

Does Rawls Need a Principle of Non-Domination?

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It might be thought that Rawls’s theory of justice has little to learn from neo-republicanism (of the kind associated with Philip Pettit). If the tell-tale sign that a social relationship, whether public or private, is one of domination is that the weaker actor “cannot look the other in the eye... out of fear or deference” (Pettit 2013), surely realising a Rawlsian society would eliminate domination? After all, Rawls’s theory purports to entail equality in the social or institutional bases of self-respect. This supposition, however, would be mistaken. In this paper I argue that a society that embodied the Rawlsian ideal would only necessarily eliminate these behaviours when conducted out of *deference* rather than *fear*. First, I explicate the relevant distinction, arguing that republican scholars have failed to explicitly recognise that the kinds of behaviour that trouble them—behaviours like fawning, kowtowing, flattering etc.—are engaged in for distinct reasons. Deference entails behaving in this way out of a sense that one is less worthy. A Rawlsian society would necessarily tackle subservient behaviour motivated in this way. However, as Frank Lovett (2010) has elucidated, these behaviours can also be strategic. When one enjoys a good only at the grace of another, these behaviours are necessary to secure that good. In leaving open how his principles are to be politically instantiated, Rawls tolerates (as just) societies in which, for example, the worst-off only secure maximal primary goods by toadying to those who have more.

[Note to WPSA participants: the paper below is very much a first draft, so I apologise for it being somewhat thin. Any feedback you can give me—in particular on working up cases illustrative of domination, but which might arise under a Rawlsian regime—would be much appreciated.]

Does Rawls Need a Principle of Non-Domination?

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Neo-republicanism is currently in vogue. Central to the neo-republican project is the following claim: justice demands non-domination, not merely non-interference. Framed in these terms, neo-republicanism sets itself up as an alternative to libertarianism. If the libertarian ideal is a world in which no one interferes with anyone else (in the sense of wrongfully harming them)—and the state is only itself licensed to interfere with people to seek to achieve this—the republican ideal is a world in which no one has even the *power* to interfere—and the state would be licensed to interfere in securing this even were no one to exercise such power (and actually interfere with others).

Why think that the capacity to interfere is worrisome in itself? To this, the neo-republican response is that such a power is inconsistent with equality of *status*. To have a power to interfere, even when one does not use it, is to occupy a position analogous to that of a master. In contrast, to be vulnerable to someone holding such power, even if it is not exercised, is to occupy a position analogous to that of a slave. Hence, a basic commitment to the idea of people as both free *and* equal demands that power be combated, not merely its exercise. Of course, power cannot be eliminated; it can merely be constrained, directed, and/or re-distributed. This is why neo-republicans commonly claim that their aim is not to eliminate power, but to eliminate *arbitrary* power—power that is not subject to such constraints and directives, or which is inappropriately distributed.

For neo-republicans, the tell-tale sign that someone is being dominated—that someone is subject to arbitrary power—is that they are induced into grovelling servility. To be in a position that can be compared, even in part, to that of a slave, is to have reason to kowtow, toady, flatter,

and fawn. It is to be in a position, to use Philip Pettit's (2013: 82–87) recent heuristic, where one cannot look the powerful in the eye. To be free in the sense of non-domination, then, is to be in a position where you don't have to behave in any of these ways, and can act with respect to anyone on equal terms.

There is a puzzle here, though, particularly if one judges the merits of a political philosophy by its policy or other prescriptive implications. Libertarianism already has a formidable rival in Rawls's theory of justice. And at first blush it would seem that, in a world which lived up to Rawls's ideal, people could look one another in eye. Rawls claimed to offer a theory whose principles, if instantiated, would provide citizens with a sense of their own value, as well as a confidence in their abilities (Rawls 1999: 386). It would certainly seem to require an unusual psychology to infer that one was inferior to others from an institutional order requiring that persons have *equal* civil and political liberties, that these equal liberties have *lexical priority* (over concerns for the general welfare), and that economic inequality only be tolerated where it is to the benefit of *all* (and then only under conditions of equality in *opportunity*).

Suppose, then, that on reflection—or in reflective equilibrium—one judges Rawls's two principles as getting closer to the truth about justice than its erstwhile competitors. What amendments and or supplements to Rawlsianism, if any, does the neo-republican perspective—with its emphasis on non-domination, not merely non-interference—offer? Were we to achieve the Rawlsian ideal in our own society, would we still be lacking something?

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There are three main reasons to suppose that neo-republicanism has little to offer Rawlsianism, all of which, paradoxically, are revealed by Philip Pettit's discussion of these alternatives in *On the People's Terms*. In this work, Pettit goes some way, at least, to casting Rawlsianism and his own account of justice in a contrasting light. However, he does not, I think, focus on those differences that would allow him to demonstrate that neo-republicanism would recommend further reform even in a world that lived up to the Rawlsian ideal.

The first difference that Pettit notes is between his conception of freedom and Rawls's conception of freedom, or liberty. In specifying his first principle of justice—which requires equal civil and political liberties for all—Rawls uses “liberty” in the sense of non-interference, rather than in the sense of non-domination. As Pettit (2013: 108) notes, “in Rawls's usage people are free to do or not do something just insofar as it is legally permissible for them to do it... [and] ‘government and other persons... have a legal duty not to obstruct’”. This is in obvious contrast to Pettit's perspective, according to which someone can only be called free, or at liberty, where they are additionally invulnerable to others' *power*—or arbitrary power—to interfere.

Picture a society in which there was no prospect of a religious minority ever being subject to discrimination or persecution—say because of prevailing attitudes on the part of members of the religious majority. Under Rawls's usage, we would have to say that members of this minority were free to practice their religion, even if members of the majority could safely disregard the legal prohibition on discrimination if they so chose. In contrast, Pettit would want us to say that this minority cannot be classified as free as long as the majority retain the *power* to interfere. It is not enough, in other words, for interference with others' religious practices to be

legally prohibited. For the members of the religious minority to be rightly called “free” would additionally require that legal penalties were such as to make this legal prohibition effective.

There is certainly, then, a conceptual distinction to be made between the idea of freedom embodied in Rawls’s first principle—and perhaps his theory as a whole—and the idea of freedom undergirding the neo-republican project. It would appear, however, that this is not a conceptual disagreement in any deep sense, or in any sense that would necessitate a divergence between the two theory’s prescriptive implications. It is rather a definitional or verbal dispute. Rawls uses “freedom” to refer to non-interference, while Pettit uses “freedom” to refer to non-domination. But this does not mean—or, more accurately, need not mean—that the two disagree normatively. Rawls might still explicitly object to domination—or recommend a configuration of the basic structure that would nevertheless tackle domination—using a different terminology. The standard account of Rawls, with which the reader will no doubt be familiar, is that he reconciles freedom—in the classically liberal sense of non-interference—with *equality*. It is at least possible, then, that Rawls accounts for neo-republican concerns under *this* heading, despite his use of “freedom” in the sense of non-interference.

Pettit does not, however, merely point out this definitional difference. He also points out an explicit normative disagreement between Rawlsianism and neo-republicanism with respect to equality—or with respect, more accurately, to what Rawls deals with under the heading of equality. Specifically, Pettit notes that he and Rawls differ in what they consider a just distribution of those resources that enable people to take *advantage* of their liberties (from interference)—resources like income and wealth. Recall that Rawls thinks that an unequal distribution of income and wealth (and further primary goods besides) across positions in society is only justified where it improves the position of members of the worst-off class—or, at least,

does not worsen their position. Pettit, in contrast, seems to be able to envisage circumstances in which even *greater* inequality is consistent with justice (Pettit 2013: 126). This is because he offers a theory that is merely sufficientarian in the domain of effective freedom. What matters is that people have resources sufficient (presumably relative to others) that they are not induced to engage in obsequious and servile behaviours, and can look others in the eye (88; 126). Once they have this much, justice does not demand that they have a greater share, even if rendering them a greater share would leave them better off in absolute terms. In this respect, Pettit appears to be in greater accord with Elizabeth Anderson's (1999) relational egalitarianism.

Were this the only normative distinction between our two theories, however, neo-republicanism would not be in a position to recommend institutional change—or, at least, progressive change—to a society that had already achieved the Rawlsian ideal. This is because, with respect to material equality, Rawls's theory of justice is even more demanding. As such, a society that embodied the Rawlsian ideal would *necessarily* satisfy the neo-republican ideal; it would ensure that its citizens could look one another in the eye and then some!

Indeed, there is a case to be made that rather than requiring the Rawlsian basic structure to be reinforced, neo-republicanism would recommend a *rolling-back* of the Rawlsian state. Rather than lacking something, in other words, the Rawlsian state would appear, to the neo-republican, positively unjust. Imagine that as long as our hypothetical society's poorest members had 25% of the resources of its richest members, the former could look the latter in the eye. Suppose, however, that implementing the difference principle saw our state's poorest citizens with 50% of the resources of the rich. It would then be the case that the taxation needed to maintain this distribution was not strictly necessary to secure non-domination as amongst

citizens. And it would at least be an open question, therefore, whether the interference represented by such taxation was morally permissible.

Thus far, we have seen that while Pettit is right that Rawls uses the word “freedom” in a alternative way—to refer to some different constellation of empirical circumstances in the world—to the neo-republican, this tells us nothing about what, if anything, the neo-republican would recommend by way of further reform in a Rawlsian society. And while Rawls and Pettit are clearly at odds on what material resources people are entitled to, as Rawls’s is the more demanding vision there is no reason to suppose that, in a Rawlsian society, some people would be vulnerable to domination on account of their poverty.

This does not mean, however, that a concern about domination is even implicit in Rawls’s theory of justice. Indeed, in making the distinction between ideal and non-ideal theory Rawls makes clear—or, at least, as clear as he might before the contemporary revival of republicanism in Anglo-American political thought—that he is not particularly concerned about the *capacity* to interfere absent some probability of its utilisation. In Rawlsian terminology, “ideal theory” is normative theory specifying demands on institutions, and/or individuals, assuming that people are sufficiently motivated to abide by these demands. As his principles of justice do not specify the means or content of punishment—for discriminating against or persecuting a religious minority, for example—it can be easily inferred that Rawls’s theory is in this vein. In contrast, “non-ideal theory” is theory specifying institutional demands, and/or demands on individuals, assuming that people are not sufficiently motivated by these demands, or might be tempted to circumvent them. Thus, principles specifying police powers, civil and criminal law, court procedures, and legal punishments all lie within the realm of non-ideal theory.

Now, what is relevant for our purposes is that Rawls makes clear that providing (non-moral) incentives and disincentives for just action lies entirely within the realm of non-ideal theory. This means that were we to live in a world in which everyone's behaviour was morally spotless—at least in the domain of justice, if not in the private domain—there would be no need for police, courts or punishment, or even a rationale for engaging in non-ideal theory. As Pettit (2013: 108) notes in characterising Rawls's approach, "he says that while penalties may always be necessary for purposes of giving people confidence that others will respect their legal duties, in the sort of regime where there is general compliance—the regime that he seeks to characterize in his 'ideal theory'—they will not be required for any other reason: 'in a well-order society sanctions are not severe and may never need to be imposed' (Rawls, 1971: 240)".

Now, as we have already seen, this is in clear and obvious contrast with Pettit's approach, and more broadly with the neo-republican emphasis on tackling *power*—or arbitrary power—not merely its exercise. Picture a society embodying the Rawlsian ideal. Further suppose that, in this society, there is no need for police, courts, or legal sanctions—at least to alter people's behaviour—because everyone is fully committed to doing what is necessary on their part to maintain this embodiment. In other words, people are fully committed to refraining from interfering. Although there might be non-legal deterrents in effect—think of the threat of popular opinion and disapproval—it might at least be the case that this society only instantiates Rawls's two principles because "the powerful generally display goodwill towards others" (Pettit 2013: 108–109). For instance, members of majority religions refrain from discriminating against or persecuting members of religious minorities, and employers refrain from paying workers substandard wages—i.e. wages below that which the difference principle demands—despite their ability to do so. Plainly, this would not be a society that the neo-republican could fully endorse.

As long as people are secure in their entitlements only because others refrain from exercising some capacity that they possess, there is still domination even if there is no interference. As such, the neo-republican would recommend that legal prohibitions be attended by sanctions even absent a danger that these prohibitions be transgressed.

Of the three differences between Rawlsianism and neo-republicanism noted by Pettit, the basis on which sanctions are justified holds the most potential for establishing a prescriptive divergence between the two approaches on social justice. Merely pointing out this distinction is insufficient, however. For it remains an open question whether, on the basis of a concern for the intrinsic disvalue of the capacity or power to interfere, the neo-republican need differ with the Rawlsian over the latter's *principles*. After all, if the two perspectives do not differ in this way, then the neo-republican would only prescribe further reform to a Rawlsian society that was spontaneously well-ordered and without a legal regime of sanctions. In other words, the neo-republican would only recommend further reform in a conceivable, but *wholly implausible*, world—one in which people are of politically blameless character. In any remotely realistic world, in contrast, the neo-republican would not be in position to critique a Rawlsian regime. It would merely be the case that the two would disagree on the *grounds* on which sanctions for legal wrongdoing were justified. To borrow some of Rawls's later terminology, it would be the case that the two diverged only as comprehensive doctrines, while simultaneously endorsing the same political ideal by virtue of being in overlapping consensus.

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So far I have not given the reader sympathetic to Rawls much reason to think that neo-republicanism has much to add, at least for practical purposes. I would not want this to be reader's final conclusion, however. In fact, I think that the neo-republican has reason to seek to supplement, and perhaps even amend, Rawls's theory in the domain of his *principles*. This is because one can envisage a Rawlsian society—even a plausible one in which individuals need to be forced to comply with the demands of Rawls's principles—in which people are nevertheless dominated. Advancing this view requires, however, that we delve a little deeper than is usual into the notion of domination, and investigate further what it means to be dominated.

The reader will recall that I earlier noted that neo-republicans are united in seeing servile behaviour, or the character corresponding to it, as sure-fire evidence of domination. Of course, natural variation in people's innate psychology, the circumstances in which they grow up (even in a just society), and their abilities to assess their social circumstances will mean that even the ideal society will see some bowing and scraping (Richardson 2006: 179). Perhaps there will even be some people, in a free society, who come to identify the character corresponding to such behaviour as virtuous; who knows? It is just that, in a society that is fully just, this sort of behaviour is not strictly *necessary*—or at least, ought not to be judged necessary, from an appropriately impartial and objective viewpoint. While people may bow and scrape, kowtow, toady, and fawn to their perceived superiors, they are not *induced* or *compelled* to do so by their social and political circumstances. While people may choose not to look others in the eye, or find themselves unable to do so as a consequence of their distinctive mental makeup, it would be wrong to say that there is any social impediment to them doing so.

As it is conceivable that at least some people will bow and scrape in a just society, it is necessary to investigate further what it means to be *induced* to do so. In *On the People's Terms*,

Pettit writes at several junctions that persons are dominated when they cannot look others in the eye “out of *fear or deference*”. Now, as it seems that the dominated might act deferentially out of fear—picture the slave who defers to his master only to avoid being whipped—it is easy to gloss over this important distinction between two ways of being induced into subservience. To fawn and toady for reasons of deference—rather than to act in a deferential manner for other reasons—is to do so out of a sense of one’s own inferior worth or status. It is to do so, in other words, for reasons of shame. For example, when the poor, disadvantaged, and marginalised cannot bring themselves to challenge others because they are embarrassed by their poverty, self-conscious about their lack of education, and ashamed of their culture, they act out of deference. It might be that such a challenge would not—or could not—provoke retaliation by the powerful; hence it would be inaccurate to describe this behaviour as motivated by fear. Rather, the disadvantaged and excluded have checked themselves out of a sense of inadequacy.

In contrast, to engage in servile behaviour out of fear is to do so for strategic reasons; it is to do so for reasons of one’s own best interest. Picture again the slave who defers to his master in order to avoid the whip. Although he might *act* in a deferential way—always addressing his master in a humble tone, hanging his head, and never (literally) looking his master in the eye—as long as he does so merely to avoid reprisal it would be inaccurate to say that he acts *out of* deference. Rather, he does what he needs to do to minimise his suffering.

Although Pettit explicitly refers to both sorts of motives in discussing how to diagnose domination—both in *On the People’s Terms* and earlier work—it would seem that reasons of deference have a tendency to dominate, and appear to do more of the theoretical driving work than, I will argue, they should. A hint of this, I think, is in his decision to focus specifically, in developing a domination heuristic, on the capacity to look others in the eye—rather than on some

other capacity to act like, say, the capacity to safely ignore others' orders. For looking a powerful actor in the eye to even have the potential to provoke a retaliatory response already presumes that they have a sense that they are owed a certain treatment out of deference. In other words, it presumes that the powerful believe the vulnerable should be ashamed not to defer. Thus, it is easy to slip into supposing that reasons of deference are the exclusive purview of the test—even though, as I have already noted, one might act deferentially for strategic reasons.

Second, because Pettit explicitly endorses sufficientarianism in the domain of material resources—rather than arguing, like Rawls, that people are entitled to more—it is easy to read him as making the same argument as other sufficientarians, who tend to base their claims on reasons of deference or shame alone. Amartya Sen (1983), for instance, has argued that what should count as a bundle of resources sufficient for us to say that someone is no longer in poverty will vary across societies, but only because conventions about what constitutes a credible bundle of resources also varies, and therefore too what people need to avoid “shame from the inability to meet the demands of convention”. Similarly, Elizabeth Anderson (1999) has defended a sufficientarian account of material resourcing on the basis that citizens do not have to be equally wealthy for them to “stand as equals” (note the close parallel with Pettit’s notion of “looking others in the eye as equals”). Nevertheless, those who have less must at least have enough that their voice is heard and “no one need bow and scrape before others or represent themselves as inferior... (28).

It certainly seems highly implausible to suppose that justice could be consistent with some people being so poor that they were ashamed to look others in the face. Nevertheless, were this the only dimension to being dominated, then neo-republicanism would be in a poor position to constructively engage Rawlsianism. This is because, as I have already argued, Rawlsianism

has a claim to *better* provide the social bases for self-esteem than does neo-republicanism, at least as long as Pettit is right that securing people against domination requires only a threshold level of resourcing.

Yet this is not, I think, the most important dimension of domination. Besides being induced into servile behaviour out of shame—i.e. for reasons of deference—one might also be induced into servile behaviour, as we have seen, out of necessity. Arguably, indeed, the latter basis for deferential behaviour should be of much greater concern to the republican. First, basing one's standard on what it takes for people not to think themselves inferior to others inevitably opens up some difficult theoretical questions. On the one hand, it seems that the relevant standard cannot be one that requires that people not feel shame in *practice* because, as I have already noted, some people might have unusual dispositions and beliefs that lead them to feel ashamed of themselves even when this appears unreasonable. But on the other hand, some uncontroversial method for determining when it is reasonable to feel that you owe others deference would need to be developed.

More importantly, however, an emphasis on shame seems to betray the neo-republican's original concern with power—specifically the power to interfere, even when it is unlikely to be used. It is this worry, after all, which is central to the *bête noire* of republicanism: slavery. Why slavery is so problematic, I would have thought, is not that the slave feels themselves morally inferior to their master. (Even if there was no danger of a slave ever feeling that way, it seems that slavery would be an almost equally great injustice.) Rather, what is worrying is the unconstrained power of the master, who can treat their slave in just about any way they like. That the slave is forced to second guess his actions—always needing to heed how they might be interpreted, and responded to, by their master—is just another way, then, of saying that the slave

is vulnerable to arbitrary power. It gives an expression, too, to the notion that the slave is not subject to his own will—which may need to be checked or masked, after all—but the will of his master.

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In the next section of this paper I will argue that the neo-republican who is concerned not merely with deferential behaviour motivated by shame, but deferential behaviour motivated by interest, has reason to recommend further reform to a society that already lives up to the Rawlsian ideal. Before doing so, however, I want to explicate further how one might capture, conceptually, those circumstances that necessitate servility out of interest. In doing so, I draw on Frank Lovett's (2010) book *A General Theory of Domination and Justice*. A great virtue of this book is that, uniquely amongst the works of the republican revival in Anglo-American thought, it spends as much time specifying domination and non-domination as it does to invoking these terms in normative argument.

Lovett specifies three necessary (and jointly sufficient) conditions for domination. The first of these—that the relevant power be unconstrained, rendering it non-arbitrary rather than arbitrary—we have already encountered. But Lovett's two further conditions are relevant for our purposes too. Lovett claims, highly plausibly I would argue, that for an agent to be dominated, that agent must not just be vulnerable to a powerful actor, but be *dependent* in that relation. In particular, it must be the case that the cost of exiting or escaping that relation is sufficiently great. This claim is highly attractive, and not merely because dependence has often been used as a synonym for domination in the republican tradition. It is attractive because, unless you are

dependent on your subjection, and cannot escape it, it is not even accurate to say that that power is a power over *you* (even if, potentially, over others). Indeed, it is not even accurate to say that you are *vulnerable* to such a power, as you can always respond to its imminent or threatened use by exiting the scene.

Take the relationship between a typical boss and their employees. The nature of workplace regulations and the contract between them to one side, there is clearly a world of difference between a context in which employees could easily take up other jobs and one in which their current job is the only one going. Indeed, the extent to which employees have attractive outside opportunities diminishes the extent to which their boss has power over them at all. In the context of a competitive labour market, for instance, a variety of penalties that a boss might otherwise be tempted to employ are off the cards entirely, as employing them would simply result in employees quitting. In contrast, the monopsonistic employer who generously refrains from punishing his or her workers—and generally abides by established management procedures and/or rules—still has power over those workers as long as they have no other way of supporting themselves. The pertinent point in this case is that such an employer *could* depart from those procedures without any adverse consequences—as employees have no effective option but to stomach whatever treatment is meted out. And it is in virtue of this fact that such an employer dominates their workers no matter how they treat them.

Lovett does not think, however, that being dependent on a powerful agent is sufficient to render one dominated by that agent. Lovett also thinks that one must be in a “*social relationship*” with that agent. Because Lovett uses “social relationship” in a precise sense that is not always an easy fit with ordinary usage, it is worth specifying in some detail. Specifically, Lovett claims that for a vulnerable actor to be dominated requires that it makes a difference—in

terms of how that actor is treated—whether they do indeed look the powerful in the eye, or, more generally, refuse to engage in servile, obsequious or fawning behaviour. If it is the case, for instance, that a powerful agent is constrained to treat you in the same way regardless of whether you look them in the eye or not, it is not accurate to say you are dominated no matter how they treat you (although, presumably, they might wrong you in some other way). To put things in game theoretic terms, you can only be dominated if the powerful are without a “dominant strategy” with respect to you—where the definition of a “dominant strategy” is a course of action that is optimal for an agent regardless of what others do. It must be the case, in other words, that whether you defer to the powerful or not will make a difference in terms of what strategy they pursue with respect to you.

Putting things in this way sets up a nice contrast with circumstances in which an agent engages the powerful in a servile manner—and therefore might be thought to be dominated—but does so purely out of deference. Consider a workplace relationship between boss and employee in circumstances where the fostering of human capital is vital to the profitability of the business. Further suppose that arbitrary treatment of employees diminishes their human capital—perhaps by diminishing the extent to which they identify, and therefore take themselves to be invested, in the business—such that that boss must specify contractual commitments clearly and stick to their letter, in relating to employees, purely to maximise his or her own profits. While some employees in this case might defer to their boss, the argument is that they are not dominated as long as they will not face any adverse consequences if they do not. Although their boss is not effectively constrained by the state from imposing such consequences—and therefore, technically, still in possession of arbitrary power—he or she is effectively constrained by their

own interests and the mandate of profitability from freely exercising their power over their workforce.

Despite the fact that “social relationship” does not figure, in the same way as dependence, as a catchword in the republican tradition, Lovett’s second condition is also highly attractive. This is because it concretely captures and formalises what it means for social or political circumstances to induce the sorts of behaviours that traditionally worry republicans, enabling us to distinguish actual from merely apparent instances of domination. The reader will recall that I earlier noted that it implausible to suppose that it is servile behaviour as such that is objectionable, as even the most just society might occasionally manifest such behaviour on account of unusual dispositions or beliefs. What is worrisome, rather, is when people are compelled to fawn, toady, and kowtow. To be compelled, though, surely requires that one’s life would go worse if one did not behave in this way. If one’s life would go the same regardless—whether well or badly—then one might be subject to some other form of wrongful or unjust treatment, but one could not claim to have been forced by one’s circumstances to act in that way.

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Having discussed how exactly one’s social circumstances might compel servile behaviour—whether one feels that such behaviour is appropriate for one’s social station or not—we are now in a position to see why the neo-republican ought not to view a Rawlsian society as fully just. Specifically, the neo-republican ought not to fully endorse such a society, because a world in which individuals are merely guaranteed their entitlements as per Rawls’s two principles of

justice is a society in which people might still be *dependent* or vulnerable to unconstrained power through *social relationships*.

At first glance, this claim might seem somewhat implausible. This is because a society that lived up to Rawls's principles of justice would appear to effectively tackle domination *by the state*. Typically, the costs of leaving one's country are significant. Even if I am wealthy, and considering moving abroad, I still have to weigh a loss of family connections and a sense of home, not to mention the difficulties of learning a new language and negotiating a new culture. As such, it seems safe to assume that most people are dependent on their own states, and therefore might potentially be dominated by them. Similarly, the state is the sort of thing whose actions, with respect to us, depend on what we do. The extent to which law enforcement agencies, for instance, have reason to interfere with me depends to a significant degree on what I choose to do. As such, it would seem to be the case that each of us as individuals are in social relationship with our states—or perhaps, given that the state is not a personality, we might say that each of us are in social relationship with a collective agent: namely all our compatriots jointly, with the institutions of the state as its instruments.

But while it is accurate to say that we are dependent on our states, and in social relationship with them, it would not be accurate to conclude that we are necessarily dominated by them. Under a Rawlsian regime—or, more broadly, a liberal democratic regime—the power of the state is constrained such as to render it non-arbitrary. As, the reader will recall, power can never be eliminated—merely constrained, directed, and/or redistributed—this is the best that can be realistically hoped for. First, the state is constrained to legislate in the manner laid down by the constitution. (While Rawls offers an attractive vision for the foundation of this procedure—with all citizens needing to have equally effective political voice, not merely the (negative)

liberty to vote and run for office—a range of alternatives would do equally well at addressing domination.) There are rules, in other words, which establish how the state is to determine what goals it will pursue. Secondly, and perhaps more importantly, there are constraints on what goals might be legitimately pursued. While the government is free to determine what will best instantiate Rawls's principles, and legislate on matters that do not touch these fundamental entitlements, it cannot legislate away freedom of religion, for example, or the demand on the state to prioritise its most disadvantaged and vulnerable citizens.

Nevertheless, to say that a Rawlsian society would do well at tackling domination by the state, which Pettit calls *imperium*, is not to say it would do well tackling domination by private actors within or under that state, a form of domination which Pettit labels *dominium* (Pettit 1997). Here, I want to draw the reader's attention to two kinds of deficiency on this front, each of which recommends reforms to the way that the socio-economy is regulated. No doubt, however, there are examples that you could be provided from other social spheres. First, by not making explicit that the worst-off are not just guaranteed a level of resources, but guaranteed a *guarantee* of such resourcing, a Rawlsian society at least admits the possibility that the most disadvantaged achieve these returns only at the grace of their employers. In other words, Rawls admits the possibility that the most disadvantaged achieve these returns only because their employers, who are in a position to worsen their condition (by paying them less or firing them), and thereby dominate them, stay their hand. Second, even were the worst-off class provided a guarantee of resourcing, thus undermining their dependence on their employers, this would not necessarily be sufficient to eliminate domination of workers higher up the income chain.

Consider the first criticism first. Recall that Rawls's difference principle requires only that the worst-off class be as well off—in terms of the absolute value of their bundle of social

primary goods—as they can possibly be. While this is a guarantee to be instantiated by law, it does not require that that law take the *form* of a guarantee. To see what I mean here, suppose that it were the case that a market economy in which only the *involuntarily* unemployed were provided state benefits lead to the worst-off class being as well off as they could possibly be. As only the involuntarily unemployed could claim benefits—i.e. only those who were fired or unable to find work despite searching—people could not use the fact that the state would provide them with resources to opt out of work. As a consequence, the social “pie” being divided would be greater, and thus even the slice accruing to the worst-off class. In circumstances like these, Rawls’s approach would not require that the voluntarily unemployed be provided resources. Indeed, it would tell against providing such a guarantee.

In contrast, the neo-republican approach would recommend not merely that people end up with sufficient resources, but that they be explicitly guaranteed a level of resourcing unconditionally. It is not difficult to see why. As long as workers in the worst-off class cannot voluntarily leave their job—the costs of unemployment absent welfare provisions being just too great—they are dependent on their employers. As such, there is at least a danger that their employers dominate them. Given that all contracts are necessarily incomplete to one degree or another, and workplace regulations and enforcement can only be so extensive, the power of a boss over a worker will tend towards arbitrariness, and hence domination. In a context where the only alternative workers face is unemployment and destitution, in other words, bosses dominate workers no matter how well they treat them, by virtue of being in a position to choose to make their lives worse. And workers are potentially compelled into doing things that they would rather not do for fear of losing their jobs.

Of course, one reason that republicans have traditionally recommended not merely that the disadvantaged end up with more resources, but be provided an unconditional guarantee of such resources, is to undermine their dependence on employers. Although Pettit's arguments for sufficientarianism in *On the People's Terms* seem to integrate a concern for what would be enough for the poor to avoid shame, it may be that he is also motivated by this consideration. But notice that as long as we consider an agent as dependent as long as the *relative* costs of exiting a social relationship are sufficiently great, then merely guaranteeing a minimum level of resources might be insufficient to eliminate the dependence of employees higher up the income chain. Indeed, more pertinently, guaranteeing a level of resources such that the worst-off are as well off as they can possibly be might be insufficient.

Consider the position of an employee in Rawls's society who occupies a middling class stratum. While that employee is not a member of the worst-off class, neither are they a capitalist—who, we will presume, occupy the higher positions in the socio-economic distribution. Further suppose that this employee has some specialist skills that mean that, if they are to work in the occupation for which they have trained, and to which they are best suited, there are few employment options besides sticking in their current position. In other words, suppose that that employee's boss has a sufficient degree of monopsonistic power in the labour market such as to render that employee dependent. There is no guarantee that providing generously for the worst-off class will eliminate this particular employee's dependence, as it may be that the cost of dropping so many positions in the socio-economic distribution is sufficiently costly as to give his or her boss significant leverage in the workplace.

One way of responding to this problem would be to vary the level of resources guaranteed to the voluntarily unemployed according to how much a person's talents would be

expected to get them by way of favourable employment. Thus, the worker higher up the income chain would expect greater state benefits on voluntarily exiting their job than would the worker in the worst-off class. This response, however, risks unfairness (even if it is not immediately obvious to me that it conflicts with either element of Rawls's second principle of justice). As such, and presuming that Rawls's difference principle represents the most that can be done to undermine dependence without introducing unfairness, the neo-republican is better placed to recommend alternative kinds of measures.

Indeed, I believe that the neo-republican would have reason to recommend two sorts of further reforms to the socio-economy of a society that already embodied the Rawlsian ideal. First, the neo-republican would recommend a policy of promoting *competition* in the labour market. As long as we take the relative cost of exiting one's employment as the measure of dependence—or take dependence on a particular employer to be worse than dependence on relevant employers as a class—it can be tackled not merely by guaranteeing unemployment benefits but by making it easier for people to switch jobs. In the case of our middle-class employee, for instance, the government could ease his or her plight by assisting entrepreneurs—and therefore potential new employers—to enter the relevant market. It could also provide for transport infrastructure and adult education so as to widen the pool of accessible positions given that employee's current location and skill set. Of course, a Rawlsian society would already provide for competition, including in the labour market, but only to the extent that this were necessary to exhaust efficiency gains—or, more precisely, only to the extent that this were necessary to advantage the worst-off. Neo-republicanism sets itself up to make a constructive contribution, therefore, by recommending further reforms along these lines, but to tackle dependence rather than promote efficiency.

Second, the neo-republican has reason to recommend reform of the workplace. Rawls's principles of justice—in particular his first principle, and the requirement of equality in fair opportunity—undoubtedly limit the discretion of employers, both in hiring and firing, and setting and implementing incentives within the workplace. But, being principles to regulate the basic structure of society, rather than individual action, they actually leave open windows of arbitrariness—pure discretion—to which the neo-republican would object. Take the requirement of equality in fair opportunity. It demands that no person's life go worse as a consequence of unchosen factors such as race. It does not demand that people do not discriminate on such bases. Consider a society composed of two equally large racial groups, members of each tending to discriminate, in hiring or promotion, against members of the other. As long as this discrimination balanced out such that nobody's life went worse as a consequence of their race, the Rawlsian would have no reason to object. In contrast, the neo-republican would object to such a society as manifesting domination. Bosses in this world would dominate job candidates, and/or workers, merely by virtue of having an unconstrained power to choose whom to hire and whom to promote.

Further, the neo-republican would have reason to recommend constraints on the power of bosses even were Rawls's first principle and equality of fair opportunity applied to individual action. Implicitly, a Rawlsian approach allows bosses to choose when and whether to leverage whatever power they have—provided that, in doing so, they do not touch that which is protected by these demands. In contrast, the neo-republican—who has reason to condemn any circumstances in which persons are compelled to engage in servile behaviour—would want to see the power of bosses constrained, directed, and/or redistributed to the maximum extent possible. If Rawls's first principle and equality of fair opportunity serve the role of constraints

on bosses in the same way that a bill of rights serves as a constraint on the state, the neo-republican has reason to expand this list beyond civil and political essentials. To the extent that democracy serves as a way of redistributing and/or directing power, the neo-republican also has reason to recommend workplace democracy. It is at least true that if the republican recommends democracy at the level of the state mainly or merely to tackle *imperium*, they must also do so at the level of the firm on pain of inconsistency.

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In conclusion, as long as the neo-republican seeks a society in which no one is compelled to engage in servile behaviour, they have reason to criticise even a society that instantiates Rawls's principles of justice. In particular, they have reason to recommend that benefits for the unemployed be unconditional, that competition policy be vigorous—even once efficiency gains have been exhausted—and that workplace regulations be deeper than required merely to protect citizens' civil and political liberties. Of course, it is at least conceivable that these reforms will have a cost, once pushed too far, in terms of efficiency; they will entail a cost, in other words, in terms of prosperity. To the extent, then, that this worsens the condition of the worst-off—reducing the value of their bundle of social primary goods—neo-republicanism actually come into conflict with Rawlsianism, rather than acting as a constructive complement to it. More work remains to be done, therefore, on how to weigh the value of non-domination relative to other concerns.

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