

## Existentialist Freedom, Distorted Normativity, and Emancipation<sup>1</sup>

### 1. Introduction

A significant topic that has stimulated the recent engagement of law, jurisprudence and governance with existentialist thought is the topic of choice. Two other concepts usually associated with the existentialist account of choice are those of freedom and reflection. If a person's action is determined, we usually say she had no choice, but to act in the way she did. If a person is not determined to act in a particular way, but has nevertheless a strong tendency to so act, we usually see her acting otherwise as the result of a reflective process, through which she focuses her attention on this tendency and judges it as undesirable. Hence, choice seems to imply freedom, and freedom, reflection.

Yet, first, existentialism has from the very beginning struggled to defend its account of choice<sup>2</sup>; secondly, its view of freedom is usually considered as radical and, as a result, implausible<sup>3</sup>; and, finally, reflection seems to be associated more

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<sup>2</sup> The problem has been that each choice, as the result of a decision between alternatives, is based on reasons appropriate for the agent's particular project in the situation in which she finds herself. Yet, each such particular project is linked, in Sartre, to a fundamental project, which is supposed to be the result of an 'original' choice. If a particular project is supposed to be the source of reasons for specific actions, the fundamental project will be the source of reasons for all projects and all actions – in short, the source of reasons. Hence, the *original* choice cannot be reasoned or voluntary making it unclear in what sense we can still talk about an original choice. This is Maurice Merleau-Ponty's objection, although it is not clear that it is directed to Sartre. (2002: 504-30, esp. 505-7) More recently, Thomas Baldwin reformulated this objection in a critical analysis of Sartre's original choice and Kant's revolution in the disposition. (1979) For discussion, see my *Kant and Sartre: Re-discovering Critical Ethics* (2011: esp. §§25-9).

<sup>3</sup> I mention here, as an illustration, Gary Jones's "Sartre, Consciousness and Responsibility" (1980), which is underpinned by this interpretation, but focuses on what may seem an even more radical existentialist view of responsibility. For a response to Jones's objection, see Sebastian Gardner (2009: 165-8). More recently, this account of Sartre's freedom as an

readily with a Kantian, in the most favourable case, an existentialist Kantian, position, rather than with existentialism as such. For instance, Christine Korsgaard's account of the sources of normativity, where reflective endorsement plays such an important role, is usually considered as *Kantian*, qualified perhaps as existentialist *Kantian*, and not as *existentialist* or even as *Kantian existentialist*.<sup>4</sup>

If so, then the existentialist philosophy of action, which seems to be one of the main emerging areas of interest for current work in social-legal studies, is from the outset a problematic domain, within which it is unlikely law, jurisprudence and governance could find any guidance. Yet, one could say, first, that there is no problem-free area in philosophy, unless it is not particularly interesting. Secondly, one could add that the dialogue between existentialism and social-legal studies is meant as a process of mutual development and, hence, as a process at the end of which existentialism itself may make explicit premises and arguments that can answer at least in part standard criticisms. Finally and perhaps most importantly, some of the standard objections to the existentialist views of choice, freedom and reflection are based on misinterpretations; if these can be cleared away, existentialist philosophy of action will look like a more attractive alternative.

In what follows, I will focus on the second problem mentioned above, the problem of radical freedom. The three problems are related, and I will also make some comments on the issues of choice and reflection, but, as we will see, for the purpose of this paper one of these issues provides already more than enough

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implausible radical libertarianism can be found in Stefanie Grüne. (2006) According to her, "for Sartre, in order to maintain that a human being is free it must also be the case that neither his actions nor his choices are causally necessitated by anything". (2006: 151) This claim reflects an attempt to place Sartre in the contemporary context of the debates between libertarianism, determinism and compatibilism. This may be problematic, since Sartre seems to reject explicitly a libertarian account of freedom and even the debate between libertarianism, determinism and compatibilism, whereas Grüne contrasts compatibilism with Sartre's account. As we will see in Sections 4 and 7, things are a bit more difficult and this may account also, at least in part, for interpretations such as Grüne's. For a similar interpretation of Sartre, as defending a radical libertarian view of freedom, see also Susan Wolfe (1990: 65)

<sup>4</sup> See Thomas Nagel's discussion of Korsgaard's 1992 Tanner Lectures, where he claims that "Though she accepts the Kantian argument that freedom implies conformity to law, Korsgaard departs from Kant in holding that the content of the law depends on something else, namely our conception of our practical identity. This distinctly unKantian, rather existentialist idea is the heart of her position". (1996: 203) In her reply, Korsgaard acknowledges this existentialist element. (1996: 237) For the importance of freedom, choice and reflection as part of existentialism's legacy, in particular in Korsgaard's work, see also Steven Crowell. (2012: esp. 8-9)

material for discussion.<sup>5</sup> The basic problem that I will consider is that, with a radical view of freedom, existentialism, and in particular Sartre's existentialist philosophy, turns out to be quite implausible.<sup>6</sup> The specific issue I will discuss occurs in the context of institutions with distorted norms, institutions where the norms enforced are illegitimate. The problem is that, if in such contexts the existentialist radical notion of freedom allows us to say members are nevertheless free, there seems to be no need for emancipation from such norms and institutions.

I think Sartre's existentialism has the resources to answer this objection. My aim in this paper is to make explicit these resources, to clarify Sartre's view of freedom and, in this way, to reject also the standard reading account of Sartre as a supporter of a radical view of freedom. I will begin with some definitions and with a formulation of the objection, which captures its strongest critical force. I will then examine Sartre's account of freedom, and I will indicate where the objection from emancipation goes wrong. I preface these, however, with one short section on the recent engagement of law, jurisprudence and governance with existentialist thought.

## **2. Existentialism and Socio-Legal Studies**

Two features of existentialism seem particularly attractive for those involved in policy-making, as well as justice-related normative practices: the existentialist emphasis on freedom and on the individual. These are themes that emerge as crucial in recent pioneering included in the collections edited by Ronnie Lippens & Don Crewe (2009) and James Hardie-Bick and Lippens (2011).

Moreover, particularly attractive seems to be the existentialist interest in a *genuine* form of individual freedom. For instance, according to Hardie-Bick and Patrick Baert:

That law, jurisprudence, or governance more broadly are matters of choice is perhaps a more or less widely accepted statement. But, as said, that doesn't mean legal and socio-legal scholars have called upon 'existentialism' (the body of literature par excellence to deal with the issue of choice) for

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<sup>5</sup> The two other problems (choice and reflection) would need separate papers. I have discussed them, although not as the main focus of the arguments, in my texts (2011 and 2010), respectively.

<sup>6</sup> Charles Taylor (1979) makes a case for this.

inspiration. Quite the opposite has been the case. [...] The existentialist focus on reflective contemplation and on intentional choice as the engine of human becoming has at least one practical benefit going for it: it provides us with a lever to influence the extent and direction of human becoming. [...] Anyone involved in policy (e.g. in criminal policy, or regulation, or governance) or in any kind of activity and practice (e.g. jurisprudence, criminal justice practice, restorative justice, and so on) could do worse than ponder that the problem of human becoming, and therefore of human transformation, is, first and foremost, a problem of choice, and not so much, if at all, a problem of pre-structured development or evolution. (Hardie-Bick & Baert 2013: 4-6)

We can see here the emphasis on choice and a contrast between choice and structured development or evolution. Although one may see human becoming as the result of choice, accounts which attribute this becoming and the illusion of choice to structured development or evolution are undermining a genuine notion of choice. If my 'choice' is determined by, say, evolutionary factors, then it is a choice made for me and, hence, not a choice that I make, not my choice.

Moreover, the reply that such a choice is nevertheless my choice, in the sense that it issues in an action that I perform or, moreover, that I approve and intend, is already answered: what is of interest is the possibility of influencing the extent and direction of human becoming, and this is only possible if there is some room for the possibility of doing otherwise than causation and structure condition us to act. Intending to do a particular action does not exclude the possibility that I am being determined to perform it, even if I am not aware of being so determined.

Forms of freedom that may be considered as not genuine include the compatibilist view, according to which a person can still be called free, although we readily agree she is also completely causally determined<sup>7</sup>, or a notion of freedom that may seem to survive although we are deemed structurally determined.<sup>8</sup> Assuming such

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<sup>7</sup> For instance, on a classical account of compatibilism, we are free, because we are able to choose which desire we want to follow; this form of freedom is supposed to exist although our second-order desires may as far as we are concerned be determined in their turn. All that would be required for freedom and moral responsibility would be that I identify myself with the second-order desire and I consider the endorsed first-order desire as that which I want to be effective.

<sup>8</sup> Consider, for instance, the case of members of a social group that is relatively worse-off in that particular society. If one member of the group succeeds in overcoming her condition and gains membership in the group of the better-off, one can argue that that society is free, since persons

notions of freedom and the corresponding notions of choice are rejected as not genuine, it may seem that we need to adopt as genuine a view of radical freedom similar to that standardly attributed to existentialist thinkers, for instance, to Sartre.

One aim of this paper is precisely to reject the standard reading of existentialism as exposing such notions of freedom and choice. Moreover, the paper aims to challenge objections to this type of existentialism, which are formulated on the assumption that existentialism does defend a radical view of freedom. If successful, the argument here will introduce a view of freedom that goes beyond the standard debates in the literature between determinism, free will and compatibilism. I will begin with a few definitions, with particular focus on the concept of radical freedom.

### **3. Some Definitions**

In what sense is existentialist freedom and in particular Sartre's view of freedom taken to be radical? For the purpose of this paper, the important sense is a combination of two claims: first, a claim to libertarianism, to which I will return shortly, and, secondly, a claim to the fact that a person, insofar as she is able to act, is always, and no matter in what situation she finds herself, free. It is for this reason that the objection from emancipation can be raised: if persons are absolutely free even when they are members of very oppressive institutions, on what basis can an argument for their emancipation from these institutions be made?

Thus defined, existentialist radical freedom seems to have some plausibility to begin with. This emerges when we examine the ways persons subject to the treatment of some of the most brutal institutions and societies act. Thus, one situation in which talk of radical or absolute freedom may seem to be inappropriate is a situation where the behaviour of the agent can be controlled and monitored by a particular institution. If, in addition to control and monitoring, that institution also exercises extreme pressure with the aim of destroying the autonomy of its members, then circumstances seem even less propitious for free action and responsible individuals. Nevertheless, as Hardie-Bick notes in relation to Sartre's radical freedom:

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are not determined by the structural constraints of their group membership. A classical text which considers and rejects this view is by G. A. Cohen (1983).

What is striking about reading the testimonies of those who have endured and survived the most brutal living conditions is how they often confirm and support Sartre's arguments in relation to freedom. (2011: 96)

In his account, Hardie-Bick begins with Ervin Goffman's research on total institutions. (1961) Goffman defines a total institution as follows:

a place of residence and work where a large number of like-situated individuals, cut off from the wider society for an appreciable period of time, together lead an enclosed, formally administered round of life. (1961: xiii)

Examples of such institutions are prisons, yet, as Goffman notes, "what is prison-like about prisons is found in institutions whose members have broken no laws." (1961: xiii) Hence, mental hospitals, military barracks, care homes and boarding schools are other examples. Living in a total institution may subject individuals to demeaning treatment, humiliation and degradation, due to the nature of a total institution as a highly structured and timetabled organisation, where there is little room for privacy, where movement is confined and control is exerted over the inmates' appearance and possessions.

In this context, it is hard to understand how radical freedom could survive. Nevertheless, according to Goffman, inmates manifest their freedom in various ways; for instance, they subvert the official expectations concerning their members that institutions implicitly display through the rules which structure and control the members' lives:

Where enthusiasm is expected, there will be apathy; where loyalty, there will be disaffection; where attendance, absenteeism; where robustness, some kind of illness; where deeds are to be done, varieties of inactivity. (Goffman 1961: 304-5)

Such practices are meant to show that the members have "some personhood and personal autonomy beyond the grasp of the organisation". (Goffman 1961: 314) Actions which go against expectations are precisely actions performed against enforced institutional rules and indicate, at least *prima facie*, the agent's freedom. They indicate, first, the agent's ability to question any attempt an institution makes to determine her actions and, secondly, the agent's ability to do so in the difficult contexts of total institutions.

#### **4. Distorted Institutions**

However, although we can on this basis assume that such an argument supports an existentialist view of radical or absolute freedom, the objection from emancipation cannot yet pose any threat. According to the objection from emancipation, we seem intuitively better off without total institutions, which have oppressive rules; it would be better for us to emancipate ourselves from them and even to make sure they no longer exist; yet, the objection from emancipation continues, given that on an existentialist view of freedom members of total institutions are actually free, they do not have a good reason to want to emancipate themselves from these institutions.

The problem with this objection in the case of total institutions is that the norms enforced in total institutions (prisons, mental hospices, care homes) need not be illegitimate, when properly designed. Such institutions are indeed systematically regulated, timetabled and exercise control over areas of their members' lives, which usually remain free in society. They are indeed meant to restrict the liberty of individuals. Yet, this is only a means to a legitimate end (for instance, punishment and moral reform, in case of prisons, long-term well-being and a good quality of life, in case of hospitals and mental hospices, or absolution and spiritual purification, in the case of monasteries).<sup>9</sup> Assuming that, for different reasons, prisons, mental hospices, care homes and military barracks are by definition institutions where the liberty of individual members is restricted, this restriction is not necessarily a good ground for a claim to emancipation from such institutions.

To be sure, once in prison, a prisoner may understandably want to be outside and may even desire the abolition of all prisons. Yet, this does not justify the claim to liberation or emancipation from the institution as legitimate. Imagine a person who has a natural asocial tendency, but who is setting certain rules for herself and her friends in order to overcome this tendency. Say, she asks each of her close friends to meet her only if they can bring another acquaintance whom she has never met before. Such rules are certainly constraining, but they seem perfectly compatible with, indeed even conducive to, freedom, in the sense of liberation from that natural asocial tendency.

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<sup>9</sup> Whether these are indeed legitimate goals for those institutions is a different question. Should prisons punish individuals, help them reform or simply prevent crimes which are highly likely to occur? These are important debates, which, however, cannot be discussed within the confines of this paper.

The objection from emancipation requires an additional case for the need for emancipation from the institution under consideration. As we have seen, total institutions may not be a good context for such a case, in spite of the constraining character of their norms. In order for the objection from emancipation to work, we need to specify the conditions further. To this end, I would like to introduce a distinction between merely total institutions and distorted institutions. The former are constraining, but legitimate institutions, whereas the latter are illegitimate. Distorted institutions, for instance labour camps in totalitarian societies (national-socialist or communist) are examples of institutions, where norms are distorted in their design. They function in the way most institutions do, but their purposes and methods are skewed versions of legitimate institutional purposes and methods.

For instance, Hardie-Bick focuses on institutions, where there is a deliberate attempt to nullify the freedom of their members. The result is a set of situations that following Bruno Bettelheim (1991), can be called "extreme" (2011: 96). Bettelheim describes his experiences in the concentration camps of Dachau and Buchenwald in 1938-9; the deprivation of prisoners is difficult to imagine:

Prisoners were clothed, housed and fed in total inadequacy; they were exposed to heat, rain, and freezing temperatures for as long as seventeen hours a day, seven days a week. Despite extreme malnutrition, they had to perform hardest labour. Every single moment of their lives was strictly regulated and supervised. They had no privacy whatsoever, were never allowed to see a visitor, lawyer or minister ... no prisoner was told why he was imprisoned, and never for how long. All of which may explain why I speak of them as persons finding themselves in an 'extreme' situation. (Bettelheim 1991: 108-9)

These describe conditions under which bare survival is an immense challenge. Of course, not all distorted institutions need to be so extreme in their illegitimate practices. Big corporations that exploit small suppliers or national and international laws that allow such forms of exploitation embody milder distortions of norms. Nevertheless, any distorted institution can justifiably raise the question of emancipation from the distorted norms. The objection from emancipation will then function and will challenge the existentialist account of radical or absolute freedom.

One further obstacle should be mentioned: if we deal with a milder distorted institution, the case for the absolute existentialist freedom could be made more



easily, since such institutions allow for more freedom within their mildly distorted system of norms; yet, the justification of emancipation from such institution is more difficult to provide – one may, for instance, try to change a particular norm, while remaining within the same institutional framework.

If, by contrast, we deal with an extremely distorted institution, it is much easier to see how abandoning the institution is justified, but it becomes more difficult to understand the sense in which members of such institutions can still be considered free. But, if they are not, then existentialist freedom is not really absolute, as defined in §2 of this paper. Hence, the objection from emancipation has nothing to object to. So, the next question I will focus on is how freedom would even be possible in extreme situations.

## **5. Emancipation**

The Gestapo used at least four ways to destroy personal autonomy. First, they traumatised the prisoners and the journey from prison to the camp seemed to be the worst. While the distance was short, transportation was very slow and could take even twelve hours, during which prisoners were tortured, abused, wounded, and ordered to abuse physically and verbally each other. Combined with methods to produce the prisoners' physical exhaustion (by making them stare in glaring lights, for instance) and swiftly applied capital punishment for any insubordination, this was meant to break any resistance before prisoners arrived in the camp.

Secondly, a concerted attempt was made to create a child-like dependency of prisoners on the Gestapo. Thirdly, the Gestapo tried to destroy any prisoner's identity and to force them to merge themselves into the amorphous mass of all prisoners. Finally, they attempted to destroy the prisoners' ability to predict and prepare for the future. Under these circumstances, what would a free person look like?

Hardie-Bick offers several examples from the literature: Bettelheim talks about a form of intellectual self-defence, through which prisoners resist giving in to the oppressor – reflection on one's own behaviour and that of others, comparing impressions with the other prisoners, and trying to make sense of one's own observations (Bettelheim 1991: 158-9, but also Bluhm 1948); more concrete forms of self-defence were also possible, for instance in the case of a former dancer

forced by an SS officer to dance for him as she entered the gas chamber – she managed to get close to him, to seize his gun and to kill him, before she was killed by the other SS officers watching (Kogon 1996); another prisoner sees freedom in the power to refuse consent, despite threats, attacks and even condemnation to death (Levi 2009: 47); more generally, freedom is manifested through the prisoner's ability to decide how to respond to the circumstances in which she finds herself (Frankl 2004: 75).

Hardie-Bick concludes:

Research on total institutions together with the personal testimonies and accounts of those who survived living in the most severe conditions can be seen to support Sartre's argument: that despite even the most harsh social conditions, human beings always have the ability to choose their attitude towards their circumstances. (2011: 100)

Given the definition of radical freedom presented in §2, as including a claim to complete freedom, we seem to end up with the conclusion that concrete cases confirm Sartre's view of freedom as radical or absolute. But there is one additional complication here. So far, I have defined radical freedom only in terms of its absolute character: a person, who has the ability to act, is free in an absolute sense, that is, always and no matter in what situation she finds herself. I have also said that concrete cases show that persons are free even in the most extreme situations. But why are the examples above cases of freedom? In other words, why do we talk about this absolute manifestation in terms of freedom, rather than as responses conditioned or perhaps even determined by education, by social background or merely instinct?

As I have mentioned,<sup>10</sup> the standard interpretation of existentialist freedom is libertarian. In debates between determinism and libertarianism in metaphysics, supporters of determinism claim that all actions are causally determined and, hence, not free; by contrast, libertarians contend that some actions are not causally determined and, hence, they are free. For instance, on Grüne's interpretation, "for Sartre, in order to maintain that a human being is free it must also be the case that neither his actions nor his choices are causally necessitated by anything". (2006: 151)

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<sup>10</sup> See n4 above.

Moreover, Grüne contrasts compatibilism, usually the account which claims to reconcile libertarianism and determinism, with Sartre's account. According to compatibilists, determinists are correct when they claim that all actions are causally determined; yet, they are wrong to conclude that causally determined actions cannot be free. For instance, if we compare a person who always acts on her immediate desires with a person who is able to select those desires which are, say, more appropriate given her long-term plans, we can claim that the latter is free, although it looks very likely her actions are determined by a second-order desire to realise her long-term plans.

The difficulty is that the cases I used as illustrations of the existentialist radical freedom may all be determined by second- or even third-order desires and interests and, hence, may not be free in the libertarian sense of freedom. In fact, on some accounts, it is impossible to experience an action which is not causally determined, since all our experience is of events that are causally determined. Yet, this implies that, if Sartre's account of freedom is libertarian, then there is no example of such actions that could be provided in support of the existentialist view of freedom. But how can we establish that such a free action is possible, if everything we experience in terms of specific cases will be determined by laws of physics and perhaps also by some principles in psychology?

These are philosophical complications, and the examples given above seem only able to demonstrate that even under extreme conditions, agents can act against the illegitimately enforced expectations; whether such an action and the agent's decision are not determined by anything further is impossible to ascertain; it seems reasonable to infer, on the basis of these examples, that radically free actions are plausibly possible, but it is unclear whether such actions are not determined by features of character that some prisoners might have developed before arriving in the camp and which might condition them to think that a greater threat than the death threat imposed by the distorted institution is that of losing their identity and dignity through consent to the oppressors or even through a passive attitude and lack of resistance.

Be that as it may, assuming that such cases offer indeed genuine support for Sartre's view of radical freedom, then the following problem arises: if agents are free not only as members of merely total institutions, but as members of distorted organisations, why should we regard as good their emancipation from such institutions, their successful attempt to exit such organisations? Given the examples

offered above, it seems obvious that escaping these institutions would be good for their members, but, from the perspective of Sartre's radical freedom, this seems indifferent, since members are already free.

Hardie-Bick quotes at this point Anderson (2011: 101):

Sartre's views of freedom could lead to a quietistic or Stoical ethics. If human reality is freedom and human freedom is total, absolute, and unlimited, if all situations are equivalent in freedom, then there is no reason to change the concrete conditions in which humans live, even if they appear terribly oppressive. (Anderson 1993: 25)

While this may seem less of a problem for merely total institutions, since they are legitimate (although they systematically control their members and allow less space for privacy), for the distorted institutions, the objection is particularly strong. In the next three sections, I discuss this objection. I present, first, Sartre's account of freedom and, then, offer a response to Anderson's objection.

## 6. Forms of Freedom

How does Sartre justify his account of freedom? Can this account avoid Anderson's problem of emancipation? Consider the following claims Sartre makes in *Being and Nothingness*:

...we shall not say that a prisoner is always free to go out of prison, which would be absurd, nor that he is always free to long for release, which would be an irrelevant truism, but that he is always free to try to escape (or get himself liberated); that is, that whatever condition may be, he can project his escape and learn the value of his project by undertaking some action. (*EN*: 529, 483-4)<sup>11</sup>

The general type of claim Sartre considers here is:

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<sup>11</sup> In what follows, references to Sartre's *Being and Nothingness* will be made by using the abbreviation *EN* followed by the page number(s) of the French and English editions, respectively. Details of the translation used are provided in the bibliography.

(F) X (for instance, a prisoner) is free to Y (for instance, go out of prison, long for release, or try to escape).<sup>12</sup> Depending on how we specify X and Y, we will end up with more or less appropriate uses of the concept of freedom. The claim that the prisoner is free to go out of prison, for example, is absurd, since there is a contradiction between the idea of a prisoner (as someone confined for a longer or shorter duration of time in a prison) and his the capacity to go and leave the prison at will.

The claim that the prisoner is free to long for release is an irrelevant truism, since it seems self-evident: any conscious human being can form a wish for an object or other; longing for something does not even require a genuine need for an object or other; it is sufficient to imagine that a state of affairs is in some sense good and that I am the kind of person who can appreciate its goodness in order to long for it. It seems impossible to limit a person's freedom to long for something, unless she herself decides to do this limiting.

*Trying* to escape does not presuppose an ability to get out of prison at will; nor is it as easy as longing for release; however, in this third use of 'freedom', devising an escape plan would not be sufficient. Unlike a mere wish, a plan presupposes that consideration has been given to the way in which it can be carried out. But, by itself, such a plan is not a better manifestation of freedom than merely longing for the outcome of the plan would be. This is why, for Sartre, freedom is "the autonomy of choice", where choice, "being identical with acting, supposes a commencement of realisation in order that the choice may be distinguished from the dream and the wish" (EN: 529, 483).

First, to define freedom as a *capacity* to choose, on the basis of a plan, in order to realise a certain end, would be to separate freedom from action. It would mean to say that that person who had that capacity would be free – whether or not she

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<sup>12</sup> This is, of course, compatible with Gerald MacCallum's classical discussion of freedom: "...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. Taking the format 'x is (is not) free from y to do (not do, become, not become) z,' x ranges over agents, y ranges over such 'preventing conditions' as constraints, restrictions, interferences, and barriers, and z ranges over actions or conditions of character or circumstance." (1967: 314) In Sartre's discussion, the nature of the constraints is implicit in the context. As MacCallum says, "when reference to one of these three terms is missing in such a discussion of freedom, it should be only because the reference is thought to be understood from the context of the discussion." (1967: 314) One of the purposes of MacCallum's text is to clarify the claims in the debates concerning Isaiah Berlin's distinction between negative and positive freedom. (Berlin 1959).

would make use of it. By contrast, on Sartre's account, "freedom [. . .] determines itself by its very upsurge as a 'doing'" (EN: 530, 485). Secondly, freedom is the autonomy of choice, because, through a person's action, freedom presupposes the person's self-determination, and autonomy, as self-legislation, can be understood as a form of self-determination, since Sartre does not separate choice and action. Although choice and action are distinct elements of agency, any action presupposes a choice, and any choice is made manifest through action. Since both free action and free choice are the results of self-determination, freedom, in this third form, represents the autonomy (self-determination) of a person's action and choice.

This notion of freedom as autonomy of choice or action is radical. As the agent's freedom to try to achieve her purpose, this notion of freedom applies under all circumstances, no matter how difficult, as long as the agency of the person to whom this freedom is supposed to apply is not destroyed.<sup>13</sup> Although Sartre makes it clear that it is this radical notion of freedom that he is interested in, he acknowledges the existence of other notions of freedom.

Thus, in the last part of *Being and Nothingness*, Sartre emphasizes that he is not interested in the "practical concept of freedom" (EN: 531, 486) and in the concept of freedom advanced by "common sense", namely, "the popular concept of freedom" (EN: 528, 483). We have seen that he rejects as sometimes absurd the concept of a radical form of freedom as "the ability to obtain the ends chosen" (EN: 528, 483) (the prisoner's ability to go out of prison at will), which I take to be what he means by the popular notion.

He also rejects the "wholly negative" notion whereby "we can be free only in relation to a state of things and in spite of this state of things", probably the practical notion (EN: 531, 486). This is, in fact, also what Sartre calls, in the first part of *Being and Nothingness*, "empirical" freedom. The definition of this notion requires, however, further clarification of some of Sartre's technical philosophical terms. Thus, for Sartre, empirical freedom is "the nihilation of man in the heart of temporality and [. . .] the necessary condition for the transcending apprehension of négatités" (EN: 79-80, 44).

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<sup>13</sup> According to Sartre, intentionality is a condition of agency. Hence, a person who moves unintentionally does not perform an action and she is not an agent with responsibility for those unintentional movements. She may, of course, be liable for punishment when her unintentional actions break the laws, but her circumstances may be proven as mitigating in court.

Let us assume that we are in a situation in which freedom seems most obviously manifested through the way in which a person acts against circumstances, against the interests, desires, inclinations that are prompted by current circumstances and against the facts which favour the realization of certain goals and hinder the realization of others. But the intention to act in this way can appear to a person only if she can detach herself from her present and past, which determine such inclinations, interests or needs, and constitute a future situation as a desideratum (EN: 488, 433), that is, regard a situation which does not exist yet as desirable in some sense.<sup>14</sup>

It is only because the person transcends her present situation towards a desideratum that she can apprehend her situation as lacking, as not being satisfactory in relation to the desirable situation. This is the reason why the current situation regarded from the perspective of the desideratum is perceived as lacking, as unsatisfactory. The term “*négativité*” stands for that situation, which has negative features, in other words, an unsatisfying state of affairs which appears as lacking.<sup>15</sup>

The freedom to stand out from the current situation and from past experiences is only “*empirical*”, because, after all, even the desirable end, the desideratum, may be an expression of a constraint when the end is imposed or already set. Any desire, even an instinctual one, has a desirable end. To the extent that freedom is confined to this empirical form of acting against circumstances, freedom is easily compatible with determinism. For, again, desires can be read as psychic objects caused by various circumstances or by human condition and, hence, the desideratum may well be an effect of the causation of natural laws.

I have already mentioned that Sartre’s account of freedom goes beyond the debates between libertarians, determinists and compatibilists. The comment I have just made that Sartre needs another account of freedom, if he is to offer anything more than determinism, is therefore not made to suggest that he needs to avoid

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<sup>14</sup> If a person were unable to detach from her past and present, her future would be determined; the reason we seem to be free is that we can detach from present and past circumstances and are able to ask ourselves and decide how to act in the future.

<sup>15</sup> Sartre defines the *négativités* as follows: “There is an infinite number of realities which are not only objects of judgements, but which are experienced, opposed, feared, etc., by the human being and which in their inner structure are inhabited by negation, as by a necessary condition of their existence. We shall call them *négativités*” (EN: 55-6, 21). The surpassed situation is an example of *négativité*, and is a condition of action: “Every action has for its express condition [. . .] the discovery of a state of affairs as ‘lacking in \_\_\_\_’, i.e. as a *négativité*” (EN: 480, 436).

determinism and account for libertarianism or compatibilism; instead, the comment is meant to emphasise that Sartre's account of freedom goes beyond the classical disputes in metaphysics on the nature of freedom.

Consequently, empirical freedom can only be understood as freedom by presupposing another type of freedom which goes beyond the fact of having an end as a desideratum. Sartre needs, therefore, to take on a new task, that of "found[ing] this empirical freedom" (EN: 80, 44). As a form of freedom, empirical freedom needs a grounding, which I will call 'ontological' freedom. The next section will focus on this form of freedom and on the task Sartre sets for himself, of founding empirical freedom on ontological freedom.

## 7. Ontological Freedom

On Sartre's account, freedom is indissolubly related to what is already given.<sup>16</sup> If correct, this view offers additional ammunition against the popular view of freedom (as the realization of, perhaps, even the ability to obtain, the chosen ends), for any given situation that would limit such an ability or actual realization would be seen as a constraint on the person's freedom (in the popular sense). Hence, on this account, freedom and the given would be mutually exclusive, rather than indissolubly related.

In contrast to popular freedom, empirical freedom suggests the indissoluble relation between freedom and what is given. Empirical freedom depends on the apprehension of the given present situation and past conditions as *négalités*. The very notion of desideratum, which, as we have seen, is presupposed by that of *négalité*, only makes sense in the context of what is already given. If between us and the object of our desire there is no given situation or set of circumstances, as potential obstacles or constraints, then we are already enjoying the object of

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<sup>16</sup> "Freedom is originally a relation to the given. But what is this relation to the given? [...] The given does not cause freedom (since it can produce only the given) nor is it the reason of freedom (since all 'reason' comes into the world through freedom). Neither is it the necessary condition of freedom since we are on the level of pure contingency [and freedom is contingent in the sense that it is not able not to exist]. Neither is it an indispensable matter on which freedom must exercise itself, for this would be to suppose that freedom exists ready-made [...]. The given in no way enters into the constitution of freedom since freedom is interiorised as the internal negation of the given [...]. The given is freedom itself in so far as freedom exists; and whatever it does, freedom can not escape its existence" (EN: 402, 487).



“desire”. But this means there is no longer a desire and a desideratum. This shows again that empirical freedom can be a genuine form of freedom, although, as I have shown, it needs to be grounded in ontological freedom.

If what is given, *per se*, is not an obstacle to freedom, but only an obstacle for reaching the desideratum, then there is no point in trying to show freedom exists by identifying a situation where there is no given. In fact, for Sartre, it is precisely this attempt which keeps alive the spurious dispute between the advocates of determinism and those of free will:<sup>17</sup>

Thus at the outset we can see what is lacking in those tedious discussions between determinists and the proponents of free will. The latter are concerned to find cases of decision for which there exists no prior cause, or deliberations concerning two opposed acts which are equally possible and possess causes (and motives) of exactly the same weight. To which the determinists may easily reply that there is no action without a cause and that the most insignificant gesture (raising the right hand rather than the left hand, etc.) refers to causes and motives which confer its meaning upon it. (EN: 478, 437)

Sartre makes reference here to two distinct levels. On the one hand, there is the metaphysical debate between libertarians and determinists (which I introduced briefly in §4 of this paper), which presupposes a notion of physical cause – call this ‘cause<sub>1</sub>’; on the other hand, however, there is also the level pertaining to Sartre’s specific notion of cause. This translates the French word ‘motif’, and Sartre clearly distinguishes between this cause (call it ‘cause<sub>2</sub>’) and that which determines an effect (cause<sub>1</sub>). To see Sartre’s specific response to this ‘antinomy’ between determinism and free-will, consider first his conception of action.<sup>18</sup>

A consciously performed action tries to bring about a change in the world. On Sartre’s account, the action is motivated by the desire or, in general, by the intention to bring about that change. The intention to make a change stems from the dissatisfaction with the current situation of the world. This dissatisfaction with the current arrangement of the world felt as intolerable, which prompts the agent

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<sup>17</sup> There are similarities between Sartre’s discussion of this dispute and Kant’s solution to the Third Antinomy. I present these in more detail in (2011: Ch. 3 §36-8).

<sup>18</sup> “It is strange that philosophers have been able to argue endlessly about determinism and free-will, to cite examples in favour of one or the other thesis without ever attempting first to make explicit the structures contained in the very idea of action” (EN: 477, 431).

to act, is the motive [*mobile*] of the action.<sup>19</sup> The situation which must be changed and which gives reasons for dissatisfaction to due to its various features is the cause<sub>2</sub> of action;<sup>20</sup> however, as we have seen, when a certain situation becomes intolerable, it is felt in this way against the backdrop of an ideal situation, a situation which appears as the most desirable.

The action tries to bring about a change in the current situation so as to move it closer to the projected ideal situation.<sup>21</sup> We could say that the ideal situation is the end towards which the action is directed; from the perspective of the person's project of realizing the end, the current situation is apprehended as having to be changed, and this constitutes the cause<sub>2</sub> of his action. The unsatisfactory character of the present situation offers the person the motive of action – this is the ground for the choice of acting in that particular way, rather than in another one.

The project, the end, the cause<sub>2</sub> and the motive represent for Sartre the constitutive elements of action.<sup>22</sup> Thus defined, the cause<sub>2</sub> of an action cannot determine the action and is not determined by a given situation or by aspects of a given situation; on the contrary, the cause<sub>2</sub> is possible only insofar as there is a project of an action from the perspective of which the current state of the world is perceived as intolerable and as having-to-be-changed. We can see, therefore, why, on Sartre's account, "the cause [*motif*], far from determining the action, appears only in and through the project of an action" (*EN*: 490, 448).

On Sartre's account, the motive does not determine the action, since, in principle, a determining ground of an effect is possible independently of the effects it may determine. Yet, the motive is not independent from a project, and the project is not independent from action. What is then the situation for those cases where such an

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<sup>19</sup> "The motive [*mobile*] [. . .] is generally considered as a subjective fact. It is the ensemble of desires, emotions, and passions which urge me to accomplish a certain act" (*EN*: 491, 446).

<sup>20</sup> "Generally by cause [*motif*] we mean the reason for the act; that is, the ensemble of rational considerations which justify it. [. . .] One will note here that the cause is characterised as an objective appreciation of the situation" (*EN*: 492, 446).

<sup>21</sup> "Nevertheless this objective appreciation can be made only in the light of a presupposed end and within the limits of a project of the for-itself toward this end" (*EN*: 490, 446).

<sup>22</sup> "Thus cause [*motif*] and motive [*mobile*] are correlative, exactly as the non-thetic self-consciousness is the ontological correlate of thethetic consciousness of the object. Just as the consciousness of something is self-consciousness, so the motive [*mobile*] is nothing other than the apprehension of the cause [*motif*] in so far as this apprehension is self-consciousness. But it follows obviously that the cause [*motif*], the motive [*mobile*], and the end are the three indissoluble terms of the thrust of a free and living consciousness which projects itself toward its possibilities and makes itself defined by these possibilities" (*EN*: 493, 449).

independent motive seems to be essential, for instance, the decision to give up a certain addiction? The answer is that the motive has the necessary force to produce a certain effect only to the extent that the agent is committed to acting on the basis of that motive. The motive

can act only if it is *recovered*; in itself it is without force. It is therefore by the very thrust of the engaged consciousness that a value and weight will be conferred on motives [*mobiles*] and on prior causes [*motifs*]. What they have been does not depend on consciousness, but consciousness has the duty of maintaining them in their existence in the past. (EN: 495, 450)

The point is, therefore, that actions cannot be physically determined: if something is an action, then we should be able to talk about its end, cause<sub>2</sub> and motive. And yet, cause<sub>2</sub> and motive only exist if the agent is committed to their corresponding end; an action cannot be determined by a physical cause (cause<sub>1</sub>) either, since, as an action, it is intentional, determined by the agent, who must be committed to the end which constitutes the action's cause<sub>2</sub> and motive.

To be sure, this view of action accommodates a situation where, against her will, an agent may be physically determined to move in a particular way. If I am forced to hold a gun in my hand, for instance, to point it to an innocent bystander and to pull the trigger, I am determined to act in a way which I find reprehensible, to say the least, and which assumes a motive I have no intention of committing myself to. The case of the agent who makes certain physical movements, because she is forced to make them, movements which resemble a particular *action*, is not the case of a person performing an action, but of an agent being physically determined to *move* in a particular way.

Moreover, this view of freedom does not deny that, sometimes, an agent may act in ways she herself finds reprehensible even when there is no external force which moves her directly to perform those actions. Although nobody forces me directly to hold a gun in my hand and shoot, I might do this if I know this will save my life or if, under special circumstances, only in this way I am able to avoid a deeply miserable life. What Sartre says does not deny situations where I act in ways which I used to consider reprehensible, but which, for various reasons, I may no longer see as such.

Having presented in more detail his view of action and of free action, we can briefly return to Sartre's critique of the positions adopted by free-will theorists and

determinists in their dispute over freedom. His claim is that freedom of action cannot be proven by finding an uncaused<sub>2</sub> action; nor can our lack of freedom be demonstrated by showing that all actions have causes<sub>2</sub>. The mental experiment of imagining an action performed for no reason or performed after a decision which picked out one action at random, out of several alternatives supported by equally strong reasons, cannot be used to prove freedom. An action done for no reason is not an action, but perhaps a movement; an action performed on purpose at random is an action done with the intention of illustrating something or for the sake of merely acting.

These cases can be used to show the importance of commitment in action. Hence, if freedom is sought, then it must be sought as a particular type of commitment, not as the absence of commitment. The free action an agent performs because she is committed to the action's end can be called autonomous. This is the ground of empirical or practical freedom that Sartre searched for. It is another sense of freedom that we can find in Sartre's existentialism and which I called 'ontological freedom'.

## **8. Radical Existentialist Freedom and Libertarianism**

I have already said that, according to the standard interpretation, in the debate between free-will (or libertarian) theorists and determinists, Sartre is read as a libertarian. In §4, we have seen that libertarians are committed to a view of freedom as independence from causal<sub>1</sub> determination. For libertarians, there are certain actions which are not determined by any causal<sub>1</sub> relations to other objects or persons. By contrast, determinists claim that everything in the world, including action, is causally<sub>1</sub> determined and, hence, there is no space for freedom in the libertarian sense.

Beyond this more specific debate, we can find a more general dispute between compatibilists, on the one hand, and, on the other, libertarians and determinists. As we have seen, compatibilists agree with determinists that everything, including action, is causally necessitated in the world, but, unlike determinists, they assert that some actions, which are so determined, can nevertheless be free. For instance, an action which goes against a person's strong inclination may be the result of a second-order desire to overcome that inclination and can be regarded as a

manifestation of a compatibilist view of freedom, although the second-order desire in its turn may well be causally determined.

We have seen, in the previous section, that Sartre is engaged in a different debate; he presents the issue at stake in the dispute between free-will theorists and determinists as one concerning the relation between action and motivation: is action always determined by the objective lack that the action tries to address prompted by the agent's desire to act in that way or is action indeterminate, that is, not preceded by such an objective and subjective reasons for action or preceded by equally strong reasons both for its performance and for its avoidance? To use one of Sartre's examples to which I will return soon, consider the 1830 worker whose salary is lowered: according to Sartre, the worker can easily conceive of a situation in which his standard of life would be higher; presumably, this is because his salary had just been higher, so he had direct experience of a better standard of life; yet, he does not present the suffering he feels as unbearable. For Sartre, in order for the worker to feel motivated to act, he would need to understand his suffering as unbearable, and this would be achieved through the conception of a social state in which such suffering would not exist. By contrast, given the worker's lack of education and reflection, his suffering appears to him as natural.

The dispute is therefore the following: according to free will theorists, the worker would act freely when his action would not be determined by the unbearable character of his sufferings – it would either lack a motive or it would be performed although there would be equally strong reasons for and against its performance; by contrast, the determinist claims that all actions are determined by motives, and there is no free action.

Sartre rejects the view that there can be an action without a motive.<sup>23</sup> As we have seen, actions presuppose intentions, which presuppose ends, causes<sub>2</sub> and motives. Yet, he does not take this to mean there is no free action: "The essential question in fact lies beyond the complex organization 'cause-intention-act-end'; indeed we ought to ask how a cause (or motive) can be constituted as such." (*EN*: 481, 437)

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<sup>23</sup> One can say that the view he rejects here corresponds to the libertarian view in the debate between free will theorists and determinists. Following the distinction between cause<sub>1</sub> and cause<sub>2</sub>, we can draw a distinction between libertarianism<sub>1</sub> and libertarianism<sub>2</sub> – the first refers to the claim that there are actions which are independent from physical causes, whereas the second, to the claim that there are actions which are independent of psychological causes [*motifs*]. In *Being and Nothingness*, in the discussion presented in the previous section, Sartre rejects libertarianism<sub>2</sub>.

His answer is that free actions are caused<sub>2</sub> by a certain type of reason, namely, autonomous choice.

There are two conclusions Sartre draws that may seem to commit him to libertarianism:

- (1) No factual state whatever it may be (the political and economic structure of society, the psychological "state", etc.) is capable by itself of motivating [*motiver*] any act whatsoever. For an act is a projection of the for-itself toward what is not, and what is can in no way determine by itself what is not.
- (2) No factual state can determine consciousness to apprehend it as a *négalité* or as a lack. Better yet no factual state can determine consciousness to define it and to circumscribe it... (EN: 480, 435-6)

What Sartre denies here is, first, the *motivating* force of a factual state. He denies that states of fact can by themselves motivate an action. States of fact can only be perceived as motivating from the perspective of a desideratum, which indicates the sense in which a state of fact is lacking. Yet, by itself, a factual state includes a collection of circumstances, which are neither lacking nor desirable. Secondly, Sartre denies that a state of fact can determine *consciousness* to regard it as lacking or desirable. States of fact cannot cause<sub>1</sub> consciousness to perceive a desideratum and to be prompted to action in this way.

Sartre does not deny that laws of physics regulate phenomena and that my action, as a phenomenon, is subject to these laws. Sartre's claim has to do with action as the result of the motivating force of the agent, and he is quite clear that his claims about the debate around 'cause<sub>2</sub>' between free will and determinists are distinct from the claims that are made by libertarians, determinists and compatibilists in disputes around 'cause<sub>1</sub>'. Thus, Sartre makes this explicit: "Now we have just seen that if there is no act without a cause [*motif*], this is not in the sense that we can say that there is no phenomenon without a cause [*cause*]". (EN: 481; 437)

This shows that any attempt to bring Sartre into current debates between libertarianism, determinism and compatibilism can only yield results, when the presuppositions of these debates are first made explicit and discussed in relation to the presuppositions of Sartre's philosophy of action. The claim that radical existentialist freedom is libertarian is the result of a hasty conclusion, to say the least. This should clarify further Sartre's account of action and complete the necessary background for a discussion of Anderson's objection.

## 9. Reply to Anderson

Consider again the core of Anderson's objection: "If [...] human freedom is total, absolute and unlimited, [...] then there is no reason to change the concrete conditions in which humans live, even if they appear terribly oppressive." (1993: 25) First, we can say that, considered by itself, the objection is problematic. Imagine a distorted institution, such as a concentration camp led by the Gestapo or by the army of a communist regime; if the problem with Sartre's philosophy of action is that it cannot account for the lack of freedom experienced by those living their day-to-day existence in a concentration camp, then the assumption must certainly be that they are not free.

Yet, first, this overlooks one important aspect of Sartre's account of freedom, which I have emphasised in the discussion so far: Sartre's account of freedom accommodates several senses of 'freedom', depending on who the agent is and what the agent is free to do. We have talked about a popular notion of freedom, about a practical or empirical concept, about ontological freedom, as well as about an irrelevant use of 'freedom'. This suggests that while an agent may not be free in a certain sense, she may well be free in another sense. For instance, practical freedom is quite close to a notion of political freedom that, on Anderson's account, Sartre would need; if an agent is ontologically free, but her practical freedom is illegitimately limited in a particular case (say, when the agent is kept in a concentration camp), then an emancipatory project can easily be justified by reference to the limited practical freedom of that agent. This shows that, by itself, Sartre's radical existentialist freedom does not undermine his philosophy of action.

Secondly, however, it can be said that the radical character of existentialist freedom not only does not undermine Sartre's philosophy of action and in particular the possibility of an emancipatory discourse; we can in fact claim that radical existentialist freedom is a necessary condition for such a discourse. For Sartre's radical existentialist freedom is a condition which makes possible action and agency in general.

Anderson's objection claims that this radical existentialist freedom deprives us of reasons for emancipation. But consider again Sartre's account of action: according to him, the reason for change is given by the cause<sub>2</sub> [*motif*] through which the agent determines herself to act. This cause is bound up with the agent's motive

[*mobile*], as directed towards a desideratum – say, the non-oppressive situation sought by the agent. But this is the general structure of any action, according to Sartre. Whether one decides to change a situation or to preserve it, one does so on the basis of reasons: an agent wants to change a situation towards a desideratum or tries to preserve another situation, because alternatives are, on his view, to be avoided.

It is this need for a reason for action that is an expression of the radical existentialist freedom. Recall that, on Sartre's account, any *action* is accompanied by a motive. The agent is ontologically free insofar as she needs a commitment to a particular reason in order to act; as Sartre says, states of fact cannot motivate the agent, nor can they determine the agent to adopt a particular desideratum. This separation between the agent and states of facts requires the commitment of the agent when she performs an action, and makes it possible for the agent to act against expectations, patterns or standard practices.

While ontologically we can say that all agents are radically free, they are not all equally free in other respects. To see this more clearly, consider again the example Sartre discusses in *Being and Nothingness*, which I have mentioned in the previous section:

A worker in 1830 is capable of revolting if his salary is lowered, for he easily conceives of a situation in which his wretched standard of living would be not as low as the one which is about to be imposed on him. But he does not represent his sufferings to himself as unbearable; he adapts himself to them not through resignation but because he lacks the education and reflection necessary for him to conceive of a social state in which these sufferings would not exist. (*EN*: 479, 435)

This example is extremely important since it refers to a concrete political issue and to an institutional framework which relies on illegitimate arrangements. While this institution is not as extreme as the distorted institutions discussed in §3, it is sufficiently damaging to generate an emancipatory discourse. In this example, it is clear that the worker is not practically or empirically free: although there are economic constraints which prevent him from pursuing a good life, the worker cannot try to escape them. Here the agent is further constrained by lack of



education and reflection.<sup>24</sup> The reason why, according to Sartre, the worker eventually does not act indicates he is not practically free – he cannot attempt to devise a plan on the basis of which his situation is improved.

A brief note must be added here in relation to a further sense of freedom that seems to be implicit in Sartre's account, as presented so far. Sartre's comments on the 1830 worker suggest that the worker is not free in a different sense than that in which the prisoner is not. To be sure, I have said that the worker is not practically free, whereas the prisoner (at least that considered by Sartre) is. But there is a further difference related to my previous distinction between total and distorted institutions: assuming that a prison is a total institution and not a distorted one (that is, assuming that it is designed on the basis of legitimate purposes and with rules that are in their turn legitimate), we cannot talk about emancipation in his case. By contrast, for the 1830 worker, we can easily imagine a justified claim for his emancipation – both economic and socio-cultural. Even if the worker had the education and reflection necessary for his practical freedom, his escape plan would be justified in a further sense, against the background of the distorted economic institutions that exploited him. The worker who tries to liberate himself from the constraints of distorted economic institutions attempts to achieve a type of freedom that is different from that of the escaped prisoner. The liberated worker challenges illegitimate constraints, whereas the prisoner attempts to escape legitimate rules. This evaluative sense of freedom needs an ethical theory that Sartre attempted to articulate on the basis of an idea of authenticity.<sup>25</sup> This, I think, is a crucial issue for Sartre's existentialism, but it goes beyond the confines of this paper.

## **10. Conclusion**

The recent engagement of criminology and, more generally, socio-legal studies with existentialism has been motivated primarily by the emphasis existentialism puts on the concept of choice. Linked with other important relevant notions, such as freedom and reflection, the existentialist account of choice seems to bring into

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<sup>24</sup> In fact, Sartre talks about culture and reflexion: "L'ouvrier [...] manque de la culture et de la réflexion nécessaires pour..." (EN: 477, 435), but the differences introduced by the translation are not crucial here. I think there is a distinction in Sartre between reflection and reflexion. I present it in my book (2011: §§22-3)

<sup>25</sup> For a reconstruction of Sartre's early ethics on the basis of a comparison with Kant, see my *Kant and Sartre: Re-discovering Critical Ethics*. (2011)

discussion also some of the standard issues usually discussed in the literature on existentialist philosophy.

In this paper, I focused on the existentialist account of freedom, in particular on Sartre's radical freedom. Usually associated with an implausible libertarian view and criticised for the implications of its radical character, Sartre's existentialist freedom has been considered as both a distinctive mark of Sartre's philosophy of action and an element that undermines it. My aim in this paper has been to defend Sartre's account of freedom and to respond to the specific objection from emancipation offered by Anderson.

I have shown that the textual evidence is clear that Sartre's account of freedom cannot simply be placed in the libertarian camp without further discussion of the presuppositions of the debate between libertarianism, determinism and compatibilism, on the one hand, and, on the other, the dispute between free will theorists and determinists that Sartre discusses in *Being and Nothingness*. I have also shown that the radical account of Sartre's existentialist freedom not only does not undermine an emancipatory project in the case of oppressive institutions, as Anderson claims, but in fact it generally makes possible action, including projects of emancipation.

I have started by noting the link between the existentialist concepts of choice, freedom and reflection. Although the focus in this paper has been on freedom, the notion of choice and reflection also figured importantly at some points in the argument. I have also said that I will make some comments on the issues of choice and reflection, and I would like to end my argument with these comments.

First, the notion of choice that is important for existentialism is not a notion of deliberative choice, in spite of the fact that Sartre does talk (but in a general sense) about reasons for action; on the contrary, Sartre explicitly rejects deliberation as the main form of choice. We may certainly make choices as a result of deliberation, but choices are implied also when a person is mainly led by passion. Choices are made possible by the existence of alternatives and the freedom to endorse one of them, and this endorsement takes place in non-deliberative contexts too.<sup>26</sup> Secondly, reflective consciousness is for Sartre a form of consciousness which is made possible by pre-reflective or reflexive consciousness. For Sartre, the characteristic feature of personality is not reflection, but this reflexive or pre-

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<sup>26</sup> For further discussion, see §29 of my monograph on Kant and Sartre. (2011)

reflective consciousness, which enables the agent to stand back from the factual states and to evaluate the best course of action.<sup>27</sup> Sartre's existentialist philosophy of action offers for socio-legal studies an account of freedom, choice and reflection, which is stronger than the accounts standardly presented in the literature.

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<sup>27</sup> For further discussion, see §24 of my monograph on Kant and Sartre. (2011)

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