Fighting Status Inequalities: Non-domination vs Non-interference

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Status inequalities seem to play a fairly big role in creating inequalities in health. This article assumes that there can be good reasons to fight status inequalities in order to reduce inequalities in health. It examines whether the neorepublican ideal of non-domination does a better job as a theoretical foil for this as compared to a liberal notion of non-interference. The article concludes that there is a *prima facie* case for incorporating non-domination into our thinking about public health, but that it needs to go hand in hand with a more traditional liberal ideal of non-interference.

Introduction

The standard, liberal notion of liberty is often said to be *non-interference*. Roughly, one is free to the extent that no one interferes with one's choices. The (neo-)republican conception, in contrast, pitches liberty as *non-domination*. Roughly, non-domination is the absence of the capacity of other agents to interfere arbitrarily in one's life. One is free to the extent that others cannot *dominate*, subjugate you to their unjustified commands. In this article, we examine how these alternative understandings of liberty are related to the issue of health inequality and in particular, health inequalities that stem from status inequalities.

Following the works of (especially) Marmot (2004), many scholars in public health and in public health ethics focus on *status* as an important explanation of the social gradient in health. In a nutshell, the contention is that differences in status explain a sizeable amount of the differences in health outcomes, even when we adjust for 'the usual suspects' such as alcohol and tobacco consumption, physical activity, etc. This provokes a controversial question: should institutions try to even out status inequalities in order to even out health inequalities? Or, should institutions try to alleviate the detrimental effects of status hierarchies in order to bring about better states of health, especially for the worse off? (Nielsen *et al.*, 2013).

Status (and its impact on health) is quintessentially a relational concept. One cannot occupy a position in a status hierarchy without other agents occupying other,

lower or higher, places in it. But note that, as concerns the detrimental effects of being placed low(-er) in the hierarchy, it seems perfectly possible that the ones higher in hierarchy do not do anything active in order to keep those lower in the hierarchy down, as it were. It is not necessary that someone high in a given hierarchy directly intervenes, coerces or otherwise restricts the freedom of those lower in the hierarchy. They do not need to *interfere* in the lives of those below; indeed, it seems that they can let the lives of those below go on without any form of (overt, deliberate) interference.

Yet, it might, in one sense of the word at least, seem that they are *dominating* the lives of those below. First of all because they are higher in the hierarchy and, as a matter of fact, they socially dominate those on the lower scales (Pettit, 1997: 87–88). Also because they have the opportunity of exacting a form of influence on them that escapes the vocabulary of interference yet plays a huge role in the life prospects and possibilities of those lower in the hierarchy.

These thoughts prompt us to connect the issue of status with a current debate in political philosophy between neorepublicanism and liberalism, applied to public health issues. Allowing for a slightly extended use of the concept of 'domination', and given that one might want to pursue egalitarian aims in connection to the bad health effects of status hierarchies for those low in hierarchy, it seems that neorepublican *liberty* as non-domination—an essentially relational concept since it is defined by the capacity of a given agent to arbitrarily interfere in the life of another agent (Pettit, 1997: 113–117)—is more

promising than a liberal conception of liberty as actual non-interference because the latter would require an *actual* interference from someone, no matter if the interference is legitimate or not, while the former considers all hierarchies, including status asymmetries, as sources of morally legitimate concerns, at least *prima facie*.

Among other things, the promising idea is that neorepublicanism would require that we eliminate (or mitigate) the capacity that some agents have to arbitrarily intervene in the life of others, a capacity that would stem from the status differential. Moreover, differentials in status that translate into differentials in health outcomes are even more morally troublesome on the non-domination account because it *ceteris paribus* makes those worse off *more vulnerable to domination* in general (Pettit, 1997: 110–126). In addition, bad health—and especially bad health for which one has no or little responsibility¹—has a cumulative effect in respect to equality: it makes agents more vulnerable to the domination of others. Since neorepublicans are concerned about minimizing overall domination, and since they are preoccupied not only with actual instances of arbitrary interference, but with the very *possibility* of arbitrary interference, they should be concerned about the detrimental effects of status, namely health inequalities.

This basic idea—the promising nature of the neorepublican idea of liberty as non-domination applied to health and status inequalities *in comparison to* liberal freedom as non-interference—is what we examine in the present article. However, the article serves also the purposes of examining some finer nuances and differences in the neorepublican and the liberal outlooks, and contributes to the application of neorepublican ideas to the field of health and public health ethics. On another level of abstraction, we believe our line of reasoning implies that liberty as non-domination cannot stand alone. It needs to work in tandem with a ‘classic’ negative conception of liberty as non-interference.

The plan of the article is the following. Taking the (simplistic) picture of liberalism as endorsing a negative conception of liberty (Berlin, 1969) as non-interference (Pettit, 1997; Skinner, 1998) as a reasonably well-known background idea:

- (1) We focus on the neorepublican ideal of non-domination. We argue that, while keeping the essential relational character of (non-) domination central, one should allow for forms of domination of a less directly agent-to-agent kind to be morally and politically problematic in order to have the most cogent conceptualization of (non-)domination available. We argue that domination should

be conceptualized in ways to capture less personal, more structural aspects of non-liberty. Without being a major departure from standard neorepublicanism, we still think it is an important point that needs to be stressed in order to arrive at the best conceptualization of non-domination available. Moreover, emphasizing this point helps to bring out an advantage of the neorepublican concept of liberty in comparison to non-interference.

- (2) We then proceed to spelling out what the idea behind the ‘status syndrome’ is and how it connects with the issue of non-domination vs. non-interference. We try to build the best case for non-domination, i.e. as the most promising conception of liberty vis-à-vis the problems of status inequality.
- (3) Then, we put that idea under closer scrutiny. Two related problems emerge: first, non-domination seems inadequate as the *sole* basis for any political programme. At the very least, it must work in tandem with some notion of non-interference in order to protect individuals against undue state interference. Neorepublicanism applied to public health need to address the difficult problem of defining areas that are beyond the scope of state interference. Second, we raise the point that it seems weird to be highly sceptical about domination, but not that concerned about the forms of domination (or simply interference) that can be executed by majorities, since pluralism undermines faith in consensus about what should count as arbitrary exercise of power in the first place. Neorepublicanism applied to public health concerns needs to address the perennial problem of pluralism.

A caveat: intuitively, it might seem that status inequalities (and their effects for individual health and welfare) is a topic concerning, primarily at least, equality. Why pitch this as a question of *liberty*? We agree that one important issue at stake here is equality; yet, equality is not our focus in this article. However, note that Pettit can be read as holding the position that equality is directly connected to liberty. Freedom as non-domination is a relational concept in the sense that non-domination is enjoyed when differentials of relative power among individuals are minimized (Pettit, 1997: 113–117). Non-domination is a concept that implies a minimization of the capacity of agents to arbitrarily interfere in the life of each other. Non-domination hence requires a quasi-equality of what Pettit calls the ‘power ratio’.

Neorepublicanism and Non-domination

Neorepublicanism is often presented as a form of ‘work in progress’ or a ‘research program’; it can therefore be difficult to point out the exact characteristics of a ‘neorepublican’ theory. Nevertheless, Pettit’s work is rightly central to the understanding of neorepublicanism. His idea of non-domination is focused on the subordination of one agent’s will to another: ‘...someone has dominating power over another [...] to the extent that (i) they have the capacity to interfere; (ii) on an arbitrary basis; (iii) in certain choices that the other is in a position to make’ (Pettit, 1997: 52). Agents who have the capacity to arbitrarily interfere are a necessary condition (even if ‘the agent’ is e.g. a majority) for the domination to exist. Political as well as individual liberty, then, consists in the absence of arbitrary power, i.e. the suppression of unjustified asymmetry of power among agents.²

Much ink has been spilled on defining the ‘arbitrary’ in arbitrary power. We will not dwell long on that particular issue here; suffice to say that it is clear that much hinges on the exact definition of ‘arbitrary’. Pettit defines it as ‘being subject to the potentially capricious will or the potentially idiosyncratic judgment of another’ (Pettit, 1997: 5).

For instance, unrestricted democracy (understood as unchecked majoritarian rule) can be as arbitrary as any tyrant (a point readily accepted by Pettit: Pettit, 1997: 62; Lovett and Pettit, 2009: 13f). Getting the definition right is central to any/all things considered evaluation of the attractiveness of neorepublicanism.

To put things simply, there is an absence of domination when interference ‘is controlled by the interests and opinions of those affected, being required to serve those interests in a way that conforms with those opinions’ (Pettit, 1997: 35). In other words, nonarbitrary interference is:

... a sort of interference that is controlled by the interferee in the sense that the interferer is forced to track the *avowable interests of the interferee*: that is, the avowal-ready interests of the interferee; the interests that the interferee is disposed to avow. (Pettit, 2006: 278–279, italics added)

In any event, we want to focus on another aspect here, namely what might be called the scope of domination. On Pettit’s account, as we have already mentioned, only agents can execute domination.

In giving this account, I shall often speak as if there are just two individual persons implicated in cases of domination, but that is only for convenience. While a dominating party will always be an agent—it *cannot just be a system or network or whatever*—it may be a personal or corporate or collective agent: this, as in the tyranny of the majority, where the domination is never the function of a single individual’s power. (Pettit, 1997: 52, italics added)

However, it is not clear why we should restrict the capacity of domination to agents. Thompson writes:

... as I see it, the republican tradition is rooted in a socialized conception of the political subject which means that social structures and systems shape individual consciousness by providing certain background conditions for their orientations in the world... From a modern perspective, domination is therefore a matter of the ways modern social systems are able to secure hierarchical power relations by making them legitimate in the minds of their members. (Thompson, 2013: 278)

Whether or not Thompson’s characterization of the republican tradition can stand to further scrutiny, there surely is something important in the perspective expressed here: (political or social) domination *also* concerns the ways in which social systems, broadly construed, affect not only the space of opportunities and choices concretely, but also the orientations and perceptions of values and legitimacy of individuals. This is of course highly relevant for various public health issues: how citizens perceive health, health policies and interventions, and how their valuations of these are formed are important for public health ethics, both theoretically and practically. We take Thompson’s central point to be the following: ‘... domination is not simply the constraint of one’s will by another agent, it is... the shaping of the wills of others in such a way that any kind of unequal society is legitimated’.

This conception of domination without a clearly identifiable constraining *agent* is obviously at work in public health. Think for instance about standards of healthy lifestyles, diet and fitness that are propagated by media and public institutions. Definitely, part of their justification could be located in both individual well-being (reducing some individual risks, etc.) and collective welfare (diminishing health expenses, raising productivity, etc.). But it is hard not to perceive that there is something else at work here, namely a more subtle form of *shaping of wills* (or, more broadly, values) in ways that could plausibly be called

domination. For instance, it seems manifestly true that for many of the more attractive positions in society, one simply needs to accept a regime of fitness, healthy living, etc. (or at least one must *seem to accept* them; one might sneak out of office to enjoy a cigarette, but only if one carries a membership card to the local gym). Such ‘bio-power’ or such an expression of the ‘somatic ethics’ (Rose, 2006) seems as domineering—as influential as many more obvious forms of interference—yet it is not ‘performed’ by identifiable agents³; rather, it is a form of domination that is expressed at a systemic, discursive or structural level.⁴

In sum, we propose that a plausible concept of non-domination should include forms of (illegitimate or downright wrongful) domination that is not the property of identifiable agents *per se*, or of the state. True, the state might want to ‘tap into’ high status values in order to pursue public health goals (think of antismoking campaigning, or the obesity scare), which, we believe, can amount to exercising arbitrary domination. But it need not be the case that any particular identifiable agent performs any form of arbitrary interference for it to be true that individuals are (illegitimately, etc.) dominated. Note that we are not saying that neorepublicans cannot accommodate such a widening of the scope of possible domination (from the narrow conception where agents need to be identifiable to a broad conception where structures and discourses can be dominating). Our point is rather that neorepublicanism should embrace this wider conception, and that is a strength that it can.

The Idea Behind the ‘Status Syndrome’

A rather strong social gradient in health is a well-established fact: it is good for your health to be rich, and bad for your health to be poor; this holds even in relatively egalitarian countries with universal health care (though the effect of universal health care and more equality could be to reduce health inequalities; Wilkinson and Pickett, 2010). Marmot has famously argued that your position in the *status* hierarchy explains much of the gradient.⁵ Even after factoring out so-called ‘life-style’ determinants such as smoking, drinking and so forth, social status, according to Marmot *et al.*, explains roughly two thirds of the inequality in health (Marmot, 2004: 45; Nielsen *et al.*, 2013).

Alas, ‘status’ turns out to be quite a slippery concept on closer inspection. Status might simply be

equated with one’s position on some concrete scale of an economic, educational and occupational kind (socio-economic status, SES). However, Marmot *et al.* surely means that there is something more at play: ‘... above a threshold of material well-being, another kind of well-being is central. Autonomy—how much control you have over your own life—and the opportunities for full social engagement and participation is crucial to health ...’ (Marmot, 2004: 2) Now, it might very well be true that personal autonomy and the opportunities for social engagement and participation correlate quite nicely with SES—but surely, they are different phenomena.

So what is status? In the present context, status can be understood as ‘socially evaluated status’ which means the relative value a person has in the eyes of others, and that this relative value can be presumed to be correlated to two broadly construed domains: liberties or autonomy and inclusion and recognition. In sum, the higher an individual’s status, the more control over his or her life and the higher degree of social capital and recognition—and *vice versa*.

Moreover, it can be argued that, given certain fairly uncontroversial assumptions about equality, there is at least a *prima facie* case for saying that the state is sometimes justified in trying to minimize (or compensate for) inequalities in status in order to lessen inequalities in health. If status inequalities can explain two thirds of the social gradient in health, it might be argued that, from a public health point of view, we should indeed focus much more on status inequalities than on the usual obsessions with individual lifestyle. Even though status surely is not something we can redistribute directly, the goal of trying to even out (to some extent) status inequalities is not *unfeasible*: policies could aim to enhance the liberties or the autonomy of citizens in ways that promote status equality (e.g. by promoting the rights and interests of relatively vulnerable groups, such as patients, works, students, immigrants); policies could try to promote social inclusion and participation; and so on.

Naturally, it is a difficult question whether or when such policies are *justified* (and surely, many conceivable policies that aim at equality are morally abhorrent: just think of the *Khmers rouges*), but for as long as equality plays an important role in the key assumptions of a given theory of political justification, it seems safe to say that some initiatives for evening out status inequalities are not ruled out as illegitimate from the beginning.⁶

Non-domination and Status

Now for the main question of this paper: *if levelling out status inequalities in order to level out health inequalities is our political aim, will neorepublican non-domination serve as justification better than liberal non-interference?*

At first blush, there is something very appealing about combining thoughts about non-domination on one hand and status inequality (or their effects) on the other. On a literal interpretation of ‘non-interference’ as a purely negative conception, it seems that all sorts of (quite harmful) status inequalities could persist for as long as no one is concretely coerced into a particular slot in the status hierarchy. ‘We don’t interfere with your choices; on the other hand, we don’t actively do anything to unsettle given status hierarchies.’ The neorepublican tradition has the merit not to require *actual* coercion or arbitrary interference in one’s life for identifying a political issue. In other terms, liberty as non-domination is much more sensitive to agents’ vulnerability toward other agents’ power.

Needless to say, if one takes liberty as non-interference to be exhaustive of the liberal position, it remains a caricature. Many liberals advance conceptions of liberty that cannot be reduced to non-interference and that are more demanding (Raz, 1986; Benn, 1988; Dworkin, 1988). Moreover, almost all contemporary liberals have egalitarian redistributive aspirations that provide ample room to pursue the thought that we might be justified in alleviating the effects of status inequalities (including by means of trying to alter the hierarchies themselves). However, for the present purposes we want to focus on the relation between the two different conceptions of *liberty* rather than on the more complete packages of liberalism and neorepublicanism.

Prima facie, then, non-domination, especially if one allows for the extension of the term to systemic and structural issues, seems more promising than non-interference: insofar some individuals are arbitrarily dominated in virtue of their low status—they suffer worse life prospects in terms of health, liberties and autonomy, recognition and inclusion for reasons that are arbitrary then there is a neorepublican case for either addressing the status hierarchy head on, or at least to try to alleviate the detrimental effects of the hierarchy. The promising aspect of neorepublicanism in regard to status inequalities also stems from the moral vocabulary used (domination, arbitrary interference). The neorepublican grammar seems to presuppose an asymmetry either of power or of capacities that appears to be reflected in the very idea of social status. On the one hand,

domination can only be exerted if some asymmetry exists between two agents. On the other hand, such asymmetry is precisely what the concept of status refers to. Both concepts (domination and status) appear to be relational and, more importantly, to be relational in a *negative sense*, i.e. implying an asymmetry that is a source of moral concern.

However, on closer inspection, the overlap between the two concepts is only partial. Domination need not imply a dominating agent (while a dominated is always necessary). Arbitrary interference may be exercised through social norms and conventions for instance, which may be the case for most of the ‘status syndrome’ (i.e. the fact to fall sick or die prematurely in virtue of one’s rank in the social ladder). Also, social status *may* come without power and so without domination. For instance, imagine that artists are given the highest status within the society through purely symbolic praises and recognition. High status could then be divorced from power—overt, standard power with coercive implications, at least—and, therefore, domination seems absent from the picture. However, it might here be averred that, since the best conception of non-domination should extend to cover discursive and structural forms of domination, then, even if such a status hierarchy is not infused with power, it still ‘works’, at least *possibly*, i.e. it implies a capacity to dominate some parties in an arbitrary manner.

Therefore, accounting for status implies to widen the concept of domination to social structures, as we have already argued. Focusing on the relational aspect of non-domination, one might raise the objection that extending the concept of domination for including systemic domination is not fruitful. The objection could be that nothing valuable, theoretically and practically, for the issue at stake (status inequalities) could be expected from widening the concept of domination, since being in a position of subjugation simply *means* being the subject of the arbitrary, more or less unconstrained will of another, domineering *agent*.

There is something important in this objection. As Berlin (1969) noted, not all constraints or obstacles for liberty are equally morally worrisome (or apt to be called constraints of liberty in the first place). The fact that we cannot jump 20 feet in the air, or (for most of us) understand the most obscure parts of Hegel’s work is not morally problematic. However, if or to the extent that structural or systemic inequalities (or arbitrary constraints on liberty or well-being) can be *addressed and changed* by agents, then it seems weird to insist that it is necessary to be able to pinpoint an active agent that upholds these inequalities, as it were, in order for that

state of affairs to be an expression of arbitrary interference or domination. In any event, allowing systemic inequalities to persist when they could be changed could be said to be a form of arbitrary interference by omission, as it were a form of exercising power by letting unjust inequalities continue.

On a more general note, the objection that systemic domination is not a fruitful conception obviously assumes a personified understanding of domination: an *ex-ante* identified agent A has the power to arbitrarily interfere in the life of another agent B. However, it seems clear to us that there are many cases where we cannot identify such an agent. In such cases, B is ‘simply’ vulnerable to the arbitrary interference of ‘others’. The fact that B has a low status means that as a matter of fact she is exposed to domination and suffers from the health effects of domination. According to some, this vulnerability can even kill people through the hormonal reaction due to stress (cortisol) for instance (Wilkinson, 2000). Therefore, status should be a concern for all who are truly concerned about domination, status inequalities and their adverse effects.

In sum, non-domination is a promising conception of liberty if one wants to address status inequality and its impact on health. It is promising because the neorepublican concept of domination captures the idea of vulnerability experienced by individuals not necessarily vis-a-vis a specific agent, but toward a class of agents, namely those higher in the hierarchy, or vis-a-vis the norms entrenched on a systemic, structural or discursive level. Precisely for this reason, neorepublicans should worry about status and make it a central component of their conceptualization of domination: because status inequalities are more than a sign of potential vulnerability, they root actual vulnerability that results in health inequalities (i.e. higher stress and morbidity as well as lower life opportunities and life expectancy). Status inequalities constitute the antechamber of domination.

Non-domination and the Need for Rights of Non-interference

We turn now to criticism of the picture we have painted of non-domination and status inequalities.

A recurring theme in the debate concerns whether or not there is any important practical difference between non-domination and non-interference (Goodin and Jackson, 2007). Without taking a final stand on that question, let us proceed with the hypothesis that there is.

Non-domination alone seems an inadequate theoretical basis for any public health programme (and any other political initiative). As noted by Lovett, we could live under a regime that micro-managed our lives into the tiniest detail, but ‘always in strict accordance with commonly-known, non-arbitrary rules and procedures’ that makes it the case that we ‘enjoy extensive freedom from arbitrary power’, and yet few would want to live under such a regime where our personal discretion and freedom of choice is to all intents and purposes non-existing (Lovett, 2006). The best way to protect a reasonable⁷ range of personal liberties and opportunities against abusive/arbitrary state interference—democratic, deliberative or otherwise—is to maintain a range of personal rights against interference, which of course brings the neorepublican scheme much closer to a liberal one (Nielsen, 2011).

How does this connect with the more specific issue of status inequalities? The hypothesis under consideration is that non-domination serves as a better theoretical foil if one wants to combat the social gradient in health that arises (partly) due to status inequalities. But it seems that the justificatory potential of non-domination should be constrained by liberal rights for protecting at least a modicum of liberty *vis-à-vis* state or majority interference, no matter how benign in intention. To focus on status inequalities, the state could pursue a host of policies that arguably would reduce domination and status inequality but which seem unpalatable anyway. For instance, at least given Pettit’s overall consequentialist framework, it could try to ‘level down’ status hierarchies relevant for health in ways that compromise all sorts of personal liberties (given some consequentialist calculus according to which the ‘avowable interests’ are somehow maximized by such a manoeuvre.) This must have implications for the ways in which policies inspired by the value of non-domination can be pursued; moreover, it also implies that non-domination cannot serve as the sole conception of liberty needed for a justified political regime.

On a more abstract note, it seems to us that neorepublicans need to address one of the perennial problems of liberal political philosophy, namely the public/private distinction, in ways that are robust and persuasive. Elusive and porous as the distinction is, it remains central for understanding the legitimate scope of state actions. Neorepublicans such as Lovett readily admit, as we have seen, that we do not want to be micro-managed, even by a *bona fide* neorepublican state. However, if everything is potentially up for democratic grabs, how can we ever feel safe that what we now believe to be properly outside the reach of state interference?⁸ Some

things should simply never be *res publica* but be permanently outside the reach of the collective.⁹ The best protection of these truly private affairs seems to be delivered, not by an account that relies of non-domination exclusively, but by incorporating certain robust rights against interference.

To repeat, neorepublicans believe that *the*, or at least *an*, important dimension of liberty is best expressed in terms of non-domination, i.e. the absence of arbitrary interference. ‘Being led’, even by a benevolent and generally non-interfering master is quintessential lack of freedom on this account. On the other hand, it assumes a great deal of optimism about democracy and the (rule of) law. Law’s empire would be very different from Man’s. ‘The laws may impose taxation on all, coerce all with the threat of punishment for disobedience. . . but still. . . such interferences will not be arbitrary if they are formed in accordance with the will of the subjects and framed so as to protect those subjects from domination by others’ (Lovett and Pettit, 2009: 6).

Still, ‘[t]he key republican idea is that a person or citizen will be free to the extent that suitable choices are suitably protected and empowered’ (Pettit, 2008: 202). This is written in the context of Pettit’s essay ‘The Basic Liberties’, the subject of which is precisely which choices *should* be protected—or, at least, protected against arbitrary interference: ‘I assume that the set of choices to be protected in any society will have to be choices of the kind that we might expect any free person or citizen to be able to exercise. . .’ (Pettit, 2008: 203). To flesh out the idea further, Pettit emphasizes that the choices (or rather liberties) in question must have ‘personal significance. . . by society-wide criteria. . .’ and that they should be ‘. . . intuitively significant in the life of the free citizen’ (Pettit, 2008: 206).

However, taking into account the pervasive and deep pluralism of contemporary societies, a devil’s advocate might raise the objection that there are no definite understanding of liberties of personal significance ‘by society-wide criteria’, or, at the very least, that the set of liberties enjoying near-universal endorsement is extremely narrow. To name a few examples: citizens disagree deeply about the legal and moral status of prostitution, drugs, free speech, use of alcohol and tobacco, homosexual marriage, and many, many other important, liberty-related issues. On such issues, there are no ‘society-wide criteria’ implying that citizens should (or should not) be able to engage in prostitution, using drugs, exercise free speech or marry whichever consenting partner(s) they want.

Is the implication, then, that no protection against e.g. majoritarian decisions should or could be offered

by a neorepublican political order, perhaps save a few basic rights such as the right not to be killed and protections against the grossest forms of state intrusion? Maybe such a conclusion is favoured, even welcomed, by some who make a fetish out of democracy. However, if you put at least some value on individual liberty, this seems to be an expression of undue optimism about democracy and the rule of law. That some political decision follows from democratic procedures and the various precepts of the rule of law is simply not sufficient for the protection of individual liberty. To say ‘you can’t do X, but we are not limiting your liberty because the procedure that led us to forbid X is democratic’ seems dangerously close to the darker aspects of ‘positive freedom’. And to say that any political decision or design of institution is ‘contestable’ amounts to very little unless it is specified what kinds of *rights* citizens have; what kinds of liberties should be protected.¹⁰

At this juncture, a clear division between (at least classic) liberals and neorepublicans is bound to arise. The liberal (as we use the term) would put the basic idea back on its feet: exactly because there is so much controversy over liberties—the fact of pluralism—the presumption of liberty should kick in and secure against interferences; securing basic liberties should be as little contingent on the whims and follies of majorities (or conniving elites, of course) as possible.

In sum, it seems strange to emphasize the badness of domination executed by a tyrant, a master or a powerful faction in society while being, at least to a certain degree, cavalier about the domination executed by majorities. It is simply impossible to say that domination by a majority—no matter how well formed (by ‘deliberation’) the sentiments and how benevolent their dispositions—is any less dominating. And here we can repeat the point of the previous section: the enjoyment of genuine non-domination possible seems to require a very large helping of good old-fashioned liberal rights of non-interference. Maybe this is acceptable to (some) liberals and (some) neorepublicans—it might even be the best available conception of political rights available. But nevertheless it does undermine faith in the specificity or independence on the neorepublican political programme, at least to a non-negligible extent. We admit the possibility of spelling out (genuinely) neorepublican rights, or a (genuinely) neorepublican conception of liberty, distinct from liberal non-interference, that can address the issues we have raised in the above. However, it seems unlikely that such rights, or such a conception of liberty, can address these issues without incorporating something that, in effect, at least, would be

indistinguishable from the guarantees created by standard liberal rights.

In the light of pluralism, we should not expect consensus on which forms of exercise of power should count as arbitrary. Hence, we cannot expect consensus on which forms of exercise of power should be seen as domination. At this point, at least some forms of basic liberties, protected by rights fashioned in the vein of non-interference rather than non-domination, seems definitely to be called for.

Conclusion

The objections raised in the previous sections concerns, primarily, problems with letting non-domination *alone* serve as our guiding value or principle. None of the objections we raise tell against *incorporating* non-domination into the set of basic values or principles that should form the basis for political deliberation and action. We have already noted that non-interference seems insufficient for addressing status inequalities, at least insofar some of those inequalities are not coercively imposed. Here, non-domination serves as a better candidate. The modest conclusion to be drawn here is that the two conceptions of liberty should both be parts of our basic values in order to properly address the problem of status inequality. Neorepublican concerns about domination should play an important, although not an exclusive, role in public health ethics concerning health and status inequalities.

Notes

1. The full line of reasoning here is that, on the premise that no one or only very few actually *choose* to be placed low(-er) in the status hierarchy, and that a low(-er) place in itself has a detrimental effect on one's health, then, *ceteris paribus*, at least, no one is responsible for the part of their health that is negatively affected by low(-er) status.
2. Note that the conception is predominantly negative. 'This conception is negative to the extent that it requires the absence of domination by others, not necessarily the presence of self-mastery, whatever that is thought to involve. The conception is positive to the extent that, at least in one respect, it needs something more than the absence of interference; it requires security against interference, in particular against interference on an arbitrary basis' (Pettit, 1997: 51).
3. Of course we exaggerate here: single agents or groups of agents might very well use their status power in coercive ways.
4. It does not mean that Pettit could not agree with us on the extension of the concept of domination. It simply means that one should be aware of the limitations of the restrictive conception of domination as being exerted only by *individual* agents.
5. We proceed, for the present purposes, on the assumption that Marmot holds a 'narrow' view of health, i.e. that health is simply understood in terms of somatic morbidity and mortality, not a broader 'quality of life'-view. This is perhaps unfair to Marmot, but it should not affect the arguments to follow.
6. Naturally, standard objections such as levelling down apply here. Of perhaps particular interest in this health context is the luck egalitarian view. Insofar one is responsible for one's position in a status hierarchy, it can be argued that one has no claim to compensatory attempt of the state to even out status inequalities; however, it seems at least somewhat dubious that most persons really are responsible for their position in the hierarchy.
7. The notion of 'reasonable' range of individual liberties, protected by rights against any democratic decision, is definitely controversial. But for that very reason it is important to have a wide range of such liberties and rights.
8. Of course, X being enshrined as a right is never a guarantee that some future political regime will not violate that right; there is, however, an important philosophical, legal and practical difference between something being merely left to itself or allowed by the present majority, say, some aspect of the right to privacy, and then something being protected by a right.
9. To quote Martin L. Gore: 'Domination's the name of the game/ In bed or in life/They're both just the same/Except in one you're fulfilled/At the end of the day'. Surely, one half of this is referring to something we do not want to be *res publica*.
10. Maybe neorepublicans, preoccupied with procedures and institutional designs, tend to over-emphasize the 'political' in 'political philosophy' in the sense that moral considerations—'what kinds of decisions should follow from our procedures and what kinds of, e.g., distributional effects ought to follow from our institutions' are overshadowed.

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