Autonomy, self-rule and decision-making capacity:
A Spinozistic view

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Preamble

- Autonomy has a central place in contemporary ethics, but there is considerable debate about what it is and why is valuable

- Key questions include: What information does a person need to make an autonomous decision? How should the information be presented? How is a person's ability to make autonomous decisions affected by illness or impairment

- It is often noted that autonomy means 'self-rule' or 'legislating for oneself' (autos=self; nomos=law), but this is only useful if we have a conception of the self, and what self-legislating involves

- A theory of autonomy should be able to say something useful about these questions

The 'standard view' of autonomy

- I suggest that in most ethical debate, autonomous choice is broadly conceived as the exercise of certain cognitive process in conditions free from 'internal' or 'external' controlling influences.

- Rebecca Walker described this as a 'black box' view, meaning that it does not rest on any positive theory of autonomy (Walker, R. L. 2008).

- I suggest a view of autonomy is implied, or perhaps entailed. I will explain this shortly.

Capacity Assessment

Capacity assessments should be tracking autonomy. The standard approach to the assessment of decision-making capacity focuses on certain cognitive processes. It requires clinicians to assess whether the patient is able to:

- Understand the nature and purpose of a particular decision and appreciate its significance for them
- Retain relevant, essential information for the time required to make the decision
- Use or weigh the relevant information as part of the reasoning process of making the decision and to consider the consequences of the possible options
- Communicate their decision

(See e,g. 'Assessment of Mental Capacity', edited by Alison Douglas, Greg Young and John McMillan)

The irrelevance of outcomes (on the standard view)

There is debate about whether a capacity assessment should consider the outcome of a decision that a person is making. The general consensus (at least in the literature) is that it should not.

"A dominant view … is that determinations of competency must be based solely on "internal" factors relating to the quality of the decision-making process itself. Quality here is based on widely accepted epistemic virtues: understanding the short- and long-term implications of various courses of action, updating one's beliefs in accordance with the evidence, thinking logically, being able to provide relevant reasons to justify one's choices, and so on. By contrast, "external" factors such as the actual output of the decision-making process—should not be used to deem a patient incompetent."

Earp, Brian D., Joanna Demaree-Cotton, and Julian Savulescu. 2022. "Against Externalism in Capacity Assessment—Why Apparently Harmful Treatment Refusals Should Not Be Decisive for Finding Patients Incompetent." *The American Journal of Bioethics* 22 (10): 65–70.

Autonomy as rational self-reflection

The theories of autonomy that fit best with this cognitivist, procedural view of autonomy and the standard approach to capacity tests are the influential 'hierarchical' theories independently put forward by Harry Frankfurt and Gerald Dworkin. On their view, the possibility of autonomy lies in a person's ability to revise their first-order desires and direct their behaviour in accordance with their higher preferences. For example, Dworkin describes autonomy as follows:

'... a second-order capacity of persons to reflect critically upon their first-order preferences, desires, wishes and so forth and the capacity to accept or attempt to change these in light of higher-order preferences and values. By exercising such a capacity, persons define their nature, give meaning and coherence to their lives, and take responsibility for the kind of person they are.'

Dworkin, Gerald. 1988. The Theory and Practice of Autonomy. Cambridge Studies in Philosophy. Cambridge ; New York: Cambridge University Press. Page 20.

On this view, the autonomous self seems no-more than a two-tiered awareness

The previous quote from Dworkin might suggest that the 'self' is somehow constituted in the set of higher order preferences or values, and that the self-legislating occurs as the higher order 'governs' the lower order (*ala* Korsgaard). This may in turn suggest that being autonomous involves being 'authentic', i.e. choosing to act in ways that are consistent with the higher order values. This is not Dworkin's view.

Dworkin states that an autonomous person must be able to either change their higher order preferences and values, or simply decide to act in ways that are contrary to them (i.e. act badly). (See Dworkin pages 15-16)

This makes is unclear what role the 'second-order preferences and values' have: what light do they shed? It also leaves the question of what the self is unresolved.

A Spinozistic view of the self, and how we can be free

Benedict Spinoza, 1632 - 1677

Spinoza's ontological system

The standard view of autonomy traces back at least to Descartes, and conception of reality as composed of mind and matter.

Spinoza's conceives the totality of existence as the actualisation of infinite, indivisible power, and mind and body as two aspects of the same thing. Everything that exists is active in some way, and acts according to the power that it has. Things increase in their power-of-acting as they are joined with other things, and the more things that it can adapt to the greater it's range of acting.

Spinoza does not refer to autonomy, but says a lot about freedom. He defines freedom in this way:

"That thing is called free which exists from the necessity of its nature alone, and is determined to act by itself alone." (E1d7, see also Ep. 58 | G IV/265/22–25). (for discussion, see Gatens)

We become more active, more free, more ourselves, through knowledge, and the ordering of our bodily life.

A Spinozistic conception of the self

Briefly stated: an individual is a finite determination of infinite power, whose nature is determined by the interaction of other agencies. For persons, this is an intricate physical, social, and semiotic environment.

From the perspective of the 'whole' (*sub specie aeternitatis*), a person's nature includes everything that is actualised in, through and by that person across their whole existence, along with everything that has made their existence possible, and everything that they have affected. A complete description of a person's nature is impossible, because we do not have this perspective.

The power by which we are active is what we are, i.e. the basis of the 'self'. As Spinoza put it:

'the striving [conatus] by which each thing strives to persevere in it's being is nothing but the actual essence of the thing' (Ethics, P III, P7)

We 'strive' because our power is limited. Human agency routinely involves the need to exert energy to make things happen.

The affective basis of self-knowledge

We come to know ourselves primarily through our 'affects' – the feelings that arise in our minds as we interact with other things We feel joy when we perceive our power of acting to be increasing, and sadness when we perceive it to be decreasing. These vary according to the kind of change that is occurring, and how they relate to the whole.

As all our activity involves interaction with other, we assess how other things affect us – whether they 'agree with our nature'. We feel positively towards those that enhance our activity, and negatively towards that which decreases it – this determines what we like and dislike, love and hate.

The ground of value
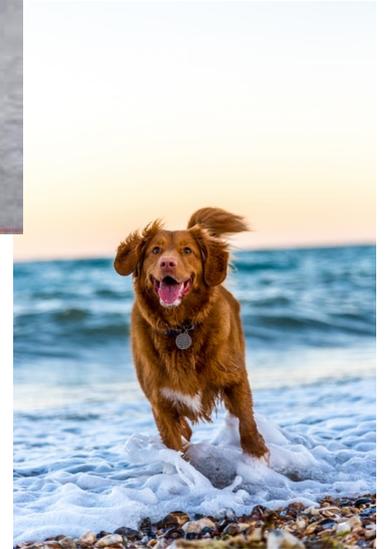
Effective agency is known 'in the doing'. Free action is innately enjoyable: it is simply valued. It occurs when there is agreement between our activity and our environment (hence it has active and receptive aspects)

- Spinoza's describes the knowledge and enjoyment of being as the third kind of knowledge ('*scientia intuitiva*').

- We all have this knowledge, by degrees. Hence, "what do you enjoy doing" is a key question in find out who are person is.

General knowledge, principles and values

From the ways that we are affected, we develop general knowledge that enables us to negotiate complex physical and social relations, which in turn empower further activity. Spinoza referred to this as *ratio*, or 'the second kind of knowledge'. It is knowledge of what things have in common (Ethics, P II, prop. 37)

For example, we learn what is good to eat, what is painful, how people react, what we needed to achieve certain tasks, and so on.

We depend on this knowledge to continue in our activity, and so describe ourselves both in terms of how we are affected, and by the principles that we live by (*c.f.* Practical Identity)

The two-tiers of self-reflection revisited

We all have knowledge of who we are, but it is not the actuality. It is our idea of who we are.

Exercising their capacity for rational self-reflection, i.e. considering impulses in the light of 'higher order preference and values' (what Dworkin calls autonomy) enables a person to 'define their nature, give meaning and coherence to their lives, and take responsibility for the kind of person they are', because it generates self-knowledge, and creates the possibility of ordering the forces active in and through their body, and thereby sustaining or increasing their power-of-acting.

Some implications

On this understanding of autonomy:

- Respect for autonomy includes encouraging a person to make choices that will increase joyful activity, and that maintain or restore supportive relations. It does not mean being neutral about the outcomes of a decision.

- Respect for autonomy will almost always mean working with and from the self-conception that the person has. In most cases overriding a person's decisions will be bad, because it reduces their power-of-acting. A major reason is that it destroys their trust in the people that they need to help them.

Implications for capacity assessment

- 'Understanding, retaining, and using information' in an abstract sense does not make a person free. These faculties need to be based in a conception of oneself (which the person may be more-or-less conscious of).

- This means the output does matter, relative to the person's understanding of themselves.

- When a person makes a decision on the basis of an unstable or broken self-conception there is more chance that overriding their decision will help them recover agency. In other words there is more reason to say they are unable to make the decision in question.

— Compare a person refusing a blood transfusion because they are a Jehovah's Witness, to a person refusing a blood transfusion because they believe their 'blood is evil', as in NHS Trust v T (adult patient: refusal of medical treatment): FD 28 May 2004

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