

Civic Republican Disability Justice

Tom O'Shea
University of York

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Civic republicans believe the most pressing problems of political justice should be understood in terms of social power: in particular, the domination that arises from relationships marked by arbitrary power over others. Classic examples of this domination are the power of masters over slaves, monarchs over their subjects, and colonial states over colonists – although civic republicans also identify others who are particularly susceptible to domination, such as undocumented migrants, wives under patriarchy, and workers in capitalist economies. This long preoccupation with dominating relationships has led civic republicans to fashion the tools needed to conceptualise many of the dynamics of personal and political subordination. This chapter asks both what civic republicanism can teach us about disability justice and what civic republicans themselves can learn from thinking through the experience of disability.

I – Civic Republicanism Against Negative Liberty

Civic republicanism is a broad political tendency among thinkers who draw on the lessons of ancient Greek and Roman writing about self-governing republics (Honohan 2002). Among its major themes are an opposition to tyranny and the servility of the citizenry, a distinctive conception of liberty which informs how such servitude is understood, and an emphasis on the importance of civic virtue and political participation to maintaining this liberty. While some civic republicans have had affinities with elitist or oligarchic political formations (McCormick 2003; Ando 2010), others have pursued an egalitarian and solidaristic working-class politics (Gourevitch

2014). This chapter takes an ecumenical approach to the republican tradition and borrows liberally from several of its different currents.

At the heart of the recent revival of civic republican thought has been a conception of political liberty which opposes it to domination. Indeed, this account of liberty has overshadowed republican discussion of justice, which is now typically characterised in terms of the extent to which the domination of citizens is forestalled. Thus, for our purposes, we ought to have a strong grasp on contemporary republican accounts of liberty as non-domination.

Republican liberty can be helpfully contrasted with negative liberty, which has been the conception of freedom favoured by many albeit not all liberal thinkers. Negative liberty is the absence of “interference by other persons” (Berlin 2002: 169). For instance, imagine that you are a patient on a mental health ward. If nobody else has locked the ward, restrained you, or otherwise impeded your activity, then you possess some degree of freedom; whereas if medical staff turn the key to the door, or put you in a physical hold to stop you moving, then in these respects you are unfree. Defenders of negative liberty disagree about what constitutes interference – say, whether it is only physical coercion or also menacing threats which count. But the core idea remains the same: unfreedom is created by impediments to action introduced by others.

Negative liberty provides an economical, intuitive, and clear criterion for determining how free someone is: namely, the extent to which there is interference with their action. Why, then, do civic republicans think it is inadequate? Consider the following cases:

- The slave with a master who can assault them with impunity yet who presently chooses not to interfere with their actions.
- The wife under legal coverture who goes about her business unhindered but whose husband who could at any point prevent her from doing so at his discretion.
- The undocumented migrant whose employer does not report them to the authorities yet nevertheless is able to do so if they were to organise to demand higher wages or better conditions.

- The colonists currently left alone by a colonising state which nevertheless holds unaccountable coercive power over them and in which they have no political representation.

These are counterexamples to the claim that negative liberty captures our most important commitments about the nature of political liberty, insofar as the sheer vulnerability of these people to arbitrary interference makes it difficult to describe them as free. The slave, wife, migrant, or colonist acts only with the indulgence of the powerful, rather than in their own right, even when they are not subjected to actual interference. They cannot be secure in the knowledge that they will not be intruded upon in the future simply at the discretion of some influential individual or institution. We would expect this vulnerability to foster servile behaviour because, in their state of fearful uncertainty, it will often make sense to flatter and be subservient towards those whose forbearance stands in the way of unwanted intrusion in their lives. Here we see what civic republicans have called the “tendency of the enslaved to act with slavishness” (Skinner 2008: 92).

The more sophisticated theorists of negative liberty have been sensitive to these concerns and claim that they have the resources to account for them. For example, Matthew Kramer defines liberty not as the absence of interference, but rather as the range of someone’s conjunctively exercisable opportunities. He tells us:

the overall freedom of a subordinate person *P* is significantly impaired when she has to resort to obsequiousness or unobtrusiveness in order to stave off a dominant person’s punitive measures. [...] If *P* acts in any manner that is insufficiently humble or furtive, she will not also be able to act in any manner precluded by the retaliation that will be undertaken against her as a response to her perceived audacity. (2008: 44)

Her liberty is said to be restricted because she cannot both eschew deference and act without reprisal. However, since the dominator can choose not to retaliate, then these opportunities *are* sometimes conjunctively exercisable. The republican concern is that they are not conjunctively exercisable on a sufficiently secure basis. When someone is actually able to avoid both deference and punishment as a favour of the powerful, then by the lights of the revised negative liberty account, they should be deemed free.

However, the civic republican believes we should reconsider, since this putative freedom is built upon a foundation of sand. The leniency of the dominator can be withdrawn with ease – which leaves the dominated so vulnerable to the mercurial will or shifting designs of another that they can at best act freely in an attenuated sense.

II – Domination and Disability

Civic republicans understand liberty primarily as non-domination. Frank Lovett provides a helpful definition of domination:

persons or groups are subject to domination to the extent that they are dependent on a social relationship in which some other person or group wields arbitrary power over them. (2010: 100)

Of course, dependency, arbitrariness, and power can each be spelt out in different ways. For our purposes, we can provisionally characterise them as follows: dependency upon a relationship is proportional to the cost, risk, and lack of feasibility of exit; arbitrariness is the degree to which an outcome is contingent upon an uncontrolled or unaccountable will; power is the ability to interfere with the choices of another agent. Domination thereby becomes an uncontrolled or unaccountable ability to interfere with another's choices which arises within a relationship that is difficult for them to escape. There is no uniform way in which disability interacts with domination since disabilities are themselves so heterogeneous – being manifest in many different combinations of impairments with unaccommodating environments. Nevertheless, we can identify some characteristic tendencies by which certain disabilities (or the social response to them) can intensify dominating relationships or pull people within their ambit.

While not all disability deepens social dependence, the cost, risk, or impracticality of exiting certain relationships can sometimes be increased. For someone with mobility problems in an isolated rural area, then the cost of withdrawing from a relationship with a social worker or the volunteers at a local charity can be raised when they are reliant on these others to enable them to see their friends and relatives with any regularity. Likewise, if someone's chronic illness means they have to give up waged work, and it is not clear whether they will receive sufficient unemployment or disability

benefits, then this can make it riskier to cut ties with a partner or a relative who makes a much-needed financial contribution to the household. So too, the parent of a young adult with a developmental disability may be so entwined in their care that a life without the other strikes neither of them as a feasible proposition.

Disability can also make it easier for power over someone to be exercised arbitrarily. For instance, in the absence of adequate social support, then an expressive language disorder may hinder a person's ability to prevent others riding roughshod over them, whether that is due to finding it harder to push back against the influence of overbearing family members, or to trigger a formal review of social care arrangements imposed on them by bureaucratic diktat. To take another example: an employer who is not yet convinced that a person with a disability is up to the job may agree to only employ them informally, where this leaves them exposed to summary dismissal. In neither case is the person insulated from powers which can be exercised over them with little robust control or accountability.

Some people with disabilities also face more extensive powers of interference. For example, cultural norms based on the assumption that people with syndromic intellectual disabilities will only have limited ability to shape their own lives may leave them with little *de facto* social power to resist the designs of domineering relatives and carers. Consider too the *de jure* authority claimed by the state to impose decisions about treatment, residence, sexual relationships, or finance that are granted under many mental health and decision-making capacity laws, and which can apply exclusively or disproportionately to people with disabilities (see O'Shea forthcoming). Thus, in addition to deepened dependence and increased arbitrariness of power, the scope of the power to which some people with disabilities are subject can also be larger.

When disability leads to an increase in dependence, arbitrariness, or power, then it can generate or heighten domination, so long as the other two features are also present. There is no need for all three features to be attributable to disability for the resulting domination to be of interest to a republican approach to disability. Other potential causes of disadvantage can contribute towards dependence upon a relationship in which arbitrary power is held: the combination of disability with race-, gender-, sexuality-, or class-based inequalities can thereby result in intersectional domination. Conversely, the other contributors to domination might be otherwise benign background features, such as the bonds of dependence that arise between family, friends, or partners. When they coalesce into a dominating relationship, however, the

civic republican identifies a threat to the free status of the dominated, as well as the attendant dangers of fuelling a state of anxious vulnerability and subordination of those with disabilities to those holding arbitrary power over them.

Our discussion of domination has, so far, highlighted arbitrary powers to interfere with another's choices within relationships of dependence. Civic republicans understand this interference expansively, whereby not only coercion and manipulation but also deliberate omission or exploitation can also count as interfering in certain contexts. For example, the pharmacist who refuses to sell a medicine to someone in an emergency, or who massively ramps up its price to capitalise on their needs, thereby subjects them to interference (Pettit 1997: 53-4).

Other relationships resemble domination without involving a power of outright interference. Take someone managing a chronic physical illness who receives supplementary long-term treatment from a specialist healthcare team. If the team have the power to summarily withdraw this beneficial care should they conclude the patient is recalcitrant or occasionally misses an appointment, then this can have a disciplinary effect – which, like interference-centric domination, can produce compliance and obeisance whether or not the power is actually exercised. Some republicans can classify many such relationships as dominating by refusing to define domination in terms of powers of interference, and instead grounding it in powers to change the benefits and costs of choices in either direction (Lovett 2010: 77). Whether or not the ability to arbitrarily withhold a benefit produces domination *per se*, we should recognise that it is a significant component of the power held in relation to people with disabilities, and which can reproduce many of the same worrying social relationships as an arbitrary power to interfere (O'Shea 2017: 57-8).

It is also important to note that disability does not inevitably make people more vulnerable to domination. The experience and skills developed in living with a disability can help someone become more resilient than they would otherwise have been – better able to recognise and evade the arbitrary power of others or to extricate themselves from a dependent relationship that may turn toxic. This conclusion is consonant with feminist research in standpoint theory which shows how the social position of 'insider-outsiders' – “members of disadvantaged groups who need accurate knowledge of the worlds of the privileged to navigate them successfully” – sometimes gain an epistemic or practical advantage in solving certain problems (Anderson 2015:

§9). In this way, disability is not only an occasion for domination but also for fostering the capacities to combat it.

III – Disability Justice as Non-Domination

Civic republicanism gives us the conceptual tools to identify dominating relationships which threaten the liberty of people with disabilities. However, this is not yet a republican account of disability justice. Despite some initial discussions of disability and civic republicanism, there has been no sustained account of this kind, so we can begin to outline one here.

Two recent republican conceptions of justice can help provide orientation. The first is Frank Lovett's claim that justice consists in minimising domination. He tells us:

Societies are just to the extent that their basic structure is organized so as to minimize the expected sum total domination experienced by their members, counting the domination of each member equally. (2010: 159)

This captures the intuition that a society which enables domination to run rife will be unjust. We should note that this conception of justice focuses not on the actions or character of individuals, but rather the basic structure of society: its political constitution, economic order, legal system, and other major social institutions. Justice within this basic structure is most fully realised when expected aggregate non-domination is maximised. This is similar to how classical utilitarians hold an act to be morally right when it maximises aggregate utility. However, this parallel suggests a problem.

Classical utilitarianism is vulnerable to a familiar objection: it fails to respect the separateness of persons (Rawls 1999: 164). It takes total utility to be the only relevant consideration in judgements of moral rectitude, rather than the distribution of this utility. The unpalatable implication is that there are no limits to the degradations to which any single person or group should be subjected if this increases aggregate utility overall. Likewise, the implication of Lovett's view is that justice is served by marginally reducing total domination at the expense of drastically increasing the domination of an individual or minority. This is particularly unattractive in the context

of disability, where it can condone neglecting people who require the most resource-intensive armament against domination, in order to help people who are already far less subject to dominating relationships. For example, this sum total minimisation view would favour a basic social structure with slightly stronger protection from domination for citizens as a whole, even if the costs in terms of political capital and resources were borne by effectively writing off a minority with cognitive disabilities, should it turn out that their non-domination was far harder to secure. I take it that this is unattractive on egalitarian grounds; for, despite Lovett counting the domination of each member of society equally, this is very far from treating them as equal members of society with respect to their domination.

To avoid this objection, we could adopt Philip Pettit's alternative civic republican conception of social justice, which calls for each citizen to have a sufficient level of non-domination in the exercise of their basic liberties. This non-domination ranges over those choices promoting enjoyment and welfare which each person can exercise consistent with all others doing so, and it is to be achieved by means of public laws and norms (2012: 98). How much non-domination is sufficient? Pettit proposes what he calls 'the eyeball test', which is passed when people are able to "look others in the eye without reason for the fear or deference that a power of interference might inspire; they can walk tall and assume the public status, objective and subjective, of being equal in this regard with the best" (ibid: 84). This provides us with a vivid image intended to capture the lived experience of being a *liber* or free person.

Pettit's account of social justice is concerned with relationships between those citizens or settled residents, "who, being adult and able-minded, can play an informed role at any time in conceptualizing shared concerns and in shaping how the state acts in furthering those concerns" (ibid: 75). In contrast, special issues of justice and legitimacy are said to arise for those who are "not able-minded" (ibid). If the relevant conceptualising and shaping abilities are assumed to be available to all other adults – no matter the extent of their experience or concern with social and political life – then the standards Pettit is using must be rather weak, such that the vast majority of those of us with mental health problems or cognitive disabilities will meet them (perhaps more than Pettit anticipates). Nevertheless, the absence of an account of social justice for those who would struggle to meet Pettit's standards is a significant lacuna in a theory that aspires to completeness or a serious engagement with the politics of disability.

Further problems arise from the eyeball test. The metaphor itself is rather unfortunate for thinking through disability justice, since it builds in forms of physical functioning, such as vision and confident mobility, which some people with disabilities lack. It will, therefore, fail to map onto what we might call the ‘phenomenology of justice’ for a subset of people with disabilities: the lived experience of feeling and being treated as equal or unequal to others. To my mind, the language of walking tall and looking others in the eye also suggests a rather alienating and masculinist kind of ‘hail fellow, well met’ sociality. The deeper problem with the test, however, is that it stands in for rather than supplements an account of the free and equal status of citizens. The eyeball test is intended as a heuristic but the goal it aims to bring closer to our understanding remains impressionistic – in particular, with respect to the specific threshold levels of non-domination required for just social relations. Admittedly, some indeterminacy is an advantage insofar as it allows context-sensitivity, since different degrees of domination will foster more or less equality-inhibiting fear and deference depending on the social setting. Nevertheless, even factoring in this context, it remains unclear how much non-domination is sufficient to secure disability justice.

We might also be sceptical that domination is the only threat to social justice. Of course, in order to secure non-dominating social relationships, then many other goods are necessary: without self-respect, economic security, or emotional satisfaction, we can be more vulnerable to arbitrary power within dependent relationships. Non-domination therefore indirectly presupposes that some other important human needs are met. But there is good reason to push back even against this more capacious view. Consider the kind of objection that Linda Barclay (2010) has made to accounts of disability justice that she claims are overly focused on combatting social oppression without addressing forms of disadvantage that arise predominantly from impairment. She believes that even absent outright discriminatory treatment by others, some people with mental and physical impairments are owed additional support on the grounds of disability justice. Similar problems emerge for those republican theories of justice which focus only on social relationships of domination: they may neglect unfairness and disadvantage that do not have their origin in dominating social power. Thumping cuts to support services which result in hardship for people with disabilities will not count as unjust if they do not also increase dependency on relationships marked by arbitrary power. Someone disadvantaged by an impairment without this compounding their social domination would likewise have no claim to additional assistance on the

grounds of justice. If these conclusions seem counterintuitive, then a single-minded identification of social justice with sufficient non-domination appears to be the problem.

Furthermore, the monism of this approach also implies that non-domination always takes precedence over other goods in matters of justice, until the relevant thresholds are passed. Yet, we may want to resist the claim that any small gain in non-domination below the relevant threshold should always be preferred on the grounds of justice to someone being more happy, wise, or loved. Consider a new system of oversight for support workers, which marginally reduces their opportunities for autocratically imposing decisions on people with disabilities, but also involves extremely onerous reporting responsibilities that make them much less effective in helping people. It is far from obvious that social justice demands we achieve non-domination by any means necessary in such situations.

Our foregoing discussion has identified four main objections to extending existing republican conceptions of justice to disability. Firstly, if justice is understood as minimising total domination, then this can justify abandoning those people with disabilities whose non-domination is hardest to secure. Secondly, when an account of justice requires special measures to accommodate mental health and cognitive disability, then it will be at best incomplete until these are spelled out. Thirdly, if justice is identified with sufficient non-domination, then we need a deeper understanding of the threshold for disability justice than has been supplied by heuristics like the eyeball test. Fourthly, when justice is understood solely in terms of non-domination, then this can lead to an implausibly narrow understanding of disability justice. Can civic republicans accommodate these concerns while continuing to offer a lucid analysis of the ways in which the domination of those with disabilities constitutes an injustice?

IV – A Civic Approach to Disability Justice

We began with accounts of republican justice which accentuate domination. A more promising approach foregrounds the socio-legal status that republicans have often contrasted with domination and taken to be the political foundation of freedom, namely citizenship. In Roman republican thought, “*libertas* is coterminous with *civitas*”, such that “to be free means to be a member of a civic body” (Wirszubski 1950: 3). This was

primarily a defensive understanding of citizenship, however, which took the socio-legal status it granted to be a collective protection against the arbitrary power of magistrates of the ruling class. Greek political thought presents us with a more substantive and active conception of citizenship, with Aristotle claiming that the citizen is “defined by nothing else so much as by his participation in judgment and office.” (1998: 1275a) This participation presupposes “the virtue of a citizen”, and that consists in “the capacity to rule and be ruled” (ibid: 1277a). Aristotle holds that “it is characteristic of a free man not to live in dependence on another” (2007: 1367a) and that living in such a condition – particularly economic dependency – inhibits the formation and exercise of the virtue of citizens. In short: freedom enables virtue, which enables political participation.

The gendered language in this account of the relationship between citizenship and freedom betrays its inegalitarian foundations, which not only exclude women but also presuppose widespread slavery (Gourevitch 2015: 25-6). Nevertheless, it is possible to frame these ideas in a more egalitarian mode. When a free person is understood as someone with the status of a citizen empowered to politically participate, then this suggests another possible conception of republican disability justice on which it requires equal citizenship. This allows us to reframe rather than displace concern with the domination of those with disabilities, without claiming that social justice is no more than minimising domination or achieving sufficient non-domination.

If we concentrate on what is needed for equal citizenship in late modern societies, then a compelling starting point is the democratic egalitarianism of Elizabeth Anderson (1999). Negatively, this requires eliminating oppressive relationships that inhibit equality — among which we can count domination. Positively, it involves ensuring that people have the capabilities necessary to relate to one another as politically equal citizens. This presupposes a series of capabilities of “special egalitarian concern” (ibid: 316): to function “as a human being, as a participant in a system of cooperative production, and as a citizen of a democratic state” (ibid: 317). Capabilities to function as a human being presuppose access to the means of biological subsistence (food, shelter, clothing, medical care) and human agency (deliberative capacities, confidence to think for oneself, freedom of thought and movement). The capability to participate in cooperative production calls for access to education, freedom of occupation, protection from exploitation, and social recognition of one’s productive contribution. To be capable of functioning as a citizen requires access to infrastructure

and to both public and private spaces, as well as the social conditions to be accepted and not shamed by others, and the ability and opportunity for political participation. Domination constitutes not only a direct threat to relationships of equality but can also undermine many of these equality-supporting capabilities.

When republican disability justice is understood in these terms, we can avoid the four objections to attempts to extend existing accounts of republican justice to disability. First, this civic approach will not recommend abandoning individuals with disabilities whose domination may be particularly hard to tackle, since it does not require maximising total non-domination but rather seeks “effective access to levels of functioning sufficient to stand as an equal in society” (ibid: 318). Nor will it recommend abandoning individuals with disabilities for whom this access is hard to secure, since injustice will persist when we fail to get as close as possible to it.

Second, there is a common criterion of justice for those with and without disabilities, and so no missing special standard applies to those deemed ‘not able-minded’. Of course, the means of achieving equal citizenship might have to be tailored to suit people’s different initial capacities, and the possibility cannot be discounted *a priori* that some people may not be able to fully stand in the relevant equal relationships even after colossal efforts to enable them to possess sufficient capabilities of egalitarian concern. For instance, there is reason to be sceptical that even measures such as surrogate voting and jury service will be enough to secure sufficient levels of civic participation for equal citizenship among some of those with the most pronounced cognitive disabilities (see Wasserman and McMahan 2012 contra Nussbaum 2009). Nevertheless, this democratic egalitarian republicanism will resist the complacent and world-weary fatalism of those who suggest that people with disabilities ought to curb their ambitions. The desiderata of this civic understanding of justice remains substantially the same for all of us.

In light of this common standard of justice, critics could advance a converse objection to that levelled against Lovett, who appeared too ready to abandon people: that is, some people with disabilities may reach a point where an enormous investment of time and resources is needed for only minuscule additional gains in capabilities for equal citizenship. We might therefore pursue a ‘prioritarian’ variant on which the capabilities of those who have not passed some threshold for equal citizenship would be weighted far more heavily than those who had not. This proposal seeks to avoid both the problem of outright abandonment (by weighting those below the threshold much

more heavily) and the problem of minimal but excessively resource-intensive gains (by non-trivially weighting everyone else albeit to a limited degree).

Third, citizenship is an idea which can help us come to a richer understanding of the freedoms presupposed by disability justice. While exclusion from relationships of civic equality is a broader harm than the deference and fear which the eyeball test tries to capture, it nevertheless points towards relatively determinate measures of injustice, in terms of the absence of capabilities necessary for human life and agency, cooperative production, and participation in political self-governance, as well as relationships in which people are subject to oppressions, such as those leaving them subordinated to those with arbitrary power. The free and equal status of citizens is a particularly fitting way of articulating what we owe to other members of a civic association as a matter of political justice, since it consists in provision of the conditions for robust standing within that self-same association, which we also have an interest in securing for ourselves in concert with them. The interpretation of such standing will require further democratic elaboration by those who guarantee it and to whom it is guaranteed, but I submit that it is an attractive egalitarian and solidaristic frame within which to pursue disability justice.

Fourth, democratic egalitarian republican justice is less monistic than the other republican approaches we have encountered, since it seeks a wider range of goods: egalitarian relationships between citizens presuppose not only non-domination but protection from other oppressive relationships in addition to the positive provision of egalitarian capabilities. Does monism recur in appealing to equal citizenship as a goal, even if such equality presupposes a broader set of other goods to be in place? We do not have to construe the account this way and can instead identify one specific injustice to which those with disability can be subjected: the kind of inequality that arises from being excluded from the social and political conditions for acting freely as an equal member of a civic association – rather than making the stronger claim that justice itself is to be identified with equal citizenship. This allows that other kinds of disability injustice are possible – for example, forms of substantive unfairness stemming from impairment but which are nevertheless compatible with the general condition of equal citizenship – which do not consist in a failure to achieve these particular egalitarian relationships.

But does a republican appeal to citizenship exclude non-citizen residents and the stateless from disability justice? This result can seem perverse because these are

populations of people with disabilities who are often in greater need, with less access to healthcare and social security systems, while being more vulnerable to exploitation, abuse, and coercion. It is true that republicans have sometimes noted both the bareness of rights which are not rooted in the membership of a civic association which can enforce them (Arendt 1973: 296-8) and the lack of precedent for free and equal relationships which are not “spatially limited” (Arendt 1963: 275).

This does not preclude the establishment of a “community of interest with the oppressed and exploited”, however, which emerges “out of solidarity”, and encompasses “not only the multitude of a class or a nation or a people, but eventually all mankind.” (ibid: 88). The republican approach to disability justice outlined here need have no truck with nationalism – even a ‘civic nationalism’ that claims to eschew xenophobia. Nor should it soft-pedal support and protection for resident non-citizens with disabilities in order to redirect resources to citizens. The commitment of democratic egalitarians as seen through the lens of a radical republicanism is to ensure that everyone can stand in free and equal relationships within civic associations, and not to horde benefits for those who are already members.

V – Some Normative Recommendations

Specific normative recommendations have begun to emerge from republican thought about disability. David Casassas and Jurgen De Wispelaere have argued that dominating relationships in the context of disability can be fought by securing three broad republican rights: to social participation, civic contribution, and democratic contestation (2014: 402). We will pass over the rights to social participation and civic contribution, since they support a relatively familiar set of disabilities policies – albeit on decidedly republican grounds – which centre on anti-discrimination and deinstitutionalisation, in addition to accommodations in the workplace, built environment, and within public life.

The right to democratic contestation is more distinctive – providing mechanisms outside of the usual electoral process to allow individuals with disabilities to challenge policies affecting them. In particular, Casassas and De Wispelaere believe the formulation and implementation of disability policy ought to be open to dispute, review, and revision, with legally enforceable results. This scrutiny could be directed

at needs assessments, resource allocation, delivery of disability support, or the organisational structure of support services (ibid: 411). Both the grounds for upholding challenges to policy and the identity of those invested with the ultimate authority to adjudicate these challenges remains unclear. If Casassas and De Wispelaere follow the model of contestatory democracy developed by Pettit, which they invoke, then this would take the form of depoliticised judicial review, ombudsmen, and expert commissions seeking to strike down policies that mandated excessively arbitrary powers of interference over people with disabilities.

In support of democratic contestation, we are told:

Contestation mechanisms importantly shift the balance of decision-making back to a state where disabled people are not mere recipients of policy, as in the social welfare model, but are instead regarded as genuine political partners in policy design and delivery. (ibid)

But how true is this? While the ability to trigger contestation rests in the hands of citizens with disabilities, they are effectively supplicants in a juridical process controlled and enforced by others. It is too limited an interpretation of the civic republican tradition to take its championing of a fractious and upstart citizenry to be captured by permitting people to complain to a collection of depoliticised commissions or review boards staffed with unaccountable professionals.

In this vein, Hannah Arendt tells us that liberty “means the right ‘to be a participator in government’, or it means nothing.” (1963: 218) The radical republican tradition went further still, advocating a “politics of solidarity, in which those who suffered from servitude were also expected to be the agents of emancipation”, given that they possess the shared interests and insight to undertake effective collective political action (Gourevitch 2015: 183). In contrast, the danger of contestatory democracy as it has hitherto been propounded is that it reproduces rather than unsettles the unequal socio-political statuses that civic republicans oppose, by entrenching institutions premised on acting for others rather than enabling them to act for themselves. This model would also do little to prevent the political deskilling of people with disabilities, since after someone raises a contestatory complaint, then action is not taken by them but only for them, with a concomitant lack of opportunities to hone their own political abilities (O’Shea 2015: 12-3).

What republican measures are more consonant with self-rule for people with disabilities? Two proposals especially relevant to disability are offered here – the first being self-education. We find radical republicans, in particular, stressing that thinking for oneself is a condition of breaking free of the wills of others. For example, the nineteenth-century labour republican William H. Sylvis recognised that while a “high degree of intelligence is necessary to enable us to discharge all the duties of citizens”, we are “too apt to listen to the teachings of those whose interest it is to foster prejudices rather than cultivate intelligence.” (1872: 113) This necessitated “an educational message that spoke directly to workers, through their own presses, which involved them writing their own speeches and pamphlets, and setting up their own libraries and reading rooms.” (Gourevitch 2015: 160-1) Similar misinformation and ideological capture is rife in our ableist societies and stands in the way of free and equal citizenship for people with disabilities. The function of presses and pamphlets is now often performed by online communication – but there remains a need for a media of one’s own in which to record, discuss, and reflect on individual and shared experiences of power as members of a subaltern group. This pedagogical role is one of the many contributions that can be made by a defiant and oppositional set of cultural institutions which those with disabilities have meaningful control over. The political self-consciousness that comes from individual and collective self-education can fuel a more refractory and militant culture of contestation among people with disabilities than one which proceeds from petitioning ombudsmen and the like.

The second proposal is the introduction of a universal basic income in service of achieving a civic minimum for all citizens. This is not a uniquely republican policy but is particularly well-suited to address some of the demands of republican disability justice we have encountered, while remaining consistent with self-emancipation. Consider economic pressures in capitalist economies – with their often-unreliable welfare states, continuing discrimination in labour markets, and insufficient accommodation of disability in education and the workplace – which can underpin domination by making it too difficult to escape from familial, romantic, or employment relationships where financial support is provided but significant arbitrary power is also held. While a republican basic income is far from a panacea (Gourevitch 2013), it would make exiting these relationships easier by providing economic resources that are not contingent upon the continuation of that relationship, thereby easing domination even when no exit takes place.

The risk is that basic income simply shifts the locus of domination from the relations between citizens (*dominium*) to the relations between citizens and the state (*imperium*). Hobbes tell us that the state is “an artificial man [...] of greater stature and strength than the natural” (1996: 7). In light of this, swapping dependence on an individual or small group for dependence on a much more powerful corporate individual appears to be jumping from the frying pan into the fire. However, when a basic income is unconditional, state support does not have to turn into state control. Guaranteed assistance that cannot be withdrawn from someone who displeases politicians or other officials is more difficult to transform into leverage over them. This stands in contrast to other republican proposals to make basic income conditional upon assessing whether someone has been searching for paid work or performing some sort of public service (Dagger 2006: 166). Another advantage of breaking with this kind of welfare conditionality is that it partially insulates people with disabilities from often highly intrusive and partisan assessments of fitness to work (a policy so notorious that the slogan ‘ATOS KILLS’ became widespread in the UK in opposition to a company administering the assessments). Even after the introduction of an unconditional basic income, these tests might remain a *de facto* condition of supplementary disability-specific benefits, but their removal from at least part of the welfare system would itself be an important step in the right direction. Lending further support to universal basic income as a contribution to disability justice, there is evidence that universalist welfare policies are typically more effective and resilient than targeted support (Korpi and Palme 1998).

VI – Dependence

An important objection to civic republican accounts of disability justice pushes back against republican hostility to dependency. We have seen that social dependence is a necessary condition of domination on Lovett’s influential account, and other republicans also often associate or identify unfreedom with a condition of dependence (Skinner 1998: 84). This has prompted critics such as Marilyn Friedman to claim that civic republicans have an “inadequate grasp of the essential role of dependency relationships in human life” (2008: 254-5). She warns that relationships of dependence are so common that suppressing arbitrary power which arises within them would require a totalitarian state (ibid: 266). Friedman draws upon opposition to the

denigration of dependency that emerges from the ethics of care approach to disability developed by Eva Feder Kittay, and this makes her critique especially apposite for our purposes. Kittay reminds us that dependency is “unexceptional” and “inescapable” (1999: 29). She worries that an “emphasis on independence extols an idealization that is a mere fiction, not only for people with disability, but for all of us”, while also devaluing and marginalising the work of carers (2011: 51).

It is true that civic republicans have extolled independence, but not without qualification: it is only dependence on social relationships that enable arbitrary power to be wielded which they eschew. This is compatible with roundly condemning “the ideal of uncompromising self-sufficiency and mastership” (Arendt 1958: 234) as well as recognising that human life outside bonds of care is neither desirable nor feasible. Indeed, dependence upon care is often the foundation of the independence from subjection to the arbitrary will of others that republicans seek. A “relational structure of independence” of this kind has been emphasised by republican feminists such as Mary Wollstonecraft (Coffee 2014: 911) and is not so far removed from Kittay’s own considered position:

We all are dependent—the fates of each of us hang on those of others. But, at any given historical moment, we know, nonetheless, what relative independence means, what it entitles us to, and what inclusion into the circle of equals signifies. (1999: 184)

Like Kittay, republicans are aiming for a relative rather than absolute independence, and do not offer us “a critique of our interdependence but of how that interdependence is organized” (Gourevitch 2013: 605).

Nevertheless, could even the circumscribed forms of independence sought by civic republicans prove to be unattractive or unobtainable? Dominating relationships might be so entwined with our means of care and cooperation that it would prove too harmful or impractical to dispense with them. Friedman strikes a gloomy note in this respect:

The capacity to clean someone’s wound is also the capacity to infect it. The capacity to help someone climb the stairs is also the capacity to throw her down the stairs. (2008: 254)

However, civic republicans are not so perverse as to never allow relationships of dependence marked by arbitrary power, even if vulnerability to this power is seemingly unavoidable in delivering care. Recall that domination can itself be undermined by ensuring that someone is strong enough to combat it. So, the minor domination that arises from a certain caring relationship might be outweighed by the insulation from other domination that this care provides them with. Furthermore, the arbitrariness of power can be reduced in ways other than making its exercise an *ex-ante* impossibility. It is one thing to be able to infect a wound with impunity because the victim dare not complain or no action will be taken if they do – but a robust system of *post-hoc* review and redress that ensures such violations are swiftly stamped out may render such a power sufficiently non-arbitrary without simply eliminating it. Thus, Friedman’s pessimism is not justified.

The civic republican riposte to Friedman and Kittay is that they recommend conceptual frameworks which tend to obfuscate the threat of unexercised arbitrary power in dependent care relationships. Kittay is alive to harms that a dependent care relationship may inflict, including both abuse that carers mete out and their own exploitation by those for whom they care. She even uses the language of ‘domination’ to articulate these concerns. However, this domination is defined very differently as “the exercise of power over another against her best interests and for purposes that have no moral legitimacy.” (1999: 34) An important contrast with recent republican accounts is that this precludes domination from arbitrary power which is held over another but not exercised. As we have seen, however, arbitrary power does not have to be actively wielded in order to produce fear, disquiet, or obedience. Our horizons are shaped by anticipating the possible actions of others as well as by what they actually do. For this reason, we need to be concerned not only with the exercise of arbitrary power but its ability to distort a relationship even when presently held in reserve. It is a significant advantage of republicanism that it provides us with the resources to understand the precarity and marginalisation of people with disabilities who know that their employer is able to summarily dismiss them, that the state could choke off support payments at will, and that their primary carer might well abuse them with impunity if antagonized.

VII – Conclusion

The account of republican disability justice presented here began by contrasting republican accounts of liberty as non-domination with more familiar theories of negative liberty. We then saw how this domination can colour the relationships of people with disabilities, especially when dependence or the arbitrariness or extent of power over them becomes particularly pronounced. This led to a consideration of whether disability justice could be defined in terms of maximising or sufficient non-domination – neither of which were found to be acceptable definitions. In response, we developed a civic framework within which republican disability justice could be understood, which encompassed both the absence of oppressive relationships and the presence of capabilities of special egalitarian concern. Then we looked at some of the more specific normative implications of a republican account of disability justice – doubting the suitability of contestatory democracy but pointing towards the merits of self-education and universal basic income. Finally, the objection that this republican approach to disability justice unreasonably denigrated dependence was rebutted. The resulting account of civic republican disability justice provides us with a compelling diagnosis of many of the political injustices imposed upon those of us with disabilities while recommending tools to begin fixing these problems.

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