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Mill and Pettit on Freedom, Domination, and Freedom-as-Domination

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ABSTRACT: Pettit endorses a ‘republican’ conception of social freedom of the *person* as consisting of a state of non-domination, and takes this to refute Mill’s ‘liberal’ claim that non-domineering but coercive interference can compromise social freedom of *choice*. This paper argues that Pettit’s interpretation is true to the extent that Mill believes that the legitimate, non-arbitrary and just coercion of would-be dominators, for the sake of preventing them from dominating others, can render them unfree to choose to do so without rendering them socially unfree (qua dominated) persons in their own right. However, contra Pettit, Mill is correct to reject the ‘republican’ view for at least two reasons. Firstly, it enables him to avoid commitment to the implausible implication that would-be dominators who sincerely deny any interest in a shared system of basic liberties are automatically rendered unfree persons by the coercion necessary to uphold such a system. Secondly, it enables him to avoid begging the question against ‘immoralists’ like Nietzsche, whose opposition to systems of reciprocal non-domination is at least partly motivated by the losses of social freedom of choice they entail for those they deem to be worthy of dominating others.

KEY WORDS: Domination, freedom, liberalism, liberty, John Stuart Mill, Friedrich Nietzsche, Philip Pettit, republicanism.

1. Introduction

Philip Pettit’s seminal works defending republicanism contain a number of criticisms of the liberalism of John Stuart Mill, including his conception of social freedom (Pettit 1996: 577; 1997: 46–47, note 7; 2012: 210; 2014: 21–22.). Mill is also presented as vulnerable to Pettit’s generic critique of liberalism, according to which its adherents tend to: (a) approach the idea of social freedom via the question of the conditions of social freedom of choice (*choice-freedom*) rather than the conditions of a socially free person

(*person-freedom*); (b) think of social choice-freedom in terms of the only form thereof that could be available to human beings in a pre-political condition; (c) take this form to be constituted by the absence of coercive interference attainable through social isolation; and hence (d) treat the presence of coercive interference in choices as necessary and sufficient for compromised social choice-freedom. In contrast, Pettit claims that the republican tradition treats this line of thought as a chain of inferential error that should be avoided by rejecting (a) from the outset. For Pettit, a superior— and distinctively republican—conception of social choice-freedom can be attained indirectly via an antecedent investigation of the conditions of social person-freedom—the conditions in which it is appropriate to refer to a person who lives in a political condition as socially free as opposed to *some kind of* subject, serf, or slave (Pettit 2003, 400; 2007; 2014: 71).

It is not difficult to find individual passages in Mill's corpus that can be adduced in favour of such an interpretation. For example, in a speech on 'Cooperation' (1825), the young Mill suggests that:

It is delightful to man to be an independent being. The savage of the forest would be the happiest of men, could he reconcile the comforts of civilized life with the preservation of his independence. This indeed is impossible—he must sacrifice a part—but this sacrifice is an evil, and can only be submitted to, for the sake of a greater good. So conformable is this to the general sentiments of mankind that benevolent enthusiasts, in their plans for new modelling society, have hitherto erred in giving *too much freedom of action*; their day dreams have been *dreams of perfect liberty*. (Mill, XXVI: 321, my italics)¹

According to one possible reading of this passage, the “independence” enjoyed by the “savage” is a function of his *complete* social choice-freedom, and that is in turn constituted by the *total absence* of coercive interference that he enjoys in the state of nature. If this were correct, Mill would take the “benevolent enthusiasts” to deal in “dreams”, not because they fail to see that restrictions on freedom of action can promote a liberty-constituting security that is part and parcel of the “comforts of civilized life”, but because they fail to see the need to accept less liberty overall in order to enjoy *distinct* goods such as security.

This would be anathema to Pettit, for whom the genuine antonym of social person-freedom is not coercion but domination, and for whom non-domination requires politics qua requiring the security-inducing protections of the rule of law (Pettit 2003: 399–400). When person-freedom is construed in binary terms, this republican view implies that a person is either socially free or dominated, and that there is no status in between (Pettit 1997:

¹ All in-text references to Mill are to volume and page number of Mill (1963–1991).

74–77). However, since it is also intuitive to think that person-freedom—and, by extension, domination—can come in degrees, Pettit also employs a scalar variant thereof that we can refer to as social *agency-freedom*.² The latter also enables him to distinguish between different conceptions of (binary) person-freedom in terms of the amount and kind of (scalar) social agency-freedom that they take person-freedom to require (Pettit 2007: 715).

As Pettit conceives it, an individual's social agency-freedom reflects more than the range of, and the extent to which, her choices are not subjected to *actual* coercive interference. It is also a function of how far these choices are (legally and non-legally) shielded from the *counterfactual* coercive interference that *could* have occurred if she or a potential interferer had chosen differently (Pettit 2006: 133). This enables Pettit to use the idea of social agency-freedom to bridge the gap between the notions of person-freedom and choice-freedom, by claiming that:

- (1) an agent, α , has the social freedom to choose between two options, X and Y , (to a degree, D) if, and only if, α has the agency-freedom—and hence the salient forms of actual and counterfactual protection—to select either (to degree D);³ and
- (2) α has person-freedom if, and only if, α has the agency-freedom of a sufficient range and extent to count as undominated by others (Pettit 2007: 717; 2014: ch. 3).

More controversially, Pettit couples person-freedom and choice-freedom further by maintaining that:

- (3) if interference in α 's life renders α socially unfree to choose between two options, X and Y , (to a degree, D) this interference also compromises α 's person-freedom (Pettit 1997: 26 note 1, 56 note 3).⁴

This allows him to conclude that Mill was wrong to take coercive interference to be sufficient to compromise an individual's social choice-freedom. After all, it would be absurd (for a non-anarchist like Mill (XXVI: 276)) to maintain that a person is unfree—which is to say, either dominated or else

² I take the term 'agency-freedom' from Pettit (2003) which treats person-freedom and agency-freedom as equivalent. Pettit's rationale for this equivalence is given by the Equality Assumption presented in Pettit (2007: 715), on which more below. It will become clear as we proceed that I opt to distinguish the two as my argument can only be articulated if the conceptual possibility of obtaining greater *scalar* agency-freedom than is necessary for *binary* person-freedom remains in view.

³ Pettit (2006: 134): "*choices* are socially free just so far as they are exercises of such *chooser*-based freedom" (my italics).

⁴ As we will see in Section 2, Pettit can only reconcile (1–2) with (3) by denying that ' x is not free to Φ ' entails ' x is unfree to Φ ' on the grounds that there is also the possibility that ' x is (merely) non-free to Φ '.

subordinated in some other way that is incompatible with person-freedom—merely in virtue of being bound by an (unwanted) coercive but legitimate liberal democratic rule of law (Pettit 1997: 65–66).

This paper aims to show that Pettit is correct to claim that Mill rejects (3) but incorrect to claim that Mill was mistaken to do so. To readers familiar with Pettit's objections to Mill this may seem surprising because (i) at times Pettit criticizes Mill for being so blind to the phenomenon of domination that the criticisms could only be plausible if Mill ignored the notion of person-freedom altogether, and (ii) without that notion it would not be possible for Mill to take a position on its *relation* to social choice-freedom in the first place. For instance, in *Republicanism* Pettit suggests that Bentham and Mill were not concerned with social agency-freedom in either “the modal sense [...] of wanting to increase people's immunity against (arbitrary) interference, even against the sort of (arbitrary) interference that the potential interferer—the person who is not blocked from interfering—is unlikely to practice”, or the “sense of wanting to reduce exposure to the power of another” (Pettit 1997: 46–47, note 7).

However, Pettit was simply mistaken on this point. For example, in a passage from *On Liberty* (1859) in which Mill is discussing a time at which the main threat of tyranny came from the monarchy, he writes approvingly that:

The aim, therefore, of patriots was to set limits to the *power which the ruler should be suffered to exercise over the community*; and this limitation was what they meant by liberty. (Mill, XVIII: 217–218, my italics; also XXVI: 346)⁵

He then continues as follows:

It was attempted in two ways. First, by obtaining a recognition of certain *immunities*, called political liberties or rights, which it was to be regarded as a breach of duty in the ruler to infringe, and which, if he did infringe, specific resistance, or general rebellion, was held to be justifiable. A second, and generally a later expedient, was the establishment of constitutional checks, by which the consent of the community, or of a body of some sort, supposed to represent its interests, was made a necessary condition to some of the more important acts of the governing power. (Mill, XVIII: 218, my italics; also XXIX: 379–380)

Moreover, Pettit now concedes the point insofar as he acknowledges that Mill's treatise *The Subjection of Women* (1869) is concerned with the ways in which women can lose their social *person-freedom* through domination *absent*

⁵ Lest anyone read this as implying that liberty is only nullified by the *exercise* of despotic power rather than the despotic power itself, note that elsewhere Mill makes clear that both are to be tackled, albeit consecutively: “It is a political law of nature that those who are under any power of ancient origin, never begin by complaining of the power itself, but only of its oppressive exercise” (XXI: 271). See also (XVIII: 229): “The power itself is illegitimate”.

coercive interference, and not simply with the ways in which they can lose their social *choice-freedom through* coercive interference (Pettit 2014: 22).⁶

In consequence, this paper will proceed from the assumption that Mill has a conception of social person-freedom according to which it is compromised by domination,⁷ and hence assume that the question of why Mill rejects (3) above is not predicated on a false premise. Mill's rationale for thinking that coercive interference can compromise people's social choice-freedom without compromising their (domination-sensitive) social person-freedom is hinted at in another of his speeches, only this time one made towards the end of his life. In 'The Education Bill' (1870), Mill notes the phenomenon of religious authoritarians who are aggrieved at the loss of their freedom to make others unfree to dissent from their views. He then quips:

I dare say we should be told, if it were anyone's interest to affirm it, that we are no lovers of liberty because we do not permit kings to take the liberty of hanging or guillotining people at their pleasure. But the liberty we stand up for is the equal liberty of all, and not the greatest possible liberty of one, and slavery of all the rest. (Mill, XXIX: 385)

While one might think that Mill only uses 'liberty' in the latter inegalitarian sense in jest, he can be shown to use the term with this sense in other contexts without humorous intent.⁸ Thus, Mill seems to take the humour of the joke to lie, not in the idea of a liberty to dominate or oppress others as such, but rather in the hypocrisy of those who complain about its loss (see also XXVI: 276).⁹ In consequence, he deems fallacious an inference from the fact that someone has no right to a particular choice-freedom, and hence no right to complain of its loss, to the conclusion that this choice-freedom cannot be compromised (cf. Pettit 1997: 55–56; 2014: 115–116). Thus, I will argue, the crux of the issue between Mill and Pettit is not that Mill rejects or ignores the idea of (domination-sensitive) person-freedom, but rather that he believes

⁶ However, in the same passage Pettit continues to maintain that Mill was blind to the ways in which poverty could result in the domination of the poor by the rich. Cf. Urbinati 2002: 192–199.

⁷ For recent Mill scholarship which appears to either defend or share the 'assumption'—which is distinct from the claim that Mill agrees with Pettit's *equation* of person-freedom and non-domination—see Baum (2000), Demetriou (2013), Donner (2008), Giovanni (2013), Morales (2007), and Urbinati (2002, 2007). A notable exception is Lovett (2008), which I hope to be able to discuss elsewhere along with Pettit's early rationale for rejecting the assumption (including the probability argument in Pettit (1997: 46–47, note 7)).

⁸ For example, in a letter discussing his opposition to American slavery Mill does not contrast it with liberty *as such* but rather "*that* liberty against which the system of Slavery is the deepest outrage" (XXXII: 191, my italics).

⁹ In consequence, lest it need to be said, Mill is not sympathizing with those who lose this inegalitarian form of liberty (Miller 2005: 258).

that the choice- and agency-freedom of dominators has to be compromised in order to render them unfree to dominate others.

In what follows Section 2 sets out the technicalities of Pettit's account of social freedom that enable him to make his case against Mill. Section 3 defends the *interpretive* claim that Mill acknowledges that there is a form of social choice-freedom that is born of the domination of others. Section 4 defends the *philosophical* claims that it was reasonable for him to maintain that the coercion of would-be dominators compromises this choice-freedom without compromising their person-freedom, and that this enables him to avoid the charge of begging the question against proponents of the freedoms flowing from domination. Finally, Section 5 examines some further problems that afflict Pettit's position, but which Mill can avoid, in virtue of their disagreement.

2. Pettit on Choice-Freedom and Agency-Freedom

Pettit's conception of choice-freedom is *opportunity-based* in the sense of implying that an agent, α , is free to choose to perform an action (or select an option), Φ , to the extent that α has the opportunity to Φ . This contrasts with an *exercise-based* conception of choice-freedom in which α can only be said to be free to Φ to the extent that α has actually exercised an existing capacity to Φ (Pettit 1997: 27–31). Pettit's conception of the strongest form of choice-freedom, which he labels "outright" choice-freedom, is also capacity-based in the sense of implying that α has the opportunity to Φ to the extent that α has the capacity to Φ (Pettit 2007: 715–716). While this means that outright choice-freedom can be compromised by any form of incapacitation, Pettit denies that choice-freedom is only compromised by obstacles that "block" an option in virtue of rendering it impossible for an agent to select it. Instead he understands incapacitation more broadly, so as to include obstacles that also merely "burden" an option, by making it more difficult or costly for an agent to pursue it (Pettit 2003: 391).

Pettit's conception of outright choice-freedom can be divided into the subcategories of social and non-social choice-freedom in such a way as to imply that an agent has the former if, and only if, the agent has both of the latter. Likewise, he divides non-social choice-freedom into three further subcategories, namely, *physical*, *psychological*, and *natural*, such that an individual has the former if, and only if, she has each of the latter (Pettit 2006: 132–136; 2007: 711). This conception of non-social choice-freedom is 'negative' in the sense that the *presence* of physical, psychological, and natural choice-freedom depends upon the *absence* of physical, psychological, and natural obstacles respectively. Pettit seems to conceive of physical and psychological obstacles as 'internal' to the agent (e.g., a disability that prevents someone from walk-

ing or remembering), and natural obstacles as ‘external’ to the agent (e.g., a mountain that an agent must circumnavigate in order to reach a destination).

As Pettit conceives it, social choice-freedom is like natural choice-freedom insofar as it is compromised by sources of incapacitation external to the agent, but unlike it insofar as it is *only* compromised by socially-generated obstacles for which people can be held accountable on grounds of intention or negligence (Pettit 1997: 26; 2003: 314). Moreover, although Pettit doesn’t say so, it seems that social obstacles will at least tend to operate through physical and psychological incapacitation. For example, while an agent might be merely physically (or naturally)¹⁰ blocked from leaving a room with a locked door, *eo ipso* she might also be said to be socially blocked from doing so if the door was deliberately or negligently locked by someone else (Miller 1983: 71). Likewise, while an agent’s option of leaving her home might be psychologically burdened by her fear of doing so, *eo ipso* it might also be said to be socially burdened if that fear was induced by another agent’s threats. Since physical and psychological incapacitation can stem from purely non-social sources, Pettit takes it to be possible for an agent’s outright choice-freedom to Φ to be compromised without the agent’s social choice-freedom being compromised. In such circumstances, Pettit says that the agent’s social choice-freedom to Φ is “conditioned”, or that the agent is socially *non-free* (as opposed to free or unfree) to Φ . In doing so, he indicates that the absence of social blocks and burdens does not imply a capacity to exercise the corresponding social choice-freedom (Pettit 2006: 132).

According to Pettit, one reason why it is important to distinguish between social and non-social choice-freedom is that it is feasible (and desirable) to shield people against social obstacles to a degree that they cannot be shielded against physical, psychological, and natural obstacles (Pettit 2005: 88–90; 2006: 133; 2014: 115–120). Pettit’s point seems to be that, whereas all living agents’ subjection to gradual physical and psychological incapacitation is inevitable, and their subjection to natural laws is the unavoidable precondition of their natural existence, their subjection to various forms of *socially-mediated* physical and psychological incapacitation is not (Pettit 1997: 26). From this Pettit infers that in the case of social freedom it becomes feasible to conceive of agents’ choices as free, not merely because they happen not to be subject to social obstacles in a given instance, but because their physical and psychological capacities are shielded from, and thereby modally immunized against, the salient forms of socially-generated incapacitation across a range of possible worlds (Pettit 2006: 134). In consequence, while Pettit’s

¹⁰ Depending upon how exactly the line is drawn between the two.

conception of social choice-freedom continues to be opportunity-based, it implies that simply exercising an opportunity to Φ is insufficient to be free to Φ . The rationale for this is that, to be free to Φ , α 's opportunity to Φ needs to be shielded across a sufficiently broad range of possible worlds for this opportunity not to have been contingent on the fact that no one who had the capacity to create a social obstacle opted to do so in that instance.

Pettit refers to the form of social freedom in which an agent's capacities are protected from social obstacles by this kind of modally robust shield as agency-freedom (Pettit 2003).¹¹ This is supposed to reflect the fact that it is the agent's capacity to choose that is shielded, and this shield is not contingent on the agent exercising his capacity to choose with the consent, or to the satisfaction, of another. As thus conceived, (social) agency-freedom¹² comes in degrees, and there is no guarantee that one person will have the same degree of shielding as another. In particular, it will be possible for peoples' degree of agency-freedom to vary in both breadth and depth, corresponding to the *range* of choices that are shielded from social obstacles, on the one hand, and the *strength* of the shields protecting the choices within this range, on the other (Pettit 2006: 134).

Pettit also claims that inequalities of agency-freedom can generate relations of domination. While we will see that Pettit offers a complex elaboration of what it means to dominate and be dominated, the basic idea is that one agent, α , dominates another agent, β , if, and only if, α has the power to interfere with β 's choices at "his own pleasure" on an "arbitrary basis" (Pettit 1997: 55). The link between domination and inequalities of agency-freedom stems from the claim that if α is shielded from interference in his choices stemming from β (to a degree, D) but not vice versa, α 's shield gives him the power, and hence the freedom, to interfere in β 's choices with impunity (of degree D). Since such inequalities of power can come in degrees, the same is true of domination, and a relation of reciprocal non-domination between two agents will require them to have *equal* degrees of agency-freedom (Pettit 2003: 397).

While agency-freedom and domination are scalar notions when thus construed, Pettit also opts to use them to cash out the binary notion of a (socially) (un)free person, such as that employed in the contrast between masters and slaves on the one hand, and citizens and subjects, on the other (Pettit 1997: 31–35). In consequence, he deems it necessary to posit criteria that can be employed to determine whether the degree of a given person's agency-free-

¹¹ Another terminological variant is 'chooser-freedom'. See Pettit (2006: 134).

¹² From here on, in order to minimize terminological clutter I will drop the 'social' and 'non-social' qualifiers; unless otherwise stated, the reader should assume that the freedom under discussion is of the social variety.

dom, corresponding to its particular breadth and depth, passes the threshold for considering the person to be free. Pettit notes that this task can be undertaken under one of two possible but mutually incompatible assumptions. According to the first assumption, which he refers to as the “[E]quality [A]ssumption”, to be a free person—perhaps a citizen as opposed to some kind of subject—requires as much but no more agency-freedom than the maximum that is compatible with equal agency-freedom for all members of society (call this *egalitarian* agency-freedom) (Pettit 2007: 215). Since egalitarian agency-freedom is also the threshold for non-domination, this approach implies that to be a free person it is necessary and sufficient that one is not dominated. From here the notion of a free *society* can be cashed out in terms of a society in which each member is a citizen, and the citizens exist in a relationship of reciprocal non-domination.

Pettit opts for the Equality Assumption because he wants his conception of person-freedom to be a universalizable, egalitarian and morally defensible *ideal*. This creates a stark contrast with the second possible assumption that can be adopted when mapping the scalar notions of social agency-freedom and domination onto the binary notion of an (un)free person. According to this ‘Inequality Assumption’, to be a free person requires a greater degree of agency-freedom than egalitarian agency-freedom, and hence more than that afforded to citizens in a free society (call this *inegalitarian* agency-freedom).¹³ Since the possession of inegalitarian agency-freedom would give one greater shields than, and hence power over, others, it implies that people can only be free if they are dominators. In consequence, it makes sense to refer to this conception of person-freedom as *freedom-as-domination*. According to one logically possible (but rather strong) conception of freedom-as-domination, to be a free person would require the level of inegalitarian agency-freedom associated with the status of a ‘master’, and hence to be considered a free person an individual would require (unfree persons as her) ‘slaves’. While weaker conceptions of freedom-as-domination are possible, each carries the implication that either no societies are free, or that not all societies can be, because the egalitarian agency-freedom that the citizens enjoy in the free societies is predicated upon their domination of members of other societies. In either case, the implication is that the largest collective form of freedom that is attainable is that of a free *class* of people who constitute a proper subset of the human population, and dominate at least a part of their complement.¹⁴

¹³ Pettit highlights this option but does not explore it as I do here.

¹⁴ In consequence, it is really necessary to distinguish between universalizable and non-universalizable conceptions of egalitarian agency-freedom. To minimize terminological clutter, in what follows the reader should assume that references to egalitarian agency-freedom are references to its *fully* egalitarian, universalizable variety.

While Pettit's claim that 'free person' and 'non-dominated person' should be treated as extensionally equivalent is open to contestation,¹⁵ it is far from obvious that it needs to contradict a liberal account of choice-freedom (Kristjánsson 1998a: 265–70). However, Pettit sees a tension between them because in giving analytical and explanatory priority to person-freedom over choice-freedom, on the one hand, and construing person-freedom in terms of the Equality Assumption, on the other, he is committed to maintaining that an individual's person-freedom and his choice-freedom are compromised if, and only if, his *egalitarian* agency-freedom is compromised (Pettit 1998: 275–279). In also holding that an individual's egalitarian agency-freedom is compromised if, and only if, he is dominated, Pettit is able to derive two key 'republican' implications that he takes liberals such as Mill to find unacceptable:

Domination *Necessary* for Compromised Choice-Freedom (*DN*): If β 's choice-freedom is compromised by α , α dominates β .

Domination *Sufficient* for Compromised Choice-Freedom (*DS*): If α dominates β , β 's choice-freedom is compromised by α .

The scope of this paper is restricted to examining whether and why Mill rejects *DN*, and whether Pettit is right to criticize him for doing so. In consequence, an examination of the accuracy of Pettit's claim that Mill rejects *DS* must be left for another study.

3. Mill and *DN*: Against the Reduction of Agency-Freedom to Egalitarian Agency Freedom

Pettit claims that Mill rejects *DN* qua taking interference in the form of force or explicit threats to be sufficient for choice-freedom to be compromised, even though these are insufficient for domination (Pettit 1996: 577; 1997: 46–47, note 7; 2014: 21–22). The accuracy of this attribution can be confirmed with reference to Mill's famous Harm Principle from *On Liberty*:

[T]he sole end for which mankind are warranted, individually or collectively, in interfering with the liberty of *action* of any of their number, is self-protection [...]. [T]he only purpose for which power can be rightfully exercised over any member of a civilized community, *against his will*, is to prevent harm to others. (Mill, XVIII: 223, my italics)

Here Mill defines interference (in choice-freedom) in terms of "compulsion and control, whether the means used be physical force in the form of legal penalties, or the moral coercion of public opinion" (ibid.). This suggests that

¹⁵ Markell (2008) and Sparling (2013) argue that non-domination is insufficient for (social) person-freedom.

Mill rejects *DN* on the grounds that if such “legal penalties” and “coercion” are used to block or burden the option of an agent “against his will” but without violating the Harm Principle, this is sufficient to compromise his freedom to choose that option even though it is insufficient to render him an unfree person.

While Pettit deems Mill to err here, this charge cannot be vindicated with reference to the idea of agency-freedom alone. That is, Mill can accept that (i) egalitarian agency-freedom is sufficient for person-freedom (Equality Assumption); and (ii) various forms of compulsion and control are consistent with (qua required for universalizing) egalitarian agency-freedom; while denying that (iii) such compulsion and control compromises individuals’ person-freedom simply in virtue of being imposed against their will; because he endorses the following:

Choice Compromising Principle (CCP): If a social obstacle imposed by α blocks or burdens β ’s option, α ’s obstacle *compromises* β ’s (social) *choice*-freedom, and hence her *agency*-freedom.

After all, the fact that β must be *subjected* to various forms of compulsion and control in order to have *the same* (i.e., equal) agency-freedom as others is compatible with those laws compromising β ’s agency-freedom qua eliminating the shields that would give her more (i.e., inegalitarian) agency-freedom than others. Moreover, this position is plausible insofar as it is intuitive to deny that a *person* is unfree in virtue of being blocked or burdened from dominating others, but counter-intuitive to deny that such blocks and burdens make her unfree *to choose* to establish the conditions in which she can do so.¹⁶

Since Pettit cashes out the idea of domination in terms of one agent’s subjection to the modally immunized *will* of another, he cannot reject *CCP* by denying that inegalitarian agency-freedom is a genuine form of *agency-freedom*. In consequence, in order to defend *DN*, he is forced to claim that social obstacles can limit (or ‘condition’) agency-freedom without compromising it instead (Section 4). However, before exploring the rationale for Pettit’s position, I want to explore a possible rationale for an alternative interpretation of Mill’s position. According to this counter-interpretation, Mill actually accepts *DN*, and hence rejects *CCP*, by denying that there exists any genuine agency-freedom above the egalitarian quota, and hence maintains that there is nothing above that quota to be compromised in the first place. If this counter-interpretation were correct, while Mill’s position would still dif-

¹⁶ For example, if some members of a group of colonialists dominate a country, they are not dominated by the colonial government in virtue of being rendered unfree to do whatever they like to the native population (Mill, XIX: 571; Urbina 2007: 78).

fer from that of Pettit, it would be much closer to it than it is according to my own interpretation, as it would leave the door open to Mill's membership in the republican 'family' as it is conceived by Pettit (Morales 2007: 60–61).¹⁷

The possibility of such an interpretation is hinted at, although perhaps not (fully) endorsed, by Nadia Urbinati. Urbinati acknowledges that the young Mill posits a form of social freedom that can be enhanced by the domination of others, on the basis of the following passage from 1824:

Liberty, in its original sense, means freedom from restraint. In this sense, every law, and every rule of morals, is contrary to liberty. A despot, who is entirely emancipated from both, is the only person whose freedom *of action* is complete. A measure of government, therefore, is not necessarily bad, because it is contrary to liberty; and to blame it for that reason, leads to confusion of ideas. (Mill, I: 296 my italics; also XXVI: 282)

Nevertheless, she maintains that, “in his later political essays”, he adopted an alternative view, “more in line with the classical notion of liberty”, according to which “[*i*] the despot does not enjoy more freedom than his subjects, and [*ii*] [...] the foundation of freedom is a condition of moral and political equality” (Urbinati 2002: 159; also Donner 2008: 147).

In order to assess this claim, it is necessary to consider which kind of ‘freedom’ Urbinati has in mind. If she means a universalized person-freedom, (*ii*) would be true but (*i*) would be false qua implying that Mill believes despots lack person-freedom in the same way as slaves. After all, in *The Subjection of Women* (1869), Mill argues that Roman civilization did more than any other hitherto to illustrate the possibility and attraction of a system of law-generated, civic republican liberty, *even though* “the best of these” “free republics of antiquity” only granted civic equality to “*free* male citizens”, and thereby left “slaves, women, and the unenfranchised residents” subjected to the citizens’ “law of force” (XXI: 294, my italics). In consequence, that late work leaves the distinction between free masters and unfree slaves very much intact.

Alternatively, if the ‘freedom’ Urbinati has in mind is not purely social but also incorporates Mill’s conception of autonomy or “rational freedom” (Mill XXI: 336; also VIII: 841; XVIII: 262–264), her claim could be closer to the truth. On the one hand, Mill certainly believes that α ’s domination by β will *tend* to undermine β ’s psychological freedom (Mill XXI: 413; also Morales 2007: 49).¹⁸ And on the other, he also makes clear that possession of

¹⁷ Of course, to be a full member he would have to accept *DS* as well (Section 2).

¹⁸ Recall that (1) if a social obstacle compromises psychological choice-freedom, this will also count as compromised social choice-freedom, but (2) for the purposes of this paper, I am remaining agnostic vis-à-vis Mill’s commitment to *DS*, and hence agnostic as to whether he

arbitrary power tends to render people so unreasonable (XXI: 155–156) that it would seem to follow that dominators will tend to lack such rational freedom as well (VIII: 841).¹⁹ In consequence, Mill's position seems to be consistent with an unreasonable master being equally deprived of rational freedom as a mentally subjugated slave.²⁰ Nevertheless, this would not suffice to support Urbinati's claim, as the fact that a despot lacks greater *psychological* freedom than his subjects would not show that she does not have greater *social* freedom.

In consequence, for Urbinati's claim to stand, she would have to be referring to agency-freedom.²¹ Moreover, as thus understood, her claim would support the counter-interpretation under consideration. After all, if Mill does not believe that the despot has more agency-freedom than his subordinates, it will follow that whatever it is that he loses when the options that are opened up by his domination of others are closed through the coercion that establishes a free society, it is not agency-freedom, and hence his agency-freedom will not be compromised by such coercion.

To my knowledge, the best evidence that can be adduced to support this counter-interpretation comes from a passage in *Centralisation* (1862).²² Having noted a claim made by M. Dupont-White, that "if liberty is a principle of *moral* elevation, it is because it *means* power" (quoted in Mill XIX: 610, my italics), Mill declares that:

We look upon this confounding of the love of liberty with the love of power, the desire not to be improperly controlled with the ambition of exercising control,

believes that α 's domination of β will *always* result in the compromise of β 's physical or psychological choice-freedom. It should also be noted that once Mill starts referring to 'rational freedom' he could be interpreted as slipping into employing an *exercise*-based conception of psychological freedom (see Section 2 above).

¹⁹ But only 'tend' because Mill posits conditions in which despotism is reasonable, namely, when the despot refrains from abusing her power, and uses it effectively to generate the social progress that has a self-sustaining free society as its *telos* (XVIII: 224).

²⁰ Or possibly even more deprived (XXI: 321).

²¹ Although the conception Urbinati (2002: 163) settles on seems to combine aspects of social and psychological freedom.

²² Some might appeal to (XXI: 338) instead, in which Mill claims that: "The love of power and the love of liberty are in eternal antagonism". However, in this passage Mill is not denying that an increase in α 's power over β translates into an increase in α 's agency-freedom qua providing α with the capacity to block or burden β 's possible actions that could otherwise block or burden α 's possible actions (including α 's acts of coercive interference in β 's life). Mill is discussing cases in which α dominates agents β and γ , and (lamentably) the latter pair are more inclined to seek to dominate each other than to seek a condition in which each of them "individually is able to do without it". Mill proceeds to claim that this condition "can only be where respect for liberty in the personal concerns of each" – or what I have referred to as person-freedom grounded on equal political power – "is an established principle." Thus, the liberty that is at odds with power is that of *equally distributed* agency-freedom, not agency-freedom as such.

to be both a *psychological error*, and the worst possible moral lesson [...]. The love of liberty, in the only proper sense of that word, is unselfish; it places no one in a position of hostility to the good of his fellow-creatures; all alike may be free, *and the freedom of one has no solid security but in the equal freedom of the rest*. The appetite for power is, on the contrary, essentially selfish; for all cannot have power; the power of one is power over others, who not only do not share in his elevation, but whose depression is the foundation on which it is raised. (Mill XIX: 610, my italics; also XXI: 321, 338)

Here the ‘freedom’ of “all alike may be free” is binary rather than scalar, and thus corresponds to person-freedom. In consequence, it is no mystery why Mill deems it a terrible “moral lesson” to imply that such ‘freedom’ (or “liberty in the only proper [i.e., moral] sense of the word”) means power over others, as such a lesson presupposes a conception of person-freedom that is predicated on the Inequality rather than the Equality Assumption.²³

Nevertheless, the possibility of using the passage to support the counter-interpretation is opened up by the fact that Mill’s use of “equal freedom to the rest” reflects a shift to a scalar conception, on the one hand, and his reference to “security” implies that he has agency-freedom in mind (II: 12; XXI: 5, 351–352; also Donner 1991: 173–177; Goodin 2003: 60; cf. Pettit 1997: 46–47, note 7), on the other. If Mill thinks that the “security” or agency-freedom of one person requires “equal freedom of the rest”, we might take him to be committed to the view that it is not possible to shield one person *at all* unless all are equally shielded. From this it would follow that the *only* shielded status (or agency-freedom) that can be realized is that of reciprocal non-domination or *egalitarian* agency-freedom. This would also imply that, while there can be no *analytic* reduction of ‘agency-freedom’ *as such* to the egalitarian form thereof, the only empirical instances of the former turn out to be instances of the latter as a matter of contingent *synthetic* fact. From this it would follow, in turn, that it is an empirical truth that there can be no distinctively domineering form of agency-freedom, and hence no realizable conception of person-freedom corresponding to freedom-as-domination. Since it is also an analytic truth that the egalitarian agency-freedom of one person is consistent with the egalitarian agency-freedom of another, this synthetic ‘reduction’ of agency-freedom to its egalitarian form would then ensure that, as a matter of fact, the egalitarian agency-freedom of one person cannot compromise the agency-freedom as such of another.

Of course, any proponent of this counter-view would have to acknowledge that it is at least far from obvious that the preceding accounts for Mill’s meaning, especially since he appears to acknowledge the existence of a domi-

²³ However, the reference to a “psychological error” suggests that Mill may also be pointing to the negative impact that despotic power may have on people’s ‘rational freedom’.

neering form of agency-freedom in other parts of *Centralisation* itself. For example, while discussing the abuse of power by low-level government officials, and its effects on the psychological freedom of those who must engage with them, he asks:

How should they [i.e., the subordinated] not be *slavish*, when anyone wearing a Government uniform, so long as he takes care to be servile to all persons of station who are on good terms with the Government, *can domineer at will* over all the rest,—well knowing that instead of laying a complaint before the nearest magistrate, they have no refuge but an appeal to his own, perhaps distant, employer? What protection are a free press and Parliamentary government to them? (Mill, XIX: 587, my italics; also XXVI: 346)

Here the general population's lack of recourse is said to provide the government officials with a form of impunity, thus generating the kind of shielded status for their actions that Pettit associates with agency-freedom. In consequence, since this is agency-freedom of the unequal domineering variety – albeit one which is consistent with a hierarchical ladder of rank in which α 's domination of β is consistent with α 's domination by γ – the late Mill cannot (consistently) believe that agency-freedom always reduces to egalitarian agency-freedom in practice.

Charity would thus suggest that if there are occasions in which the late Mill reserves the term 'liberty' to reference the morally legitimate form of person-freedom predicated on the Equality Assumption, this tells us more about his rhetorical savviness than his conception of the limits of agency-freedom as such. However, appeals to charity are unnecessary as it is actually *more plausible* to take the term "solidity" in the passage above (XIX: 610) to imply, not that there is no empirical exemplification of the domineering form of agency-freedom, but rather that such status is unlikely to be viable *in the long term* because of the way in which those who have been subordinated historically are increasingly prone to rebel against their perceived oppressors. This is supported by a passage from Mill's "De Tocqueville on Democracy in America II" (1840) in which he echoes his early pronouncements about the compromises that civilization requires, by claiming that:

The majority, like other despotic powers, will be taught by experience that it cannot enjoy both the advantages of civilized society, and the *barbarian liberty* of taking men's lives and property at its discretion. Let it once be generally understood that minorities will fight, and majorities will be shy of provoking them. The bad government of which there is any permanent danger under modern civilization, is in the form of bad laws and bad tribunals: government by the *sic volo* either of a king or a mob belongs to past ages, and can no longer exist out of the pale of Asiatic barbarism. (Mill, XVIII: 178, my italics for "barbarian liberty"; also X: 231; XVIII: 157; XXVI: 270, 345–346)

If (XIX: 610) is understood in this light, it will not support the claim that the mid-to-late Mill rejects *CCP*. After all, the claim that the egalitarian agency-freedom of dominators will not be viable in the long term is *consistent* with the claim that it is compromised by the emerging social forces that make this the case.

4. Pettit and *CCP*: Compromising or Conditioning?

Sections 2–3 have argued that Mill and Pettit share a commitment to positing the existence of domineering forms of agency-freedoms, thus eliminating the interpretive possibility that Mill rejects *CCP* and endorses *DN* qua denying the existence thereof. However, since this still leaves open the possibility that Mill was wrong to endorse *CCP* and reject *DN* on the grounds offered by Pettit, it is now time to evaluate Pettit’s rationale for his anti-liberal position.

This evaluation can be made with reference to Mill’s example of the “barbarian liberty” cited immediately above – the liberty, possessed by “despotic powers”, of “taking men’s lives and property at its discretion” (XVIII: 178). If my interpretation of Mill is correct, *CCP* commits him to the view that if a countervailing social power blocks or burdens this agency-freedom, it thereby compromises it. In contrast, Pettit denies that the agency-freedom of dominators is compromised by coercion that is necessary to reduce their agency-freedom to the egalitarian level. His reason for doing so is that such coercion has a purely ‘conditioning’ effect qua failing to compromise their person-freedom. In other words, Pettit will concede that a despot can be rendered *not free* to seize property at his discretion, while maintaining that his choice-freedom is not thereby compromised because he is merely *non-free* to perform the domineering action rather than *unfree* to do so (Pettit 1997: 26, note 1; 56, note 3).

The problem for Pettit is to explain why the fact that someone has *enough* agency-freedom to count as a free-person implies that any agency-freedom over and above that ‘amount’ cannot be compromised. In the example at hand the despotic power is described as losing its “barbarian liberty” due to the growing power, capacity, and willingness to fight of hitherto persecuted minorities. The latter power, defending egalitarian agency-freedom, is just as much a *social* power—which its possessors exercise in intentional, responsibility-inducing ways—as its counterpart in the class conflict. In consequence, Pettit cannot support his conclusion by claiming that, whereas the barbarian power compromises, the egalitarian power conditions the choice-freedom of its counterpart, as this would imply the falsehood that the egalitarian power constitutes a *non-social* obstacle to the despot’s social freedom.

Nor will it help Pettit’s cause to maintain that the unviability of the despotic power means that its agency-freedom is not compromised in this case.

After all, if an egalitarian force does not compromise the unviable agency-freedom of a despot *even though it is the egalitarian force that renders it unviable*, the same will be true in cases where despots are successful at preventing or undermining the viability of free societies. A master would then be able to claim, with the same degree of validity, that his slave's agency-freedom is only 'conditioned' by the chains he has imposed on him *because* the slave's prospects of breaking them are so poor.

Of course, to argue thus is not to commit to a moral equivalence between compromising egalitarian and inegalitarian agency-freedom. After all, it is consistent with Mill's denial that it is always wrong to compromise agency-freedom as such (Kristjánsson 1998b: 294). However, it does have the advantage over the position offered by Pettit of avoiding the charge of begging the question against those who *favour* freedom-as-domination. Consider Nietzsche, who occasionally equates the "will to power" with "the instinct for freedom", "the same active force as the one that is at work on a grand scale in those artists of violence and organizers, and that builds states" (Nietzsche 1994: II §18).²⁴ Nietzsche's 'immoralism' leads him to lament the loss of an aristocratic liberty that had the enslavement of the masses as its precondition (Nietzsche 2002: §257–259; see also: Detwiler 1990; Dombowsky 2004; cf. Clark 1999), and to take the intuition that good things (such as agency-freedom) cannot emerge from their opposite (i.e., slavery), as little more than a sentimental, metaphysical "prejudice" (Nietzsche 2002: §2).²⁵ Mill's use of phrases like "barbarian liberty" seem to reflect his acknowledgement that, even if there are good moral reasons to oppose social systems that generate inegalitarian distributions of agency-freedom, one cannot succeed in demonstrating this by simply building an egalitarian distribution of agency-freedom into the definition of 'agency-freedom' as such.²⁶ To do so is simply to gerrymander the language of 'freedom' so as to make it impossible to articulate the inegalitarian alternative (I: 296–297).

The implication for the evaluation of Pettit's position is that it is important to be very careful with the Equality Assumption. On the one hand,

²⁴ Compare the young Mill's description of the origins of feudalism: "Imagine a tribe [...] spreading itself by conquest [...] reducing the native population to the state of domestic cattle! Each chief absolute master of thousands [...] acknowledging no regular government, but striving to retain his pristine independency! Not only is no one secure from the arbitrary will of a master; even that master cannot afford him protection against other despots and slaves!" (XXVI: 259). In this passage the non-interference enjoyed by these "masters" rises to the level of inegalitarian agency-freedom.

²⁵ This is not to say that he believes that his aristocratic elite should somehow recreate the past but rather that they should contemplate "a new slavery" (Nietzsche 2001: §377).

²⁶ Indeed, Pettit (1997: 18–19) criticizes conceptions of the difference between positive and negative liberty which preclude the possibility of the latter taking on a republican form.

it may be legitimate to use the binary notions of egalitarian-inegalitarian agency-freedom to theorize the binary notions of a free-unfree person. But on the other, it remains a mistake to ignore the scalar nature of social agency-freedom as such, and reduce it to either egalitarian agency- or person-freedom. Doing so doesn't simply occlude the insight that domination (of others), conceived as inegalitarian agency-freedom, is a form of freedom *that should be compromised*; it also begs the question against those who have taken the unfreedom of an (alleged) aristocracy to choose to create the conditions in which they can dominate others, to be a greater evil than the unfreedom of the masses to choose the preconditions of their emancipation therefrom.

5. Mill and DNII: The Nature of Arbitrary Interference and the Significance of Democratic Control

In order to highlight some additional problems that Mill can, and Pettit cannot, avoid in virtue of their disagreement over *DN/CCP*, it will be useful to dig deeper into Pettit's account of what makes interference arbitrary and non-arbitrary in the first place. In *Republicanism* Pettit's preliminary account maintains that interference is arbitrary if it is:

[1] chosen or rejected without reference to the interests, or the opinions, of those affected. [2] The choice is not forced to track what the interests of those others require *according to their own judgments*. (Pettit 1997: 55, my italics)²⁷

For his part, Mill claims that: "Everybody has two kinds of interests, interests which he cares for, and interests which he does not care for." (XIX: 444) Moreover, *On Liberty* makes clear that the Harm Principle is designed to block or burden any interference that is illegitimate or arbitrary qua failing to track "the permanent" *de re* "interests of man as a progressive being" (XVIII: 224). In consequence, Mill can accept (1) insofar as it refers to *de re* interests in non-intervention in non-harmless actions that *all* share, including aggressors, whether they realize this or not. This means that he can also agree that an aggressor's *legitimate* sphere of *shielded* choice-freedom (or *egalitarian* agency-freedom) is not compromised by coercive interference designed to prevent her from violating the egalitarian agency-freedom of others (Urbinati 2002: 168). However, Mill cannot accept condition (2), as he denies that defensive coercive interference is arbitrary merely in virtue of failing to track the illegitimate *de dicto* interests of aggressors in inflicting harm on others.²⁸

²⁷ Pettit (2012: 58) also makes clear that predicating "arbitrariness" of interference should not be taken to entail either that it is wrong or not rule-governed.

²⁸ For Mill, people are especially prone to cultivate such despotic interests when they are corrupted by power (XIX: 445).

The obviousness of the preceding objection²⁹ to Pettit's initial account may help to explain why he proceeds to backtrack almost immediately by offering the following qualification:

Or, if not forced to track *all* of the interests and ideas of the person involved—these may make inconsistent demands—at least forced to track the relevant ones. (Pettit 1997: 55, my italics)

The “relevant” ones are then described as those “shared in common with others, not those that treat me as exceptional” in virtue of their “sectional and factional character” (Pettit 1997: 56). To see why this fails to solve the problem, consider Mill's discussion of the “religious bigot”, who “when charged with disregarding the religious feelings of others, has been known to retort that they disregard his feelings, by persisting in their abominable worship or creed” (XVIII: 283). Suppose that the bigot believes that, on the one hand, he and his community are sufficiently capable of shielding themselves from persecution without the protection of the state, but on the other, without the protection of the state his would-be targets would be unable to defend themselves against his own persecutorial activities (cf. XXVI: 259). If he then opposes such protective laws, both in their application to his own community *as well as* that of others, in what sense is he making an exception of himself?

One possible answer is that in rejecting the shield offered to him *by the government*, the bigot is not rejecting a shield as such, and is therefore seeking an outcome in which the withdrawal of a *shared* shield leaves him exceptionally shielded. However, there is no contradiction in supposing that he might also be willing to abandon his own means of defence while maintaining his means of offence, and granting such offensive means to his potential targets. After all, he may take his targets to be sufficiently pacific that they are unlikely to exploit his unshielded status, and hence be willing to depend upon the goodness of their will in order to render them dependent on the goodness of his own.³⁰ If this much is granted, there will be no shared *de dicto* interest in a mutually protective law, and Pettit will face a dilemma between either (a) accepting the quasi-anarchist implication that laws that interfere with the aggression of such a bigot are illegitimate qua arbitrary, or (b) conceding that this case provides a counter-example to his account of the conditions in which interference is a sign that someone's person-freedom is compromised.

²⁹ Combined with the fact that Pettit doesn't want his republicanism to generate arguments for anarchism or minarchism (see Pettit 2006: 138–146; 2014: 117).

³⁰ Alternatively, he might not even mind exposure to attack. For example, a would-be suicide-bomber could view a condition in which he could only blow others up *at will* provided that they could do the same to him, as a condition which multiplies the opportunities for ‘martyrdom’.

Given that neither option is likely to be acceptable to him, this may also help to explain why Pettit adopts a much weaker requirement for non-domination in his more recent work:

[I]f you and your fellow citizens *share equally* in *controlling* the interference of the state in your lives [...] then you will not be dominated by the state. (Pettit 2014: 112–113, my italics)

This entails that equal control will render coercive interference non-arbitrary even if it produces policies contradicting the *de dicto* interests of particular citizens, including those that do not view themselves as having shared interests with others. The problem, however, is that even if it is implausible that laws must be forced to track each citizen's *de dicto* interests in order to be non-arbitrary, it is plausible that they would have to do so in order to avoid compromising their choice-freedom. In consequence, in weakening his account of what makes interference arbitrary, Pettit also undermines the claim that dissidents' choice-freedom cannot be compromised by non-arbitrary law.

Of course, perhaps many, or even most, people are sufficiently agreeable or egalitarian in spirit to consent to laws that they deem to have been produced by a suitably egalitarian decision-making procedure. Perhaps this consent is even sufficient for them not to be coerced by the implicit threats posed to them by these laws thereafter (provided that they can change their minds) (Mill, XXI: 336; Pettit 2008: 116–117). However, even if this much is accepted, Pettit's account still fails to explain why those who are less agreeable do not have their choice-freedom compromised by the fact that they are compelled to obey these laws against their will. In consequence, his refusal to decouple person-freedom from choice-freedom leaves his account facing the *reductio ad absurdum* that characters manifesting a will to domination are themselves dominated by laws that (Mill can maintain) merely prevent them from dominating others.

In the following passage of *On Liberty* we can see the deeper significance of Mill's decoupling of the idea of a law that is non-arbitrary from that of a law that does not compromise choice-freedom:

There are also many positive acts for the benefit of others, which he may rightfully be compelled to perform; such as, to give evidence in a court of justice; to bear his fair share in the common defence, or in any other joint work necessary to the interest of the society of which he enjoys the protection; and to perform certain acts of individual beneficence, such as saving a fellow-creature's life, or interposing to protect the defenceless against ill usage, things which whenever it is obviously a man's duty to do, he may rightfully be made responsible to society for not doing. (Mill, XVIII: 224–225)

Here Mill claims that it is possible to justify compelling people to contribute to the maintenance of institutions that are necessary for the mutual

protections that constitute egalitarian agency-freedom. This commits him to denying that such compulsion is arbitrary even if some of those who are thus compelled either (i) oppose *egalitarian* agency-freedom (as in the case of Nietzsche), or (ii) would be happy to abandon the shielded-status associated with agency-freedom (as in the adapted case of the religious bigot). Possibility (ii) highlights the fact that even Mill believes that there is a sense in which it is *possible* for people to be ‘forced to be free’, namely, one in which people’s choice-freedom is compromised when they are compelled to perform acts that serve to secure the agency-freedoms required for their person-freedom.³¹ Moreover, both possibilities illustrate the reason why it is reasonable for liberals to reject *DN*, namely, that choice-freedom can be compromised by coercive interference that is non-arbitrary qua required to sustain egalitarian agency-freedom.

Conclusion

This paper has proceeded from the assumption that Mill agrees with Pettit that domination is sufficient to compromise *social person-freedom*, without taking this to imply either that Mill accepts Pettit’s *equation* of non-domination and social person-freedom, or that he isn’t also concerned to promote forms of *psychological* freedom for which he takes non-domination to be insufficient. From that foundation, it argued that Mill is correct to reject Pettit’s claim that domination is a necessary condition of compromised choice-freedom (*DN*), as non-domineering coercive interference—not least that which is necessary to uphold a free society—can compromise choice-freedom without compromising person-freedom (*CCP*). In consequence, he denies that free societies can offer a ‘perfect’ republican liberty (cf. Mill, XXVI: 321 quoted in Section 1), in which people’s choice-freedom is never compromised, and maintains that free societies are to be valued as much for the choice-freedoms that they compromise as for those they protect.³²

³¹ This adapts a point made by Lyons (1994: 90–96; cf. Urbinati 2002: 168). Note that the *possibility* of a compelling β to perform acts that are necessary for β ’s person-freedom is consistent with the Harm Principle, as it does not entail that β ’s person-freedom *justifies* the compulsion. Nevertheless, *if* refusing legal recognition to voluntary slave contracts entails compelling people to preserve their person-freedom, Mill seems to allow for an exception to his prohibition on paternalistic justification in such cases (XVIII: 300; cf. Lovett 2008: 123–132).

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