

Freedom as the Power to Say No

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The word freedom is commonly used in two different ways: as a continuum of allowances (the stop light reduces Bob's freedom) and in a status sense (the release from prison gave Bob his freedom). My concern here is with the status sense of freedom: the distinction between the status of a free individual ("freedom") and the lack of that status ("unfreedom"). This chapter discusses the definition of a free person that will be used throughout this dissertation: A free person has the power to make or to refuse social interaction with other willing people. This definition is not meant to designate absolute or complete freedom but the difference between a person who is essentially free to live her own life and a person who is not, such as a prisoner, a slave, or a subject of a totalitarian state. That is, in short, "freedom as effective control self-ownership," "freedom as the power to say no," or "freedom as independence." This distinction is not all there is to freedom, liberty,¹ or social justice, but, but I argue that it is a critically important concern for social justice.

This chapter makes five basic points:

1. A person is free if she has control over her own life. That is, her interactions with others are both voluntary and unforced: "Effective control self-ownership" (ECSO).
2. Interaction is unforced when all parties are able to decline interaction: ECSO freedom entails the power to say no.
3. The power to say no requires an acceptable default option: ECSO freedom requires independence.
4. For most people, freedom as independence is largely satisfied by freedom from specific interference by others.
5. ECSO Freedom is important to social justice because the absence of unnecessary force is a good in its own right, because it ensures that interaction is actually voluntary, and because it helps to make sure that interaction is mutually beneficial, fair, and reasonable.

This conception of freedom helps to remedy a common complaint about liberal theories of freedom. Taylor (1991) argues that the common liberal conception of freedom as noninterference (dating back at least to Hobbes and Bentham) does not give any reason to determine the important aspects of liberty. Similarly, Raz (1986, pp. 7-11) praises the no harm principle and the presumption of liberty, but he faults them for failing to give any insight as to which liberties are most important when liberties come into conflict with each other or with other important goals. Barry (2003) makes a similar criticism of Van Parijs's (1995) definition of "real freedom," as "the freedom to do whatever one might

¹ This dissertation uses liberty and freedom as synonyms.

want to do;” real freedom, according to Barry, is so broad that it becomes hard to tell whether one state of the world has more real freedom than another. Focusing on the status of a free individual helps identify which liberties are central to maintaining freedom, and so it helps identify which freedoms are most important to protect, secure, or remedy in a world in which every law and every property right restricts someone’s freedom to do something.

It is important to understand that stressing freedom as independence is not the same as stressing independence as an ideal. Social interaction is not bad; it is very good; and it is something people should seek. But the potential benefit of social interaction is no excuse for one group, even a majority group, to impose its idea of desirable terms of interaction on people who have no choice but to accept. If social justice implies a concern that people enter social cooperation, not by force, but as free individuals, it is important that society does not begin by interfering with their independence, and it may well imply that securing independence for all is an important goal of a just society.

Part one explains this definition of freedom and its entailments and discusses why it is important. Part Two discusses the relationship between this conception of freedom and other conceptions. The primary goal of that section is to explain this definition in relation to others, but hopefully it also brings out some of the importance of securing this kind of freedom.

Part One

1A. Effective control self-ownership, power to say no, and independence

You and I can meet for a cup of coffee. If I make it impossible for you to reach me, you lack a liberty or a freedom, but you still a free person. If I have the power to force you to meet me for a cup of coffee (say by physical intimidation), you are not a free person, at least not for the time I hold this power over you. If a third person has the power to force us not to meet, we are also unfree, but I will focus on freedom as the power to say no because I believe that the rights needed to secure the power of social interaction with willing partners are more obvious and straight forward than those needed to secure the power to refuse social interaction.

There are two kinds of social interaction. First, people need to interact somehow, just to keep out of each other’s way (such as the designation of public streets and rules for using them). Second, people want to interact to work together to achieve some goal. Mandatory rules for the first type of interaction are almost always unavoidable, but as long as they are not one-sided and are truly designed only to keep each other out of each other’s way, they need not interfere with a person’s control of her own life. But forced interactions of the other type can threaten individual self-direction.

A person, who controls her interaction with others, controls an important aspect of her life. One good phrase to describe this understanding freedom as the control of interactions is “effective control self-ownership” (Christman 1991; Vallentyne 2003). Christman uses Honore’s discussion of the incidences of ownership (Honore 1987) to divided the concept of self-ownership into various incidences that require *separate* justifications. Control self-ownership is the right to decide what you will do. Income self-ownership is the right to the income you are capable of securing by selling your abilities. Christman argues that control self-ownership is part of the core of human liberty and self-

determination, but that income self-ownership is not. I will argue that a person who lacks effective control self-ownership is unfree in an extremely important way that other concepts of liberty do not capture. Fienberg (1979, 16) carries over a similar notion of freedom to the status sense of the word, “Calling individual self-direction freedom may be to emphasize the over-riding importance of one particular kind of desire or option, namely, to decide for oneself what one shall do.”

If freedom entails being free from certain kinds of force, it requires an understanding of force. Gerald Cohen describes force simply, “When a person is forced to do something, he has no *reasonable* or *acceptable* alternative. He need not have no alternative at all” (Cohen 1988, p. 245, emphasis original). Cohen is careful to demonstrate that being forced does not necessarily entail doing it unfreely or involuntarily. If someone forces you to do something you would willingly have done anyway for other reason, you still do it voluntarily or freely. Because I am focusing the absence of force both for its own right and as a check to make sure that interaction is actually voluntary, I will make only small use of Cohen’s distinction between forced and involuntarily action.

If human interaction is to be unforced, people have to have some acceptable default option that they can call up if they wish to refuse interaction. To have the power to say no, people have to be able to produce for themselves a life that is reasonable, acceptable, and not thoroughly bad in an absolute sense.

Clearly, some people are incapable of being free in this sense. Children and mentally incompetent people cannot make a good judgment whether they should engage in a particular interaction. Someone has to take responsibility for them. People with significant physical disabilities are capable of evaluating offers of interaction, but may be incapable for producing an acceptable life for themselves without aid from others. These issues are important, but I am going to put them aside for a later chapter and focus only on mentally and physically competent adults. I will argue through a series of illustrations that, for able adults, freedom as independence is largely satisfied by freedom from specific interference by others. And I will argue that the prevailing system of legal rights in most countries interference with the independence of a significant number of citizens. That is, the idea of freedom discussed in this chapter is a type of freedom of noninterference. It is an effort to prioritize, which freedoms are most important not to interfere with. The discussion of whether the power to say no can and should be extended to those who do not have it in the absence of interference, and how such freedom interacts with positive duties is put off until later chapters.

Imagine a large continent with a population of one (call her Lucy) and with plentiful external assets including natural resources and the technology and assets left by previous generations (call these resources “external assets” because they are external to the individual²). With the aid of these external assets, she can meet her physical needs and pursue some independent projects. But she’ll be awfully lonely; she might be so lonely that her life is thoroughly bad in an absolute sense, but I am focusing on economic interaction, not purely social interaction, and so for now, assume that a such life is a reasonable if not desirable alternative to social interaction: Her life is as good as she can make it without interaction with others and considerably better than the life of someone who was incapable of using these assets to meet her own needs and wants or than

² Van Parijs’s (1995) uses this term.

someone who does not have sufficient assets to aid her in meeting her own needs and wants.

Lucy is a free person. There are many things she cannot do, but no one forces her to do or not do anything. This fact is as obvious as it is uninteresting in a world where there is no one else. But suppose, unknown to us until now, a guy named Ricky is living somewhere on the continent, and he's capable of defending what he calls his. Ricky's presence gives Lucy new opportunities for beneficial interaction, but it also creates unfreedoms she didn't know she had. She can't take any of Ricky's stuff. There are things she might want him to do that she can't make him do. These unfreedoms reduce her freedom in its continuous sense, but they do not make her an unfree person in the status sense. Any arrangement they make to respect each other's space will make them unfree to do specific things, but as long as their arrangement leave them capable of going on with their lives, they remain free people.

It might be possible for a much larger population to live on this continent while they all retain the freedom Lucy has. As long as they respect each other's space, they can gain the benefits of opportunities for interaction without sacrificing their independence. Respecting each other's space does not necessarily involve private property, as it is usually understood. These could be nomadic people who all use the same external assets at different times. However, the presence of others, even under conditions of plenty, might necessitate some kind of rules about to who gets to use what when. Some areas might have to be designated as public or private and rules might be necessary for the use of public spaces, and the rationing of scarce goods. When and how property can be designated private or public is the subject for chapter three. For now, it is just enough to recognize that these restrictions interfere with Lucy and reduce her liberty, but they don't necessarily challenge her status as a free person as long as they leave her with a substantial private sphere in which she can build an acceptable life on her own without depending on the permission of others. Lucy and the other citizens are free people—free to interact and free not to interact—and these interactions are voluntary.

However, society could make rules that put people in a position in which they are not free to refuse social interaction and lose their freedom as independence. Imagine it's just Lucy and Ricky again and Ricky somehow establishes ownership of all the land and assets on the continent except for one public bench. Lucy owns no property external to herself. Trade between the two is governed by the usual conventions of the market. Lucy has the legal right to refuse exchanges with Ricky, but no power to refuse interaction; she is not free object to the terms of interaction or the type of interaction offered. If Lucy actually refuses to trade with Ricky, she faces the unreasonable alternative of having nothing to do but sit on the park bench until she dies of starvation. She retains a legal right to say no, but no effective power to say no. In other words he is forced to do what Ricky says.

What would it take to turn Lucy's nominal right to say no, into effective power to say no? She would need access to enough resources to secure a reasonable, acceptable life on her own *before* making any cooperative arrangements with Ricky. She does not necessarily have to have as many resources as Ricky to be free. Equal access to resources might also be extremely important to social justice, but equality is not the subject of this chapter; freedom is, and it is possible to be free person who is unequal. To be a free person, Lucy needs only enough resources to make her interaction with Ricky truly

unforced. How many and what kinds of resources that requires is a difficult question that depends on what resources are needed to produce an acceptable level of functioning.

Although there must be some level that leaves a person unfree, and some level assures effective freedom, there may be a considerable area of restricted freedom in between. That is, there can be a clear distinction between the two without a clear cutoff. For example, a person in prison under life sentence is unfree, and a person outside is free. What about someone who is on is regularly furloughed from prison one hour per week? One day? Six days? Six days and 23 hours? Those situations fall into the murkier area of restricted freedom. But suppose instead of furloughing the prisoner, the authorities gave him access to video games. That option makes him freer than before, but no less a prisoner. Even access to an infinite number of videogames (assuming they are a frivolous luxuries) would not make him a free person. Similarly, if we took a free woman and denied her access to one videogame after another, we would make her less and less free, but we would not threaten her status as a free person as making her a part-time prisoner would. For the most part I am not talking about reductions of freedom that make a person entirely unfree, but that do threaten her status as a free person and move her into the area of restricted freedom. Chapter 4 discusses the functionings needed for freedom as independence. For now, all we need to realize that there is some level of functioning that leaves a person unfree to refuse interaction with others.

One might ask whether multiple job offers from different employers would be enough to make Lucy free. Suppose Ricky clones himself several times over, and spits his property among all the new Rickies. But all the Rickies make the same offer to Lucy. Lucky is free to turn down any one of the Rickies, but she is just as forced to accept one of them. Of course, it is possible that competition for Lucy's services will force better offers from the Rickies. As long as one gives her an acceptable offer, she has an acceptable alternative to the other offers. Her interaction with the others as a whole is still forced even if she finds the best offer acceptable, because she has no acceptable alternative to the entire set of offers. If competition for Lucy bring a range of acceptable offers, she participates freely barely noticing that she is forced to accept something.³ But, even the existence of a diverse set of employers does not ensure that the best offer will be an acceptable offer, rather than the least unacceptable offer. She is still in a situation in which she "has to accept one *whether or not* one is acceptable.

It is important to realize that Lucy's unfreedom is a result of a system of rights that denies her access to external assets she needs to satisfy her own needs and wants through her own efforts. That is, her unfreedom is the results of interference.

Writers at least as long ago as the Eighteenth Century recognized that lack of access to external assets such as land can have a profound effect on an individual's freedom. Adam Smith observes that workers have a disadvantage in disputes over pay and working conditions because, "A landlord, a farmer, a master manufacturer, or merchant, though they did not employ a single workman, could generally live a year or two upon the stocks which they have already acquired. Many workmen could not subsist a week, few could subsist a month, and scarce any a year without employment." (Smith 1976, book I, chapter 8, paragraph 12). Rousseau argues, "It is impossible to enslave a man without first putting him in a situation where he cannot do without another man, and since such a situation does not exist in the state of nature, each man there is free of this

³ See Cohen's (1988, pp. 241-246) discussion of acting freely despite being force.

yoke” (Rousseau 1984, p. 106). He goes on to argue that servitude is the inherent result of the monopolization of natural resources by a portion of the population (Rousseau 1984, pp. 119-120).

In the Nineteenth Century, J. S. Mill recognizes, “Men might as well be imprisoned, as excluded from the means of earning their own bread.” He argues that only those whose bread is already secured by their pecuniary circumstances are free from dependence on the good will of other people (Mill 1965, p. 282). Herbert Spencer (1872, p. 132) argued that in a nation where all land had been appropriated, “All who are not landowners, have no right at all to its surface. Hence, such can exist on the earth by sufferance only. They are all trespassers. Save by the permission of the lords of the soil, they can have no room for the soles of their feet.”

In the Twentieth Century, G. A. Cohen criticizes market capitalism because, “it allows private ownership of the means of existence which no one has the right to own privately, and therefore rests upon an unjust foundation,” and he goes on to argue that the collectivization of property could leave workers with the same lack of control over their lives as prevailed under private property (Cohen 1988, p. 298). Jeremy Waldron describes the homeless as unfree in some of the most basic ways. The homeless are unfree to perform many of the most essential acts of human life such as eating, drinking, and sleeping. They may retain legal right to free speech and belief, but without a place to exercise these freedoms, they are unfree to take advantage of them. He also argues that this loss of freedom is the result of interference by others (Waldron 1993, 315-319).

However, a lack of independence is not always the result of interference. Imagine a lifeboat in severe storm. Like Raz’s hounded woman (Raz 1986), every person on the boat must literally pull their own weight by rowing and bailing every waking moment or the boat will sink and everyone aboard will drown. The right or the power to say no to social interaction cannot exist in this environment, and if one refuses to cooperate, the rest of society has little choice but to cast him adrift. The root cause of the force applied to each person is not interference, and there may not be an injustice in this lifeboat society, but there is a lot of unfreedom.

But this extreme cause has an important difference from most others. Even in a society that in which the population is large enough that not everyone can be independence at the same time, the fact that any one of them is unfree to be self-sufficient is the result of interference by the others. The simultaneity problem, and whether the lack of resources to make everyone self-sufficient is justification for removing the freedom to say no, is addressed in chapter 8; in this chapter it is only necessary to recognize that such action makes a person unfree.

1B. The importance of the freedom as independence

The primary concern here is with market interaction most especially the labor market, but the power to say no is also important in nonmarket interaction. For example, imagine a homeless person who has to choose between going hungry and sitting through a religious speech at a soup kitchen. Also, imagine a society called Patriarchy that force women into the position, in which they must find and keep a husband or a face financial destitution that is thoroughly bad in an absolute sense. This might not be hard to imagine. Men have important reasons to desire a wife, but they can go on unmarried without facing such an unacceptable alternative. Underlying this example are the rules of the

society that make women financially dependent. These rules are bound to be unjust in their own right, but this example involves only the unfreedom that follows from the fact of financial dependence not from the injustices that generate it or other injustices that follow from it.

It seems reasonable to think that men would have the ability to use their financial status to obtain desirable marriage terms. It is possible that men have such a strong desire for a good marriage and there will be such competition for desirable mates that men will not be able to use their financial position to their advantage, and they will be effectively on an equal footing in setting the marriage terms. But is it really likely to expect this outcome for all women? It seems more likely that at least in some segments of the marriage market, the financial dependence of one partner will lead to terms that are not merely one-sided but cruel. A very large consensus has developed agreeing that it is wrong to have one gender of people financially depended on the other. In fact, there is hardly any kind of significant social interaction that people find it acceptable for one group of people to be denied the right to refuse interaction with others—except for the labor market.

The lack of concern with the right of refusal in the labor market is particularly surprising in light of its central importance to people's lives and its enormous inequalities. For most people, labor takes half of their waking hours for most of their adult years, and concern with it fills up much more time. But the labor market has inequalities of opportunity, inequalities of outcome, inequalities in the level of effort required of different workers, and in equalities in whether a particular person is required to work or not. In the labor market, many people take it as given that one class is depended on finding employment from another class and the other class is free to do as they wish. Whether this situation is considered just or not it is usually assumed that competition and and/or government regulations can assure that all job offers are acceptable. Do we think regulations on how a husband can treat a wife would eliminate inequalities in marriage while women were still forced to participate? But do we have any compelling reason to believe that denying workers the power to refuse all employment offers will be any less detrimental to workers than denying women the power to refuse all marriage offers?

Many authors have argued that the refusal to work asserts nothing more important than the freedom to be lazy and to live off the efforts of others, which is obviously not something that should concern society. Is this what we're talking about? Is the freedom from forced labor merely the freedom to be lazy? Certainly, the slave who refuses to work on an antebellum southern plantation asserts something more important than a right to be lazy. Certainly, the post-emancipation freedman who has a choice of masters, but no choice other than to work at the bottom of the social hierarchy asserts something more than a right to laziness if he refuses to work. Is the power to say no essential to securing the freedom he demands?

There are three reasons why the power to say no is so important. First, the absence of force is self-evidently good in its own right if it is not necessary. Force is generally something we want to reserve for criminals. If there were a strict cut-off line between an alternative to participation that is thoroughly bad in an absolute way and one that is not, and we could put people one dollar above that line, could there be any reason not to? If the benefits of mutual cooperation are so great, why would anyone choose

something one dollar better than thoroughly bad? Second, the power to say no ensures that participation is actually voluntary. It ensures that the chosen alternative is acceptable not merely the least unacceptable. Third, it is a check to help ensure that interaction actually is mutually beneficial, fair, and reasonable. Society may make offers that are better than a person could do on his own, but not really fair and reasonable. The power to say no would not assure that offers are reasonable, but it would give the individual leverage that she would not otherwise both to demand better offers and to remain outside if the offers are not good enough.

There are several reasons why an individual might not be willing to participate in a joint project such as the labor market (this list is not meant to be exhaustive):

- **She might object to the goal of some of the goals of the joint social product.** For example, people who believe that society is too materialistic or too environmental.
- **She might contribute in some way that is not recognized or rewarded by the community.** For example, caregivers, volunteer workers, artists, etc.
- **She might not find the types of contribution open to her rewarding or fulfilling.** People whose only job opportunities are boring or low-status or both.
- **She might find the working conditions available to her are much more difficult or unpleasant than working conditions offered others.** People who are held to a contributory obligation and only given opportunities for difficult manual labor, while others are (for whatever reason) allowed to satisfy their contributory obligation with easier work.
- **She might want to contribute in way that is under-rewarded by the community.** People who would be willing to take jobs as say a manual laborer if the pay is reasonable to them, but it could also include people who believe society is too egalitarian and doesn't sufficiently reward their addition talents or efforts.
- **She might want to contribute in way that is well rewarded by the community, but the community does not allow her to contribute in this way.** Someone who has low-paid opportunities, but believes she is capable other more highly rewarded occupations.
- **She might object to the place offered to her in a hierarchy.** Anyone who would rather not cooperate with others if it involves subordination.
- **She might object that luck plays too much of a role in determining her place in society.** Anyone whose position in society is effected by bad luck.
- **She might object to the level of effort required by society.** A person who believes that the effort demanded of her is too large, or that no one else works hard enough, or that extra efforts are not rewarded sufficiently. It could also include someone who's central life goals are different from those of the joint project, and who finds the time demand by society is a significant interference with her ability to reach her own goals.
- **She might simply be lazy and unwilling to work at the terms offered.**

All but the last seem like reasonable objections. Perhaps society has set unreasonable conditions, but maybe the objector is being unreasonable? How do we

know in each case? Even in the case of laziness, how can we be certain whether the individual is lazy or society offers her too little to make the effort worth her while? A contributory obligation denies the individual the right to object, and therefore the right to individually negotiate terms as well. Without effective control self-ownership, an individual lacks the right to refuse on these or any other grounds. She can appeal to whatever authority society has decided to set up, but if that authority rules against her, she is forced.

A contributory obligation, backed up by a threat of homelessness forces individuals into the kind of desperate trade that most egalitarians decry if it is the result of the private market. Because a person's occupation so much of the time of her life her life, denying an individual the power to say no to the options presented her by society, should be recognized as making her significantly unfree even if other principles of justice make it necessary. For those with good jobs who feel adequately rewarded, this barely noticeable, but to those with fewer and less attractive options open to them, this unfreedom can become an extremely serious as are forced into a life of more difficult, less fulfilling, and less appreciated work than what others can expect.

The argument so far is meant to show that freedom as independence is an important concern of social justice. It is not meant to be a conclusive argument for a government policy to secure the right to say no for everyone. There could be other concerns that justify restrictions on freedom as independence. Chapters 5 to 8 consider when and whether such conditions are sufficient. Part Two of this chapter examines how this theory of freedom relates to others.

Part Two

This section considers the relationship between freedom as effective control self ownership, and other theories of or involving freedom, including Robert Nozick's freedom as nominal self ownership, Joseph Raz's autonomy, Pettit's freedom as non-domination, and issues of freedom in democratic egalitarian and liberal egalitarian theories of Elizabeth Anderson, Stuart White and John Rawls.

2A. Robert Nozick promotes liberty as formal or nominal self-ownership with little apparent concern for effective control self-ownership. His ideal is a state in which government recognizes natural property rights that exist prior to and/or regardless of government. The state should make the fewest laws formally restraining what individuals can do within that set of property rights. He claims that the legitimate concern of social justice is not with the pattern of outcomes, but with whether actions by which it came about were just, and uses this to argue that no redistribution is necessary (Nozick 1974). However, at the only point in which he addresses whether the acquisition of property in an industrial society involuntarily takes away the right of individuals to use land for subsistence (the closest he comes to considering independence), he concedes that there is such a right and that acquisition interferes with it. But defends his version of a property rights economy, based on the *pattern* of distribution. He argues that compensation is due only to those to whom "the process of civilization was a *net loss*" (pp. 178-179, note). He cites a number of benefits of the market economy (p. 177) and asserts that they are enough so that no compensation is due (p. 182). Thus, he tries to reduce issues of the freedom of the propertyless class to an empirical question of whether the standard of

living of workers is increased by the market economy. Even of the face of it, the assertion is not obviously true. Are we sure that all people in the entire global economy (even the homeless in New York and the sweatshop workers in Indonesia) lead happier, more fulfilling lives than all the remaining hunter-gathers in Borneo? Are we sure that is true in all possible market economies? Did every Victorian industrial worker lead a better life than the virtually toil-free Polynesians at the time?

Nozick's attempt to turn individuals' need for independence into an empirical question misses the point—misses his own point. The relevant question is not about standards of living but freedom. A subsistence farmer or a hunter-gatherer has freedom as independence. She might not be free from work as toil, but she is free from work as labor in the sense of accepting a subordinate position to employers who control access property.⁴ A worker with an unattractive list of available employment options, who must accept one to survive, has been denied freedom as independence by others' appropriation of external assets. If workers had a right to it, as Nozick concedes they do (pp. 178-179 note), no "end-state principle," no "pattern of distribution," no post-trade standard of living can justify taking away their freedom. Prisoners with luxuries are still prisoners even if they have more luxuries than when they were free. Nozick is right to criticize end-state principles, but to do so, he must subject his principle of appropriation to the same standard. He must look the pre-trade starting point of workers in terms of freedom, not their end-state standard of living. If so, there is no question of whether propertyless workers are made worse off by the appropriation of other in pre-trade terms: the pre-trade starting point of propertyless workers is much lower than the pre-trade starting point of people with independent access to external assets: they are worsened by the appropriation of others. Therefore, there is no empirical assurance that their end-state standard of living will be better than someone with such access, but more importantly they are less free, because they cannot say no to the terms of cooperation set by others.

2B. Joseph Raz (1986) conceives of freedom as autonomy, which is mostly broader but in some ways narrower than freedom as independence. Autonomy, as he defines it is, is essentially mastery of one's own life: "The autonomous person is (part) author of his own life," pursues self-chosen goals and relationships as opposed to making coerced choices or drifting through life without exercising the capacity to make choices (pp. 369-371). Raz establishes three components of the conditions of autonomy, "Appropriate mental abilities, an adequate range of options, and independence" (p. 372). His version of independence is not well defined (pp. 377-8), but it is clear from his description of an autonomous agent that his notion of independence is similar to the one considered here, "The autonomous agent is one who is not always struggling to maintain the minimum conditions of a worthwhile life. The more one's choices are dictated by personal needs, the less autonomous one becomes" (pp. 155-157). But beyond maintaining independence, he believes people have two positive duties: to help create the inner capacities necessary for an autonomous life, and to create an adequate range of options (p. 408).

These two theories of freedom need not necessarily conflict. The extent to which they might depends on the extent to which those two positive duties require enough

⁴ Or to banks, to landlords, to consumer-clients, or even to a prescribed position in socialist or egalitarian system.

coercion to threaten individual freedom. I do not intend to explore that question in any detail, but I offer some skepticism about Raz's arguments for the acceptability of coercion. First, he argues, "Since individuals are guaranteed adequate rights of political participation in the liberal state and since such a state is guided by a public morality expressing concern for individual autonomy, its coercive measures do not express an insult to the autonomy of individuals" (p. 157). This argument seems a little too trusting. Just because the stated goal of democracy is concern for individual autonomy, doesn't mean the actual goal is, and even if the actual goal of the majority that controls the state is the promotion of autonomy does not mean that its conception of it accords with conceptions by various minorities, and it cannot insure that their concerns will not be ignored. Second, he argues that the harm principle can be extended to cover duties. If people have duties to each other, the failure to fulfill those duties should be considered harm. As long as the state uses coercion to ensure that individuals fulfill their duties, it does not violate the harm principle. This argument is semantically challenging. Normally, not harming is understood as clearly different than fulfilling a duty to help. It would be simpler to understand duties as an important exception to the no-harm principle even if justified. Chapter 7 addresses the question of whether and which positive duties can coexist with or are a justifiable exceptions to freedom as independence.

Although personal independence need not conflict with autonomy, a system giving priority to effective independence implies that if securing independence is not enough to secure autonomy, the state should first look to non-coercive or non-independence-threatening policies to increase the other aspects of autonomy.

In another way, autonomy, as Raz defines it, is narrower than independence. He contends that an autonomous person should have an adequate range of options, but that no one particular option is necessary for it. To consider a problem with this way of look at options, suppose society allowed 999 out of 1000 religions, creeds, or political belief systems, but that the one they prohibited was the one you believed in. Or, you are allowed to engage in millions of activities, but you can never have sex. In some cases it seems, freedom requires not only that individuals have access to a range of options, but to all possible options. Although Raz contends that no one option is essential to autonomy, he says that a person "can be autonomous only if he believes that he has valuable options to choose from" (p. 412). Does this clause give an individual the permanent right of refusal until he finds the one option that appeals to him? If so, autonomy is very much in accord with the right to say no, but the idea that no one option is required for autonomy is not very meaningful. If not, there is a serious conflict between autonomy and freedom as independence, but the idea that the individual's opinion on whether the list of options is valuable is not very meaningful.

2C. Republicans such as Pettit (1997) and Raventos and Casassas (2002), and Skinner (1998) promote a "freedom as non-domination" or as Skinner calls it, "libertas." Skinner's definitions (which he traces back as far as Livy) sounds similar to freedom as independence: the ability "to stand upright by means of one's own strength without depending on the will of anyone else" (p. 43). Republican freedom is narrower than ECSO freedom because of the personal nature of the domination that concerns republicans. Thanks to Pettit's very clear explanation in the appendix to chapter two of his book (Pettit 1997, pp. 78-79), it is very easy to see the difference between

independence and non-domination. He says that different conceptions of power can be differentiated by which side they come down on at five choice points or “OR” statements:

1. Power is possessed by an agent (person/group/agency) OR by a system
2. so far as that entity exercises OR is able to exercise
3. intentional OR non-intentional influence,
4. negative OR positive,
5. in advancing any kind of result whatever OR, more specifically, in helping to construct certain forms of agency OR shape the choices of certain groups

Then he defines dominating power—the kind republicans want to avoid—in terms of those five statements, “Power of this general kind exists when there is:”

1. an agent, person, or corporate
2. that is able to exercise
3. intentional influence
4. of a negative, damaging kind
5. in helping to shape what some other person or persons do.

In other words, one person is dominated by another (and therefore unfree) when another person or organized body is able to assert intentional influence (which elsewhere he calls arbitrary interference) that shapes another person’s range of choices in a negative way. He dwells primarily on the difference between freedom as non-domination and freedom as noninterference at the second choice point, but the differences with freedom as independence appear at the first and third choice points.

The shortcoming of freedom as non-domination is illustrated by the misleading statement, “Non-domination is itself a form of power. It represents a control that a person enjoys in relation to their own destiny” (Pettit 1997, 69). Non-domination may be a power *in relation* to one’s own destiny, but it does not assure anyone the power to *control* her own destiny. Actual control requires that a person is also free from unintentional and systematic factors that could potentially have an enormous effect on their ability to control their destiny. That is, non-domination stops short of independence on choice-points 1 and 3, and therefore, as the following three examples illustrate, it misses some of the most important aspects of unfreedom existing in the world today.

First, return to Waldron’s (1993) description of the homeless as being unfree in some of the most basic ways. He also argues convincingly that no one intentionally put the homeless in that position. Homelessness is an unintentional side effect of the way western society structures its property rights. The desperate situation of the homeless might or might not make them vulnerable to domination. People with land rights do not necessarily assert any more power over a homeless person than they would over any non-homeless trespasser. Although people intentionally move the homeless off their land, they don’t typically desire or intend the homeless to have no place to rest; they simply want any particular homeless person to rest somewhere else. A homeless person might be able to walk away from anyone who might specifically try to dominate her, but wherever she goes she will have to ask some else’s permission to sleep or to urinate. There is no

assurance that homeless are never vulnerable to domination, but even if they aren't, their situation is bad enough, in terms of basic freedom, to warrant change.

Second, return to the example of a world in which women are financially dependent on marriage. It will almost certainly lead to dominating power in at least some marriages, but it may not lead to such power all marriages. Suppose it only affects the typical terms of marriage, affecting the share of the duties that the typical wife is expected to perform for the typical husband. If financial dependence force women to accept terms they would not otherwise accept in a marriage, it would have a detrimental effect on woman's freedom whether or not it makes them vulnerable to domination.

Third, Marxist exploitation does not require the kind of personal arbitrary interference that republicans consider. Firms and workers interact in a large competitive market that results from impersonal historical forces without any one organized agent making it so, but the competitive system based on classes of people with and without property puts the lower class in a position in which they must sell their labor to the propertied class. The system creates a reserve army of the unemployed that continually exerts downward pressure on wages. No one firm can arbitrarily choose the wage rate, nor can it hire all the unemployed, but the structure of trade between an otherwise desperate group of workers and an otherwise comfortable group of employers, allows employers to extract an unfair share of the product. Workers are free to accept low wages from any employer, but unable to escape their place in the social hierarchy. One need not carry this an additional step by arguing that this situation could lead to dominating power of one firm over its workers to see that it puts workers in the position of being substantially unfree, or to see that such a situation is objectionable whenever it exists.

When I look around, I do not see domination as central problem. There are some villains, but for the most part there are normal or even good people interacting in a dysfunctional system that gives some people very little control over their own life without necessarily giving dominating power to anyone else. Therefore, I do not find the republican conception of freedom compelling.

2D. At one point, John Rawls endorses the general idea of control self-ownership, "Extorted promises are void. ... Unjust social arrangements are themselves a kind of extortion, even violence, and consent to them does not bind" (Rawls 1972, 343), but he does not advocate a policy to bring freedom as the power to say no into existence. He proposes a principle of fairness, which states that those who voluntarily accept the benefits of social cooperation have a corresponding obligation to contribute to it, but assuming the system of social cooperation is just, he offers no policy for those who do not wish to be a part of the system of social cooperation. "Those who surf all day off Malibu must find a way to support themselves and would not be entitled to public funds" (Rawls 1988). How are they supposed to "find a way" when the system of social cooperation has monopolized all available resources? He offers no answer. He seems confident that society can build a system so desirable and so fair that no one could reasonably reject it, and therefore he seems unconcerned that such a policy means that every individual is an involuntary participant, who has no individual control of the terms of her participation. He does not recognize that this makes individuals unfree over a hugely significant aspect of their lives, and he does not consider it an exception to his statement about extorted promises.

2E. Like freedom as independence, Anderson's (1999) "democratic equality" concerns freedom in the sense of people's status as free individuals. She links freedom very closely with equality as freedom from oppression (pp. 288-289), "Once all citizens enjoy a decent set of freedoms, sufficient for functioning as an equal in society, income inequalities beyond that point do not seem so troubling in themselves" (p. 326). They are less troubling because people reach something very similar to status as free individuals, "Equals are not dominated by others; they do not live at the mercy of others' wills. This means that they govern their lives by their own wills, which is freedom" (p. 315). Anderson specifically sides with Waldron's assessment of homelessness as a threat to freedom, "Homelessness—that is, having only public dwelling—is a condition of profound unfreedom" (p. 318). But her definition of the status of a free person has an important difference with the one presented here.

Anderson states emphatically that all people will have access to the functionings, "Under democratic equality, citizens refrain from making intrusive, moralizing judgments about how people ought to have used the opportunities open to them or about how capable they were of exercising personal responsibility. It need not make such judgments, because it does not condition citizen's enjoyment of their capabilities on whether they use them responsibly. The sole exception to this principle concerns criminal conduct" (p. 327). Actually, there is a second exception in Anderson. Although she says that everyone will have *access* to these functionings, she allows that some people could "choose" to function at a lower level. She bases her notion of redistribution on mutual obligation, and therefore, she is willing to make redistribution conditional on fulfillment of a work obligation, and she considers those who do not fulfill it to be "choosing" to function at a lower level. Those who cannot work are not held to any such obligation, and she somehow believes that she can separate those who can and should be expected work from those who cannot without "making intrusive, moralizing judgments." Although the intrusive moralizing judgment of the modern political theorists she criticizes may be different, most, if not all, of the intrusive moralizing judgments made by the current welfare states across the industrialized world involve the separation of those who should from those who should not be held to a work requirement. Anderson can't have it both ways; there is no way to separate the sheep from the goats without moralizing. But contradicting her stand against moralizing judgments is not the central problem with Anderson's conception of freedom.

The central problem with "democratic equality," is that it makes freedom conditional. Anderson agrees that homelessness is a state of "profound unfreedom," and even goes to far as to say, "Only the commission of a crime can justify taking away a person's basic liberties and status as an equal in civil society. Even convicted criminals, however, retain their status as equal human beings, and so are still entitled to basic human functionings such as adequate nutrition, shelter, and medical care" (p. 327). Yet, she is willing to deny these functionings to those who refuse to work, even though her own words seem to imply it is a worse punishment than imprisonment. If, as we seem to agree, the homeless are unfree, and if society makes freedom conditional on performing some service to society, the acceptance of that condition is forced, and therefore, it violates her own contention that people should govern their own lives by their own wills. Anderson seems to believe that a democratically chosen work obligation cannot be

oppressive, that it must be fair and reasonable, and that everyone should accept it. Clearly, freedom as independence is not a part of her notion from freedom from oppression. A work obligation with no reasonable right to refuse makes an individual a forced laborer, no matter who sets the conditions (a capitalist class, a socialist dictatorship, or a democratic egalitarian society with the best intentions in mind). Whether there are justifications for those conditions is not the subject of this chapter, only that even if justified, they have a profound effect on freedom. Anderson's characterization of homelessness in a democratic egalitarian society (unlike in our society) as a mere choice, sidesteps the issue of whether it has profound effect on freedom (like in our society), but she apparently believe that as long as there are an adequate range of democratically approved options, an individual is free even if she is forced to accept one item from a list determined by others.

2F. Stuart White makes the argument that variety provides freedom a little more explicit. He describes a society in which all people are obliged to work together for a joint project, and in which society is in turn obliged to ensure that everyone has a good choice of fulfilling occupations with a share in the ownership of the resources with which they work and a large minimum share of the social product. He calls it the elimination of the proletarian condition. Once workers are no less free than everyone else, and share sufficiently in the social product, they should be held to an obligation to work (White 2003). Yet, I am not convinced that any number of choices of work obligation makes a worker free. Take "The Sound of Music" for example. Suppose the newly united German state asks Mr. Van Trapp to perform his obligation to social cooperation by being the captain of a warship. Mr. Van Trapp feels the need to flee the country to avoid it. Certainly, he was made unfree. But could the Nazis have freed him by saying. "OK, you don't want to be the captain of a ship, would you like to be first mate? Second mate? Seaman? Cook? Infantry commander? Armaments supplier? Person who cleans the toilets at headquarters? ..." Is there a number such that once the Nazis offer him that many choices of occupations, he becomes free even though he is obliged to contribute to the Nazi project? Does it matter whether there are millions of people in Austria who find all of these occupations fulfilling?

If Mr. Van Trapp objects to the goal of the joint project, no amount of choices—no matter how equal they are, how willingly others accept them, or how many people believe they are reasonable—will make him free. Of course, we could have told the story the opposite way. Mr. Van Trapp could have been a Nazi living in America, Russia, or England who objected to the anti-Nazi project of those countries, and his story would have lacked its moral force, but the effect on his freedom would be in the same. The question seems to be: Was the force the Nazi's exerted on Mr. Van Trapp wrong because it was force, or because their joint project was so wrong? Suppose the Nazis were at that time very popular, and that a large majority of citizens believe they benefit from, and should be obliged to contribute to, the Nazi project. Certainly that would not make what they were doing right, but can some amount of national agreement make it acceptable to force everyone to participate whether they individually agree or not? It seems that a person who says yes is compelled to admit that they are putting some other principle ahead of freedom as independence.

In the reformation era it was common for both Catholic and Protestant nations to persecute members of the opposing group. Each objected to the other's persecution not on the grounds of freedom of religion (a concept which no one seemed to endorse at the time), but on the grounds that the state was persecuting the wrong religion. One can endorse a mandatory obligation to a joint project despite its effect on individual freedom, but one should recognize its effect on freedom. White could respond that the states he and the others advocate are not strictly ideological in the sense of a theocratic, Fascist, or even anti-Fascist state. They ask for a contribution to a state designed to further everyone's ability to pursue their own goals. It is true that that is a thin ideology, but it is still an ideology and one might object to the ideology or the terms it offers them.

Anderson (1999), White (2003), and Rawls (2001) all agree that the benefits of social cooperation are so great that no one reasonably deserves the freedom not to be a part of it. In this belief, Nozick (1974) is an unlikely ally. Nozick believe that an unregulated market with extreme inequality simply turns out that way; the others believe that a regulated egalitarian society can be made to turn out that way. Nozick argues that society today, is fair enough so that everyone without property is obliged to labor for those who do. The others say that that obligation is applicable only in a just society. This one is not just enough nor was any society in history just enough, but they are confident that we can build one that is just enough, and so we do not need to establish the right to object. Nozick offers individuals the freedom to find someone with property whose interaction one might find acceptable. Anderson, White, and Rawls offer involvement in the political process to determine what the terms of cooperation are, and the promise that the society will try to make the terms just. But neither offers the individual a way to live if she doesn't personally find the goals or the terms acceptable.

The promise that the majority set the terms of the work obligations of the poor does not ensure that they will get it right. A majority can be carved out of the middle and upper parts of the income distribution. It is easy for such a coalition to imagine a range of opportunities and working conditions that the lower classes ought to find acceptable, and to imagine that they give them due respect. But selfishness or a lack of understanding or empathy could make their choices less than reasonable. Attempted magnanimity does not give the lower class the freedom the right of refusal would. If someone at the bottom—whose next best option is homelessness—feels the terms are unjust, she will not feel free. Whose opinion is more important? Is it important for the majority to think those at the bottom are free or is it more important that every individual feels herself free? Recent egalitarian literature has had great concern with cultivating feelings of solidarity from the middle and upper end of the income distribution for those receiving redistribution. And the method for cultivating solidarity is usually to make the poor jump through hoops, fulfilling some obligation, before they get access to the means of existence. What kind of feelings of solidarity will that cultivate on the part of those at the bottom? Those who work at the least rewarding jobs, who feel they deserve better, and who only accept those jobs because their other option is homelessness—will they, should they feel solidarity with the rest of us?

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