"Freedom and Actual Interference"

Penultimate Draft. Forthcoming in the *Journal of Ethics and Social Philosophy* (2019-20)

Jonah Goldwater. *The College of William & Mary*.

Abstract

Liberal and republican conceptions of freedom differ as to whether freedom consists in noninterference or non-domination. Pettit defends the republican non-domination conception on the grounds that one can be unfree without being interfered with if one is dominated, and that one can be interfered with yet free if not dominated. I show that these claims mistake the scope of actual interference. In particular, I show that cases said to involve unfreedom without interference do involve interference, and that cases said to involve freedom despite interference— in particular, cases involving government regulations—are cases in which some interference is outweighed by protection from even greater interference. The liberal noninterference conception of freedom, therefore, can account for what Pettit claims can only be accounted for by freedom as non-domination.

Keywords: negative freedom, republican freedom, noninterference, Pettit, non-domination

1. Introduction

Debates over theories often concern how well rival theories explain paradigm cases. Debates over freedom are no different: because slavery is a paradigm of unfreedom, a theory's inability to adequately explain the slave's unfreedom can be used to reject the theory. This strategy is employed by Philip Pettit, who rejects the conception of freedom as noninterference—often called the negative or liberal conception—on the grounds that it cannot explain the unfreedom that slavery yields, in at least one (type of) crucial case. That is the case of the so-called "lucky slave": Pettit claims that if a slave had a kindly or well-meaning owner then that slave could be free from interference, rendering the slave free by the lights of the noninterference conception. Because this is absurd, and because the slave would remain dominated or controlled even if not interfered with, Pettit argues that freedom should be understood as the absence of domination—often called the republican conception—rather than the absence of interference (see Pettit 2014; 2011; 1997, *inter alia*).

Naturally, some have defended the noninterference conception.[1] Prominent among them are Ian Carter and Matthew Kramer, who have claimed that negative freedom—or at least the variant Carter and Kramer call "pure"—does indeed have the resources to explain the unfreedom of the lucky slave (Carter 1999; 2008, Kramer 2003; 2008). For even if the slave is not actually interfered with, that the slave would be interfered with in certain hypothetical situations—such as the slave not engaging in the subservient behavior that results in the slaveowner's noninterference—suffices to show the slave is unfree by the lights of the noninterference conception.

Carter and Kramer concede this would render the slave's being interfered with a matter of likelihood or probability, however, as well as a contingent empirical fact rather than a conceptual necessity.[2] Is this an adequate explanation of unfreedom? Pettit thinks not. For according to Pettit there is a necessary or conceptual relation between slavery and unfreedom, not merely an empirical or contingent one, as well as a necessary or conceptual relation between democracy or republican government and (un)freedom. For on Pettit's view one either has the status and rights of a free person, which entails freedom from control or domination, or else one lacks that status, in which case one is subject to such control even if interference does not actually occur. So Carter and Kramer are also moved to deny that (un)freedom and forms of government are connected so intimately; on their view, just as the slave's unfreedom is contingent and empirical, so too is it only contingent and empirical that democracy promotes freedom more than, say, fascism.[3]

---

[1] In addition to Carter and Kramer (cited above), see also Lang (2012), Wendt (2011), de Bruin (2009), and Goodin (2003).

[2] As Carter (2016) puts it, "people who are subject to [domination] can be seen as less free in the negative sense even if they do not actually suffer interference, because the probability of their suffering constraints is always greater (*ceteris paribus*, as a matter of empirical fact) than it would be if they were not subject" to that domination.

[3] See Harbour (2011) for an argument that this implication is especially problematic.

Though I suspect Pettit is right here, the relation between freedom and forms of government is not the main concern of this paper (though I will return to it in the final section). Instead, I will argue that the agreement with Pettit that Carter and Kramer concede earlier in the dialectic—that a slave could be free from actual interference even if subject to possible or likely interference—is a mistake. My central claim is that the scope of actual interference is wider than has been recognized, a crucial implication of which is that there cannot be a slave with a noninterfering slavemaster any more than there can be a prisoner with a noninterfering jail cell. So against Pettit I argue that the noninterference conception of freedom does indeed have the resources to explain the unfreedom induced by slavery. In keeping with Pettit, however, my position satisfies the stronger demand that Carter and Kramer attenuate: that a slave is necessarily rather than contingently unfree- the reason being, I claim, that being a slave *entails* being interfered with. This result obviates the debate over whether a high probability of possible interference becoming actual is sufficient to explain the slave's unfreedom.

This paper has a second goal as well. In addition to arguing that domination and unfreedom can occur without actual interference, Pettit also claims one can be free while interfered with if one isn't dominated. In particular, if laws are produced via the legitimate procedures of a well-ordered democracy or republic, then even if one is interfered with by such laws, one is not dominated if those laws track the "avowed interests" of the republic's citizens.[4] In fact, Pettit even holds that democratic laws may promote rather than hinder freedom. So a further reason to adopt the non-domination view of freedom, Pettit argues, is that it, unlike the noninterference view, can explain how laws and regulations can be liberating rather than oppressing. Though I agree that laws and regulations can indeed be

[4] See Beckman & Rosenberg (2017) for a recent discussion of democracy, citizenship, and non-domination.

liberating, I also reject Pettit's claim that the noninterference conception of freedom is unable to explain this. The core reason is that even if a law interferes with some action, it can nonetheless protect against even greater interference all things considered. That is, just as according to the utilitarian an action can cause some pain but a greater amount of pleasure overall, so too can a law interfere to some degree but still be freedom-enhancing on balance or *ultima facie*. Contrary to what many believe, then, I show that laws and regulations can enhance negative freedom rather than simply impede it.

The paper is structured as follows. In §2 I defend my thesis regarding the wide scope of actual interference. In §3 I apply that thesis to the arguments for freedom as non-domination. In §4 I show how laws and regulations may enhance rather than impede (negative) freedom, and in §5 I apply this result to questions about forms of government. The overall result: Pettit's charge that the noninterference conception cannot meet its explanatory burden is unfounded.

2. Theories, auxiliary assumptions, and actual interference

Above I noted that debates over theories often turn on the explanation of paradigm cases. I also indicated that my central thesis concerns the scope of interference. Both can be illustrated by what I take to be a paradigm of an unfree person- namely, a person in prison.[5] How would the noninterference conception explain the prisoner's

[5] Interestingly, Pettit actually denies that imprisonment is paradigmatic of unfreedom; on this see Wendt (2011) for discussion. Though space precludes an in-depth discussion, it is worth noting that Pettit is pushed this way as an implication of his views, including his criticisms of negative freedom. Though denying the paradigmatic nature of the prisoner's unfreedom might ultimately be justifiable via theoretical considerations or an appeal to reflective equilibrium, say, if one can avoid denying a paradigm case I assume one should. One reason is general and meta-theoretical: insofar as explaining paradigm cases is an important means of comparing theories, denying a paradigm threatens to undercut the prospects of theory-neutral assessment. A second reason, particular to this case, is that insofar as my arguments (throughout the paper) undercut the reasons for

unfreedom? The answer appears simple: the prisoner is interfered with. But when, and how often, is the prisoner interfered with? Is the prisoner unfree only when he or she pushes or struggles against the jail walls? The answer seems obvious; whether the prisoner struggles or not, the prison walls interfere with the range of choices the prisoner might otherwise make. So it would seem the prisoner is interfered with or constrained, and so not free, for the entirety of the prison sentence.

I assume that if a theory misjudges or cannot explain a paradigm case the theory should be rejected (all else equal). Famously, the possibility of a contented slave is thought to refute the theory of freedom as the ability to do what one wants; rather than thinking that a slave who learns to want only what he can have thereby liberates himself, the idea is that freedom shouldn't be indexed to what one happens to want.[6] So in a similar vein suppose one held that the jail cell interferes with the prisoner only if the prisoner actively struggles against the bars. Then the key to liberation would be to sit still; on this view even a person confined to a cell just barely larger than that person's body would be counted free as long as that person didn't move a muscle. So according to freedom as noninterference conjoined with the view that interference occurs only when one physically butts up against obstacles or constraints, it would seem that the less one moves, the freer one is.[7]

The absurdity of this verdict might tempt one to reject freedom as noninterference, just as the slave learning not to want what he cannot have is a reason to reject the theory of freedom as the ability to do what one wants. But such a criticism aims at the wrong target. To see this consider the general distinction between a theory and an auxiliary assumption

---

abandoning negative freedom while maintaining the paradigmatically unfree character of imprisonment, there is no need to adopt the counterintuitive position that Pettit here adopts.

[6] The problem was first raised by critics of Berlin's (1969) famous "Two concepts of liberty", such as Benn and Weinstein (1971). See Flikschuh (2007: Ch.1, §2.3) for an overview.

[7] The thought calls to mind a line often attributed to activist and theorist Rosa Luxemburg: "those who do not move do not notice their chains".

familiar from the philosophy of science. Whereas a theory proper consists only of central or core claims, auxiliary assumptions are supplementary claims used in conjunction with the core theory in order to derive specific predictions or verdicts. Applying the distinction here suggests one should distinguish the core theoretical claim that freedom consists in noninterference with the auxiliary assumption that actual interference occurs only if one struggles against an obstacle such as a jail wall. Conjoined, these yield the prediction or verdict that a person who learns to sit still in jail thereby liberates himself. That this prediction or verdict is false need not impugn the theory, however, but should instead impugn the auxiliary assumption. For the same theory conjoined with a more plausible auxiliary assumption—that a jail wall interferes with someone even when not butting into it, for example—yields the correct prediction or verdict- namely, that even a person who learns to sit still in prison remains unfree.

With the distinction between theory and auxiliary assumption in mind consider another paradigm case. I take it as a truism or a paradigm of unfreedom that one is unfree to do x if it is illegal to do x.[8] Yet suppose instead that one is rendered unfree to perform an illegal x only when one is arrested for doing x. Then the path to liberation with respect to an illegal x would simply be to refrain from doing it, thereby avoiding arrest; more succinctly, one would be free to do an illegal x as long as one didn't do it. But this verdict is just as absurd as the idea that the contented slave liberates himself by learning to not want to do what he is barred from doing, or that a prisoner can liberate himself by sitting still and not touching the bars. Instead, the more plausible thought is that one is unfree to do x

[8] This is of course compatible with being free to do x in the sense of 'free will'; having the free will to choose to break the law does not entail one is free to break the law in the social or political sense, and it is only with the latter sense of 'freedom' that I am concerned here.

whenever or wherever it is illegal, not only when one is caught, just as one is unfree whenever one is in prison, not only when one struggles against the bars.

So, to briefly summarize. One might reject freedom as noninterference on the grounds that it implies a prisoner could liberate himself by sitting still, or that a citizen could liberate himself by not performing an illegal action. While I agree that a theory with these implications should be rejected, it is not the noninterference theory that has these implications, I am arguing, but that theory conjoined with a (perhaps implicit) auxiliary assumption that restricts interference to moments of struggle or arrest; call this the 'narrow scope' reading of interference. Instead, a different auxiliary assumption that recognizes a wider scope of actual interference—one that counts jail walls and laws as interfering even when not butting into them or being arrested in light of them—delivers the correct verdicts, and the correct explanations. Thus, the truisms and cases discussed so far supply an argument for the 'wide scope' conception of actual interference: whereas the narrow scope conception absurdly implies one can liberate oneself by sitting still (the 'passive prisoner' case),[9] or by refraining from illegal actions (the 'upstanding citizen' case), the wide scope conception delivers the correct verdicts in cases such as these. Therefore 'interference' should be understood in the wide not narrow sense.

What objections might be raised here? One objection concedes jail walls interfere in the wide sense, but holds that laws do not. I'll return to this objection shortly. Instead, first consider objections to even jail walls interfering in the wide sense, and for now assume jail walls and laws are relevantly similar- an assumption that will soon be discharged.

An initial objection to the wide scope conception appeals to the notion of a disposition: perhaps one might think jail walls or laws, even if actual, only have a

[9] My thanks to an anonymous referee for the *Journal of Ethics and Social Philosophy* for this moniker.

disposition to interfere without actually interfering, and only actually interfere when the dispositions are manifested (by physical contact or enforcement, say). But this objection fails, as it conflates the disposition/manifestation distinction with the possible/actual distinction. To illustrate: glass is fragile, which implies it has the disposition to break easily. But this does not imply that if it is not breaking the glass is only possibly rather than actually fragile. The reason is that dispositions are actual even when not manifesting. So even if the jail wall's impenetrability—its disposition to repel solid matter—is not manifesting, the jail wall actually has the disposition. And of course it is for that very reason that a prisoner cannot actually walk through the walls even if he tries. So the natural conclusion is that the jail's actual impenetrability, even without manifesting, actually interferes with what one can do, and therefore what one is free to do.[10]

A related objection appeals to a hypothetical or subjunctive construal: in particular, one might think that saying the bars would interfere if one were to struggle against them entails or is tantamount to the bars only possibly rather than actually interfering. In fact, note that this line of reasoning is what motivated Carter and Kramer's concession to Pettit, as described at the outset: although they defend a negative or noninterference conception of freedom against Pettit, Carter and Kramer nonetheless follow Pettit in thinking that hypothetical or subjunctive interference is tantamount to possible rather than actual interference (even if, contra Pettit, they go on to hold that the high likelihood of possible interference becoming actual is sufficient for attributing unfreedom).

But this concession is unnecessary. For such hypothetical or subjunctive claims are derivative rather than basic or fundamental. After all, the reason one would be prevented from leaving the cell if one tried is simply that the cell actually exists, and actually has the

[10] It seems to me that Lang (2012: 288) suggests something roughly similar.

dispositions it has. Put another way, it is the cell's actual existence and nature that is the ground or truthmaker for claims about what would happen were one to struggle against it. Therefore it is the actual existence and nature of the actual cell that interferes with what one can actually do.[11] It should also be emphasized that restricting the range of possible choices does not imply the jail cell only possibly rather than actually interferes. For it is the choices here that are possible, not the interference. Put another way, there is a difference between a possible interference with an actual choice and an actual interference with a possible choice. And not only is it the choices that are merely possible, not the interference, it is the jail's actual interference that renders certain choices non-actual.

Two more reasons are worth diagnosing as a source of reluctance here if any still be felt. One is a tendency, if only on occasion, to think of the possible as the counterfactual, and the counterfactual as the possible. Yet hypothetical or subjunctive claims need not be *counter* to fact as opposed to consistent with it, and the interference of jail walls and laws need not concern past-facing counterfactuals (what could have gone differently). Jail walls and laws can instead invoke or imply claims about the future, such as what would actually happen if one were to run afoul of them.[12] The second reason is a perhaps implicit tendency to treat 'possible' as mutually exclusive with 'actual', and 'merely possible' as akin to 'possible'. But 'actual' and 'possible' are not mutually exclusive; trivially, anything actual is possible, and future possibilities may be consistent with actuality, as just noted. There is also good reason to distinguish 'possible' from 'merely possible'. For

[11] To forestall the objection that only human agency can take away freedom, such that jail cell walls cannot, it need only be kept in mind that humans design and maintain the jail for just this purpose.
[12] If one assumes such claims invoke possibility due to being analyzed via possible worlds, it may be worth emphasizing that possible world talk can be quite misleading; assuming modal realism is false, all modal facts are ultimately grounded in the actual world- as there is no other world, literally speaking, for them to be grounded in. So the invocation of possibility need not invoke non-actuality in the sense at issue.

example, it seems inappropriate to describe 'it's possible it will rain tomorrow' as invoking a 'mere' possibility given that this expression may invoke nothing but ignorance of actual meteorological conditions and laws of nature. The possibility that unicorns or leprechauns could exist, by contrast, does seem fairly described as a 'mere possibility'. But if the phrases work this way (roughly speaking) then using 'merely possible' regarding the prospect of manifesting interference may obscure the way future events need not contrast with actuality as mythical creatures do.

To avoid the charge of diagnosing a straw man, consider an important example tying together several of the issues just discussed. Like Carter and Kramer, Goodin and Jackson (2007) defend the move towards understanding unfreedom in terms of probable or likely interference rather than actual interference. Their paper 'Freedom from fear' begins as follows:

> We think our house would look nice painted white. A city ordinance prohibits that. What is it precisely that impinges on our freedom to paint our house white? When should we rationally fear the city's interference?' One answer might be that it is only the city's *actual interference* that impinges on our freedom. But the effect on our freedom happened well before then. Should we rationally fear only when the constable knocks at the door, handcuffs in hand? The threat was real, and we should have feared it, long before *the actual knock* at the door. Is it the *mere possibility* of interference that impinges on our freedom? Should we rationally fear whenever there is a chance that a constable might possibly appear? That seems premature. Before taking fright, we ought rationally ascertain the likelihood of that possibility, which might turn out to be very remote (p. 249, my emphases).

First, while Goodin and Jackson are right that a law prohibiting white paint affects one's freedom to paint something white even before the policeman knocks, they assume without argument that the "actual knock" is equivalent to or coextensive with "actual interference". Second, their not distinguishing theoretical claims from auxiliary assumptions affects their framing of the issue, as they take the problem they identify as a problem for the theory of freedom in terms of actual (non)interference, rather than a reason to keep the theory but

change the auxiliary assumption regarding what counts as actual interference. Third, Goodin and Jackson seem to conflate 'possible' with 'merely possible' in the manner described above. For the prospect of police enforcing a law is a very real possibility in a way that unicorns and leprechauns are not. This is no small point, as this framing is what motivates Goodin and Jackson's "probabilist" account: against the "actualist" who thinks freedom is "the absence of any actual external impediments to action", and against the "possibilist" who thinks freedom is "the absence of any possible external impediments to action", Goodin and Jackson advocate "probabilism", according to which freedom is "the absence of any probable external impediments to action" (2007: 251). But even assuming probabilism is the best of these three *given Goodin and Jackson's premises*, these premises embody a too-narrow construal of actual interference (or so I'm arguing). So rather than argue for or against probabilism so construed, my arguments, if successful, would obviate the need to choose amongst the options in Goodin and Jackson's trichotomy.

With an eye towards returning to the non-domination view of freedom in the next section, consider another way of making the case for the wide scope construal of actual interference. Perhaps some find it natural to think of interference as an event, in particular a momentary event, perhaps akin to the manifestation of a disposition. Yet for those who think unfreedom can occur due to domination without interference, domination seems to be construed as an enduring state, a systemic state of affairs, or a "structural relationship", as Costa (2009: 406) puts it. For example, in his defense of freedom as non-domination, Skinner (2001) contrasts "interference or even any threat of it" with "the predicament" of those who live "in subjection to the will of others", which, by its very nature, "has the effect of placing limits" on liberty (2001: 262–3). It is not clear that Skinner's contrast between a "predicament" and what appears to be more shortly-lived moments of

interference is justified, however. Instead, just as domination is thought to exist as an enduring predicament to which one is subject even when not manifesting in specific acts of domination, so too should one think of being subject to another's will as an enduring state of interference, one that exists (perhaps as a disposition) even when not manifesting in specific acts of interference. So in brief, I suggest that one can, and should, think of interference just as one thinks of domination- as an ongoing or enduring state of affairs that constrains what people can choose to do for the entirety of its duration.

Lastly, return to the objection mentioned but deferred earlier: that even if I'm right about the wide scope of a jail wall's interference, one might think laws do not interfere in the same way. For not all laws are (actually) enforced. For instance, some laws might purport to apply beyond their authority; consider a small town declaring something illegal at the federal level, or a single country declaring something an international crime. Other laws might go unenforced even within their jurisdiction- perhaps due to a lack of resources, or because a law still on the books seems antiquated by contemporary mores. Yet in either case one might think my view—and unlike other theories of freedom, such as the non-domination conception or Goodin and Jackson's probabilist view—would wrongly treat people as being interfered with even by unenforced laws, and so rendered unfree by them.[13]

But this is not the case. The core reason is that unenforced laws are analogous to physically ineffective jail walls. Suppose it turns out that one could tunnel out of jail, or wiggle in between the surprisingly loose bars in one's cell. This would not show that walls do not interfere *in general* or in the typical case, as agued above. It would only show that these particular walls are not as effective at interfering as they are intended to be. Consider this in light of the other rebuttals given above. Although walls are typically impenetrable—

[13] My thanks to an anonymous referee for the *Journal of Ethics and Social Philosophy* for this objection.

i.e., they typically have the disposition or ability to repel solid matter—a particular wall through which one could escape would lack this disposition, or else have it to a degree insufficient to repel the escapee (even while repelling other solid matter). Generally speaking, interference lends itself to being understood as a physical force, or in physical terms. So the relative strength or magnitude of this force—as well as the various opposing forces—is often relevant. That Superman could bend the bars of a cell, or a prisoner equipped with dynamite could explode his way out, does not imply that walls don't generally interfere, nor that someone in normal circumstances isn't interfered with and so unfree when imprisoned by those same walls. Such cases only show that the degree or extent of interference is not infinite or necessarily insurmountable. But then someone could be free after all if surrounded by walls too weak to imprison.[14]

All of this applies to laws, *mutatis mutandis*. An enforced law is analogous to a functioning wall, and an unenforced law is analogous to a wall through which a prisoner could escape. In both cases the general or typical state of affairs is one of (physically) overwhelming interference, sufficient for unfreedom. Yet this is perfectly compatible with there being physically faulty particular instances, such as certain walls weak enough to tunnel through or certain laws that go unenforced, rendering a particular person free in those particular circumstances, with respect to those walls or laws.

Consider the rebuttal one last way. Note that my arguments for the wide scope interference of jail walls would equally apply were the walls replaced with human guards surrounding a prisoner on all sides. For such a formation would have the same effect as a wall, and possess relevantly similar dispositions. Yet even if the guards opted to let the

[14] Note that this (correctly) implies that whether someone is unfree can depend on the physical capacities of that person. For instance, Superman in a jail cell would be just as free as if he were in a hotel room, even if an ordinary man would find these rooms to relate to freedom quite differently.

prisoner go (something a wall could not do), this would be no different, with respect to freedom, than the guards opting to not ensure the jail cell was physically escape-proof. So not enforcing a law would be similar: what normally yields a sufficient degree of interference for unfreedom would not in such cases.

So to briefly summarize the results of this section. I have argued for the wide scope conception of actual interference by appealing to the superior verdicts it generates; unlike the narrow scope construal that wrongly implies the passive prisoner is liberated by sitting still, for example, the wide scope construal correctly implies the prisoner is interfered with even if passive. Furthermore, because the objections to the wide scope conception fail, this provides further argumentative support for the wide scope conception going forward.

3. Slavery, domination, and actual interference

It was mentioned at the outset that Pettit rejects freedom as noninterference on the grounds that one can be unfree without being interfered with if dominated, and that one can be interfered with yet free if not dominated. My focus in this section is with the first claim. In the next section I'll turn to the second.

Why does Pettit think one can be dominated without being interfered with? As described at the outset, the answer appeals to what is often called the case of the lucky slave. In short, the core idea is that the slave who is lucky to have a kind owner might well be free to make choices without the owner's interference. Because such a slave is not actually interfered with, the idea goes, the lucky slave would be deemed free by the theory of freedom as noninterference. But of course a slave is not free. So freedom cannot consist in noninterference. Instead, because the slave remains dominated even if not interfered with, according to Pettit freedom should be understood as the absence of domination.

For reasons that will be clear shortly, it is worth quoting Pettit several times from his book *Republicanism* (all emphases mine).

> It is possible to have domination without interference and interference without domination. I may be dominated by another—for example, to go to the extreme case—I may be the slave of another—without actually being interfered with in *any* of my choices. It may just happen that my master is of a kindly and non-interfering disposition. Or it may just happen that I am cunning or fawning enough to be able to get away with doing *whatever* I like (1997: 22).

> There may be a loss of liberty without *any* actual interference: there may be enslavement and domination without interference, as in the scenario of the non-interfering master (p. 31).

> Slavery is essentially characterized by domination, not by actual interference: even if the slave's master proves to be *entirely* benign and permissive, he or she continues to dominate the slave (p. 32).

> The enjoyment of dominating power over another is consistent with *never* actually interfering (p. 65).

> You can be dominated by someone, as in the case of the lucky or cunning slave, without actually suffering interference at their hands (p. 80).

One may note I've emphasized Pettit's frequent use of unrestricted or general words such as 'never', 'any', 'entirely', and the like; rather than suggesting a slave might be lucky with respect to noninterference in a certain specific range of choices, Pettit consistently claims it is possible for a slave to do "whatever" he likes.

Nonetheless, when others describe the lucky slave case their language is more hedged or qualified. For example, List and Valentini (2016) present the case as follows:

> Critics [of freedom as noninterference] have argued that [the] focus on actual constraints .. has problematic implications. Consider the often-cited case of a slave with *a noninterfering master*. In this hypothetical scenario, the master could in principle interfere with the slave's actions … but it so happens that the master refrains from interfering, and *many* actions are actually open to the slave. On the liberal conception, the slave would count as free to perform *these actions*—a conclusion that many find unsatisfactory in light of the paradigmatically *unfree status* associated with slavery (2016: 1052, my emphases).

Lang (2012) presents the case similarly.

> Think here of a slave and a kindly master. The master may be kindly disposed towards his slave, and offer *little* actual interference with her activities. Nonetheless, the master could, with impunity, interfere with every detail of his slave's life, if he were so disposed. For republicans, the slave is unfree even if she is *not actually interfered* with (2012: 275, my emphasis).

And for a third example, consider Carter (2016).

> Freedom is not simply a matter of non-interference, for a slave may enjoy *a great deal of* non-interference at the whim of her master. What makes her unfree is her status, such that she is permanently liable to interference of any kind. Even if the slave *enjoys non-interference*, she is, as Pettit puts it, 'dominated', because she is permanently subject to the arbitrary power of her owner (my emphases).

So, whereas Pettit had described the slave as being entirely free from interference such that the slave could do "whatever" he liked, each of the three passages here are more qualified, at least at first: List and Valentini present the slave as being free to perform "many" or "these" actions rather than any or all, Lang starts by suggesting the slave suffers "little" noninterference but not none, while Carter initially describes the slave as enjoying "a great deal of noninterference" but not noninterference *tout court*, or unqualified.

Although these restrictions fall short of Pettit's own description of complete or total noninterference, it is instructive to consider each version. Suppose first the noninterference is restricted rather than total. But then there is not even a *prima facie* reason to think the noninterference conception wrongly implies the slave should be considered free (*pace* the inference drawn in the cited passages after describing limited interference). For even if the slave isn't interfered with regarding some or certain actions, if the slave is still interfered with regarding other actions then the slave will still count as unfree by the lights of the noninterference conception. (This is especially so if the permitted actions are mundane or quotidian, whereas the blocked actions are more fundamental or existentially important, such as where to live or raise one's children.) Consequently, even if Pettit is right to focus "on what it is to enjoy freedom as a person or citizen" as opposed to

"freedom in a particular choice or type of choice" (2014: 29), the conception of freedom as non-domination gets no traction in the restricted variant of the case.

So for the lucky slave case to do its intended work one must construe it as Pettit initially formulates it, with the noninterference considered total. But the crucial problem here is that it is hard to see how a case of total or complete noninterference is even possible. Consider: while it is certainly plausible to imagine a slavemaster who isn't an inveterate micromanager, explicitly ordering what the slave is to do at every moment and with respect to every decision, it is much harder to imagine a globally or universally non-interfering slavemaster, as Pettit suggests might be the case. Suppose the slave wants to pursue higher education or practice the religion of his choice. Or suppose the slave wants to speak out publicly against the evils of slavery, refuse to let his children be sold at auction, or not be a slave anymore. Is one to imagine a master, even a benevolent or kindly one, allowing his slaves to seek employment elsewhere, or to choose not to be slaves? If the answer is 'yes' then the slave is no longer a slave, and so *a fortiori* no longer a lucky slave (who remains dominated *qua* slave). But if the answer is 'no' then the slave is interfered with after all. So it would seem that the only way for complete or total noninterference to be possible is to imagine that the slave doesn't or wouldn't *want* to choose or ask for such things, e.g. that the slave doesn't want to not to be a slave, or doesn't want to be educated, or doesn't care if his children are sold at auction. That is, one must imagine the slave only wanting to do the things that the master will let the slave do, rather than imagine the slave wanting to do the things that any free (non-enslaved) person would likely want to do- or at least be free to do. What this suggests, then, is that Pettit is running together the case of the *lucky* slave with the case of the *contented* slave.

As described earlier, the case of the contented slave is intended as a *reductio* of the theory of freedom as the ability to do what one wants: if freedom is the ability to do what one wants, the idea goes, then if one learned to want only what one could get—as in the case of the slave who learns to want only what the owner will allow him—then all of one's desires could be satisfied, and one would be free. But one cannot liberate oneself simply by adapting one's preferences or desires—such an idea is absurd—so therefore freedom cannot simply be the ability to do what one wants. Yet the case of the lucky slave is supposed to be different. For the case of the lucky slave involves the dispositions and preferences of the master, not the slave; it is the master who is benevolent and so non-interfering, not the slave who adapts his preferences. Yet Pettit seems to run these together: only if the slave is content wanting what the master will not interfere with can the slave be said to be free from interference. But then the lucky slave case cannot do the argumentative work it is intended to do. For surely part of the lesson of the contented slave case is that whether someone is free is not simply a function of their ability to satisfy the desires they actually have. But then this should carry over to the lucky slave case: being interfered with isn't simply a function of the inability to act on the desires one actually has. Instead, actual interference occurs when a range of possible choices—choices one would otherwise make—are blocked, regardless of whether one actually wants them, or whether one has learned to not want them by adaptive preference formation.

Recall that earlier I argued that if it is illegal to do x one is thereby unfree to do x, not only when one is arrested, and not based on whether one wants to do x. For the law interferes regardless of one's preferences. The same ideas apply here. Assuming that the slavery in question is a legal institution, the slave is legally barred from doing many of the things that one is free to do in a society that outlaws slavery. In a slave-holding society it

may be illegal for the slave to publicly denounce slavery, receive an education, or hide his children from the auction block, say. (And sadly, such laws are typically if not brutally enforced.) So contrary to Pettit's assumptions, the individual master's dispositions are irrelevant. For even if the individual master lets the slave do something illegal the slave is still not free to do that something, any more than a mafia don giving me the go-ahead to murder someone makes me free to murder. For if laws actually interfere then one is unfree to murder as long as there is a law against it, no matter what a crime boss says. So if laws actually interfere then the slave is interfered with at every moment that slavery is legal and that person is legally a slave- no matter what the individual master says the slave can or cannot do. So the master allowing the slave some leeway—what Pettit later calls "free reign" as opposed to the freedom of being "unharnessed" (2014: 3)—is simply not enough to show that it is possible for a slave to never be interfered with, rather than, on certain occasions, not be interfered with with respect to a certain small range of choices that are not legally proscribed by the institution of slavery.

So in effect my claim here is that the lucky slave case—in which a slave is never interfered with yet remains a slave—is an impossibility. Put another way, just as there can be no such thing as non-interfering prison walls—if you're in the cell the walls interfere—there can be no such thing as non-interfering legalized slavery- if you're a slave the law interferes.[15] So Pettit's lucky slave argument falls to a presupposition failure, and so fails to motivate freedom as non-domination against freedom as noninterference.

---

[15] Given the earlier-discussed complication of enforceability akin to the (im)penetrability of a wall, the phrasing here should be construed as shorthand for a more complex formulation invoking something akin to 'physically functioning walls in normal circumstances', or 'functioning laws in normal circumstances'. Lest one think this weakens or undercuts my point here, however, compare the case with Pettit's own view. Suppose it's written into law that slaves or other groups of people are to be subjugated or dominated as second-class citizens. Yet further suppose such laws are not enforced, and everyone enjoys a *de facto* equality. Are such people still dominated and so unfree? If

Does this mean the slave isn't dominated, however? Of course not: especially given my arguments for the wide scope of actual interference, rather than treat domination as *contrasting* with interference, as Pettit does, one should instead think of domination as a particularly intense or insidious form of interference; the institution of slavery is such a ubiquitous actual interference in the lives of slaves that it is eminently reasonable to describe slaves not just as governed by the laws of slavery, but dominated by them.

Note too that the same arguments apply, *mutatis mutandis*, to the case of the dominated wife under the laws of "coverture", which gave a husband broad legal authority over his wife. This is worth emphasizing because instead of the lucky slave, Pettit invokes a "lucky wife", as it were, to motivate freedom as non-domination in the prologue to his 2014 book *Just Freedom*. In particular, Pettit invokes the fictional characters Torvald and Nora from Henrik Ibsen's play *A Doll's House*. As Pettit puts it,

> under nineteenth-century law Torvald has enormous power over how his wife can act, but he dotes on her and denies her nothing- nothing, at least, within the accepted parameters of life as a banker's wife... When it comes to the ordinary doings of everyday life, then, Nora has carte blanche. She has all the latitude that a woman in late nineteenth-century Europe could have wished for (2014: xiv).

In light of my arguments above, however, one may notice that Pettit's qualifications here make all the difference; Pettit's invocation of "accepted parameters", and the restriction to "the ordinary doings of everyday life", clearly invoke a circumscribed range of action beyond which Nora cannot be said to freely choose.[16] Yet despite acknowledging these

---

so, then even unenforced domination (that in a sense only exists on paper) suffices for unfreedom. But then the same should hold for my account: unenforced interference suffices for unfreedom as well. Or else suppose that such domination would be merely nominal and not amount to unfreedom. But then that too can be applied to my account; for as argued earlier, unenforced laws need not take away freedom any more than walls one can bypass need confine.

[16] Note too hints of the above-discussed conflation of the lucky slave with the contented slave; to say Nora has "all the latitude" a woman in *that time and place* could have wished for, when, quite clearly, a 21st century American woman would wish for so much more, just goes to show that at least some of Nora's preferences must have been adapted to her limited circumstances- i.e., the area

restrictions—restrictions I argue constitute actual interference with Nora's range of choices—Pettit nonetheless claims that by the lights of freedom as noninterference Nora is free- an incorrect judgment that motivates adopting the non-domination conception of freedom instead (ibid). But as I have argued, this is simply unnecessary. Legalized coverture, like legalized slavery, amounts to a constant (and yes, dominating) actual interference in the lives of women, and slaves. So freedom as noninterference is perfectly well-equipped to explain why women legally bound to their husbands are actually interfered with and so unfree, even if those husbands are indulgent or nice.[17]

---

of action not actually proscribed by law. After all, what if Nora wishes to own her own property? Or seek a no-fault divorce? If this is beyond the pale for a 19th century woman, that only goes to show that coverture laws constitute an actual interference in the range of women's choices, such that it is hardly unsurprising for a woman in such a scenario to not wish for more- just as a slave resigned to slavery may no longer dare to dream of freedom.

[17] What, though, if the domination occurs outside the law? Perhaps even a wife with equal legal status may be dominated and so unfree, one might think. Similarly, perhaps one might think an employee may be dominated by an employer—say, via implied threats or requests-that-can't-be refused—and so unfree as a result- all without actually being interfered with. My first response is meta-theoretical. Because whether such scenarios involve unfreedom in the first place is controversial, it cannot be assumed as a fault or benefit that a theory does or doesn't classify them as free; famously, the Marxist and capitalist disagree on whether poverty or market forces interfere with freedom, but, for that very reason, one cannot simply reject the capitalist theory because it fails to account for the datum that poverty renders one unfree, say. Second, but relatedly, a dispute over whether some *case* involves unfreedom need not be a dispute over *conceptions* of freedom: to use the same example, both Marxists and capitalists may assume freedom is non-interference but disagree on whether private property boundaries count as a relevant sort of interference (Cohen 1991, Waldron 1991-1992). Instead, and as I've explained throughout the paper, the locus of the dispute may involve auxiliary assumptions about what counts as an actual interference, rather than the theory of freedom (as something other than actual interference). Third, and with that said, my account is neutral, or, at least, could be used by either side, to account for the freedom or its absence in the legally-equal-but-dominated-wife case, or in the legally-free-but-dominated-employee case. First, suppose that one thinks the wife and employee are unfree because dominated. Then on my account whatever factors constitute that enduring state of domination, even apart from instances or acts of domination, can also be understand as ongoing or enduring interferences, just as I've argued laws constitute enduring or ongoing interferences even when one isn't arrested for breaking them. Alternately, suppose the wife and employee are free (perhaps because they are physically or legally able to leave without significant harm). Then, the idea goes, the obstacles here aren't strong enough to prevent one from leaving, such that they do not adequately interfere with one's range of choices to count as restricting freedom- akin, more or less, to being free to refuse a coercive offer because the threat comes from a person too weak to carry it through.

Lastly, recall that at the outset I noted Carter and Kramer concede that a slave might be free from actual interference, such that the debate between freedom as non-domination as opposed to noninterference should turn on the question of whether the (high) probability of possible interference becoming actual is sufficient to explain the slave's unfreedom. Simply by recognizing the wide scope of actual interference, however, one can avoid this debate that starts from the viability of the lucky slave thought experiment. In addition, recall also that Pettit criticizes Carter and Kramer for attenuating the link between slavery and unfreedom: for Pettit that a slave is unfree is a necessary or conceptual truth, whereas for Carter and Kramer that a slave is unfree is contingent and empirical, thereby leaving open the genuine empirical possibility that a slave really could get lucky. My arguments show this concession is unnecessary. Just as being in a jail cell *entails* unfreedom due to the jail's actual interference with one's range of choices, so too does being a slave entail unfreedom due to slavery's actual interference with one's range of choices. The constraints or obstacles that are jails and slavery are not merely empirically correlated with unfreedom.[18]

4. Interference, regulations, and overall freedom

It was indicated at the outset that Pettit not only claims there can be unfreedom if there is domination without interference, but also that there can be freedom with interference if there is no domination. I now turn to the latter claim.

[18] Moreover, this rebuts Carter's claim that only an empirical and contingent relation would not trivialize the opposition of freedom and slavery (2008: 81). For my claim that a prisoner is unfree is not a trivial tautology, but rather an implication of the empirical fact that a prisoner exists in a physical space that physically proscribes the range of choices the prisoner can make.

To show how there can be freedom with interference if there is no domination, Pettit appeals to the example of traffic laws: while traffic laws might interfere with one's actions on the road, such laws do not take away freedom, Pettit claims, because they are not dominating. According to Pettit more generally,

> Government inevitably involves interference in the lives of citizens, whether via legislation, punishment, or taxation. Our [republican] ideal suggests that this interference need not be dominating, however—and need not be inherently inimical to freedom—so long as the people affected by the interference share equally in controlling the form it takes. Let state interference be guided equally by the citizenry and it will not reflect an alien power or will in their lives (2014: xx).

Because such legitimately-enacted democratic laws do not amount to an alien will, such laws do not subject one to an alien will, and so one remains free under such laws. But Pettit also goes further. Not only is one not dominated or rendered unfree by democratically enacted laws, such laws might actually enhance one's freedom; for example, and as Pettit puts it, "the rules introduced under a property or transport system, far from restricting freedom, may actually facilitate it" (2014: 66).

So Pettit concludes that not only does interference not suffice for unfreedom, but the interference of e.g. traffic rules might actually enhance freedom. Especially because I have argued that laws amount to an ongoing interference, however, one might think Pettit's view has an advantage here. Expressed another way, it would appear my account is susceptible to Pettit's criticism: if a law amounts to an interference, as I contend, then even a legitimate, well-meaning, and democratically-enacted just law amounts to a freedom-restricting interference, a thought which might push one towards a right-wing libertarian view that sees freedom as being maximized in the absence of laws. Yet, like Pettit, many on the left might think of (certain) laws as freedom-enhancing, especially regulatory laws that protect citizens or consumers against excessive corporate power. It might then be thought an advantage of Pettit's account that he has the resources to argue that "regulation is not

oppression" (2014: 89), and, more strongly, that "we establish most of our freedom only by virtue of a common regulatory scheme" (2014: 85). That Pettit can make sense of the ways laws interfere yet nonetheless enhance rather than impede freedom might then be taken as a unique strength of Pettit's view of freedom as non-domination, and against my view of laws as actual interferences.

But the worry is misguided. For a law interfering in one respect is perfectly compatible with its protecting one from interference in other respects. Take the traffic law example. Undoubtedly a law against travelling faster than 55 mph interferes with one's freedom to drive faster than 55 mph. But such a law also protects one's freedom to travel the roads without being hit by a speeding car, the violence of which would surely amount to a far greater interference. Therefore it is intuitive to say that even though a law against travelling faster than 55 mph takes away some amount of freedom, it nonetheless yields a considerably greater amount of freedom in return. Or, to invoke a comparison to a standard thought in ethical theory, just as an action can yield some pain but a greater amount of pleasure, thereby being utility-enhancing overall by the lights of the utilitarian calculus, so too can a law interfere with one to a small degree but also yield a greater amount of non-interference—i.e., protection from interference—thereby being freedom-enhancing overall.[19]

[19] Of course, precisely measuring degrees or quantities of freedom is a famously vexed issue. Berlin (1969) thought no precise measure is possible (though he did think one can make justifiable comparisons, such as a citizen of a democracy being more free than a subject in a monarchy; p. 43). That said, many have attempted to measure freedom more precisely; see Carter (1999: Ch. 7) for a response to Berlin's skepticism in particular. Still, and as best I can tell, there is no approach to the measurement of freedom that is wholly satisfying, agreed-upon, or theory-neutral. For example, measurements of freedom in terms of preferences presuppose, contra to what might be the lesson of the contented slave case, that freedom should be understood in terms of actual preferences; cf. Sugden (1998). Similarly, measurements in terms of "opportunity sets" (Pattanaik and Xu 1990) seem to presuppose, contra Taylor (1979), that it is the number of opportunities, rather than their significance, that is directly relevant to the degree of freedom enjoyed. Adjudicating these complex

The example is hardly unique. Consider another: a law mandating that food-service employees wash their hands after using the restroom. Surely this law interferes with the freedom of an employee to choose to not wash his or her hands after using the restroom, but the resulting loss of freedom to poisoned customers is orders of magnitude greater; if a person causes my sickness I lose the freedom to do all the things I would do were I healthy, whereas the degree of loss of freedom to the newly sanitized employee is quite minimal. So a regulation that requires sanitary standards, despite being an interference, can nonetheless, on balance, yield more freedom-as-noninterference overall. Note too that such laws do not require those who lose and those who gain freedom in these respects to be different people; one and the same food-service employee who loses freedom *qua* employee due to the interference of the mandatory hand-washing policy gains a greater compensating freedom *qua* customer at every other restaurant.

There are options as to how one might formulate the distinction here. One way might be between *prima facie* and *ultima facie* or all-things-considered interferences. Another might be between there being some and overall, net, or on-balance interference (this seems to be what Kramer has in mind with his distinction between particular and overall freedom; e.g. 2008: 32). Adjudicating between these is unnecessary, however, as the basic point is the same. A law can be an actual interference while simultaneously yielding more protection from interference and so more freedom overall. So this account can indeed explain what Pettit takes to be truths: that "regulation is not oppression", and that "we establish most of our freedom only by virtue of a common regulatory scheme" (as quoted above). One does not require a distinct category of (non)domination to make this judgment: one need only

---

issues is not necessary here, however; for even without a theory-neutral or agreed-upon metric, my judgments regarding traffic laws and sanitary conditions (see below) seems uncontroversial, and unlikely to be overturned by appeal to a formal metric of freedom.

distinguish between some and net interference, as doing so yields the result that negative freedom can indeed be promoted rather than inhibited by laws and regulations.[20]

5: Coda: Theories, explanation, and forms of government

Formulating the most recent argument as I do allows me to tie together a couple of threads, as well as respond to a final objection. Though I noted it wasn't a focus of this paper, I mentioned at the outset that connected to the issues I do discuss is the relationship between freedom and forms of government. In particular I noted that on Pettit's non-domination view, there is a necessary or conceptual relation between democracy and freedom, and authoritarian (dominating) governments and unfreedom. Whereas for Carter and Kramer it is only contingent and empirical that democracy promotes freedom more than, say, fascism. Recall also that I have appealed to methodological issues, often regarding explanation, and noted that debates over theories often turn on the explanation of certain data or cases, such as the datum that slavery is paradigmatic of unfreedom.

Assuming this methodology, suppose it's a datum that certain laws or regulations can enhance rather than impede freedom, such as the traffic law example discussed above. How is this to be explained? Pettit's explanation appeals to non-domination: because citizens are not dominated when a democratic regime imposes traffic laws, one remains free even when governed by or interfered with by such laws. I offered a distinct explanation for the same datum, however: traffic laws, on balance or *ultima facie*, protect against more interference than they impose. So on my explanation there is no distinctive appeal to forms of government, nor to the question of whether the laws reflect an 'alien

[20] Similar remarks apply to List and Valentini's adoption of freedom as independence, which they motivate, at least in part, via its ability to explain how regulations may promote freedom- in putative contrast to the inability of freedom as noninterference (2016: 1072).

will', or track the 'avowed interests' of the citizens in question. Instead, my explanation simply appeals to which option—traffic anarchy or a system of regulations—would yield more interference, with my claim being that the former yields more interference than the latter because the regulations protect one against the interference of unruly drivers.

But perhaps one thinks this isn't the whole story, and that traffic laws not taking away freedom isn't the only datum to account for. For one might also think it's a datum that such laws do not take away freedom *because* they are not dominating (or reflective of an alien interest or will). Then one might think my explanation comes up short. More generally, one might think people subjected to democratic laws are not dominated and therefore, or because of that, not unfree. And correlatively one might think those subject to authoritarian or fascist laws are unfree because they are dominated. And if so, one might object that the non-interference theory I've defended cannot explain these facts.[21]

But this objection is not successful, for reasons both substantive and methodological. Starting with the latter, while I accept that a theory must explain certain facts or data, some tenets or claims need not be explained. Compare: while any theory of freedom must account for the unfreedom induced by slavery, it is not the case that any theory of freedom must account for the unfreedom induced by poverty. The reason is that it is contentious whether poverty takes away freedom; while certainly one may argue (and many have argued) that poverty does take way freedom, this is better understood as an implication of a theory, or a judgment one makes as a result of a theory, rather than a theory-independent datum that a theory must account for.[22] More generally, proper methodology here requires distinguishing theory-neutral facts, data, or paradigms, such as

[21] My thanks to an anonymous referee for the *Journal of Ethics and Social Philosophy* for offering this objection, and encouraging this discussion.
[22] Cf. note 17.

slavery taking away freedom, from contentious (even if true) judgments, such as poverty taking away freedom. For theory-neutral facts or data are in a sense antecedent or prior to a theory, whereas a judgment generated by or justified in light of a theory is posterior.

Much the same applies to putative explanations of a datum. While certain data or theory-neutral facts do need to be explained, the claim that some datum or fact is the case *because of* a certain explanatory factor is not itself part of what needs to be explained. So assume for argument's sake that certain laws, such as traffic laws, enhance rather than impede freedom. Still, one must distinguish needing to explain this fact from the (putative) need to explain this fact obtaining *because* of non-domination. Simply put, a theory-laden or theory-based explanation of a datum is not itself amongst the data that any theory must account for, on pain of being explanatorily inadequate. So it is not the case that the non-interference theory I'm defending must explain why certain laws are freedom-enhancing *because they are not dominating*, even though I accept the burden of needing to explain why certain laws are freedom-enhancing. And that is what I did above: by explaining that regulatory laws can yield more protection from interference, on balance or *ultima facie*, than would be yielded in their absence.

Still, perhaps one thinks there is an important fact (or datum) to be explained here regarding different forms of government. In particular one might think there is something inherently or necessarily freedom-enhancing about democracy, and freedom-limiting about non-democratic or authoritarian forms of government. And perhaps one thinks Pettit's view retains a superior ability to explain these data.

But this is not the case, for reasons closely related to those just detailed. To see this, first distinguish between laws that might obtain in a democracy *and* an authoritarian state, as opposed to laws that would only obtain in an authoritarian state. For example, I

assume democracies and authoritarian states could have similar traffic laws, while only an authoritarian state would have a law requiring worship of the supreme leader. From here, note that it cannot be taken as a theory-neutral datum that people in a democracy are more free vis-à-vis or with respect to their *traffic laws* than people in an authoritarian state are with respect to *their* traffic laws; though one could argue there is such a difference, it is hardly self-evident or a theory-neutral datum that any theory must account for. For if we assume the content of the laws are identical, differing only in how they were enacted (e.g. legislature vs. dictate), then the effects of those laws would be indiscernible, just as two identical actions born of different motivations would be behaviorally indiscernible. So one cannot assume there is a difference in freedom in these situations that needs to be explained. So *a fortiori* one cannot assume there is a difference in these situations *because* of the absence or presence of domination. Such judgments are simply too theoretically loaded to be amongst the neutral data that any theory must account for.

On the other hand, if the *explanandum* is the datum that people are unfree when required to worship a supreme leader, say, then the noninterference conception I've defended clearly has the resources to explain this. For such a requirement is a gross interference with the beliefs, thoughts, and attitudes of every person subject to this law. *Mutatis mutandis* for any other law that would exist in an authoritarian state but not a democracy. Yet even if one thinks the *best* explanation of the unfreedom here appeals to domination, recall that earlier I argued one should construe domination as a particularly gross or insidious form of interference; some interference is so severe, persistent, and aimed at subjugation that it is fairly described as 'domination'. For, I argued, it is only by assuming domination obtains when interference does not (as in the lucky slave case) that domination appears categorically different than interference. Yet accepting the wide scope

conception of interference dissolves the opposition, as one can instead see domination as a kind of interference (the persistent or subjugating kind). Thus the wide-scope conception of interference I've defended can explain unfreedom wherever there is domination.

And this in turn allows a final point. Recall again that Pettit differs with Carter and Kramer over the strength of relationship between slavery and (un)freedom, as well as forms of government and (un)freedom: whereas for Pettit the relationships are necessary or conceptual, for Carter and Kramer they are contingent and empirical. Though like Carter and Kramer I have defended a negative noninterference conceptions against Pettit, I also argued earlier, with Pettit and against Carter and Kramer, that slavery entails and so necessarily yields unfreedom- the reason being, contra Pettit, that a slave is necessarily interfered with by slavery. So much the same applies to forms of government: whereas democratic laws that protect citizens from interference *entail* noninterference and so freedom, subjugating or dominating authoritarian laws entail gross interference and so unfreedom. The relationship is not merely contingent or empirical.

6. Conclusion

Pettit argues that the liberal conception of freedom as noninterference is unable to explain crucial instances of freedom and unfreedom- in particular the unfreedom of slavery, and the freedom that results from certain regulatory laws. I have shown that these arguments are unsound. In particular I have argued that the scope of interference is wider than both Pettit and his critics have recognized, and that this, among other reasons, shows the lucky slave case to be an impossibility rather than a possibility with low probability. More generally I have shown that freedom as noninterference, conjoined with a proper auxiliary assumption regarding the wide scope of actual interference, accounts for paradigm

cases of unfreedom. I have also shown that freedom as noninterference has the resources to make sense of the ways in which laws and regulations may enhance rather than inhibit freedom, as well as how different forms of government may enhance or inhibit freedom. Conjoined, I have shown that the negative conception of freedom as noninterference can meet the explanatory burden that Pettit has claimed it cannot.[23]

References

Beckman, L & Rosenberg, J. (2017). Freedom as non-domination and democratic inclusion. *Res Publica*: 1–18.

Benn, S.I. & Weinstein, W.L. (1971). Being free to act, and being a free man. *Mind* 80, 194–211.

Berlin, I. (1969). Two concepts of liberty. Reprinted in D. Miller ed. (2006) *The Liberty Reader*, Paradigm Publishers: 33–58.

Carter, I. (1999). *A Measure of Freedom*. Oxford University Press.

—— (2008). How are power and unfreedom related?. In Laborde C, and Maynor, J. (eds) *Republicanism and Political Theory*. Malden: Blackwell Publishing, 58–82.

—— (2016). Positive and negative liberty, *The Stanford Encyclopedia of Philosophy* (Fall 2016 Edition), Edward N. Zalta (ed.), URL = <https://plato.stanford.edu/archives/fall2016/entries/liberty-positive-negative/>.

Cohen, G.A. (1991). Capitalism, freedom, and the proletariat. In D. Miller ed., (2006), *The Liberty Reader*: 163–182.

Costa, V. (2009). Neo-republicanism, freedom as non-domination, and citizen virtue. *Politics, Philosophy, & Economics* 8(4): 401–419.

De Bruin, B. (2009). Liberal and republican freedom. *The Journal of Political Philosophy*: Vol. 17, No. 4: 418–439

Flikschuh, K. (2007). *Freedom*. Polity Press.

Goodin, R. (2003). Folie républicaine. *Annu. Rev. Polit. Sci.* 2003. 6: 55–76.

Goodin, R. and Jackson, F. (2007). Freedom from fear. *Philosophy & Public Affairs*, Vol. 35, No. 3: 249-265

Harbour, M. (2011). Non-domination and pure negative liberty. *Politics, Philosophy, and Economics*, 11 (2), 186–205.

Kramer, M. (2003). *The Quality of Freedom*. New York: Oxford University Press.

—— (2008). Liberty and domination. In Laborde, C. and Maynor, J. (eds) *Republicanism and Political Theory*. Malden: Blackwell Publishing, 31–57.

Lang, G. (2012). Invigilating republican liberty. *The Philosophical Quarterly* Vol. 62, No. 247: 273–293.

List, C. & Valentini, L. (2016). Freedom as independence. *Ethics 126*: 1043–1074.

[23] My sincere thanks to Victoria Costa, Laura Ekstrom, Christopher Freiman, Chad Vance and two anonymous referees for the *Journal of Ethics and Social Philosophy* for helpful comments on earlier versions of this paper.

Pattanaik, P. and Xu, Y. (1990). On ranking opportunity sets in terms of freedom of choice. Reprinted in Carter, Kramer, and Steiner (eds.), *Freedom: A Philosophical Anthology* (2007): 463–468.

Pettit, P. (1997). *Republicanism: A Theory of Freedom and Government*. Oxford: Oxford University Press

—— (2008). Republican freedom: Three axioms, four theorems. In: Laborde, C., and Maynor, J. (eds) *Republicanism and Political Theory*: 102–30.

—— (2011): The instability of freedom as noninterference: The case of Isaiah Berlin. *Ethics*, Vol. 121, No. 4 (July 2011): 693-716

—— (2014). *Just Freedom*: *A Moral Compass for a Complex World*. New York: W.V. Norton & Co.

Skinner, Q. (2001). A third concept of liberty. *Proceedings of the British Academy*, 117: 237–268.

Sugden, R. (1998). The metric of opportunity. *Economics and Philosophy* 14: 307– 337.

Taylor, C. (1979). What's wrong with negative liberty?. Reprinted in D. Miller ed. (2006), *The Liberty Reader*: 141–162.

Waldron, J. (1991-1992). Homelessness and the issue of freedom. *UCLA Law Review*. Vol. 39: 295–324.

Wendt, F. (2011). Slaves, prisoners, and republican freedom. *Res Publica* 17(2): 175–192.