

The Sociality of Freedom

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## I. INTRODUCTION: THE FREE SOCIETY

This dissertation seeks to make a contribution to our understanding of the ideal of the free society. This may appear an ambitious project, but in reality it is more modest. I do not intend to give a full account of the free society. Instead I hope to make some progress in understanding a puzzle generated by that ideal. I believe there is a tension in our intuitions about how social norms relate to the free society. While I will have much more to say about social norms later, I take social norms to involve general normative requirements accepted by a given population (Brennan et al 2013). Further, my focus here is informal social norms as opposed to more formal legal norms. I will also set aside norms that constitute meaning among members of society in favor of norms that regulate behavior.

On the one hand, it appears that social norms play a key role in securing our freedom. Such norms help us to form stable expectations about how others will act and react to our own actions. Equipped with these expectations, we can make plans and go about our business in ways we could not without them. Further, social norms establish relations of accountability that we can leverage in preserving our sphere of choice from the interference of others. On the other hand, norms constitute a constricting force on our freedom. They can stifle our personal expression. They confront us as alien forces, pushing us around against our wishes. In such situations, we can find ourselves overly concerned with how we present and appear to others. Paralyzed by such worries, we may find ourselves unable to act as we might otherwise sans the norm. Thus the tension: Norms serve as both friend and foe to our freedom.

In this dissertation, I plan on using this tension as a starting point to understanding the particular mechanisms of how norms relate to our freedom. To be clear, this does not resolve the tension. This should not be surprising, as this tension appears irresolvable. Nonetheless, it will give us insight into an element of the free society. In particular, it will help us understand the *social* element of the free society, in contrast with the *political* or *legal* element of the free society. Rather than focus on legal or political institutions, I turn to the question of how freedom is implicated by our daily interactions with one another. By examining the various mechanisms of how norms impact our freedom, we become better equipped for the larger program of providing a full ideal of the free society. This is not to say that I am not interested in the legal and political elements of the free society. As I will argue later, understanding the role of legal and political institutions in our freedom requires a grasp of the social machinery of freedom to make judgments about how these various aspects of our social world work alongside one another. Otherwise, we risk making legal and political prescriptions that will be ineffective, at best, or self-defeating, at worst. Thus, my dissertation does not just use freedom to tell us about social norms, but also uses social norms to tell us something about freedom. So while the project is modest in some regards, it is not in others.

This introductory chapter provides a sketch of the main ideas found in the dissertation. The intention is to give you a sense of where we are headed. Like many scholarly expeditions, we will not fully comprehend the destination until we get there. Nonetheless, I hope the main ideas presented here give enough of a sense of where we are going to make the journey appealing enough to take the trek. Sections 1.2 through 1.3 motivate and contextualize the dissertation in larger debates about freedom. Sections 1.4

through 1.6 provide general accounts of the three main ideas I will develop throughout the project: *The Sphere of Choice*, *The Social Bases of Freedom*, and *Social Freedom*. Finally, Section 1.7 will recapitulate with a brief roadmap of the larger project.

## 1.1 THREE CASES

For those of us who are fortunate, we live in communities with neighbors who generally play by the rules. We navigate our world with an understanding of this fact. We do not set out each day prepared for the possibility that some may impose their will upon us through force or fraud. We take cabs, drive on roads, purchase coffee, get a haircut, stand in elevators, walk down crowded sidewalks, sit in hotel lobbies, etc. Each of these actions requires us to deal with others. Some of these actions require us to coordinate with others. For example, a narrow sidewalk requires one passerby to step aside. But even if the actions themselves do not require us to act in concert with others, they at a minimum require us to act alongside or near others. Unless you happen to be a hermit living isolated “off the grid,” you cannot avoid dealing with other people. In these dealings with others, you cannot guarantee that others will do as they say they will. Nor can you guarantee they will treat you with respect and decency. Social life demands that we depend on others, even though such dependence will predictably place us in positions of vulnerability to others. To require a guarantee before setting off would mean never setting off in the first place. Given people as they are, such guarantees are impossible.

If we are among the fortunate, we are justified in relying on others in this manner. We are able to get by and plan without expecting our interactions with other people to breakdown. Nonetheless, even in such tranquil settings, rude awakenings occur. Murder and assault happen. Theft and deceit happen. I suspect part of what is so shocking about



mass shootings is how they expose the degree to which we are vulnerable to others in the most mundane of interactions and locations such as movie theaters, schools, malls, and the like. Nonetheless, these radical breaks in the regular course of things do not occur so often as to corrupt our ability to get on with others. Beyond these extreme boundary crossings, we face much smaller disruptions and interruptions as we go about our lives. Think of someone skipping the line at your local coffee shop, or the person who cuts you off when changing lanes, or the group that blabs loudly in the public library. While minor, even trivial, in relation to the greater evils noted earlier, each of these actions interrupts the usual current of social coordination. They impinge on us as we try to get on with our business and plans. Despite the possibility and reality of both major and minor intrusions upon our daily business, we do not let them cow us into submission. A life guided entirely by always avoiding the worst possibilities is pathological. We still find ourselves able to rely on others to generally play by the rules, even if we know they do not always do so.

A way to understand Aristotle's claim that people are political animals is this: Our lives are saturated with situations where dealing with others is unavoidable. In well-ordered societies, everything remarkably tends to run so smoothly. But even if such a description of daily life appears foreign, it provides a vision or at least some features of the first of three cases I will use to give insight into the nature of the free society: *The Norm Following Society*. Such a society involves a set of norms that provides standards that guide actions among a disparate set of strangers in a society. These norms are generally abided by in *The Norm Following Society*. There is also an implicit, yet important, feature of my description of *The Norm Following Society*. The Norm

Following Society is not a society over-governed by norms. By this, I mean that, while there are rules, these rules are not totalizing across all of life. There remain spaces between the norms of one's society within which one can fashion plans and relations. For example, a norm may forbid you from speaking loudly in the public library, but no norm exists that regulates what books you check out. That simply is no one's business.

I want to contrast The Norm Following Society with two other cases: *The Normless Society* and *The Norm-Saturated Society*. Whereas The Norm Following Society at least captures some situations in real life, these latter two cases are intended to be complete abstractions, or extreme limit cases. I do not think these ideal-types could ever exist in any real form, as their extreme nature no doubt creates instability that would push moderation in one direction or the other. Nonetheless, real societies may more or less approximate them or take on features of these ideal types. Further, I intend to use these limit cases to tell us something about the relationship of freedom to social norms.

The Normless Society, as its title suggests, is society lacking entirely in norms. Here, people are not able to rely on others to play by the rules of their society. Even if there is a legal system in place that generates legal rules and enforces these rules, this system will be insufficient to establishing the sense of order provided in The Norm Following Society. In the Normless Society, people relate to rules like Hobbes's Foole. They only follow them when it is in their rational self-interest to do so, and break them when they believe they can do so and gain from breaking the rules. But notice that this model of following the rules essentially means that there are no rules, reproducing the problems of Hobbes's state of nature. A war of all against all occurs whenever we cannot trust people to seek peace and abide by the rules. Similar observations have undergirded

recent arguments that legal systems require widespread social norms to reinforce compliance with the laws in order to operate effectively (e.g. Gaus 2016, 206-207). Were we to find ourselves in such a situation, we would be unable to rely on others to follow the rules in making our plans and decisions. Lacking social norms to form clear expectations about how others will act, I suspect we would find such circumstances not only terrifying, but also oppressive. We would be forced to forgo the benefits of what Hobbes described as “commodious living.”

As noted, I doubt that any truly normless society could ever exist given people as they are. In F. A. Hayek’s words, humans are “as much a rule following animal as a purpose seeking one” (2013, 12). Nonetheless, we can see penumbras of The Normless Society in various real life situations where the rules lose their grip. Take, for example, the legal scholar Carlos Nino’s description of Argentina during 1976 to 1983 under military rule (Nino 1996; see also Murphy 2010, 175). Nino describes such a period as one of “anomie” or “a disregard for social norms, including the law” (1996, 47). According to Nino,

[A]nomie is a widespread societal, as well as political phenomenon. The black market flourishes in Argentina. Tax evasion, although more controlled over the last few years, has been rampant. Private citizens partake in many corrupt practices, ranging from smuggling to bribery. Traffic regulations, such as those setting speed limits, are seldom followed (Nino 1996, 48)

On the subject of traffic rules, consider also the case of Bogotá, Colombia. When the city elected Antanas Mockus as mayor in 1995, traffic fatalities had been as high as 1,300 a

year (Mockus 2012, 143). Mockus did not see the problem as a lack of legal regulation, but instead as a lack of appropriate cultural standards, or social norms. To address this, Mockus incorporated two policies (Mockus 2012, 145). First, Mockus distributed cards to drivers so that they could signal their disapproval or approval of other drivers' actions. Second, Mockus replaced traffic cops with mimes who would mock drivers who violated traffic regulations. Following these reforms, annual traffic fatalities dropped to around 600 (Mockus 2012, 143). This is the difference a norm makes.

The Norm Saturated Society, as the label suggests, is a society saturated with norms. More informatively, The Norm Saturated Society involves a set of norms that governs *all* possible actions. Such a situation renders all of our actions are subject to scrutiny and evaluation, as norms confer a kind of authority on others, or so I will argue. The problems of a Norm Saturated Society are not that we cannot rely on others. We can rely on them all too well. We know that all our choices and actions will be viewed through the prism of norms, and we cannot help but view our own actions in this way as well. As such, The Norm Saturated Society motivates us to see all we do from without, putting an alienating distance between our actions and ourselves. Lacking shelter from social norms, there is no space for individual projects free of the gaze of others nor is there room to fashion social relationships on our own terms.

Much like the Normless Society, the Norm Saturated Society is an extreme limit case. As such, the Norm Saturated Society constitutes an unstable state. Where norms encroach too far, cultures of hypocrisy form where people do not abide by the norms in

their private lives even if they pay them lip service in their public ones.<sup>1</sup> Nonetheless, to give some flavor of the Norm Saturated Society, consider Foucault's description of normalization:

[Disciplinary punishment] brings quite five quite distinct operations in play: it refers individual actions to a whole that is at once a field of comparison, a space of differentiation and the principle of a rule to be followed. It differentiates individuals from one another, in terms of the following overall rule: that the rule be made to function as a minimal threshold, as an average to be respected or as optimum towards which one must move. It measures in quantitative terms and hierarchizes in terms of value the abilities, the level, the 'nature' of individuals. It introduces, through this 'value-giving' measure, the constraint of a conformity that must be achieved. Lastly, it traces the limit that will define difference in relation to all other differences, the external frontier of the abnormal.... The perpetual penalty that traverses all points and supervises every instant in the disciplinary institutions compares, differentiates, hierarchizes, homogenizes, excludes. In short, it *normalizes* (Foucault 1977, 182-183).

While Foucault is speaking of disciplinary institutions, we could imagine the same degree of claustrophobia arising in the Norm Saturated Society. I suspect because of the

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<sup>1</sup> See, for example, Jon Elster's discussion of socialist societies such as the USSR and Communist China (Elster 1989, 109).

instability of the Norm Saturated Society on a large-scale, it is probably best glimpsed within small-scale total institutions.

The Norm Following Society, the Normless Society, and the Norm Saturated society together depict a complex relationship between norms and freedom. On the one hand, the Normless Society motivates the intuition that, to adapt a quote of Locke's, where there are no norms, there is no freedom. On the other hand, the Norm Saturated Society motivates the opposite intuition: Norms constitute a threat to our freedom. The Goldilocks case of the Norm Following Society supports *both* intuitions. Yes, norms support freedom, but only so far. The rest of this project seeks to explain these snap judgments and the questions they suggest. How do norms promote freedom? Under what conditions do these freedom-promoting features fail? What does this tell us about other social structures, like the law? Does attention to norms reveal multiple dimensions of our freedom obscured by a focus on physical coercion and the state? What sorts of interests are served by freedom from being subject to norms? And the like.

## 1.2 THE SOCIALITY OF FREEDOM

At a minimum, this project contributes to the view that our freedom is inherently social in a way that dominant analyses of freedom tend to underplay. This emphasis on the sociality of freedom is not entirely novel. A rich strand of political thought originating with Hegel grounds our freedom in social practices and traditions rather than in individual actions and constraints. More recently, Axel Honneth has taken on the mantle of defending a Hegelian treatment of freedom. Honneth shares with Hegel a commitment to the idea that social forms constitute a freedom worth having (Honneth 2014). Other forms of freedom (what he calls negative freedom and reflexive freedom)

fail to provide a suitably “objective” basis for our freedom, and thus are too sensitive to the selfish impulses and idiosyncrasies of individuals.

Similarly, we could see Sharon Krause’s arguments to take freedom “beyond sovereignty” as another volley in the strike against overly individualistic accounts of freedom (Krause 2015). For Krause, many accounts of freedom presuppose a picture of the individual as “sovereign.” By this, Krause means that accounts of freedom locate the success of any given action within the individual that performs the action. But, Krause suggests, the success of our actions rests on the social uptake they meet within society. We may intend our actions to mean one thing, but, because of underlying social forces, these actions are understood in a different way by their audiences. Krause uses the example of a successful black man, who wishes to project his success through driving a luxury vehicle (Krause 2015, 62-63). His intended expression is frustrated by a police officer who pulls him over suspecting grand theft auto. The police officer views the black man’s action through the lens of criminality, not success.

While sympathetic to the lines of arguments offered by these other projects, I offer a different view on the sociality of freedom here. We could say that these projects involve a sort of positive sociality of freedom. Freedom is realized in conjunction with the social practices of our society, or that freedom is realized when others ascribe meaning to our actions that corresponds with our intentions. To make use of Charles Taylor’s distinction: freedom for both Honneth and Krause is realized in the exercise of

our powers, not in presence of an opportunity (Taylor 1985, Essay 8).<sup>2</sup> In contrast, I focus on a *negative* sociality of freedom. My concern is not with our autonomy or self-government or with freedom as ethical life. Instead, I am interested in how social forms are implicated in constraints facing our actions. How do social norms expand our range of action? Or, how do they constrict it? I believe political theorists and philosophers have unduly neglected such questions in favor of a more conceptual focus. At the end of the day, however, if we are interested in promoting freedom, we need a grasp on its political, legal, and social machinery.

### 1.3 WHAT KIND OF FREEDOM?

With the invocation of negative freedom, it is difficult not to raise the specter of Isaiah Berlin's "Two Concepts of Freedom" (1969). The influence of Berlin's essay is so monumental that any self-described project on freedom is subject to a natural pressure to triangulate itself in relation to Berlin's distinction between negative and positive liberty. Are you a partisan of negative or positive liberty? Put simply, negative freedom refers to the absence of external constraints an agent faces, while positive freedom refers to self-mastery. As already noted, this is a project on so-called negative liberty in the sense that it focuses on how social norms interact with constraints facing agents in their choices and agents. Nonetheless, this does not mean that I am unconcerned with positive freedom. As the reader will see, my discussion of freedom from being subject to social norms takes on

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<sup>2</sup> To be fair, Krause does not believe freedom is limited to this kind of success condition. She views freedom as a plural ideal that includes non-interference as well as her non-oppression (Krause 2015, Chapter 5).



some of the traditional concerns of theorists of positive freedom in autonomy and the internal states of agents. Regardless, it is not necessary to pick a side, despite common interpretations of Berlin. As Colin Bird points out, Berlin's point in making the distinction between negative and positive liberty is primarily historical, and the contest between the two is contingent on that history (Bird 2006, 178-180). One can be a partisan of *both* negative liberty and positive liberty (see also Schmidtz and Brennan 2010, 15-18). Nonetheless, I agree with those such as Philip Pettit and Steven Wall who suggest that, even if we accept positive freedom as an ideal, it is not an appropriate ideal for government and law to aim at (Pettit 2012, 49; Wall 2003). When dealing with the inner psychological life of agents, the coercive arm of the state can only do so much without becoming self-defeating in its overbearingness.

Since Berlin, a new contender for status as a *third* concept of freedom has entered the scene. In a series of important books and articles, Philip Pettit and Quentin Skinner, among others, argue that alongside the traditional negative and positive accounts of freedom we should include a distinctive *republican* concept of freedom (Pettit 1997; Skinner 1998). We will spend much more time on the republican concept of freedom in due course. For now, the republican conception of freedom suggests that, in addition to freedom as non-interference and freedom as self-mastery, we ought to also consider freedom as *non-domination*. Freedom, on this view, does not involve simply the absence of interference, but also the absence of arbitrary power.<sup>3</sup> Republicans tend to argue for

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<sup>3</sup> Philip Pettit in recent work has abandoned the notion of arbitrary power in favor of power that is uncontrolled by those subject to it (Pettit 2012, 58). Once you account for

the superiority of their conception of freedom over more traditional accounts of freedom as non-interference using the case of slavery. A slave is unfree no matter how benevolent his master.

This project does not intend to resolve any of these particular debates about the nature of our concept of freedom. I noted at the beginning that I do not seek any complete theory of freedom. Instead, I simply intend to make an amendment to the substructure of our idea of freedom without commitment to any particular sort of freedom. Many of the details and motivations for such an approach will be outlined in Chapter II. Nonetheless, it is worth gesturing towards what this involves prior to outlining the major ideas set forth later. My hope is to cut across various debates about the nature of freedom. I make no strong commitment to whether our best understanding of freedom as a political ideal involves non-interference or non-domination. Rather, I plan to offer a thin enough account of freedom to be amenable to various partisans of these various accounts freedom despite their disagreements. Though, such an account ought not be so thin as to preclude practical judgments, and thus only be of broadly theoretical use. Thus, the approach I take here ought to be thick enough to provide some guidance on practical questions surrounding the relation of freedom to norms.

Through this modest amendment, I hope that understanding the relationship of norms to freedom tells us something about freedom itself. Namely, promoting freedom, even in its more negative guises, involves an appreciation of its fundamental sociality. Consider Gerald MacCallum's triadic account of freedom: An agent X is free from

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Pettit's allowance of "virtual control" and "reserve control," it is not clear to me that there is much difference between the two formulations (Pettit 2012, 156-157).

constraint Y to do/be Z (1967). Such an account obscures the sociality of freedom. Rather, freedom is best understood as *quadratic*. An agent X is free from constraint Y to do/be Z *in virtue of* W (See also Pettit 2007, 718). However, this raises the question of what exactly it means to free “in virtue of” some W. Prior to explaining this, I will need to provide a rough familiarity with the model of freedom I use here to make my amendment.

#### 1.4 THE SPHERE OF CHOICE

The amendment to the substructure of our concept of freedom I propose here ought to be amenable to some of the various debates within the freedom literature. One way to understand the debate between liberals and republicans over the concept of freedom is as a difference in emphasis. Freedom as a concept is often attached to various subjects. We normally speak of the free choice, the free person, the free society, etc. Philip Pettit suggests that we can take one of these usages as central, and refer to the central usage in describing other possible uses (Pettit 2007). For example, we can take the free person as central and define the free choice and free society in relation to the idea of the free person. Or we might take the free choice as central, defining the free person and the free society in relation to that idea. Pettit suggests that liberal theorists of freedom take the free choice as the central usage, while republican theorists take the free person as the central usage. This difference leads the former to focus on non-interference and the number of non-interfered options open to an agent and the latter to focus on the social and legal status of a person that grants immunity to certain forms of interference.

I will say more about this dichotomy in Chapter III, but the short of it is that I find the distinction strained. It seems that *both* choice and status are central to many of our

intuitions surrounding freedom, and reducing one into the other is bound to mischaracterize paradigmatic cases. To capture both choice and status, I advance a model of freedom I call the *sphere of choice*. By model, I do not mean something like you might find in game theory. Rather, I mean for the sphere of choice to act as an analogy of sorts to give us some leverage over the various dimensions of freedom at play in the ideal of the free society.

The sphere of choice involves two dimensions. On the hand, it is a sphere of *choice*. We can imagine agents in their practical deliberations choose among various options. On the other hand, it is a *sphere* of choice. We can relate to our choices and options in different ways. I can have a degree of certainty about some choices, while be uncertain about others. As a number of scholars have recently discussed, options can be more or less robust (Pettit 2015; List 2004; List 2006; List and Valentini 2016). The idea of robustness is supposed to capture the intuition that being free to perform some action is not just a matter of contingent chance. If a slave is able to take a long walk on Sunday *just because* his master is feeling generous that day, it does not seem right to attribute freedom to the slave. For the option “take a long walk on Sunday” to count among our freedoms, it must be more resilient against changes in the preferences of others. In the language suggested by the model of the sphere of choice, the sphere must not be so fragile as to break when subject to slight changes in environment.

The sphere of choice captures the importance of both the *degree* of choice and the *robustness* of choice when thinking about freedom, accommodating the insights of both freedom as non-domination and freedom as non-interference while not making any ultimate judgments about which account better captures freedom as political ideal. Thus,

I set aside filling in the details of how best to understand the free choice. Nonetheless, we need an understanding of robustness to help make sense of the status of the free person, as this is a central element of the ideal of the free society.

### 1.5 THE SOCIAL BASES OF FREEDOM

We can now return to the quadratic idea of freedom, or the idea that an agent *X* is free from constraint *Y* to do *Z* in virtue of some *W*. I suggest we understand “in virtue of some *W*” as playing a role in the explanation of the robustness of a given option. Options are robust against interference in virtue of some feature of our social world. Put slightly different, the presence of some *W* is what makes an option count as a part of our freedom as modeled by the sphere of choice.

Republican theorists of freedom are right to point out that not all features of our social world can serve this role. Recall the idea that a slave is able to take a walk on Sunday because of the benevolence of his master. The problem with this case is that something like a character disposition such as benevolence is context-sensitive. Perhaps the slave master has a change of heart, or is convinced by his neighbor that slaves do not deserve his kindness. In this way, the option to take a walk on Sunday is not robust across contexts where the master’s disposition changes. I will say more about this in Chapter IV, but there are a few ways of understanding robustness in this context. One interpretation is metaphysical (List and Valentini 2016). We take stock of the range of possible worlds where the master’s disposition shifts. I prefer a more deliberative interpretation. The issue is not about a range of possible worlds, but rather whether or not the slave can reasonably rely on the master’s disposition in planning his walk. Again, given what we know about the stability of people’s dispositions, this would not be a wise choice. The law, in

contrast, is something we can tend to rely on when it is enforced and effective. Thus, when the law protects us from interference, this is something we can rely upon as we chart our course through our social world. This deliberative interpretation maps on nicely to republican theorists' worry about how arbitrary power induces the dominated into utilizing tactics of appeasement and ingratiation with those who dominate them (Lovett and Pettit 2009). Where one can rely on law, for example, to constrain others, there is no need to toady and fawn. This is not true for something so capricious as a disposition.

To return to the quadratic account of freedom between agent (X), constraints (Y), doings (Z), and our mystery variable W: When some W adequately grounds our freedom, it is a part of what I call the *social bases of freedom*. The social bases of freedom are features of our social world we can count on in making plans or going about our business. These social bases give us good reason to consider ourselves as free by shoring up our sphere of choice against potential interference. Lacking such bases, our choices become vulnerable to the interference of others.

Appreciating the social bases of freedom puts us in a better position to understand an important truth of the relation of social norms to freedom. Republicans tend to focus on formal institutions and law as a means of grounding freedom. Law and formal institutions form a channel through which agents can control the behavior of others. However, are such formal institutions the *only* member of the social bases of freedom? I suggest not. Social norms, too, are among the social bases of freedom. Recall that social norms involve, at a minimum, general normative requirements accepted within a population. We can rely on social norms in two related manners. First, social norms provide stable empirical expectations about the behavior of others. For example, if we

know there exists a social norm of driving on the right, we can generally expect people to drive on the right and go about our business with this in mind. Second, social norms confer the power to hold people accountable for violations. Unlike a convention, if you violate a social norm, you are generally liable to some sort of sanction. If you cut me in line, for example, I can make my disapproval known to you in a way I could not sans a social norm. The point of this sanction is to get you literally to step into line. Thus, even in the situation where our empirical expectations are not met, norms confer upon us the power to socially pull others back into step.

Because of these elements, I suggest that social norms are among the social bases of freedom. The presence of a social norm is something we can rely upon in our daily planning for keeping others at bay. There is an important upshot to this. If the social bases of freedom are not so limited to law, we ought to be less dependent on formal law for the preservation of our freedom. The reason for this is that, while both legal norms and social norms involve enforcement, legal and social norms involve distributions of power in their enforcement. While everyone can enforce a social norm, only officials of the state are permitted to enforce legal norms. This involves a more centralized distribution of power, and, with it, I suggest an increased risk of abuse of power. For this reason, I claim that, *ceteris paribus*, where a social norm will do in grounding our freedom, we ought to resist the implementation of legal norm.

But, as noted, there is a dark side to social norms. Social norms, like legal norms, involve a sort of subjection. This is how they perform their accountability-creating function. However, like legal subjection, normative subjection itself generates its own costs to our freedom.

## 1.6 SOCIAL FREEDOM

J. S. Mill in *On Liberty* worried about what he called the “moral coercion of public opinion” (Mill 2015, 12). Mill himself was concerned with how such coercion constricts the ability of individuals to lead their own lives. However, Mill failed to clarify exactly how we should understand moral coercion, instead focusing on legal interference and its justification. I try to make some progress in clarifying how we should think about less formal burdens on what I will call *social freedom*. I use this term because I will be concerned with the extent to which *social norms* might restrict agents’ freedom.

My proposed account of social freedom allows us to bring the mechanisms of moral coercion into sharper focus. In particular, I will argue that social freedom matters because it affords agents valuable space within which they can fashion their plans free from certain forms of accountability to others. I aim to highlight how pressure to conform to widely accepted social norms can limit our ability to deliberate freely about our own lives, quite apart from any physical interferences we might confront. I believe Mill was correct to see such forms of accountability to others as limiting personal freedom. The idea of social freedom builds on that suggestion a more concrete analysis of how they can do so, and to propose an ideal of social freedom that can hold them at bay. The point of social freedom is to capture the intuitions behind the Norm Saturated Society. How exactly do social norms operate on our agency? This question is what social freedom is supposed to help us answer

## 1.7 ROADMAP

This has been just a short preview of the coming arguments. I will conclude by providing a brief summary of each chapter. While the chapters work together as a



coherent whole, they also can be taken independently, as each one deals with a different argument and theme. I am careful to briefly recapitulate previous discussions and arguments when they are important. For those interested in taking this project in parts rather than as whole, this summary should be helpful for making your selections. However, if you are interested in the whole, perhaps you are better served getting on with it and starting the next chapter. I will have opportunity to summarize and draw together the various strands of the project again in the conclusion (Chapter VII, “Conclusion: The Sociality of Freedom”).

Chapter II, “A Modest Amendment”: This chapter intends to set the stage for what follows by explaining the sort of amendment I hope to make as well as preempting potential misunderstandings. My purpose is simply to argue that, whatever complete theory of freedom we ultimately adopt, it ought not neglect the social underpinnings of the free society. Such an account ought to reckon with how social norms and practices work alongside and below the legal and political institutions of our society. I walk away from moralized accounts of freedom in this chapter as they sap freedom of its critical power. I also clarify that my modesty does not involve a problematic essentialism. Nor does it involve parochialism about freedom.

Chapter III, “Converging on Freedom”: This chapter develops the formal ideas introduced in the previous chapter to create a model suitable to the task at hand. Rather than start from scratch, I delineate two approaches to understanding the ideal of freedom: a choice-centered approach and a status-centered approach. I suggest accounts of freedom face two desiderata: a functional role desideratum and a paradigmatic cases desideratum. Unfortunately, both the choice-centered and status-centered approaches encounter

difficulties in trying to meet both desiderata. Nonetheless, I attempt to reconcile the two using the aforementioned model of the sphere of choice. The idea of the sphere of choice is meant to capture the fundamental insights of both approaches. The *sphere* of choice captures status, while the sphere of *choice* captures choice.

Chapter IV, “The Social Bases of Freedom”: In this chapter, I flesh out the idea of the sphere of choice. Specifically, I focus on the notion of status that makes up the sphere in the sphere of choice. Much like the previous chapter, there is no need to start from scratch. Instead, I begin with the republican tradition, which takes as a central tenet that freedom is a status rather than as a mere property of choices. However, I suggest the republican approach to freedom suffers some problems. My main purpose is not to criticize the republican approach, but to use these weaknesses to get at what I have called *the social bases of freedom*, or features of our social world we can rely upon as we navigate our daily lives. I end with a discussion of whether or not the social bases of freedom are limited to control through formal institutions, suggesting not.

Chapter V, “Social Norms and the Social Bases of Freedom”: Taking up where the last chapter left off, I argue in this chapter that social norms may be among the social bases of freedom. After a brief account of social norms, I suggest social norms, understood as a cluster of empirical and normative expectations, are features of our social world we can rely upon in navigating that world. I argue that social norms can work in this fashion even in the absence of legal norms, and the moral norms cannot serve this role. To make these arguments, I draw on empirical work that describes how people are able to cooperate in the absence of formal law. The upshot of this analysis is that we ought to be sensitive to when and where social norms are up to the task. Otherwise, we

are placing our freedom at risk given the centralizing tendencies of law. Nonetheless, social norms will not always be up to the task, and I end the chapter with a discussion of when social norms fail and even endanger our freedom.

Chapter VI, “Social Freedom and Its Value”: This chapter defends a more radical claim: Social norms *always* involve a restriction on our freedom. I call the sort of freedom implicated by social norms the aforementioned *social freedom*, as it concerns freedom from the subjection to social norms. This chapter tries to make some progress in clarifying how we should think about less formal burdens to our freedom. My proposed account of social freedom allows us to bring the mechanisms of moral coercion into sharper focus. In particular, I will argue that social freedom matters because it affords agents valuable space within which they can fashion their plans free from certain forms of accountability to others. I aim to highlight how pressure to conform to widely accepted social norms can limit our ability to deliberate freely about our own lives, quite apart from any physical interferences we might confront. To show the force of the idea of social freedom, I use to intervene in debates about microaggressions. While much of the debate focuses over the compatibility of taking microaggressions seriously and freedom of speech or academic freedom, I suggest there our freedom more generality is at stake.

## II. A MODEST AMENDMENT

This dissertation provides an investigation into the nature of the free society. The importance of such a project is to some extent self-evident. Especially in America, public discourse places much weight on the value of freedom. That we are a self-described free society serves not just as a mark of pride, but also as a battle cry. Patrick Henry's famous rallying call was, after all, "Give me liberty, or give me death!" not "Give me legitimacy, or give me death!" nor even "Give me justice, or give me death!"<sup>4</sup> And yet, the very idea of the free society is notoriously vague, supple, and readily subject to manipulation by those in power. Even if we are capable of identifying, say, the Soviet Union under Stalin as an incidence of (perhaps even a paradigm of) an unfree society, we lack clear standards for picking out free societies from unfree ones. We disagree over whether or not a capitalist society is a free one, or an unfree one. We disagree if democracy is built into the fabric of the free society, or just a piece of institutional technology that is as much threat as ally to the cause of freedom. Such puzzles prompt the following questions: What should we look for in evaluating the free society? What standards should we bring to bear in evaluating whether or not we find ourselves either vindicated in our self-perception, or reveal that we are suffering an ideological delusion?

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<sup>4</sup> Some authors find significance in the distinction between freedom and liberty (Pitkin 1989; Williams 2001; Dworkin 2011). However, as Ian Carter points out, it seems peculiar to put so much conceptual weight on a distinction found only in English (Carter 2016). Thus, I use freedom and liberty interchangeability unless otherwise noted.

I do not pretend to answer these difficult questions in this project. Instead, my project is far more modest. I simply wish to propose an amendment to our understanding of the ideal of the free society. Such an amendment is broadly general and not peculiar to any particular account of freedom. My goal is to show how our freedom is sensitive to the social underpinnings of our society, and how the social machinery of freedom relates to the legal and political machinery. I will argue *any* full account of freedom will have to reckon with these observations. What I want to do in this chapter is two-fold. First, I want to begin with an account of how I understand this amendment as both general and modest. Second, I want to use this opportunity to make it abundantly clear what I am *not* doing. In this way, I wish to both triangulate my position in relation to common issues raised in debates surrounding the concept of freedom as well as preempt potential misunderstandings.

## 2.1 BEING MODEST ABOUT FREEDOM

I do not provide a full theory of freedom. By this, I mean I am not providing a full account of the concept of freedom, nor am I providing a full account of the normative ideal of freedom. I am also not providing a full argument for the value of freedom. This project only provides partial accounts of these subjects. In this way, my project is modest in its scope. The intention is to amend our understanding of freedom such that a full account, whatever that might be, ought to take into account the issues highlighted by my arguments. Specifically, a full theory of freedom as a political ideal ought to be sensitive to how informal social norms and practices interact with our freedom both directly and indirectly by working alongside and below the political and legal institutions of our

society. I believe the social side of freedom has been unduly neglected by the dominant paradigms of freedom.

Modesty in this respect requires a degree of formality. I have to set aside some of the substance of freedom in order to make these amendments. Loading too much substance into the account here will hamper my ability to apply its insights generally across a wide-range of theories of freedom. Too much substance and the amendment would just collapse into a piece of one particular theory of freedom. I do not deny that further development of a particular theory of freedom would be valuable in some respects. Nonetheless, my intention is to add something to our understanding of freedom more generally. Thus, my modest approach is not modest all the way down. Modesty is in the service of agnosticism about a full theory of freedom for the sake of pursuing a general normative concern.

Some might think that the only account of a concept able to apply generally in this manner would be too modest to be of use in understanding normative issues. They might suggest that the only sort of account suitable to such a task would have to be so abstract that it only succeeds in showing that each theory's concept of freedom is in fact a concept of freedom rather than some other concept. Take, for example, Gerald MacCallum's triadic account of freedom in this light (1967). MacCallum argues that there is really just one concept of freedom. Freedom involves a triadic relationship between an agent, doings or becomings, and constraints. MacCallum seems to think this general account collapses the distinction between negative and positive freedom (see also Nelson 2005). However, instead of collapsing the distinction, I believe the account vindicates it. It vindicates the negative/positive distinction in the sense that it shows how

it makes sense to describe both versions of freedom as versions *of freedom*, rather than as two entirely separate values or ideas (see also Carter 2015, 298-301). While helpful to that extent, it does not help us with the normative issues raised by the distinction that motivated Berlin's initial description (see also Christman 2005). Nor would it help us with the normative issues surrounding social norms raised by this project.

Ian Carter uses MacCallum as an example of a *value-neutral* concept of freedom (Carter 2015, 299). According to Carter, a value-neutral concept is one that's "use does not imply the superiority of any one of a set of contrasting substantive ethical points of view" (Carter 2015, 285). As noted, MacCallum's concept of freedom operates at such a level of abstraction that it cannot adjudicate various normative debates surrounding freedom and politics, even if it illuminates the common underlying structure of the concept of freedom in these normative debates. Carter calls value-neutrality that abstracts in this manner "metatheoretical value-neutrality" (Carter 2015, 298). Such abstraction will not help us with my task here. The questions that motivate this project are normative, not metatheoretical.

Metatheoretical value-neutrality is not the only sort of value-neutrality. Carter makes some suggestive comments regarding what calls "normative value-neutrality" (2015, 297). Carter's comments on this idea are sparse, but he illustrates it with the following example:

As Rawlsians would put it, the justice of equal liberty (defined in a particular way) can be affirmed from within the "comprehensive doctrine" of each party. The relevant concept of freedom can therefore be employed by each of the parties to the dispute about the nature of the good life. It

can be employed by each of them in the same evaluative or prescriptive way, while leaving open each of the relevant comprehensive doctrines commands their allegiance (2015, 298).

Here, Carter is referring to the idea found in John Rawls's *Political Liberalism* that a concept of justice suited for societies marked by diversity of thought should be political, not metaphysical (Rawls 2005). The hope is that such a concept of justice will enjoy allegiance by those who disagree on various questions about the nature of the good life. For Rawls and his followers, it appears that value-neutrality itself becomes a value that should guide our understanding of other values.

While this is one way to understand normative value-neutrality, this way will not help me with my task here. The goal of this project is not a list of principles that can command wide allegiance, as it is in the Rawlsian project. However, I take it that the goal here is something similar: An account of freedom that can command allegiance from various parties with differing normative points of view. Such an account of freedom will aid us in understanding various normative issues raised by the interaction of freedom and our various informal practices and norms, not merely make sense of various debates about freedom between theories as, in fact, debates about freedom.

Because my interest is not in seeking principles that can act as an object of consensus, I am able take an alternative tact. Rather than generate principles from whole cloth, I can begin with various competing accounts of freedom. While such accounts compete in some respects and provide different standards for evaluating the freedom of a given society, this does not mean there is absolutely *no* convergence among these various accounts on how they approach freedom. Looking at these intersections between accounts



of freedom can be quite useful, I will suggest. This is not just a matter of providing an abstract account of freedom that allows us to make sense of the dispute as one about freedom, as with MacCallum. Instead, we can seek overlap in normative concerns among the various candidates. We seek something like convergence rather than consensus a la Rawls (Klosko 1997, 637-640).

The modest approach as I imagine it here must also be modest in its aspirations. While this dissertation provides an investigation into the nature of the free society, it only gives us a view into one aspect of that ideal. While many of us wonder about the relationship of institutional structures such as capitalism and democracy to freedom, this project cannot address these questions. But, importantly, it does not reject these as sensible questions. My proposed amendments suggest that, however we approach answering these ambitious questions surrounding grand institutional structures, we cannot forget what happens below such structures. We cannot ignore how freedom is implicated by our daily actions and practices.

## 2.2 MODESTY IS NOT MORALIZED

As noted, my amendment is motivated by a concern with a normative question: What role do informal social norms and practices play in the ideal of the free society? Unlike MacCallum, I am not interested in providing a full account of the concept of freedom independent of any normative concerns. It seems to me that our concept of freedom is irreducibly pluralistic. The ordinary language of freedom appears in variety of contexts, and not all of these usages can be rendered consistent. Even if we do manage to find a largely consistent core to the concept of freedom, it seems that such a core would have to be open enough to accommodate incompatible interpretations of key terms (e.g.

MacCallum 1967; Swanton 1992). By accommodating competing interpretations of key terms, such a generalized account will be of limited use in adjudicating critical evaluation of social practices.

While my project is motivated by a moral concern, I wish to make it clear I reject a moralized account of freedom in this investigation. This may seem puzzling to some – how can one both reject a moralized account of freedom while at the same time be interested in freedom as a normative ideal? To understand how an interest in freedom can come from a place of moral concern while at the same time reject a moralized account of freedom, it is worth disentangling the various ways values relate to concepts.

In an important essay, Ian Carter provides a taxonomy of how concepts might relate to values (Carter 2015).<sup>5</sup> Carter distinguishes between *value-freeness*, *value-neutrality*, and *value-independence*. We have already encountered value-neutrality when discussing MacCallum’s triadic account of freedom. To understand why one might want to reject a moralized account of freedom, while nonetheless remain motivated by matters of moral concern, I turn to value-independence and value-freeness.

Value-independence is the most austere in its demands. In Carter’s words, a concept is value-independent “if its definition can be justified purely in terms of theoretical-explanatory considerations, and not at all in terms of ethical considerations” (Carter 2015, 285; see also Kramer forthcoming). As my project here is not explanatory but normative, we need not discuss the possibility or impossibility of value-independent

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<sup>5</sup> Carter suggests the values in question are ethical rather than epistemic values. I think it is a reasonable question whether ethical values are so neatly distinct from epistemic values, but this is not so important for our purposes here.

concepts. That said, what is important for our purposes is that rejecting value-independence does not commit one to rejecting value-freeness. You can give an account of a concept that is both value-free and value-dependent in Carter's senses. As Carter describes it, "a concept is value-free if its definition is such that the *definiens* contains no evaluative terms." (Carter 2015, 284). I want to show how this might work by contrasting various accounts of freedom. Some are value-free in Carter's sense; others are not. None are value-independent. Indeed, we will see that the case against a moralized account of freedom rests on ethical grounds, not conceptual or semantic ones.

Let us first consider three moralized accounts of freedom: Ronald Dworkin's, John Rawls's, and Robert Nozick's. As noted, a value-free conception of freedom is one that does not include a reference to some other value in its definition. In contrast, a moralized conception of freedom makes reference to some other value in its definition.

Dworkin makes a distinction between freedom and liberty (2011, 366).<sup>6</sup> For Dworkin, freedom involves the ability to act. This would be a value-free account of freedom insofar as it makes no reference to a moral value. However, freedom is not important for Dworkin in the evaluation of political and social institutions. Instead, Dworkin puts political stock in what he calls liberty. Liberty does not refer to any general concept. Liberty refers to a set of basic rights or liberties. These liberties are justified on the grounds that they realize a principle of equal concern and respect. To understand liberty the political value, we must understand ideals of equal concern and respect. So, in Dworkin's conception of liberty (in contrast to his account of what he calls freedom), one's liberty is understood in reference to the ideal of an egalitarian society.

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<sup>6</sup> As noted, I find the distinction strained.

Similarly, Rawls does not give us a picture of freedom *as such* in his theory of justice. Instead, Rawls refers to a list of basic liberties that are given strict priority in relation to a certain ideal of the person (1999, 176-180; 2005, 289-371). The basic liberties include liberty of conscience, freedom of thought, political liberties, liberties related to integrity of the person, and the rule of law (Rawls 2005, 291). This is not to say that there are not other liberties for Rawls. It is just that those other liberties are non-basic, and play no role in the critical evaluation of the basic structure of society.

Finally, Nozick gives an account of freedom grounded in rights (1974, 262). One is free to  $\varphi$  insofar as it is within one's rights to  $\varphi$ . In this way, Nozick shares more with Locke than just a theory of property. Consider Locke's claim that the state of nature

be a state of liberty, yet it is not a state of license. Though man in that state have an uncontrollable liberty to dispose of his person or possessions, yet he has not liberty to destroy himself, or so much as any creature in his possession, but where some nobler use than its bare preservation calls for it (Locke 1980, 9, Chapter II, §6).

For both Nozick and Locke, we interpret our freedom in relation to the sets of rights we each hold. Once we have a grasp on the domain of action not forbidden by other people's rights (or God's in the case of Locke), we can speak of where we have freedom to act. I am not free to till the soil on your property without your permission, because I have no right to do so. I am free, however, to till the soil on my property as it is within my rights.

All three accounts of freedom make reference to some moral value in their definitions. Dworkin's account of liberty makes reference to the ideals of an egalitarian

society, Rawls's to a particular ideal of the person, and Nozick's to a set of Lockean rights. In this way, all three provide moralized accounts of freedom.

Moralized accounts of freedom, while tracking some of our ordinary language, have a significant flaw. The utilization of a moralized conception of freedom limits the use of that account of freedom in critical reflection and justification. By this, I mean that moralized accounts of freedom are disqualified from playing a role in what H. L. A. Hart calls "critical morality," or the activity of critically reflecting upon our social practices and assumptions (Hart 1963, 20). As G. A. Cohen points out in his withering critique of Nozick: *If* freedom (as it is for Nozick) just involves those sets of actions you have a right to do, you cannot then turn around and say that we should endorse the system of rights referenced in the account of freedom because it promotes freedom. To do so would be viciously circular (Cohen 1995, Chapter 2). So, too, for Dworkin and Rawls. For example, Rawls cannot argue that his principles of justice are justified because they promote freedom in his sense. This is because his principles of justice give us the account of freedom in question, not the other way around.

In this way, moralized accounts of freedom radically deflate the value of freedom. I say it *radically* deflates freedom because I take it that most of us believe whether some policy or institution promotes or hinders freedom matters to whether or not we should endorse that policy or institution. Taking these approaches makes freedom epiphenomenal to our critical discourse. Moralized accounts of freedom may play a role at the level of what Hart calls "positive morality," or what we might call the street level

of moral discourse and practice, but not at the level of critical morality. We come to freedom after the heavy lifting is done and there is nothing more to be said.<sup>7</sup>

Having explained moralized accounts of the freedom and their problems, I can now turn to value-free accounts. Consider Hillel Steiner's rather austere understanding of freedom: "a person is unfree to do an act, if and only if, his doing that action is rendered impossible by the act of another person" (Steiner 1994, 8). Notice that this definition makes no reference to any other values, but instead describes an *empirical* condition. We do not need to refer to other values within Steiner's overall theory (of which he has one) to make sense of this account of freedom. Rather, we simply need to look out at the world and ask: Is some person unable to  $\varphi$  due to another person's action? If so, he is unfree to  $\varphi$ .<sup>8</sup> This particularly empirical understanding of freedom is deeply important to Steiner's

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<sup>7</sup> To be fair, perhaps freedom cannot do all that we want it to do in political discourse. Political actors mobilize freedom not just in defense of their allegiances, but also in the service of grounding a demand for justification. A number of theorists of freedom use this aspect of freedom in our political discourse as their starting point (Benn 1988; Benn and Weinstein 1971; List and Valentini 2016; Miller 1983) Insofar as moralized theories of freedom draw on a diagnostic model of freedom rather than a justificatory one, perhaps they are not so deflationary. But it is important to note that there remains a tension between using freedom in diagnosis and freedom in justification. This raises second-order questions about the way the concept of freedom functions in political argumentation I only raise here to set aside.

<sup>8</sup> If not, is he therefore free to  $\varphi$ ? It would seem so. But, we might follow Kramer here and make a distinction between being free to  $\varphi$  and being not free to  $\varphi$  (2003, 41-

overall theory. This is because Steiner builds his theory upon this austere account of freedom. It is *because* Steiner believes that freedom is fundamentally important as a political value that he relies on a value-free account of it. This is worth re-emphasizing: Steiner adopts a value-free understanding of freedom for normative reasons, not conceptual ones. Thus, the case of Steiner illustrates how a value-free concept is not value-independent.

As Carter points out, at least one concept in a network of concepts that makes up a normative theory must be value-free in the sense understood here (2015, 295-296). This is because any theory or network of concepts and values needs a place where it hooks up to the empirical world in order to guide action. A purely abstract theory of concepts that was perfectly closed would never “touch down in the realm of actual experience” (Lovett 2010, 18-19). How else could we hope for a normative theory to guide us if not in reference to something we actually experience and see? Note that this grounding function of value-free concepts does not imply any kind of foundationalism. Such value-free concepts are not taken as axiomatic. Instead, value-free concepts serve as bridge between the theoretical and the empirical. Lacking such bridging, our theories will fail to offer practical guidance. To be clear, there is nothing to say that the concept of freedom has to serve this role. One way of reading moralized accounts of freedom is that they involve taking other concepts as the bridge between normative and empirical. So, we might see Dworkin as taking equality, understood in reference to equal possession of resources, as a value-free bridging concept. For Nozick, we might see rights, understood in reference to

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42). The former involves both the ability to  $\varphi$  and no one preventing one from  $\varphi$ -ing. The latter involves no one preventing one from  $\varphi$ -ing, but nonetheless being unable to  $\varphi$ .

a side-constraint against aggression, as a bridging concept. Regardless, whatever concept or concepts we pick, normative theories need a place to bridge with the empirical world *somewhere*. As Carter points out, this is exactly what a value-free concept does.

A possible way of understanding the debate between “liberals” and “republicans” over the concept of freedom is as a disagreement over what empirical phenomena a value-free concept of freedom tracks.<sup>9</sup> On the one hand, you have advocates of “pure negative freedom” such as Hillel Steiner, Ian Carter, and Matthew Kramer. We have already discussed Steiner briefly, but what the pure negative libertarians share (despite some important differences) is the following account of *unfreedom*: An agent’s freedom is only compromised when some other agent renders an option ineligible. On the other hand, you have republicans (or, perhaps more accurately, neorepublicans) such as Philip Pettit, Frank Lovett, and Quentin Skinner. For these theorists of freedom, it is not the removal of options by others that invades one’s freedom. Instead, one is unfree to the extent one is subject to arbitrary power. This is a brief summary of two complex and subtle families of views, and we will expand on both of them later in the project. What is important here is that both liberals and republicans, in the sense understood here, seek a value-free concept of freedom to build a larger theory of justice upon.<sup>10</sup> This debate is

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<sup>9</sup> I am one of those who finds the distinction between liberalism and republicanism (as presented by Philip Pettit among others) overly strained (see also Patten 1996, Rogers 2008). Nonetheless, the labels are helpful here insofar as they demarcate two different value-free accounts of freedom.

<sup>10</sup> Excepting Kramer. Kramer explicitly limits his concern to conceptual questions (2003, 1-9). That being said, as Joseph Raz says, “Philosophers and political theorists are



anything but a dry, conceptual one, but rather about how to mobilize freedom as making up what Steiner calls “the elementary particles” of justice (Steiner 1994, 2).

### 2.3 MODESTY IS NOT ESSENTIALIST

Some might worry that all this talk of “problems” with accounts of freedom involves a commitment to an essentialist view of freedom. But taking freedom as having some sort of essence involves a category mistake. Freedom, like art, is not what Dworkin calls a “criterial concept,” or a concept that picks out shared criteria for evaluating instances of the concept (2011, 158). For example, our concept of a square picks out a set of criteria that we all use to identify squares. Put slightly differently, the concept of a square presents a test: Am I looking at a plane figure with four equal straight sides and four right angles? If so, I have a square. The concept of freedom is not like the concept of a square. There is no neat test or definition implied by the concept of freedom that allows us to pick out instances of freedom from instances of not-freedom.

Because there is no set of clear standards that pick out instances of freedom from instances of not-freedom, some might say that freedom is an “essentially contested concept.” In an influential paper, W. B. Gallie advances a provocative claim. There may exist certain complex, evaluative concepts that give rise to multiple interpretations of proper application of the concept (Gallie 1956).<sup>11</sup> Thus, intractable contestation is built

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sometimes better than their word. Much that is presented as conceptual analysis is really much more and includes advocacy of principles of political freedom” (Raz 1986, 16).

<sup>11</sup> Gallie interestingly enough uses the term “hypothesis” to describe his claim (1956, 168). This has interesting implications that I will set aside here.

into the fabric of these concepts (or, they are “*essentially* contested”). To provide some clarification of this idea, consider William Connolly’s development of Gallie’s thesis. Certain concepts are what Connolly calls “cluster concepts” (Connolly 1983, 13-15). A cluster concept is a concept that has no essential or common core, but instead refers to a cluster of ideas, actions, and beliefs that underlie the dispute in question. To ask, “What is the free society?” then is to refer not to any clearly demarcated set of criteria, but point to a complex idea that gives rise to multiple competing interpretations. Given this, a critical reader might worry that all my talk in the previous section of some conceptions of freedom facing “problems” may rest on treating the concept of freedom as presenting some fixed set of criteria.

Let me take this opportunity to forestall potential misunderstandings of this sort. The modest approach here seeks an account of freedom that does not promise to give us *the* account of freedom. I fully agree that freedom is not like the concept of a square. No single concept of freedom can do all that we want it do. Instead, the account here is intended to illuminate normative issues that various accounts of freedom ought to reckon with. In particular, I hope to provide an account of freedom that helps us understand the sorts of observations that begin Chapter I. There is a tension raised by the set of vignettes raised in the introduction. On the one hand, The Normless Society provides us with a picture of how our ability to navigate our social worlds depends on the presence of norms. On the other hand, The Norm Saturated Society provides us with a picture of how these norms can constrict and constrain our social life. Both pictures make vivid how our freedom relates various informal practices and norms, even if they mobilize conflicting intuitions about this relationship. To make progress on understanding the mechanisms at

work behind these cases, we need a working account of freedom. Such an account will be designed with this function in mind, having to leave aside other questions raised by the value of freedom.

Given this normative goal, it becomes easier to see how the discussion of moralized accounts of freedom above does not involve a commitment to an essentialist view of freedom. When people like Carter and Cohen criticize moralized accounts of freedom, they are not saying that those accounts of freedom are not accounts of freedom. In this way, critics of moralized accounts of freedom are not making a conceptual point. Instead, they are making a *normative* point. If an account of freedom is to play a role in the critical evaluation of political and social practices and institutions, that account ought not be moralized. This is because, when the account of freedom in question is moralized, what ends up doing the work in critical analysis ends up being the further moral value referenced. Again, this is not to say that moralized concepts of freedom are not concepts of freedom. Such accounts may even play an important role in capturing aspects of our positive morality. The point is that, for freedom to play a particular normative role, it should not be moralized. Otherwise, we risk making circular arguments that fail to provide critical distance on our practices and institutions. For these reasons, my analysis here avoids commitment to any strongly moralized accounts of freedom while at the same time avoiding commitment to an essentialist view of freedom. Political concepts are tools. As tools, they can be better or worse at fulfilling a particular function. This is all that is involved in walking away from strongly moralized accounts of freedom.

## 2.4 MODESTY IS NOT PAROCHIAL

So far, I have argued that my approach here is modest. I intend to make an amendment that is general and is not tied to any particular theory of freedom. I have also repudiated strongly moralized accounts of freedom. Nonetheless, some might follow me in rejecting moralized accounts of freedom and grant my anti-essentialism about freedom but remain unconvinced of the possibility of a general amendment of the sort I suggest above. Because freedom involves a cluster of characteristics, it might be suggested that the only way at interpreting such a concept is through the lens of a particular theory. Thus, we do not ask what freedom means as such, but instead how freedom relates to a set of other concepts and ideas that make up a normative theory.<sup>12</sup> On this view, a theory acts as a map to our conceptual world. Much like how a map does not represent the full physical terrain it represents but instead depicts some features of the physical world while omitting others, a theory helps us pick out the elements of the concept in relation to the rest of the theory while deemphasizing other elements (Freeden 1996, 85-86; see also Gaus 2000, 26-38).

A particularly strong reading of this claim about how concepts relate to theories holds that providing such an amendment would require taking a vantage point that can only be granted by a particular theory. The theory in question takes the guise of an

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<sup>12</sup> Rather than speak of normative theories, we might opt for Michael Freeden's notion of ideology, where "[i]deologies constitute semantic fields in that each component interacts with all the others and is changed when any one of the other components alters" (1996, 67).

ideology that provides a way of organizing our concepts (Freeden 1996, 67). This would splinter the question of “What is the free society” into a set of separate questions that only operate within a particular paradigm: “What is *liberal* freedom?” “What is *socialist* freedom?” “What is *republican* freedom?” “What is *feminist* freedom?” “What is *libertarian* freedom?” And so on.

I must confess that this strong reading of the relation between concepts and theories worries me. It seems to lead to what might be called *the silo approach to political theory*. On this approach, making progress in political theory involves working from within a pre-existing paradigm rather than working on the open range. A troubling lesson one might take from positing such a strong relationship between concepts and particular theories in the guise of ideologies is that each of us, within our own theoretical silo, has very little say to one another on the subject of freedom. If I am a “liberal,” I have my own concept of freedom within my theoretical framework. You, a “socialist,” have your own concept of freedom. And so, the fact that we disagree is no surprise, as we each have our own background constellation of concepts and conceptions that form our worldview. And that is that. If I want to understand my “liberal” concept of freedom, I need to talk to my own people, and, if you want to understand your “socialist” concept of freedom, you need to talk to yours.

To be clear, there is nothing wrong with parochialism in political theory as such. A fundamental aspect of any discipline is honing the details of the major arguments and following the implications where they lead. Silos are important features of the landscape

of political theory, and it would be folly to get rid of them. But silos only get us so far.<sup>13</sup> Anyone familiar with the debate between liberals and republicans over the concept of freedom noted above may reasonably come to the conclusion we have reached a stalemate of sorts between the two sides. I think this is best shown by what Carter calls the “equivalent-judgments thesis.” The equivalent-judgments thesis holds that that, even if the account of freedom offered by liberals and republicans is different, the judgments made about cases in the real world will basically converge (Carter 2008, 66-71). Indeed, insofar as republicans such as Pettit and Lovett appear to endorse liberal democratic institutions, this thesis seems quite plausible. Have we reached the end of the line in regards to the debate over freedom? Is it simply a matter of working out the details of the various apparatuses at this point?

Fortunately, we need not endorse the strong claim that progress requires commitment to a particular overall ideology. Rather than build a theory from the ground up or begin with an already established structure, we might begin with a set of theories about freedom. Earlier, I suggested the goal here is convergence, not consensus. By engaging multiple theories, we can see where they overlap and diverge. We can also see where these various theories have trouble accommodating pre-theoretical intuitions about the nature of political freedom. Through such an exercise, we can see how to propose a general amendment to our theories of freedom without limiting ourselves to one particular account. However, this is something we have to do, not simply speculate about. That is the task of the next chapter.

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<sup>13</sup> A more serious worry is that silos may set us back by promoting insularity, groupthink, and myopia (Bird 2011, 113-119).

## 2.5 CONCLUSION.

In this chapter, I set the stage for the arguments to come by triangulating my approach in relation to common debates about freedom as well as by attempting to preempt potential misunderstandings.

My purpose in this project is not to provide a complete theory of freedom, but instead propose a broadly general amendment to our understanding of freedom tied to no particular account of freedom. Specifically, the ideal of the free society includes a distinctively *social* element that works alongside and below the political and legal elements of that society. Such an amendment will be non-moralized or value-free. Moralized accounts of freedom will not do for the purposes of critical evaluation. Importantly, I pointed out that rejecting moralized accounts does not commit me to a problematic essentialism. The case for a value-free account of freedom is not conceptual or semantic, but is itself moral. Nor does my approach require commitment to a particular ideological framework. I am not interested in developing a socialist/libertarian/etc. account, but a particular moral puzzle that I believe broadly applies.

As noted, the modest amendment emerges from looking for convergence among various accounts of freedom. The point is to use this convergence as a way of acquiring some leverage on the question of how various informal norms and practices implicate our freedom. Such a question is relevant across larger normative theories. I hope to generate conceptual and normative tools that draw attention to questions and issues that cut across larger normative debates between grand frameworks. To be clear, my approach will not be entirely neutral. Nor cannot it be. Some frameworks will be more amenable to the ideas discussed here than others. Nonetheless, by working at the level I do here, I believe

I can contribute to our understanding of freedom in a way I could not were I to involve myself either in the task of chipping away within a silo or the task of building another silo.

So far, I have limited myself to the formal characteristics of the amendment proposed here. In the next chapter, I turn to a more substantive fleshing out of the account of freedom on offer in this project. In that chapter, I offer a model of freedom that I call the sphere of choice. The model will provide the substance to the partial account of freedom, and allow us to investigate how our freedom is implicated by various informal social norms and practices. The hope is that the sphere of choice can help us see these issues more clearly without commitment to a particular theory of freedom.



### III. CONVERGING ON FREEDOM

In the last chapter, I explained my attention to make an amendment to our understanding of freedom that applies generally and it is not tied to any particular account of freedom. The desiderata of this account involved:

- (1) Such an account will *avoid parochialism*. That is, it will not involve commitment to one particular normative theory. We seek relative neutrality. I say relative neutrality as I do not want to mislead the reader into thinking I will avoid taking stances on the various accounts of freedom. In this chapter and especially the next chapter, I have much criticism to offer. But such criticism is not intended to be decisive against the views in the crosshairs, but instead mobilized for the purposes of developing a positive view.
- (2) Such an account will be *practical*. That is, we are not seeking “metatheoretical value-neutrality,” which requires an account of freedom so thin as to be devoid of practical content (Carter 2015, 298-301). Instead, we want an account of freedom that is practically useful in understanding certain kinds of moral problems. Specifically, we are interested in the relation of social norms and practices to our freedom.
- (3) Such an account is not the product of consensus, but *convergence*. We are not seeking a freestanding account of freedom that will secure allegiance of various normative perspectives. Instead, we are seeing what we can draw from the overlap of differing accounts of freedom. As such, the view here can be described in multiple ways, emphasizing some elements over others.

Summarily, my amendment *avoids parochialism*, is *practically useful*, and develops out of *convergence, not consensus*. Nonetheless, we need a working account of freedom on the table in order to make these points

This chapter involves providing a sketch of a candidate for a working account of freedom in the form of a model. The model in question is informal rather than formal, and is perhaps better thought of as a metaphor than a model. I call this model *the sphere of choice*. The idea of the sphere of choice emerges from considering two approaches to understanding the freedom of the person: What I call choice-centered approaches and status-centered approaches. In understanding a tension inherent to both approaches, I propose the sphere of choice as a way of threading the needle. Nonetheless, it is not until the next chapter that we get a fuller picture of what is involved in the sphere of choice. There, I use weaknesses latent in what has come to be called the republican approach to freedom as a jumping off point for exploring what I call *the social bases of freedom*. Equipped with these ideas, we can finally turn directly to the relation of ideals of freedom to social norms.

### 3.1 TWO APPROACHES TO FREEDOM

As noted, it is commonplace in the literature on freedom to begin with Isaiah Berlin's "Two Concepts of Liberty" and then triangulate one's own position in relation to Berlin's two poles (Berlin 1969). In that essay, Berlin distinguishes between "negative" and "positive" freedom. The former is commonly understood as freedom as non-interference, the latter as freedom as self-mastery. The two approaches referenced in the sub-heading of this section are not that of Berlin's negative and positive.

I wish to distinguish between “choice-based” approaches to freedom and “status-based” approaches to freedom. Slicing up the terrain of freedom in this manner is not entirely novel. Philip Pettit in two essays makes a similar distinction (Pettit 2003; 2007). More accurately, Pettit makes *two* linked distinctions. In the earlier essay, Pettit distinguishes between what he calls “option-freedom” and “agency-freedom” (Pettit 2003). In the later one, Pettit distinguishes between “choice-based” and “person-based” ways of thinking about freedom (Pettit 2007). Despite the different labels, the underlying distinction tracks diverging answers to same question for Pettit: What is freedom a property of? On the one hand, we could take freedom to be the property of choices or options. On the other, we could take freedom to be the property of persons. Pettit uses an analogy with health to illustrate the distinction (Pettit 2007, 710). We ascribe health as a property of a variety of things (healthy food, healthy lifestyle, healthy people, healthy exercise, etc.). That said, when we describe these things as healthy, we are not describing them as healthy as such, but instead as healthy in reference to what is healthy for humans. For example, the idea of a healthy meal is informed by our idea of a healthy person, not the other way around. Pettit thinks something is similar of freedom. We ascribe freedom to a variety of things (persons, choices, actions, states, nations, peoples, etc.), and there is a question of what informs these disparate uses. Pettit sees the distinction between choice-based and person-based approaches as tracking two different possibilities found in the literature. One possibility is that we understand the free person as the central usage of the concept. The other is that we understand the free choice as the central usage.

There is a different way to understand the distinction between (to use my terms) choice-based and status-based approaches that diverges from Pettit’s. In Pettit’s view, the

difference is in whether freedom is a property of persons or a property of choices. This is a matter of the subject of freedom. For reasons I will outline later (§3.3), I want to resist Pettit's distinction. Instead of seeing the distinction as a matter of different subjects of freedom, we can begin with an understanding of freedom as a political value. However, like all values, there is a question of how to *engage* the value. That is, if freedom is valuable, what follows practically in our pursuit of it? We can distinguish between two ways of engaging value (Schmidtz 2006, 170-171; see also Benn 1988, Chapter 1; and Pettit 1991). First, we might seek to *promote* the value in question. That is, we might seek out or realize states of affairs that maximize the value in question. If happiness is valuable, perhaps the best way to engage happiness is to make sure there is as much of it as possible. But, secondly, we may not promote the value but instead *respect* the value. That is, we do not seek promoting state of affairs where the value in question is maximized. Rather, we see the value in question as a *constraint* on our actions. For example, in Nozick's famous formulation, rights are not something we promote as we might in a "utilitarianism of rights," but instead constitute "side-constraints" that restrict what we may do to people without violating their rights (Nozick 1974, 28-30). Using this distinction, we might say that choice-based approaches to freedom treat freedom as a value to promote, while status-based approaches to freedom treat freedom as a value to respect. This is not about differentiating the subject of freedom (choice or person?), but our practical attitude towards freedom (promotion or respect?).<sup>14</sup>

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<sup>14</sup> Oftentimes, the distinction between promotion and respect is presented as tracking the distinction between consequentialism and non-consequentialism (e.g. Nozick 1974; Benn 1988). However, it is not obvious to me that consequentialists cannot

This is quite abstract at this point, and I will say more about how I understand the distinction between choice-based approaches and status-based approaches soon enough. Prior to doing so, however, I want say a little more to motivate the following in relation to the overall project of coming up with a working account of freedom.

As noted, I take our notion of freedom to be irreducibly pluralistic. By this, I simply mean we use the idea of freedom in a variety of contexts that do not necessarily cohere. Nonetheless, for freedom to function as a political ideal, as something we can man the barricades for so to speak, we are going to need an account that provide practical guidance for policy (Wall 2003; see also List and Valentini 2016, 1049-1050). Given the plurality of contexts in which our natural language applies the term freedom, any account of freedom suitable to act as a political ideal will involve emphasizing some uses of the term while downplaying others. Call this *the functionality requirement*:

*The Functionality Requirement* (FR hereafter): Any account of freedom must be able to provide non-contradictory practical evaluations about policy and outcomes.<sup>15</sup>

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accommodate respect in addition to promotion. Indeed, it seems a consequentialism committed to promotion of value must reckon with the fact that respecting value tends to promote it (e.g. Pettit 1989; Schmidtz 2006, 171). Likewise, it is not obvious to me that non-consequentialists cannot accommodate promotion of value (though, see Taurek 1977).

<sup>15</sup> List and Valentini too have a functionality requirement of sorts, what they call “The functional-role desideratum” (2016, 1049). However, as noted in the previous chapter, List and Valentini limit the function of a concept of freedom to act as a sort of

In addition to meeting FR, any successful account of political freedom should also involve, in Christian List and Laura Valentini's terms, "an adequate level of fidelity to ordinary-language use" (List and Valentini 2016, 1051). By this, any account of freedom ought to account for paradigmatic cases of freedom and unfreedom. For example, an account of freedom that suggests a prisoner is free is automatically suspect (e.g. Wendt 2011). The whole point of imprisonment as a form of punishment is to take away the freedom of prisoner. If your account of freedom has the implication that punishment does not in fact do this your account flies in the face of reality (Cohen 1983, 4). Call this *the paradigmatic cases requirement*:

*The Paradigmatic Cases Requirement* (PCR hereafter): Any account of freedom must provide the correct description of paradigmatic cases of unfreedom and/or freedom.

The choice-based and status-based approaches provide candidate accounts of freedom to meet these two criteria. However, I will argue that there is a tension within each approach created by trying to navigate these two desiderata. Any candidate that satisfies FR requires emphasizing some elements of our ordinary understanding of freedom at the cost of others in order to provide coherent evaluations. Shining light from one side of the terrain of freedom casts shadows on the other. Thus, both choice-based approaches and status-based approaches tend to fail in capturing at least *some* of our pre-theoretical intuitions about political freedom. Proponents of the views in question are aware of this, and try to capture these pre-theoretical intuitions via ad hoc distinctions, as

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trip wire for demands for justification. This is a narrower account of the function of a concept of freedom than I offer here.

I will point out. There is nothing wrong with being ad hoc as such. However, such ad hoc attempts to meet PCR end up re-introducing problems for FR. It is not clear how we ought to weigh these ad hoc elements in our evaluations about various states of affairs. The theory of freedom fails to provide guidance because it cannot account for these ad hoc additions in its own terms. Once we understand this tension, it becomes clearer how to move forward. But first, I must explain the choice-based approach and the status-based approach, and argue that each fails to meet PCR in a non ad hoc manner.

### 3.2 CHOICE-BASED APPROACHES AND THEIR LIMITS

Freedom, if anything, involves people's capacities to make choices. As Stanley Benn and W. L. Weinstein put it, "The range of utterance about freedom and unfreedom which contextually assign or diminish responsibility for action all presuppose the conception of man as a chooser" (1971, 209). A natural way of thinking about a theory of freedom stops here at the basic idea of persons as choosers. Persons, of course, are more than just choosers. There is much that makes up our personhood that is distinct from our ability to make choices and act on those choices. For example, part of being a person involves having hopes and dreams about the future. Such hopes and dreams may remain at the level of wishes, without ever realizing themselves through our choices (Ripstein 2009, 108-109). On this view, freedom concerns the choice-making aspect of persons, whereas other values such as security and welfare perhaps relate to the interest-holding or meaning-making aspects of persons.<sup>16</sup> Such a choice-centered approach cuts across a

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<sup>16</sup> As many partisans of negative liberty are quick to point out, freedom is distinct from other good things (e.g. Hayek 2011, 65-69; Berlin 1969, liii).

wide range of theories of freedom. Take, for example, the “pure negative conception” of freedom presented by Hillel Steiner (1994), Ian Carter (1999), and Matthew Kramer (2003). Inspired by Hobbes, such a conception focuses on the physical possibilities facing agents. I say this is a choice centered approach to the extent that we care about the physical possibilities insofar as what is physically possible helps delimit what actions are available for us to choose. Similarly, we might think the “capabilities approach” to freedom developed most famously by Amartya Sen (e.g. 1992) and Martha Nussbaum (e.g. 2011) also constitutes a choice-centered approach to freedom. The capabilities approach is not concerned with the physical possibilities facing agents, but instead “their real opportunities to do and be what they have reason to value” (Robeyns 2011). Distinct from the pure negative approach, the capabilities approach is not concerned with all physical possibilities, but in a person’s ability to realize various combinations of functionings (Kaufman 2006). Nonetheless, to the extent that the capabilities approach concerns *opportunities* facing persons, it shares with the pure negative approach an emphasis on choice.

Choice-based approaches to freedom treat freedom as a value to promote. Freedom is of a kind with other values such as welfare. Our relationship with such values is often one of promotion. We aim to advance to good in question, possibly constrained by principle of distribution. We might wonder whether we seek equality, maximization, priority for the least advantaged, sufficiency, or etc. of the value in question. On a strictly choice-based approach, we measure the free society in terms of the amount and distribution of freedom in that society. If this is our tack, a very important question facing the theorists of freedom is how to measure freedom. Do we understand in purely



quantitative terms, such as a ratio between freedoms and the total of freedoms and unfreedoms (as suggested by Carter 1999)? Or do we include qualitative elements in our measure (as suggested by Kramer 2003)? Surely one reason that the capabilities approach has risen to such prominence is its provision of a relatively tractable index. We can turn freedom into a set of goods that can be empirically measured via proxies such as literacy rates and life expectancies.<sup>17</sup> It is not surprising the capabilities approach has inspired a real-life index in the form of the Human Development Index.

There is something obviously right about a choice-based approach to freedom. Many situations seem adequately captured by taking freedom to involve the promotion of choices. If I am in a room, and the door is locked from the outside, it would seem perverse to say I was free to leave regardless of how the door came to be locked.<sup>18</sup> The choice of leaving is not a choice I have, independent of whether or not I want to leave the room. Similarly, a strength of the capability approach is that it gives us a language to describe how poverty restricts our freedom. By limiting our capabilities, poverty limits our ability to realize various combinations of options. Yet another point in favor of the choice-centered approach is that ordinary discourse surrounding freedom tends to take on

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<sup>17</sup> It reasonable to ask whether or not the capabilities approach confuses freedom with power or welfare or some other value (Cohen 2011, Chapter Three). My focus is not the capabilities approach, but it is important to point out that accounts of freedom as a sort of power do not make it equivalent to power. The capabilities approach, for example, delineates what powers count as a part of our freedom. So it still makes sense to speak of a distinction between freedom and power on these more ability-oriented approaches.

<sup>18</sup> This is an example adapted from Miller 1983.

such an approach. For instance, in a series of interviews primarily with young adults, C. Fred Alford finds that many of his subjects do not see freedom primarily in terms of formal rights held against others.<sup>19</sup> Rather, freedom for his subjects involves money or power, or the actual ability to do what one wants (Alford 2005, 10-15).<sup>20</sup>

Choice-based approaches to freedom treat freedom as a value to promote. We might say that freedom on the choice-based approach is treated as a kind of variable input into the overall moral calculus. What each variant of the choice-based approach offers is an answer to two different questions: (i) how do we determine the value of the variable in question (freedom) for any given agent? And (ii) what principle should determine the distribution the variable across the population of agents? So, to give a sense of how this could go, we might aim for (i) the overall availability of options (ii) distributed as such to maximize average availability of options, or (i) basic capabilities (ii) distributed as such to make sure every person meets a minimum threshold, among other various

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<sup>19</sup> And when they do, they tend to discount the value of such freedom absent power.

<sup>20</sup> Such subjects might be reasonably accused of confusing freedom with power (Hayek 2011, 65-69; Berlin 1969, liii). My point in bringing up these subject's accounts is not that I think they provide the most perspicuous accounts of freedom, but that their answers focus on *choices* rather than *relationships*. Insofar as choice-based approaches generally (though not in all the particulars) concur with this, this is a point in their favor. There are good reasons to agree with Berlin and Hayek that power and freedom are distinct concepts. However, just because two concepts are distinct, it does not follow that they are not unrelated.

combinations between (i) and (ii). To this extent, choice-based approaches do quite well in meeting FR. But how do they score on PCR?

The first thing to notice is that choice-based approaches ultimately take freedom to be the property of individuals. Choice-based approaches do not see freedom as a property that emerges from agents interacting with one another, but instead as an exogenous variable to the situation. To borrow a term from game theory, the problem of freedom is fundamentally parametric in nature on the choice-based approach. That is, we suppose that the choices of one agent do not depend on the choices of others. In this way, one could increase any given agent's freedom if one had access to the right knob or lever independent of the position of other agents. The issue here is that, by focusing on the choices of any one agent and taking all others as fixed, these approaches to freedom become insensitive to how choices are made against background of other agents with their own choices to make. The situation described here is not parametric, but strategic (see Schmitz 2017). Our choices are influenced by the choices made by others who in turn make their choices based on how they expect us to choose.<sup>21</sup> These are not matters of knobs and levers, or some passive machine that operates independently of one's choices. Instead, the strategic nature of choosing involves understanding that one's choices impact how others choose. The converse is also true. How others choose impact how one chooses.

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<sup>21</sup> In this way, the term strategy only means to denote “the interdependence of the adversaries’ decisions and on their expectations about each other’s behavior” (Schelling 1960, 3)

An important aspect of how freedom operates in ordinary discourse is that it works as an adverb (Connolly 1983, 158-160). We do not just choose, but choose *freely*. We also act *freely* on those choices. Using free as an adverb helps distinguish free actions from those taken under duress or force. Importantly, both of these antonyms of acting freely involve acting under the undue influence of other persons. From the perspective of freedom, it is important that we act in coordination with, but not in subordination to, others. Or, to put it in Kantian terms, “You are independent if you are the one who decides what ends you will use your means to pursue, as opposed to having someone else decide for you” (Ripstein 2009, 33).

I suggest that choice-based approaches to freedom are poorly equipped to dealing with the interdependence of our choices, creating problems for meeting PCR. Based on the discussion above, this problem arises most clearly in understanding invasions of freedom. A choice-based approach in its purest form seems indifferent to *how* our options are reduced. But, it appears a strong intuition regarding political freedom is that when others restrict our choices this implicates our freedom in different ways as when misfortune or nature constrains our choices. For example, if we are unable to rise from our bed, it makes a great deal of difference of *why* we are unable to do so in order to say something about our freedom. Are we simply too sick to get up? Or are we kept down by a bookshelf knocked down by an earthquake? Or, has someone tied us to our bed against our will? Constraints on our choices that others are responsible for loom large in ways that intuitions about freedom that other sources of constraints do not.<sup>22</sup> A problem for

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<sup>22</sup> I use “responsibility” in an ambiguous way here on purpose. It is a matter of debate in the literature whether or not others must be causally responsible (e.g. Kramer

choice-centered accounts of freedom is accounting for this intuition. For those who take the choice-based approach, they must face the following question: How can they explain the difference between constraints on freedom caused by other agents and those not caused by agents?

Theorists in the choice-based approach tend to respond in two ways. The first response is to simply deny that the distinction between agents and other sources of constraints matters. If our theory of freedom leads us to care about our choices, then the pre-theoretical intuition canvassed above should be abandoned as lacking justification.<sup>23</sup> Consider Thomas Hobbes, who I take to be a deeply (if not the most) important historical figure in the choice-based tradition:

Liberty, or FREEDOME, signifieth (properly) the absence of Opposition; (by Opposition, I mean externall Impediments of motion;) and may be applied no lesse to Irrational, and Inanimate creatures, than to Rationall. For whatsoever is so tyed, or environed, as it cannot move, but within a certain space, which space is determined by the opposition of some externall body, we say it hath not Liberty to go further. And so of all living creatures, whilst they are imprisoned, or restrained, with walls, or chayns; and of the water whilst it is kept in by banks, or vessels, that otherwise would spread it selfe into a larger space, we use to say,

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2003) or morally responsible (e.g. Miller 1983) for a constraint to count as such. For a general discussion of these issues, see section 5 of Carter 2016.

<sup>23</sup> This would be what Shelly Kagan calls a “*dangling distinction*” (1989: 14)

they are not at Liberty, to move in such manner, as without those externall impediments they would. But when the impediment of motion, is in the constitution of the thing it selfe, we use not to say, it wants the Liberty; but the Power to move; as when a stone lyeth still, or a man is fastned to his bed by sicknesse (Hobbes 1996: 145-146, Chapter XXI).

While Hobbes believes there is a difference between internally caused and externally caused impediments, it is clear he does not believe there is a distinction between person-caused and nature-caused external impediments. For example, from this perspective I am just as unfree to cross the mountain pass if a rockslide blocks my path than if you purposively use dynamite to cause the rockslide to block my progress. Some go further than Hobbes and suggest inabilities constitute constraints on freedom. To take one case, Philippe Van Parijs states, “I can lack real freedom to swim across a lake despite my being the full owner of myself, not just because I would not be granted permission by the private owner of the lake, but also because my lungs or limbs would give in before reaching the other side” (Van Parijs 1995, 23).<sup>24</sup> Thus, the theorist who takes the choice-based approach could abandon the intuition that restrictions on choice that others are responsible for make an impact on our freedom in ways other restrictions do not. That said, making this move generates problems for meeting PCR.

A second response by those who take a choice-based approach to freedom is to simply incorporate the intuition into the account. For example, Hillel Steiner simply

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<sup>24</sup> It also appears the capabilities approach to freedom must be indifferent to whether or not the restriction on one’s choice is social or natural.

states a “person is unfree to do an act if, and only if, his doing that action is rendered impossible by the act of another person” (Steiner 1994: 8). Of course, some may notice this ad hoc approach sits uneasily with the core of the choice-based approach. Built into the choice-centered approach is a pressure towards the first response I canvassed, that of abandoning the intuition that social sources of restriction count whereas natural sources do not. This is because not only does there appear to be no principled reason to restrict sources of unfreedom to social as opposed to natural, but also the foundation of the theory tells against it. If the starting point of a theory of freedom is the value of a free choice, then we should be concerned with promoting that value. An inhibited choice remains inhibited even if it is no one’s fault. Some in the choice-based tradition attempt to deal with this tension by creating a triadic approach to freedom (e.g. Kramer 2003).

The ad hocism of incorporating social sources of unfreedom into a choice-based approach generates problems for FR even if it better fits PCR. How are we to weigh unfreedom created by social sources against those created by natural sources? It is not clear. This is not to say that there is *nothing* in the choice-based approach that captures our common understandings of freedom. As noted, Alford’s interviews suggest otherwise. According to those interviews, many tend to believe freedom is not about freedom from others, but freedom to do certain things. Thus, we seem to have two strong intuitions regarding freedom: First, that freedom involves a status or kind of relation free of subjection by others, and, second, that freedom also involves the range of choice open to any person independent of their relation with others. An important question for any theory of freedom is how to deal with the tension between these two intuitions. We have seen that the choice-based approach embraces the second intuition at the cost of the first

one. However, the first intuition provides insight into an alternative approach to freedom, what I call a status-based approach.

### 3.3 STATUS-BASED APPROACHES AND THEIR LIMITS

To get at the status-based approach to freedom, it is simplest to begin with the republican tradition of freedom. A central component of that tradition is taking freedom to involve holding a certain status (Skinner 2008). That being said, we will spend much more time on the republican conception of freedom in the next chapter. As a result, much here is only a sketch in order to get the main ideas on the table. My purpose here is not to critically evaluate the republican conception of freedom, but to get a better grasp on what distinguishes status-based approaches to freedom from choice-based ones.

First, we should start with the republican contention that freedom is not merely about one's choices, but about one's standing or status in making those choices. As noted in the introduction of this chapter, Philip Pettit, the chief philosophical proponent of the revival of this tradition, makes much of the notion of the free person in contrast with the free choice (e.g. Pettit 2007). One has free choices to the extent one enjoys "social capacity or standing" in the form of equal citizenship (Pettit 2007, 718). To use the language of republicans, this status or standing confers a condition of non-domination upon persons, or condition where one is not subject to the arbitrary power of others.<sup>25</sup>

I am now in a position to explain why I want to resist Pettit's way of thinking about the distinction between choice-based and status-based approaches. As depicted by

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<sup>25</sup> Republicans disagree on what constitutes arbitrary power (Lovett 2012). This need not concern us here.



Pettit, choice-based and person-based approaches are mutually exclusive. *Either* we take the free choice as the central usage of the property *or* we take the free person as the central usage. This dichotomy is often touted as a selling point for republicanism, as it helps shore up the idea that republicanism offers a unique alternative political ideology to liberalism that cannot simply be assimilated (Pettit 1997, 7-11; see also Skinner 1998; cf. Dagger 1997, 11-24). However, it is not obvious to me that we need to build into our distinction such a dichotomy. Why make it a conceptual necessity from the get-go that choice-based and person-based approaches are antagonistic to each other? This question is particularly salient given that both approaches capture the two different, yet fundamental, intuitions surrounding freedom noted above. In what follows, I hope to show that status-based approaches to freedom also have difficulty meeting PCR. While choice-centered approaches are poorly equipped for dealing with the intuition that part of our freedom involves a kind of status free from subjugation by others, the republican approach does a poor job dealing with intuition that we are more free to the extent our choices are unhindered, regardless of the source of the hindrance.

The notion of status can come off as archaic.<sup>26</sup> In our ordinary language, status-talk often appears in unflattering contexts. Calling someone a “status seeker” or “status obsessed” is not a complement. Likely this is due to status being associated with an earlier time of social hierarchy, more fitting for the likes of those portrayed in *Downton Abbey* than us in our modern framework. Beyond ordinary language and in the philosophical literature, the idea of status plays an important role in deontological ways

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<sup>26</sup> Given this, it is not surprising that the primary protagonists of the republican tradition are from the eighteenth century and earlier.

of approaching morality, most prevalent in the Kantian tradition. Our status as “free and equals” is closely connected with Kantian claims of “respect for persons.” In this way, contemporary moral philosophy attempts to extirpate the idea of status of its old hierarchical connotations in favor of, to use Jeremy Waldron’s phrase, an “upwardizing equalization of rank” (Waldron 2012, 33). Despite this shift, the normative structure of status remains: Status is an object of our respect.

Following Stephen Darwall, we can distinguish between “appraisal respect” and “recognition respect.” Appraisal respect involves a kind of admiration we hold for others in virtue of some performance or character they hold. For example, consider the respect I may have for your mastery of the Spanish language, or I can respect a particular move made by a chess player. Respect in these contexts refers to an attitude I hold towards the performance or skill, and need not have any practical implications. Recognition respect does not involve admiration or esteem for its subject. Instead, recognition respect involves “giving appropriate consideration or recognition to some feature of its object in deliberating about what to do” (Darwall 1977, 38). Recognition respect involves what Colin Bird calls a “deliberative disposition” (Bird 2004, 209-210). This comes out clearly when we contrast recognition respect with appraisal respect. Appraisal respect involves only a positive attitude or feeling. Such an attitude need not have any bearing on one’s practical deliberations. In contrast, one cannot have recognition respect for something without it impacting one’s deliberations. I can admire your serve as a tennis player, but, if you are my rival on the court, it would be peculiar to say I respected your serve if I fail to prepare for it. Losing the point due to such a lack of preparation reveals I had insufficiently respected your skill. Interestingly, my failure to respect your serve in this

practical sense can be seen as a separate matter from my admiration or lack thereof for your skill.

To say that one has a status that others must respect, then, is to assert a claim to particular forms of treatment from others based on that status (Bird 2004, 221-222). Like a backstage pass at a concert entitles one to claim a right of access to the backstage when questioned by the bouncer, I want to suggest that status of the free person entitles one to forms of treatment that exhibit respect for that status. To treat freedom as a status, then, involves putting persons in a position to claim respect from others for their capacity of choice. Because of this, freedom as a status is fundamentally social. It involves the ways we relate and treat one another. We are not entitled to certain forms of treatment by nature because it makes no sense to suggest we have a “claim” on nature in this sense. Thus, freedom as a status captures the intuition that human restraints on our choices are categorically different than those presented by nature or misfortune. When humans threaten or manipulate us, they fail to treat us in a way our status demands. Nature can do no such thing.

So far, status-based approaches meet FR in their focus on treatment by others. Though, as in choice-based approaches, the very elements of status-based approaches that satisfy FR raise problems for satisfying PCR. Built into treating freedom as a status is that freedom inherently involves social relations. But, as I pointed out earlier, there are powerful intuitions that our freedom is restricted regardless of whether or not the source is social or natural. As a result, the status-based approach can generate some awkwardness or counter-intuitive implications in dealing with certain cases. Consider “the prisoner-argument” I noted when introducing PCR (Wendt 2011, 284). In a well-

ordered republic, a criminal thrown in jail does not have his status as a free person vitiated. This is because, in a well-ordered republic, the laws that authorize throwing the criminal in jail do not embody arbitrary power, and, as such, do not involve domination. So while it is one thing for my neighbor to throw me in my basement for committing a punishable offense, which would constitute an infringement of freedom, it is quite another for society to do so, which does not constitute such an infringement on the republican view. But notice the peculiarity of this claim. The republican wants us to say that the prisoner remains free in the sense that his status as a free person in society remains intact. However, in a visceral sense, he is no longer free, regardless of whether it is a well-ordered society or his neighbor that throws him in jail.<sup>27</sup> Walls and bars prevent him from leaving and interacting with society at large. This is not an eccentric interpretation of the prisoner's situation, but the most natural one (Cohen 1983, 4). I take it that part of the point of imprisonment is that it strips the offender of his freedom. This is why it is a form of *punishment*.<sup>28</sup>

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<sup>27</sup> Considerations such as this lead Niko Kolodny to suggest the important distinction between the two cases is not about freedom, but instead about in being in a position of subordination (Kolodny 2016, 63-67).

<sup>28</sup> What an odd form of punishment imprisonment would be if it left the offender free as he was before.

Pettit responds to these kinds of cases by making a distinction between “invasions” of freedom and “vitiations” of freedom (Pettit 2012, 35-49).<sup>29</sup> For the sake of illustrating this point, let us accept the republican account of freedom. If I hold power over you that you cannot check, this constitutes an invasion of one’s freedom in the form of domination. Thus, if my neighbor throws me in his basement as a way of enacting vigilante justice, this constitutes an invasion of my freedom insofar as he is not answerable to me. However, if the state throws me in jail, it does not invade my freedom insofar as the state is accountable to me through various legal and democratic measures. Nonetheless, this does not mean my freedom is entirely untouched on this view. While my freedom is not invaded by the state, it is vitiated. While I may not be free due to my imprisonment, I am not unfree in the sense that I am subject to some alien power or will through this imprisonment.

The difficulty with this response is that it runs into the flip side of the problem that staunch choice-based approaches run into canvassed earlier. The distinction between invasions and vitiations of freedom, while certainly sensible insofar as it aids in meeting PCR, but creates problems for meeting FR. How is one supposed to understand the relationship of vitiation and invasion in evaluating states of affairs? This question takes on particular salience to the extent that the republican wishes to cleanly delimit his or her view from the liberal view. Republicans sometimes suggest that, on their view, government interference does not count as an infringement of liberty whereas on the

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<sup>29</sup> In earlier work, Pettit makes a similar distinction between “conditioning” and “compromising” (1997, 75-76). It is not clear to me what Pettit sees as the difference, and why he opted for this shift in terminology.

liberal view it does (Pettit 1997, 148; cf. Rogers 2008, 805-809). However, by introducing a concern with “vitiating,” this distinction becomes blurred, as even the republican must admit that the law involves vitiations of freedom.

### 3.4 THE SPHERE OF CHOICE: A FIRST CUT

We now have our two approaches to freedom on view: the choice-based approach and the status-based approach. What distinguishes the two on my account is they offer different ways of engaging freedom as a value. Choice-based approaches seek to promote freedom, while status-based approaches seek to respect it.

As noted, both approaches involve some tension in meeting two different requirements of an adequate account of freedom as a political ideal. In attempting to provide practical guidance (what I have termed *the functionality requirement* or FR), both approaches run into issues with meshing with our pre-theoretical intuitions about the freedom of agents in particular agents (what I have termed *the paradigmatic cases requirement* or PCR). As we have seen, both approaches capture important intuitions about our idea of freedom, while missing others. Choice-based approaches appear to miss intuitions about how agent-based restrictions on freedom take on an urgency that non-agent-based restrictions lack. Status-based approaches lead to the odd conclusion that an agent is free when that agent is locked up so long as such punishment conforms to respect for his status. Both approaches are not unaware of these issues, and attempt to navigate these issues on their own terms. However, these tend to appear ad hoc and unmotivated.

We are now in a good position to return to the notion of a working account of freedom. Recall that such an account will be a product of convergence rather than

consensus. I think a promising place to look for convergence is in the tension faced by both approaches to freedom. I believe this because this tension is where both approaches rub up against each other. At this point, each approach attempts to account for the intuitions best captured by the other. How do we reconcile a concern for choice with a concern for status? Each approach offers its own set of answers. What I plan on doing in this section is offer an answer in the form of a model that will serve as a candidate for the approach to freedom: what I call *the sphere of choice*. The sphere of choice is designed to capture elements of both approaches. Further, the idea of the sphere of choice illuminates an avenue of reconciling these two approaches to freedom more generally. Specifically, I suggest how the two approaches to freedom provide answers to two different, but compatible questions related to freedom. We might ask whether or not the society we live in is a free society. Or, knowing we live in a free society, we can ask *how* free we are relative to other free societies.

Prior to describing the idea of a sphere of choice, I want to see a bit about how I understand it as a model in this context. A recent turn in political philosophy (what might be called the PPE turn) has involved incorporating models into normative analysis (Gaus 2016, xv-xviii). What this tends to mean in practice is the use of formal models and the tools of rational choice theory in normative analysis. While I have relied on some of these concepts and ideas in this chapter and others (e.g. my discussion of freedom as concerning strategic as opposed to parametric situations in this chapter), this is not how I primarily understand the sphere of choice. The sphere of choice is not like a prisoner's dilemma or Rawls's original position – it does not model a strategic choice situation among various players or parties. Neither is it formal in the sense that it involves

techniques of formal logic or mathematics. Instead, the sphere of choice is a model more akin to the molecular models you find in chemistry. A physical ball-and-stick model is not a true visual representation of the molecule it is supposed to represent. Nonetheless, such models give us some insight into the modeled molecule insofar as it acts as analogy (Hesse 1963; see also Frigg and Hartman 2012, Section 1.1). Similarly, the sphere of freedom is not intended to be an accurate empirical description of what occurs, but rather act as a metaphor that provides normative guidance in how we should think about freedom. Again, the intention is to explore the concept of freedom in a way that reconciles both choice-based approaches and status-based approaches. If the model fails to provide additional conceptual clarity on the question of freedom, but instead obscures or unnecessarily complicates the issue, then I have failed.<sup>30</sup> To this extent, whether or not I am successful in this task will be up to you.

To begin, we can describe a person as having *a sphere of choice*. Each of us is granted a sphere of choice by our situation. There two things to notice about the idea of a sphere of choice. First, that it is a sphere of *choice*. Thus, an element of the sphere of choice is the choices that populate it. This involves the possible courses of action available to the person based on his or her situation. This aspect should be familiar from our treatment of choice-based approaches. Note that the model as specified is agnostic on a variety of questions that arise in discussion of understanding the relation of choice and freedom. It does not tell us how we should weigh various options, whether we should weigh them according to the value attached to them by the person, nor if we should

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<sup>30</sup> On the relation between models and conceptual clarification in political theory, see Johnson 2014.



weight choices according to some conception of the good, nor if we should jettison weighted options at all.

The second thing to notice is that it is a *sphere* of choice. We do not just have choices floating free in space. Our choices on the model populate a sphere. In this way, the sphere acts as a container of sorts for our choices. Like a container, then, a sphere may be more or less sturdy. It may stand up against certain attempts to invade it, leaving our choices secure. Or, our sphere of choice may collapse at the slightest nudge, leaving our choices exposed and uncertain. The basic point of the sphere metaphor is to capture how our choices are not simply given. When deliberating over a course of action, we have a sense of the relative stability of the choices facing us. This is what the metaphor of a sphere or container is intended to capture.

The model of the sphere of choice, then, involves two dimensions of our freedom. For one, as per the choice-based approach, the sphere of choice models how freedom involves the quantitative question of *how* free am I. Do I have more or less choice? But the sphere of choice also models the more qualitative question of *am* I in fact free. Do my choices stand up to encounters with others? Importantly, the sphere of choice models *both* questions as sensible. As Chandran Kukathas points out, the republican claim that having a master *necessarily* means one lacks freedom papers over the fact that not all masters are equal in what they permit their slaves to do (2009). Likewise, some despots are more permissive than others in how they govern their society. Surely this is worth noting as a matter of freedom. Nonetheless, the model certainly is not neutral between the two questions. Lacking a solid sphere, our choices are too precarious to count on in our planning. It may be true that my despotic society is more “liberal” than yours, but

nonetheless it would be a farce to call a despotic society a *free* society. Where some rule over others, those others are unfree in a fundamental sense. That being said, even among free societies we find variation. It is perfectly sensible to ask whether or not one society is *more* free than another, even if both societies meet the threshold of being a free society.

### 3.5 CONCLUSION

In this chapter, I exploited a conceptual tension latent within two different approaches to freedom to produce a sketch of a possible candidate for a working account of freedom in the form of the metaphor of a sphere of choice. Obviously, I have only given a sketch of the basic metaphor at this point. To this extent, the idea of a sphere of choice raises a number of questions I have yet to answer.

These issues set the targets for what a complete theory of freedom would involve. This project does not offer such a complete theory. What compels this project is not a concern with freedom in all of its guises, but instead a concern with the relationship of our ideals of freedom to social norms. To this end, I want to provide a better answer to the question: Is this society a free society? What makes up our status as free persons? Thus, while I cannot provide a full account of the sphere of freedom, I can provide partial account, leaving aside the question of what makes one society more free than another. We now have a better grasp on this question than we did when we started, and this will help us in what follows. As noted, the republican tradition focuses on the idea of the free society. Any investigation into the nature of the free society must address this tradition in detail. However, as I hope to show, the shortcomings of the republican tradition reveal an important feature of freedom as status: the social bases of freedom. The social bases of

freedom will help us fill out what exactly it means for sphere of freedom to be a *sphere*, and turn out to be essential in understanding the role of social norms in the free society.

#### IV. THE SOCIAL BASES OF FREEDOM

If the idea of freedom as a status is central to the ideal of the free society, we need an adequate account of freedom as a status to understand that ideal. This chapter attempts to provide such an account. Fortunately, we need not construct such an account from scratch. A whole tradition to freedom takes as its foundation the idea of the free person: The republican tradition. For the republican, one is free to the extent one is not subject to domination by others. Such a condition requires holding a social status or standing relative to others. Lacking such standing, the republican suggests we become subject to arbitrary power, and thus unfree.

The republican approach presents a promising starting point for thinking about freedom as a status, but, as I will argue, the republican approach to freedom faces problems. The first half of this chapter is dedicated to discussing one such problem. I will argue the republican approach to freedom faces what I will call *The Threshold Problem*. By focusing on possible interference by agents, the republican approach to freedom appears too stringent. Not only does the republican approach appear to condemn ordinary, daily interactions as invasions of our freedom, but also the republican approach fails to capture *why* such quotidian interactions fail to invade our freedom. But such conclusions appear absurd (or so I will suggest) and appear to disqualify the republican approach to freedom for guiding normative judgments. Indeed, I suspect *no* account of domination can avoid the threshold problem. Nonetheless, we can learn from the flaws of the republican approach to freedom.

The republican's focus on bilateral relations between persons (e.g. the relationship between slave and master) is what is responsible for creating the threshold problem. Focusing on bilateral relationships misses the social context within which these relations are managed and formed. The second half of this chapter takes up this more social approach to understanding freedom as a status. I argue that attention to *the social bases of freedom* is necessary to understanding the idea of freedom as a status. The social bases of freedom are features of our social world we can count on in making plans or going about our business. These social bases give us good reason to consider ourselves as free by shoring up our sphere of choice against potential interference. Lacking such bases, our choices become vulnerable to the interference of others.

Prior to exploring these issues, I want to point out that while my claims in this chapter develop insights by republican theorists of freedom, their force is not limited to such accounts. As the social bases of freedom render choices resilient to interference, surely this matters to those who argue that freedom as non-domination mistakes freedom proper for the conditions of freedom (e.g. Sreenivasan 2001; Goodin 2003, 60-61). Even if non-interference is the best account of political and social freedom, a better understanding of the conditions of that freedom is essential to promoting such freedom. In this way, this conversation should be constructive for all parties, as we should expect from a general amendment to our understanding of freedom. We can learn from the republican approach to freedom, even if we ultimately opt for an account of freedom as non-interference. From the other side, defenders of the republican conception of freedom may wonder if I protest too much in my discussion of the threshold problem, missing the forest for the trees. Regardless, my arguments raise questions of *how* proponents of

republican freedom ought to promote freedom. Rightly or wrongly, republicans tend to distinguish themselves from liberals on the grounds that republican freedom is less suspicious of state interference (Pettit 1997, 148; cf. Rogers 2008, 805-809). As you will see in this chapter and the next, I will blur this self-avowed distinction, pushing republican freedom in a less trusting direction of state interference. Nonetheless, I begin with freedom as non-domination as republicans focus on the status of citizenship and its relation to freedom. As this too is my focus, I would be prudent start with the work of others rather than start anew.

#### 4.1 REPUBLICAN FREEDOM

The idea of the free person is at the center of the republican tradition (Skinner 2008). For republicans, the *liber*, or free citizen, is free in virtue of his or her standing relative to other agents. This is because the free person is free from *domination* by other agents. Free from domination, the free person can, to use Pettit's metaphor, stand tall and look co-members of his or her society in the eye without fear of repercussion (Pettit 2012, 84-87; Pettit 2014, 98-100).

In contrast with the free person, republicans often consider the case of the slave with a benevolent master as paradigmatic of unfreedom. To make this more concrete, consider the following:

*Slavery:* You are a slave, but your master is benevolent. He lets you take long walks on Sundays. Other masters are not so permissive. It is certainly possible that your master may crack the whip, but he has not in the past when you have exercised the

choice he has granted you. Nonetheless, you know that the only thing standing between you and the whip is your master's continued goodwill. Given this, you attempt to pre-empt such worries by ingratiating yourself to your master. You believe this will keep you in good terms with him.

The point of *Slavery* is to push the point that a slave is categorically unfree, no matter how benevolent or permissive his master is. No matter the range of choice granted him by his master, the slave remains unfree. This is because, even if the slave can make certain choices free from interference, he remains subject to the power of his master. On a republican account, then, one can be unfree even if one does not encounter interference. Thus, republicans normally describe their account of freedom as non-domination, in contrast with accounts of freedom as non-interference. While there is dispute among republican theorists about how to properly understand domination, we can generally say that an agent A is unfree when A is subject to the arbitrary power of another agent B.<sup>31</sup> Here, I will primarily engage Pettit's account of freedom as non-domination. Pettit's account is the most influential, and among the most philosophically sophisticated and developed. We can learn much by addressing such an astute analyst of freedom.

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<sup>31</sup> Dispute surrounds the proper interpretation of *arbitrary* (Lovett 2012). While Pettit has recently abandoned the language of "arbitrary interference" in favor of "uncontrolled interference," we can read "uncontrolled" as an interpretation of arbitrary (Pettit 2012, 58-59).

Power on the republican account appears to be understood as the capacity to interfere with other people's choices. For example, Pettit, when he does not describe freedom as requiring non-domination, instead uses the idea that freedom requires "robust non-interference" (Pettit 2015, 2-3). By robust non-interference, Pettit means that interference should not be readily accessible to other agents. Where interference is readily accessible, we find persons in relations of domination. To illustrate this idea, consider again *Slavery*. The benevolent master may not interfere with his slave in *this* world, but the slave is subject to interference in "readily accessible worlds" (Pettit 1997, 24). Were the master to change his mind about the slave's long walks on Sundays, the master would be in a position to prevent such walks. The distance between the world where the master's disposition is benevolent and where it is not so benevolent is not so far. Such a reading involves a modal interpretation of robustness.

This more metaphysical way of understanding the role of robustness in republican accounts of freedom is supported by Christian List's treatment of the rule of law requirement he sees as built into republican accounts of liberty. For List, the rule of law requirement is satisfied when an agent's "rights set captures the range of choices the agent is *guaranteed* to be able to make *across all relevant possible worlds*" (2006, 211). Another way to understand this modally robust account of freedom is that one's choices are free in the republican sense when one's preferences are decisive independent of context and content (Pettit 2001b, 4; see also List 2004). In *Slavery*, the decisiveness of your preference to take long walks on Sunday depends on your master's good will. If your master changes his will, and becomes less benevolent and decides to put a stop to your long walks on Sunday, your preference to take long walks on Sunday is no longer



decisive. Thus, in *Slavery*, your preference is not decisive independent of context and content.

Prior to moving on the threshold problem, it is worth pausing for a moment to point out what makes freedom as non-domination distinctive from freedom as non-interference. On the republican account, interference does not always involve an invasion of freedom (Pettit 2012, 49-59). Interference only invades freedom when it is uncontrolled or unchecked by the subject of interference. This is not to say that interference checked in this manner does not implicate an agent's freedom. I will discuss how this might be the case in §4.5. The only point is that such interference does not involve an invasion of freedom by others. An agent's freedom is only invaded when another holds power over that agent in a certain manner.

#### 4.2 THE THRESHOLD PROBLEM

A natural question for the republican is, if freedom is understood as not being subject to interference in “readily accessible worlds” as Pettit suggests, how should we understand “readily accessible”? To put this question another way, what distinguishes readily accessible worlds from inaccessible or even not-so-readily accessible worlds? This is the threshold question (but not the threshold *problem*, yet!). The threshold question draws attention to the need for republicans to delineate at what level does the possibility of interference trigger an invasion of an agent's freedom.

One answer to the threshold question sets it at the lowest possible level. Following, Robert Goodin and Frank Jackson, we can call this answer to threshold question *possibilism* (2007, 250-251). We can understand *possibilism* as follows:

*Possibilism:* An Agent A is subject to domination by agent B if it is possible for B to interfere with A's  $\phi$ -ing. It is possible for B to interfere with A's  $\phi$ -ing if there is a possible world where B actually interferes with A's  $\phi$ -ing.

*Possibilism* makes the distinction between readily accessible worlds and not readily accessible worlds a simple one: It becomes the distinction between possible and impossible worlds. Or, more simply, you are dominated insofar as it is possible for someone to interfere with your choices. Further, possibilism provides a plausible answer to threshold question insofar as it does give us a good explanation of the relationship captured in *Slavery*. The slave is subject to domination by the master because, while the master does not *actually* interfere with the slave's long walks on Sunday, it is *possible* for the master to interfere with the slave's long walks on Sunday. Nonetheless, possibilism faces a severe problem that is instructive for thinking about the Republican approach to freedom and freedom as status more generally.

The main problem with possibilism is that it is overinclusive (Goodin and Jackson, 2007, 252-255). Possibilism about interference suggests that certain situations involve relationships of domination when they obviously do not.<sup>32</sup> Consider the following case:

*Barbershop:* you go to your local barber for a shave. You ask for a close one. With the barber's razor at your neck, the thought crosses

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<sup>32</sup> See also Gaus 2003, 69-73; Kramer 2003, 135-143; and Dowding 2011 for similar criticisms of the republican approach to freedom.

your mind that you are completely vulnerable to the barber in this moment. It would not take much from the barber to end your life. To this extent, the barber holds a real power over you. However, you quickly expunge the thought from your mind. Only a pathologically paranoid person would plan for such a gruesome and shocking possibility. You blame having recently watched *Sweeney Todd* for placing such thoughts in your head. Your shave ends and you pay your barber for a job well done.

In *Barbershop*, it is certainly possible that the shave turns gruesome for the customer. However, it appears odd to therefore claim that the customer is made unfree by the barber's possession of this power over him, even though this conclusion seems to be what possibilism demands. Or, to use another example, consider walking down a crowded street in a low-crime area in broad daylight. It is certainly possible that everyone passing by may push you into oncoming traffic. Though, like in *Barbershop*, it would be odd to say you are unfree, or subject to domination by your fellow pedestrians. The mere possibility of interference cannot be what designates a world as readily accessible – such an interpretation is a recipe for pathology and paranoia.<sup>33</sup>

While possibilism fails as an adequate answer to the threshold question, we can generalize from its failing to generate two desiderata that any adequate answer to the threshold question will have to meet to provide a satisfactory account of freedom as non-

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<sup>33</sup> This point parallels John Harsanyi's criticism of the maximin decision procedure as a basis of rational action (Harsanyi 1975).

domination. These desiderata together form *the threshold problem*. First, an adequate answer to the threshold question will correctly diagnose the relationship depicted in *Slavery* as a relationship of unfreedom. An answer to the threshold question that fails to do so will be underinclusive – it will fail to account for a paradigmatic case of unfreedom. But, second, an adequate answer to the threshold question will at the same time avoid diagnosing the relationship depicted in *Barbershop* as a relationship of domination and unfreedom. An answer to the threshold question that does so will be overinclusive – it will condemn intuitively unproblematic relationships as ones of unfreedom.

To summarize the discussion thus far and bring these observations together:

*The Threshold Problem:* Freedom as non-domination can also be described as freedom as robust non-interference. Robust non-interference requires not just that your choices are free from interference in this world, but also in readily accessible worlds. However, we need a way of distinguishing possible worlds that are readily accessible from possible worlds are not readily accessible (this is the threshold question). Whatever threshold we use to distinguish readily accessible worlds from not readily accessible worlds must explain why the slave is unfree in *Slavery* while at the same time avoid evaluating the customer as unfree in *Barbershop*.

One response to threshold problem involves abandoning the threshold question. If we do not have to face the threshold question, the threshold problem never arises. Goodin and Jackson do just this. In response to the problems generated by possibilism about interference, Goodin and Jackson endorse what they call *probabilism*: “Your freedom is impaired in proportion to the probability of someone interfering with your actions” (2007, 50-51). Probabilism abandons the threshold question because it is not interested in picking out a threshold at which possible interference converts into domination. Instead, probabilism guides us to consider and weigh various probabilities of interference in evaluating the freedom of agents. While endorsing probabilism avoids the absurd conclusions of possibilism, this move closes the gap between freedom as non-interference and non-domination.<sup>34</sup> In order to preserve a distinctively republican approach to freedom, the republican needs a solution to the threshold problem that neither dissolves the threshold question nor commits the absurdities of possibilism.

#### 4.3 REPUBLICAN RESPONSES TO THE THRESHOLD PROBLEM

In a response to Goodin and Jackson, Pettit suggests that Goodin and Jackson unduly limit the possible ways of evaluating interference. The choice is not between possibilism and probabilism, or even *actualism* (that we should only consider those interferences that *actually* occur, Goodin and Jackson 2007, 251). Pettit suggests an

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<sup>34</sup> Ian Carter suggests that, once we account for the probability of interference, the judgments made by partisans of freedom as non-interference about the freedom of agents in particular cases become equivalent with those judgments made by partisans of freedom as non-domination (Carter 2008, 66-71).

alternative to these approaches that he calls *bounded probabilism* (2008, 216-219). A bounded probabilistic approach to interference suggests with possibilism that some possibilities of interference register as invasions of freedom. But, unlike possibilism, not *all* possibilities register. Thus, only a subset of possibilities registers as involving an invasion of freedom. The subset in question will vary on which conception of freedom one adopts (Pettit 2008, 218). Beyond that subset, we weigh interference probabilistically. In this way, bounded probabilism combines possibilism and probabilism.

While Pettit's target is Goodin and Jackson's construal of republican freedom as committed to possibilism, we can infer from his a response the structure of a response to the more general challenge posed by the threshold problem. Bounded probabilism promises to offer a satisfactory response to the threshold problem. The difficulty raised by comparing *Slavery* with *Barbershop* is that, in both scenarios, one agent is vulnerable to the power of another – both the barber and the master are in a position to interfere with the customer and the slave respectively. What bounded possibilism promises to provide is a way of distinguishing the possible interference by the barber from the possible interference by the master. Thus, it is worth spending time on Pettit's explanation of and case for bounded probabilism.

Pettit derives bounded probabilism as a way of solving a problem facing unbounded probabilism (Pettit 2008, 216-217). The problem is that a straightforwardly probabilistic approach is indifferent to how the expected probability of interference is sensitive to one's desires. To illustrate this, consider the following situation. Suppose I am deciding on whether or not to go swimming. While I am deliberating about this choice, I learn that my rival will nefariously lock the gate to the pool if he sees I have

chosen to go swimming. Based on this new information, I decide against going swimming, and comfort myself by thinking to myself it is too cold out anyway for a swim. Have I improved my freedom by changing my preference to go swimming? It would appear that a probabilistic approach to freedom would suggest so. Let me explain. I am choosing between two options, swimming and not swimming. If we want to calculate the probability of my encountering interference, we have to add the probability of my choosing to go swimming multiplied by the probability of encountering interference given that choice with the probability of my not choosing to go swimming times the probability of encountering that choice.<sup>35</sup> If I know that I will meet interference if I choose to go swimming, I can reduce my probability of meeting interference by changing my preference to go swimming. Thus, I can make myself freer on a probabilistic view by altering my preferences to become content with my situation.

The case of the locked gate and the swimming pool reveal how an account of political freedom ought to take seriously the problem of what has come to be called “adaptive preferences.” (Nussbaum 2001). Desire-dependent accounts of freedom, such as unbounded probabilism, leave themselves open to stoic strategies of expanding one’s freedom. In Isaiah Berlin’s words, “If I find that I am able to do little or nothing of what I wish, I need only contract or extinguish my wishes, and I am made free” (Berlin 1969, 139). While there is much to be said in favor of stoicism as a way of dealing with the caprices of life, stoicism seems ill fitting as a way of grounding the ideal of the free

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<sup>35</sup> Formally,  $\Pr(I) = \Pr(S) * \Pr(I|S) + \Pr(\sim S) * \Pr(I|\sim S)$ , where I = Interference and S = Swimming (see also Pettit 2011, 703).

society.<sup>36</sup> A free society does not counsel its slaves to learn to be content with their chains. A free society does not have slaves. Thus, what Pettit calls a “liberal principle” of bounded probabilism focuses not just on the probability of interference given your choice, but on the probability of interference independent of your choice (Pettit 2008, 209-213). In Berlin’s metaphor, it is not the door I wish to walk through, but all the open doors that are salient to my freedom (Berlin 1969, xxxix).

Pettit suggests once you see the case for bounded probabilism as described by the liberal principle, or freedom as non-interference, you find yourself pressured to accept a republican interpretation of bounded probabilism, or freedom as non-domination (2011, 704-707). A desire-independent non-interference approach is appealing because it does not have the implication that one can simply increase one’s freedom by changing one’s desires. Pettit points out, however, that one can mold one’s desires not just in response to active interference, but also to potential interference under certain circumstances. For example, if I know you have the power to lock the gate to the pool, I can pre-empt your power by adjusting my desires to not depend on having the option of swimming. This is true even if you never exercise that power. What leads non-interference astray on this issue, according to Pettit, is that it takes the free choice as opposed to the free person as its guiding concept. Much like the idea of a healthy person informs our understanding of a healthy meal, we should use the idea of the free person to inform our understanding of a

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<sup>36</sup> In this way, the stoic is not making a conceptual mistake when he says abandoning our desires makes us free. When people complain about the stoic strategy of increasing freedom, I take it the point is that, even if the stoic is describing a sort of freedom, the stoic’s freedom is not the kind of freedom fit to serve as a political ideal.



free choice (Pettit 2007, 710). But, of course, the question we face now is what makes the free person a *free* person?

We have already encountered MacCallum's triadic account of freedom in §2.4. Recall that, for MacCallum, an agent X is free from obstacle Y to pursue some action Z. While this will do for a choice-centered account, Pettit proposes an alternative formulation to capture the idea of the free person. Rather than freedom as a triadic relation, Pettit suggests we should understand freedom as a *quadratic* relation: An agent X is free from obstacle Y to do Z *in virtue of* W (Pettit 2007, 718). Most contemporary theories of freedom ignore W. For Pettit and other republicans, W is the central variable. To understand whether or not an agent is free on the republican point of view is to understand the basis upon which one enjoys one's freedom of action. This is what W captures. W is poorly understood in contrast with the other variables. While plenty of literature discusses agents, constraints, and actions, the bases upon which we enjoy our choices to freedom has evaded the same degree of analysis. W points to what I will call *the social bases of freedom*.

#### 4.4 BEYOND DOMINATION

It is time to take stock. The republican answer to the threshold problem, then, is to change the threshold question. Or, at least, to change how we ought to interpret the question. The threshold question as initially formulated draws our attention to possibilities of interferences, triggering the threshold problem. After all, interference is both possible in *Slave* and *Barbershop*. The concept of a free person redirects our attention from the impossibility of interference to the presence of something that blocks interference. In this way, Pettit's discussion of non-domination as resilient or robust non-

interference misleads.<sup>37</sup> What distinguishes worlds where I am subject to arbitrary power from those where I am not is not best captured by a modality of interference. Instead, what matters from the perspective of republican freedom is the *presence* of some feature within our world that allows us to make our own choices in some manner that is independent from the wills of others. This observation generates some interesting implications.

Republicans often discuss their account of freedom in contrast to Berlin's distinction between "negative" and "positive" liberty (Berlin 1969). The former is often understood as the absence of interference, the latter as the presence of self-mastery. Pettit suggests that non-domination captures a logical space created by Berlin's distinction, but neglected by Berlin himself. Just like non-interference contrasts with interference – non-domination contrasts with mastery (Pettit 1997, 21-22). Non-interference and non-domination, then, both present themselves as forms of negative freedom (see also Skinner 2002). Both non-interference and non-domination focus on the *absence* of freedom-invading characteristics. In this way, republicans tend to contrast their conception of freedom with not only non-interference, but also positive freedom. Pettit's maneuver in response to the threshold problem muddles this self-depiction.

In arguing for the centrality of the free person in contrast with the free choice, Pettit introduces the quadratic structure of freedom noted above: An agent X is free from obstacle Y to Z in virtue of W. In the terms of readily accessible worlds, we could cash out accessibility in terms of W. The presence of W is what makes worlds where

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<sup>37</sup> I think Quentin Skinner is right to distance republican freedom from the infelicitous formulation of "resilient non-interference" (Skinner 2002, 262-263).

interference actualizes not readily accessible (though perhaps not entirely inaccessible – more on this soon). For the republican, then, not all possible values of *W* will suffice. Remember the lesson of *Slavery*. Just because I am free to take long walks on Sunday in virtue of my master’s benevolence does not make me a free person. But notice now that we are no longer so much discussing the *absence* of power or interference, but the basis on which power is held or exercised. This is in some sense a positive form of freedom – I enjoy freedom in the presence of certain features of my social world that condition the power held by others. To be clear, this is not positive freedom as Berlin understood it. We are not discussing any capacity of the will, nor are we discussing an “exercise-concept” of freedom to use Charles Taylor’s term (Taylor 1985, Essay 8). Nonetheless, it is important that we keep in mind we are now exploring how the presence of certain features in our social world ground freedom, rather than whether or not some agents hold power over us. Losing sight of this raises the specter of *The Threshold Problem*, and the difficulties it poses.

#### 4.5 THE SOCIAL BASES OF FREEDOM

An agent *X* is free from obstacle *Y* to *Z* in virtue of *W*. The ideal of freedom as a status places *W* as the central variable to understanding whether or not an agent is free as such. Not all possible values of *W* will do. Take *Slavery*. In that scenario, I am free to take long walks on Sunday in virtue of my master’s good will. But this does not mean I can count myself as free. The purpose of this section is to understand *why* some values of *W* ground our freedom while others do not. Why is the benevolence of the master in *Slavery* insufficient to grounding freedom? Answering this question will give us an account of what I call *the social bases of freedom*. My main claim is that the social bases

of freedom are those features of a social landscape that you can count on in preserving your sphere of choice against others.

Prior to defending or expanding on this claim, I want to take this opportunity to emphasize that the social bases of freedom do not provide a *guarantee* of freedom. By this, I mean that the social bases of freedom are not jointly necessary and sufficient for an agent's freedom. Instead, the social bases of freedom instantiate *supporting conditions* for an agent's freedom. To use David Schmidtz's words, a supporting condition is "a qualified sufficient condition, qualified in the sense of being a sufficient basis for endorsement in the absence of countervailing conditions" (2008, 118). There are two reasons to prefer the language of supporting conditions to the traditional philosophical approach of searching for independently necessary and jointly sufficient conditions. First, it may be that certain internal features of the agent may be necessary for an agent to count as properly free. This would bring us into tricky questions surrounding free will that I hope to avoid. This is not mere evasion, but a natural consequence of the project I take up here: The political question of how society can promote the freedom of its members. This political question can be separated from a fully inclusive analysis of freedom (Wall 2003). Second, there are no guarantees when we are dealing with agents. Given this, no feature of a social world will ensure that one will go through life without being interfered with by others. To think otherwise is to indulge fantasy. The most we can hope for are conditions that give us good reason to consider ourselves free as we go about our lives, absent any countervailing reasons to believe otherwise.

So what suffices for the social bases of freedom? As a first pass, I begin with Pettit's distinction between actions or background elements that vitiate freedom as

opposed to invade it (2012, 35-49).<sup>38</sup> An important feature of the republican view is that not all interference invades freedom. This does not mean that such interference does not implicate freedom. Instead, Pettit claims that non-arbitrary interference vitiates, rather than invades, an agent's freedom. This is the case when, for example, the interference is subject to the agent's control. Consider Ulysses and the sirens. When his sailors tie Ulysses to the mast, this is interference. But, because Ulysses authorizes this interference, the sailors' actions vitiate his freedom; they do not invade it (Pettit 2001a, 75). If the sailors simply tied Ulysses to the mast against his will, then his freedom would be invaded. Ulysses' control over his sailors gives Ulysses a good reason to consider himself free.

The Ulysses case suggests that an agent is free when that agent has control over potential interferers. Control over others appears to be among the social bases of freedom. However, what explains the connection between control and freedom? Why does Ulysses' control over his sailors give him good reason to consider himself free? We could take such control as primitive to the social bases of freedom. However, this would not only be unsatisfying, but also unadvisable. Limiting the social bases of freedom to control prejudices the case against other possible bases. While control may be one method of grounding freedom, we want a way of knowing if there are other methods. We need to *explain* how control acts as among the social bases of freedom. Fortunately, we do know that not just any way promoting or providing choice will suffice. For example,

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<sup>38</sup> In earlier work, Pettit makes a similar distinction between conditioning and compromising freedom (Pettit 1997, 75-76). It is not clear to me why Pettit abandons the earlier language.

we know that benevolence is not enough, as the case of *Slavery* suggests. We can leverage *Slavery* in contrast with Ulysses-type cases to find an explanation for why control suffices, while benevolence does not.

Frank Lovett and Pettit use the benevolent master case to illustrate two social ills that accounts of freedom as non-interference have difficulty diagnosing: self-censorship and self-ingratiation (2009, 19). In regards to self-censorship, the dominated agent understands his position relative to his dominator. A dominator, no matter how benevolent, wields power over the dominated's course of action. If the dominated acts in a way contrary to the dominator's wishes, the dominated is aware this could trigger a change of heart and subsequent interference. Given his position, the dominated censors himself and does not act in ways he knows contrary to those of his dominators. Self-ingratiation is similar, but perhaps more degrading. The idea is that the dominated has to "fawn or toady or flatter" to keep himself in favor with the dominator (Pettit 1997, 5). This is not so much a change in preferences, but rather the adoption of a strategy or tactic to appease a powerful agent. Common knowledge of the slave's condition plays an important role in explaining how the slave comes to adopt these tactics. The master and the slave are both aware of their position. The dominator knows that he holds an unchecked power against the dominated. The dominated knows that the dominator holds this power. The dominator knows that the dominated knows this. And so on.

I do not take the republican to making a straightforwardly empirical claim here. It is not that certain forms of power relations *cause* self-censorship and self-ingratiation. To be clear, I do not think the republican denies a causal relationship. It would be surprising if at least some empirical relationship did not hold. Rather, I take the claim to be

normative. I do not mean normative in a moral sense or a social sense, but in a rational sense. What are we warranted to believe about our agency based upon *Slavery*? This is best seen in parallel with Rawls's idea of the "social bases of self-respect," which serves as the inspiration for the idea of the social bases of freedom. Notoriously, Rawls says very little about the social bases of self-respect, or what he dubs "perhaps the most important primary good" (Rawls 1999, 348, 386). However one understands self-respect, the social bases of self-respect are most plausibly understood not as an empirical claim about how features of our social world psychologically undermine or bolster our self-respect. Rather, the idea is best thought of directing us to how aspects of our social world give us reason to believe certain things about ourselves (Eyal 2005, 203-204). I do not intend to endorse the claim that self-respect has social bases here.<sup>39</sup> My purpose in bringing this up is to clarify the idea of the social bases of freedom: Our freedom depends on what features of our social world give us reason to believe something about ourselves. Specifically, that we are politically free.

To give some depth to these ideas, let us reconsider *Slavery*. As the republican would have us say, the slave is in a position of domination to his master. Suppose the dominated considers a course of action. We are now in a position to harken back to the sphere of choice sketched in the previous chapter (§3.4). Recall that the idea of a sphere of choice is meant to model how we might deliberate about what we are to do. The first thing to notice about a sphere of choice is that it is a sphere of *choice*. Thus, an element of the sphere of choice is the choices that populate it. This involves the possible courses of action available to the person based on his or her situation. Let us understand these

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<sup>39</sup> For reasons to doubt this claim in regards to self-respect, see Bird Unpublished.

possible courses of actions as *capabilities*. I do not mean capabilities in the narrow sense of *basic* capabilities, or capabilities necessary for human flourishing (Sen 1992: 45f). Rather, I mean capabilities in a broader, less profound, sense. As Sen describes it, a capability involves “the various combinations of functionings (beings and doings) that the person can achieve” (1992, 40).

When the dominated deliberates over this sphere of choice, he is cognizant not only of what he is capable, but of what other agents are capable of as well. He knows the dominator has the capacity to interfere with his actions at will. He knows that the dominator knows this as well. The dominated cannot count on the dominator’s good will because this would fail to recognize the dominator as an agent that can change his or her mind (Pettit 2012, 60). This knowledge feeds back into the dominated’s deliberation, and affects his course of action. While he has a sphere of choice, that sphere is not sufficiently protected against the possibility of interference by the dominated. Put another way: While it is true that the benevolent master provides choices that would be lacking under a tyrannical slave master, this sphere of choice is nonetheless fragile. Being fragile, the slave acts so as not to subject his sphere to destructive force. These possibilities register in the practical deliberations of a slave in a way they do not in the practical deliberations of the free citizen. Recall *Barbershop*. The barber’s client does not include the possibility of the barber’s cutting his throat in his practical deliberations. Only someone suffering from paranoid delusions would take such a possibility seriously. The power of the barber does not feed back into the practical deliberations of the client in the way that the power of the slave master does for the slave.



Some might object to this analysis because of its reliance on common knowledge by each party of their relative position to one another. But, the objection continues, common knowledge is unnecessary to an agent's unfreedom. Consider cases of manipulation and deception (see also Pettit 2012, 54-55). These sorts of cases involve the selective presentation or misrepresentation of information to get another to act in a certain way. By controlling the information available, a deceiver or manipulator presents a false set of choices that does not reflect the true set facing the target. Successful deception and manipulation requires that the target be unaware of her situation – finding out what is going on gives away the game. That being said, the cases of deception and manipulation only serve to highlight the strengths of my analysis.

These strategies operate through affecting the *context* of an agent's choices. By this, I mean that deception and manipulation, in contrast with brute force, do not directly limit the choices facing an agent, but rather the information an agent has regarding those choices. Tricking someone into believing a door is locked when it is really unlocked does not impact that person's real choices, but that person's perception and understanding of her choices. On this reading, deception and manipulation are similar to the phenomena of self-censorship and self-ingratiation. All involve how various relations impact an agent's practical deliberations. None of the phenomena in question directly impact the scope of choice. In this, deception and manipulation may represent a *third* set of ills that freedom as non-interference has difficulty accommodating. But to say that these strategies act on the context of an agent's choices is another way of saying that agent's sphere of choice is fragile or vulnerable. A more robust sphere of choice protects against misrepresentation and deception. While my discussion of common knowledge in relation with self-

ensorship and self-ingratiation reveals the idea of a sphere of choice, common knowledge is unnecessary to accounting for its importance. Being vulnerable to deception and manipulation is just another way my choices are sensitive to the actions of others. I may not be aware of the manipulation as it occurs, but, where I am heavily dependent on one person's testimony, it becomes a salient possibility. This alters my deliberations insofar as I know that I am at risk for such deception. I understand that the choices I think I have may not be the ones I actually have.

What is common to all evils highlighted by freedom as non-domination is how particular situations among agents stunt practical deliberation. Avenues of action may be open to an agent in the sense that the agent can actually perform the action in question. Nonetheless, relations with others place these avenues in too precarious a position to count as live options. So while the slave has the choice of taking long walks on Sunday, he is unsure as to how exercising that choice may affect future instances of that choice, or whether exercising that choice will result in a beating. In these circumstances, the slave's deliberations are no longer about making his own choices, but about understanding these choices as subject to the approval of another. A natural question: Under what social conditions does an agent understand her choices as her own to make, rather than subject to the screening of others? What has to be present to alter this calculation?

Based on this discussion, I suggest the social bases of freedom are things you can count on in preserving your sphere of choice against others. My practical deliberations are my own and not another's to the extent that I can depend on features of my social world in making irrelevant certain forms of interference to my decisions. These social

bases provide no information about the scope of choice, but instead provide for the *robustness* of choice. Robustness can be interpreted in a two ways.

As I noted in §4.1, we might opt for a *modal* interpretation of robustness. Recall Christian List's treatment of the rule of law requirement he sees as built into republican accounts of liberty. For List, the rule of law requirement is satisfied when an agent's "rights set captures the range of choices the agent is *guaranteed* to be able to make *across all relevant possible worlds*" (2006, 211). What this means is that one's preferences are decisive independent of context and content (e.g. Pettit 2001b, 4). This strikes me as an undesirable interpretation of robustness. For one, it seems to recall the possibilistic approach to interference canvassed above. The presence of just one possible world where one's choice is not decisive violates the robustness requirement. But, as I pointed out, this is a pathological way of approaching freedom. Second, even if we weakened the modal interpretation to be less stringent and more probabilistic, it does not seem to adequately address the pressing question: What counts as a "relevant" possible world? It seems we adopt the modal interpretation of robustness at the cost of re-introducing *the threshold problem*. Fortunately, we need not adopt such an understanding of robustness.

For these I reasons, I prefer a *practical* interpretation of robustness. My choices are robust to the extent I have good reasons to believe that others will not interfere with those choices. There are a few things to notice about this interpretation. First, robustness draws attention to how certain features of a social world register in an agent's practical deliberations. When considering the possibility of interference, part of what we think about is not just the actualization of interference, but also the various pathways of interference. Not all pathways are equal in terms of deliberative weight. For example, I

may enjoy an option only because of someone else's good will. As discussed, mere good will is not something you can count on realistically in charting out a course of action. In contrast, I may enjoy an option because I am able to hold others accountable through a legal system. Second, by focusing on good reasons, we are not suggesting that an agent's choice is guaranteed in a strong sense. It may well be that one's choice in the end is frustrated by the interference of others. The legal system example should make this apparent, as even a well-functioning legal system contains crime. The important issue is whether or not this possibility should have registered in the agent's deliberation.

An advantage of this approach to freedom to the traditional republican approach is that focusing on practical deliberations rather than options in isolation is that it does more justice to our agency. Focusing on preferences over options limits our purview to persons as purposive agents. While we are that, we are not only that. As Harry Frankfurt points out, we are also reflexive agents that take attitudes towards our desires (Frankfurt 1971). But missing in Frankfurt's initial description is what links our second-order desires or volitions to our first-order desires. Reflection is not simply reducible to attitudes (Velleman 1992). Michael Bratman offers an influential account of agency that helps provide this connection. In Bratman's terms, we are not just purposive agents, but *planning* agents (Bratman 1987; Bratman 2007). We see our agency as temporally extended over time, and plans play a significant role in structuring and coordinating our agency over time. Thus, we do not just pick and choose options, but settle on plans and pick and choose options in relation to those overarching plans. Such plans are subject to various norms of consistency, coherence, and stability (Bratman 2007, 26-27). This is not to say that we are *only* planning agents. Nor is it say that our agency requires anything

grandiose like what Rawls calls a “life plan” (Rawls 1999, 358-365). My point is simply that a central aspect of our agency is our ability to form and execute plans, and that limiting our purview to options in our account of freedom does not do this justice.

The social bases of freedom draw attention to the inputs on our planning.<sup>40</sup> If an important element of our agency is our ability to form and adhere to plans, then we ought to consider what are the preconditions of that ability. One set of preconditions involves internal capacities. These are not my concern here. However, if we are to form plans, we must be able to rely on features of the external world to either remain stable, or be so amenable to our control that we can change things should adhering to our plan require it. As our subject is freedom as a political ideal, we limit ourselves to those features of our world that are social as opposed to physical. When we form plans, we consider how others play into those plans, or how others may frustrate those plans. In *Slavery*, we can form a plan to go on a walk on Sunday. But we must keep a healthy distance between the plan and ourselves. We cannot rely on executing the plan because we cannot rely on our master’s good will. Lacking secure grounds for reliance, we make our plans with this in mind. Thus, the social bases of freedom supply solid grounds for reliance in our practical deliberations.

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<sup>40</sup> I agree with Steven Wall’s suggestion that, in contrast with freedom as non-interference and freedom as non-domination, perhaps we should consider “freedom as the nonobstruction of planning” (Wall 2003, 320). Similarly, F. A. Hayek suggests freedom “meant always the possibility of a person’s acting according to his own decisions and plans” (Hayek 2011, 59). Consider my contribution as building on these earlier sketches of a planning theory of freedom.

To summarize these points in a slightly different way: The social bases of freedom are those features of our social world that exhibit respect of our status as free. They are the social mechanisms that give due weight to the fact we are agents who make choices against a background of other choosing agents. This is accomplished through providing stable expectations that allow us to make choices in coordination with, but not in subordination to, others. Beyond stable expectations, these bases give us the tools to shape our social environment in such a way that allow us to preserve our independence.

#### 4.6 BEYOND CONTROL

The social bases of freedom can help address flaws in various analytical accounts of freedom (see Chapter III). Both non-interference and non-domination have shortcomings in dealing with situations where power exists, but is not exercised. Non-interference views tend to be under-inclusive of when freedom is invaded (e.g. *Slavery*), whereas non-domination views tend to be over-inclusive (e.g. *Barbershop*). Attention to the social bases of freedom reveals how the difference between cases is not always about what counts and does not count as an invasion of freedom, but about what makes freedom possible. Being free is not always about the potential or even probable interference we face, but instead how features of our social context grant us resilience against interference.

That being said, parity does not hold between the two approaches on their contributions to understanding how social institutions relate to freedom. Republicans tend to be much more institutionally minded than partisans of non-interference. This is not surprising, as the republican account of freedom tends to be historically linked to questions of citizenship and democracy (Skinner 1997; 2008). Such modes of protecting

agents are built into republican accounts of domination. By focusing on arbitrary or uncontrolled power, republicans already have in hand a way of promoting freedom baked in as it were: Removing arbitrariness or granting control. Pettit, for example, uses his analysis of freedom to develop what he calls “contestatory democracy” (Pettit 2012, 238). If the problem is unchecked power, we should develop an institutional structure that grants subjects a way of checking that power. This does not require consent à la Ulysses and the sailors, but a way of contesting power if used in ways counter to the interests of the people. What we need is a set of political and legal institutions that not only protects citizens from each other, but also from the authorities and officials entrusted to protect citizens from one another. These institutions grant citizens mechanisms of contest against not only their fellow citizens, but also the decisions of those in positions of political power. It is clear how the concept of freedom as non-domination described above dovetails nicely into these institutional prescriptions.

It is undoubtedly true a background set of formal institutions play a fundamental role in the free society. Let us call these *control-oriented* bases of freedom. If the concern is about how relations of asymmetric power feed back into practical deliberations of agents, providing formal avenues through which agents can pre-empt these feedback effects is certainly one avenue of enabling freedom. If I have some way of formally controlling power over me, I can rest assured that my choices and actions are more robust against changes of heart. I can rely on these mechanisms of control in my practical deliberations.

That being said, I want to suggest that control-oriented bases fail to capture the sorts of everyday cases that motivate *The Threshold Problem* such as *Barbershop*.

Relying on contestatory institutions takes a defensive stance of vigilance. It involves always being on guard - We can never rest easy among those with power. Sans vigilance, contest fails to do its work. But notice what this requires. Rather than a vision of society as (to use Rawls's phrase), a cooperative venture for mutual benefit, the image one gets is of citizens as snakes – always coiled and ready to strike. This strikes me as a highly unattractive vision of society. While of course circumstances can call for such a pose, this is not what we hope for in our daily lives. It certainly is not what we hope for in *Barbershop*. The customer does not sit in the chair tense and ready to spring to action at the hint of abuse. The experience, ideally, is one of tranquility.<sup>41</sup> The customer can rest easy. He rests easy not because can count on the police or the court system if things go awry (though of course this is important at the margins). The customer rests easy simply because he does not expect barbers to exercise their power in that way. Nor should he. But, does this mean the barber is just like benevolent master, and the customer is subject to his will? I argue not.

The difference between the barber and the benevolent master is the presence of certain *norms*. Our expectations regarding the barber's behavior are not just empirical, but also normative. We do not just predict the barber to exercise his power in certain ways. We also believe he ought not to exercise his power in these ways. Moreover, these are not merely personal expectations between *this* customer and *that* barber. These expectations are general and shared in society at large. We as a society do not expect nor

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<sup>41</sup> As Montesquieu says, "Political liberty in a citizen is that tranquillity of spirit which comes from the opinion each one has of his security." (1989, 157, Book 11, Chapter 6)



approve barbers imposing upon their customers. Contrast this with the case of the benevolent master. Benevolence is not a shared expectation of behavior among masters, but a character trait or virtue of particular masters. Masters are not subject to norms against interference in their slaves' lives. This is part of what it is to be a master.<sup>42</sup>

In addition to control-oriented bases, I suggest there are also *norm-oriented* bases of freedom. Just as one can count on control to render one's sphere of choice resilient, one can count on the presence of certain norms. I take up this claim in the next chapter. The first move is to explain what I mean by norms, and how various sorts of norms render our choices secure. The second move is to argue that neglect of norms has led republicans astray regarding government interference. One way that republicans tend to distinguish their conception of freedom from liberal ones is by suggesting that the former tends to be less suspicious of government interference.<sup>43</sup> However, this conclusion arises from a narrow focus on control as a mode of promoting freedom. Once we take account of alternative modes of promoting freedom through a decentralized system of norms, it is

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<sup>42</sup> Frank Lovett also considers norms (what he calls conventions) as important to reducing domination (2010, 111). However, his focus is on the absence of clear expectations. My account is importantly different in that, first, it is not just about clear expectations, but also the relations of accountability created by norms and the content of such norms. Further, I also believe that gaps in the system of norms do not constitute a space of arbitrariness, but are deeply important to freedom. However, while I cannot argue for this here, this is the subject of Chapter VI.

<sup>43</sup> Though, it is not clear that the liberal view of freedom has this implication (e.g. Patten 1996; Rogers 2008).

less clear that the state is the sole guardian of liberty. This is not to say that formal coercive institutions do not have a key role to play in the free society. A system of norms is insufficient to preserving our sphere of choice – not everyone plays by the rules. But neither is a system of coercive institutions sufficient, nor do these coercive institutions need to have a maximally expansive reach.<sup>44</sup>

#### 4.7 CONCLUSION

In this chapter, I argued that discussion of freedom should pay more attention to what renders people's freedom secure. This is not a mere negative property, such as non-interference or non-domination, but requires the presence of certain features within one's social world. I called these the social bases of freedom, or features of one's social world one can count on in making plans. Attention to the social bases of freedom reveals various modes of how we can render our sphere of choice secure. Not only does granting formal control over potential interferers secure our free status, but also the presence of norms. If we are not sensitive to the ways in which informal norms stave off interference, we may be tempted to addressing perceived gaps in our institutional framework by expanding the formal rules and coercive power of those institutions. I suggest that this would be a net loss for the freedom of individuals. There is at least a *prima facie* reason to opt for tools that minimize the need for centralizing power in society when undertaking

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<sup>44</sup> To be fair, Republicans do acknowledge this (e.g. Watkins 2016, 849-851). However, I do not believe they fully appreciate the implications of this acknowledgment. As noted in the introduction of this chapter, one way of understanding my purposes here is to push for a change of emphasis in republican thinking about freedom.

the promotion of freedom. However, I have not argued for this here. This is the task of the next chapter.

## V. SOCIAL NORMS AND THE SOCIAL BASES OF FREEDOM

If the social bases of freedom are those features of our social world we can rely on as we make plans and navigate that world, what counts as among these bases? I concluded last chapter by suggesting that republicans unduly restrict their attention to control-oriented bases, or formal institutions that grant persons means of checking and controlling power over them. In this chapter, I explore how social norms are among the social bases of freedom. I make the further claim that appreciating this leads to endorsing a prima facie reason to resist centralizing power. If the norms in place do a good job of shoring up our sphere of freedom, it is counterproductive to expand centralized power.

Of course, this is only a prima facie reason. In various circumstances, we might find upon closer investigation that such norms do not end up doing the job. For example, certain norms may actually involve promoting, rather than hindering, interference. Part of this chapter involves an exploration of when norms fail to in their role as among the social bases of freedom. But I think it is important to notice that these conditions serve as defeaters – their presence removes the reason to take norms as grounding freedom.

### 5.1 A BRIEF INTRODUCTION TO SOCIAL NORMS

Norms come in a variety of types. There are moral norms, legal norms, personal norms, social norms, among others. Recall *Barbershop* (§4.2). When I say that there are norms against interference in *Barbershop*, I am referring specifically to the presence of *social norms*. To be clear, *Barbershop* is overdetermined by norms of all sorts. Not only do social norms apply to the barber, but also legal norms, moral norms, and perhaps more. Further, it would seem that all these types of norms likely play a part in explaining

why the barber restrains himself from interfering with the customer. I will have to untangle this knot in due course. For now, we need a grasp on how we understand social norms. In this section, I try to provide a workable understanding of norms so I can explain their relation to freedom. As my focus in this project is freedom, not social norms, I limit myself here to a few general points. I will expand on these elements as necessary in the course of my argument.

While my interest is in social norms, it might be worth spending a moment on norms more generally before specifying the features of a social norm. Following a group of philosophers at Australia National University consisting of Geoffrey Brennan, Lina Eriksson, Robert E. Goodin, and Nicholas Southwood (or, “the ANU group” for short), we can distinguish norms as understood here from two related concepts, statistical norms and objective normative principles (Brennan et al 2013, 2). A statistical norm or habit is simply a regularity or commonality among a population. For example, we might describe the norm among a people is to go to sleep at night. By this, I mean nothing more than that we should tend to observe people going to sleep at night. The regularity is all that is referred to by this sense of norm. An objective normative principle is a sound moral precept, such as “Slavery is wrong” or “Do not murder.” Such normative principles tell us nothing by themselves about what people will do, but are sources of genuine practical reasons to act in certain ways. These sorts of norms do not depend on whether or not people accept them.

The ANU group suggests norms at their most general level involve two elements (Brennan et al 2013, 3-4). First, norms have a “normative” element in that they purport to supply practical reasons and are generally presumed to do so. Norms provide agents

guidance in regards to what they ought or ought not do. These normative requirements are not particular, but general. By this, I mean that norms pick out action-types. For example, a norm holds “People should not cut in line.” When Michael cuts Nora in line at the Starbucks this Monday at 9:03a, what the norm makes salient is not the particular agents and circumstances, but that this violation is a token of a broader action-type (“cutting in line”). Second, norms are social facts. By this, I mean that norms only exist to the extent that persons accept them and/or believe that others (or enough others) accept them. Because of this, you cannot have a norm without referring a given population.

As noted, a *social norm* is a particular kind of norm. From here on out, when I discuss *norm* I am focusing on social norms unless otherwise specified. I will say more about how I understand social norms in contrast with other sorts of norms in the next section (§5.2). Prior to that, let me explain how I understand social norms as such. Beyond the two general elements pointed out above, there is disagreement over the more fine-grained features of social norms. Various possibilities include attitude-based accounts of social norms (e.g. Brennan et al, 2013), preference-based accounts (e.g. Bicchieri 2006), and practice-based accounts (e.g. Posner 2000). In this chapter, I adopt Cristina Bicchieri’s account of social norms, which focuses on the desires and beliefs of individuals (2006). I do so because, in contrast with attitudinal and practice-based accounts, Bicchieri’s provides insight into the mechanisms of norm compliance, giving us the tools to make predictions about such compliance (e.g. Bicchieri and Xiao 2009). This is the advantage of her “operational definition” of norms (see also Gaus 2014). Having an understanding of how norms actually guide behavior is key to understanding the relationship between freedom and norms.

On Bicchieri's account, the presence of a social norm depends on the desires and beliefs of agents (2006, 11). More specifically, social norms involve conditional preferences to follow some behavioral rule R in situations of type S. These preferences are conditional on both empirical and normative expectations. To ascertain the existence of a norm on this account, ask the following questions. First, will enough others abide by R in situations of type S as a matter of empirical fact? Second, do enough others expect the agent in question to abide by R in situations of type S? Or, do enough others expect the agent in question to abide by R in situations of type S, and may sanction non-conformity? When the answers to these questions are affirmative for a substantial portion of the population, we can say that that population follows a social norm.

It is important to distinguish social norms from conventions. Like norms, conventions describe behavioral rules. Unlike norms, conventions are not conditional on normative expectations, only empirical ones (Bicchieri 2006, 38). It is not important that others expect the agent in question to abide by the rule, but only that the agent expects others to conform with the rule as a matter of fact. The reason for the relative unimportance of normative expectations is that conventions largely coincide the self-interest of agents. Take for example the convention to drive on the right as opposed to the left. This convention does not require us to act against our self-interest. Instead, conventions promote our self-interest as they allow us to coordinate our actions with others. Without a convention, we would be worse off. Given this, knowing that others drive on the right is sufficient to motivate compliance. To put this in game theoretic terms, conventions serve as equilibria to coordination games (Lewis 2002). Social norms, in contrast, prescribe behavior even when it does not coincide with our self-interest. A

social norm of keeping promises speaks against breaking promises even if we could do better for ourselves by breaking a promise. Instead of picking you up from the airport, it might be better for me if I stay home and finish writing a paper. But, if I promise to pick you up, the norm against breaking promises will become salient because I expect others to keep their promises as a matter of fact and I also expect that others believe I should abide by this norm. Or we could use the queuing example noted earlier. It is in my interest to spend less time waiting in line for my beverage. But, when I see a line, a norm against cutting becomes salient as I see that others are abiding by the norm against cutting in line and infer that they expect me to abide by this norm as well. As Cristina Bicchieri suggests, social norms serve to transform mixed-motive games such as Prisoner's Dilemmas into coordination games (2006, 25-27).

Simply put, norms are rules we abide by, conditional on others doing the same. I acknowledge that Bicchieri's analysis is reductionist in that it explains norms and norm following in non-normative terms (e.g. desires and beliefs). But understanding norms in Bicchieri's reductionist manner does not mean we should forget the normative elements of disapproval and accountability noted above by the ANU group. Just because a social phenomenon can be explained in one way, does not mean that social phenomenon does not function in another.<sup>45</sup> For our purposes, it will be important to keep in mind both Bicchieri's explanation of norms as well as their normative function as suggested by the ANU group.

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<sup>45</sup> The converse is also true. Just because a social phenomenon functions in one way, does not mean it can be explained that way (Elster 1989, 147-149).



## 5.2 SOCIAL NORMS AND FREEDOM

With an account of social norms on the table, we can now return to the social bases of freedom. I claim that certain social norms serve as a basis for freedom even when individual agents lack formal control over potential interferers. Even if you have power over me, the presence of a social norm against using that power in infelicitous ways is something I can count on in charting a course of action, even in the absence of a formal law or institutional structure. To be clear, republicans are sensitive to the social dimensions of the good society beyond institutions and sanctions. One way of understanding my project is that I am bringing these aspects of republicanism to the fore in our understanding of the free society. A common subject in the literature on republicanism is civic virtue. Given this, it may be helpful to start with the idea of civic virtue and move towards social norms.

I take civic virtue to describe whatever set of character traits that are conducive towards producing a free society (Costa 2009; Dagger 1997, 13-15). Civic virtue on this reading is not intrinsically valuable, but instrumentally so. Civic virtue generally plays two functions on most republican pictures, both related to the proper functioning of political institutions. First, civic virtue involves respect for law (Pettit 1997, 246; Dagger 1997, 79). It is important in a well-ordered society that citizens abide by the laws.<sup>46</sup> Where voluntary compliance is lacking, we should not expect the institutions in question

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<sup>46</sup> It is not obvious to me that respect for law requires obedience to law rather than just careful consideration of law. I make this argument with George Klosko elsewhere (Frye and Klosko 2017). However, I adopt the republican view of respect for law here for the sake of argument.

to be very effective. Second, civic virtue is important for managing holders of public office. Being granted power, office holders have opportunity to abuse this power. Given this, it is important to use what Geoffrey Brennan and Philip Pettit call an “intangible hand” to promote good behavior among these officials and constrain corruption (Brennan and Pettit 2004). It is worth re-emphasizing that both functions of civic virtue relate primarily to formal political and legal institutions. For example, Pettit discusses the importance of trust, but trust is primarily in reference to law and the state. We trust each other, but only insofar as we are all answerable to the mechanisms of the state. It is primarily the formal institutions that provide freedom on this account, while virtue plays the supporting role of ensuring that the institutions work as advertised.

I am not quite sure the language of virtue captures accurately the phenomena in question. Virtue tends to refer to excellences of character, such as courage, charity, and the like. Thus, virtue ethicists tend to describe right action in reference to these excellences of character (e.g. Hursthouse 1999). Republicans, however, do not seem to be discussing the excellences of character traditionally associated with virtue ethics.<sup>47</sup> Instead, republicans appear to describe how individual behavior is necessary to maintaining the stability of public institutions that support freedom as non-domination. If the goal is stability, however, this does not require stable character traits that generalize across various types of situations, which is what virtue appears to require (Callan 2015, 496). Instead, stability of political institutions requires consistency in how people respond

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<sup>47</sup> An important exception is M. Victoria Costa, who also notes this slippage in the language of virtue (2009, 409).

to particular situations.<sup>48</sup> Do officials accept bribes when offered or not? Answering this question requires no reference to whether or not officials are virtuous or vicious. Rather, if we want to know whether or not corruption is the norm, we simply need an understanding of what is acceptable in a given society. Thus, I suggest it would be better to avoid confusion and simply refer to informal norms of compliance. Shifting our frame of reference from virtues to norms draws attention to the how the situations people find themselves in tend to direct those people's behavior. Using Bicchieri's provocative metaphor, norms are embedded in scripts or schema that become activated when our attention is drawn to features of our environment (2006, 81-83). Based on our perception of what is happening around us, we categorize the situations we find ourselves in and use this category to inform our judgments as to the appropriate course of action. For example, observing people cleaning up others' trash makes salient the norm against littering (Bicchieri 2006, 63-70). Explaining behavior here makes no reference to character, but instead whether or not our attention is drawn to the norm in question by our situation.

It is worth pausing to note how the example of a norm against littering shows us how norms are not limited to legal obedience. Watching someone else pick up trash does not signal anything about the law, but rather that littering itself is subject to the disapproval of others in this context. Norms are powerful forces independent of the state and a formal system of law, for better or worse. Indeed, sometimes agents use social

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<sup>48</sup> This spin on the concern with civic virtue avoids the situationist critique of virtue (Doris 1998) and more recent interactionist criticisms (McTernan 2014).

norms to ground cooperation even when such norms are contrary to law.<sup>49</sup> Of course, social norms and legal norms overlap and interact with one another. There are laws against littering in addition to social norms against it. But if we collapse legal norms and social norms without an eye towards their differences, we flatten the domain of normative behavior.

A primary difference between social norms and legal norms is rooted in the *informality* of social norms in contrast with the formality of legal norms.<sup>50</sup> Social norms are informal in two manners. First, social norms are informal in their *source*. In the language of H. L. A. Hart, social norms are limited to *primary rules*, or rules that apply directly to people (Hart 2012).<sup>51</sup> Legal norms, following Hart again, involve not just primary rules, but also secondary rules. Secondary rules, simply put, are rules about rules. Secondary rules provide conclusive answers to questions such as: How do we know what the rules are? How do we create rules? How do we determine violations of the rule? And the like. Social norms lack secondary rules in this sense. There are no conclusive ways of

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<sup>49</sup> See, for example, Robert Ellickson's study of cattle ranchers in Shasta County which I will discuss in more depth soon enough (Ellickson 1991).

<sup>50</sup> Much of what proceeds follows the useful distinction between formal and informal norms presented by the ANU group (Brennan et al 2013, 40-56).

<sup>51</sup> Oftentimes people interpret primary rules as rules that apply to *behavior* (e.g. primary rules involve prohibitions and permissions). However, as you will see in the next chapter, primary rules also involve what Hart calls *power-conferring rules*.

answering these sorts of questions for social norms.<sup>52</sup> Second, social norms differ from legal norms in questions of *enforcement*. When someone breaks the law, there are clearly demarcated sets of agents who are responsible for enforcing the law. Other agents are not permitted from enforcing the law. For example, the state can throw you in jail for assault, but I cannot throw you in my basement for assault. In contrast, social norms are in some sense enforced by everyone (or, at least, by members of the group subject to the norm). The power to enforce is disbursed for social norms in a way legal norms are not. Further, modes of enforcement tend to differ between social norms and legal norms. Social norms tend to operate through social opprobrium and criticism, while legal norms through force and violence.

When we talk about social norms and people abiding by social norms, we do not tend to reference “virtue” or “excellence of character.” Rather, I suggest we are talking about something akin to what Rawls calls “the sense of justice.” For Rawls, the sense of justice is the desire of agents to conform to principles of justice given that others do the same (1999, 295-296). However, unlike Rawls, I am not describing allegiance to principles of justice, but what might be called *a sense of propriety*. The sense of propriety

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<sup>52</sup> By conclusive, I mean something like authoritative. We can look to Emily Post or Miss Manners to find out what proper etiquette is, but we do not take such books as authoritative about what the norm is. Etiquette manuals’ directives are subject to dispute and disagreement in a way that the finding of a court of law is not. To use Joseph Raz’s language, the directives of Emily Post do not purport to be providing exclusionary reasons to set aside one’s judgment about the case at hand (Raz 1990). A court’s ruling, on the other hand, does.

involves a desire to abide by norms accepted in a given society, given that others do the same. There is good evidence to believe such a sense of propriety is a part of our moral psychology. For example, Gerald Gaus, drawing from work on evolution and morality, provocatively labels humans as having evolved as “Rule-Following Punishers” (2011, 103-122). We not only have desires to follow rules or norms, but also punish those who violate the rules (as well as those who fail to punish rule-violators).<sup>53</sup>

Based on this discussion of how social norms operate, I suggest that certain norms ground freedom insofar as they provide restraints on the actions of others we can count on. First, where we are aware of the presence of a norm, it provides us with clear expectations of how actors will behave. We can form plans with confidence that others will behave in accordance with the norm. Second, norms render people *accountable* for their actions (Brennan et al 2013, 35-39). We are often brought to answer for norm violations, even when these norms are not encoded formally in law. Consider a norm against cutting in line. When someone cuts in line, this prompts disapproval and demands for justification (e.g. “Excuse me. What do you think you’re doing?”). Most of us would not bat an eye at an individual enforcing norms surrounding queuing. Where there is no

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<sup>53</sup> The basic idea is that group evolution effects favor groups with members who not only follow the rules, but also punish those who do not follow the rules as well as those that fail to punish those who do not follow the rules. Failing to punish those who fail to punish generates a collective action problem in that there incentives to reap the deterrent benefits of punishment while avoiding the costs of actually punishing actors (Taylor 1987, 22).

norm, it is intrusive to ask for justification of behavior. Such accountability gives us a tool with which we can pull other agents in line with our empirical expectations.

Now, as I will point out later, norms can fail to protect our freedom, and even exacerbate our situation (§5.5). Some of my comments here foreshadow the even stronger claim I defend in Chapter VI that even good norms reduce our freedom in a particular sense. Nonetheless, it would be foolhardy to neglect how norms serve as a basis for our freedom. Just like the case of control, the presence of norms allows one to act without taking into account the possibility of infelicitous interference. Consider *Barbershop* (§4.2). A significant reason why we do not consider the possibility of a deadly shave is that going to the barber is a situation embedded with certain social roles with accompanying norms. We understand that, when we go to the barber, the kind of activity we are engaging in is one in which norms of barbering are cued. Included in such norms are prohibitions against “close” shaves. Without these norms, we would not go to barbers.<sup>54</sup>

It is reasonable to point out that our lack of concern in *Barbershop* is overdetermined. Sure, the critic might acknowledge, to some extent social norms are at play in restraining the barber from taking advantage of the customer. But there are also legal norms with associated sanctions as well as *moral* norms against such behavior. Murder is not the same thing as cutting in line, so the critic points out. For example, is it

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<sup>54</sup> See also David Schmitz’s discussion of how hospitals differ from trolley cases (2006, 170-171). The norm against taking the organs of one to save five are essential to the proper functioning of hospitals. We go to hospitals because we expect to be treated. If our organs were fair game, we wouldn’t go to hospitals.

really true that barbers do not engage in murder because other barbers do the same? Would not a barber restrain himself independent of whether or not he thought other barber's did the same? Thus, the salient explanans of the restraint of murders is not so much social norms, but moral norms and legal norms that provide categorical prohibitions. Further, legal norms are backed by sanctions far more forceful than social pressure. Thus, whatever role social norms play in the free society, that role is secondary or tertiary at best and epiphenomenal to other sorts of norms at worst. Or so says the critic.

In response, it is worth addressing legal norms and moral norms separately, as they raise different issues. Given this, I will address legal and moral norms seriatim.

### 5.3 WHAT ABOUT LEGAL NORMS?

It is important to be clear about the scope of the claim of this chapter. It is not that social norms are the *sole* basis of freedom, nor is it even that norms are *always* sufficient for freedom. It is rather that there are features of social norms that make them adequate as a basis for freedom, much like there are features of formal legal and political institutions that make them adequate as a basis for a freedom. Of course legal norms play an important role in serving our freedom. I do not intend to endorse a wholly anarchist view here (even if the claim has anarchist elements). That being said, I want to say that social norms are more likely than not *necessary* for legal norms to serve as a basis of freedom. Stronger still, I suggest that such norms can be sufficient, even where law is lacking. The first claim is easier to establish than the second, as you will see, but the second claim is more integral to the thesis of this chapter.



We have already discussed how republicans rely on norms to undergird a formal system of law to minimize domination. I want to say a bit more here about why this is so important. Indulge the following thought experiment: Suppose we had a system of law that perfectly minimized domination. However, suppose that there were no social norms that converged with the requirements of that law. People only considered legal norms in terms of enforcement and management by the state. In such a situation, I agree with David Watkins that, “a democratic community indifferent to or even supportive of domination could render legal remedies dead letters” (Watkins 2016, 850). The problem is that if legal norms are the only norms in force, we have to rely on the deterrent force of law in dealing with others. But such deterrence is imperfect, and varies in relation to the extent agents believe they can get away with the prohibited acts. You could think of this in relation to speeding. The legal norm against speeding is violated regularly. However, as soon as everyone sees a police car, they slow down to abide by the legal norm, likely for fear of enforcement of the legal norm against speeding. Imagine if such conditional norm abidance expanded to *all* legal norms. Specifically, imagine that most people basically broke the norm unless they saw a cop or expected monitoring. Such a relationship to law would be a recipe for disaster. Because of this, I suggest social norms are *necessary* to the proper functioning of law as a basis of freedom. Thus, law acts as a basis for freedom only in conjunction with a corresponding set of supporting social norms. However, this does not vindicate social norms as a basis of freedom. This only shows the importance of social norms to formal legal and political norms. To do this, I would need to show how social norms are sufficient to grounding one’s freedom, independent of law.

In an important book, Robert Ellickson provides an in-depth study of how cattle ranchers in Shasta County, California deal with disputes over cattle trespasses (Ellickson 1991). As you can imagine, a complex body of law dictates rules of liability surrounding cattle-trespass disputes. Further complicating matters are the distinction between open range laws and closed range laws, which apply different rules of liability (Ellickson 1991, 44-48). In a closed range the cattle owner is strictly liable for property damages caused by trespass, whereas in an open range the cattle owner is generally not liable for property damages caused by trespass, even if negligent.<sup>55</sup> Now, you may be wonder why I am talking about the laws surrounding cattle trespass at this point. What is fascinating about Ellickson's study for my purposes here is how ranchers tended to ignore these laws in their disputes (Ellickson 1991, 40). Rather than resolve disputes through the law or even in the shadow of law, cattle ranchers in Shasta County tended to resolve their disputes, in Ellickson's words, "beyond the shadow" of the law (1991, 52). Generally speaking, ranchers abided by "an overarching norm of cooperation among neighbors" independent of whether or not open range or closed range laws applied (Ellickson 1991, 53). This generally entailed absorbing minor damages, using gossip and reputation against abusers, and occasionally using force against cattle if their owners ignored repeated pleading. Further, use of law was looked down upon as un-neighborly among the ranchers of Shasta County (Ellickson 1991, 60-61).

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<sup>55</sup> The exceptions are if the trespass is by certain animals other than cattle (like a goat or dog), if the trespassed property was legally fenced in, and if the trespass was intentional.

Ellickson's case of Shasta County shows some of the ways individuals rely on norms as they go about their business, independent of the formal legal and political system. Ranchers were able to understand the terms on which others interfered with their business, and were able to respond when violations of these terms. Are such ranchers "dominated" because they fail to use the formal mechanisms of control offered by the legal system? Such a conclusion seems too strong. It seems that in such circumstances the norms were sufficient – even though they were surely violated from time to time.

We could also point to cases where law incorporates pre-existing social norms as further evidence of social norms as a basis for freedom. Differing whaling communities historically adopt different norms surrounding what action establishes ownership (Ellickson 1991, 191-206). Some communities adopt a "fast fish, loose fish" rule, where ownership requires the whale to be physically attached in some manner to the claimant's boat. Other communities adopted an "iron holds the whale" rule, where ownership belongs to the boat that landed a harpoon or weapon of some variety in the whale, whether or not the whale was attached to the boat. The difference tended to depend on circumstance. Where whales tended to be docile and slow, whaling communities tended to adopt the "fast fish, loose fish" rule. Where whales tended to be dangerous and fast, whalers tended to adopt the "iron holds the whale" rule. What is important is that, in the 1880 court case *Ghen v. Rich* involving a dispute over ownership of a beached whale that was harpooned, the judge did not make law out of whole cloth. Instead, the judge respected the previous existing social norms among various whaling communities. Where the norms work, it is better to have the law follow the norms (see also Schmidt 2011,

606). Norms evolve in response to diverse circumstances that those distant from the norm communities in question regularly fail to comprehend.

While these sorts of cases support my claim, they also reveal at least some of the limits of social norms in grounding our freedom in contrast with legal norms. Most examples of social norms successfully regulating cooperation among individuals independent of law tend to focus on property and commerce. Who owns what? What happens when you trespass? How do we deal with line-cutters? And the like. To be clear, these are all forms of interference. But such questions do not capture all forms of interference, and, in particular, bodily harm.<sup>56</sup> Thus, social norms may be of limited use when the stakes are particularly high. When the stakes are high, this is when we need more formal institutions.<sup>57</sup> Even then, I want to remind the reader that social norms play a key role *alongside* legal norms to secure freedom.

Prior to moving on to moral norms and freedom, I want to briefly suggest that there is still a role for social norms in protecting people from severe interference, even in the absence of political and legal institutions. In non-ideal circumstances, where formal institutions are lacking, social norms can limit the potential threats to freedom of a

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<sup>56</sup> Ellickson explicitly limits his claims to “workaday affairs” as opposed to “foundational rules” that ground entitlements, (1991, 174).

<sup>57</sup> I do not say specifically the “state” because I want to leave it an open question whether or not private agents can form formal institutions sufficient to protect people. For some provocative suggestions along these lines, see the second half of Huemer 2013.

lawless society.<sup>58</sup> In an important paper, Peter Leeson discusses various norms and conventions that reduced violence at the Anglo-Scottish borderlands in the sixteenth century and earlier (Leeson 2009). The borderlands, on Leeson’s account, constituted “a lawless arena,” and, as such, held the potential to become a perpetual bloodbath (Leeson 2009, 476). However, violence at the borderlands was restrained by various norms and customs. For example, borderers could resolve disputes via duels (Leeson 2009, 492). While a duel is a suboptimal dispute resolution mechanism (to put it lightly), it still does better than an alternative: full-on fighting. Better at most two individuals die than put two families or group at war. Even in the absence of formal institutions, then, it seems norms play a role in improving freedom. To be clear, I do not think it seems that such circumstances provide a resilient sphere of choice. The borderlands did not constitute a free society in the sense understood in this project. Nonetheless, there is something like a shadow of freedom in such circumstances – one’s choices are not secure enough to rely upon, but not fragile enough to despair.<sup>59</sup>

#### 5.4 WHAT ABOUT MORAL NORMS?

Some might dispute my reliance on social norms in favor of moral norms. In *The Barbershop* (§4.2), the customer finds himself tranquil to the extent that is not reasonable

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<sup>58</sup> By non-ideal circumstances, I simply mean circumstances where certain institutions that secure freedom are lacking. I do not mean it in the technical Rawlsian sense and related senses that engagement with Rawls has generated (Simmons 2010)

<sup>59</sup> Even on the borderlands, some felt sufficiently secure to engage in at least *some* agriculture, an activity that requires planning (Leeson 2009, 478).

to include the possibility of the barber slitting his throat in his deliberations. One reason, the critic might point out, is that committing murder is wrong, and not something we expect people to do. Further, this moral requirement is not conditional in the way a social norm is. On the Bicchieri account, compliance with social norms is conditional on others doing the same. As the title of one of her articles puts it “Do the Right Thing: But Only if Others Do So” (Bicchieri and Xiao 2009). But this does not seem like a natural reading of *Barbershop* – there seems something bizarre about suggesting the barber does not engage in murder because other barbers do the same. This is just what morality demands. And this is something we can rely on in our deliberations. Thus, the critic suggests moral norms may figure as a basis of freedom.

The key to evaluating this point requires a handle on the distinction between moral norms and social norms. This is not a project on metaethics or normative ethics, and so this is not the place to say anything definitive or satisfactory about that distinction. I largely concur with Gerald Gaus that what we call “morality” is not one thing, but refers to a cluster of practices and judgments that do not share a unified structure (Gaus 2011, 551-557). It would be a mistake to take what follows as presenting a conclusive position or even argument about what (or what does not) separate moral norms from social norms, but instead builds on some possible approaches.

Latent in this criticism of my analysis of *Barbershop* is one possible approach to distinguishing social and moral norms. The complaint, recall, is that compliance with social norms is conditional in a way that compliance with moral norms is not. The barber does not refrain from murder conditional on other barbers doing the same, but just because that is the wrong thing to do. On this view, moral norms are unconditional on

whether or not others behave the same. This view treats moral norms as a sort of “personal norm.” A personal norm is an individual disposition to act on some rule not conditional on our beliefs or expectations about others (Bicchieri 2006, 20-21; Nichols 2010, 277). Indeed, Bicchieri suggests that what distinguishes moral norms from social norms is the unconditional commitment we take towards moral norms (Bicchieri 2006, 21).

I do not believe moral norms can serve as among the social bases of freedom. Recall *The Slave* (§4.1). One way to understand the benevolence of the master is that the master endorses a personal norm to not be cruel to his slaves. He is benevolent because he uses such a norm to guide his treatment of his slaves. In this way, we can treat the benevolence of the master as a kind of a moral constraint on his behavior. Pettit considers such moral constraints on behavior, finding them unsatisfactory in limiting interference. Like benevolence, Pettit suggests that moral constraints of this kind depend on the will of the potential interferer to remain disposed to complying with morality (2012, 63). In the language of personal norms, we could say that the problem with such norms is that they depend on the agent in question remaining disposed to comply. The problem with personal norms is that they are *opaque* to us in a way that social norms are not. It is difficult to understand or perceive when an agent endorses a personal norm. As such, the personal norms of others did not seem to fit well in our practical deliberations. We cannot rely on them as we make plans because we have no epistemic basis upon which to conclude that such a personal norm exists in others. However, there is another way of approaching moral constraints.

Moral constraints may be best understood as personal norms from a first-person perspective – I best understand myself as someone committed unconditionally to abiding by certain values. Likewise, I might think this is the proper relationship for others to moral norms. However, focusing on moral norms *qua* personal norms ignores how moral norms can work through social norms. Social norms constrain behavior in a very different way than, say, a personal norm does. Recall our understanding of social norms as conditional preferences to conform to a given rule. These norms are not conditional on the good will of these individuals, but rather on the empirical and normative expectations these individuals have. Where these expectations are met, individuals will conform to the norm in question. Because of this, norm-compliance is a significantly different motive for behavior than benevolence and altruism. Norm-compliance does not depend on one's good will, but rather on how one reads the situation.

Approaching moral constraints as social norms reveals a way in which we *can* rely on moral constraints on others in charting a course of action. As noted, personal norms are opaque to us in a way social norms are not. We cannot perceive the good will. However, we can perceive situational cues. We can infer the presence and operation of a social norm in a way we cannot the personal character of others. This is valuable for our status as free persons in two ways. First, grasping the presence and operation of a norm helps us form stable empirical expectations about others. Such empirical expectations are necessary to suitable planning. Second, and more importantly, norms render people *accountable* for their actions (Brennan et al 2013, 35-39). We are often brought to answer for norm violations, even when these norms are not encoded formally in law. Consider a norm against cutting in line. When someone cuts in line, this prompts disapproval and



demands for justification (e.g. “Excuse me. What do you think you’re doing?”). Most of us wouldn’t bat an eye at an individual enforcing norms surrounding queuing. Where there is no norm, it is intrusive to ask for justification of behavior. To adapt Stanley Benn’s example, there is something off about demanding justification of a stranger splitting pebbles on the beach (1988, 87). Aggressive questioning in this situation would be intrusive. Where moral constraints are embedded in social norms, we can count on these norms to preserve our sphere of choice against others. The inverse is importantly true. Lacking a system of stable social norms constraining the behavior of others, we lack freedom.

## 5.5 THE SIMPLE ARGUMENT FOR DECENTRALIZATION

Republicans are surely right to point out how potential interference, and not just actual interference, can invade our freedom. I have argued that the insight of republicanism is that freedom is not just about the choices open to us, but also the resilience of those choices. The social bases of freedom are those features of our social world we can count on in making our plans. While we can count on formal institutions that grant us control over others, we can also count on the existence of informal social norms. These norms are important in their own right, and not just in their role of supporting coercive institutions. These observations leave us with a more complicated landscape of freedom. The questions that become salient are about the various modes of rendering our choices secure. To this extent, I want to re-emphasize that I am not providing an analysis of freedom, but instead trying to make headway on the issues that surround respecting freedom. This is the purpose of making a general amendment to our understanding of freedom that cuts across various conceptions of freedom. I have only

gestured at two bases of freedom here, control-based and norm-based. I do not intend this analysis to be exhaustive. In the remaining sections of this chapter, I want to suggest that republicans, by focusing on control-oriented bases, tend to take for granted the state as the guardian of liberty. My main claim is that, when securing freedom, we should be sensitive to how decentralized norms confer freedom. Lacking this sensitivity, we might find ourselves expanding the powers of certain actors where unnecessary. This makes us more vulnerable to abuse than we otherwise would be. This is what I call *the simple argument for decentralization* or “the simple argument” for short. *Ceteris paribus*, we should opt for conditions that minimize the centralization of power. But, and this is important, often the situation is such that the *ceteris paribus*. In the next section, I suggest a few conditions under which decentralization fails, and where more formal control-oriented bases of freedom may be more appropriate.

The first step in the simple argument involves the observation that different bases of freedom involve organizing power in different fashions. Let us limit our purview to what I want to call a nodal approach to power. The idea is that we can imagine each person as a node in a network among other persons. Various modes of securing our freedom involve distributing the power to check interference among the nodes in particular ways. Take control-oriented bases. The existence of a formal avenue of contesting power requires granting certain power over others. Otherwise, such contest and control would be ineffective. It involves shifting power in the network to particular nodes. This power is what Pettit in earlier work calls *imperium*, or the power the state has over its subjects (1997, 112). In contrast, norm-oriented bases do not require *imperium*. Instead, they operate through the scattered beliefs and actions of individuals among a

population. When an informal norm is broken, we do not turn to the state, but take it upon ourselves to enforce the norm through social sanctions. No one corporate or individual agent enforces informal norms. Instead, norms make us accountable to each other independent of our formal office. Whereas control depends on centralized institutional frameworks, social norms operate through individual actors holding other actors accountable. This requires less power held in the hands of one individual or corporate agent. Instead, norms disburse power throughout a population. In this way, norms involve a flattening of the distribution of power in comparison with formal institutions.

This observation is not an insignificant detail. An important element of our freedom is acknowledging there are no guarantees when dealing with other agents. Thus, if we are interesting in rendering secure our choices, we have to be sensitive the distribution of power. This is because granting power to particular agents for the sake of preserving freedom also grants them the power to invade that freedom. If we treat others as agents, there are no guarantees regarding how those agents use their power. What follows from this?

There is a common sentiment that centralizing power tends to serve as a threat to our freedom. Why this is so, is not always clear. To get at this, let us begin with the idea of expected unfreedom. Let us represent expected unfreedom as the product of the probability of an invasion of freedom and the size of the invasion. Formally speaking,  $E(I) = \text{Pr}(I) * I$ , where  $I$  represents a particular invasion of freedom. Starting from this simple formula, it becomes clearer how centralization might threaten our freedom.

First, centralization might involve increasing the probability of invasion of our choices. I believe this sort of concern is at the core of Lord Acton's dictum that power

corrupts, and absolute power corrupts absolutely. We are steering into empirical territory here, but let me suggest a few plausible mechanisms of how centralizing power might increase the probability of abuse. I suspect these sorts of mechanisms tend to capture the ordinary fears people have about centralization and freedom.

On the ordinary reading, Lord Acton's dictum gives the sense that when people come to have power it tends to warp their character. This provides our first mechanism of how power might increase expected unfreedom by increasing the probability of interference: Power corrupts individuals. Perhaps the idea is that, given people as they are, the temptation presented by more and more power becomes irresistible. This might go two ways. We might get something like the corruption present in the Ring of Gyges story, where being placed in a position of great power allows the power-holder to get away with self-interested behavior that he could not otherwise get away with. Or, we might get a "moral authoritarian" type of corruption, where someone uses the power they now hold to impose their vision of how society should be on unwilling and unaccepting others.<sup>60</sup> However, individuals are not the only entities potentially corrupted by power.

An interesting feature of Lord Acton's dictum is that the object of corruption is left unmentioned.<sup>61</sup> Power corrupts *what*? Rather than power corrupting individuals, why not power corrupting offices or institutions? Here is a story of how this might occur.

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<sup>60</sup> I get the term moral authoritarianism from Gerald Gaus (2011, 16).

<sup>61</sup> To be fair, in the very next sentence Lord Acton specifies "Great men are almost always bad men." But, even then, it is not clear what is corrupted. Is it that greatness corrupts, or is that great men are almost always bad men because bad men desire to become great men?

When you confer power on an office or institution, you make it so the individual who occupies the office or a role in the institution has more power in virtue of their position. This makes the office more appealing to unscrupulous individuals who have something to gain by acquiring the power within the office. This is a matter of what social scientists call selection effects. Awareness of selection effects draws attention to how effects observed after an intervention might not be actually caused by the intervention (what social scientists call a treatment effect), but instead by the sorts of people the intervention draws out.<sup>62</sup> In our case, it might be that increasing power draws out people who want that power to use for their own self-serving purposes. However, this is not how we want the institutions tasked with preserving our freedom run. To use a sports metaphor, the point of an umpire is to call the shots and make sure the game is played fairly, not create a winner (Schmidtz 2015, 49).

Both of these theories provide an explanation for how centralization might increase expected invasions of freedom by increasing the probability of invasion. However, they involve empirical claims about how power actually operates on individuals and institutions. While plausible, such explanations are only speculative. I have provided no evidence here to suggest how this might be the case. However, the next suggestion about centralizing power does not depend on empirical evidence: It is a logical truth.

The second way centralizing power can increase expected invasion of freedom is through acting on the invasion that we are worrying about. The formula  $E(I) = Pr(I) * I$

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<sup>62</sup> The previous hypothesis about how power corrupts people attributes a treatment effect to power rather than a selection effect.

implies that granting an agent or institution more power increases the amount that agent can interfere with us, independent of whether or not such increased power increases the probability of abuse of power. Let me explain this less formally and more intuitively. Recall Berlin's door metaphor and Pettit's development of the door metaphor (§4.3). For Berlin, freedom is represented by the amount of doors that are open (Berlin 1969, xxxix). Pettit adds in the character of a doorkeeper to explain why the reasons that led Berlin to endorse non-interference over non-frustration should lead one to endorse non-domination over non-interference (Pettit 2011). Suppose I am the doorkeeper, and there are three doors. Suppose I am only in charge of guarding one door. My potential abuse of this power is limited to closing that door, rendering you unfree to go through that door, but not the others. If you give me power over two doors, however, I now can abuse that power to render you unfree to go through *both* doors. The threat to your freedom is larger in the second scenario not because I am more likely to abuse my power, but simply in virtue of the fact I can do more to invade your freedom. Giving me this power increases the magnitude of my potential interference. In this way, increasing the power of a given agent necessarily increases expected abuse by that agent.

We can now return to the simple argument:

P1: Different bases of freedom involve different distributions of power

P2: Centralizing power increases expected abuse of power

∴ Ceteris paribus, we should opt for conditions that minimize the centralization of power

What this means, practically speaking, is that we should be wary of expanding the reach of coercive institutions and procedures where there are gaps in those institutions and procedures. Norms require the least centralization insofar as they operate without formal institutions. This does not mean we should *never* expand coercive institutions. Instead, we ought to be sensitive to how individuals are able to navigate their social lives through the use of informal norms. Obviously, this is not always possible. Further, understanding how norms render resilient our sphere of choice also points out how norms can go awry and make our choices *more* vulnerable.<sup>63</sup> In the next section (§5.6), I will explain specifically when decentralization fails. Nonetheless, when we have a system of norms in place that is adequate to structuring our expectations in regards to a particular scenario, there is no need to opt for other conditions. Doing so would be counter-productive in the sense it would render our choices more vulnerable to interference. A system of decentralized norms gets the best of all worlds: It renders our choices secure while avoiding the risks of abuse associated with centralizing power required by control-oriented bases.

To be clear, it is not as though republicans are blind to this possibility. Pettit, in building his account of political legitimacy, acknowledges that one way of establishing a system of justice is not through the state, but through a decentralized system of social norms (2012, 134-135). However, Pettit rejects this possibility for three reasons. First, the grounds that a system of norms would be unlikely to identify an appropriate set of “basic

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<sup>63</sup> Clarissa Hayward, for example, draws attention to how the structures within which deliberation occurs impact the distribution of power independent of any particular agent’s actions (2011, 483).

liberties.” By this, Pettit means simply that a decentralized system of norms would poorly equipped at identifying which choices to protect from the interference of others. Second, a system of norms would not “resource” these liberties, even if it could identify them. While our sphere of choice may be robust, the sphere may be small as a result of not having the resources to actually do things. It is important to note that these first two points regard the capabilities that populate our sphere of choice – my concern here is not regarding the scope of choice, but rather the resilience of choice. However, Pettit’s final point against a system of decentralized norms does implicate the ability of norms to secure agents’ sphere of choice. In Pettit’s words, a system of norms would “also be unlikely to provide suitable protection for all” (2012, 135).<sup>64</sup>

I agree that a system of informal norms is insufficient to securing freedom. But these sorts of criticisms fail to appreciate the complexity of authority in any given system. We do not face the choice of *either* a state or system of decentralized norms. The reality is that authority is not vested in the state alone, but rather decentralized and shared among many different individual and group agents. The authority of the state overlaps and works alongside the various informal social norms that structure our daily interactions. It is a fact of our associational life that there are gaps in the authority of the state, and attempting to close these gaps is both undesirable and infeasible. The choice is not so much state or norms, but about when do we expand coercive rules and when do we want to let informal modes of navigating social life secure people’s choices. This requires us to have the knowledge of when norms operate effectively in constraining power, and

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<sup>64</sup> Pettit’s worries about the equality of protection provided by decentralization echo Thomas Christiano’s (Christiano 2008, 112-116).



when do more formal modes of enforcement work. These sorts of questions become more complicated by the fact that formal institutions tend to fail without certain kinds of normative preconditions. Nonetheless, this complex landscape of securing freedom is the one we should confront, rather than the simple one often presented by a narrowly state-oriented outlook.

## 5.6 WHEN DECENTRALIZATION FAILS

In the last section, I suggested that, all things being equal, we should opt for decentralization over centralization in seeking to secure our freedom. However, all things tend not to be equal. In this section, I provide a few circumstances in which norms will fail to secure our freedom. These conditions can be thought of as defeaters – their presence defeats the *prima facie* reason to opt for decentralization. I have already suggested at least one situation where norms will fail to do the job, when the stakes are high (§5.3). I have proceeded in this chapter in a rather formal matter. My discussions of norms have presumed that they apply to people in an even manner, independent of the particulars of their identity. However, in practice, norms do not universally apply to all people equally within a society. People tend to hold others to different standards depending on their identity. For example, consider a norm of holding the door for others. It is difficult to talk about that norm without acknowledging what role gender plays in judgments surrounding when and how the norm applies. Here, I focus on situations where norms serve as tools of oppression. Consider one of Iris Marion Young’s five faces of oppression: violence. Violence for Young involves, “the daily knowledge shared by all members of oppressed groups that they are *liable* to violation, solely on account of their group identity” (Young 2011, 62). The idea, I take it, is that being a member of a

particular group makes one vulnerable to violations by others. I think this idea is best cashed out in terms of norms.

To illustrate Young's violence, take the case of norms of neighborhood segregation. In a recent book, the legal scholars Richard Brooks and Carol Rose discuss how white neighborhoods turned to a mix of social norms and law to enforce segregation in neighborhoods (Brooks and Rose 2013). One element of racial segregation Brooks and Rose are interested in is the puzzle of racially restrictive covenants – legal restrictions that run with property forbidding members of minority racial groups from owning that land. As a legal tool, the ability of racially restrictive covenants to enforce segregation might be self-evident, and seem outside the scope of the realm of norms. However, such covenants were declared legally unenforceable in the 1948 Supreme Court case *Shelley v. Kraemer*. The puzzle is that, despite being declared legally unenforceable, such covenants remained in use by real estate professionals in the years following *Shelley* (Brooks and Rose 2013, 5). If racially restrictive covenants were legally unenforceable, why would real estate professionals still use and refer to such covenants in their dealings? Brooks and Rose suggest that these covenants served to signal to both neighbors and potential buyers what the norms of ownership in the neighborhood were (Brooks and Rose 2013, 191). Such covenants were primarily a tool of middle-class neighborhoods. Working-class neighborhoods, Brooks and Rose report, were effective in enforcing segregation through the use of informal intimidation and norms alone (Brooks and Rose 2013, 4).

Cases such as racial segregation in neighborhoods suggest opting for a decentralized solution does not always promote freedom, but instead can directly threaten

it. Formally, I want to suggest two ways in which norms can fail to protect and perhaps even undermine the freedom of marginalized groups. Norms can fail due to the content of the norm in question or in regards to the scope of the norm in question. The segregation norms above appear to be a case of where a particular norm fails in terms of content. The content of the norm of segregation holds that it is impermissible for member of non-white racial groups to hold property in white neighborhoods. The norm itself directs harassment and social sanctions against people who violate it – black people attempting to buy and hold property in white neighborhoods. The very content of such a norm involves a breach of freedom. But, a norm might fail to serve as a basis for freedom in terms of *scope* rather than content. By scope, I mean the question of to whom the norm applies. It might be that certain norms against interference protect some groups within society, but not others. Take a norm against shoving people in the street. The content of such a norm seems to promote freedom. We are all better equipped to navigate the streets if we can rely on being free of physical invasion. But, if that norm applies only to members of a certain class or group, then it will fail to perform this function. For example, if in a particular community, white people are licensed to shove black people without reproach because the norm community is thought to not include black people, this seems to be the epitome of Young's notion of violence.

In this section, I have focused on when decentralization fails. Social norms do not always ground our freedom, and knowing how and when they fail is important. However, prior to concluding this chapter, I would like to make a quick observation. If it is the case we cannot rely on norms to ground our freedom in a particular case, it does not necessarily follow that we should opt for centralization, or at least centralization on its

own. Consider the segregation case above. *Shelley* was a centralized response to a decentralized problem. And yet, it was insufficient. Racially restrictive covenants and the norms against integration they signaled remained. Failures of decentralization might require decentralized responses alongside centralized ones to be successful. Indeed, Brooks and Rose discuss “norm-breaking entrepreneurs” in their investigation of norms of segregation (Brooks and Rose 2013, 115). Such individuals disrupt the norms in question by purposefully violating them. We could also note how the National Association of Real Estate Exchanges (NAREB), or the professional association of realtors, formally adopted a norm against racial discrimination in their Code of Ethics in 1974 (Morrow unpublished). To be clear, I do not mean to say that centralization does not have its place in such efforts. Undoubtedly the change in norms for the NAREB was in part a response to the Fair Housing Act of 1968. Only that centralized means of promoting freedom are limited by their ability to move in concert with more decentralized means of promoting freedom.

## 5.7 CONCLUSION

In this chapter, I argued that norms serve as basis of freedom. Norms, by providing stable empirical and normative expectations, allow people to navigate their social world. Understanding this allows us to be attentive to how decentralized modes of cooperation can ground freedom without centralized modes of cooperation. This provides a *prima facie* reason to prefer decentralization to centralization, as I have argued that centralization in various ways increases the expected abuse of power. Of course, this is only *prima facie* reason. I have ended this chapter suggesting how norms can fail to serve as grounds for our freedom, and might even threaten it with a focus on norms that hinder

the freedom of marginalized groups. However, this discussion of the relationship of norms with freedom operates within a particular understanding of our freedom. In the next chapter, I make a more radical claim: Norms constitute a unique sort of infringement what I will call our social freedom, or our freedom from being subject to social norms and the forms of pressure they cause. Indeed, the key to understanding the tension in our intuitions about freedom and norms is seeing how norms implicate *different* senses of freedom. It is because norms involve different senses of freedom that the tension between freedom and norms is irresolvable.

## VI. SOCIAL FREEDOM AND ITS VALUE

In the last chapter, I argued that social norms constitute a basis of freedom. Norms provide stable expectations about the behavior of others, and confer upon us the power to hold those others accountable when they deviate. Because of this, social norms are features of our social world we can rely upon as we navigate that world. Social norms shore up our sphere of choice against the interference of others. Social norms are not perfect in this playing this part, as I have suggested some limitations to the ability of norms to perform this function. Nonetheless, it is a mistake to neglect the more informal ways we navigate our social world.

In this chapter, I make and defend the claim social norms present a particular kind of threat to our freedom. Specifically, social norms restrict a specific sense of freedom, what I call *social freedom*. This might appear an odd position to take in light of the previous chapter. I will say more in later sections to reconcile this chapter and the last, but let me say a few words up front to address these concerns. I have already suggested one way in which the metaphor of a sphere of choice respects the complexity of freedom. The sphere of choice both captures both the idea of freedom as status and freedom as choice, allowing it to cut across various particular accounts of freedom. I want to suggest that the sphere of choice also provides a way of seeing that the status of the free person is complex in that involves multiple notions of freedom. A sphere of choice involves not only a set of options, but also the robustness of those options. Robustness involves not just being able to hold others accountable for their interference, as we have discussed in the previous chapter, but also claiming for one's self those options through social

freedom. This is how we are able to choose in coordination with, but not in subordination to, others. In this chapter, I plan to lay bare this dimension of the free person. Part of this involves a discussion of a topic of contemporary concern at institutions of higher learning: microaggressions.

## 6.1 MICROAGGRESSIONS, MILL, AND MORAL COERCION

As anyone involved in higher education in the 21<sup>st</sup> century knows, classrooms have increasingly become sites of complex and nuanced unspoken rules regarding how teachers relate to students, and how students relate to one another. In particular, subtle verbal and non-verbal slights towards member of marginalized groups, or *microaggressions*, have become the subject of public scrutiny. Consider, for example, a white professor who becomes self-conscious about whether praising a minority student's comment for its articulacy might be interpreted as a backhanded insult to students with that background. Much of the public debate over microaggressions centers on whether a culture sensitive to such offenses is compatible with academic freedom.<sup>65</sup> However, a deeper issue is at stake. Quite apart from concerns about academic freedom, or even freedom of speech, the case of microaggressions also raises the broader question of how far social pressure to conform to various norms might threaten agents' freedom. Although J. S. Mill's *On Liberty* drew attention to this question, he did not provide a satisfactory

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<sup>65</sup> For a journalistic overview, see Schmidt 2015.

analysis of it himself, and theorists of freedom since Mill have, I believe, neglected to follow it up.<sup>66</sup>

Mill was concerned with what he called the “moral coercion of public opinion” (Mill 2015, 12), and of how it induces unreflective conformism. He was clear that such coercion constricts the ability of individuals to lead their own lives. However, Mill failed to clarify exactly how we should understand moral coercion, instead focusing on legal interference and its justification. This chapter tries to make some progress in clarifying how we should think about less formal burdens on what I will call *social freedom*. I use this term because I will be concerned with the extent to which *social norms* might restrict agents’ freedom. My proposed account of social freedom allows us to bring the mechanisms of moral coercion into sharper focus. In particular, I will argue that social freedom matters because it affords agents valuable space within which they can fashion their plans free from certain forms of accountability to others. I aim to highlight how pressure to conform to widely accepted social norms can limit our ability to deliberate freely about our own lives, quite apart from any physical interferences we might confront. I believe Mill was correct to see such forms of accountability to others as limiting personal freedom. My aim here is to build on that suggestion a more concrete

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<sup>66</sup> An important exception is Margaret Gilbert’s analysis of how collective value judgments encroach on personal freedom through licensing rebuke (2006; see also 2005, 40-43). My project complements hers, but diverges in focusing on social norms rather than the collective value judgments of a unified social group. Further, while Gilbert’s arguments are primarily conceptual, my arguments focus primarily on normative issues, with an eye towards public debate surrounding microaggressions.



analysis of how they can do so, and to propose an ideal of social freedom that can hold them at bay.

## 6.2 A GENERAL ACCOUNT OF SOCIAL FREEDOM

Social freedom can be defined as follows:

*Social Freedom:* An agent X is socially free to  $\varphi$  if X is subject to no social norm under which  $\varphi$ -ing is socially impermissible.

Conversely, an agent X is socially unfree to  $\varphi$  if X is subject to a social norm under which  $\varphi$ -ing is socially impermissible.

I will explain more about what it means to be subject to a social norm soon, expanding on my discussion of social norms in the previous chapter, as well as complications introduced by how norms may come into conflict with one another. For now, I want to note two features of my understanding of social freedom. First, it involves the social norms *actually* accepted within a community. It does not involve what norms people *should* accept. In this way, I am presuming a non-moralized account of social freedom as opposed to a moralized one.<sup>67</sup> Second, this understanding of social freedom only renders categorical judgments in relation to specific actions. We can only describe some agent as socially free or unfree only in relation to some action  $\varphi$ . On my account, there is no socially free agent simpliciter – agents are only socially free to perform a particular

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<sup>67</sup> On the relative merits of non-moralized accounts of freedom over moralized ones, see Carter 2011 and List and Valentini 2016, 1058-1059.

action. I understand this second observation raises important questions – I will return to these issues soon.

My argument turns on the assumption that, when they are generally accepted, social norms confer on agents standing to hold others accountable for their actions. Social norms then do not just involve prohibitions, but also what H. L. A. Hart called power-conferring rules (Hart 2012, 27-28), conferring on agents the power to rightfully sanction others. This is not necessarily a bad thing. As I argued in the previous chapter, being able to hold others accountable plays a significant role in making our social world navigable. However, since they involve the application of social pressure, such norms can become stifling. To highlight this phenomenon, I return to the idea of *The Norm Saturated Society* presented in Chapter 1. To flesh out this idea, I describe a particularly extreme case of such repression that I call *norm saturation*. Under conditions of norm saturation, persons find themselves subject to scrutiny in all that they do. I argue that this form of unfreedom is of great political significance and that existing theories of freedom do not adequately capture its importance. I suggest we can see this in the debate over microaggressions. Pushing for a culture sensitive to such behavior comes at a cost to our social freedom. By seeking to lower the threshold of what forms of offense are fair game for public sanction, activists push for a social culture that introduces more pressure on our daily interactions. To be clear, social regulation of microaggressions need not involve norm saturation. Norm saturation is an extreme limit case. Nonetheless, norm saturation can help us better understand the freedom-based costs of pushing for a public culture more sensitive to offense.

### 6.3 SOCIAL NORMS AND ACCOUNTABILITY: A RECAP AND DEVELOPMENT

Prior to describing norm saturation and the ills of social unfreedom, I wish to briefly recap how I understand a social norm, as well as provide some further development on how I understand what it means to be subject to a social norm. Recall that for the ANU group, social norms are distinct from two related concepts: statistical norms and objective normative principles (Brennan et al 2013, 2). A statistical norm or habit is simply a regularity or commonality among a population. For example, we might describe the norm among a people is to go to sleep at night. By this, I mean nothing more than that we should tend to observe people going to sleep at night. The regularity is all that is referred to by this sense of norm. An objective normative principle is a sound moral precept, such as “Slavery is wrong” or “Do not murder.” Such normative principles tell us nothing by themselves about what people will do, but are sources of genuine practical reasons to act in certain ways. These sorts of norms do not depend on whether or not people accept them.

Recall further that, for the ANU group, social norms at their most general level involve two elements (Brennan et al 2013, 3-4). First, social norms have a “normative” element in that they purport to supply practical reasons and are generally presumed to do so. Social norms provide agents guidance in regards to what they ought or ought not do. These normative requirements are not particular, but general. By this, I mean that social norms pick out action-types. For example, a social norm holds “People should not cut in line.” When Michael cuts Nora in line at the Starbucks this Monday at 9:03a, what the norm makes salient is not the particular agents and circumstances, but that this violation is a token of a broader action-type (“cutting in line”). Second, social norms are social

facts. By this, I mean that social norms only exist to the extent that persons accept them and/or believe that others or enough others accept them. Because of this, you cannot have a social norm without referring a given population.

Although there is disagreement over the more fine-grained features of social norms so understood,<sup>68</sup> these more detailed considerations need not concern us here. Unlike the last chapter, the arguments I make here do not depend on Bicchieri's particular account of norms (2006). This is because, whichever specific account of social norms one favors, all agree that such norms render us *accountable* to one another (Brennan et al 2013, 36-37). Accountability involves liability to sanction for violation of some known standard. In this way, norms not only invoke attitudes of approval or disapproval, but also serve as grounds for social sanction in the form of some type of public criticism. This last part relates to what Hart calls "the *internal aspect* of rules" (Hart 2012, 56). By this, Hart means that rules involve not just observable patterns of behavior, but also a "critical reflective attitude" among those subject to the rules (Hart 2012, 57). Such a critical attitude is not limited to internal reflection on the behavior of one's self and others, but enacts itself in how people respond to violations of the rules in question. Social norms ground and guide, to use Margaret Gilbert's term, forms of "punitive criticism" by others, even when these norms are not encoded formally in law (Gilbert 1999, 148).

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<sup>68</sup> Various possibilities include attitude-based accounts of social norms (e.g. Brennan et al, 2013), preference-based accounts (e.g. Bicchieri 2006), and practice-based accounts (e.g. Posner 2000).

Consider again a norm against cutting in line. When someone cuts in line, this prompts disapproval and some critical social response. For example, I might ask the cutter “Excuse me. What do you think you’re doing? There is a line here!” Further, most of us would not bat an eye at an individual upholding norms surrounding queuing. An implication is that norms give strangers standing to sanction our actions if they are contrary to a norm – it does not matter if the person enforcing the norm against line cutting is someone we know. In the case of questioning the line-cutter, this questioning is not an innocent request for information, but a demand to respond in a satisfactory manner. When we ask the line-cutter what he is doing, this is not mere curiosity. Such demands coincide with normative attitudes of disapproval. No one engages in interrogation when they approve of or are indifferent to an action.<sup>69</sup>

To be clear, the form of sanction licensed by a norm is variable, and is itself subject to second-order norms. Setting off on a hate-filled tirade over improper table etiquette is inappropriate, even if some form of sanction is called for (perhaps a furrowed brow will do). That said, social sanctions of all stripes constitute punitive criticism insofar as the sanction makes apparent the disapproval of the norm-enforcer. While less confrontational than questioning, raised brows, tutting, pursed lips, dirty looks, and the like all get the same message across: I disapprove of your norm-violating behavior and I want you to know.

As noted, the accountability produced by norms rests on the standing to sanction conferred on individuals by such norms. In this way, a social norm lifts a general

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<sup>69</sup> As I will stress later, the converse does not hold. Disapproval does not license punitive criticism. This is the difference that the presence of the norm makes.

presumption against public criticism, and allows people to call each other out in second-personal terms (Darwall 2006). As such, social norms operate against a more general background expectation to “mind your own business.” This observation generates a complication for my account of social freedom that I flagged earlier by mentioning the possibility of conflicting norms. As the reader might have noticed, the general expectation to mind one’s own business is *itself* a social norm. When people fail to mind their own business, they tend to be met with criticism for this by others.

Following the sociologist Erving Goffman, we could call this norm of minding one’s own business a norm of “civil inattention” (Goffman 1963). The norm of civil inattention applies to all of us and involves a presumption against paying excessive attention to strangers. To illustrate this norm of civil inattention, imagine two strangers on the bus, Michael and Nora. Michael criticizes Nora for wearing a shirt promoting a band Michael does not like. Charles, a bystander to this exchange, intervenes and chastises Michael to mind his own business. It seems that Nora’s social freedom to wear a shirt promoting a band is preserved, but at the cost of Michael’s social freedom to publicly disapprove of other people’s musical tastes. One might wonder whether the fact that social norms exist *against* public criticism tells against the coherence of the concept of social freedom. The best we can do is a hodgepodge of conflicting norms, and thus social freedom is not something we can promote.

In response: A norm of civil inattention *does* implicate one’s social freedom. There is a sense in which Michael’s social freedom is limited by Charles’s public criticism. We can describe Michael’s situation quite nicely using my earlier formal definition of social freedom: Michael is unfree to publicly criticize people’s music

preferences because he is subject to a norm that renders such criticism impermissible. That said, while Michael's *specific* social freedom to criticize people's music preferences is limited, we must not limit ourselves to individual social freedoms. Otherwise, we miss how such a norm serves to promote *overall* social freedom.

This point might be clearer if we compare the relationship of a norm of civil inattention and social freedom with the relationship between law and freedom as non-interference. In the latter case, laws introduce interference in the lives of those who are subject to them through the threat of punishment. However, as Sir William Blackstone puts it, “[L]aws, when prudently framed, are by no means subversive but rather introductive of liberty; for (as Mr Locke has well observed) where there is no law, there is no freedom” (Blackstone 1893, Book I, Chapter 1, ¶126). I suggest something is similarly true for a norm of civil inattention. To use a Kantian formulation, a norm of civil attention involves “hindering a hindrance.” By limiting the domain of appropriate punitive criticism, the norm of minding one's own business creates a presumption in favor of social freedom on a par with the presumption in favor of liberty in the more traditional non-interference sense. We can refer to this norm in our daily activity to limit the intrusive public judgments of strangers. While such a norm surely limits our social freedom to some extent, this limitation is in the service of increasing our overall social freedom.

Given this, we can see why it is a mistake to speak of a state of complete social freedom as I noted earlier in introducing the idea. Social freedom is always a matter of degree. Practically speaking, having some social freedoms involves limiting others. The questions raised by attention to social freedom do not involve whether or not we are

socially free as such, but about the scope or measure of our social freedom.<sup>70</sup> That said, while total social freedom is a non-starter, we can intelligibly speak of total social *unfreedom*, even if just as a limit case.

#### 6.4 NORM SATURATION

In this section, I want to describe a condition of totalizing social *unfreedom*, or the condition of what I will call *norm saturation*.

*Norm Saturation:* For every action  $\varphi$  that it is feasible for X to perform, there is a social norm either prescribing or prohibiting  $\varphi$ .

This condition is best thought of as an extreme or limit case to help clarify what is at stake in social unfreedom, rather than a snapshot of any actual society. As an abstraction, it omits details about how norms interact with characteristics of individuals subject to these norms. This omission poses no problem for my analysis, however, as those characteristics tend to amplify or dampen rather than transform the effects described here. I raise this here to acknowledge the possibility (or, as I believe, likelihood) that the degree to which someone might be subject to norms differs in respect to their economic

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<sup>70</sup> A natural question to ask is how should we measure social freedom. This is an important question beyond the scope of my project here. I only seek to make a case for the importance of social freedom – future work will have to do the conceptual lifting surrounding the problem of measurement.



class, gender, race, and the like. It is also worth noting norm saturation, like social freedom, is non-moralized.

Moral philosophers sometimes speak of the problem of demandingness in relation to a saturating morality.<sup>71</sup> The worry is that a morality that governs all behavior leaves no room for individual projects. One might think something similar is true of norm saturation – norm saturation leaves no room for personal projects. This is not my worry here. Or, at the very least, demandingness on its own is not my worry here. Norm saturation might be demanding, but, as with objective moral norms, we may simply ignore its demands. That being said, our interest here is not in moral theory, but in social norms. What makes the demandingness of norm saturation vivid is not what is asked of us, but *who* may ask it of us, and *how* they may ask it of us.<sup>72</sup> The concern here is not demandingness, but *authority to criticize*.

As I have noted repeatedly, the authority conferred by norms plays a role in rendering us accountable to each other. However, the accountability-creating function of social norms presupposes a second-order function, an entitlement to evaluate or scrutinize the actions of others that are salient to the norm in question. I suggest this is implied by the accountability-creating function because, without such an evaluative entitlement, one is unable to hold others accountable. If I cannot evaluate whether or not your actions comply with the norm, I cannot determine whether or not you have complied with the

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<sup>71</sup> For a critical overview of this topic, see Murphy 2000, Chapters 2 and 3.

<sup>72</sup> To be clear, I do not think these sorts of concerns are orthogonal to moral theory. Recent work in moral theory focuses explicitly on the question of authority (e.g. Darwall 2006; Gaus 2011).

norm in order to hold you accountable through social sanctions. For example, if you are standing near the line in front of me at a restaurant, you could be attempting to cut me in line, or you could just be trying to get a better look at the menu. Without further investigation on my part, it is difficult to say whether or not you have violated a norm against line cutting. As a result of this evaluative-licensing aspect of norms, norm saturation produces a situation where each person is subject to scrutiny in all that they do by others.

The extreme case of norm saturation can help us draw some conclusions about social unfreedom more generally. To do so, let me start by making the heroic assumption of full compliance with all norms. The point of this assumption is to isolate the implications of social unfreedom from the interference provided by sanctions arising due to norm violations. This way, we can be clear on the value of social freedom without it collapsing into more traditional understandings of freedom as non-interference. By full compliance, I mean that individuals will comply with norms out of something akin to what Rawls calls the sense of justice. For Rawls, the sense of justice involves complying with principles of justice for their own sake, conditional on others doing the same (1999, 295-296). In the case of social norms, we might say that people have a sense of propriety. The sense of propriety involves the same disposition, except for informal social norms.

One might think that, where a sense of propriety holds, norm saturation makes no difference to how agents respond to their situation. After all, no norm violations will arise that call for reactive attitudes and punitive criticism by others. However, such a conclusion would be too hasty. Given the assumption of full compliance, I want to draw attention to three effects of social unfreedom: *alienation*, *anxiety*, and *normalization*. To

be clear, I do not think these effects are *unique* to norm saturation. In fact, my discussion of these effects can apply to the presence of particular norms independent of the density of those norms. Nonetheless, norm saturation systemizes these pernicious effects, and thinking through norm saturation makes them more legible. Much like a megaphone amplifies the words of a speaker, norm saturation amplifies these various elements of social unfreedom. In this way, norm saturation makes it more difficult to escape from the grip of norms, much like the megaphone makes it more difficult to tune out the protestor in the square.

Even if one abides by norms for their own sake, this does not mean that one endorses those norms or holds those norms as their own. We may lack what Harry Frankfurt calls second-order desires, or desires about desires, regarding our sense of propriety (Frankfurt 1971). In such situations, one might encounter those norms as alien forces, finding one's self pushed around by them. As an example, it might help to think of the experience of Western women in countries such as India, where social norms surrounding what counts as appropriate dress differ dramatically from the West. In such situations, we find ourselves held to standards of public morality we find opaque and strange, and perhaps even frightening. While we may abide by these standards out of concern for our social standing and safety, we find ourselves alienated by them. This estrangement is not just in relation to principles, but also to those who apparently uphold them. In this way, alienation from social mores affects our relations with others in our community. We fail to understand why co-members of our community not only endorse these principles, but also conscript our sense of propriety into supporting them. This is one way that social unfreedom produces *alienation*, but it is not the only way.

Alienation does not only result from following rules we do not endorse, but also in how others react to our actions. One result of norm saturation is that our actions are embedded in a system where it is difficult to determine whether our motives for acting are in reference to second-order volitions or in reference to playing by the rules independent of our second-order volitions. This is true of all of our actions, making it difficult to act as we intend. Sharon Krause points out how a failure of social uptake can frustrate our agency (2015, 4). For Krause, our agency depends in part on the efficacy of our actions (2015, 23). But, importantly, the efficacy of our actions often depends on how others react to them. Krause uses the example of an upper-middle class black man who buys a luxury vehicle to signal his professional success (2015, 62-63). However, such an individual instead finds himself pulled over by the cops and suspected of grand theft auto. Rather than seen as a successful professional, this man is seen as a suspected criminal. On Krause's reading, this man's agency is thus frustrated by the interpretations of others. From cases such as this, Krause goes so far as to suggest freedom requires that the interpretations of others accurately reflect our own understanding of our identity and deeds (Krause 2015, 7). While this strikes me as too strong a requirement, we can at least agree that a condition of our ability to act in the world is that it is at least possible for others to understand our actions in the way we intend them, even if they ultimately do not. Consider a common conservative argument made against government taxation for the purposes of helping the poor. Some conservatives argue that people do not get the same moral credit for helping the poor by contributing through the involuntarily system of taxes as opposed to contributing by voluntarily giving to charity.<sup>73</sup> Analogously, we

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<sup>73</sup> There are obvious problems with this argument. I only use it here as an

might think that norm saturation alongside the assumption of full compliance produces a situation where explanations of behavior make reference to the social norms. Agents do not get what we might call “personal credit” for their actions under norm saturation. Instead, the system of norms gets the credit. Because of this, some might not only feel alienated from the norms they comply with, but also their own actions.

Asides from these forms of alienation, social unfreedom produces the ill of *anxiety*, even assuming full compliance. As noted above, norms provide mechanisms of accountability among agents. Key to this function is the second-order function of an entitlement to evaluate actions. Under norm saturation, what this means is that all actions are subject to public scrutiny. We cannot tell others to mind their own business, as our business just *is* their business. The presence of a norm signals that it is appropriate to subject others to public evaluation and judgment for the purposes of accountability. As noted earlier, the presence of norm loosens the grip of a more general norm of civil inattention. Where a social norm exists, we may be free to act in the empirical sense we can perform those actions, but we are not free in the sense that our actions are subject to the public scrutiny of others. What is important about being subject to public scrutiny is not the psychological discomfort it creates as such, but rather how this psychological discomfort distorts our ability to reflect upon our actions and choices.

To illustrate the force of this point, consider Stanley Benn’s example of a stranger splitting pebbles on the beach (1988, 87; see also Gaus 2011, 344-345). Following Benn’s analysis, if we were to ask this stranger why he was splitting pebbles, we might be doing one of two things. We might be asking for an explanation. We might be curious

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example.

what value the stranger sees in his activity. Or, we might be asking for a justification. When we ask for a justification as opposed to an explanation, we believe ourselves entitled to answer. I suspect most would agree that in Benn's case of the pebble-splitter, aggressive questioning of this nature would be uncalled for and perhaps intrusive. However, notice that under norm saturation that such questioning would be licensed. After all, the pebble-splitter's action is subject to a norm. One might object that evaluative questioning only arises when violations occur, and I have assumed full compliance. However, this misses an aspect of evaluation and monitoring: Verification. We might inquire as to actions to ensure that he is complying (even if he already is). From the other side, the presence of a norm makes salient to us how others view our activity. Thus, what I mean by *anxiety* here is the state of knowing one is always liable to evaluation for the sake of verifying one's norm compliant behavior. This may be true even if one endorses the spirit of the norm in question, unlike the case of alienation.

Finally, norm saturation might give insight into the idea of *normalization*. I take the language of normalization from Foucault. Foucault discusses normalization in the context of ever more specific disciplinary standards in the context of institutions (1977, 177-184). The basic point is how providing specific disciplinary standards homogenizes agents from within. I want to say something is similarly true about norm saturation, even when norms are not attached to particular institutions or increasingly specified. The more norm-governed life is, the less room there is for individuals to make choices that reflect themselves, rather than the norms they are subject to. This is related to the phenomenon of alienation discussed above, but distinct insofar as normalization involves not misattribution, but identity. Given a situation where no action is permissible, how do I

distinguish myself from others? How do I understand myself as a person with projects and plans of my own? This is not about demandingness per se, but about how a totalizing normativity snuffs out diversity of identity.

## 6.5 THE VALUE OF SOCIAL FREEDOM

My discussion of norm saturation helps clarify the importance of social freedom. The three negative effects of alienation, anxiety, and normalization hinder our ability to live as choosers with our own choices to make. They describe ways in which we can be made subordinate to others. But, importantly, we are not subordinate to others in the sense that a slave is subordinate to a master. Social forces mediate our subordination. While the norms in question make us answerable to no one in particular, we are answerable to everyone in general. However, understanding this disvalue of social unfreedom helps illuminate the more positive aspects of social freedom. In this section, I will say more about what I take the value of social freedom to be.

Social freedom captures an element of the value of privacy. Privacy is often associated with information. In a recent article, Andrei Marmor discusses the right to privacy as grounded in our interest in having reasonable control over the ways we present ourselves to others (2015). This interest is not just of purely personal import, but an essential part of our social lives. As Marmor points out, the information that is appropriate to reveal to family members is not the same as that information that is appropriate to reveal to students (Marmor 2015, 8). But privacy is not just about controlling information about ourselves. We also ascribe privacy to actions and places. But none of these incidences of privacy involve the element of social freedom discussed

here. Where I suggest social freedom intersects with the idea of privacy is in the notion of “private affairs” or “private business” found in our ordinary language.

To describe one’s affairs as private is a way of creating normative distance. It is a way of saying that it is not another’s place to question one’s behavior or actions. In this context, cordoning off some behavior as private is akin to describing it as a personal matter. Take the example of a parent yelling at a child in a public place. We may interrupt out of concern for the child only to find the parent snapping at us that it is not our business, or that this is a personal matter. In some sense, the parent is mistaken. After all, the parent is yelling at his child in a public place. The parent’s behavior is apparent to all present. But this is not the notion of privacy being appealed to by the parent. Instead, I want to suggest that the parent is appealing to the idea captured by social freedom. Namely, the parent is claiming we lack standing to publicly criticize the parent in the situation in question. We are being intrusive, so says the parent. Social freedom grants us the power to keep particular agents or even particular groups of agents at a normative distance from us.

Like privacy in regards to information, privacy in regards to affairs plays a role in constituting social relations. We are answerable to our friends and family in a different way than we are to strangers. Where relations of accountability are flattened, our social lives suffer. We owe explanations of our behavior to our friends and family that we do not to strangers, and this is part of what makes people friends and family rather than strangers. Where we owe strangers the same degree of explanation as our friends and family, an element of intimacy is lost. Consider how we may feel slighted or even wounded when a family member seems more concerned about how his or her actions



affect the feelings and interests of strangers rather than us. It seems that an important element of social relations is the peculiar relations of accountability such ties create. These relations of accountability depend on us being answerable to some and not to others.<sup>74</sup> Social freedom makes this variation in accountability possible.

The value of social freedom is not limited to its role in constituting social relationships. Social freedom holds great personal value as well. Where actions are widely permissible, we are free from the burdens of preparing justifications or excuses for others. We need not view our actions from the outside. A part of many simple pleasures in life is having the knowledge that we need not answer to anyone for them. Recall Benn's pebble splitting on the beach. Splitting pebbles on the beach is not something that links up with any transcendent notion of the good (at least obviously). But, I suggest pebble splitting is a part of a family of actions we might call "personal pleasures" that play a role in our well-being. A feature of personal pleasures is that they provide respite from social life. Personal pleasures allow us to step back from our commitments and simply enjoy the present. But, importantly, personal pleasures only have this value to the extent that we are in fact free of the burdens of social pressure and accountability. They lose their luster when such actions are subject to scrutiny by strangers. This is because a part of how personal pleasures serve their function is in how they are exempt from scrutiny. The character of our actions changes when we know we

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<sup>74</sup> This is not to say that relationships to others are not in themselves norm governed in their own ways. Friendship and family involve their own sets of norms. The sorts of norms that concern us here involve what might be thought of us as regulative norms in society at large that hold between strangers in that society.

are answerable for them to a wide audience, much as the character of our actions changes when we know we are being watched.

The value of social freedom holds over and above the specific actions it licenses. My arguments have proceeded in a formal manner. I have not made reference to the substance of the social freedoms and unfreedoms in question. In this way, social freedom has what Ian Carter calls “non-specific value” in contrast with “specific value” (Carter 1999, 32-37). Social freedom’s value is not tied to the specific actions it licenses - it is valuable as such. The observations above attach to social freedom in general, not any particular social freedom to  $\varphi$ .

This might prompt the following objection: Surely, the content of the norms in question matter. For example, a norm against murder is different than a norm against pebble splitting. The former seems far less intrusive in the domain it claims authority over than the latter. Certain social unfreedoms seem unproblematic for the sorts of interests I raised earlier. A prohibition against murder, for example, while limiting our social freedom does not confront us as an alienating, anxiety-creating, or normalizing force. Rather, a social prohibition against murder is simply justified in virtue of murder being wrong. Given this, the critic might continue, what really is at stake are which norms track valid moral norms. The problem in the pebble splitting case is that a norm against pebble splitting does not refer to any valid moral norm. What we want is for all social norms to converge with moral norms. Thus, the objection concludes, the value of any social freedom to  $\varphi$  is attached to the value of  $\varphi$ -ing. Let us call this the *moralist criticism*.

One thing to say about the moralist criticism is that it is in part correct. Of course the content of the norms does matter. I also agree that it seems reasonable to hold that social norms mirroring certain foundational moral norms do not confront as restrictions of freedom. But these observations alone do not upset my claims. First, the discussion of social freedom and unfreedom reveals elements of how we hold each other accountable that go unnoticed if we focus only on what is justified and what is not justified. Even if you find yourself compelled by the moralist critic, morality has to touch down in the real world somehow if it is to be more than a list of inert deontic statements. Social freedom helps explain the implications of this interaction of the moral world with the social one. Second, I am not claiming that social freedom is *unconditionally* valuable. Following Carter, to say that social freedom is unconditionally valuable might mean one of two things (1999, 37). Social freedom might be unconditionally valuable in the sense that it is valuable in any possible world, or that it might be unconditionally valuable in the sense that social freedom trumps all other values. My arguments commit me to neither of these propositions. I am simply claiming that social freedom is one value to weigh among others on the scale of values.

Admittedly, this discussion remains rather abstract. To illustrate the force of this response to the moralist critic, let me turn to current debates surrounding microaggressions that introduced this paper. I want to re-iterate my comment in the introduction that this intervention in matters of public concern is not to decide these issues either way. I just want to bring to a light a neglected dimension of this debate. Doing so not only will improve our understanding of the issues at play in this matter, but also show the significance of the concept of social freedom.

## 6.6 RESPECTING OTHERS AND MICROAGGRESSIONS

An uncontroversial requirement of morality is treating others with respect. What this entails is not self-evident. At the very least, this involves not using people in certain ways. Nonetheless, Sarah Buss in an important article makes a compelling argument that treating people with respect is not limited to abiding by abstract principles or respecting their rights (1999). Rather, treating people with respect also involves treating people with courtesy, decency, and all around good etiquette. Buss's argument is that good manners provide a direct acknowledgment of the dignity of those we deal with (1999, 801-802). By saying "please," "thank you," and the like, we signal to those we deal with that they are worthy of respect. A failure of manners, according to Buss, is a failure of morality insofar as it fails to take seriously the offended party's moral worth.

I think Buss's analysis of manners is a useful way of understanding the recent public criticism of microaggressions. Microaggressions involve "subtle, stunning, often automatic, verbal and nonverbal exchanges which are 'put downs'" (Peirce et al 1978, 66). Psychologists and public commentators largely focus on microaggressions against those who are members of marginalized groups (Sue 2010). Such speech or conduct is often, but not always, unintentionally offensive – the speaker is not aware of the effects of his or her speech and/or conduct, and often denies them.<sup>75</sup> For example, consider the

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<sup>75</sup> Because of this, the term "microaggression" is unfortunate. It strikes me as an abuse of ordinary language to describe someone as unintentionally aggressing. Sometimes people opt for the term microinequity instead (e.g. Olberding 2016). This is a more felicitous term insofar as it avoids implying aggression and builds into it the

sort of case that opens this paper: A white professor makes it a point to comment on the articulacy of a black student. Microaggression theory suggests the implicit message of such a comment is that it is unusual for a black student to be so articulate (Sue et al. 2007, 276). Regardless of whether or not such an inference is valid, given a history of racial subjugation, there is at least some reason for a white professor to think about this possible interpretation.<sup>76</sup> To this extent, microaggressions are similar to a failure of good manners insofar as they betray the tactlessness of the speaker. Insofar as the speaker fails to take seriously how his or her words offend their audience, this constitutes a failure to take seriously the moral worth of those he or she offends.

As noted, much of the debate about microaggressions focuses on freedom of speech or academic freedom. Critics of microaggression theory worry that genuinely valid expressions of disagreement will be coded as microaggressions and suppressed as such. The other side responds by pointing out the concern is not with disagreement, but with disrespect and marginalization (Manne and Stanley 2015).

Let us grant for the sake of argument that the behavior picked out by the category of microaggressions is morally wrong for the reasons suggested earlier. What I want to do here is suggest how attention to social freedom reveals a dimension of this dispute that has not been sufficiently appreciated. A possible response to microaggressions is promoting a set of norms to license individuals to sanction microaggressions. Of course,

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concern for marginalized groups. Nonetheless, I use microaggression here because it is the more common and thus better known of the two terms.

<sup>76</sup> I suspect that at least some of microaggression theory violates a principle of interpretive charity. However, I raise this suspicion here only to set it aside.

there is already in place a general norm to avoid put-downs. On its own, such a norm is too general to be of use in guiding action and criticism. I suggest a better way to understand a norm against put-downs is as a cluster of norms referring to a range of behaviors falling under the general category of “put-downs.” We can interpret protestors as seeking to expand the set of behaviors that fall under this category by adding to the cluster of norms that fall under the general norm. For example, protestors may seek to introduce a norm against asking people where they are from. Thus, even if you agree with the protestors, it is important to understand the implications for our freedom of promoting a widely enforced set of social norms against microaggressions. Such norms expand the range of behavior subject to social norms.

There are two features of microaggressions I want to draw attention to: their often unintentional and ambiguous nature. Unlike racial slurs, there is no clear standard for what counts as a microaggression beyond the feelings of offense in the offended party. Many examples of microaggressions are seemingly prosaic phrases and words (e.g. “Where are you from?”) that people use in conversations with a wide range of persons. Scholars of microaggressions rightfully point out that the unintentional and ambiguous nature of microaggressions can create anxiety and self-doubt in the offended party (e.g. “Am I just imagining things?”) (Sue 2010, 53-58). Nonetheless, let us imagine what follows from expanding the range of behaviors that count if we instituted a widely disbursed set of strong social norms condemning these everyday inequities.

A widely disbursed set of norms against such behavior involves the setting of various tripwires in everyday conversation. The tripwire metaphor is telling in this context, as tripwires are designed to be invisible to the intended target. This might seem

like an unfair characterization, but one of the difficulties of microaggression theory is that it trades on reading meaning behind ordinary phrases and interactions that is not readily apparent in the words or actions themselves. Each move or word would be subject to scrutiny by others, granting them the power to call us out (an instance of what I have called *anxiety*). Further, our own attention to our words and gestures would have to be mediated through a concern for these norms (an instance of what I have called *alienation*). Even if such norms would reduce incidences of moral wrongs, the cost would involve pushing us ever closer to a situation of norm saturation. This is not to say we should not push for people to be more sensitive to others. Morality demands it. The point of this discussion of microaggressions is to show how widely instituted social norms, even if they correspond to justified moral norms, have costs.

Let me try and make this point clearer with an analogy with legal norms. Breaking promises is a moral wrong, and a moral wrong that involves a harm against those we wrong. However, we do not make it illegal to break promises, unless they are in the form of a legal contract. Part of the rationale, I suspect, is that the legalization of promises involves a problem of self-defeating enforcement. People would make fewer promises were it against the law, and this would be a loss to our social relationships. I want to say something similar about causing offense through microaggressions and social norms. Embedding this moral norm in our social norms involves a problem of self-defeating enforcement that undermines the point of the norm. If I am constantly concerned with whether or not my behavior complies with some norm, I am not treating you with respect. Instead, I am solipsistically concerned with my *appearance* of treating you with respect for fear of the authority granted to you and others by a social norm.

This discussion is intended to be illustrative of the concerns raised by the value of social freedom. One of the main points of this discussion was to push back against the moralist critic who wishes to reduce the value of social freedom to the value of the particular actions licensed by social freedom. I have accomplished this by describing how establishing a social norm that corresponds to a moral norm introduces new moral considerations that we ought to reckon with. However, as noted, this does not mean that social freedom is unconditionally valuable. In the next section, I raise a few questions about the limits of social freedom. In the process, I intend to respond to some lingering worries. Such responses help illuminate the conditional nature of social freedom.

#### 6.7 QUALIFYING SOCIAL FREEDOM

From the more specific discussion of microaggressions, let me draw some more general observations about the nature and limits of social freedom. Social norms give members of a given population standing to challenge others and hold them accountable for their actions. If I am socially free, then, others are not licensed to challenge that action. Based on this, some might worry that social freedom is a form of privilege that allows some to do whatever they want while ignoring their responsibilities to others. However, responsibility is not just about accountability. We can be responsible without being accountable. For example, I may have a responsibility to alert you to the embarrassing glob of mayonnaise on your collar from lunch, but this is not a responsibility strangers can call me out on.<sup>77</sup> Social freedom may limit some responsibilities we have to others, but it certainly does not for all.

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<sup>77</sup> This example is adapted from Richardson 2002, 30.



Social freedom is not a blank check for people to do whatever they want. They are still responsible to heed the call of morality. Nonetheless, it might just be a fundamental feature of some responsibilities to others that the individuals with those responsibilities alone bear the burden not only to act on them, but also to enforce them as a personal matter. Consider, for example, the case of so-called “personal norms.” A personal norm is an individual disposition to act on some rule not conditional on our beliefs or expectations about others (Bicchieri 2006, 20-21; Nichols 2010, 277). A key element of personal norms is that they are, well, *personal*. They are beliefs we hold about what we ought to do independent of whether or not others believe the same. What is at stake with personal norms is not my relationship with others, but instead my relationship with myself. Can I consider myself a person of integrity if I abuse my social freedom to ignore responsibilities to others? Social freedom is completely compatible with holding that we owe others aid and decency. Indeed, it might be particularly important to our self-understanding that we treat others in this way even when there exists no social norm prescribing this.

I also want to point out that social freedom does not free us entirely from the judgment of others. To be socially free simply means that it is permissible to act, and that others lack the standing to demand justification if we do so act. But it does not require others to refrain from judgment. Not all judgments entail relations of accountability or trigger punitive criticism. Further still, not even all *normative* judgments entail relations of accountability or trigger punitive criticism. We might find ourselves puzzled or confused by another’s action. We might even find it disagreeable. But we do not therefore claim for ourselves the standing to challenge others. For example, I sometimes

find myself disapproving of how students in my classes dress. However, knowing that how my students dress is none of my business, I keep these attitudes to myself. This does not mean I am neutral on how others dress. It simply means that I understand that they are socially free to dress as they do, and that I have no standing to criticize them or hold them accountable for their sartorial choices (and thank goodness for that!).

Historically, the claim that others mind their own business has been put in the service of cloaking domestic abuse. Hence the feminist credo the personal is political. Some might worry that the normative distance created by social freedom involves this kind of masking move. Where I claim social freedom, I place some at arm's length. To this extent, social freedom excludes some from having control over their social world. Compare with Iris Marion Young's understanding of domination: "Persons live within structures of domination if other persons or groups can determine without reciprocation the conditions of their action, either directly or by virtue of the structural consequences of their actions" (1990, 38). Social freedom involves a rejection of reciprocation in that it allows for the assertion of an asymmetry. This action is my action and I have no need to publicly account of the reasons you offer me. Thus, we may worry that social freedom just is domination as Young understands it insofar as it denies others a say in at least part of the conditions of their actions: Namely, what I am socially free to do. A freedom worth endorsing involves actions that are publicly responsive to the reasons of others.<sup>78</sup> Such a

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<sup>78</sup> See also Christopher McCammon on the relationship between what he calls "deliberative isolation" and domination (2015, 1046).

freedom would involve knowing that, if we were challenged, we could offer an explanation that others could not reasonably reject for each and every action.

I have two things to say in response to this point. First, I am not arguing for anything goes social freedom, where no one is answerable to anyone for anything. Such a situation of anomie, or normlessness, in of itself constitutes a kind of dystopia. As I have argued in previous chapters, social norms play an important role in the free society. My claim is simply that social freedom is valuable in that it serves certain interests. But just because social freedom is valuable does not mean that we do not have to trade it off against other values. We may even have to trade it off against other kinds of freedom. In this way, social freedom is not unique among values. For example, Mill's project might be thought of as establishing the bounds of an agent's social freedom. The harm principle is an attempt to demarcate those areas of life where one may answer to others, and those where one can claim that their actions are not business of others. I am not here endorsing Mill's principle, and it is beyond the scope of this project to establish the bounds of social freedom. The point is that saying social freedom is a value worth our attention does not mean endorsing a complete normative immunity. Indeed, I suspect our freedom in a more general sense depends on being able to hold others accountable. But holding this position is not incompatible with viewing social freedom as a valuable good. As I suggested in the beginning of this chapter, the status of the free person is complex in that it involves multiple notions of freedom.

This may not satisfy the critic. It might be said in response that *any* social freedom is a problem. There is no action that we cannot be held accountable for. Otherwise, we allow for asymmetries in power among agents that are unacceptable.

While I see why some may be attracted to this sort of a position, I want to point out a cost of taking this line. What taking this line involves is a commitment to norm saturation. It is only under norm saturation that such a totalizing accountability exists. Along with norm saturation comes all the evils of alienation, anxiety, and normalization noted earlier. This is a hefty cost. And so, I ask those who take this line to ask themselves if it is worth it in contrast with the more balanced approach offered by this chapter. This is not a decisive response, but it places the burden of proof on those who would opt for a totalizing societal culture and all that comes along with that.

## 6.8 CONCLUSION

In this chapter, I argued that social freedom is an unduly neglected kind of freedom. An important element of our freedom involves the ways in which we are not subject to the social pressure generated by social norms. This is neither a license for domination, nor for solipsism. Instead, it is an acknowledgement of how our welfare rests on having some control over our normative relations. To make this argument, I relied on an extreme ideal type in the form of *norm saturation*, a condition under which all activity is subject to social norms. The point of this ideal type was to illustrate both the disvalue of social unfreedom and the value of social freedom. At this juncture, I have suggested what drives the intuitions both *The Normless Society* and *The Norm Saturated Society* (§1.1). The former in the Chapter V, and the latter in this chapter. While I have done some work to reconcile these two views, questions still remain as to how we are to square this circle. I do not believe it is possible to completely reconcile our intuitions, I will suggest this tells something about the nature of the free society itself.

## VII. CONCLUSION: THE SOCIALITY OF FREEDOM

We have reached the end of the road. It is time to take stock of what we have gained along the way. I had hoped to contribute something to our understanding of the ideal of the free society. True to the spirit of the introduction, the project here has been modest in scope. While I believe we have a firmer grasp than when we began on the social machinery of freedom, there are many questions left to answer. In this brief conclusion, I will recapitulate the shape of the argument and what we have learned along the way. Nonetheless, I will conclude with some remaining questions and a brief remark about how these arguments can inform us about the ideal of freedom itself and its fundamentally social character. As I said when we began: While the project is modest in some ways, it is not in others.

### 7.1 A REVIEW

I began with three vignettes or ideal-types (§1.1): The Norm Following Society, The Normless Society, and The Norm Saturated Society. I introduced these three ideal-types to illustrate a tension in our intuitions about social norms about freedom. On the one hand, The Normless Society suggests how norms function as friend to freedom, while The Norm Saturated Society suggests how norms function as foe to freedom. The Goldilocks case of The Norm Following Society shows us that striking a balance between these two extremes is integral to the ideal of the free society. As I noted early on (§1.2), the point was to push us towards an appreciation of the sociality of freedom. Focusing on freedom in purely conceptual terms, while a valid philosophical task, will lead us astray

when thinking critically about policy and institutions. Our freedom depends on features of the real world. Conceptual analysis alone cannot get us leverage over these issues.

To this end, my intention in this project was to provide an amendment to our understanding of freedom (§2.1). Such an amendment was supposed to be broadly general, and not be tied to a particular account of freedom. More specifically, I had hoped to make the case that a complete account of freedom, no matter its substance or form, ought to take into consideration the role of social practices and institutions in promoting our freedom. Such social practices are not merely in addition to political and legal institutions, but interact with those institutions in ways it would be folly to neglect. In clarifying the form of this amendment, I rejected strongly moralized accounts of freedom (§2.2). Such accounts sap the concept of freedom of its ability to serve in critical evaluation. I also pointed out that the account of freedom on offer here is not essentialist, but in the service of investigating a particular normative question (§2.3). When I reject moralized accounts of freedom, for example, it is not because I do not take them to be valid accounts of freedom. Rather, it is because they will not suffice to perform a particular function in critical reflection. Finally, I clarified that my account of freedom was not a further development of pre-existing ideology, but intended to apply broadly (§2.4). To achieve this broad reach, I suggested a fruitful approach would be to seek convergence rather than consensus among various accounts of freedom.

As a way of identifying convergence, I outlined two approaches to the idea of freedom found in the literature: a choice-based and a status-based approach (§3.1). The difference between the two approaches is in how they engage freedom as a value. Choice-based approaches see freedom as a value to promote, while status-based

approaches see freedom as a value to respect. To evaluate these two approaches, I suggested two desiderata for an account of freedom: the paradigmatic cases requirement and the functional role requirement. Unfortunately, I suggested that both approaches fall short in meeting these desiderata. The difficulty is that in trying to meet one desideratum this creates problems for meeting the other.

Nonetheless, both approaches provide insight into different aspects of the free society. From the shortcomings of both approaches, I provided a candidate for a working account of freedom in the form of a model: What I call the sphere of choice (§3.4). The *sphere* of choice is supposed to capture the insights of the status-based approach, while the sphere of *choice* is supposed to capture the insights of the choice-based approach. In the end, I suggested a degree of priority afforded to the sphere element of the sphere of choice – without a strong sphere, our choices become vulnerable to the interference of others. As this project is concerned with the relation of freedom to social norms and not a complete theory of freedom, I set aside the choice-related aspect of the model in favor of focusing on the status-based aspect.

With the basics of the sphere of choice on the table, I turned to the republican theory of freedom. Republican theorists take status as central to their understanding of freedom, and so I used them as a starting point for fleshing out the sphere in the sphere of choice. Republicans argue that non-interference is not sufficient to be free. The main argument for this claim rests on the case of a benevolent master. A slave, no matter how benevolent a master, lacks freedom. A slave is subject to the will of his master, and this is not something he can afford to forget as he lives his life. Because of this, the republican suggests that freedom requires robust non-interference (§4.1). Robust non-interference

requires not just that your choices are free from interference in this world, but also in readily accessible worlds. I argued that this robustness requirement raises *The Threshold Problem* – we need a way of distinguishing possible worlds that are readily accessible from possible worlds are not readily accessible (§4.2). Whatever threshold we use to distinguish readily accessible worlds from not readily accessible worlds must explain why a slave is unfree while at the same time avoiding condemning mundane interactions as infringements of our freedom.

Dealing with *The Threshold Problem* led our analysis to the idea of the social bases of freedom (§4.4). Rather than focus on robustness as a metaphysical property of non-interference, the threshold problem draws our attention to the practical reality of what makes our freedom possible. The question is: When does the presence of power distort our practical deliberations by introducing concerns of self-censorship and ingratiation? This is a question about practical reasoning, not metaphysics. From here, I argued that the social bases of freedom are those aspects of our social world that give us reason to believe we are free. They are features we can rely upon as we plan and navigate our daily lives. This comes out clearly in the republican theorist's endorsement of formal institutions as a means of keeping in check the power of others. Formal institutions do not make it literally impossible for those others to interfere with us, but are instead something we can rely upon.

That said, I questioned the republican theorists' narrow focus on formal institutions (§4.5). Beyond avenues of formal control, we must consider the possibility that other elements of our social world may be among the social bases of freedom. Specifically, I suggested social norms should be considered as among the social bases of



freedom. Social norms, generally speaking, involve normative requirements accepted by a given population, and used by that population in evaluating and scrutinizing others (§5.1). I argued two features of social norms make them fitting to serve as among the social bases of freedom. First, social norms provide stable empirical expectations about the behaviors of others. Social norms can help provide predictions about what others will do. Second, social norms ground relations of accountability within society. Social norms confer upon people the power to punitively criticize those who violate the norm. Agents can use social norms to literally get people back in line.

Social norms occupy a different space in our social world than legal norms and moral norms. Social norms ground our freedom in two manners distinct from legal norms (§5.2). First, social norms bolster legal norms. A legal system without a coinciding social norm to abide by that system will be relatively ineffective in promoting our freedom. Second, social norms on their own can help keep at bay the interference of others. I drew on empirical work to describe cases where social norms grounded cooperation between persons sans a coinciding law (§5.3). I made a bolder claim that, even when a legal system is lacking, social norms can provide something like a shadow of freedom. Unlike legal and social norms, I argued that moral norms are not among the social bases of freedom (§5.4). Moral norms are opaque in a way that social and legal norms are not. They depend on the mutable dispositions of agents. As such, moral norms are not features of our social world we can count on as we navigate our social world.

There is a significant practical upshot of appreciating social norms as among the social bases of freedom (§5.5). Different social bases of freedom involve different distributions of power. Legal norms centralize power into the offices and roles of state. A

social norm, on the other hand, disperses power across a wide range of actors. My main claim is that, when securing freedom, we should be sensitive to how decentralized norms confer freedom. Lacking this sensitivity, we might find ourselves expanding the powers of certain actors where unnecessary. This makes us more vulnerable to abuse than we otherwise would be. This is what I called *the simple argument for decentralization*. Ceteris paribus, we should opt for conditions that minimize the centralization of power. I suggested a variety of ways in which increasing power places more vulnerable to the interference of others, each a variation of sorts on Lord Acton's dictum that power corrupts, and absolute power corrupts absolutely. This is not to say that we should never opt for the centralizing power of the law. The point is that, when we have a system of norms in place that is adequate to structuring our expectations in regards to a particular scenario, there is no need to opt for other conditions. Doing so would be counter-productive in the sense it would render our choices more vulnerable to interference. A system of decentralized norms gets the best of all worlds: It renders our choices secure while avoiding the risks of abuse associated with centralizing power required by control-oriented bases. Nonetheless, not all things are often equal when it comes to social norms.

I ended this discussion with a brief discussion of when the decentralized power of norms fails to ground freedom (§5.6). I argued there are two ways in which social norms may fail. First, a social norm's scope may be insufficient to providing for freedom for all within a given society. For example, a norm against pushing may only apply to white members of society, licensing shoving racial minorities. Second, a social norm's content may actually promote interference with members of society. For example, I suggested norms against integration within neighborhoods promoted interfering with black

individuals attempting to move into white neighborhoods. Social norms will not always be up to the task of shoring up our sphere of choice. However, when such norms do fail, it is not clear that centralized responses will suffice. As I have noted earlier, where laws are not backed up by corresponding social norms, they lose a degree of their effectiveness.

While social norms may fail to protect us, this does not get us at the insight behind *The Norm Saturated Society*: that social norms pose a particular kind of restriction of our liberty. Taking a cue from Mill, I introduced the idea of social freedom, or freedom from being subject to social norms (§6.2). My proposed account of social freedom allows us to bring the mechanisms of moral coercion into sharper focus. Social freedom matters because it affords agents valuable space within which they can fashion their plans free from certain forms of accountability to others. I highlighted how pressure to conform to widely accepted social norms can limit our ability to deliberate freely about our own lives, quite apart from any physical interferences we might confront. To illustrate this, I brought the idea of *The Norm Saturated Society* to the fore by discussion more generally of the condition of norm saturation (§6.4). The point of the extreme limit case of norm saturation was to generate intuitions about the disvalue of social unfreedom as well as the positive value of social freedom. Further still, social freedom's value is non-specific, rather than specific.

To show the force of social freedom, I turned to recent public debates about microaggressions (§6.6). I suggested that microaggressions, or subtle verbal and non-verbal slights to members of marginal groups, involve a moral wrong insofar as they betray a lack of respect or tact for others. The debate around microaggressions tends to

focus on freedom of speech and academic freedom. The worry is that legitimate disagreement will be coded as a microaggression and silenced as such. I used the idea of social freedom to reveal another aspect of this debate. Activists do not just push for policies, but fundamental changes in culture and the way we deal with each other in our day to day lives. This requires the introduction of further social norms regulating the utterances and behavior of others in society. This constitutes a restriction on our social freedom. This is not to say that, all things considered, we ought not follow activists in promoting social norms against the kinds of expressions the object to. Instead, the point of this intervention is to draw attention to the freedom-based costs and benefits of social norms. How we end up weighing these costs and benefits in the final calculation is a different question. The point is simply, whatever the final balance, social freedom has a weight on the scale.

## 7.2 AND CONCLUSION

With the work behind us, I will raise a few remaining questions as my final remarks. One question is suggested by what I was just talking about: trade-offs. The ideas in this project raise two kinds of trade-offs that are worth consideration.

First, consider the idea of the sphere of choice. The sphere of choice captures both status and choice as elements of our freedom. Earlier, I suggested that status has some degree of priority to choice. Status provides a sort of threshold that helps us determine whether or not some society is indeed a free one. Choice, on the other hand, helps us make relative judgments between societies. Which society is freer? One question that perhaps deserves more attention is the exact nature of the priority relation between status and choice. Is the priority of status to choice lexical? That is, will no increase in choice

ever justify a decrease in status? Or is it something weaker? Will some extreme expansion in our choices be enough to compensate for a reduction in our status?

Second, there is the complexity of freedom suggested by my closing remarks in Chapter VI. Recall that the sphere in the sphere of choice involves two notions of freedom. On the one hand, the sphere of choice captures the idea that our choices are not just free floating, but involve a degree of robustness against outside interference. Social norms, through their accountability-creating function, allow us to secure our choices against the interference of others. On the other hand, the sphere of choice also suggests that we *hold* those choices in some ways. These choices are ours, and not others'. There is a tension between these two dimensions of freedom. Thus, concerns of trade-offs arise here as well. If norms capture two sides of our freedom, what is the relative weight of these two sides? Is it more important to keep normative distance or physical distance from others? These are important questions I only raise here to acknowledge.

A final question involves the choice-side of the sphere of choice. Here, I have remained agnostic how we ought to understand the choice-side of the sphere of choice, focusing instead on the status-side. Nonetheless, this might be a mistake. Perhaps different ways of thinking about choice bleed into our understanding of status. For example, does it make a difference whether or not choices are understood as mere physical possibilities, or more demanding capabilities? Even if choice and status are independent in the way I have assumed here, a full ideal of the free society will at the end of the day engage with the nature of choice more directly.

The ideal of the free society is complex. It involves various dimensions of freedom, not all of which appear commensurable. Nonetheless, if we have learned

anything, we have learned that the ideal of the free society is in fact an ideal of the free *society*. Such an ideal requires an account of how people live together in their day-to-day lives. The formal institutions and laws that govern us are not enough to satisfy that ideal. To know if a society is a free one, we need to know something about the people who live those institutions. We need to know what sorts of informal norms they abide by, and the patterns of behavior those norms give rise to. This is not to belittle the role of the state. Instead, it is a plea to appreciate what happens beyond it. If we neglect the sociality of freedom, we will promote our causes with only a partial picture of how we live together. This, I fear, will only end in frustration and self-defeat.

## REFERENCES

- Alford, C. Fred. 2005. *Rethinking Freedom*. New York: Palgrave Macmillan.
- Benn, Stanley. 1988. *A Theory of Freedom*. Cambridge: Cambridge University Press.
- Benn, Stanley and W. L. Weinstein. 1971. "Being Free to Act, and Being a Free Man." *Journal of Political Philosophy* 80(318): 194-211.
- Berlin, Isaiah. 1969. *Four Essays on Liberty*. Oxford: Oxford University Press.
- Bicchieri, Cristina. 2006. *The Grammar of Society*. Cambridge: Cambridge University Press.
- Bicchieri, Cristina and Emily Xiao. 2009. "Do the Right Thing: But Only If Others Do So." *Journal of Behavioral Decisionmaking* 22(2): 191-208.
- Bird, Colin. 2004. "Status, Identity, and Respect." *Political Theory* 32(2): 207-232.
- Bird, Colin. 2006. *An Introduction to Political Philosophy*. Cambridge: Cambridge University Press.
- Bird, Colin. 2011. "Political Theory and Ordinary Language: A Road Not Travelled." *Polity* 43(1): 106-127.
- Bird, Colin. Unpublished. "The Social Bases of Human Dignity (But Not Self-Respect)."
- Blackstone, Sir William. 1893. *Commentaries on the Laws of England in Four Books. Notes selected from the editions of Archibald, Christian, Coleridge, Chitty, Stewart, Kerr, and others, Barron Field's Analysis, and Additional Notes, and a Life of the Author by George Sharswood. In Two Volumes*. Philadelphia: J.B. Lippincott Co. Accessed May 5, 2016 from <<http://oll.libertyfund.org/titles/2140>>

- Bratman, Michael. 1987. *Intentions, Plans, and Practical Reason*. Cambridge: Harvard University Press.
- Bratman, Michael. 2007. *Structures of Agency: Essays*. Oxford: Oxford University Press.
- Brennan, Geoffrey, Lina Eriksson, Robert E. Goodin, and Nicholas Southwood. 2013. *Explaining Norms*. Oxford: Oxford University Press.
- Brooks, Richard R. W. and Carol M. Rose. 2013. *Saving the Neighborhood*. Cambridge: Harvard University Press.
- Brennan, Geoffrey and Philip Pettit. 2004. *The Economy of Esteem*. Oxford: Oxford University Press.
- Buss, Sarah. 1999. "Appearing Respectful: The Moral Significance of Manners." *Ethics* 109(4): 795-826.
- Callan, Eamonn. 2015. "Debate: Liberal Virtues and Civic Education" *Journal of Political Philosophy* 23(4): 491-500.
- Carter, Ian. 1999. *A Measure of Freedom*. Oxford: Oxford University Press.
- Carter, Ian. 2008. "How are Power and Unfreedom Related?" In *Republicanism and Political Theory*, eds. Cécile Laborde and John Maynor. Malden: Blackwell Publishing Ltd. 58-82.
- Carter, Ian. 2011. "The Myth of 'Merely Formal Freedom'." *Journal of Political Philosophy* 19(4): 486-495.
- Carter, Ian. 2015. "Value-freeness and Value-neutrality in the Analysis of Political Concepts." In *Oxford Studies in Political Philosophy*. Volume 1. Eds. David Sobel, Peter Vallentyne, and Steven Wall. Oxford: Oxford University Press. 279-306.



- Carter, Ian. 2016. "Positive and Negative Liberty." *The Stanford Encyclopedia of Philosophy* (Fall 2016 edition). Ed. N. Edward Zalta. URL = <http://plato.stanford.edu/archives/fall2016/entries/liberty-positive-negative/>
- Christiano, Thomas. 2008. *The Constitution of Equality*. Oxford: Oxford University Press.
- Christman, John. 2005. "Saving Positive Freedom." *Political Theory* 33(1): 79-88.
- Cohen, G. A. 1983. "The Structure of Proletarian Unfreedom." *Philosophy & Public Affairs* 12(1): 3-33.
- Cohen, G. A. 1995. *Self-Ownership, Freedom, and Equality*. Cambridge: Cambridge University Press.
- Cohen, G. A. 2008. *Rescuing Justice and Equality*. Cambridge: Harvard University Press.
- Cohen, G. A. 2011. *On the Currency of Egalitarian Justice, and Other Essays in Political Philosophy*. Ed. Michael Otsuka. Princeton: Princeton University Press.
- Connolly, William. 1983. *The Terms of Political Discourse*. Second Edition. Princeton: Princeton University Press.
- Costa, M. Victoria. 2009. "Neorepublicanism, Freedom as Non-Domination, and Citizen Virtue." *Politics, Philosophy & Economics* 8(4): 401-419.
- Dagger, Richard. 1997. *Civic Virtues*. Oxford: Oxford University Press.
- Darwall, Stephen. 1977. "Two Kinds of Respect." *Ethics* 88(1): 36-49.
- Darwall, Stephen. 2006. *The Second-Person Standpoint*. Cambridge: Cambridge University Press.
- Doris, John. 1998. "Persons, Situations, and Virtue Ethics." *Noûs* 32(4): 504-530.

- Dowding, Keith. 2011. "Republican Freedom, Rights, and the Coalition Problem." *Politics, Philosophy & Economics* 10(3): 301-322.
- Dworkin, Ronald. 2011. *Justice for Hedgehogs*. Cambridge: Belknap Press of Harvard University Press.
- Ellickson, Robert. 1991. *Order without Law*. Cambridge: Harvard University Press.
- Elster, Jon. 1989. *The Cement of Society*. Cambridge: Cambridge University Press.
- Eyal, Nir. 2005. "'Perhaps the Most Important Primary Good': Self-Respect and Rawls's Principles of Justice." *Politics, Philosophy & Economics* 4(2): 195-219.
- Foucault, Michel. 1977. *Discipline & Punish*. Trans. Alan Sheridan. New York: Vintage Books.
- Frankfurt, Harry. 1971. "Freedom of the Will and the Concept of a Person." *Journal of Philosophy* 68(1): 5-20.
- Freeden, Michael. 1996. *Ideologies and Political Theory*. Oxford: Oxford University Press.
- Frigg, Roman and Hartmann, Stephan, "Models in Science", *The Stanford Encyclopedia of Philosophy* (Winter 2016 Edition), Edward N. Zalta (ed.), forthcoming URL = <<https://plato.stanford.edu/archives/win2016/entries/models-science/>>.
- Frye, Harrison and George Klosko. 2017. "Democratic Authority and Respect for Law." *Law and Philosophy* 36(1): 1-23.
- Gallie, W. B. 1956. "Essentially Contested Concepts." *Proceedings of the Aristotelian Society* 56: 167-198.
- Gaus, Gerald. 2000. *Political Concepts and Political Theories*. Boulder: Westview Press.

- Gaus, Gerald. 2003. "Backwards into the Future: Neorepublicanism as a Postsocialist Critique of Market Society." *Social Philosophy and Policy* 20(1): 59-91.
- Gaus, Gerald. 2011. *The Order of Public Reason*. Cambridge: Cambridge University Press.
- Gaus, Gerald. 2014. Review of *Explaining Norms* by Geoffrey Brennan, Lina Eriksson, Robert E. Goodin, and Nicholas Southwood. *Notre Dame Philosophical Reviews*. <<http://ndpr.nd.edu/news/45998-explaining-norms/>>
- Gaus, Gerald. 2016. *The Tyranny of the Ideal*. Princeton: Princeton University Press.
- Goffman, Erving. 1963. *Behavior in Public Places: Notes on the Social Organization of Gatherings*. New York: The Free Press.
- Goodin, Robert. 2003. "Folie Républicaine." *Annual Review of Political Science* 6: 55-76.
- Goodin, Robert and Frank Jackson. 2007. "Freedom from Fear." *Philosophy & Public Affairs* 35(3): 249-265.
- Gilbert, Margaret. 1999. "Social Rules: Some Problems for Hart's Account, and an Alternative Proposal." *Law and Philosophy* 18(2): 141-171.
- Gilbert, Margaret. 2005. "Shared Values, Social Unity, and Liberty." *Public Affairs Quarterly* 19(1): 25-49.
- Gilbert, Margaret. 2006. "Can a Wise Society be a Free One?" *Southern Journal of Philosophy* 44(S1): 151-167.
- Harsanyi, John. 1975. "Can the Maximin Principle Serve as the Basis for Morality?" *American Political Science Review* 69(2): 594-606.
- Hart, H. L. A. 1963. *Law, Liberty, and Morality*. Stanford: Stanford University Press.

- Hart, H. L. A. 2012. *The Concept of Law*, Third Edition, ed. Leslie Green. Oxford: Oxford University Press.
- Hayek, F. A. 2011. *The Constitution of Liberty: The Definitive Edition*, Ed. Ronald Hamowy. Chicago: University of Chicago Press.
- Hayek, F. A. 2013. *Law, Legislation and Liberty: A New Statement of the Liberal Principles of Justice and Political Economy*. London: Routledge Classics.
- Hayward, Clarissa. 2011. "What Can Political Freedom Mean in a Multicultural Democracy?" *Political Theory* 39(4): 468-497.
- Hesse, Mary. 1963. *Models and Analogies in Science*. London: Scheed and Ward.
- Hobbes, Thomas. 1996 [1651]. *Leviathan*. Ed. Richard Tuck. Cambridge: Cambridge University Press.
- Honneth, Axel. 2014. *Freedom's Right*. Trans. Joseph Ganahl. New York: Columbia University Press.
- Huemer, Michael. 2013. *The Problem of Political Authority*. New York: Palgrave Macmillan.
- Hursthouse, Rosalind. 1999. *On Virtue Ethics*. Oxford: Oxford University Press.
- Johnson, James. 2014. "Models Among the Political Theorists." *American Journal of Political Science* 58(3): 547-560.
- Klosko, George. 1997. "Political Constructivism in Rawls's *Political Liberalism*." *American Political Science Review* 91(3): 635-646.
- Kagan, Shelly. 1989. *The Limits of Morality*. Oxford: Oxford University Press.
- Kaufman, Alexander. 2006. "Capabilities and Freedom." *Journal of Political Philosophy* 14(3): 289-300.

- Kramer, Matthew. 2003. *The Quality of Freedom*. Oxford: Oxford University Press.
- Kramer, Matthew. Forthcoming. "Conceptual Analysis and Distributive Justice." In *The Oxford Handbook of Distributive Justice*, ed. Serena Olsaretti. Oxford: Oxford University Press.
- Krause, Sharon. 2015. *Freedom Beyond Sovereignty: Reconstructing Liberal Individualism*. Chicago: University of Chicago Press.
- Kolodny, Niko. 2016. "Political Rule and Its Discontents." In *Oxford Studies in Political Philosophy*. Volume 2. Eds. David Sobel, Peter Vallentyne, and Steven Wall. Oxford: Oxford University Press. 35-68.
- Kukathas, Chandran. 2009. "One Cheer for Constantinople: A Comment on Pettit and Skinner on Hobbes and Freedom." *Hobbes Studies* 22(2): 192-198.
- Leeson, Peter. 2009. "The Laws of Lawlessness." *Journal of Legal Studies* 38(2): 471-503.
- Lewis, David. 2002 [1969]. *Convention: A Philosophical Study*. Oxford: Blackwell.
- List, Christian. 2004. "The Impossibility of a Paretian Republican? Some Comments on Pettit and Sen." *Economics and Philosophy* 20(1): 65-87.
- List, Christian. 2006. "Republican Freedom and the Rule of Law." *Politics, Philosophy & Economics* 5(2): 201-220.
- List, Christian and Laura Valentini. 2016. "Freedom as Independence." *Ethics* 126(4): 1043-1074.
- Locke, John. 1980 [1690]. *Second Treatise of Government*. Ed. C. B. Macpherson. Indianapolis: Hackett Publishing Company.

- Lovett, Frank. 2010. *A General Theory of Domination and Justice*. Oxford: Oxford University Press.
- Lovett, Frank. 2012. "Two Kinds of Arbitrary Power." *Journal of Political Power* 5(1): 137-152.
- Lovett, Frank and Philip Pettit. 2009. "Neorepublicanism: A Normative and Institutional Research Program." *Annual Review of Political Science* 12: 11-29.
- MacCallum, Gerald. 1967. "Negative and Positive Freedom." *Philosophical Review* 76(3): 312-334.
- Marmor, Andrei. 2015. "What Is the Right to Privacy?" *Philosophy & Public Affairs* 43(1): 3-26.
- Manne, Kate and Jason Stanley. 2015. "When Free Speech Becomes a Political Weapon." *Chronicle of Higher Education* 62(13).
- McCammon, Christopher. 2015. "Domination: A Rethinking." *Ethics* 125(4): 1028-1052.
- McTernan, Emily. 2014. "How to Make Citizens Behave: Social Psychology, Liberal Virtues, and Social Norms." *Journal of Political Philosophy* 22(1): 84-104.
- Mill, J. S. 2015. *On Liberty, Utilitarianism, and Other Essays*, Eds. Mark Philp and Frederick Rosen. Oxford: Oxford University Press.
- Miller, David. 1983. "Constraints on Freedom." *Ethics* 94(1): 66-86.
- Mockus, Anthony. 2012. "Building "Citizenship Culture" in Bogotá." *Journal of International Affairs* 65(2): 143-146.
- Montesquieu, Charles de. [1748] 1989. *The Spirit of the Laws*. Eds. Anne M. Cohler, Basia C. Miller, and Harold S. Stone. Cambridge: Cambridge University Press.

- Morrow, Paul. Unpublished Manuscript. "Identity-Directed Norm Transformations and Moral Progress"
- Murphy, Colleen. 2010. *A Moral Theory of Reconciliation*. Cambridge: Cambridge University Press.
- Nelson, Eric. 2005. "Liberty: One Concept Too Many?" *Political Theory* 33(1): 58-78.
- Nichols, Shaun. 2010. "Emotions, Norms, and the Genealogy of Fairness." *Politics, Philosophy & Economics* 9(3): 275-296.
- Nino, Carlos Santiago. 1996. *Radical Evil on Trial*. New Haven: Yale University Press.
- Nozick, Robert. 1974. *Anarchy, State, and Utopia*. New York: Basic Books.
- Nussbaum, Martha. 2001. "Adaptive Preferences and Women's Options." *Economics and Philosophy* 17(1): 67-88.
- Nussbaum, Martha. 2011. *Creating Capabilities: The Human Development Approach*. Cambridge: Harvard University Press.
- Olberding, Amy. 2016. "Etiquette: A Confucian Contribution to Moral Philosophy." *Ethics* 126(2): 422-446.
- Patten, Alan. 1996. "The Republican Critique of Liberalism." *British Journal of Political Science* 26(1): 25-44.
- Peirce, Chester, Jean Carew, Diane Pierce-Gonzalez, and Deborah Wills. 1978. "An Experiment in Racism: TV Commercials." In *Television and Education*, Ed. Chester Peirce. Beverly Hills: Sage, 62-88.
- Pettit, Philip. 1989. "Consequentialism and Respect for Persons." *Ethics* 100(1): 116-126.
- Pettit, Philip. 1991. "Consequentialism." In *A Companion to Ethics*, ed. Peter Singer. Oxford: Blackwell Publishers. 230-240.

- Pettit, Philip. 1997. *Republicanism*. Oxford: Oxford University Press.
- Pettit, Philip. 2001a. *A Theory of Freedom*. Oxford: Oxford University Press.
- Pettit, Philip. 2001b. "Capability and Freedom: A Defence of Sen." *Economics and Philosophy* 17(1): 1-20.
- Pettit, Philip. 2003. "Agency-Freedom and Option-Freedom." *Journal of Theoretical Politics* 15(4): 387-403.
- Pettit, Philip. 2007. "Free Persons and Free Choices." *History of Political Thought* 28(4): 709-718.
- Pettit, Philip. 2008. "Freedom and Probability: A Comment on Goodin and Jackson." *Philosophy & Public Affairs* 36(2): 206-220.
- Pettit, Philip. 2011. "The Instability of Freedom as Noninterference: The Case of Isaiah Berlin." *Ethics* 121(4): 693-716.
- Pettit, Philip. 2012. *On the People's Terms*. Cambridge: Cambridge University Press.
- Pettit, Philip. 2014. *Just Freedom: A Moral Compass for a Complex World*. New York: W. W. Norton & Company.
- Pettit, Philip. 2015. *The Robust Demands of the Good*. Oxford: Oxford University Press.
- Pitkin, Hannah. 1988. "Are Freedom and Liberty Twins?" *Political Theory* 16(4): 523-552.
- Posner, Eric. 2000. *Law and Social Norms*. Cambridge: Harvard University Press.
- Rawls, John. 1999. *A Theory of Justice*. Revised Edition. Cambridge: Belknap Press of Harvard University Press.
- Rawls, John. 2005. *Political Liberalism*. Expanded Edition. New York: Columbia University Press.



- Raz, Joseph. 1986. *The Morality of Freedom*. Oxford: Clarendon Press of Oxford University Press.
- Raz, Joseph. 1990. *Practical Reasons and Norms*. Princeton: Princeton University Press.
- Richardson, Henry. 2002. *Democratic Autonomy*. Oxford: Oxford University Press.
- Ripstein, Arthur. 2009. *Force and Freedom*. Cambridge: Harvard University Press.
- Robeyns, Ingrid. 2011. "The Capability Approach." *The Stanford Encyclopedia of Philosophy* (Summer 2011 edition). Ed. N. Edward Zalta. URL = <http://plato.stanford.edu/archives/sum2011/entries/capability-approach/>
- Rogers, Melvin. 2008. "Republican Confusion and Liberal Clarification." *Philosophy and Social Criticism* 34(7): 799-824.
- Schelling, Thomas. 1960. *The Strategy of Conflict*. Oxford: Oxford University Press.
- Schmidt, Peter. 2015. "Campaigns against Microaggressions Prompt Big Concerns about Free Speech." *Chronicle of Higher Education*, July 9.
- Schmidtz, David. 2006. *Elements of Justice*. Cambridge: Cambridge University Press.
- Schmidtz, David. 2008. *Person, Polis, Planet*. Oxford: Oxford University Press.
- Schmidtz, David. 2011. "Property." In *The Oxford Handbook of the History of Political Philosophy*, ed. George Klosko. Oxford: Oxford University Press. 599-610.
- Schmidtz, David. 2015. "Corruption: What Really Should Not Be For Sale." In *Performance and Progress: Essays on Capitalism, Business, and Society*, ed. Subramanian Rangan. Oxford: Oxford University Press. 49-64.
- Schmidtz, David. 2017. "After Solipsism." In *Oxford Studies in Normative Ethics*, Volume 6, Ed. Mark Timmons. Oxford: Oxford University Press. 145-165.
- Sen, Amartya. 1992. *Inequality Reexamined*. Cambridge: Harvard University Press.

- Simmons, A. John. 2010. "Ideal and Nonideal Theory." *Philosophy & Public Affairs* 38(1): 5-36.
- Skinner, Quentin. 1998. *Liberty Before Liberalism*. Cambridge: Cambridge University Press.
- Skinner, Quentin. 2002. "A Third Concept of Liberty." *Proceedings of the British Academy* 117: 237-268.
- Skinner, Quentin. 2008. "Freedom as the Absence of Arbitrary Power." In *Republicanism and Political Theory*, eds. Cécile Laborde and John Maynor. Malden: Blackwell Publishing Ltd. 83-101.
- Sreenivasan, Gopal. 2001. "A Proliferation of Liberties." *Philosophy and Phenomenological Research* 63(1): 229-237.
- Steiner, Hillel. 1994. *An Essay on Rights*. Oxford: Blackwell.
- Sue, Derald Wing. 2010. *Microaggressions in Everyday Life*. Hoboken: John Wiley & Sons, Inc.
- Sue, Derald Wing, Christina Capodilupo, Gina Torino, Jennifer Bucceri, Aisha Holder, Kevin Nadal, and Marta Esquilin. 2007. "Racial Microaggression in Everyday Life: Implications for Clinical Practice." *American Psychologist* 62(4): 271-286.
- Swanton, Christine. 1992. *Freedom: A Coherence Theory*. Indianapolis: Hackett.
- Taurek, Robert. 1977. "Should the Numbers Count?" *Philosophy & Public Affairs*. 6(4): 293-316.
- Taylor, Charles. 1985. *Philosophical Papers 2: Philosophy and the Human Sciences*. Cambridge: Cambridge University Press.

- Taylor, Michael. 1987. *The Possibility of Cooperation*. Cambridge: Cambridge University Press.
- Van Parijs, Philippe. 1995. *Real Freedom for All: What (If Anything) Can Justify Capitalism?* Oxford: Oxford University Press.
- Velleman, J. David. 1992. "What Happens When Someone Acts?" *Mind* 101(403): 461-481.
- Waldron, Jeremy. 2012. *Dignity, Rank, and Rights*. Oxford: Oxford University Press.
- Wall, Steven. 2003. "Freedom as a Political Ideal." *Social Philosophy and Policy* 20(2): 307-334.
- Watkins, David. 2016. "Slavery and Freedom in Theory and Practice." *Political Theory* 44(6): 846-870.
- Wendt, Fabian. 2011. "Slaves, Prisoners, and Republican Freedom." *Res Publica* 17(2): 175-192.
- Williams, Bernard. 2001. "From Freedom to Liberty: The Construction of a Political Value." *Philosophy & Public Affairs*. 30(1): 3-26.
- Young, Iris Marion. 2011. *Justice and the Politics of Difference*. Princeton: Princeton University Press.