

University of Mississippi

eGrove

Electronic Theses and Dissertations

Graduate School

1-1-2022

THE ABILITY OF POSITIVE AND NEGATIVE LIBERTY

Alexandra Jo Kotter

Follow this and additional works at: <https://egrove.olemiss.edu/etd>

Recommended Citation

Kotter, Alexandra Jo, "THE ABILITY OF POSITIVE AND NEGATIVE LIBERTY" (2022). *Electronic Theses and Dissertations*. 2242.

<https://egrove.olemiss.edu/etd/2242>

This Thesis is brought to you for free and open access by the Graduate School at eGrove. It has been accepted for inclusion in Electronic Theses and Dissertations by an authorized administrator of eGrove. For more information, please contact egrove@olemiss.edu.

THE ABILITY OF POSITIVE AND NEGATIVE LIBERTY

A Thesis
presented in partial fulfillment of requirements
for the degree of Master of Arts
in the Department of Philosophy and Religion
The University of Mississippi

by

ALEXANDRA J. KOTTER

May 2022

Copyright Alexandra J. Kotter 2022
ALL RIGHTS RESERVED

ABSTRACT

The way in which we recognize, define, and promote freedom in our society can be deeply valuable. It can lead to important political answers and help identify rights and their nature. My intention is to consider the relationships among three conceptions of freedom. I believe that discussions of freedom which are relevant to political philosophy are necessarily normative. By this I mean that I am not discussing purely descriptive concepts of freedom—instead I am speaking of freedom which can be considered desirable, for this is what truly matters. Freedom to murder, for example, is freedom in the descriptive sense but not in the normative sense.

Two major concepts of liberty are positive and negative, which are often recognized as distinct and antagonistic conceptions of freedom. While I believe their distinction can be beneficial in identifying the way in which freedom should be understood, I believe that liberty should ultimately be recognized as a single concept. I argue positive and negative liberty are not antagonistic, but rather they are complementary conceptions of a single concept, which are sufficient to account for that concept so far as it is a normative concept relevant to political philosophy. My main focus is on my assertion that republican freedom is not needed as a third conception in the view of liberty which I endorse. This is not because domination is not freedom reducing, but rather because once negative and positive liberty are working together in a complementary system, there is nothing which republican freedom can bring to the table which is not already there. Further, holding republican freedom above negative and positive freedom is harmful to a conception of freedom worth embracing.

TABLE OF CONTENTS

ABSTRACT ii

INTRODUCTION 1

I. DEFINITIONS 5

II. NEGATIVE AND POSITIVE LIBERTY AS A TRIADIC RELATION 7

III. AN INTRODUCTION TO REPUBLICAN FREEDOM 9

IV. THE FAILURE OF THE REPUBLICAN CLAIM 11

IV.A. ELIZABETH ANDERSON’S “MARIA CASE” 11

IV.B. A SYSTEM OF POSITIVE AND NEGATIVE LIBERTY PROTECTS PROPERTY RIGHTS 13

IV.C. A SYSTEM OF POSITIVE AND NEGATIVE LIBERTY PROTECTS INALIENABLE RIGHTS 19

IV.D. NON-DOMINATION IS INSUFFICIENT FOR ASSESSING FREEDOM-REDUCING SITUATIONS, A RESPONSE TO LOVETT 24

IV.E. LOVETT’S EXAMPLES ARE FULLY EXPLAINED BY A SYSTEM OF NEGATIVE AND POSITIVE LIBERTY 25

IV.F. THE INESCAPABLE AMBIGUITY OF REPUBLICAN FREEDOM AND WHAT IT MEANS TO BE SUITABLY CONTROLLED 31

V. ON BERLIN AND MILL 34

V.A. BERLIN’S CLASSICAL LIBERAL CLAIM IS CONCEPTUALLY AND HISTORICALLY INACCURATE 34

V.B. MILL IMPLICITLY EMBRACED THE TRIADIC CONCEPTION OF

FREEDOM.....	35
CONCLUSION	37
BIBLIOGRAPHY	38
VITA	41

INTRODUCTION

In 1958, Isaiah Berlin explicitly stated the difference between positive and negative liberty, positing political implications which sparked much discourse and debate about the importance of these two conceptions, their compatibility (or lack thereof), and how they can be promoted or diminished. Positive and negative liberty are often thought of as two incompatible interpretations of the same ideal, which jointly provide a complete interpretation of the concept of freedom.¹ In 1997, however, Philip Pettit proposed a third notion that is now known as a “republican” conception of freedom. This, put shortly, is freedom from non-domination, and negative and positive freedom can be shortly defined, respectively, as freedom from interference and having a rich set of opportunities accessible to oneself.²

In this essay I present a system in which negative and positive freedom are working together as compatible conceptions of a single concept of freedom which I believe provides the best analysis for recognizing and promoting freedom in society. They are specifications of freedom understood as a triadic relationship between an agent, certain preventing conditions, and certain doings or becomings of the agent³ which can better account for our views on freedom. In order to bolster my argument for a system of positive and negative liberty, I must refute the notion of republican freedom as it holds that negative and positive freedom do not make up a

¹ Carter, Ian. “Positive and Negative Liberty.” *Stanford Encyclopedia of Philosophy*. Stanford University, August 2, 2016. <https://plato.stanford.edu/entries/liberty-positive-negative/>.

² Anderson, Elizabeth, “Freedom and Equality” *The Oxford Handbook of Freedom*, ed. David Schmidtz and Carmen E Pavel, Oxford University Press (New York): 2018. Ebook. 122.

³ MacCallum, Gerald C. “Negative and Positive Freedom.” *The Liberty Reader*, 2017, 100–122. <https://doi.org/10.4324/9781315091822-6>.

complete conception of freedom. I explore different arguments of republican thinkers especially from Elizabeth Anderson and Frank Lovett.

I ultimately reject republican freedom for the following reasons: 1) It is not relevantly distinct from negative freedom in a meaningful way which can account for an entirely different conception of freedom (rather it is a form of a negative conception of liberty). 2) A non-domination condition of freedom can in one sense be far too narrow as it leads to many interferences which I believe to be too freedom-reducing to be ignored in an analysis of freedom. In another sense it can be far too broad as the republican qualifies domination as the ability to control, and it seems there could always be a threat of domination. 3) Republican freedom necessarily invites ambiguity as it does not provide a clear definition of “uncontrolled” ability which is a flaw it cannot seem to escape. When freedom seems to be reliant on some sort of outside constraint or constitutional limitation it seems to grant the government too much authority on the definition of freedom. Upon assessing freedom, the analysis should be of the one being oppressed and on the actual interference and not placed on the conditions of the oppressor. 4) Republicans confuse actual freedom with the security of that freedom. If anything, republican freedom is theorizing on how to preserve negative freedom, so it is not a conceptually distinct theory of freedom.

Once liberty is accurately and sufficiently viewed to include both negative and positive conceptions of freedom, one can see that there is nothing more which republican freedom can bring to the table; it is doing no normative work. I additionally point out that Isaiah Berlin, in an attempt to promote only negative liberty, misattributed a wholly negative conception of liberty to John Stuart Mill. In reality Mill has many notions of positive liberty in his theory. I maintain that Berlin makes this mistake largely because he incorrectly thinks we should divide liberty into two

distinct, antagonistic concepts rather than complementary conceptions. So, upon reading Mill as a proponent of only negative liberty, he missed out on key notions of Mill's theory on liberty. It is for these reasons that I believe freedom is not supposed to be cashed out in terms of an opposing dichotomy, and negative and positive liberty can be thought of together to form a rich system of freedom.

This essay will consist of six sections. In Section I, I provide definitions and examples of positive liberty, negative liberty, and republican liberty. In Section II, I present a triadic system of freedom which consists of an agent, certain preventing conditions, and certain doings or becomings of the agent. This one concept of freedom effectively explains how the dichotomy between positive and negative freedom is false.⁴ In Section III, I give a presentation of republican freedom, and I describe its general strengths and the critiques it wages against both the negative and positive freedom conceptions. In Section IV, I discuss why the general republican claims are false and that non-domination does not need to be added to our analysis of freedom (for this is merely an extreme lack of negative liberty). This section consists of five subsections in which I discuss both main arguments from Anderson and Lovett. In Sections IV.A-C I argue that republican and negative liberty are not as distinct as the republican states, that Anderson's king-citizen relationship example only shows that the citizen is not experiencing negative freedom to the extent they should be.⁵ I also provide rebuttals to her argument that republican liberty and positive liberty should be promoted over negative liberty in order to defend property and inalienable rights.

⁴ MacCallum, Gerald C. "Negative and Positive Freedom." *The Liberty Reader*, 2017, 100–122. <https://doi.org/10.4324/9781315091822-6>.

⁵ In this way I disagree with some who claim that one can experience full negative freedom under a totalitarian government which allows one to live their day to day life as they please yet has control to kill, torture, or imprison you at any moment.

In Section IV.D-F, I further present aspects of Lovett's non-domination argument. I contend that there are circumstances in which domination is not occurring which should count as unjustifiably freedom reducing and that positing that the condition of the *ability* to dominate can be freedom reducing is too broad. Indeed it would be more beneficial to accept a negative conception of liberty which can also posit, like the republican, that active arbitrary control (or domination) is an interference in itself. It is best to accept that a promotion of a system of both negative and positive liberty adequately assesses when situations are freedom reducing. I critique three examples he uses to explain the non-domination condition: I maintain that the example of minorities he uses to show that domination is not occurring certainly does show a lack of freedom, I maintain that police interference should be able to count as freedom reducing, and I maintain that his master-slave relationship and his defense of the "gentle giant" example do not make a compelling case for republican freedom. I also highlight the ambiguity of the republican condition of having "controlled" or "non-arbitrary" ability to control and problems that arise from this. Finally, in Section V, I present Berlin's argument against positive freedom and his use of Mill in order to establish his point. I argue that he misreads Mill precisely because of his mistaken ideology on how to view liberty, for John Stuart Mill's theory certainly encompasses aspects of both negative and positive liberty.

I. DEFINITIONS

I now provide explanations of each of these types of liberties including brief examples of each; I recognize, however, that there are borderline cases. In fact, I believe that there could be quite a lot of borderline cases within negative and positive liberty precisely because they are not as antagonistic as many believe. For the sake of clarity, I focus on obvious and well agreed upon examples of each.

Negative liberty according to Berlin is involved in answering the question “what is the area within which the subject – a person or group of persons – is or should be left to do or be what he is able to do or be, without interference by other persons?”⁶ Ian Carter in the Stanford Encyclopedia of Philosophy defines it as “the absence of obstacles, barriers, or constraints. One has negative liberty to the extent that actions are available to one in this negative sense...liberty as the absence of obstacles external to the agent.”⁷ Within this conception of freedom the free person need not be internally and externally able to and have the resources to execute a life plan, rather it is the absence of outside interferences. So, I am free to go on a road trip, even if I cannot afford it, so long as no one interferes with my ability to do so– such as placing roadblocks or locking me in my room. If these interferences were to occur I would experience a lack of negative liberty.

⁶ Berlin, Isaiah. “Two Concepts of Liberty.” Page 155.

https://jmaggio.typepad.com/no_call_me_jay/files/two_concepts_of_liberty.pdf, n.d.

⁷ Carter, Ian. “Positive and Negative Liberty.” *Stanford Encyclopedia of Philosophy*. Section 1.

Positive liberty according to Berlin “derives from the wish on the part of the individual to be his own master” and is involved in answering the question “what, or who, is the source of control or interference, that can determine someone to do, or be, one thing rather than another?”⁸ Positive liberty is interested in freedom from internal constraint and in the possession of the *developed capacity* to act on one’s free will. Carter defines it as “the possibility of acting — or the fact of acting — in such a way as to take control of one's life and realize one's fundamental purposes.”⁹ It can involve having both internal and external resources. Proponents of positive freedom argue that “the pursuit of liberty understood as self-realization or as self-determination can require state intervention of a kind not normally allowed by proponents of negative liberty.”¹⁰ For example, if I do not have money to buy groceries, then I lack positive freedom in this case. Some argue that it is the government’s responsibility to help its citizens cultivate conditions to be self-sufficient; it is on this basis that some defend a welfare state on positive liberty grounds.

Republican liberty, according to Pettit, is when “a person or group enjoys freedom to the extent that no other person or group has the capacity to interfere in their affairs on an arbitrary basis.”¹¹ It is a conception of political liberty as “non-domination or independence from arbitrary power” and it defines freedom as a sort of “structural independence—as the condition of not being subject to the arbitrary or uncontrolled power of a master.”¹² For example, one could be said to lack republican liberty in a totalitarian state where one is seemingly not interfered with, precisely because one is subject to this arbitrary power.

⁸ Berlin, Isaiah. “Two Concepts of Liberty.” *Arguments for Freedom*. Page 155.

⁹ Carter, Ian. “Positive and Negative Liberty.” *Stanford Encyclopedia of Philosophy*. 2016. Introduction.

¹⁰ Carter, Ian. “Positive and Negative Liberty.” *Stanford Encyclopedia of Philosophy*. 2016. Introduction.

¹¹ Lovett, Frank, "Republicanism", *The Stanford Encyclopedia of Philosophy* (Summer 2018 Edition), Edward N. Zalta (ed.), Section 1.2. <https://plato.stanford.edu/archives/sum2018/entries/republicanism/>.

¹² Lovett, Frank, "Republicanism", *The Stanford Encyclopedia of Philosophy*. 2018. Introduction.

II. NEGATIVE AND POSITIVE LIBERTY AS A TRIADIC RELATION

We should not assume, as Berlin does, that negative and positive liberty are two distinct antagonistic kinds of liberty.¹³ It appears rather to be two conceptions of the same thing— a single concept, that includes aspects of both “freedom from” and “freedom to” conditions. Gerald MacCallum argues that Berlin has created a false dichotomy and that there are actually many different possible interpretations of freedom.¹⁴ I maintain that positive and negative liberty wholly constitute freedom, and therefore deny that there are many types of freedom which can fit into this triad. MacCallum is certainly correct that a false dichotomy has been created, however, the distinctions between positive and negative liberty help better assess situations and identify the function of liberty. The following is MacCallum’s presentation of the triad:

Whenever the freedom of some agent or agents is in question, it is always freedom from some constraint or restriction on, interference with, or barrier to doing, not doing, becoming, or not becoming something. Such freedom is thus always of something (an agent or agents), from something, to do, not do, become, or not become something; it is a triadic relation. Taking the format "x is (is not) free from y to do (not do, become, not become) z," x ranges over agents, y ranges over such "preventing conditions" as constraints, restrictions, interferences, and barriers, and z ranges over actions or conditions of character or circumstance.¹⁵

So, common disputes about liberty are actually disagreements on the extent and appropriateness of ranges of variables x, y, and z.¹⁶ I explain this further in the following paragraph.

¹³ Carter, Ian, "Positive and Negative Liberty." *The Stanford Encyclopedia of Philosophy* (Spring 2022). Introduction.

¹⁴ Carter, Ian, "Positive and Negative Liberty." *The Stanford Encyclopedia of Philosophy* (Spring 2022). Section 4.

¹⁵ MacCallum, Gerald C. "Negative and Positive Freedom." *The Philosophical Review* 76, no. 3 (1967): Page 314. Accessed April 27, 2021. doi:10.2307/2183622.

¹⁶ Habibi, Don A. "The Positive / Negative Liberty Distinction and J.S. Mill's Theory of Liberty." *ARSP: Archiv Für Rechts- Und Sozialphilosophie / Archives for Philosophy of Law and Social Philosophy* 81, no. 3 (1995): Page 356. <http://www.jstor.org/stable/23680705>.

MacCallum asserts that what the positive and negative liberty proponents differ over is the way in which one should interpret each of the three variables in the one and only triadic freedom-relation. Ian Carter puts forth the following example: Consider a nicotine addict who has a specific destination but instead goes in the opposite direction in order to buy a cigarette. When making a determination about if the nicotine addict is free or unfree, we are making assumptions about each of the three variables.¹⁷ To say they are free would probably mean that they are free from obstructions to do what they would like to do. To say they are not free would mean that they are not free from internal constraints to act on their rational plan. In both claims there are indeed aspects of positive and negative elements, which shows that the dichotomy between negative and positive liberty is false.¹⁸

While MacCallum believes it is misleading to divide these two different interpreters as either positive or negative proponents,¹⁹ I believe that adopting this language can be beneficial once we realize that positive and negative freedom are two non-antagonistic concepts of the one triadic relation which can work together to form the whole concept of freedom. This system should be recognized in order to adequately assess freedom, which is precisely why I argue that the republican claim that something more is needed than positive and negative liberty is false. I maintain that republican freedom is not able to add anything to this triadic conception of liberty, and thus is a spare wheel.

¹⁷ Carter, Ian. "Positive and Negative Liberty." *Stanford Encyclopedia of Philosophy*. 2016. Section 4.

¹⁸ Carter, Ian. "Positive and Negative Liberty." *Stanford Encyclopedia of Philosophy*. 2016. Section 4.

¹⁹ Ibid.

III. AN INTRODUCTION TO REPUBLICAN FREEDOM

The general claim of republican thinkers is that while both negative and positive freedom may be valuable, they are in no way sufficient for protecting citizens. So, the republican notion of non-domination has to either replace positive liberty or negative liberty, or both, or be added to them in order to provide a sufficient defense of citizens' core interests and rights. On face value republican freedom seems attractive for many reasons. It claims to go "further" than negative liberty because it *guarantees* conditions which produce freedom from interference.²⁰ In addition, it appears to be straightforward, not demanding a need for self-control or any additional form of outside aid as does positive liberty. It merely requires absence—"the absence of any structural dependence on arbitrary power or domination."²¹ Lovett admits that republicans are not agreed on how to "specify the sort of control necessary to control freedom,"²² yet I take the lack of arbitrary power or need of constraint to mean some sort of constitutional restriction is in place in which such non-interference is guaranteed.²³ The claim is that a dominated person, such as a slave, can be non-interfered with if that is what the slave-owner chooses. However, because the slave is dominated and is subjugated to the arbitrary power of his owner as he can revoke his decision at any time, he is not actually free. Indeed, this is often how the republican distinguishes themselves from the proponents of negative liberty.

²⁰ Carter, Ian. "Positive and Negative Liberty." *Stanford Encyclopedia of Philosophy*. 2016.

²¹ Lovett, Frank. "Republicanism." *Stanford Encyclopedia of Philosophy*. 2018. Section 1.3.

²² Lovett, Frank. "Non-Domination." In *The Oxford Handbook of Freedom*, ed. David Schmidtz and Carmen Pavel. New York, NY: Oxford University Press, 2018. Ebook: Page 162.

²³ Carter, Ian. "Positive and Negative Liberty." *Stanford Encyclopedia of Philosophy*. 2016.

A common accusation against positive liberty, which highlights the freedom “to” do things opposed to freedom “from” things, is that it can have oppressive consequences and dangers of authoritarianism.²⁴ Indeed, some feel it could lead to authority forcing individuals to follow specific courses of action with the correct motive because this is believed to be the best course for the individual’s self-realization and doing this would increase their freedom; this line of reasoning also increases fear of indoctrination.²⁵ In addition, there is the paradox of positive freedom. This is the claim that under positive freedom one could paradoxically increase one’s freedom if one simply desired fewer of the things they were unable to do. If being free meant being unprevented internally or externally from realizing one’s desires, then one could, again paradoxically, reduce one’s unfreedom by coming to desire fewer of the things one is unfree to do. Republicanism maintains that its view avoids problems such as these because there is a focus on the external (rather than internal, such as in positive liberty) realm of which people act;²⁶ so, freedom is not directly attached to what you desire.

²⁴ Carter, Ian. “Positive and Negative Liberty.” *Stanford Encyclopedia of Philosophy*. Stanford University. Section 2.

²⁵ Don A. Habibi maintains that these worries presented by Berlin are not worries of a pure positive liberty stance, but a worry of the polluted and abused concept which does not portray true liberty. See “The Positive/Negative Liberty Distinction and J.S. Mill’s Theory of Liberty.”

²⁶ Carter, Ian. “Positive and Negative Liberty.” *Stanford Encyclopedia of Philosophy*. Section 2.

IV. THE FAILURE OF THE REPUBLICAN CLAIM

In this section I demonstrate how after careful analysis of key republican claims for the necessity of adding non-domination to our conception of freedom, we can see that their arguments are flawed and that republican freedom brings nothing necessary to the table. Sections IV.A-C are in response to Elizabeth Anderson's essay "Freedom and Equality" and Sections IV.D-F are in response to Frank Lovett's essay "Non-Domination."

IV.A. ELIZABETH ANDERSON'S "MARIA CASE"

Many republicans highlight a "kindly-master" scenario in order to distinguish between negative and republican freedom and attempt to demonstrate that non-interference is not capable of explaining crucial instances of freedom and unfreedom. Elizabeth Anderson asserts that concepts of liberty (positive, negative, and republican) can work together, but they are logically distinct. So, two concepts can work together at the cost of the third. For example, she claims that Maria could have high degrees of negative and positive freedom yet lack republican freedom. This would be the case if Maria is the favorite of a king who lavishes her in gifts which help her advance her desires (which would account for the positive aspect of liberty) and allows her to say and do as she pleases (which would account for the negative aspect of liberty), but who could throw her in his dungeon whenever he likes. Anderson maintains that Maria would lack republican freedom because the king is dominating her. I, however, assert that Anderson's "Maria Case" is fully explained by negative liberty.

I would like to briefly state that I do agree with Anderson on several fronts. First, I obviously agree that we can think of positive and negative liberty in terms of working together.

However, I do not think that this occurs at a cost of republican freedom, because I do not believe there are any other conceptions needed in the concept of freedom. Second, I agree, as I will show below, that people who can achieve their goals only through the “mercy” of a dominator should be seen as less free than people who can achieve their goals *unconditionally* (for example, not having to be in a master’s good graces).²⁷ In addition, I agree that a person should not be seen as free merely on the probability of not being constrained from performing certain acts in the future.

Some proponents of negative liberty bite this “probability” bullet; what I mean is that they say freedom at times relies on the *probability* of not being *interfered* with in the future, even if it is not a *current* interference.²⁸ I, however, do not find this move to be necessary. For if one lacks the status of “free” person, I believe this to be a direct interference to their negative liberty. I also find this to be one of the strengths of negative liberty, for it has the ability to be nuanced in a way which non-domination is not. One can experience more or less negative liberty, however it seems that one is either dominated or not, which makes the standard of freedom through the lens of non-domination too narrow.

Ultimately, there is no concrete distinction between republican and negative liberty, because domination is merely a type of extreme interference. So, in this case Maria is experiencing a lack in negative liberty. That is, Maria is not experiencing negative liberty to its full extent, which I briefly explain in the next paragraph. Further, as I have stated, freedom is a system of both positive and negative liberty. One should have the positive liberty *to* be one’s own master, and in order to do this one must have freedom *from* this being interfered with, such as freedom from another master who could at any time choose to interfere with you.

²⁷ Carter, Ian. “Positive and Negative Liberty.” *Stanford Encyclopedia of Philosophy*. Stanford University. Section 3.2

²⁸ Ian Carter makes this move, for example.

Philip Pettit claims the difference between negative and republican freedom is that when a dominator *could* (such as a lack of a structural constitution) but *chooses not* to interfere with subordinates the republican can still count this as a lack of freedom, whereas a negative liberty proponent could not.²⁹ It seems, however, that as long as a direct door is closed to Maria (not being able to remove herself from the king's rule) she directly lacks negative freedom, precisely because she is being interfered with. Maria has one less option than if the king were "structurally" constrained in the relevant way, and she has less negative freedom than if she had the option to remove herself from the king's rule. So, she might enjoy more freedom in the negative sense than someone who has all of her choices frustrated, however, Maria still lacks freedom. Again, there seems to be no reason to think negative freedom cannot occur in degrees or on a spectrum.³⁰ I expound on this argument in Section IV.E while responding to Frank Lovett. In this next section I demonstrate that contra Elizabeth Anderson, republican liberty does not add to the case for property rights, which are often thought integral to freedom.

IV.B. A SYSTEM OF NEGATIVE AND POSITIVE LIBERTY PROTECTS PROPERTY RIGHTS

Anderson presents her promotion of republican freedom (and positive freedom) largely through thinking about property rights. She believes that a negative liberty proponent cannot defend property rights justified through freedom.³¹ Contrary to what Anderson argues, I maintain that property rights can be fully protected with a system of negative and positive liberties. An attractive account of freedom and equality rejects strict material equality. It allows for property rights that can only be justified in terms of republican and positive liberty, not negative liberty.³²

²⁹ Carter, Ian. "Positive and Negative Liberty." *Stanford Encyclopedia of Philosophy*.

³⁰ Lovett, Frank. "Republicanism." *Stanford Encyclopedia of Philosophy*. Section 1.3.

³¹ Anderson, Elizabeth, "Freedom and Equality" *The Oxford Handbook of Freedom*, ed. David Smidtz and Carmen E Pavel, Oxford University Press (New York): 2018. Ebook: 122.

³² Anderson, Elizabeth, "Freedom and Equality" *The Oxford Handbook of Freedom*. Ebook: 122.

I, however, assert that positive liberty, promoted above (yet working with) negative liberty, can adequately account for property rights.

Anderson believes this aforementioned strategy used by proponents of negative liberty to support private property rights fails to secure *freedom* to individuals, because while securing the individual negative freedom of one individual's right to property you are constraining everyone else's negative freedom to own that same property.³³ She states, "Rights entail that others have correlative duties. To have a property right to something is to have a claim against others, enforceable by the state, that they not act in particular ways with respect to that thing."³⁴ In this way she believes a property right is a massive constraint on negative liberty as a whole, and that negative freedom in respect to property is only capable of acknowledging privileges and not rights.

Anderson makes a move which I find to be nothing less than arbitrary to help make her point. In contravention of negative liberty proponents who embrace a moralized conception of negative freedom, she states that we can only evaluate a non-moralized (or non-normative) conception of freedom. Anderson thus rejects a normative conception of negative liberty that involves the discussion of *desirable* freedoms in which "interference with others' negative freedom does not count as an infringement of liberty unless it is *unjust*."³⁵ She leaves negative liberty to be thought of as purely descriptive as she defines it simply as "noninterference."³⁶

On the requirement of a non-moralized conception of freedom she states,

To base the justification of property rights on considerations of freedom itself, we must regard freedom as a value or interest and not immediately as a right. That is, we must regard freedom as a nonmoralized consideration. Otherwise we have no

³³ Anderson, Elizabeth, "Freedom and Equality" *The Oxford Handbook of Freedom*. Ebook: 128.

³⁴ Ibid.

³⁵ Ibid. 129.

³⁶ Anderson, Elizabeth, "Freedom and Equality" *The Oxford Handbook of Freedom*. Ebook: 122.

basis in freedom for justifying property rights or resolving property disputes when uses of property conflict.³⁷

However, she gives republican and positive freedom normative definitions. She defines republican freedom as not being “subject to another’s arbitrary and unaccountable will,” and positive freedom as “a rich set of opportunities [which is] effectively accessible.”³⁸ She also states,

A contractualist framework can offer a *freedom*-based justification of private property rights that departs from libertarian premises. In this picture, the principles of right are *whatever principles persons would rationally choose (or could not reasonably reject) to govern their interpersonal claims*, given that they are, and understand themselves to be, free and equal in relation to one another...if they chose a regime of privileges [then] *meaningful* opportunities would be rare. By contrast, adoption of... extensive private property rights... would create vastly *richer* opportunities for *peaceful* and *cooperative* production on terms of mutual freedom and *equality*.³⁹ (Emphasis added).

One can now see that she gives republican freedom and positive freedom normative aspects (containing desirable freedoms) but leaves negative freedom to be purely descriptive. This, of course, will put negative liberty at an unfair disadvantage. For I am not interested in defending a purely descriptive form of negative liberty but rather a normative concept. Ralf Bader states that “rights-based accounts moralize liberty...[yet] moralizing liberty is not tantamount to adopting a positive conception.”⁴⁰ His point is that moralizing liberty does not mean we need to abandon negative liberty.

In order to defend the loss of negative liberty and to secure a “freedom-based” defense of property rights, Anderson incorrectly claims that an appeal to positive and republican freedom over negative freedom is necessary. Ultimately, according to Anderson, the best way to maintain both *property rights* and *inalienable rights* based on a “freedom-based” defense is first and

³⁷ Ibid. 130.

³⁸ Ibid. 122.

³⁹ Ibid. 130.

⁴⁰ Bader, Ralf, “Moralized Conceptions of Liberty.” *The Oxford Handbook of Freedom*, ed. David Schmidtz and Carmen E Pavel, Oxford University Press (New York): 2018. Ebook. 84.

foremost through the promotion of republican freedom (rather than positive freedom) over negative liberty. During the discussion of promoting either republican or positive freedom over negative, Anderson appears charitable to the positive freedom perspective. She states that there is a possibility that property rights can be recognized through positive liberty, “Someone who has invested their labor in some external good with the aim of creating something worth more than the original raw materials has a vital interest in assurance that they will have effective access to this good in the future.”⁴¹ In this way they have positive freedom to have that good secured (even at the cost of negative liberty).

As stated, in order for a freedom-based argument of property rights to be successful Anderson maintains that positive and republican freedom must override negative liberty interests,⁴² and she promotes republican over positive freedom in the interest of securing property rights and sustaining a free society over time.⁴³ On republican freedom overriding negative freedom Anderson states:

Because individuals need access to external goods to survive, the stronger could then condition others’ access on their subjection to the possessors’ arbitrary will. Only a system of private property rights can protect the weaker from domination by the stronger. The republican argument for rights in one’s own body follows even more immediately from such considerations, since to be an object of others’ possession is per se to be dominated by them.⁴⁴

Anderson believes that republican freedom can immediately begin to remedy the problem which the promotion of negative freedom can produce. Indeed, she believes that the problem that the nature of property rights and maintaining freedom poses can best be solved by appealing to republican liberty.

⁴¹ Anderson, Elizabeth, “Freedom and Equality” *The Oxford Handbook of Freedom*. Ebook: 121.

⁴² Ibid. 129.

⁴³ Ibid. 122.

⁴⁴ Ibid. 121.

I concur that there is a need for more than just negative liberty when defending property rights, yet adding a non-domination distinction in place of a non-interference distinction does not further this aim. As I have pointed out there seems to be no clear distinction between republican and negative liberty, as republican freedom is reducible to negative freedom. In addition, it seems that positive liberty, promoted above yet working with negative liberty, can adequately help remedy this situation, given precisely the reasons stated in the aforementioned paragraph, such as a positive freedom to secure a good in which one has invested their labor.

Indeed, a republican notion of freedom is so indifferntiable from negative liberty that Anderson inadvertently advocates for a system of negative and positive liberty as opposed to republican and positive liberty. Anderson states, “The critical point is to institute a scheme of individual rights that can sustain relations of freedom and equality—understood as personal independence and non domination—among persons.”⁴⁵ I believe that this exact idea can be preserved through positive and negative liberty. It is preserved through positive liberty in the sense that one seems to need personal independence in order to act upon one's free will and one needs a rich set of opportunities in order to be free— certainly individuals need access to external goods to survive, as states Anderson. In addition, there can be an argument made in favor of positive freedom as there is a *common* interest in an acknowledgment of rights to property of the individual. Anderson’s idea is also preserved through negative liberty because non-interference covers non-domination. Indeed, her position reduces to the claim that only if certain interferences are forbidden and certain resources guaranteed, can we be free. Ultimately this is a discussion about positive and negative liberty.

When recognizing property rights, certain “interferences” are bound to happen because not everyone can have the same property, but this is not an infringement of freedom in the

⁴⁵ Anderson, Elizabeth, “Freedom and Equality” *The Oxford Handbook of Freedom*. Ebook: 133.

normative sense. Negative liberty, in the normative sense, depends on the restraint of others. Bader states, “only *rights*-violating interferences infringe liberty, whereas preventing someone from doing something that person does not have a *right* to do does not restrict freedom [in a normative sense],” instead it “restricts license.” When in a community of moral equals, one must recognize that it is permissible to claim some space for yourself and your permissible pursuits but that you also must leave space for others.⁴⁶ It is in this way that one stops interference (negative liberty) with your right to obtain property and allows others to pursue their goals as well (positive liberty).

Indeed, the republican standard for lack of freedom which is “domination” is much too high. It is more freedom-promoting to claim that property rights should be acknowledged on the basis of stopping your freedom from being reduced by others and to stop interferences from the stronger upon the weaker (even if it does not reach to the level of domination). However, negative liberty should not override positive liberty. Property rights should be acknowledged in respect to the common interest so that the liberty of the individual does not override the common interest, therefore producing more positive freedom for all: “The infrastructure of private property rights is a public good, justified by its promotion of opportunities- of positive freedom- for all.”⁴⁷ I have made an argument as to why this promotion of positive freedom does not occur at the cost of negative liberty, precisely because I am discussing a normative conception of freedom, according to which restriction of liberty in the descriptive sense does not entail a loss of liberty in the politically significant sense.

⁴⁶ Barbara Herman makes the argument which inspired this point about what it is to be a moral agent in a community of equals. See Herman, Barbara. "The Practice of Moral Judgment." *The Journal of Philosophy*. 1985. 82 (8): 414-436.

⁴⁷ Anderson, Elizabeth, “Freedom and Equality” *The Oxford Handbook of Freedom*. Ebook: 131.

By advocating for republican freedom, Anderson is essentially claiming that because negative liberty does not permit you to be interfered with, the concept is too restrictive. Her line of reasoning can be traced as follows: For the sake of property rights which are essential to freedom, if nothing else, we need to allow people to be interfered with; therefore, we should change the standard of freedom from not being interfered with to not being dominated. This conclusion, of course, is reached because she has denied a normative conception to negative liberty. When we define negative liberty normatively we find that it is integral to property rights. It provides a basis for not allowing others to interfere with someone in various ways which non-domination does not. This attends in a better way to Anderson's worry about the stronger dominating the weaker, because the "weaker" in this case now has a strong interference defense. In addition, this non-domination condition appears to grant the government the ability to analyze and accept a plethora of different actions which would have previously been ruled out on the basis of interference, especially since in many cases it is the government which is placing the needed constraints which stops interference from being considered domination.

IV.C. A SYSTEM OF NEGATIVE AND POSITIVE LIBERTY PROTECTS INALIENABLE RIGHTS

Anderson incorrectly asserts that in order to secure inalienable rights one must recognize republican freedom, because inalienable rights can neither be secured through positive nor negative liberty. Anderson believes that rights which are needed in order to sustain a society "in which individuals relate to each other as free persons" involve the ability to "exercise independent agency" and are necessarily inalienable, "so that no one becomes subject to another's domination."⁴⁸ I take her argument to be the following: 1) We need inalienable rights in

⁴⁸ Anderson, Elizabeth, "Freedom and Equality" *The Oxford Handbook of Freedom*. Ebook. 136.

order to preserve a freedom-based defense of rights. 2) Inalienable rights are grounded exclusively on considerations of republican freedom. 3) Therefore, when making a freedom-based defense of rights, one must appeal to republican freedom instead of positive or negative freedom. I deny premise two. I believe she underestimates both the power of positive freedom and the scope of interference for which negative liberty accounts.

She believes negative freedom is unable to secure inalienable rights for two reasons. First, when negative freedom is valued higher than republican freedom, or in other words, when non-interference is valued higher than non-domination, she argues that it will lead to a contractual alienability of rights,⁴⁹ in which one could, for example, enter a voluntary contract into slavery. Anderson believes that contractual alienability of rights is not a stable structure to produce a society which is free, yet she does not clearly show how this is *only* avoided through her definition of republican freedom. Second, she argues that negative freedom cannot secure inalienable rights because the nature of inalienable rights is necessarily a constraint on negative freedom. In order to make this point she states, “If Sarah’s right is inalienable, then she is immune from anyone changing her right...it entails that she is disabled from changing her own right...this is a constraint on her higher order negative liberty...the liberty over the right itself.”⁵⁰ It seems that this is not a normative conception of negative liberty. For it should only count as a legitimate interference if the interference is unjust.

According to Anderson, a full system of alienable rights threatens the ability of workers to maintain their freedom:

Living under conditions of bondage makes people servile, humble, and psychologically dependent—psychological dispositions that they are likely to transmit to their children. Servile people lack a vivid conception of themselves as rights-bearers and lack the assertiveness needed to vindicate their rights... A free

⁴⁹ Ibid. 122.

⁵⁰ Ibid. 131.

society cannot be sustained by people trained to servility and locked into strategic games where some individuals' alienation of their liberty rights puts others' liberties at risk.⁵¹

It would follow then that interferences which are placed in order to stop the aforementioned conditions should not be considered unjust. Therefore, this would not be a lack of negative liberty in a normative sense.

Anderson also makes an argument as to why positive freedom cannot secure inalienable rights. She claims that to have an inalienable right means that one cannot "exchange" it for rights one values more, and so an inalienable right at times can reduce one's opportunities and thus reduce one's positive freedom.⁵² For example, I cannot exchange my right to worship or right to refrain from worshipping for the right to vote. This is because an inalienable right is non transferable by nature. It is in this way that Anderson believes an inalienable right decreases one's positive freedom, because it decreases the amount of opportunities one has, such as when forging contracts. Therefore, she believes that we cannot secure inalienable rights through positive liberty.

Anderson admits, however, that in some cases having inalienable rights produces better opportunities and, therefore, increases positive freedom. She gives the example of Michelle drowning. If Peter is trying to place conditions on his saving Michelle, Michelle's inalienable rights will protect her from making some agreements such as subjecting herself to slavery. In this way an inalienable right has produced better opportunities for her. This is one of the reasons that I remain unconvinced that an inalienable right is incompatible with or completely reduces one's positive liberty.

⁵¹ Ibid. 134.

⁵² Anderson, Elizabeth, "Freedom and Equality" *The Oxford Handbook of Freedom*. Ebook. 132.

Additionally, this seems like an odd way to think about rights and freedom. It seems that although inalienable rights are always there, it does not mean they cannot be ignored or that one's decision making is bound by one's inalienable rights. What I mean is that the option or *opportunity* for Michelle to choose to violate her inalienable right is there whether she chooses to or not. Some might say that of course we can increase positive freedom by allowing a violation of rights, but we ought to refrain as this would result in being less free. In other words, if Michelle allowed for a violation of her inalienable right, she would increase her positive freedom but she would be less free overall. So, could it be that the *opportunity* to violate her right is always there, thus her *positive* freedom is not actually lacking? So it would simply be that deciding to act in a way which violates one's inalienable right would immediately decrease one's *negative* liberty, as now only an interference is occurring. It seems then that inalienable rights do not actually decrease one's positive liberty.

Even if this is not the case, it seems that if we are focused on a normative conception of positive liberty, we should think in terms of "whatever principles persons would rationally choose (or could not reasonably reject) to govern their interpersonal claims."⁵³ Being deprived of a positive liberty in a purely descriptive sense of positive liberty (for example, the power to alienate inalienable rights) does not limit positive liberty of the sort that matters— it is not a lack of positive liberty in the normative sense. Therefore, I maintain that upholding an inalienable right does not directly result in less positive liberty. There, again, is a positive liberty argument to be made for inalienable rights which appeals to the common interest of people. For one has a stake in other people's liberty rights being secure against invasion by others. This is a "public

⁵³ Anderson, Elizabeth, "Freedom and Equality" *The Oxford Handbook of Freedom*. Ebook. 130.

infrastructure of freedom,” which depends on inalienable rights⁵⁴ and is an example of how inalienable rights can be acknowledged without a direct appeal to non-domination.

I argue that republican freedom is not providing us with anything that positive and negative freedom cannot, and further, republican freedom can at times be too narrow to ground inalienable rights. Let us think about the formal rights of workers. Workers have inalienable rights against certain treatments, such as against the degrading treatment of sexual harassment.⁵⁵ If Vivian is experiencing *interference* with her ability *to* do the work she sets out to accomplish due to sexual remarks from her co-worker Steve, Vivian has an appeal to both a negative and positive liberty defense. However, if Steve’s ability to interfere with Vivian is controlled (let us say he has received three verbal warnings and has been sent home from work early twice) in accordance with a policy which is an official constraint on his ability to act, Vivian does not have an appeal to a republican liberty defense, because she is not being dominated. Since Steve does not have the uncontrolled ability to intentionally frustrate Vivian’s workday, he is not decreasing her republican liberty. A discussion of this definition of republican freedom is continued in the next section.

Ultimately, an appeal to non-domination is valid, it is just wholly covered by negative liberty, and non-domination is not the only grounds for inalienable rights. Indeed, appeals to both negative and positive liberty (in the normative sense) are sufficient grounds for protecting inalienable rights. Anderson says, “the rights most fundamental to the ability to exercise independent agency [must] be inalienable, so that no one becomes subject to another’s domination.” Her argument is still reducible to a system of negative and positive liberty. Inalienable rights are able to increase positive liberty by allowing us to exercise independent

⁵⁴ Ibid. 133.

⁵⁵ Anderson, Elizabeth, “Freedom and Equality” *The Oxford Handbook of Freedom*. Ebook. 134.

agency and increase negative liberty by making sure we are not being interfered with in an unjust way, and thus they are accounted for by negative and positive liberty.

IV.D. NON-DOMINATION IS INSUFFICIENT FOR ASSESSING FREEDOM-REDUCING SITUATIONS, A RESPONSE TO LOVETT

Determining freedom and freedom reduction based on hindrances in relation to domination is much too narrow. I will respond to Lovett's argument in order to make my point. I would first like to point out again that the conceptions of freedom which are being discussed are complementary in nature. In order to have freedom "to" (an exercise conception of freedom) must not you also have a freedom "from" obstacles (an opportunity conception of freedom)? The republican claims that hindrances based on relationships of domination are what reduce freedom.⁵⁶ I disagree with this conception of freedom because it is far too narrow. That is, I maintain that one's freedom can be restricted even in circumstances where you are not being dominated. This is demonstrated in my previous example with Vivian. Lovett aims to show that a republican idea of freedom does not narrow the scope of freedom too much, and that it is distinct from non-interference or negative freedom.

Lovett presents both the non-interference condition (negative freedom) and the non-domination condition (republican freedom). The non-interference condition is: A is not free to Φ if some B intentionally frustrates A's Φ -ing. The non-domination condition is: A is not free to Φ if some B has the uncontrolled ability to intentionally frustrate A's Φ -ing. In defending that non-domination is distinct from non-interference he states that interference is an *action* and non-domination is an *ability* to act. I see major issues with this claim. Indeed in one sense it is far too narrow and in another sense it is far too broad.

⁵⁶ Lovett, Frank, "Non-Domination." *The Oxford Handbook of Freedom*. Ebook: 143.

What we consider lack of republican freedom is too broad in the fact that it consists in the dominator's *ability* to act. Losing freedom simply because someone has the uncontrolled ability to frustrate your intentions clearly holds severe implications. There is always a *possibility* that someone could dominate someone else in some sphere. This would mean that nearly everyone is subject to domination and unable to participate in republican freedom because you are not truly free, just free for now.⁵⁷ In this way it has the ability to equate me or you, who are seemingly un-dominated, to a servant who is being directly dominated. Freedom, then, is defined by not having the possibility of being interfered with, which is surely a very high bar to achieve and may even be virtually impossible.⁵⁸ I delve further into this discussion in the following section.

Perhaps some might claim this argument is uncharitable and say under conditions of republican freedom it must consist in an immediate threat of domination in order to be considered a lack of freedom and therefore does not overly broaden the scope. Yet, when we only think of freedom under terms of immediate threat of domination, the scope of unfreedom becomes too narrow because of the nature of its conditions and the fact that it changes the stipulation of freedom from non-interference to the more narrow non-domination.⁵⁹

IV.E. LOVETT'S EXAMPLES ARE ALL FULLY EXPLAINED BY A COMBINATION OF NEGATIVE AND POSITIVE LIBERTY

Lovett aims to prove that a non-domination view of freedom is not too narrow. Many believe it is too narrow because it requires both an agent of domination and the agent has to have the ability to frustrate choices intentionally. He begins his defense of republican freedom and his

⁵⁷ Dowding, Keith. "Republican Freedom, Rights, and the Coalition Problem." SAGE Journals. Accessed April 29, 2021. <https://journals.sagepub.com/doi/abs/10.1177/1470594x10388380>.

⁵⁸ Carter, Ian. "Positive and Negative Liberty." *Stanford Encyclopedia of Philosophy*. Section 3.2.

⁵⁹ This is demonstrated in my example of Vivian.

assertion that it is not too narrow by presenting an example of an incident where domination is not occurring:

While existing civil rights legislation no doubt sometimes fails to protect specific individuals from uncontrolled interference in specific instances, such failures are no longer the primary cause of the persistent disadvantages faced by poor minorities as a whole. These disadvantages stem rather from systemic factors, such as residential housing patterns which divorce poor minorities from good schools and good jobs. Surely, one is tempted to say, poor minorities are dominated by these circumstances, even if they are merely the unintended consequence of various structural features of American society.⁶⁰

He contends that disadvantages of this sort which he calls “unintended structural disadvantage” does not land in the realm of domination. I maintain that this is because little does land in the domination realm, although this is a clear example of persons experiencing lack of freedom.

As a society we should recognize that oftentimes people of this background do not have the opportunity to experience freedom to the extent that the majority do, precisely because of circumstances such as these. A positive notion of freedom can help adequately account for situations such as these because it recognizes “freedom to pursue.” One needs the realized capacity to pursue their desires before they can pursue them; while this is not always possible to account for politically, in situations like this it is. Indeed, positive liberty allows for a government to aim at actively creating the conditions necessary for individuals to be self-sufficient or to achieve self-realization, creating a nice defense of policies such as welfare.⁶¹

Moving on to another example, Lovett states that under republican freedom police do not detract from freedom because the ability of the police to issue coercive threats is controlled by the judicial system, and therefore it is “suitably controlled.”³³ This, however, is precisely why we should have a non-interference stipulation as opposed to non-domination. Why should we think the police cannot detract from our freedom simply because there is a judicial system above

⁶⁰ Lovett, Frank, “Non-Domination.” *The Oxford Handbook of Freedom*. Ebook: 150.

⁶¹ Carter, Ian. “Positive and Negative Liberty.” *Stanford Encyclopedia of Philosophy*. Section 1.

them? This does not seem like an inherently bad thing, rather it seems somewhat necessary in order to have a cohesive society. However, there seems to be many circumstances in which police could infringe on our freedom in a normative sense, while they are under the control of the judicial system which enforces rules which many believe to be just and assert that the police's ability has a high probability of being constrained.

Yet Lovett's point, I believe unintentionally, implies that the police do not even possess the ability to detract from people's "republican" freedom, even when using their power in a way which one could interpret as abuse, because their *ability* is effectively⁶² controlled by *just* rules.⁶³ It seems that we should be able to consider an innocent person who is being placed in a neck restraint by a cop as being dominated. There are certainly effective laws which constrain the majority of cops from placing innocent people in a neck restraint, however, many have argued that the laws which allow for cops to place citizens in a neck restraint, under certain conditions, are just. It seems then that the cop who believes the innocent citizen is an offender is being effectively controlled in a just way, and therefore the innocent citizen is not even capable of being seen as dominated when placed in a neck restraint. Again, this bolsters the claim that non-domination overly narrows the scope of freedom. I will admit that some might reply that this is not the "correct" type of control. It is a problem of republican freedom nonetheless, as they have not clearly defined what "suitably controlled ability" entails and insist on moving the analysis off of the one being oppressed and place it on the conditions of the one oppressing.

⁶² "Effectively" which means that the probability that the laws or "control" will actually constrain the agent's ability is *reasonably* high. See Lovett's "Non-Domination." Page 151.

⁶³ I emphasize "just" here to make the point that my example is different from those who give an example of Apartheid, for instance. As Lovett points out, the ability of white's to frustrate blacks was rigorously controlled by law and policy, however these laws were unjust, therefore it is not domination reducing in a normative sense. I believe that many would argue that police in America are constrained by *just* rules, and therefore under these constraints cannot reduce our republican freedom.

A system which is able to recognize that in every instance there is both negative and positive freedom being assessed is better able to account for cases such as this. Sometimes police detract from our ability to act in ways which we might desire, but this usually increases our overall freedom. In most cases this detraction from our ability “to” is in the descriptive sense. In some cases, however, the police detracting from our ability “to” certainly decreases our overall normative freedom regardless of the type of control which is placed on police ability, and this is better accounted for in a system of positive and negative freedom rather than under a condition of republican freedom.

In addition, parallel to Anderson’s “Maria Case,” Lovett presents an example of a servant whose master does not intentionally frustrate her choices. Lovett points out that it seems that she still lacks freedom even though her choices are not being actively, intentionally frustrated. In an attempt to pose objections and bolster his non-domination claim, he supposes that we could have this intuition because her freedom from interference *lacks security*. Perhaps this is the case because the master could always choose to interfere with her in the future. Next, I present another argument from Lovett and then respond to both this one and the following.

Lovett presents an objection which is commonly raised to republicans with the intention of responding to and getting the republican out of the dilemma it allegedly poses. He presents an example in which a gentle giant co-exists with valley dwellers. The only thing limiting the gentle giant’s power in this scenario is his own good nature; there is no outside constraint on his ability to interfere with the valley dwellers. This would mean that the valley dwellers necessarily lack republican freedom because the giant’s power is not being suitably controlled. If an evil wizard passed through the valley and turned the gentle giant’s disposition into a mean one, which resulted in the gentle giant interfering with the valley dwellers in a number of devious ways, the

valley dwellers have not actually lost any freedom at all because they did not have any to lose. This example can effectively display that we should not confuse external controls placed on possible interferences as freedom itself. So, if one agrees that the valley dwellers had decreased freedom after the interferences began, this would mean that “freedom cannot hinge on domination.”⁶⁴

Lovett responds in an attempt to save the republican from this critique. He states that our aim should not be in establishing the meaning of “freedom” but rather in establishing “what sort of freedom a well-ordered society should promote.”⁶⁵ He believes that if merely lessening the probability of interference is our public aim, then we ignore the harm of uncertainty itself. He believes the proponent of negative liberty must be indifferent as to the means by which security might be achieved, which he believes to be incorrect. Lovett states, “Surely the value of freedom, at least in part, consists in our being able to plan our lives according to our own designs, with a certain and clear knowledge of the parameters society will impose.”⁶⁶⁶⁷

He also does not believe the answer is in reducing interference uncertainty. He believes that this leads to one “being indifferent as to the means by which security might be achieved.”⁶⁸ For example, in a society which holds up a traditional patriarchal family law, one can reduce the probability of husbands interfering with their wives by reducing the dependency of wives on their husbands or by educating the husbands to be gentler with their spouses.⁶⁹ Lovett’s point is that it seems wrong not to favor one approach over the other, which he does not believe the negative liberty proponent can avoid. He states, “Our public aim should be to purge relationships of domination from society, not merely to ameliorate their effects. For our ideals to properly

⁶⁴ Lovett, Frank, “Non-Domination.” *The Oxford Handbook of Freedom*. Ebook. 158.

⁶⁵ Ibid. 158.

⁶⁶ Ibid. 158.

⁶⁷ This certainly has notions of positive freedom.

⁶⁸ Ibid. 158.

⁶⁹ Ibid.

align with our aims, freedom in the politically relevant sense must include non-domination.”⁷⁰

According to Lovett, our aim should not be lessening the probability of interference or to reduce interference uncertainty, rather it should recognize freedom on the basis of the *impossibility* of interfering in an uncontrolled way. I return to the dangers of his “impossibility of interference” stipulation in the following section.

It is now my aim to show that Lovett’s arguments do not act as a good defense of *republican* freedom, specifically, as I believe that his arguments still ultimately remain reducible to arguments for negative freedom and positive freedom. I agree with Lovett that it does not seem possible to enjoy freedom to its fullest extent when subject to domination. Different degrees of freedom exist in different scenarios, and interferences should be able to be identified and weighed. The nature of slave-owning is domination. Domination, however, is a severe type of interference. Berlin refers to negative liberty as an open door,⁷¹ and while we disagree on the type of government that this allows, it seems that even a benevolent slave master has closed a door to the servant, thus reducing his negative freedom. Indeed, as long as the servant (or wife or valley dweller) is not free to allow herself to be removed from the arbitrary power of the master (or husband or giant), she is being interfered with. In this way we see that domination is a type of infringement accounted for within negative liberty, and negative liberty can explain the unfreedom of the “lucky” slave.

Simply because one person is being interfered with more or less does not mean that when the interference or domination (which is a type of interference) is lifted, they do not both enjoy the freedom of this type of interference being lifted. Indeed it seems that negative liberty has room to be nuanced and republican freedom is simply too high of a standard when talking about

⁷⁰ Ibid.

⁷¹ Berlin, Isaiah. “Two Concepts of Liberty.” *Arguments for Freedom*. Page 155.

freedom-reducing acts— for as we see in the gentle giant example, you either are dominated or you are not. Further, as I pointed out, some may claim that republicanism equates the dominated servant with seemingly free people, as the *ability* to dominate could come from a number of agents in a number of ways.

The conception of liberty that I have proposed is successful in mitigating problems such as these because the negative conception only deems something as a lack of freedom when the interference (being under the control of someone with arbitrary power) is *current*, as opposed to losing freedom when anyone has the mere *ability* to intentionally frustrate your choices. Even if some disagree, my aim is not to say that a defense of negative liberty is a sufficient defense of liberty. Linking a non-interference condition with a condition that allows one to be their own master, like positive freedom allows,⁷² certainly shows why a relation of negative and positive freedom is what a society should aim to promote. Indeed, one cannot have positive liberty if they do not have the ability to control their destiny and choose their own path.⁷³ In order to be one's own master one must have freedom from being under someone else's arbitrary rule. One can certainly see how this encompassing theory adequately purges the relation of domination from society, without the need for a recognition of republican freedom. I believe this discussion leads us to ask the question of what the "suitably controlled ability" condition is doing for the republican, such as in the gentle giant case, and this is the topic of the following section.

IV.F. THE INESCAPABLE AMBIGUITY OF REPUBLICAN FREEDOM AND WHAT IT MEANS TO BE SUITABLY CONTROLLED

As alluded to in previous paragraphs and as Ian Carter points out, "the [republican] requirement of *impossibility* of interference seems over demanding, as it is never *completely*

⁷² Habibi, Don A. "The Positive / Negative Liberty Distinction and J.S. Mill's Theory of Liberty." Page 349.

⁷³ Ibid.

impossible for others to constrain me.”⁷⁴ This means that domination could be occurring at all times, and I would necessarily lack republican freedom. Carter uses the example of getting stabbed on your walk home, while not *likely*, it is still a possibility. The republican could respond by reminding us of the stipulation of “control” in their definition of republican freedom. What they mean is that it must be impossible for others to interfere with me (or in this case stab me) *with impunity*— the exemption of consequences.⁷⁵ Carter rightly points out how hard “impunity” can be to define. At what point do we consider stabbings to be done with or without impunity? If 70% of stabbings lead to prosecution, does this mean no one can stab someone with impunity? It seems that if we accept this republican stipulation of impunity, this would mean that if every single stabbing is prosecuted, when someone does get stabbed they do not experience lack of republican freedom because the perpetrator’s ability was suitably controlled. As we can see, republican freedom has the ability to be both much too broad and much too narrow.

Let us assume that this “suitably controlled” clause found in republican freedom is referring to constitutional limits. Does this mean that someone cannot be experiencing republican freedom unless the government has placed adequate control on all individual’s and corporation’s (and whomever else's) potential ability to interfere? I believe it is worrisome for freedom to be directly dependent on the control the government does or does not implement. It certainly seems that non-domination confuses actual freedom with the security of that freedom. A constitution should not be equated to freedom, and I do not believe republican thinkers can escape this claim. A constitutional constraint does not produce a different kind of freedom than if someone refuses to interfere or dominate someone else based on their virtue. Consider a small society that is not controlled by a government but is rather governed by customary rules which afford a high degree

⁷⁴ Carter, Ian. “Positive and Negative Liberty.” *Stanford Encyclopedia of Philosophy*. Section 3.2.

⁷⁵ Carter, Ian. “Positive and Negative Liberty.” *Stanford Encyclopedia of Philosophy*. Section 3.2.

of what most would consider freedom. It certainly seems incorrect to say that these people are unfree simply because there is no constitution in place. We can see from this example that the existence of a constitution does not create an importantly different kind of freedom or unfreedom. It seems that the government should be viewed instead as a means to preserving positive and negative liberty, but the government should not be seen as a necessary condition to *having* freedom.

Further, this stipulation is not as concrete as many republicans seem to think. Take for example the concept of a living constitution. Some may claim that a living constitution is not a substantive constraint on the state, and it allows the government to do whatever it needs to do to help people realize themselves. It seems then that this could not do the work that republicans need from a constitution. Assessing liberty would fall onto negative liberty terms, so in cases like this, it is negative liberty which is doing the work of the claimed “republican” liberty.

Ultimately, republican freedom is working from within the confines of negative liberty or from the negative liberty ideal and asking what it means to have control or constitutional limits of the right kind.⁷⁶ The republican is essentially asking what kind of policies best produce or protect negative freedom. Carter writes, “Republican writers on freedom have... simply provided good arguments to the effect that negative freedom is best promoted, on balance and over time, through certain kinds of political institutions rather than others.” This endeavor does not however make them distinct from negative liberty; in other words they are not offering “a conceptual challenge to that ideal.”⁷⁷

⁷⁶ Carter, Ian. “Positive and Negative Liberty.” *Stanford Encyclopedia of Philosophy*. Section 3.2.

⁷⁷ *Ibid.*

V. ON BERLIN AND MILL

Many of the arguments I have examined have been focused on a critique of negative liberty (although I have advocated for positive liberty as well) because many republicans view negative liberty as their main target. Isaiah Berlin wholly rejects positive freedom which I certainly believe to be a great error. In this section, I explain how Berlin views positive liberty as completely unnecessary, and I demonstrate that he incorrectly uses John Stuart Mill in order to further his point.

V.A. BERLIN'S CLASSICAL LIBERAL CLAIM IS CONCEPTUALLY AND HISTORICALLY INACCURATE

Berlin argues that we need to distinguish negative freedom from positive freedom, and then recognize, as did J.S. Mill, that negative freedom alone is sufficient for protecting citizens. So, while republican freedom does not do any meaningful work in a conception of freedom, much like an unneeded spare tire, positive freedom, according to Berlin, is a flat tire, and we merely need to promote negative freedom. Berlin, like many others have done since, attributed a negative conception of liberty to John Stuart Mill. Indeed, it does appear that Mill presents a compelling case for negative freedom such as freedom from government interference and social pressure.⁷⁸ I argue that Berlin's conception of freedom is mistaken, and portraying Mill as merely a negative libertarian is inadequate. This is because liberty is a nuanced conception, and many theories of freedom cannot either fit into positive or negative freedom alone. Indeed, Mill makes use of both negative and positive liberty.⁷⁹

⁷⁸ Habibi, Don A. "The Positive / Negative Liberty Distinction and J.S. Mill's Theory of Liberty." Page 351.

⁷⁹ Ian Carter argues that Locke, also largely thought of as a proponent of negative liberty, has notions of positive liberty in this theory as well.

V.B. MILL IMPLICITLY EMBRACED THE TRIADIC CONCEPTION OF FREEDOM

I agree with Don Habibi's claim that a triadic conception of liberty better accounts for Mill's social system by increasing our knowledge of the way in which freedom works. He argues that Mill does not just employ both concepts of positive and negative liberty distinctly, but in a way in which they are oftentimes interrelated.⁸⁰ Indeed when Mill advocates for negative freedom, such as his belief that freedom should not be interfered with unless their actions are infringing on the rights of others, it is in order to create an environment in which the exercise of positive freedom can occur. Habibi points out that in Chapter 2 of *On Liberty* Mill claims that people should have freedom *from* government restrictions in order *to* "gather information, form opinions, speak freely, exchange ideas, and move closer to the truth."⁴⁸ In Chapter 3 of *On Liberty* he claims that people should have freedom *from* social restraints, so that they have the ability *to* "cultivate their own personalities, pursue their diverse tastes, talents, desires, and follow their own path toward improvement and self-realization."⁸¹ This effectively incorporates the internality aspect of positive liberty.

Mill has clear positive liberty claims such as when he states, "The only freedom which deserves the name, is that of pursuing our own good in our own way."⁸² Habibi points out that some have recognized the positive liberty aspects of his theory, yet have attributed it to his being "inconsistent and muddled" such as in the case of Francis Garforth.⁸³ Referring to Mill as someone who incorporates positive liberty might indeed be surprising to some. However, he even incorporates the "administrative elite" into his society, which could fulfill Berlin's definition of positive liberty in the way that he associates it with the belief that we experience

⁸⁰ Habibi, Don A. "The Positive / Negative Liberty Distinction and J.S. Mill's Theory of Liberty." Page 356.

⁸¹ Ibid.

⁸² Mill, John Stuart. *On Liberty. Past Masters.* Page. 226.

<http://pm.nlx.com.umiss.idm.oclc.org/xtf/view?docId=britphil/britphil.54.xml;chunk.id=div.britphil.v52.6;toc.id=div.britphil.v52.6;brand=default>

⁸³ Habibi, Don A. "The Positive / Negative Liberty Distinction and J.S. Mill's Theory of Liberty." Page 357.

our freedom through following the lead of experts who can show us the oath of reason and truth.⁸⁴

This is particularly interesting because Berlin, with this in mind, would not have to worry about his fears of authoritarianism that elitism can lead to under Mill's theory, precisely because there is a balance of negative and positive liberty. A case of negative liberty balancing positive liberty can be seen in his belief that there should be severe restrictions on the state's role in education. From Mill's theory we see a triadic relation in practice in which an agent possesses both negative and positive liberty. Indeed this is the type of liberty that a society should promote. They complement and borrow from one another when necessary, and work together to defeat a number of objections republican freedom simply cannot. If Berlin had not mistakenly broken up liberty into two distinct, antagonistic conceptions, he might have avoided this misreading of Mill. Indeed, the nature of freedom and what is being promoted is much better understood in terms of a system of both positive and negative liberty which I have promoted.

⁸⁴ Habibi, Don A. "The Positive / Negative Liberty Distinction and J.S. Mill's Theory of Liberty." Page 359.

CONCLUSION

In this essay I have responded to both Elizabeth Anderson and Frank Lovett's defense of republican freedom. I have argued that their theories fail to present a more compelling theory of freedom than a system of positive and negative liberty. A republican conception of liberty fails for several reasons. I demonstrated how the attempt to make a relevant distinction between negative liberty and republican liberty was either not successful or led to ridiculous conclusions such as that no one could truly obtain freedom. I pointed out that positing a non-domination condition overly narrowed the conception of liberty and did not allow for some things to count as freedom reducing which should, such as in the case with the police and the example of Vivian. I pointed out how ambiguous the condition of being "suitably controlled" was and how republicans have failed to make this clear. Finally, I showed how Berlin's argument against positive liberty fails, especially when he disregards the positive aspects of Mill's philosophy. We can most certainly better understand freedom and theories of freedom when we disregard the idea that positive and negative liberty are distinct and antagonistic notions of freedom; indeed, a well-rounded conception of liberty will encompass and promote both positive and negative liberty.

BIBLIOGRAPHY

- Anderson, Elizabeth, “Freedom and Equality” *The Oxford Handbook of Freedom*, ed. David Schmidtz and Carmen E Pavel, Oxford University Press (New York): 2018. Ebook. 121-141.
- Bader, Ralf, “Moralized Conceptions of Liberty.” *The Oxford Handbook of Freedom*, ed. David Schmidtz and Carmen E Pavel, Oxford University Press (New York): 2018. Ebook. 83-101.
- Berlin, Isaiah. “Two Concepts of Liberty.” *Arguments for Freedom*. Print. 155-165.
- Carter, Ian. “Positive and Negative Liberty.” *Stanford Encyclopedia of Philosophy*. Stanford University, August 2, 2016.
<https://plato.stanford.edu/entries/liberty-positive-negative/>.
- Dowding, Keith. “Republican Freedom, Rights, and the Coalition Problem.” *SAGE Journals*. Accessed April 29, 2021.
<https://journals.sagepub.com/doi/abs/10.1177/1470594x10388380>.
- Habibi, Don A. “The Positive / Negative Liberty Distinction and J.S. Mill’s Theory of Liberty.” *ARSP: Archiv Für Rechts- Und Sozialphilosophie / Archives for Philosophy of Law and Social Philosophy* 81, no. 3 (1995): Page 356. <http://www.jstor.org/stable/23680705>.
- Herman, Barbara. "The Practice of Moral Judgment." *The Journal of Philosophy*. 1985. 82 (8): 414-436.
- Lovett , Frank. “Non-Domination.” In *The Oxford Handbook of Freedom*, ed. David Schmidtz and Carmen Pavel. New York, NY: Oxford University Press, 2018. Ebook: 142-164.
- "Republicanism", *The Stanford Encyclopedia of Philosophy* (Summer 2018 Edition), Edward N. Zalta (ed.). <https://plato.stanford.edu/archives/sum2018/entries/republicanism/>.
- MacCallum, Gerald C. “Negative and Positive Freedom.” *The Liberty Reader*, 2017. 100–122.
<https://doi.org/10.4324/9781315091822-6>.

VITA

EDUCATION

B.A., Philosophy, University of Mississippi, 2020
summa cum laude

TEACHING EXPERIENCE

University of Mississippi

Teaching Assistant: Comparative Religion (Fall 2019, Spring 2020), Introduction to Philosophy (Fall 2020), Early Modern Philosophy (Spring 2021), Philosophy of Aesthetics (Spring 2021).

Assistant Coach of the University of Mississippi's Ethics Bowl Debate Team (Fall 2020, Spring 2021).

University of Mississippi's Philosophy Department Writing Tutor (Fall 2021, Spring 2022).

DEPARTMENTAL SERVICE

Commenter, Philosophy Forum

C. Thi Nguyen, "Transparency is Surveillance," Spring 2021

Alison Peterman, "Margaret Cavendish on Materialism and Metaphysical Structure," Fall 2021

NON-ACADEMIC WORK

The Pavlov Law Firm, PLLC

Paralegal/Assistant: Summer/Winter 2018, Summer/Winter 2019, Summer 2020