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Republican Children

I. INTRODUCTION

Parents appear to dominate their children in ways they cannot with other adults.¹ A parent can exercise discretion in how their children are raised, but not over how other adults exercise their own discretion. While parental authority over children may seem unavoidable and widely accepted, the issue raises important questions about whether children are rendered unfree and what might normatively justify their different treatment from adults.

Children are regularly excluded from how theories of freedom are conceived and applied. Sometimes they are described as an “anomaly” that “defy the conventional view” explained by their lack of full autonomy.² For example, when discussing the remit of his classically liberal theory of freedom, John Stuart Mill says: “It is, perhaps, hardly necessary to say that this doctrine is meant to apply to human beings in the maturity of their faculties. We are not speaking of children . . . Those who are still in a state to require being taken care of by others, must be protected against their own actions as well as against external injury.”³ Similarly, Isaiah Berlin observes that Spinoza claims “children, although there are coerced, are not slaves.”⁴

1. My thanks to Chris Brink, Peter Jones, Cecile Laborde, Martha Nussbaum, Brian O'Connor, Philip Pettit and an Associate Editor of this Journal for helpful comments on this topic and previous versions of this article.

2. See Tamar Ezer, “A Positive Right to Protection for Children,” *Yale Human Rights and Development Law Journal* 7 (2004): 1–50, at 1–2.

3. John Stuart Mill, *On Liberty and Other Writings* (Cambridge: Cambridge University Press, 1989): 13.

4. Isaiah Berlin, “Two Concepts of Liberty” in *Four Essays on Liberty* (Oxford: Oxford University Press, 1969): 147. Berlin uses this comment to criticize positive conceptions of freedom that he claims can wrongly treat adults like children in restricting their liberty. See *ibid.*, p. 148.

Children are unfree and they require parental authority to support their becoming autonomous when reaching adulthood. Until then, theories of freedom do not apply to them and children may be dominated by their parents.⁵

This issue looks especially problematic for republicans, such as Philip Pettit's influential normative theory of freedom.⁶ He defends freedom as non-domination rather than non-interference or maximizing well-being.⁷ In this way, republicanism is an alternative to negative and positive theories about freedom. Pettit argues that "a person enjoys non-domination to the extent that they are not exposed to an arbitrary power of interference on the part of others."⁸ When we are not dominated by others, we are free. Pettit describes his theory as "republican" because he claims the idea of freedom as non-domination has its origins in the political thought of republican Rome.⁹ While some dispute aspects about its ancestral linkages, Pettit's republicanism is an important normative approach in its own

5. John Locke describes parental authority as a "sort of rule and jurisdiction" over their children. John Locke, *Two Treatises of Government* (Cambridge: Cambridge University Press, 1988): 304.

6. See Richard Bellamy, *Political Constitutionalism: A Republican Defence of the Constitutionality of Democracy* (Cambridge: Cambridge University Press, 2007); Keith Breen and Cillian McBride (eds), *Exploring Republican Freedom* (London: Routledge, 2018); Simon Derpmann and David P. Schweikard (eds), *Philip Pettit: Five Themes from His Work* (Dordrecht: Springer, 2015); Maria Dimova-Cookson, "Republicanism, Philosophy of Freedom and the History of Ideas," *Contemporary Political Theory* 9 (2010): 477–89; John Ferejohn, "Pettit's Republic," *The Monist* 84 (2001): 77–97; Iseult Honohan and Jeremy Jennings (eds), *Republicanism in Theory and Practice* (London: Routledge, 2005); Cecile Laborde and John Maynor (eds), *Republicanism and Political Theory* (Oxford: Blackwell, 2007); Charles Larmore, "A Critique of Philip Pettit's Republicanism," *Philosophical Issues* 11 (2001): 229–43; John Maynor, *Republicanism in the Modern World* (Cambridge: Polity, 2003); and Michael Smith, Frank Jackson and Robert Goodin (eds), *Common Minds: Themes from the Philosophy of Philip Pettit* (Oxford: Oxford University Press, 2007).

7. See Philip Pettit, *Republicanism: A Theory of Freedom and Government* (Oxford: Oxford University Press, 1997). For an overview, see Rachel Hammersley, *Republicanism: An Introduction* (Cambridge: Polity, 2020).

8. Philip Pettit, *A Theory of Freedom: From the Psychology to the Politics of Agency* (Cambridge: Polity, 2001): 138.

9. For example, see Quentin Skinner, *Reason and Rhetoric in the Philosophy of Hobbes* (Cambridge: Cambridge University Press, 1996); Quentin Skinner, *Liberty before Liberalism* (Cambridge: Cambridge University Press, 1997); Quentin Skinner, *Hobbes and Republican Liberty* (Cambridge: Cambridge University Press, 2008).

right independently of its claimed historical roots.¹⁰ For example, Pettit favorably cites the Roman Stoic Cicero, who says of the state that “if it isn’t equal throughout, it isn’t liberty at all.”¹¹ While Pettit acknowledges “republican Rome never lived up to its ideal,” he claims that its “idea of a republic of equally free citizens” has lasting appeal which his republican theory promotes as a contribution to our contemporary debates about freedom.¹²

A problem for Pettit’s republicanism is that it does not appear to apply to all citizens, most notably children. Parents regularly intervene in the lives of their children in a way that might be considered dominating, such as in making decisions over what their children eat, where they live, matters of moral and religious education and other activities. Many of these decisions may also seem arbitrary: there is no obvious single answer to whether a child should be raised as a vegetarian or not nor whether as part of an organized religion or no faith at all. Whatever decision is made by a parent for a child on these matters, it is clear that republicans would not justify adults making any such decisions for other adults.

If Pettit’s republicanism aspires to provide a view of freedom that applies equally to all (and “equal throughout”¹³), it must address a potential *child justice gap* that explains whether children are treated differently from adults and, if so, how republicanism might justify this in a coherent way. In fact, Pettit admits that his “conception of the citizenry . . . does not include children.”¹⁴ If so, this admission raises a serious concern that republicanism does not apply to all individuals in the same way.

10. For example, see Graham Maddox, “The Limits of Neo-Roman Liberty,” *History of Political Thought* 23 (2002): 418–31, at 421: “The case of Roman republicanism is quite different. It was elitist to the core. It shared the failings of Greek democracy with few of its virtues. Republicanism was invented by the Roman patrician order, who determined to exclude the *plebs* from all civil rights save the privilege of fighting and dying for their country . . . While some members of the senatorial order could supply Pettit with noble sentiments about non-domination, their concern was for the freedom of their kind alone; they continued to own slaves and mercilessly exploit the poor, whom many regarded as little better than slaves. Republicanism, with all its panoply of constitutional checks and balances to see that no one might threaten their *dominance*, was devised by elites for elitist purposes.” See also Eric Ghosh, “From Republican to Liberal Liberty,” *History of Political Thought* 29 (2008): 132–67.

11. Cicero, *The Republic and The Laws* (Oxford: Oxford University Press, 1998): 21 quoted at Pettit, *Just Freedom*, 81.

12. Pettit, *Just Freedom*, 7.

13. Pettit, *Just Freedom*, 81.

14. Pettit, *Just Freedom*, 217–39.

Should republicanism lack universality, it would partly undermine its appeal as an alternative theory of freedom. This is because the alternatives do not lack such universal application. For example, negative freedom defined as non-interference applies to adults and children equally. We are said to lack negative freedom, according to Isaiah Berlin, where we “are prevented from attaining a goal by human beings” applying in the same way to all.¹⁵ An interference on a child is as much a restriction of their negative liberty as on any adult. Similarly, positive freedom understood as “a positive power or capacity of doing or enjoying something worth doing or enjoying . . . that we do or enjoy in common with others” is also applicable to adults and children alike.¹⁶ Individual well-being should be pursued by all. Therefore, if republican freedom only applied to some, but not all, citizens as Pettit has accepted, it would not merely undermine its own claim to be “equal throughout” but have less reach than alternative theories of freedom, like negative and positive freedom, that it seeks to replace.¹⁷ While it would not be unique in treating adults and children differently, this issue is especially problematic for republicanism if domination is permissible for some and not others, if it is an evil for all that republicans claim we must avoid.

In this article, I argue that Pettit’s republicanism *can* include children as a theory of non-domination without any child justice gap. The next section outlines the essential features of republican freedom. The following section examines why these features might be understood to apply only to adult citizens. Drawing on his work relating to criminal justice and punishment, the final section makes the case for how freedom as non-domination applies to children in the same coherent way that it does to adults. It is argued that republicanism can justify parental authority as a legitimate and non-arbitrary interference that aims at developing the future adult independence of children and where the intensity of interference decreases over time. While parents may make different choices for their children, this can be justified parental authority so long as any such discretion is maintained within discursively controlled boundaries.

15. See Isaiah Berlin, “Two Concepts of Liberty” in *Four Essays on Liberty* (Oxford: Oxford University Press, 1989): 118–72, at 122.

16. See Thomas Hill Green, “Lecture on ‘Liberal Legislation and Freedom of Contract’” in *Lectures on the Principles of Political Writings and Other Writings*, eds. Paul Harris and John Morrow (Cambridge: Cambridge University Press, 1986): 194–212, at 199.

17. See Pettit, *Just Freedom*, 81 and 217–39. It is not my intention to defend negative or positive freedom, but only to indicate their universal applicability.

Children may enjoy non-domination throughout their lives, if we clarify the ways in which republicanism justifies the legitimacy of interference and the demands this places on all citizens, including as parents. This demonstrates how republican theories of freedom can provide a way of understanding how parental authority need not render children unfree and, perhaps more importantly, how non-republican theories might also do so on similar grounds, as will be argued in the final section. If we consider how republican children can be free, this reveals how the freedom of children might be understood within alternative theories about freedom demonstrating wider relevance beyond republican theories.¹⁸

II. REPUBLICAN FREEDOM

In this section, I will outline the essential features of Pettit's republicanism. These features will be outlined and explained, but not defended against alternatives. I intend to show how it is a theory of freedom and meant to work in practice. These features are then drawn on in the following section to consider whether they are applicable to children.

Pettit's republicanism defends freedom as non-domination. He claims this view has its origins in republican Rome. In Roman law's canonical Justinian Institutes, there are numerous references to how we should understand freedom. These broadly center on the view that we are unfree when under the "power of another."¹⁹ This does not entail an anarchical absence of law; but, instead, that our laws are our own where we collectively "set up as a law unto itself" and through which "the common agreement of the *polis* according to whose terms all who live in the *polis* ought to live."²⁰ As a collection of legal authorities and extracts, freedom and justice are described in different ways; some of these historical passages appear inconsistent with Pettit's approach.²¹ Nevertheless, there are numerous examples where the republican Roman

18. I am enormously grateful to an Associate Editor for highlighting the importance of this point.

19. See Alan Watson (ed.), *Digest of Justinian*, volume 1 (Philadelphia: University of Pennsylvania Press, 1998): 2 (1.1.4), see 17–18 (1.6.1).

20. Watson, *Digest of Justinian*, 2 (1.1.9) and 11 (1.3.2).

21. See Watson, *Digest of Justinian*, 3 (1.1.11): "The reference . . . we can fix as follows: whatever the praetor has determined to exercise jurisdiction, having due regard to the majesty of his own *imperium* and to the customs of our ancestors, that place is corrected called *jus* [justice]" and at 14 (1.4.1): "A decision given by the emperor has the force of a statute. This is because the populace commits to him and into him its own entire authority and power."

conception of freedom is where the power that governs us flows from the common agreement of free and equal citizens.

In his contemporary “republican revival” of these ideas, Pettit argues that non-domination is the supreme, overarching value central to the republican view of freedom.²² Non-domination is conceived as an absence of *domination* which entails the lack of *arbitrary interference* by others.²³ The republican free state is a political community whereby “no one stands at the mercy of any community subject.”²⁴ While the state and its laws may interfere in our activities, we are free from domination if any such interference is determined in a non-arbitrary way.

Traditionally, republicans illustrated the distinction between being free and unfree by highlighting the difference between the free citizen and the slave. One of several such examples approvingly cited by Pettit is Cato’s *Letters*, which claim: “Liberty is, to live upon one’s own Terms; Slavery is, to live at the mere Mercy of another.”²⁵ The slave is unfree because their choices may be subject to arbitrary interference by another at any time. In other words, the slave is dominated. Pettit describes such circumstances as “the evil of subjection” beholden to the capricious interference by others.²⁶ He quotes Kant, who claims that where an individual is subjected to the will of another that “no misfortune can be more terrifying to one who is accustomed to freedom.”²⁷ Non-domination defines republican freedom and, if secured, it safeguards us all from the significant wrong of domination.

Republican freedom is opposed to domination in any form. Freedom requires, following Charles Larmore, “the absence of both actual and

22. Pettit, *A Theory of Freedom*, 151. For critiques of non-domination as the overarching political value, see Patchen Markell, “The Insufficiency of Non-domination,” *Political Theory* 36 (2008): 9–36 and Henry S. Richardson, “Republicanism and Democratic Injustice,” *Politics, Philosophy and Economics* 5 (2006): 172–200.

23. For alternative views on non-domination, see Marilyn Friedman, “Pettit’s Civic Republicanism and Male Domination” in Cecile Laborde and John Maynor (eds), *Republicanism and Political Theory* (Oxford: Blackwell, 2008): 246–68; Frank Lovett, *A General Theory of Domination and Justice* (Oxford: Oxford University Press, 2010); Christopher McCammon, “Domination: A Rethinking,” *Ethics* 125 (2015): 1028–52 and Ian Shapiro, “On Non-Domination,” *University of Toronto Law Journal* 62 (2012): 293–335.

24. Pettit, *A Theory of Freedom*, 153.

25. Philip Pettit, “Freedom as Antipower,” *Ethics* 106 (1996): 576–604, at 576.

26. Philip Pettit, *On the People’s Terms: A Republican Theory and Model of Democracy* (Cambridge: Cambridge University Press, 2012): 2.

27. Immanuel Kant, *Notes and Fragments*, ed. Paul Guyer (Cambridge: Cambridge University Press, 2005): 11. Pettit, *On the People’s Terms*, 44.

possible interference at the hands of others.”²⁸ As Pettit argues: “Domination can occur without interference, because it requires only that someone have the capacity to interfere arbitrarily in your affairs; no one need actually interfere.”²⁹ Therefore, the slave is unfree irrespective of whether his master is malevolent or benevolent. Any kind of such mastery can lead to arbitrary interference and subjugation.³⁰ Domination makes us as unfree because we are under the power of another. Our pursuit of options is dependent on the goodwill of another, and so we are dominated.³¹ Freedom is only possible where there is no such master who can interfere, even if they choose not to, and so no arbitrary power over us.

Pettit’s distinction between arbitrary interference as domination and non-arbitrary interference as a justified restriction is central to his rejection of negative freedom. He argues that negative freedom should be rejected because it could claim that a slave was free if his master was benevolent and non-meddling. Pettit appeals to the republican ideal that free citizens “do not have to depend on anyone’s grace or favor for being able to choose their mode of life.”³² Therefore, the unimpeded slave of a benevolent master is unfree because the slave might be interfered with at any time should the master seek to do so.³³ For Pettit, republican freedom should be preferred because it would always classify the slave as unfree unlike the view of negative freedom.

Pettit’s republicanism is defined by non-domination and not non-interference.³⁴ It does not view all forms of interference as unjustified. Republicans can endorse interference when it is not arbitrary. We might distinguish between arbitrary interference as domination from non-arbitrary interference as *legitimate authority*: republicans oppose domination and can support legitimate authority. For an example, Pettit

28. Larmore, “A Critique of Philip Pettit’s Republicanism,” 231.

29. Pettit, *Republicanism*, 23.

30. See Pettit, *On the People’s Terms*, 70 (“They would still have access to the option of interfering.”)

31. See Pettit, *On the People’s Terms*, 70.

32. Pettit, *Just Freedom*, 60.

33. See Ferejohn, “Pettit’s Republic,” 77.

34. See Philip Pettit, “Keeping Republican Freedom Simple: On a Difference with Quentin Skinner,” *Political Theory* 30 (2002): 339–56, at 340. This is understood by Pettit as a key difference with the republicanism of Quentin Skinner who, Pettit says, sees republican freedom in terms of “nondomination *and* noninterference.” (Ibid., 342.) Pettit has earlier claimed that freedom (“as antipower”) is defined by being “free to the degree that no human being has the power to interfere with me.” See Pettit, “Freedom as Antipower,” 578.

approvingly cites Locke, who says: “The end of law is not to abolish or restrain, but to preserve and enlarge freedom . . . Where there is no law, there is no freedom.”³⁵ If non-arbitrary, our laws and public policies do not inhibit republican freedom but maintain and enhance it.

Republicanism justifies interferences as non-domination where citizens have *discursive control* over their justification. Discursive control requires that individuals have “the ability to discourse” and have “access to discourse” with others in the public sphere over matters such as law and public policies.³⁶ This entails individuals possessing both a “ratiocinative capacity” to engage and a “relational capacity” that is “discourse-friendly” with others.³⁷ These capacities echo what John Rawls has called our two essential moral powers relating to our capacity for a sense of justice and a conception of the good essential for active citizenship.³⁸ For Pettit, these capacities enable us to effectively engage in discursive control necessary for justifying state interference as a legitimate authority.

Discursive control is about the individuals within a community being a power unto themselves, not subject to the arbitrary power of another over them. When we engage in public discourse, we participate with others as a “co-reasoner” and not a “coercer.”³⁹ Pettit says:

discourse does not refer to just any form of turn-taking between people. Specifically, it refers to the sort of turn-taking involved in the attempt to resolve a problem by reference to what all parties regard as inferentially relevant considerations or reasons. To discourse is to reason and, in particular, to reason together with others.⁴⁰

35. John Locke, “Second Treatise of Government” in *Two Treatises of Government*, ed. Peter Laslett (Cambridge: Cambridge University Press, 2004): 265–428, at 306 (sect. 57). See Pettit, *Republicanism*, 40. Scholars, such as Larmore, claim that Pettit’s use of examples like Locke suggests that Pettit’s republicanism may be consistent with some forms of liberalism rather than an alternative to liberalism *tout court*. Larmore argues that liberalism is a wide and varied tent that includes Locke and that much of “the precise content” of Pettit’s republicanism is consistent with some forms of liberalism. See Larmore, “A Critique of Philip Pettit’s Republicanism.” 235.

36. Pettit, *A Theory of Freedom*, 70.

37. Pettit, *A Theory of Freedom*, 70; see 103.

38. See John Rawls, *Justice as Fairness: A Restatement* (Cambridge: Harvard University Press, 2001): 18–19.

39. Pettit, *A Theory of Freedom*, 75.

40. Pettit, *A Theory of Freedom*, 67.

Individuals must be equal and recognized as equals by others for discursive control to exist. Pettit claims that “there will be no question of people’s thinking that the person is discursively incompetent” and that, crucially, no one is treated as “a second-class citizen.”⁴¹ This view is thought to cohere with “the Roman republican tradition’s insistence on equal legal status for free citizens” which had “required that no citizen be given greater legal rights than others.”⁴²

Discursive control is crucial for republicanism. It is the means through which citizens, as equals, can endorse any limitations on their activities as possessing legitimate authority that respects their individual freedom.⁴³ However, it is unnecessary for every individual to be a part of all such public discourses so long as we can participate in any. Pettit says:

No one will be incorporated in every discursive group that operates in society, of course; no one would be competent to join every group, since the knowledge required for many groups will be quite specialized. But incorporation in any group will be sufficient in principle for recognition by all.⁴⁴

When we can access public discourse and exercise discursive control in some way, it plays a vital role in our being able to “see their own signature in these attitudes and actions.”⁴⁵ The limitations on my activities are “not just the work of an alien mechanism within me.”⁴⁶ Instead, as a product of public discourse to which I can co-author, limitations can possess legitimate authority as non-arbitrary interference that maintains my freedom. In this way, as Rousseau claims, “a man can be both free and forced to confirm to wills which are not his own.”⁴⁷

41. Pettit, *A Theory of Freedom*, 72.

42. Philip Pettit, *Just Freedom: A Moral Compass for a Complex World* (New York: W. W. Norton, 2014): 6.

43. Pettit, *A Theory of Freedom*, 139.

44. Pettit, *A Theory of Freedom*, 72.

45. Pettit, *A Theory of Freedom*, 79.

46. Pettit, *A Theory of Freedom*, 79.

47. Jean-Jacques Rousseau, *The Social Contract and Other Later Political Writings*, ed. Victor Gourevitch (Cambridge: Cambridge University Press, 1997): IV.2.7.

Citizens are free if our state's laws and public policies are subject to discursive control where political participation is "intrinsically valuable."⁴⁸ Importantly, this does not require every citizen does actually participate in every relevant decision nor even that there must always "be competent to join every group."⁴⁹ We need not individually enter into discursive interaction so long as citizens, in general, maintain discursive control over the interferences that may restrict every individual. Nor is it suggested that the lack of actual participation by all is problematic.⁵⁰ For example, citizens are not required to have individually participated in decisions to criminalize acts like murder, theft or tax evasion. It is necessary and sufficient that these laws have legitimate authority as a non-arbitrary interference if their enactment is a product of discursive control by the general citizenry. These limitations are not a form of domination; citizens subject to them remain free.

Discursive control is a form of democratic control. As Pettit claims, republican freedom "is intimately tied up with the ideal of democracy" and deliberative politics.⁵¹ Discursive interaction within democratic decision-making legitimizes limitations as forms of non-domination. The legitimacy of non-arbitrarily justified interferences is no less for the individual who did discursively interact as for another who did not. All that is required is that the citizenry generally exercises discursive control over the legitimacy of interferences. Where citizens generally lack such control, any such interference imposed would be domination and it would render individuals unfree.

III. DOES REPUBLICANISM APPLY TO CHILDREN?

The previous section outlined essential features of Pettit's republicanism. His view of freedom is a theory of non-domination. It justifies interferences as a legitimate authority binding on us where they are subject to our discursive control. Where such control is absent, interferences are

48. Geoffrey Brennan and Loren Lomasky, "Against Reviving Republicanism," *Politics, Philosophy & Economics* 5 (2006): 221–52, at 230.

49. Pettit, *A Theory of Freedom*, 72.

50. See Brennan and Lomasky, "Against Reviving Republicanism," 235–36.

51. Pettit, *A Theory of Freedom*, 154. See Philip Pettit, "Towards a Social Democratic Theory of the State," *Political Studies* XXXV (1987): 537–51.

arbitrary and wrongly dominate us. This section considers doubts about whether republican freedom is inclusive of children.

While Pettit's republicanism is intended to treat all citizens as free and equal, there are reasons to doubt that it applies to children in the same way that it does to adults. This is an important potential problem for Pettit's theory. If domination is an evil to be avoided, it would need to be explained why this evil must only be avoided for adults and not children instead of applying universally to all. This worry is heightened by the fact that children are seen as more vulnerable than adults which may lead us to argue they deserve at least the same, if not more, protection from any form of evil than adults. If Pettit's republicanism must make exceptions allowing for domination in any circumstances, then this non-universality would undermine republicanism's central claim that domination is an evil that should always be opposed and require explanation for when any exceptions can and should be made.

There are various causes for concern that republicanism does not account for children that may substantiate this as a serious problem for it. For example, republicanism's Roman roots strongly suggest that the domination of children is unequivocally justified and that highlight a significant cause for concern about republicanism's universality. Roman law's Justinian Institutes states that there is a "right over our children."⁵² However, this is held primarily by the male patriarch as head of the household. Only he is "in their own power" and free, as Roman law declared that women, children and any grandchildren are all "in someone else's power," namely, the head of that household.⁵³ In other words, everyone in the household, except for its head, is dominated. Moreover, the patriarch's domination is retained even if "insane" because the law held that "nobody can resign his power."⁵⁴ In light of such views, G. W. F. Hegel claims "the position of Roman children as slaves is one of the

52. Watson, *Digest of Justinian*, 18 (1.6.3).

53. Watson, *Digest of Justinian*, 18 (1.6.4).

54. Watson, *Digest of Justinian*, 19 (1.6.8). See Philip Pettit, *Made with Words: Hobbes on Language, Mind and Politics* (Princeton: Princeton University Press, 2008): 122 ("[Hobbes] holds that . . . 'all men equally are by nature free' . . . It follows from this claim, a basic axiom of his system, that . . . not even a parent has 'dominion over his child because he begat him'" citing Thomas Hobbes, *Leviathan* (Cambridge: Cambridge University Press, 1996): 139 and 150).

institutions which most tarnishes the Roman legal code,” as Hegel rejected the view of children as mere “things” from a “father’s point of view.”⁵⁵

While no one takes seriously the view that only a patriarch should always have dominion over their household, similarly no one argues that children should be left to decide all matters for themselves independently of any parents’ commands. This raises the question of whether children are an exception to republicanism’s prohibition of domination. After all, children, and especially pre-teenagers, will lack the ability to engage in discursive control like adults and so be seen as second-class citizens, a status which republican freedom explicitly seeks to prohibit.⁵⁶ Republicanism does not appear to include them and so might be seen as creating what we might call a child justice gap whereby children seem to fall outside republicanism’s full opposition to domination. The gap is the potential space for where domination might be justifiably imposed on children.

Further evidence that republicanism has a child justice gap is found in Pettit’s admission that his republican “conception of the citizenry . . . does not include children.”⁵⁷ This claim is that republicanism does not include children within its remit. The bigger question is whether it is the case that it cannot include them.

The freedom of children is only rarely discussed in Pettit’s work. The most substantial comment is found in his book *Republicanism*:

I think that it is important to recognize that children, and perhaps some other categories of people, are in a special position relative to the state and society. Children cannot be given the same opportunities as adults if they are to be enabled, when they become adults, to enjoy the sort of non-domination which a republic would confer: they must be subjected to the disciplines inherent, as any parent knows, in fostering education and development . . . The republican point of view would suggest that children should enjoy the standard intensity of non-domination, in the

55. G. W. F. Hegel, *Elements of the Philosophy of Right*, ed. A. W. Wood (Cambridge: Cambridge University Press 1991): 212 (§175 Remark) and 75 (§43 Remark). On Hegel and the family, see Thom Brooks, *Hegel’s Political Philosophy: A Systematic Reading of the Philosophy of Right*, 2nd edition (Edinburgh: Edinburgh University Press, 2013): 62–81. This is perhaps an example of what Geoffrey Brennan and Loren Lomasky have observed that republicanism’s roots “up close and personal” appear “distinctly less appealing.” See Brennan and Lomasky, “Against Reviving Republicanism,” 222.

56. See Pettit, *A Theory of Freedom*, 72.

57. Pettit, *Just Freedom*, 217–39.

sense of being protected as well as anybody else against arbitrary power.⁵⁸

This passage raises several important points. Pettit claims that children should be considered differently from adults. This is on account of their having a “special position” in relation to other citizens, undoubtedly on account of their developing towards adulthood.⁵⁹ The different treatment of children is required for “fostering education and development” and, therefore, for the future good of children.⁶⁰ Children should be protected from domination insofar as this is possible – they “should enjoy the standard intensity . . . in the sense of being protected” – but not explicitly the *same* intensity.⁶¹ Pettit accepts that children may have less “undominated choice” than adults.⁶²

As a result, republicanism may appear to allow for children to be subject to domination albeit with restrictions and safeguards. Pettit’s constraint on how parents and teachers may justifiably interfere in children’s lives is that it must advance “the relevant interests of the children” towards becoming adults capable of engaging in discursive control in future.⁶³ Adults are “allowed to exercise considerable interference in the lives of children” provided that “the interference would be designed to track the children’s interests” in becoming free and equal adults.⁶⁴ Noticeably, republican freedom does not justify any such interference of adults. Thus, Pettit’s position treats adults and children differently, whereby only adults are to always be free from domination, but not children.

This different treatment might seem unavoidable, even if conceptually inconsistent.⁶⁵ As Mark Schroeder claims, “no one wants to be treated like a child.”⁶⁶ Yet, this does not mandate that children cannot be treated

58. Pettit, *Republicanism*, 119.

59. Pettit, *Republicanism*, 119.

60. Pettit, *Republicanism*, 119.

61. Pettit, *Republicanism*, 119.

62. Pettit, *Republicanism*, 120.

63. Pettit, *Republicanism*, 120.

64. Pettit, *Republicanism*, 120.

65. On republicanism and its limits, see Philip Pettit, “Depoliticizing Democracy,” *Ratio Juris* 17 (2004): 52–65.

66. Mark Schroeder, “Treating like a Child,” *Analytic Philosophy* 2020: 1–17, at 1.

differently from adult-adult relations in principle nor that doing so must be problematic.⁶⁷

Pettit notes a “constraint of individual exercisability.”⁶⁸ This is a restriction relating to “choices that are inaccessible to particular people.”⁶⁹ It “imposes” restrictions on basic liberties, for example, “as a result of contingent facts about what most of us can and cannot do.”⁷⁰ If applied to children and non-domination, this constraint may be understood as a practical necessity of how children are: they may be incapable of exercising republican freedom and require interference imposed on them by others in order to fully enjoy republican freedom in adulthood. It is a fact that children are not fully responsible for their own decisions. It is the parent who is responsible for how their child might live, be educated, what is eaten and how they might behave generally.⁷¹ As Malcom Thorburn argues, such decisions “are simply not up to the children to make in the first place.”⁷² Parents do not provide mere useful guidance for children to consider in deciding on any matter for themselves, but parents “take over the role of decision-maker altogether in certain matters” in domination of their children.⁷³

The exercise of domination over children is not an absolute power and it is subject to justified constraints. For example, parents should act “in the best interest” of their child, as Pettit accepts.⁷⁴ Following Thorburn, it might be argued that “parental authority, therefore, need not be justified as an infringement on children’s rights, but as a necessary condition for their very existence.”⁷⁵ But it is commonplace to claim that republicans need not extend their total prohibition on non-domination for adults to children as well.⁷⁶

67. Tamar Shapiro, “What is a Child?” *Ethics* 109: 715–38, at 715.

68. Pettit, *On the People’s Terms*, 94.

69. Pettit, *On the People’s Terms*, 94.

70. Pettit, *On the People’s Terms*, 95.

71. See Malcolm Thorburn, “Punishment and Public Authority” in Antje du Bois-Pedain, Magnus Ulväng and Petter Asp (eds), *Criminal Law and the Authority of the State* (Oxford: Hart, 2017): 7–31, at 27.

72. Thorburn, “Punishment and Public Authority,” 27.

73. Thorburn, “Punishment and Public Authority,” 27–8.

74. See Pettit, *Republicanism*, 120.

75. Thorburn, “Punishment and Public Authority,” 28.

76. See Ferejohn, “Pettit’s Republic,” 82.

The most influential account is Anca Gheaus's "republican-friendly theory of child-rearing."⁷⁷ While she claims that some element of domination within parent-child relationships is unavoidable, Gheaus claims republicans can and should "endorse only the *minimal* degree of arbitrary interference that rearers need to exercise over children in order to protect their interest though not necessarily to maximize their well-being."⁷⁸ Republican-minded parents must seek to protect children against domination as best as possible, as Pettit has argued.⁷⁹

What is different about Gheaus's view is that it goes further than Pettit in explicitly claiming republican child-rearing must aim at *enabling* children, as individuals, to become capable of becoming fully autonomous in future.⁸⁰ Gheaus claims that "domination comes in degree" and may become less intense and decreases over time as the child transitions to adulthood.⁸¹ While domination is unavoidable and ever-present especially in any child's early years, republicans should only exercise domination over children where necessary to enable their autonomous development and that this domination must effectively wither on the vine by the time that adulthood is reached. If domination is an evil that republicans should always seek to avoid, Gheaus offers an important account for how republicans might allow for the domination in a very specific and limited way that is increasingly restricted over time.

For Gheaus, parents may be free to exercise significant control over their children in terms of the ways that they behave at home or in the wider society, such as being disciplined; which institutions, including schools, children attend; and health-related matters. However, she claims that the republican approach to child-rearing is "more demanding" than liberal approaches in that only the republicans might deny parents the right "to impose educational and medical decisions on their children that fail to serve the children's interests" in becoming non-dominated adults in future.⁸² In contrast, she claims that liberal approaches need not deny parents the right to interfere in ways that might be opposed to a child's

77. Anca Gheaus, "Child-rearing with Minimal Domination: A Republican Account," *Political Studies* 69 (2021): 748–66, at 749.

78. Gheaus, "Child-rearing with Minimal Domination," 748–49.

79. Pettit, *Republicanism*, 119.

80. Gheaus, "Child-rearing with Minimal Domination," 751.

81. Gheaus, "Child-rearing with Minimal Domination," 758.

82. See Gheaus, "Child-rearing with Minimal Domination," 758.

interests. Republican requirements are more restrictive to protect against domination insofar as this is possible.

In summary, Pettit's republicanism defines freedom as non-domination. This view is meant to apply to all equally. However, Pettit explicitly acknowledges that children may be subject to different treatment than adults, including less undominated choice, as part of their necessary development towards adulthood. There is a consensus that some degree of domination seems inescapable for children. As Gheaus helps clarify, this domination must be subject to demanding restrictions that grow over time and which serve to enable future autonomous development. Nevertheless, children may be subject to some form of domination and that republican freedom does not apply in full to them as it does to adults. If republicanism should make an exception about opposing domination for children, it is unclear how this is conceptually consistent with republicanism's central claim that domination is an evil to be rejected for all yet not to be applied to some.

IV. REPUBLICANISM FOR CHILDREN

In this final substantive section, I will argue that republican freedom is inclusive of children, who should remain free from non-domination, and I will comment on possible objections. My argument centers on the important distinction made about two kinds of interference. Republicans oppose arbitrary interference as domination, but they support non-arbitrary interference as a legitimate authority that may justifiably impose restrictions. While parenting can be likened generally to some form of arbitrary guidance dominating over children, I argue that republicans should support parental interference subject to normative restrictions that render it legitimately authoritative. Parents raise children with legitimate parental authority, not mere arbitrary domination, and, in so doing, children can continuously enjoy non-domination throughout their lives, not only in adulthood. Republican freedom can apply to all and there is no child justice gap to explain or defend. Moreover, through our examining how *republicanism* can conceive of children as free while under parental authority, this reveals an approach that *non-republicans* might accept for conceiving of children as free, too.

Pettit's work on criminal justice, especially his longstanding advocacy for restorative justice, is instructive for setting out this argument.⁸³ Before proceeding, it might be necessary to briefly summarize what restorative justice is about and why Pettit supports it on republican grounds.⁸⁴

When we think about criminals being punished, we can instinctively view this in terms of traditional criminal justice. The accused defendant is brought to a courtroom to plead their guilt or innocence before a judge. If guilt is admitted or found subsequently as part of a trial, the judge may pronounce a sentence where imprisonment is an option. This process is formal – where judges may wear wigs or use gavels – and public, but where outcomes are suboptimal at best. Recidivism rates are high and victim satisfaction is low. The convicted may rarely speak and their victims more rarely heard.⁸⁵

Restorative justice is conceived as an alternative to the formal trial. If agreed by a judge, a defendant who admits their guilt can avoid court – and avoid a criminal record – by participating in a restorative justice meeting. This can take the form of either victim-offender mediation that is administered by a trained facilitator who judge-like manages the meeting, or it may be a restorative conference chaired by the facilitator and where the victim and offender may attend alongside a family member or close friend with community members present.⁸⁶

Restorative justice is not a trial, but a conversation; it is essentially discursive.⁸⁷ The victim explains the impact of the crime on them and given an opportunity to express their voice about what happened to them which might otherwise be unavailable in a formal trial process.⁸⁸ This can also

83. See John Braithwaite and Philip Pettit, *Not Just Deserts: A Republican Theory of Criminal Justice* (Oxford: Clarendon, 1990) and Victoria McGeer and Philip Pettit, "The Desirability and Feasibility of Restorative Justice," *Restorative Justice* 3 (2015): 325–41.

84. See John Braithwaite, *Restorative Justice and Responsible Regulation* (Oxford: Oxford University Press, 2002); Thom Brooks, *Punishment: A Critical Introduction*, 2nd edition (New York: Routledge, 2021): 76–101 and Howard Zehr, *The Little Book of Restorative Justice* (Intercoarse, PA: Good Books, 2003).

85. See Thom Brooks, "Punitive Restoration and Restorative Justice," *Criminal Justice Ethics* 36 (2017): 122–140.

86. For an authoritative overview, see Gerry Johnstone and Daniel W. Van Ness (eds), *Handbook of Restorative Justice* (New York: Routledge, 2011).

87. See Jennifer Larson Sawin and Howard Zehr, "The Ideas of Engagement and Empowerment" in Gerry Johnstone and Daniel W. Van Ness (eds), *Handbook of Restorative Justice* (New York: Routledge, 2011): 41–58.

88. See Nils Christie, "Conflicts as Property," *British Journal of Criminology* 17 (1977): 1–15.

help offenders better understand the consequences of their actions on others. In turn, the offender makes an apology to the victim for their conduct and explains the circumstances behind it. Through this dialogue, an overarching aim is it can enable both sides to find closure. The meeting ends with an agreement that offenders will perform a restorative contract, usually specifying community sentencing hours, that they might attend any relevant treatment for drug, alcohol or behavioral support if relevant to offenders and some reparative amount is agreed to be paid to victims. Restorative contracts are set proportionately in relation to the particular needs of offenders and seriousness of the criminal conduct.

The offender is free to choose whether or not to agree. If they accept and perform the agreement in full, they are “restored” to full citizenship status without a criminal record.⁸⁹ If they do not accept the agreement or do not fully perform its requirements, the offender normally enters the normal trial process where a criminal record and imprisonment may be outcomes.⁹⁰ Restorative justice has increased in popularity in recent years following successful studies that have found high victim satisfaction, significantly reduced recidivism and at almost a tenth the cost of a formal courtroom process.⁹¹ Advocates for its use claim it introduces a democratic, freedom-enabling element into the criminal justice system that improves the rehabilitated reintegration of offenders who can re-enter society as active citizens fully restored.⁹² In contrast, its critics claim the process has insufficient safeguards to ensure offender autonomy is free from coercion and raise doubts about the ways in which restoration is claimed to work.⁹³

89. For a critical discussion, see Chris Cunneen and Carolyn Hoyle, *Debating Restorative Justice* (Oxford: Hart, 2010).

90. For an example of prosecution guidelines, see Crown Prosecution Service, *Restorative Justice* (10 February 2023): <https://www.cps.gov.uk/legal-guidance/restorative-justice>. Accessed August 15, 2024.

91. See Joanna Shapland, Gwen Robinson and Angela Sorsby, *Restorative Justice in Practice: Evaluating What Works for Victims and Offenders* (London: Routledge, 2011). Studies include findings of 85 percent victim satisfaction, up to 25 percent less reoffending and £9 saved for every £1 spent.

92. For example, see Thom Brooks, “Punitive Restoration: Giving the Public a Say over Sentencing” in Albert Dzur, Ian Loader and Richard Sparks (eds), *Democratic Theory and Mass Incarceration* (Oxford: Oxford University Press, 2016): 140–61 and Albert Dzur, *Punishment, Participatory Democracy and the Jury* (Oxford: Oxford University Press, 2012).

93. For example, Andrew Ashworth, “Some Doubts about Restorative Justice,” *Criminal Law Forum* 4 (1993): 277–99 and Christopher Bennett, “Taking the Sincerity Out of Saying Sorry: Restorative Justice as Ritual,” *Journal of Applied Philosophy* 23 (2006): 127–43.

Like many of its advocates, Pettit supports restorative justice as a freedom-enabling process that creates a discursive space within the criminal justice system. He points positively to the idea that restorative justice is built around shared “stakeholding.”⁹⁴ A classic short definition of restorative justice is T. F. Marshall’s report for the United Kingdom’s Home Office, where Marshall claims restorative justice is “a process whereby all parties with a stake in a particular offence come together to resolve collectively how to deal with the aftermath of the offence and its implications for the future.”⁹⁵ The idea is that crimes are events where individuals beyond the state and the offender have a stake. Restorative justice aims to bring relevant stakeholders together, principally the victim and offender as well as their support networks and community members, so that those with a stake in the occurrence of some criminal activity might have an opportunity to engage in addressing it. The restorative justice model allows victims and offenders alike a space to engage in discussing what happened, its impact and resolution. When seen in this light, it is perhaps unsurprising that Pettit would be supportive of a process whereby citizens engage discursively and equally to resolve conflicts and agree outcomes together.⁹⁶

Whether or not we find restorative justice compelling, it is important to recognize its relevance for Pettit. In supporting this process, he says that “any criminal justice system would clearly be inferior to another if the stakeholders in the system – the citizens affected – did less well in terms of freedom than they would have done under the alternative.”⁹⁷ What attracts Pettit to restorative justice is that it is a process whereby offenders face interference without domination.⁹⁸ Offenders are free to engage in restorative justice, including confirming the process outcome which they are free to accept or reject. While the criminal justice system might be thought inescapably dominating for offenders, Pettit sees restorative

94. For example, see McGeer and Pettit, “The Desirability and Feasibility of Restorative Justice,” 326–27.

95. T. F. Marshall, *Restorative Justice: An Overview* (London: Home Office, 1999): 5.

96. See Braithwaite and Pettit, *Not Just Deserts*, 91 and John Braithwaite and Philip Pettit, “Republicanism and Restorative Justice: An Explanatory and Normative Connection” in Heather Strang and John Braithwaite (eds), *Restorative Justice: Philosophy to Practice* (New York: Routledge, 2008): 145–63. See also John Braithwaite, “Deliberative Republican: Hybridity through Restorative Justice,” *Revue Française de Science Politique* (2015): 33–48.

97. McGeer and Pettit, “The Desirability and Feasibility of Restorative Justice,” 327.

98. See Braithwaite and Pettit, *Not Just Deserts*, 172.

justice as a compelling alternative where citizen stakeholders do better “in terms of freedom” than “under the alternative.”⁹⁹

In defending restorative justice as a means of supporting the reintegration of offenders into society as free and equal citizens, Pettit provides an illustration about parenting. He argues that we might view the raising of children in a similar way. Parents aim at enabling their children towards independence as adults. Pettit claims that parenting should seek to do so increasingly in an indirect way whereby we “adopt some maxim or constraint on your decision-making, which is designed to give your child a sense of independence.”¹⁰⁰ He argues that: “if the child is to enjoy the condition desired then he must be aware that in a certain domain, however limited, he has more-or-less unconditional sovereignty.”¹⁰¹ Parents interfere with their children’s lives, but this is subject to constraints and so it not an arbitrary power. Interference is justified and not an exercise of domination.

This illustration reveals a way in which we might claim that republican freedom can apply to everyone, including children. It highlights Pettit’s central claim that republicanism is a theory of non-domination, not non-interference. Republicans only find interference problematic when it is arbitrarily imposed by another. Such instances of domination are an evil to be avoided. However, if interference is justified, then it has legitimate authority. Pettit is clear that there is no inconsistency in claiming that the rule of law is binding on us all without imposing domination if its authority is legitimate. The problem is not whether there is interference, but only whether the interference is justified.

The exercise of discursive control is central to ensuring that any agreed interference from this process is not arbitrarily enforced and, therefore, a form of non-domination. These forms of interference have legitimate authority and do not render us unfree. Crucially, the exercise of discursive control does not require that we are each individually involved in every engagement over the justifiability of any interference, actual or possible, at present or in future. So long as discursive control is available to the general citizenry who can meaningfully participate, the interferences accepted through this discursive process can be justified.

99. McGeer and Pettit, “The Desirability and Feasibility of Restorative Justice,” 327.

100. Braithwaite and Pettit, *Not Just Deserts*, 73.

101. Braithwaite and Pettit, *Not Just Deserts*, 73.

For these reasons, our state may enforce criminal laws that may sanction imprisonment without domination.¹⁰² We need not have participated ourselves in our community's discursive support for criminalizing acts like murder, theft or tax evasion for these to have non-dominating legitimate authority restricting our lawful activities. All that is required is the community's discursive control over the justification of any interferences where full participation is available to all as equal citizens.

This illustration shows how Pettit's republicanism can include children without claiming that an exception should be made for permitting some form of domination however limited. We should conceive of republican parenting as *parental authority* with the same justified legitimacy of any other non-arbitrary interference. As Gheaus highlights, republican parenting is "demanding" in the constraints that it places on parents in how they make decisions about rearing their children.¹⁰³ These constraints are not arbitrarily determined by parents, but as part of a community where citizens can exercise discursive control. Republicans can reject parenting as dominating over children if its interferences are justified within the legitimate restrictions endorsed through the community's discursive control. Republican freedom applies to adults and children justifying interferences in the same way.

This argument can be further explained in response to four important objections. One objection to this view is that children are not included in the exercise of discursive control here and now. They have no say about decisions to interfere in their decisions and so it is correct to see them as dominated by any interference on them. Perhaps their domination is understandable in terms of unavoidably supporting their autonomous development, but this is domination all the same.

In response, it can be argued that Pettit's republicanism does not require that everyone participates in all, or even most, public decision-making as a justifying condition for a democracy's decisions about interference.¹⁰⁴ He does require that the justified decisions about interference are a product of discursive control to which citizens can engage generally.

102. See McGeer and Pettit, "The Desirability and Feasibility of Restorative Justice," 328–29.

103. See Gheaus, "Child-rearing with Minimal Domination," 758.

104. See Pettit, *A Theory of Freedom*, 72 ("No one will be incorporated in every discursive group that operates in society, of course; no one would be competent to join every group, since the knowledge required for many groups will be quite specialized").

What is essential is that those who can and wish to engage on such matters *might* do so.¹⁰⁵ Interference can be justified for those who do not discursively engage here and now. Therefore, it is not essential that anyone, including children, are a part of the exercise of discursive control here and now on every matter for any relevant interferences to be non-dominating. Where this restriction on parenting is maintained, republican freedom can apply to children without making any exception for permitting domination.¹⁰⁶

A second objection is that children cannot be included in the exercise of discursive control. This is a different argument from the first objection. The issue is not that children need not be required to engage in every issue, but rather that they may be unable to engage on any issue because they lack sufficient autonomous development. Pettit's republicanism requires us to have "the ability to discourse" and have "access to discourse" with others in the public sphere.¹⁰⁷ Children lack these qualities and so are dominated while they still do. They are an exception to republicanism's otherwise full opposition to domination.

It is unclear that the temporary lack of such qualities must render children unfree until adulthood. Pettit's conditions are explicitly generalized for the public overall. For example, it is unnecessary that I can access every discourse, even as an adult, as some discourses may require expertise or knowledge that I lack. So long as the discourse is accessible to others among the general citizenry, the outcomes are no less justified as a legitimate authority.¹⁰⁸ My individual inability to engage in a specific discourse is not evidence that I must thereby be dominated by it. Children are not permanently excluded from taking part in the exercise of discursive control, as they can fully engage when adults and effectively participate in discursive control about parental restrictions and other forms of interference. Therefore, it is not essential that everyone, including children, is a part of every exercise of discursive control for interferences to have legitimate authority as non-arbitrary restrictions. Provided parental restrictions are subject to discursive control, republican freedom can apply to children without domination.

105. See Pettit, *A Theory of Freedom*, 79.

106. On republicanism and potential versus actual participation, see Brennan and Lomasky, "Against Reviving Republicanism," 233.

107. Pettit, *A Theory of Freedom*, 70.

108. See Pettit, *A Theory of Freedom*, 70.

A third objection is that children are not included in discursive control as a group or class. This is a more serious concern. It accepts that it might be unnecessary for everyone to take part in every discursive exercise for its outcomes to be legitimate interference on a child. Moreover, it accepts that it may also be unnecessary that an individual is included in such exercises for any agreed interference to be a justified interference on the child. Instead, the concern now is that there is a group or class of citizens that are excluded from discursive activities. Interferences are inescapably domination from the point of view of children.

This is a more difficult challenge. It is undoubtedly true that children, especially pre-teenagers, will lack the ability and opportunity to access or engage in discursive activities in part or in full. The toddler is to do as told, for instance.

I argue it is important that we should draw out two factors. The first is that the “demanding” republican requirements constraining parents are a product of discursive control and not arbitrarily constructed.¹⁰⁹ While parents may have the ability to choose how their children are fed or nurtured, they are not able to starve or neglect their children. We should not mistake the ability to act in terms of parenting within discursively constructed boundaries as exercises in domination. This is because our parenting is not an exercise of our arbitrary power, but a legitimately authorized interference within justified parameters like all other such interferences within our community.

For example, republicans can support the right of police officers to conduct searches, to arrest suspected criminals and to recommend individuals are charged with having committed a crime without sanctioning domination. This can be possible if there are discursively controlled restrictions on the conditions that might warrant search and seizure, the restrictions on how and when a suspect might be arrested and the justifiable factors relevant to deciding whether to recommend criminal charges. Republicanism provides a theory about how any actual or possible interference might be justified as non-domination. Police officers are constrained in their activities. But there is no unfreedom in an officer's decision whether or not to search, to arrest or to recommend criminal charges so long as the boundaries of justifiable interference are not breached. Indeed, police officers might choose to act differently in similar

109. See Gheaus, “Child-rearing with Minimal Domination,” 758.

circumstances. Perhaps we might wish to amend the relevant guidance and regulations that governs these decisions so that these differences are reduced or disappear. Until the community exercises discursive control to change the relevant rules, police officers acting differently do not dominate so long as the discursively controlled boundaries are followed. Similarly, the judge's ability to decide whether an offender receives imprisonment rather than a community sentence is not domination if the decision is made in full keeping with discursively controlled constraints. In these cases, the police officer and the judge act with permitted legitimate *discretion* within the confines of their justified exercise of non-arbitrary interference on others.

Likewise, the ability of a parent to exercise discretion in raising their children as vegetarian is no more arbitrary than any adult's discretion to exercise a protected religious belief. The choice is only arbitrary in terms of its specific application to feed and nourish by one means or another, or to pursue one faith or none; there is nothing arbitrary in principle with the requirements of supporting the child's best interests or a right to religious expression. Nor does support for a child's best interests, for example, mandate only one dietary regiment or form of religious expression. There is legitimate discretion within the boundaries agreed by discursive control. It would be patently absurd for republicanism to reject discretion within such boundaries.¹¹⁰ As Pettit agrees, "there is always discretion in government."¹¹¹ Indeed, "the best sort of law" can "allow a substantial degree of discretion" and "a great deal of discretionary decision-making."¹¹² These exercises of discretion apply to the justification of interferences, their execution and "judicial areas."¹¹³

While tempting to view such everyday matters like whether to raise children to accept one set of beliefs instead of another as an arbitrary power, republican freedom can view parental authority as a non-arbitrary interference subject to demanding restrictions. This may leave parents choice in how they act within discursively controlled restrictions. So long as these choices do not breach their justified range of interference, parental authority can be consistent with a republicanism that includes children. Republicanism applies the same to adults and children alike, as any

110. See Pettit, *Republicanism*, 173, 175–76, 183.

111. Pettit, *Republicanism*, 277.

112. Pettit, *Republicanism*, 176 and 186.

113. Pettit, *Republicanism*, 277.

limitations are justified in the same way even if applied differently from childhood to adulthood.

A second factor is that all children might lack the ability and opportunity to access or engage in discursive activities. This lack is temporary as virtually all will overcome this lack over time. The individuals who are children are not permanently excluded as they grow up. Therefore, the children of the present are the adults of the future. If they can and do become autonomous in adulthood, they can contribute and discursively control the interferences they faced as children and that might apply to their own children.

A final objection addresses the bigger picture: why should non-republicans care? This objection might accept that republicanism can view children under parental authority as free from domination addressing a serious challenge for republican theories. The concern is that this may appear to be only a way of addressing a problem specific to republicanism and irrelevant to non-republicans. For instance, liberals will likely view any child continually interfered with as unfree, even if not dominated. The problem of how children may be free when under parental control remains unresolved for non-republicans.

The argument for how *republican* parental authority does not render children unfree where parental interference is subjected to normative restrictions that render it legitimately authoritative can work similarly for justifying *non-republican* parental interference.¹¹⁴ For example, republicans can accept that children should be treated differently than adults as a part of their necessary development towards adulthood. Parents raise children with legitimate parental authority, not mere arbitrary domination, and, in so doing, children can continuously enjoy non-domination throughout their lives, not only in adulthood. Similarly, non-republicans, including liberals, can accept interferences on children where this is also subject to stringent legitimacy constraints that are not merely arbitrary, increase over time and are a part of a child's development.

For an example, consider Geoffrey Brennan and Loren Lomasky's liberal critique of Pettit's republicanism.¹¹⁵ They argue that republicanism is either "overtly oppressive to a troubling degree" or when "non-threatening

114. I am enormously grateful to an Associate Editor for highlighting the importance of this point.

115. Brennan and Lomasky, "Against Reviving Republicanism," 239. See Loren Lomasky, *Rights Angles* (Oxford: Oxford University Press, 2016): chapter 13.

. . . it is little more than a somewhat archaic rhetorical skin for a body of modern liberalism.”¹¹⁶ They claim that “republican liberty is compatible with extensive paternalistic control . . . republican government will be big government.”¹¹⁷ Brennan and Lomasky worry that Pettit’s republicanism is happy to accept interferences where individuals are not dominated and this makes more likely a paternalistic state. While they accept that liberalism and republicanism may both accept cases of non-interference and non-domination, Brennan and Lomasky claim that republicanism should be less tolerant of interferences and in line with their liberal view of freedom as non-interference. Their critique is clear that they are “unconvinced” by republicanism.¹¹⁸

Brennan and Lomasky highlight an important distinction between liberalism and republicanism. They argue that “liberalism sees exit as the primary cure for potential domination; republicanism takes voice to be the more desirable response.”¹¹⁹ Their example focuses on where employees are treated poorly by employers. For Brennan and Lomasky, “the single most important antidote to imperious and arbitrary inflictions of harms by employers on employees is the existence of vigorously competitive labor markets.”¹²⁰ Liberalism addresses such cases of domination not primarily by state interference, but through exiting their employment contact and seeking a new job elsewhere. However, this preference for exit over interference is conditional on this option being available. Of course, children cannot simply exit their family through their own efforts.

While Brennan and Lomasky do not specifically refer to children, their critique reveals how their liberalism might apply to the issue of whether children are unfree under parental authority. Firstly, Brennan and Lomasky view freedom as non-interference, but this is not unconditional. They argue that interferences can be justified under restrictive conditions similar in kind to republicans. The state “can and should impose restrictions”

116. Brennan and Lomasky, “Against Reviving Republicanism,” 222.

117. Brennan and Lomasky, “Against Reviving Republicanism,” 241–42.

118. Brennan and Lomasky, “Against Reviving Republicanism,” 222.

119. Brennan and Lomasky, “Against Reviving Republicanism,” 246. See Albert Hirschman, *Exit, Voice and Loyalty: Responses to Decline in Firms, Organizations and States* (Cambridge: Harvard University Press, 1970).

120. Brennan and Lomasky, “Against Reviving Republicanism,” 245.

especially where “it is powerless to erase the vulnerability of one to another.”¹²¹ Brennan and Lomasky argue:

to be bound by significant emotional ties to another is in no small measure to have put one’s fate in that person’s hands. Accidents (disease and death) befalling one party profoundly affect the other, as does withdrawal of affection. The only preventative measure that could avert such risks is to avoid all intimate relationships and to place one’s affections in deep freeze. This is a cure far worse than the disease. In the domain of human relations, vulnerability is not a flaw.¹²²

Children are similarly bound by similarly significant ties with their parents. Especially at a young age including infancy, children have their fate in their parents’ hands and entirely vulnerable. While children are dependent on their parents, this does not mean that they might be subject to any arbitrary control by them. Vulnerable members in a family, including relevant adults, deserve respect and protection which can justify state interference in circumstances where this is under threat.¹²³ The threshold for justifying any interference gradually raises over time as children become more autonomous when approaching adulthood and are increasingly less vulnerable.

Liberals and republicans defend different views of freedom. However, the ways in which they might both view children as free under parental authority are similar. Brennan and Lomasky claim that how these theories handle vulnerability occupy a common ground. They say: “Of course, particular republicans may differ from particular liberals in their views concerning what sort of social policies ought to be adopted to assist . . . but this does not amount to a divide between the two understandings of liberty and the respective politics founded thereon.”¹²⁴ In other words, republicans and liberals may view freedom differently, but they can justify similar understandings from their contrasting approaches and the protec-

121. Brennan and Lomasky, “Against Reviving Republicanism,” 244.

122. Brennan and Lomasky, “Against Reviving Republicanism,” 244.

123. Brennan and Lomasky, “Against Reviving Republicanism,” 244.

124. Brennan and Lomasky, “Against Reviving Republicanism,” 244.

tion of family members is an example of this.¹²⁵ The way in which republicans can view children as free under parental authority highlights how non-republicans, like liberals, can do so as well.

V. CONCLUSION

Parents appear to dominate their children in ways they cannot with other adults. This raises important questions about whether children are unfree and how this might be justified. Republican theories look especially vulnerable as they oppose domination through non-arbitrary interferences which is seen as an evil we should reject for all where citizens are “equal throughout.”¹²⁶ The potential problem for republicans is that it does not, in fact, appear to apply to all and specifically not to children. Pettit admits his concept of the citizen “does not include children.”¹²⁷ He claims children occupy a “special position” differently from adults where their having less “undominated choice” is unavoidable and necessary.¹²⁸ There is a consensus that parental domination is inescapable although it ought to be subjected to demanding restrictions.¹²⁹ Republicans appear to accept a child justice gap whereby domination is an evil to be opposed only in full for adults, but not entirely for children. If so, any such gap requires further explanation for how a theory opposed to any domination might make exceptions for children as a coherent account of non-domination for all. Nor is this gap unique to republicans, as alternative theories of freedom like liberalism similarly appear to exclude children.¹³⁰ As Berlin says of Spinoza: “children, although they are coerced, are not slaves.”¹³¹

In this article, I have argued that republican freedom can apply to children and adults alike. Domination is arbitrary interference; it is not acting within non-arbitrary boundaries justified through discursive control. Police officers and parents pursue their roles within the legitimate

125. Brennan and Lomasky acknowledge that, in some cases, we might endorse both liberalism and republicanism concurrently. See Brennan and Lomasky, “Against Reviving Republicanism,” 252–39 highlighting Richard Dagger, *Civic Virtues: Rights, Citizenship and Republican Liberalism* (Oxford: Oxford University Press, 1997).

126. Pettit, *Just Freedom*, 81.

127. Pettit, *Just Freedom*, 217–39.

128. See Pettit, *Republicanism*, 119–20.

129. See Gheaus, “Child-rearing with Minimal Domination,” 748–66.

130. Mill, *On Liberty and Other Writings*, 13.

131. Berlin, “Two Concepts of Liberty,” 147.

constraints that republicans endorse. They retain discretion in how they exercise interferences on others, but only authorized to do so within justified boundaries. When parents adhere to republicanism's demanding restrictions, they act with parental authority and not domination. The justification of their authority requires endorsement from the community's exercise of discursive control and not the agreement of the child here and now. While republicans have claimed children are a special exception, they should have argued that republicans oppose domination for adults and children alike.

This approach has relevance for non-republican accounts, too. Liberals who view freedom as non-interference need not do so unconditionally. They can argue that interference might be justified under restrictive conditions similar in kind to republicans. The state "can and should impose restrictions" especially where "it is powerless to erase the vulnerability of one to another."¹³² While children are dependent on their parents, this does not mean they might be subject to any arbitrary control by them. Parental authority need not render children unfree, in principle, for liberals, as well as republicans, in similar ways notwithstanding their different conceptions of freedom.¹³³

Republican children can enjoy non-domination from the cradle to the grave – and this highlights the same possibility under non-republicans theories as well.

NOTES ON THE CONTRIBUTOR

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132. Brennan and Lomasky, "Against Reviving Republicanism," 244.

133. See Brennan and Lomasky, "Against Reviving Republicanism," 244.