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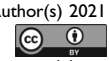

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Responsibility for reality: Social norms and the value of constrained choice

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Abstract

How do social norms influence our choices? And does the presence of biased norms affect what we owe to each other? Looking at empirical research relating to PrEP roll-out in HIV prevention policy, a case in which harmful gender norms have been found to impair the choices of young women, I argue that the extent to which we can be held responsible for our choices is connected to the social norms that apply to us. By refining T. M. Scanlon's Value of Choice view, I introduce a norms-sensitive contractualist theory of substantive responsibility. This feminist 'Value of Constrained Choice view' presents those who choose under harmful norms as having generic reasons to reject principles that provide them with opportunities they are effectively constrained from choosing. I argue that to fulfil their duties to us, and our duties to each other, policymakers must study the influence of social norms on choice and accommodate it in public policy. Contractualists have reason to pay special attention to social norms, as their unequal effects on choice reveal that we are not living under terms that no one could reasonably reject.

Keywords

HIV prevention, gender, social norms, Scanlon, choice, responsibility, contractualism

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In 2015, the World Health Organisation started recommending that governments provide individuals at high risk of HIV infection with the opportunity to take oral pre-exposure prophylaxis, PrEP. This is a treatment that significantly decreases transmission risk. At the moment, policymakers all over the world are considering how to fairly and effectively roll it out. UNAIDS (2020) has emphasised that it is vital that gender inequality is taken into account in the process. The UN Commission on the Status of Women reported in 2020 that

> proven strategies to prevent HIV among women and girls have not been scaled up; research on female-controlled HIV prevention methods and on treatment that is safe and appropriate for women and girls has not been prioritized; and national HIV strategies and policies have not included sufficiently funded gender-responsive interventions. Globally, AIDS continues to be the leading cause of death among women and girls of reproductive age.

HIV prevention has historically neglected the impact of gender norms and the power dynamics that they regulate, and this is what explains, in part, women's vulnerability to infection. To ensure PrEP policy effectiveness experts thus urge policymakers to pay attention to the effects of norms on women's opportunities (Options Consortium, 2019).

The influence of gender norms also poses a challenge to philosophical accounts that emphasise the relationship between an individual's choices and what society can be asked to do for her.[1] A common intuition is that if a person had an opportunity to avoid a risk but did not take it, this weakens her complaint about a poor outcome because she can be held *substantively* responsible for it. Generally, being substantively responsible for an outcome under a principle means not having a complaint against others that the outcome came about (Scanlon, 1998, 290; Stemplowska, 2021, 120). In relation to this idea, this paper makes three interventions. First, by drawing on empirical findings of the impact of gender in HIV prevention policy, I argue that a theory of choice and responsibility must factor in social norms.[2] Second, I draw attention to a gap in the contractualist literature with regards to both gender and social norms. Third, by refining T. M. Scanlon's leading theory of substantive responsibility, the contractualist Value of Choice view, I give a positive account of how to take social norms into account, which I call the Value of Constrained Choice view. Although Scanlon's theory has not previously been used to address questions of gender or social norms, its focus on sufficient efforts on the part of policymakers, and its discussion of how a society should set policies in ways that are fair to people, makes it particularly suitable to draw on.[3]

Before presenting a roadmap for the paper, it is necessary to clarify what aspect of substantive responsibility I aim to examine. I am interested in the relationship between an individual's claims against policymakers, and the wider institutional picture: 'the opportunities to choose that he has had and the decisions he has made' (Scanlon, 1998, 249). I will focus on the kind of opportunities policymakers must provide and the environment they must create in order for individuals to be able to make choices they can be held substantively responsible for.[4] I will start from the assumption that the extent to which an individual can be held substantively responsible affects the strength of her complaints against a policy's implementation, and the extent to which her complaints should be

prioritised over other considerations, but not necessarily the duties of policymakers to assist her. Applied to our case study, this means that an individual's choice not to take PrEP does not imply that she has lain 'down her right to rescue or treatment' (Scanlon, 1998, 265), such as, for example, antiretroviral therapy, should she become infected with HIV.

I begin by presenting the PrEP policy case and social norms as a wider phenomenon. Then, I provide an idealised version of the case before turning to Scanlon's Value of Choice view. I use this idealised PrEP case to highlight some ambiguities and lacunas in Scanlon's presentation of his theory, before showing how it can be extended to explicitly deal with gender norms, and indeed, social norms more generally. This contractualist development is what I call the Value of Constrained Choice view. Lastly, I suggest that impairments on choice resulting from social norms are especially worrying for contractualists, as these clearly reveal that we are not living on terms which no one could reasonably reject.

Social norms and HIV prevention

An important factor explaining the inability to curb the HIV pandemic is policymakers' insufficient attention to gender inequality (UNAIDS, 2020). In South Africa, for instance, HIV is now up to four times more common in young women than in their male peers (Sanac, 2016). The gender disparity has been attributed to several factors, both biological, behavioural, and structural. Women have a higher biological susceptibility than men. Young women tend to have sexual relations with men who are older, and who often have many sexual partners.[5] This behavioural pattern, which puts women at higher risk of contracting HIV, is related to a set of traditional social norms which regulate the gendered power dynamics and distribution of resources in many communities (UNAIDS, 2016, 12–15).[6] Consequently, to determine how to provide individuals with valuable opportunities to take PrEP, we need a prior understanding of how social norms operate.

In short, social norms are informal rules for behaviour that impact people's choices and that are closely intertwined with expectations: an individual will likely follow a social norm if she expects that other people follow it, and if she thinks that other people think she should follow it (Bicchieri, 2017, 1–49). While social norms constrain the bundle of opportunities that is open to an individual, they also work to enable her actions within her opportunity set.[7] Biased social norms are norms that apply exclusively to individuals with certain characteristics, such as gender. Gender norms demand different behaviours from men and women or demand stricter adherence to a behaviour from members of one gender than from other people.[8] This phenomenon has been pointed out as an especially troublesome obstacle to women's empowerment.[9] Characteristics that traditional gender norms prescribe for men, such as strength, competence and independence, have historically often been perceived as generally more desirable than those that are expected of women to have, such as passivity and emotionality (Options Consortium, 2019, 63; Rudman, 1998, 629; Seem and Clark, 2006). Because social norms rely on our views of what society approves of, such norms will not change without a collective shift in normative expectations. Receiving information that a norm-

sanctioned behaviour is unnecessary or even dangerous will give us a reason to question it. However, whether or not we will choose to stop following the norm depends on our beliefs about others' adherence to it (Bicchieri, 2017, 166).

When a social norm is established in a community and has been accepted or internalised by its members, they will see the norm as authoritative and judge themselves according to its standards (Brennan et al., 2013, 15–39). Although people may generally agree with the norm, some might reject it, either because they think it is unattractive or because they see it as an inappropriate standard for their society. Nevertheless, they will experience positive feelings when they fulfil its demands, and negative feelings such as shame or guilt should they fail to do so. Further, norms shape the opportunities people perceive themselves to have. The options a norm prohibits might not even arise in the individual agent's mind as being part of her opportunity set. If they do, these options will look unappealing or unavailable to her (Brennan et al., 2013, 252). In this way, social norms are upheld by internal sanctions, a form of policing that comes from within the agent herself. Internal sanctions can suffice to uphold a social norm, but sometimes they are also supported directly by social, external, sanctions. For example, in some cases, if an agent complies with a norm people will reward her or at minimum treat her action with indifference, whereas if she goes against the norm she will receive criticism or negative reactions. The intensity of people's reactive attitudes to norm transgression, which determines the cost of each transgression, varies. In some cases, a norm violation makes the transgressing individual liable to criticism, or it can change others' perception of her. In other cases, people may lash out or even become violent.

As scholars and activists have shown, gender oppression – where oppression is understood as the systematic disadvantage based on individuals' perceived social group membership – cannot be understood in isolation from other forms of disadvantage (see, for instance, Combahee River Collective, 1977/1981; Davis, 1983; hooks, 1981). Individuals have overlapping memberships in social groups which affect their social status and particular experiences. Therefore, men are not all advantaged in the same ways, just as all women are not disadvantaged to the same extent (Bird and Rieker, 2017, 37). In any given situation, there will be different, intersecting, norms and structures that together determine which options are open to the agent.[10] As we will see, this will need to be considered in the rollout of PrEP.

Oral pre-exposure prophylaxis, PrEP, has been shown to greatly reduce the risk of HIV infection. Because it can be used 'discretely and not at the time of sex', WHO presents it as 'especially important for women, including young women, adolescent girls and also those who are concerned about acquiring HIV in the context of a stable partnership'. It is intended for, among others, 'people who lack the negotiating skills and power to insist on condom use' (UNAIDS, WHO and Avac, 2015, 6).[11]

When policymakers prepare for rolling out PrEP, it is vital to incorporate knowledge from previous decades' HIV prevention. Traditionally, there have been efforts to quell the HIV pandemic by providing information about the virus, and by offering free or heavily subsidised protection (Ackermann and de Klerk, 2002, 165; van Loggerberg et al., 2012: 1) . The idea behind this kind of policy has been that knowledge about HIV, and prevention tools, are something generally valuable to have. Further, it has been thought that someone who becomes aware of the dangers involved in having unprotected sex in a region where

many people are HIV positive, and who gets access to protection, is likely to use the available protection because it is in their interest. To illustrate my argument in what follows, I will refer to an idealised representation of a policy that might be considered for PrEP rollout if gender norms are not taken into account, and which corresponds to many previous HIV prevention strategies, only in this case with the addition of PrEP:

> *Universal:* Information about the benefits of using PrEP is distributed in the community. PrEP is made available at low or no cost at health clinics, pharmacies and other usual pickup spots. This effort is taken together with other prevention policies, such as testing, education, antiretroviral treatment, and provision of condoms and other forms of contraception.

This 'Universal' policy may well be thought to provide citizens with sufficient opportunities to avoid the harm involved in contracting HIV, as expressed by the opportunity set {protect (low risk of HIV infection), do not protect (high risk of HIV infection)}.[12] However, many policies such as this one have failed, and young women are thus continuously at high risk of HIV infection. One part of the explanation is the role of gender norms in individuals' decisions about whether to protect themselves from HIV. There is a connection between sexual risk behaviours and gender inequality (Sanac, 2016: 44; Auerbach et al., 2011; Mantell et al., 2009). Specifically, it appears that a woman's risk of becoming infected with HIV is related to the gender norms of her community (Harrison et al., 2006; Macphail et al., 2009). More egalitarian norms correlate with an increased likeliness of the use of protection in heterosexual intercourse (Harrison et al., 2006, 717; Jama et al., 2010; Harrison et al., 2001; Sprague, 2018: ch7; Fladseth et al., 2015).

In South Africa, for example, gender norms were found to encourage men to lead interactions while encouraging women to be passive (Options Consortium, 2019, 104). As a result of such norms, many women are constrained from initiating discussions of sexuality, STI prevention, and contraceptive use (UNSC, 2020, 14). The social sanctions connected to these norms work differently in different communities, meaning that the costs of transgression vary. Some merely face feelings of awkwardness, and others face a loss of social status and a risk of violence. In a study conducted in South Africa in 2009, all participants perceived that 'gender inequalities and oppression continue to be greater for Africans than for … other South African population groups' (Mantell et al., 2009, 147). This is linked to the high levels of male unemployment in this group, which in turn has its historical basis in the detrimental effects of the Apartheid regime's efforts to break up and control black communities (Jewkes and Morrell, 2010; Strebel et al., 2006).[13]

As noted, this kind of gendered dynamic is by no means unique to South Africa. Rather, norms surrounding sexuality often prescribe submission, chastity and passivity for women, while being more permissive for men.[14] According to the logic of such norms, women should be talked into sex, not think about it independently. Taking PrEP, or bringing condoms to a date, constitutes a transgression of these norms because it implies that one has planned for and thought about sex (Calabrese and Underhill, 2015; Giovenco et al., 2021; Haberer et al., 2019). Further, such behaviour

implies sexual experience and/or taking control of the sexual situation, an arena in which men are perceived to be entitled to power. In the intersection with other norms and conditions that women find themselves in, these gender norms constrain women's choices and apparent options, by way of internalisation or social pressure (or a mix of the two) (UNSC, 2020, 3).

Against this background, several PrEP trials focused specifically on the conditions of young women, and more are underway (Avac, 2019b; Options, 2017). Alongside studies of gender norms and HIV more generally, the findings suggest that if a country wants to curb the epidemic, it is not enough to merely provide information and prevention tools (UNAIDS, 2016, 35). To protect young women (and, by extension, their partners and future children) there is a need for interventions that are tailored for their specific needs (AIDS Vaccine Advocacy Coalition (Avac), 2018). This includes providing women with opportunities to take the drug without having to bargain with or getting social approval from their friends and sexual partners (Haberer et al., 2019).

Policies that are aimed specifically at young women are more costly than more universalist approaches. Nevertheless, I will argue that governments owe it to young women to fund studies such as the trials mentioned above and to opt for policies that are responsive to biased social norms. Recall that on my fictional policy Universal, citizens are thought to be provided with this opportunity set: {protect (low risk of HIV infection), do not protect (high risk of HIV infection)}. Such a picture differs dramatically from what we now know about gender dynamics in the community: although Universal does provide something valuable, what many women will face is a dilemma between transgressing gender norms and risking HIV. I will for analytic purposes categorise the opportunity sets of citizens under Universal into three types, here represented by three fictional agents who all make their decisions about how to act under the influence of the gender norms:[15]

> For Anna, going against the norms by using PrEP would make her feel bad. If people in her social network discover that she is under treatment, her choice to take it could also result in social stigma, loss of vital goods, or possibly even violence. She thus faces internal and external sanctions upholding the social norms, which act as constraints on her choice. Her opportunity set is {protect (high risk of social stigma, loss of vital goods, and/or violence), do not protect (high risk of HIV infection)}.[16] This set constitutes what Marilyn Frye (1983, 2) describes as a double bind: a situation where 'options are reduced to a very few and all of them expose one to penalty, censure or deprivation'.[17]

> For Bella, using PrEP would be uncomfortable. She would feel bad about transgressing the gender norms, but it would not badly affect her relationships or her social status. In other words, her choice is constrained mainly by the internal sanctions she faces for transgressing the norms. Her opportunity set is {protect (discomfort), do not protect (high risk of HIV infection)}.

> Charles is allowed by the gender norms in question to use PrEP, and his opportunity set is the one predicted by policymakers: {protect (low risk of HIV infection), do not protect (high risk of HIV infection)}.[18]

As the HIV case illustrates, even in situations where people like Anna and Bella are making conscious, informed choices, such choices are often part of wider social practices. This tells us that the meaning and moral status of an individual's choice cannot be understood in isolation from their cultural context.[19] To assess whether policymakers have done enough to protect Anna, Bella and Charles from harm and to provide them with valuable opportunities, we therefore must take social norms into account. The case I have presented is just one example among many instances where biased social norms affect agents' choosing. Similarly, PrEP rollout should be thought of as an example among many situations in which the success of policymaking depends on such norms. Against this background, it becomes clear that social norms pose an important philosophical challenge to theories that focus on choice in their assignment of responsibility to individuals.

In the next section, I introduce Scanlon's theory of substantive responsibility, the Value of Choice view, before applying it to Universal to see how it should be properly extended to deal with situations where agents like Anna and Bella choose under harmful gender norms.

The value of choice and social norms

In thinking about the kind of precautions policymakers need to take to be able to argue that they have done enough for citizens, T. M. Scanlon's view of substantive responsibility, the Value of Choice view, is a valuable resource. Scanlon (1998: ch6) assumes that we are not justified in forcing our views and decisions upon others and that the value of having an opportunity to choose is connected to responsibility for what one chooses, under certain conditions.[20] On the Value of Choice view, an individual can be held substantively responsible for the outcome of her actions under a policy if that outcome is a result of her own doing and something that she could have avoided by choosing differently among sufficiently good options. If an agent is responsible for her situation, this weakens her claim against the policy and counts in favour of its justifiability. Substantive responsibility depends not only on the opportunities that are formally available to the agent but also on the precautions and efforts that policymakers have taken to decrease the risks involved, whether they have 'done enough':

> When the relevant background is in place – when conditions are right, necessary safeguards have been provided, and so on – the fact that a person chooses a certain outcome may make that outcome one that he or she cannot reasonably complain of. But choice has this effect only when these other factors are present (Scanlon, 1986, 190).

The efforts on the part of policymakers are connected to the reasons agents can give to dispute policies. To evaluate claims from different standpoints, we must rely on 'commonly available information about what people have reason to want'– information about what Scanlon (1998, 204–5) calls *generic* reasons, that is,

> reasons that we can see that people have in virtue of their situation, characterised in general terms, and such things as their aims and capabilities and the conditions in which

> they are placed. Not everyone is affected by a given principle in the same way, and generic reasons are not limited to reasons that the majority of people have.

Scanlon (1998, 212, 216) gives several examples of generic reasons, reasons that could be used to reject principles or policies. A policy that arbitrarily favours Charles's reasons at the expense of Bella's similar reasons would be unfair and thus, Bella would have a generic reason to reject it. We cannot accept that one person's complaints are taken more seriously than someone else's, for no good reason. Bella would also have a generic reason if the burden the principle puts on her is greater than the burden someone else would have to bear on an alternative principle.

Importantly for us, a further consideration that bears on the evaluation of whether a policy could be rejected has to do with the extent to which the affected agents are responsible for the situation they are in. The issue of responsibility is connected to the decisions that the potential rejecter has made herself and, specifically, in what circumstances she made them. There are several reasons to value choice. I focus here on the *instrumental* value of choice, which is 'a function of the value of the alternatives that would result from the actions one might choose when presented with this choice and the likelihood that one will choose the action with the more favourable outcome' (Scanlon, 2013, 511).

If Charles knowingly and freely has taken great sexual risks, while having a range of decent options to choose from which include the option of using a condom or taking PrEP, he cannot reasonably complain about the implementation of Universal. By contrast, imagine that on a policy, which we may call

> *Partial*, information is sent out and precautions are taken just like on Universal, but the warnings do not reach some areas in the community.

David lives in such an area, and so he would receive no information about the risks involved in unprotected sex. He might become infected with HIV without having been given a choice. We would judge David to have ended up in a more unfortunate position under Partial than the one Charles would be in on Universal. Importantly, the necessary safeguards were not in place – by implementing Partial, policymakers have not 'done enough' for David. Therefore, in contractualist terms, he would have a stronger reason to reject the policy that allowed him to become infected than Charles, who is responsible for his situation. Since the outcome in this case is extremely harmful, this consideration does not imply that any of these agents would not be owed assistance in the form of treatment, but it helps policymakers in their deliberation over the choice between Partial and Universal.[21] To know whether the policy is rejectable from David's standpoint, however, and according to the Value of Choice view, we would need more information about the preconditions and whether the opportunities provided on Universal were really generally valuable (Scanlon, 1998, 259). Scanlon (1986, 184–5) argues that

> Moral principles or social institutions which deny such opportunities when they could easily be provided, or which force one to accept the consequences of choice under extremely unfavourable conditions which could be improved without great cost to others, are likely to be reasonably rejectable for that reason.

Specifically, the question is whether policymakers have done all that they 'could reasonably be expected to do to warn and protect' people, including Anna and Bella (Scanlon, 1986, 191). It is important to note that Scanlon does not himself discuss how substantive responsibility is affected by gender dynamics, gender norms, or other social norms. As Andrew Williams (2006, 255) has argued, the Value of Choice view is not a full account of substantive responsibility. Nevertheless, the gender lacuna in the wider literature of the Value of Choice is an especially critical one. The fact that this gap exists, however, does not mean that Scanlon's contractualism is incompatible with considerations of gender, and to say that the theory does not consider gender norms is not the same as saying that it cannot be developed to do this. So, how should we refine it? When we apply the Value of Choice view to the HIV case, we find that to accommodate the claims of individuals who choose under the influence of oppressive social norms, we need to further clarify how to interpret two central features of the theory: 'generic reasons' and 'doing enough'.

First, how does the fact that an agent's choice under a policy is influenced by a harmful social norm affect the status of her reason for rejecting the policy? I will argue below that harmful gender norms must be understood as something that can make an opportunity set that is available to someone in a particular social position less valuable than it would otherwise be, and that reasons for complaining about policies in such positions should be given the status of *generic reasons*. Doing this entails separating claims based on gender norms from claims based on other factors that might influence individuals to make harmful choices, such as their internal dispositions. Second, how should we judge precautions taken by policymakers in situations where individuals face opportunity sets with differential value, where this differential value is due to the fact that harmful social norms prescribe different roles and behaviour to individuals? What, in this context, does it mean that others have *done enough* for an agent? I will argue that policymakers owe it to individuals to do research to find out how gender dynamics and norms affect the situation in which they are intervening. Further, they need to make efforts to counteract harmful social norms.

To understand the relationship between agents' generic reasons and policymakers' having done enough, a few more details are helpful. In his explanation of the role of generic reasons and doing enough in the Value of Choice view, Scanlon tells a story about a community in which the water supply is threatened by hazardous waste. This dangerous material has been illegally dumped and policymakers owe it to citizens to do something to save the water (Scanlon, 1986; 1998: ch6). Public officials agree that to fix the problem, the policy *Inform Everyone* should be implemented (Scanlon, 2013; see also Voorhoeve, 2008). Under this policy, the waste is to be transported away from the community and safely taken care of elsewhere. Policymakers predict that while the material is being removed, some of it will get out and pollute the air to make it dangerous to breathe, as this kind of material badly harms human lungs. Therefore, the policymakers must make some paternalistic efforts:

> *Inform Everyone*: Fences are put up around the excavation site. To make the material as safe as possible, it is wet down before its transportation. Information about the danger is sent out to everyone in the community to advise them against going outside.

This, Scanlon (1986, 191) argues, is all that could reasonably be expected in terms of warning and protecting the inhabitants. The precautions taken mean that policymakers have done enough:

> According to the Value of Choice account what matters is the value of the opportunity to choose that the person is presented with. If a person has been placed in a sufficiently good position, this can make it the case that he or she has no valid complaint about what results, whether or not it is produced by his or her active choice (Scanlon, 1998, 258).

Despite these efforts, there is an *ex ante* unidentified person, 'Curious', who chooses to go outside. She is so curious to see what is going on that she ignores the information that encourages her not to. As a result, she ends up with severe permanent lung damage. Scanlon (1986, 192) argues that 'by choosing, in the face of all our warnings, to go to the excavation site, she laid down her right to complain of the harm she suffered as a result'. Curious is substantively responsible for the situation she ends up in since she was placed in as 'good a position as one could ask for' (Scanlon, 1986, 195). Because of the precautions that the policymakers took, she does not have a generic reason to reject the policy.

Let us now ask what the Value of Choice view would say about the reasons of people choosing under the influence of harmful social norms, and about what precautions policymakers must take. In the following, I will compare Curious's situation under Inform Everyone to those of Anna, Bella and Charles under Universal. Applying Scanlon's theory to the HIV case allows me to discuss how his ideas of 'doing enough', and 'generic reasons', should be understood and developed in light of social norms.

Generic reasons

Scanlon (1998, 204) argues that when we judge whether a policy could be rejected from the standpoint of a specific member of our community, what is of importance is not her 'particular aims, preference, and other characteristics … We must rely instead on commonly available information about what people have reason to want'. Neither are we concerned with what is likely to lead to an agreement considering what the *actual* individuals in our actual situation are like. What matters, rather, is the merit of the claims of those involved – the reasonableness of their arguments for and against policies (Scanlon, 1998, 194). When someone puts forward a generic reason against a policy's adoption, we must compare that reason to the generic reasons others might have against alternative policies. This involves looking at the costs involved in choosing another policy: would it be more costly for other people? Would it require them to carry a heavier burden? What kind of research or inquiries would policymakers have to pursue? What would such studies cost? Scanlon (1998, 205) argues that making principles

> more fine-grained, to take account of more and more specific variations in needs and circumstances … will create more uncertainty and require those in other positions to gather more information in order to know what a principle gives to and requires of them.

Regrettably, Scanlon is vague about what level of generality he defends. While he wants to tend to the differential, potential needs people have, he shows that going into too much detail causes problems of its own. The challenge is thus to strike a balance between making society's rules understandable, predictable and reliable for everyone, and taking different standpoints into account. But how?

In his discussion of Inform Everyone, Alex Voorhoeve (2008; see also Stemplowska, 2013) has asked why Curious should have to accept this policy just because it is useful to most people or constitutes an example of 'what people have reason to want', if there exist alternative policies on which she would be better off and no one else would be worse off than she would be on Inform Everyone. Although Curious did choose to explore the danger instead of avoiding the risk, she did so because of her extreme curiosity. Why should she be held substantively responsible for the outcome that befalls on her as a result of her unchosen internal disposition? Voorhoeve (2008, 189–190) argues that we are not justified in limiting the range of reasons which can be used to reject principles to those that are generic, as this will lead some individuals, to whom we know the generally valuable is not instrumentally valuable, to be harmed.[22] When they have access to anonymised information about what would enable people like Curious to choose well, policymakers should use it to put them in better circumstances. Voorhoeve's (2008, 195) solution is thus to look not at generic reasons, but instead at what the potential instrumental value of individual agents' opportunity sets is when we consider what they can achieve with their options, and how likely they are to react to these options given their internal dispositions.[23] The question becomes not what people would generally have reason to want, but instead what would enable Curious (and every other individual in the community) to choose well.

One important question is why it is that Curious's reasons are not generic. Health is something that everyone values – it belongs to generally valuable goods.[24] In the given situation, Curious has two conflicting interests: she wants to stay healthy and she also wants to satisfy her curiosity by going out to look at the waste site. Scanlon argues that not all aims, preferences and projects that a person may have correspond to duties on the parts of others, and that the satisfaction of one's curiosity is one that falls outside, to which Voorhoeve's (2008, 189) responds that this 'does not give us reason to regard Curious as having been placed in good circumstances of choice under Inform Everyone. For she will suffer damage to her health, and this is among the ways in which a person is affected that Scanlon regards as giving rise to legitimate claims'.

Generic reasons need not be shared by the majority. Recall that Scanlon argues that a minority of a population can put forward generic reasons for rejecting principles that put them under a burden, as long as this burden is such that it can be appealed to in generic terms, so that people can recognise it. The reasons of Curious, Scanlon (1998, 263) argues, cannot be explained in this way because she and everyone else were provided with opportunities that people generally would have reason to value, and so policymakers had done enough. I will return to this issue. For now, it suffices to say that on Scanlon's view, policymakers' sufficient efforts imply that from Curious's standpoint, we could recognise the value in having the provided opportunities. This is why for him her longing to satisfy her curiosity does not qualify as a generic reason. And, importantly,

this is what makes her situation different from that of people choosing under the influence of harmful social norms. This should become clear as we explore what the Value of Choice view might say about the reasons of Anna, Bella and Charles.

Generic reasons and external sanctions

Recall that Anna's opportunity set under Universal is {protect (high risk of social stigma, loss of vital goods, and or violence), do not protect (high risk of HIV infection)}. Whereas the policymakers responsible for Universal predict that she will have one harmful option (no protection) and one valuable one (protection), she can only choose between two options that both involve serious risk: either she risks social stigma and violence, or she risks HIV infection. This distinguishes her situation from Curious's. Curious in fact has an option (stay inside) which, although not tempting for her, she can nevertheless acknowledge as valuable. If she chooses this option (which she will not, because of her internal disposition) her curiosity will remain unsatisfied. But other than that, Curious fares well. By contrast, all of Anna's options under Universal expose her to risk of penalty or deprivation, and the opportunity set as such constitutes a double bind. In other words, once we have information about the social norms that apply in the situation and the gendered power dynamic that they regulate, it is clear that none of the opportunities are generally valuable from Anna's standpoint. The potential costs involved in the option that policymakers consider to be generally valuable are, for Anna, unreasonably high.[25] If put in this situation, most people would generally see the value in being given better options to choose from.[26]

It is clear that the Value of Choice view can explain why Anna's opportunity set is not valuable enough to make her substantively responsible for the harm she suffers under Universal. It provides her with no valuable opportunity. This is why Anna must be understood as having a generic reason to reject Universal, a reason of the kind Curious lacks in relation to Inform Everyone, but which is available to David in relation to Partial. It is important to note, however, that we only see this if we take into account the harmful gender norms which apply to Anna. Any reasonable interpretation or application of the Value of Choice must therefore incorporate an imperative for policymakers to do the research needed to uncover harmful social norms and the external sanctions that work to enforce them, thus restricting agents' opportunities.

How do the internal sanctions of social norms affect substantive responsibility? To examine this question, I will now look at Bella's reasons in relation to Universal.

Generic reasons and internal sanctions

Recall that Bella expects that using PrEP would be uncomfortable, that she would feel bad about transgressing certain social norms, but that it would not badly harm her relationships or her social status, and that her opportunity set under Universal is {protect (discomfort), do not protect (high risk of HIV infection)}.[27] It thus differs from the opportunity set that policymakers expect Universal to produce: because they are ignorant about or inattentive to the gender norms that apply to Bella, they believe that the generally valuable option (protect) will appear valuable to her. However, researchers predict that

many individuals in her position will choose not to protect, because of the internal sanctions of the gender norms they are subject to. Therefore, like Curious under Inform Everyone, Bella will not find the generally valuable option to be valuable. The question is what the Value of Choice view says about her standpoint: can she provide a generic reason against Universal? Scanlon discounts Curious's internal disposition as irrelevant– Curious is substantively responsible for choosing in accordance with her curiosity. So why should the same thing not be said about Bella? After all, she is willingly choosing to put herself in harm's way even after having been exposed to comprehensive warnings.

There are important differences between the cases, however. In the HIV case, social norms encourage Bella to choose in a way that is harmful to her. In Hazardous Waste, the community's social norms do not, as far as we know, say anything about how Curious should choose. These agents face different problems that need to be approached using different strategies, something that portraying Bella as being merely 'disposed to choosing imprudently' will conceal. The mistake of confusing these types of cases is what partly explains the failure of HIV prevention historically. If we want PrEP policy to succeed, we need an account of substantive responsibility that can tell us explicitly what is moving the scales. That is, even if we could detect the fact that women like Bella are in bad circumstances of choice by examining how they are disposed to choose, describing these women as internally disposed to choose 'imprudently' conceals something normatively important: the reason that they are in these circumstances is that they are socially oppressed by others. If we assume that Curious's choice is not explained by biased social norms, but grant that Bella's is, then we should not conflate them in our analysis. We would risk what Serene Khader (2011, 56) calls psychologising the structural: incorrectly assuming 'that a person is failing to flourish primarily because of problems with her psychology (her values, desires, etc.) rather than because of her structural environment'. Confusing Bella's position with that of Curious could allow a systematic social wrong to masquerade as an individual problem faced by several individuals, with individual, non-generic internal dispositions. To provide people like Bella with valuable opportunities, we need to shift the focus from individuals' internal dispositions to their social conditions. This way, we also find ourselves in a different vantage point where we are better placed to articulate the need for social change.[28]

But does this mean that the Value of Choice view can be understood as incorporating reasons formed by and based on biased social norms, such as the gender norms in question, into the range of reasons that are generic? [29] In his discussion of the Value of Choice, Scanlon does not mention the effects on choice that social norms and other factors relating to an agent's social context might have. Factors which according to Scanlon (1998, 291) can free an agent from substantive responsibility include drugs, brain stimulation, hypnosis, mental illness, coercion and young age. To make the Value of Choice sensitive to social norms, we must extend it.

Consider that Scanlon (1998, 205–6) argues that the generally reasonable, and what counts as a generic reason, can be changed through the gradual refining of 'our intuitive moral categories under conflicting pressures'. The point is that we

> bring to moral argument a conception of generic points of view and the reasons associated with them which reflects our general experience of life, and that this conception is subject to modification under the pressure of moral thought and argument.

It is reasonable to assume that what general experiences we have, in turn, will be affected by our society's social norms – which both constrain and enable our actions. Therefore, contractualist principles and policies will, to some extent, be influenced by the account of morality already operating in the society in which they are produced. As we saw in the discussion of generic reasons above, it seems that we need some shared moral standards to appeal to in our critique of wrongs and injustices.[30] However, there is reason to worry that what appears generally reasonable to those growing up in a racist and sexist society is not likely to be an acceptable standard for morality.[31] As John Stuart Mill (1869/1996, 127) famously asked in relation to gender inequality, 'Was there ever any domination which did not appear natural to those who possessed it?' Unless there are generic reasons to put forward from standpoints such as Bella's, the conception of what is generally reasonable, and thus the Value of Choice view, cannot be understood to sufficiently take into account reasons that people may have in virtue of being in particular social positions that the dominant group, or the majority, generally do not know much about. In sum, generic reasons cannot only be based on what is generally reasonable in a community. Scanlon is aware of this. Citing Catharine MacKinnon's (1989) theory of male power as an important example of feminist work calling attention to social biases in morality, he argues that

> some of the most common forms of moral bias involve failing to think of various points of view which we have not occupied, underestimating the reasons associated with them, and overestimating the costs to us of accepting principles that recognise the force of those reasons (Scanlon, 1998, 206n17).

This is one way to interpret what is going on in HIV prevention policy: policymakers fail to take young women's standpoints seriously and come to underestimate their reasons while overestimating the reasons of other citizens. As Scanlon points out, the fact that feminists have exposed ways in which the socially and historically contingent have been falsely presented as natural, general or human, and how unjust circumstances in this way appear justified, shows that we cannot assume that what we believe is generally valued in a society will necessarily be sufficient grounds for ethical judgment. We must constantly be prepared to update what we understand as a generic reason.[32] Scanlon (2018, 5, 64) has elsewhere argued that inequalities based on race and gender as a matter of 'entrenched social customs and attitudes' are especially objectionable, and that 'racist and sexist attitudes in a society … undermine equality of opportunity by discouraging members of these groups from thinking of various worthwhile careers as appropriate for them…'

Importantly, Scanlon (2018, 64) says that 'one thing that a society can provide is a larger environment in which various alternatives are available for consideration and presented as possible options'. This, however, does not tell us how to provide such an environment. Specifically, we do not know how to deal with responsibility for choices that, although

freely made, are regulated by social norms that prescribe different behaviours from different groups depending on members' perceived race and gender. Yet it appears that we cannot apply the Value of Choice view without taking into account contingencies such as the sexism and racism that structure our societies as there is an apparent risk that we then might incorporate a form of casual white androcentrism, for which feminists historically have criticised contract theory (Okin, 1989; Pateman and Mills, 2007; Phillips, 2021; Smith, 2021).

We cannot demand that a moral theory provides guidance in every case imaginable. However, the existence of social norms is arguably something that inevitably and predictably shapes individuals' choices and almost always affects policy implementation. The lacuna with regards to social norms and their effects on choice in Scanlon's account, and the literature discussing it, is therefore an exceptionally important one to fill. Nothing in the Value of Choice view alerts us that these norms could be at play in the choice situation, and so policymakers using this theory are left with no indication of the existence of what globally is a very pressing matter, namely that biased social norms make individuals suffer discrimination and harm. They may then assume that Universal provides people with good opportunities to choose, or at least that the Value of Choice view can justify it.

In this section, I have argued that the idea of a generic reason must be critically examined, because opportunities that would be generally valuable in the absence of oppressive social norms are not valuable to the groups to which such norms apply. When we take social norms into account, it is clear that individuals in these positions do have generic reasons to reject principles that only provide opportunities that are not valuable from their standpoints. But recall that Scanlon argues that there is a connection between generic reasons and the other major idea that figures in his thinking about substantive responsibility: policymakers' 'doing enough' to put people in good conditions for choice. In our case, what must policymakers do? I will now turn to this question.

Doing enough

On Scanlon's contractualism, whether or not an individual can complain about the burdens imposed on her under a specific principle cannot be settled by looking at what she did or did not do to end up in the position she is in. What is of importance is not what an individual in fact ends up choosing, but rather whether the position she was in was a generally valuable one. One central part of the evaluation therefore concerns the efforts on the part of others to put her in good circumstances of choice. Were enough precautions taken? Could more have been asked of the community or the policymakers? In the case of Curious, Scanlon argues that it is because enough was done that she cannot reasonably complain about the opportunities she was given. Not only did policymakers send out warnings but, because they expected that this might not be enough for everyone, they also made sure that the hazardous waste was transported at a time when few people would be out; it was treated in a way that would make it less harmful, and fences were put up.

Why should we care about being given generally valuable opportunities? Even if we turn out to react non-generally to a specific opportunity set, we might be able to acknowledge that this set was given to us out of respect and that it is something we can recognise

as valuable to have. I believe that this consideration could be accepted from a feminist perspective, as long as we are careful not to base the 'generally valuable' exclusively on what is understood as generally valuable in a particular community, even though this must also play an important role. As we have seen, there is reason to worry that the generally valuable is unevenly influenced by dominant perspectives and that therefore, gender norms and other factors that unfairly condition individuals' choices are not given enough weight. A Value of Choice view informed by feminist insight must be context sensitive.[33] But what might this mean in practice?

To understand how such a view might look, let us return to our case. How can we tell that the precautions taken on the Universal PrEP policy, in contrast to those of Inform Everyone in the Hazardous Waste case, are insufficient? In Scanlon's presentation of his theory, we are given an example of one case in which policymakers did do enough. However, no further information is provided about why the precautions taken were sufficient in relation to the opportunities given to the inhabitants of the community. Therefore, it is not clear how the judgment regarding agents' substantive responsibility under Inform Everyone may translate into other situations. To make the Value of Choice view a viable tool for policymaking, we therefore need to supplement it with additional principles. Specifically, it needs to be able to take social norms into account. On my suggestion for such a development or extension of the theory, which I will call the 'Value of Constrained Choice view', we look at an agent's opportunities under a particular policy in relation to the social norms that apply to agents in positions like hers. If she has opportunities that, taking such norms into account, are valuable, she can be held substantively responsible.

As noted, social norms are powerful determinants of agents' behaviour and can both improve and worsen the conditions of choice, with some norms encouraging agents to choose to avoid harm, and some norms encouraging agents to make harmful choices. Therefore, I believe that social norms must be understood as the kind of condition that needs to be examined when we determine whether a community and its policymakers have 'done enough' to provide good opportunities. A set of norms that prescribes that agents listen to warnings and look out for their health will on the Value of Constrained Choice count to increase the instrumental value of choice, whereas a set of norms that discourages women from taking PrEP, even when this could save their life, decreases the instrumental value of choice.

In real-world circumstances, my view judges that public officials are obliged to do research to find out about the social norms that apply to agents. Although this paper looks specifically at one set of gender norms, this demand is not limited to PrEP policy or the issue of gender. Rather, on the Value of Constrained Choice, policymakers must take a perspective that incorporates all forms of social disadvantage. As Iris Marion Young (2001, 17) argues, there are two levels of knowing about injustices. First, we are aware that people are sorted into different social categories and that membership in such a category shapes what norms apply to a particular person, and often what that particular person's material circumstances are like.[34] Second, we gather information accordingly, to know more about what the disparities are like. In other words, even before any data is collected or any research conducted, policymakers can and often do have access to the first form of information. On the Value of Constrained Choice, having

this knowledge grounds a duty to conduct further theoretical and empirical research which can uncover how patterns of inequalities of opportunities play out in one's society.

The Value of Constrained Choice view would, when applied to the PrEP case, demand that policymakers do the research needed to reveal that Universal in fact can be reasonably rejected by both Anna and Bella. Based on studies of people's reactions to PrEP, we can expect that Universal will not be efficient in providing instrumentally valuable opportunities for many women. So, what should be done instead?

> *Target* includes the efforts taken on Universal. Further, thorough empirical research is undertaken to find out how social norms affect the choices facing different groups (Avac, 2019a, 19). Based on these studies, precautions in the following form are taken: PrEP is advertised by health officials in non-traditional venues such as nightclubs and beauty salons to reach young women (Haberer et al., 2019, 3). To counter the internal and external sanctions of the gender norms, in-person and online counselling is provided. Care is taken to make the clinics and packaging discreet so that individuals can take PrEP without their social network finding out, to eliminate the need for women to bargain with their partners over use of protection (Govender et al., 2017; Govender and Abdool Karim, 2018). Support is given to women's organisations. Community centred programmes aimed at changing gender norms are rolled out (UNSC, 2020, 16).[35]

This policy, although not providing a guarantee that all individuals are protected against the risk of HIV, goes a long way to ensure that opportunities are instrumentally valuable.[36] It gives Anna, Bella and Charles the opportunity set that the authors of Universal thought their policy would provide: {protect (low risk of HIV infection), do not protect (high risk of HIV infection)}. To ensure that no one has sex without protection would entail demeaning and intrusive measures that could be reasonably rejected. As noted, we cannot settle once and for all what 'enough done' means in every case, because it will depend on the context. Considerations must likely be based on a mix between deliberation among those at whom the policy is aimed and experts whose conduct is regulated by valid moral principles, in line with procedural democratic demands. Target is based on empirical research on the affected population, and is plausible from a feminist perspective, because it combines a gender-transformative approach, which seeks to change oppressive norms, with a gender-sensitive one, which aims at providing those who presently live under such norms with opportunities that are valuable given said norms, and which protects them from risks in the meantime (Jewkes and Morrell, 2010).[37] As Khader (2019, 55) points out, removing a problematic social norm or a practice without replacing it with an alternative, or without changing the bigger social and material structure, can cause more harm than good.

Could other agents reject Target in favour of Universal? As far as we know, Charles would not be put in a worse situation on Target than the one he would be in under Universal. However, as Target is more expensive, and as public budgets are limited, there might be other health policies that must be scrapped or forfeited so that Target is implemented. Whether or not he or any other agent would be able to reject Target on those grounds depends on the gravity of the burdens they would be under, relative to others, and the claims they could make with regards to them. We have established that

Bella has a valid complaint against Universal, based on a generic reason. This counts in favour of Target.

It is one thing for Bella to have a complaint, and another to have that complaint taken to change the policy. Because the presence of choice can make a difference, if the agent David is subject to the same risk on the policy Partial, his position would now be worse than Bella's is on Universal. He has no opportunity to choose to avoid the harm – when he engages in sexual activity, he takes the risk of HIV infection without knowledge of the risks involved. There is some value in Bella's having an option to protect, even if it is very low. This value is missing in David's opportunity set under Partial. On Partial, policymakers are further from having 'done enough', at least with regards to the area in which David lives, than they are on Universal with regards to Bella. From Anna's standpoint, however, Universal is not much better than Partial is for David. She has strong reasons to reject Universal, because this policy does not provide her with a genuine choice. Instead, she is put in a double bind where all options amount to extreme health risks. When we put ourselves in Anna's standpoint, we see that Universal is, in fact, a partial policy that should be rejected in favour of Target. The Value of Constrained Choice tracks these considerations by explaining when and to what extent choice matters in the presence of biased social norms.

Prioritising the social

Scanlon defends his limitation of the provision of opportunities to those that are generally valuable by pointing out that it would be too expensive to do the research needed to give a few potentially harmful choosers what would constitute instrumentally valuable opportunities, considering all their individual particularities. Voorhoeve points out that when anonymised information about the prevalence of certain dispositions and their responses to different kinds of policy is available at a low cost, we should do our best to put people who have them in good circumstances of choice. I agree – information about a population's internal dispositions such as their attitudes to harmful norms is of great importance because it can tell policymakers how to approach norm-prescribed behaviour respectfully and effectively. The Value of Constrained Choice can identify situations in which policymakers need to do more to have 'done enough', and where people should be put in better circumstances.[38] As noted, whether this is best done by a gender-sensitive approach, by working around the gender norms by ensuring that women can live according to them without harmful outcomes, or by a gender-transformative strategy involving actively trying to change the norms (or, as in the PrEP case, a policy that, like Target, mixes these approaches) depends on the context of each case.

There are important reasons for why policymakers should not enquire about *particular* individuals' attitudes in order to alter their substantive responsibility in relation to policies. First, as Wolff and de-Shalit (2007, 77) argue, it might not even be possible to determine why an individual makes a particular choice. In our case, it could be argued that even if Bella does identify with the unjust gender norms, to allow this fact to alter her substantive responsibility for her outcome on Universal, we would have to ask more questions. Why does she endorse the norm? What in her life history has led her to form sexist beliefs? Some of the answers might be hard to find, and many would

require intrusive measures that we should not invite policymakers to conduct.[39] Second, whereas we can rightly criticise an agent for her problematic attitudes towards, or her unwillingness to stop engaging in, a self-destructive behaviour, we cannot conclude that this alters what we owe to her or that she can 'simply be left to bear the consequences', as Scanlon (1998, 292) points out. Thus, even if Bella in some way was found to be blameworthy for complying with or endorsing a gender norm that harms women, this does not change the fact that policymakers should do more, 'to ensure that people are not placed in conditions that generate this kind of self-destructive behaviour' (Scanlon, 2008, 208).

If we grant that we could disentangle what motivates people to act in a certain way, further questions about substantive responsibility arise. For instance, imagine that Emma has an internal disposition that would make her choose to act in a way that is harmful to her, under policy X. Emma, however, also belongs to a group to which social norms prescribe such actions. If we know, somehow, that this fact is not what makes her choose to act in this way – she would have done so regardless, because of her internal disposition – should she then be held substantively responsible for the situation she ends up in? That is, should we understand Emma's situation as that of Bella or as that of Curious? Put differently: is it the presence of the social norm that matters for the allocation of substantive responsibility, or is it the fact that the norm makes her perform the action?[40] This is a difficult question, which deserves a thorough examination of its own. At the policy level, we do know that it does not make a difference as to how Emma should be treated. There are other agents in her community whose generic reasons, based on social norms, could be used to reasonably reject the policy X. This will also benefit Emma. At the level of interpersonal morality, however, it is possible that knowledge about whether the reasons behind other agents' actions are based on social norms or their internal dispositions could alter what we are required to do for them – especially in cases where the outcome they end up with as a result of their choices is not very severe. Although this point needs further elaboration, it is in other words conceivable that the considerations underlying the Value of Constrained Choice generalise to what we owe to each other as individuals.[41]

Finally, readers might wonder what the Value of Constrained Choice says about the Hazardous Waste case, where Curious went out to look at the dangerous waste site. My view focuses on the circumstances in which an individual chooses and what others can reasonably be asked to have done for her. Therefore, it will give judgments that lead us to prioritise the alleviation of opportunity sets that are impaired because of social norms over those that are less than generally valuable for some individuals because of their individual internal dispositions – even if these dispositions are unchosen. This is not to say that the problem Voorhoeve points out, that unchosen internal dispositions make individuals choose in a way that harms them, is unimportant. What I mean is rather that when policymakers, as representatives of Anna's and Bella's community, fail to do enough for them, their failure is more grievous than that of the policymakers of Inform Everyone in relation to Curious. Together with the formal rules or policies that our institutions implement, social norms are the terms which govern our common life in society – terms which, according to contractualism, should accord with what we owe to each other. Since these rules are upheld and written socially, as a society we

have reason to take more responsibility for the costs they impose on some of us than for harm that does not have this source.[42]

Conclusion

In this paper, I have made three interventions. Firstly, I used empirical findings on HIV prevention to show that a viable theory of substantive responsibility must allow the social norms that apply to an agent to affect what others owe to her. Secondly, I explored a lacuna in the contractualist literature regarding how social norms, and harmful gender norms more specifically, should be understood in relation to choice. Thirdly, I showed how to fill this gap in the literature: using a PrEP rollout policy case, I refined Scanlon's Value of Choice view to clarify that those who choose under harmful gender norms have generic reasons to reject principles or policies that provide them with opportunities they are effectively constrained from choosing. This 'Value of Constrained Choice view' further clarifies the point that to fulfil the duties of having 'done enough' for individuals, policymakers must research the effects on choice that social norms in their community produce, and accommodate these effects in the formulation and implementation of policies. Taking into account the informal rules already present in society is crucial when we decide how to hold each other responsible for choices. Contractualism is about finding terms on which we can live together. Therefore, this clarification is very much in line with the spirit of the wider framework. Because social norms are created and upheld collectively, there is a reason to prioritise preventing harm which is a consequence of socially constrained choices over some other forms of harm.

I end by noting that in more recent writings, Scanlon (2016) draws on Tommie Shelby (2007) and John Rawls to argue that individuals have duties to contribute to the reform of unjust institutions. Although Scanlon does not mention social norms, perhaps the social constraints I have been discussing could be understood as the kind of unjust institution we owe to each other to change. More work is needed to firmly establish whether the contractualist framework has room for this weak form of collective responsibility. However, if successful, this consideration could further ground the priority of principles that prevent the harm agents suffer as a result of synchronised actions – actions that result in and constitute social norms – over harm that lacks this origin. In policymaking, this priority legitimises policymakers' paying special attention to social norms in the allocation of limited resources. Whether such a priority could incentivise norm change by increasing the cost of maintaining harmful social norms is a question for further research.

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Notes

1. As discussed by, for example, (Chambers, 2008; Mason, 2000; Robeyns, 2010).
2. Here, I look at gender norms that encourage agents to make harmful choices. I am open to the possibility that my account can extend to other social norms and even other phenomena affecting individuals' choices, although I am unable to provide a full argument for this claim in this paper.
3. Elsewhere, I have discussed the Value of Choice view in relation to the COVID-19 pandemic (see Kugelberg, 2021), as a response to John and Curran's (2021) proposal for a contractualist justification for lockdowns. Further, Kumar (2017) has discussed contractualism in light of HIV cure clinical trials. However, this is the first time Scanlon's contractualism is used in thinking about gendered aspects of political epidemiology, and specifically the relationship between choice, social norms and prevention policy.
4. I will not in this paper discuss the form of responsibility for actions and attitudes that make it appropriate to blame or praise the agents who perform or have them. Therefore, while my account can be used to make judgments about whether or not an agent should be held substantively responsible for her action, I leave aside the question about whether she ought to be criticised for having performed it (Scanlon, 2008, 198–204).
5. This paper looks at the reasons of young women considering taking PrEP in the presence of gender norms. I intend for my account to also be applicable where men are affected by gender norms. However, I do not here analyse the additional considerations that may arise in the male case.
6. Note that to end the pandemic, substantive structural change is needed. Ensuring that the rights of young women are protected and that they have access to education and resources is vital to this task. This paper looks specifically at how social norms impair otherwise good opportunities to take PrEP, and how a theory of substantive responsibility can alert policymakers of

this fact. Focusing on this particular short-term policy question does not amount to neglecting the fact that many individuals in this context are facing injustices that can be remedied only by deeper and wider long-term structural reform.

7. I refer to 'opportunity sets' as sets of 'all feasible (mutually exclusive) options, from which the agent can have any option by simply choosing to have it' (Barberà et al., 2004, 924), and to 'constraint' as something that impairs her ability to choose the most valuable option in the opportunity set, and so alters its value (Pattanaik and Xu, 2015, 361). I am grateful to Luc Bovens for discussion on this point.
8. For a discussion of biased norms, concerning appearance, see (Mason, 2021, 5).
9. Naila Kabeer (1999, 337; see also Narayan and Petesch, 2005; Boudet et al., 2013) defines empowerment as a process where people who have been denied alternatives become able to choose and take advantage of opportunities.
10. To understand the implications of being in a particular social position, we therefore need to look not only at gender but also at biased norms targeting groups based on factors such as class, race, sexual orientation, and age. To provide valuable opportunities, public policy needs to incorporate an intersectional perspective. For an in-depth discussion of intersectionality in public policy, see (Hankivsky and Cormier, 2019), for a classic statement, see (Crenshaw, 1989).
11. Note that UNAIDS, WHO and Avac (2015) state that 'Some people in clinical studies of PrEP had early side-effects, but these were mild and usually went away in the first month … No serious side-effects were observed.'
12. Similar policies, aimed at making people use condoms, have often succeeded in providing people with information about the role of prevention tools in preventing HIV. For a discussion on this process in the case of South Africa, see (Sanac, 2016: 35).
13. The following analysis will be centred on idealisation and so will amount to an oversimplification in its description of the challenges involved in providing people in various real-world circumstances with valuable opportunities. Nevertheless, my recommendations aim at making the Value of Choice view applicable in non-ideal conditions.
14. Social norms in the form of chastity rules have a long history, and for centuries they have been discussed in relation to justice. See, for instance, David Hume's (1751/1974, 208) discussion of the function of chastity as an artificial virtue.
15. In the real world, the situation will be more complex than presented here, where I only consider the impact of a set of social norms, inspired by the empirical findings discussed above. There are two main reasons for this focus: first, researchers' emphasis on the role of gender norms in HIV prevention, and second, whereas other factors that impair choice (e.g. lack of resources, denial of legal rights) have often been discussed in the contractualist framework, the relationship between gender norms and choice remains underexplored.
16. Compare (Voorhoeve, 2008, 186).
17. Compare (Khader, 2011: ch1; Bicchieri, 2017: ch1).
18. This is not to say that in the real world, men face no barriers to choosing to use protection. In the modelling of Charles's opportunity set, I rely on studies indicating that PrEP likely would be acceptable among young men. For instance, based on their interviews with young heterosexual men in KwaZulu-Natal, Hannaford et al. (2020) find that gender norms do not hinder men's taking PrEP. They argue that the gender norms could 'facilitate PrEP use as men

recognise their risk concurrent with their ongoing high-risk behaviours but may also serve as a barrier to the rollout of PrEP among women.'

19. For a similar argument, see (Chambers, 2008: 38–44).
20. Whereas I focus here on instrumental value, I recognise that there exist other reasons for valuing choice.
21. In cases where the poor outcome of an agent's sufficiently good choice is significantly less severe than in my example, it is possible that her being substantively responsible could have as a consequence that others may justifiably deny her assistance.
22. Note that Scanlon (1998, 257) and Voorhoeve (2008, 188) maintain that in the Hazardous Waste case, what is relevant is people's instrumental reasons to want a choice.
23. On Voorhoeve's (2008, 198) 'Potential Value of Opportunities view, we base our choice of policy on which policy leads to the preferable distribution of the value of people's opportunities to choose (where they are informed, capable choosers) and the value of the outcome achieved (when they could not reasonably have been expected to avoid the outcome in question).'
24. See (Scanlon, 2003, 75).
25. Further, the Value of Choice view only applies in cases where agents can choose freely and capably. Coercion is one of the excusing conditions that make it the case that the agent is not substantively responsible for the result of her choices, and thus this consideration would be enough to rule out such responsibility in Anna's case. We do not know whether it is correct to say that Anna is being coerced, especially because we have no access to her own judgment of this. Therefore, it is more appropriate to appeal to the low value of the opportunities in her set.
26. My thanks to Amia Srinivasan for helpful discussion on issues raised in this section.
27. Social norms can have different effects on different groups of the population. We may, for instance, assume that Bella has no permanent partner, and that in her social circle, questions of contraception and sex are often discussed. She might feel that among her closest friends, there is a consensus that sexist norms are wrong. Thus, she may be sure that her friends would not react badly and that her potential sex partners would not even know about her decision to use PrEP. Nevertheless, because she has grown up in a gender unequal society where gender norms prescribe what she should do, the ideas they embody still influence her view of what is appropriate.
28. Nevertheless, it is important to note that the impact of a social norm on each individual's opportunities will depend on, among other things, the particular person's internal disposition and how it makes her react to the norm. Therefore, the instrumental value of choice is determined by what an individual could achieve with the opportunity set, shaped by her internal disposition and the norms that apply to her. Considering this, it would be possible to develop Voorhoeve's account instead of Scanlon's. Rather than looking at generic reasons, we could rank opportunity sets by looking at the situation each individual is in with regards to her particular psychology, making sure we take into account the internal sanctions connected to social norms, on top of the features which Voorhoeve argues alter the value of opportunity sets. We could then choose the principle that would improve the opportunity set with the lowest value. There would be room for asking whether a specific individual identifies with the norm and whether she believes that it is a suitable moral requirement for her community. It would also be possible to let this consideration bear on our evaluation of whether she should be held substantively responsible. Whereas this is one way of assigning substantive responsibility,

I do not here discuss whether it is the one best suited for formulating public policy. As noted, looking at internal dispositions could lead us to put too much emphasis on the individual's psychological response, and too little on the structural context. This remains true even if we add an individual's response to social norms to the formula. I am grateful to an anonymous reviewer for pressing me on this issue.

29. I thank Susanne Burri and Shuk Ying Chan for discussions relating to this question.
30. For a similar argument, see (Fricker, 2000, 151).
31. For a similar argument, see (Hampton, 2002, 357; Sample, 2002).
32. In practice, this will likely require deliberative processes which allow the marginalised to speak using non-generic reasons. Restricting discussion to the use of terms that they did not themselves influence but which were set by others may block the rationale behind the contractualist idea of specifically looking at, and trying to improve, the situation of the worst off. For a discussion on this, see (Jaggar and Tobin, 2013).
33. Although I am not able to flesh this argument out here, I believe this requires an explicitly intersectional contractualism.
34. Even though my extended version of Scanlon's account portrays agents as members of different social groups, this does not amount to a breach of the individualist restriction inherent to contractualism. On the contrary, I believe that it is only if we highlight how individuals are given distinctly different opportunities, based on the categories that social norms sort them into, that we can provide truly, generally valuable opportunities and, most importantly, prevent harm.
35. I thank Alex Voorhoeve and Paul Billingham for suggestions relating to the use of this alternative policy.
36. By presenting this policy I do not mean to say that it is all that members of risk populations are owed. No single intervention or prevention method can hope to fully remedy the root causes driving the HIV epidemic among young women. For a more comprehensive policy agenda, see (UNSC, 2020, 16). Importantly, Target should be supplemented with egalitarian policies outside the epidemiological realm to ensure that women are not socially nor economically dependent on men.
37. My thanks to Jo Wolff for this suggestion. These two strategies correspond to Susan Moller Okin's (1989, 183) two basic models of family rights and responsibilities.
38. Compare Scanlon's (1986, 209) discussion of Harry Frankfurt's 'willing addict'.
39. Technical developments in digital surveillance based on intense collection of data relating to citizens' movements, voices and internet activity make it the case that information about individual attitudes is already available to many private actors and states. As this form of surveillance not only opens the door to harsh treatment of individuals, but also is a threat to democratic ideals and practices, it provides egalitarians with further reason to be wary of justifying the use of information about attitudes in policymaking. For further discussion, see (Véliz, 2020).
40. I thank Zofia Stemplowska for invaluable discussion on this issue.
41. I am grateful to an anonymous reviewer for pressing me on this point.
42. It is, of course, possible to imagine internal dispositions for which society can be responsible in a similar way. In such cases, the policy priority will have to be based on other considerations. This, however, does not undermine my point that there is reason to make explicit the difference between constraints based on social norms, and constraints based on agents' internal dispositions.

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