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'The Republican Law of Peoples: A Restatement' in Barbara Buckinx, Jonathan Trejo-Mathys, and Timothy Waligore, eds, *Domination*

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Domination and Global Political Justice

Conceptual, Historical, and Institutional
Perspectives

**Edited by Barbara Buckinx,
Jonathan Trejo-Mathys, and
Timothy Waligore**

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To Jonathan Trejo-Mathys, in loving memory

2 The Republican Law of Peoples A Restatement

Philip Pettit

This essay tries to provide a sketch of the international arrangements that we ought to recommend as means for coordinating and organizing the behavior of national states, as they currently exist.¹ Rousseau argued for taking men as they are and looking at the law as it might be.² Taking states as they are, in a variation on that principle, I ask about the international order as it might be. There is room for debate, of course, as to whether there ought to be national states of the kind with which we are familiar, or whether such states ought to have their existing territories or powers. But that is not the sort of discussion that I shall be pursuing here. For good or ill, I shall assume that there is unlikely to be a sea change in the configuration of national regimes and ask only about how those regimes ought to be internationally ordered.

I approach the topic from the viewpoint of the long republican tradition, using ideas developed in recent versions of a neo-republican philosophy of politics.³ The core thesis in that tradition is that freedom is the paramount

¹ This is a thoroughly revised version of Philip Pettit, "A Republican Law of Peoples," *European Journal of Political Theory* 9, no. 1 (2010): 70–94. For a further discussion of the issues addressed see Pettit, *Just Freedom: A Moral Compass for a Complex World* (New York: W. W. Norton, 2014), ch. 6.

² Jean-Jacques Rousseau, *The Social Contract and Discourses* (London: J. M. Dent & Sons Ltd., 1973).

³ An up-to-date list of English works in neo-republican thought should include these books: William Brugger, *Republican Theory in Political Thought: Virtuous or Virtual?* (New York: Macmillan, 1999); Iseult Honohan, *Civic Republicanism* (London: Routledge, 2002); Frank Lovett, *A General Theory of Domination & Justice* (Oxford: Oxford University Press, 2010); Jose Luis Martí and Philip Pettit, *A Political Philosophy in Public Life: Civic Republicanism in Zapatero's Spain* (Princeton: Princeton University Press, 2010); John Maynor, *Republicanism in the Modern World* (Cambridge: Polity Press, 2003); Eric MacGilvray, *The Invention of Market Freedom* (Cambridge: Cambridge University Press, 2011); Maurizio Viroli, *Republicanism* (New York: Hill and Wang, 2002); Philip Pettit, *Republicanism: A Theory of Freedom and Government* (Oxford: Oxford University Press, 1997), Paperback ed., with postscript [1999]; Quentin Skinner, *Liberty Before Liberalism* (Cambridge: Cambridge University Press, 1998); Lena Halldenius, *Liberty*

ideal in political life, and that freedom requires, not just the absence of arbitrary interference by others in your affairs, but also the absence of a power of arbitrary interference on their part: the absence of domination. Here I look at the international arrangements that might provide each people with a collective version of individual freedom, giving it a non-dominated status in relation to other states and other international agencies.

The paper is in seven sections. In section 1, I present an assumption about the nature of different states that shapes later discussion. In sections 2 and 3, I look at the nature and disvalue of domination in the interpersonal relations of individuals and the international interactions of peoples. In the following two sections, 4 and 5, I consider the sources of international domination and rehearse the sorts of remedies that might help to alleviate it. And then in section 6, I look at the advantages of highlighting the ideal of non-domination in this context rather than the thinner ideal of non-interference or the richer ideal of cosmopolitan justice.

Revisited (Lund, SE: Bokbox Publications, 2001); Pettit, *Just Freedom: A Moral Compass for a Complex World*; Pettit, *On the People's Terms: A Republican Theory and Model of Democracy* (Cambridge: Cambridge University Press, 2012); Fabian Schuppert, *Freedom, Recognition and Non-Domination: A Republican Theory of (Global) Justice* (Dordrecht, NL: Springer, 2014); these collections of papers: Samantha Besson and Jose Luis Martí, eds., *Legal Republicanism* (Oxford: Oxford University Press, 2009); Iseult Honohan and Jeremy Jennings, eds., *Republicanism in Theory and Practice* (London: Routledge, 2006); Cécile Laborde and John Maynor, eds., *Republicanism and Political Theory* (Oxford: Blackwell, 2008); Andreas Niederberger and Philipp Schink, eds., *Republican Democracy: Liberty, Law and Politics* (Edinburgh: Edinburgh University Press, 2013); Daniel Weinstock and Christian Nadeau, eds., *Republicanism: History, Theory and Practice* (London: Frank Cass, 2004); Martin van Gelderen and Quentin Skinner, eds., *Republicanism: A Shared European Heritage*, 2 vols. (Cambridge: Cambridge University Press, 2002); and a number of studies that deploy the conception of freedom as non-domination, broadly understood: Richard Bellamy, *Political Constitutionalism: A Republican Defense of the Constitutionality of Democracy* (Cambridge: Cambridge University Press, 2007); James Bohman, *Democracy Across Borders: From Dēmos to Dēmoi* (Cambridge, MA: MIT Press, 2007); John Braithwaite and Philip Pettit, *Not Just Deserts: A Republican Theory of Criminal Justice* (Oxford: Oxford University Press, 1990); Henry Richardson, *Democratic Autonomy* (New York: Oxford University Press, 2002); Steven Slaughter, *Liberty Beyond Neo-Liberalism: A Republican Critique of Liberal Government in a Globalising Age* (London: Macmillan Palgrave, 2005); Stuart White, *Building a Citizen Society: The Emerging Politics of Republican Democracy*, ed. Daniel Leighton (London: Lawrence and Wishart, 2008); Cécile Laborde, *Critical Republicanism: The Hijab Controversy and Political Philosophy* (Oxford: Oxford University Press, 2008); John Braithwaite, Hilary Charlesworth, and Adérito Soares, *Networked Governance of Freedom and Tyranny: Peace in East Timor* (Canberra: ANU Press, 2012). For a recent review of work in the tradition see Frank Lovett and Philip Pettit, "Neorepublicanism: A Normative and Institutional Research Program," *Annual Review of Political Science* 12 (2009): 11–29.

1 STATES, REPRESENTATIVE AND UNREPRESENTATIVE

States divide on two dimensions relevant to the issue of how they ought to be organized internationally. One bears on the measure in which they operate effectively, the other on the measure in which they are controlled by their peoples.

The first distinction marks the divide between effective states that have the capacity to provide for basic services to their populations and ineffective states that lack this capacity. Signs that a state is functionally ineffective in this sense will be civil war, unchecked famine, continuing genocide, a class of warlords, and general-lawlessness. A state that is functionally ineffective will be unable, intuitively, to claim to speak or act for its people. It will not have the capacities required in a state that can count as "the political organization of the people," in Rawls's phrase,⁴ or as I shall say, a state that is representative of its people.

The second distinction divides functionally effective states into those that satisfy a further requirement for being representative of their peoples and those that do not. Even an effective state will be unable to speak or act as a proper representative of its people unless it gives its members institutional resources—in the ideal, rights of election, contestation, accountability, and the like—that enable them to exercise more or less equally shared control, though perhaps only at a general level, over what it says and does in their name. Some effective, popularly controlled states may fail occasionally and contingently to be controlled by their peoples, but they will remain representative insofar as the people at least retain the means of exposing and correcting such failures. Effective states that fall too far short of popular control to be able to claim to speak and act for their peoples will fail more widely and more deeply, denying their members the means required for such interrogation and invigilation.

Applying the distinction between states that are subject to equally shared popular control and those that are not raises particularly tricky issues. Popular control comes in degrees on two distinct fronts: the control may be more or less determinative of government policy, on the one hand, and it may be more or less equally shared among members, on the other. At one extreme, we might regard only fully democratic states—and perhaps only states that approximate a high ideal of democracy⁵—as popularly controlled. At the other extreme, we might hold that any state that respects the internationally recognized human rights of subjects⁶—in particular, their rights of expression and association—is subject to popular control; after all, such a state will

⁴ John Rawls, *The Law of Peoples* (Cambridge, MA: Harvard University Press, 1999), 26.

⁵ Pettit, *On the People's Terms*.

⁶ Charles R. Beitz, *The Idea of Human Rights* (Oxford: Oxford University Press, 2009).

presumably be responsive in some measure to the opinions and criticisms freely expressed among the population. The argument that follows presupposes that we can draw the distinction between popularly controlled and uncontrolled states—and, of course, the distinction between functionally effective and ineffective states—but the argument will go through, no matter where exactly the divide is located. I shall generally assume that it should be located at a point nearer the less demanding extreme, but nothing much hangs on that assumption.

However functional effectiveness and popular control are interpreted, the distinction between representative and non-representative regimes directs us towards real differences between states, and these differences are crucial for the question as to what international arrangements should be put in place. If a state is functionally ineffective or popularly uncontrolled, there is no reason why the international order should seek to promote its interests as a state. Or at least there is no reason for it to do so, assuming that the ultimate goal of that order should be to serve the interests of individual human beings; serving the interests of an ineffective or uncontrolled state may hurt, rather than help, the individuals who live under it. If a state is fully representative of its people, however, then things will be very different. Such a state will look after its own members, on terms that they themselves impose, and it would be objectionably intrusive of other agencies in the international order to assume responsibility for those individuals. The concern in the international order should be to accommodate that state appropriately, this being the way to accommodate the people that it represents.

Assuming that we have identified representative states, the first problem in international normative theory is to identify the basis on which we should assess the different dispensations under which those states might operate and relate to one another. And the second problem is to determine how the international order established among such states can and should deal with the harms and losses suffered by the members of functionally ineffective and popularly uncontrolled regimes.⁷

In this paper I shall look at the first of these issues only. But it is worth noting, for the record, that the ideal of non-domination to be supported in discussing the first issue has important lessons for the second as well.⁸ It would argue that representative states, operating through the international

⁷ The sequencing of issues into primary and secondary problems is broadly in the spirit of John Rawls's work on the law of peoples, though he tends to make it a matter of stipulation, not something for which argument is needed. See Pettit, "Rawls's Peoples," in *Rawls's Law of Peoples: A Realistic Utopia*, eds. Rex Martin and David Reidy (Oxford: Blackwell, 2006); Rawls, *The Law of Peoples*.

⁸ Philip Pettit, "Legitimate International Institutions: A Neorepublican Perspective," in *The Philosophy of International Law*, eds. Samantha Besson and John Tasioulas (Oxford: Oxford University Press, 2010), 139–60; Pettit, "A Republican Law of Peoples"; Pettit, *Just Freedom*.

order, ought to protect the peoples of oppressive states against human rights abuses by their governments; protection might involve diplomatic isolation, an economic embargo, or even military intervention. It would argue that they ought to safeguard the peoples of ineffective states against destitution, insecurity, and the like. And it would require that whatever actions representative states take, they should take them only when the collateral costs do not outweigh the prospective benefits, only on a basis that allows for the development of independent, representative states among the peoples they mean to serve, and only in multilateral exercises that guard against making the people helped dependent on the goodwill of any single donor state.⁹

The discussion that follows, then, is limited in two distinct ways. It operates on the assumption that states will remain in place, more or less as they are, and it looks only at the form that the international order ought to assume in arranging relations between those states that can count as representative of their peoples, being more or less functionally effective and popularly controlled. But the discussion, it should be noticed, is limited in other ways too. I set aside the question of what certain, powerful states may owe to other states as a matter of historical justice. I set aside the question as to how, independently of international arrangements, states ought to treat those who seek asylum or refugee status within their boundaries. And finally I set aside explicit questions about the actions that ought to be taken in various scenarios by non-governmental organizations and other such international bodies.

There are two ideals that often figure in the assessment of international arrangements amongst representative states. At one extreme, there is the very minimal ideal under which representative states—indeed all states—should enjoy non-interference in their internal affairs, where this will require the absence of military intervention and subversive infiltration, but also perhaps the absence of economic pressure, cultural manipulation, and the like. At the other extreme, there is the rather richer ideal under which representative states—and again, perhaps, all states—ought to arrange for the achievement of distributive justice across the peoples of the world, not just in their own countries. On this cosmopolitan picture, justice has the same relevance in the international as in the national scene, although for contingent, institutional reasons it may not make the same demands in the two domains.¹⁰

I want to argue that a much more attractive ideal is a regime in which representative states are enabled to avoid domination, whether by another

⁹ I assume that while there may be abuses of human rights and shortfalls of human welfare in representative states, there will normally be effective legal and political means of contestation and correction available within those countries themselves; thus, in normal circumstances, they will not constitute issues that the international order has to address.

¹⁰ Charles R. Beitz, *Political Theory and International Relations* [1999 ed.] (Princeton: Princeton University Press, 1979); Thomas Pogge, "An Egalitarian Law of Peoples," *Philosophy & Public Affairs* 23, no. 3 (1993): 195–224.

state, or by a non-state body. This is an attractive ideal, as we shall see, because it is required for the protection of the individual members of representative states against domination from outside. The ideal is richer than that of non-interference, yet not so utopian as the cosmopolitan ideal of justice. It supports the Rawlsian proposal that representative states ought to live in mutual respect, but it focuses attention, unlike Rawls himself, on the preconditions that must be fulfilled to make such a regime of respect possible.

Non-domination is equated with freedom within the long republican tradition and so the argument I sketch can be cast as the development of a republican or neo-republican perspective on international normative theory. It takes a rather different line from other republican approaches, however, because it starts from states as they are, and sequences the issues discussed in a broadly Rawlsian way. Other republican approaches tend to look more radically at how individuals can be better served by transformations in the international order.¹¹ The approach taken here is not necessarily inconsistent with the lines argued in those other treatments; it shares a common insistence on the importance of non-domination and differs mainly in the questions it addresses.¹²

2 THE NATURE OF DOMINATION

The Domination of Individuals

Before looking at domination in an international context it will be useful to provide a more general account of what domination involves. I will deal first with the domination of individuals, looking at what it means for one person to dominate another in a particular choice, and then at what it means for one person to dominate another, period.

I dominate you in a particular choice, say one involving the options, X, Y, and Z, to the extent that I have a power of interfering in that choice. But

¹¹ Lawrence Quill, *Liberty after Liberalism: Civic Republicanism in a Global Age* (London: Palgrave Macmillan, 2005); Slaughter, *Liberty Beyond Neo-Liberalism*. Bohman, in *Democracy Across Borders*, focuses on the transformation of democracy that can and should be achieved in the international forum and how this can affect national states. I am very sympathetic to his reworking of various democratic concepts but believe that those of us who work in the frame adopted here can also make use of many of those ideas.

¹² For an exploration of the significance of the republican tradition on quite another front see Daniel H. Deudney, *Bounding Power: Republican Security Theory from the Polis to the Global Village* (Princeton: Princeton University Press, 2007). His concern is with ideas about the institutions whereby "republican security" can be ensured: "The tradition of republican security theory begins in classical antiquity, not the modern Enlightenment, and its Enlightenment culminations are in Montesquieu and the American founding, not Kant. Three of the most powerful ideas in contemporary international Liberalism, democratic peace, commercial peace, and international unions, are the legacies of Enlightenment republican security theory" (269).

what is interference? We may take it to involve any one of three sorts of intervention in the choice. First, it may involve removing one or more of the options, via force or agenda-setting or whatever, whether or not the removal is made known to the agent affected. Second, it may involve replacing one or more of those options, say by imposing a penalty on its choice, whether or not this replacement is made known to the agent. And third, it may involve misrepresenting one or more of the options, say by deceiving the agent as to relevant facts about the options or by manipulating the agent's perception of the options by underhand means. Interference in this sense is not an on-off matter of preventing the choice of an option, but rather it comes in degrees; this is because the replacement of an option may involve a lower or a higher penalty, and the misrepresentation of an option may be more or less serious and inescapable.¹³

Understood in this way, interference contrasts with three other forms of intervention. One is the offer in which I reward you for choosing a particular option, say X. This leaves you in a position still to choose between X, Y, and Z; it merely adds a fourth option, which is to choose X and take the reward: in short, to choose X-plus.¹⁴ Another non-interfering intervention is the nudge, as it is now sometimes called, in which I change the structure or architecture of the choice in a way that affects you, without removing or replacing or misrepresenting any option; while leaving you with a choice between healthy and unhealthy food, for example, I may put the healthy food in a more salient position.¹⁵ And a third, non-interfering intervention is the act of persuasion in which I seek to inform you of the respective merits of the options, and to lead you thereby to the choice of a particular alternative; if there is no misrepresentation, then this intervention too leaves you with your original choice.

¹³ Sometimes interference is equated with prevention only: that is, the removal of an option. See Ian Carter, *A Measure of Freedom* (Oxford: Oxford University Press, 1999); Matthew H. Kramer, *The Quality of Freedom* (Oxford: Oxford University Press, 2003); Hillel Steiner, *An Essay on Rights* (Oxford: Blackwell, 1994); and, for a debate on the issue with republican thinkers, see Laborde and Maynor, *Republicanism and Political Theory*.

¹⁴ What of the exploitative offer: the offer that drives a hard bargain with someone in a weak bargaining position, persuading them to accept an arrangement on the grounds that there is no acceptable alternative and they do not have a voluntary choice in the matter? (See Serena Olsaretti, *Liberty, Desert and the Market* (Cambridge: Cambridge University Press, 2004).) That such an offer is accepted is a sign that the person who is made the offer is already in a vulnerable position where domination is likely to occur. The offer itself will perpetrate a harm if, as is common in such circumstances, it sets up a relationship where further domination is facilitated; if it does not set up such a relationship, then it may better the exploited person's position, though it will hardly reflect well on the character of the exploiter. I am grateful for some discussion of this point with Arudra Burra.

¹⁵ Richard Thaler and Cass Sunstein, *Nudge: Improving Decisions About Health, Wealth and Happiness* (London: Penguin Books, 2008).

What distinguishes interference, on the face of it, from such other interventions and makes it *unwelcome*? In a phrase: because it puts you under the will of another. Thus I do not interfere with you in the intended, objectionable sense if my action is non-intentional, as when it results from a slip or an oversight.¹⁶ I do not interfere with you in that sense if my action is involuntary, as when my public office requires me to do something that frustrates you and I have no choice in the matter.¹⁷ And I do not interfere with you in that specific sense if my action is non-arbitrary, as it used to be put; if it is conducted on your terms, as when you have instructed me to deny you something—if it is like the imposition of Ulysses's sailors when they keep him bound to the mast.¹⁸ Interference in the sense intended here is either pursued for its own sake, out of sheer malice, or as a means to, or as a foreseen byproduct of, advancing a distinct, discretionary end.

While my interference in your choice involves an intentional, voluntary, and arbitrary action of removing, replacing, or misrepresenting one or more of your options, any domination I enjoy over you in that choice is a result of my having a power of such discretionary interference in the choice. And that power may belong to me, of course, not because of my intentional efforts, but as a byproduct of inherited resources, physical or psychological, legal or cultural. Indeed, having the power of discretionary interference in your choice may not even be something I take pleasure in; I may wish I did not have it.

Anticipating discussion in the next section, why is domination, like interference, likely to be *unwelcome*? The core reason is that, like interference, it puts you under the will of another. If I have a power of interference in some choice on your part, then whether or not I actually interfere, your capacity to act according to your own wishes will depend on my being and remaining good-willed towards you. Thus, you will depend on the state of my will, and whatever you manage to do, you will do by my implicit or explicit permission. My will, not yours, will be in ultimate charge of how you behave.

The domination I enjoy over you may obtain in one or another degree insofar as the interference I can practice comes in degrees. But it will also obtain in one or another degree to the extent that my power of interfering in your choice comes in degrees. The degree to which I enjoy a power of interference will be determined by how far I can practice interference—whether

¹⁶ Isaiah Berlin, *Two Concepts of Liberty* (Oxford: Oxford University Press, 1958), 1.

¹⁷ Serena Olsaretti, *Liberty, Desert and the Market*.

¹⁸ Pettit, *On the People's Terms*, ch. 1. Notice that on the usage adopted here, whether or not an act involves interference in the unwelcome sense is established by a matter of fact: by whether it is pursued without awareness of the effect on the victim, or for reasons that by accepted criteria leave the agent no choice, or under terms established by the victim. This observation is particularly important in the case of arbitrariness, since others have offered normative accounts of the idea: see Bohman, *Democracy across Borders*; Richardson, *Democratic Autonomy*. For a distinct, but still non-normative, account of arbitrariness, see Lovett, *A General Theory*.

or not I am aware of this—without difficulty and without cost: how far I can practice it at will and with impunity, as it used to be said. The difficulty or cost that reduces my power of arbitrary interference may be imposed from within my own makeup, as a result of physical or psychological limitations, or as a result of outside factors—say, the hurdles of nature or the hindrance of a system of law that protects you from my intrusion.

These observations mean that you or someone acting in your interest may reduce my domination of you in relation to any choice by putting difficulties or costs in the way of my interfering, or by misleading me into thinking that you have done so; being misled on this matter will constitute a difficulty for me in the exercise of my power. Otherwise put, you can reduce my power of domination by interfering with the interference option that my power gives me: you can remove that option by a sufficiently large difficulty, replace it by a cost that you impose, or misrepresent things so that I do not fully appreciate the possibility of interfering.

The lessons about ways in which you can reduce my domination are matched by parallel lessons about ways in which you cannot hope to do so. Thus you cannot reduce my domination, my power of interfering in your choice, by making me an offer, imposing a nudge that structures the choice so that I am less likely to interfere, or by persuading me that there are good reasons why I should not interfere. All such interventions leave my power of interference in place, even though they may affect the chances of my actually interfering with you. They may make it less probable that I will interfere but they all leave me with access to the option of interfering, should I wish to do so.

I hope that these remarks suffice to show what makes it the case that one person dominates another in a particular choice. But what makes it the case, to go to a stronger possibility, that one person dominates another, period, and not just in this or that choice? The more or less obvious answer is that one person will dominate another as a person to the extent that he dominates that other in choices that have a salient significance in relations between people. But what, then, are the choices that deserve to be given such significance?

My response is: those choices that have traditionally been described, particularly in the republican tradition, as the fundamental or basic personal liberties.¹⁹ These are the liberties associated generally with being able to think as you will, being able to say what you think, being able to associate with anyone who will associate with you, being able to move wherever you wish within the society, being able to take any of a number of available occupations, being able to use your leisure time as you will, and of course being able to exercise the rights of ownership that local, presumptively fair, property conventions give you.

¹⁹ John Lilburne, *The Legal Fundamental Liberties of the People of England, Asserted, Revived, and Vindicated* (London: 1646).

These personal liberties are distinguished by a number of features. First, they are personally important choices: they hold out the prospect, for anyone who can exercise them, of achieving a full and meaningful life. Second, they need to be specified in every society by public law, so that various ambiguities are resolved as a matter of common awareness: for example, the ambiguity in whether hate speech is to count as a basic liberty, or in whether owning land means owning the mining rights in the land. Third, they have to be specified in a way that makes them accessible simultaneously to all; otherwise it would make no sense to look, as the republican tradition looks, for a world in which people equally escape domination. This means that the liberties cannot be competitive choices such that one person's enjoying them reduces the likelihood of others doing so. They should be publicly specified so that, manifestly, people are able to exercise any one of them at the same time that others exercise it and someone's exercise of any one liberty does not take from the satisfaction of others in exercising that or other liberties.²⁰

If public law is to specify people's basic liberties, it must equally be expected to protect people—and even perhaps resource them—in the exercise of those liberties; it must be expected in this way to guard them against private domination or *dominium*. And if it is to do this effectively, of course, it had better not dominate the very people for whom it sets up such a protective order, perpetrating public domination or *imperium*. This requires, intuitively, that people can share equally in controlling the very law that serves to identify and guard their liberties. The law had better not be imposed, for example, at the will of a benevolent despot; it ought not to reflect the *arbitrium*, or will, of such an independent agent. It must be imposed, however this is understood, on terms that all are ready to support.²¹

If we restrict the choices in which my domination of you in various choices makes for domination, period, then a number of things follow. First, I will dominate you as a person to the extent to which I dominate you in any of your personal liberties. Second, I will not dominate you as a person if I dominate you in a choice that does not fall under a personal liberty: if, for example, I have a power of interfering with you should you try to harm someone else. And third, I will dominate you to a greater or lesser degree, depending on how many of your basic choices I am able to interfere with. We saw earlier that for two distinct reasons I may dominate you in a choice to one or another degree: first, the interference that I have the power to impose may be more or less intrusive and, second, the power that I have to impose that interference may be subject to greater or lesser cost or difficulty. We see here that when it comes to the issue of whether I dominate you as a person there is also a third respect in which the domination may be a matter of degree.

²⁰ Pettit, *Just Freedom*; Pettit, *On the People's Terms*.

²¹ Pettit, *On the People's Terms*.

The Domination of States

A state is an agent insofar as it satisfies the basic template for agency. It endorses certain purposes or goals, forms judgments or representations of the opportunities, means, and merits of advancing those goals, updates such judgments and purposes as new evidence and the like becomes available, and acts in a manner that promotes those purposes according to those judgments. Or at least it is disposed to do this in a more or less reliable, if sometimes stuttering, pattern. And if it fails to live up to the expectations to which we hold agents, it is disposed to acknowledge, or at least try to explain, the failure in response to criticism; it recognizes that if correct, such criticism would be relevant.

The sensitivity to criticism means that the state is an agent more akin to a human being than a mute animal, or indeed a robot. Not only does it conform to our expectations that it should be evidentially reliable in forming and updating its purposes and representations, and executively reliable in acting for those purposes according to those representations, it also has the capacity to recognize the expectations to which we hold it and the ability to take intentional steps to ensure that it lives up to those standards. It is an agent that speaks through its office-holders, and that can use their words to avow attitudes we may expect it to display and to promise actions we may expect it to deliver.

As a corporate agent of this kind, the state belongs with a large set of group agents, including churches and companies, voluntary associations and town councils. These are bodies that recruit a more or less large number of individuals, under a suitable charter or constitution, so that they perform together like a single agent in pursuing a certain agenda.²² Such corporate agents may dominate individual agents, as our discussion of personal domination should make clear: they may stand over individuals, having a power of interfering more or less at will, and with more or less impunity, in the exercise of their personal liberties. But the more important point to register now is that they themselves may also be dominated.

Any corporate agent, and any state in particular, will face a variety of choices in its day-to-day existence, registering that there are a number of options in each choice and that it can determine whether this or that option is realized. If a corporate body did not face such choices, then it would not count as an agent. And so it should be clear that any such agent, and in particular a state, may be dominated in one or another choice, as certain other agents enjoy a power of interfering with it in making that choice. More or less at will, and with greater or lesser impunity, those other agents or agencies are able to remove or replace an option in the choice, or to mislead the corporate body about the options at its disposal.

²² Christian List and Philip Pettit, *Group Agency: The Possibility, Design, and Status of Corporate Agents* (Oxford: Oxford University Press, 2011).

But while a corporate agent, like a state, may be dominated in one or another choice, the next question is whether there is any sense in which it may be dominated as a corporation, as a person may be dominated as a person. I argue that there is. In order to operate without problems in the context of other agents—individual and corporate—each corporate agent must have a designated range of choices within which it may choose as of a right: as of a right, established by public convention or law, that is recognized within the community of agents to which it belongs. A community of agents within which such rights were not established and generally recognized would be exposed to potentially disruptive instability and conflict. It would represent a moderate form of Hobbes's state of nature.

Corporate agents might be given rights of choice without those rights being appropriate, of course, just as individuals might be given rights of choice that were not appropriate: say, rights that gave superior liberties to members of a certain class, as the Ancien Régime gave members of the aristocracy and clergy special privileges. That raises the question as to what rights of choice, what designated liberties, ought to be given to corporate agents, in particular to states. The answer to that question will vary with the sorts of corporate agents involved, but we need only concern ourselves with the issue in the case of states.

I suggested earlier that in elaborating on the idea of domination we need to use the law to define a set of personal liberties such that it is just the domination of an individual within that set that amounts to domination of the person. In the same way, I think that we need to define a set of sovereign liberties such that it is just the domination of a state within that set that amounts to its domination as a state. That immediately suggests that we can extend the notion of domination to states only insofar as the international order implicitly or explicitly specifies choices that any state can exercise at the same time as others, and that any state can exercise without jeopardizing the satisfaction that other states can derive from the exercise of such sovereign liberties. The choices to be designated as special, in other words, should be co-exercisable as single liberties and should be co-satisfying as a set.

Defensive or punitive measures aside, these choices obviously ought not to include any choices of a hostile nature, such as those involved in invading a state or holding it to ransom in any way. And equally they ought not to include choices that would destroy the global commons: say, exhaust the fishing resources in international waters, or lead to wholesale pollution of the atmosphere. In order to establish what states may and may not do on such fronts, the international order has to mimic the way that local legal systems identify personal liberties. It has to set up public rules that identify choices that each can exercise without jeopardizing their exercise by others, and without undermining the satisfaction that others derive from such choices. Moreover, it presumably has to protect states against suffering domination from other states or international bodies—or license them to

take action in order to ensure this result—without itself imposing a form of public domination on any of those states.

But there is a special constraint that the sovereign liberties of states, as distinct from the personal liberties of individuals, ought to satisfy. This is that no state should be given a sovereign liberty that impacts on the personal liberties that its members must enjoy if they are to escape individual domination. Assuming that it is individual human beings who really matter—more on this shortly—it would be clearly inappropriate for the international order to allow states, as of recognized right, to have liberties inimical to the liberties of their members. Thus to invoke the language of human rights, it would be inappropriate for states to have the right to impose on the human rights of their subjects. Or at least this would be inappropriate with those basic human rights that have a more or less justiciable status in contemporary practice; they are such that any violation serves *pro tanto*—and so, subject to being overridden by associated costs—to justify international action of some kind.²³

With the idea of sovereign liberties in place, there is no difficulty about introducing the idea of a state being dominated as a state, in parallel to the idea of a person being dominated as a person. To the extent that any agency—say, another state, a multinational corporation, or an international agency—dominates a state in the domain of its sovereign liberties, it will dominate the state as a state.

Must the international order have already specified a set of basic liberties, then, if we are to determine that some external agency dominates a representative state? No, it does not. We can speak of the domination of a state in relation to its sovereign liberties, as they are articulated in actual international practice, or in relation to its sovereign liberties as they would be articulated in the international practice that we favor. This is like the situation on the personal front where we can speak of the domination of an individual with respect to personal liberties, referring either to the liberties that are defined in actual law or to the liberties that would be defined in ideal law.

3 THE DISVALUE OF DOMINATION

The Domination of Individuals

The disvalue of domination in the personal case is registered in the fact that the freedom of a choice, and the freedom of a person have been equated in the long republican tradition with the absence of domination. In the first case, freedom requires the absence of domination in the relevant choice; in the second, it requires the absence of domination in the domain of those

²³ Beitz, *The Idea of Human Rights*.

personal choices identified as the fundamental liberties that ought to be available to the citizen of a republic.

Freedom as non-domination contrasts with two other views of freedom: that is, freedom in relation to agents. On a first conception, you are free in a choice between certain options, X, Y, and Z, insofar as you do not suffer the interference of others in choosing what you actually want or prefer. This conception is defended by Thomas Hobbes, who says that someone is free when he "is not hindered to do what he has a will to"; that is, is not hindered to do what he prefers to do.²⁴ Hobbes's conception equates freedom with being able to satisfy your actual preference. It might be called the favored-door view of freedom, because if we think of each option in a choice as a door, it requires only that the door you push on be open.

Isaiah Berlin rejects the favored-door view of freedom for a view that requires all the doors in a free choice to be open.²⁵ He argues that freedom requires, not just that you should be able to get what you want among the options, but that you should be able to get what you want regardless of what it is that you want. He argues that otherwise you could gain freedom in a choice where your preferred option is blocked but an alternative is open just by working on your own preferences and getting yourself to want the alternative; you could gain freedom within prison, even if you wanted to live outside, by focusing on the good things about incarceration and by adapting your preferences to prison life. He rightly holds that this is absurd: "to teach a man that, if he cannot get what he wants, he must learn to want only what he can get may contribute to his happiness or his security; but it will not increase his civil or political freedom."²⁶

Where Berlin's view associates freedom with having all the doors in a choice open, not just the door you push on, the republican view imposes a stronger condition still. It certainly requires all doors to be open, since you would be subject to the power of another if the other could deny you access to any of the options on offer in a choice. But it also requires that no one else be in the position of a doorkeeper who is able to close any door in your face, should they happen to be so inclined. You will not be free in a choice, according to this view, if your access to the options—your ability to pass through any of the doors on offer—is dependent on the grace or leave of someone else. To be able to do something, but only *cum permissu*—only with permission—is not to enjoy freedom proper in the choice. If you

²⁴ Thomas Hobbes, *Leviathan: with Selected Variants from the Latin Edition of 1668*, ed. Edwin Curley (Indianapolis: Hackett, 1994), ch. 21.2.

²⁵ This view is consistent with holding that although you do not have a free choice between three alternatives, X, Y, and Z—Y and Z are closed doors—still if you choose X without knowing that Y and Z are closed, you do so freely and can be held responsible for the choice. See Harry Frankfurt, "Alternate Possibilities and Moral Responsibility," *Journal of Philosophy* 66, no. 23 (1969): 829–39.

²⁶ Isaiah Berlin, *Four Essays on Liberty* (Oxford: Oxford University Press, 1969), xxxix.

manage to satisfy your own will, that is only because it accords with the will of another that you should be able to satisfy your own will. It is that will that is in ultimate control, then, and not your will.

The first view suggests that it is enough for freedom in a choice if you are able to choose what you actually prefer. The second view argues that you must also be able to choose what you prefer, regardless of what it is that you prefer to choose. The third, republican view argues that you must be able to choose what you prefer, not only regardless of what you prefer to choose, but also regardless of what others prefer that you choose. You will enjoy that sort of freedom just to the extent that there is no one who can get in the way of your realizing your preference in the choice: there is no one in the position of a master, or *dominus*.

The appeal of this conception of freedom should be enough to make clear what the disvalue of domination is. If you are subject to interference with what you actually prefer, you are put under the active control of another. If you are subject to interference with what you might prefer but do not, you are put under the virtual control of another: the other rides herd on your choice, being prepared to let you have your way but only provided your way is their way. And if you are subject to another's capacity to interfere, even when the person does not interfere with any option in a relevant choice, you are under the reserve control of another: the other is in a position of having the say-so on whether or not you can choose as you wish.

These forms of control are all ruled out under the ideal of freedom as non-domination. And with good reason, especially when it comes to domination in the domain of your personal liberties. It is bad by all accounts when another actively restricts your choice, denying you the satisfaction of your preference. It is bad, if not equally bad, when another restricts what you might have preferred in a choice, if not what you actually prefer to do. And it is bad, if again not quite so bad, when another stands over you, ready to restrict your choice in the event of turning hostile. In all these situations, your will is not in charge of what you choose. You are subject to the will of another in the sense of depending for the ability to act as you wish on that will being congenial.

It is bad to be subject to the active, virtual, or reserve control of another, even when you are not aware of such subjection. But this subjection will normally be accompanied by an awareness of the subjection, thus making things even worse. For when you are manifestly subject to the power of another, even a power that is held in reserve, that gives you a reason to be wary of the other and to seek to keep the other sweet. And if it is manifest to each of you that you are aware of your dependence, then that reinforces the effect; it means that you will appear "uppity" if you act as if you were not dependent. Thus, subjection to another is likely to lead you to behave in a slavish way, and to display a range of vices castigated in traditional republican writing. These are the vices of allowing yourself to be intimidated and ingratiating, as you go through the motions of deference and devotion, and seek thereby to humor and placate the other.

These observations should make ready sense of why domination is objectionable. And they give obvious support to the claim that to be dominated in your personal choices—to be dominated as a person—is particularly objectionable. Freedom as a person is cast in the republican tradition as requiring the absence of domination in all basic choices. It is equated institutionally with the freedom you enjoy by virtue of living under a public rule of law—and an associated regime of social norms—that defines personal liberties suitably, offers you protection against private domination in the exercise of those liberties, and does so under such constraints that it does not itself subject you to public domination.

Given your freedom as a person in this sense, it will be manifest to all that you enjoy the required protections and immunities. And so you can walk tall, in the traditional idiom, and deal with others without reason for fear or deference. The law guards you against private domination, or *dominium*, and it is subject to a form of control that you share equally with others so that it does not impose public domination, or *imperium*, either; it is not like the rule of a benevolent despot who might turn against you or others, and on whose goodwill you would therefore depend. It may not redress all the material and other inequalities that arise in any society as a result of natural and social fortune. But it must at least ensure the equality of objective and subjective status that enables each of you in that society to affirm your equal standing with others, recognizing that short of personal timidity, you have every reason to be able to look them in the eye without fear of their interference or deference to their power.

The Domination of States

Let us agree, as I think most of us will, that domination is an evil for individual human beings, restricting the extent to which they can relate to one another as persons who live on equal terms in a relationship of mutual respect. But why should the lesson carry over to the agents that human beings construct when they incorporate? Why should it carry over, in particular, to the states that they create? Why should it be bad that those entities endure domination, and good that they avoid it?

It is natural to think that what happens at the institutional level does not matter unless it makes a difference at the level of individual human beings—or perhaps, though we can put aside this possibility, at the level of other animals. Most people embrace a normative individualism or humanism, as we might describe it. They are committed to the idea that there can be no difference in the value of two institutional arrangements unless there is a difference in the value for individual human beings of those arrangements.²⁷

²⁷ Chandran Kukathas and Philip Pettit, *Rawls: A Theory of Justice and Its Critics* (Cambridge/Stamford: Polity Press/Stamford University Press, 1990); List and Pettit, *Group Agency*.

This normative individualism means that there will be no difference of value between an arrangement under which a corporate agent is dominated and an arrangement under which it is not, unless there is a difference of value in the impact on individual human beings. And so there is a sharp question as to why the domination of corporate entities, particularly states, should matter.

My response to the question is that the domination of corporate agencies will matter insofar as those agencies are organizations whereby individual human beings combine to act together. If the things that the members do as a corporate entity are subject to the dominating control of another agent or agency, then those members are themselves subject to such control. The lesson for representative states is straightforward. Let there be external control of a representative state and there will be external control of the citizens in whose name and interest it acts, since that control will put the operations of the state beyond the effective influence of those individuals. The domination of a representative state is bad or evil as such and it will not generally be justifiable—as it might be in the case, say, of an oppressive state—by any compensating effects on members.

According to standard republican doctrine, individuals are meant to enjoy freedom as non-domination by virtue of being protected against the domination of others by an undominating state. What we now see is that this actually leaves something out. A full statement of the requirements for individual freedom, under a constitutional arrangement, should read: the free individual ought to be protected against the domination of others by a state that is not only internally undominating but also externally undominated. It is the requirement that the state be undominated that explains why the domination of representative states is *pro tanto* bad.

4 SOURCES OF DOMINATION

Let us assume that we have a good idea of the sovereign liberties that ought to or might be given to representative states under an international order in which they figure as equals and, allowing for the relevant differences that variations in territory or population may trigger, can expect to receive evenhanded treatment. These will include some more or less salient liberties, paralleling the personal liberties of individuals, such as the liberty to form one's own views, express such views freely, associate with any other countries, and so on. But equally they will include liberties established under international negotiation or law to exercise restricted, potentially competitive liberties in areas that bear on the global commons and the global good. For example, they will include the liberty of having fishing fleets operate under certain restrictions in international waters or the liberty of releasing harmful gases into the atmosphere up to a certain limit determined by the level of population or the nature of the territory. Assuming that the

sovereign liberties are suitably defined, we now ask about how a representative state might suffer domination in the exercise of such liberties.

There are three sorts of bodies that might plausibly exercise dominating control over a representative state: first, and most prominently, other states; second, non-domestic, private bodies that compare in resources to many states, such as corporations, churches, terrorist movements, even powerful individuals; and third, non-domestic, public bodies that are often created by states, such as the United Nations, the World Bank, the International Monetary Fund, the European Union, or the North Atlantic Treaty Organization.

There are many means whereby a stronger state, A, itself representative or non-representative, might dominate a representative state, B, on the basis of active control. Military intervention is one vivid possibility, the infiltration of secret agents another, the bribing or blackmail of officials a third. There is also a possibility of resort to economic pressure, as in threatening to dump goods on the world market in competition with B's products, to sell off holdings in B's currency, thereby depreciating it, or to freeze B's holdings in banks that are under A's control. Relatedly, there is a possibility of A exploiting B by taking advantage of its dependency on A for access to some necessity—say, an important energy source or water supply—in order to ensure that B does not trade with a competitor and/or in order to drive a hard bargain with B (one, intuitively, that denies B what might have been presumed to be a sovereign liberty). And of course there is a possibility of using diplomatic pressure by creating bad publicity for B, triggering problems with its allies and trading partners, and working to deny it influence in world bodies. Depending on the sort of extra strength that A has in relation to B, it may adopt any or all of these measures in an attempt to force B's hand in some way.

But A may also dominate B without resorting to active control, by means of the power that gives it virtual or reserve control over B's exercise of some sovereign liberties. Even if B is not aware that A can interfere in its choices—and in most plausible circumstances, of course, B will be aware of A's power—A can exercise invisible forms of virtual or reserve control over B. A can allow B to follow its head, but keep open the possibility of interfering where that proves necessary to get B to behave congenially. And if B is aware of this possibility, or is misled into positing it, A can rely on B's second-guessing its wishes and adjusting its behavior to A's taste.

A need do nothing to ensure that B complies with its wishes in non-active forms of control; just the fact that those wishes are more or less manifest or apparent will ensure that B falls in line. This invidious form of control requires nothing of A and allows B to pretend to its independence, as it may wish to do for a variety of reasons. A show of independence may have the incidental effect of avoiding domestic contestation or international condemnation, so that the regime of virtual or reserve control will be reinforced in a way in which a regime of active control might not be.

Among the private, international agencies that compare in resources with states, multinational corporations are the outstanding examples, even if they are less colorful than church bodies or terrorist networks. The means whereby they may actively seek to control a representative state are various. Having established itself as a source of employment, a corporation may threaten to move offshore or out of area. This will constitute a serious economic problem for smaller countries and even in larger countries, it may create a problem for a local community and thereby a problem for a government that depends on the electoral support of that community. Again, having established itself as a local corporate citizen, a corporation may exercise alien control over a state by being able to contribute to the campaign financing of politicians, and so holds the capacity to threaten uncollaborative politicians with financing electoral opposition. Or it may exercise powerful influence of a dominating kind by being able to lobby government and politicians from a position of power where it can launch negative publicity campaigns against government or create endless legal hassles for the implementation of government policy.

As with the dominating control that an outside state can practice, this sort of control may be exercised, without resort to active control, in a virtual or reserve fashion. The powerful corporation may never need to make a threat of moving elsewhere or of financing an opposition or of supporting negative publicity in order to control the government of a representative state. It will already enjoy control just insofar as the state is disposed to go along with its wishes, say because of wanting to court the corporation's goodwill. As in the first case, this is the most powerful sort of dominating control. It may enable the corporation to secure a favorable tax rate, easy regulatory conditions, or a lowering of environmental standards, without the corporation being exposed to a danger of whistle-blowing. It will not require even the legally available flexing of corporate muscle, let alone the resort to illegal modes of influence.

Finally, representative states may be subject to the dominating control of public, international bodies, as well as to control by other states or corporations. Although such bodies are set up under a treaty involving a number of states, or established by an existing international organization, there is no guarantee that they will deal with an individual state on a basis that leaves its sovereign liberties intact. Such a body can deny the state a benefit that it makes available to comparable others, thereby changing the previously available option of competing on equal terms. The penalty, to take an example from the world of finance, may be the loss of access to a source of funding, the increase of interest rates on loans, or a decline in its rating as a credit-worthy entity.

This control by international agencies may be enjoyed on the basis of any form of control, active, virtual, or reserve. Non-active control will not require any initiatives on the part of the agency other than that of being there in a stand-by mode, ready to interfere should that prove necessary for

furthering its actual or possible preferences. And since non-active control may have an effect as silent as gravity, at least outside the corridors of government power, it can escape the problems of triggering local challenge or international criticism.²⁸

5 REMEDIES FOR DOMINATION

What are the safeguards that we might think of seeking against the domination of representative states? I shall consider this question in relation to the domination of states by states, not their domination by other bodies, and at the end of the discussion turn to the question raised by other forms of domination. I will look first at some negative lessons and then at some more positive implications.

Negative Lessons

The first, negative lesson is that it would be foolish to rely on what we might describe as the benevolent despot solution. This would consist, most plausibly, in allowing a single state to assume the role of a world police-officer, trusting it to prevent domination among other states and not to dominate those states itself. This is a non-starter, because a hegemonic state of that kind would be the most unconstrained source of domination, however benevolent its intentions. It would have total control of an alien kind over other states, being able to interfere at any point in order to steer them along congenial paths. It would hardly ever have to resort to such interference, of course, since in the scenario envisaged other states would have every reason to try to keep it sweet, adjusting their plans and initiatives to its taste. Not even needing to interfere in pursuit of its interests, it would attain the most attractive form of power imaginable.

The observation about the benevolent despot solution may seem unnecessary, since it is almost unthinkable that other states would ever willingly grant a single state, or even a set of states, that sort of recognition. But it is worth recalling that liberals from the 17th to the 19th century appear to have been quite complacent about the imperial role that they thought their national states could play.²⁹ And it is worth remembering that under the

²⁸ Of course the control exercised by such an agency may well be justified by the effects it promises to have, say in orienting a country towards better economic policies and motivating politicians to resist short-term electoral pressures. And, more important, it may be rendered non-dominating, as argued in the next section, if it is imposed on terms accepted by all parties.

²⁹ Duncan Bell, "Empire and Imperialism," in *The Cambridge History of Nineteenth Century Political Thought*, eds. Gregory Claeys and Gareth Stedman Jones (Cambridge: Cambridge University Press, 2011); Jennifer Pitts, *A Turn to Empire: The Rise of Imperial Liberalism in Britain and France* (Princeton: Princeton University Press, 2005).

George W. Bush administration, the government of the United States often came close to putting itself forward in such a role. It presented itself as a country of entirely benevolent intentions, interested only in furthering democracy and human rights, and willing to cooperate with allies. But it suggested at the same time that it was committed to maintaining military superiority and invulnerability.³⁰ That attitude is forthrightly endorsed in a 2000 document from a neoconservative group that was closely associated with the government: "At present the United States faces no global rival. America's grand strategy should aim to preserve and extend this advantageous position as far into the future as possible."³¹ This self-conception and self-presentation is entirely hostile to the prospect of reducing domination among representative states.

The most obvious alternative to the benevolent state solution would set up an international regime, on the model of the domestic state, with a constitutional, effective authority over member states. In the domestic context the republican state naturally presents itself as the solution to problems of private domination by some members of the society over others. This state would guard against the problem of *dominium*, or private power, by establishing a non-dominating form of public power, or *imperium*. It would empower the weak and restrain the strong, thereby reducing private domination. But unlike the benevolent despot it would not be itself a source of public domination, being subject to the equally shared control of its people and operating only on terms accepted by all its citizens—all its adult, able-minded, more or less permanent members. The checks envisaged in the tradition involve election to and rotation in office, the separation of powers, the rule of law, exposure to public invigilation, and a raft of other devices. Might an international regime of some kind play an analogous part?

A world state might serve effectively in the role envisaged, at least in principle, but nothing even approaching such a state is feasible in current circumstances and, given the diversity and distrust between cultures, it is doubtful if such a state ever could be successfully established.³² But what about relying on international, state-supported bodies like the United Nations in order to provide the non-dominating restraints that might block the domination of states by other states? Could the networks of authorities and officials that currently determine so much of what happens in the world

³⁰ Ian Shapiro, *Containment: Rebuilding a Strategy Against Global Terror* (Princeton: Princeton University Press, 2007), ch. 2; US Government, *National Security Strategy of the United States of America*, (Washington, DC: White House, 2002), <http://www.whitehouse.gov/nsc/nss.html>.

³¹ Thomas Donnelly et al., "Rebuilding America's Defenses: Strategy, Forces and Resources for a New Century," <http://www.newamericancentury.org/RebuildingAmericasDefenses.pdf>.

³² But see Alexander Wendt, "Why a World State is Inevitable," *European Journal of International Relations* 9, no. 4 (2003): 491–542.

order³³ ever assume the power, deriving from a checked and non-dominating form of control, that would effectively reduce such domination? Could they ever impose a rule of international law and convention—a global, quasi-constitutional arrangement—that would substantially reduce the prospect of domination by states of states?

There are two questions here. One is whether such networked control over states can be non-dominating. And the other is whether such a network could ever exercise the policing power that might restrain state-state domination. I am relatively optimistic on the first question, believing that there are many factors whereby the control exercised by international agencies and their officials can be rendered non-arbitrary, despite the democratic deficits on which critics have seized.³⁴ States normally appoint to the crucial positions on these bodies; appointments come with specific, restricted briefs; there are usually high bars of accountability to cross; global civic movements—non-governmental organizations—often exercise a significant degree of oversight; and decisions are routinely subject to objection and review by the states affected. The control enjoyed by the relevant authorities and bodies, then, is often more circumscribed than the control enjoyed by domestic, democratic governments; and certainly it is capable of being made so. Were election the only means of keeping tabs on those in power, of course, we would have good reason to worry about these figures. But the states and peoples of the world can control international agencies quite effectively without popular election to the membership of those agencies.

While these bodies might be relatively accountable and non-arbitrary, however, I do not think that in themselves they could have the policing power sufficient to resolve our problem. Even buttressed by a recognized body of public international law,³⁵ they will not have the resources to provide for the effective regulation of state-state domination. National states come in enormously different sizes, and with greatly different degrees of strength. It would be utopian to expect the more powerful to allow others an equal stake in the control of such bodies and, even if they allowed this, to let such bodies exercise any intrusive degree of jurisdiction over their behavior. A regional body like the European Union may achieve a high degree of discipline in relation to member states—and even here the effect on larger states is limited—but there is no prospect of such heavy-duty discipline being imposed by the United Nations or, in their more insulated domains, by the World Trade Organization, the World Bank, the International Criminal Court, or even the World Health Organization.

³³ Anne-Marie Slaughter, *A New World Order* (Princeton: Princeton University Press, 2004).

³⁴ Pettit, "Democracy, National and International," *Monist* 89, no. 2 (2006): 301–24; Pettit, "Legitimate International Institutions."

³⁵ D. W. Greig, *International Law*, 2nd ed. (London: Butterworths, 1976).

An example makes the point quite powerfully. In 1986 the International Court of Justice found in favor of Nicaragua, and against the United States, in arguing that customary international law made it an offence for the United States to have supported guerillas against the Nicaraguan government and to have mined Nicaraguan ports. The United States responded by rejecting the idea that the Court had jurisdiction in this case; indeed, it had anticipated that result and temporarily withdrawn from the jurisdiction of the court.³⁶ The US Ambassador to the United Nations described the court at the time as a "semi-legal, semi-judicial, semi-political body, which nations sometimes accept and sometimes don't."³⁷

The contingent difficulty with securing a policing form of regulation by international agencies is compounded by one of a more inescapable character. The forms whereby more powerful states can control less powerful states are so various that no form of central regulation, and certainly not the sort that is associated with currently existing bodies, could effectively prevent state-state domination. It might legalize and inhibit intervention or infiltration by one state in the affairs of another, but how could it inhibit the sort of control exercised on the basis of greater economic power, wider diplomatic clout, or the enjoyment of some strategic advantage? There are many forms of domination between individuals that the domestic state cannot regulate, deriving from cultural or psychological resources, but these are secondary to the forms of domination it can restrain. In the international sphere, the forms of state-state domination that would escape the policing of any central authority include the most important forms of domination that are possible outside of conditions of war.

Positive Lessons

But while the international bodies do not promise much in the way of central policing and regulation, they are important in another, indirect connection. Such agencies naturally generate discussion in different quarters about how things should be organized globally; their very existence will give extra point to such discussion, whether in international forums, in more informal meetings between governments and civic movements, or in the world media. And even though such discussion will never lead to consensus, it can establish a currency of considerations or standards that all sides recognize as relevant to global organization. Those considerations emerge as the terms in which

³⁶ T. D. Gill, "Litigation Strategy in the Nicaragua Case at the International Court," in *International Law at a Time of Perplexity: Essays in Honour of Shabtai Rosenne*, ed. Yoram Dinštein with the assistance of Mala Tabor (Dordrecht: Kluwer Academic Publishers, 1989), 197–224, 211. See also page 2 of the introduction to that edited volume.

³⁷ Howard N. Meyer, "When the Pope Rebuked the U.S. at the World Court," *The Baltimore Sun*, March 18, 1997, <http://articles.baltimoresun.com/1997-03-18/news/1997077033>.

the different sides succeed in arguing—as distinct from coming to blows—even as they weight those terms differently or allow them to lead in different directions as a result of different empirical assumptions. They constitute common reasons such that anyone who learns his or her way around in the circles of debate on international issues will recognize them as the considerations to bring forward in support of any policy position. They will count as relevant in policy debates and they will be recognized as such in common or mutual awareness: each party will acknowledge their pertinence, recognize that everyone acknowledges it, recognize that everyone recognizes that everyone acknowledges it, and so on.³⁸

The existence of a currency of common global reasons and the valorization of those reasons as the terms of debate and exchange between countries is of great importance in making it possible for countries to relate to one another in a reasoned manner, seeking a non-dominating influence on one another's positions and holding out the possibility of an unforced, cooperative solution to many problems. The availability of that mode of regulating interstate matters, together with the existence of the forums that international agencies provide, can ensure that there is an onus of justification on states that resort to other dominating modes of influence, particularly when such other initiatives—especially outright wars—prove as costly as they often do. It can make reasoned deliberation on the basis of commonly recognized reasons—and the resolution of differences on the basis of procedures supported by those reasons—into the default option in the mutual accommodation of states.

One ground for thinking that shared global standards can play this role is the disesteem that will attach to any state that spurns those standards in dealing with others.³⁹ This disesteem may materialize within a state itself, as members find it a matter of shame that the state that acts in its name should not be willing to relate to others in the space of common reasons. Or it may materialize in the international community, as unwilling states and their spokespersons find themselves subject to ignominy and ostracism.

We must grant, of course, that providing for interstate deliberation on the basis of commonly endorsed terms will not ensure in itself against domination. Deliberation in the presence of a manifest asymmetry of power may only cover

up a deeper game of intimidation by the strong. But the possibility of such deliberation is still significant. It creates a base for determining the sovereign liberties that states should each be able to enjoy, as a matter of international law and understanding, protected against the dominating control of others. And the possibility of deliberation on the basis of commonly acceptable reasons should establish a culture in which international law can strengthen and serve as a discipline for inhibiting potential dominators, and for protecting states from one another. Let states accept a regime of common reasons and they will be able to endorse international law as a set of regulations that can be seen from within as a law that they share in common with others. This can raise international law from a set of convenient standards, binding only when they are convenient, to a system of norms that each state views, and takes others to view, as a base for legitimate expectations. It can give each state what H.L.A. Hart takes to be an essential, internal perspective on that law.⁴⁰

We have been focused on state-state domination and I have been arguing that while no simple solution is on offer, there are grounds for limited enthusiasm about recourse to international agencies. There is ground for enthusiasm insofar as these agencies can promote a currency of common global reasons and foster a reasoned relationship as the default option for states. There is ground only for limited enthusiasm insofar as the agencies may be unable to provide the sort of power needed to protect against domination. More powerful states may have too much influence to be capable of being fully restrained by international bodies. And some forms of domination, associated with economic power and diplomatic clout, may be too elusive to be regulated by such an agency.

Where to turn for extra remedies against the domination of states? The only recourse is a possibility that some see as distinctively republican in its origins.⁴¹ States that are so weak in any dimension that they are subject to the domination of others can unite in common cause in order to give themselves the required muscle to resist the power of the stronger. Consider the military, economic, or diplomatic domain. No matter how great the power of one country, A, in relation to another, B, that power will be reduced or nullified in the event that B manages to secure a credible alliance with enough other countries against A. The point is as old as the adage that there is strength in numbers. And it is borne out in recent international experience, as the forums that allow the weak to band together—and banding together will involve the usual free-rider difficulties—have begun to prove a thorn in the side of more powerful states.⁴² Those states have

³⁸ John Rawls, in *The Law of Peoples*, may often have common reasons in mind when he speaks of public reasons, and my ideas have clearly been influenced by his discussion. But the language of common reasons, as used here, may be more in the spirit of Habermas than Rawls. See Jürgen Habermas, *A Theory of Communicative Action*, vols. 1 and 2 (Cambridge: Polity Press, 1984, 1989); J. Donald Moon, "Rawls and Habermas on Public Reason: Human Rights and Global Justice," *Annual Review of Political Science* 6 (2003). For an extension of the Rawlsian idea to the international forum, see Joshua Cohen on global reason in Cohen, "Minimalism About Human Rights: The Most We Can Hope For?" *Journal of Political Philosophy* 12, no. 2 (2004): 190–213.

³⁹ Geoffrey Brennan and Philip Pettit, *The Economy of Esteem: An Essay on Civil and Political Society* (Oxford: Oxford University Press, 2004).

⁴⁰ H.L.A. Hart, *The Concept of Law* (Oxford: Oxford University Press, 1961).

⁴¹ Deudney, *Bounding Power*, 152–54.

⁴² There may be more powerful, dominating states within any such league of relatively weaker states, of course. But there may be—though alas there won't necessarily be—a possibility of guarding against this via alliances between the less powerful states in the league.

responded by trying to shift forum when things are not going to their taste, or by trying to opt out of multilateral discussions in favor of bilateral, one-by-one arrangements with the other states.⁴³ But it is unlikely that such stratagems will prove successful over the long haul, as weaker countries become aware of how they are used.

It is customary to the point of seeming fatuous to emphasize the importance of deliberation, but the perspective provided by the ideal of non-domination does more than that: it also makes clear that in a world of grossly unequal power, deliberation is not going to be enough. It will have to be matched by the groupings that enable the weak to deliberate from a position of strength. States will relate to one another in a truly deliberative mode, eschewing all resort to dominating control, only in the measure that they respect one another. And states will respect one another only in the measure that they command one another's respect; they each have enough power to leave others no choice but to respect them.

This brief overview of possible remedies for state-state domination suggests, then, that the best hope may lie in a dispensation with two aspects. On the one hand, a set of international agencies and forums by means of which states can work out their problems and relations in a space of more or less common reasons and by resort to procedures for resolving intractable difficulties that such reasons support. And on the other, a set of linkages whereby states that are weaker in some dimension and are thereby exposed to domination—including the sort of domination that can hide in a deliberative guise—may band together to reduce the advantages of the strong. Each aspect of the package recommended involves multilateral action: on the one side, the “totalateral” organization of all states behind international agencies and, on the other, the “plurilateral” organization of different subgroups of states into blocs that can effectively compete with their stronger rivals. The scenario sketched does not put an analogue of the domestic state in place in the international order but it does have aspects of a constitutional or quasi-constitutional arrangement for reducing domination.

The two dimensions to the solution proposed are each of vital importance and just to emphasize this importance, I make one further observation. In the world as it is now every state is liable to be indirectly and adversely affected by what in an earlier period would have been innocent initiatives on the part of others. These may involve subsidizing domestic business, creating artificial barriers to imports, fostering the use of scarce fuels, failing to curb carbon emissions, allowing the use of certain herbicides, or not regulating the medical or agricultural use of antibiotics. It is only by means of international debate, grounded in the acceptance of certain common reasons, that

states can hope to establish where, as in such cases, they may be harming one another and where the limits should naturally be set to the freedom as non-domination they may claim; it is only by such means that states can identify a domain of sovereign liberties that they can each simultaneously enjoy. But international debate will not be able to enforce against stronger states the limits it may in this way identify. And at that point the organization of other states against the relatively strong is bound to be of the utmost importance. That organization is going to be indispensable for giving effect to the lessons forthcoming in debate.

Other Sources of Domination

States may be dominated, not just by other states, but also by non-state bodies. The most obvious candidates are multinational corporations and other private but international bodies. These raise very much the same sorts of problems for individual states that are raised by other, stronger states. The problems may be put in useful perspective by the existence of international agencies and by the culture of common reasons—and ultimately the culture of public international law—that such agencies can nurture. But they will be substantially resolvable, it seems to me, only to the extent that states, in particular weaker states, can join in common cause against corporations and other such bodies. In dealing with states that are isolated from one another, the powerful corporations may be able to dictate lower levels of corporation tax, or lesser environmental restrictions, or indeed a reduced concern for human rights; they may be able to force those states into a race towards lower standards.⁴⁴ But they will not be able to do this with states that effectively unite in order to face the threat.

What, finally, of the domination that is possible at the hands of international agencies? I have already addressed this issue in passing. International agencies do not represent a threat on a par with the dangers from other states and from private bodies like corporations, despite the many outcries about the democratic deficit that those agencies display. Their membership is normally subject to the vetting of affected states, their operations are typically exposed to demanding measures of review and accountability, and their decisions are often conditional on the approval of other bodies. Would that domestic states generally performed under comparable restraints. There may well be dangers of domination associated with international agencies, of course, but only a perverted sense of priority would suggest that they are the principal problems in the area.

⁴³ John Braithwaite and Peter Drahos, *Global Business Regulation* (Cambridge: Cambridge University Press, 2000).

⁴⁴ John Ruggie, *Business and Human Rights: Mapping International Standards of Responsibility and Accountability for Corporate Acts* (United Nations Human Rights Council, 2007).

6 THE BENEFITS OF HIGHLIGHTING DOMINATION

Even these quick observations suggest that a republican or neo-republican criterion for assessing international arrangements between representative states is a very attractive one. The non-interference criterion would identify a small cluster of evils that ought to be removed or reduced by an appropriate international order: specifically, the evils associated with active intervention or infiltration by other states and perhaps with economic or diplomatic bullying. The ideal of non-domination would agree that those initiatives represent a failure of international order, at least when they affect the presumptive, sovereign liberties of states. But it would be much more radical in identifying a range of other failures as well. It would indict, not just active intervention in the domain of a state's sovereign liberties, but the sort of non-active control that would make in equal measure for the domination of that state.

The republican ideal would join with the Rawlsian approach in hailing the possibility of representative states relating to one another under a regime of common reasons, treating one another with the respect that is universally recognized as an ideal in the relations between persons.⁴⁵ But it would break with that approach in emphasizing that in order for such a dispensation to come into being, in order for a deliberative mode of exchange to be genuinely deliberative and respectful, there are preconditions of equalized power that must first be realized amongst those states. A state that has a power of interference in the affairs of another will enjoy control over that other that no deliberative motions, and no protestations of goodwill, can expel. In order for the ideal of mutual respect to be reliably and credibly honored, so the lesson goes, the representative states that figure in the matrix of international relationships must be powerful enough to command respect from each other: to force one another to display respect.

But if the ideal of non-domination raises the bar that an international order ought to pass, it is not an unrealistic ideal that we have little or no reason to expect states ever to implement. In this respect it scores much better than the ideal often canvassed as a rival to that of non-intervention: the ideal of global distributive justice, understood on cosmopolitan lines.⁴⁶ This ideal would argue that states are required to remedy the ills suffered by people in other countries on just the same basis as they are required to remedy ills at home. The ideal is unrealistic in the sense that the governments of representative states can hardly be expected to be able to realize it. The government of such a state might seek to realize the ideal with or without the endorsement by its own citizens, but in either case it is likely to run into difficulties. If it does not seek the endorsement of citizens for

pursuing the ideal, then it can expect electoral rejection. And if it does seek that endorsement, then it is likely to be limited in the actions it is licensed to take. The citizens of a representative state may well license their government to deal with pressing crises in other countries—say, to relieve the subjects of ineffective or oppressive regimes—but they are unlikely to allow it to use coercively extracted taxes to deal with outsiders and insiders on the same basis.

The ideal of non-domination between representative states contrasts with this unrealistic vision insofar as it is, in economic language, incentive-compatible. Those states that acknowledge it as a normative target at which to aim in their relationships with others can see it as a goal that they and other representative states each have a variety of prudential reasons to pursue. Under the most cynical accounts of motivations in *realpolitik*, states and those who act for states are plausibly ascribed an interest in seeing that other international bodies, states and non-states alike, do not hold sway over them, whether in active recourse to intervention and pressure, or in the silent exploitation of the associated power. That interest ought to provide adequate reason for expecting that if the ideal of non-domination is recognized among representative states, then it ought to assume a motivating role for relevant agents.

This is not to say, of course, that the ideal will be unchallenging and easy to implement. First of all, the ideal will entail costs that states may often be reluctant to bear, as in helping out one of their number against an offender, and in punishing an offender. Second, the stronger states may have an interest, as they surely do, in preventing the weaker from organizing in blocs that would give them suitable standing in international deliberation. And third, the weaker states may face the problem of keeping their members disciplined in face of the free-rider temptation to defect from a bloc stance: say, to win a sweetheart deal from a stronger state by agreeing to laxer terms than were dictated by the bloc, or to attract a multinational corporation to its shores by agreeing to a lower rate of corporation tax than the bloc demanded. Those are real difficulties in the way of achieving a dispensation of international non-domination, but they do not constitute obstacles of the kind that might make the ideal seem utopian.

Incentive compatibility is not the only constraint of feasibility for normative ideals, although it is the only one that is acknowledged in most discussions. Equally important, or important in only a slightly reduced degree, is something that we might describe as discourse compatibility.⁴⁷ A proposal or ideal will fail to be discourse compatible to the extent that it is not one that can be supported in a deliberative forum by reasons that are accepted on all sides as relevant to the issue. The most egregious examples would present one side in the deliberations as unequal in some significant

⁴⁵ Rawls, *The Law of Peoples*.

⁴⁶ Stefan Gosepath, "Deprivation and Institutionally Based Duties to Aid" (this volume), prioritizes distributive justice over non-domination.

⁴⁷ Pettit, *Rules, Reasons, and Norms: Selected Essays* (Oxford: Oxford University Press, 2002), 276.

manner to the other.⁴⁸ Consider in this connection the memo by Lawrence Summers, then chief economist to the World Bank, which was leaked in 1991. This made a case for exporting heavy polluting industries to the third world on the ground, roughly, that the anti-pollution preferences of poorer, shorter-lived individuals would not be as strong as those of the richer and longer-lived. The memo caused indignation worldwide, precisely because the proposal was incompatible with the assumptions of equality that underpin deliberation. A Brazilian official wrote in understandable incredulity that the reasoning was "perfectly logical and totally insane."⁴⁹

Is the ideal of non-domination between states likely to be discourse compatible? Might it be internalized in debates between different countries as an ideal that they ought each to embrace and to honor in their dealings with one another?

At this point we return to the republican observation that freedom is well conceptualized as requiring non-domination: the absence of relationships in which the agent is controlled in a dominating way by others. The ideal of non-domination amongst states is nothing more or less, then, than an ideal of freedom. In not dominating their own citizens—in representing popularly checked forms of political control—representative states will pass on one count as free states. But in not being dominated by other states or other international bodies—in being subjected, at most, to the checked control of international agencies—they will pass as free states on a second count too.⁵⁰

As an ideal of freedom, the ideal supported here is bound to be discourse compatible as well as incentive compatible. Freedom is universally accepted as an ideal that any party may claim for itself, and present as a good for every party to the table, in its deliberations with others. Even when a state enters international arrangements that bind it to a certain regulatory order, and that it may find very difficult to leave, freedom as non-domination remains a guiding ideal.⁵¹ The arrangements will not deprive a state of its standing as a free state if they are voluntarily entered and if they give the

⁴⁸ The importance of discourse compatibility appears in the fact that while parties in a bidding process may come to accept common arrangements that give very different levels of advantage to different sides, those arrangements might prove to be unacceptable in a deliberative process where each is restricted to presenting arguments in the currency of common reasons. We might bargain our way to a seven-three division of 10 units, where the stronger could credibly stick at the offer of three, but it might be very difficult for us to agree that such a division was supported by commonly accepted reasons.

⁴⁹ For the content of the memo and criticism of it, including mention of this response, see Jim Vallette, "Larry Summers' War Against the Earth," *CounterPunch* (June 15, 1999), <http://www.counterpunch.org/summers.html>.

⁵⁰ This is congenial with John Maynor's argument in "Should Republican Liberty as Non-Domination Be Outsourced?" (this volume).

⁵¹ And its taking those steps may actually improve the freedom as non-domination of its citizens, as when they are protected against the power of their own state by being able to appeal to an international body against it. See Pettit, *Republicanism*, 153.

state an equal stake and status with other states in determining how the arrangements operate: if, in that sense, the state shares to the highest feasible degree in checking the regulatory powers that the arrangements establish.

This observation enables us to see the ideal we have been discussing as truly a republican ideal. It directs us to a dispensation in which representative regimes come to deserve the old name of "free state," not just because of how they treat their members, but also because of how they treat one another. They will count as republics, whether or not they embrace that title, on two counts: both because their publics are in charge on the domestic front, not some elite or faction, and because their publics are allowed to maintain such control by the relations sustained with similar regimes.⁵²

⁵² My thanks to Barbara Buckinx for discussion on topics related to an ancestor of this paper, to Duncan Bell, Samantha Besson, John Maynor, and John Tasioulas for comments on that earlier version, and to the very useful discussion at a conference in Cambridge University where it was presented in May 2007. I also benefited from comments received when it provided the basis for a lecture at the University of Sydney in July 2009.

BIBLIOGRAPHY

- Beitz, Charles R. *The Idea of Human Rights*. Oxford: Oxford University Press, 2009.
- Beitz, Charles R. *Political Theory and International Relations* [1999 ed.]. Princeton: Princeton University Press, 1979.
- Bell, Duncan. "Empire and Imperialism." In *The Cambridge History of Nineteenth Century Political Thought*, edited by Gregory Claeys and Gareth Stedman Jones. Cambridge: Cambridge University Press, 2011.
- Bellamy, Richard. *Political Constitutionalism: A Republican Defense of the Constitutionality of Democracy*. Cambridge: Cambridge University Press, 2007.
- Berlin, Isaiah. *Four Essays on Liberty*. Oxford: Oxford University Press, 1969.
- Berlin, Isaiah. *Two Concepts of Liberty*. Oxford: Oxford University Press, 1958.
- Besson, Samantha, and Jose Luis Martí, eds. *Legal Republicanism*. Oxford: Oxford University Press, 2009.
- Bohman, James. *Democracy Across Borders: From Dēmos to Dēmoi*. Cambridge, MA: MIT Press, 2007.
- Braithwaite, John, Hilary Charlesworth, and Adérito Soares. *Networked Governance of Freedom and Tyranny: Peace in East Timor*. Canberra: ANU Press, 2012.
- Braithwaite, John, and Peter Drahos. *Global Business Regulation*. Cambridge: Cambridge University Press, 2000.
- Braithwaite, John, and Philip Pettit. *Not Just Deserts: A Republican Theory of Criminal Justice*. Oxford: Oxford University Press, 1990.
- Brennan, Geoffrey, and Philip Pettit. *The Economy of Esteem: An Essay on Civil and Political Society*. Oxford: Oxford University Press, 2004.
- Brugger, William. *Republican Theory in Political Thought: Virtuous or Virtual?* New York: Macmillan, 1999.
- Carter, Ian. *A Measure of Freedom*. Oxford: Oxford University Press, 1999.
- Cohen, Joshua. "Minimalism About Human Rights: The Most We Can Hope For?" *Journal of Political Philosophy* 12, no. 2 (2004): 190–213.

- Deudney, Daniel H. *Bounding Power: Republican Security Theory from the Polis to the Global Village*. Princeton: Princeton University Press, 2007.
- Donnelly, Thomas et al. "Rebuilding America's Defenses: Strategy, Forces and Resources for a New Century." <http://www.newamericancentury.org/RebuildingAmericasDefenses.pdf>.
- Frankfurt, Harry. "Alternate Possibilities and Moral Responsibility." *Journal of Philosophy* 66, no. 23 (1969): 829–39.
- Gill, T. D. "Litigation Strategy in the Nicaragua Case at the International Court." In *International Law at a Time of Perplexity: Essays in Honour of Shabtai Rosenne*, edited by Yoram Dinštein with the assistance of Mala Tabor, 197–224. Dordrecht: Kluwer Academic Publishers, 1989.
- Gosepath, Stefan. "Deprivation and Institutionally Based Duties to Aid." In *Domination and Global Political Justice: Conceptual, Historical, and Institutional Perspectives*, edited by Barbara Buckinx, Jonathan Trejo-Mathys, and Timothy Waligore. New York: Routledge, 2015.
- Greig, D. W. *International Law*, 2nd ed. London: Butterworths, 1976.
- Habermas, Jürgen. *A Theory of Communicative Action*, vols. 1 and 2. Cambridge: Polity Press, 1984, 1989.
- Haldenius, Lena. *Liberty Revisited*. Lund, SE: Bokbox Publications, 2001.
- Hart, H.L.A. *The Concept of Law*. Oxford: Oxford University Press, 1961.
- Hobbes, Thomas. *Leviathan, with Selected Variants from the Latin Edition of 1668*. Edited by Edwin Curley. Indianapolis: Hackett, 1994.
- Honohan, Iseult. *Civic Republicanism*. London: Routledge, 2002.
- Honohan, Iseult, and Jeremy Jennings, eds. *Republicanism in Theory and Practice*. London: Routledge, 2006.
- Kramer, Matthew H. *The Quality of Freedom*. Oxford: Oxford University Press, 2003.
- Kukathas, Chandran, and Philip Pettit. *Rawls: A Theory of Justice and Its Critics*. Cambridge/Stamford: Polity Press/Stamford University Press, 1990.
- Laborde, Cécile. *Critical Republicanism: The Hijab Controversy and Political Philosophy*. Oxford: Oxford University Press, 2008.
- Laborde, Cécile, and John Maynor, eds. *Republicanism and Political Theory*. Oxford: Blackwell, 2008.
- Lilburne, John. *The Legal Fundamental Liberties of the People of England, Asserted, Revived, and Vindicated*. London: 1646.
- List, Christian, and Philip Pettit. *Group Agency: The Possibility, Design and Status of Corporate Agents*. Oxford: Oxford University Press, 2011.
- Lovett, Frank. *A General Theory of Justice & Domination*. Oxford: Oxford University Press, 2010.
- Lovett, Frank, and Philip Pettit. "Neorepublicanism: A Normative and Institutional Research Program." *Annual Review of Political Science* 12 (2009): 11–29.
- MacGilvray, Eric. *The Invention of Market Freedom*. Cambridge: Cambridge University Press, 2011.
- Martí, José Luis, and Philip Pettit. *A Political Philosophy in Public Life: Civic Republicanism in Zapatero's Spain*. Princeton: Princeton University Press, 2010.
- Maynor, John. *Republicanism in the Modern World*. Cambridge: Polity Press, 2003.
- Maynor, John. "Should Republican Liberty As Non-Domination Be Outsourced?" In *Domination and Global Political Justice: Conceptual, Historical, and Institutional Perspectives*, edited by Barbara Buckinx, Jonathan Trejo-Mathys, and Timothy Waligore. New York: Routledge, 2015.
- Meyer, Howard N. "When the Pope Rebuked the U.S. at the World Court." *The Baltimore Sun*, March 18, 1997. <http://articles.baltimoresun.com/1997-03-18/news/1997077033>.
- Moon, J. Donald. "Rawls and Habermas on Public Reason: Human Rights and Global Justice." *Annual Review of Political Science* 6 (2003): 257–74.
- Niederberger, Andreas, and Philipp Schink, eds. *Republican Democracy: Liberty, Law and Politics*. Edinburgh: Edinburgh University Press, 2013.
- Olsaretti, Serena. *Liberty, Desert and the Market*. Cambridge: Cambridge University Press, 2004.
- Pettit, Philip. "Democracy, National and International." *Monist* 89, no. 2 (2006): 301–24.
- Pettit, Philip. *Just Freedom: A Moral Compass for a Complex World*. New York: W. W. Norton, 2014.
- Pettit, Philip. "Legitimate International Institutions: A Neorepublican Perspective." In *The Philosophy of International Law*, edited by Samantha Besson and John Tasioulas, 139–60. Oxford: Oxford University Press, 2010.
- Pettit, Philip. *On the People's Terms: A Republican Theory and Model of Democracy*. Cambridge: Cambridge University Press, 2012.
- Pettit, Philip. "Rawls's Peoples." In *Rawls's Law of Peoples: A Realistic Utopia*, edited by Rex Martin and David Reidy. Oxford: Blackwell, 2006.
- Pettit, Philip. "A Republican Law of Peoples." *European Journal of Political Theory* 9, no. 1 (2010): 70–94.
- Pettit, Philip. *Republicanism: A Theory of Freedom and Government*. Oxford: Oxford University Press, 1997. Paperback ed., with postscript [1999].
- Pettit, Philip. *Rules, Reasons, and Norms: Selected Essays*. Oxford: Oxford University Press, 2002.
- Pitts, Jennifer. *A Turn to Empire: The Rise of Imperial Liberalism in Britain and France*. Princeton: Princeton University Press, 2005.
- Pogge, Thomas. "An Egalitarian Law of Peoples." *Philosophy & Public Affairs* 23, no. 3 (1993): 195–224.
- Quill, Lawrence. *Liberty after Liberalism: Civic Republicanism in a Global Age*. London: Palgrave Macmillan, 2005.
- Rawls, John. *The Law of Peoples*. Cambridge, MA: Harvard University Press, 1999.
- Richardson, Henry. *Democratic Autonomy*. New York: Oxford University Press, 2002.
- Rousseau, Jean-Jacques. *The Social Contract and Discourses*. London: J. M. Dent & Sons Ltd., 1973.
- Ruggie, John. *Business and Human Rights: Mapping International Standards of Responsibility and Accountability for Corporate Acts*. New York: United Nations Human Rights Council, 2007.
- Schuppert, Fabian. *Freedom, Recognition and Non-Domination: A Republican Theory of (Global) Justice*. Dordrecht, NL: Springer, 2014.
- Shapiro, Ian. *Containment: Rebuilding a Strategy Against Global Terror*. Princeton: Princeton University Press, 2007.
- Skinner, Quentin. *Liberty Before Liberalism*. Cambridge: Cambridge University Press, 1998.
- Slaughter, Anne-Marie. *A New World Order*. Princeton: Princeton University Press, 2004.
- Slaughter, Steven. *Liberty Beyond Neo-Liberalism: A Republican Critique of Liberal Government in a Globalising Age*. London: Macmillan Palgrave, 2005.
- Steiner, Hillel. *An Essay on Rights*. Oxford: Blackwell, 1994.
- Thaler, Richard, and Cass Sunstein. *Nudge: Improving Decisions About Health, Wealth and Happiness*. London: Penguin Books, 2008.
- US Government. *National Security Strategy of the United States of America*. Washington, DC: White House, 2002. <http://www.whitehouse.gov/nsc/nss.html>.

- Vallette, Jim. "Larry Summers' War Against the Earth." *CounterPunch* (June 15, 1999). <http://www.counterpunch.org/summers.html>.
- Van Gelderen, Martin, and Quentin Skinner, eds. *Republicanism: A Shared European Heritage*, 2 vols. Cambridge: Cambridge University Press, 2002.
- Viroli, Maurizio. *Republicanism*. New York: Hill and Wang, 2002.
- Weinstock, Daniel, and Christian Nadeau, eds. *Republicanism: History, Theory and Practice*. London: Frank Cass, 2004.
- Wendt, Alexander. "Why a World State is Inevitable." *European Journal of International Relations* 9, no. 4 (2003): 491–542.
- White, Stuart. *Building a Citizen Society: The Emerging Politics of Republican Democracy*. Edited by Daniel Leighton. London: Lawrence and Wishart, 2008.

3 Domination, Global Harms, and the Priority of Injustice

Expanding Transnational Republicanism

James Bohman

Because of the vast inequalities in life prospects for people situated in various locations across the globe, many recent cosmopolitan discussions of social justice have, for good reason, been primarily concerned with the distribution of social goods. The distributive model has shaped discussion of political justice, where distributive justice becomes an indicator of basic concern and respect for all citizens. Given the fact of growing interdependence, it is no longer possible to think of these issues as concerned merely with distant peoples, whose interests, in the final analysis, always seem to be subordinated to those of members of our own political community. Some nationalist republicans have explained the priority given to fellow citizens in terms of a shared national-political identity, or bounded political community that provides the basis for universal values with regard to the common good shared by all fellow citizens.¹ Many cosmopolitan republicans have rejected such a view, however capacious its universalism may seem.² While my sympathies lie with the cosmopolitans, my task here is to propose a more radical alternative that asks republicans to shift the terms of the debate and see that the primary virtue of republican theory is not patriotism or some common identity, but rather the priority of overcoming domination and injustice. It can always be asked on any policy that promotes the common good whether or not it increases and decreases domination. But if republicanism requires minimizing domination and injustice, which I believe it does, then it gives priority to injustice more generally and not just to the injustice of domination. Hence, current circumstances of justice demand a broadening of the scope of republicanism, which I take to have already been extended to include the transnational achievement of non-domination.

This shift to the priority of injustice is part of a recent trend in theories of justice. In his book, *The Idea of Justice*, Amartya Sen criticizes the prevalent

¹ See Cécile Laborde, "Republicanism and Global Justice," *European Journal of Political Theory* 9, no. 1 (2010): 48–69.

² On the limits of nationalist republicanism, see Sophie Guérard de Latour, "Reworking the Neo-Republican Sense of Belonging," *Diacritica* 24, no. 2 (2010): 91–112.