Freedom as Independence: A Critical Survey

Christian List and Laura Valentini

Abstract

Much recent work on freedom in political theory focuses on whether freedom should be understood as non-interference, in the liberal tradition associated with Berlin, or as non-domination, in the republican tradition revived by Pettit and Skinner. We review and defend a conception of freedom that lies between these two alternatives: freedom as independence. Like republican freedom, it demands the robust or guaranteed absence of relevant constraints. Unlike republican, and like liberal, freedom, it is not ‘moralized’. For republicans, only ‘arbitrary’ constraints restrict freedom; just imprisonment or just taxation leave freedom intact, with counterintuitive implications. Freedom as independence retains the virtues of its liberal and republican counterparts while shedding their vices. We distinguish freedom as independence according to our definition from its Kantian precursor. Our aim is to put this conception of freedom more firmly on the map and to offer a novel perspective on the space in which different conceptions of freedom are located.

* We are grateful to the audiences at the 2012 ALSP Annual Conference, Belfast, the Cambridge Political Theory Workshop, 11/2012, the Newcastle Political Theory Workshop, 11/2012, and the Cambridge Workshop on ‘What is Domination?’, 5/2013. Thanks to Neal Carrier, Cécile Laborde, Philip Pettit, Andreas Schmidt, Annie Stilz, and Fabian Wendt for comments and discussion. We are particularly indebted to Ian Carter and Matthew Kramer for extensive critical comments.
In this survey, we review and defend a conception of social freedom that, despite the voluminous literature, has received less attention than it deserves: freedom as independence. Of course, this term has been used before, particularly with reference to Kant’s conception of freedom or the republican conception of freedom as non-domination (e.g., Kant transl. 1999; Ripstein 2009; Lovett 2010). But the position in logical space that arguably best represents freedom as independence has been left under-explored.

Much recent work on freedom in political theory revolves around debates between liberals and republicans.¹ Liberals, following Berlin (1969), usually define freedom as the absence of constraints on action, where the constraints that matter can be spelt out in various ways. Republicans, especially in Pettit’s influential interpretation (1997), argue that freedom requires non-domination: the guaranteed or robust absence of arbitrary constraints. The absence of constraints simpliciter is neither sufficient nor necessary for freedom on this account. It is insufficient because the absence of constraints could be fragile and does not preclude the possibility of constraints being imposed at any time. It is not necessary because the presence of constraints is not dominating when these are non-arbitrary. Traffic lights and compulsory seat belts, for example, do not restrict freedom in the sense that matters.

After surveying the space of possible conceptions of social freedom, we argue that the most plausible conception lies exactly in between the liberal and republican alternatives.

Both alternatives have well-known virtues as well as vices. Republicans, in Pettit’s sense, are right to emphasize that the absence of constraints should be

¹ We focus on freedom in what Berlin calls a ‘negative’ sense and set aside freedom understood as ‘positive’ self-realization (as discussed, e.g., by Taylor 1979).
guaranteed or robust. Intuitively, a slave whose master benevolently refrains from imposing constraints on him is not genuinely free, because his space of action is too fragile. Liberals, in Berlin’s sense, are right to consider any constraint in the relevant domain a restriction on freedom, without appealing to arbitrariness criteria. If only arbitrary constraints matter, facts about freedom depend on substantive moral premises about what counts as ‘arbitrary’. This has counterintuitive implications, for instance that someone justly, non-arbitrarily imprisoned is not made unfree.

The conception of freedom we defend steers a middle course between liberal and republican freedom. We define freedom as independence as the robust absence of relevant constraints simpliciter, not only of arbitrary constraints. In fact, republican freedom has sometimes been defined in this way, but Pettit himself has moved away from such a definition.² Freedom as independence, we suggest, retains the key virtues of the liberal and republican conceptions while shedding their vices.³

² Pettit (1993, p. 19) originally defined republican freedom as ‘resilient non-interference’, but later introduced the arbitrariness qualification. Skinner (1998) may be read as offering a non-moralized account of republican freedom, as the absence of subjection to the will of another, but it is unclear whether this corresponds to what we call ‘freedom as independence’. At times Skinner defines being free as not being subjected to the ‘arbitrary powers’ of another (pp. 70/72), along Pettit’s more recent lines. Pettit (2002, p. 341) sees no difference between Skinner’s account of subjection and his own, arbitrariness-qualified, account of domination. We focus on Pettit’s work, given its greater conceptual (as opposed to historical) orientation.

³ Earlier discussions of such a conception of freedom include Carter (1999, sec. 8.6), who discusses Pettit’s definition without the arbitrariness qualification but ultimately rejects a republican definition of freedom; List (2004, 2006), who explores the
In Section 1, we map out the logical space in which different conceptions of social freedom are located. In Sections 2 and 3, we discuss the difficulties with the liberal and republican conceptions, and argue for including a robustness requirement in the definition of freedom and for defining freedom in a non-moralized way. In Section 4, we review the resulting conception of freedom. In Section 5, we explain how freedom as independence in the sense discussed here differs from freedom as independence in the Kantian tradition.

A few qualifications are needed. First, we restrict our discussion to social freedom, setting aside metaphysical freedom. Second, we focus on the fact about whether an agent is free to do some action, not on the value of that freedom. Third, we primarily address the concept of freedom, not its measurement. Measuring freedom, either for social-scientific purposes (e.g., using freedom as an explanatory variable) or for normative ones (e.g., trade-offs between freedom and other desiderata), is an important but different task (see Carter 1999), and any measure must rely on some conception of freedom. Fourth, we focus on necessary and sufficient conditions for freedom and set aside the debate on whether the distinction between freedom and unfreedom is bivalent or whether there is a third category (neither free nor unfree) (e.g., Kramer 2010). Finally, our intended contribution lies not so much in implications of the robustness requirement and sets aside the arbitrariness qualification; and Valentini (2011, ch. 7, esp. pp. 162-164), who chooses a non-moralized conception of freedom as independence over a moralized republican conception in her account of the triggering conditions of justice. This survey builds on, but goes beyond, those earlier works.

4 Of course, in a reflective-equilibrium process, measurement considerations could influence our view on how to conceptualize freedom (Carter 1999, ch. 4).
the individual arguments discussed, which draw on existing work, but in the way we
organize and frame the debate, showcasing the virtues of freedom as independence.

1. The logical space of freedom

Any negative conception of social freedom falls broadly under the following
definition scheme:

**Freedom:** An agent’s freedom to do X is the absence of relevant constraints on the
agent’s doing X.\(^5\)

Different conceptions differ in how they fill in the details. For instance, we obtain
weaker or stronger conceptions depending on what constraints we deem ‘relevant’.
Most scholars agree that constraints from factors outside the social realm, such as the
laws of nature, are irrelevant to social freedom. This leaves open whether the relevant
constraints include only deliberately imposed ones or also non-intentional ones (such
as structural constraints, which are byproducts of social arrangements). Similarly, it
leaves open whether the relevant constraints include only physical ones or also
psychological ones, and so forth. We remain agnostic on these questions and
encourage the reader to substitute a preferred answer into the qualification ‘relevant’.

---

\(^5\) Equivalently, an agent’s freedom to do X is the presence of the possibility, in a
relevant sense, for the agent to do X. The formulations are equivalent because the
absence of relevant constraints and the presence of a particular possibility are inter-
definable. Any constraint can be specified in terms of which possible worlds it rules
out and which it doesn’t (relative to the actual world), thereby defining a notion of
possibility. Any notion of possibility partitions the set of possible worlds into those it
rules in and those it rules out (relative to the actual world), thereby defining a constraint.
We focus on two other dimensions on which different negative conceptions of freedom can be distinguished. They concern the answers to the following questions:

**The moralization question:** Is the constraint-absence condition qualified by some moralized exemption clause, according to which morally permissible constraints (e.g., ‘non-arbitrary’ or ‘just’ ones) do not count as freedom-restricting? Or is there no such exemption clause?

**The robustness question:** Is the constraint-absence condition fortified by a modal robustness requirement, according to which freedom requires the absence of the constraints in a sufficiently large class of possible worlds (relevant hypothetical scenarios) over and above the actual world? Or is there no such requirement? And if there is a robustness requirement, how demanding is it?

The significance of these questions should be evident. The answer to the first affects whether non-arbitrary constraints such as just imprisonment, just regulation, or traffic laws can count as freedom-restricting. The answer to the second affects whether a slave with a laissez-faire master, who does not interfere with the slave’s life, can count as free.

*A simple taxonomy*

Different conceptions of freedom can be characterized in terms of their answers to the two questions, over and above their positions with respect to the other distinctions mentioned above. Since moralization and robustness are independent from one another, we arrive at a two-by-two matrix of possibilities. Freedom could require:

1. the *actual* absence of the relevant constraints, *without any moralized exemption clause*;
(2) the *actual* absence of the relevant constraints, *except when those constraints are morally permitted*;

(3) the *robust* absence of the relevant constraints, *without any moralized exemption clause*;

(4) the *robust* absence of the relevant constraints, *except when those constraints are morally permitted*.

Liberal freedom in Berlin’s sense is an instance of case 1. Moralized liberal freedom, as proposed by Nozick (1974) and Dworkin (2000, ch. 3; 2001), is an instance of case 2. Republican freedom in Pettit’s sense is an instance of case 4. What we call ‘freedom as independence’ is an instance of case 3. Table 1 summarizes the four possibilities.

**Table 1: A taxonomy of different conceptions of (negative) freedom**

<table>
<thead>
<tr>
<th></th>
<th>Non-moralized</th>
<th>Moralized</th>
</tr>
</thead>
<tbody>
<tr>
<td>Non-robust</td>
<td><em>Liberal freedom</em> (1)</td>
<td><em>Moralized liberal freedom</em> (2)</td>
</tr>
<tr>
<td></td>
<td>Freedom = actual absence of relevant constraints</td>
<td>Freedom = actual absence of unjust/wrongful relevant constraints</td>
</tr>
<tr>
<td>Robust</td>
<td><em>Freedom as independence</em> (3)</td>
<td><em>Republican freedom (and its cousins)</em> (4)</td>
</tr>
<tr>
<td></td>
<td>Freedom = robust absence of relevant constraints</td>
<td>Freedom = robust absence of arbitrary relevant constraints (= absence of domination)</td>
</tr>
</tbody>
</table>

Each case corresponds to an entire family of conceptions of freedom, since we can further subdivide it in terms of the other distinctions mentioned above. Moreover, the moralization and robustness dimensions can themselves be refined. The moralization can take various forms, depending on when a constraint is exempted from counting as freedom-restricting. Different levels of robustness can be required for freedom, and the possibilities referred to can be of different sorts: close possibilities versus more distant ones, social versus legal possibilities, and so on. We revisit these points later.
A property or feature (of something or someone) is modal if it depends not only on facts about the actual world, but also on facts about other possible worlds. For example, abilities and tendencies are modal properties: saying that X has the ability or tendency to do Y is to say that, whether or not X is doing Y right now, X would do Y in suitable circumstances, i.e., in a relevant possible world.

All four families of conceptions of freedom we have reviewed are modal. This is obvious in the case of freedom as independence and republican freedom, which explicitly involve a modal robustness requirement. Although liberal and moralized liberal freedom involve no such requirement, they still render freedom facts dependent on facts about possible worlds other than the actual world. The claim that an agent is unconstrained in doing X in the actual world (i.e., that there is no relevant constraint ruling out A’s doing X) asserts the possibility, in a relevant sense, for the agent to do X. There must exist a possible world, accessible from the actual world, in which the agent does X.6 Thus the proposition ‘agent A is unconstrained in doing X’ can be formalized (in modal logic) as ◆A_X, where ◆ is a suitably interpreted possibility operator, read as ‘it is possible (i.e., not ruled out by a relevant constraint) that’, and A_X is the proposition ‘A does X’.7

---

6 See the previous footnote. This is the sense in which scholars such as Kramer understand liberal freedom, rightly, as a modal notion. He offers the formulation: ‘A person is free to φ if and only if it is possible for him to φ’ (2010, p. 828, n. 2). On the modal character of liberal freedom, see also List (2004, 2006) and Pettit (2011).

7 Alternative formalizations of liberal freedom replace ‘it is possible for the agent to do X’ with ‘if the agent attempted to do X, he would succeed in doing X’ or ‘if the agent attempted to do X, no-one would act to prevent him’. Carter (1999, ch. 8)
Since all the reviewed conceptions of freedom are modal, how can we capture the difference between the ‘non-robust’ and the ‘robust’ conceptions, i.e., the top and bottom rows of Table 1? Here, some formalism is useful. The four cases correspond to the following definition schemes, according to which an agent $A$ is socially free to do $X$ if and only if:

1. $\Diamond A_X$,
2. $E_{A_X} \lor \Diamond A_X$,
3. $\Box \Diamond A_X$,
4. $\Box (E_{A_X} \lor \Diamond A_X)$,

where

- $\Diamond$ and $A_X$ are as before, so that $\Diamond A_X$ can be read as ‘$A$ is unconstrained in doing $X$’,
- $E_{A_X}$ is the proposition ‘there is a morally permissible constraint on agent $A$’s doing $X$’ (informally, ‘there is a non-arbitrary exemption’),

discusses the role of subjunctive conditionals in the analysis of freedom, drawing on Steiner (e.g., 1994). Formalizations of liberal and republican freedom in terms of subjunctive conditionals are given in List (2006) and List and Pettit (2011, ch. 6). Republican freedom then demands that ‘it is robustly true that if the agent attempted to do $X$, no-one would arbitrarily act to prevent him’, thereby requiring the truth of the conditional not only in the actual world but also in a relevant class of possible worlds. Regardless of the formalization, liberal and moralized liberal freedom are more ‘narrowly’ modal than freedom as independence and republican freedom (see also List 2004). For another discussion of liberal freedom and counterfactuals, see Dowding and van Hees (2007).
• $\lor$ is the ‘or’ operator, and

• $\Box$ is a suitably interpreted necessity or robustness operator, read as ‘it is robustly the case that’.

The logical forms and semantic interpretations of the four formulae, (1) to (4), are clearly distinct from one another. The two ‘robust’ families of conceptions involve two nested layers of modality (using the two modal operators $\Diamond$ and $\Box$), while the two ‘non-robust’ families involve only one such layer (using only $\Diamond$). The latter therefore involve a narrower kind of modality. The observation that there are structural differences between the four families of conceptions of freedom is independent of any questions of how to interpret each of $\Diamond$, $\Box$, and $E_{A}$.

8 Technically, in comparing the four formulae, we must fix the accessibility relations between possible worlds in terms of which we interpret the operators $\Diamond$ and $\Box$. It can be useful to interpret $\Diamond$ and $\Box$ in terms of different accessibility relations, so that $\Diamond$ and $\Box$ are not ‘duals’ of each other (each operator then has its own dual).

To show that the most promising conception of social freedom falls into the bottom-left quadrant of our matrix (case 3), we now discuss the main shortcomings of the other conceptions and suggest how to address them.

2. Why freedom requires robustness

As noted, on the liberal account, freedom is the actual absence of relevant constraints. For ease of exposition, from now on, we will omit the qualification ‘relevant’; any reference to ‘constraints’ should be understood to mean ‘relevant constraints’.

Liberal freedom: An agent is free to do X if and only if, in the actual world, there are no constraints on his (or her) doing X.
What matters for freedom, on this conception, is whether or not the agent is subject to constraints in the actual world – equivalently, whether a particular possibility (of doing X) is actually present. Formally, the truth of ♦Ax in the actual world is sufficient for the agent’s freedom. The existence of any nearby possible world in which ♦Ax is false (so that □♦Ax does not hold) does not undermine freedom.

Critics have argued that this focus on actual constraints, or possibilities of action present in the actual world, has problematic implications (e.g., Pettit 1997, esp. pp. 22ff., 2001; Skinner 1998, esp. pp. 40-41; Maynor 2003; Ripstein 2009, esp. p. 15; see also Wendt 2011, pp. 179ff.). Consider again a slave with a benevolent master. Although the master could in principle interfere with the slave’s actions, he refrains from doing so, and many actions are actually open to the slave. On the liberal conception, the slave counts as free to perform these actions – a counterintuitive conclusion if we consider the slave a paradigm case of unfreedom.

To avoid this implication, we need to move to a conception of freedom that demands robustness, so that freedom can already be undermined by the possibility of constraints, suitably interpreted, i.e., by the possibility of actions-being-rendered-impossible. On such a conception, an agent is free to do X only if he enjoys the absence of constraints, both in the actual world and in other relevant (nearby) possible worlds, i.e., when something like □♦Ax is true. This can account for our judgements about the slave, since his status makes him susceptible to being constrained by his master, independently of whether the master actually constrains him or not.

Is a robust conception of freedom the only one capable of accounting for our intuitions about the slave with a benevolent master? We now discuss three responses the proponent of a liberal conception might give.
One response is to argue that a liberal conception (which relies on the formula $\Diamond A_X$, without any additional layer of modality) can capture the unfreedom of slavery by appealing to the *probability*, rather than the *possibility*, of constraints. The slave with a benevolent master is less free to do X than a non-slave because of the plausible empirical assumption that the slave is *more likely* to be constrained in his actions – and to suffer interference – than a non-slave.\(^9\) An agent’s freedom to do X, on this proposal, increases the more we minimize *expected* constraints on his doing X, not the more we minimize the *possibility* of their imposition. What distinguishes a slave from a non-slave, then, is the *expectation*, in the statistical sense, of being constrained, calculated from the perspective of the actual world.

Is this probabilistic move successful? To suggest that it is not, we give several arguments, the first one of which echoes an argument offered by Pettit (2008). The probability of being constrained in some action X may vary, conditional on the situation in which the slave tries to perform X and conditional on the master’s preferences. For example, in a situation in which doing X is aligned with the master’s preferences, the probability of interference is lower. This suggests that a slave can make himself ‘more free’ by appeasing the master. Yet it would be odd to say that a

\(^9\) Proposals concerning the probability of relevant constraints have been discussed by Goodin and Jackson (2007), Carter (1999, sec. 8.6), and Kramer (2003, ch. 2), though our focus is not on the exegesis of these authors. Carter, for example, holds that ‘specific freedoms’ are not a matter of degree, while only ‘overall freedom’ can be, so that, for him, probabilities can only be used in measuring overall, not specific, freedom. Nonetheless, the claims about probabilities that we discuss are sufficiently common to warrant analysis (e.g., in Goodin and Jackson 2007).
slave whose actions happen to be aligned with the master’s preferences or who successfully appeases his master is significantly freer than one for whom this is not the case. This point is, of course, widely recognized.

Suppose we tried to address it by performing the following calculation. Let X be the act of taking a nap. Consider (i) the conditional probability of constraints in case the slave attempts to do X when his master is appeased and (ii) the conditional probability of constraints in case the slave attempts to do X when his master is not; then add up these two conditional probabilities, each weighted by the unconditional probability of the relevant scenario.\(^\text{10}\) This yields the slave’s unconditional probability of being constrained in doing X. The resulting figure would take into account the fact that (i) and (ii) may be different from one another.

This way of quantifying freedom, however, is still unsatisfactory. First of all, it would make the slave’s freedom to do X a function of the probability of an appeased master, which in turn may depend on factors such as whether the master is in a good mood or a bad one, whether he has slept well or badly, what preference swings he is prone to, and so on. Two slaves, in otherwise identical circumstances, would then be said to differ in their freedom to take a nap, purely on the grounds of a different probability of an appeased master. More plausibly, the two slaves differ just in what they are contingently likely to be able to do, not in what they are genuinely free to do.

Furthermore, by focusing solely on the unconditional probability of no constraints, we lose the ability to distinguish between cases that are intuitively quite distinct. Consider a non-slave, who is never constrained in doing X. His unconditional freedom to do X is equivalent to the probability of an appeased master being able to do X, which is given by

\[ \Pr(\Diamond A_X) = \Pr(\Diamond A_X | C) \times \Pr(C) + \Pr(\Diamond A_X | \neg C) \times \Pr(\neg C), \]

where A is the slave, X is the act of taking a nap, C is the event of the master being appeased, and \(\neg C\) is its negation.

\(^{10}\) Equivalently, the slave’s probability of being unconstrained in doing X is \(\Pr(\Diamond A_X)\).
probability of being prevented from doing X is zero. Now compare this with a slave whose master adopts the following procedure to determine whether or not to interfere: the master throws a dart at a dartboard; if the dart lands in a place whose coordinates are rational numbers, the master prevents the slave from doing X, otherwise he does not. Assuming a normal distribution over places where the dart might land, the probability of hitting a point with rational coordinates is zero (a well-known mathematical fact), and so the slave’s unconditional probability of being prevented from doing X is zero – the same as that of the non-slave. Crucially, the master’s interference is far from impossible here: there are infinitely many places with rational coordinates that would all trigger constraints. Indeed, the conditional probability of constraints, given that the dart lands in one of those places, is one. So, conceptually, ‘unconditional probability zero’ must not be conflated with ‘impossibility’. These considerations reinforce our claim that a single, unconditional probability of being constrained, calculated from the perspective of the actual world, does not give a satisfactory indication of freedom.

A natural response would be to say that an agent’s freedom to do X is captured not by the aggregate, unconditional probability of constraints on doing X, but by an entire list (‘vector’) of conditional probabilities: the probability of being prevented from doing X in each of several relevant possible scenarios. Thus, the slave’s freedom to take a nap is captured by a list of conditional probabilities that he will be prevented from doing so, for each of the following scenarios: (i) the slave has worked hard; (ii) the slave has not worked hard; (iii) the slave has swept the yard; (iv) the master is in a good mood; (v) the master is in a bad mood; (vi) the cooks have prepared a good meal; (vii) the cooks have prepared a bad meal; (viii) the master’s wife has friends over for tea; (ix) the master’s wife spends the afternoon with her husband; (x) the dart
has landed in a ‘rational’ position; (x) the dart has landed in an ‘irrational’ position; and so on. However, if facts about freedom (here, to take a nap) are fully specified only by the conditional probabilities of constraints in a multiplicity of scenarios, and if freedom \textit{simpliciter} requires a low probability of constraints \textit{across many such scenarios}, we are back in the terrain of a robustness requirement.\footnote{Liberals like Carter and Kramer recognize that, for a slave, the act of taking a nap is compossible with fewer other acts than it is for a non-slave; the difference in the range of compossible actions then constitutes the difference in overall freedom. But they would deny that the slave’s ‘specific’ freedom to take a nap demands robustness.} On this modified probabilistic account, freedom requires a robustly low probability of constraints, across many different ways the world could be. We could then only disagree on \textit{how much robustness} is required.

There are further difficulties with defining freedom in terms of \textit{expected} constraints. In particular, it is unclear which \textit{kind} of probability should be used in calculating the expectation.\footnote{Carter (1999, sec. 7.5) says: ‘such probabilistic judgements should be the best-informed judgements that could be made at the time at which the agent in question has (or had) the degree of freedom we are interested in measuring’.} Objective probabilities are difficult to define, all the more so in ‘single-event’ cases, such as what would happen under a specific contingency, where we cannot identify limiting frequencies as in sequences of coin tosses or other independent, identically distributed events. This applies especially in cases involving the exercise of intentional choice. Even when there are well-defined limiting frequencies, these may still depend on the reference class in which we place the event in question; and identifying an appropriate reference class is hardly an objective matter (e.g., Colyvan, Regan, and Ferson 2001).
If instead we calculated expected constraints using *subjective* probabilities, we would have to specify which subjective probabilities to use, and these would depend on the prior beliefs and information of the person who holds them. In our example, the slave’s, the master’s, or an outside observer’s subjective probabilities might all be different. The lack of any privileged set of subjective probabilities seems to make a probabilistic conception of freedom less tractable.

Finally, we may sometimes wish to talk about an agent’s freedom even when the probabilities of different scenarios are not defined at all. We may be interested in the freedoms an agent enjoys abstractly under a given constitution or set of laws, where all that the constitution or set of laws specifies is a system of *legal possibilities*, defined as scenarios consistent with the constitution or set of laws. Here it is plausible to think that the freedom facts are determined by the structure of the legal possibilities alone, independently of any not-yet-defined probabilities. The probabilities may matter when we talk about the *empirical implementation* of the constitution or legal system, but the legal freedoms themselves need not depend on them.\(^\text{13}\)

---

\(^{13}\) Generally, the move to a probabilistic conception of freedom is blocked if we accept the ‘modal supervenience thesis’: freedom facts supervene on modal facts alone. (*Modal facts* are facts about what happens in each possible world, including the actual world, and which worlds are accessible from which others. Different notions of modality generate different modal facts.) This thesis seems attractive, since probabilistic facts are posterior to modal facts. If this is right, a conception of freedom under which freedom facts depend only on modal facts is more parsimonious than one under which they depend also on probabilistic facts. Of course, empirically, *expected* constraints may *correlate* with *possible* constraints, and expected constraints may...
Specific freedoms versus overall freedom

A second strategy that proponents of the liberal conception might adopt to account for the unfreedom of a slave with a benevolent master – at least if the benevolence is due to appeasement – is to argue that, although the slave is free to do X, narrowly construed, he is not free, even in the liberal sense, to [do X and fail to appease the master]. While the slave’s freedom with respect to the option of doing X itself might be the same as that of a non-slave, differences emerge once we look at other options.

A liberal account can therefore capture the unfreedom of a slave with an appeased master. The range of his options is restricted, compared to that of someone who, for example, is free to [do X and not appease anyone]. Technically, the combinations of compossible actions open to the slave are narrower than those of a non-slave.14 The non-slave is free not only to do X, but also to combine X with a variety of other actions Y. The slave, by contrast, cannot combine action X with action Y = ‘not appeasing the master’, for example.

Although this observation is likely to be correct, conceptually it does not vindicate what our intuition about freedom supports: namely that the slave is not only unfree to [do X and fail to appease the master], but that he lacks the freedom – as opposed to the contingent ability – to do X simpliciter, because of the constant affect an agent’s well-being. Yet, conceptually, possible constraints, not expected ones, seem more fundamental to freedom.

14 For arguments along these lines (here presented in simplified terms), see Kramer (2003, sec. 2.3.2) and Carter (1999, pp. 225ff.), drawing on Steiner (1994).
possibility of constraints being placed in his way. The slave’s fragile possibility of
doing X, judged from the perspective of the actual world, is insufficient to qualify as a
freedom to do X; it is, at best, a contingent ability. What is more, intuitively, the
slave’s freedom is compromised even when the master is benevolent and needs no
appeasement. There is a sense in which a slave with a benevolent master is never
really free to do X, even if, in the actual world, he can [do X and fail to appease the
master].

Thus the second response to the benevolent-master challenge only shows that a
liberal conception of freedom can capture the intuition that a slave is typically, as a
matter of empirical fact, overall less free than a non-slave, where by overall freedom
we mean freedom across many different actions X, Y, Z, etc., and action
combinations [X and Y], [X and Z], etc. (e.g., Carter 1999). This shifts the discussion,
however, (i) from a focus on an agent’s specific freedom to perform a particular
action (e.g., the slave’s freedom to take a nap) to an agent’s overall freedom and (ii)
from a conceptual level to an empirical one, relying on empirical assumptions about
the need for appeasement. Even if liberal freedom can account for our intuitive

15 Carter (1999), drawing on Steiner, suggests that this intuition is driven by the
slave’s lack of overall freedom (because of a restricted range of compossible actions),
while maintaining that the slave’s specific freedom to do X is uncompromised.
16 Carter (1999, p. 239) suggests that ‘the difference between republicans and liberals
is an empirical rather than a conceptual one’. It is under certain empirical assumptions
(e.g., the need for appeasing the master) that someone who is not robustly
unconstrained lacks ‘overall freedom’, measured in terms of his range of compossible
actions. We agree that, empirically, overall freedom (as Carter conceptualizes it) and
robustly defined freedom (as we conceptualize it) often correlate. But when the
judgement that a slave with a benevolent master who needs appeasing is empirically overall less free than a non-slave, it still cannot explain (i) the unfreedom of a slave with an appeased master with respect to specific actions that he is contingently able to do and (ii) the unfreedom of a slave with a reliably benevolent master in general (the kind of master who needs no appeasement). To make sense of such unfreedom, we need to consider the possibility of constraints being imposed on the slave in more remote possible worlds, not just the presence of constraints in the actual world.¹⁷

*De jure and de facto freedom*

A final response to the slave-with-a-benevolent-master challenge targets the intuition underlying the challenge itself. According to this response, there is something morally wrong about the situation of a slave with a reliably non-interfering master, but the wrong is not best captured in terms of unfreedom. Empirically, the argument goes, the slave is free; by hypothesis, he is not constrained. The wrong lies in the fact that he stands in a relationship of ownership, which places unacceptable constraints on what correlation breaks down (e.g., when there is no need for appeasement), we take robustness to be a conceptual (not merely empirical) requirement of social freedom.

¹⁷ As recognized in the literature, if the compossibility of an agent’s actions with other actions is deemed to matter for freedom, an agent’s overall freedom should increase as the agent’s actions become compossible not only with more actions of the agent himself but also with more actions of others, which, in turn, correspond to different possible worlds. Acknowledging this takes us back into a terrain in which freedom requires the robust absence of constraints. Carter recognizes this in relation to overall freedom, but we think it is more parsimonious to define freedom, *even in relation to a specific action*, as demanding robustness, as in □◆Ax.
he is permitted to do by law, not on what he can in fact do (Wendt 2011, pp. 179-182). Once we accept this alternative diagnosis of where the wrong lies, there is no need to modify the liberal conception of freedom.

This objection does not show that, conceptually, freedom involves no robustness requirement; it only raises questions about what the relevant kind of modal robustness is. To see this, note that any robustness or necessity operator (such as □) makes reference to possible worlds, and we obtain different such operators depending on how we specify the class of possible worlds we refer to. We must therefore distinguish between (i) the general conceptual claim that the definition of freedom involves a robustness operator, requiring the absence of constraints across some class of possible worlds, and (ii) specific claims about what that class of possibilities is: physical, legal, social, and so on. So far, we have focused on the first, general claim. What kinds of possibilities matter – for instance, de facto versus de jure ones – is a separate issue and may depend on the context in which we are talking about freedom (relatedly, see Kramer’s 2002, 2010 distinction between deontic/normative and physical freedom; see also List 2006).

Two considerations may clarify this point. First, our intuition that a slave with a benevolent master is unfree is accounted for by a legal-political understanding of possibility, where ‘possibility’ is understood as consistency with the relevant laws. (Alternatively, we could call this ‘legal permissibility’; the language of ‘legal possibility’ conveys that we are referring to what is possible if the relevant laws are perfectly respected.) This understanding of possibility seems appropriate when we are analysing the legal and political status of the slave. The slave is socially unfree to do X because it is not consistent with his legal-political status for him to do X without
the master’s consent. It is legally-politically possible for the master to impose constraints on the slave at any time; his ownership rights entitle him to do so.

Second, by fixing the interpretation of possibility differently, such as by referring to psychological or sociological rather than legal possibility, we can capture the distinct intuition that the slave with the benevolent master is free in some other, more empirical sense. For the ‘deeply benevolent master’, it may be psychologically impossible to constrain the slave. If so, the slave is *de facto* free. We can consistently say that a slave with an angelic master is *de facto* but not *de jure* free. Imposing constraints on the slave is legally but not psychologically possible here: it is consistent with the laws of the land but not with the psychology of the master. Disentangling these facts captures the slave’s situation, consistently with our claim that freedom requires robustness.

An example further illustrates the distinction between *de jure* and *de facto* freedom. Many countries in the world deny freedom of speech to their citizens. Yet, even the most pervasive dictatorship is unable to monitor every single speech act of every single citizen. So there are many situations in which citizens are not actually constrained in expressing their views and in which they are at low risk of interference, simply because they are out of reach of their state’s surveillance machinery. Would we say that citizens enjoy freedom of speech in such cases? At most, we would say that their *de facto* risk of being interfered with is low, but that they are still subject to problematic legal restrictions: the imposition of constraints on their speech is consistent with the law (and thus legally possible). *De facto* freedom is no doubt important for the citizens’ daily lives, but it is *de jure* freedom that counts when we call for constitutional reform.
In sum, the observation that the slave with a benevolent master is *de facto* but not *de jure* free does not undermine our claim that freedom is best understood as demanding robustness. It just draws our attention to the fact that the class of possible worlds relative to which we define the appropriate kind of robustness may have to be adjusted, depending on the purpose of our analysis.

3. Why freedom should not be moralized

We have argued that a plausible conception of social freedom must involve a robustness requirement. An agent’s freedom to do X cannot be determined just by whether he is actually constrained in doing X – equivalently, whether there is a possibility of doing X in the actual world. The mere possibility of the imposition of constraints that would render his doing X impossible – equivalently, the lack of robustness in the possibility of doing X – may restrict his freedom.

So far, we are in agreement with Pettit’s republican position. As our initial taxonomy indicates, however, the republican conception of freedom departs from the liberal one on a second dimension too: freedom is defined as *non-domination*, the robust absence of *arbitrary* constraints.

**Republican freedom**: An agent is free to do X if and only if, *robustly*, there are no *arbitrary* constraints on his (or her) doing X.

On this definition, the absence of constraints in the actual world – formally $\Diamond A_X$ – is insufficient for freedom, because of the robustness requirement, and unnecessary, because non-arbitrary constraints are not deemed freedom-restricting. What matters is that the disjunction $E_{A_X} \lor \Diamond A_X$ is true, both in the actual world and in relevant possible worlds, where E is the exemption clause stating that there is a morally
permissible constraint on agent A’s doing X. Republican freedom therefore requires $\Box(E_A \lor \Diamond A_X)$.

The reference to an arbitrariness criterion has a problematic implication, which has been pointed out by several critics (e.g., Wendt 2011, pp. 183ff.; Carter 2000, McMahon 2005, pp. 70ff.; Christman 1998).\(^{18}\) Arbitrariness is most readily interpreted as a moralized notion: something is arbitrary if it is unjust, illegitimate, capricious, or not governed by the right principles. Presumably, a slave is unfree because his master can constrain him arbitrarily – i.e., unjustly, illegitimately, and without taking seriously the slave’s interests. Although qualifying freedom in this way allows us to reach the right conclusion in the master-slave case, it leads to counterintuitive conclusions in other cases. As already foreshadowed, if non-arbitrary constraints on action do not restrict freedom, a justly imprisoned criminal, a justly taxed anarchist, and an addict forced by a legitimate state into rehabilitation for his own good are not made unfree. The republican conception will therefore fail to identify as instances of unfreedom a number of cases in which, intuitively, agents’ freedom has been restricted. It will re-classify ‘just’, ‘legitimate’, and ‘non-arbitrary’ restrictions of freedom as no restrictions of freedom at all.

Reinterpreting arbitrariness in a non-moralized way

Faced with this challenge, Pettit has suggested that the notion of arbitrariness should not be understood in a moralized way:\(^{19}\)


‘Unlike “legitimate”, “non-arbitrary” is not an evaluative term but is defined by reference to whether as a matter of fact the interference is subject to adequate checking. Interference will be non-arbitrary ... to the extent that, being checked, it is forced to track the avowed or avowal-ready interests of the interferee; and this, regardless of whether or not those interests are true or real or valid, by some independent moral criterion. Thus there is no substance to the claim that the republican theory of freedom I favor is moralized.’ (Pettit 2008a, p. 117)

On this picture, constraints are non-arbitrary when they are in line with the agent’s interests as he (or she) conceives of them, as opposed to legitimate relative to some independent moral criterion. The reason why constraints that track the avowed interests of the agent should not count as freedom-restricting is fairly straightforward. There is a sense in which they originate in, or are authorized by, the agent him/herself.

Pettit (2007, p. 6) illustrates this point by giving the example of a husband who asks his wife to lock up the liquor cabinet. Although the wife’s action removes an option from the husband’s set of choices (access to liquor at home), it is not freedom-restricting, because it tracks the husband’s avowed interests. The husband himself asked his wife to make the option unavailable, thereby making her action an

So the justly imprisoned man is not made unfree, but his freedom is conditioned. We find the distinction between ‘compromising’ and ‘conditioning’ not entirely clear and set it aside in the main text. The efficacy of this distinction as a way of addressing the ‘problematic implication’ has been put into question by Wendt (2011, pp. 187-190).
implementation of his will, not an imposition of a genuinely freedom-restricting constraint.

This non-moralized interpretation of ‘arbitrariness’ does indeed allow republican freedom to avoid the problematic implication that some intuitively clear cases of unfreedom are not classified as involving unfreedom, such as the classification of a justly imprisoned criminal as free. Presumably, even a justly imprisoned criminal – unless he is unusually repentant – will not *avow an interest* in being imprisoned. And so, his imprisonment, however just it may be, cannot be said to *track his avowed interests* and thereby to leave his freedom intact.

However, the move to a non-moralized arbitrariness criterion in defining republican freedom comes at a cost, which republicans may not be prepared to pay. To explain this point, we must remind ourselves of the main claims of republican political theory, broadly in Pettit’s sense (1997).

*Republican political morality*

Unlike contemporary liberals, who regard justice as the most fundamental value that societies should respect and promote, and then point to a number of other contributing values (freedom being one of them), republicans, à la Pettit, ground their political morality in the single value of freedom as non-domination. A morally worthy society, from a republican point of view, is defined, not as one that realizes justice, but as one that realizes (or alternatively, maximizes) freedom as non-domination (e.g., Pettit 1997, pp. 6-7). Justice will then be constituted by this or follow as a byproduct. The following thesis summarizes this idea:
The strong republican thesis: A morally worthy society is one that realizes (or at least maximizes) freedom as non-domination (the robust absence of arbitrary constraints).

An appealing feature of this thesis – at least from the perspective of those who prefer a parsimonious system of values – is that a morally worthy society is defined in terms of the promotion of one central value – freedom as non-domination – rather than in terms of the juggling and balancing of multiple, potentially conflicting values.

If non-arbitrariness is defined in a moralized way – say, state coercion is non-arbitrary if and only if it is independently morally justified – then the strong republican thesis may well be true, though unfortunately not illuminatingly so. Roughly speaking, it boils down to the proposition that, in a morally worthy society, there can be constraint-imposition if and only if the constraints are non-arbitrary, which means, in turn, that they are independently morally justified. The key work in defining a morally worthy society will then be done by the (non-)arbitrariness criterion, into which the relevant notion of moral justification will have been built (for related discussions, see Christman 1998, p. 205, and McMahon 2005).

What if non-arbitrariness is defined in the non-moralized way Pettit suggests, namely in terms of the tracking of the subject’s avowed or avowal-ready interests?

The democratic move

Let a constraint count as non-arbitrary if and only if it tracks the avowed or avowal-ready interests of the interferee. Pettit argues that under this definition the strong republican thesis implies:

The democratic corollary: A morally worthy society (one that realizes, or at least maximizes, freedom as non-domination) is necessarily democratic (under a suitable
notion of democracy) (Pettit 1997; see also Richardson 2002, Bellamy 2007, and Maynor 2003).

He defends this conclusion by making the following claim:

**The democratic avowal premise:** In a social context, the instrument for determining the citizens’ avowed or avowal-ready interests is democratic decision making (Pettit 2001, p. 156).

If this premise is true, the constraints involved in the implementation of democratic decisions by the state will track the citizens’ avowed or avowal-ready interests and will therefore count as non-arbitrary. The imposition of constraints that lack democratic support, by contrast, will count as arbitrary. So, state coercion is non-dominating if and only if it is democratic, and thus a morally worthy society, in line with the strong republican thesis, must be democratic.

Although at first sight plausible, this argument is flawed. The problem is that although there may be a notion of ‘avowed or avowal-ready interests’ that renders the democratic avowal premise and the democratic corollary true, this cannot be a non-moralized notion.

*The problem with the democratic move*

In the absence of unanimity among all the citizens, no democratic decision can fully satisfy everyone’s interests. Rather, any decision will have to balance different

---

20 Different republicans hold different views of democracy, but common themes include the importance of constitutional constraints, checks-and-balances, deliberation, contestation, and civic virtue.

21 Cf. Richardson’s distinction between different notions of arbitrariness (2002, ch. 3).
individuals’ interests against one another – a familiar point from social choice theory. The coercive implementation of such a decision by the state will therefore inevitably compromise some individuals’ interests.\textsuperscript{22}

But if any act of constraint-imposition, such as a state’s when it implements a democratic decision, counts as ‘arbitrary’ if it compromises \textit{some} citizens’ interests, then practically every democratic decision – absent unanimity – will involve some domination. So, if we understand the strong republican thesis and its democratic corollary as defining a morally worthy society as one that \textit{realizes} freedom as non-domination, we must conclude that no such society can plausibly exist.

Consider, for example, a conflict of interests between two groups within a democratic society. The rich oppose the introduction of a new inheritance tax, while everyone else supports it. After due deliberation, the reform is put to a vote, and the tax regime is approved. Assuming that the rich continue to avow an interest not to introduce the tax, there is no sense in which the coercive imposition of the policy can be said to track their avowed interests. On the avowal-based, non-moralized criterion of non-arbitrariness, it must be classified as ‘arbitrary’ and thus ‘dominating’. That the rich ‘ought’ to support the policy on solidaristic grounds may be true from some

\textsuperscript{22}Pettit is presumably aware of this. He suggests that democracy is non-dominating insofar as it tracks the ‘common avowable interests’ of the citizens. ‘Common avowable interests’ are defined as those whose provision is supported by ‘cooperatively admissible considerations’. However, avowable interests filtered by ‘cooperatively admissible considerations’ are not the same as avowed or avowal-ready interests \textit{simpliciter}. Cooperatively admissible interests are morally vetted, which brings us back to the moralized notion of arbitrariness Pettit wishes to avoid. See Pettit (2001, p. 156).
independent moral perspective but is irrelevant to the argument, since we are considering a non-moralized notion of avowed interests.\(^\text{23}\)

One response is to deny that a democratic decision that carefully balances different individuals’ interests fails to track the citizens’ avowed or avowal-ready interests. According to this response, such a decision does in fact track the interests of the collective as a whole. This is because the decision will have been reached through a procedure with special credentials, such as fairness, equality, and so on, and those credentials bestow upon the decision the status of being ‘collectively avowed’. The resulting notion of ‘collective avowal’, however, is procedure-dependent, and it is not a non-moralized question what the right avowal-eliciting procedure is.

To be able to say, for instance, that the inheritance tax regime tracks the avowed interests of the collective as a whole even though it manifestly does not track the avowed interests of some of its members, one has to adopt a moralized, democratic-procedure dependent notion of avowal. Without such a notion, no decision in the case of a conflict of interests can ever be said to track the avowed interests of all citizens and thus to be free from domination.

*Possible republican response*

A republican might respond that a morally worthy society need not be one that fully realizes non-domination, but merely one that reduces domination as much as possible.

\(^\text{23}\) As suggested in the previous footnote, Pettit might switch to the notion of ‘common avowable interests’, namely interests supported by cooperatively admissible reasons. On this account, the rich may not have a genuine interest in resisting the reform, and so its introduction does not dominate them. But this conclusion can only be reached because the notion of ‘common avowable interests’ is moralized.
So, the rich in our example are indeed dominated by the rest of society, but the outcome is nonetheless the one with the least amount of domination. Recognizing this, we need not redefine the notion of avowed or avowal-ready interests in any moralized way. We can stick to the original non-moralized notion of avowal and perhaps count the number of people whose individually avowed interests are not respected and minimize that number. Alternatively, we can try to minimize some other measure of the extent to which avowed interests in society are not tracked (though constructing such a measure in a non-moralized way is difficult, since any measure is likely to rest on evaluative assumptions). It might then follow that majority decisions or other kinds of democratic decisions – either by minimizing the number of people on the losing side or by minimizing the relevant measure of the frustration of avowed interests – minimize the extent to which avowed interests are not tracked. So, although the rich in the example might be said to be dominated by the rest of society – in that their avowed interests are not tracked – the adoption of the tax regime could still be the outcome with the least amount of domination.

Does this response work? We think there are at least two problems with it. First, if we accepted the response, the democratic corollary of the strong republican thesis would imply that, in a democratic state, the majority, or the winning side more generally, dominates the minority, or the losing side. Republicans would presumably find this hard to accept, since they often emphasize that the laws of a properly constituted democracy are in fact non-dominating, not just domination-minimizing.\(^{24}\)

\(^{24}\) Pettit and other republicans are aware of the risk of domination on the part of the majority, which is why they think majority rule must be subject to constitutional constraints and other counter-majoritarian mechanisms, including ample possibilities for citizens to deliberate and to criticize their governments (Pettit 1997; Maynor 2003,
Secondly, the republican ideal of a morally worthy state that would emerge would be questionable. The worthy state would be one that is governed according to the will of the majority or the outcome of some other democratic procedure. This means that even when the majority is wicked, self-interested, or oppressive, or when a democratic decision is procedurally fair but substantively flawed, we would have to deem the resulting laws morally worthy from a republican perspective. Whether a law is good or morally worthy would depend, not on its substantive qualities, but only on it exhibiting the following procedural virtue: implementing the relevant democratic decision, no matter what its content is (cf. McMahon 2005, p. 80).²⁵ (Recall that we would not be able to rely on a moralized non-arbitrariness criterion to filter for substantively non-dominating decisions; everything would have to rely on the non-moralized avowal criterion.) This conclusion strikes us as problematic and, we believe, it would similarly strike most republicans as problematic.²⁶
A dilemma

The bottom line is that there does not appear to be a single notion of avowed or avowal-ready interests under which both (1) republican freedom’s problematic implication (that some intuitively clear cases of unfreedom, like just imprisonment or just taxation, are not classified as such) can be avoided, and (2) the strong republican thesis can plausibly be upheld.

For (2), something like just taxation or just imprisonment must not be classified as dominating, while for (1) it must be possible for someone’s just imprisonment or just taxation to count as not tracking his avowed or avowal-ready interests. In short, for (1) we require a non-moralized criterion of (non-)arbitrariness, whereas for (2) we require a moralized one. We cannot have both.

We are not arguing that the promotion of freedom as non-domination with a suitably moralized criterion of arbitrariness is undesirable. To the contrary, we believe that it is highly desirable. We are only pointing out that, as an account of social freedom, non-domination so understood is vulnerable to a (well-known) problematic implication. Avoiding the problematic implication, in turn, makes republicans unable to defend a notion of non-domination capable of grounding a plausible overall social ideal, as they wish to.

Non-moralized non-domination

Let us consider one last objection that republican sympathizers might raise. Although we have argued that the non-moralized account of freedom as non-domination cannot plausibly support the strong republican thesis, we have not commented on whether such a notion represents a plausible conception of social freedom. In fact, some of what we have argued suggests that it does. By referring to the subject’s avowed (as
opposed to just, legitimate, or real) interests, non-moralized republican freedom avoids what we have called the ‘problematic implication’. On this account, a man justly imprisoned against his will is still made unfree, because the constraints to which he is subject fail to track his avowed interests. By contrast, a man who admits himself into rehabilitation, knowing that this will significantly restrict his options, is not made unfree. The restrictions of freedom to which he is subject are authorized by him, and track his avowed or avowal-ready interests. Arguably, the man is not ‘subject’ to the will or actions of others, since what others do to him is licensed by his authorization, just as in the case of the husband asking his wife to lock up the liquor cabinet.

So, is non-moralized non-domination a plausible conception of freedom? We believe that it is not. Although *prima facie* plausible, the claim that third-party-imposed constraints that track an agent’s avowed interests are not freedom-restricting stands on shaky grounds. Conceptually, the idea of third-party-imposed constraints without unfreedom is unconvincing: either there is no third-party imposition, hence no unfreedom, or there is, and therefore unfreedom. If third-party actions robustly track an agent’s avowed interests by fully emanating from his will, they should not be regarded as external impositions of constraints at all – but rather as extensions of the agent’s own actions. If others, in restricting an agent A’s options, robustly execute A’s will, their actions are not really ‘theirs’, because they are ultimately under A’s control. They simply express the agent’s own ‘extended’ agency. In this case, talking about third-party-imposed constraints fails to capture the full picture. The actions that restrict the agent’s freedom are ‘his’, under his control, all the way down.

However, the rehabilitation and liquor-cabinet cases do not neatly fit this model. Normally, a wife who, upon the husband’s request, locks a liquor cabinet instantiates
more than an extension of her husband’s agency. Similarly, the personnel of a rehabilitation centre instantiates more than an extension of the willing patient’s agency. If this is so, we can meaningfully talk about third-party-imposed constraints. But whereas the republican would want us to say that such constraints are not freedom-restricting, it seems more natural to conclude that they are, while acknowledging that they are not morally problematic. On this view, a wife who locks a liquor cabinet upon the husband’s request does restrict his freedom, but this restriction should not worry us morally (say, from a liberal or anti-paternalistic standpoint), because it was authorized by the husband. To suggest that the wife’s action does not restrict the husband’s freedom is to mistake justified restrictions of freedom for no such restrictions.

Thus even the non-moralized variant of republican freedom is susceptible to a weaker version of the problematic implication. No matter whether the ‘arbitrariness’ qualification is interpreted in a moralized or non-moralized fashion, incorporating it into our definition of freedom leads us to miscategorize some instances of morally unproblematic unfreedom as instances in which no restriction of freedom occurs. To avoid this conclusion, we must remove the notion of arbitrariness from our conception of freedom, thereby obtaining what we call ‘freedom as independence’.

4. Freedom as independence and its conceptual advantages

We have now completed our main arguments for adopting a conception of social freedom in the bottom left quadrant of Table 1 above. In Section 2, we argued that, contrary to the liberal conception, freedom requires robustness, which corresponds to the bottom row of the table. In Section 3, we argued that, contrary to the republican conception, freedom should not be defined in a moralized way, which corresponds to the left column of the table. We have not discussed moralized liberal freedom, the
conception in the top right quadrant, proposed by Nozick and Dworkin. According to it, freedom is the absence of unjust or wrongful constraints, in the actual world. Formally, the actual truth of the disjunction $E_{Ax} \lor \Diamond A_X$ suffices for freedom. Our arguments go against both the lack of robustness and the moralization of that conception, which has already been prominently criticized in the literature, for instance by Cohen (1991). We therefore set it aside.

So, we propose to define social freedom as the robust absence of constraints simpliciter (rather than of arbitrary constraints), in an appropriate sense of robustness, which can be spelt out further.

**Freedom as independence:** An agent is free to do X if and only if, robustly, there are no constraints on his (or her) doing X.

As already noted, this conception is a close cousin of the republican one but drops the (non-)arbitrariness qualification that Pettit has come to endorse. The formal requirement is $\Box \Diamond A_X$, rather than $\Box (E_{Ax} \lor \Diamond A_X)$. Like the republican conception, it yields an intuitively correct analysis of cases such as that of the slave with the benevolent master, thereby avoiding some of the familiar problems of non-robust conceptions of freedom. At the same time, it avoids the main problematic implication of the republican conception and other moralized conceptions: the failure to classify some intuitively clear cases of unfreedom as such.

Unlike republican freedom, freedom as independence cannot serve as a single, overall social ideal, permitting an account of a morally worthy society built around a single value. But we suggest that this is a virtue, not a vice.
Recall one of the key attractions of the republican conception. Freedom as non-domination has the virtue of what we may call ‘external parsimony’: its overall definition is parsimonious (conceptually simple and easy to state) once the criterion of non-arbitrariness is given, and it can, further, serve as a central social ideal.

But freedom as non-domination lacks the virtue of what we may call ‘internal parsimony’. This would require the ingredients of the definition to be parsimoniously definable. The external parsimony of republican freedom comes at the cost of packing too much into the non-arbitrariness criterion. This makes freedom as non-domination a ‘loaded’ conception and shifts the burden of moral justification, for example for coercive state actions, from the task of explicitly balancing different freedoms against one another to the definition of non-arbitrariness (cf. McMahon 2005).

By contrast, freedom as independence is both externally and internally parsimonious: its overall definition is parsimonious, and it does not have any ‘loaded’ arbitrariness criterion among its ingredients. It further avoids the problematic implications of both liberal freedom and republican freedom.

The inability of freedom as independence to serve as a single, overall social ideal need not be a disadvantage. A good theory of political morality should explain how to trade off multiple competing values against one another, rather than shift the all-things-considered solution to these trade-offs into the definition of freedom itself, via some criterion of non-arbitrariness. The republican approach runs the risk of hiding some of this moral balancing from view.
Some properties of freedom as independence

The conception of freedom as independence is very versatile: we have given a definition scheme, whose details can be spelt out in many different ways, depending on the intended application. It admits (i) different notions of possibility, (ii) different levels of robustness, (iii) different types of constraints, and (iv) conditional as well as unconditional variants. By adjusting these elements, the conception of freedom as independence can be calibrated to capture freedom facts in a variety of ways. This flexibility is a virtue. In line with what we have suggested in Section 2, the freedom facts may be best captured by an entire ‘vector’ of assessments. (The existence of a multiplicity of dimensions of freedom has long been recognized, e.g., in Oppenheim 1961.) Different kinds of freedom as independence, with the open parameters of our definition scheme spelt out in different ways, will be useful in different contexts, and our scheme offers the resources to capture them.

Different notions of possibility

We have already commented on the availability of different notions of possibility in defining freedom as independence, based on the intended application. The possible freedom-undermining constraints may be legal or de facto ones, for example. They may be legal ones that are also practically feasible (e.g., when the state or some other agent could legally impose constraints and has the resources to do so), or they may be legal ones that are not practically feasible (when the state or some other agent could legally impose constraints but lacks the resources to do so). It may also be that there is no legal option for anyone to constrain your doing X, and yet the unfortunate rules of the street are such that your doing X is susceptible to being constrained.
Rather than subsuming all these different cases under a single, all-things-considered notion of freedom, we may prefer to disaggregate the complex set of facts about which modes of possible constraint-imposition an agent is subject to. We can do this by specifying which modes of constraint-imposition the agent’s action is independent from, and which not. Each notion of possibility thus induces a corresponding notion of freedom as independence, indexed to that notion of possibility.

Different levels of robustness

The set of possible worlds across which constraints on the agent’s doing X are absent can be smaller or larger. Thus we can not only recognize, and explicitly define, different levels of robustness of an agent’s freedom as independence, corresponding to the ‘size’ and ‘shape’ of the set of possible worlds across which the agent suffers no constraints, but also re-define freedom as independence as a matter of degree.

For example, if the set of possible worlds in which agent A is not prevented from doing X is a superset of the set of possible worlds in which agent B is prevented from doing Y, then A’s freedom as independence to do X is clearly greater than B’s freedom as independence to do Y. If neither of these two sets includes the other, we can either describe the two agents’ freedoms as incomparable or devise some way of ‘counting’ the number of possible worlds in each set or of measuring its size. Although this task raises difficult measurement issues that we cannot address here, the conception of freedom as independence offers the resources to be re-interpreted as a matter of degree.
Different notions of constraint

Just as liberal freedom can be defined more or less stringently, depending on which kinds of constraints are taken to be freedom-restricting, so freedom as independence can be defined relative to different kinds of constraints. Returning to our earlier discussion, we may distinguish, for instance, (i) between intentional and unintentional constraints, (ii) between constraints imposed by individuals acting by themselves, constraints imposed by groups of individuals acting together, and constraints imposed by social systems or structures (cf. Valentini 2011a), and (iii) between physical and more subtle constraints, based on other social or psychological mechanisms. The terrain is large, and the issues have already been discussed in a rich literature (for an overview, see Carter 2012). We here simply stress that these distinctions carry over to the conception of freedom as independence, with each notion of constraint inducing a corresponding notion of freedom as independence.

Unconditional versus conditional possibilities of being constrained

Possibilities of being constrained (under whichever notion of possibility deemed appropriate) can be unconditional or conditional on certain contingencies. For example, conditional on a relevant authority’s consent (say a judge’s), a given agent (say the police) may be legally permitted to place constraints on another agent’s actions (say those of a suspect in an investigation), while unconditionally such constraints could not be permissibly imposed. We can then say that, although unconditionally all citizens have certain freedoms as independence (e.g., to make

\[ \text{Unconditional versus conditional possibilities of being constrained} \]

27 Formally, a conditional possibility or conditional necessity operator may be interpreted in terms of a different accessibility relation between possible worlds than an unconditional one.
phone calls that are not wire-tapped), such freedoms can be restricted, conditional on the relevant authority’s consent.

Equally importantly, someone may unconditionally lack certain freedoms as independence, because without certain *de facto* or *de jure* protections he or she is susceptible to being constrained, while conditional on such safeguards or protections the agent gains those freedoms. Additional laws may sometimes remove legal possibilities for the state or others to place constraints on people’s lives, thereby enhancing their legal freedom as independence. Similarly, some protective forms of regulation or policing may take certain *de facto* possibilities of constraint imposition away – for example, by criminals or non-state agents – thus also enhancing people’s freedom as independence, this time their *de facto* freedom. To give a simple example, conditional on a police officer being present on the street, pedestrians may enjoy *de facto* freedom as independence from thieves, while unconditionally pedestrians may lack this freedom.

This shows that, contrary to some libertarians’ or anarchists’ views, it is by no means true that additional layers of legislation, regulation, or state activity always reduce people’s freedom. To the contrary, even under the arguably demanding conception of freedom as independence, additional legislation, regulation, or state activity can sometimes promote freedom. And this does not depend at all on any non-arbitrariness criterion for ‘excusing’ certain acts of interference. Rather, it stems from the way legislation, regulation, or state activity can affect which worlds are possible (in a relevant sense) relative to the actual world and which not. The conception of freedom as independence can thus capture precisely which kinds of state activity and other forms of social organization increase people’s freedom, and which do not.
5. Freedom as independence in the Kantian tradition

An important remaining question is whether, and how, freedom as independence as we understand it here differs from what Kantian scholars mean by that term. Kant’s theory of Right (his political theory) is built around one fundamental right, namely persons’ right to freedom, where freedom is famously understood as independence of others’ will. A just state, from this Kantian perspective, is one whose exercise of coercion is consistent with citizens’ right to freedom so conceived (Kant transl. 1999).

Kant’s account of freedom has received much attention in the recent literature, culminating in Ripstein’s (2009) defence of Kant’s political philosophy (see also Stilz 2009, ch. 2, and Flikschuh 2000). There is of course a fair amount of interpretive controversy over Kant’s texts, but we will here base our discussion on Ripstein’s influential interpretation. Our aim is conceptual rather than exegetical (and, given space constraints, we are not able to do full justice to the richness of either Kant’s or Ripstein’s work).

Under what conditions does an agent enjoy Kantian freedom as independence? Ripstein’s answer is: when one is at liberty to use one’s own means to pursue one’s own purposes, robustly unhindered by others (Ripstein 2009, pp. 14-15 and 33-6). As Ripstein notes, this understanding of freedom has much in common with the republican one (ibid., pp. 42ff.). From the perspective of Kantian freedom as independence, a slave is not genuinely free because he is always in principle subject to the will of his master (ibid., p. 36). The slave may not pursue his ends with his own means robustly shielded from the constraints imposed by the master.

Put more schematically, republican freedom and Kantian freedom as independence can be defined as follows:
Republican freedom (as non-domination): Freedom is the robust absence of arbitrary constraints.

Kantian freedom (as independence): Freedom is the robust absence of constraints on one’s pursuit of one’s ends with one’s own means.

In both cases, (i) freedom requires the robust absence of certain constraints, and (ii) not all constraints count as freedom-restricting. Regarding (ii), on the republican account, only arbitrary constraints are freedom-restricting; on the Kantian one, only constraints on using one’s own means to pursue one’s own ends are freedom-restricting. As we saw in Section 3, the arbitrariness qualification generates some difficulties for the republican conception of freedom. We believe that similar difficulties arise for the Kantian one, once the content of the qualification ‘one’s own means and ends’ is disambiguated (we here draw on Valentini 2012; see also Ripstein’s response, 2012).

There are two ways of interpreting that qualification. One, which is most clearly in the spirit of the Kantian project, is moralized and thereby sets Kantian freedom as independence apart from the non-moralized conception we are defending. The second interpretation is non-moralized and virtually corresponds to freedom as independence as we understand it here. This interpretation, however, finds less support in Ripstein’s work, and rightly so. As we shall illustrate, if Ripstein accepted it, it would compromise the Kantian project in political philosophy he is defending.

Moralized Kantian freedom as independence

The qualification ‘constraints on the use of one’s own means to pursue one’s ends’ may be understood in moralized terms, as referring to the means and ends one has a right to ‘under universal law’, i.e., ‘within a system of reciprocal’ constraints
(Ripstein 2009, p. 34). From this perspective, only constraints placed on one’s legitimate entitlements lead to unfreedom. Since Kantian freedom as independence so understood explicitly presupposes an account of legitimate or just ownership (i.e., ‘under universal law’), it has a problematic implication of its own, much like the one we identified in the case of republican freedom. On the moralized interpretation of Kantian freedom, a burglar who is arrested while attempting to steal from someone (assuming a background distribution of property consistent with universal law) is not thereby made unfree because nobody is placing constraints on his pursuit of his ends using his own means. Similarly, citizens who are taxed in accordance with the right criterion of justice are not made any less free, since the constraints to which they are subject are, by hypothesis, consistent with their rights.

Like moralized republican freedom, moralized Kantian freedom can be criticized for miscategorising instances of justified unfreedom as instances of no unfreedom at all. While Kantian freedom as independence so understood may be a worthy goal to promote in society – it corresponds to robust respect for people’s rights – it offers a counterintuitive account of freedom – one that does not match some of our most strongly held considered judgements.

Non-moralized Kantian freedom as independence

A possible way out of this difficulty, one might think, is to interpret the qualification ‘constraints on an agent’s own means and ends’ in a non-moralized way, as referring to the means and ends the agent de facto has. Since anything an agent does may be regarded as an instance of the agent’s pursuit of his ends using his means, the possibility of being constrained simpliciter constitutes a restriction of freedom under this interpretation. Kantian freedom as independence then corresponds to freedom as independence as we have defined it in this survey.
We doubt, however, that this is what Kantians, and specifically Ripstein, have, or should have, in mind. To begin with, if Kantian freedom as independence boils down to ‘the robust absence of constraints’, then why qualify constraints by reference to certain criteria of ownership at all? Interpretive charity requires us to take the qualification ‘constraints on the pursuit of one’s ends using one’s own means’ as non-vacuous, as making a difference to the definition of freedom. For it to do so, it must implicitly refer to some moralized criterion of ownership.

Even more importantly, freedom as independence in the present, non-moralized sense would fail to vindicate the following thesis held by many Kantians and defended by Ripstein:

**The strong Kantian thesis:** A just society is one in which all citizens are free, i.e., independent of the will of others.\(^{28}\)

If we interpret freedom as independence in a non-moralized way, as the robust absence of constraints *simpliciter*, the strong Kantian thesis becomes implausible. It would be absurd to suggest that justice can only obtain when *any* constraint on people’s actions is impossible. It would also flatly contradict the spirit of Kant’s

---

\(^{28}\)Ripstein (2009) says that in Kant’s political philosophy ‘[t]he idea of independence carries the justificatory burden of the entire argument, from the prohibition of personal injury, through the minutiae of property and contract law, on to the details of the constitutional separation of powers’ (p. 14). He also remarks that ‘[b]y making the innate right to freedom the basis for any further rights, Kant imposes an extreme demand for unity on his account of political justice. The rights that each person has against others must be derived from it, as must the fundamental constitutional rights that protect political freedoms and freedom of religion’ (p. 31).
political philosophy, which emphasizes that our continued interaction with each other in a world of scarce resources requires us to enter into relationships of justice, setting the boundaries of our ‘spheres’ of agency (Kant transl. 1999, p. 114). In the world in which we live, placing constraints on each other is unavoidable. The task of justice is precisely to tell us which kinds of constraints are legitimate and which not (especially through determining property and other rights).

In contrast with the non-moralized conception of freedom as independence, a moralized conception allows Kantians to vindicate their strong thesis. A just society, on the resulting picture, is one in which all citizens may act within the confines of their rights robustly unhindered by others.

To conclude, Kantian freedom as independence is much closer to (moralized) freedom as non-domination than to freedom as independence as we understand it here. Indeed, if we were to interpret the Kantian conception in such a way as to make it identical to the one we develop, the Kantian theory of justice would be seriously compromised. This further supports our initial claim that, although the term ‘freedom as independence’ is familiar from the literature, its distinctive place in conceptual space has not been sufficiently well recognized.

We hope this survey contributes to making freedom as independence a better-appreciated conception of freedom and to placing it firmly on the map as an alternative to its liberal, republican, and Kantian counterparts.

References


Flikschuh, Katrin (2000), Kant and Modern Political Philosophy, Cambridge (Cambridge University Press)

Kant, Immanuel (1999), Metaphysical Elements of Justice, translated by John Ladd, Indianapolis (Hackett)


Kramer, Matthew (2003), The Quality of Freedom, Oxford (Oxford University Press)


Steiner, Hillel (1994), An Essay on Rights, Oxford (Blackwell)


