

Dependence on the Will of Government

The loss of republican freedom due to regressive rent-seeking policies

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Thesis for MA Applied Ethics
20-06-2019

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Abstract

Regressive rent-seeking policies, as identified in the US by Lindsey & Teles, increase inequality. I've analyzed the policies in question, with a focus on the freedoms that are lost because of their implementation, using a negative and republican concept of freedom. The policies restrict supply by outlawing people from providing products and subsequently giving a few people permission to provide the product. They also inflate the demand for certain products and take away the freedom to fail, but not reducing the negative effects of failure, for certain groups. I argue that it is therefore a loss of republican freedom that is the cause of the inequality, for it is the exception to the rule that allows people to accumulate wealth. People are dependent on the government's will for the freedom to provide a product. I propose that there is a need for change in the law to protect citizens from the power of the government, the power to give freedom on an arbitrary basis, and that this change can be achieved because of the prevalence of republican freedom throughout the USA.

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Introduction

The debate around inequality has been prevalent in society and the academic field throughout history: From Plato to Rawls, Marx to Hayek, Stalin to Obama etc. We've seen a rise in popularity of the issue in the recent decades, most likely due to the increase in wealth and income inequality in the majority of western countries (Cingano, 2014). There are various explanations for this increase in inequality, ranging from the economy changing towards an economy of high-skilled labor, to the market globalizing, to the government being influenced or corrupted by the wealthy (Charles-Coll, 2011; Neckerman & Torche, 2007; Reed, 1999). There doesn't seem to be an agreement on the primary cause of rising inequality, but there is agreement on the fact that it's likely to be more than just one cause. One of these causes, the government being influenced by the wealthy, is examined by Lindsey & Teles (L&T) in their book 'The Captured Economy' (Lindsey & Teles, 2017)¹.

L&T highlight a behavior which they aptly call *regressive rent-seeking*. They examine how governmental power is being used to create an artificial increase in price (rent) for certain products and services in the United States. These rents are almost exclusively regressive because they distribute wealth upwards, from the lower-income population to the higher-income population. This is done in a variety of ways, including subsidies from which the rich can profit (as in the case of the financial sector), laws which allow for monopolies (intellectual property), and policies that restrict certain professions and projects (occupational licensing and zoning laws). These policies, and their regressive impact, are often kept out of the limelight, or carefully characterized as beneficial towards the lower-income population. But regressive rent-seeking policies often do not provide the benefits they promise towards the lower-income population. Instead they allow higher-income groups to benefit at the cost of those in the lower-income groups.

But these policies aren't just accompanied by economic costs, they also have a huge impact on society as a whole, in particular the freedom enjoyed in a society. Although it's certainly possible that the effects of the policies appear at the same time, it may also be the case that one of them is the main cause of the problems. A change in society may have allowed for these policies to thrive, or a change in wealth accumulation in modern times may have allowed for the rich to extract more money from the poor through political power. While L&T mostly focus on the societal and economic costs (although they certainly don't shy away from mentioning other consequences), I'll focus on the loss of freedom due to these policies. I suspect that the loss of freedom may be the cause of the effects of these policies. Can a loss of freedom cause inequality? I believe that there are cases of freedoms that when lost inherently lead to inequality, both societal and economical.

I'll begin by prefacing my thesis with three conceptions of freedom, from which I'll be using *negative* and *republican* freedom. I'll further elaborate why in the first chapter.

Afterwards I'll examine the book published by L&T. I'll examine the examples they give in particular, in order to illustrate the freedoms lost due to these examples. I do this because I believe that the examples given by L&T are illustrative and well-known to the public, even though their effects may not be. In the subsequent chapter I'll examine the findings of the examination of the

¹ Henceforth I will cite this book as: (L&T, Ch. X). I will be using (sub-)chapters as reference as I don't have access to page numbers due to having an e-book version.

examples and determine the characteristics of the freedoms that are lost, starting with three groups: restriction of supply, inflation of demand, and the removal of the negative effects of failure. I conclude this chapter by determining three particular freedoms that are lost; the freedom to do X, the freedom to fail and the freedom to buy X. More specifically, it are the exceptions that allow for some people to enjoy the freedoms others lose that allows these policies to increase inequality. My aim is to achieve a better framework from which we can further identify regressive rent-seeking policies.

Finally I'll be looking at some of the possible solutions for the regressive rent-seeking policies. At the start of this chapter I'll discuss why I believe republican freedom to be a better fit for the freedoms. The proposed solutions by L&T seem to be similar to Pettit's proposals for achieving non-domination, or republican freedom. I believe that we can go, and must go, even further than the proposals given by L&T in order to secure ourselves against the regressive rent-seeking policies. I believe that there is a need for fundamental changes in the law, which can be achieved due to the prevalence of republican freedom throughout the US today and in the past.

1. Freedom or Liberty

Before we can examine the regressive rent-seeking policies given as examples by L&T we have to define the concept of freedom or liberty² that we'll use. There isn't *one* concept of freedom on which the majority agrees, for the concept of freedom has too much history. As Nietzsche wrote in his "On the Genealogy of Morals", it is impossible for a concept with a history to have a sole definition, for the entire process of change to the concept over time cannot be summarized in one (Nietzsche, 1967, Ch. 2). Quentin Skinner gave a marvelous lecture on the genealogy of liberty (Skinner, 2016), and I will use this lecture as a guiding line to explain the concepts of freedom I'll be using. I would also like to make it clear that I will use freedom as *freedom as a citizen of a state*, naturally because it is the state, and its policies, that I will be analyzing. I will therefore mainly use freedom as a political concept, although an extension towards individual freedom ought not to be too complicated.

1.1 Negative or Liberal Freedom

We first turn our attention to negative, or liberal, freedom, as it is most prominent still in current day society. Hobbes was the first to extensively analyze this conception in his *Leviathan* (Hobbes, 2018). Hobbes describes two components of freedom: power and no interference: "A FREE-MAN, is 'he, that in those things, which by his strength and wit he is able to do, is not hindred to doe what he has a will to" (Hobbes, 2018, Ch. XXI, p. 200)." Power, according to Hobbes, is the inability to do something due to a lack of strength or material. If you do not possess the power to do something, you are therefore not unfree, you are unable (Berlin, 1958; Skinner, 2016). You therefore need the ability, or the power, to do something to be considered free or unfree to do something.

The second component, no interference, is a more widely discussed and debated component. Hobbes argues that the interference can only come from an external agent, which by use of force prevents an action or compels you to do an action. But this leaves us with a gap in what we may intuitively think of as freedom, namely the use of coercion. If a robber gives you the option of giving up your money or your life, Hobbes would argue that you aren't unfree, as you have the option to choose both, although you would happily give up your money instead of giving up your life. John Locke appealed to this intuition in his *Two Treatises of Government* (Locke & Laslett, 1988, 2nd Treatise, §176), stating that you really have no alternative, the option of giving up your life is *ineligible* from being an option. You can therefore be interfered with by coercion, usually by threats, as well as force.

This makes freedom very interpersonal, for only an external agent can interfere, and therefore only an external agent can restrict your freedom. I would like to acknowledge that there is also the possibility of self-interference, first introduced by John Stuart Mill in *On Liberty* (Mill, 2012, Ch. 3). There are multiple examples of self-interference, such as passions or desires, inauthenticity or false consciousness. But I won't be addressing this branch of negative freedom any further, nor will I be using it in my analysis, because I will be analyzing interference by external agents, and not by oneself. To conclude, one has freedom in the negative conception if there is no interference by external agents through the use of force or coercion on actions that one has the ability to do.

² Freedom and liberty are used interchangeably by most philosophers, although some have tried to distinguish the two (Dworkin, 2013; Pitkin, 1988; Williams, 2001). I will not be making such a distinction.

1.2 Positive or Hegelian Freedom

One aspect in which negative freedom is lacking is the answer to the question: Freedom from doing what? Those in favor of negative freedom would say: Well, everything of course. But according to Hegel this is only the start, as this leaves a blank space, a void, that still needs to be filled in. According to Hegel you want freedom to act in such a way as to realize the essence of your nature (Hegel, 2000). Freedom is therefore self-realization.

Quite obviously this led to a dispute around the idea of the essence of your nature. According to Skinner there are two major thoughts around this subject, one of political essence and one of spiritual essence (Skinner, 2016). The latter I will discuss no further than to say it is the essence of humans to be a servant to god, and it is this servitude that is the realization of the essence of your nature. Since I'm examining governmental policies, I'll further elaborate on the former.

The political essence as freedom can be traced back to the Aristotelian view of humans, that they are indeed a 'zôion politikòn', or a political animal. It isn't the service to god that is the true essence of your nature, but the service to other people. It is therefore that in the participation in political, nowadays most often democratic, domains that freedom comes to fruition. As Pettit puts it:

"... [positive freedom] involves the presence, and usually the exercise ... of the facilities that foster self-mastery and self-fulfilment: in particular, the presence and exercise of those participatory and voting facilities whereby the individual can unite with others in the formation of a common, popular will. (Pettit, 2010, p. 18)"

Positive freedom with a political essence is therefore also a populist conception, for it is the aim to formulate a common, popular will. Contrary to negative freedom it requires a presence of, hence the name of positive freedom.

I will not be using a positive conception of freedom in my analysis of the regressive rent-seeking policies. The political conception of positive freedom is primarily focused on democratic participation and I do not think it is worthwhile to analyze the regressive rent-seeking policies through the lens of democratic participation, for the policies themselves do not provide us with examples of democratic participation. A positive conception of freedom could be worthwhile if we were analyzing policies aimed at democratic participation, such as referendums.

1.3 Republican or Neo-Roman Freedom

One concept that is often forgotten, or left out, is the republican or neo-roman concept of freedom. Famously, Isaiah Berlin didn't mention it when he proposed negative and positive freedom as the *Two Concepts of Liberty* (Berlin, 1958). But these concepts aren't opposite of each other, they aren't paradoxical, so there is room for more concepts of freedom. Republican freedom has been forgotten due to the effectiveness of Hobbes's argumentation. The negative freedom he proposes has since taken its place. The republican concept starts in Roman law, which makes the distinction between the free man or woman, *liber homo*, and the unfree slave (Skinner, 2016). Our understanding of freedom lies in what makes the slave unfree (something on which I think we can all agree, at least in the colloquial sense of freedom).

It is not the presence of interference which makes the slave unfree. For a slave can have a master whom is benign or good, a master that leaves the slave free from interference (Pettit, 2010, pp. 21-27). Is the slave free in such an instance? The slave would be free if we were to use a negative conception of freedom. The Republican version doesn't think the slave is free, for the slave is

still dependent on the good will of the master for his or her freedom. The master has the ability to change his mind at any point in time. Thus he can interfere with the slaves actions at will and with impunity. The core idea of republican freedom is therefore not based on interference, but on dependence, particularly the dependence on the arbitrary will of others. Republican freedom is the freedom from dependence (Skinner, 1998; Skinner, 2016) or domination (Pettit, 2010).

Pettit states that there are three clauses to any relation of domination:

“Putting the aspects starkly ... someone has domination power over another ... to the extent that

1. They have the capacity to interfere
2. On an arbitrary basis
3. In certain choices that the other is in a position to make (Pettit, 2010, p. 52).”

The first and third clause are a recurrent theme in our discussion of freedom, namely the ability to act. If you are unable to interfere you are unable to dominate another. More interesting is the arbitrary will which constitutes whether you are dependent on or dominated by the other. Naturally, a definition of arbitrary has to be given:

“An act is perpetrated on an arbitrary basis, we can say, if it is subject just to the *arbitrium*, the decision or judgement, of the agent; the agent was in a position to choose it or not choose it, at their pleasure. (Pettit, 2010, p. 55)”

This means that a person can only be dominated if the decision to interfere by another person is solely subject to that persons judgement. The interests of you, as the person being dominated, doesn't have to be taken into consideration. And it is not the consequence of this decision to (or not to) interfere, but the fact that a person can make this decision at his own peril, without impunity, and change the decision at any time he sees fit.

Although the most obvious example of this is of course the master/slave relation, Skinner and Pettit both point out that it also refers to the overlord/colony relationship, which is most useful to further examine as it relates to the USA (Pettit, 2010, p. 35; Skinner, 2016). Because it is the argument made by Joseph Priestly, Richard Price and Thomas Paine, that if you are governed, and taxed, by a colonial power and therefore have no representation in the legislative bodies that govern you, you are entirely dependent on the good will of the colonial overlord. And it is precisely this argument which ignited the independence of the USA. As noted in the Declaration of Independence, as the name suggests, it is the *dependence* on the good will of the English government. In other words, it is the *arbitrary* power to interfere as the English government sees fit, without the need to take the interests of the people living in the colonies into account, that constituted the feeling of un-freedom in colonial America.

In conclusion, the republican concept of freedom is freedom from domination, or dependence. It is the freedom from the arbitrary will of others. Any domain in which you are at the peril of the arbitrary will of others, even if this will most likely result in non-interference, is a domain in which you are dominated. The aim is therefore not to eliminate interference, for interference in a non-arbitrary manner doesn't reduce freedom, but to eliminate the ways in which either the state or other people in general can arbitrarily make decisions over your own life. I will be using negative and republican freedom throughout my analysis of regressive rent-seeking policies, and, as mentioned before, will be using them as a political concept.

2. The Captured Economy

Now that we have established the definitions of negative and republican freedom we can turn to the regressive rent-seeking policies. Brink Lindsey & Steven M. Teles published their book *The Captured Economy* in 2017. They start their book with the main conclusion; the US economy is rigged (L&T, Ch. 1). They argue that this can be seen by the slowing of economic growth and the rising of inequality. Massive wealth accumulation, arguably, shouldn't be rampant in a free-market economy. It at least isn't necessarily inherent to the system. Instead of focusing on the failures of capitalism that play their part in the rising inequality and slowing of economic growth, they focus on the role of the government. L&T believe that the slowing of economic growth and growing inequality are signs of a private industry that is co-opting governmental power to achieve a massive competitive advantage. They call this regulatory capture. Some of the government's policies are used to create an upwards distribution of money by virtue of an artificial rent on top of normal prices for products and services, or by allowing monopolies to form and flourish.

The existence of regulatory capture manifests itself in 'regressive rent-seeking behavior'. Rent is used in the economic sense; it refers to the excess payment you have to make for any factor of production (land, labor, or (human) capital) due to scarcity (Smith & Wight, 2007, Book 1, Ch. VI). If land is scarce, the price of land rises, if labor is scarce, the wages rise, if (human) capital is scarce, the interest on loans or the wages for human capital rise. People seek out ways to increase the rent of the products or services they provide, because by doing so they can profit more from their labor. The regressive aspect refers to the fact that the regulatory capture almost always benefits those that are already well-off, while dividing the costs over a larger, often lower-income, group. This means that wealth is flowing upstream, towards the wealthy.

The nature of the competitive advantages gained by regulatory capture is another factor that plays a role. The nature of these competitive advantages do not lie in an improved product, or improved efficiency, or better ideas, but in government legitimacy and power. These advantages are gained because the government enacts and enforces them. This leads private industries to invest capital in influencing politicians to gain these competitive advantages through regulatory capture. This investment is often taken from their Research & Development departments, for the advantages gained through research and development pale compared to the advantages gained through regulatory capture. This also means that a large part of the competitive market no longer revolves around who can deliver the best product, for the best price, but around who can influence politicians the most. This is detrimental to key market forces, such as innovation, and therefore to economic growth. Which is why L&T state that 'at the root of our political economical problem is a failure of competition. (L&T, Ch. 1.4)'

The actual consequences of these policies are probably the most worrying aspect. They lead to massive wealth accumulation and the costs of the wealth accumulation are most noticeable in lower-income groups. Rising housing prices due to zoning laws impact lower-income groups the most, as they are unable to find a living space in the coastal cities that suits their income. They are therefore forced to move outside of the coastal cities, making the sunbelt a region of immigration at this point in time. Those people that have a low-education often have to move towards the sunbelt because of the cheap housing prices (and the expensive housing prices in the coastal cities), leaving the coastal cities with a high density of higher-educated people, but a low density of lower-educated people. The opposite is true for the sunbelt. This means that lower-income people

are in essence priced out of the opportunities in these coastal cities. They have fewer opportunities to make a career, or a better living, because of this, which further stagnates their income. This is a trend that can be spotted in all of these policies. The rich get richer, while the poor get poorer (or stay poor).

These policies can survive and thrive not because the government is completely corrupt, but because those that benefit from them are smart enough to know how to enact these policies. L&T lay out four biases that explain a large part of why these policies are and remain enacted: 1) Information asymmetry, 2) Policy image, 3) Decision-making in obscure & non-transparent settings, 4) Tendency towards kludgeocracy (L&T, Ch. 7). These biases will become more prevalent in the 4th chapter, but expanding on them now allows me to underscore them in the remainder of this chapter.

The wealthy have the ability to spend a chunk of their capital on producing information. This information, information that is suitable for the goals of the wealthy, is subsequently delivered to politicians through lobbying. This is often one of the few ways in which politicians can get 'credible' information about a certain industry, as the provision of information by the government itself is often lacking (due to a lack of funds or expertise) (L&T, Ch. 8.1-8.2). If the other side, those that bear the costs of the policies, aren't able to provide their side of the story, it is easy to see why politicians enact the policies that are beneficial to the wealthy.

Another key factor is the image of the policy (L&T, Ch. 7.4). It is often the case that regressive-rent seeking policies have a positive image. This is done through information campaigns that focus on the positive side for those that bear the costs, often meaning benefits to the well-being of those people, or the quality of the product delivered. Due to this positive image, the policies can be hailed as a good thing, even for those bearing the costs. But the benefits are often either not enough to make up for the costs or are entirely absent all together.

If the policy doesn't have a good enough image, it's enough to make sure that the policy doesn't reach the limelight. As long as people don't know about the existence and the effects of these policies, they won't rise up against them. These policies thrive in the shadows and because of the complexity of the government it's relatively easy to find one of the shadows to hide in.

Lastly we have the tendency towards kludgeocracy, or the "indirect approaches to social problems that funnel resources through the private sector and allows rent-seeking to skim off some of the flow." (L&T, Ch. 7) This is probably caused by American politics and culture, for the despise of big government has forced politicians to divert away from the direct approaches and therefore hide their policies through obscurity or complexity. A good example of this is 'The Submerged State', written by Suzanne Mettler (Mettler, 2011), which highlights the magnitude of the welfare state in America and how its size, and its expenditure, is hidden from plain sight.

The awful consequences of the policies, the influencing of government officials and politicians, the biases used in influencing the public etc. all make for a truly bleak outlook. In what is to come I will try to further this bleakness. I will do so by highlighting not just the economic or social effects of these policies, but concentrate on the freedoms that are lost due to the policies. Some freedoms are lost as a consequence of the economic inequality, but some are also lost because they are necessary for the regressive rent-seeking policies to take effect. I'll show the loss of freedom through the same four examples as given by L&T: Land use, Occupational Licensing, Intellectual Property, and Financial sector.

2.1 Land Use

Now that we have a general idea of regressive rent-seeking policies we will turn to the specific examples given by L&T. I will be examining these examples in reverse order. I do so because I believe their last examples, which concern local government, to be more comprehensible. It is therefore also easier to highlight the freedoms lost by these examples, although this is certainly not impossible for the other examples.

L&T discuss zoning laws, or the use of land, in chapter 6. Local governments use zoning laws for a variety of goals; to restrict a certain neighborhood to a living quarter, commercial zone or industrial zone, or to restrict the amount of building that can be done at a given time in a neighborhood, either for infrastructural reasons or to prevent the overcrowding of a neighborhood. Building permits have to be given for every construction project in neighborhoods restricted by zoning laws.

L&T focus in particular on the coastal cities that do well in economic terms: San Francisco, Boston, New York City etc. The demand for housing in these cities is high due to their economic prosperity. But even though the demand for housing is high, the supply of housing isn't rising accordingly. The opposite is true in the sunbelt area, where the supply of housing is easily keeping up with the demand (arguably even overtaking the demand). But this is not true because of the economic prosperity in the sunbelt, but because of the leniency (or absence of) its zoning laws.

The driving force behind these zoning laws are the people that already live in the coastal cities. The people that already have a well-paying job or already own a house don't want their neighborhoods to become overcrowded. First of all because they want to continue living in the neighborhood, in their home, and therefore prefer it to be a relatively quiet and peaceful neighborhood. More houses means more people, and with more people comes more noise and busyness. Secondly, because a significant increase in housing may drive down the price of their own house through an increase in the supply of housing and density in the neighborhood. The last thing you want if you've bought a house is for its price to go down. Because the zoning laws are regulated locally, often by the municipality, the people that live in these cities are the sole constituents of the politicians and government officials that decide on the zoning laws. It is therefore fairly clear as to why the zoning laws exist from a democratic perspective.

It is therefore clear who benefits from the zoning laws; the people that already own a house in the respective neighborhood or city. But what are the downsides of zoning laws? The zoning laws start with the restriction on what and where you are and aren't allowed to build. Everybody has their right to build on their land as they please revoked by the zoning laws. At best you have to apply for a building permit and indeed receive one, at worst you don't receive a building permit. In essence everyone is affected by this, both the people out- and inside the zones in question. Those outside aren't allowed to acquire a plot of land to build a home on, while those inside whom already have a plot of land with a house on it are restricted in their right to make adjustments to their house or land. This constraint on construction is necessary to enforce the zoning laws, and it's also why you are usually not allowed to do even the smallest change, such as building a shed in your backyard or construct a dormer, without a building permit.

This doesn't mean that no one is allowed to build, but it does mean that you are at the mercy of the local government as to where and what you are allowed to build. This isn't something recent, for zoning laws have been prevalent for centuries. It started as a way to structure cities, to make sure that neighborhoods could be peaceful and quiet, to separate living quarters from industrial zones (Fischel, 2004). Even when a neighborhood would be restricted

from building more residential housing, a neighborhood close in proximity would most likely allow for enough construction to make up for the demand.

But this safety net has disappeared in the last few decades, especially in the coastal cities. The restrictions on construction have grown extensive and are similar throughout the entirety of the cities. The zoning laws are no longer a policy that tries to structure the land it resides over, but now also controls the amount of construction that can happen in its designated area. According to Fischel this has been a trend since the 1970's (Fischel, 2004).

Furthermore, there is plenty of empirical evidence that shows that the zoning laws are largely responsible for the massive increase in housing prices in the coastal cities (L&T, Ch. 6.1). The value of a house is determined by three factors: Value of construction, value of land, and the value of the right to build on that land. Edward Glaeser has found that the construction costs in the US have declined by 3% between 1970 and 2000, with a slight increase in the high-price coastal cities such as Boston and San Francisco, 6.6% and 4.6% respectively (Glaeser, Gyourko, & Saks, 2005, p. 3). The housing prices in the US have increased with 72% in that same timeframe, with increases of 127% in Boston and 270% in San Francisco (Glaeser et al., 2005, pp. 2-3). Construction costs don't account for the increase in housing prices.

Therefore, the increase has to come from either the value of the land or the value of the right to build on that land. It's a fairly common thought that, especially in the coastal cities, land is scarce. It is therefore probable that the value of the land makes up for the majority of the rise in housing prices. But there are signs to think otherwise. First, if the land was indeed scarce one would assume that the density of these places would be higher in comparison to other cities, and therefore have higher housing prices because the land is indeed becoming more scarce due to the density. But Glaeser found very little correlation between density and the housing prices (Glaeser et al., 2005, p. 7). Second, we can look at the value of land with and without a house on top of it. All other things being equal, and accounting for the construction costs of the house, the land with a house on top of it is worth around 10 times more than the land without a house (Glaeser et al., 2005, p. 8). This indicates that it is indeed the right to build on the land that accounts for most of the housing price. As this is an artificial rent put on top of the original price by the government it falls under regulatory capture, and is therefore a 'regulatory tax' (L&T, Ch. 6.1).

As L&T, with the help of Glaeser, have shown that the increase in housing prices is indeed due to the restrictive nature of the zoning laws, we can now turn to the freedoms lost by the implementations of zoning laws. First and foremost, the direct freedom lost due to the restrictive nature of the zoning laws. The zoning laws, in essence, interfere with your freedom to build on your land as you please. Due to possibility of attaining this right, you aren't completely restricted in this matter. From the perspective of negative freedom you are interfered with. Even though this interference may not be absolute, the fact that you have to apply for a permit already constitutes interference. And as we have shown, being able to apply for a permit doesn't guarantee that you will receive one. You are therefore (partially) unfree, for there is interference from the government (an external agent) with threats (such as fines) and force (if you do not adhere to the law).

A republican perspective would argue that people are unfree in the domain of construction as they are dependent on the local government for their freedom. Zoning laws do not have a fixed set of rules, but are regulated by government officials, who at their own pleasure decide what should and shouldn't be allowed (although there are 'guidelines'). It is therefore a matter of arbitrary interference, for it is the government officials that can decide, without taking your interest in mind, if a construction project should or shouldn't be allowed.

An additional consequence of the zonings laws is the increase in housing prices. As mentioned, this wouldn't be a problem if nearby neighborhoods had less restrictive zoning laws and therefore lower housing prices. But due to the expanse of current day zoning laws this is almost never the case. This steep increase in housing prices means that people with a low income are often unable to afford housing in these cities. They are, in essence, restricted from remaining in or moving to these cities by an economic barrier.

This is problematic in two different ways (L&T, Ch. 6.2). First, these coastal cities are often richer in career opportunities, even in low-income jobs. You therefore exclude a large portion of society from these opportunities because of their level of income. Second, the cities themselves have the downside of not having enough low-skilled workers to fulfill the jobs that are present for them. Even the biggest corporations still need someone to clean the toilets or work at the reception. In the end, we can see a divide in the nation, where the coastal cities accumulate high-skilled laborers, while the sunbelt and other inland cities accumulate low-skilled laborers. While high-skilled laborers still have the opportunity to move towards the inland cities, for their expertise is much needed there, the low-skilled laborers are restricted to those cities, for they cannot afford the coastal cities. Even with the increase in wages in the coastal cities, the price of housing (and other expenditures) cannot be covered. The lower-skilled population is restricted from moving to cities with more opportunity and higher income, which can also be seen in the decline of geographic mobility throughout the US (L&T, Ch. 6.1). The positive sides of geographic mobility have been shown to be quite large, with real earnings for man being up 20% after 4 years, compared to the real earnings hadn't the move occurred (Rodgers & Rodgers, 2000).

We can clearly see that people are losing negative freedom in this case. The interference, as in the increased housing prices, isn't a natural occurrence (although some of it may still be), but a man-made one. It is therefore the interference of external agents that leads to the restriction of where you can and cannot live. From a republican perspective it is once again fairly clear that there is a loss of freedom. The people outside the municipalities have no way of influencing the decisions that have led to the increase in housing prices, but are interfered by them in their opportunities and decisions. They are, once again, at the whim of the arbitrary will of the municipalities for their freedom to move from one city to another.

The zoning laws start off by restricting your right to build on your land as you please. You are at the mercy of the local government whether you can build on your land. Gaining the permit can have a massive increase on the price of your land and the building you construct on top of it. This restriction of rights results in an increase of housing prices, having as a consequence that the lower-income population cannot afford the living arrangements in certain cities, excluding them from moving to those cities to improve their opportunities, in essence restricting them from these cities.

2.2 Occupational Licensing

Zoning laws are almost exclusively managed by municipalities, occupational licensing however is done on a state-wide level. Occupational licensing is also very prevalent in the US. Every state has at least one profession that falls under occupational licensing (L&T, Ch. 5). The most well-known examples are lawyers and doctors, but there is a vast variety of professions that are licensed, differing from state to state. The US government has estimated for 2015 that 'over 1,100 jobs were licensed, certified, or registered in at least one State (Department of the Treasury Office of Economic Policy, Council of Economic Advisers, &

Department of Labor, 2015, p. 7)”. In order to exercise certain professions you may need a state-sanctioned license.

The justification for occupational licensing is often the protection of consumer health (L&T, Ch. 5.1). For example, you wouldn't want an incompetent doctor performing a surgery on you, or an incompetent lawyer defending you in court. The licensing boards exist to institute requirements with the aim of making sure that people practicing these professions are adequately educated and trained and therefore have a reduced risk of malpractices. But this is a clear example of a policy having a good public image, because there is barely any empirical evidence that occupational licensing indeed has a positive effect on the quality of the profession.

For example, one would assume that stricter requirements for licenses would lead to a better quality of service or product. But no connection has been found between the strictness, or even the existence, of licensing requirements and improvement of the quality of the product or service: not in dentistry (Kleiner & Kudrle, 2000), nor in child-care services (Kleiner, 2013) nor in mortgage brokerage (Shi & Zhang, 2013). Floral arrangements from Louisiana, a state that has licensing for florists, and Texas, a state which doesn't have licensing for florists, had almost identical quality scores (Carpenter, 2011) and the removal of licensing restriction on roofers in Florida after the hurricanes Frances and Katarina had no impact on the quality of the roofs (Skarbek, 2008), even though one would expect that the roofing services would decline in quality, if the justification of occupational licensing were true.

There are multiple reasons why licensing doesn't improve the quality of a product or service. Firstly, the requirements set up by licensing boards are often poorly designed. For example, the medical license is a general license, with which it is allowed to practice as a doctor in any area of medicine (L&T, Ch. 5.3). A general practitioner is allowed to perform surgery, even though he may not have any experience with the surgical field. Secondly, and most importantly, there are other forces that safeguard the quality of a product or service. For example, malpractice insurance in medicine is only given to those doctors that are competent enough. Otherwise, the risk of a malpractice lawsuit would be too high. Hospitals often do a good job as well in protecting their reputation as a safe and high-quality hospital, and therefore are necessarily very restrictive of who can and cannot practice medicine in their hospital.

Occupational licensing doesn't have the positive effect that it promises. In the case of zoning laws, we could at least argue that they are effective in restricting the expansion of neighborhoods and thereby protecting (and improving) the price of houses; at least achieving what it is aiming to do. Occupational licensing restricts people in their right to exercise a profession. The huge variety of professions that fall under licensing laws showcases the extent of this policy. Furthermore, a license in one state isn't valid for another state, meaning that you would have to apply for a license if you were to move to a different state. This, just as in the case of zoning laws, restricts geographic mobility.

We now turn to the question of what freedoms are a direct result of the implementation of occupational licensing. It is clear (which will be a common theme for negative freedom) that there is interference from the state, and that there is therefore a loss of negative freedom. You have to apply for a license, and you may not get one, in order to exercise a profession. There is therefore a barrier put up by the government, which leads to interference.

From a republican perspective we can say that people are again being dominated on an arbitrary basis. The licensing boards, as shown by the lack of empirical evidence of quality improvement, do not have a set of rules which can be justified on an empirical basis. The vast variety of requirements set by

different licensing boards across states exemplifies this. The decision is therefore made by the members of the licensing boards on an arbitrary basis. Since people are dependent on the licensing boards for their right to exercise a profession, they are being dominated. It is not the fact of interference that makes this policy a loss of freedom, but the fact that the boards can arbitrarily decide who will and will not gain the right to exercise a profession.

The consequences of occupational licensing are severe as well. Licensing boards are often filled with people from the same profession. The professionals are therefore able to create a form of monopoly over the profession that they practice. They have the ability to control the influx of new practitioners into the profession. If you keep the influx of new people into the profession at a minimum, you restrict the supply of the service or product that the occupation supplies and thereby raise the price of the service or product. This is where the rent of this policy is, in the increase of the price, and therefore the rise of the earnings of those that exercise the professions. Due to this rise it will be the case that people from a lower-income group are less able to afford the product or service. An obvious example would be lawyers and doctors, whom are often very expensive. This monopoly ultimately leads to wealth accumulation in the people exercising these professions, while those people that make use of them pay the costs. It can also go so far to the extent that it restricts people from lower-income groups from using the product or service altogether.

The interference by the implementation of occupational licensing leads to the interference in the use of the products or services that those occupations supply. This is therefore also a loss in negative freedom. If occupational licensing wouldn't change anything in the accessibility of these products or services, a negative conception of freedom wouldn't say that this would be a loss of freedom. Neither would they say so if this was a naturally occurring increase in price, due to natural scarcity for example. Of course, the implementation of occupational licensing is interference already.

There is also a loss of republican freedom. As was the case for the implementation of occupational licensing, you are subject to the arbitrary will of the members of the licensing board on whether or not you will be able to afford the product or service. A very restrictive licensing board may have as a consequence that you are no longer able to afford the product or service that their occupation delivers. A very loose licensing board may mean that there is no difference in price at all. But it is the fact that the licensing board is able to change its requirement without the interests of the rest of the population in mind that means that there is a loss of freedom.

Occupational licensing restricts the supply of products and services of a variety of professions. It has large impacts on the freedoms of people to first exercise a profession and second make use of the products and services of that profession. It is the lower-income group that bears the highest costs in freedom, while the people in the professions under occupational licensing laws benefit massively.

2.3 Intellectual Property

We move up another step in the centralization ladder to a country-wide policy. This is the level at which we will stay for the two remaining examples, beginning with Intellectual Property (IP) (L&T, Ch. 4). IP laws protect the ideas and inventions of their original creator. When an artist produces a song, nobody is allowed to use that song without the permission of the artist while it is protected by IP law. It protects people from having their ideas copied or stolen before they are able to capitalize on them.

IP laws aren't new. They date back more than a hundred years, but they have been radically expanded in the past few decades (L&T, Ch. 4.3). This expansion began with the Copyright Act of 1976 and continued till the Sonny Bono Copyright Extension Act of 1998. The former extended the scope of IP laws: Unpublished works, translations, abridgements etc. were all added to be covered by IP law. Simultaneously it also removed the formalities of patents, which meant that it is no longer necessary to apply for a patent. If you can prove that you are the original creator, and the first creator, you already hold the patent automatically. The latter of the Acts extended the duration drastically. Originally the duration of a patent was 14-years plus the possibility of a one-time 14-years extension. Together with other acts the final extension led to a life plus 70-years term. Meanwhile, the enforcement of copyright laws have been made sterner as well. Originally, a breach of copyright law was a civil case, but it has now been made criminal, resulting in the possibility of jail time.

Since IP laws are country-wide we do not see any differences between states as with the previous examples. But country-wide may be understating the extent of IP laws. The IP laws spill over into other countries through trade agreements, making them global. They are a true menace for developing countries, such as in the case of pharmaceutical companies holding on to their patents in developing countries and subsequently maintaining the high prices of drugs in developing countries (Verweij, 2011).

There are some justifications for the implementation of IP laws. Let's start with the moral case: This case is based, at least in the USA, on Locke's labor theory of appropriation (L&T, Ch. 4.5). As Locke put it: "... every Man has a Property in his own Person. This no Body has any Right to but himself. The Labour of his Body, and the Work of his Hands, we may say, are properly his. (Locke & Laslett, 1988, 2nd Treatise, Ch. 5, §27)" The labor of man's own body extends to the labor of man's own mind in the justification of IP laws. Therefore, the ideas and inventions are also his own.

This seems like a solid justification, but there is a catch. While this idea perfectly justifies the fact that you are allowed to keep an idea secret, and by virtue of this secrecy obtain the fruits of your mental labor, to justify the IP laws it also has to justify the ownership of ideas once they are made public. If someone buys your book they own the tangible book as property, not the particular arrangement of words. This means that there are two forms of ownership particular to IP laws, one that gives you rights of ownership before you have disseminated your idea or invention, and the other that gives you exclusive rights even after you have disseminated them, through institutionalized IP laws.

There are two problems with the latter form of ownership. First, there is no clear demarcation on when an idea is protected by IP law; why are books protected by IP law, but research into organizational structure isn't? Second, allowing exclusive rights over an idea or invention for a person that has thought of the idea or invention first can, and does, violate the same principle on which it is justified, namely the labor theory of appropriation. It is very possible that two people generate an idea or invention unaware of each other or at approximately the same time. Only one of them will have exclusive rights over this particular invention or idea, making it impossible for the other to obtain any fruits of his labor.

There is also an efficiency based justification for IP laws. Proponents of IP laws often state that it increases innovation because there is a higher incentive to innovate. You can patent an idea or invention and you can therefore have exclusive rights over its use. There will be no-one that can take the idea or invention you put your time and effort into. The most obvious example of where this would be beneficial is in the pharmaceutical industry; developing a drug is notoriously expensive, while copying a drug is relatively simple and cheap. If IP

laws didn't exist, there would be very few companies that would be willing to invest such massive amounts of money into the development of a drug that could be copied with a much smaller investment.

Although this efficiency based argument may hold true in specific industries, such as the pharmaceutical and chemical industries, it doesn't seem to have any empirical evidence in favor of it on a general level. The creative industry is thriving even with the illegal online downloads. This can be seen by the vast increase in the production of movies, music and books (L&T, Ch. 4.1). This is first of all the case because the production of movies, music, and books has been drastically decreased in price by virtue of the same technological advancement that has made piracy possible. Because the production costs are so little compared to a few decades ago, more people are able to produce these creative expressions. Since the main driving force for most artists isn't profit, but passion and creativity, we see an increase in the amount of pieces produced in this industry. It is highly unlikely that copyright laws have any benefit in this newfound surge in creative expression.

We can still see a remarkable amount of innovation taking place in domains where patenting isn't available. Domains such as management and organization, which has helped to increase productivity immensely with ideas such as the chain store, franchising, just-in-time inventory management etc. And in areas such as the internet we see flourishing of companies that do not engage in patenting, such as Linux, Apache and so on. A large amount of tech-companies have never filed for a patent, and even Tesla, who did initially file for patents, gave them up in 2015.

There is very little evidence to support the justification that patenting spurs innovation on the whole. But it may do so in particular industries where costs are high upfront, and secrecy of formula are almost impossible to maintain, such as the pharmaceutical industry.

People are restricted from using ideas or inventions that others own a patent on. Although most that endorse negative freedom are (classically) liberal, a strict view of non-interference would mean that there is a loss of negative freedom in the case of IP laws. You are (with threat of jail time) coerced not to use particular ideas or invention. This is, quite obviously so, interference. This interference is quite clearly inherent to the IP laws, as they are only enforceable if everyone but the inventor is prohibited from using the ideas and inventions that originated from the inventor.

As mentioned, there seems to be some arbitrariness to the IP laws, for it isn't clear what the justification for the demarcation of the laws are. Why would one domain be covered by the IP laws, while another doesn't? Furthermore, the IP laws allow for someone to hold the exclusive rights over a certain idea or product, making everyone else around them dependent on the creators decisions on how to use this exclusive right. The government doesn't simply ban the idea or invention for everyone, but they ban it for everyone except one. This therefore becomes a power-tool for that one person, on which everyone else is dependent. There is therefore a loss in republican freedom.

The real consequences of IP laws are that those people that hold patents benefit massively from them. This is also the goal of the laws. But the downsides for the rest of the population are massive as well. Newcomers are heavily restrained in their ability to enter a new domain. They have to work their way through a minefield of patents and even if they manage to survive this minefield established corporations may still sue them, just to tie up any capital that could be used by the newcomers to be a competitive opponent. All these expenses, both time and money, make it close to impossible for newcomers to enter these domains.

The already established companies and corporations can therefore easily eliminate any new competition before they become competitive. This allows them

to create a monopoly in these particular domains. As mentioned at the start of this chapter, at the root of our political economical problem lies a lack of competitiveness. These companies will survive and thrive, even if they are unable to deliver high-quality or low-cost products or services, for the IP laws make it neigh impossible for competition to arise.

This leads us to the costs put onto the consumer. First of all, they often have to endure high costs and low quality due to the protection from IP laws. More importantly, they are restricted in their options on where to buy certain products or services. If your current provider isn't delivering a quality product for the price they ask of you, you would like the ability to switch to another provider. But IP laws makes it impossible for other providers to exist.

The freedoms lost by the real consequences of IP laws are severe as well, even if we take into account a partial gain in innovation in specific sectors. There is again interference on the price and quality of products and services, with an artificial rent put on the price due to scarcity (from only having one supplier) and a possible reduction in quality due to a monopoly (and therefore a lack of competition). Due to the increase in price there is a good argument to be made that it is the low-income group that endures the interference the most.

For republican freedom we can here see the effects of the exclusive ownership of an idea or invention by one person. That person (or company) has the ability to dominate the market because of their exclusive freedom to use an idea or invention, all while interfering with the lives of others. They can do so at their will without having to take the interest of the others into account. It is this dependence on the will of the person or company holding the exclusive rights in which we lose republican freedom.

IP laws, although they may spur innovation in some industries, don't deliver on their innovation boom as a whole as their efficiency based justification promises. Furthermore, it can restricts the freedom of those people that the laws are aimed at, those people that put in the mental labor to produce the idea or invention. A monopoly creation is one of the effects of IP laws, with the consequences of such monopoly being the possibility of lower quality or higher prices for a product or service, which further restricts those that are in need or want of the product or service.

2.4 Financial Sector

We now turn our attention to a policy specific to one sector. The financial sector was the cause for the biggest financial crisis since the great depression (L&T, Ch. 3). While many have been blamed for the 2007-09 crisis, the government certainly played its part in the causation of the crisis. L&T identify two different ways in which the government is to blame for the financial crisis: misregulation and subsidies.

The misregulation began with the introduction of the process of securitization (L&T, Ch. 3.1). Many believe this to be a free-market invention, but it was actually a continuation of an already existing public policy. Securitization is the process of pooling mortgages and loans together, essentially risk-pooling, making it less impactful if one loan or mortgage defaults, similar to the diversification of investment portfolio. This process already existed in the savings-and-loans industry, which was mostly government property, before its demise in the 1980's. The banks picked up the process after the downfall of the savings-and-loans industry.

New government institutions replaced the savings-and-loans industry after the 1980's, in particular Fannie Mae (Federal National Mortgage Association) and Freddie Mac (Federal Home Loan Mortgage Corporation). These institutions

started to buy mortgages from banks. They did so to help the banks, as a mortgage is a long-term loan and was therefore unpopular with banks, as they would have to keep the loans on their books for up to 30 years. Fannie Mae and Freddie Mac also started selling mortgage-backed securities. These securities were regarded to be as safe as government bonds, since the institutions selling them were financially backed (and therefore insured) by the government.

This worked great, as can be seen by the increase in size of the financial sector (L&T, Ch. 3.4), until the mortgages started to become riskier. The government noticed that mortgages were only given to mid- to high-income families, because these mortgages were regarded as safe. They wanted to incentivize giving mortgages to people with a lower income. The chance of mortgages defaulting became much higher once they started to incentivize mortgages to lower-income groups. But due to the process of securitization, and the 'innovations' made in this process, the pools of mortgages didn't seem to take a hit. In 2007-09 we saw the aftermath of this process, with mortgages defaulting *en masse*, and ultimately concluding in the worst financial crisis since the great depression.

The government also (implicitly) subsidizes the banks. First of all by buying up the mortgages, as mentioned above. But more importantly the government subsidizes the banks with implicit bail-outs. No politician would say that he will be bailing out the banks prior to a crisis, but everybody knows that he will do so when the crisis occurs (L&T, Ch. 3.2-3.3). Due to this implicit bail-out, the banks have fewer reasons to act in a safe manner, for they know they will not go bankrupt if they mess up. This also means that the taxpayers are paying for the banks to take more risks, subsequently making it more likely that a crisis will happen and increasing the magnitude of that crisis as well.

The way in which home-ownership is promoted by the government has certain restrictions. You have to go through the banks to gain access to the subsidies that the government implements to help you, the individual, in buying a house. This a direct consequence of the subsidies. The direct consequence of the misregulation and subsidies together is the inability for banks to fail. The banks essentially have (part) of their risk removed and it becomes impossible for them to go bankrupt (as long as they're big enough). The 'too big to fail' qualification has appeared in the 2007-09 crisis due to this fact. The interference by the government has led the banks to become bigger and essentially made them a risk for society.

These subsidies interfere a lot with the regular market forces that are in play. The removal of the possibility to fail can be seen as a positive thing, but failure is a part of competition as well. If you are willing to take risks you should bear the consequences of those risks as well. If the government takes away those consequences, they are essentially taking away the risk, therefore taking away a competitive aspect of the market. This interference therefore constitutes a loss in negative freedom. Furthermore, an additional barrier is set up by the government due to the subsidies to banks instead of individuals. Individuals now have to go through the banks to gain access to the subsidies, while the government could have given the subsidies directly to the individuals (for example by a first-house policy which would give you a sum of money when you first buy a house).

There is a loss in republican freedom. Since the subsidies go to the banks, instead of the individuals, individuals are at the mercy of the banks for the advantages of the subsidies. The banks have the power to decide to give individuals a mortgage. They don't have to take into account the interests of the individuals. This could have been prevented if a first-house policy would have been instituted, for there would be a clear policy which would be the same for everyone. Furthermore, the removal of the negative consequences of failure also resemble a dominating relationship. The banks are dependent on the government

for the bailouts and the buying of mortgages. The government could, in principle, not bail the banks out. Due to the fact that the government often states that it won't do so to begin with, it isn't hard to see how it is the government that has the ability to change its will at different times. There is no coherent regulation for the bailouts, only arbitrary decisions made by the government.

In conclusion, the regressive rent-seeking policies have massive effects on the freedoms of citizens. The majority of the population, mostly lower-income, lose not just a part of their welfare, but also a part of their freedom. In the next chapter I will look at the freedoms lost and use these examples as a source to find similarities between the freedoms lost due to the regressive rent-seeking policies.

3. Freedoms lost by Regressive Rent-Seeking Policies

In the previous chapter we have examined the four examples given by L&T in their book the Captured Economy. Land use restricts the freedom to build on your property as you'd wish, occupational licensing restricts you from practicing certain professions, intellectual property laws restrict you from using the ideas or inventions of others (or yourself), and the financial sector restricts you from accessing subsidies that are meant to benefit you. But what do all these have in common besides making the wealthy wealthier and keeping the less-well off poor?

That is what I'm going to try to identify in this chapter. Although I don't believe there to be one common characteristic that is shared in all the policies, besides the regressive rent aspect, I do believe there to be similarities between them. Specifically, it may be the freedoms lost that are most similar. Therefore I'm going to identify the freedoms lost with the use of the characteristics of the consequences of the policies in the hopes to find common aspects of the freedoms lost. I believe there to be three main ways in which the regressive rent-seeking policies achieve their regressive rent aspect: 1) Restriction of supply, 2) Inflation of demand, 3) Removal of the negative effects of failure.

3.1 Restriction of supply

The restriction of supply is probably the most common throughout the examples in the previous chapter. The lack of housing supply is a direct result of the zoning laws, the gatekeeping done by the licensing boards make sure that certain professions cannot conform to the demand and IP laws restrict supply by way of allowing a monopoly on certain products. Even though these policies may not always restrict the supply in such a manner that the supply cannot meet the demand of the product, it is inherent in the policies that it restricts supply. It may just be the case that the level at which the supply will be restricted is never reached by the demand.

These laws and policies are often phrased as such: You are only allowed to provide X if you have permission from Y. This phrasing is misleading because the policy therefore implicitly outlaws everyone else from providing X. A better phrasing would be: You aren't allowed to provide X except for if you have permission from Y. This better illustrates the magnitude of these policies. The policies outlaw providing X, be it construction on your own property, doing a certain profession etc. This is essential because it means that the baseline, at which you start, freedom you have is one in which you aren't free to provide X. This means that you don't *have* the freedom to provide X, but that you have to *gain* the freedom to provide X.

Of course, government outlaws a lot of things. Many of which we all agree on, such as rape, murder, robbery etc. But the turn of event comes when the government subsequently give permission to some people to provide X, while others still aren't allowed to. They are therefore selecting who is allowed to provide X, making everybody that wants to provide X subject to the governments will. They are engaging in *selective freedom*.

Before we continue, I would like to make clear that this isn't the only time the government differentiates between the freedoms of people. Some people aren't allowed to buy alcohol or own a gun. The difference is that these people are disqualified from having that freedom. Their baseline freedom is that of allowance. But due to being underage, in the case of alcohol, or having a previous criminal record, in the case of gun ownership, they are disqualified from those freedoms. In the regressive rent-seeking policies you need to qualify and subsequently gain permission from Y for the freedom to provide X.

We can follow the same logic as the previous paragraph for the restriction of supply. If the baseline is the outlawing of supplying X, as no-one is allowed to produce or provide it, that means that the baseline for the supply is also 0. The supply will only increase if the government allows it to. The government also controls the amount with which it will increase and who will be allowed to provide it. You can easily see how this restricts the supply of certain products or services, even though it is technically possible that everyone, or enough people, get permission to supply it (at which point the policy becomes rather redundant).

Unless the government allows enough people to provide X such that the supply outruns the demand, you will have a situation in which the people that have a demand for the product or service are worse off. If the actual supply is 0, nobody can make use of the product or service. But in practice the supply that is subject to these policies will never be 0. But what is inherent to these policies is the fact that they will always hurt the worse-off more than the well-off. If the supply is below the demand it will become higher in price (or lower in quality) relative to the price of the product or service if the supply is 100% of the demand. People with less disposable income have a harder time paying the increase in price. Either they are able to pay, but lose out on a larger fraction of their disposable income, or they aren't able to pay, and lose out on the possibility to make use of the product or service. People with a higher income lose less of a fraction of their disposable income with an increase in price.

Because of this it is inherent that when supply is restricted, the worse-off will be the first to lose out. Obviously, the supply can be restricted because of scarcity outside of the scope of government. Notoriously, diamonds have been very expensive, mostly because of their natural scarcity. Only the rich can afford diamonds. But we wouldn't want the government to imitate natural scarcity, unless X is explicitly harmful (for example, oil and gas which contribute to climate change).

What is also inherent to policies that restrict supply is the fact that those people that are granted the freedom to provide X will profit more from it relative to a world in which the supply isn't restricted. This is simply the case because they have less competition, and can therefore sell at a higher price, subsequently increasing their profit. This leads to wealth accumulation in that group. The government is allowing only a small group of people to profit from providing X. In contrast, if the government completely forbids a certain product or service, it isn't allowing anyone to profit from it.³ This also means that the government isn't making special exceptions for freedoms.

3.2 Inflation of demand

A restriction on the supply of services or products can be detrimental to everyone in the society, but primarily the lower-income group. The same can be said for the inflation of demand. We've seen this inflation in the example of the financial sector, where Fannie Mae and Freddy Mac inflate the demand for mortgages that have already been agreed upon. They therefore inflate the demand of these mortgages, for the banks have someone to sell them too. This led to an increase in the amount of mortgages, and in particular risky mortgages, that the banks were signing. Another example would be the case of the law and lawyers. L&T noticed that lawyers are overly represented in the positions of law-makers (L&T, Ch. 5.4). Laws have been getting more complicated in the last decades and L&T partially blame the lawyers for this (which isn't a stretch, since they hold about 40% of positions of law-makers). Due to this complexity there is also an increase

³ Products or services forbidden by law do of course find their way onto the black market. But the essential difference is that the government doesn't grant the freedom to those people to provide those products.

in need for lawyers. Most of the lawyers in the law-making position probably don't intent to add to the complexity. It is very likely that their education in law has conditioned them to make laws overtly complex so that the law covers every possible situation. But more complexity ultimately results in more work. The increase in price of lawyers isn't solely due to the fact of inflated demand, as they also restrict the supply of lawyers through occupational licensing.

In contrast to the restriction of supply, the inflation of demand promotes the use of a product or service to the extent that there is an increase in demand for it. But in contrast to a natural increase in demand, due to an increase in popularity, an inflation of demand makes the product or service more necessary.

An inflation of demand also hurts the lower-income population first. Everyone has to spend more of their money on the product or service that has its demand inflated. For example, you have to pay for more hours of work by the lawyers. Since lower-income groups have less disposable income, they are hurt by this the most. Second, if the supply is unable to keep up with the inflated demand we will again see an increase in price.

An inflation of demand isn't good for the dispersion of human capital either. An artificial inflation of a profession also results in an artificial pull of human capital towards that profession. Often, although not always, this means that well-educated people are pulled towards that profession. The well-educated people could be more efficient in other professions, but since well-paying jobs are plentiful in the artificially inflated profession, they gravitate towards that profession.

Due to the fact that it is impossible to inflate the demand of every product or service there is once again a selection of who will and who won't be able to profit from the inflation of demand. In the case of mortgages you effectively select the financial sector as the beneficiaries of the inflation of the demand. Even though it may also increase the amount of people that can get a mortgage, it is primarily the banks that profit from it.

3.3 Removal of the negative effects of failure

A removal of the negative effects of failure doesn't directly involve the restriction of supply and demand, but the risk evaluation of business decisions. This may in turn influence the supply and demand. We have noticed this removal in the financial sector, where risky mortgages were bought up by government institutions, removing the negative effects of these risky mortgages from the banks in the process, or with the implicit bail-outs, removing some of the negative effects of doing risky business. But we can also notice it in the case of IP laws, which protects the companies from the negative effects of bad business practices by outlawing any competition.

The removal of negative effects of failure sounds *prima facie* very positive. If we are able to remove (parts) of the negative effects of failure, we allow people to take more risks, often leading to more rewards, while not having to worry about the effects failure would have on their lives or their business. But the policies don't remove the negative effects, the negative effects are shifted to someone or something else. In the case of the financial sector we can clearly see that the negative effects do not fall upon the banks, but upon the government, and in extension the tax-payer. The negative effects are still the same, but who is paying the price changes. This is similar in the case of IP law, where the negative effects of bad business practices, such as higher prices and worse product, don't fall upon the company, but upon the people that want or need the product or service the company provides. There seems to be two types of policies that take away the negative effects of failure: The government directly taking on the negative effects and the government outlawing competition.

In the case of the financial sector the government directly takes on the negative effects of failure. Because banks don't want to have 30-year mortgages on their books, the government buys these mortgages. If people start to default on their mortgages, the government would lose money, not the banks (although the banks still hold some of the mortgages). The government didn't buy up just any mortgage at first. It had to be safe enough for the government not to lose money on it. But because of the aim to promote house-ownership in low-income groups the government began to buy less favorable mortgages. This was great for the banks, as they could sign more mortgages and therefore profit more, while not bearing less of the risk of these high-risk, or subprime, mortgages. The negative effects of the risk of these mortgages were partially shifted from the banks to the government.

The implicit bailout promise by the government further exacerbated the problem. The negative effects of bankruptcy were partially removed from banks as long as the impact of their bankruptcy was big enough. They were also able to take more risks in other areas due to the fact that they had less risk in the domain of mortgages. While this had led to huge profits during times in which few mortgages were defaulting, the crisis of 2007-09, and its aftermath, shows how bad it can get if mortgages do start defaulting. In this aftermath we saw the implicit promise of bailouts come to fruition, costing the government and its taxpayers millions upon millions all over the world.

Taking away the negative effects of failures from those that fail therefore also has a second layer of consequences. It isn't the case that it just takes away the negative effects while everything else stays the same. It also increases the amount of risky undertakings that a company or person will do because the negative effects of failure are less for them. The negative effects of failure play a large role in the decision making process, whether you are or aren't willing to take on risky ventures. If the risk of failure stays the same, but the effects are less, you will be more likely to take part in it. The policy of removing the negative effects of failure also increases the risky behavior, for there is less of a downside if the risk doesn't pay off.

The example of IP laws shows that the outlawing of competition can be seen as a removal of negative effects. If a company has a monopoly on a certain product or service due to a patent, it is able to get away with a bad product or high price, since there is no possibility of other companies stepping in to deliver a better product or service. As mentioned in the first chapter, the political economical problem of the US, according to L&T, is a problem of a lack of competition. The negative effects of failure due to bad business would usually consist of going out of business due to bankruptcy, but due to the lack of competition this possibility is severely reduced. The negative effects of bad business, consisting of a bad product or higher prices, are put upon the consumer who is in need of the product or service. And again, due to the higher price, the lower-income group feels these effects the most.

Although failure may not be positive, it is necessary for a working market and arguably for a working society. It is a fact of life that not everything you do succeeds. Some argue that the failures of your actions give meaning to your successes. But you need to have the freedom to fail, even though you may not like it. If the freedom to fail is taken away you don't have to improve whatever you are doing. There is fewer necessity to take into account the possibility of failure even though the negative effects of failure still exist. Failure is important in life, and failure is important in the market because of its ability for creative destruction; new companies rise and overtake the existing companies if they are able to improve on the product or service delivered, either in quality or price.

3.4 Common characteristics

Now that we have more closely determined what freedoms are lost due to the regressive rent-seeking policies we can start examining the exact nature of the freedoms lost. I believe the primary loss of freedom to be the loss of freedom to provide X. The restriction of supply due to zonings laws, occupational licensing and IP laws have a huge impact on what people are and aren't free to provide. As discussed in the chapter on restriction of supply, it is the case that the baseline of freedom for the provision of X is 0. Only if Y, in this case the government, gives you explicit permission for providing X you are allowed to do so.

This constitutes interference from the perspective of negative freedom. It is also arguably a large amount of interference, for the baseline is that you aren't allowed to do something with the force of threats, both physical and mental, coercing you. But even if the government gives you permission to provide X, which isn't always the case, you are still interfered with. You have to first apply for the permission to provide X and subsequently that application has to go through a process. This is a barrier that you have to overcome, a barrier that is man-made.

This also constitutes a loss of republican freedom. Not because of the interference as such, because interference doesn't necessarily mean a loss of republican freedom, but because of the arbitrariness of the interference. If everybody is disallowed from doing something, there is no arbitrary decision to be made about who is and isn't allowed to do something. The disallowance of providing X is the baseline of the policy and there would not necessarily be a problem as such with the policy. The problem arises when the government allows some people, but not others, to do X. This means that the people that want to do X are subject to the will of the government. The government can change its stance on giving out permission at any point. Due to the dependence on the good will of the government for the freedom to provide X we can say that the population is dominated by the government and therefore lack the requirement for republican freedom, namely non-dependence or non-domination.

Secondly, we have the loss of freedom due to the removal of the negative effects of failure, or the freedom to fail. This loss in freedom can be a consequence of the first freedom that was lost, the freedom to provide X. One of the consequences of the loss of the freedom to provide X is a loss in competitiveness of the market. Failures therefore have fewer consequences, for there are fewer competitors that can improve on the product or service that a company provides. Due to the lack of competition it is not the company that is paying the costs, but the consumers who want or need the product or service the company provides, for the quality or price of that product is suboptimal. A second way in which there is a loss of the freedom to fail is the government directly taking on the negative consequences of failure. We've seen this in the government taking on subprime mortgages. Therefore, there is still the possibility of failures on the side of the banks, but the negative effects of failure are on the government. In the end, it is the taxpayer that pays for the negative effects of the failure of the banks.

This again constitutes interference. Although we often characterize interference as taking something 'positive' away, this isn't a fair characterization. It is the interference in anything, even that which is negative. Even if we go along the lines of Mill's harm principle we find no justification for interfering in the possibility or the effects of failure. The government is setting up barriers which makes the possibility of failure less likely or less catastrophic for the one taking the risk, but the effects stay similar, just effect other people.

It also constitutes a loss of republican freedom. The banks, in the example of the financial sector, are dependent on the government to maintain their existence. If the government decides to not bail the banks out when they enter a crisis, the banks won't survive. They are therefore dependent on the will of the

government and essentially the arbitrary will of the government, for no contract or law forces the government to bail them out. It is entirely up to the judgement of politicians whether the bail out will happen. In the case of the lack of competitiveness we can, for both negative and republican freedom, already decide that there is a loss of freedom due to there being a loss of freedom to provide X, which inevitably results in the lack of competitiveness.

Lastly we have the freedom lost as a consequence of the increase in price of products, the freedom to buy X. This is a consequence of the freedom lost to provide X and the inflation of demand. As we've noted, people with a low income have a harder time due to the increase of the price of X. It is therefore not just a loss of freedom, but a loss of freedom that predominantly takes place in the low-income population. The restriction to provide X means that there is a possibility that there will be less X on the market. The inflation of demand can result in a higher necessity for a product or service, as with the case of the lawyers.

For negative freedom the freedom to buy X is lost, because the ability to do so is lost due to government interference. It isn't natural scarcity through which the ability to buy X is lost, but artificial scarcity imposed by external agents. The same can be argued for the inflation of demand, for the artificial (although the law can always be seen as artificial) increase of the complexity of the law has led to an increased necessity of the use of lawyers. Even those that are able to afford the increase in price for lawyers are interfered with, for the rent due to the inflation of demand or the loss of freedom to provide X is still an interference even if you are able to afford it.

There is also a loss of republican freedom, due to the fact that the increase in price, whether it exists at all, is subject to the arbitrary interference of the government. As shown, the freedom to provide X already sees a loss on a republican basis. The same argumentation extends to the freedom to buy X, for it is the extent to which freedom to provide X is lost which results in the loss of the freedom to buy X. If there isn't any freedom to provide X lost, then there will be no increase in price (if nothing else is influencing the price). The freedom to buy X caused by the inflation of demand is also a loss of republican freedom, for it is the arbitrary interference of, for example, the lawyers that results in the increased demand. People, especially from the lower-income group, are therefore subject to the good will of the law-makers in question. If the law-makers in question decide to not increase the complexity of the law, the people from the low-income group remain able to buy X. If they do decide to increase the complexity, the people from the low-income group will become unable to buy X. It is the law-makers that have the power and that can therefore decide whether they want to increase the complexity, without having to take into account the possibility that it could lead to a situation in which some people aren't able to afford lawyers.

There is a loss of freedom to provide X, a loss of freedom to fail, and a loss of freedom to buy X. The former loss of freedom is a primary cause of the latter two. We have now established what freedoms are lost due to the regressive rent-seeking policies. All that remains is to point towards possible solutions for the regressive rent-seeking policies.

4. Strategies against regressive rent-seeking policies

As we have now determined the root cause of the effects of the regressive rent-seeking policies, the loss in freedom, we will turn to possible solutions to the problem of regressive rent-seeking policies. How can we prevent the policies? Before I can propose possible solutions I will need to decide between a negative and republican conception of freedom. The solutions will differ between the two conceptions because they highlight different problems. Thereafter I will look at some of the solutions proposed by L&T and see whether they are a solution to the problem of the loss of freedom. Then I will propose an extra solution.

4.1 Negative vs. Republican freedom

In order to provide possible solutions to the problem of regressive rent-seeking it is necessary to decide between the negative and republican conception of freedom. The negative conception identifies non-interference as freedom, while republican conception identifies non-domination as freedom. The strategies to safeguard freedom are therefore different depending on the conception of freedom. Which conception of freedom best characterizes the loss of freedom in regressive rent-seeking policies?

Negative freedom holds non-interference as the standard for freedom. We can be certain that all the regressive rent-seeking policies constitute interference. But this can be said about all government action. Even if we apply Mill's harm principle, that the restriction of (negative) freedom is allowed if a person would be harmed (Brink, 2018, Ch. 3.6), we still find that a lot of government intervention is illegitimate. The harm principle constitutes a justification of restricting liberty. It doesn't result in no loss of freedom.

For negative freedom it is the disallowance of providing X that constitutes the interference, not the subsequent allowance for a certain group of people to provide X. The latter, although it results in more freedoms lost through the increase in price of products or services, could arguably be an increase in freedom, as more people are allowed to provide X due to the exceptions made by the government. In the case of zonings laws it would mean that people are being interfered with due to the restriction on construction, but some people are able to get a permit and therefore have the freedom to construct. It is not a complete restoration of freedom, as you still have to go through the application process to get a permit, but those that do get a permit are freer than those that don't.

But negative freedom doesn't quite capture the complete problem of regressive rent-seeking policies. I believe the real problem to be the selective freedom, by which one group is allowed to provide X, while the rest isn't. Republican freedom does a better job at capturing this. It isn't the mere interference that causes the inequalities, it is the arbitrary interference and the subsequent selective freedom that does so. For it is the freedom that some gain, the freedom to provide X, while others don't that causes the increase in inequality. And the selection of this group of people that is allowed to provide X is done on an arbitrary basis. The arbitrary interference allows for groups to profit at the cost of the rest of the population. Occupational licensing is a prime example of this, for it is the licensing boards that have the power to decide who will be allowed into the group that has the freedom to provide X, and by extension to decide who is allowed to profit from this freedom. You are therefore dependent on the government and the government. This constitutes a dominating relationship.

Contrary to negative freedom, non-domination doesn't limit the government in almost every interference. An interference on non-arbitrary basis

isn't a loss of freedom. It therefore allows for much more of the current day affairs of government.

4.2 Rent-proofing politics

Now that I've shown that republican freedom better fits the loss of freedom by the regressive rent-seeking policies it is time to look at possible solutions for the regressive rent-seeking policies. L&T propose a few solutions for the regressive rent-seeking policies in their final chapter (L&T, Ch. 8). They base this on the biases that they identify in US politics. I've already mentioned these biases in the first chapter: 1) Information asymmetry, 2) Policy image, 3) Decision making in obscure & non-transparent settings, 4) Tendency towards kludgeocracy. Furthermore, they believe, as do I, that this may be a problem of modern democracy as a whole, due to the fact that a concentrated few have the ability to organize, while the dispersed many don't (or have less of an ability to do so). This combined with the fact that there is a government powerful enough to enforce the policies and a private sector big enough to influence politics brings about the regressive rent-seeking policies.

Awareness of the costs and (lack of) benefits of the regressive rent-seeking policies isn't enough. L&T propose that there is a need for a more robust system of deliberation. In general, the way politics is done in the US needs to be changed to allow for an increase in reflective and critical deliberation. This change can only be brought about if the majority of the population endorses it.

They propose specific adjustments to facilitate this change in politics. The information asymmetry that occurs due to the concentrated few organizing easier and therefore being able to pay for the production of information more easily. The concentrated few use this information to influence the decisions of the politician (lobbying) (L&T, Ch. 8.1). To counteract this the government should subsidize information production for the dispersed.

Another avenue to accomplish a better information symmetry is improving the quality of congressional staffers (L&T, Ch. 8.2). It is currently the case that a large part of the congressional staffers are young and have just recently graduated. They use the job of congressional staffer as a stepping stone towards a better paying job in the private sector. Raising the pay and benefits as well as making the job of congressional staffer independent from the person filling the seat in congress could drastically improve the quality of congressional staffers.

Lastly, they argue for an office of management and budget (OMB) for every state (L&T, Ch. 8.3). The OMB currently oversees and evaluates federal policies and budgets. The hope being that OMB's in every state would allow for a better evaluation of the costs and benefits of policies made on state-level.

All these proposals would mostly help with the information asymmetry bias. But due to better insight into the costs and benefits of policies it could also help to better illustrate what the actual consequences of the regressive rent-seeking policies are and thereby help to rectify the policy image where needed. Furthermore, an oversight office such as the OMB may improve the visibility of the decision making, as the policies have to be evaluated by the OMB's, making it harder for the policies to be hidden in the shadows. But there is no guarantee that these changes will completely eliminate the regressive rent-seeking policies, although they will most certainly help in reducing them. There has already been oversight on these policies, as they have been instituted and approved by politicians. The benefits and costs have been examined, for example in books such as the Captured Economy. What these proposed solutions try to achieve is on the one hand an even playing field by subsidizing for better staff and better information provision, and on the other hand better oversight through OMB's.

4.3 Reciprocal Power and Constitutional Provision

Do the proposals by L&T help in rectifying the republican freedom lost due to the regressive rent-seeking policies? I believe that they do. Pettit, in his book "Republicanism", states that there are two strategies to ensure non-domination (Pettit, 2010). These strategies are reciprocal power and constitutional provision. I believe that the proposals by L&T fall within these strategies. Furthermore, I believe that these strategies can help us in further identifying possible solutions to the problem of domination created by the regressive rent-seeking policies.

We start with the strategy of reciprocal power. This strategy proposes the solution of giving both parties equal amount of power, thereby assuring that none will be dominated by the other (Pettit, 2010, p. 67). We can easily see how the leveling of the playing field for information provision falls within this strategy. If both sides have the same amount of information provision, none should have the power to dominate the other through the use of information. This, of course, only works if the information provision is the sole cause of the domination. But even if it isn't the sole cause, it may help in alleviating some of the loss of republican freedom.

But reciprocal power, as pointed out by Pettit (Pettit, 2010, pp. 93-95), has its downsides. It basically means that you need an ideal world, where everyone has enough power to resist the dominations of others. This can lead to a situation of a war of all against all, constantly defending against the attempts of others to dominate you. This can tie up a lot, if not all, of your resources. This also seems quite similar to the concept of mutually assured destruction. Both groups know they are safe, for both know that they can hurt the other just as much as they can be hurt by the other. Although this may be true, and may be better than knowing that you can be hurt by the other at any point in time without the possibility of reciprocity, and therefore without the possibility of consequence for the one hurting you, it doesn't seem to be a satisfying way to live your whole life. The entirety of the cold war was an illustration of what mutually assured destruction looks like. The constant fear that was persistent throughout that war should illustrate why this isn't a very appealing option.

Reciprocal power also invites the possibility of an arm's race, in which there is a constant increase of investment into power by both sides. Both sides consistently become more powerful, but this focus on power comes at the cost of other things in life. Furthermore, the unequal economic nature of society would probably lead us to an unequal spread of domination, namely that the rich will most likely dominate the poor through their higher investment in power.

I tend to agree with Pettit when he says that constitutional provision is a more appealing option (Pettit, 2010, p. 93). Instead of giving the dominated party the power to fight back, the strategy of constitutional provision implements a third party that will try to nullify the domination taking place (Pettit, 2010). The most obvious example for this would be the law, and in extension the court. This is why republicans often value countries with a good set of laws. Particularly, a set of laws that protects every citizen from arbitrary interference. We can also reasonably say that the state-level OMB's proposed by L&T fall within this strategy of constitutional provision. They're supposed to be a third party that will take away the power of a dominating party to interfere with the dominated party. However, the OMB's don't look at the freedoms lost, and therefore the domination, but at the economic consequences. But economic consequences may, as I've pointed out in chapter 3, be an indication for the loss of freedom.

But I believe that we ought to go further than a state-wide OMB. There is already a country-wide OMB in place, but still there are country-wide regressive rent-seeking policies. I believe that the US is, and has always been, a country predominantly focused on a republican conception of freedom. As mentioned

before, the independence of the US was founded on the idea of non-dependence or non-domination. Still today we can find remnants of that idea, for example by looking at the gun laws in the US compared to other countries. US citizens in favor of the gun often cite as one of their reasons that they should be able to defend themselves if the government turns against them. This is a remnant of the times in which they were still being dominated by their colonial overlord.

Because the concept of freedom as non-domination or non-dependence is already prevalent throughout the US, now and in the past, I believe it can help in achieving the endorsement of the majority of the population. This is something, as already pointed out by L&T, that is necessary for real change to happen. And I believe that the change shouldn't be limited to more subsidies and more oversight, but to a change in law. Constitutional provision can best be provided by the law. There are two ways in which the law in the US has to change. First, it needs to be simplified. The law, in its current state, is overly complicated. This leads to a higher cost, both in economic- and human capital terms, which further reduces the ability of the lower-income group to properly make use of the law in their defense against domination.

Second, there needs to be a higher focus on the illegitimacy of arbitrary interference, especially when this arbitrary interference is perpetrated by the government. The focus should primarily be on the arbitrary interference of the government because of the power and legitimacy that the government holds. They are the only party allowed to make use of threats of violence. And it is precisely because of the amount of power that the government holds that it needs to be kept in check. Furthermore, the power of the government is the power that is sought out by the powerful individuals and groups within society. They co-opt this power for their own benefit. If we can therefore limit or remove the possibility of the use of this power, we also limit the possibility of regressive-rent seeking policies.

Conclusion

I've shown that it is indeed a loss of freedom that causes the effect of inequality of the regressive rent-seeking policies. The creation of inequality is inherent to policies that have a conditional or *selective* component for the freedom they provide. Furthermore, if this conditional or selective component is arbitrary, we find that there is a loss of republican freedom. It is therefore the loss of republican freedom that allows for inequality to rise. It is the exception to the rule, to the disallowance of providing X, that creates the inequality, not the disallowance of providing X. It is because of the exception that republican freedom characterizes the loss in freedom better than negative freedom.

It is the low-income group that is hurt the most by the loss of republican freedom. It is very likely that people with a lower income are less likely to be allowed to provide X. It is inherent, due to the restriction of supply and inflation of demand, that prices will rise because of the policies. Therefore people with a lower disposable income will be hurt the most by these policies, by this loss of freedom. This is further exacerbated by the selective *loss* of freedom to fail. Wealthy people and corporations are protected against the negative effects of failure and are therefore able to engage in suboptimal business practices and riskier ventures. This allows them to accumulate even more wealth, while the public at large has to pay the costs.

To solve the problem of regressive rent-seeking policies we need to safeguard our politics against the loss of republican freedom, for it is this loss that allows for the creation of the regressive rent. We can do this, according to Pettit, through both reciprocal power and constitutional provision. L&T have already laid out some of the possibilities, such as subsidizing information provision (reciprocal power) and instituting state-wide OMB's (constitutional provision), but I believe that we have to make more rigorous changes. I believe this to be possible due to the prevalence of republican freedom in the US. The dependence on the good will of the British government is the cause of their independence. To truly get rid of the majority of domination, of the loss of republican freedom, there needs to be a change in the law. The law needs to be simplified, so every man can make sense of it and thereby use it to defend himself against domination. Furthermore, new laws need to be introduced against the domination from the government, for it is the power to dominate that people in the private sector seek out. Removing this power from the government takes away the power from the regressive-rent seeking people.

It has been my aim to further help identify regressive rent-seeking policies. I believe that the identification of the loss of republican freedom as the main cause of the regressive rent can help others in this endeavor. I hope that more of these policies can be identified through the use of my analysis. I subsequently hope that my analysis has proven to be fruitful in identifying possible solutions to the problem. More research has to be done for my proposal to simplify and add onto the law as it stands, but it is my hope that someone specialized in law (who isn't specialized in making the law more complex, which may be a hard person to find) will be able to do so at the hand of this analysis. It is essential to fight the loss of republican freedom, for the rising inequality will only get worse if we do not combat it.

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