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**Conducted by
Liam Murphy and Samuel Scheffler**

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**Paper: Action as Co-Production:
Defending A Constructivist Theory of Action**



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Action as Co-Production: Defending A Constructivist Theory of Action

Introduction

From various areas in moral, political, and social philosophy the concept of a social practice is used for a variety of purposes. The concept of social practice provides a way of establishing the objectivity of some domain while avoiding some of the metaphysical commitments of more substantive accounts of that domain that are viewed suspiciously by some philosophers: whether the objectivity of discourse and mental states acts like Kukla and Lance, of social practices like Sally Haslanger, normative moral objectivity like John Rawls, or social structures like Iris Marion Young.¹

The practice theory of freedom understands freedom as the result of the kind of participation in social practices that comes alongside being held subject to the practices' norms of responsibility. If this view is correct, then what helps ground our responsibility to more definite domains of activity like conventions, norms, activities is a thin sense in which all of these participate in a more general practice of freedom.² Robert Brandom famously notices the tight connection between our participation in community-constituting norms and practices and freedom: being freedom is a "social rather than an objective difference" since what matters is being taken to be subject to the norms of a practice. But this invites the question of how to describe our participation in and responsibility to those practices for which participation is forced, and those participants who practically contribute to realms of practice without being regarded as full contributing members of a community.

This problem has been famously raised by Charles Mills but its implications for metaethics have been underappreciated. Charles Mills writes: "In this world it would be quite wrong to assume that the ideal Enlightenment Kantian social ontology...was the norm, with a few unfortunate deviations. Rather, the opposite was the case. The norm was the routine restriction of full personhood to whites, and the consignment of nonwhites to a subordinate moral status.... Simply put: one set of rules for whites, another for nonwhites. All persons are equal, but only white males are persons."³

We think that there is an important parallel point concerning the pragmatist conception of free action. Abstraction from material and structural constraints and relationships fails to account for real-world barriers to acting freely that undermine the constructivist's preferred description of individual rational action as self-legislation. If freedom depends on participating in concrete,

¹ Haslanger, "What Is a (Social) Structural Explanation?"; Rawls, *Justice as Fairness: A Restatement*; Young, "Five Faces of Oppression"; Kukla and Lance, "Yo!'and'Lo!": *The Pragmatic Topography of the Space of Reasons*.

² Brandom, "Freedom and Constraint by Norms," 192.

³ Mills, *Blackness Visible: Essays on Philosophy and Race*, 70.

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historically determined practices of rational agency, systemic constraints would seem to potentially undermine this freedom.

Consider Nelfreed McKay: a 34-year-old server in Manhattan facing a stark—and increasingly common—reality.⁴ Despite working a full-time job where he earns \$18.50 per hour plus tips, he was recently forced to move out of his apartment because he could no longer afford the rent. With nowhere else to go, he began sleeping in Central Park at night after his shifts. He is now trying to save up enough money to cover the cost of a new place to live—skipping meals and working overtime in the hopes of finally being able to put a roof over his head. "There are times when you get so tired of it," McKay says. "You want to snack on something, but it's like, 'No, I can't afford that right now.' I need to save up this money for what I really want: to sleep in a bed again."

McKay's decision to skip meals in order to save money for a permanent place to live is, on many accounts of freedom, a paradigm example of free action. This is particularly clear for Kantian accounts of freedom: by suppressing his immediate inclinations in the service of a higher end, McKay's actions seem to exhibit a "freedom of willing" in a Kantian sense. Even under the "external unfreedom" of difficult circumstances or relationships, he retains the ability to act on principle, which may involve restraining or acting contrary to inclinations, desires, or personal preferences.⁵

But many other views of freedom and agency attempt to ground moral responsibility by linking their conceptions of both to a contrast between "merely" animalistic desires or preferences and some further capacity for higher order control and practical reasoning. Thus, similarly to the Kantian accounts higher order desire views or "deep self" views of agency would hold that McKay's actions are characteristically agential in that they demonstrate his ability to govern his actions according to deeply held cares and concerns, even given potentially incompatible short term impulses and wants⁶. Yet, McKay's situation raises a critical question: Is he truly free?

In 1958, Carolina Maria de Jesus faced a similar situation. She lived as a single mother in the Caninde favela (slum) of Sao Paulo, where she survived and supported her children Vera and Jose Carlos by building a shanty out of scrap metal and fishing through trash for food to eat and recyclable scrap metal to sell. She wrote:

"Today is a nice day for me, it's the anniversary of the Abolition. The day we celebrate the freeing of the slaves...It rained and got colder. Winter had arrived and in winter people eat more. Vera asked for food, and I didn't have any. It was the same old show. I had two cruzeiros [cents] and wanted to buy a little flour to make a virado [food platter]. I went to ask Dona Alice for a little pork. She gave me pork and rice. It was 9 at night when we ate.

⁴ Bhattacharai, "More of America's Homeless Are Clocking into Jobs Each Day."

⁵ Zimmermann, "Kant on 'Practical Freedom' and Its Transcendental Possibility," 92.

⁶ For examples in this vein, see: Fischer and Ravizza, *Responsibility and Control: A Theory of Moral Responsibility*; Frankfurt, "Alternate Possibilities and Moral Responsibility"; Sripada, "Free Will and the Construction of Options."

And that is the way on May 13, 1958 I fought against the real slavery—hunger!”⁷

De Jesus differs from McKay in that she is pursuing food rather than forgoing it. Nevertheless, she likewise exhibits the features of characteristically free action. She doesn't just acquire food in response to her own body's hunger pangs, but collects food for her entire family. No one directs her or coerces her to respond to her hunger in any particular way - she chooses to beg Dona Alice rather than some other neighbor for food, in response to reasoning about her goals in the context of her various relationships. Nevertheless, de Jesus nevertheless describes her uncoerced actions on that day as slavery, the ultimate unfreedom. She takes herself to be unfree not because she does not choose the particular decisions she makes, but by reflecting on the social and economic conditions that forces her to make them - as she puts it, the “cost of living”. She decides who to beg and where to dumpster dive, but feels her participation in both activities to be forced and thus unfree.

Are McKay and de Jesus acting freely? Both clearly meet a thin conception of rational freedom: they exert control over their actions, and are making choices that reflect their values and principles. However, there is a clear sense in which McKay and de Jesus are unfree in these situations. Intuitively, the choice to beg from one's neighbors or skip meals to save money for rent are hardly emblematic of the kinds of choices that we typically imagine when we construe free acts as expressions of moral freedom or of one's deeply held moral commitments. The political circumstances that determine the potential objects of their rational choice, however, reveal dynamics that de Jesus in particular describes as “slavery”, the furthest thing from freedom.

Differences notwithstanding, a pragmatist theory of action that views action as in some substantive way constituted by social practices underlies recent work in neo-Kantian, neo-pragmatist, and critical social theoretical traditions. Whereas this commitment is typically developed in the service of other theoretical aims, Tamar Schapiro's “Three Conceptions of Action” involves an unusually explicit articulation of this commitment from a neo-Kantian perspective. But Schapiro characterizes the most fully general version of the social practice that structure and constitutes rational action as the practice of freedom.

To draw out the implications of the challenge for pragmatist theories represented by McKay and de Jesus, we will focus on the one developed by Tamar Schapiro, since Schapiro's is one of the few that distinguish at all between the scale of moves made in a practice and the conditions of participation of practice. Further, her view makes explicit the connection between action and social practices by construing freedom as a practical world, and thus construing free action as participation in this world of activity. By pursuing this criticism we hope to be able to repurpose the constructivist insights to produce a form of constructivism that can better meet the practical challenges posed by the actual world as we find it, rather than a hypothetical ideal world of freedom.

⁷ Jesus, *Child of the Dark: The Diary of Carolina Maria de Jesus*, 33–34.

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Following Schapiro, we conceive of the possibility of free action in the world as determined by participation in a social context of action. Like all practice theories, her approach to describing action offers an alternative framework that avoids some of the well known problems with metaphysical accounts of action and freedom by incorporating elements of a political conception of freedom. But it is also clear from her view that attempts to reconcile the abstract practice based theories of freedom with the realities of given political structures would introduce complications that have so far gone undertheorized. A central insight of Mills' work exploits exactly this vulnerability, and points convincingly to the possibility that the ability to participate in the practice of freedom would require an actual collective historical achievement, not merely a hypothetical historical achievement or an actual intellectual one by an individual. We intend to thereby motivate an alternative view of action that builds off Mills' and Schapiro's insights that we call "action as co-production".

Section 1: Action as Participation

1.1 Schapiro on Practices

In "Three Conceptions of Action in Moral Theory", Tamar Schapiro provides a clear, helpful account of how the role of social practices shapes the Kantian constructivist view of the relationship between value and freedom. She argues for an interpretation of Kantian moral philosophy on which freedom is at once a capacity, a world, and a practice - and that our individual freedom as rational agents can be understood as participation in the larger social practice of freedom. This allows her to argue in favor of a distinctly Kantian view on the question of how to characterize the relation between the world and the agent who strives to act in it is.⁸

On Schapiro's view, theories of action can be understood as attempts to simultaneously characterize the world as a context of action, and explain in what sense an agent's moves in that context make a difference. Action, according to Schapiro, having both a "causal" and "reflexive" element, and existing theories of action have mistakenly identified action with one or the other.

The utilitarian view on action, which she follows Korsgaard in terming "action as production", identifies action with its causal element only: an act simply is what it does.⁹ Agents are considered as causal entities able to make their mark on states of affairs by altering them in a recognizable way, and both a description and evaluation of those changes bottoms out in description and evaluation of the changes themselves.

Such a view neglects an important "reflexive element" of action that goes beyond this.¹⁰ On this second "action as assertion" view, action is equated with what it says. The difference agents

⁸ Schapiro, "Three Conceptions of Action in Moral Theory," 93.

⁹ Schapiro, "Three Conceptions of Action in Moral Theory"; Korsgaard, "From Duty and for the Sake of the Noble: Kant and Aristotle on Morally Good Action."

¹⁰ Schapiro, "Three Conceptions of Action in Moral Theory," 98.

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make when they act reflects and expresses the values and ends of the agents, and this plays an essential role both in the description and evaluation of what the agent has done.¹¹ One of the important things expressed by at least some of an agent's actions is how they demonstrate regard for other agents. This casts the world as a context of action in a particular way: as realm of status situating themselves in relation to other agents, which involves recognition of normative patterns of relation that agents accede, challenge, and constitute by way of their actions.¹²

Schapiro argues that by conceiving of the agents as participants in an interpersonal order, the Kantian view offers a way to unite these two views of action, resolving an illusory tension between them. Specifically, what the Kantian picture adds is a particular strategy for relating our actions to the interpersonal order of status, thereby providing a commitment about what that interpersonal order amounts to. This connection, according to Schapiro, is achieved through the explanatory role of maxims.

For Schapiro, Kantian maxims are law-like principles stemming from an agent's reflective self-awareness of the relation of their particular activity to a larger universe of causal activity. An agent with this awareness of her own role in this activity acts as a legislator: purporting to act in a way that would be intelligible as following a universally applicable law of human conduct. An agent so-governed does not simply will her own ends when she acts to pursue them, but legislates: she is to see herself "as constituting, rather than "tracking," an order of status relations within which we must ourselves must act".¹³ This helps establish the intelligible world as a domain of efficacy for an agent - a world in which they make an identifiable difference by sustaining the practice that retains the value they act in service of - thus identifying acts with their consequences, though in a more robust manner than the utilitarian.

The notion of a practice helps unite the causal and reflective elements, while also explaining how these contribute to a systematic order that agents share. To explain this, Schapiro appeals to the famous discussion of practices given by John Rawls in "Two Concepts of Rules". The rules of baseball constrain the actions of players, but also constitute them - the fact that the rules of baseball are in effect is necessary to explain why some throwing of a ball or swings of a bat count as "strikes" or "base hits". Players who make moves in the practice of baseball are making constructive use of the powers and capacities—such as throwing strikes and hitting runs—brought into being by accepting the constraints of the game's rules and also changing the results of the game through their actions within it. These in turn correspond to the causal and reflexive elements of action that the Kantian view aims to unite.

In just this way, Schapiro proposes, free actions are moves made in a sensible and supersensible world of free persons. As physical beings we have the "empirical power" to change the facts of the matter - to make a difference in the sense that matches the causal element of action. But by "subjecting yourself" to the practice of freedom and assuming one's

¹¹ Schapiro, "Three Conceptions of Action in Moral Theory," 96–97.

¹² Schapiro, "Three Conceptions of Action in Moral Theory," 97.

¹³ Schapiro, "Three Conceptions of Action in Moral Theory," 99.

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role as a participant in it, one thereby acquires the “power of freedom, a power to affect the world in a way that only an agent can.”¹⁴ That power is an “authorial power” to “make things count”: by sharing with others in “the collective power to uphold or to undermine the normative structure of the world (regarded as a context of action) simply by willing in accordance with that necessity.”¹⁵

If freedom is a practice, then we can understand our actions as moves within it, in the way that throwing a ball in the right way becomes the “pitching a strike” in the right context of action. Freedom is a “world” because it is the practice that encompasses all of the other practices that we might participate in, and structures all of their rules. Thus, this view of action brings together our freedom to decide on the world’s normative structure, to choose actions, and as a zone of activity: as Schapiro puts it, as “a law, as a capacity, and as a world”, noting further that “Kant does not present these as separate concepts”.¹⁶

1.2 A central problem with Schapiro’s view: forced participation

But this clarity about the Kantian constructivist project also clarifies the problem faced by its adherents: if freedom is a practice, then an agent can only act freely if the agent is participating in this practice. Yet it is clear that participating in the global practice of freedom is not required to participate in practices in general. To see this, consider the following case.

Forced Chess: Clotel and Paul live in a slave society. Clotel is a brilliant, enslaved chess player who is owned by Paul, a chess enthusiast who is obsessed with finding challenging opponents. Paul routinely forces Clotel to play against him, and when he does, he insists that she play to the best of her ability and not go easy on him out of fear of retribution. Moreover, Clotel knows that he means it—his past behavior has made clear that he genuinely wants her to make whatever tactical decisions she thinks are best within the context of the game. Clotel is thus able to fully participate in these games as a player, making strategic decisions like castling or putting Paul in check in pursuit of the constitutive goal of the game: checkmate. But are the moves she makes free?

If it is even coherent to ask if Clotel acts freely in the chess game, it is because we are aware that the considerations that bear on winning a chess game are not the only ones that are relevant to evaluating freedom in the situation. Forced Chess demonstrates the contingency of the relationship between the global practice of freedom and local sub-practices: the unfree global practice of the slave society coexists with a local practice of chess, participation in which demonstrably does not depend on participation in a global practice of freedom like the one that Schapiro describes.

¹⁴ Schapiro, “Three Conceptions of Action in Moral Theory,” 109.

¹⁵ Schapiro, “Three Conceptions of Action in Moral Theory,” 111.

¹⁶ Schapiro, “Three Conceptions of Action in Moral Theory,” 107.

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The non-optionality of the constituent rules is not the defeating condition. A basic feature of the Rawlsian conception of a practice, which Schapiro relies on, is that participation in a practice takes the goals and objectives of the practice and its constituent roles as settled facts. A hitter can choose whether to swing for the fences or try for a bunt, but they cannot renegotiate whether or not the team with the most runs at the end of nine innings wins the game. Similarly, Clotel can decide which of her pieces to move, but not the rules that govern how many spaces each can traverse, or those that decide whether it is her turn or Paul's. In this sense, much of what is involved in even benign participation in a practice - playing baseball in a politically ideal world - is non-optional.

But the goal of the Kantian project can then be understood as an attempt to specify the conditions under which the non-optionality of the social practices is compatible with our autonomy - that is, conditions where we can understand ourselves as free despite being compelled by practical principles or laws. For Schapiro, this is the role played by freedom as a practice: everyone participates *as co-legislators* in the laws that structure social reality. Schapiro seems to think that it is possible for us to participate in a hypothetical practice of freedom, and thus that we are free insofar as we act as though we are participating in such a free practice. But we are certainly participating in many actual wide-scoping social practices: economic practices that distribute goods, services, and the wealth derived from both; social and political practices that distribute roles and responsibilities for aspects of our shared social life. These overlapping, global background facts about the larger social practices we participate in help characterize what we are doing in any of the constituent local practices, much in the way that the activity of holding people in slavery helps explain and constitute whatever happens in the chess match between Paul and Clotel.

Schapiro's view is thus incoherent as a view of participation. Schapiro takes it that "the law of freedom...simply requires us to make every movement *as if* [emphasis added] it were to count as a move in some possible global practice."¹⁷ But acting as if one is making a move in a possible practice is not the same as participating in a practice. As the Rawlsian account itself demonstrates, participation in a practice requires taking on the roles it assigns and its basic structure: one participates in the practice of baseball specifically, not the practice of any conceivable sport - a pitcher who tried to help their team win by applying a roundhouse kick to the batter would neither be succeeding at participating in either baseball nor at participating in a capoeira martial arts competition. We participate in actual practices, not merely possible ones, and become both bound and enabled by their contingent, historically-acquired features.

This brings us to a second problem with Schapiro's view. As *Forced Chess* shows, freedom within a specific local practice is not sufficient for freedom in a global practice. An account of freedom should be able to distinguish between free participation in a practice and forced participation in a practice. But by focusing on participation in a possible practice, Schapiro's account obscures the distinction between forced and free participation, since the agent's relationship to the actual practices she participates in does not feature in her account.

¹⁷ Schapiro, "Three Conceptions of Action in Moral Theory," 108.

Section 2: Freedom and the Boundary Condition

The Forced Chess example allows us to ask two linked questions of Schapiro's pragmatist theory of action. First: does everyone, *in fact*, share in the collective power to legislate the normative structure of the world. Secondly, if not, what are we participating in when we act in the context of these actual social practices, and not merely the possible world of freedom? Taken together, these two questions highlight that the question of what practices we can and do participate in must be answered by facts about the actual practices we participate in, as well as the social-historical context that bears on those practices.

Defenders of views like Schapiro's may be prepared to concede counterexamples like Forced Chess, given that the condition of slavery involves such a clear and persistent problem for free rational action. Here, slavery as an institution serves as a clear example of a global coercive arrangement that undermines the freedom of participation in any and all activities that fall under the scope of the institution.

The question from here is how and to what degree cases involving slavery are exceptional. De Jesus, for her part, seems to deny that slavery is a special case by applying it to her own circumstances. There are a set of social practices that explain the predicaments that McKay and de Jesus find themselves in: the markets for labor, housing, and food, and the political practices that they must participate in and that constrain (or fail to constrain) their stakes and consequences. McKay and de Jesus are clearly participating in these practices - they buy and sell things, and their lives are structured by what they can access by way of these practices. But are they legislators in them - as Schapiro would characterize participants in a practice of freedom?

We suggest not. In 1883, nearly twenty years after the conclusion of the US Civil War and the end of racialized chattel slavery in the United States, formerly enslaved activist and orator Frederick Douglass similarly denied that slavery was a special case in an address he gave to the National Convention of Colored Men. In a section of the speech called "The Labor Question", Douglass puts an argument for the unfreedom of sharecropping in stark terms, saying: "The man who has it in his power to say to a man you must work the land for me, for such wages as I choose to give, has a power of slavery as real, if not as complete, as he who compels toil over the lash."¹⁸

This is not a peculiarity of sharecropping as an economic relationship. In his seminal text *Capitalism and Slavery*, historian Eric Williams observed that the fight against protectionism in the British Parliament was justified in part by the use of chattel slavery in the West Indies: according to the economic opponents of these plantation owners,

¹⁸ Douglass, "Address of Hon. Fred. Douglass, Delivered before the National Convention of Colored Men, at Louisville, Ky., September 24, 1883."

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preference for West Indian sugar produced by chattel slaves supposedly meant support for unfreedom. But the treasurer of the Anti-Corn Law League claimed that the league was based on “the same righteous principle as the Anti-Slavery Society” explained the associated view of freedom as “free right for the Negroes to possess their own flesh and blood”, which meant “to exchange their labor for as much food as could be got for it” - a position that addresses paid work more broadly.¹⁹ But precisely this exchange - typically stylized as the exchange of “labor power” for “the means of subsistence” - is identified by Marx as the basic negotiating position between workers and capitalists under capitalism, and is treated by Marxists as a basis for characterizing waged work performed under capitalism as unfree “wage slavery”.²⁰ Many non-Marxist socialists and even anti-Marxists like Tolstoy have largely agreed on this point, whatever their broader theoretical disagreements.²¹

One route to motivating the stark descriptions of unfreedom beyond chattel slavery given by de Jesus, Douglass, and Marx goes by way of description of the actual larger scale social processes they participate in, rather than the hypothetical world of freedom. McKay and de Jesus live in subnational localities (New York City, Sao Paulo), states (Brazil, the US) as well as in overlapping local, national, and global economic networks. Each of these are domains of interaction, and within each of these are people making explicit rules and judgements that structure where the garbage find themselves priced out of reliable access to quality shelter and food, but they do not enjoy the status of co-legislator in the political processes that explain why being unemployed or underemployed means sleeping in a park or scrounging for food in a favela. It is this actual, unfree, imposed structure of life chances that McKay and de Jesus participate in when they beg neighbors for food and sleep in the park - not a “possible global practice” of collectively produced freedom.

Nevertheless, some pragmatists may argue that it is simply not possible for an agent to be treated as a participant in a practice without implicitly taking them to be free. A view like this is developed by Brandom in his account of freedom. Unlike Shapiro, Brandom conceives of freedom not in terms of the practices an agent participates in, but rather in terms of how an agent is treated within the context of a practice. Thus, for Brandom, the central question of freedom concerns how an agent is treated by the members of a community. Brandom argues that an agent is free insofar as the members of a community treat that agent as subject to the norms that define membership in the community. As Brandom puts it, “he is free insofar as he is one us” (p. 192). While community membership seems to be highly contingent criterion for freedom, Brandom’s account of what this looks like provides one avenue for showing that any agent who is treated as a participant in a practice is free. In particular, according to Brandom, freedom depends not on whether community members consciously believe that an agent is a member of the community, but rather whether their behavior with the agent presuppose that they are subject to the norms of community membership—“it is how they finally behave toward

¹⁹ Williams, *Capitalism and Slavery*, chap. 8.

²⁰ Marx, *Capital, Volume I*, chap. 6; Bhandari, “Slavery and Wage Labor in History”; Banaji, “Chapter Five. The Fictions Of Free Labour: Contract, Coercion, And So-Called Unfree Labour.”

²¹ Tolstoy, “The Slavery Of Our Times.”

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the candidate that matters” (p. 192). Thus, in this view, an agent could in fact be treated as free within the context of a practice even if the dominant ideology of a society marks them as unfree.

However, this way of making out an agent’s freedom is vulnerable to Mills’ critique. Mills argued that “[i]n *this* world it would be quite wrong to assume that the ideal Enlightenment Kantian social ontology...was the norm, with a few unfortunate deviations. Rather, the opposite was the case. The norm was the routine restriction of full personhood to whites, and the consignment of nonwhites to a subordinate moral status...”²²

Mills’ point is that the assumption that treating someone as responsive to norms manifestly does not require that one treat them as a full member of one’s community. The historical reality of a graded conception of personhood demonstrates this point - it is coherent to treat someone as capable of being constrained by norms without thereby holding that they are fully entitled to revision of or protection by those norms. Mills’ description of the Racial Contract describes historical social orders, including our present global one, as characterized by precisely this asymmetry.²³ Brandom’s alternative formulation of pragmatist freedom, then, is in no better position to avoid the contingency of freedom within a practice conception of agency than Schapiro’s.

As we’ve just discussed, Schapiro’s framing of freedom obscures the distinction between forced and free participation in a practice. This is not accidental: part of what it comes to that we are unable to participate in a practice of freedom precisely consists in the fact that the practices we do participate in are in some important sense forced. This invites two questions: first, in what sense are we forced to participate in the practices we do participate in? Second, what would it mean for the practices we participate in to be practices of freedom (or, at least, consistent with such a practice)?

On the first: a natural starting point for examining the concept of forced participation is by considering the form of unfreedom that is coercion. Philosophers who otherwise disagree about how to characterize agency and freedom have been willing to grant that coercion is a paradigm example of unfreedom. However, they have tended to take the problem to specifically concern the interference or influence of one particular individual or collective agent on another. But for one agent to coerce another, it is not sufficient that the coercer merely desire to change the behavior of the coerced. The coercer must in some way force the coerced to behave in a certain way - and it is this forced participation that makes the coerced unfree.

Theorists of a wide variety of commitments tend to give credence to the intuition that being coerced into participating in an activity undermines the evaluation of our actions as free. There are, of course, elements of the situation that Clotel controls: her decision to move this piece rather than that one. But her participation in the game itself is forced. Moreover, a similarly diverse cast of theorists and theories recognizes coercion in episodic cases (e.g. mugging) and

²² Mills, *Blackness Visible: Essays on Philosophy and Race*, 70.

²³ Mills, *The Racial Contract*.

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as a persistent condition (e.g. slavery, workplace hierarchies, domestic violence). If this is right, then the fact that Clotel is being forced to participate in the practice of chess means that her actions in the game of chess are coerced despite the rational control she exerts within the scope of the local practice. She can thus be unfree for reasons external to the local practice of chess itself, and compatible with a level of control and discretion within it.

Thus, we argue, the question of whether or not someone's actions are free can't be answered solely by reference to the local context of action. Rather, an agent's actions must be evaluated with respect to the global context of action, which would involve considering relevant defeating conditions. Those defeating conditions must be excluded before we can assuredly conclude that an agent's actions are actually free. This is what makes it coherent for de Jesus to describe her situation in the Brazilian slum as slavery despite the absence of a coercer, and for us to question whether or not McKay is free despite acknowledging his self-control and self-efficacy.

Section 3: From Forced Participation to Co-Production

Nevertheless, we are still faced with the question of what constitutes a coercive practice in the absence of a coercing agent. To get traction on this issue, it is useful to distinguish two reasons philosophers are interested in coercion. The first, which has been our focus here, concerns the ability of coercive practices to undermine free action. The second, which is often the focus in normative theorizing, concerns tracking moral responsibility for wrongs: a person is not typically taken to be responsible for actions done under coercion and responsibility for the action typically shifts to the coercer. The latter focus helps to explain the emphasis on coercing agents when we think about coercion, but the former focus is the appropriate one for characterizing freedom, since it encompasses all potential threats to an agent's freedom.

Section 3.1: Forced Participation and Needs

When we investigate what explains the unfreedom of coercive practices, our concern should be with the practice's effect on the coerced agent—that another agent is involved in undermining freedom is incidental to the question of whether they are unfree. Amílcar Cabral offered such a view when he characterized “[t]he principal characteristic, common to every kind of imperialist domination” as “the negation of the historical process of the dominated people by means of violently usurping the free operation of the process of development of the productive forces.”

Amílcar Cabral, a political leader and thinker in the anti-colonial wars of independence of Cape Verde and Guinea-Bissau, offers a view that characterizes “[t]he principal characteristic, common to every kind of imperialist domination” as “the negation of the historical process of the dominated people by means of violently usurping the free operation of the process of development of the productive forces.”²⁴ Here, Cabral alleges that a total unfreedom of colonized people (the “negation” of their “historical process”) is achieved by way of more specific control: namely, that exercised over the “productive forces”, which Cabral and his fellow

²⁴ Cabral, “National Liberation and Culture.”

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materialists understands to be those forces with which humans meet their material needs. Cabral's version of freedom for a people is a practical world of activity in Schapiro's sense of freedom as a "world" - a domain of activity characterized by the needs of those people and the processes which meet them.

This focus on needs is echoed by the broader discourse of wage slavery discussed in the previous section. Many thinkers and intellectual traditions have coalesced around the conclusion that freedom ties intimately to needs, but also to the kind of cooperation that can characterize social structure itself when those needs are provided for in a properly social and pro-social way.

The unfreedom in the cases of McKay and de Jesus are closely tied to the demands of satisfying their needs - it is the need to eat that motivates de Jesus to try to get food from her neighbors, and the need for secure shelter that explains McKay's moderation of his appetites. Yet the concept of a need does not feature in theories of freedom or normativity, whether constructivist or not. Instead, the focus is on reason and desire. Nevertheless, many of the theoretical roles played by reason and desire in moral and political philosophy can also be played by needs.

The widespread provision of basic needs would be a necessary behavior of a social system that made freedom a concrete possibility for its inhabitants. In the absence of such provision, any individual who cannot satisfy their basic needs is thus vulnerable to coercion by those who control the resources needed to satisfy their basic needs. It is precisely this imbalance that forms the basis of the Marxist description of proletarianization, and the explanation offered by Amartya Sen for the great famines in Ireland and Bengal cast them as key historical examples of the dangers of this basic political asymmetry.

However, this by itself does not provide a broader positive characterization of how a free society would function as a "world" in Schapiro's sense. Schapiro was right to insist on action as participation: tying the corresponding view of freedom as a world of interaction where the agents share in the capacity to make and execute rules about how to get on in the world. However, as we've seen, participation is not enough - forcing that participation changes the character of what we do when we act in and on a system premised on coercion.

The remaining question, then, is what kind of world of activity we could exist in such that participating in it counts as participating in a practice of freedom. If we take Schapiro's account seriously, then such an action would involve navigating the empirical world we share together - Schapiro characterized the view that focuses solely on this element of acting "action as production". But it would also be a world in which all agents jointly legislate the rules governing their actions, rather than merely being subjected to them. According to Schapiro, it was this further aspect of acting in a world of other rational beings that made acting a form of "action as participation" rather than mere causation. But as we've seen, the mere capacity for joint legislation is insufficient to support freedom - we need to actually organize the social world in a

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way that makes it the case that its inhabitants are co-legislators. Building off of her insights, we refer to action in a world that accomplishes this task as “action as co-production”.

Section 3.2 Towards a Different Pragmatism

Action as co-production is a view of action that makes explicit the socially constituted nature of action. Like action as participation, it conceives of action as taking place in a context that itself arises out of an unfolding pattern of interaction between intelligent agents, but it identifies the practices that constitute our actions as emerging from historical interactions in the empirical world rather than the notional rules of practice that are endorsed from the perspective of the reflective moral agent. In this way it combines the empirical focus of action as production with the attention to interaction and mutual constitution that characterizes action as participation. The preceding section on forced participation makes clear why this social and empirical conception of action demands a likewise social and empirical conception of freedom: if the possibility of free action depends on the actual practical structure of our social and material world, then we should expect that an adequate theory of freedom should direct us to concrete claims about the concrete forms of social life that are compatible with freedom.

The earlier pragmatist tradition centered around John Dewey and colleagues has exactly these features, and provides rich resources for developing a positive conception of a global social practice that involves free and full participation rather than forced participation. As we’ve argued here, the project of freedom should be identified with the project of making such a global social practice actual. This breadth of interaction and relatedness gives it the generality that matches Schapiro’s practical “world” but importantly ties that activity to actual rather than hypothesized relations and activity. For Dewey, that global social practice was democracy - considered not just as a political decisionmaking system, rather as “primarily a mode of associated living, of conjoint communicated experience”.²⁵ Thus understood, democracy constitutes a basic cultural form that needs to be cultivated at every level of society to be sustained, and it is only through this cultural form that a global practice of freedom can be achieved.

Dewey argues that a culture of democracy is essential for global freedom because, following Plato, he takes slavery to consist in accepting “from another the purposes which control his conduct”.²⁶ Given this conception of slavery, Dewey maintains that most workers in the modern economy are unfree, arguing that “the great majority of workers have no insight into the social aims of their pursuits and no direct personal interest in them...the activity is not free because not freely participated in”.²⁷ They participate in order to satisfy their needs, not for the sake of the social aim that their work nevertheless contributes to. For Dewey, this alienation of workers from the ends that direct their activity means that their participation in these activities is unfree. This extends beyond a criticism of working conditions to a broader criticism of a society’s

²⁵ Dewey, *Democracy and Education*, 93.

²⁶ Dewey, *Democracy and Education*, 91.

²⁷ Dewey, *Democracy and Education*, 276–77.

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education practices, saying that “any education designed simply to give skill in such undertakings” counts as “illiberal and immoral” insofar as such a system contributes to a society with the aforementioned kind of relationship between workers and their work. Such work would count as unfree on Dewey’s account even in a society that was politically free in the conventional sense: one that has codified civil liberties and allows some measures of political participation.

Dewey himself recognizes the generality of his argument, offering a positive conception of freedom to match it: “In the degree in which men have an active concern in the ends that control their activity, their activity becomes free or voluntary”. Here, Dewey identifies freedom in genuine co-participation as Schapiro does - but importantly identifies freedom with the status of co-participant in the actual social practices that coordinate people’s lives and activity, rather than in a notional global social practice. This allows him to develop a dynamic conception of freedom and agency that is deeply responsive to the historically contingent social and material realities that shape an agent’s actions, decisions, and broader evaluative outlook. It is this approach to freedom and agency that we take to be foundational to the project of action as co-production.

In this way, Dewey is able to develop a corresponding conception of a role for political philosophy as a contribution towards the kind of constructive agential practices that could fit and help build a free political order. This role for political philosophy implies a host of questions about how to construct a free political order that post-Rawlsian political philosophers have paid insufficient attention to. How do we interpret the actions of agents when the basic principles of justice are not operative?

Section 4: Conclusion

In the beginning of this paper, we related the stories of Carolina Maria de Jesus and Nelfreed McKay, both of whom made rational choices against the backdrop of considerable constraints. De Jesus, in particular, narrated her experience of choices as unfree despite making them herself, and neither de Jesus nor McKay make reference to any particular individual or corporate agent coercing them into their particular decisions. Action as participation emerged as one way to make sense of the view that they are unfree: the *Forced Chess* example helps illustrate how McKay and de Jesus may be unfree despite being able to select the moves within the practices they were participating in.

We agreed with Schapiro that action is participation. However, the crucial question emerged: participation in what? We criticized Schapiro’s characterization of action as participation in a possible global practice, arguing instead following Dewey that we should view action as participation in the actual global practice that a social-political order amounts to. Three lessons emerge from the resultant discussion.

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The first is about how political philosophy ought to relate to actual conditions, and how this choice in turn relates to constructivism. Rawlsian political philosophers have pursued a constructive theoretical project, but in relation to ideal conditions rather than actual material and social conditions. Non-ideal political philosophers, by contrast, have tended to emphasize the importance of actual material and social conditions, but have typically done so as part of a critical rather than constructive project. Dewey gives us a model for how to pursue a constructive political philosophy that is developed in relation to actual material and social conditions, which illuminates another potentially productive trajectory for political philosophy to take.

The second lesson is that theorists should reject the artificial distinction between agential and political freedom. Schapiro's view, like many espoused by ethical philosophers, seems to presuppose a voluntaristic model of participation in practices in which agents have a choice of whether to participate in a practice. This conception of what participation looks like is tied to and made plausible by a conception of social practices as, essentially, a system of abstract rules. One is able to act on and in the order set up by these rules by positioning themselves with respect to it intellectually: by applying the general rules of a rational order to particular, determinate contexts of action. Taken together, this makes it seem plausible that agents in general are typically in a position to act freely even if they are not politically free, so long as the rules themselves are minimally compatible with freedom.

But this conception of freedom, and the conversations about freedom (or lack thereof) engendered by it leave much of the problems with our social order unanalyzed or misanalyzed. The broader implications of this sort of mistake are alluded to in a famous criticism of Rawls by Mills:

Rawls was consistently attracted throughout his career to the idea of representing society as a game. Think of that: a game! Can you seriously imagine anybody but a member of the ruling white male social group finding such a figuring anything but completely ludicrous? Are slavery or indigenous expropriation or colonial subjugation or Jim Crow or apartheid or white supremacy to be regarded as "games"? But it is thus that our preferred metaphors reveal us, make clear who and what we are. Given his beliefs about the United States, and the West more generally, John Rawls simply saw no need to develop a theory of justice for societies of structural racial domination. In effect, people of color were simply denied the status of equal team players in the model "games" he and his colleagues were playing with each other.²⁸

The third lesson for theorists is about the importance of a theory of needs for addressing basic questions about the nature of freedom and agency. Moral and political philosophers have long been preoccupied with the role of reason and desire in shaping or actions, obligations and choices. However, we have seen that, once theorists turn their attention to the actual material and social conditions of the individuals who are subject to practices, the role that needs play in

²⁸ Mills, "Theorizing Racial Justice," 43–44.

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shaping freedom and agency comes to the fore. Indeed, it is with a view to exactly these conditions that we have argued that the unfreedom in the cases of McKay and de Jesus are closely tied to the demands of satisfying their needs - it is the need to eat that motivates de Jesus to try to get food from her neighbors, and the need for secure shelter that explains McKay's moderation of his appetites. Yet the concept of a need does not feature in theories of freedom or agency. Instead, the focus is on reason and desire - which is perhaps related to the difficulties that such theories of freedom have in being responsive to the most pressing political obstacles for freedom. We believe that deeper philosophical engagement with the nature and role of needs will prove essential to articulating a conception of freedom and action that can meet the constructive demands of a free political order.

Here we have defended the view of action as co-production. But the same considerations that motivated that narrow view also point us to a broad direction for political philosophy: one that starts with an emphasis on needs rather than reason; one focused on our actual political order rather than a notional one; and an orientation to the purpose of political philosophy that is constructive rather than critical.

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