

RADBOUD UNIVERSITEIT NIJMEGEN

# Domination in the Welfare State

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Arguing for an Unconditional Basic Income

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## **Abstract**

In recent years, people who are enrolled in welfare programs in Western European countries have seen the number of conditions imposed by welfare state institutions drastically increase. In order to make a claim on welfare benefits, these people have to meet all sorts of specific conditions. In this thesis, I will argue that the conditions imposed by welfare state institutions can be seen as domination. In accordance with the republican thought in which this concept has its origins, domination is a form of freedom reduction which cannot occur within a republic. In order to avoid these relationships of domination between government institutions and public, I will argue in favor of an unconditional basic income. My aim is to demonstrate how the relationships of domination that occur within the contemporary welfare state do not occur under a scheme of an unconditional basic income.

## 1. Introduction

Since the beginning of the financial crisis in Europe in 2009, Western European welfare states have difficulties maintaining their extensive systems of social security. Governments are left with less funds to uphold the welfare state, which has led to many cutbacks in, among others, health care and unemployment prevention. The financial crisis has caused two major challenges for welfare states in Europe (Diamond and Lodge, 2013). The first challenge is related to financing the welfare state. Slower economic growth and public debts are obstacles for maintaining the payment of the enormous costs a welfare state entails. The second challenge is related to current social protection and new social risks and needs. Existing welfare states are poorly equipped to deal with structural and demographic changes in labor markets. For example, the processes of aging and immigration puts pressure on social benefits, it increases the group of people who may need welfare benefits, while the funds to pay for these social benefits are decreasing as jobs are becoming more scarce and governments receive less funds (Diamond and Lodge, 2013).

In order to respond to the financial crisis and the challenges described above, some governments have moved away from traditional views of the welfare state and adopted a view in which social investment takes a more prominent role. The idea of social investment entails that welfare programs should focus on stimulating people to invest in their human capital and skills and that the government should support active labor market policies (Diamond and Lodge, 2013; Morel, Palier and Palme, 2012).

Recent reforms within European welfare states reflect the idea of social investment. Both the Netherlands and Germany for example, have taken steps since early 2000 to stimulate people who are enrolled in welfare state programs to take an active labor market role in order to re enter the labor market (Hemerijck, Palm, Entenmann and Van Hooren, 2013). This indicates that passive labor market policies that have traditionally characterized welfare states are replaced by active labor market policies with increased conditionality for welfare benefits (Hemerijck et al, 2013). As a result, contemporary welfare states are reformed in such a way that in order to qualify for welfare benefits, people are obliged to actively engage in re entering the labor market (Hemerijck et al, 2013). In sum, recent welfare state reforms in Western European countries seem to reflect the idea of social investment, which leads to active labor market policies and welfare benefits that are more conditional.

What exactly does this mean for people who apply for welfare benefits? First of all it means that people may be obliged to do whatever might increase their chance on re entry in the labor market, for example by participating in courses which provide help with applying for jobs and building a curriculum vitae. Furthermore, active labor market policies for welfare benefits may oblige people to fill in a minimum number of applications for every vacancy available. Also, it may even be required of people to take any job they can find, regardless of the payment or content of the job or even the location (they may be required to move) (Gemeente Nijmegen, 2015). These are examples of reforms

in the Dutch welfare state that fit the social investment model. They indicate that the change towards a social investment welfare state is characterized by new conditions that people who are enrolled in welfare programs must satisfy. It may mean that people, whose livelihood depend on welfare benefits, are being put in a situation in which they either must meet the conditions set by welfare institutions or lack the funds to pay for a living. So, due to some welfare state reforms, people's lives and the choices they can make may be affected by government interference (with regard to welfare benefits), as they must meet the conditions that are created by these reforms.

Welfare state reforms thus have led to more government interference in the lives of people who are enrolled in welfare programs. Although welfare benefits are, amongst other goals, aimed at taking away uncertainty and providing a livelihood, the institutions that provide these benefits also demand that people meet certain requirements or conditions. By demanding that people must meet certain conditions, the government and welfare state institutions are interfering in people's lives in such a way that it limits their freedom, because they are obliged to meet the conditions imposed by these welfare state institutions in order to have a right on welfare benefits. As a result, some of the persons who are enrolled in welfare programs have no other option than to meet these conditions, because they would otherwise lose their livelihood. The point is, that recent welfare state reforms have led to a situation of increased conditionality for welfare benefits and government interference, and that this increased interference limits the liberty of people whose livelihood may depend on these welfare benefits.

So, the liberty of people is limited due to increased government interference with regard to welfare benefits. This seems to be in contrast with the liberal democratic thought in which Western European welfare states have their roots and in which personal liberty is an important value (Esping-Andersen, 1990). Although the welfare states in Western Europe based on the liberal democratic thought have developed as social safety nets since the end of the Second World War in which people who have no means for a living still are entitled to the resources they need for a daily living, therefore providing the means for personal autonomy<sup>1</sup> which is a prerequisite for liberty, it is now precisely this personal autonomy that has come under pressure due to recent reforms with regard to the right to welfare benefits. Thus, instead of providing the means for exercising personal autonomy, welfare states now tend to limit it by introducing conditions which people who have no other means for a living must meet in order to provide in their daily livelihood.

Summarizing, recent reforms with regard to welfare benefits in Western European states have introduced new conditions for these benefits, therefore increasing government interference within welfare programs. As a result, the choices or range of options of people for whom welfare benefits are their means for a daily livelihood are limited. The importance of liberty and the act of limiting choices by interference has been addressed by different thoughts within the field of political theory, one of

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<sup>1</sup> Personal autonomy must be interpreted as not being dependent on others, while being able to live on equal footing with each other.

which I will adhere to in this thesis, namely republicanism. Within republicanism, the reduction of freedom by interference is expressed in the concept of domination.

Inspired by republican theorist Philip Pettit, I will use the concept of domination to argue that contemporary welfare states are in fact dominating people who are enrolled in certain aspects of these welfare states. In short, Pettit's conception of domination entails that interference that reduces a person's freedom can be exercised arbitrarily (a conception which I will discuss more extensively further on). The examples of recent reforms in contemporary welfare states make it clear that the conditions that are linked to having a right to welfare benefits have become more strict and have become strict in such a way that welfare state institutions may interfere arbitrarily in people's lives, and are therefore dominating. In order to avoid relationships of domination between government institutions and public, welfare states should be reformed in such a way that nobody can be dominated by welfare state institutions. This can be done by installing an scheme based on the idea of an unconditional basic income. An unconditional basic income grants people an amount of money which they may spend as they like without being willing to work or to invest in themselves. In other words, there are no conditions or rules which have to be met, each individual is entitled to a basic income (Van Parijs, 1995). This would prevent people from being dominated by government welfare institutions, so that they are not limited in their choices by government interference. In sum, an unconditional basic income would ensure a social safety net, just as the current welfare state, but would also ensure freedom from domination.

The idea of an unconditional basic income has primarily been advocated in contemporary debates within political theory by Philippe van Parijs, who has argued for it since the early 1990s . Although Van Parijs and others have tried to justify an unconditional basic income from different perspectives, namely liberal and libertarian, communitarian and egalitarian (Van Parijs et. al, 1992), the relation between an unconditional basic income and domination has had no extensive attention within the political, theoretical debate yet. Domination by welfare institutions has been addressed by Frank Lovett (2009), who also argued for the introduction of an unconditional basic income as an alternative for minimizing domination. Lovett's research indicates that relationships of domination can occur within contemporary Western welfare states, but does not give insights *how* exactly these relationships takes place. The case for an unconditional basic income would be stronger if it can be shown how welfare institutions can dominate people. Furthermore, there are other alternatives next to the basic income scheme, such as the basic capital scheme which I will discuss later on, which is not addressed by Lovett but should also be evaluated in the light of the republican conception of domination. In sum, the relation between domination and an unconditional basic income has been addressed in contemporary debates in political theory, but only superfluous with respect to the welfare state and has not been elaborated on possible alternatives for an unconditional basic income.

From a political perspective, reforms made within welfare states have resulted in more strict conditions for welfare benefits, which in turn may have created relations of domination between

government institutions and people. These relations could be avoided if a scheme of an unconditional basic income is introduced. From a philosophical and theoretical perspective, the concept of domination has not been related with the idea of an unconditional basic income in such a way that the fact that a society should aim to avoid domination could justify the introduction of an unconditional basic income.

In this thesis, I will address these issues. My aim is to show that contemporary Western welfare states may be creating relations of domination through more strict conditions for welfare benefits. With an unconditional basic income, these relationships of domination between welfare state institutions and the people who are enrolled in welfare programs could be avoided. To support this claim, I will use the contemporary welfare state of the Netherlands as an example. I believe this to be a good example because the welfare state in the Netherlands is one of the most extensive and developed welfare states in Western Europe. Furthermore, different governments of the Netherlands have made cutbacks in the welfare program since the outbreak of the financial crisis. The financial crisis made it clear the government of the Netherlands had to make cuts in the welfare program, among others because of a high public debt. So traditionally, the Netherlands has had an extensive welfare state program in Western Europe, but in recent years has made reforms. With the Netherlands as an example for my arguments, the central research question can be formulated as: does an unconditional basic income avoid the relationships of domination that may occur within contemporary welfare states?

In order to answer the central research question, it first is imperative to get an extensive understanding of the concept of domination. Second, it is the question if welfare state institutions can exercise domination. Based on recent policy documents, I will trace if and how contemporary welfare state institutions in the Netherlands may create relationships of domination. Third, I will argue that the relationships of domination created by welfare state institutions can be avoided by introducing a scheme of an unconditional basic income.

The remainder of this thesis is structured as follows. In the second chapter, I will give a brief synopsis of the history of republican thought and explain in what way domination can be placed within this context. Then, I will describe Pettit's conception of domination and discuss what shortcomings on this conception have been formulated by other authors. With these shortcomings in mind, I will evaluate Pettit's conception of domination and formulate my own conception. At the end of the second chapter, I will use my own conception of domination and see if and how welfare state institutions in the Netherlands may create relationships of domination. In the third chapter, I will discuss the idea of an unconditional basic income and argue that the relationships of domination that may occur within the contemporary welfare state can be avoided with an unconditional basic income. Subsequently, I will discuss what arguments have been made against an unconditional basic income and which alternatives have been formulated.

## **2. Domination**

In this chapter, I will give a brief overview of the history of republicanism and discuss how the concept of domination has developed within the school of republicanism. In order to fathom the idea of domination, it is essential to understand the concepts of positive and negative freedom, and the difference between domination and the latter. I will then outline the conception of domination formulated by Pettit and see what its concrete implications may be with regard to the government and welfare state. Subsequently, I will discuss theoretical difficulties that have been identified within the debate regarding domination and evaluate these difficulties in order to formulate a conception of domination which I will use further on.

### **2.1 Republicanism and Domination**

The political thought of republicanism has its origins in the city-states of ancient Greece. Some of these city-states, such as Athens, were known to embrace and value democratic citizenship by free, native, and independent men, who adhered to the idea that the life of an active citizen was the highest life attainable (Kymlicka, 2002). Since a government is chosen by the people, the power of governing is essentially in their hands and it is thus the rule of the people that constitutes the way a land is governed. In order to make sure that the people can make adequate choices in deciding how the government is formed, people need to behave as active citizens. Republican theories are often aimed at finding ways to promote this active citizenship. This interpretation of republicanism of the Greek city-states is based on the work of Aristotle and can be described as an approach to provide the way to persuade people to accept the burdens of active citizenship by making them feel like these burdens are not burdens at all (Kymlicka, 2002). In contrast, other interpretations of republicanism do not make a claim about the intrinsic value of political life and accept that the role of an active citizen may indeed be a burden for some people. Some of these authors, who do not follow the Aristotelian idea of the intrinsic value of active citizenship, have stressed that active citizenship has no intrinsic value at all. In his famous work *Discorsi*, Niccoló Machiavelli seems to argue that active citizenship is merely an instrument or a means to achieve certain goals (Machiavelli, [1531] 2012). In accordance with this view, the active citizen does not have the duty to participate in political activities because of its intrinsic value, rather the active citizen seeks to achieve certain goals and participates in political activities to do so. Through the course of history, republican theories that have originated in ancient Greece and later in fifteenth century Italian city states have had an impact on the work of, among others, Machiavelli, seventeenth century French philosophers Montesquieu and Benjamin Constant, founding fathers James Madison and Thomas Jefferson, to contemporary political philosophers like Philip Pettit.

Three aspects are of great importance with regard to republican theories of active citizenship. These are the fear of corruption, the fear of dependence and liberty or independence (Dagger, 1997).

The fear of corruption entails that people are putting their own personal interests above the good of the community. In other words, people who are corrupt fail to fulfill their role as active citizen and neglect the good of the community. Instead, they only strive for their own personal interests instead. To tackle the fear of corruption, some republican theories stress the importance of virtues. A virtuous person is able to separate her or his personal interests and the good of the community. In addition, this person is willing to act in accordance with the good of the community regardless if this goes against her or his personal interests (Dagger, 1997). For republicans, people are ruled and rule in turn via elections and rule of law. In this way, people do not become dependent on others, since the possibility to rule grants them some form of self-mastery (Dagger, 1997). In a very broad definition, to be free then for republicans, is to be able to be a part of a government and in this way be one's own master. Some republicans stress that this political liberty cannot be taken for granted, since there can be persons or groups who may interfere with this freedom to reduce it, and claim that republican theories should find ways to protect these liberties (Pettit, 1997).

This protection of certain liberties is central in Pettit's theory of domination, whereas the promotion of active citizenship has no prominent role. His interpretation of republicanism is mainly about different forms of liberty that can be distinguished and the ways these liberties can be limited (Pettit, 1997). Within the republican tradition, Pettit's work on domination can be associated with the work of the French philosopher Constant, who was the first to make a clear distinction between different forms of liberty, namely the liberty of the ancients and the liberty of the moderns (Constant, 1819; Pettit, 1997; Kymlicka, 2002). The liberty of the ancients is associated with the liberty of people in the Greek city-states and the Aristotelian interpretation of active citizenship. Liberty in this context, is the liberty to be collectively self-governing within a community and to be an active, political citizen, which is the highest attainable life (Constant, 1819). According to Constant, the people of the Greek city-states lived by the rule of the people, but lacked personal independence and were expected, in accordance with the Aristotelian interpretation of citizenship, to give up certain pleasures for the sake of the city. In contrast, the liberty of the moderns is associated with the liberty to pursue personal happiness and to be entitled to constitutionally protected rights. Liberty in this context, is not a means to promote political life, rather politics is a means to protect the private life (Pettit, 1997; Kymlicka, 2002).

In the twentieth century, post-war theories on citizenship and republicanism were almost solely related to the liberty of the moderns, as they focused on the possession of certain rights that promote citizenship (Marshall, 1950; Kymlicka 2002). According to Thomas Marshall, for example, citizenship is a means to assure that every member of a society is treated as an equal. In order to ensure that everyone of a society attains citizenship, it is necessary to establish a liberal democratic welfare state, in which civil, political and social rights are protected (Marshall, 1950). So, regarding the liberty of the moderns and active citizenship, contemporary republican theories tend to focus on

ways to form a society in which people become citizens by providing them the means, in the form of certain rights, to live on equal footing with each other.

In sum, (contemporary) republican theories strive to promote active citizenship by ensuring certain liberties for people, in order for them to stand on an equal footing with each other. But, as Constant argued, there are different liberties. Since Pettit's theory on domination has its roots on this distinction between different liberties, I will give an outline of these liberties and what they exactly entail in the next section.

## **2.2 Positive and negative liberty**

To develop a firm understanding of the conception of domination, it is important to understand the conceptions of negative and positive liberty. Liberty or freedom in the negative sense in short means the freedom to do whatever one is able to do without interference of others (Berlin, 1958). The question which freedom in the negative sense is involved with is, in Isaiah Berlin's own words:

What is the area within which the subject is or should be left to do or be what he is able to do or be, without interference by other persons?

(Berlin, 1958, p. 2)

Negative freedom entails an area in which I am able to do something but due to interference by others, I am no longer able to do so. Freedom in the negative sense is not about the things I am not able to do, for example float in the air or move with the speed of light, because I am not able to do so, but about the things I am not able to do as a result of deliberative interference by other persons. If I am deaf and want to listen to Beethoven's 9<sup>th</sup> symphony, I am not being interfered with by other persons and therefore my freedom is not affected in the negative sense, although I am not able to listen to Beethoven. If I want to buy a hamburger at a fast food restaurant and animal right protesters block my way through the entrance, I am being interfered with by other persons and therefore my freedom is affected in the negative sense. Negative freedom is thus always related to interference by others. As Pettit points out, Berlin's conception of negative freedom can be traced back all the way to the work of Thomas Hobbes who stated that a free man is someone who, in the things that he is able to do by his strength and wit, is not hindered (Pettit, 1997; Hobbes, 1651). Furthermore, negative freedom is associated with the liberty of the moderns as formulated by Constant, since both conceptions interpret liberty as the absence of interference, whether by institutions or individuals (Constant, 1819; Pettit, 1997).

Positive liberty can be described as the extent to which persons are their own master. In other words, positive liberty is the possibility to exercise self-control (Berlin, 1958). Therefore, it is associated with the liberty of the ancients, as this concept stresses the importance of belonging to a self-governing community (Pettit, 1997). Although this positive sense of freedom offers some

interesting questions for research, it is of no importance in the work related to domination, therefore I will not go into it any further.

So, my negative freedom is affected due to interference by others, but what does it mean to be dominated? For Pettit, restrictions of freedom in the negative sense, due to interference by others, do not exclude all possible means to reduce someone's freedom. According to Pettit there are, in other words, other means to reduce one's freedom which are not accounted for by the conception of negative freedom. To make a clear distinction between negative freedom and non-domination, Pettit formulates the example of a master and a slave (Pettit, 1997). (The master and slave dialectic is widely known by the work of G.W.F. Hegel. In this famous passage, an encounter of two conscious beings leads to both of the beings recognizing the fact that they are self-conscious, which may result in an extreme 'struggle to the death'. The one who loses this struggle will end up being a slave in order to stay alive (The History Revolution, 2010).

The relation between a master and a slave can be described as one in which the slave has no positive freedom, the slave has no option of self-control since she or he is subject to the will of the master. With regard to negative liberty however, it is possible to imagine a situation in which the master does not interfere in the life of the slave on a daily basis. In this scenario, the slave's negative freedom is not per se affected, since the master does not interfere in his life all the time. In other words, with regard to this conception of freedom, the slave is to some extent free. This is highly counterintuitive, as no one would say a slave is free. The point that Pettit tries to make here is that the negative conception of freedom as non-interference can lead to some paradoxical situations, in which one's freedom is not affected in the negative sense but one can still be a slave.

According to Pettit, the example of the master who does not interfere in the slave's life indicates there is a third conception of liberty in addition to the two forms formulated by Berlin. The question seems to be what makes a relation between a master who interferes on a daily basis in the life of the slave different from one who does not interfere on a daily basis. The latter relation distinguishes itself from the former, since there is no interference and therefore the freedom of the slave is not affected in the negative sense. However, the master in this relation still can, whenever he wants to and without a shared opinion of the slave, interfere in the life of this slave, simply because he is the master and therefore can do so. According to Pettit, it is exactly this option of interference by the master that distinguishes domination from interference. It is the constant possibility that the one who dominates interferes in the life of the dominated party. Pettit states that such a relationship, in which someone has the constant option of interfering in another life, is a relation of domination. In Pettit's own words:

Such a relationship means, at the limit, that the dominating party can interfere on an arbitrary basis with the choices of the dominated: can interfere, in particular, on the basis of an interest or an opinion that need not be shared by the person affected.

(Pettit, 1997, p. 22)

Pettit thus states that the constant possibility of interference in a relationship of domination can be defined as interference based on an arbitrary basis. Non-domination then, means that a person or group enjoys freedom to the extent that no other person or group can interfere in their lives on an arbitrary basis (Pettit, 1997). Interference, in this context, can take on various forms, such as physical obstruction or covert manipulation (Pettit, 1997). Pettit argues this conception of freedom as non-domination is very distinct from the negative conception of freedom. According to Pettit, the example of the master who does not interfere in the life of the slave is a situation in which there is no interference but there still is domination. This indicates that the negative conception of freedom cannot account for all relations in which one reduces the freedom of another. Although there actually may be no interference in the slave's life, the master can interfere whenever it suits him or her. Thus there can be domination without interference. If there can be domination without interference, is it also possible to conceive of a situation in which there is interference without domination? This can be made clear with another example, of an imagined society in which recorded rules strictly prescribe what people have to do in their daily lives. In this example, a government would strongly interfere with the daily lives of people, but would not be dominating them, since the interference does not take place on an arbitrary basis (Wall, 2001; Pettit, 1997). These examples make it clear that the alternative conception of freedom Pettit offers (that of non-domination) is distinct from previous conceptions. Freedom as non-interference is something different than freedom from domination, the conceptions of interference and domination are not interchangeable.

Recent contributors to the debate on domination and negative freedom have reformulated the latter concept into what is called pure negative freedom (Carter, 2008; Kramer, 2008). They argue that this conception of negative freedom is broader than the conception of freedom of non-domination. I will turn to this issue within the debate in later sections.

### **2.3 Freedom as non-domination**

As already made clear, Pettit states there is a third conception of freedom in addition to that of positive and negative freedom, namely that of non-domination, which can account for relations in which there is no actual interference but in which one's freedom is reduced. According to Pettit, we can speak of a relation of domination if the one who dominates:

1. has the capacity to interfere
2. on an arbitrary basis
3. in certain choices that the other is in a position to make

(Pettit, 1997, p.52).

How must these clauses be interpreted? First, the one who dominates must have the capacity to interfere. Pettit makes two assumptions about interference in this context. Interference is always

exercised to worsen the situation of the one who is dominated and is always intentional, it cannot be accidental (Pettit, 1997). How must this be understood? With regard to the first assumption and according to Pettit, this is done if the outcomes of expected choices are worsened or if the range of possible choices is limited. This can be done by coercion of the body, as in physical obstruction, coercion of the will, as in punishment and covert manipulation, by shaping beliefs and interests (Pettit, 1997; Lukes, 2004). For example, if I want to buy a hamburger and can choose to get one from two different fast food restaurants, my range of options is limited if one of the entrances of these restaurants is blocked by animal right protesters. My range of options consisted of two restaurants, but through the interference of others, this range of options is now limited to one restaurant. If there is only one fast food restaurant where I can buy a hamburger, but this one is being occupied by animal right protesters who yell at me when I buy a hamburger, the expected outcome of my choice is worsened due to interference of others. Instead of buying and eating a hamburger in the relaxing atmosphere of a fast food restaurant, I now have to eat my hamburger while animal right protesters are yelling at me.

These examples illustrate in what way interference can limit the range of possible options or can worsen the options available, by making the option less attractive after interference than it was before. What does it mean then, that interference has to be intentional? According to Pettit, only intentional actions are relevant in this context. With regard to non-intentional actions, it would mean to lose the distinction between securing people from random effects and securing them against what they might do to each other (Pettit, 1997). Thus, according to Pettit, non-intentional actions are not relevant, because they might be the result of random effects or chance, and therefore there is no way they can be accounted for all the time within a political theory. For an act of interference to be intentional, and therefore to be applicable in the context of domination, the one who interferes must at least be negligent with regard to the possible outcomes for the one who is interfered with (Pettit, 1997). What does it then mean, to have the capacity to interfere? For Pettit, one has the capacity to interfere if it is more or less ready to be exercised at will (Pettit, 1997). It is thus something that is inherent to someone or some group of persons and can be exercised whenever possible at will of this person or group of persons. So, Pettit's assumptions regarding the first clause of domination is that the interference must worsen one's situation and must be intentional. Both of these assumptions are quite doubtful, as I shall argue in later sections. For now, I will focus on Pettit's conception of domination and move on to the interpretation of the second clause.

The second clause states that, in this context, the one who has the capacity to interfere can do so on an arbitrary basis. What is meant by an arbitrary basis? According to Pettit, interference is arbitrary if the one who interferes does so by her or his own judgment, will or pleasure without reference to or acknowledgement of the interests or opinions of those affected (1997). The arbitrariness of interference thus emerges from the one who has the capacity to interfere, rather than the consequences it has for the one affected (Pettit, 1997). With regard to this, Pettit states:

An act is arbitrary, in this usage, by virtue of the controls – specifically, the lack of controls- under which it materializes, not by virtue of the particular consequences to which it gives rise.

(Pettit,1997, p.55)

So, in order to determine if an act is exercised on an arbitrary basis, it is necessary to see under what circumstances the act is performed and if it does not track the interests and opinions of the one who is affected. From this it follows that an act is not arbitrary if the interests and opinions of the one affected are taken into account. Government interference, for example in the form of imposing taxes, is not arbitrary because it is exercised with the interest of the public taken into account (Pettit, 1997). If there were no taxes, all kind of facilities would not be available, such as a police force or a good infrastructure. Since these facilities are there for the best interests of the public and are paid with taxes imposed by the government, the act of imposing taxes is not arbitrary, regardless if such acts lead to interference in my life. This idea of interference on an arbitrary basis, in which arbitrariness is measured by relevant interests of the one affected, is quite arbitrary in itself, as it leaves us with questions as: how can relevant interests or opinions of the one affected be determined? Can we assume it is even possible to determine if an act is exercised on an arbitrary basis? Pettit's initial conception of arbitrariness is thus quite vague. I will further discuss this issue in the next section.

The third clause states that interference on an arbitrary basis takes place in certain choices that the other is in a position to make. This means that interference in the context of domination may take place in some spheres or single sphere of one's life, but not in all. For example, an employer who dominates an employee may be able to do so at work, but cannot dominate the employee when she or he is at home (Pettit, 1997). Pettit thus stresses that domination affects certain choices, but not all choices, and therefore can operate on different levels, within different spheres.

In accordance with the republican thought, the concept of domination described above is applicable on relationships between citizens. Republican theorists including Pettit sometimes have the tendency to ignore the idea that these sorts of relationships may also occur between government and people (an issue I will discuss more profoundly further on). Since it is my aim to show that government welfare institutions may dominate people who are enrolled in programs of these institutions, I will conclude this section by giving an outline of how government interference and domination are related. The first question with regard to this relation is, can and should, if at all possible, a government strive to prevent domination? According to Pettit, a government can clearly do something about domination given the fact it has the ability to constitute rules to prevent domination and has a monopoly on violence in order to maintain these rules (Pettit, 2005). A government can protect citizens by redistributing resources in such a way that the persons who are in a situation in which they can be dominated by others have a stronger position. Also, political and legal measures can be implemented to make sure the position of the persons who may have the capacity to dominate is

more or less weakened with regard to others (Pettit, 2005; Halldenius, 1998). According to Pettit, the challenge of contemporary republican theories is to see how far governments may operate to track down all domination that occurs in a society. In order to do this, governments may need to implement rules that are to some extent dominating as well. For Pettit, this is tolerable, as long as the government compensates the domination it imposes with the domination it prevents (Pettit, 2005). As Pettit himself states:

We may disagree about how exactly to weight the two, but the compromising of non-domination that the state can prevent is intuitively more important than the conditioning of non-domination that it is bound to impose.

(Pettit, 2005, p.98)

Thus, a government may create relationships of domination between itself and its citizens, but must do so in order to prevent relationships of domination between citizens among each other. In Pettit's view, domination exercised by a government should be accepted as long as it prevents domination that could otherwise occur between citizens. The questions that follow from this are, how can a government impose domination, and specifically how it can interfere on an arbitrary basis?; and when can we say the domination a government prevents does not outweigh the domination it imposes? With regard to the latter question Pettit argues that there is a certain point that all people agree that a state has gone too far with possible domination of its citizens (Pettit, 2005). The people will unanimously decide when domination that is imposed by the government is outweighed by the domination that is prevented. This statement is prone to the same problem as highlighted above, namely that Pettit still does not provide us with a clear way of tracking domination. It seems rather impossible to determine the point when everyone in society thinks the state dominates too much. In addition to this practical complaint, there is another flaw with regard to this conception of government domination. It implies that domination by the state can take extreme forms, as long as there are still people who think it is not domination and who will still agree on the balance between preventing and imposing domination. It suggests that a large group of people can be dominated by the state because a small group of people think it is not domination. Such a situation tends to domination as well, since it is the conception of domination of a small group, which can be seen as arbitrary in itself, that determines if government interference is domination. In other words, the conception of a small group within society of what is domination or what not what can determine to what extent a government exercises domination. Thus, Pettit's answer to the question when the balance between preventing and imposing domination by the state is tilting towards the latter is rather meaningless. Therefore, with regard to interference by welfare state institutions, I will argue in later sections that no form of domination is acceptable.

What about the question of *how* a government can interfere on an arbitrary basis in people's lives? Pettit gives no indication at all of how a government can impose domination. This is a recurring

problem within Pettit's theory on domination, and is rooted in the question when an act can be seen as arbitrary. In the next section this, and other difficulties with Pettit's theory on domination will be discussed.

## **2.4 Difficulties with domination**

Two major problems have been identified by those who argue against Pettit's conception of domination. The first problem addresses the difference between negative freedom and freedom from domination as formulated by Pettit. According to those who argue against the conception of domination, there is no difference between negative freedom and freedom from domination. Therefore the conception of domination is redundant. The second major problem is related to the question what arbitrary power exactly is. I will look into both these shortcomings and start with the question whether non-domination is different than non-interference.

### **2.4.1 Domination and freedom from arbitrary power**

Critical notions on the theory of domination have foremost stressed whether Pettit is right in arguing for a conception of freedom as non-domination in addition to the conception of non-interference. Robert Goodin for example, argues that ideas and concepts derived from republican theories are often redundant, as other theories have better arguments for the same outcomes (2003). With regard to Pettit's conception of republican freedom, Goodin argues that this conception may rhetorically be distinctive from other conceptions of freedom, but analytically it is not (Goodin, 2003). The freedom from arbitrary power that Pettit addresses in his conception makes it look like it is superior to other conceptions. For Pettit and other republican theorists who adhere to the republican conception of freedom of non-domination, the security of the freedom from arbitrary power is of utmost importance. As I have made clear in previous sections, this is what distinguishes the republican conception of freedom from other conceptions. According to Goodin, the very notion of the security from arbitrary power does not distinguish this conception from others at all. The republican conception of freedom is just another form of freedom. Anyone who would value freedom at all, would value the security to protect this freedom (Goodin, 2003.). In other words, if you value a certain good, it follows naturally that you also value the security of that good. Thus, the freedom from arbitrary power or resilient freedom, expressed as the security of freedom, is only valued because we value freedom. If Goodin's claim holds, and the value we place on the security of freedom is indeed subordinate to the value we place on freedom, Pettit's republican conception of freedom does seem redundant. However, as I shall argue further on, there is something about Pettit's conception that indicates it is not.

### **2.4.2 Domination and intentionality**

Another argument against Pettit's conception of domination has been formulated by both Matthew Kramer and Ian Carter, who, in short, claim the liberal conception of freedom as non-interference and

the republican conception of freedom as non-domination are not different (2008). Both authors adhere to, what they call, the pure negative view on freedom, which states that ‘a person is unfree to perform some action if and only if some other person renders that action physically impossible’ (Carter, 1999; Kramer, 2003). These authors claim that their conception of freedom is not different from the republican conception of freedom from domination.

According to Kramer, republican theorists and especially Quentin Skinner, have misinterpreted the pure negative conception of freedom as they assume interference must always be some form of physical obstruction. Domination, on the other hand, also accounts for subtle and arbitrary impositions of interference like covert manipulation (Kramer, 2008; Pettit, 1997; Skinner, 1997). With regard to his critique on domination, Kramer adheres to the statement that someone’s overall freedom is determined by the range of conjunctively exercisable opportunities that are accessible (Kramer, 2008). By this he means that we all have a range of options or freedoms between which we can choose, some of which we may not even be aware of. These freedoms can be eliminated by interference of other persons, therefore limiting our range of options and therefore limiting our overall freedom. Thus, someone’s overall freedom in the (pure) negative sense is limited if some of her or his accessible conjunctively exercisable opportunities are erased by interference of others (Kramer, 2008). It does not matter how this is done. This means that interference in the pure negative sense does not always mean there is actual obstruction, but that there is at least the mere possibility of obstruction (Kramer, 2008). If it is assumed domination can erase a combination of conjunctively exercisable freedoms as well, Kramer’s critique becomes clear. Domination, whatever the means, entails that certain freedoms that would be conjunctively exercisable are not so anymore. For a pure negative freedom theorist this means, that as long as it is known that conjunctively exercisable opportunities have been erased, this is a form of reducing one’s freedom in the negative sense. Hence, the pure negative view on freedom accounts for the same situations as would the conception of freedom as non-domination.

So, according to Kramer, the conceptions of freedom as non-interference and non-domination are not different. Can we therefore say that one of these is favorable over the other? Kramer clearly states no and argues for the conception of pure negative freedom in favor of that of non-domination. As I have made clear, one of Pettit’s assumptions on domination is that the interference in the context of domination has to be intentional (Pettit, 1997). According to Kramer, the pure negative view on freedom does account for intentional and non-intentional interference, and therefore has a broader view than freedom as non-domination and is a more favorable conception of freedom (Kramer, 2008). Why should we care about non-intentional interference, as Kramer argues? Suppose that there are two people in a room, A and B, which are locked in by a third person, C. Since C does not want A to leave the room, he has intentionally locked the door, thereby interfering with A’s negative freedom. However, C was not aware of B’s presence in the room. Nonetheless, intentional or not, B’s freedom is limited due to C locking the door (Kramer, 2008). If Pettit’s assumption on intentionality is

accepted, we must say A is being interfered with but B is not. If however, we accept the negative view on freedom, we could say both A and B are interfered with, and interfered with in such a way that their conjunctively exercisable opportunities (they cannot leave the room, where they once could) are limited, therefore their overall negative freedom is limited (Kramer, 2008.). In this way, the pure negative conception of freedom is broader than the non-domination conception of freedom, as it acknowledges that certain forms of non-intentional interference can still reduce freedom.

### **2.4.3 Domination and interests**

For the negative freedom theorists, there is another reason why their view is favorable to the rival conception of freedom as non-domination. As I have made clear, Pettit argues that his conception of freedom as non-domination is not interchangeable with the conception of freedom as non-interference. In other words, there can be domination without interference and there can be interference without domination. This means that, as Carter states, interference without domination is interference without unfreedom (Carter, 2008). According to Pettit, interference without domination or unfreedom occurs when the interference that takes place is in the best interest of the person (Pettit, 1997). For Pettit, this means that government interference, say imposed taxes or a routine police control, cannot be interference in the context of domination, since the government imposes taxes and exercises routine controls for the best of the public. Paying taxes may be against our personal desires, it is however in our common interest because it contributes to financing goods such as a police force or a good infrastructure (Pettit, 1997). This suggests that the conception of freedom as non-domination formulated by Pettit denies that paternalist interventions by the government can reduce freedom (Carter, 2008). Carter seems to be right in pointing out that interference, whether it is in the best interests of a person or not, still is interference that can limit a range of options and therefore can limit one's freedom.

So, government interventions which aim to constitute what is best for the public still are interventions or interference that can reduce one's freedom. Even if this means people have the freedom to do whatever may not be in their best interest. Carter's argument seems valid, since certain government interventions that would interfere in a person's life even if it is in the best interest of that person would still be interference that reduces a range of options. For example, a government that actively takes a position against the use of drugs and has implemented policy measures that prevents people from using drugs would probably act in the best interest for the public, as drug addictions could disrupt society, but would also reduce the range of options the people have, namely the option to openly use drugs. Carter's argument thus demonstrates that interference that reduces a range of options could be in the best interest of person, which indicates that Pettit's assumption that domination should always worsen a person's situation may fall short. This is important, because it shows that, if Carter's argument is accepted, domination could occur regardless if the situation of the one who is dominated is worsened or not, but occurs if the range of options of this person is reduced or not. Thus, whether

interference worsens a person's situation or not, or even if it is in the best interest of that person, it can still be seen as interference that reduces freedom. If it can be said that interference is exercised through arbitrary power, then it is also possible that domination occurs, even if it seems in the best interest of a person. Therefore, Pettit's assumption that interference in the context of domination must worsen one's situation is objectionable.

#### **2.4.4 The moral point of view**

The critical notions made by Kramer and Carter discussed in the previous sections are related to Pettit's assumptions about the interference in context of domination, namely that of intentionality and that of the necessary worsening of one's situation. Both authors stress that there is another, more fundamental, objection to Pettit's conception of freedom as non-domination (Kramer, 2008; Carter, 2008). This objection is related to the tendency of Pettit to moralize the whole conception of freedom. Kramer's example of the people who are locked into a room makes it clear that, with regard to Pettit's assumption of intentionality, the limitation of the freedom of A and B would be valued differently. If we adhere to Pettit's conception of freedom, only A's freedom is being reduced due to interference, as it was C's intention to lock up A. But without knowledge that there was another person in the room, C unintentionally locked up B as well. Since the pure negative view on freedom does acknowledge that non-intentional interference can reduce freedom, it does include both A's and B's limitation of freedom. Their freedom is not weighed differently in accordance with a moral point of view, as is done if we adhere to Pettit's conception of freedom as non-domination. Furthermore, with regard to Carter's argument against Pettit's assumption on the necessary worsening of one's situation due to interference, the obstacles that can reduce freedom are valued in such a way that they are morally legitimate as long as they track the interests of the person affected (Carter, 2008). If interference does track the interests of the person affected, it cannot be arbitrary and therefore we cannot say it is domination (Pettit, 1997).

This claim of Pettit is problematic in two ways. First, Pettit might agree that individuals are capable of defining their own interests. This means that a slave who is dominated is capable of understanding how her or his interests are not tracked by their master's interference. But what if a slave is content with her or his situation? What if a slave believes that without a master, her or his life would have no meaning. That without the master, the slave would be helpless. In other words, what to do with a contented slave (Harbour, 2011)? In this example and for whatever reasons, a slave may believe her or his interests are indeed tracked by the master and therefore being a slave is in her or his best interests. Therefore the master's interference cannot be seen as freedom reducing. This clearly cannot be what Pettit is arguing for. Second, Pettit might agree that a higher institution, for example a government, is capable of defining people's interests. With regard to the example of the slave above, Pettit also has to agree that individuals may be wrong in what they think are in their best interests (Harbour, 2011). Now, Pettit has to accept that, if this claim holds, a state may interfere in people's

lives as long as it is in their best interests. This suggests we can legitimize all sorts of interference in people's lives that may reduce the freedom of these people to a great extent, because it is in their best interests, whatever this may be. Unless we adhere to the idea of a general will formulated in the work of Jean-Jacques Rousseau and accept that people 'must be forced to be free' (or in this context, forced to give up their freedom because it is in their best interests) ([1762] 2010), both Kramer and Carter are right in pointing out that Pettit's conception of freedom as non-domination moralizes the whole concept of freedom and is therefore subordinate to their conception of freedom in the pure negative sense. Pettit's conception does so, because in order to define what counts as interference without unfreedom, conflicts between personal interests and common interests will occur and therefore people's personal interests have to be weighed with respect to these common interests. This cannot be done without taking a moral point of view with regard to the conception of freedom (Harbour, 2011). Since freedom in the pure negative sense does not moralize the concept, it is favorable to that of non-domination.

The example of the contented slave demonstrates that the pure negative conception of freedom can be seen as broader than the conception of freedom as non-domination. This implies the latter concept is redundant. According to Michael Harbour however, it is also possible to imagine situations in which a relationship of domination may increase the pure negative freedom of the one who is dominated (Harbour, 2011). Suppose a country is governed by a dictatorial regime, in which the citizens are subjects of the will of the dictator. In other words, the citizens are being dominated by the sheer will of the regime. However, as is not uncommon with dictatorial regimes, many aspects in daily life are effectively and strictly organized (Harbour, 2011). Therefore, certain goods that a government provides are better organized under a dictatorial regime than would be under other regimes. We can think of all sorts of goods, for example public transportation or health care. These goods make certain things possible, trains that ride on time simply give people the freedom to travel from A to B. The point is, that some aspects in daily life may be better organized by a dictatorial regime, therefore giving people a certain amount of freedom, while they are still being dominated by the sheer will of this regime (Harbour, 2011.). In other words, people's negative freedom may in some situations be increased when they are dominated. Although this example assumes a simplified view on life under a dictatorial regime, it nonetheless shows that it is possible to conceive of situations in which negative freedom would increase but in which there still would be a relationship of domination. It suggests there are situations in which freedom is reduced that can be accounted for by the conception of freedom as non-domination, while the pure negative conception of freedom cannot. Thus, with regard to the first clause of domination and the moralization of freedom, both Kramer and Carter are right about the limitations of Pettit's assumptions on intentionality and the worsening of one's situation, but seem wrong in thinking that the conceptions of freedom as non-domination and pure negative freedom do not differ.

### **2.4.5 What is arbitrary power?**

Other difficulties with regard to the theory of domination are related to the question what exactly arbitrary power is. There seem to be no clear criteria for what can be seen as arbitrary, anyway not formulated explicitly by Pettit. As I have made clear, Pettit states that the arbitrariness of an act lies in the way it is exercised, for example by sheer will of the one who dominates. Furthermore, according to Pettit, we can say interference is arbitrary if it does not track the interests of the one affected (Pettit, 1997). However, as this is still a bit vague and it is rather hard to establish for a fact if an act is exercised just because the one who exercised it could do so, additions to the formulation of what counts as arbitrary were necessary. Pettit himself has come up with alternatives for the idea of arbitrary power.

To reformulate the conception of non-domination in a more formal way, Pettit has defined freedom in more recent contributions as the absence of alien or alienating control. In short and in accordance with Pettit's conception, non-alien control leaves the one affected with freedom of choice, while alien control negatively affects this freedom of choice (Pettit, 2008). Alien control denies the one affected the thought of actually being capable of doing something and in this way limits her or his range of options (Pettit, 2008). Thus, if someone exercises alien control over me, I will presume I am not able to do something, therefore choosing not to do so. Pettit argues there are three principles on which this extensive republican conception of freedom as non-domination is based (Pettit, 2008). The first principle holds that people are aware of the possible scenarios that can occur as a result of the personal choices that they make. Whenever people make a choice between these different possible scenarios, they are capable of making assumptions on the practicability of these choices (Pettit, 2008). In other words, people are aware of the different options they have and can make an adequate consideration of which to choose and which not. The second principle holds that there can be relations between people in which one has alien control over the other (Pettit, 2008). There is alien control if A has certain preferences about which choices B makes and acts according to these preferences so that B makes the choices A prefers. These choices should make a difference to the choices B would have had or made if A had no preference whatsoever on which choices B makes. Pettit's third principle holds that alien control can be positional. This means that, with regard to the relation between A and B mentioned above, B comes into a position in which she or he can exercise control over A, which equalizes the control A had over B. This principle thus implies that alien control takes the form of a zero-sum game, in which one's loss is the other's gain (Pettit, 2008).

In addition to these three principles on alien control, Pettit states that this form of control can be exercised with or without actual interference, as long as it undermines the range of options of personal choice (Pettit, 2008). How is this done? With regard to alien control and actual interference, Pettit adheres to the same actions he mentioned in his earlier notion of interference, namely physical obstruction, coercion of the will or covert manipulation (Pettit, 1997; Pettit, 2008). With regard to alien control without actual interference, Pettit states that A may have the capacity to control B's range

of options, but may not choose to actually do something with this control (for whatever reason). Nevertheless, A still has control over B insofar as A can exercise this control and interfere whenever this may be required. A then has alien control over B by means of invigilation (Pettit, 2008). Thus, since alien control can occur with or without actual interference, it is distinctive from the pure negative view on freedom. This revised conception of republican freedom distinguishes itself from other conceptions of freedom, especially from the one formulated by Kramer and Carter, in taking in the absence of something more than just interference, namely alien control, and that freedom can be defined as the protection against this sort of control.

So, can it be said that alien control is actually different from arbitrary power? Although the idea of alien control differs somewhat from its predecessor arbitrary power, since it emphasizes the notion of freedom of choice in the context of domination, Pettit still leaves us without any way of detecting or tracking alien control. Without a way of tracking alien control, this concept is still no more useful than the idea of arbitrary power. The first principle of Pettit states that all people have a range of certain options from which they can choose. It seems that, in order to track the occurrence of alien control, it is necessary to know the limits of the possible options of the affected party. We can only say if someone's freedom of choice is affected by alien control if we can determine the difference between the range of options before and after the occurrence of alien control. The point is, leaving aside how exactly alien control takes form, that there is no way of knowing what the range of options is before alien control is exercised. Pettit states that we should therefore only focus on the relevant options one has, which consist of the choices that resemble relevant freedoms (Pettit, 2008). But how can we know what freedoms correspond with the relevant choices affected by alien control, if it is exactly this alien control that affects these choices? In other words, if alien control does indeed occur and can limit a person's freedom of choice, therefore not only blur the relevant choices but also the freedoms that are related to these choices, it seems that it is impossible to determine what these freedoms exactly are as they could be affected by alien control. Thus, the notion of alien control as an alternative for arbitrary power does not tackle the difficulties the latter can be identified with.

Instead of reformulating arbitrary power, other authors have sought to redefine the concept. As a result, different views on what counts as arbitrary power have been mentioned. Pettit's initial conception can be seen as substantive. According to this interpretation, interference must materialize by sheer will of the one who exercises it, but must also fail to track the interests and welfare of those affected (Pettit, 1997). Leaving aside for a moment how these interests possibly could be determined (as discussed above), this condition of arbitrary power and thus domination is in another way inconsistent. For Pettit, domination occurs by virtue of control. In order to determine if domination occurs, we thus have to look at how it materializes, not what consequences it gives rise to (Pettit, 1997). This claim is in contradiction with the claim that arbitrary power must always fail to track the welfare of those affected, since the latter claim looks at the consequences, something Pettit rejects in the former claim.

As an alternative to the substantive view on arbitrary power, Lovett opted for a procedural view (Lovett 2001, 2010). Interference is arbitrary in this sense if conditions, rules or procedures that are relevant for certain choices are not clearly defined and are therefore not common knowledge for all persons or groups concerned (Lovett, 2001). This view is related to the republican conception of the role of the state and the rule of law, which claims that law should govern a nation and, not arbitrary power. Thus, an act of interference is non-arbitrary if there are conditions, rules and procedures that are clearly defined and are well known to everyone involved. Although this view on arbitrary power is more tangible than the substantive view of Pettit, it assumes that, in accordance with the rule of law, these rules and procedures are established in a fair way. Therefore, it denies the possibility that arbitrary power could be used to make up such rules and procedures. Also, it does not acknowledge that arbitrary power can be used to enforce people to abide to these rules and procedures. In this way, the procedural view on arbitrary power seems to narrow down situations of domination to situations in which there are no clear rules or procedures. As a result, it denies that government institutions can exercise domination. This clearly is in contrast with my aim and I will therefore argue against it.

## **2.5 Domination reformulated**

In the previous sections, I have outlined some shortcomings of Pettit's conception of freedom as non-domination addressed by other authors. I will now recall these shortcomings and formulate my own conception of freedom as non-domination. I will maintain the three clauses initially formulated by Pettit, namely that in a relationship of domination, the one who dominates (1) has the capacity to interfere, (2) on an arbitrary basis and (3) in certain choices the other is in a position to make. Although the shortcomings showed that Pettit's conception of domination is far from ideal, the example of the dictatorial regime made by Harbour makes it clear there is something about Pettit's conception that cannot be explained by the conception of negative freedom. Granting that the arguments against Pettit's conception are valid, intuitively there still is something about domination that cannot be explained by the conception of pure negative freedom. In other words, regardless of the valid arguments against the conception of domination, it covers some form of freedom reduction which the pure negative view on freedom does not. Therefore, it is a concept that may still be worth saving. Because of this, I will use the clauses of domination that has been initially formulated by Pettit and use them as a basis to formulate my own conception of domination.

### **2.5.1 The capacity to interfere**

As already mentioned, Pettit claims interference in the context of domination must be intentional and must worsen the situation of the one affected. Kramer pointed out that non-intentional interference can also limit one's freedom. Therefore, the pure negative conception of freedom is broader than the conception of non-domination on this matter. Furthermore, Carter stressed interference that is exercised in the best interests of the one affected, can still be interference that reduces freedom. Since

the pure negative view on freedom does acknowledge that interference in the best interests of the one affected can reduce freedom, it is also broader and therefore more comprehensive than the conception of freedom as non-domination. I do not see a way to argue in favor of Pettit on both of these matters, since both Kramer and Carter clearly show the pure negative view on freedom is more comprehensive than that of non-domination. I will therefore formulate a conception of domination in which it is assumed that interference in the context of domination can both be intentional and non-intentional and does not have to worsen the situation of the one affected. Also, both Kramer and Carter pointed out that Pettit's conception of domination puts a moral view on freedom. The example of the contented slave made it clear that either Pettit must adhere to a moral conception of freedom, in which the contented slave's individual interests make it possible for a relation of domination to exist, or must adhere to the idea of Rousseau to force people to be free. Although the example of a dictatorial regime indicated that there can be situations in which the reduction of freedom can be accounted for by the conception of freedom as non-domination while the pure negative conception cannot, therefore making it clear the different conceptions are not always interchangeable, it also makes clear that Pettit's conception leaves out situations of freedom reduction that the pure negative freedom can account for by holding on to the assumptions related to the capacity to interfere. To formulate a broad and clear conception of domination as possible, I will discard both of Pettit's assumptions regarding the first clause. Thus, I assume interference in the context of domination can occur in all possible forms, that is to say, intentional and non-intentional and to worsen the situation of the one affected or not.

### **2.5.2 Arbitrary power**

Probably the most problematic part of Pettit's theory of domination is related to what can be seen as arbitrary power. As I have already mentioned, Pettit himself has formulated the conception of alien control as response to the critics. However, this conception does not adequately resolve the shortcomings of the conception of arbitrary power. Furthermore, Lovett's procedural view on arbitrary power denies that welfare institutions can exercise interference in the context of domination and is therefore of no use to prove these same institutions can in fact exercise domination. The question remains how arbitrary power can be interpreted unambiguously or if and how an alternative can be formulated. I will therefore look at the aspects Pettit attributes to this clause and see in what way it can be formulated so that a clear concept remains.

Pettit states that arbitrary power materializes by virtue of control. This means that in a relationship of domination, the one who dominates has the power to interfere arbitrarily. So, if we want to track relationships of domination, it is firstly important to locate the origin of arbitrary interference. However, this already suggests there is one important difficulty. To have the capacity to interfere on an arbitrary basis, which is the fundament for a relation of domination, means to be able to interfere in someone's life by sheer will. Although, intuitively, this notion may be comprehensible, for

it is not impossible to imagine situations in which a person can interfere in another's life whenever she or he wants to just because this person is the one with the power to do so, it may not be enough to account for interference that is non-intentional or not exercised to worsen one's situation. In other words, the notion of sheer will implies interference must be intentional. The fact that arbitrary power materializes by virtue of control suggests it is something the one who dominates is always aware of. If the one who dominates must be aware of her or his capacity to interfere, all interference that is exercised by this person must be intentional. Since I assume that interference can also be non-intentional, this interpretation of arbitrary power seems therefore of no use either. Nonetheless, this element of Pettit's theory cannot be discarded easily, since it defines the difference between freedom as non-domination and pure negative freedom. It is inherent to the idea that domination can take place without actual interference. The objective then, is to formulate an alternative to arbitrariness which is embedded into the capacity to interfere without eliminating the possibility of domination without interference.

What distinguishes Pettit's conception of domination from the conception of pure negative freedom is that interference can be exercised by sheer will by the one who dominates. So, the dominating party decides if she or he interferes or not. This means that in a relation of domination, the one who is dominated can be interfered with in her or his life all the time. In other words, interference is unpredictable for the dominated party. Whether or not this person is aware of the relationship of domination in which or she or he is part of, interference can take place at any moment. Accordingly, the unpredictability of interference seems to be a characteristic feature of arbitrary power and therefore characteristic for a relation of domination. Therefore, I will attribute unpredictability as one aspect of arbitrary power. Although this aspect represents some element of sheer will with respect to arbitrary power, it still does not cover the entire concept.

Another aspect I assume to be inherent to arbitrary power is related to the idea that the person who dominates gives a purpose to the interference. That is to say, interference that is based on arbitrary power only serves the one who exercises it. It is the dominating party who decides for what reason arbitrary interference materializes. Leaving aside for a moment now if interference is intentional or not, the purpose of interference can only be determined by the one who has the capacity to exercise this interference. This indicates that the dominating party could give many different purposes to it, some of which may and some of which may not fit in the concept of domination. It is plausible to assume that a purpose in this context is based on the interests and beliefs of the dominating party. However, it may just be the case that interference based on arbitrary power is exercised without any purpose. Indeed, one could argue that it is exactly the capacity to interfere without any purpose that represents the idea of arbitrary power. If I have the capacity to interfere in someone's life by sheer will, would it not be more arbitrary to just do this for the fun of it instead of trying to deliberately affect the situation of the one affected? Would it not be more arbitrary to not care about interests at all and exercise interference, just because it is possible? As Pettit has argued,

arbitrariness can be more or less intense, which suggests Pettit argues there seems to be some sort of scale of arbitrariness (1997). With this claim in mind, interference that has no clear purpose, because it is exercised for pure fun or whatever reason, can be seen as more arbitrary than interference that actually worsens one's situation.

Is it possible to determine what purpose interference in the context of domination may have? Let us assume for a moment it is possible to determine a purpose of interference. Since the interference materializes under control of the one who dominates, a purpose must subsequently also materialize under control of this party. This however, leads to the same sort of problem Pettit has been confronted with earlier. It is related to the problem of subjective interests. A dominating party can place all sorts of purposes for interference, based on her or his own beliefs and interests, but these would all be highly subjective. An employer who dominates an employee can say the purpose of arbitrary interference is for the best of the employee's career, but the employer can also say it is for the good of the company. Whatever reasons the employer may give for the relationship of domination, for the employee it will always mean some form of freedom reduction. A husband who dominates his wife can say the purpose of arbitrary interference is for the best of the family or for the best of their relationship. Whatever reasons the husband may give for the relationship of domination, the wife's freedom is always reduced. The point is that, if it is assumed the capacity to interfere can be non-intentional and is not per se exercised to worsen one's situation, it is of no use to try to conceive of a purpose, for this could mean anything.

Thus, although it may be possible that a certain purpose is given to the interference based on arbitrary power in a relationship of domination, trying to understand this purpose does not contribute to a less ambiguous understanding of arbitrary power. Indeed, to track the purpose of arbitrary interference may make the concept even more ambiguous. If it is of no use to try to understand the purpose of arbitrary interference, can we say it is useful to understand arbitrary interference as interference with no purpose at all? That is to say, interference that is exercised, let us say, just for the heck of it. Just because it is possible to do so, without any clear purpose or meaning. In other words, interference that can be seen as utterly unnecessary. By this, I do not mean to exclude every interference in the context of domination that has a purpose. What I do mean however, is that, in order to say something useful about the relations of domination without falling back on the ambiguous concept of arbitrary power formulated by Pettit, or without falling back on the problem of subjective interests, the idea of interference based on arbitrary power as something without purpose or unnecessary is much more understandable.

As I have already mentioned, the clause of arbitrary power with regard to the concept of domination may be the most problematic part of Pettit's theory on domination, it is simultaneously the part that distinguishes it from the pure negative conception of freedom. Therefore, I do not wish to discard the whole idea of arbitrary power. Rather, I have tried to formulate it in such a way that it is more comprehensible in daily life relations. Do I intend to argue this understanding is final? Certainly

not. Do I intend to argue that this understanding is both in accordance with Pettit's initial formulation and does give a minimal idea of what it is to interfere on an arbitrary basis? I certainly do. The idea of arbitrary power I will further adhere to thus consists of two aspects. Arbitrary power both has to be unpredictable and unnecessary. Thus, interference can take place at any time and does not serve the interests of the dominating party.

### **2.5.3 A new definition**

Pettit's final clause states that relations of domination take place in specific spheres of a person's life. This means that relationships of domination do not appear in every aspect of one's life, rather they appear in different aspects. For example, the employer who dominates an employee can only do so at work. Since this clause is unambiguously formulated and is quite plausible, I will maintain it in my conception of domination. Everything taken together, I have tried to uphold the initial clauses formulated by Pettit in my own conception of domination, but did alter them in order to meet the shortcomings presented by its critics. Thus, we can speak of a relation of domination if the one who dominates:

1. has the capacity to interfere  
In all possible forms, that is intentional and non-intentional; to worsen the situation of the one affected or not
2. on an arbitrary basis  
That is, both unpredictable and unnecessary
3. in certain choices that the other is in a position to make.

## **2.6 Domination in the welfare state**

In the previous section, I have formulated a conception of domination which I will now use to argue that welfare state institutions can exercise domination. The important features which I have argued to be inherent to the idea of domination are that arbitrary interference is unpredictable and unnecessary. So, if there is a relation of domination, the one who dominates can interfere whenever she or he wants to and do so without any purpose. In order to show how government welfare institutions can exercise domination, I will use the clauses formulated in the previous section and explain how the actions of these institutions are in accordance with these clauses. In other words, how the actions of welfare state institutions create relationships of domination. But first, I will discuss the question whether domination in a republic is actually possible. Although I will only discuss this issue briefly, it is important to mention how the republican thought often denies the possibility of domination by the state, which I intend to argue is possible.

### **2.6.1 Domination in the republic**

Pettit's initial conception of domination suggests that there can be no domination within a republic in which people govern themselves by participating in political activities. Since a republican government is chosen by the people who are all actively engaged in politics and aim to act in accordance with what is in the best interest of the people, relationships of domination can never occur. In other words, government interference cannot take the form of domination (Pettit, 1997). In Pettit's own words:

Their lesser skepticism about the state will come of the fact that they do not view state action, provided it is properly constrained, as an inherent affront to liberty: as itself a form of domination.

(Pettit, 1997, p.148)

Pettit seems to suggest that, in a republic, domination exercised by the state will not be seen as domination, for the state is the representative of the public. Since every member of society has the opportunity to participate in political activities self-government is possible. So, given that self-government is possible, relationships of domination between government and public cannot occur, because no one would choose to be governed through a relationship of domination. Pettit states that domination between people will not occur within a republic as well, because domination will be viewed as something that essentially limits freedom (Pettit, 1997). So, in accordance with Pettit's initial conception of domination, it cannot exist in an ideal republican society. For republicans, state intervention is inherently good, because it is the state formed by the public in accordance with the republican ideal of self-governance. However, in accordance with my own conception, state domination is in fact possible and we should be skeptical about it. For I assume that domination can also occur without being intentional or exercised to worsen the situation of the one affected. This indicates that, even if state acts are ostensibly in accordance with the good of the public, these acts could still create relationships of domination between government and people.

So, Pettit's assumptions on the capacity to interfere are formulated in such a way that a government can never exercise domination. If, in accordance with the republican ideal, people are self-governing, then it becomes impossible that people will ever decide to be governed by relationships of domination. In other words, when it is possible to be self-governing, nobody would choose to be dominated by government institutions. Thus, for republicans, domination is something that can only occur between people among each other, a government cannot exercise domination for it retrieves legitimacy from political active, self-governing people. So, by definition, it is impossible that relationships of domination between government institutions and people can occur in a republic. In the next sections, I will argue against the republican idea that relationships of domination between government institutions and people cannot occur. My aim is to show how government welfare institutions create relationships of domination by imposing conditions for welfare benefits.

### **2.6.1 Welfare state institutions have the capacity to interfere**

In this section, I will argue that the relations between government welfare institutions and the people who enrolled in welfare programs related to these institutions in the Netherlands fit the conception of domination described in the previous section. In order to do so, I will refer to specific policy implementations within the Dutch welfare state. Since it is not my aim to discuss every single condition imposed by welfare state institutions on people who are enrolled in welfare programs, but merely to show that welfare state institutions can create relationships of domination, I will not discuss them extensively. Rather, I will refer to these conditions generally. For an overview of all these conditions, I have included documents about current welfare state programs in the Netherlands (Gemeente Nijmegen, 2015). These documents can be found in Appendix I.

In accordance with the first clause, welfare state institutions must be able to interfere in people's lives. How can interference by welfare state institutions be interpreted? What characterizes these institutions and possible interference by these institutions is the fact that they do not actively interfere in all people's lives. Leaving aside for a moment how this interference takes specific form, welfare state institutions can only interfere if people themselves sign up for welfare programs. Thus, in contrast to a routine police control for example, in which the police actively interferes in people's lives, welfare state institutions can only interfere if people choose to join welfare programs. Although this does not yet show how interference can be exercised by welfare state institutions, it does show how we can make sense of the third clause, which holds that domination takes place in a certain sphere of someone's life. Welfare state institutions can only interfere in certain choices that the other is in a position to make if this person has signed herself up. From this point, when I refer to interference in people's lives, I mean interference in people's lives who are enrolled in welfare state programs.

This still leaves us with the question how interference can be interpreted. Generally, if people want to make a claim on welfare benefits, they will have to meet certain conditions. These can vary between very general conditions and very specific conditions. For example, if one wants to make a claim on unemployment benefits, one must be unemployed. If one wants to make a claim on benefits for the elderly, one must have reached a certain age. Usually however, there are additional preconditions that have to be met as well. For example, in the Netherlands, people who make a claim on social welfare payment might be required to follow trainings, might be required to accept any job that they can find (as long as this job does not affect one's integrity) and in addition might be required to follow suggestions or references from possible employers. Furthermore, people must provide all sorts of information about their situations. Welfare state institutions have the capacity to determine when these sorts of information must be presented. Also, they have the capacity to suspend or shorten the benefits if one of these conditions is not met in an adequate way. What is adequate in this context can be determined by the welfare state institutions themselves.

Thus welfare state institutions can interfere in people's lives by setting conditions for welfare benefits. Can we say this interference can take place in all possible forms, that is so say, intentional

and non-intentional? First, it should not be hard to see this interference can be intentional. Most welfare state institutions are founded to provide support for a distinctive group of people, for example unemployment benefits are for the unemployed. Since these institutions are founded for a distinctive group, thereby implicitly setting conditions for the welfare benefit, interference is intentional. However, with regard to the current conditions in the welfare state of the Netherlands, interference by welfare state institutions may also be non-intentional. By this I do not mean that welfare state institutions themselves are accidentally interfering into people's lives. What I do mean however, is that welfare state institutions may require people to follow a certain training or to follow suggestions or references of possible employers. Within a training or with regard to a suggestion from an employer, a person may be required to fulfill certain assignments or meet certain conditions, which again can be seen as interference. This indicates that welfare state institutions are indirectly interfering in people's lives, by stating these people must cooperate with other aspects of a welfare program. In other words, there are aspects of a welfare program which people may be obliged to follow that can interfere in their lives in addition to other conditions. The current implementation of the Dutch welfare state does not indicate that welfare state institutions are always aware of the content of trainings or employer suggestions. Therefore, the interference that people experience as a result of these trainings or employer suggestions are, from the perspective of the welfare state institutions, indirectly performed and can therefore be seen as non-intentional.

Finally, can interference by welfare state institutions worsen the situation of the one affected? First, it can of course be said that interference by these institutions is precisely exercised to improve the situation of a person by providing the means for a living. This is undeniably a reason for welfare state institutions to exist. However, as specific policy measures indicate, there is a lot of interference in the form of new conditions which are imposed by welfare state institutions. If there are more conditions that have to be met to make a claim on welfare benefits, it follows that people have to spend more time to meet these conditions, regardless of the exact content of these conditions. This means their freedom is limited in the sense that the choices and options they could have followed must now have partially been replaced by the conditions imposed by welfare state institutions. In other words, people must invest time in order to meet the conditions set by welfare state institutions, which means their range of possible options is limited, because they could have done other things with the time it costs to meet the conditions.

Can it be said that these conditions which reduce freedom can really worsen a person's situation? After all, this person's livelihood still is provided by welfare benefits. If these benefits did not exist, there would not be any livelihood, which can only mean that this person's situation would be worsened. Suppose that a person meets all the conditions set by welfare state institutions, but does not manage to improve her or his situation. For example, someone makes a claim on social assistance and meets all the conditions attached to it but after some time is not able to find a job. Thus, trainings and the obligation to apply for a job as conditions for social assistance do somehow not improve the

chance to find one. In this way, someone's freedom is limited, because of all the conditions that have to be satisfied. Even with all the training programs that are part of welfare programs, this person is still not able to achieve the thing for which all of these conditions are meant. What I try to suggest is that, although welfare state programs are established to improve a person's situation, they may worsen her or his situation by setting conditions that limit their freedom in a severe way. Thus, welfare state institutions do have the capacity to interfere in all possible forms. That is to say, either intentional or non-intentional and either to worsen the situation of the one affected or not. Summarizing, the conditions welfare state programs impose discussed in this section can be seen as interference that are in accordance the first clause of domination.

### **2.6.2 Welfare state institutions have the capacity to interfere on an arbitrary basis**

As discussed in previous sections, when I refer to interference on an arbitrary basis, I refer to interference that is unpredictable and unnecessary. So, in order to claim that interference by welfare state institutions can be seen as interference in the context of domination, I must show that this interference can both be unpredictable and be unnecessary or without any purpose. First, why can interference of welfare state institutions be seen as unpredictable? As already mentioned in the previous section, there are various specific conditions that welfare state institutions can impose on people in addition to general conditions. However, as the current policy implementations show, there are no clear points as to where welfare state institutions can decide to impose these additional conditions. For example, it is clear welfare state institutions may decide that a person must follow a certain training. Nonetheless, it is not clear when these institutions may decide whether or not a person must follow a training. This example indicates that welfare state institutions have the capacity to interfere, by imposing a person with the condition to follow a certain training, whenever these institutions decide to do so. For a person who is enrolled in welfare programs, it thus means that there is always the chance that this condition is imposed, but is not clear when welfare state institutions demand the condition must be satisfied. In other words, the example shows that there are conditions which can be imposed on an unpredictable basis.

Another example that indicates welfare state institutions can interfere unpredictably is that people must provide certain information about themselves, such as level of education, physical or psychological disorders or a history of drug use or detention. A person who wants to make a claim on welfare benefits must present these sorts of information. This of course is necessary, since it would otherwise be impossible to determine who has a right on certain welfare benefits and who has not. Nonetheless, in accordance with current policy implementations, welfare state institutions have the capacity to determine which information must be provided and at what time the information must be provided. Thus, a person who is enrolled in a welfare program may not know what information she or he must provide and, in addition, may not know when she or he must provide this information. In other words, interference by welfare state institutions can be unpredictable in two ways, it is not clear

what and it is not clear when a person must provide certain sorts of information. The examples described above indicate that in some cases, welfare state interference can be imposed without any consent of the one affected and without any option to argue against it.

So, the conditions that are imposed by welfare state institutions can be seen as interference that can be exercised unpredictably. Is it possible to claim this kind of interference can be unnecessary or without any purpose as well? First, for the sake of argument, I will assume everyone in society accepts that there must be some form of welfare state. In other words, people agree there must be an institution that provides people in their daily livelihood who would not have had one without such an institutions. Second and importantly, I must make clear that the sole purpose of welfare state institutions is to improve the situations of people who otherwise would not have had a livelihood. In addition to providing people in their daily livelihood, improvement of one's situation may in this context also mean that a welfare state has to act in such a way that all people in society are able to stand on equal footing with each other. There may be many ways in which people can stand on equal footing with each other, but one way which is adhered to traditionally in Western societies is that one must contribute in accordance with her or his capacities to the whole society. Therefore, welfare state institutions have traditionally focused on helping people to find a job or, for example, providing jobs for people who are handicapped. Thus, welfare state institutions stimulate people in finding a job, which ensures people are able to contribute to society and accordingly are able to live on equal footing with each other.

How can we say then, that interference exercised by welfare state institutions is or can be unnecessary? Without turning too quickly to specific conditions, we could say conditions are generally unnecessary if the aim for which they are imposed cannot be realized. That is to say, conditions as interference are unnecessary if they do not contribute to the goal they should help to achieve. For example, a condition that is imposed by a welfare program in order to stimulate reentry in the labor market, can be seen as unnecessary when it does not at all contribute to this goal. Suppose now that the actual chance of someone enrolled in a welfare program to find a new job is very low. Maybe there is an economic crisis and there are simply no jobs to apply to or this person working capacities are just not sought after in the labor market. Nonetheless, this person must meet all sorts of conditions imposed by this welfare program which are aimed at helping her or him to get a new job. As result, this person is constantly spending time to meet these conditions, therefore his freedom to do other things is limited, while the chance of finding a job even with these conditions is still very low. Although this may be a rough sketch of someone enrolled in a welfare program, it may the reality of all those who cannot find a job regardless of extensive welfare state interference.

Thus we can say that welfare state institutions can impose conditions that interfere in people's live, which may be both unpredictable and unnecessary. Conditions can be unpredictable if the person affected is not sure when conditions may be imposed on her on him, as can be the case with regard to mandatory training. Conditions can also be unnecessary if the purpose of the conditions cannot be

realistically met by the one affected. Thus, welfare state institutions have the capacity to interfere on an arbitrary basis and therefore may create relationships of domination. In this next chapter, I will argue that, in order to avoid such relationships, we should adhere to an unconditional basic income as alternative for the contemporary welfare state.

### **3. Unconditional Basic Income**

In this chapter, I will give an outline of an unconditional basic income as formulated by Philippe Van Parijs and concisely discuss the argument made by Van Parijs. I will then argue that the relationships of domination that can occur within the contemporary welfare state do not occur under a scheme of an unconditional basic income. Subsequently, I will discuss which alternatives that resemble an unconditional basic income have been formulated and see if these alternatives could avoid relationships of domination as much as an unconditional basic income would do. Also, I will evaluate arguments made against an unconditional basic income and discuss why these arguments do not threaten my own argument. But first, I will briefly explain the history of an unconditional basic income.

#### **3.1 The history of the unconditional basic income**

The first proposals for an unconditional basic income were formulated by sixteenth century philosopher Thomas More, who introduced the idea to provide everyone with some means of livelihood in his book *Utopia* (More, 1516). More observed that regardless of the increasing severity of punishments the number of robbers and thieves on the streets did not decrease and concluded that it would be far more to the point to provide everyone in a society with the means for a daily livelihood so that nobody should ever have to be a robber or a thief (More, [1516] 1963). In the eighteenth century, this idea was taken up by Thomas Paine, who created a scheme in his pamphlet *Agrarian Justice* in which property owners had to pay tax in order to pay for the needs of the poor. Paine argued that the earth and all its natural recourses are common property for all humans and that persons who had cultivated some land had the obligation to pay a ground-rent, which would be divided among every member of society (Paine, [1796] 1999). John Stuart Mill argued that every member of a community should be entitled to recourses that can provide a daily livelihood, whether one is able to work or not (Mill, [1849] 1987). Throughout the nineteenth and twentieth century, the idea of an income to provide every member of a society with a daily livelihood has been taken up by many notable philosophers and economists. At the end of the twentieth century, the unconditional basic income had been developed extensively and argued for by Philippe Van Parijs in his work *Real Freedom for All* (BasicIncomeNews, 2011). It is the work of Van Parijs on which I will mainly focus in the next sections. In short and with regard to the work of Van Parijs, an unconditional basic income is an income paid by a political community to all its members on an individual basis, without means test or work requirement (Van Parijs, 1995, 2004). It thus differs greatly from the contemporary Western welfare state, which as I have made clear, is based on conditional benefits. Before I will outline the general idea of an unconditional basic income more comprehensively, I will address the distinction between formal freedom and real freedom as made by Van Parijs.

### **3.2 Formal freedom and real freedom**

The case for an unconditional basic income as argued for by Van Parijs is based on his conception of real freedom. Before Van Parijs starts his argument for an unconditional basic income, he shows how neither a capitalist nor a socialist society can be really free. The main difference of these two types of societies, is related to the ownership of property. In a capitalist society, ownership of goods and means of production is private, while in a socialist society, ownership of goods and means of production are public (Van Parijs, 1995). Van Parijs states that a socialist society, in which there is a public-ownership regime, cannot be totally free, because public ownership limits the possible options for using certain goods. The freedom to sunbathe naked in one's garden for example can be exercised only if gardens are private property (or if everyone is without shame). In a socialist society with public-ownership however, this is not possible, because I will have to share my garden with others or I will have to sunbath naked while my neighbors can see me (Van Parijs, 1995). The point is in other words, that in a free society, there needs to be some form of private ownership of external objects. So a socialist society cannot be totally free, but what can be said about a capitalist society? Can a capitalist society be totally free? Van Parijs claims no, if there is only private ownership, which is an aspect of a totally capitalist society, one can withhold people from doing things by making a claim on private ownership (1995). If a person owns an island and I have no other means of survival than to use resources from that island, I am left with the will of the person who owns the island, as he is the rightful owner and can decide what happens on the island and what does not (Van Parijs, 1995). In other words, if there is only private ownership, people can become dependent on the will of other people or dependent on things which are not yet claimed by others. This point is old and is rooted in the ideas of seventeenth century philosopher John Locke. In sum, the point Van Parijs tries to make is that neither a capitalist nor a socialist society can be totally free.

As already made clear in the previous sections, the conception of negative freedom states that people should be free from interference by others. Van Parijs argues that this conception of freedom mainly consists of two elements, namely protection from interference on property rights and protection from interference on self-ownership (Van Parijs, 1995). In other words, negative freedom is created if property rights and self-ownership are secured. This is what Van Parijs calls formal freedom (Van Parijs, 1995). However, security of property rights and self-ownership do not grant real freedom. In order to grant people in a society real freedom, Van Parijs states a third element must be added, which is opportunity. In other words, the means to live the various lives one might want to live. Both in a capitalist or socialist society, I may be free in the sense that I have self-ownership and that my property rights are protected, but if I have no money I cannot go on a vacation and am therefore not really free to do so. If I am to starve because I have no money, I have no choice but to accept a lousy job in order to survive and therefore I am not free (Van Parijs, 1995). Thus, a really free society satisfies the following three conditions:

1. There is some well enforced structure of rights (*security*)
2. This structure is such that each person owns herself (*self-ownership*)
3. This structure is such that each person has the greatest possible opportunity to do whatever she might want to do (*leximin opportunity*)

(Van Parijs, 1995, p.25)

Van Parijs argues for leximin opportunity. This means that there may be several alternatives for distributing opportunities. Under all these alternative arrangements, there is always one person who has the least possible opportunities. In accordance with Van Parijs's idea of leximin opportunity, we should choose the alternative in which this person has the highest possible opportunities with respect to all other alternatives. Thus, the person who has the least opportunities in a society still can have no fewer opportunities than the person with the least opportunities would have had under any alternative arrangement of opportunities (Van Parijs, 1995). If an arrangement of opportunities is made in which a person with the least opportunities has the most with respect to any other alternative arrangement, the person who has the second least opportunities should have the most with regard to any other alternative.

So, a society that is really free has established a structure that can provide the highest possible opportunities for everyone who lives within it. This means to live whatever life one wishes to live, which includes the opportunity not to work or do anything at all. According to Van Parijs, this means that a real free society should redistribute income in such a way that the highest possible opportunities are attained, without imposing certain conditions, for this would require people to do something which contradicts real freedom. What should be done, to make a society real free, is thus to provide every member of society with an unconditional basic income, which should be in accordance with security of property rights and self-ownership (Van Parijs, 1995).

### **3.3 An unconditional basic income**

So, Van Parijs claims that a real free society, in addition to a formal free society, is characterized in the way that one possesses the means and not just the rights, to do whatever one might want to do (Van Parijs, 1995). According to Van Parijs, this entails that people not only have the freedom to choose from different bundles of goods, but that they also have the freedom to live the various lives one might live (Van Parijs, 1995). This indicates that people not only need to be free to spend their money in whatever way they like, they also need to be free to spend their time in whatever way they like. This can be done by creating an institutional framework which guarantees that people can spend their money and time in whatever way they like and which has to be consistent with the other characteristics of a free society, namely security and self-ownership. What we have to go for then is, according to Van Parijs, the highest possible attainable unconditional basic income for all (Van Parijs, 1995). In other words, an unconditional basic income should be as high as possible with respect to the

amount of funds that are available. This should create the highest possible opportunities for people to choose between the various lives they may want to live.

The most important feature for such an institutional framework is that the distribution of income is unconditional. This is something radically different from contemporary welfare states, which have developed in Western countries since the Second World War in several respects. These are welfare states in which welfare benefits are conditional. First, in most welfare states, to be entitled to a welfare benefit, one must accept a suitable job or be willing to accept suitable training. Second, good grounds to believe that one has no access to a sufficient income must be presented. Third, the height of the benefits is dependent on the household situation, for example whether one lives alone or not. Fourth, in some welfare states, the place of residence influences the height of the benefit, for example benefits can differ for people who live in metropolitan or provincial areas (Van Parijs, 1995). The idea of an unconditional basic income differs radically from this, in the sense that, according to Van Parijs, a basic income must be an income that is paid to each member of society unconditionally (1), even if she or he is not willing to work (2), whatever the household situation (3) and wherever she or he lives (4) (Van Parijs 1995; Van der Veen and Van Parijs, 1986).

According to Van Parijs, there are several aspects that characterize an unconditional basic income. It is paid in cash, rather than in goods, for example a standardized bundle or a plot of land, for this makes it possible to do with it whatever one likes to do, which is in accordance with the idea of a free society and the highest possible opportunities (Van Parijs, 1995; Van Parijs, 2004). With a plot of land, a person might have the means to make a daily livelihood, but this means that this person must use his plot of land, while with an unconditional basic income in the form in cash, one has the means to choose between bundles of goods. Furthermore, it is paid on a regular basis, instead of a one-off endowment. So everyone receives an amount of money, say monthly, rather than a greater sum of money at the start of everybody's lives. Finally, the most striking feature of an unconditional basic income is that it is granted to everyone, regardless of present work performance or even willingness to work (Van Parijs, 2004).

The idea of an unconditional basic income and that of real freedom as formulated by Van Parijs seems to transcend formal freedom. However, Van Parijs acknowledges that there are objections to real freedom. The main objection, with regard to the fact that a free society must have a structure for the greatest possible opportunities, is that people, and some people in particular, are physically or mentally not capable to do certain things. This is related to the distinction between prohibitions and incapacities (Van Parijs, 1995). I may want to have the opportunity to become Olympic fencing champion, but if I do not have the physical condition to do so, can it be said my freedom of opportunity is limited? I may even want the opportunity to go faster than light, but am I limited in my freedom if I do not get the opportunity to do so? Van Parijs argues that this objection is useful but misguided, since what a free society should be concerned about is an institutional set-up for distributing 'mays' instead of 'cans' (Van Parijs, 1995). In other words, it is of no use to think of all

the things people can do, because it is impossible to come up with an institutional framework which makes this possible. An unconditional basic income gives people the opportunity to do things which they might want to do (Van Parijs, 1995). Incorporated into the idea of real freedom is therefore the notion that people may not be able to do all things they want to do, because of certain incapacibilities.

This however, suggests Van Parijs takes an easy way out. It is evident that not all persons in a society have the physical capacities to become Olympic champion. But to say this is a misguided argument against the conception of real freedom is misguided as well. If real freedom distinguishes itself from formal freedom by granting the highest possible opportunities, it should also provide the highest possible opportunities for someone to become Olympic champion. With regard to this example, an institutional framework that should grant the highest opportunities for everyone would not only be a framework that redistributes money to provide these opportunities (such as an unconditional basic income), but also would install other institutions that make it possible to become an Olympic champion. Therefore, such a framework should also include, for example, training programs or schools where people can train. They may not become Olympic champion, but all the means to become so will be available and this includes means that cannot be provided by the redistribution of money. Although the idea of an unconditional basic income is to provide everyone with the means to live the various lives one might wish to live, it still is a redistribution of primary goods and can therefore not account for issues that cannot be solved with these primary goods. This issue is related to the critique on any redistribution of primary goods made by the theory of capabilities, which I will discuss further on.

### **3.4 Domination and an unconditional basic income**

Before I will argue that the relationships of domination created by the contemporary welfare state do not occur under a scheme of an unconditional basic income, I will briefly outline notable other arguments that can be made in favor of an unconditional basic income. First, the so-called unemployment trap, which means that people who have been enrolled in welfare programs end up with jobs that provide an income which is not higher than welfare benefits could be eradicated. It is the never ending revolving door of assistance level welfare benefits and underpaid work in which these people are continuously trapped that can be stopped with an unconditional basic income. Also, the bargaining strength of employees becomes stronger, for they have a basic income to fall back on and economic inequality would decline (Van der Veen and Van Parijs, 1986; Van Der Veen, 1998; Robeyns, 2001). This is only a grasp of numerous arguments in favor of an unconditional basic income, which all may have some effect on relationships of domination within a society. I will now turn to my own argument why relationships of domination do not occur under a scheme of an unconditional basic income, or at least to a far lesser extent compared to contemporary welfare states.

In contrast to the contemporary welfare state in which welfare programs require that people meet certain conditions, an unconditional basic income is granted to everyone in society. The

unconditional basic income differs from the contemporary welfare in that it provides everyone a grant, whereas the welfare state only acknowledges the right on benefits from a certain point, for example unemployment or age. Furthermore, an unconditional basic income differs from the contemporary welfare state in that people are allowed to perform paid work in addition to their basic income. Whereas social assistance, for example, ends as soon as the person who makes a claim on it finds paid work, regardless of the money earned with this job, an unconditional basic income is granted to everyone with or without job. And last but not least, an unconditional basic income is granted, even if a person is not willing to perform work or is even not willing to do anything at all. People who choose to live solely off their basic income should be able to do so without government institutions demanding they contribute in some way to society. How could these differences between the contemporary welfare state and an unconditional basic income be interpreted? In other words, do these differences mean that the relationships of domination that could occur within the contemporary welfare state would be avoided under a scheme of an unconditional basic income? I have explained how the contemporary welfare state could exercise domination by discussing every clause I have included in my conception of domination. I will now use this conception of domination and discuss if an unconditional basic income would be in accordance in the same way with the clauses included in this conception as was the case for the contemporary welfare state.

First, can there be interference under a scheme of an unconditional basic income? Whether or not we can say there is interference, it is clear it would differ greatly from the interference exercised within the contemporary welfare state, simply because the interference in the form of imposed conditions for welfare benefits does not occur with an unconditional basic income. Since there are no conditions, there is also no reason to make sure the conditions are met. As a result, under a scheme of an unconditional basic income, welfare state institutions do not have to interfere in people's lives. The only interference that an unconditional basic income would exercise is that people see an amount of money appear on their bank account every month or so. Although a scheme of an unconditional basic income would impose less interference than is the case within the contemporary welfare state, there are still some conditions that have to be met. To receive a basic income, a person must be a citizen of the respective society, but must also reach a certain age (Van Parijs, 1995). However, these can be seen as some fundamental conditions that have to be met to make a claim or have a right on anything within a certain society. Therefore, these fundamental conditions also have to be met in the contemporary welfare state. Admittedly, this means that an unconditional basic income will not be completely unconditional. Still, the interference imposed by an unconditional basic income is insignificant in comparison to the interference imposed by contemporary welfare state institutions.

Second, since there is practically no interference under the scheme of an unconditional basic income, as a corollary, there is also no unpredictable or unnecessary interference. Therefore, the second clause of the conception of domination, namely that of arbitrariness of interference, is not applicable to an unconditional basic income. Whereas the contemporary welfare state could exercise

interference on an arbitrary basis, that is to say unpredictable and unnecessary, within a scheme of an unconditional basic income this would not be possible. In accordance with the model for an unconditional basic income as formulated by Van Parijs, a basic income would probably be paid every month or so. This means that every month, every person knows the basic income will be paid. It is hard to imagine it would mean that this is unpredictable for someone. Even if someone has not expected to be paid as a result of a basic income, it would still mean that there is no further interference in that person's life. In other words, suppose someone does not know a basic income will be paid to her or him, the interference caused by this payment is negligible. Thus, unpredictable interference does not occur within a scheme of an unconditional basic income. What about unnecessary interference? If we adhere to the conception of real freedom formulated by Van Parijs, an unconditional basic income is utterly necessary, for it provides everyone in society with the means to live the various lives one wishes to lead. However, for whatever reason, we may not want to adhere to this conception. As a result, we may want to propose that not every member in a society has a right to a basic income, rather only the persons who have signed themselves up for welfare state programs. If the people who do have an income are capable of making a daily livelihood, it can be argued it is not necessary to give everyone a basic income. But even if we do not adhere to the conception of real freedom, this argument cannot be used to claim an unconditional basic income is unnecessary. For it is the interference in the context of domination that must be unnecessary, not the idea or system as a whole. Since there is a negligible amount of interference under a scheme of an unconditional basic income, at least not as much as in the contemporary welfare state, the claim that it would be unnecessary does not apply within the context of domination. Thus, an unconditional basic income is neither unpredictable nor unnecessary and whatever interference occurs as a result from it, this interference can hardly be seen as arbitrary.

Finally, the third clause of domination holds that interference takes place in certain choices the affected party is able to make. This means that interference in the context of domination only takes place in a distinct sphere in someone's life, such as work or at home. With regard to the contemporary welfare state, the only sphere in which interference can take place is the sphere in which people actively engage in welfare state programs. In contrast, an unconditional basic income is always granted, one does not have to pursue the claim on a basic income actively. Therefore, leaving aside for a moment that there is practically no interference at all with an unconditional basic income, there is also no distinct sphere in which there would be interference.

Concluding, the relationships of domination that can occur within the contemporary welfare state do not occur under a scheme of an unconditional basic income. This does not mean that with an unconditional basic income there would be no domination at all, rather the relationships of domination between government welfare institutions and the people who are enrolled within programs of these institutions would not exist.

### **3.5 Alternatives for an unconditional basic income**

As I have made clear in the previous sections, Van Parijs argues that, in order to grant everyone in society real freedom, we must adhere to the idea of an unconditional basic income. There are however alternatives to an unconditional basic income. Some of these argue that an unconditional basic income as presented by Van Parijs does not ensure the highest possible opportunities at all. Other alternatives only include some elements of an unconditional basic income. I will now turn to those alternatives and discuss why an unconditional basic income is preferable with regard to domination.

#### **3.5.1 Basic Capital**

Although Van Parijs claims his formulation of an unconditional basic income is in accordance with a libertarian view, other authors have claimed there are alternatives in which a more free society is constituted and which therefore fit better within the libertarian perspective. This society can be described as a stakeholder society, in which people get a onetime grant of a certain amount of money when adulthood is reached (Ackerman and Alstott, 1999, 2004). In such a society, everyone is entitled to a one-off payment of a certain amount of money to do with as she or he likes. Proponents of this view, which mainly consist of Ackerman and Alstott who have elaborated this idea in *The Stakeholder Society*, argue that a one-off payment in the form of basic capital contributes to a more free society than the scheme of an unconditional basic income as formulated by Van Parijs. With a one off payment, people have the means to invest in long term projects, through which they can make their dreams come true. A one off payment in the form of a basic capital gives people the freedom to use this money and make big investments, whereas this is not possible with a basic income as this only grants a smaller payment within a certain period. Hence, the basic capital scheme provides more freedom than the basic income scheme and is therefore, from a libertarian perspective, the preferable alternative. Furthermore, with the scheme of basic capital, people would be able to choose if they want a one off grant, or if they want someone to hold on to it for them and give them a monthly payment (Ackerman and Alstott, 1999, 2004). The basic income scheme does not provide this choice, under this scheme people cannot choose to have their basic income as a one off payment.

So, according to Ackerman and Alstott, basic capital ensures more real freedom than unconditional basic income because people now have the opportunity to invest (in themselves or in more long term projects). It thus invites people to enhance the range of their view for the rest of their lives instead of a short-term consumerist perspective (Ackerman and Alstott, 2004). According to Ackerman and Alstott, a basic capital scheme would also stimulate people to take responsibility for their actions, whereas a basic income would undermine this responsibility. With a basic income, someone could be in severe debts but still receive a monthly payment as a basic income. In this situation, there would be no incentive to relieve the debts, since the basic income ensures a certain amount of money to live off (Ackerman and Alstott, 2004). In other words, a basic income scheme would let people make irresponsible decisions whereby they do not have to face the consequences. In

contrast, a basic capital would ensure people would take responsibility, as the basic capital is only a one off payment, which cannot be regained once it is spent.

Although Ackerman and Alstott claim their basic capital scheme contributes to a real free society to a greater extent than the basic income scheme as formulated by Van Parijs, there is some element of it that contradicts this. The initial fear that arises from the basic capital scheme is that some people will waste their one off payment and will therefore, without work, become dependent on other people. Ackerman and Alstott acknowledge this, but state that if a stake holding society is established, people will learn over generations to deal adequately with their one off payment (Ackerman and Alstott, 2004). The people who will waste their payment in the first years of a stakeholder society should do what everyone in Western societies does in contemporary times, work for their money (Ackerman and Alstott, 2004.). But in order to reduce the risk of people squandering their one off payment, Ackermann and Alstott argue that people must meet two conditions in order to be entitled for a basic capital. A person must have reached adulthood and must have acquired a high school diploma (Ackerman and Alstott, 2004). With regard to the first condition, it could be argued this applies to the basic income scheme of Van Parijs as well. In order to be entitled for a basic income, it may be desirable to have reached a certain age. However with regard to the second condition a basic income scheme does not exclude people who have not (yet) obtained a high school diploma since it is unconditional. Most people in Western societies will have obtained a high school diploma when they reach adulthood, so *de facto* it will not influence the real freedom of a society. However, *de jure* it could be argued that people should be free to choose not to obtain a high school diploma and still be entitled to some amount of money (be it in the basic capital or basic income scheme). The point is, that Ackerman and Alstott make their basic capital scheme conditional, while the basic income scheme of Van Parijs remains unconditional, which means that the latter should on this aspect provide more real freedom than the former. This indicates that while the basic capital scheme may give people more opportunity as they are free to spend their one off payment as they like, which opens the possibility of making big investments, it limits people in their freedom as it sets conditions to be entitled to a one off payment, both contrary to the basic income scheme. To compare both schemes based on the amount of real freedom they provide is therefore of no use.

In addition, it is likely that the chance of domination to occur in a stakeholder society will be higher than in a society in which there is an unconditional basic income. As Ackerman and Alstott argue, a person who squanders their one-off endowment has had her or his chance and should work to make a living. But in a society in which everyone is granted basic capital, the person who squanders it is highly disadvantaged with respect to everyone who still has their basic capital. This indicates that a person who has squandered her or his basic capital, is forced to search for work and may be forced to accept any work. If the situation requires people to accept any work in order to make a living, they may also be forced to accept any conditions made by employers. In other words, employers may make all sorts of demands from people who have squandered their basic capital for they know there is no

other option for these people. This suggests people become dependent on another and cannot live on an equal footing with each other. Without proper rules about working conditions, such a situation could easily result in one in which people are dominated by others. In contrast, an unconditional basic income can be squandered, but will not affect the rest of your life, since it will be provided every month or so. Therefore, a person will not be forced to accept any job or demands made by an employer, for she or he is granted an unconditional basic income another day. Even without proper job conditions, a basic income makes it possible for everyone to live on equal footing with each other. Thus, with regard to the possibility of relationships of domination, an unconditional basic income is favorable over a basic capital .

### **3.5.2 Unconditional Social Assistance**

Whereas under the scheme of an unconditional basic income every member of a political community is entitled to a, say monthly grant, other alternatives aim to provide only a certain group within such a community with an unconditional grant (Heilbron, 2015; MIES, 2015). Although generally inspired by the unconditional basic income, such alternatives provide everyone who is now enrolled in the social assistance program within the welfare state an unconditional grant instead of one which is conditional. So, whereas people who are now enrolled in certain programs of the welfare state have to meet conditions, as made clear in previous sections, this alternative would provide these people with money without imposing conditions. Rather, these people would be granted the money to live on an assistance level unconditionally, therefore making them less dependent on the state and thereby ensuring they can live on an equal footing with each other, at least to a greater extent than is the case with conditional social assistance. Furthermore, they would be allowed to have paid work in addition to the unconditional grant they receive. In this way, people who are enrolled in welfare programs could gradually become less dependent on the state. Proposals for experiments with unconditional social assistance have been made in Dutch municipalities such as Groningen, Nijmegen, Tilburg and Wageningen (Sibon, 2015). One might say that in order to avoid situations of domination, which I have argued can occur within the contemporary system, it is not necessary to adhere to a scheme of an unconditional basic income for everyone. Giving people who are enrolled in welfare programs unconditional funds would of course decrease the chance of relationships of domination between the state and people to occur. However, with regard to Van Parijs's conception of real freedom and domination, an unconditional basic income still is favorable over such a scheme.

First of all, this sort of scheme would to a far lesser extent be in accordance with the conception of real freedom as formulated by Van Parijs. Persons who are enrolled in such programs may have more freedom than they would have had in the contemporary system, for people who are not enrolled in welfare state programs it would mean nothing. Therefore, Van Parijs's third clause of the real free society, that of the highest attainable opportunities, would not be realized. People may still not have the means to live whatever life they might want to live. So, with regard to Van Parijs's idea

of the real free society, an unconditional basic income scheme would definitely be favorable than one of unconditional social assistance.

Second, this sort of scheme does not account for relationships of domination that could occur between people to the extent an unconditional basic income would. Assuming that the amount of money provided by unconditional social assistance is as much as the contemporary benefits for social assistance, unconditional social assistance would not be a means to realize what a person may want to do. Rather, the amount granted through unconditional social assistance would be a means to make a daily livelihood, but would still not a means to escape poverty. As a result, if a person wishes to have more money than assistance level to live off, this person has to perform paid work. This indicates that people who want to perform paid work may be required by employers to meet certain demands. The unconditional social assistance scheme therefore is much alike the contemporary welfare system, in which relationships of domination between people could occur. Even if it would reduce the chance on domination between the state and people more than the contemporary system of welfare benefits does, it still would not decrease this chance overall in the whole society as much as a scheme of unconditional basic income would. Thus, the scheme of an unconditional basic income would be favorable than one of unconditional social assistance, with regard to both the conception of real freedom and freedom from non-domination.

### **3.5.3 Participation Income**

Another alternative to the contemporary welfare state which slightly resembles an unconditional basic income is a participation income. It resembles the unconditional basic income in the way that work and income must be separated. That is to say, the whole idea of work entails something more than just paid work. Therefore, unpaid work, such as caring for children or elderly or performing some kind of community service, must be seen as work just the way paid work is. It differs from an unconditional basic income in the way that it is conditional, everyone who wants to make a claim on a participation income has to contribute to society in some way, be it by performing paid or unpaid work (Atkinson, 1996; Groot, 2004). The conditions for a participation income are thus neither related to payment or work, it is related to social contribution.

At first sight, it seems that the participation income does avoid the relationships of domination that can occur within the contemporary welfare state. The question is whether it can avoid these relationships in the way an unconditional basic income would. The conditions discussed in the previous chapter would not apply under a scheme of a participation income, since they are mainly related to the idea that a person must contribute by performing *paid* work. Although the participation income does impose the condition of social contribution, it thus does not impose conditions in such a way that relationships of domination can occur. There is one problem however, which the participation income does not (yet) seem to address. How do we determine what can be seen as social contribution and what not? For example, I may have a dog as a pet. Since I am the one who decided to have a dog, I

will also be the one who is responsible for walking the dog. Suppose now that I do not have a dog, but my neighbor has one. Unfortunately, my neighbor is not that fond of walking his dog, so I am asked to do it and since I do not mind I will. Now we have two situations in both of which I end up walking a dog. In the first situation it is my own dog, so it can hardly be seen as social contribution. In the second situation, it is not my own dog, so it may be seen as social contribution. Because I am offering my time to my neighbor by walking his dog, my neighbor has time to do some other things, so in some way I am contributing to society. At least more than I would do in the first situation. The point is that in one situation my action cannot be seen as contributing to society, but in another situation the same action might be seen as contributing to society. Therefore, in order to determine what can and cannot be seen as contributing to society we must evaluate every act in all its context.

If we want to avoid this, there must be found a way to determine what counts as contributing to society and what does not. It implies however that there is some conception of the good life of which is it justified to make people live up to this conception. In order to uphold such a conception, it cannot be ruled out that some conditions have to be imposed. As a result, we are back at square one, in which conditions imposed by government institutions can create relationships of domination. As I have argued, this will not be the case with an unconditional basic income. Thus, under a scheme of an unconditional basic income, it will be less likely for relationships of domination to occur than will be under a scheme of participation income, unless we want to evaluate every act and determine whether or not it contributes to society.

### **3.6 Against an unconditional basic income**

In the next sections, I will discuss what shortcomings on the theory of an unconditional basic income have been formulated. These shortcomings consist both of philosophical or principal and pragmatic arguments. I have divided the principal objections against an unconditional basic income in objections that are related to the conception of real freedom and objections that are related to exploitation of people.

#### **3.6.1 Objections to the concept of real freedom**

Van Parijs's view on how an unconditional basic income would provide everyone with the means to live the various lives one might want to live is first of all prone to critique that has been represented by the theory of capabilities. Primarily advocated by Martha Nussbaum and formulated as a reaction on a *Theory of Justice* by John Rawls, this theory states that the redistribution of primary goods, such as money, as in the model of an unconditional basic income does not provide the means for everyone to live the life they might want to live (Nussbaum, 2000; Nussbaum, 2003). Instead of emphasizing the redistribution of primary goods, we should focus on providing everyone with certain so-called capabilities. These capabilities represent the basic needs which should give everyone the means to live the life one might want to live. The main characteristic of these capabilities is that they transcend

redistribution schemes of primary goods. Although this very brief formulation of Nussbaum's theory is very blunt, it does point out the possible weakness of an unconditional basic income, namely that this still is a redistribution of primary goods, while some opportunities cannot be granted by primary goods. Accordingly, Van Parijs's unconditional basic income as a means to ensure real freedom focuses too much on the redistribution of primary goods, whereas some opportunities cannot be realized with these primary goods. This argument is related to the example of a person who wants to become Olympic champion, but does not have the physical capacity to do so. For example, suppose someone is partly paralyzed and is therefore limited in her or his physical capacities. If this person wants to become Olympic champion, there is no way any redistribution of primary goods in her or his favor will take away that paralyzes. It may help to support this person in overcoming certain limitations, but she or he will still be partly paralyzed. Thus, if real freedom is a concept that we as a society must value, it cannot be attained by an unconditional basic income as formulated by Van Parijs, as it does not create real freedom in the sense that it creates the highest possible opportunities. Rather, it is possible to constitute real freedom by ensuring capabilities.

Another objection against the conception of real freedom as an argument for an unconditional basic income is related to preferences and the problem of expensive tastes, which has mainly been used to criticize welfare egalitarianism. In short, welfare egalitarianism is aimed at redistributing resources in such a way that everyone in society has an equal level of welfare (Dworkin, 1981; Keller, 2002). Suppose resources are distributed in such a way that everyone in a society has an equal level of welfare. There is however, one person who propagates expensive tastes, that is to say, whereas everybody else in society may be contented with hamburgers from McDonald's, this person only wants hamburgers from specialized restaurants. In accordance with welfare egalitarianism, in order to uphold an equal level of welfare for everyone in society, every person should give in some part of her or his resources so that the expensive tastes of this person can be met and an equal level of welfare for all is created again. How is this problem related to the case for an unconditional basic income?

For one, as I have already made clear, Van Parijs claims that if we adhere to the idea of real freedom, that is the freedom to live the various lives we might want to live, we must adhere to an unconditional basic income. Second, Van Parijs argues that preferences are a person's own responsibility (Van Parijs, 1995). This means that, although you and I may have different tastes, it is our own responsibility to ensure these tastes are realized. The point is that, some persons may actually have the same tastes, but if there is at least someone who has a different taste, we must conclude that everybody else could have had this taste as well. For example, I may not like to eat spinach, but if there is at least one other person who does like to eat spinach, I could have had the preference to eat spinach as well (Van Parijs, 1995; Barry, 1996). Suppose now that in a society some people prefer leisure above income and others prefer income above leisure. Since benefits within the welfare state are conditional, therefore people are in general de facto obliged to work, the persons who value leisure relatively strong against income are worse off than those who value income relatively strong against

leisure. Thus, welfare state regimes are hard on persons who value leisure time above income. In this case, and this is the argument Van Parijs makes, because the people who value leisure do not have the opportunity to choose a life in which they do nothing all day, their preferences are relatively neglected. If the people who do actually prefer income above leisure could have had their preferences the other way around as well, than an argument based on preferences in favor of an unconditional basic income is made (Van Parijs, 1995). An unconditional basic income would namely ensure the people who do not want to work with the opportunity to do so, while preserving the opportunity to work besides a basic income for the people who do prefer income above leisure. Hence, in accordance with Van Parijs's third principle of real freedom, namely that of providing the highest possible opportunities for everyone, an unconditional basic income does seem to ensure that preferences are met that could otherwise not have been met. This is what Van Parijs calls undominated diversity (Van Parijs, 1995).

This however is argued against by Brian Barry, who claims that the people who prefer income above leisure are now disadvantaged. For if an unconditional basic income would be implemented, income tax rates would probably also increase. This is one economic aspect of an unconditional basic income for which Van Parijs argues (Van Parijs, 1995) This would mean that the people who want to work on top of their basic income have to pay more taxes than they would within the welfare state. In other words, those who still want to work beside their basic income will end up with less income than they would have within a welfare state (Barry, 1996). As a result, we cannot say real freedom has increased under a scheme of an unconditional basic income based on preferences, because the preferences of the people who do want to work, or value income relatively strong against leisure, now are relatively neglected (Barry, 1996). Thus, even if an unconditional basic income would be implemented it does not indicate that real freedom adhered to by Van Parijs is actually created. It disadvantages those who value income relatively strong against leisure.

So, Nussbaum's capabilities approach does address the problem of inequalities that are not surmountable by redistributing primary goods and Barry's critique addresses the problem of expensive tastes. Since the unconditional basic income still is a redistribution of primary goods and since it cannot adequately deal with the problem of expensive tastes, it seems that it does not fit within the conception of real freedom as Van Parijs argues. Although both of these critiques discuss the apparent shortcomings of the conception of real freedom, they are not relevant for my own argument. It has not been my intention to argue for an unconditional basic income in the light of real freedom, neither is it my intention to discuss any other scheme that tries to create real freedom. What I have done, is make the claim that an unconditional basic income creates less relationships of domination than the contemporary welfare state. Again, it is not my aim to argue for a basic income for the sake of the highest attainable freedom. Without a doubt would the capabilities approach create more opportunities and therefore more freedom than would any form of redistribution of primary goods. Without a doubt is an unconditional basic income not the ideal way to deal with the problem of expensive tastes. It does however, avoid relationships of domination between government institutions and citizens. At

least more than contemporary welfare states do. These arguments against the conception of real freedom do however lead to a useful observation, namely that there may be approaches through which freedom as non-domination can be constituted to a greater extent than can be done with an unconditional basic income.

### **3.6.2 The exploitation objection**

The most heard objection to the idea of an unconditional basic income relates to the idea of reciprocity or the reciprocity principle. In short, this principle holds that those who enjoy economic benefits of social cooperation, as in a society, have an obligation to make a productive contribution to society if they are able to do so (White, 1997; Van Donselaar, 2008). All members of a society should contribute in some way to this same society. In accordance with this principle, it is unfair to enjoy the benefits of society without making a contribution of one's own. Without making a contribution, one would treat the others in a society merely as instruments for one's own well-being, which would go against the Kantian notion of individuals as ends in themselves (White, 1997). According to Stuart White, we cannot expect everybody to contribute equally to society, as some people have less physical or mental capabilities. Therefore, according to White, a distributive scheme which is in accordance with the reciprocity principle should entail that, in return for a decent minimum income, each citizen has an obligation to perform a minimum of contributive activity, and the size of this contribution should depend on one's capability to do so. This is what White calls baseline reciprocity (White, 1997; Van Der Veen, 1998). The objection against an unconditional basic income stresses that those who receive a decent minimum income but do not comply with their obligation to contribute accordingly violate the principle of baseline reciprocity, and therefore take advantage of other people in society. In other words, without contributing accordingly for receiving an income of whatever kind, a situation in which exploitation of people is possible is created.

Although Van Parijs acknowledges the exploitation argument, he argues that people still must have the opportunity not to work under a scheme of an unconditional basic income. His arguments can be spelled out as follows. As already made clear, Van Parijs states that the highest attainable opportunity is an important aspect of a free society. His first claim is that every person should have an equal opportunity to pursue a conception of the good life, whatever this may be (Van Parijs, 1995). This equal opportunity however, is influenced by personal capabilities and by external wealth. Since it is not Van Parijs's aim to create an institutional framework for equalizing (in)capabilities, the focus for creating the highest attainable opportunity should be on the external wealth. Van Parijs' second claim is that every person is entitled to an equal share of external wealth, which must take the form of an unconditional basic income equal to the value of per capita share of available external wealth (Van Parijs, 1995). In other words, to come up with a fair height for an unconditional basic income, we should look at the total available external wealth and give everybody a highest possible equal share. Van Parijs then argues that, if we accept this claim, each person in an advanced capitalist society has a

right to an unconditional basic income, since the capita share of external wealth is a substantial income which is enough to cover a standard set of basic needs (Van Parijs, 1995). That is to say, since there is at least enough external wealth in advanced capitalist societies to provide every member of such a society with the means for a daily livelihood, these means should be provided. But this still does not solve the exploitation objection. Subsequently, Van Parijs argues that jobs are assets that are part of the external wealth (Van Parijs, 1995). Since Van Parijs assumes jobs still are scarce goods if a scheme of an unconditional basic income is introduced, i.e. there are too many persons for the number of jobs available, he states that jobs can be seen as a part of the total external wealth and that everybody who has a job, regardless of the income of that job, has already some form of external wealth (Van Parijs, 1995; Van Der Veen 1998). Accordingly, if jobs are some form of external wealth, it is justified to grant an unconditional basic income to each person, even if a person decides to do nothing and therefore does not contribute to the society since they have no job and therefore have less external wealth. Furthermore, in a society in which jobs are scarce, the people who do not work under a scheme of an unconditional basic income may not contribute to society, but by not performing paid work they decrease competition for jobs for people who do want to work (McKinnon, 2003). In this way, the people who do want to work are better off than if everyone would want to work.

According to White, the fact that jobs are assets and therefore can be seen as external wealth is not convincing. White argues that job assets are not economic benefits of social cooperation, which is in accordance with Van Parijs's argument, but jobs can only constitute an asset in the context of a cooperative society (White, 1997). In other words, without some form of cooperation within society it is not possible to create jobs. As White puts it, there are no jobs in a state of nature (White, 1997). So, if we see jobs as assets, which is not inconceivable in contemporary societies, they can be seen as the primary ways to gain access to the benefits of cooperation. Therefore, it is reasonable to see the claim on an equal share on external wealth, of which jobs are a part, as a claim derived from the benefits of social cooperation. In sum, jobs as assets are constituted by a context of social cooperation and can be seen as some form of external wealth, whereby the claim on an equal share of the total of external wealth is a claim on social cooperation, therefore, under the principle of reciprocity, it is not justified to get an equal share of the external wealth without contributing to the community (White, 1997).

Whether or not we can say this settles the debate on exploitation and an unconditional basic income, we can say White and Van Parijs differ in their view on what is morally important, that is to say, whether reciprocity and contributing to society is more important than individual freedom and the right to live the various lives one might want to live. Whereas White adheres to the view that every person should contribute according to her or his capacities to society, Van Parijs argues that every person must have the opportunity to not work or do nothing. I do not intend to argue which one is right. What I do intend to argue however from a republican perspective, is that domination exercised by the contemporary welfare state can be excused by holding on to the reciprocity principle. In other words and for some part, welfare state domination can occur because we adhere to the reciprocity

principle. It is the idea that each person must contribute to society in some way that justifies conditions that require people who are enrolled in welfare state programs to apply for and accept every job they can find, even if the income from such a job is barely higher than social welfare payments. It justifies conditions that force people to follow trainings and live up to suggestions made by potential employers. It thus justifies unpredictable and unnecessary interference. So, my argument against domination by the welfare state is in some part an argument against the reciprocity principle. I do not intend to claim that all welfare state interference in the form of imposing conditions is a result of reciprocity. Neither do I want to claim that reciprocity is not something valuable. It is however, a means to justify the conditions which create relationships of domination. This indicates that whether White's argument against an unconditional basic income must be accepted or can be refuted, it is an argument which is based on a principle that can be used to justify domination by the welfare state. Thus, even if White's argument is accepted, it still does not threaten my argument that an unconditional basic income would create far less situations of domination than the contemporary welfare state.

### **3.6.3 Practical objections**

Next to the philosophical objections discussed in the previous sections, an unconditional basic income encounters some practical objections as well. First, it would be impossible to finance an unconditional basic income. Admittedly, current tax systems would probably not respond well to the implications an unconditional basic income would have in society. With an unconditional basic income, the revenues of income taxes would certainly decline. As a result, a government has less income, which is a major problem if there is an unconditional basic income to be financed for everyone in society. The point is, that although there are several political perspectives from which an unconditional basic income could be argued for, in practice, it would engulf most of the government expenditures, and therefore it would be an great economic risk. Second, one could argue that with an unconditional basic income, labor market participation would drastically decline. This objection is related to the first in the way that if labor market participation would drastically decline, the revenues from income taxes would also drastically decline, leaving a government with no funds. Experiments with variations of the basic income scheme indicate that, although most of the people would indeed perform less paid work than they did before, labor market participation would not decline as drastically as opponents to an unconditional basic income claim (Forget, 2011). However, these are just experiments in closed environments. It is not clear how a whole society would react if an unconditional basic income would be introduced. Although these objections are important in the debate about an unconditional basic income, they are not relevant for this thesis. I have only discussed them briefly to clarify that I am aware of these practical objections, but they are objections which must be dealt with another time.

## 4. Conclusion

The argument in this thesis can be summarized as follows: contemporary Western welfare states create relationships of domination by imposing certain conditions for welfare benefits, therefore limiting the freedom of people who are enrolled in welfare state programs, and in order to avoid these relationships of domination we should adhere to a scheme of an unconditional basic income.

To support this claim, I first discussed the conception of domination as formulated by Philip Pettit and based on this have formulated my own conception. Deviating from Pettit's initial conception, I have argued relationships of domination can be defined as relationships in which the one who dominates can exercise interference which is unpredictable and unnecessary. Again, I want to make clear this interpretation may not include all possible forms of arbitrary power we could imagine, but is a workable interpretation which has at least some core elements of arbitrariness encapsulated. Subsequently and in accordance with this conception of domination, I have argued contemporary welfare states may create relationships of domination by imposing conditions which are unpredictable and unnecessary. Examples of such conditions included the requirement to apply for and accept any job, the requirement to follow training programs as determined by welfare state institutions and the requirement to live up to suggestions made by possible employers. Concluding, this means welfare state institutions can create relationships of domination.

Initially, the welfare state may have been created to provide people in their daily livelihood who do not have the means themselves, thereby granting them the independence to live on equal footing with each other. Nowadays, contemporary welfare states impose conditions that limit the freedom of the people who are enrolled in welfare programs to such an extent, that these values are overturned. Indeed, I have argued that these imposed conditions can be seen as relationships of domination, which in accordance with the republican thought, cannot exist within a republic. My argument thus contradicts the assumption generally made by republicans that relationships of domination between state and public cannot occur. With regard to the welfare state, this leaves republicans with two options, either acknowledge and accept that governments can create relationships of domination, or argue in favor of an unconditional basic income. In other words, contemporary Western welfare states do not fit in the ideal republic, whereas an unconditional basic income does, at least to a far greater extent. From a republican perspective, an unconditional basic income should be adhered to in favor of the contemporary welfare state.

In the second part of this thesis, I discussed the idea of an unconditional basic income as formulated by Philippe Van Parijs. An unconditional basic income, as Van Parijs argues, constitutes real freedom. In addition to the security of rights and self-ownership, which are characteristics of formal freedom, a really free society should also provide each person with the greatest possible opportunities. With an unconditional basic income, each member of a society has the means to live the various lives one might want to live. I have argued that the relationships of domination that can occur

within the contemporary welfare state do not occur under a scheme of an unconditional basic income. It provides every member of a society with the means necessary to provide in a daily livelihood without imposing conditions. Thus, if relationships of domination are to be eradicated, we should favor an unconditional basic income over the contemporary welfare state.

Also, I have shown why some arguments against an unconditional basic income do not threaten the validity of my own argument. Although Van Parijs's conception of real freedom may be prone to criticism and although it could be argued some people get exploited under a scheme of an unconditional basic income, the claim that an unconditional basic income creates fewer relationships of domination than the contemporary welfare state still holds. Since an unconditional basic income is a redistribution of primary goods, it cannot grant opportunities that are not surmountable with these primary goods. This does not mean that the relationships of domination that may occur within the contemporary welfare state are not surmountable by the redistribution of primary goods under an unconditional basic income. Furthermore, an unconditional basic income would make it possible for people to stop working altogether or contribute to society in any way, while still receiving money generated by others. This violates the reciprocity principle and therefore seems to be unfair. However, as I have argued, the reciprocity principle may be the very means by which relationships of domination created by welfare state institutions are justified. Therefore, the reciprocity principle cannot be accepted if I want to defend my own argument against welfare state domination. Also, alternatives that resemble an unconditional basic income, such as basic capital or unconditional social assistance, do not eradicate relationships of domination as much as an unconditional basic income. Under a scheme of basic capital or unconditional social assistance, relationships of domination that are created by government welfare institutions may not occur as much as would be within the contemporary welfare state, these relationships still may occur between citizens among each other.

Whereas arguments in favor of an unconditional basic income are mainly based on the idea that it constitutes real freedom, my aim has been to argue how it also can avoid situations in which freedom is limited. In accordance with republicanism, in which it is stressed that citizens of a society (in this case the republic) should be able to live on equal footing with each other, an unconditional basic income would be a means to achieve such a thing. Thus, with regard to the research question presented in the introduction, an unconditional basic income would avoid or eradicate the relationships of domination that may now occur within the contemporary welfare state.

Throughout the years, the idea of an unconditional basic income has been argued for from different political thoughts such as liberalism, libertarianism, egalitarianism and communitarianism. In this thesis, I have argued in favor of an unconditional basic income from a republican perspective and claimed that it constitutes freedom as non-domination to a far greater extent than the contemporary welfare state. Therefore this thesis is an addition to the argument in favor of an unconditional basic income.

Furthermore, I have shown that government institutions can create relationships of domination. This claim is often denied by republican theorists, for the state represents the public by means of self-governance, and it is impossible that someone would choose to be governed through a relationship of domination in a republic. This insight seems to be enough reason to question if there are other government institutions that can create such relationships. For republican theorists this is an important question, for it reveals what government institutions can exist within the ideal republic in which there is freedom as non-domination.

The conception of domination however, and this includes both Pettit's and my own, still seems to have some problematic elements. Although I have argued for unpredictable and unnecessary interference in the context of domination, these two aspects cannot cover the whole idea of arbitrary power. But what aspects are there that can completely cover the idea of arbitrary power? Given that such a question could be asked indicates that the conception of domination, and especially that of arbitrary power, is a conception that needs to be worked out more extensively. Consequently, the conclusions I have drawn based on the examples from specific welfare policy implementations may be evaluated differently if another conception of domination would be formulated. Nonetheless, the fact that these specific implementations fit into the conception of domination as I have formulated indicate welfare state institutions in a way limit the freedom of the persons who are enrolled in welfare programs.

Also, and I have discussed this briefly, there are of course practical objections to an unconditional basic income. These objections are mainly related to the costs and the possible withdrawal of people from the labor market. Although I do not see it my duty to confront these objections, for it would rather be the task of an economist to investigate whether an unconditional basic income is affordable than of a political theorist, they are however valid objections in the debate regarding an unconditional basic income.

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# Appendix I

## Beleidsregels verplichtingen en maatregelen Participatiewet 2015

Burgemeester en wethouders van de gemeente Nijmegen;

### A. Verplichtingen

#### 1. Inlichtingsplicht

Artikel 17 lid 1 Participatiewet en artikel 13 Ioaw/Ioaz geven aan dat belanghebbende onverwijld uit eigen beweging mededeling dient te doen van alle feiten en omstandigheden die van invloed kunnen zijn op arbeidsinschakeling of recht op bijstand.

Voor het begrip *onverwijld* hanteert het college de regel dat de belanghebbende nadat het feit zich heeft voorgedaan, hier melding van dient te doen op het eerstvolgende in te leveren statusformulier, voor zover het feiten betreft waarnaar op het statusformulier wordt gevraagd.

Voor zover het feiten en omstandigheden betreft waarnaar op het statusformulier niet wordt gevraagd wordt onder *onverwijld* verstaan onmiddellijk nadat het feit of de omstandigheid zich heeft voorgedaan.

Tot feiten en omstandigheden die van invloed zijn op de arbeidsinschakeling en het recht op bijstand rekent het college in ieder geval (onbetaald)werk, inkomsten, woon- en leefsituatie vermogenspositie en scholingsactiviteiten. Voor wat betreft de feiten die van invloed zijn op de arbeidsinschakeling stelt het college dat in ieder geval gegevens dienen te worden verstrekt over:

- Arbeidssituatie
- Genoten opleidingen en behaalde diploma's
- (Onbetaald )werk of scholingsactiviteiten
- Vakantie(s)
- Lichamelijke of psychische belemmeringen bij de arbeidsinschakeling
- Detentie
- Verslavingsproblematiek
- Schuldenproblematiek

#### 2. Medewerkingsplicht door belanghebbenden

Artikel 9 lid 1 onder b Participatiewet verplicht de belanghebbende onder andere mee te werken aan een onderzoek naar zijn arbeidsinschakeling. Artikel 17 lid 2 Participatiewet verplicht de belanghebbende medewerking te verlenen die redelijkerwijs nodig is voor de uitvoering van de wet. Het college hanteert voor wat de medewerkingsverplichtingen de volgende regels:

- Het college acht het in ieder geval voor een goede uitvoering van de wet noodzakelijk dat belanghebbende verschijnt bij oproepen door het college, het jongerenloket, het UW V werkbedrijf en alle partijen die in het kader van de arbeidsinschakeling een rol spelen. (Denk hierbij o.a. aan bijvoorbeeld medewerkers van het werkbedrijf, werkgevers, scholingsinstituten, bedrijfsarts, Arbodiensten, werkcorporaties);
- Onder het meewerken aan de uitvoering van de wet als het gaat om arbeidsinschakeling wordt begrepen dat de belanghebbende bij ziekte zich conform de regels ziek meldt en meewerkt aan ziekteverzuimcontrole en ziekteverzuimbegeleiding,

dat de belanghebbende meewerkt aan scholing, trainingen en andere producten, voorzieningen of vormen van ondersteuning die het college inzet om de arbeidsbekwaamheid te behouden of te bevorderen. Het onder andere zonder acceptabele redenen geen gehoor geven aan oproepen van de bedrijfsarts, het niet te woord staan van lekencontroleurs, niet verschijnen op les- of trainingsdagen wordt gezien als het niet meewerken aan het behoud of bevorderen van de arbeidsbekwaamheid. Onder het meewerken aan activiteiten of werkzaamheden gericht op arbeidsinschakeling, wordt ook begrepen dat de belanghebbende zich als goed werknemer gedraagt op een (leer)werkplek. Onder het meewerken aan het opstellen, uitvoeren en evalueren van het plan van aanpak als bedoeld in artikel 44a van de wet wordt door het college ook begrepen het meewerken aan bijstellingen van dit betreffende plan.

Onder het meewerken aan een onderzoek als bedoeld in artikel 9 eerste lid onder b van de wet wordt door het college ook begrepen het verlenen van toestemming aan de persoon of de instelling die het betreffende onderzoek heeft verricht, om de resultaten van het onderzoek bekend te maken aan het college of door het college ingeschakelde uitvoeringsorganisaties.

### **3. Verstrekking van gegevens**

Artikel 53a Participatiewet geeft het college de bevoegdheid te bepalen welke gegevens door een belanghebbende in ieder geval verstrekt moeten worden als het gaat om het bepalen van het recht op en de voortzetting van de bijstand. Tevens bepaalt het college welke bewijsstukken moeten worden overgelegd en de wijze en het tijdstip waarop de verstrekking van de gegevens moet plaats vinden.

Het college stelt als regel dat de belanghebbende voor het recht op bijstand, of de voortzetting daarvan, in elk geval gegevens dient te verstrekken over:

- Inkomen
- Vermogen
- Woonomstandigheden
- Gezinsamenstelling
- Inlichtingen over de omstandigheden die hebben geleid tot de bijstandsafhankelijkheid.

### **4. Niet tijdig verstrekken van inlichtingen**

Artikel 53a Participatiewet geeft het college de bevoegdheid het tijdstip te bepalen waarop gegevens verstrekt moeten worden.

De belanghebbende moet tijdig inlichtingen verstrekken. Dit wil zeggen dat de belanghebbende binnen de termijn die daarvoor is gesteld inlichtingen moet verstrekken. In praktijk betekent "niet tijdig" het volgende:

- De belanghebbende levert de informatie niet in voor de datum die is aangegeven.
- De belanghebbende verschijnt niet bij een oproep in het kader van het vaststellen van het (voortgezette) recht op bijstand.

Is dit het geval, dan wordt de bijstandsuitkering opgeschort.

### **5. Opschorten van de bijstand**

Artikel 54 Participatiewet geeft het college de bevoegdheid om bij het verwijtbaar aan de belanghebbende ontbreken van gegevens of bij het niet tijdig of onvolledig verstrekken van gegevens door de belanghebbende, zowel met betrekking tot de uitkering als de arbeidsinschakeling de bijstand voor een maximale periode van acht weken op te schorten. Het college handelt bij het niet volledig verstrekken van de inlichtingen als volgt:

De bijstand wordt opgeschort en een hersteltermijn wordt gegeven bij het niet verschijnen op een oproep in het kader van de rechtmatigheid.

De bijstand kan worden opgeschort bij het niet verschijnen op een oproep in het kader van de doelmatigheid in de volgende situaties:

- Een belanghebbende wordt door het college schriftelijk opgeroepen om te verschijnen op een bepaalde plaats en tijd in verband met het aanbieden van een voorziening gericht op arbeidsinschakeling en de belanghebbende werkt niet mee aan die oproep.
- Een belanghebbende wordt door het college schriftelijk opgeroepen om te verschijnen op een bepaalde plaats en tijd voor een onderzoek naar de voortgang van een aangeboden voorziening gericht op arbeidsinschakeling en de belanghebbende werkt niet mee aan dit onderzoek.

#### *Ingangsdatum en termijn van opschorting:*

Het recht op bijstand wordt opgeschort vanaf de eerste dag van de periode waarop het verzuim betrekking heeft. Dat kan dus een moment in het verleden zijn.

Bij het niet tijdig inleveren van een formulier is dat de eerste dag van de periode waarop het in te leveren formulier betrekking heeft, of vanaf de dag van het verzuim, indien niet kan worden bepaald op welke periode het verzuim betrekking heeft. De dag van het verzuim is de dag waarop het verzuim vastgesteld wordt, veelal dus de dag van het onderzoek. In de praktijk vindt opschorting plaats ingaande de eerste van de lopende kalendermaand voor zover de uitkering van die maand nog niet is betaald. Is de uitkering al wel betaald dan vindt opschorting plaats ingaande de eerste van de volgende kalendermaand.

#### *Mededeling van de opschorting en hersteltermijn*

Het college doet per beschikking mededeling van de opschorting aan de belanghebbende en nodigt hem uit vóór een bepaalde datum het verzuim te herstellen (hersteltermijn). De duur van de hersteltermijn is afhankelijk van de aard van het verzuim, maar kan kort zijn, bijvoorbeeld een dag of een week.

#### *Verzuim wel/niet hersteld*

Indien de belanghebbende het verzuim binnen de hersteltermijn herstelt dan wordt de opschorting opgeheven.

Indien de belanghebbende het verzuim niet herstelt binnen de hersteltermijn, dan wordt na het verstrijken van de hersteltermijn het besluit tot toekenning van de uitkering ingetrokken met ingang van de ingangsdatum van de termijn van opschorting.

## **6. Algemeen geaccepteerde arbeid**

Artikel 9 lid 1 Participatiewet en artikel 37 lid 1 Ioaw/Ioaz bepalen dat belanghebbende naar vermogen algemeen geaccepteerde arbeid dient deze te aanvaarden, te verkrijgen en te behouden. Voor deze verplichting is mede van belang welke arbeid algemeen geaccepteerd wordt geacht.

Algemeen geaccepteerde arbeid wordt gedefinieerd als: alle arbeid die maatschappelijk aanvaard is en die niet indruist tegen de integriteit van de belanghebbende. Het college interpreteert het begrip "indruisen tegen de integriteit" als volgt: er is sprake van indruisen tegen de integriteit van de belanghebbende bij werk in de prostitutie. Van indruisen tegen de integriteit van de belanghebbende kan ook sprake zijn als het werk indruist tegen de (geloofs)overtuiging waarnaar de belanghebbende daadwerkelijk handelt.

Met indruisen tegen de integriteit van de persoon wordt niet bedoeld dat de belanghebbende werk mag weigeren dat hij onder zijn niveau vindt.

De belanghebbende mag ook geen onredelijke eisen stellen in verband met te verrichten algemeen geaccepteerde arbeid. Onder het stellen van onredelijke eisen in verband met de door de belanghebbende te verrichten algemeen geaccepteerde arbeid, die het aanvaarden, verkrijgen en behouden van algemeen geaccepteerde arbeid belemmeren, wordt ook begrepen het zich dusdanig beperkt opstellen dat bemiddeling naar algemeen geaccepteerde arbeid gefrustreerd wordt. Dit acht het college onder andere het geval bij het vasthouden aan beroepswensen die niet reëel worden

geacht, het stellen van onredelijke looneisen, het niet dan wel in te beperkte mate bereid zijn te reizen naar de werkplek, het zich dermate afwijkend gedragen tijdens sollicitatiegesprekken dat bemiddeling niet slaagt. Arbeid als zelfstandige wordt ook gezien als algemeen geaccepteerde arbeid.

## **6.1 Naar vermogen trachten algemeen geaccepteerde arbeid te verkrijgen, te aanvaarden en te behouden**

Artikel 9 lid 1 Participatiewet en artikel 37 lid 1 Ioaw/Ioaz bepalen dat belanghebbende naar vermogen algemeen geaccepteerde arbeid dient te verkrijgen. Bij het bepalen of een belanghebbende naar vermogen algemeen geaccepteerde arbeid tracht te verkrijgen hanteert het college de volgende vuistregels/minimumeisen:

- ingaan op verwijzingen of suggesties naar een werkgever met werk, alsmede ingaan op verwijzingen voor noodzakelijke scholing;
- ingaan op verzoeken tot inschrijving bij uitzendbureaus;
- conform een plan van aanpak zich inschrijven, dan wel zijn inschrijving vernieuwen, bij uitzendbureaus en het aantal afgesproken sollicitaties per week verrichten;
- het opstellen en actualiseren van een c.v.;
- het deelnemen aan activiteiten die het solliciteren en de sollicitatievaardigheden bevorderen.

Als het gaat om het “naar vermogen trachten” zal het college steeds individueel beoordelen wat de capaciteiten, vaardigheden en (on)mogelijkheden van de belanghebbende zijn en de op te leggen verplichtingen in het kader van arbeidsinschakeling, daarop afstemmen.

## **7. Ontheffing verkrijgen algemeen geaccepteerde arbeid**

Artikel 9 lid 2 Participatiewet en artikel 37a Ioaw/Ioaz bepalen dat het college in individuele gevallen een tijdelijke ontheffing kan verlenen van de verplichting tot arbeidsinschakeling als bedoeld in artikel 9 lid 1 onder a, als hiervoor dringende redenen aanwezig zijn.

Naar het oordeel van het college zijn er dringende redenen om een tijdelijke ontheffing van de verplichting naar vermogen algemeen geaccepteerde arbeid te verkrijgen:

- indien op grond van een medisch onderzoek of anderszins, is vastgesteld dat de belanghebbende arbeidsongeschikt is;
- indien de combinatie van zorg voor kinderen dan wel mantelzorg en arbeid niet mogelijk is
- indien gelet op de leeftijd, arbeidsverleden, (on)mogelijkheden van de belanghebbende en de arbeidsmarktsituatie arbeid niet mogelijk is.

De ontheffing is altijd tijdelijk en de periode wordt bepaald door de duur van de omstandigheden die maken dat belanghebbende nog niet algemeen geaccepteerde arbeid kan aanvaarden. Steeds wordt na afloop van de periode opnieuw beoordeeld in hoeverre er dringende redenen zijn om de belanghebbende te ontheffen van de verplichting algemeen geaccepteerde arbeid te aanvaarden.

### **7.1 Ouder(s) met verzorgende taak voor kinderen**

De algemene beleidslijn is dat het hebben van de zorg voor kinderen op zichzelf niet leidt tot een ontheffing.

#### *Gehuwden*

Voor gehuwden geldt de plicht tot arbeidsinschakeling in beginsel voor ieder van hen, ook als er binnen het gezin kinderen zijn. Wanneer de zorg voor kinderen moet worden gecombineerd met arbeid is het aan beide gehuwden om hierin samen tot een verdeling te komen, waarbij de kansen op toetreding tot de arbeidsmarkt leidend moeten zijn. Met andere woorden: het kan niet zo zijn dat de ouder met een grote kans op toetreding tot de arbeidsmarkt geen uitvoering geeft aan de plicht tot arbeidsinschakeling

vanwege de zorg voor de kinderen, terwijl de andere ouder deze zorg ook voor zijn rekening kan nemen.

Een ontheffing van de arbeidsverplichting op grond van dringende redenen kan aan de orde zijn wanneer voor de alleenstaande ouder (ongeacht de leeftijd van de kinderen) de combinatie van zorg met arbeid niet mogelijk is. Er moet dan sprake zijn van objectiveerbare omstandigheden, bijvoorbeeld ziekte of gedragsproblemen bij kinderen. Voorkomen moet worden dat arbeidsinschakeling negatieve gevolgen heeft voor de kwaliteit van zorg en opvoeding binnen het gezin.

In ieder geval ten aanzien van een alleenstaande ouder met zorg voor kinderen tot 12 jaar dient beoordeeld te worden:

- is passende kinderopvang beschikbaar?
- is in voldoende mate voldaan aan de eis van scholing?
- hoe is de belastbaarheid van de alleenstaande ouder? (hierbij kunnen bijv. een rol spelen: opleidingsniveau, werkervaring, zelfredzaamheid, schuldenproblematiek, huisvestingsproblemen).

## **7.2 Mantelzorg**

Ook het verrichten van intensieve mantelzorgtaken kán een dringende reden zijn voor (gedeeltelijke) ontheffing van de plicht tot arbeidsinschakeling. Dit is alleen het geval indien:

- er sprake is van een zodanige hulpbehoefte dat het ontbreken van zorg sociaal en medisch onverantwoord moet worden geacht; en
- er geen of onvoldoende voorzieningen zijn (bijv. thuiszorg, PGB – denk bij dit laatste ook aan de mogelijkheid PGB aan te wenden t.b.v. de mantelzorger!).

## **7.3 Medisch/psychische redenen**

Op grond van artikel 9, vijfde lid Participatiewet zijn volledig en duurzaam arbeidsongeschikten, als bedoeld in artikel 4 van de Wet werk en inkomen naar arbeidsvermogen volledig vrijgesteld van zowel de arbeids- als de re-integratieverplichting. Voor zover een uitkeringsgerechtigde niet onder deze groep valt kunnen medische en/of psychische gronden een dringende reden zijn voor (tijdelijke) ontheffing van de arbeidsverplichting. Dit is ter beoordeling aan de klantmanager/medewerker werkbedrijf o nodig ondersteund door een verklaring van huisarts of behandelend specialist. Te denken valt aan verblijf in een inrichting/verzorgingshuis, terminale ziekte, drugs-/alcoholverslaving. In die gevallen, dat een verklaring van huisarts of behandelend specialist naar het oordeel van de klantmanager/medewerker werkbedrijf onvoldoende duidelijk maakt dat verkrijgen of aanvaarden van arbeid niet kan worden verlangd, kan een medisch advies worden opgevraagd.

## **7.4 Gehele of gedeeltelijke ontheffing**

De ontheffing van de arbeidsverplichting dient te worden afgestemd op de individuele situatie. De ontheffing kan gelden voor een beperkt aantal uren per week. Een ontheffing van de arbeidsverplichting vanwege het ontbreken van voldoende opvang voor schoolgaande kinderen zal bijvoorbeeld een gedeeltelijke ontheffing zijn. Voor de uren dat de kinderen naar school gaan is immers geen aanleiding voor een ontheffing.

## **8. Verplichting artikel 55 Participatiewet**

Artikel 55 Participatiewet geeft het college de bevoegdheid nadere verplichtingen aan de bijstandsverlening op te leggen waaronder begrepen een verplichting om, op advies van een arts, zich te onderwerpen aan een noodzakelijke behandeling van medische aard. Van deze bevoegdheid maakt het college in ieder geval in de volgende situatie gebruik:

- Onder op advies van een arts zich te onderwerpen aan een noodzakelijke behandeling wordt ook begrepen de adviezen van de door het college ingeschakelde bedrijfsarts opvolgen.

## **B. Maatregelen**

### **1. Afstemming maatregelen**

Artikel 18 lid 10 van de Participatiewet en artikel 3 lid 2 van de Maatregelenverordening Participatiewet bepalen dat het college een op te leggen maatregel afstemt op de omstandigheden van de belanghebbende en diens mogelijkheden om middelen te verwerven, indien er naar het oordeel van het college gelet op bijzondere omstandigheden een dringende reden daartoe noodzakelijk is.

Alvorens een maatregel op te leggen beoordeelt het college altijd in hoeverre er sprake is van bijzondere omstandigheden die een dringende reden opleveren om de maatregel te matigen dan wel niet op te leggen.

Van bijzondere omstandigheden die een dringende reden opleveren kan bijvoorbeeld sprake zijn als de op te leggen maatregel onevenredige gevolgen heeft voor de financiële en sociale omstandigheden van een gezin met kinderen.

Ook kan er sprake zijn van bijzondere omstandigheden als in de persoon gelegen factoren de oorzaak zijn van het feit dat de belanghebbende de opgelegde verplichting niet is nagekomen.

### **2. Maatregel bij gehuwden / gezamenlijke huishouding**

Artikel 5 lid 1 van de Maatregelenverordening Participatiewet bepaalt dat de maatregel wordt toegepast op de bijstandsnorm.

Dit betekent indien er sprake is van gehuwden dat de maatregel over de gehele gezinsbijstand wordt opgelegd dit ongeacht wie de gedraging gepleegd heeft.

Het college geeft hierop de navolgende aanvullende regel:

Als er sprake is van echtscheidings situatie tijdens een lopende maatregel wordt de maatregel toegepast op de uitkering van degene die het maatregelwaardig gedrag heeft getoond.

De maatregel vervalt tevens als degene die het maatregelwaardig gedrag heeft getoond komt te overlijden.

### **3. Heroverweging maatregel**

Artikel 18 lid 3 Participatiewet geeft het college de opdracht om een besluit tot verlaging van de bijstand binnen een termijn van ten hoogste drie maanden te heroverwegen.

Het college geeft aan deze verplichting de navolgende invulling: alleen bij een maatregel van drie maanden of langer, die is opgelegd wegens niet voldoen aan de opgelegde verplichtingen van artikel 9 lid 1 onder a en b en c Participatiewet, wordt heroverwogen.

In de overige gevallen niet. Een maatregel wordt immers opgelegd met als doel toekomstig gedrag te veranderen.

Beoordeeld moet worden of het redelijk is dat de opgelegde maatregel wordt gecontinueerd. Daarbij wordt gekeken naar de omstandigheden waarin belanghebbende verkeert (deze kunnen immers zijn gewijzigd waardoor een matiging of beëindiging van de maatregel aan de orde is), maar bijvoorbeeld ook of de belanghebbende nu wel aan zijn verplichtingen voldoet (maatregel beoogt immers een gedragsverandering te bewerkstelligen). Indien deze na 3 maanden voldoende merkbaar is, heeft de maatregel reeds op dat moment het beoogde effect.

Het resultaat van de heroverweging kan derhalve driedelig zijn. De belanghebbende laat blijken zich inmiddels niet langer schuldig te maken aan de verwijtbare gedraging waarvoor de verlaging

was opgelegd. In dat geval zal de verlaging worden herzien met ingang van het moment waarop van verder verwijtbaar gedrag geen sprake meer is.

Beëindiging van de verlaging na drie maanden vindt plaats als de belanghebbende aannemelijk maakt dat hij zich voortaan aan de opgelegde verplichtingen zal houden.

Van voortzetting van de opgelegde maatregel zal sprake zijn als de belanghebbende zich ook ten tijde van de heroverweging nog steeds aan de verwijtbare gedraging schuldig maakt. Hierbij kan ook sprake zijn van recidive.

Heroverweging kan ook leiden tot voortzetting met vaststelling van een lager percentage als de belanghebbende blijkt geeft zijn gedrag enigszins, maar onvoldoende te hebben verbeterd.

#### **4. Inkeer**

Artikel 18 lid 11 van de Participatiewet geeft het college de bevoegdheid, op verzoek van een belanghebbende, een opgelegde maatregel te herzien zodra ondubbelzinnig is gebleken uit houding en gedragingen dat hij de verplichtingen alsnog nakomt.

Het college zal op zo'n verzoek beoordelen voor welke gedraging(en) de maatregel is opgelegd, of die gedraging(en) te herstellen is/zijn en of de belanghebbende aantoonbaar zijn houding en gedrag heeft aangepast.

De herziening van de maatregel kan bestaan uit een matiging van de hoogte en/of de duur of een beëindiging van de verlaging.

#### **5. Meerdere maatregelen**

Het opleggen van meerdere maatregelen is mogelijk. Het gaat dan om verschillende gedragingen waarvoor een maatregel mogelijk is.

Het college geeft als regel dat in dat geval de percentages bij elkaar opgeteld worden.

Bij de beoordeling van de bijzondere omstandigheden die een dringende reden kunnen opleveren kunnen beide gedragingen wel in hun onderlinge samenhang worden gezien. Dit kan dan resulteren in een minder zware maatregel.

#### **6. Tekortschietend besef van verantwoordelijkheid**

Artikel 9 lid 1 onder a van de Participatiewet legt onder andere de verplichting op algemeen geaccepteerde arbeid te aanvaarden en te behouden. Deze verplichting geldt vanaf de datum melding voor een uitkeringsaanvraag. Dit roept de vraag op of het college ook een maatregel op kan leggen

aan een belanghebbende die voor de datum van melding, algemeen geaccepteerde arbeid door eigen toedoen niet heeft behouden. Gebruik makend van de bevoegdheid ingevolge artikel 18 lid 2 van de Participatiewet om de bijstand te verlagen als een belanghebbende een tekortschietend besef van verantwoordelijkheid voor de voorziening in het bestaan betoont hanteert het college de volgende regel.

Indien een belanghebbende een tekortschietend besef van verantwoordelijkheid voor de voorziening in het bestaan heeft betoond als bedoeld in artikel 18, tweede lid, van de wet, in die zin dat voorafgaande aan de bijstandsverlening door eigen toedoen algemeen geaccepteerde arbeid niet is behouden, wordt een maatregel opgelegd van 100% voor de duur van een maand. Indien de belanghebbende verzoekt de maatregel over meerdere maanden toe te passen is dit mogelijk mits hierbij in de maand van oplegging ten minste 1/3 van het bedrag van de verlaging wordt verrekend en de rest over de twee volgende maanden.

#### **7. Niet of niet geheel ten uitvoer gelegde maatregel**

Artikel 4 lid 3 van de Maatregelenverordening Participatiewet bepaalt dat als een opgelegde maatregel niet of niet geheel uitgevoerd kan worden vanwege een beëindiging van de uitkering, die

maatregel alsnog kan worden opgelegd als een belanghebbende binnen één jaar opnieuw een uitkering ontvangt Het college maakt van deze bevoegdheid alleen gebruik als:

- o een belanghebbende willens en wetens een uitkering laat beëindigen om een opgelegde maatregel te ontlopen en
- o hij binnen één jaar opnieuw een uitkering aanvraagt en
- o zijn gedrag op het gebied van de arbeidsverplichtingen op basis waarvan een maatregel was opgelegd, niet is veranderd.

Deze beleidsregels treden in werking met ingang van de dag na bekendmaking.

Deze beleidsregels vervangen de 'Beleidsregels werk, verplichtingen en maatregelen Wet werk en bijstand 2013', gepubliceerd onder nr. GB2012-079.