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INTRODUCTION

There is a strong and traditional association between being free and not being dominated or subjugated by anyone: not being under the yoke of another's power, not being defenselessly susceptible to interference by another. The contrary of the *liber*, or free, person in Roman, republican usage was the *servus*, or slave, and up to at least the beginning of the last century, the dominant connotation of freedom, emphasized in the long republican tradition, was not having to live in servitude to another: not being subject to the arbitrary power of another.¹ The author of the eighteenth-century tract *Cato's Letters* expressed the point succinctly: "Liberty is, to live upon one's own Terms; Slavery is, to live at the mere Mercy of another."² The refrain was taken up with particular emphasis later in the eighteenth century, when it was echoed by the leaders and champions of the American Revolution.³

The antonym of liberty has ceased to be subjugation or domination—has ceased to be defenseless susceptibility to interference by another—and has come to be actual interference, instead. There is no loss of liberty without actual interference, according to most contemporary thought: no loss of liberty in just being susceptible to inter-

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1. Orlando Patterson, *Freedom in the Making of Western Culture* (New York: Basic, 1991); Philip Pettit, "Negative Liberty, Liberal and Republican," *European Journal of Philosophy* 1 (1993): 15–38.

2. *Cato's Letters*, ed. J. Trenchard and T. Gordon, 6th ed. (New York: Da Capo, 1971), vol. 2, p. 249.

3. John Phillip Reid, *The Concept of Liberty in the Age of the American Revolution* (Chicago: University of Chicago Press, 1988), p. 38.

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ference. And there is no actual interference—no interference, even, by a nonsubjugating rule of law—without some loss of liberty; “All restraint, qua restraint, is evil,” as John Stuart Mill expressed the emerging orthodoxy.⁴

In this article I want to explore the effect on our conceptualization of liberty of staying with the older tradition—the republican tradition, as I see it⁵—and taking the antonym of freedom to be subjugation, defenseless susceptibility to interference, rather than actual interference. I want to investigate exactly how we must come to think of liberty if we see it as emancipation from the domination that is paradigmatically exemplified by slavery but that may be less dramatically instantiated under a variety of relationships.

The article is in three sections. In the first section I look at what it means for one agent to hold power over another and to subjugate or dominate that other. In the second I look at what might make for emancipation from such power, constituting the appropriate contrast term: what might make for ‘antipower’, as I call it. And then, in the third section I consider the possibility of understanding freedom as nothing more or less than antipower: I show how the ideal marks a nice counterpoint with freedom as noninterference, and I comment on its different implications, in particular, the implications that were relevant in its historical development.

How does freedom as antipower fare in terms of the familiar dichotomy between negative and positive concepts of liberty?⁶ I am negatively free, Berlin says, “to the degree to which no human being interferes with my activity,” I am positively free to the extent that I achieve “self-mastery, with its suggestion of a man divided against

4. John Stuart Mill, *On Liberty*, ed. H. B. Acton (London: Dent, 1972), chap. 5; cf. William Paley, *The Principles of Moral and Political Philosophy*, vol. 4 of *Collected Works* (London: Rivington, 1825), p. 355.

5. Freedom as antipower, in my view, is a republican notion of freedom, not a particularly liberal or libertarian one, although I do not argue that claim here. See John Braithwaite and Philip Pettit, *Not Just Deserts: A Republican Theory of Criminal Justice* (Oxford: Oxford University Press, 1990); Pettit, “Negative Liberty”; Philip Pettit, “The Civil Republic” (Australian National University, 1995); Quentin Skinner, “Machiavelli on the Maintenance of Liberty,” *Politics* 18 (1983): 3–15; Quentin Skinner, “The Idea of Negative Liberty,” in *Philosophy in History*, ed. R. Rorty, J. B. Schneewind, and Q. Skinner (Cambridge: Cambridge University Press, 1984); Quentin Skinner, “Pre-humanist Origins of Republican Ideas,” and “The Republican Ideal of Political Liberty,” in *Machiavelli and Republicanism*, ed. G. Brock, Q. Skinner, and M. Viroli (Cambridge: Cambridge University Press, 1990); Cass R. Sunstein, “The Enduring Legacy of Republicanism,” in *A New Constitutionalism: Designing Political Institutions for a Good Society*, ed. S. E. Elkin and K. E. Soltan (Chicago: University of Chicago Press, 1993).

6. Benjamin Constant, *Constant: Political Writings*, ed. B. Fontana (Cambridge: Cambridge University Press, 1988); Isaiah Berlin, *Two Concepts of Liberty* (Oxford: Oxford University Press, 1958).

himself.”⁷ Under the conception of freedom as antipower, I am free to the degree that no human being has the power to interfere with me: to the extent that no one else is my master, even if I lack the will or the wisdom required for achieving self-mastery. The account is negative in leaving my own achievements out of the picture and focusing on eliminating a danger from others. But the account is different from Berlin’s own negative account—if you like, it connects with the positive alternative—in concentrating on the power of interference that others may wield, not just on the actual interference that they perpetrate.

I. POWER

Our task in this section is to characterize the subjugation or domination that slavery exemplifies. One agent dominates another if and only if he or she has a certain power over that other: in particular the power to interfere in the affairs of the other and to inflict a certain damage.⁸ While the dominating party will always be an agent—it cannot just be a system, or network, or whatever—it may be a personal, corporate, or collective agent, as in the tyranny of the majority. The dominated agent, on the other hand, will always have to be a person or group of persons, not just a corporate body. I shall often speak as if there are just two individual persons involved in cases of domination, but that is only for convenience.

What exactly is it for one person to wield dominating power over another? I think that we should distinguish three aspects of the relationship. Someone has such power over another, someone dominates or subjugates another, to the extent that (1) they have the capacity to interfere (2) with impunity and at will (3) in certain choices that the other is in a position to make.

What is it to interfere, in the manner postulated in the first condition? Interference must involve a more or less intentional attempt to worsen an agent’s situation of choice: it cannot occur by accident, for example, as when I fall in your path or happen to compete with you for scarce goods,⁹ and, equally, it cannot take the form of a bribe or a reward. But interference, as I understand it, still encompasses a wide range of possible behaviors: coercion of the body, to use an old phrase, as in restraint or obstruction; coercion of the will, as in punishment or the threat of punishment; and, to add a category that was not salient

7. Berlin, pp. 7, 19.

8. Max Weber, *Economy and Society*, ed. G. Roth and C. Wittich (1922; reprint, Berkeley: University of California Press, 1978); William Connolly, *The Terms of Political Discourse*, 2d ed. (Princeton, N.J.: Princeton University Press, 1983).

9. David Miller, *Market, State and Community* (Oxford: Oxford University Press, 1990), p. 35.

in earlier centuries, manipulation: this is usually covert and may take the form of agenda fixing, the deceptive or nonrational shaping of people's beliefs or desires, or the rigging of the consequences of people's actions.¹⁰

The variables relevant to an agent's choice are the range of options presented as available, the expected payoffs that the agent assigns to those options, and the actual payoffs—the outcomes—that result from the choice. All interfering behaviors, coercive or manipulative, are intended by the interferer to worsen the agent's choice situation by changing the range of options available, by altering the expected payoffs assigned to those options, or by assuming control over which outcomes will result from which options and what actual payoffs, therefore, will materialize. Thus, physical obstruction and agenda fixing both reduce the options available, the threat of punishment and the nonrational shaping of desires both affect the payoffs assigned to those options, and punishment for having made a certain choice as well as disruption of the normal flow of outcomes both affect the actual payoffs.

Context is always relevant to determining whether a given act worsens someone's choice situation, since context fixes the baseline by reference to which we decide if the effect is indeed a worsening. This contextual sensitivity has important implications for the extent to which interference occurs. It means that acts of omission, for example, may count in some circumstances as forms of interference. Consider the pharmacist who without good reason refuses to sell an urgently required medicine or the judge who spitefully refuses to make available an established and more lenient sentencing option. Such figures should almost certainly count as interfering with those whom they affect. The contextual sensitivity will have other effects too. It may mean, for example, that exploiting someone's urgent needs in order to drive a very hard bargain represents a sort of interference. Suppose the pharmacist agrees to sell the urgently required medicine not for the standard fee but only on extortionate terms. Such a person interferes in the patient's choice to the extent of worsening what, by the received benchmark, are the expected payoffs for the options they face.

But, although interference always involves the attempt to worsen an agent's situation, it need not always involve a wrongful act: coercion remains coercion, even if it is morally impeccable. I interfere with you if I obstruct your making a phone call by deliberately occupying the

10. Philip Pettit, "A Definition of Negative Liberty," *Ratio*, n.s., 2 (1989): 153–68; Steven Lukes, "Power," in *Encyclopedia of Ethics*, ed. L. C. and C. B. Becker (New York: Garland, 1992), p. 995; Mark Philp, "Power," in *Encyclopedia of the Social Sciences*, ed. A. and J. Kuper (London: Routledge, 1985).

only kiosk available, even though it is perfectly within my rights to occupy that kiosk. I interfere with you if I destroy your custom by deliberately undercutting your prices—assuming I have the required resources—whenever you try to sell your wares, even though our market culture tolerates my behavior. I even interfere with you if I stop your interfering with another, so that my act is morally required, not just morally innocent.

So much for the main issues raised by the first clause. But what is it to have the capacity to interfere in the sense explicated? Remember the old joke, “Can you play the piano?” “I don’t know, I’ve never tried.” The lesson of that joke is that the capacity to interfere must be an actual capacity,⁷ as we might call it—a capacity that is ready to be exercised—not a capacity that is yet to be fully developed: not anything like the virtual capacity of the musically gifted person who has yet to try out the piano. Consider a collection of people who, if they were to constitute themselves as a coherent agent, would have a ready capacity to interfere with someone. Or, consider the agent, personal or corporate, who would have such a capacity should they only recognize the presence of the potential victim or the availability of causal modes of contact. In such cases there is only a virtual capacity to interfere, not an actual capacity, and I shall not say that there is domination. There is virtual domination, we might say, but not actual domination.

The second clause requires that the person have the capacity to interfere with impunity and at will if they are to dominate the other fully. The with-impunity condition means that there is no penalty, and indeed no loss, attendant on the person’s interference: the party interfered with has no way of asserting themselves in response, there is no central body to punish the interference, the interferer does not have to justify themselves to the victim or to the community at large or renounce any benefit in order to practice the interference. They have *carte blanche*. The at-will condition, on the other hand, requires that the person can initiate interference at their own pleasure—at their own whim—if they are to dominate the other fully. There is no need for them to wait on the realization of some independent legitimating circumstance, for example, before they can perpetrate interference.

Where these two conditions are fully realized, then the capacity for interference that they enjoy—assuming that the interference is not difficult—amounts to an absolutely arbitrary power. The only brake on the interference that they can inflict is the brake of their own untrammelled choice or their own unchecked judgment, their own *arbitrium*: ultimately, as it may be, their own capricious will. For all the checks available, the interference may be controlled by interests or opinions inimical to those affected. Such absolutely arbitrary power

may have been available to the slaveholders over their slaves in certain dispensations—certainly not in all—and it may have been accessible in some regimes to despotic potentates over their subjects. But it is not likely to be realized in many contexts.

On the other hand, the power of arbitrary interference is often going to be approximated, even in otherwise more or less rule-governed societies. The husband who can beat his wife for disobeying his instructions and be subject, at most, to the mild censure of his neighbors, the employer who can fire his employees as whim inclines him and hardly suffer embarrassment for doing so, the teacher who can chastise her pupils on the slightest excuse or pretense at excuse, and the prison warder who can make life hell for inmates and not worry much about covering his tracks: all such figures enjoy high degrees of arbitrary power over those subject to them. They may not be as common in some societies today as they once were. But they are not as unfamiliar as the slaveholder or potentate, and even where they do not survive, they have often left somewhat less powerful, but still recognizable, progeny in their place.¹¹

The main thing to notice about the third clause is that it mentions certain choices, not all choices. This highlights the fact that someone may dominate another in a certain domain of choice, in a certain sphere or aspect of her life, without doing so in all. The husband may dominate the wife in the home and the employer dominate the employee in the workplace without that domination extending further. We saw in the discussion of the second clause that domination may involve a greater or lesser degree of arbitrary power; it may be more or less intense. We see here that it may also involve a greater or lesser range; it may vary in extent as well as in intensity. This variation in extent will be important so far as it is better to be dominated in fewer areas rather than in more. But it will also be important so far as domination in some areas is likely to be considered more damaging than it is in others; it is better to be dominated in less central activities, for example, rather than in more central ones.¹²

The three conditions given are sufficient, as I see things, for domination to occur, although perhaps only in a reduced measure and perhaps only over a restricted domain. But if the conditions obtain to

11. Duncan Ivison has drawn my attention to a Lockean precedent for the thought here: "But Freedom is . . . a Liberty to dispose, and order, as he lists, his Person, Actions, Possessions, and his whole Property, within the Allowance of those Laws under which he is; and therein not to be subject to the arbitrary Will of another, but freely to follow his own" (John Locke, *Two Treatises of Government*, ed. P. Laslett [New York: Mentor, 1965], vol. 2, sec. 57).

12. Charles Taylor, *Philosophy and the Human Sciences* (Cambridge: Cambridge University Press, 1985), essay 8.

any noticeable degree in a world like ours, for a species like ours, then a further important condition is likely in many cases to be fulfilled too. This is that it will be a matter of common knowledge among the people involved, and among any others who are party to their relationship—any others in the society who are aware of what is going on—that the three base conditions are fulfilled in the relevant degree. The conditions may not be articulated in full conceptual dress, but the possibilities involved will tend to register in some way on the common consciousness. Everyone will believe that they obtain, everyone will believe that everyone believes this, and so on. Or perhaps, everyone will believe that they obtain, no one will disbelieve that everyone believes this, no one will disbelieve that that is not disbelieved, and so on.¹³

Why is the obtaining of the three conditions likely to mean that it will be a matter of common knowledge that they do in fact obtain? The question as to whether such conditions obtain is going to be salient for nearly everyone involved, since it is of pressing interest for human beings to know how far they fall under the power of others. And the fact that the conditions obtain, if they do obtain, is usually going to be salient for most of the people involved, since the kinds of resources in virtue of which one person has power over another tend, with one exception, to be prominent and detectable. There is a salient question, then, and a salient basis for answering the question. And this means, by a familiar line of argument,¹⁴ that in cases where the answer is Yes—in cases where the conditions for subjugation are fulfilled—there is a basis for common knowledge, or at least for something approaching common knowledge, that they are indeed fulfilled.¹⁵

13. David Lewis, *Philosophical Papers* (Oxford: Oxford University Press, 1983), vol. 1, p. 166.

14. David Lewis, *Convention* (Cambridge, Mass.: Harvard University Press, 1969), p. 56.

15. The argument, in brief, is this. The fact that the resources in question are available to the powerful person is compelling for everyone, it can be seen by everyone to be compelling for nearly everyone, and it serves for everyone to indicate that the conditions obtain. And so, assuming that people ascribe common information and inductive standards to one another, the fact that the resources are available will be seen by everyone to indicate that the conditions obtain, will be seen by everyone to be seen by everyone to indicate this, and so on. Notice that this argument won't apply in cases of what we agreed to call virtual as distinct from actual domination. The people of such and such a country may virtually dominate those of another in the sense that did they constitute themselves as an agent, then they would be able to interfere, say, by undercutting them in every overseas market. But this is not likely to become a matter of common knowledge, since the question as to whether potential as distinct from established agents are able to interfere is not always going to be a salient one, and neither is it always going to be salient that resources are distributed so as to make such interference possible. My thanks to Dennis Robinson for pressing me here.

The resources in virtue of which one person may have power over another are extraordinarily various: they range over resources of physical strength, technical advantage, financial clout, political authority, social connections, communal standing, informational access, ideological position, cultural legitimation, and the like. They also include the resource of being someone—say, the only doctor or police officer around—whose help and goodwill the other may need in various possible emergencies. They even include the resource of perceived intractability—at the limit, perceived irrationality—that enables someone to drive a hard bargain.

I said that with one exception such resources tend to be prominent and detectable by those to whose disadvantage they may be deployed and that this helps ensure that where one person has any power over another, in virtue of an inequality in such resources, it is a matter of common knowledge that this is so. The exception is the case where one person or group is in a position to exercise backroom manipulation, whether manipulation of the options, manipulation of the expected payoffs, or manipulation of the actual payoffs.¹⁶ Where domination is achieved by such means, it will not be a matter of common knowledge, unlike most other cases, that in this respect some people fall under the power of others.

When I say that the existence of a certain sort of domination between two parties is going to be a matter of common knowledge among them, and among their fellows, I should mention that this does not entail that they will all be aware of the domination as something on a par in any way with slavery, for example, or as something that is to that extent questionable and objectionable. It is possible, in particular, for those who do the dominating to take their superiority so far for granted that it does not ever strike them that the parties they dominate may bristle under the yoke. Think of Helmer Thorvald, the husband in Ibsen's play, *A Doll's House*. He is clearly aware of dominating Nora, his wife, and indeed clearly believes that this domination is good for her. But he is absolutely blind to the fact that this domination could come to seem irksome and demeaning to Nora herself. There is no problem there, and there is no challenge to the claim that such domination is generally a matter of common knowledge.

Given that the fulfillment of the three original conditions—their fulfillment in any noticeable degree—is generally going to be a matter

16. Steven Lukes, *Power: A Radical View* (London: Macmillan, 1974); Raymond Geuss, *The Idea of a Critical Theory* (Cambridge: Cambridge University Press, 1981); Denise Meyerson, *False Consciousness* (Oxford: Oxford University Press, 1991); Thomas E. Wartenberg, *The Forms of Power: From Domination to Transformation* (Philadelphia: Temple University Press, 1990); David West, *Authenticity and Empowerment* (Brighton: Harvester, 1990).

of something approaching common knowledge, the domination to which the conditions bear testimony will have an important subjective and intersubjective significance. Domination is generally going to involve the awareness of control on the part of the powerful, the awareness of vulnerability on the part of the powerless, and the mutual awareness—indeed, the common awareness among all the parties to the relationship—of this consciousness on each side. The powerless are not going to be able to look the powerful in the eye, conscious as each will be—and conscious as each will be of the other's consciousness—of this asymmetry. Both will share an awareness that the powerless can do nothing except by the leave of the powerful: that the powerless are at the mercy of the powerful and not on equal terms. The master-slave scenario will materialize, and the asymmetry between the two sides will be a communicative as well as an objective reality.¹⁷

Conscious of this problem, John Milton deplored “the perpetual bowings and cringings of an abject people” that he thought were inevitable in monarchies.¹⁸ And a little later in the seventeenth century, Algernon Sydney could observe that “slavery doth naturally produce meanness of spirit, with its worst effect, flattery.”¹⁹ The theme is given a particularly interesting twist a century later, when Mary Wollstonecraft deplores the “littlenesses,” “sly tricks,” and “cunning”²⁰ to which women are driven because of their dependency on their husbands—because of their slavery, as she also calls it.²¹ “It is vain to expect virtue from women till they are, in some degree, independent of man; nay, it is vain to expect that strength of natural affection, which would make them good wives and mothers. Whilst they are absolutely dependent on their husbands they will be cunning, mean, and selfish.”²²

So much by way of characterizing the power over others involved in domination or subjugation. What relationships might illustrate this sort of power? We already have some sense of the outstanding examples. In the absence of a culture of children's rights and appropriate guards against child abuse, parents individually or jointly will enjoy subjugating power over their children. In the absence of a culture of

17. Terence Ball, “Power,” in *A Companion to Contemporary Political Philosophy*, ed. R. E. Goodin and P. Pettit (Oxford: Blackwell, 1993).

18. Blair Worden, “English Republicanism,” in *The Cambridge History of Political Thought*, ed. J. H. Burns, with M. Goldie (Cambridge: Cambridge University Press, 1991), pp. 443–75, p. 457.

19. Algernon Sydney, *Discourses Concerning Government*, ed. T. G. West (Indianapolis: Liberty, 1990), p. 162.

20. Mary Wollstonecraft, *A Vindication of the Rights of Women*, ed. Ulrich H. Hardt (New York: Whitston, 1982), p. 359.

21. *Ibid.*, p. 354.

22. *Ibid.*, p. 299; cf. p. 309.

equal rights that is supportive of battered wives, husbands will enjoy such power over their spouses. In the absence of other employment opportunities and appropriate controls—say, those that a vigilant union might guarantee—employers and managers will enjoy subjugating power over their workers. In the absence of countervailing powers, creditors will often enjoy such power over their debtors.²³ And in the absence of possibilities of appeal or review, bureaucrats and police will certainly enjoy that power over members of the public.

Some of these relationships will have originated historically in consent, while others will not. But it is important to notice that that is not to the point, under our account of domination. Whether a relationship sprang originally from a contract or not, whether or not it was consensual in origin, the fact that it gives one party the effective capacity to interfere more or less arbitrarily in some of the other's choices means that the one person dominates or subjugates the other. It is probably for this reason that those who thought of freedom as nondomination consistently denied the propriety of the slave contract: the contract whereby someone, for whatever gain, or on the basis of whatever gamble, submits themselves to the domination of another.²⁴

It is worth noting in this connection that since historical consent is more or less irrelevant to whether domination occurs in a relationship, a concern about domination is bound to cast doubt on the supposed value, in itself, of the uncoerced, "free" contract. About the time when freedom as noninterference came to the fore, the law of contract was evolving and consolidating, and the idea of contract was gaining a place in the self-understanding of Western society that it did not have in earlier periods.²⁵ This development saw freedom of contract invoked in defense of some fairly appalling contractual arrangements, as people ignored issues of domination and argued that whatever happens under an uncoerced contract cannot compromise freedom.²⁶ People could not have taken this view had they remained attached to the notion that freedom requires nondomination.

With the examples I gave in mind, there are two final points about domination or subjugation that I want to stress. The first is that the possession by someone of power over another—in whatever degree—

23. R. L. Ransom and Richard Sutch, *One Kind of Freedom* (Cambridge: Cambridge University Press, 1977), chap. 8.

24. Locke, p. 325.

25. J. Stoljar, *A History of Contract at Common Law* (Canberra: Australian National University Press, 1975); P. S. Atiyah, *The Rise and Fall of Freedom of Contract* (Oxford: Clarendon, 1979).

26. Oliver MacDonagh, "Pre-transformations: Victorian Britain," in *Law and Social Control*, ed. E. Kamenka and A. Erh-Soon Tay (London: Arnold, 1980); W. R. Cornish and G. de N. Clark, *Law and Society in England 1750–1950* (London: Sweet & Maxwell, 1989).

does not require that the person who enjoys such power actually interfere with the individual who is dominated; it does not require even that the person who enjoys that power be inclined in the slightest measure toward such interference. As Richard Price put the point in the eighteenth century: "Individuals in private life, while held under the power of masters, cannot be denominated free, however equitably and kindly they may be treated."²⁷ What constitutes the power relationship is the fact that in some respect the power bearer could interfere arbitrarily, even if they are never going to do so. This fact means that the victim of power acts in the relevant area by the leave, explicit or implicit, of the power bearer; it means that they live at the mercy of that person, that they are in the position of a dependent or debtor or something of the kind. If there is common knowledge of that implication, as there usually will be, it follows that the victim of power cannot enjoy the psychological status of an equal: they are in a position where fear and deference will be the normal order of the day, not the frankness that goes with intersubjective equality.

Does this point mean that no difference is made by the fact, if it is a fact, that the power bearer is benign or saintly? That depends. If being benign or saintly means that the person acknowledges that they are subject to challenge and rebuke—if it means that they make themselves answerable in the court of certain considerations—then that entails that they cannot interfere with complete impunity; they can be quoted, as it were, against themselves. Suppose that a power bearer acknowledges a code of noblesse oblige, for example, or just aspires to be a virtuous person. That is going to mean, in itself, that the power they have over someone else is at least less intense than it might have been; there is a certain reduction in the domination they represent, by virtue of their being exposed to the possibility of effective rebuke. If, on the other hand, being benign or saintly simply means that the person happens to have inclinations that do no harm to anyone else—in the actual circumstances, they do not lead to interference with anyone—then it won't entail a reduction in the domination of those who are under this person's power. It will remain the case that the person can arbitrarily interfere and that anyone under their power lives, and lives by common knowledge, at that person's mercy.

The second point I wish to emphasize about domination is that while the enjoyment of power over another is consistent with never actually interfering, it is equally true that one agent may actually interfere with another without enjoying power over that person. The constitutional authority who interferes with another in a constitutional

27. Richard Price, *Political Writings*, ed. D. O. Thomas (Cambridge: Cambridge University Press, 1991), pp. 77–78.

role, but who does not interfere at will and with impunity, fails to enjoy subjugating power over the person affected. The parliament or the police officer, then, the judge or the prison warden, may practice nondominating interference, provided—and it is a big proviso—that a suitably constraining, constitutional arrangement works effectively. The agent or agency in question may not have any discretion in the treatment of a person affected, so that they cannot interfere at will but only under constitutionally determined conditions. Or if they have certain areas of discretion—in the way in which the judge may have some discretion in sentencing—they may not be able, with impunity, to exercise that power to the intentional detriment of the person: their actions may be subject to appeal and review, so that they are exposed to sanction in the event of using that discretion in a constitutionally indefensible way to worsen the situation of the person they affect.²⁸

Suppose that a constitutional authority—say, a judge or a police officer—operates under discriminatory laws and suppose, miraculously, that those laws deny that authority any arbitrary power. Do we have a complaint to make in the case of such constitutional discrimination? We certainly have. The fact that there are discriminatory laws in place is normally going to mean that there is a lawmaking authority in the background—parliament or whatever—which can interfere with a degree of arbitrariness in the lives of those who are discriminated against. For such laws themselves represent a form of interference, and they would presumably not be in place were those who suffer guaranteed protection against arbitrary interference in the same measure as those who are favored. The judge or police officer may not dominate those who are discriminated against—although it would be a miracle, in practice, if they did not—but the lawmaking authority certainly does; the judge or police officer is an executor of that dominating authority.

But what if there is no lawmaking authority in the background of the discriminatory laws? What if they are laws that belong to a received tradition and that are in effect unalterable by anyone? Even in such a case, there are going to be grounds for complaint. We may want to say that the anonymous, unchallenged authors of the laws dominate from the grave, or we may want to insist that there are bound to be agents who can alter the laws—say, the members of parliament or the leaders of the relevant church—and that they must

28. I ignore the question here as to whether the exercise of discretion ought to be capable of being challenged, even when it is benign: when it constitutes an act of mercy. One argument for thinking that it ought is that otherwise the bearer of the discretion is put in a position that is structurally akin to that of a dominator: they may not be able arbitrarily to do harm to the other person, but they are able arbitrarily to do good. My thanks to Andrew Smith for raising this point.

be seen as standing behind them in the role of background dominator. But, in any case, we shall certainly want to say that even if the laws themselves do not constitute domination on anyone's part, they are bound to facilitate the domination of the less well-off by the better-off and to be objectionable on that account. Besides, it should be clear that if the goal is not just to lift domination but also to increase the range of activity from which domination is lifted, then there are going to be grounds for expanding the choices of those who are discriminated against until the discrimination disappears.

II. ANTIPOWER

How might we guard the powerless against subjugation by the powerful? One way would be to reverse roles, of course, and give them power over others rather than letting others have power over them. But that would only relocate the problem, not resolve it. The question is how we might guard people in general against subjugation, not how we might guard some particular subgroup.

Those who think that all power is constant sum will hold that there is no getting rid of subjugation and that the best we can hope for is a fair allocation of the malaise: a more or less equal distribution of power over others. But power in our sense—our distinctive sense, as I have been emphasizing—is not constant sum. If X enjoys power over Y in one way, and Y enjoys power over X in another, then each is in a position to exact something from the other in payment for the interference, and so neither may interfere in the other's affairs with impunity; neither enjoys power *simpliciter* over the other, neither dominates the other.²⁹ Again, if the fact of X's having power over Y is undermined by the presence of an ideal sort of constitutional authority which can punish X for any interference, X's power over Y disappears without any power over X being given to that authority: the authority will not have power over X if there is no possibility of their interfering at will and with impunity in X's affairs.

If institutions get rid of certain forms of domination without putting any new forms of domination in their place—any new ways in which some have power over others—then we may say that they promote antipower. Antipower is what comes into being as the power of some over others—the power of some over others in the sense associated with domination—is actively reduced and eliminated. Imagine a world where the three conditions for subjugation are capable of fulfillment. Antipower will materialize in such a world, as measures are put in place that serve contingently to defeat those conditions.

29. Robert Goodin, *Protecting the Vulnerable* (Chicago: University of Chicago Press, 1984), chap. 7.

The fact that antipower is not itself a form of domination, not itself a way in which one person has power over another, does not mean, of course, that antipower is in no sense a sort of power. On the contrary, antipower will represent a form of control that a person enjoys in relation to her own destiny—courtesy of the measures curtailing domination—and such control represents one familiar type of power: the power of the agent who can make things happen. Antipower relates to subjugating power in the way that antimatter relates to ordinary matter: it represents something repellent to subjugating power, as antimatter represents something repellent to ordinary matter. But antimatter remains still a material sort of thing, and so too antipower remains still a social resource and still, in a broader sense, a form of power.

Here is a way of bringing out the fact that antipower is itself a sort of power.³⁰ Someone who escapes arbitrary interference may do so in virtue of luck, cunning, or fawning; while not suffering interference in the actual world, they may suffer it in those nearby possible worlds where their fortune, wit, or charm fail. The person who possesses antipower, however, is not dependent on such contingencies for enjoying noninterference by arbitrary power: that no one has the capacity to interfere with them at will and with impunity means that even in those nearby worlds where fortune or wit or charm fails, they still continue to enjoy noninterference. This person enjoys the noninterference resiliently, not in virtue of any accident or contingency. Their antipower gives them the capacity to command noninterference, as we might say, and itself represents a distinctive sort of power.

What sorts of measures are available for the reduction or elimination of subjugation and for the promotion of antipower? It is always a difference in resources or a difference in the preparedness to use resources—a difference in effective resources—that enables one agent to interfere arbitrarily in the affairs of another. The bully, physical or emotional, has greater pugilistic resources—or at least effective resources—than the bullied. The husband has greater physical and, in most societies, cultural resources than the wife. The employer has greater financial and probably legal resources than the employee, and so on. If we are to reduce domination in a society, therefore, then we must think of compensating for such imbalances.

Three broadly different, but not inconsistent, strategies recommend themselves. We may compensate for imbalances by giving the powerless protection against the resources of the powerful, by regulating the use that the powerful make of their resources, and by giving

30. Pettit, "Negative Liberty."

the powerless new, empowering resources of their own. We may consider the introduction of protective, regulatory, and empowering institutions. I do not say that every such institution will necessarily increase antipower, of course; some may have indirect, counterproductive effects, and empirical work will be required to determine which mix of institutions does best. I say only that protective, regulatory, and empowering institutions represent the sorts of options that we ought to be considering if we are interested in the promotion of antipower in a society.

Protective institutions represent the most salient possibility among these three. The protection of the individual is mainly ensured in our society by the institutions of a nonthreatening defense system and a nonvoluntaristic rule of law. The nonvoluntaristic regime of law—a common-law dispensation or a constitutionally governed one—will involve laws that cannot be changed in certain respects at the will of any majority, even a parliamentary majority: in this way it will serve to reduce the exposure of minorities to majority will. That such a regime of law constitutes a rule of law will mean that the laws satisfy constraints such as generality, transparency, nonretroactivity, and coherence, and these ought to make it more difficult than it might otherwise be for the law to become a resource for the domination of any one individual or group.³¹ One of the most important aspects of a protective rule of law will be a criminal justice system. That system ought to deter others from interference with the individual and to communicate to others the fact that the individual enjoys protected status: if they are caught attempting interference, they will be opposed and pursued, and, if they are apprehended and convicted, they will be forced to try to rectify their offense, forced to make redress.³²

The second way in which we may try to promote antipower is by regulating the resources of the powerful, in particular, the resources whereby the powerful may subjugate others. Those in government will certainly dominate or subjugate others in various ways unless their powers are regulated. And antipower can be promoted in this area by the battery of traditional measures that have been devised for the

31. C. L. Ten, "Constitutionalism and the Rule of Law," in Goodin and Pettit, eds., pp. 394–403.

32. Protective institutions may be preemptive in character too. Examples of preemptively protective measures would be bans or restrictions on certain pornographic or racist material, where the judgment is made that even if such material does not interfere with anyone directly, it generates an image of certain people which imperils them: it makes it more likely, and saliently more likely, that those in that group will suffer maltreatment. See Braithwaite and Pettit; Philip Pettit, with John Braithwaite, "Not Just Deserts, Even in Sentencing," *Current Issues in Criminal Justice* 4 (1993): 225–39; Philip Pettit, with John Braithwaite, "The Three Rs of Republican Sentencing," *Current Issues in Criminal Justice* 5 (1994): 318–25.

purpose: by rule-of-law constraints that guard against legislative oppression, for example, and by requirements of regular election, democratic discussion, limitation of tenure, rotation of office, separation of powers, availability of appeal and review, provision of information, and the like.

But politics is not the only area where resources can be used by some for the domination of others. Those in economically privileged positions will also dominate certain others—they may dominate employees, customers, or shareholders, for example—unless the way they exercise their resources is regulated. There are various forms of regulation to explore here, including more or less familiar measures: regulations against unfair dismissal, the employment of children, and dangerous working conditions; against monopoly power and misleading representation; against insider trading and inadequate accounting; and so on. Again, those in culturally privileged positions will also dominate others, given the resources of indoctrination, misinformation, and manipulation at their control, unless there is some regulation of their activities. The regulation may be pursued by establishing codes of practice, complaints tribunals, forums for reply, and the like, and by ensuring competition between those who are powerful in the area.

Protection and regulation represent measures of promoting anti-power that have been familiar, in broad thrust, for centuries. But the third category that I want to mention, which is at least of equal importance, has only become prominent in this century and to some extent in the last. I mean the sort of intervention designed to empower certain people—to give them equality in basic capabilities³³—and thereby to guard them against various forms of subjugation, various forms of vulnerability.³⁴ Such empowering is mainly assured via welfare-state initiatives.

Among those initiatives, some measures will be designed to enhance the day-to-day capacities of people, as, for example, measures ensuring universal education and universal access to culturally important services like transportation and communication. Such measures are necessary in a society like ours to render people more resistant to various forms of interference by others and thereby to domination by them: the better educated and the better informed are less easily harrassed or duped, for example. Other welfare-state measures will be designed to provide resources to people under eventualities that

33. Amartya Sen, *Commodities and Capabilities* (Amsterdam: North Holland, 1985), *Inequality Re-examined* (Cambridge, Mass.: Harvard University Press, 1992); David A. Crocker, "Functioning and Capability: The Foundations of Sen's and Nussbaum's Development Ethic," *Political Theory* 20 (1992): 584–612.

34. Goodin.

render them particularly vulnerable to the power of others; these will include measures like social security, medical care, accident insurance, and legal aid. If I am not to be exposed to the mercies of the doctor or the lawyer in the event of falling ill or getting on the wrong side of the law, then I must be protected against such events: I must have access either to suitable insurance coverage or to the direct provision of medical or legal services.

The measures that I have mentioned in the three categories are all more or less formal, state initiatives. I should say that in many areas, informal social and political factors are often of even greater importance in promoting antipower. Think of the protection, regulation, and empowerment that are effectively mounted, at least in certain circumstances, by trade unions, consumer movements, prisoners' rights organizations, environmental movements, women's groups, civil liberties associations, and even competitive market forces. And think of the impact of the standing cultural and community practices that make it possible for young offenders to be constructively rebuked within their own milieu, for people in a minority status to be able to rely on informal social sanctions against those who ridicule them, for women in domestic distress to be helped and supported by their friends in the neighborhood, and so on. The institutions that promote antipower are by no means restricted to the more or less legal instruments whereby the state operates; they also include various institutions of civil society.³⁵

The measures we have been discussing for promoting antipower are all designed to reduce the intensity and the extent of the domination of some by others. But even if we could completely eliminate such domination, there remains a further respect in which we might want to explore the promotion of antipower. We might want to give people whatever degree of antipower is achievable, not just in areas where they were previously dominated but also in new areas. We might want to open up novel possibilities of activity—say, possibilities that were previously sidelined by nature, culture, or law—in which people can enjoy that level of antipower or perhaps a higher level still. As a care for freedom as noninterference goes with a concern to maximize the range of uninterfered-with choice, at least when other things are equal,³⁶ so a care for freedom as antipower goes with a concern to maximize the range over which undominated choice is enjoyed.

35. Although I am not inclined to give it much credence, I should mention that someone might run an antistatist argument that the best way to promote antipower is to reduce the state to the very minimum and rely on a decentralized, differentiated distribution of power: an arrangement under which different people gain power in different spheres and can each rely on their own sort of power to resist subjugation by others.

36. Gerald Dworkin, *The Theory and Practice of Autonomy* (Cambridge: Cambridge University Press, 1988).

Imagine a rather stark society in which there is little or no subjugation but where people experience only extremely limited choice situations and choice sets: this may be because antipower is secured by costly schemes of self-protection, as in a state of nature, or by unnecessarily restrictive laws. The point just made shows that the cause of promoting antipower may require the transformation of that society, so that the antipower which people enjoy is extended progressively into wider domains: there are more and more choices that they come to be able to exercise—or to exercise at lesser cost—without domination from others.³⁷ Domains of unsubjugated choice might be extended by moving from schemes of self-protection to a regime of universal legal protection or by moving from unnecessarily restrictive to less restrictive regimes of law. The point also shows how the cause of promoting antipower bears on those who suffer some disability like a physical handicap. It suggests that the promotion of antipower will require not just the protection of such individuals from domination but the expansion of the domain in which they can exercise undominated choice, for example, by providing the physically handicapped with the means of getting about.

Is there likely to be a conflict between the goal of reducing the intensity of subjugation in old (or indeed new) areas and increasing the extent of antipower in new (or indeed old) areas? In practice, probably not. There is likely to be a ceiling beyond which it is hard to push in reducing subjugation without creating new problems, say, without giving the police such powers that they represent a greater threat of subjugation than those they are supposed to inhibit. Still, it is worth recognizing that there are two subgoals involved in promoting antipower. One involves the reduction of subjugation, with the provision of the most intensive level of antipower available; the other involves the maximization of the domain of individual choice: the extension of antipower, as distinct from its intensification. If there is truly a ceiling on how far we may reduce domination—on how intensive antipower can be in any society—then the natural approach to the promotion of antipower will be first to look for the reduction of subjugation and then to see how far the domain of individual, unsubjugated choice can be extended. If there is not a ceiling on the reduction of subjugation, then the promotion of antipower will require us to weigh these subgoals against each other.³⁸

37. See Braithwaite and Pettit, p. 67.

38. That there are such subgoals does not mean that the overall goal of promoting antipower has only a spurious unity. The ideal of perfect antipower is unified, and that is enough to ensure the unity of the goal. Consider material equality. The ideal of material equality is unified, and the ideal represents in my terms a single goal. But in an imperfect world, the promotion of that goal requires weighting these two subgoals: first, minimizing the distance between top and bottom and, second, maximizing the number on a single point.

I hope that these comments are enough to show how a regime involving a great degree of subjugation can give way to one in which antipower comes more and more to represent the natural order of things. The power involved in subjugation is not an inevitable feature of human and social life. It can be eliminated to an indefinitely large extent in favor of a dispensation where nearly everyone enjoys the benefits of considerable antipower. How best to reduce subjugation in favor of antipower is, of course, an empirical question, and the remarks made here are not meant to prejudge important issues. My aim is only to give a sense of what in principle can be done by way of promoting antipower.

We have seen what antipower is and how it may be furthered. But there is one last point that remains to be made. This is that wherever antipower is realized, this is something of subjective and intersubjective significance for those who enjoy it. As domination or subjugation usually becomes a matter of common knowledge among those party to the relationship, so antipower also connects with common awareness.

I argued in the last section that if the three conditions for subjugation are satisfied in any noticeable degree, then, in most cases, it is going to be a matter of common knowledge among parties to the relationship that the conditions are satisfied. This argument started from the fact that it is always a salient question whether one person has power over another—whether the three conditions are fulfilled—and that the inequality of resources that gives rise to such power is usually going to be a salient datum: the exception will be the case where resources of manipulation are used to make people incapable of registering, for example, that others deprive them of certain options.

Suppose now that measures are put in place to defeat the conditions for domination in some relationship. Suppose that the measures ensure that neither of two parties has power over the other or, equivalently, that each enjoys antipower in relation to the other. The question of whether either has power over the other will remain a salient issue. And the measures taken to redress the imbalance of resources that gave one power over the other—including, now, measures designed to control manipulation—will almost certainly constitute a salient datum. Thus, by the style of argument mentioned before, we may be sure that it will be a matter of common knowledge among parties to the relationship that the conditions for domination fail and that antipower rules. There is no antipower, then, without a shared awareness of antipower.

This point is of the greatest importance, because it connects antipower with subjective self-image and intersubjective status. It means that the enjoyment of antipower in relation to another agent—at least when the agent is a person—goes with being able to look the other in the eye, confident in the shared knowledge that it is not by their

leave that you pursue your innocent, noninterfering choices; you pursue those choices by publicly recognized right. You do not have to live either in fear of that other, then, or in deference to the other. The noninterference you enjoy at the hands of others is not enjoyed by their grace, and you do not live at their mercy. You are a somebody in relation to them, not a nobody. You are a person in your own legal and social right.

But isn't it possible for antipower to be produced in a society without being distributed equally? And if it is distributed unequally, won't that mean that the status associated with the enjoyment of antipower—by the argument just given—will be undermined by a common awareness of the inequality involved?

This question prompts an important observation, although an observation that I have to pass over too quickly. This is that the maximization of antipower should generally involve its equalization. Consider any increase in the intensity or extent of the antipower of some, which means that they now have more antipower than others. The increase may mean greater police protection, a higher status before the law, a greater bargaining capacity, a larger domain of unsubjected choice, or whatever. Leave aside the fact that any such increase demonstrates that the lawmaking authority responsible has a degree of arbitrary power over at least those who are disadvantaged, since they would hardly tolerate the change otherwise. It still remains that any such increase will reduce the capacity of the less privileged to defend themselves against interference by the favored few. They will find that the new elite are better protected or have better resources than previously and that they are therefore less susceptible—saliently less susceptible—to any attempts they might make to assert themselves against interference. Such an unequal increase in the antipower, therefore, would be unlikely to mean an overall increase in the antipower enjoyed in the society: it would reduce the antipower of the less equal at the same time that it increased that of the elite. The maximization of antipower is likely to involve the maximization of equal antipower, at least under most plausible circumstances.

III. FREEDOM

Contemporary political thinkers, certainly contemporary liberals, divide into those on the right, who say that only liberty (perhaps equal liberty) matters—whether it matters in a consequentialist or nonconsequentialist way—and those on the left, who argue that the state should be concerned not just with liberty (or equal liberty) but also with the fortunes of the worst off, with overall satisfaction of needs, with material equality, or something of the kind. But however deep this division between them, the broad range of contemporary thinkers appear to defend a conception of liberty as actual noninterference: to be free is

not to suffer compulsion by force, coercion by threat, or manipulation by background stage setting; it is to enjoy the fact of noninterference.

This conception of liberty as noninterference probably derives from Hobbes. "A Free-Man," he wrote in *Leviathan*, "is he, that in those things, which by his strength and wit he is able to do, is not hindred to doe what he has a will to."³⁹ People are hindered and rendered strictly unfree, for Hobbes, only so far as they are physically coerced. But he allows that there is also a sense in which people are rendered unfree by bonds that coerce by threat, not by physical means: these are "made to hold, by the danger, though not by the difficulty of breaking them."⁴⁰ To be free in the full sense, then, is not to suffer either coercion of the body or coercion of the will: not to suffer interference of either of these two broad kinds.

There are two characteristic marks of the conception of freedom as noninterference. The first is that under this approach the interference of a nonsubjugating authority impacts on the liberty of the people affected—although, no doubt, with aggregate, long-term benefit—even if the interference involved is just the constitutional imposition of a fair but (necessarily) coercive rule of law. As Berlin writes in paraphrase of the approach: "Law is always a 'fetter,' even if it protects you from being bound in chains that are heavier than those of the law, say, arbitrary despotism or chaos."⁴¹ Bentham was emphatic on the point: "As against the coercion applicable by individual to individual, no liberty can be given to one man but in proportion as it is taken away from another. All coercive laws, therefore, and in particular all laws creative of liberty, are as far as they go abrogative of liberty."⁴² John Rawls indicates that he too shares this understanding of liberty when he writes: "Liberty can be restricted only for the sake of liberty";⁴³ the assumption is that law always does represent a restriction, however benign, of liberty.⁴⁴

The second characteristic mark of the conception of freedom as noninterference is that while it represents even nonsubjugating interference as a deprivation of liberty, it finds nothing hostile to liberty in a form of subjugation that does not involve any actual interference. There is nothing about the traditional, unconstrained relation of employer to employee or husband to wife, for example, that raises ques-

39. Thomas Hobbes, *Leviathan*, ed. C. B. Macpherson (Harmondsworth: Penguin, 1968), p. 262.

40. *Ibid.*, p. 264.

41. Berlin, p. 8.

42. Jeremy Bentham, "Anarchical Fallacies," in *The Works of Jeremy Bentham*, ed. J. Bowring (Edinburgh, 1843), vol. 2.

43. John Rawls, *A Theory of Justice* (Oxford: Oxford University Press, 1971), p. 302.

44. Skinner, "Machiavelli on the Maintenance of Liberty," pp. 12–13.

tions in the ledger book of liberty, nothing, at any rate, in the absence of actual or expected compulsion, coercion, manipulation, or whatever. The fact that the relation puts one party under the power of the other does nothing, in itself, to affect the liberty of the weaker person.

But suppose we move away from the opposition to bare interference in terms of which contemporary thinkers tend to understand freedom. Suppose we take up the older opposition to servitude, subjugation, or domination as the key to construing liberty. Suppose we understand liberty not as noninterference but as antipower. What happens then?

Unsurprisingly, we find ourselves with a conception of freedom under which the two marks of the dominant contemporary approach are reversed. If freedom is opposed to subjugation, then the introduction of constitutional authority does not, as such, constitute an abrogation of liberty, for it need not itself involve subjugation or domination: it does not essentially involve anyone's having the capacity to interfere arbitrarily in another's affairs. Under any rule of law, those in the parliament, those in the administration, and those in the judiciary have special powers of coercion, but if the powers are regulated in a constitutional manner, then they do not give the authorities power over people in the distinctive sense associated with subjugation. The authorities may be more or less productive of antipower, depending on how well they cope with existing patterns of domination and depending on how wide the range of antipower is that they allow. But provided they are truly constitutional in character—a big proviso, indeed—they relate to freedom as antipower in quite a different way from how they must be seen to relate to freedom as noninterference: they do not represent an abrogation, even an abrogation that is benign in the long term, of that freedom.⁴⁵

If freedom is construed as antipower rather than noninterference, then we do not have to see the rule of law, and more generally of constitutional authority, as itself an abrogation of liberty. But the construal of freedom as antipower has exactly the contrary effect on judgments about asymmetric relations such as those that have traditionally obtained between employers and employees, husbands and

45. What of the situation of the convicted offender who is subjected to some penalty? Does the punishment mean an assault on that person's liberty? I mentioned already that those in prison may indeed be subjugated by the warders. But doesn't imprisonment invariably involve subjugation? For the record, no, although making this point is not necessarily to approve of imprisonment (see Braithwaite and Pettit). Prisoners may be deprived of antipower, in the sense of being given only a reduced scope for its enjoyment, but that does not mean that they are necessarily subjugated by anyone. They do not enjoy antipower over any significant range of choice, but that does not mean that they have to suffer domination.

wives, and parents and children. Contemporary thinkers tend to see no loss of liberty here—they may see other deficits, of course—given that there is no actual interference. But if liberty is opposed to subjugation in the first place, then, even in the absence of actual interference, these relationships are often going to represent paradigms of unfreedom. The powerful employer, husband, or parent who can interfere arbitrarily in certain ways subjugates the employee, wife, or child. Even if no interference actually occurs, even if no interference is particularly likely—say, because the employee, wife, or child happens to be very charming—the existence of that relationship and that power means that freedom fails. The employee, wife, or child is at the mercy of the employer, husband, or parent, at least in some respects, at least in some measure, and to that extent they live in a condition of servitude.

There is a nice balance, then, in the relationship between the idea of freedom as noninterference and the idea of freedom as antipower. The first conception is anxious about the authority-freedom connection and relaxed on the authority-power linkage. The second is relaxed about authority and anxious about power, in particular, anxious about the informal sort of power that is not subject to constitutional check. But these are very abstractly drawn contrasts between the two conceptions of freedom. What are their concrete implications? I shall try to answer the question by mentioning some of the implications that mattered in the historical development of the ideals.⁴⁶

The first contrast may suggest that freedom as noninterference is, in this respect, the more challenging and demanding ideal. But a little reflection shows that this is not so. One of the reasons the new conception of freedom appealed to Hobbes is that he could use it to argue against the republican line that properly constituted authority establishes freedom where despotic authority destroys it; he could argue that since all laws are *pro tanto* destructive of liberty, there is no difference of kind between what the laws of republican Lucca do in regard to liberty, for example, and what the laws of Constantinople—or indeed the laws of Leviathan—do in this way.⁴⁷ “Whether a Commonwealth be Monarchicall, or Popular, the Freedome is still the same.”⁴⁸ Sir Robert Filmer adopted this antirepublican argument for his own authoritarian purposes,⁴⁹ but those who espoused liberty in

46. I am greatly indebted to Quentin Skinner for having drawn my attention, in connection with the idea of freedom as antipower, to the work of Priestley, Price, and Paley. His forthcoming study of English traditions of liberty should introduce us properly to the development of the idea of freedom among such writers.

47. Quentin Skinner, “Thomas Hobbes on the Proper Signification of Liberty,” *Transactions of the Royal Historical Society* 40 (1990): 121–51.

48. Hobbes, p. 266.

49. Sir Robert Filmer, *Patriarcha and Other Writings*, ed. J. P. Sommerville (Cambridge: Cambridge University Press, 1991), p. 275.

the seventeenth and eighteenth centuries generally followed James Harrington in rejecting it. Harrington argued against Hobbes that freedom is freedom by the law, not freedom from the law, and that “whereas the greatest bashaw is a tenant, as well of his head as of his estate, at the will of his lord, the meanest Lucchese that hath land is a freeholder of both.”⁵⁰

The Hobbesian approach was rejected with particular force by the champions and defenders of the American Revolution. These thinkers insisted recurrently that freedom and slavery are opposites, both for individuals and for peoples, and that freedom requires an absence of exposure to the arbitrary interference of others, in particular, the absence of exposure guaranteed under a proper rule of law.⁵¹ As Richard Price put the point in a remark already quoted: “Individuals in private life, while held under the power of masters, cannot be denominated free, however equitably and kindly they may be treated.”⁵² Joseph Priestley used this point to argue that the American colonists were in danger of being “reduced to a state of as complete servitude, as any people of which there is an account in history. For by the same power, by which the people of England can compel them to pay one penny, they may compel them to pay the last penny they have. There will be nothing but arbitrary imposition on the one side, and humble petition on the other.”⁵³

The opponents of the likes of Priestley and Price reintroduced the Hobbesian idea of freedom as noninterference and used it to debunk the case for American independence. Jeremy Bentham made what he thought was “a kind of discovery” that liberty is nothing more than the absence of coercion;⁵⁴ he urged on that basis that all government is in some measure an invasion of liberty and maintained that defenders of the American cause were confused and simplistic in thinking there was any great difference between how British and American subjects fared in this regard.⁵⁵ Lord North’s pamphleteer,

50. James Harrington, *The Commonwealth of Oceana and A System of Politics*, ed. J. G. A. Pocock (Cambridge: Cambridge University Press, 1992), p. 20.

51. Bernard Bailyn, *The Ideological Origins of the American Revolution* (Cambridge, Mass.: Harvard University Press, 1967); Reid.

52. Price, p. 77.

53. Joseph Priestley, *Political Writings*, ed. P. N. Miller (Cambridge: Cambridge University Press, 1993), p. 140.

54. Douglas G. Long, *Bentham on Liberty* (Toronto: University of Toronto Press, 1977), p. 54.

55. *Ibid.*, pp. 53–54. One source from which Bentham may have absorbed Hobbesian ideas on liberty is the protoutilitarian Abraham Tucker. In his anxiety to argue that people may be free while living under “the domination of Providence,” Abraham Tucker (*The Light of Nature Pursued*, 3d ed. [London: Tegg & Son, 1834], chap. 26) followed Hobbes (although not by name) in equating freedom with the absence of

John Lind, hammered the argument home against Price. Following Bentham, Lind stressed that liberty is negative—the absence of coercion, physical or moral—and that all government and legal power reduces people’s liberty in the same way, whether it is exercised in a constrained or unconstrained fashion. “Dreadful as this power may be, let me ask you, Sir, if this same power is not exercised by the same persons over all the subjects who reside in all the other parts of this same empire?—It is.”⁵⁶

What does this historical debate show about the first contrast between our two conceptions of liberty? In a word, whereas freedom as noninterference is consistent with the benign dictator—the sort of benign dictator that the British government may have represented for American colonists—freedom as antipower is not. Embrace the notion of freedom as antipower, and it becomes essential for the enjoyment of freedom that government is subject to proper, constitutional control: the sort of control that guards against arbitrary power. Richard Price thought that such control necessarily required voting power, whereas Joseph Priestley did not; while he strongly favored the extension of the franchise, he argued that there might be control enough if the colonies were in the same position as Britain and “the persons who impose the tax upon others, impose it upon themselves at the same time.”⁵⁷ The important point in common between them is that those in power should not be able to interfere at will and with impunity in the affairs of citizens; their power over others should not be a power of arbitrary interference.

The second contrast between freedom as noninterference and freedom as antipower is that the first is consistent with a relationship of domination, provided the dominating party does not actually interfere with the dominated, whereas of course the second conception is not: the subjugation of individuals renders them unfree, “however equitably and kindly they may be treated.” The concrete implications of this contrast are fairly obvious. If a society is committed to the realization of freedom as antipower, then it is going to have to do something about the conditions of women and employees: certainly, it is going to have to transform the conditions of women and employees such as they were in the eighteenth and nineteenth centuries. If a society is committed to the realization of freedom as noninterference, on the other hand, that need not be so: women and employees may be left in relationships of subjugation, provided the overall probability of interference is reduced as far as possible. It doesn’t matter if the

active coercion. Tucker did not extend this idea of freedom, however, into the political sphere; his interests lay elsewhere.

56. John Lind, *Three Letters to Dr. Price* (London: Payne, 1776), pp. 16–18.

57. Priestley, p. 141.

husband or employer is given a power of interference, provided interference is suitably improbable.⁵⁸

Those who traditionally defended freedom as antipower would not have been particularly troubled by the radical implications of the ideal for women and servants. For them, it would have been axiomatic that freedom as antipower could only be realized for an elite constituency of propertied males. The point is obvious in Harrington's remark: "The man that cannot live upon his own must be a servant; but he that can live upon his own may be a freeman."⁵⁹ It was fast becoming common wisdom in the late eighteenth century, however, that all human beings were equal, and the growing assumption of equality would have made the ideal of freedom as antipower seem more and more radical. The combination of the assumption and the ideal would have supported the idea, in the early socialist phrase, that employment was "wage-slavery," as it would have supported the description of marriage as the "white-slave code."⁶⁰

Just a decade or so after the exchanges between defenders and opponents of American independence, William Paley set the tone for later discussions of liberty when he argued in defense of, roughly, the Benthamite conception of freedom. He acknowledged that common discourse embodied a different notion of liberty: "This idea places liberty in security; making it to consist not merely in an actual exemption from the constraint of useless and noxious laws and acts of dominion, but in being free from the danger of having such hereafter imposed or exercised."⁶¹ But he argued that the ideal in question is extremely—and, to Paley's eye, excessively—demanding: "Those definitions of liberty ought to be rejected, which, by making that essential to civil freedom which is unattainable in experience, inflame expectations that can never be gratified, and disturb the public content with complaints, which no wisdom or benevolence of government can remove."⁶² Paley does not make clear how the ideal of liberty as security, liberty as antipower, proves to be excessively demanding. But it is quite plausible that he may have been thinking, as others certainly were,⁶³ of the implications of the ideal for the position of women and servants in society.

58. For a comparison between this probability-based concern and the sort of concern that the advocate of liberty as antipower will have—a concern at the very fact that arbitrary interference is possible and known to be possible—see Philip Pettit, *The Common Mind: An Essay on Psychology, Society and Politics* (New York: Oxford University Press, 1993), pp. 316–19, "Negative Liberty."

59. Harrington, p. 269.

60. Carole Pateman, *The Sexual Contract* (Cambridge: Polity, 1988), pp. 67, 123.

61. Paley, p. 357.

62. *Ibid.*, p. 359.

63. Lind, pp. 40, 156.

I hope that these historical remarks may serve to illustrate the concrete implications of the two contrasts that I drew between the now-established ideal of liberty as noninterference and what I see as the older ideal of liberty as antipower.

Freedom as noninterference is open to the benign dictator model of the state, since all law, even nondictatorial law, involves an abrogation of such freedom, and it is tolerant of relationships of domination, since domination need not mean interference. Freedom as noninterference can be made available, then, even to someone in a position of extreme dependence and deference, a position in which they are not able to command the respect of others, even if they are lucky enough to receive it.

Freedom as antipower, on the other hand, requires a specific sort of law and polity in which the powers that be are denied possibilities of arbitrary interference, and if it is to be a universally enjoyed ideal, it requires attention to the patterns of domination associated with such contexts as marriage and the workplace. To return to a theme that we have emphasized earlier, freedom as antipower represents a status, psychological as well as social, that is inconsistent with any suggestion of living at another's mercy or acting by another's grace and favor. As Priestley wrote,⁶⁴ in an unhappily (and unnecessarily) sexist vein, "A sense of political and civil liberty, though there should be no great occasion to exert it in the course of a man's life, gives him a constant feeling of his own power and importance; and is the foundation of his indulging a free, bold, and manly turn of thinking, unrestrained by the most distant idea of control."⁶⁵

I end on a note of advocacy. The ideal of freedom as noninterference which contemporary liberal theorists espouse is less challenging, so it now appears, than the older ideal of freedom as antipower which it displaced; this may be why left-of-center liberals invoke other values like equality or justice as supplements to the more traditional goal of liberty. But there is no reason in principle why liberals should not embrace the older ideal instead of the newer. The most characteristic feature of liberal doctrine is the search for a universalist and neutralist brief to give the state, a brief involving equal concern with all and a brief that can recommend itself across a wide range of the moral and religious positions that flourish in contemporary, pluralist societies. And that aspiration is quite consistent with the ideal of freedom as antipower.

64. Priestley, p. 36.

65. See Baron de Montesquieu, *The Spirit of the Laws*, ed. D. W. Carrithers (Berkeley: University of California Press, 1977), p. 202; Ch. Wirszubski, *Libertas as a Political Ideal at Rome* (Oxford: Oxford University Press, 1968), p. 159; Price, p. 85.

Consider the constituency of people who do not despair of pluralist society and who are content that the state should look to the well-being of individuals, without favoring any particular gender, race, or class. Who among these is likely to dismiss the value of freedom as antipower? Such freedom is going to recommend itself to them as something that has the status of a primary good.⁶⁶ no matter what else you seek, at least in a pluralist society, the enjoyment of freedom as antipower will almost certainly facilitate the search. There is every reason, then, why liberals should be sympathetic to the exploration of how far the state might be organized around the promotion of freedom as antipower, every reason why they should want to investigate what this brief would imply for state institutions and whether the implications are congenial from the standpoint of independent moral and other commitments.

APPENDIX DOMINATION AND OTHER FORMS OF POWER

It may be useful to relate dominating or subjugating power as we have characterized it here to the other, very different conceptions of power that are found in the literature.⁶⁷ All conceptions of power, roughly speaking, make different choices at the choice points—the points introduced by “or”—in the following schema.

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

This schema allows us to see what unifies the different conceptions of power deployed when we speak at one extreme of the power of the effective agent to make things happen or, at the other, of the power of the system to keep revolutionary options off the agenda and so perpetuate itself. And the schema allows us also to situate subjugating or dominating power. Power of this general kind exists when there is (1) an agent, personal or corporate, (2) that is able (actually able) to exercise (3) intentional influence (4) of a negative, damaging kind (5) in helping to shape what some other person or group of persons does.

Dominating power, then, is interactive in requiring an agent as bearer and an agent as victim (clauses 1 and 5). It is capacity based in being able to exist without being exercised (clause 2). It is an intentional sort of power in

66. Rawls.

67. Stewart Clegg, *Frameworks of Power* (London: Sage, 1989); Wartenberg; Paul Patton, “Metamorpho-logic: Bodies and Powers in *A Thousand Plateaus*,” *Journal of the British Society for Phenomenology* 25 (1994): 157–69.

the sense that the things which the bearer can do are things that the bearer can be blamed or praised for doing: they are not beyond the agent's control (clause 3). And it is a negative kind of power so far as it is a capacity to damage the victim, not a capacity to improve the victim's lot (clause 4). It contrasts in one or more of these dimensions with the other forms of power that political theorists countenance.

Is the decision to work with this conception of power—and with the corresponding conception of nondomination and freedom—a value-laden one? Yes, so far as it is motivated by a belief that doing so helps to provide a valuable perspective on matters of social and political policy. But that does not mean, of course, that the conception involved is itself value laden: it does not mean that only those who endorse suitable social and political values will be able to discern structures that perpetuate or reduce dominating power. Patterns of domination are objective patterns of social ordering, not the projections of an evaluatively exercised imagination. Not everyone may find them arresting, let alone objectionable; to some eyes, for example, they may be eclipsed by other sorts of power structures. But the important point, so I allege, is that everyone must still recognize their reality. Good or bad, significant or superficial, domination is a fact of life.