

Part 1B Paper 7:
Political Philosophy / Liberty
4. Paternalism

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Overview of the lectures

1. Negative and positive liberty
2. The paradox of positive liberty, the problem with negative liberty
3. Autonomy
4. Paternalism

Readings

- Stanford Encyclopedia of Philosophy entries.
- DWORKIN, G.(1988) *The Theory and Practice of Autonomy*, Cambridge University Press [Especially ch. 8]
- Dworkin, G. (1972) 'Paternalism', *The Monist*, 56:64-84, reprinted in *Mill's on Liberty: Critical Essays*.

Summary

1. Summary of liberty and autonomy
2. Paternalism
3. Does paternalism violate liberty or autonomy?
4. Hard and soft paternalism
5. Is paternalism ever justified?

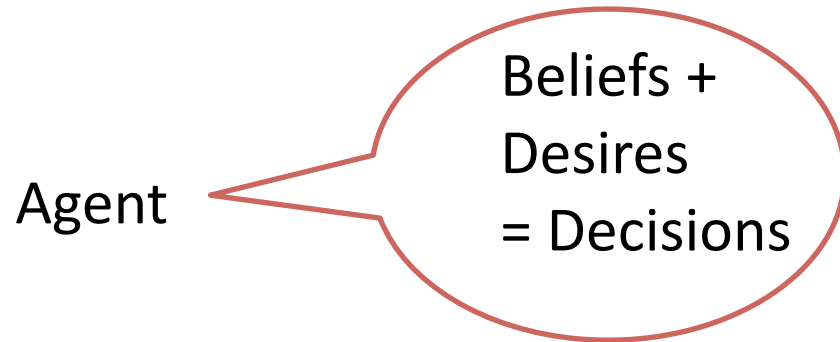
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1. A summary of liberty and autonomy

Beliefs +
Desires
= Decisions

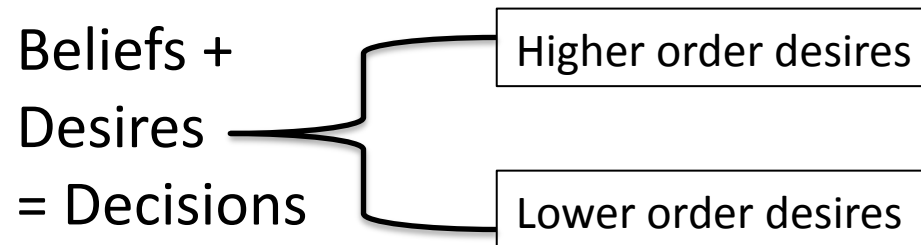
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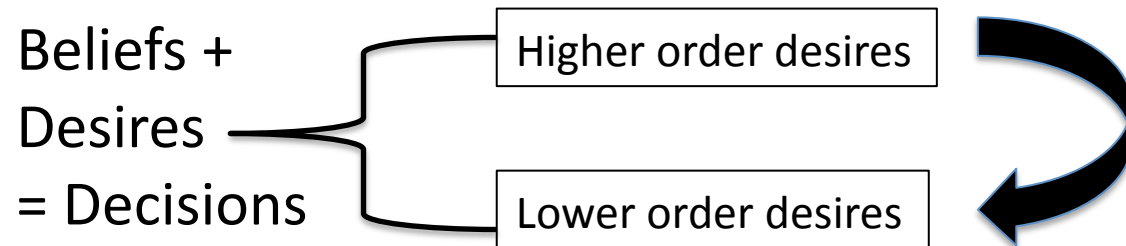
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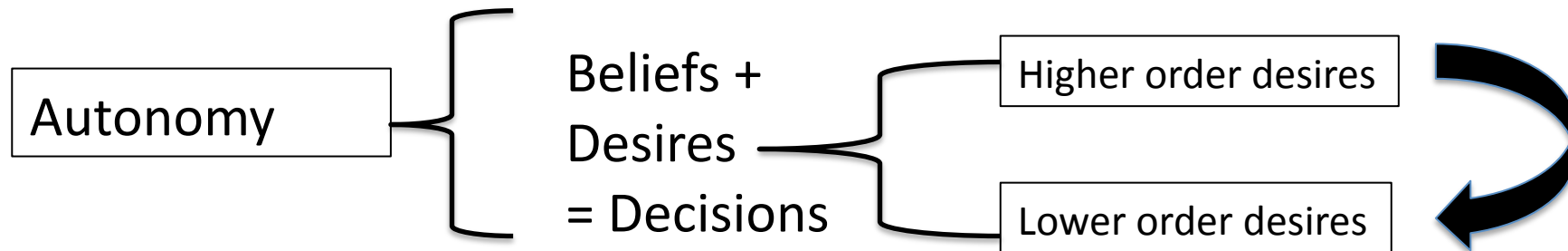
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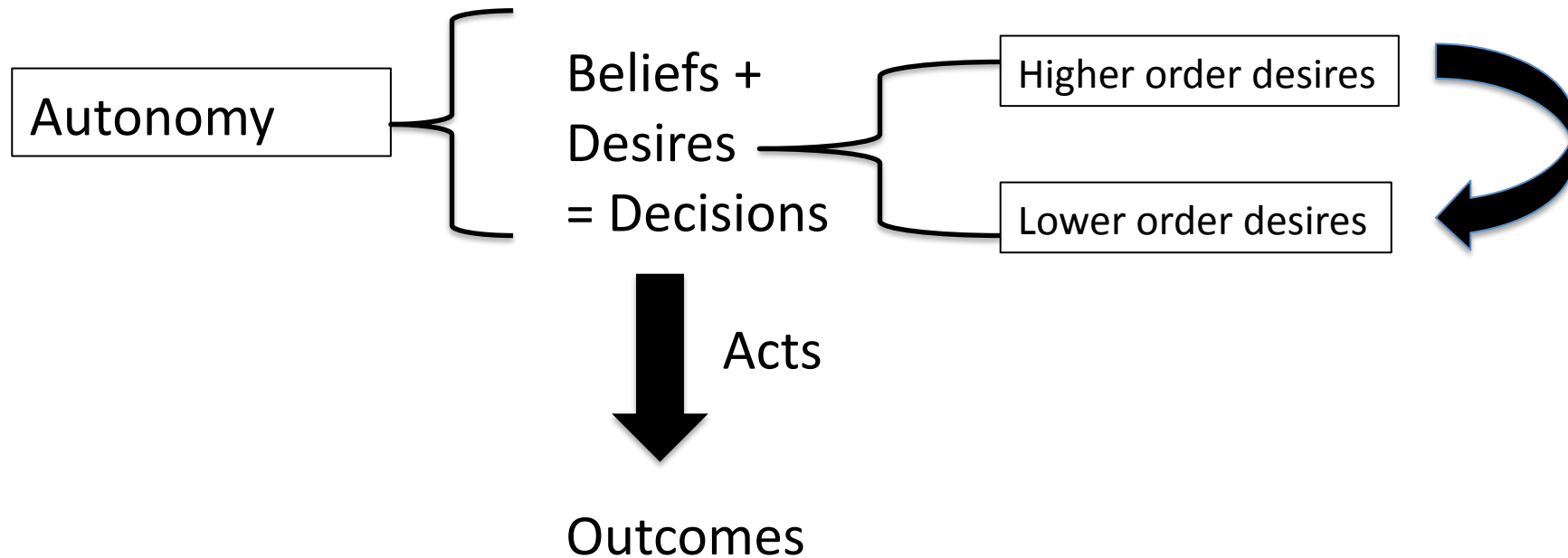
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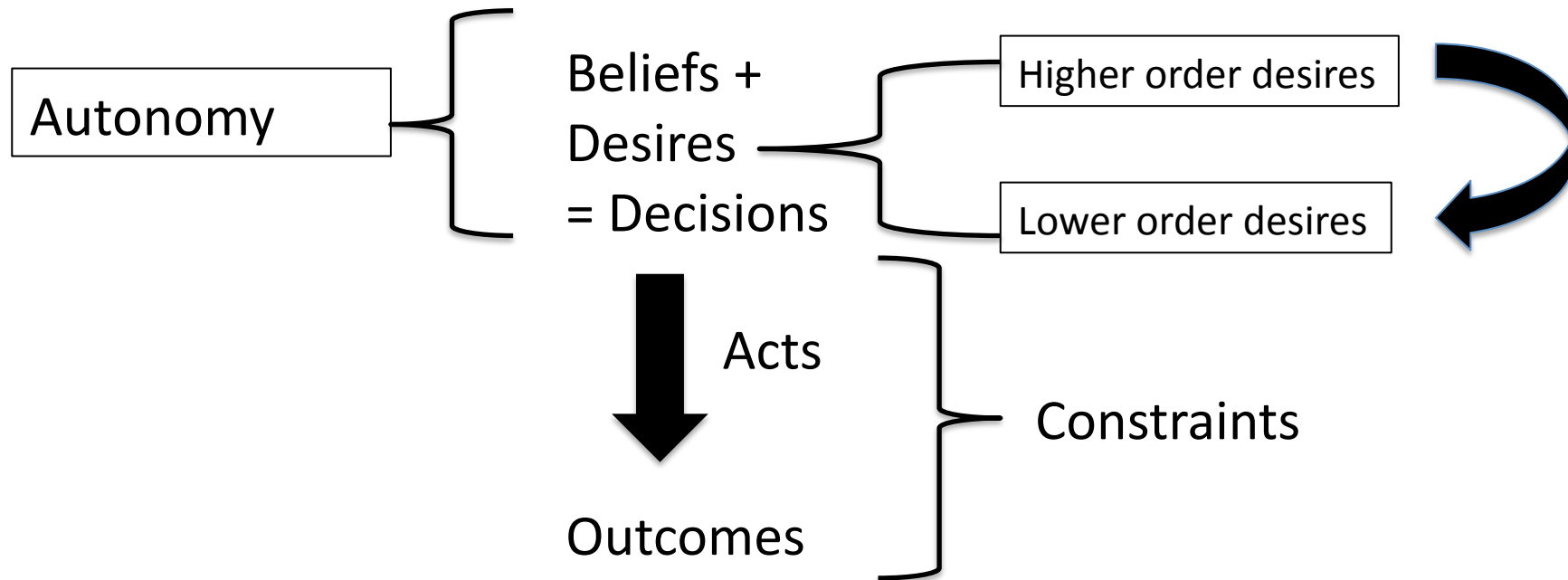
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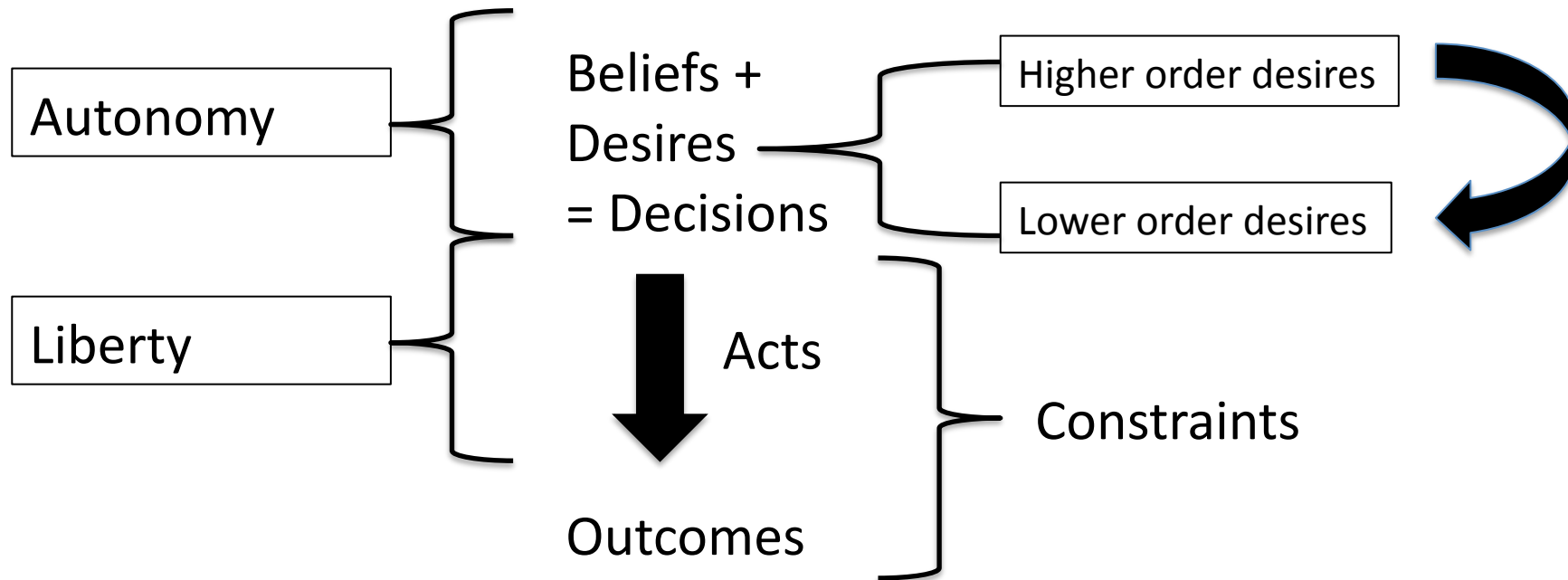
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1. A summary of liberty and autonomy

Liberty/Freedom

“Such freedom is thus always **of** something (an agent or agents), **from** something, **to** do, not do, become, or not become something; it is a triadic relation.” [MacCallum, 1967, p.314]

1. A summary of liberty and autonomy

Autonomy

“...autonomy is conceived of as 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.” [Dworkin, 1988, p.20]

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2. Paternalism

Paternalism is the **interference** of a state or an individual with another person, **against their will**, and defended or motivated [solely?] by a claim that the person interfered with will be **better off** or protected from harm. [SEP]

2. Paternalism

- Three necessary and jointly sufficient conditions:
 - 1) a violation of autonomy (or freedom?)
 - 2) a lack of consent
 - 3) [solely?] for the benefit of the individual concerned

2. Paternalism

- Possible examples:
 - Health warnings on cigarettes
 - Opt-out pension schemes
 - Drunk driving laws
 - Seatbelt laws

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3. Does paternalism violate liberty or autonomy?

- Dworkin (1988) p.123

“There must be a violation of a person’s autonomy (which I conceive as a distinct notion from that of liberty) for one to treat another paternalistically. There must be a usurpation of decision making, either by preventing people from doing what they decided or by interfering with the way in which they arrive at decisions...”

3. Does paternalism violate liberty or autonomy?

- Dworkin (1988) p.123

“...What we must ascertain in each case [of possible paternalism] is whether the act in question constitutes an attempt to substitute one person’s judgment for another’s, to promote the latter’s benefit.”

- *That* is why paternalism violates autonomy.
- Autonomy is central notions of moral equality

3. Does paternalism violate liberty or autonomy?

- There can be liberty without autonomy and autonomy without liberty

| | Free | Not free |
|----------------|-------------------------|--|
| Autonomous | E.g. Going to Cambridge | E.g. Odysseus (global view) |
| Not autonomous | E.g. Unlocked cell | E.g. Locked in your room and told the trains are not running |

- Paternalism is necessarily a violation of autonomy. Paternalism may or may not be a violation of liberty/ freedom.

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4. Hard and soft paternalism

Soft paternalism

In cases where we have good reason to believe that someone is not sufficiently capable or competent then it is sometimes permissible to interfere against their will for the benefit of that person.

4. Hard and soft paternalism

- Examples of deficiencies that might warrant paternalism:
 - Lack of relevant knowledge
 - Lack of control e.g. emotional distress, grief...
 - Lack of rationality
 - Undue influence

4. Hard and soft paternalism

Hard paternalism

It is sometimes permissible to interfere with someone against their will for the benefit of that person [whether or not they are deemed sufficiently capable or competent].

4. Hard and soft paternalism

- Both Hard and Soft paternalism disregard the autonomy of agents.
 - Hard paternalism regards an agent's decisions as irrelevant.
 - Soft paternalism assumes agents lack autonomy because they lack the capacity for self reflection.
- In some cases, paternalistic interventions can enhance (global) autonomy e.g. preventing voluntary slavery
- But paternalistic interventions run the risk of the paradox of positive freedom e.g. cycle helmets

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5. Is paternalism ever justified?

- Three problems for soft paternalism (Dworkin)
 1. Safety cases e.g. seatbelt laws.
 - Free-riding off the medical care of others.
 - Minor inconvenience to person outweighs the gain i.e. really hard paternalistic cases
 2. Collective decisions e.g. fluoride in the water
 - Major majority interest outweighs minority inconvenience (not paternalistic)
 3. Slavery cases
 - Nothing to stop such cases. But refusing to enforce contracts does not amount to a violation of liberty.
 - Preventing slavery enhances (long term) autonomy. But what about those who want to exercise their autonomy in this way (e.g. monks)?
 - Safety – most people don't want to be slaves. Therefore err on the side of caution by banning the practice.

Next week...

No lecture.