics of welfare reform in the 90’s were neither here nor there on the question of whether individual or societal forces are responsible for poverty.<sup>288</sup> Given the apparent ambivalence of American public opinion, the manner in which politicians and other political actors are able to manipulate the rhetoric of work, welfare, and citizenship is of particular salience. It is in significant part by way of this rhetoric that welfare reform<sup>289</sup> was constructed as urgent and rendered appealing to the average citizen.

Nevertheless, Mead rejects the notion that the rhetoric espoused by political actors holds any significant sway over the average citizen’s views on welfare. He explains, “people respond to social problems out of their own lives, and elites or the media have only limited influence.”<sup>290</sup> Thus, according to Mead, it was the individualized behaviors of the poor that brought AFDC to its knees; “Since AFDC traditionally did not enforce good behavior, welfare became intensely unpopular even though programs to help the poor were endorsed.”<sup>291</sup> However, it is unclear how people were privy to this “bad behavior” on the part of welfare recipients. On Mead’s account of the history of AFDC, average citizens simply infer from their “own lives” that the permissiveness of welfare had led to failure to work and comply with other social norms. Mead’s attempt to locate

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<sup>286</sup> Reactions are “positive” in the sense that poverty itself does not conjure up resentment or hostility.

<sup>287</sup> Hugh Heclo, *The Politics of Welfare Reform*, ed. Rebecca M. Blank and Ron Haskins, *The New World of Welfare* (Washington, D.C.: Brookings Institution Press, 2001), 180.

<sup>288</sup> *Ibid.*

<sup>289</sup> The welfare reforms of 1996 were encompassed in the legislation titled, Personal Responsibility and Work Opportunity Act (PRWORA). These reforms were marked by what is seen as an end to “entitlement,” meaning the imposition of work requirements, lifetime time limits, heavy sanctions, and the tightening of the boundaries around who can receive welfare, particularly among immigrants. There are many accounts of welfare reform. One useful text is R. Kent Weaver, *Ending welfare as we know it*. Washington, (D.C.: Brookings Institution Press, 2000).

<sup>290</sup> Lawrence M. Mead, “The Politics of Conservative Welfare Reform,” in *The New World of Welfare*, ed. Rebecca M. Blank and Ron Haskins (Washington, D.C.: Brookings Institution Press, 2001), 204.

<sup>291</sup> *Ibid.*, 203.

the shifting meanings of welfare and work in individual citizens is unconvincing and cannot account for the general acceptance of PRWORA, the quite radical welfare reform legislation passed in the U.S. in 1996.

This acceptance, however, does not indicate that average citizens now regard welfare recipients engaged in “work activities” as full citizens, capable of acting as autonomous agents. If participation in the labor market actually garners recognition once denied to dependents in our society, the conditional nature of benefits that is the hallmark of workfare programs undermines this recognition by flagging service users as specifically lacking in the qualities dominant culture ascribes to citizens. While I do not think conditionality is necessarily unjust, I claim here that conditionality in the context of our current social and political conditions fails to foster autonomy, which I regard as one element of a just welfare policy. I return to this below, drawing on Stuart White’s interesting arguments in this regard. In this context, as Desmond King charges, conditionality in the form of “workfare might well produce a deepening sense of alienation and exclusion among those it claims to help.”<sup>292</sup> Although Mead describes work as a veritable “cure” to the resentment, stigmatization, and exclusion that plagues welfare recipients who receive benefits without so-called obligations, he neglects to consider the deleterious effects of the assumptions that underlie the policy, and the stigma that follows from the ways in which these assumptions single out certain individuals to be the targets of coercive policy. King argues, “participants in workfare are treated

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<sup>292</sup> Desmond S. King, “Making People Work: Democratic Consequences of Workfare,” in *Welfare Reform and Political Theory*, ed. Lawrence M. Mead and Christopher Beem (New York: Russell Sage Foundation, 2005), 74.

differently, and not in a positive sense, from participants in other state-administered benefit programs.”<sup>293</sup>

Such stigma inevitably shapes the perception citizens have of workfare participants. Contrary to that claim the work will enhance citizens views of welfare claimants, King argues that “rather than making the rest of us feel that workfare participants have legitimate claim on society, we may instead view them as incompetent, hence lacking the qualities need for membership in the polity as equal citizens.”<sup>294</sup> Mapped onto the racialized nature of welfare stigma, workfare only further differentiates recipients from their fellow citizens. Indeed, the risk of viewing workfare participants as incompetent is highly likely given that incompetence is the very foundation of paternalist policy. Consider James Q. Wilson’s claims about the need for paternalism. Wilson suggests that the government should extend paternalism to people “who have by their behavior indicated that they do not display the minimal level of self-control expected of decent citizens.”<sup>295</sup> Those displaying this lack of self-control include “the homeless, criminals, drug addicts, deadbeat dads, unmarried teenage mothers, and single mothers claiming welfare-benefits.”<sup>296</sup> Clearly, there is a difference between viewing someone as contributing what they owe as a reciprocal gesture towards the benefits they receive and viewing someone as duty-bound to obey because they are personally flawed. Moreover, the flaws that are attributed to welfare recipients, as Wilson’s argument suggests, are specifically those that cast the recipient as an individual *incapable* of autonomy;

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<sup>293</sup> Ibid.

<sup>294</sup> Ibid.

<sup>295</sup> James Q. Wilson, "Paternalism, Democracy and Bureaucracy," in *The New Paternalism: Supervisory Approaches to Poverty*, ed. Lawrence M. Mead (Washington, D.C.: Brookings Institution Press, 1997), 341.

<sup>296</sup> Ibid., 340.

therefore, whatever recognition labor market participation may have garnered is ultimately obscured by the underlying reasons for the coercive conditions under which they work.

Nevertheless, as Stuart White notes, the argument for *reciprocity* in the realm of welfare benefits is not easily dismissed. White argues that conditionality in social welfare benefits is not necessarily unjust when viewed from this perspective. He articulates a number of conditions under which the imposition of conditional welfare benefits may be acceptable and indeed necessary to uphold our egalitarian institutions. That is, “free-riding, or accepting benefits without social contribution, generates a clear risk that the egalitarian institutions in question will provoke feelings of alienation and resentment and so undercut the very spirit of solidarity on which they depend.”<sup>297</sup> The obligation to reciprocity, White argues, can only be enforceable under certain required background distribution conditions; “to assert otherwise is to assert that significantly disadvantaged individuals in a highly inegalitarian society may have an enforceable moral obligation to co-operate in their own exploitation.”<sup>298</sup> Instead, he suggests four intuitive conditions that must be in place for fair reciprocity to be enforceable: guarantee of a decent share of the social product for those meeting minimum participations standards; decent opportunities for productive participation; equitable treatment of different forms of participation; and universal enforcement of the minimum standard of participation.<sup>299</sup> Though such requirements cast conditionality in a more favorable light than paternalist arguments that hinge on incompetence claims do, in practice they are not likely to be met in the context

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<sup>297</sup> Stuart White, "Social Rights and the Social Contract - Political Theory and the New Welfare Politics," *British Journal of Political Science* 30, no. 3 (2000).

<sup>298</sup> *Ibid.*: 515.

<sup>299</sup> *Ibid.*: 515-16.

of our current politics, both in a material and ideological sense. On the one hand, below-subsistence level wages, an economic system that cannot support full employment, and discrimination against job applicants, and on the other hand, the prevailing racialized and gendered stigma of poverty that prevents a basic level of respect that must underlie conditionality to make it justifiable, make the idea of such conditions appear lofty.

White also rehearses a plausible paternalist argument for welfare, ultimately dismissing it. Following Dworkin, he notes that even an autonomous individual can fall prey to times of non-autonomy. Knowing this, “a citizen looking ahead in a spirit of reasonable prudence might rationally choose to limit his or her own liberty in specific ways so as to forestall action, undertaken in moments of irrationality or weakness of will, that risks [tragic and irreversible] consequences”<sup>300</sup> White suggests that given that “we know” unemployment may lead to loss of skill and motivation that may prevent future employment, work related eligibility rules might be justifiable under the kind of argument for self-protection above. White concedes that such paternalism would be legitimate if the gains from the measure enforced outweighed any potential pressure to take poor jobs or other negative effects. However, given that such gains may be distributed unevenly among those people concerned, he concludes that the paternalist argument is flawed and not an adequate defense of conditionality. Moreover, in response to Mead’s competence argument (individuals that are competent will maximize their interests and therefore work), White argues, “[welfare recipients’] non work might well reflect a perfectly competent welfare-maximizing response to a labour market which offers them only poor quality jobs at low wages.”<sup>301</sup>

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<sup>300</sup>Ibid.: 523.

<sup>301</sup> Ibid.: 526.

But there is another reason that the paternalist argument is questionable and that even White's reciprocity argument is problematic: both assume a narrow definition of work and "social contribution." The reciprocity argument suggests that the only acceptable reciprocal activity for receipt of benefits is labor market participation. The paternalist argument, in turn, suggests that it is specifically non-participation in labor market activity that leads to the potentially deleterious effects listed above. Pateman and other feminists argue that the definition of work as paid employment overlooks the unremunerated caretaking labor that many women are engaged in.<sup>302</sup> Women who are engaged in this care work, however, are counted among the "able but unwilling to work" and therefore as undeserving. Their domestic work, the narrow definition of work ultimately implies, does not "earn" them any benefits. Mead argues that one of the demands of citizenship is the civility of "work." However, Pateman points out that such a view ignores another important role of social reproduction, which refers not only to motherhood but also to "the maintenance and future of the public or common weal and the care of citizens."<sup>303</sup>

If work is a condition of citizenship because it is something "owed" by one citizen to another, social reproduction, too, ought to be included in this notion of obligation. Pateman explains, "[C]itizenship can also be seen as a horizontal relationship between citizens; that is to say, it becomes a part of the social web of interdependence. This view makes it much harder to distinguish activities that fulfill specific duties of citizens from

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<sup>302</sup> For a much fuller discussion of the issue of care work and welfare, see the first four essays in Nancy J. Hirschmann and Ulrike Liebert, *Women and Welfare: Theory and Practice in the United States and Europe* (New Brunswick, N.J.: Rutgers University Press, 2001).

<sup>303</sup> Carole Pateman, "Another Way Forward: Welfare, Social Reproduction, and a Basic Income," in *Welfare Reform and Political Theory*, ed. Lawrence M. Mead and Christopher Beem (New York: Russell Sage Foundation, 2005), 36.

those that contribute to general social well-being, to democratic social reproduction.”<sup>304</sup> Therefore although welfare reform rhetoric links dependency to a “failure to perform a duty owed to fellow citizens,” it does so only by ignoring the other duties citizens perform outside of paid employment.

Moreover, some thinkers suggest that carework has a particularly important role to play in our common citizenship, and in turn, in fostering autonomy. Just as workfare advocates suggest that labor market participation is worthwhile not only for its recognition value, but also because participation itself has positive effects on the self-esteem, self-image, and self-efficacy experience by workers, some argue that care has intrinsic value for the individuals acting as *caregivers*, not just those who are cared for. Paul Kershaw makes this argument in conjunction with his proposals to implement a *carefair* system. He writes, “[d]omestic care is an activity that facilitates individuals, regardless of their privilege, to explore their place in a family and community lineage, as well as the values and life pursuits that this social location affirms.”<sup>305</sup> Kershaw’s argument highlights in particular how cultural and social norms have conventionally excluded men from this role, therefore “undermin[ing] some men’s full participation in this key domain of affectivity.”<sup>306</sup> Most pressingly, according to Kershaw, the “legacy of male freeriding on female care” may lead to the internalization of “a pathology of patriarchal dependence that obstructs their interest-satisfaction vis-à-vis their (potential) network of care relations.”<sup>307</sup>

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<sup>304</sup> Ibid., 42.

<sup>305</sup> Paul Kershaw, "Carefair: Choice, Duty, and the Distribution of Care," *Social Politics: International Studies in Gender, State & Society* 13, no. 2 (2006): 366.

<sup>306</sup> Ibid.

<sup>307</sup> Ibid.: 367.

Whether or not care has the potential to bring about the benefits Kershaw refers to, the important point for the purposes of the present critique of the paternalist argument for workfare is that the narrow definition of “work” is a symptom of the patriarchal underpinnings of new paternalism in the first place. Further, it potentially obviates the multiplicity of sources of meaning making and fulfillment available to citizens. Moreover, though I have suggested that the argument that labor market participation generates autonomy-fostering recognition is faulty because of the stigmatization following from conditionality, if we were to accept this argument, the narrow view of “work” serves to reproduce the problematic devaluing of carework that already exists in our society. That is, the social reproduction work mothers who receive welfare are engaged in continues to be minimized, cast as both unfulfilling work and work unworthy of being counted as a marker of reciprocity.

So far I have suggested that new paternalist workfare policies fail to deliver on the aims of an autonomy fostering state because they do not generate the relational conditions of recognition that may foster autonomy and they do not acknowledge the relational value of carework in enhancing autonomy-competence. Another aspect of workfare that I have noted above is the reliance on the assumption that nonwork is never involuntary. This claim is obviously a dubious one simply on the basis of the fact that we do not have an economic system that supports full employment.<sup>308</sup> But if we revisit Mead’s argument that the uneven unemployment demonstrated between different ethnic and racial groups in the same area, we can see yet another failure to attend to the relational conditions of autonomy in this context. Beyond market conditions, other

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<sup>308</sup> See Frances Fox Piven and Richard A. Cloward, *Regulating the Poor: The Functions of Public Welfare*, Updated ed. (New York: Vintage Books, 1993), for an analysis of the ways in which unemployment levels are manipulated to further economic and social aims.

factors contribute to unemployment. One important factor is the structure of social relationships that shape the ways in which individuals both view and participate in the job search process. Some research suggests that as a result of chronic conditions of racism and poverty, black jobseekers may adopt an approach to job search that is particularly individualist, failing to seek out the support (and when sought, to successfully receive this support) necessary to secure employment.<sup>309</sup>

Sandra Smith's research findings show that attention to interpersonal or intersubjective relations in this context is important because such relational connections help to constitute the conclusions that jobseekers come to with regard to the challenges of they face on the job market. That is, the process of meaning making that individuals engage in is importantly shaped by social relations, and in turn, is significant "in shaping how poor blacks engage with each other as actors."<sup>310</sup> Based on substantial ethnographic research, Smith describes a phenomenon of "defensive individualism."<sup>311</sup> Defensive individualists do not reach out to the community for fear of failing to live up to the expectations of those around them; they justify this behavior in individualistic terms. "Within the context of poverty, friends, relatives, acquaintances, and institutions in their social milieu blamed the black poor and jobless for their persistent joblessness, deploying discourses of joblessness that privileged individuals' moral shortcomings and stressed personal responsibility and self-sufficiency as a panacea. Cognizant of how they were viewed and of how their joblessness was understood, job-seekers became defensive

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<sup>309</sup> Sandra Susan Smith, *Lone Pursuit: Distrust and Defensive Individualism among the Black Poor* (New York, N.Y.: The Russell Sage Foundation, 2007).

<sup>310</sup> *Ibid.*, 16.

<sup>311</sup> *Ibid.*, 22.

individualists.”<sup>312</sup> The individualizing message of new paternalism exacerbates this phenomenon of defensive individualism; the discourses that Smith refers to above may be understood to stem in part from the internalization of the messages espoused by privileged actors who deploy such strategies as workfare to respond to supposed incompetence. This argument also helps to unhinge – or at least situate within a structural account – Mead’s argument about the availability of jobs based on the success of some groups rather than others in finding employment.

While Smith’s arguments seem to counter some earlier studies of poor black communities, wherein the importance of connectedness through kinship relations in particular is stressed, she notes that the individualistic reaction to joblessness does not necessarily prevail in all arenas. For example, in the categories of childcare, housework, and housing, sharing of resources or “exchange” is much more likely.<sup>313</sup> This is important to my argument here: *given* the individualism – motivated by distrust – that may characterize some arenas of poor black women’s lives, it might make sense to suggest that seeking relational support in other arenas, i.e. through childbearing, follows logically. The next case that I look at deals directly with the relational conditions out of which teen and multiple pregnancies in poor, unwed, women emerge.

#### ***IV. Pregnancy prevention***

While workfare policy obscures the relational limitations of strategies of conditionality, the social context of job search behavior, and the contributions of carework to fulfilling one’s obligations as a citizen, pregnancy prevention policy takes us

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<sup>312</sup> Ibid.

<sup>313</sup> Ibid., 30.

more directly into the “private” sphere, the sphere where dominant discourse tells us relationality is most suitably situated. Yet here, though relational conditions are not ignored, they are conceived of through the lens of middle class perceptions of the sources of meaning in women’s lives, a lens that paradoxically both privileges “independence” and idealizes self-sacrificing motherhood. Of course, as we have seen, workfare policy too extends its influence and justifications into the private sphere, as well. Nevertheless it does this primarily by way of the devaluation of activities that take place there. It is in the context of such devaluation that paternalist pregnancy prevention policy is developed. They therefore fail to respond to the relational needs that more effective pregnancy prevention policy might take up, instead relying again on a strategy of conditionality.

Conditionality has been discussed widely in the context of workfare programs—a debate that I engage with above—but much less so in other arenas. Perhaps because work is seen as so fundamental to North American identity, and the failure to do so often associated with deviant behavior, considerations of whether or how individuals should be coerced to work strike at fundamental ideological issues for both supporters and critics of these programs. Yet, despite the fact that in the context of welfare, pregnancy is intimately tied to work -- it affects women’s ability to work outside the home, it is the foundation of social reproduction, it is an embodied manifestation of the differing effects of working conditions on women, etc. – little attention has been paid to paternalism in this arena. As with workfare, conditionality and paternalist pregnancy prevention in general emerge here as a strategies ill-fitted to fostering autonomy, both in the recognition and capacity building senses.

*i. Preventing pregnancy: intentionality, competence, and autonomy*

Teenage pregnancy, as well as multiple fertility in poor, unwed, women more generally, has long been a focus for poverty researchers and policy analysts, who worry about not only the material implications of additional mouths to feed, but also the effects on a variety of other outcomes typically measured in children. Moreover, they warn of the possibility of a generational “cycle” of unwed pregnancy. In turn, new paternalist thinkers have turned their attention to these issues, citing teenage pregnancy in particular as a classic example of the value-action rift. Laying claim to this incompetence-based argument, Rebecca Maynard claims, “[a]s a group, those who unintentionally get pregnant and begin parenthood at a young age signal their inability to make decisions that are in their own best interests, the best interests of their children, and the best interests of society.”<sup>314</sup>

Maynard’s account presents a classic argument for why paternalism is necessary in such cases, yet even within her own account, tensions and inconsistencies point to the theoretical weakness of the value-action argument, and the empirical problems of the conditional and discretionary elements of the policies proposed. In fact, scholars have shown that pregnancy in poor women and teenagers has much greater personal and symbolic implications than the simple explanation provided by Maynard (that of irresponsibility and incompetence), and these implications are directly tied to conditions of injustice and oppression that many of these women face. In this section, I look first at the misplaced assumptions of incompetence and the ensuing conditionality of service provision, which, as with workfare undermine recognition and obscure the relational

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<sup>314</sup> Rebecca A. Maynard, “Paternalism, Teenage Pregnancy Prevention, and Teenage Parent Services,” in *The New Paternalism: Supervisory Approaches to Poverty*, ed. Lawrence M. Mead (Washington, D.C.: Brookings Institution Press, 1997), 91.

needs that the policy ought to address, thereby also limiting the development of autonomy, understood as a capacity. Since there is little information available on the specifics of paternalist pregnancy programs beyond Maynard's advocacy and some descriptions of PRWORA related programs, my focus here is on the faulty assumptions that, on the basis of Maynard's description, underlie paternalist programs.

The central argument behind Maynard's advocacy of the new paternalism hinges on the incongruity between young mothers' values – the belief that waiting to have children at a later date is better – and their actions – continued teen pregnancy. Yet, even Maynard's own ethnographic data seems to suggest that the assumption of incompetence is misleadingly straightforward. Maynard quotes teenage mothers who themselves signal the ambiguity around intentionality in this realm. Says one mother, “ ‘I didn't plan it, and then again, I kind of knew that it was going to happen because I wasn't really taking the pills like I was supposed to. I couldn't remember every day to take the pill. And, I still don't.’”<sup>315</sup> Although the pregnancy was not planned per se, it's also not clear that the interviewee specifically believed that she should avoid pregnancy, yet failed to act in accordance with this view, nor that her actions entirely oppose her intentions. But this ambivalence only captures one dimension of the ambiguities in intentionality surrounding this issue.

In other research, the complexities of distinguishing between “planned” and “unplanned” pregnancy appear in greater relief. Kathryn Edin and Maria Kefalas' intensive study of motherhood and marriage among low-income women in Philadelphia

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<sup>315</sup> Ibid.

reveals a multitude of reasons for teen pregnancy.<sup>316</sup> For our purposes, most striking among these reasons – which also include coercive relationships with male partners and a desire to escape a troubled home – are those that highlight the central role a child can play in a context where relational support may be limited, and the ability to define oneself may also be constrained by both material and relational conditions. Indeed, Edin and Kefalas point to the “relational poverty” (citing Kaplan) that emerges from “the social isolation that is the common experience of those who live in poverty [which] is heightened for adolescents, whose relationships with parents are strained by the developmental need to forge an independent identity.”<sup>317</sup> These limitations of relational support, which scholars importantly note are closely related to the structural conditions that limit trust among the poor, “can create a compelling desire to give and receive love.”<sup>318</sup> The question of intentionality in teen pregnancy, then, is in part colored by the very real, and indeed arguably internally logical, reasons why these young women may be motivated to become pregnant, or at least to not actively prevent pregnancy. “[P]regnancy offers the promise of relational intimacy at a time few other emotional resources are available,” their interviews suggest.<sup>319</sup>

Although, according to Maynard’s evidence, young unwed mothers appear to share in the mainstream value system that suggests waiting until one is older to bear children, other values come into play, the significance of which are obscured by a narrow, individualistic view of the ideal self that is dominant in particular in North American discourse, and that is apparent in new paternalist thought. Following from this

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<sup>316</sup> Kathryn Edin and Maria Kefalas, *Promises I Can Keep: Why Poor Women Put Motherhood before Marriage* (Berkeley: University of California Press, 2005).

<sup>317</sup> *Ibid.*, 34.

<sup>318</sup> *Ibid.*

<sup>319</sup> *Ibid.*, 24.

view, a masculinist perspective that devalues relationality and interdependence while holding motherhood up to an unrealistic ideal also serves to obviate the importance of a range of other values associated with childbearing in young, poor women.<sup>320</sup> Edin and Kefalas' work underlines the ways in which not only masculinist or individualistic conceptions of the self, but also some widespread appropriations of feminism are uncomfortable with the positioning of childbearing as source of meaning making and as a social resource. As Edin and Kefalas note, "[t]he idea of a woman viewing her offspring as a resource violates powerful social norms about how a mother should behave. Altruism, not need, ought to govern her relationship to her children."<sup>321</sup> Indeed, though feminists have long endeavored to destabilize it, the ideal of mother as self-sacrificing and entirely other-regarding remains a strong one in our society.<sup>322</sup> Yet, despite the feminist critique of this self-sacrificing ideal of motherhood, a typical feminist alternative conception of motherhood still does not fit comfortably with the empirical evidence Edin and Kefalas offer. Even if we reject the notion of motherhood as necessarily *only* altruistic, the idea of women deriving meaning primarily from their role as child bearers might be seen as oppressive or constraining from the vantage point of white, middle-class, feminism. Are these women not simply falling victim to standard gender roles that suggest some essential maternal yearnings?

Yet, to dismiss the value of motherhood as a resource for both meaning-making and relational support is both to ignore poignant experiential evidence and to leave

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<sup>320</sup> This is not meant to perpetuate a claim that the poor are somehow "different from the rest of us." Rather, values are always contextually formed and forming, and may well lack consistency or, at times, be opposed to one another – even in autonomous individuals. It is the ways in which inconsistencies and oppositions are managed that is most revealing in the long run.

<sup>321</sup> Kathryn Edin and Maria Kefalas, *Promises I Can Keep: Why Poor Women Put Motherhood before Marriage* (Berkeley: University of California Press, 2005), 182.

<sup>322</sup> CITE common critiques of motherhood ideal???

unexplored the finer details of the ways in which this resource is drawn upon – details that tell us something not only about policy choices, but also the ways in which autonomy is developed and exercised. In fact, the evidence suggesting the relational value poor women may draw from motherhood, especially at a relatively young age, first points to the ways in which the ascription of such value challenges the white middle-class ideal of motherhood, which is mired in a problematic, uneasy, if not untenable, relationship between selflessness and autonomy. The meaning and support that some women draw from motherhood foregrounds the existence of or potential for autonomy among these women, therefore disrupting claims paternalists make regarding competence and intentionality. Second, it suggests the need to address problems of relational support rather than, as paternalists repeatedly suggest, incompetence.

The dominant figure of the mother as self-sacrificing, selfless, and at the mercy of the needs of her child(ren) and male partner raises obvious problems for feminists. It is not that to love one's child is somehow incompatible with feminist values, but rather the ways in which such an ideal subsumes women's identities in their roles as mothers, denying them recognition as autonomous individuals, as full citizens, render this ideal problematic, at least where subscribing to it is not a matter of "choice." If we understand autonomy as the capacity to determine one's own ends, the utterly self-sacrificing mother seems hard pressed to be worthy of such a status: someone else's needs always determine her own ends. Andrea Westlund explains the quality of self-abnegating deference as "the systematic subordination of oneself to another whose interests, needs, and preferences are

treated as pre-emptively decisive in one's own practical reasoning."<sup>323</sup> The self-sacrificing mother, then, fits easily within this category of behavior.

However, contrary to the intuition that such behavior is inconsistent with autonomy, since she may plausibly endorse this self-subordination – identifying with one competing ideal of motherhood that equates competence with full attention to the needs of one's child at the expense of any self-interested concerns – the self-sacrificing mother may be conceived of as autonomous in terms of an “identification” approach, such as that proffered by Harry Frankfurt, and in somewhat modified form, Michael Bratman. On such accounts, “autonomous agency is exercised when one is motivated by a desire with which one wholeheartedly identifies—a desire that is endorsed in other words, by a higher order desire with which one is satisfied in the sense just described,” (Frankfurt), or on Bratman's account, when the desire is treated “as providing a justifying reason.”<sup>324</sup> On such accounts, as Westlund points out, we may well view the self-abnegator as autonomous, since she is likely to identify with and hold her behavior up to the standard of justifying reason. Westlund suggests that in order to understand autonomy in a way that would make our assessment of a self-abnegator coherent, we need, in addition to identification, to pay attention to the critical reflectiveness present in the subject that demonstrates “responsibility for the self” – “holding oneself *answerable*, for one's endorsements, to external critical perspectives” – something that the self-abnegator generally cannot achieve.<sup>325</sup> Whatever standard one ultimately chooses to hold the self-

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<sup>323</sup> Andrea C. Westlund, "Selflessness and Responsibility for Self: Is Deference Compatible with Autonomy?" *The Philosophic Review* 112, no. 4 (2003): 485.

<sup>324</sup> *Ibid.*: 489-90.

<sup>325</sup> *Ibid.*: 495. Westlund's argument focuses on the requirement of justificatory dialogue.

abnegator up to, this case highlights the role of oppressive socialization in complicating our assessments of some subjects' capacity to act autonomous.

Consider in contrast the sense of self that emerges from the evidence provided by Edin and Kefalas. One of the women they interview, Aliya, says, “ ‘Some people may say it was for the wrong reasons, but it was like too much around me going on...I guess that was my way out of all these situations. [But] I wanted a child because it was *mine*. It was [for] love.’”<sup>326</sup> Pamela, in turn, contends, “ ‘I just *knew*, growing up, ‘Oh, you’re gonna have your kids...the kids are gonna love you. They’re *yours*.’”<sup>327</sup> Although Aliya and Pamela express different sentiments here, it is noteworthy that for both women motherhood is not only or even mostly about the needs of the child, but also about the fundamental needs of the mother for love, for affirmation, for support. Moreover, as Edin and Kefalas note, “the stronger preference for children among the poor can be seen in the propensity of the women we interviewed to put children, rather than marriage, education, or career, at the center of their meaning-making activity.”<sup>328</sup> In contrast to the ideal of selflessness described above, these expressions of appreciation of children do not seem self-abnegating. But are they expressions of these women’s will, of their autonomous desires?

There are two ways, I want to suggest, of interpreting the comments of Edin and Kefalas’s interviewees. First, where the self-abnegating mothers fall prey to the dominant ideal of white, middle-class, motherhood, the poor women who see their children as providing them with much needed self-affirmation *subvert* the dominant paradigm, and

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<sup>326</sup> Kathryn Edin and Maria Kefalas, *Promises I Can Keep: Why Poor Women Put Motherhood before Marriage* (Berkeley: University of California Press, 2005), 34.

<sup>327</sup> *Ibid.*

<sup>328</sup> *Ibid.*, 206.

within this resistance we find a kernel of autonomy. Second, viewing childbearing as the primary source of women's meaning making seems antiquated, a result, as in the case of self-abnegating mothers, of oppressive socialization. The women's movement has struggled to open up a far greater range of opportunities that can contribute to a meaningful life; these women, on this interpretation, are limited in their autonomy insofar as they fail to access or take advantage of such broader opportunities. Which of these interpretations best captures the potential for autonomy or existence thereof in women who become pregnant at an early age? Both in the case of the woman for whom motherhood must be a selfless pursuit and for the woman for whom motherhood is the primary source of meaning-making and relational support, a consideration of autonomy must take into account the social context, the relational conditions, out of which such preferences emerge.

On the first interpretation, consideration of the contextual variables at play suggests that, indeed, situating childbearing as an avenue to the types of self-affirmation described by the interviewees can be seen as resistant, and thus, perhaps, as autonomous. As described above, as a response to the relational poverty that some young women who become pregnant may face, the connection formed with a child is not an unreasonable means of acquiring what is lacking: loving and, in some ways, supportive relationships. Kaplan's theory of the poverty of relationships helps to explain why such an approach to childbearing as a relational resource makes sense, and may well be considered to be a marker of autonomous agency. The poor, black, young women she interviews "describe being disconnected from primary family relations, abandoned by their schools and by the men in their lives, and isolated from relations with other teenagers at the time of

adolescence, when it is most important that they experience positive relationships.”<sup>329</sup> Motherhood, on this account, is a *strategy* used to cope with the conditions under which these young women are operating. Writes Kaplan, “In using the motherhood strategy, the teen mothers in this study were not behaving pathologically, but were using the only survival strategy they believe available to them.”<sup>330</sup> This does not mean, however, that childbearing at a young age is an ideal autonomous choice under the given conditions. In fact, that it is not ideal is exactly the point; to question paternalist pregnancy prevention strategies is not to endorse teenage pregnancy or (for the most part) multiple pregnancies of poor women. It suggests instead something about what type of interventions are necessary, shifting the terms of the “diagnosis” offered by the paternalists, and in turn the “cure” (to use the paternalist language of pathology).

On the second interpretation, unlike with the oppressive socialization interpretation that applies fairly easily to the self-abnegating mother, the structural conditions that affect these women suggest instead that poor women are not necessarily succumbing to sexist norms or values that limit women’s opportunities. Rather, these women make a fairly accurate assessment of the limitations that exist on their potential resources for meaning making and fulfillment. As Edin and Kefalas write, while middle-class women face significant opportunity costs when they have children at an earlier age, the same cannot be said for poor women.<sup>331</sup> Rather, “[d]isadvantaged girls who bear children have about the same long-term earnings trajectories as similarly disadvantaged

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<sup>329</sup> Elaine Bell Kaplan, *Not Our Kind of Girl: Unraveling the Myths of Black Teenage Motherhood* (Berkeley: University of California Press, 1997), 11.

<sup>330</sup> *Ibid.*, 181.

<sup>331</sup> See recent debate about the “opt-out” of middle class mothers. (CITE)

youth who wait until their mid or late twenties to have a child.”<sup>332</sup> Other outcomes are similarly minimally affected by early childrearing. But it is not just that the opportunity costs are relatively low; situating childbearing as a primary source of meaning also reflects the lack of opportunities that exist for poor women. Write Edin and Kefalas, “While middle-class women are now reaching new heights of self-actualization, poor women are relegated to unstable, poorly paid, often mind-stultifying jobs with little room for advancement.”<sup>333</sup>

These interpretations of poor women’s use of childbearing to make meaning – in ways that challenge conventional middle class views of the appropriate sources of such meaning – in lives that are fundamentally limited by structural conditions highlight the incoherence of paternalist response to pregnancy. As with workfare policy, in order to respond to “incompetence,” the strategy of conditionality is one of the primary approaches taken up in pregnancy prevention. Yet, as we have seen, the incompetence argument is deeply flawed, both with regard to the perceived intentionality of the subjects in question, and with regard to the complex reasons behind such intentionality. However, in the American context, the 1996 welfare reform bill PRWORA made provisions to devote a significant amount of funds to abstinence promotion plans. Moreover, it allowed states to implement mandatory programming as well as other behavioral requirements for young mothers, in efforts to prevent repeat pregnancies. One paternalistic approach to pregnancy prevention coercively requires that teenage parents (under eighteen) reside with their own parents. If they do not do so, they will receive less income support from the state. Another approach, discussed in Maynard’s piece on new paternalist measures,

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<sup>332</sup> Kathryn Edin and Maria Kefalas, *Promises I Can Keep: Why Poor Women Put Motherhood before Marriage* (Berkeley: University of California Press, 2005), 205.

<sup>333</sup> *Ibid.*, 206.

is mandatory programming that has “clear” moral messages discouraging further pregnancy; such programs are required to receive benefits.

The requirement that teenage mothers must reside with their own parents is, on the surface, attentive to possible relational needs. However, given the explanations proffered by the women Edin, Kefalas, and Kaplan interview, it is often the case that parents *fail* to provide the support that girls and young women need. Indeed, this is partly the motivation for bearing children. Here we can see that a failure to grapple with the intentions of pregnant teenagers leads to a faulty policy prescription. If teenage pregnancy were truly the result of incompetence alone, then perhaps parental supervision would help to rein in such pathological behavior. Yet since this is not the case, rather than reinforcing the conditions that contribute to the lack of relational support that some of these women experience, an autonomy-fostering state would seek to provide options for alternative sources of meaning-making and relational connections. By individualizing the behavior of teenage parents, paternalists fail to recognize the ways in which teen pregnancy can be understood as a response to institutional oppression, wherein childbearing appears as a reasonable and viable *strategy*.<sup>334</sup> In turn, the utilization of pregnancy prevention programs that hinge on a “strong moral message” – another strategy advocated by new paternalists – suggests a further failure to clearly see the sources of teenage and unwed pregnancy. By characterizing teenage and unwed mothers as morally deviant, such programs perpetuate the stigmatization that compromises various sources of support to begin with, in part because of the exclusionary impulses of

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<sup>334</sup> Elaine Bell Kaplan, *Not Our Kind of Girl: Unraveling the Myths of Black Teenage Motherhood* (Berkeley: University of California Press, 1997), 184.

institutional sources of support, but also because the stigma itself may lead some women to avoid seeking support

The issues emerging in the context of policy directed toward pregnancy among young and unwed women point us back toward the distinction between paternalist and interventionist policy. As I noted above, paternalism is best understood as referring to forms of intervention into individuals lives that serve to perpetuate oppressive social relations by way of their coercive and stigmatizing tactics. As Ellen Kaplan notes, the ways in which a lack of relational support contributes to teen pregnancy suggest that service delivery personnel ought to be “retrained to see themselves as supporters, to be empathetic, to offer real job training, and to seek economic and emotional support for the entire family unit.”<sup>335</sup> How this is enacted depends on context and further research, but what is important here is that such intervention need not be paternalistic; rather, it can be autonomy-fostering, in the context of interdependence, and enabling in general, when the faulty exercise of unequal power relations entailed by new paternalist policy is curbed. Moreover, like in the case of service users who use drugs, discussed in chapter 4, the failure of the state to *recognize* the needs and intentions of these young women who become pregnant is an example of the harm of misrecognition; paternalist policy, unlike autonomy-fostering policy, intervenes on the basis of such misrecognition, such harm, ultimately restricting the possibilities for autonomous agency.

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<sup>335</sup> Ibid., 190.

## V. *Conclusion*

New paternalists challenge an economistic notion of the individual as a rational self-maximizer. In this sense, they are allied with feminists who wish to complicate rationality alone as a marker of autonomous agency. Yet, new paternalism does not actually do away with the *ideal* of rationality as a prerequisite for autonomy; rather, these theorists wish to challenge the *extension* of the ideal to all individuals. Writes Mead, “Understanding dysfunction requires positing a more complex psychology, where people fail to do what they themselves desire and thus fail to exhaust the potential of their environment.”<sup>336</sup> Pathologizing the poor and dependent, Mead here reinforces what, from a feminist perspective, the critique of conventional notions of autonomy wishes to overcome. Instead, I argue that we need a notion of autonomy that takes into account affective needs and relational ties, one that makes room for a wider range of values, while also providing the tools for the development of capacities related to autonomy. That is, fostering autonomy requires not a narrow view of autonomy to which we must coercively instruct citizens to strive for, but a relational account of autonomy that responds to the limitations of the structural conditions under which individuals exist and to the complex ways in which autonomy can be expressed, thereby enhancing access to autonomy, understood in both recognition and capacity related terms.

As both the workfare and the pregnancy prevention examples show, paternalist policy is founded upon flawed assumptions about incompetence and intentionality. Rather than fostering autonomy by suspending it for a limited amount of time in the service of a long term ideal, new paternalism replicates the relations of power that have

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<sup>336</sup> Lawrence M. Mead, "The Rise of Paternalism," in *The New Paternalism: Supervisory Approaches to Poverty*, ed. Lawrence M. Mead (Washington, D.C.: Brookings Institution Press, 1997), 28.

contributed to the need for services in the first place. The autonomy-fostering state, in contrast, seeks out interventions that correct or respond to these unjust power relations. Moreover, the revised notion of paternalism discussed in the second section of the paper, which distinguishes paternalism from interventionist policy in general, is an important lens through which to understand the contrast between the two approaches to service delivery. Finally, these two cases bring to light the ways in which relationality comes to be either marginalized or misconstrued, in part because of its association with the feminized private sphere. This insight is noteworthy for the development of autonomy-fostering programs, which must revalue the activities of the private sphere – in particular caregiving activities – while challenging the constructed line that separates private and public.

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## Chapter 6 Conclusion

In these final pages, I want to return briefly to two of the examples I discussed in the preceding chapters: harm reduction service delivery in the highly impoverished downtown eastside area of Vancouver and mandatory arrest and prosecution of perpetrators of domestic violence. Since I began writing this dissertation in 2006, public attention has once again turned to these services.

Shifts in the political climate in Canada have rendered the issue of drug policy particularly controversial of late. In fall of 2007, the media spotlight was cast upon harm reduction services in Vancouver as it has been on several occasions now, each time marking the juncture at which the Federal government must renew or extend a waiver of Federal drug laws that makes the operation of the city's Safe Injection Site (SIS), "Insite," possible. Though the government did issue the extension, they did so under the proviso that they sought continued "scientific research" on the effectiveness of SISs. One source of so-called scientific research supporting the government's case against SISs came from an open access online journal published by an anti-harm reduction lobby group, who received funding for their research from the federal police force (RCMP).<sup>337</sup> In the six months following this decision, the Conservative government, acting on their

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<sup>337</sup> C Mangham, "A Critique of Canada's Insite Injection Site and Its Parent Philosophy: Implications and Recommendations for Policy Planning," in *Journal of Global Drug Policy and Practice* (2007). For a critique, see also Evan Wood, Julio S. Montaner, and Thomas Kerr, "Illicit Drug Addiction, Infectious Disease Spread, and the Need for an Evidence-Based Response," *The Lancet Infectious Diseases* 8, no. 3 (2008).

“law and order” mandate, has implemented US style mandatory sentencing guidelines and adopted a “get tough” approach to drug policy. Most recently, a United Nations agency – the International Narcotics Control Board – condemned *Insite* as well as “crack kit” programs (harm reduction tools for crack users) that are planned or in effect in some parts of Canada, citing a treaty signed by the country in the 1960s. The future of *Insite*, ever unstable, continues to be perilous. With their funding and legal status called into question, we might wonder whether the state can indeed foster autonomy through such means; is state funding for autonomy-fostering services short lived, destined to collapse upon itself?

In August 2007, the *New York Times* published an editorial by economist, Radha Iyengar.<sup>338</sup> In a piece titled “The Protection Battered Spouses Don’t Need,” Iyengar reported the results of a study she conducted, comparing rates of murder by intimate partners prior to and following the institution of mandatory arrest laws. According to her study, though intimate partner homicides have decreased overall in the past 20 years, “in states with mandatory arrest laws, the homicides are about 50 percent higher today than they are in states without the laws.”<sup>339</sup> Iyengar interprets these results as an indication that mandatory arrest acts as a deterrent to victims calling the police. “Victims want protection,” she explains, “but they do not always want to see their partners put behind bars.”<sup>340</sup> Or, she notes, victims may wish to see their partners arrested, but fear that they will be released quickly. Though arrest is often desirable, Iyengar acknowledges, “it makes no sense to keep following a strategy that discourages victims from reporting

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<sup>338</sup> Radha Iyengar, “The Protection Battered Spouses Don’t Need,” in *The New York Times Online* (New York: 2007).

<sup>339</sup> Ibid.

<sup>340</sup> Ibid.

abuse.”<sup>341</sup> This new research again challenges the effectiveness of the state as a protector and promoter of autonomy; these policies may in fact be responsible for the ultimate loss of autonomy – loss of life

These somewhat disheartening developments call into question the notion of an autonomy-fostering state. Does the state in effect run up against itself when it tries to implement such enabling practices? Ought we to shift our focus elsewhere given the types of constraints that come up in cases like these? As I have noted elsewhere in the dissertation, some theorists suggest that we should indeed reject the state as a primary venue for enacting emancipatory projects. However, by pointing to service delivery as the key site for fostering autonomy, I have advanced a theory of the state that suggests that it can and should foster autonomy. Rather than viewing these apparently negative twists in the progress of these two cases as indicative of a failure of the very premise of an autonomy-fostering state, I want to suggest that the theory of the autonomy-fostering state that I have offered in this dissertation provides a framework through which to understand these developments. Moreover, these developments, viewed from the perspective of a theory of the autonomy-fostering state, remind us that the motivations and practices that arise in such a state – or in the processes of struggling for such a state – are always political. It is true that some, if not many, initiatives to foster autonomy, particularly in the marginal, the dependent, the stigmatized, will be met with resistance from a variety of state and non-state actors. But this does not make the theory of the autonomy-fostering state misguided. Rather, it suggests the *need* for a “language” with which to understand the social relations that generate such resistance; such a language emerges from the theory of the autonomy-fostering state.

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<sup>341</sup> Ibid.

In the pages that follow, I consider these recent developments in light of the theory I have developed in the preceding chapters. I return here to some of the concepts at the heart of the dissertation, which I want to suggest help us to make sense of these developments. In light of my account of the autonomy-fostering state developed here, we can use these now enriched and expanded notions of each concept to better make sense of the developments in the realm of harm reduction and violence against women interventions.

### ***I. Ideology and the Politics of Drug Policy***

It follows from my earlier arguments, particularly the account of substantive autonomy I have developed above, that we must acknowledge the political nature of conceptions of autonomy, and in turn, the structure of the autonomy-fostering state. In a short response piece, Evan Wood, Julio S. Montaner, and Thomas Kerr offer a critique of an anti-harm reduction article written by Thomas Mangham. The article they are concerned about condemns *Insite* and harm reduction in general on the basis of shaky scientific evidence in a forum, the *Journal of Global Drug Policy and Practice*, that lacks the institutional and intellectual safeguards provided by peer-reviewed journals.<sup>342</sup> They note that this article has nevertheless been taken up as a worthy source of information by government officials, attributing this problematic use of research to the “Canadian federal government’s new ‘ideological’ opposition to harm reduction.”<sup>343</sup> Though Wood et. al. are certainly right to voice concern about this questionable entanglement between state

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<sup>342</sup> Evan Wood, Julio S. Montaner, and Thomas Kerr, "Illicit Drug Addiction, Infectious Disease Spread, and the Need for an Evidence-Based Response," *The Lancet Infectious Diseases* 8, no. 3 (2008).

<sup>343</sup> *Ibid.*: 142.

officials and pseudo-academic research, itself funded in part by the state, the notion that ideology infects science as a basis for policymaking is not surprising or, I contend, “new.” Rather, if we think of our understanding of autonomy – which I maintain is central to the debate here – as always contextually formed, the task of theorists and advocates in such a case might be not to find an ideology-free zone, but rather to challenge and denaturalize the assumptions that are at the core of ideological perspectives which generate something other than an inclusive, just, and enabling notion of the substance of autonomy. That is, questions about the state fostering autonomy are political; in turn, even questions about service delivery, though scientifically informed, must be acknowledged as political, too. This makes most sense when we specify a substantive conception of autonomy.

As I argue in earlier chapters, a substantive conception of autonomy provides the tools with which to make normative claims about, in this case, particular state-citizen relationships or service delivery models. But this substance must be worked out on the ground, in particular social and political contexts, to reflect the communal values and aims of a given society. In diverse and pluralistic societies, the nature of these values will always be contested. But this is not a reflection of the inevitability of the failure of the project of autonomy fostering when taken up by the state. Rather, it focuses our attention on what is at stake in the politics of social service delivery and it shifts our analysis to take account of the contested terms of the debate. Consider, for example, that Mangham’s article, which Wood et. al. criticize, itself suggests that harm reduction is “ideological.” Mangham suggests that a House Committee (in Canadian parliament) (prior to the recent contraction of liberalized drug policy) “contained a majority of harm reduction

ideologists” leading to “a biased federal report calling for significant liberalization of drug policy.”<sup>344</sup> In turn, Mangham calls for the “depoliticization” of drug policy, which he claims can only take place when “some form of action to stop [harm reduction ideology’s] momentum” is enacted. Instead of the damaging ideology espoused by harm reduction advocates, Mangham argues that in many cases “drug use can often be merely a symptom” of the lack of cohesion in a community; “Anything we can do to increase cohesion, order, altruism, neighborliness, compassion and caring in communities as well as integrity and responsibility in youth will pay great dividends.”<sup>345</sup>

What are the contested terms underlying this debate? Ranging from the notions of embodied pain and pleasure at the heart of discussions of drug policy and use, as I explored in Chapter 4, to our understanding of caring and compassion, to conceptions of orderliness and societal cohesion, our understandings of all of these contested terms are integral to the ways in which we conceive of autonomy, and in turn the autonomy-fostering state. By drawing our attention to, on the one hand, the need for a substantive account of autonomy in order to make important normative claims, and on the other hand, the inherently political nature of the “substance” of autonomy, which must itself be worked out in a given context, we can view the debate that has reemerged with regard to harm reduction as a site for further development of an appropriately structured autonomy-fostering state. That is, we must consider what is at stake in the development of the social relations necessary to foster autonomy in light of particularized conditions that shape the ways in which we think about the embodied, racialized, gendered, and economically situated experience of drug use in a particular country, province, neighborhood, etc.

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<sup>344</sup> C Mangham, "A Critique of Canada's Insite Injection Site and its Parent Philosophy: Implications and Recommendations for Policy Planning," in *Journal of Global Drug Policy and Practice* (2007), 3.

<sup>345</sup> *Ibid.*, 9.

However one ultimately decides to conceive of these conditions, it is worthwhile to back away from a stance of neutrality – which both the anti-harm reductionist Mangham and the harm reduction advocates Wood, et. al. seem to romanticize – and instead acknowledge and grapple with the politics and ideals at the heart of the debate. For example, Andrew Hathaway points to “the respect for free will and human adaptive potential a the core of the [harm reduction] tradition,” rejecting the impetus to “keep such ideological liberty-based values out of the analysis [in favor of] opt[ing] for a morally neutral form of inquiry wherein autonomy and rights have no apparent value in themselves.”<sup>346</sup> It is not Hathaway’s particular conclusions about the value of harm reduction that I stress here, but the ways in which the normative terms of the debate come to the fore in his analysis in order that we may better conceive of the “substance” of autonomy at the heart of the autonomy-fostering state.

## ***II. Social Citizenship in the Fragmented State***

Like in the debate over harm reduction, framed above by questions about the role of “ideology” in the realm of drug policy, Iyengar’s analysis of domestic violence policy, specifically mandatory arrest, may be better understood in the context of an alternative framework. Iyengar writes, “I recently conducted my own study of mandatory arrest laws by comparing the rates of murder by intimate partners before and after the laws went into effect.”<sup>347</sup> Certainly, the rate of murder by abusive partners is a well-warranted choice of variable to track in our considerations of the effects and shortcomings of domestic

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<sup>346</sup> Andrew D. Hathaway, "Shortcomings of Harm Reduction: Toward a Morally Invested Drug Reform Strategy," *International Journal of Drug Policy* 12 (2001): 135.

<sup>347</sup> Radha Iyengar, "The Protection Battered Spouses Don't Need," in *The New York Times Online* (New York: 2007).

violence policy. Yet, if we consider only this variable, the movement of which Iyengar's study suggests demonstrates the mortal effects of mandatory policies, the state may seem to be a poor choice as an agent of protection and development of autonomy-competency. However, when we consider the outcomes laid out in the editorial from the vantage point of a theory of an autonomy-fostering state, instead of resulting in the collapse of this theory, we can see how an explicit concern with fostering autonomy reshapes our understanding of these findings (though it certainly does not trivialize them), and how disaggregating the state, as a theory of the autonomy-fostering state must, leads us already to spot spaces within which responses to the issues Iyengar points to can be formulate and enacted.

One of the insights into the aim of the state fostering autonomy that has emerged from the cases I examine in this dissertation is that in order to understand the possible configurations of social relations that might make such an aim plausible, we must conceive of the state, not as a monolithic entity, but rather as a disaggregated body, a collection of "loosely-coupled arms,"<sup>348</sup> which depending on the "looseness" of their coupling, may exist in tension or in concert with one another. Given this notion of the state, as I discuss at length in Chapter 3, Iyengar's focus on the effects of mandatory arrest laws *on their own* directs our attention to only one arm of the state – the criminal justice arm, specifically the law enforcement segment of that arm – without accounting for the effects of other arms and their policies. The responses to Iyengar's editorial are indicative of the limitations of her research in this respect. For example, as Sue Else, president of the National Network to End Domestic Violence writes, "The safety of

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<sup>348</sup>Lynne Haney, "Feminist State Theory: Applications to Jurisprudence, Criminology, and the Welfare State," *Annual Review of Sociology* 26 (2000).

survivors depends on much more than a mandatory arrest policy. Prosecutors charge the batterer, judges need to hold batterers accountable and victims must have access to viable resources.”<sup>349</sup> Indeed, I stressed in Chapter 3 the importance of having the appropriate resources to adequately balance the effects of police power in the context of domestic violence policy, and to institute mechanisms of self-critique via the “fragmented coordination” of the state’s arms.

In addition to the role of this “self-critique” existing among the arms of the state, the underlying relationality of autonomy, which is at the core of the larger theory presented here, highlights the important nuance that must go into an analysis of Iyengar’s data. She notes that though mandatory arrest was meant to “impose a cost on abusers,” ultimately “because of psychological, emotional, and financial ties that often keep victims loyal to their abusers, the cost of arrest is easily transferred from abusers to victims.” That is, “victims want protection, but they do not always want to see their partners put behind bars.” Moreover, to avoid this situation, she surmises, they do not call police where mandatory arrest laws exist. But what are the reasons for this preference? Is it an autonomous preference? As I discussed Chapter 3, we need to consider the role of oppressive socialization in our still-sexist society, wherein a certain level of violence against women is both widespread and deemed acceptable in some contexts, and where the role of women within the family unit remains relatively determined by traditional conceptions of caregiving. Indeed, though we might think of mandatory policies as paternalistic, it’s worth recalling the account of paternalism I discussed in Chapter 5: paternalism must be understood not only as intrusion into the lives of citizens (ostensibly

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<sup>349</sup> Sue Else, “To Stop Abuse, Hold the Abusers Accountable (3 Letters),” in *The New York Times Online* (2007).

for their own good), but specifically as intrusion of a particular nature that results in the reproduction and maintenance of existing relations of oppression and domination. In this case, the intervention (particularly when coupled with other sources of support) does the opposite of this, seeking to counter the oppressive nature of domestic violence.

### *III. Deliver Me: From Ascribing Autonomy to Prescribing Jail Time*

Returning to the harm reduction case, I will remain preoccupied with the appropriate role of the state, in particular law enforcement arms of the state, in our lives, assuming that fostering autonomy remains a goal. The move to institute mandatory sentencing laws in Canada was met with much disparagement by users and advocates, whose critiques often highlighted the failure of similar policies to reduce drug use and drug availability in the United States, coupled with the exponential growth of prison populations that such policies helped to produce south of the border. A briefing paper issued by the Canadian HIV/AIDS Legal Network provides a host of information explaining why mandatory minimum sentencing runs counter to human rights claims and health-related evidence.<sup>350</sup> Nevertheless, it is relevant to note that despite wholeheartedly condemning this type of policy direction, the Network suggests alternative strategies that themselves call upon the state to engage in autonomy-fostering (though the term is not used) practices. The paper states, “Canada needs a new approach to drug policy.”<sup>351</sup> Such an approach would include “strategies to reduce harms such as HIV both to individuals who use drugs and to communities affected by drugs, as well as expanded access to

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<sup>350</sup>Canadian HIV/AIDS Legal Network, "Mandatory Minimum Sentences for Drug Offences: Why Everyone Loses," (Toronto: 2006).

<sup>351</sup>*Ibid.*, 5.

humane and human-rights-based addiction treatment.”<sup>352</sup> It is not that the state as a whole is incapable of fostering autonomy; rather, it should shift its focus. Increased incarceration for nonviolent drug crimes results in drastic constraints of autonomy, while also explicitly failing to provide the resources to develop this capacity – for example addiction treatment or harm reduction services – and the space within which one may be recognized as autonomy, i.e. allowed to claim such a status. But service delivery does not have to be this way.

As Joe Soss study compellingly shows, “welfare programs are important sites of adult political learning.”<sup>353</sup> As citizens, our experience of service delivery teaches us the limits and possibilities of state-citizen relationships, which must also shape our sense of membership in the community and ensuing ability to participate in political and social life. Increased incarceration for predetermined periods of time is clearly a dismal ground upon which autonomy can be fostered. In contrast, the example of VANDU (Vancouver Area Network for Drug Users) points in the opposite direction, creating the grounds upon which a multifaceted form of recognition can serve the important purpose of ascribing autonomy to service users and the experience of participating in service delivery can be a site for the development of enabling capacities. On Soss’s account, the welfare system is where the poor are able to make claims on the state’s ability both to punish and protect – and, I would add, its ability to provide the resources necessary to foster autonomy. Moreover, people who use drugs will frequently have some kind of interaction with the state, whether it is through the criminal justice system or through other social services; noninvolvement with the state is not often an option.

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<sup>352</sup>Ibid.

<sup>353</sup> Joe Soss, *Unwanted Claims: The Politics of Participation in the U.S. Welfare System* (Ann Arbor: University of Michigan Press, 2000), 159.

We can take these two claims – the system as a site of claimsmaking and the near inevitability of some use of services – as pointing to the fact that service delivery relationships are not “pre-political.”<sup>354</sup> Recipients interpret their experience with the system on their own terms, or those terms relevant to their particular contexts. All of this paints a dreary picture of the effects of mandatory sentencing, yet it also draws our attention to the vast possibilities for alternative forms of service delivery. It is not just that an alternative model of drug policy (be it harm reduction or another tack) would be more just or more effective (on whatever terms we choose), but that once we recognize service delivery as a *potentially* pivotal site for enabling autonomy – and always a site for having some effect on autonomy, be it enabling or constraining – we can engage in the political and rhetorical struggles necessary to bring about the policy changes necessary for such fruitful state-citizen relationships to form.

#### *IV. Struggling for Autonomy*

Given the cases I examined in the preceding chapters, and these recent developments, perhaps the main “battlegrounds” for such struggles can be found two categories: stigma and oppression. These two devastating configurations of social relations can be mapped onto the two notions of autonomy that I have relied upon, throughout: ascriptive and capacity-related autonomy. The stigma associated with being an addict, a welfare mother, a survivor of domestic violence<sup>355</sup> – all of these categories give way to certain assumptions in our society that are related to our conceptions of

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<sup>354</sup> Ibid., 198.

<sup>355</sup> I think the domestic violence example is somewhat different than the other two, but nevertheless, despite the publicization of domestic violence, there remains a shamefulness associated with battering, especially when the survivor is seen as somehow violating her duties as a caregiver by taking action against her partner, the batterer.

dependence as pathological or blameworthy. Moreover, the constraints imposed by social and political relations that subordinate certain groups or individuals, often those already stigmatized as (feminized) dependents, and perpetuate relationships of domination often generate life circumstances that result in increased dependence, often on the state. Such oppression, then, is often connected to our societal disdain for dependence.

The theory of an autonomy-fostering state that I have outlined in this dissertation is a hopeful response to the crushing effects of stigma and oppression. The theory begins with a rejection of the conflation of independence and autonomy – a conflation that compounds the negative perception of dependency. This rejection generates a particular way of thinking about service delivery, one that views state-citizen relationships in this context as a possible site of empowerment and autonomy fostering, provides adequate resources, and treats service users in accordance with this way of thinking. Such a mode of service delivery would be enabling, rather than oppressive. The interplay between the initial assertion that autonomy and independence are not the same thing, nor is the latter required for the former, and the development of services in accordance with this assertion is something like the relationship between ascriptive autonomy and the capacity for autonomy. In the same way that the ascription of autonomy itself may foster the capacity for autonomy – insofar as the experience of being recognized as an autonomous agent may lead us to cultivate the personal resources we need to act autonomously – the delivery of services in a way that reflects a non-stigmatizing approach to dependence and that seeks to promote autonomy may create the conditions for the broader society to recognize service users as fellow citizens, as potentially autonomous individuals.

Moreover, as the this recognition occurs, the stigma related to dependence, which is both produces and is a byproduct of oppression, may dissipate.

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