

WHAT IS THE POINT OF NONDOMINATION?

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THE REPUBLICAN TRADITION of political thought makes the following distinctive claims: (1) goodwill and virtuous self-restraint are insufficient to realize freedom; and (2) suitable law is constitutive of freedom.¹ I will refer to these as the *insufficiency* and *constitution* claims. The first of these has received the most attention and is often used to motivate the republican view. A slave with a kindly master is unfree, no matter how unlikely their master's interference. Thus, republicans argue, the absence or low probability of others' interference is not enough for freedom. Instead, noninterference must be enjoyed *robustly*: across a range of possible worlds, with no agent having an uncontrolled capacity to interfere with another. To be free in this sense is to enjoy *freedom as nondomination*.

Against the republican conception of freedom as nondomination, two objections have been persistently raised. The first objection is that it is problematically *moralized*.² The second objection is that it is *impossible* to realize.³ These

- 1 In the contemporary literature, these two claims are developed and defended by “neo-republican” theorists such as Philip Pettit, Frank Lovett, and Quentin Skinner. In addition, these claims are defended (on different grounds) by Kantians such as Anna Stilz, Arthur Ripstein, Japa Pallikkathayil, and Thomas Sinclair. See, for example, Pettit, *On the People's Terms*; Lovett, *A General Theory of Domination and Justice*; Skinner, “Freedom as the Absence of Arbitrary Power”; Stilz, *Liberal Loyalty*; Ripstein, *Force and Freedom*; Pallikkathayil, “Deriving Morality from Politics”; and Sinclair, “The Power of Public Positions.” In the canon, these claims have been defended by both “Italian Atlantic” and “Franco German” republican traditions. See Pettit, “Two Republican Traditions.” In this paper, I focus on the contemporary “neo-republican account,” and from here on I will use the term “republican” to refer this camp.
- 2 See Carter, “A Critique of Freedom as Non-Domination”; Dowding, “Republican Freedom, Rights, and the Coalition Problem”; Kramer, “Liberty and Domination”; List and Valentini, “Freedom as Independence”; McMahon, “The Indeterminacy of Republican Policy”; and Waldron, “Pettit's Molecule.”
- 3 See Simpson, “The Impossibility of Republican Freedom”; Kolodny, “Being under the Power of Others”; Sharon, “Domination and the Rule of Law”; and Dowding, “Republican Freedom, Rights, and the Coalition Problem.” Apart from the *moralization* and *impossibility* objections, several theorists argue that appeal to freedom as nondomination

concerns have led to skepticism about whether republicanism's distinctive claims about the insufficiency of goodwill and constitutive importance of law can be adequately defended.

I believe these concerns with moralization and impossibility are indeed forceful. But at the same time, I think critics have risked obscuring insights of the republican approach, insofar as they take the insufficiency and constitution claims to be misguided entirely. My aim in this paper, then, is to articulate and defend a pair of different claims in the same spirit. I do so by examining the point or purpose of protecting persons from domination. On the standard view, nondomination is regarded as a conception of negative liberty, in competition with others in the literature such as the liberal “noninterference” view. On the account I develop, however, a different concern is at stake: that persons have a civic status as equals, which realizes an important form of social or “relational” equality.⁴ Protection from nondomination—more precisely, the provision of robust noninterference through law—is a central part of what this status involves. Understanding the point of nondomination in this way, I will argue, offers a compelling defense of alternative insufficiency and impossibility claims: goodwill is insufficient for, and suitable law is constitutive of, equality of civic status.

Niko Kolodny has also suggested that the republican concern with domination is better understood as a concern with social equality rather than freedom.⁵ But along with this suggestion, he seems to hold that the distinctive republican commitments are altogether indefensible. This I believe to be mistaken, and, as we will see later, leaves him with a problematic conception of social equality. Thus, I want to show that a satisfactory understanding of social equality—spelled out in terms of equality of civic status—draws on insights of the republican approach and regards goodwill as insufficient for, and suitable law constitutive of, the realization of that ideal. And while the notion of equality of civic status is not foreign to republicanism, I will make clear over the course of

is not necessary to explain our judgments of paradigm cases like the kindly slave master. They argue that freedom as noninterference, correctly understood, can explain these cases. See Goldwater, “Freedom and Actual Interference”; and Carter, “How Are Power and Unfreedom Related?”

- 4 On the social or “relational” conception of equality, see Anderson, “What Is the Point of Equality?”; Scheffler, “What Is Egalitarianism?”; Lippert-Rasmussen, *Relational Egalitarianism*; and Schemmel, *Justice and Egalitarian Relations*. Some theorists, such as Anderson and Schemmel, also identify a connection between nondomination and relational equality. On these accounts, however, nondomination appears to be taken as a notion of freedom that is a constituent part of social equality. See also Schuppert, “Non-Domination, Non-Alienation, and Social Equality” and Garrau and Laborde, “Relational Equality, Non-Domination, and Vulnerability.”
- 5 See Kolodny, “Being under the Power of Others.”

the paper that it is useful to more carefully distinguish that concern from the standard republican approach than is typically done.

The paper proceeds as follows. In section 1, I explain the notion of freedom as nondomination and how the insufficiency and constitution claims are typically defended. In section 2, I discuss the impossibility and moralization objections, evaluating and critiquing the responses recently made by republicans. In section 3, I characterize what I call the “status-conferring” function of protecting persons from domination and contrast it with the standard “freedom-constituting” account. I argue that the proposed approach provides a compelling defense of alternative insufficiency and constitution claims and avoids the moralization and impossibility objections. In section 4, I conclude by suggesting some other advantages of the approach developed.

1. NONDOMINATION AND SOCIAL JUSTICE

A person is free from domination with regard to a particular choice if no agent has an “uncontrolled” capacity to interfere with that choice. While there is room for republicans to differ over what exactly is required for the relevant kind of control, Lovett and Pettit write that “there is widespread agreement . . . that control must robustly protect *A* against interference: that is, protect them across possible variations in *A*’s own preference in the choice and, more importantly, across possible variations in *B*’s preference as to how *A* should choose.”⁶ A slave may enjoy noninterference in the actual world under a benevolent master. But the slave is not free from domination, since they do not enjoy noninterference in the relevant range of possible worlds, e.g., those in which the master is no longer benevolent. The slave remains subject to the master’s uncontrolled capacity to interfere. Thus, the insufficiency claim: no amount of goodwill or virtuous self-restraint is enough to realize freedom.

The constitution claim follows almost immediately, to the extent that law is the best means we have available to make noninterference robust.⁷ On the republican account, the law is constitutive of freedom because what it is—or at least part of what it is—to be free involves being protected from interference in possible worlds where the goodwill of would-be interferers no longer remains. This contrasts with the “liberal” view of freedom, on which, as Bentham says,

6 Lovett and Pettit, “Preserving Republican Freedom.”

7 To be sure, other ways of making noninterference robust are conceivable. Imagine a new technology is invented—a brain chip that gives one a shock if they form the intention to interfere with another.

“all coercive laws are, as far as they go, abrogative of liberty.”⁸ Spelling out this contrast, Pettit writes that

republicans do not say, in the modernist manner, that while the law coerces people and thereby reduces their liberty, it compensates for the damage done by preventing more interference than it represents. They hold that the properly constituted law is constitutive of liberty in a way that undermines any such talk of compensation.⁹

We can say, then, that on the republican view law is “freedom constituting”: when suitably designed and implemented, law brings freedom into existence. By contrast, on the liberal view the law is “freedom promoting”: law limits freedom in the first instance but brings about more of it overall.¹⁰ On the freedom-promoting view, law is a causal means to noninterference in the actual world; on the freedom-constituting view, law is a constitutive means to *robust* noninterference. While the best system of law will interfere in the actual world (and so be “abrogative” of liberty in that sense, as Bentham says), it will not interfere in an uncontrolled or arbitrary manner—and thus will not reduce freedom as nondomination.

Republicans not only hold that nondomination is the correct understanding of freedom; they claim, further, that freedom as nondomination is the fundamental concern of justice. Thus, there is a second respect in which the republican approach differs from the so-called liberal view, since liberals tend to regard justice as involving a plurality of concerns—a balance of freedom and equality, for example. But in order to develop the general account of nondomination into a theory of social justice, we require an account of three issues: (1) the *domain* of choices that require protection from domination; (2) the *manner* in which those choices are to be protected; and (3) the nature of the *distribution* of undominated choice across persons.¹¹ On Pettit’s account, a theoretical device known as the “eyeball test” is used to fill in these details, on the assumption that the provision of nondomination is required to express, borrowing Dworkin’s phrase, “concern and respect for persons as equals.”¹² The eyeball test invokes the republican notion of the free person, or *liber*, who can

8 Bentham, “Anarchical Fallacies.”

9 Pettit, *Republicanism*, 35.

10 For a recent discussion of this issue, see Goldwater, “Freedom and Actual Interference,” 150–53.

11 Cf. Southwood, “Republican Justice.”

12 Pettit, *On the People’s Terms*, 78.

“walk tall without reason for fear or deference.”¹³ When the test is passed, each person can “look others in the eye” without having to “bow or scrape, toady or kowtow, fawn or flatter.”¹⁴

First, consider the *domain* issue. Pettit does not hold that every choice must be protected for justice to be realized. Instead, justice concerns nondomination in the domain of the *basic liberties*.¹⁵ The basic liberties are a package of liberties, familiar to both liberal and republican traditions, that include “those of speech, association, residence, employment, ownership, and exchange.”¹⁶ Intuitively, even if you dominate a trivial or nonbasic choice of mine, such as my using your pool, that is not enough for me to fail the eyeball test: I can still look you in the eye without reason for fear or deference.¹⁷ But if you dominate my *basic liberties*—my ability to speak in public, say, or my ability to move freely—then I would seem to have good reason to avoid any eye contact that might invite you to exercise your dominating power; and I may have reason to ingratiate myself to you, “keeping you sweet,” such that I might continue to enjoy noninterference across these options.

Second, consider the issue of the *manner* in which nondomination is realized. In principle, people’s basic liberties could be protected from domination in a range of different ways. Suppose, for example, that a technologically advanced state has a secret police force that prevents violations of people’s basic liberties before they happen.¹⁸ This may be enough to make this state’s citizens free from domination; but it might not be enough for them to pass the eyeball test. For instance, if this police force is indeed secret, it would not be a matter of common awareness that each citizen is protected, in the sense that each citizen knows they are protected, knows that others know they are protected, and knows that others know that they know, and so on.¹⁹ By contrast, however, Pettit maintains that nondomination of persons, in order to realize justice, must be realized through a system of *public* laws and norms. Public laws and norms provide protection, objectively, which, intersubjectively, is a matter of common awareness such that persons enjoy “a publicly established and acknowledged status in relation to others.”²⁰

13 Pettit, “Free Persons and Free Choices” and “The Basic Liberties.”

14 Pettit, *On the People’s Terms*, 88.2012

15 In more detail, Pettit identifies the basic liberties with those that are both “co-exercisable” and “co-satisfiable.” See Pettit, *On the People’s Terms*, 94, 98.

16 Lovett and Pettit, “Preserving Republican Freedom,” 366.

17 I borrow this example from McCammon, “Domination.”

18 As in Dick, *The Minority Report*.

19 Pettit borrows this understanding of common awareness from Lewis, *Convention*.

20 Pettit, *On the People’s Terms*, 83.

Finally, consider the *principle* question. We have identified the basic liberties as the relevant domain, but this leaves open the question of how nondominated choice within the basic liberties ought to be distributed across persons.²¹ One could hold the view that nondominated choice should be strictly equally distributed, such that each person has the same choices with regard to “speech, association, residence, employment, ownership, and exchange.” Unsurprisingly, Pettit adopts a less demanding principle than this. His preferred principle is *sufficientarian* “in the currency of free or undominated choice,” requiring that all have resources and protection to meet “a certain threshold . . . of free choice” required for them to pass the eyeball test.²² While sufficientarian in this sense, this principle is egalitarian in another: when all possess the resources and protection needed to pass the eyeball test, Pettit claims, persons will have an *equal* status as nondominated. Intuitively, *some* degree of inequality with regard to choices within the basic liberties—e.g., not all have the exact same choices of employment or ownership or residence—need not make some fail the eyeball test or fall short of having an equal status as nondominated.

In sum, then, this is the contemporary republican account: justice requires that each person has a public status as nondominated, in virtue of no agent having the uncontrolled capacity to interfere with their basic liberties, achieved through a system of public laws and norms.

2. THE MORALIZATION AND IMPOSSIBILITY OBJECTIONS

I now turn to examine the *moralization* and *impossibility* objections. I will explain both in turn and evaluate the responses that republicans have given in the recent literature, drawing the conclusion that the objections raise substantial problems for the republican account.

2.1. Moralization

A conception of freedom is moralized if its definition involves other moral notions. On a moralized conception of freedom, certain forms of interference—taxation, imprisonment—may not count as infringements of freedom if they are *justified*. If there is disagreement about what counts as appropriate justification, then, there will be disagreement about whether certain forms of interference count as restricting freedom. Suppose we disagree about whether it is just to incarcerate someone for recreational drug use. If we adopt a moralized

21 More precisely, there remains a question about how to distribute nondominated choice within the basic liberties, consistent with equal concern and respect. Pettit, *On the People's Terms*, 78.

22 Pettit, *On the People's Terms*, 88.

conception of freedom, then we will disagree about whether incarceration on these grounds makes a person unfree. In a similar way, people might disagree about whether a system of private property restricts or protects freedom, since, as G. A. Cohen points out, protecting one person's freedom to own several homes removes others' freedom to live in those homes.²³

Moralized conceptions of freedom are typically regarded as problematic for several reasons.²⁴ For one, they seem to violate a kind of "ordinary language" desideratum that "the conception displays adequate level of fidelity to ordinary-language use."²⁵ This desideratum would be violated, for instance, by moralized conceptions of freedom that count the guilty prisoner as perfectly free, despite being behind bars.

But there is another reason why the issue of moralization is troubling for republicanism in particular. As we have seen, the project of contemporary republicanism is to take freedom as the foundational political concern. As such, it would be especially problematic for the approach if freedom as nondomination involved other moral notions. It would then be these other (unexplained) values, and not just freedom as nondomination, that are at the foundation of the theory.

It is no surprise, then, that Pettit resists the moralization charge. He gives the following reply.²⁶ There is simply a matter of fact whether people have a capacity for uncontrolled interference. For example, it is either true or false whether a person enjoys noninterference robustly, in possible worlds where goodwill breaks down, and so on. If true, then as a matter of fact freedom of nondomination will be realized, and if false, then not. Whether nondomination is realized in a given case depends only on descriptive facts about the presence of control.

Does this reply succeed? Christian List and Laura Valentini argue that it does not, since it has unacceptable implications. They ask us to consider a democratic decision that involves a conflict of interest between different members of society (as is inevitable). Consider the decision whether to introduce a new inheritance tax. While the rich do not support the introduction of this new tax, everyone else does, and so the tax is introduced. Are the rich dominated?

23 Cohen, "Capitalism, Freedom, and the Proletariat."

24 For a recent argument in opposition to the commonly held view, see Bader, "Moralizing Liberty."

25 List and Valentini, "Freedom as Independence," 1051.

26 Pettit says that "unlike 'legitimate,' 'nonarbitrary' is not an evaluative term but is defined by reference to whether as a matter of fact the interference is subject to adequate checking. Interference will be nonarbitrary to the extent that, being checked, it is forced to track the avowed or avowal-ready interests of the interferee; and this, regardless of whether or not those interests are true or real or valid, by some independent moral criterion" ("Republican Liberty," 117). I have adapted the point in terms of "control" rather than "interest tracking," since the former notion has replaced the latter in the more recent work.

While it is true that each person exercises an equal share of control over the decision, this does not seem to give them “control” in any sense that would preserve their freedom.²⁷

A natural response would be to say that since the procedure was fair, or something else, it should not be regarded as involving domination. Or one could say this with respect to the outcome. But in either case, we would be invoking fairness, or some other value, and so the judgment would be moralized.

A more plausible and perhaps more likely republican response (one that List and Valentini do not consider) might draw on the distinction between free persons and free choices. The inheritance tax does not bring the rich below the threshold of sufficiency needed for them to enjoy a status as free persons. Although the rich may be dominated with respect to their choice to keep their inheritance free from taxation, this is not enough for them to be dominated as persons, because their basic liberties are still protected. Being less able to inherit wealth does not threaten anyone’s ability to look others in the eye “without reason for fear and deference.”

This response, however, only pushes back the moralization concern without resolving it. Invoking the notion of the “free person” along with the eyeball test, I contend, involves a kind of moralization. The notion of the “status of a free person” is not wholly descriptive, but instead (tacitly) involves moral commitments. As we saw previously, having the status of a “free person” involves meeting a particular threshold of undominated choice within the basic liberties. But this invites the question of why the relevant “status as free person” does not consist in a different set of liberties, or a different principle of distribution. Some might argue, for example, that the economic liberties should be counted as “basic.”²⁸ Others might argue that the sufficientarian principle is far too permissive for the relevant kind of equal status required by justice. Thus, both elements of what it is to be a free person—the delineation of which liberties are “basic,” as well as how undominated choice is to be distributed across persons—involve a choice among a range of options. Moreover, these would appear to be exactly the kinds of choices that call for resolution by appeal to moral concerns. On this basis, then, I believe the *moralization* objection holds.

2.2. Impossibility

The impossibility objection claims that, as a matter of living in society, people are inevitably subject to others’ uncontrolled ability to interfere, if not on the

27 Unlike, perhaps, when you ask your partner to lock up the keys to the liquor cabinet, which later frustrates your akratic desires. See Pettit, *On the People’s Terms*, 171.

28 For such an account, see Tomasi, *Free Market Fairness*.

part of individuals, then by *groups*, whether these groups are actual or merely possible agents.

Consider the following cases put forward by Thomas Simpson:

Nearly Coordinated Masters: There are three masters and a slave. No one master is strong enough to interfere in the slave's choices, but any two can do so by coordinating their efforts. Master 1 is ready to coordinate with either Master 2 or Master 3, but the latter are both benevolent and do not.

Uncoordinated Masters: There are three masters and a slave. No one master is strong enough to interfere in the slave's choices, but any two can do so by coordinating their efforts. All three masters are benevolent.²⁹

In both cases, the slave appears to be dominated, as Simpson suggests. The slave does not enjoy noninterference robustly: if the masters no longer remain goodwilled, then they will coordinate and interfere with the slave. As such, the slave will have reason to "keep them sweet" and would fail the eyeball test.

The next, and crucial, step in Simpson's argument is to claim that, in *any* society, there are possible groups that are relevantly similar to the uncoordinated or nearly coordinated masters. In any society, for any person, he claims, there will inevitably be

a collection of agents who have an uncontrolled power to invade her, by coordinating. It does not matter how improbable it is that they will do so; the possibility that they may makes her unfree. No one can protect her from this interference except other people. But they too have the same power to coordinate, so the same danger arises again.³⁰

Domination between *individuals*, Simpson agrees, or between individuals and small groups, might be removed through suitable laws and norms. However, this will not be enough to remove the dominating ability of every group. Republican justice, he reminds us, requires popular control of government. And if "The People" can control the government, they surely can interfere with any individual. Thus, Simpson concludes, "just by living among other people . . . one is dominated."³¹

Lovett and Pettit are not convinced by this argument, however. In response, they identify what they regard as a salient difference between the ability of

29 Simpson, "The Impossibility of Republican Freedom." Cf. Kolodny, "Being under the Power of Others."

30 Simpson, "The Impossibility of Republican Freedom," 37.

31 Simpson, "The Impossibility of Republican Freedom," 37.

“The People” to control government as opposed to the ability, or lack thereof, of the “The People” or other potential groups to interfere with an individual citizen’s basic liberties. The difference is what it takes for a group to be a *capable* dominating agent as opposed to a merely *potential* one. In order for a group to be capable of domination, three conditions must be met by its members: “first, they must each desire that they together interfere; second, they must be aware in common of their mutual desire; and third, they must be aware in common of a strategy whereby they can act on that desire.”³² Call the latter two conditions the *awareness* and *strategy* conditions.

In a just republic, these conditions will not be met by potential groups that might otherwise interfere with an individual’s basic liberties. When suitable republican laws and norms obtain, it will be incredibly costly for a person to signal a willingness to form such a group, as doing so would make one liable to punishment by law, ostracism, and other forms of sanction. Thus, even if the members of a potential group wish to interfere with one another, they will be prevented from making those intentions known and forming a joint strategy. As such, the awareness and strategy conditions will not be met. By contrast, Lovett and Pettit hold that these conditions may be met by “The People” acting to control the government, if suitable laws and norms are in place, if citizens are not too apathetic, and so on.³³ In a just republic, laws and norms allow citizens to make their intentions to team up against abuses of government power publicly known and to coordinate a joint strategy. “The People,” then, are capable of controlling government, but they do not dominate.

I contend, however, that this clarification of what republicans are committed undermines their defense of the insufficiency and constitution claims and reveals a significant limitation of the view so defended.³⁴ To see this, we need to take a small step back. Along with drawing the distinction between capable and merely potential dominating teams, Lovett and Pettit, *pace* Simpson, argue that the slaves in the Nearly Coordinated Masters and Uncoordinated Masters cases are *not dominated*. They claim that

for all that Simpson’s descriptions of the scenarios imply, the awareness and strategy conditions might not be satisfied. If they are not, the masters will not have the capacity to interfere, and thus not constitute a capable team holding sway over the slave. Thus, it is false to claim, as he does, that necessarily the nearly coordinated and uncoordinated masters dominate the slave.

32 Lovett and Pettit, “Preserving Republican Freedom,” 377.

33 Lovett and Pettit, “Preserving Republican Freedom,” 381.

34 For another reply, see Simpson, “Freedom and Trust.”

Lovett and Pettit, to remain consistent, must deny that the slave is dominated in these cases; otherwise, they would be unable to maintain that “The People” do not dominate as well.

This move, however, puts pressure on whether the distinctive republican claims can be adequately defended. Consider, first, the insufficiency claim. In both the Uncoordinated Masters and Nearly Coordinated Masters cases, it appears that goodwill *is* in fact sufficient for freedom. This is because the goodwill of the masters, as a matter of common awareness between them, prevents the “strategy” and “awareness” conditions from being satisfied. As such, the goodwill of the masters in these cases makes it such that there is only a potential dominating team, not a capable one.

Recall, also, that the insufficiency claim involves the thought, as Pettit puts it, that you “cannot make yourself free . . . by cozying up to the powerful and keeping them sweet.”³⁵ But this thought would seem to now be contradicted by Lovett and Pettit. Consider the following variation of Simpson’s case:

Unrobustly Coordinated Masters: There are two masters and a slave. No one master is strong enough to interfere in the slave’s choices, but the two can do so by coordinating their efforts. Master 1 is ready to coordinate with Master 2. Master 2 is also ready to coordinate with Master 1. Master 2, however, has a weakness for flattery and obsequiousness, such that whenever the slave fawns, toadies, or kowtows he becomes unwilling to interfere and signals this to Master 1.

In this case, the slave could ensure their freedom by “cozying” up to Master 2 and “keeping him sweet.” Doing so would ensure that the “strategy” and “awareness” conditions are not satisfied, and thus that the two masters do not form a capable dominating team. As such, Lovett and Pettit’s clarification of freedom as nondomination appears to result in the same “absurdity” that Pettit levels against the “noninterference” view: it entails that one can, in the kind of case imagined, make themselves free through ingratiation.³⁶ If there can be no freedom through ingratiation, however, it is not at all clear why should it make a difference whether ingratiation keeps a single master from exercising their capacity to interfere as opposed to preventing a potential dominating team from becoming capable.

Similarly, it is no longer quite so clear why the law has the kind of *constitutive* importance that republicans want to ascribe to it. If the slave is free from

35 See Pettit, “The Instability of Freedom as Noninterference,” 705, and “Freedom and Probability,” 216.

36 Pettit, “The Instability of Freedom as Noninterference,” 704–8.

domination in both *nearly* and *uncoordinated* cases, what further role is there for legal protection *qua* freedom constituter? Lovett and Pettit would, rightly, point out that there is a high probability that in either case the slave would come to be dominated, and that legal protection would remove this threat.³⁷ But this response only shows that suitable laws may make the slave more likely to continue to enjoy freedom as nondomination, not that the law has a freedom-constituting role.

One might reply that my point here does not undermine the fact that, *in normal circumstances*, the law will nonetheless have constitutive importance.³⁸ Freedom as nondomination, one might point out, may be constituted by more than one means. As Pettit says

to enjoy nondomination . . . is to have inhibitors present in your society—maybe these, maybe those—which prevent arbitrary interference in your life and affairs. And the presence of suitable inhibitors—suitable institutions and arrangements—represents a way of realizing your nondomination.³⁹

In the Nearly Coordinated Masters and Uncoordinated Masters cases, the greater strength of the slaves (that makes the masters' coordination necessary), along with the failure of the awareness and strategy conditions, act as "suitable inhibitors," or a constitutive means of freedom. To be sure, however, conditions such as these are quite unlikely to obtain; and so, given the normal conditions of human life, the law—or legal, political, and social institutions more broadly—are likely to be the best constitutive means available to realize nondomination.

This, I think, is a fair response. Nevertheless, it is not entirely satisfactory. The issue is that, in the cases considered above, there remains something very normatively problematic with the relationship between the slave and masters. Whether or not it renders them unfree, the slave still has an objectionable legal status, and so there remains an injustice that republicans (or anyone) ought to condemn. Moreover, I contend, the correction of this injustice is exactly of the sort we might expect to be (partly) constituted by suitable law. Thus, despite the republican insistence on the constitutive importance of law, they appear unable to vindicate that claim where we ought to expect them to—in these (admittedly strange and unlikely) cases.

37 Lovett and Pettit, "Preserving Republican Freedom," 379.

38 I would like to thank a referee for the *Journal of Ethics and Social Philosophy* for suggesting this response.

39 Pettit, *Republicanism*, 108.

It might be replied that we need to again appreciate the distinction between free persons and free choices. Even if the slave is not dominated in the Nearly Coordinated Masters and Uncoordinated Masters cases, the slave does not have the status of a free person. Introducing legal protection, then, would constitute that status. But while this response is promising, it is not available on the approach that Lovett and Pettit have taken. On their approach, what it is to have a status as a free person is nothing more than being free from domination as a matter of common awareness. If this is what it is to have the status of a free person, then that status might well be possessed by the slaves in the Nearly Coordinated Masters or Uncoordinated Masters cases, or a suitably specified variant. Imagine, for example, the following case:

The Society of Kindly Masters: There are two classes: one comprised of benevolent masters; the other, physically powerful slaves. The slaves are much more physically strong than the weak masters, such that it would take a group of masters to interfere with any one slave. No master wishes to interfere, however. Further, there are entrenched and public social norms that forbid ganging up on any slave, as doing so violates the demands of a kind of “noblesse oblige”: to do so would tarnish a master’s virtue.

This case is stated such that it is incredibly improbable that any slave would suffer interference. Further, the strategy and awareness conditions are not met, and so there is no capable team of masters. No slave suffers domination, and this is matter of common awareness, given the nature of the norms in the society. These conditions, then, may be enough for the slaves—and, for that matter, *everyone* in the society—to have a kind of public status as nondominated.

We have every reason, however, to think that this society would nonetheless fall short of realizing justice. But the republican account seems ill equipped to tell us why. Even if all might be free from domination, there nonetheless remains an objectionable kind of social hierarchy. The fact that the masters enjoy legal permission to interfere serves to mark the “slaves” as inferior.⁴⁰ Suppose, further, that there exist widespread inegalitarian patterns of deference and modes of address that perpetuate a common awareness that the “slaves” are regarded as “less than.” We may even suppose that these practices are regarded as fitting given the status of the slaves under law. After all, it is only out of a sense of “noblesse oblige” that the masters remain an incapable team and do not interfere.

40 The label of “slave” may not seem entirely apt here, given the absence of interference, but they are nonetheless social inferiors in a significant sense.

In this case, the masters' goodwill and lack of coordination is not enough for the slaves to be their social equals. And it is this problem that a suitable system of law might remedy in a constitutive manner. What this suggests, then, is that the republican ideas about the constitutive importance of law and the insufficiency of goodwill may not be best understood in connection with *freedom*, as they typically are. Instead, these ideas might be better explained and defended by examining the relationship between legal protection and social equality or equality of civic status. I pursue this idea next.

3. THE STATUS-CONFERRING FUNCTION OF LEGAL PROTECTION

On the standard republican view, we have seen, a person is free if no other agent has an uncontrolled ability to interfere with their basic liberties. By inhibiting interference, legal protection makes the enjoyment of noninterference *robust* and so *constitutes* freedom. By contrast, we saw that on the freedom as noninterference view, the inhibiting function of law *promotes* freedom—in the way that restricting some choices (to kill, steal, and so on) gives people more freedom overall. In addition to inhibiting behavior, however, law has an *expressive* or *communicative* function.⁴¹ It is this function, or rather an aspect of it, that I now wish to explore. An important aspect of this communicative function concerns the kind of status people are given under political institutions, or how they are *ranked*, e.g., as inferior to others or as equals.

My claim is that the equal provision of robust noninterference through a system of law functions to give persons a civic status as equals, thereby realizing an important form of social or “relational” equality. While it may be inevitable that some will enjoy greater esteem or recognition than others in domains such as athletics or the arts, suitable law can rank persons as *equal citizens*—hence the term “civic” status. Realizing this equality is important because it is necessary for government to express respect for its members as equals, which, on many accounts, is regarded as the first commitment of political theory.⁴² No government shows respect for its members as equals, I contend, if some are marked out as having an inferior or “less than” status.

It may be that it is impossible for the law—or any other social or political institution—to entirely remove the uncontrolled ability to interfere from all actual or possible agents (such as “The People” or other groups), as critics

41 See Anderson and Pildes, “Expressive Theories of Law”; Sunstein, “Law’s Expressive Function”; and Shiffrin, “Speaking amongst Ourselves.” Most recently, see Schemmel, *Justice and Egalitarian Relations*, ch. 2.

42 See Dworkin, *Sovereign Virtue*; Kymlicka, *Contemporary Political Philosophy*; Pettit, *On the People’s Terms*.

maintain. But this does not undermine the significance of suitable laws' status-conferring function. Recognition of this function, I will argue, provides a compelling defense of alternative *insufficiency* and *constitution* claims, understood in terms of social equality instead of freedom. Moreover, this account avoids the impossibility and moralization objections.

To begin, recall three of the cases considered previously: Uncoordinated Masters, Nearly Coordinated Masters, and Society of Kindly Masters. We saw that in each of these cases republicans hold that the slaves are not dominated, although the cases differ in terms of the probability of the slaves becoming dominated. And the slaves in these cases may even enjoy a kind of public "status as nondominated." Certainly, however, in each case the ideal of social equality is not realized. The slaves do not enjoy a status as *civic equals*. The goodwill of the masters, or their lack of coordination, is not sufficient to realize social equality, even if it is thought to give the slaves freedom. The fact that there exists legal permission to interfere with the slaves is enough to mark them out as inferior, despite there being no group willing and capable of acting on that permission.⁴³ The slaves are not protected as equals by a shared law and, for this reason, there remains an important sense in which they are subordinate to their masters. In general, then, I contend that in a society where some members' basic liberties are protected by law, then that protection must be given to persons as equals in order for them to enjoy an equal civic status.⁴⁴

To realize social equality, it is important that people are protected *as equals*, and not merely equally. To see this, suppose that in the Society of Kindly Masters the masters decide to legally entrench what they perceive as the requirements of "noblesse oblige." The slaves are given equal legal protection, not *as equal members* of the community, but instead on the basis of the masters' desire not to tarnish their virtue. Although the slaves may come to enjoy equal protection in such a way, this would not, intuitively, be enough to realize social equality. The protection and powers given to individuals under law must communicate respect for persons as equals. While this example is somewhat fanciful, there are real world analogues. Think, for example, of the issue of whether same-sex couples should be given the legal power to *marry* and not just enter civil partnerships. Even if both arrangements grant the same legal powers, one may argue that the ability to enter marriage should be extended on the grounds that is necessary for same-sex persons to fully enjoy a status as civic equals.

43 A different concern, raised by Fabian Wendt, is that slaves are denied self-ownership. See Wendt, "Slaves, Prisoners, and Republican Freedom."

44 More may be required: that differences in the worth (in Rawls's sense of that term) of liberties are not too great, that resources and capabilities are not distributed too unequally, and so on.

There are, then, two ways to understand the importance of legal protection and the robust noninterference it provides. On the standard republican view, such protection constitutes freedom by removing others' uncontrolled capacity for interference. By contrast, on the account developed here, such protection, given to persons as equals, is required to realize social equality understood in terms of equality of civic status. This approach is perhaps not so far off from the standard republican view, one might think, given that the goal of republican justice is sometimes described in terms of giving persons an equal status as free persons. But there is an important difference to highlight. On the standard republican account, what it is to have a status as a free person is defined in terms of enjoying freedom as nondomination (over the basic liberties) as a matter of common awareness. By contrast, on the account I propose, being protected from domination is not sufficient for equality of civic status; and protection from domination is only necessary when it is needed to secure equality of civic status. On the one hand, nondomination is not sufficient because, as we saw in the *Nearly Coordinated Masters*, *Uncoordinated Masters*, and *Society of Kindly Masters* Cases, one can be protected from domination yet fail to have an equal civic status. On the other hand, even if Simpson and others are correct that each person is inevitably dominated by possible teams, such as "The People," this need not undermine equality of civic status. Domination by "The People" or other possible groups does not socially downgrade particular people in the way that occurs when an individual dominates others.⁴⁵ In this way, this account avoids the impossibility objection. Justice forbids agents having a capacity for uncontrolled interference when, and because, it marks out some as inferior or as second-class citizens. Equality of civic status requires that persons are protected from the dominating power of other individuals, but not from "The People" or other possible groups. Borrowing a line from Rousseau, we might say that social equality can be realized when "each citizen is in a position of perfect independence from all the others and of excessive dependence upon the city."⁴⁶

What about the moralization objection? The approach I propose actually allows moralization and, indeed, requires it. This is because the ideal of people

45 Kolodny notes an interesting point in this regard: it is not clear that it is even intelligible to think of social hierarchy between an individual and a group agent. He asks, "what would it even mean for me to be the 'equal' of Indonesia, say, or the Roman Catholic Church?" ("Being under the Power of Others," 112). Nevertheless, there may be objectionable cases of certain groups, such as powerful corporations, dominating individuals. I take it, however, that these cases can be explained by the concern that particularly powerful individuals within these groups, e.g., executives, are rendered superior to others.

46 Rousseau, *On the Social Contract*, 2.12.3.

sharing a status as equals is incomplete and in need of specification. We require an account of the *kind* of status to be shared as equals. One way this account can be filled in is in connection with a particular conception of the person. For example, Rawls's conception of the person as a bearer of the "two moral powers" might work to delineate a set of basic liberties, the protection of which is constitutive of a kind of equality of status.⁴⁷ Alternatively, we could invoke the conception of the free person or *liber* found in the republican tradition.⁴⁸ This route would move us closer to the approach taken by contemporary republicans. But we would not be regarding nondomination, a conception of the freedom, as the fundamental principle of justice; instead, we would be working with the ideal of social equality and a moral conception of the person.⁴⁹

For our purposes here, however, we can leave this issue open, and instead focus on how the proposed account vindicates these alternative insufficiency and constitution claims understood in terms of social equality instead of freedom. Based on the account thus far, one may remain doubtful: it might be thought that the legal provision of robust noninterference to persons as equals is *one* way to realize equality of status, or social equality. But perhaps it is not the *only* way. If people have the right dispositions toward one another, or if the right kinds of social norms exist, then one might think that we would have all the social equality we could want and introducing law would not provide any further enhancement. This kind of picture seems to be suggested, for instance, by Niko Kolodny's characterization of social equality as involving people having "resolute dispositions" not to interfere with one another, as "something to which they are entitled."⁵⁰

47 The two moral powers are the capacity to form, revise, and pursue a conception of the good and the capacity for a sense of justice. See Rawls, "The Basic Liberties and Their Priority." An important difference to highlight between Rawls's view and the one taken here is as follows. Rawls requires the equal basic liberties on the grounds that the equal status they confer is necessary for self-respect and the development and exercise of the two moral powers. By contrast, on my account, the equal basic liberties are necessary for social equality, which is taken to have noninstrumental importance. For further discussion, see Cass, "The Priority of Liberty."

48 Pettit, "The Basic Liberties."

49 One could also (in principle) work out a conception of equality of status in connection with other ideals, such as persons having a status as "equal self-owners" in a libertarian vein, or as "equal owners of the means of production" in a Marxist manner.

50 Kolodny, "Rule over None II." Kolodny does not mean this to be a complete account of social equality, so he could in principle agree with the account I give. But nothing he says suggests he would support the *insufficiency* and *constitutions* claims about social equality that I defend.

I contend, however, that there is reason to think that any set of interpersonal dispositions or social norms will fall short of fully realizing social equality. Interpersonal dispositions and social norms, however specified, will be deficient in several respects. These defects are that the *importance* and *basis* of people's entitlement to noninterference will be uncertain and may fail to be a matter of common awareness; further, people will not have the power to make *claims*. The introduction of suitable law, then, is required to remedy these defects and fully realize social equality.⁵¹ I will explain each defect and their solutions in turn.

First, consider the issue of importance. In any community, there are bound to be a range of esteem hierarchies that rank people unequally along various dimensions. Some will rank highly in athletics, business, the arts, politics, and so on. And different communities will place greater or lesser importance on some domains over others. Given these kinds of facts, a shared commitment to noninterference may not be enough to manifest social equality. To illustrate the point, consider a community in which all members place the utmost importance on one domain of achievement or another—skill in combat and athletics, say. If, as is inevitable, people perform unequally in this domain, then people will come to have an unequal status in a significant sense. Given that there is a particularly salient domain of esteem, those who perform especially well in that domain are likely to be regarded as “better than” or superior, and those who perform poorly, as inferior. In a community such as this, it is not clear that a shared commitment to noninterference would do much to mitigate the presence of an otherwise pervasive social ranking.

The protection of people's basic liberties as equals through law provides a remedy to this problem. The basic liberties assign people a status as equal citizens, and this status may have a kind of eclipsing effect over various esteem hierarchies.⁵² Though esteem hierarchies may provide some reason for people to regard others as superior or inferior, it might be said that that legal protection can give people an “exclusionary reason” to regard one another as equals.⁵³

Next, consider the issue of the *basis* of people's enjoyment of noninterference. As we have seen, social equality does not simply involve the concern that individuals enjoy noninterference robustly, but that they do so as equals. Without law, however, it may remain uncertain whether people are entitled to noninterference on the basis of their equality and not on some other basis. In

51 My account draws on Hart, *The Concept of Law*.

52 This point bears similarity to Rawls's discussion of the basic liberties and self-esteem/respect. See Rawls, *A Theory of Justice*. Also, for a helpful complementary discussion, see Porro, “Esteem, Social Norms and Status Inequality.”

53 On this notion, see Raz, *Practical Reason and Norms*.

this regard, Kolodny's locution that social equality involves noninterference as "something" to which others are entitled is problematic. There is a range of possibilities here. A slave master, as we have seen, could be disposed to not interfere with their slave, not because the slave has any moral standing, but because it shows a bad character to do so. Alternatively, the powerful might be disposed not to interfere with the weak based on a kind of perceived moral standing—but it may not be an *equal* moral standing: perhaps they regard them as inferior, though still worthy of some moral concern. Again, the introduction of an equal civic status conferred by suitable legal protection provides a remedy to this problem, making it explicit and a matter of common awareness that people are entitled to noninterference on the basis of their equality. Legal norms make possible a kind of "mediated accountability," such that people may come to owe each other noninterference on the basis of an institutionally defined status as an equal citizen, and not as a particular individual.⁵⁴

Finally, consider the capacity of persons to make *claims* under law. A slave master may regard their slave as being entitled to noninterference, but the slave would nonetheless not be able to *claim* noninterference. In order to make a claim, there must be procedure and set of rules in place by which a person can have any violations adjudicated and remedied. Even if people are disposed not to interfere with one another, and noninterference is widely supported by social norms (think again of the Society of Kindly Masters), this would not be enough to give persons the power to have their entitlement to noninterference upheld. Even if claims are exceedingly unlikely to be exercised, their possession nonetheless makes a difference for the kind of status people have: it will be common knowledge not only that people are owed certain forms of treatment, but also that they have the power to guarantee that treatment or demand compensation for any violation.⁵⁵ Suitable law gives persons a forum to enforce and challenge norm violations on their own behalf; by contrast, social norms tend to be enforced by the judgments and opinions of the community at large.⁵⁶ Thus, legal protection, by giving people the power to make claims, provides a status benefit that interpersonal dispositions and social norms cannot.

54 I borrow the term "mediated accountability" from Brennan et al., *Explaining Norms*, ch. 3. Some Kantians argue for what seems to me to be a complementary idea. They claim that without a shared system of law, any enforcement of one's rights amounts to arrogating authority in a problematic way, imposing one's will *unilaterally*. A suitable system of law, by contrast, subjects all equally to an *omnilateral* will. See Sinclair, "The Power of Public Positions." Again, though, this is seen as an issue of *freedom*, not of social equality.

55 Feinberg "The Nature and Value of Rights."

56 Brennan et al., *Explaining Norms*.

One might argue that my points do not show that law is required to solve the problems raised; instead, it might be claimed that we need to more carefully specify the relevant kinds of dispositions or social norms needed.⁵⁷ For instance, we can imagine a community in which everyone is resolutely disposed not to interfere with one another on the basis of each person's equal standing; and, further, we can imagine that this standing is taken to have a kind of priority over unequal rankings in various domains of esteem. And we might imagine that there are social norms in place that allow persons to make claims.

This community, however, would in effect have a system of law, on a widely accepted account of what law is. On a Hartian conception, to have a legal system just is to have a union of primary and secondary rules, where primary rules are social norms and secondary rules are rules about those rules that "specify the ways in which the primary rules may be conclusively ascertained, introduced, eliminated, varied, and the fact of their violation conclusively determined."⁵⁸ The primary rules at issue are those that specify that people should not be interfered with. But notice that the line of argument just considered stipulates that there are rules about those rules (secondary rules) in place. There are rules specifying the basis and importance of the primary rule prohibiting interference; and there are rules of adjudication specifying how to resolve possible disputes, thereby giving people claims. This is enough, then, for that community to count as having a legal system.

This account, then, provides a defense of alternative insufficiency and constitution claims that differs from the standard republican line. The account I propose points to three defects that law remedies. Legal protection defines the importance and basis of noninterference and gives all claims as civic equals. Goodwill and virtuous self-restraint, and whatever associated dispositions or social norms, are insufficient to solve these problems. But law is uniquely suited to do so in a constitutive manner.

4. CONCLUSION

I have argued that the importance of protection from domination—more precisely, the provision of robust noninterference to persons as equals through law—is better understood in terms of its status-conferring function as opposed to its freedom-constituting function. This account vindicates the spirit of republicanism's distinctive commitments while at the same time avoiding

57 This kind of concern has been raised with regard to the freedom-constituting function of law by Frye, "Freedom without Law"; and Guillery, "Domination and Enforcement."

58 Hart, *The Concept of Law*, 92.

the moralization and impossibility objections that have long bothered critics. In conclusion, I want to consider two further possible advantages of the proposed approach.

The first is that, unlike the standard republican account, I do not claim that negative liberty must be regarded in terms of nondomination, and so my account is compatible with other conceptions of freedom. This might be an advantage insofar as we want different notions to play different theoretical roles; for instance, in cases where concerns with status and freedom seem to come apart. Consider, for example, the Patriot Act, which (oversimplifying) gave government a wider range of permissions to monitor, search, and detain persons suspected of terrorist activity.⁵⁹ Although the act granted the government the capacity to interfere with *anyone* in the society, one might think that those for whom freedom was most reduced were those that were most likely to be searched or detained.⁶⁰ In addition, however, we might think that these kinds of policies can affect the status of certain groups *as a whole*—in this case, Muslims—even if particular members of those groups suffer more than others with regard to a loss of freedom. Similarly, policies such as “stop and search” may have harmful status effects for entire groups, even if there are unequal effects on freedom with regard to individual members of those groups (e.g., poor versus wealthy Black Americans). I do not mean to say there are crystal-clear judgments here, only that there appear to be different dimensions of assessment, and it is a benefit of my account that it can allow their assessment in a more fine-grained way.

The second advantage involves the implications of my account for distributive justice. The contemporary republican account is often critiqued for being too permissive. For instance, we might think it is unjust for some people to barely reach Pettit’s sufficiency threshold, while others greatly surpass it.⁶¹ On the status-based approach I have proposed, there is room to develop a more demanding account. Consider, for instance, what it would take for people in a society to pass the eyeball test versus what would be required for persons to regard each other *as equals*. Among other things, this would require that the difference between those at the top versus those who barely pass the threshold

59 For an argument that freedom as nondomination cannot adequately capture what is significant about conflicts between liberty and security, see Goodin and Jackson, “Freedom from Fear.”

60 Consider, for instance, the hypothetical example of “Musa—a young, single, devout Muslim student from Pakistan who studies nuclear physics in the United States.” See Carter and Shnayderman, “The Impossibility of ‘Freedom as Independence,’” 144.

61 Southwood, “Republican Justice.”

is not too great, suggesting the addition of range constraints.⁶² Again, clear answers are not immediately obvious, but working out the details may be fruitful.⁶³

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REFERENCES

- Anderson, Elizabeth. "What Is the Point of Equality?" *Ethics* 109, no. 2 (January 1999): 287–337.
- Anderson, Elizabeth, and Richard Pildes. "Expressive Theories of Law: A General Restatement." *University of Pennsylvania Law Review* 148, no. 5 (2000): 1503–75.
- Bader, Ralf M. "Moralizing Liberty." In *Oxford Studies in Political Philosophy*, vol. 4, edited by David Sobel, Peter Vallentyne, and Steven Wall, 141–66. Oxford: Oxford University Press, 2018.
- Bentham, Jeremy. "Anarchical Fallacies." 1843. In *The Works of Jeremy Bentham*, vol. 2, edited by John Bowring. Charleston, NC: Nabu Press, 2010.
- Brennan, Geoffrey, Lina Eriksson, Robert E. Goodin, and Nicholas Southwood. *Explaining Norms*. Oxford: Oxford University Press, 2013.
- Carter, Ian. "How Are Power and Unfreedom Related?" In Laborde and Maynor, *Republicanism and Political Theory*, 58–82.
- Carter, Ian. "A Critique of Freedom as Non-Domination." *The Good Society* 9, no. 3 (2000): 43–46.
- Carter, Ian, and Ronen Shnayderman. "The Impossibility of 'Freedom as Independence.'" *Political Studies Review* 17, no. 2 (May 2019): 136–46.
- Cass, Devon. "The Priority of Liberty: An Argument from Social Equality." *Law and Philosophy* 40, no. 2 (April 2021): 129–61.
- Cohen, G.A. "Capitalism, Freedom, and the Proletariat." In *Liberty*, edited by David Miller, 163–82. Oxford: Oxford University Press, 1991.

62 See discussion in Schemmel, *Justice and Egalitarian Relations*, esp. ch. 8.

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- Dick, Philip K. *The Minority Report*. New York: Knopf Doubleday Publishing Group, 2009.
- Dowding, Keith. "Republican Freedom, Rights, and the Coalition Problem." *Politics, Philosophy and Economics* 10, no. 3 (August 2011): 301–22.
- Dworkin, Ronald. *Sovereign Virtue: The Theory and Practice of Equality*. Cambridge, MA: Harvard University Press, 2002.
- Feinberg, Joel. "The Nature and Value of Rights." *Journal of Value Inquiry* 4, no. 4 (December 1970): 243–60.
- Frye, Harrison P. "Freedom without Law." *Politics, Philosophy and Economics* 17, no. 3 (August 2017): 298–316.
- Goldwater, Jonah. "Freedom and Actual Interference." *Journal of Ethics and Social Philosophy* 17, no. 2 (April 2020): 133–58.
- Goodin, Robert, and Frank Jackson. "Freedom from Fear." *Philosophy and Public Affairs* 35, no. 3 (Summer 2007): 249–65.
- Garrau, Marie, and Cécile Laborde. "Relational Equality, Non-Domination, and Vulnerability." In *Social Equality: On What It Means to Be Equals*, edited by Carina Fourie, Fabian Schuppert, and Ivo Walliman-Helmer, 45–64. New York: Oxford University Press 2015.
- Guillery, Daniel. "Domination and Enforcement: The Contingent and Non-Ideal Relation between State and Freedom." *Politics, Philosophy and Economics*, 19, no. 4 (November 2020): 403–23.
- Hart, H. L. A. *The Concept of Law*. Oxford: Oxford University Press, 1961.
- Kramer, Matthew. "Liberty and Domination." In Laborde and Maynor, *Republicanism and Political Theory*, 31–57.
- Kolodny, Niko. "Being under the Power of Others." In *Republicanism and the Future of Democracy*, edited by Geneviève Rousselière and Yiftah Elazar, 94–114. Cambridge: Cambridge University Press, 2019.
- . "Rule over None II: Social Equality and the Justification of Democracy." *Philosophy and Public Affairs* 42, no. 4 (Fall 2014): 287–336.
- Kymlicka, Will. *Contemporary Political Philosophy: An Introduction*. Oxford: Oxford University Press, 2002.
- Laborde, Cécile, and John Maynor, eds. *Republicanism and Political Theory*. Malden: MA, Blackwell Publishing, 2009.
- Lewis, David K. *Convention: A Philosophical Study*. Hoboken, NJ: Wiley-Blackwell, 1969.
- Lippert-Rasmussen, Kasper. *Relational Egalitarianism: Living as Equals*. Cambridge: Cambridge University Press, 2019.
- List, Christian, and Laura Valentini. "Freedom as Independence." *Ethics* 126, no. 4 (July 2016): 1043–74.
- Lovett, Frank. *A General Theory of Domination and Justice*. Oxford: Oxford

- University Press, 2010.
- Lovett, Frank, and Philip Pettit. "Preserving Republican Freedom: A Reply to Simpson." *Philosophy and Public Affairs* 46, no. 4 (Fall 2018): 363–83.
- McCammom, Christopher. "Domination: A Rethinking." *Ethics* 125, no. 4 (July 2015): 1028–52.
- McMahon, Christopher. "The Indeterminacy of Republican Policy." *Philosophy and Public Affairs* 33, no. 1 (January 2005): 67–93
- Pallikkathayil, Japa. "Deriving Morality from Politics: Rethinking the Formula of Humanity." *Ethics* 121, no. 1 (October 2010): 116–47.
- Pettit, Philip. "The Basic Liberties." In *The Legacy of H. L. A. Hart: Legal, Political, and Moral Philosophy*, edited by Matthew H. Kramer. Oxford: Oxford University Press, 2008.
- . "Freedom and Probability: A Comment on Goodin and Jackson." *Philosophy and Public Affairs* 36, no. 2 (Spring 2008): 206–20.
- . "Free Persons and Free Choices." *History of Political Thought* 28, no. 4 (Winter 2007): 709–18.
- . "The Instability of Freedom as Noninterference: The Case of Isaiah Berlin." *Ethics* 121, no. 4 (July 2011): 693–716.
- . *On the People's Terms: A Republican Theory and Model of Democracy*. Cambridge: Cambridge University Press, 2012.
- . *Republicanism: A Theory of Freedom and Government*. Oxford: Oxford University Press, 1997.
- . "Republican Liberty: Three Axioms, Four Theorems." In Laborde and Maynor, *Republicanism and Political Theory*, 83–101.
- . "Two Republican Traditions." In *Republican Democracy: Liberty, Law and Politics*, edited by Andreas Niederberger and Philipp Schink, 169–204. Edinburgh: Edinburgh University Press, 2013.
- Porro, Costanza. "Esteem, Social Norms and Status Inequality." *Ethic Theory and Moral Practice* 24, no. 4 (September 2021): 901–15.
- Rawls, John. "The Basic Liberties and Their Priority." In *Liberty, Equality, and Law: Selected Tanner Lectures on Moral Philosophy*, edited by Sterling M. McMurrin. Salt Lake City: University of Utah Press, 1987.
- . *A Theory of Justice*. Rev. ed. Cambridge, MA: Harvard University Press, 1999.
- Raz, Joseph. *Practical Reason and Norms*. London: Hutchinson, 1975.
- Ripstein, Arthur. *Force and Freedom: Kant's Legal and Political Philosophy*. Cambridge, MA: Harvard University Press, 2009.
- Rousseau, Jean-Jacques. *On the Social Contract*. Indianapolis: Hackett Publishing, 1988.
- Scheffler, Samuel. "What is Egalitarianism?" *Philosophy and Public Affairs* 31,

- no. 1 (Winter 2003):5–39.
- Schemmel, Christian. *Justice and Egalitarian Relations*. Oxford: Oxford University Press, 2021.
- Schuppert, Fabian. “Non-Domination, Non-Alienation and Social Equality: Towards a Republican Understanding of Equality.” *Critical Review of International Social and Political Philosophy* 18, no. 4 (2015): 440–55.
- Sharon, Assaf. “Domination and the Rule of Law.” In *Oxford Studies in Political Philosophy*, vol. 2, edited by David Sobel, 128–55. Oxford: Oxford University Press, 2016.
- Shiffrin, Seana. “Speaking amongst Ourselves: Democracy and Law.” *The Tanner Lectures on Human Values*, 2017. https://tannerlectures.utah.edu/_resources/documents/a-to-z/s/Shiffrin%20Manuscript.pdf.
- Simpson, Thomas W. “Freedom and Trust: A Rejoinder to Lovett and Pettit.” *Philosophy and Public Affairs* 47, no. 4 (Fall 2019): 412–24.
- . “The Impossibility of Republican Freedom.” *Philosophy and Public Affairs* 45, no. 1 (Winter 2017): 27–53.
- Sinclair, Thomas. “The Power of Public Positions: Official Roles in Kantian Legitimacy.” In *Oxford Studies in Political Philosophy*, vol. 4, edited by David Sobel, Steven Wall, and Peter Vallentyne, 28–52. Oxford: Oxford University Press, 2018.
- Skinner, Quentin. “Freedom as the Absence of Arbitrary Power.” In Laborde and Maynor, *Republicanism and Political Theory*, 83–101.
- Southwood, Nicholas. “Republican Justice.” *Critical Review of International Social and Political Philosophy* 18, no. 6 (2015): 669–78.
- Stilz, Anna. *Liberal Loyalty: Freedom, Obligation, and the State*. Princeton, NJ: University Press, 2009.
- Sunstein, Cass R. “Law’s Expressive Function.” *The Good Society* 9, no. 2 (1999): 55–61.
- Tomasi, John. *Free Market Fairness*. Princeton, NJ: Princeton University Press, 2013.
- Waldron, Jeremy. “Pettit’s Molecule.” In *Common Minds: Themes from the Philosophy of Philip Pettit*, edited by Robert Goodin, Geoffrey Brennan, Frank Jackson, and Michael Smith, 151–54. Oxford: Clarendon Press, 2007.
- Wendt, Fabian. “Slaves, Prisoners, and Republican Freedom.” *Res Publica* 17, no. 2 (May 2011): 175–92.