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Non-Domination

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Abstract and Keywords

How should freedom be characterized as a political ideal? This chapter explores one such view, commonly called “republican” or sometimes “neo-Roman,” which holds that the specific sort of freedom a well-ordered society ought to promote is freedom from domination. Recently, a number of new challenges to this view have been raised. The most important of these are that republicans have failed to develop a conception of freedom distinct in any meaningful sense from the non-interference conception and, in concentrating on relationships of domination, inappropriately narrowed the scope of freedom. This chapter argues that when we carefully attend to the suggestion that a conception of freedom ought to serve as a central public ideal for well-ordered societies, these particular challenges can be seen to fail. Some other challenges are shown to remain, however.

Keywords: freedom, domination, non-domination, republicanism, non-interference

How should we characterize freedom as a political ideal? Generally speaking, we take freedom to be something a well-ordered society should honor and promote. It follows that this question—which has proved among the most contentious in political theory and philosophy—is best understood in substantive rather than conceptual terms. In other words, we ought to be interested less in the *meaning* of freedom per se than in *what sort* of freedom a well-ordered society should honor and promote. To serve in its role as a public ideal one might say that a conception of freedom should have broad appeal in a diverse society, be practically demanding without being infeasible, and capture most of our stronger prior intuitions about what living in a free society would be like.

Consider, for example, the well-worn debate between what have aptly been described as *exercise* conceptions of freedom on the one hand, and *opportunity* conceptions on the other (Taylor, 1979). On the former view, roughly speaking, a person enjoys freedom in some choice or other to the extent that she exercises management over that choice

effective enough to achieve her genuine or fundamental aims: the addicted gambler, for example, is free whenever she actually succeeds in overcoming her addiction. On the latter view, by contrast, a person enjoys freedom in some choice or other simply to the extent that no external obstacle stands the way of whatever opportunities the choice presents: the addicted gambler, for example, is free provided no one actually hinders her leaving the casino. The contrast between these differing characterizations of freedom has, under various descriptions, been the subject of many discussions, perhaps none more famous than Isaiah Berlin's 1958 lecture on "Two Concepts of Liberty" (published in Berlin, 1969). That lecture attacks exercise conceptions of freedom, and defends an opportunity conception. His argument is not primarily conceptual, however: there is nothing, in his view, inherently confused or incoherent about exercise conceptions of freedom as such. Rather, the difficulty lies in what the public promotion of freedom, so understood, would entail. For which aims are genuine and fundamental to human beings, and thus worth achieving? In societies characterized by reasonable pluralism there exist fundamental disagreements concerning the proper ends of human life it would be unjust to override or suppress. It follows that freedom in the politically relevant sense is best characterized as an opportunity conception: our public aim should be to remove the obstacles to choice, so individuals can decide for themselves what ends to pursue.

Not everyone is fully persuaded by Berlin's argument, but for present purposes let us grant that a well-ordered society should promote opportunity rather than exercise freedom. How encompassing is this portfolio? Should the removal of any possible obstacle to choice count as freedom enhancing? Probably not. The social ideal of freedom ought at least be limited to the removal of those hindrances having some causal connection—however distant or remote—to human agency.¹ Most accounts go even further, for neither must we count every possible such hindrance as freedom reducing. Here we will explore one such account, commonly called "republican" or sometimes "neo-Roman," which concentrates on those hindrances presented by relationships of domination. On the view of republican authors such as Quentin Skinner, Philip Pettit, and others, the specific sort of freedom a well-ordered society ought to promote first and foremost is freedom from domination.²

Recently, a number of new challenges to this view have been raised. The most important of these are, first, that republicans have failed to develop a conception of freedom distinct in any meaningful sense from the well-known non-interference conception; and second, that in concentrating on relationships of domination, republicans have inappropriately narrowed the scope of freedom. In response, this chapter will argue that when we carefully attend to the role in which a conception of freedom ought to serve—namely, as a central public ideal for well-ordered societies—these particular challenges can be seen to fail. Some other challenges remain, however, as we shall see. The first section introduces the republican account in terms of a non-domination freedom condition. Section two

responds to the complaint that non-domination is not relevantly distinct from non-interference. Section three clarifies some technical aspects of the non-domination condition. Finally, the fourth and fifth sections respectively discuss the republican claim that non-domination is *necessary* for political freedom, and then whether it should also be regarded as *sufficient*.

1. The Non-domination Condition

The republican account of freedom is most easily explained in relation to another competing opportunity conception, freedom as non-interference. As it happens, the latter is the view favored by Berlin: in his words, freedom should be understood as “the area within which ... a person or group ... is or should be left to do or be what he is able to do or be, without interference by other persons” (1969: 121–122). Obviously, the term “interference” here must be given a precise meaning, and this has not proved entirely easy to do.

Roughly speaking, we might say that to interfere with a choice is to more or less intentionally frustrate that choice in some reasonably direct manner. Two clear and undisputed examples of interference are physical restraint and coercive threat. Somewhat less obvious examples might include deceiving someone with the aim of influencing their choice, and deliberately undermining a choice by depriving someone of resources needed to carry it out. As most commonly understood, however, not every possible hindrance properly counts as an interference. Suppose, for instance, I cannot view New York harbor from atop the Statue of Liberty because I am too poor to pay the admission charge, or because I am confined to a wheelchair and there are no elevators. Of course neither poverty nor disability are mere natural obstacles unconnected to human agency altogether, for I might have afforded the admission charge under an alternative economic dispensation, and elevators might have been installed if sufficient public resources were devoted to that purpose. Certainly, therefore, both count as hindrances. But we generally experience such indirect resourcing failures differently than we do interferences, for in the former case we do not usually feel the operation of a specific human will intentionally opposed to our own—or at any rate, not in the absence of some elaborate social theory.³ To distinguish these two distinct experiences, then, we might designate unintentional resourcing failures *vitiations* (following Pettit, 2012: 37–40).⁴ Exactly where to draw the line between vitiation and interference is a difficult question which need not be resolved for present purposes, provided the contrast is not dismissed altogether (but see Hayek, 1960: 135–137; Berlin, 1969: 122–123; Miller, 1983).

Whatever their views about the effect of vitiating on freedom in the politically relevant sense, all advocates of freedom as non-interference subscribe at least to the following *non-interference* condition:

F₁: A is not free to ϕ if some B intentionally frustrates A's ϕ -ing.

On this view, when we say that a well-ordered society ought to honor and promote freedom, what we mean is that it ought to provide for a wide sphere of individual choice unhindered by interferences, at least so far as doing so is reasonably practicable and consistent with other worthy public aims. This view is often referred to as the “liberal” conception of freedom on the grounds that many liberal authors have subscribed to some version of the non-interference condition, including among others Jeremy Bentham, William Paley, Benjamin Constant, J. S. Mill, Herbert Spencer, and Henry Sidgwick in the nineteenth century; Isaiah Berlin, John Gray, and Joel Feinberg in the twentieth. Against this, however, it might be pointed out that some liberals such as John Rawls held more ambiguous views, and that others such as John Locke clearly rejected the non-interference condition (see Larmore, 2001).⁵ Following Berlin's terminology, freedom as non-interference is also often referred to as “negative freedom” on the grounds that it characterizes freedom as the mere negation or absence of a hindrance. Against this, however, it might be pointed out that every opportunity conception is similarly negative, and indeed a wide variety of quite distinct views have claimed that title. To avoid such complications, we will simply refer to “freedom as non-interference.”

Freedom as non-interference is a comparatively modern view, having no real advocate prior to Thomas Hobbes. The republican account of freedom as non-domination, by contrast, is a much older view. Indeed, it has a good claim to being the standard view of freedom from ancient times down until the late eighteenth century. Before Bentham and his fellow travelers popularized freedom as non-interference, it was more or less universally held that to be free, in the politically relevant sense, is simply to have no master: it is to be a “free man” rather than a slave or other dependent person (Patterson, 1991). Mastery or domination refers not to any actual interference, but rather to the *ability* to interfere when that ability is not suitably controlled. Traditionally, an uncontrolled ability to frustrate the choices of another was termed “arbitrary power,” and until recently contemporary republican authors commonly used this expression; unfortunately, its inherent ambiguity generated much confusion and misguided criticism. For example, to say that power is “arbitrary” might mean that it is unpredictable, or that it is discretionary, or that it is unjustified—each of which would, in different ways, be problematic for an account of freedom (Lovett, 2012). Fortunately, republicans never intended “arbitrary” to mean any of these things. Rather, they just meant “insufficiently controlled,” and they might as well say so directly (Pettit, 2012: 58).

We will subsequently consider in more detail what sort of control is sufficient, but roughly speaking the ability of the police to issue coercive threats is controlled by the judicial system, whereas the ability of criminal gangs is not: thus the existence of criminal gangs, but not of the police, detracts from our republican freedom. More precisely, all republicans subscribe to the following *non-domination* freedom condition:

F₂: A is not free to ϕ if some B has the uncontrolled ability to intentionally frustrate A's ϕ -ing.

On this view, when we say that a well-ordered society ought to honor and promote freedom, what we mean is that it ought to provide for a wide sphere of individual choice unhindered by domination, at least so far as doing so is reasonably practicable and consistent with other worthy public aims. This is referred to as the “republican” account of freedom not because the classical republican authors—Machiavelli, Milton, Harrington, Sidney, Montesquieu, Price, Madison, and so forth—alone endorsed a version of the non-domination condition. Indeed, as noted above, so did nearly everyone prior to Bentham, including Locke for instance.⁶ Rather it is because the classical republicans enthusiastically extolled freedom, so understood, as a central political and social ideal. Were they right to do so? That is what we shall consider subsequently.

2. Are Domination and Interference Distinguishable?

Before assessing the merits and demerits of the republican account of freedom, however, we must first satisfy ourselves that it constitutes a coherent alternative view. Against this possibility, some authors have recently suggested that interference and domination are in fact not relevantly distinct (Carter, 2008; Kramer, 2008). If this were so, then the republican account of freedom as non-domination would add nothing to the more familiar non-interference account. Offhand, however, it is not obvious why this should be. Interference is an action, whereas domination is an ability to act: they are no more the same than walking is the same as the ability to walk. Why might we believe the difference between them irrelevant with respect to freedom?

To take a paradigmatic instance of interference, suppose that B is a gangster who intercepts A on her journey to town: “Your money or your life!” he demands at point of gun. On any plausible view, A's freedom to journey to town unmolested has been interfered with. Strictly speaking, however, this is not because she has lost either the

ability to keep her money, or the ability to reach town alive. Rather, what she has lost is the conjunctive opportunity to keep her money *and* to reach town alive. Now suppose that B is the sort of gangster who prides himself on robbing only those who to his own mind deserve such treatment: provided travelers are suitably polite and deferential, he will generally let them pass. In this second scenario, A's freedom to journey to town is on any plausible view dominated by B's uncontrolled ability to frustrate that journey. Here again, however, it is not strictly the case that she has lost the ability to reach town alive, money in hand. Rather, what she has lost is the conjunctive opportunity to reach town alive, money in hand, *and* to do this without acting deferentially towards B along the way. What have we learned from these examples? We have learned that both interference and domination can similarly be analyzed as reductions in a person's conjunctively exercisable opportunities.

This discovery is bound to lead to the thought that freedom might best be characterized not as the absence of interference only, nor the absence of domination only, but rather as the absence of any factor that might reduce our conjunctively exercisable opportunities—or, at any rate, any factor somehow connected to human agency.⁷ Interestingly, interference and domination are not alone in reducing our conjunctively exercisable opportunities: vitiating resource failures do as well. Thus it may be that the poor man does not, strictly speaking, lack funds to pay the admission charge at the Statue of Liberty, but rather funds sufficient to pay the admission charge *and* to purchase his next meal. Indeed, the scope of freedom so characterized would extend further still, to any possible hindrance of choice. Thus it should be clear, on reflection, that “factors reducing our conjunctively exercisable opportunities” is simply a technically sophisticated way of articulating what we mean by a hindrance in the first place.

Recall, however, that the relevant issue is not what we *mean* by freedom, but rather *what sort* of freedom a well-ordered society should honor and promote. To define freedom as here suggested thus begs the question—namely, *which* hindrances, specifically, should it be our public concern to remove? Interferences only? Domination instead? Either or both, together with vitiations, or not? And so forth. One certainly might claim that the best answer is *all of the above*, but if so that has to be argued for substantively, hindrance by hindrance. And at least one possible objection must be considered against such a view. Characterizing freedom in the politically relevant sense as the removal of any factor that would reduce our conjunctively exercisable opportunities conveys the distinct impression that all such factors are easily commensurable. It would follow that between the elimination of x units of interference and x units of domination (or of vitiation) we ought properly to stand indifferent: degrees of freedom are degrees of freedom, regardless of their form. But this does not seem right. In the waning days of the Roman republic, violent civil wars interfered with people's lives in a multitude of ways until Augustus

finally imposed personal dominion over the empire. No one at the time would have said they merely traded one sort of freedom for another just as good: on the contrary, the tragedy was precisely that Rome was in the end forced to sacrifice freedom for peace. Whether that sacrifice was worth it might be debated, of course, but it is hard even to articulate the dilemma on the view that all hindrances count against freedom indifferently (Harbour, 2012).

Let us therefore return to the central comparison with which we began, that between on the one hand a characterization of political freedom concentrating on interferences, and on the other a characterization concentrating on relationships of domination. In one significant respect the two views are similar—namely, both constitute opportunity rather than exercise conceptions of freedom. On neither view must a person successfully manage some range of choices in order to enjoy freedom: it is sufficient that she merely have some range of choices unhindered by either interference or domination.

Apart from this similarity, however, the two views are decidedly distinct. This is most easily seen in those cases where the non-interference condition and the non-domination condition would score freedom differently. Consider first cases of domination without interference. An example might be benevolent autocrats like Augustus who generally refrain from interfering with their subjects, though their *ability* to do so is in no way suitably controlled. The non-domination condition would score those subject to a benevolent autocrat as unfree. Not so the non-interference condition, as Berlin makes clear: freedom as non-interference “is not incompatible with some kinds of autocracy,” he observes.

Just as a democracy may, in fact, deprive the individual citizen of a great many liberties which he might have in some other form of society, so it is perfectly conceivable that a liberal-minded despot would allow his subjects a large measure of personal freedom. (1969: 129)

This was indeed one of the main attractions of the non-interference view to its originator, Thomas Hobbes, for he was very keen to argue against the republicans of his day that “whether a commonwealth be monarchical, or popular, the freedom is still the same” (1651: 143).

Second, consider cases of interference without domination. The laws and policies of a suitably controlled democratic government might be an example. All laws and policies in some degree frustrate whatever choices they aim to regulate. Thus Berlin observes that “every law seems to me to curtail some liberty, although it may be a means to increasing another” (1969: xlix). Similarly, since “the only freedom which deserves the name is that of pursuing our own good in our own way,” it must follow, according to J. S. Mill, that “all

restraint, *qua* restraint, is an evil" (1859: 12). The non-domination condition, however, scores such cases differently. Provided the government issuing those laws or policies is suitably controlled, it will not subject its citizens to domination, and thus not detract from their freedom. On the contrary, the rule of law is a necessary condition for our enjoying freedom in the first place. In the proverbial state of nature, even if people generally let one another alone there will always be individuals or groups strong enough to interfere with my choices should they so desire: there is thus no "natural" freedom from domination at all. The only genuine freedom from domination we enjoy is that specifically constituted by public institutions designed to control the ability of others to interfere in at least some of our choices. "Where there is no law, there is no freedom," says William Blackstone, for "laws, when prudently framed, are by no means subversive but rather introductive of liberty" (1765: 122).

3. Non-domination: Further Clarifications

On the republican account, one is not free in some choice so long as others have the uncontrolled ability to frustrate that choice—so long as, in other words, one is subject to domination. Some criticize this account of domination as too narrow. It requires, first, that there be a *agent* of domination; and second, that said agent have the ability to frustrate choices *intentionally*. These critics point out, however, that many of the problems and challenges disadvantaged persons presently experience do not have this character. Consider, for instance, poor minorities in the United States. While existing civil rights legislation no doubt sometimes fails to protect specific individuals from uncontrolled interference in specific instances, such failures are no longer the primary cause of the persistent disadvantages faced by poor minorities as a whole. These disadvantages stem rather from systemic factors, such as residential housing patterns which divorce poor minorities from good schools and good jobs. Surely, one is tempted to say, poor minorities are *dominated* by these circumstances, even if they are merely the unintended consequence of various structural features of American society.

Before addressing this objection, two clarifications might be in order. The first is that we need not suppose an agent of domination must be an individual human being. Quite the contrary, provided we are willing to grant the reality of group agents, there is no reason to suppose that people cannot experience domination at the hands of a group. Autocratic regimes, for example, clearly dominate their subject populations, much as successful criminal gangs dominate their neighborhoods. In both cases, the individuals composing the regime or the gang are able to do so precisely because they act as a group agent. The second is that we need not suppose a given agent of domination either wanted or

deliberately sought to obtain an uncontrolled ability to frustrate the choices of other people. Under traditional Western family law and custom, for example, all husbands and fathers possessed considerable uncontrolled abilities to intentionally frustrate the choices of their wives and children. This was equally true of those husbands and fathers who detested having such power as it was of those who relished having it. Confusion on these points may lead some to imagine the account of domination as uncontrolled interference narrower than it really is.

These clarifications aside, let us return to the case of unintended structural disadvantage. Should such disadvantage count as domination? The best answer is no. To the extent that unintended structural disadvantages hinder our choices they will count as what were earlier termed vitiating resource failures. The real issue is thus not whether domination has properly been defined, but rather whether we should adopt the following *non-vitiation* condition in place of—or in addition to—the non-domination condition:

F₃: A is not free to ϕ unless she commands resources sufficient to ϕ .

Now of course we could redefine the term “domination” to mean *either* uncontrolled interference *or* vitiation. But since uncontrolled interference and vitiation are two different sorts of choice-hindering experiences, we would then stand in need of a new term to designate the former as contrasted with the latter. The argument would thus not advance in the slightest. It is better to leave terms as they are, and pose the real substantive issue as the following: should the best account of freedom in the politically relevant sense include a non-vitiation condition? This issue will be addressed in a subsequent section.

Before moving on, however, one important aspect of the non-domination condition stands in need of further clarification—namely, the meaning of “control.” In what sense must the ability of some person or group to frustrate another’s choices be controlled if that ability is not to count as domination? In other words, what sort of control does republican freedom require? The republican authors are not entirely agreed on this point. Roughly speaking, there are two different views.

On the first view, which we may term “procedural,” an ability to frustrate the choices of another will be suitably controlled provided it is reliably constrained by effective rules, procedures, or goals that are common knowledge to all persons or groups concerned (Lovett, 2012). Rules are *effective*, let us say, provided the probability p that they will actually constrain a given agent’s ability is reasonably high. Robust social norms might meet this criterion, for instance, but not unenforced laws or merely aspirational ethical standards. Effective rules are *reliable* provided that p remains reasonably high across a

wide range of nearby possible worlds: thus, relatively small changes in local circumstance should not undermine the effectiveness of a rule. Controls on police conduct, for instance, might be not be reliable if the judges who are supposed to enforce them are readily susceptible to bribes. Roughly speaking, the procedural view equates republican freedom with the traditional idea of the rule of law, provided we are willing to extend the latter idea considerably (List, 2006).

On the second view, which we may term “democratic,” an ability to frustrate the choices of another will be suitably controlled provided it is governed by the directed influence of those persons whose choices they are. In other words, if B has the ability to frustrate A’s choices, that ability is suitably controlled if A can not only *influence* when and where B will interfere, but further guide those interferences in the *direction* she desires. In an example offered by Pettit (2012: 57–58), suppose that A has given the keys to her alcohol cupboard to B, with strict instructions that no matter how much she pleads he is not to return them except at twenty-four hours’ notice. Further suppose that B is sufficiently bound to follow those instructions such that, in effect, he acts as her servant in this regard. In this case it would seem strange to say that A lacks freedom when B frustrates her subsequent efforts to drink. On the democratic view she remains free because B’s ability to frustrate that choice is governed by her directed influence. Directed influence can also be jointly exercised by the members of a group, but in that case each member must have roughly an equal share in the control.⁸ The control exercised by a properly constituted democratic people over their government might exemplify the latter. It is true, of course, that even in a democracy the government may sometimes frustrate a person’s choices in ways she does not endorse. Nevertheless, she need not regard such frustrations as the imposition of an uncontrolled alien will provided the government remains suitably controlled through a process of directed influence in which she has an equal part: from her point of view, it is merely “tough luck” that not every decision will go her way (Pettit, 2012: 152–153).⁹

Which view is better? Most contemporary republicans prefer some version of the second, democratic view. The most compelling reason for this preference is given by the problem of unjust rules. Consider the apartheid regime in South Africa. While not strictly true in historical fact, we might imagine the ability of white South Africans to frustrate the choices of blacks was rigorously controlled by law and policy: ergo, on the procedural view, we would apparently have to say that the latter enjoyed freedom from domination. Obviously, this is counterintuitive. Why not stipulate that rules must be substantively just in order to count as domination reducing? Unfortunately, doing so would “moralize” our conception of freedom, effectively smuggling into that conception an account of justice. Freedom would then no longer carry independent weight as an ideal, but merely serve as a rhetorical tag to whatever we have already identified as just on other grounds

(Larmore, 2001: 239–242; Carter, 2008: 64–66). The alternative is to adopt the democratic view. On the one hand, since criteria for democratic control can be specified in a manner agnostic with respect to substantive accounts of justice, we avoid the moralization problem; on the other, since people usually exercise democratic control so as to protect themselves from injustice, we mostly avoid the problem of unjust rules.

Unfortunately, the democratic view has disadvantages of its own. For one thing, it apparently excludes the possibility that constraints generated by robust social norms, stable market equilibria, or rules of common law could operate so as to impose suitable control. In such cases, the constraints in question lack a democratic pedigree, and so presumably cannot count as domination reducing.¹⁰ Indeed, most of the constraints we ordinarily depend upon for protecting our freedoms are at best indirectly democratic. Consider, for instance, the ability our fellow citizens might have to invade our property: our freedom of ownership is secured only because that ability is suitably controlled. But it is not controlled by us directly, as in the case of the alcohol cupboard, but rather by the rules of property law enforced by police; the ability of the police to disregard those rules, in turn, is again not controlled by us directly, but rather by judges; and so on. The whole institutional complex may in some sense be answerable to us in our collective capacity as democratic citizens, and perhaps on those grounds we enjoy freedom of ownership. Notice, however, that all our freedoms will thus depend on our living in a properly constituted democratic society. On the democratic view, apparently, the subjects of a monarchy would enjoy no more freedom were their monarch to introduce the rule of law than before. This sets the bar rather high.

It is also problematic in cases where, for various reasons, democratic control is not realistically feasible. The United States, for instance, has considerable abilities to frustrate the choices of people living in other countries. On the democratic view, alas, the freedom prospects for those individuals are rather dim, for it would apparently not be enough that international law and custom effectively and reliably constrain the conduct of the United States: until those constraints have a democratic pedigree, the domination experienced by non-Americans remains undiminished. There are plenty of domestic cases as well: children, for instance, or the mentally disabled simply cannot exercise democratic control. Does it follow they cannot enjoy freedom from domination? On this issue, in short, consensus continues to elude contemporary republicans.

4. Is Non-domination Necessary for Freedom?

To assess the republican account of freedom, we must first ask whether non-domination is indeed necessary to enjoy freedom in the politically relevant sense. If our answer is yes, then the best conception of political freedom must include a non-domination condition, whatever else it may or may not include. The main argument supporting a non-domination condition—what might be termed the “kindly master” argument—is perhaps the signature argument of both classical and contemporary republicanism. It runs as follows.

Suppose the contrary, that it is possible for A to enjoy freedom in some range of choices ϕ even though some B has the uncontrolled ability to intentionally frustrate A’s ϕ -ing. What might be a plausible example? The most likely scenario is when B is favorably or benevolently disposed towards A, and thus in practice not inclined to frustrate her choices, or inclined to do so only when it is for her benefit. For example, traditional Western family law granted husbands and fathers the uncontrolled ability to frustrate their wives and children across a considerable range of choices: nevertheless, many husbands and fathers were sufficiently loving and good-natured so as not to exercise that ability, or to exercise it only for benevolent purposes. If it were possible anywhere to enjoy freedom even when subject to domination, it would be possible here. But is it? Many have asserted that the wives and children of even benevolent and good-natured husbands and fathers in the nineteenth century did not enjoy freedom. This is because, although the former were often in practice left to choose for themselves, they did so only by permission, as it were. Since a husband or father might at any time change his mind about this or that permission, those subject to his control are bound to feel constrained to choose in ways that will not upset the status quo. This cannot be genuine freedom.

The classical republicans were especially fond of highlighting the kindly-master scenario. One of the most emphatic statements comes from the seventeenth-century English commonwealth advocate Algernon Sidney:

The weight of chains, number of stripes, hardness of labour, and other effects of a master’s cruelty, may make one servitude more miserable than another: but he is a slave who serves the best and gentlest man in the world, as well as he who serves the worst.... For this reason the poet ingeniously flattering a good emperor, said, that liberty was not more desirable than to serve a gentle master; but still acknowledged that it was a service, distinct from, and contrary to liberty.

(Sidney, 1698: 441)

This is of course less argument than rhetoric—albeit powerful rhetoric. Fortunately, contemporary republicans have added at least two further lines of argument in support of the non-domination condition.

First, note that a plausible account of freedom ought to be appropriately “contoured”—it should, in other words, accurately track the comparative degrees of freedom in different scenarios. Now suppose that some slave through long practice and experience gains considerable insight into his master’s psychology, and is thus able to cultivate increasingly benevolent dispositions in the latter. Absent the non-domination condition, it would appear the slave is thus correspondingly enjoying increasing freedom. This, however, does not seem correct. Next suppose that political reforms lead to the abolition of slavery, emancipating both the slaves of benevolent masters and the slaves of malevolent ones. Absent the non-domination condition, it would appear that only the freedom of the latter is thereby increased, or at any rate that it is increased more than that of the former. Again, this does not seem correct. Thus something like the non-domination condition is needed to capture these reasonable comparative judgments about freedom and appropriately guide the public policy of a well-ordered society.

So much for the first line of argument. The second proceeds as follows. Suppose B decisively frustrates A’s ϕ -ing. As in the fable of sour grapes, A might say to herself, “That’s quite all right since I didn’t want to ϕ anyway: my freedom consists in my being able to do what I want to do; it is irrelevant whether or not I am able to do what I don’t want to do.” When expressed so baldly, this line of reasoning is apt to strike us as absurd. Surely we cannot make ourselves free simply by adapting our desires to our opportunities! Further, to adopt such a view as a guide to public policy would be disastrous, for it would entail that the citizens of even the most despotic regime might count as perfectly free provided they are willing to tailor their wants to their opportunities (Berlin, 1969: 135–141; Pettit, 2012: 30–33). Now by parallel, suppose B has the uncontrolled ability to frustrate A’s ϕ -ing. Analogously, A might say to herself, “That’s quite all right since if I want to ϕ , I need only cultivate B’s good graces until he permits my ϕ -ing; it is irrelevant the means by which I might secure the opportunity to ϕ , provided I can do so.” This line of reasoning is apt to strike us as just as absurd as the previous. Surely we cannot make ourselves free simply by ingratiating ourselves to the whims of others (Pettit, 2012: 64–67)!

Are these arguments decisive? Must the best account of freedom in the politically relevant sense include a non-domination condition? Republicans have generally faced two recurring objections. The first, interestingly enough, is that freedom from domination is too radical to serve as a public ideal. Thus, referring to the republican view, William Paley argued that

those definitions of liberty ought to be rejected, which, by making that essential to civil freedom which is unattainable in experience, inflame expectations that can never be gratified, and disturb the public content with complaints, which no wisdom or benevolence of government can remove. (1785: 315)

The classical republican authors, it must be admitted, were no less parochial in their outlook than most of their contemporaries: women and children, un-propertied laborers and servants, ethnic minorities, and so on simply did not figure into their political calculus. Thus when they extolled the value of freedom from domination, it was the freedom of a propertied male elite they had in mind. All this began to change in the late eighteenth and early nineteenth centuries, when a powerful constellation of cultural, social, and economic pressures began to upset traditional hierarchies and widen the scope of public concern to include those previously excluded. Viewed in light of these transformations, freedom from domination was bound to appear radical indeed, for taking it seriously would mean granting independence from mastery to women, to servants, and all the rest. Not surprisingly, many early socialists and feminists explicitly drew on the traditional republican language, castigating the wage slavery of the factory worker, and the slavish bondage suffered by women under traditional family law and custom.

The radical implications of the non-domination condition may have contributed to the eclipse of the republican conception of freedom in the nineteenth century (see Pettit, 1997: 41–50), but are less likely to register as a serious objection today. Not so a second objection, first raised by Bentham and Paley and reiterated by many critics ever since. Perhaps the most familiar contemporary variant of the objection is the so-called “gentle giant” case (Kramer, 2008: 41–50). Suppose there lives in some bucolic valley a powerful giant. This giant has the wide-ranging ability to interfere in the lives of the valley dwellers should he so desire, and the valley dwellers for their part do not have the strength to control him. Fortunately, he just happens to be a gentle giant. Indeed, so deeply rooted is his mild disposition that little the valley dwellers might say or do would actually move him to exercise his considerable powers: he is content to let them go about their business, regarding their hustle and bustle with bemused indifference. Now how much freedom do the valley dwellers enjoy? According to the non-domination condition, apparently, hardly any at all. This is because the giant has the uncontrolled ability to frustrate just about anything any one of them might happen to want to do, even if it is extremely unlikely that he ever will. This does not seem quite right. Suppose next that an evil wizard passes through the valley, and along the way magically transforms the giant’s gentle disposition into a mean one: the giant is now inclined to interfere with the valley dwellers in all sorts of devious ways. Surely, the latter have now lost a great deal of the freedom they previously enjoyed, yet the non-domination condition denies this on the grounds that they never had any to lose!

The gentle giant case is designed to reveal that the non-domination condition confuses freedom as such with the security of that freedom. Intuitively, as we have said, the servant of a kind master lacks freedom even though her choices are not intentionally frustrated—even though she does not experience actual interference. But perhaps we have this intuition simply because her freedom from interference lacks security. To the extent that her master’s ability to intentionally frustrate her choices is not suitably controlled, there is some probability he might find reason to interfere with her in the future. Ordinarily, it is true, the most practical way to reduce the expected probability of interference is to impose external controls, but it is a mistake to confuse those controls with freedom itself. The gentle giant case illustrates this point by artificially suppressing the expected probability of interference in the absence of external controls. If we agree that the valley dwellers initially enjoyed freedom and then lost it, then freedom cannot hinge on non-domination.

But should we agree? Here we must recall once more that our aim is to establish not the *meaning* of freedom, but rather *what sort* of freedom a well-ordered society should honor and promote. Suppose lessening the probability of interference were our public aim (Goodin and Jackson, 2007). One problem is that this approach seems to ignore the specific harm of uncertainty itself (Skinner, 2008: 97–99). From a strictly expected-interference point of view, we should be indifferent between experiencing a relatively minor interference for certain on the one hand, and an even chance of experiencing an interference twice as burdensome on the other. Thus we might apparently enhance our freedom, on this approach, by granting tax-collecting authorities wide discretion to set individual tax burdens on a case-by-case basis, provided the average level of taxes collected overall is somewhat lower. But this is problematic: surely the value of freedom, at least in part, consists in our being able to plan our lives according to our own designs, with a certain and clear knowledge of the parameters society will impose (Wall, 2003).

Of course the advocate for non-interference might evade this difficulty by proposing that we instead set as our aim not reducing expected interference, but rather reducing interference uncertainty. This concedes much to the republicans, but the even deeper problem with the whole security-of-non-interference outlook is that it suggests we ought to be indifferent as to the *means* by which that security might be achieved (Pettit, 1997: 73–74). In an autocratic state, we might reduce the probability that the ruler will interfere with his subjects either by trying to introduce institutional controls on his authority, or—as in the classic “mirror-for-princes” literature—by trying to make him a better and more virtuous ruler. Other things equal, the security-of-non-interference approach would not favor one strategy over the other. Analogously, the probability that husbands will interfere with their wives under the traditional family law regime might be reduced either by trying to reduce the dependency of wives on their husbands, or by

trying to educate husbands to be gentler with their spouses. Again, other things equal, the security-of-non-interference approach would not favor one strategy over the other. This seems wrong. Our public aim should be to purge relationships of domination from society, not merely to ameliorate their effects. Freedom in the politically relevant sense must include non-domination for our ideals to properly align with our aims.

5. Is Non-domination Sufficient for Freedom?

Suppose we agree with the republicans that non-domination is necessary for the enjoyment of freedom in the politically relevant sense. Is non-domination sufficient? Many different things, as we have seen, can act as hindrances to choice. Now we must ask which of these, if any, should count (together with non-domination) as freedom reducing.¹¹

Before proceeding, it is worth reiterating what was said in the introduction—namely, that our discussion here is limited to opportunity conceptions of freedom. We will not therefore consider accounts of political freedom that attempt to supplement or replace the non-domination condition with demands for either personal or collective autonomy. The reason for this restriction is pragmatic: however appealing they might be as accounts of what it *means* to enjoy freedom in the fullest or richest sense, such exercise conceptions are poor candidates for the political ideal of a well-ordered society. Generally speaking, state policies designed to enhance the autonomous capacities of its citizens will be ineffective, oppressive, or both (Berlin, 1969; Wall, 2003: 308; Pettit, 2012: 48–49). Restricting our view to opportunity conceptions of freedom alone, then, should any hindrances to choice besides domination also count as freedom-reducing? The two most obvious candidates that come to mind are none other than vitiation and interference. Either or both the non-vitiation condition and the non-interference condition might plausibly be combined with the non-domination condition in an overall account of political freedom. Arguments for and against each will be examined in turn.

Let us consider vitiations first. Should vitiating resource failures also count as detracting from our political freedom? That is to say, should a well-ordered society aim to reduce and remove both vitiation and domination in its efforts to honor and promote the freedom of its citizens? At first pass it might seem obvious that it should. Can we in all fairness say that a person is free to do something she manifestly lacks the wherewithal to do? Does it not seem ungenerous, to put it mildly, to assert that the poor as well as the rich are free to live in mansions, or that the disabled as well as the fully able are free to run marathons? Some have argued along these lines that the republican account of freedom

as non-domination is insufficiently attentive to freedom-reducing vitiations (e.g., Krause, 2013).

In defense of the republicans, however, two observations are in order. The first is that there is no logical obstacle to combining non-domination and non-vitiation conditions into a single account of political freedom like this:

F₄: A is not free to ϕ unless:

- (a)** A commands resources sufficient to ϕ , and
- (b)** no B has the uncontrolled ability to intentionally frustrate A's ϕ -ing.

While one might argue against doing so, nothing in republican doctrine as such prohibits such a move. The second is that, even if we decline to include a non-vitiation condition in our conception of freedom, the non-domination condition itself necessarily entails some concern for adequate resourcing. This is because severe resourcing failures can render people to vulnerable to domination. For instance, when faced with starvation people might accept employment on extremely disadvantageous terms. The advocate of non-domination is thus committed to ensuring at least some threshold level of resourcing (Lovett, 2009).¹²

What, if anything, might be said against including a non-vitiation condition in our account of political freedom? Perhaps the most vigorous objection is given by Friedrich Hayek (1960: 16–19), and adapted to present purposes would run roughly as follows. If we adopted an account of political freedom including both non-vitiation and non-domination conditions, then it would follow that reducing vitiation and reducing domination commensurably contribute to freedom. But this cannot be correct. Imagine a society in which extensive social planning has more or less eliminated resourcing failures, but only by subjecting everyone to the absolutely unfettered power of a caretaker state. In nearly every choice we might make, the state has the uncontrolled ability to frustrate that choice, though when it does not we have at our command all the resources we might wish for whatever we might then choose to do. Would such a society be desirable? That can be debated. But it would not be a society characterized by extensive freedom. When we exchange non-domination for better resourcing we are not exchanging like for like, but rather one good for another, competing good. To subsume both under the heading of “freedom” merely obscures the difficult problem of balancing their respective values.¹³ What is worse, it lends spurious plausibility to totalitarian states that claim they advance freedom even as they oppress their citizens.

Next we may consider interferences. Should a well-ordered society aim to reduce and remove interference as well as domination in its effort to honor and promote the freedom of its citizens? Perhaps the most compelling reason for thinking that it should is

illustrated by the case of the justly imprisoned felon (Carter, 2008: 65). Suppose that A lives in a well-ordered democratic society that respects the rule of law; unfortunately, however, she has been convicted of grand larceny and sentenced to prison. How much freedom does A enjoy? It seems obvious the answer must be *hardly any at all*—surely the person confined to prison must count as unfree if anyone does! But the non-domination condition would apparently suggest otherwise, for the ability of the state to imprison her is per assumption suitably controlled. This consequence might be avoided if we combine non-interference and non-domination conditions like this:

F₅: A is not free to ϕ unless:

- (a) no B intentionally frustrates A's ϕ -ing, and
- (b) no B has the uncontrolled ability to intentionally frustrate A's ϕ -ing.

Many authors find something like this combined account of political freedom attractive—including both some republicans (Skinner, 1998; Viroli, 2002) and others (Wall, 2003). What considerations are there against it?

The main argument against this move is that it might undermine the traditional republican claim that law potentially constitutes rather than reduces freedom (Pettit, 2002: 344–346). Recall the alcohol cupboard example discussed earlier: provided B's conduct is indeed suitably controlled by A, it does not seem that her freedom is compromised in the event that he interferes with her ability to drink. Perhaps by analogy the legitimate constraints imposed by a well-ordered democratic society interfere without compromising the freedom of its citizens. But it seems this can only be true if the non-interference condition at least sometimes does not hold.¹⁴ In order to reduce the force of the justly imprisoned felon example we might insist that while she is obviously not free in the broadest sense of the term, she remains free in the politically relevant sense: there is nothing further we must do as a matter of public policy to honor and promote her freedom. Republicans remain divided as to whether this position has more to recommend it than the former.

6. Conclusion

In this chapter, we have examined the republican account of freedom, characterizing it in terms of a non-domination condition: contemporary civic republicans are committed to the idea that we cannot enjoy freedom in the politically relevant sense to the extent that other persons or groups have the uncontrolled ability to frustrate our choices. This freedom from domination, it was argued, represents a genuinely distinct and potentially

attractive opportunity conception of political freedom contrasting with freedom from interference. Some important questions remain, however. First, republicans are not entirely agreed on how to specify the sort of control necessary to secure freedom. Second, the various possibilities for combining a non-domination condition with other conditions in an overall account of political freedom have so far only been explored in a preliminary manner.

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Notes:

(¹) Thus, for instance, we tend to say that people lack not the freedom to live on the moon, but rather the ability. This point has been made many times, for example by Hayek, 1960: 12–13; Berlin, 1969: 122; Miller 1983: 68–70.

(²) For some of the leading contemporary republican accounts of freedom see Pettit, 1997, 2002, 2012; Skinner, 1998, 2008; and Viroli, 2002.

(³) Marxists of a conspiratorial bent might in every economic disadvantage see the deliberate effort of the capitalist class to undermine our freedom, for instance. As it happens, Berlin is prepared to accept as an interference economic hardship when inflicted through deliberate human agency.

(⁴) Unintentional in the sense that no human agent intends to frustrate the choice of a person or group through that vitiation. Of course vitiations might be intentional under a different description—e.g., elevators might not have been installed with the intention of saving public funds.

(⁵) As Locke says, “that ill deserves the name of confinement which hedges us in only from bogs and precipices” (1690: 32).

(⁶) “Freedom then is not ... a liberty for every one to do what he lists,” but rather “to have a standing rule to live by, common to every one,” and “not to be subject to the inconstant, uncertain, unknown, arbitrary will of another man” (Locke, 1690: 17).

(⁷) Often referred to as the “pure negative liberty” view, this account of freedom is built on a reading of Hobbes advanced by Hillel Steiner, Matthew Kramer, and Ian Carter among others.

(⁸) Here I will leave aside complicated issues of aggregation and coordination whose resolution would be necessary to make sense of group control.

(⁹) Note that this condition fails if she turns out to be the member of a persistent political minority: such situations do not satisfy the equal shares in control requirement (Pettit, 2012: 211–213).

(¹⁰) For his part, Pettit avoids this consequence by suggesting that such constraints can remove the ability to frustrate choices itself, thus obviating the need for controls (2014:

49–52). This move renders his account more or less equivalent to the procedural view in practice, while remaining semantically democratic.

(¹¹) Note that the following discussion concerns what hindrances should be seen as reducing freedom as such. Set aside are various attempts to show that certain hindrances, without *reducing* freedom proper, nevertheless *condition* it in the sense of undermining either its effectiveness or its value.

(¹²) The advocate of non-interference is not similarly committed: while deprivation increases the *ability* of others to interfere, it need not increase the *likelihood* that they will do so.

(¹³) Giving extra weight to domination over vitiation in F_4 above would of course make it very unlikely that the most extensive freedom could be secured by a caretaker state, but the problem of obscuring difficult choices persists.

(¹⁴) Or at any rate, not unless we take the proverbial state of nature as our baseline for comparison. In a state of nature, no one would enjoy any freedom because every choice is vulnerable to domination. Many of our choices remain unfree (on interference grounds) after the introduction of law: what we gain is freedom in those choices which the law protects from domination. This approach reconciles F_5 with the traditional republican claim that law constitutes rather than reduces freedom.

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