

1 Domination Across Borders

An Introduction

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The starting point for this volume is that domination consists in subjection to the will of another or others; it manifests itself both as a personal relation and as a structural phenomenon serving as the context for relations of power. A person who is dominated is vulnerable in a profound way: she is constrained in her choices, unable to freely form life plans, and denied equal, autonomous standing with others in a political community or shared social structures. The paradigmatic example of the dominated person is the slave. Even if she does not actually suffer any ill—because the master is benevolent—she is subjected to the master’s whim. More recently, scholars have lamented the status of the undocumented immigrant, who is vulnerable to deportation, the struggles of indigenous peoples who are ruled by the settler states that colonized them, and the predicament of the global poor who live (or die) at the discretion of others.

These are not just examples of misery, deprivation, poor health, or relative inequality. These people are subject to the whims of others, even if they are not actually interfered with. They often lack the status, the voice, or the standing to challenge the laws, institutions, and dominating structures to which they are subject. The question of whether or not they receive a fair distribution of goods and resources is primarily a topic for global *distributive* justice. However, the focus of this volume is on domination and global *political* justice. Global political justice examines the creation and reform of institutions and the fairness of background contexts in which decisions are made.¹ As several of our contributors emphasize, the question of distribution is not the only, or even the first, question of justice: justice is focused on the prior question of power, which asks how decisions are made and who has the standing to make them, rather than simply whether these decisions are correct. On this view, injustice is human produced, and refers first, or

¹ See Terry Macdonald and Miriam Ronzoni, “Introduction: The Idea of Global Political Justice,” *Critical Review of International Social and Political Philosophy* 15, no. 5 (2012): 521–33, 521.

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also, to relations of domination between human beings and not just to distributional inequity.²

Of course, distributive justice and domination are often connected in practice. In order for agents to be sufficiently empowered to withstand domination, or to demand to exercise the power that they are formally granted, they may require certain resources, such as health care or shelter. Ensuring that such agents are granted access to those resources might then serve distributive justice as well as help safeguard their freedom. However, while distributive concerns often follow from concerns of domination, the two can pull in different directions. A just global distribution may result through the benevolent intentions of a dominating agent, for instance, just as the slave may receive goods and resources from a benevolent slave master. And, as some of our contributors emphasize, a lack caused by nature might not be a concern of justice at all, or less so than deprivation caused by relations of domination.³ Domination across borders remains a problem so long as there is global *political* injustice.

This volume addresses domination across borders in its conceptual, historical, and institutional aspects. Such domination can take various forms. The victims may be individuals or collectivities such as peoples or states, and the dominating agents may be other states, global institutions, non-state actors such as global corporations and international non-governmental organizations (NGOs), or structural elements of the global order. Finally, domination across borders may affect different domains of life—economic, social, or cultural—and its scope may be global, international, or transnational.⁴

Global justice can have a few meanings with reference to justice and non-domination across borders. Global justice can be used as a generic term referring to justice at the global level, leaving open what relations of domination should be focused on to formulate the best theory of non-domination across borders. Global justice can also refer to the idea that there are principles or duties of justice with a global scope, or a single global context of justice, at least given today's interdependent world. It can be used to refer to specifically "cosmopolitan" theories of justice, which focus on achieving non-domination for all individuals. In contrast, *international*

² For this view, see section 1 of Rainer Forst, "Transnational Justice and Non-Domination: A Discourse-Theoretical Approach" (this volume); Forst, "Two Pictures of Justice," in *Justice, Democracy and the Right to Justification: Rainer Forst in Dialogue* (London: Bloomsbury Academic, 2014); Duncan Ivison, "Indigenous Peoples, Injustice, and Global Politics" (this volume). For a criticism of this view, see Stefan Gosepath, "Deprivation and Institutionally Based Duties to Aid" (this volume), 262–71.

³ Forst, Ivison, and Gosepath explicitly discuss this distinction in this volume.

⁴ Cf. Michael Mann, "Has Globalization Ended the Rise and Rise of the Nation-State?" *Review of International Political Economy* 4, no. 3 (1997): 472–96.

justice focuses on non-domination between states (or nations or peoples), without directly focusing on the domination of individuals. *Transnational justice* focuses on multiple forms of domination.⁵ Relations of domination include non-state actors. Transnational actors such as multinational corporations are less affected by state boundaries in their operation and membership, and “pass right through” those boundaries. Domination need not result from any single (individual or collective) agent, as victims can suffer from structural forms of oppression across borders, resulting from the possibly unintentional and overlapping effects of a number of different agents.⁶

Domination of course also occurs *within* states. A person may be at the mercy of an unelected government, she may suffer from the effects of corporate malfeasance and be unable to obtain redress, or she may be subject to the influence of unaccountable cultural and religious organizations. Indeed, many of the political movements of the day crystallize around issues of perceived, actual, or potential domination. Popular outrage about an unaccountable police force, a wealthy and rapacious elite (“the 1%”) and a lack of control over immigration, healthcare, or climate change policy can be explained as expressions of concern with domination, both within and across borders. However, the purpose of this volume is to extend the focus of these debates about domination to the global level.

In the current world order, with its multitude of disparate supra-state organizations, private organizations, and states, domination across borders is a matter of serious concern. A person may be dominated when her country of citizenship is invaded by another state. She may be dominated by a global corporation that uses the disproportionate resources that it has at its disposal to disobey domestic labor laws. A global institution or non-governmental organization may dominate a community by imposing a culturally inappropriate program of assistance and evading accountability to the recipients. Domination across borders may entail the destitution of individuals through ill-conceived aid programs that favor the interests of global capital over those of the affected populations. It may be located in the structural conditions that increase global economic inequality or accelerate climate change, leading to impoverishment or displacement. More diffuse forms of structural injustice may lead to the global subordination of women.⁷ Domination may also involve racial injustice through a structure

⁵ Rainer Forst, “Towards a Critical Theory of Transnational Justice,” *Metaphilosophy* 32, nos. 1/2 (2001): 160–79.

⁶ Amy Allen discusses this in “Domination in Global Politics” (this volume). Cf. Iris Marion Young, *Responsibility for Justice* (Oxford: Oxford University Press, 2011); Nancy Fraser, *Scales of Justice: Reimagining Political Space in a Globalizing World* (New York: Columbia University Press, 2009).

⁷ Allen, “Domination in Global Politics”; Young, *Responsibility for Justice*; Fraser, *Scales of Justice*.

of global white supremacy, operating not necessarily through a centralized, organized agent, but through transnational relations.⁸

Our contributors write from the perspectives of, and discuss insights from, critical theory, liberalism, republicanism, power theory, feminism, critical race theory, postcolonial thought, global governance, and international law. We take as our point of departure the concept of non-domination as it appears in neo-Roman republicanism and ask how this might be criticized and how different conceptions of domination could be developed and theorized. What is domination and how does it relate to injustice? What can different conceptions of domination and non-domination explain and, conversely, what do they fail to explain?

A subsequent set of questions pertains to the role of history and context in domination and theorizing about domination across borders. To what extent does non-domination correct existing power relations and to what extent does it take them for granted? To what extent should theorizing about justice begin from the history of domination across borders rather than abstract from it?

Finally, there are questions of global institutional design, which ask how global domination can or should be countered. What role, if any, should non-state actors such as non-governmental organizations (NGOs) play? Should our focus be on founding new institutions rather than reforming existing ones? And is an institutional solution even possible, or must we draw on additional, cultural and other, resources?

The chapters in our volume address these three sets of questions—conceptual, historical, and institutional—in three different sections.

1 DOMINATION AND NON-DOMINATION: CONCEPTUAL ISSUES

Since the revival of the republican tradition of thought, which began with J.G.A. Pocock in 1975,⁹ domination has once again become a central concern within political theory.¹⁰ The Roman or neo-Roman republican tra-

⁸ Charles W. Mills, “Race and Global Justice” (this volume), 189.

⁹ J.G.A. Pocock, *The Machiavellian Moment: Florentine Political Thought and the Atlantic Republican Tradition* (Princeton: Princeton University Press, 1975).

¹⁰ Richard Bellamy, *Political Constitutionalism: A Republican Defense of the Constitutionality of Democracy* (Cambridge, UK: Cambridge University Press, 2007); Samantha Besson and Jose Luis Marti, eds. *Legal Republicanism* (Oxford: Oxford University Press, 2009); John Braithwaite and Philip Pettit, *Not Just Deserts: A Republican Theory of Criminal Justice* (Oxford: Oxford University Press, 1990); John Braithwaite, Hilary Charlesworth, and Adérito Soares, *Networked Governance of Freedom and Tyranny: Peace in East Timor* (Canberra: ANU Press, 2012); William Brugger, *Republican Theory in Political Thought: Virtuous or Virtual* (New

dition that this volume draws on, and reacts to, is not to be confused with the Republican political party in the United States. Nor is it to be confused with the Greek republican tradition that is inspired by Aristotle and emphasizes the importance of civic virtue and political participation as an essential component of the good life.¹¹

In the contemporary literature on neo-Roman republicanism, the work of Philip Pettit has been especially influential. Pettit argues that freedom is best contrasted with domination rather than with interference. A person is free from interference when no obstacles are placed in her way, and no option is forcibly removed from consideration.¹² Freedom from domination

York: Macmillan, 1999); Lena Halldenius, *Liberty Revisited* (Lund, Sweden: Bokbox Publications, 2001); Iseult Honohan, *Civic Republicanism* (London: Routledge, 2002); Iseult Honohan and Jeremy Jennings, eds., *Republicanism in Theory and Practice* (London: Routledge, 2006); Cécile Laborde and John Maynor, eds., *Republicanism and Political Theory* (Oxford: Blackwell, 2007); Cécile Laborde, *Critical Republicanism: The Hijab Controversy and Political Philosophy* (Oxford: Oxford University Press, 2008); Frank Lovett, *A General Theory of Domination & Justice* (Oxford: Oxford University Press, 2010); Eric MacGilvray, *The Invention of Market Freedom* (Cambridge, UK: Cambridge University Press, 2011); Jose Luis Martí and Philip Pettit, *A Political Philosophy in Public Life: Civic Republicanism in Zapatero's Spain* (Princeton: Princeton University Press, 2010); John Maynor, *Republicanism in the Modern World* (Cambridge, UK: Polity Press, 2003); Andreas Niederberger and Philipp Schink, eds., *Republican Democracy: Liberty, Law and Politics* (Edinburgh: Edinburgh University Press, 2013); Adrian Oldfield, *Citizenship and Community: Civic Republicanism and the Modern World* (London: Routledge, 1990); Philip Pettit, *Republicanism: A Theory of Freedom and Government* (Oxford: Oxford University Press, 1999), Paperback ed., with postscript [1997]; Pettit, *On the People's Terms: A Republican Theory and Model of Democracy* (Cambridge, UK: Cambridge University Press, 2012); Pettit, *Just Freedom: A Moral Compass for a Complex World* (New York: W. W. Norton, 2014); Henry Richardson, *Democratic Autonomy* (New York: Oxford University Press, 2002); Quentin Skinner, *Liberty Before Liberalism* (Cambridge, UK: Cambridge University Press, 1998); Martin van Gelderen and Quentin Skinner, eds., *Republicanism: A Shared European Heritage*, 2 vols. (Cambridge, UK: Cambridge University Press, 2002); Maurizio Viroli, *For Love of Country: An Essay on Patriotism and Nationalism* (Oxford: Clarendon Press, 1995); Viroli, *Republicanism* (New York: Hill and Wang, 2002); Daniel Weinstock and Christian Nadeau, eds., *Republicanism: History, Theory and Practice* (London: Frank Cass, 2004); Stuart White, *Building a Citizen Society: The Emerging Politics of Republican Democracy*, ed. Daniel Leighton (London: Lawrence and Wishart, 2008). David Miller, who is sympathetic towards republicanism, has published on citizenship and national identity. See, for example, David Miller, *On Nationality* (Oxford: Oxford University Press, 1995).

¹¹ Cf. Eric Nelson, *The Greek Tradition in Republican Thought* (Cambridge, UK: Cambridge University Press, 2004). In his chapter in this volume, John Maynor writes that this strand is often associated with so-called communitarian authors such as Michael Sandel and Charles Taylor. See Maynor, "Should Republican Liberty As Non-Domination Be Outsourced?" (this volume), 228–30.

¹² Pettit, *Republicanism*, ch. 2.

is both more and less demanding. Not all interference is considered normatively objectionable: in a republic or democracy, laws restrict choice, but those laws are not imposed on the citizenry without their exercising control over that process. Interference thus need not be dominating. However, conversely, there can be domination in the absence of interference. An early definition of this focused on freedom as ‘antipower’; that is, the capacity to emancipate from power. Pettit has since moved away from this term, emphasizing instead that the hallmark of a free person is “not being subject to the arbitrary power of another.”¹³ A person lacks freedom when another agent interferes arbitrarily in her decision-making, or when that agent has the capacity to interfere in this way. Pettit, in the lead chapter of part I of this volume, says that a person is dominated when under the (active, virtual, or reserve) control of another: domination objectionably “puts you under the will of another.”¹⁴ It is intentional and occurs between agents, rather than as a structural feature of the political or economic order.

In recent years, Pettit has explicated the conceptual links between freedom as non-domination, on the one hand, and democracy, on the other.¹⁵ For Pettit, non-domination is the primary political ideal; it can subsume other concerns within it, and in the case of conflict, it has primacy over other considerations and values.¹⁶

Other republicans, such as James Bohman, offer a more explicitly democratic interpretation of freedom as non-domination, defining it as the normative power of a person to “influence the terms of cooperation with others and not be ruled by them.”¹⁷ Cécile Laborde also argues in favor of a critical republicanism, and she draws on Karl Marx, Michel Foucault, and others to highlight *structures*, as well as agents, of domination.¹⁸

Until recently, the scope of neo-Roman republican political thought remained limited to domestic politics. However, as multiple contributors to this volume also emphasize, globalization has problematized the role of states and rendered an exclusive theoretical focus on domestic politics

¹³ Pettit, “Freedom as Antipower,” *Ethics* 106, no. 3 (1996): 576–604, 576. Note that James Bohman and especially Terry Macdonald, in this volume, prefer the term “antipower” to later formulations. See Bohman, “Domination, Global Harms, and the Priority of Injustice: Expanding Transnational Republicanism” (this volume); Macdonald, “Antipower, Agency, and the Republican Case for Global Institutional Pluralism” (this volume).

¹⁴ See Pettit, “The Republican Law of Peoples: A Restatement” (this volume), 44.

¹⁵ Pettit, *On the People’s Terms*.

¹⁶ See, for example, Pettit, “The Domination Complaint,” in *Nomos XLVI: Political Exclusion and Domination*, eds. Melissa S. Williams and Stephen Macedo (New York: New York University, 2005), 118–63.

¹⁷ James Bohman, *Democracy Across Borders: From Dêmos to Dêmoi* (Cambridge, MA: MIT Press, 2007), 27.

¹⁸ Cécile Laborde, “Republicanism and Global Justice: A Sketch,” *European Journal of Political Theory* 9, no. 1 (2010), 48–69.

implausible. Political and economic decision-making frequently escapes state control, and new agents such as international NGOs and transnational institutions assist states with tasks of global governance.¹⁹ In addition, global agents such as multinational corporations threaten to escape state control. This raises doubts about the validity of the idea of the bounded political community, which is presumed in much neo-republican thought. States may no longer be fully effective public agents, and it may instead be necessary to look beyond the state in order to counter domination effectively.

That republicanism did not theorize domination across borders until recently is perhaps not a surprise. International political theory emerged in the late 1970s and early 1980s, when Charles Beitz and Henry Shue each published monographs about political theory beyond borders,²⁰ and scholars started identifying these and other works as examples of approaches to *global justice*.²¹ Early work focused on questions regarding our responsibilities to help the global poor and reduce global inequality, as well as the ways in which we could meet these obligations.²² Distributive concerns have understandably—given the amount of misery and inequality that exists worldwide—been a focus of much of the literature on global justice.²³

However, that the republican tradition has an aptitude for international theorizing has been evident since Nicholas Onuf's historical study on the republican provenance of ideas such as sovereignty, international society, and the democratic peace.²⁴ In the first chapter in part I of this volume, "The

¹⁹ Global governance can be defined as "systems of rule . . . in which the pursuit of goals through the exercise of control has transnational repercussions" (J. N. Rosenau, "Governance in the Twenty-First Century," *Global Governance* 1, no. 1 (1995): 13–43, 13). For an example of a critical-theoretical construal of the features of domination displayed by one crucial, global governance institution, the World Trade Organization, see Jonathan Trejo-Mathys, "Toward a Critical Theory of the WTO: Thinking with Rawls Beyond Rawls," *Constellations* 20, no. 3 (2013): 459–82.

²⁰ Charles Beitz, *Political Theory and International Relations* (Princeton: Princeton University Press, 1979). Henry Shue, *Basic Rights: Subsistence, Affluence, and US Foreign Policy* (Princeton: Princeton University Press, 1980).

²¹ A piece by Peter Singer preceded both books. However, Singer's concern was international ethics, not international justice. Peter Singer, "Famine, Affluence, and Morality," *Philosophy and Public Affairs* 1, no. 1 (1972): 229–43.

²² See Brian Barry, *Theories of Justice* (Berkeley: University of California Press, 1989), esp. ch. 5; Thomas Pogge, *Realizing Rawls* (Ithaca, NY: Cornell University Press, 1989), part 3; Thomas Pogge, *World Poverty and Human Rights* (Malden, MA: Polity, 2002).

²³ For a collection of important pieces on global justice (with a distributive focus), see Thomas Pogge and Darrel Moellendorf, eds. *Global Justice: Seminal Essays* (St. Paul, MN: Paragon House, 2008). We simplify here, leaving out discussions of just war theory, immigration, secession, and other topics.

²⁴ Nicholas G. Onuf, *The Republican Legacy in International Thought* (Cambridge, UK: Cambridge University Press, 1998).

Republican Law of Peoples: A Restatement,” Pettit extends his influential formulation of the republican ideal of freedom as non-domination to the international level.²⁵

Like Rawls, whose title he also draws on,²⁶ Pettit’s intervention in global political thought comes after a number of scholars have already articulated global republican approaches based on the values and institutions of his domestic model.²⁷ Also like Rawls, Pettit is skeptical about the possibility and desirability of a truly globalized version of his domestic theory, which would substitute global for domestic public institutions as the guarantors of individual freedom. Instead, because he expects that states will continue to exist in more or less their current configuration, he proposes to start with “states as they are” and “the international order as it might be.”²⁸

In Pettit’s view, states are organized along two dimensions: their effectiveness and their domestic character. Only effective, popularly controlled states serve the interests of their citizens, and therefore only the domination of these states is a normative concern. As Pettit sees it, a republican international order has no reason to promote the interests of states that are functionally ineffective or unrepresentative, and such states are therefore excluded from the international regime in question. (This regime loosely resembles Rawls’s “Society of Peoples,” even though Pettit does not use that term.²⁹) The initial question is how those well-ordered states or peoples ought to relate to one another and what collective projects they ought to pursue. A subsequent question, which Pettit does not address here, is how these states ought to relate to the individuals who reside in excluded states. Pettit argues that the global order should be arranged so that peoples can organize both internal and external relations according to the ideal of non-domination, thus achieving “a non-dominated status in relation to other states and other international agencies.”³⁰

²⁵ His chapter, “The Republican Law of Peoples: A Restatement,” is a substantial revision of Philip Pettit, “A Republican Law of Peoples,” *European Journal of Political Theory* 9, no. 1 (2010): 70–94. He has also addressed non-domination across borders in Pettit, *Just Freedom*, ch. 6: “States and Sovereignty.”

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

²⁷ See especially Steven Slaughter, “The Neo-Roman Republican Legacy and International Political Theory,” ANU Working Paper 2003/5, 2005, <https://digitalcollections.anu.edu.au/bitstream/1885/42688/2/03-5.pdf>; Slaughter, *Liberty Beyond Neo-Liberalism: A Republican Critique of Liberal Governance in a Globalizing Age* (New York: Palgrave Macmillan, 2005). However, unlike Rawls and his cosmopolitan critics, such as Thomas Pogge and Charles Beitz, Pettit and Slaughter largely agree on what a global extension of the theory should look like.

²⁸ Pettit, “The Republican Law of Peoples: A Restatement,” 37.

²⁹ Rawls, *Law of Peoples*, 3.

³⁰ Pettit, “The Republican Law of Peoples: A Restatement,” 38.

How can non-domination be achieved in such a regime? Pettit argues that global institutions might be able to promote common global reasons and foster deliberation and reason-giving. However, such institutions may not be sufficiently powerful to successfully counter domination. An alternative, complementary mechanism is the promotion of ‘coalitions of the weak,’ whereby weaker states present a united front in the face of a dominating power, be that another state or a corporation. As he sees it, the advantage of his proposal is that it recognizes the problem of domination, even where no interference is present, but that “it is not an unrealistic ideal that we have little or no reason to expect states ever to implement.”³¹

James Bohman’s chapter further advances the line of argument he developed in a series of articles—including, notably, “Republican Cosmopolitanism”—and his book, *Democracy Across Borders: From Dêmos to Dêmoi*.³² In those writings, Bohman extended the republican conception of non-domination to the global sphere and interpreted non-domination as a *normative* conception, concerned with statuses and standing rather than merely bilateral, arbitrary interference or the capacity for such interference. Here, he argues that republicanism must prioritize injustice rather than justice, and injustice generally rather than only the injustice of domination. This follows Amartya Sen’s book *The Idea of Justice*,³³ which Bohman argues is congenial to republicanism, since republicanism focuses on minimizing domination rather than achieving perfect justice. Focusing on Pettit’s notion of “antipower,” which Pettit set aside in favor of (the capacity for) arbitrary interference, he interprets it as “the power over those who would dominate us, and thus the control over one’s life via the content of one’s obligations and statuses.”³⁴ Antipower is the joint exercise of Jürgen Habermas’s communicative freedom and communicative power, the former of which is “the exercise of a communicative status, the status of being recognized as a member of a public” while the latter is the incorporation of communicative freedom into “institutionalized processes of decision-making.”³⁵ Freedom as non-domination establishes the kind of equality that allows a person to make claims on others.

³¹ *Ibid.*, 64.

³² See, for example, James Bohman, “Republican Cosmopolitanism,” *The Journal of Political Philosophy*, 12, no. 3 (2004): 336–52; Bohman, “Is Democracy a Means to Global Justice? Human Rights and the Democratic Minimum,” *Ethics and International Affairs* 19, no. 1 (2005): 101–16; Bohman, “From Dêmos to Dêmoi: Democracy Across Borders,” *Ratio Juris* 18, no. 3 (2005): 293–314; Bohman, *Democracy Across Borders*; Bohman, “Non-Domination and Transnational Democracy,” in *Republicanism and Political Theory*, ed. Cécile Laborde and John Maynor (London: Blackwell, 2008), 190–216.

³³ Amartya Sen, *The Idea of Justice* (Cambridge, MA: Belknap Press, 2009).

³⁴ James Bohman, “Domination, Global Harms, and the Priority of Injustice,” 74.

³⁵ *Ibid.*, 75.

Bohman argues for the inclusion of various forms of domination, such as epistemic domination, which denies a person's standing as a knower. In addition, in order to combat domination, it is not sufficient to allow for tracking of interests or mechanisms of contestation. Instead, Bohman proposes to use the all-subjected and all-affected principles to shed light on the myriad ways in which a person may be dominated. The all-subjected principle suggests a broad scope for domination, since individuals may be subjected to multiple state and non-state actors. Migrants and refugees are certainly subjected to domination by state authorities, since they lack the status of being a citizen. The all-affected principle can capture instances of domination that occur at a distance, and it takes account of degrees of vulnerability, which is often correlated with poverty. Bohman's example here is vulnerability to climate change. This broadening of the scope of non-domination—beyond the nation-state, but also beyond political domination or interest tracking and contestation—ensures that republicanism can reach its potential as “a critical theory for post-national exclusions and hierarchies.”³⁶

Rainer Forst's previous works and his chapter here touch on a number of themes that are important for this volume's focus on domination and global political justice.³⁷ For Forst, the first question of justice is the question of power: justice is focused on *who* determines what goods are received by whom, rather than on the outcome of what is received. The paradigmatic victim of injustice is not someone who suffers miserably due simply to nature. We may have reasons of moral solidarity to aid them. It is another matter if a person's deprivation occurs through relations of domination. For Forst, justice and injustice are relational. The demand for justice is a demand to overcome forms of domination. Forst opposes justice to arbitrariness, and thereby defines domination: “Arbitrary rule is the rule of some people over others without legitimate reason—what I call *domination*.”³⁸

Forst points to two aspects of domination. The first involves “being subjected to a normative order that cannot properly be justified to you.”³⁹ Justification refers not merely to hypothetical justification, but involves participation in actual institutions. Justice refers to the quality of relations

³⁶ *Ibid.*, 85

³⁷ Forst, “Transnational Justice and Non-Domination”; Forst, *Justification and Critique: Towards a Critical Theory of Politics*, trans. Ciaran Cronin (Cambridge, UK: Polity Press, 2013); Forst, *The Right to Justification: Elements of a Constructivist Theory of Justice*, trans. Jeffrey Flynn (New York: Columbia University Press, 2012); Forst, “Transnational Justice and Democracy: Overcoming Three Dogmas of Political Theory,” in *Political Equality in Transnational Democracy*, eds. Eva Erman and Sofia Näsström (New York: Palgrave Macmillan, 2013), 41–59; Forst, “A Kantian Republican Conception of Justice as Nondomination,” in *Republican Democracy*, eds. Andreas Niederberger and Philipp Schink (Edinburgh: Edinburgh University Press, 2013), 154–68.

³⁸ Forst, “Transnational Justice and Non-Domination,” 90.

³⁹ *Ibid.*, 96

between persons who justify claims to each other within a basic institutional structure that binds them. The second aspect of domination involves “being subjected to a normative order where no proper institutions and possibilities of justification are in place to begin with.”⁴⁰ Forst’s view is *relational* but it is not *institutional*. If there is not a basic structure in which the practice of justification occurs, justice demands that it be set up. He does not limit justice to the state, as there are multiple forms of domination transnationally.

Forst critically engages with Pettit’s neo-republican view in two ways. First, he offers an alternative Kantian republican view of non-domination, and favors an interpretation of Pettit’s view that brings him closer to this Kantian view. Forst says that Pettit has, at least in the past, offered a view that Forst refers to as “negative republicanism,” which says that through the rule of law and other republican mechanisms, actors enjoy a realm of freedom of choice that is protected against arbitrary interference. Forst, however, says that one is not truly free if one simply *receives* freedom of choice in this narrow sense. This is not true freedom. In Kant’s terms, citizens must also be authors of the laws to which they are subject. Kant says that every human being has a right of freedom: “*Freedom* (independence from being constrained by another’s choice), insofar as it can coexist with the freedom of every other in accordance with a universal law, is the only original right belonging to every man by virtue of his humanity.”⁴¹ In Forst’s terms, this means that every person has a basic right to justification. Each person is an independent justificatory authority. Forst says: “Justice as justification determines which freedoms are justified and what an arbitrary interference is in the first place.”⁴² Justice is prior to enjoying freedom of choice in the narrow sense.

Second, Forst sees a tension between two types of realism present in Pettit’s view of international justice. The first type of realism limits global justice to the politically “realistic” assumption that the state system will survive, and attempts to reform and achieve non-domination between states on

⁴⁰ Ibid.

⁴¹ Immanuel Kant, *The Metaphysics of Morals*, in *Practical Philosophy*, ed. and trans. Mary J. Gregor (Cambridge, UK: Cambridge University Press, 1996), 353–603, 393, 6: 237. In different ways, other works interpret and/or are inspired by Kant’s innate right of freedom (often referring to it as freedom-as-independence). See Anna Stilz, *Liberal Loyalty* (Princeton: Princeton University Press, 1999), esp. 37f; Katrin Flikschuh, *Kant and Modern Political Philosophy* (Cambridge, UK: Cambridge University Press, 2000), esp. 88f; Arthur Ripstein, *Force and Freedom: Kant’s Legal and Political Philosophy* (Cambridge, MA: Harvard University Press, 2009). See also the contributions in “Symposium on Ripstein’s *Force and Freedom*,” *European Journal of Philosophy* 20, no. 3 (2012). For a survey of views on freedom-as-independence and criticism of Kant or some Kantian views, see Christian List and Laura Valentini, “Freedom as Independence: A Critical Survey,” Working Paper, 2012/2013, <http://personal.lse.ac.uk/list/PDF-files/Freedom-as-Independence.pdf>.

⁴² Forst, “Transnational Justice and Non-Domination,” 97.

that basis. The second type of realism tracks non-domination in all its forms, even if it is not between states, and pays attention to what we realistically know about how domination works in all its forms. Taking into account realism, in the second sense, Forst questions whether we can expect reforms limited by realism, in the first sense, to solve non-domination globally. Pettit's reliance on coalitions of the weak and other reforms may be achievable, but it may not be enough, given what we realistically know about how power works in transnational institutions. Forst suggests that parties could be accorded standing in justificatory processes in a more thoroughgoing reform of transnational institutions.

Amy Allen does not here concede that domination is the only way to think about power; far from it. Indeed, in other work on feminist perspectives on power, Allen has used the term "domination feminist theorists" to include those who speak about illegitimate and unjust "power-over" relations (even if they use terms like "subjection," "patriarchy," "oppression," or "subordination").⁴³ In contrast, "empowerment feminists" see power primarily as transformative. They define it as an ability or capacity.⁴⁴ Theorists who invoke the latter seem to go beyond a conception of domination, even as broadly defined by Allen in one work.⁴⁵ Allen herself has argued elsewhere that we need to move beyond a one-sided emphasis on either domination or empowerment.⁴⁶

In the chapter in this volume, however, Allen's project is to critically interrogate Pettit's neo-republican internationalist account of non-domination. Allen accepts, for the purposes of this chapter, the idea of non-domination as the normative goal of a theory of transnational or global justice. Allen follows Bohman in arguing that Pettit's view of domination as arbitrary interference is overly narrow in its focus on dyadic relations; that is, relations between two or more agents. Drawing on the literature of power theory, she suggests that we should distinguish between four dimensions (or faces) of domination: arbitrary interference, institutional agenda-setting, structuring of interests, and constitution of subject-positions. She argues that Pettit's agent-centered account cannot account for all of these dimensions.

Looking at gender relations in particular, she argues that Pettit's account of non-domination as a master/subject relation is inadequate even within states today. Here, she cites Nancy Fraser's concern about the shift to "more impersonal structural mechanisms that are lived through more fluid cultural

⁴³ See Amy Allen, "Feminist Perspectives on Power," *The Stanford Encyclopedia of Philosophy*, ed. Edward N. Zalta (Summer 2014 Edition), <http://plato.stanford.edu/archives/sum2014/entries/feminist-power>.

⁴⁴ *Ibid.*

⁴⁵ *Ibid.*

⁴⁶ Allen, "Rethinking Power," *Hypatia* 13, no. 1 (1998): 21–40. See also Allen, *The Power of Feminist Theory: Domination, Resistance, Solidarity* (Boulder, CO: Westview Press, 1999).

forms.”⁴⁷ She also refers to Iris Marion Young’s idea of structural injustice, which can arise from unconscious assumptions of well-intentioned people, cultural stereotypes, market mechanisms, and other processes of ordinary life.⁴⁸ Allen argues that the way Pettit apparently focuses on agents and intentions fails to pay attention to how the overlapping effects of (possibly) unintentional actions by agents may lead to structural oppression. Allen then argues that her alternative account better theorizes the global subordination of women and the complex, multiple, and intersecting structures of domination across borders.

2 HISTORY, IMPERIALISM, AND RACE

The second section of our volume turns to historical injustice, empire, and imperialism—all topics that are of significant interest in political theory today.⁴⁹ Republicanism has a problematic history with imperialism, often

⁴⁷ Nancy Fraser, “Beyond the Master/Subject Model: Reflections on Carole Pateman’s *Sexual Contract*,” *Social Text* 37 (1993): 173–81, 180

⁴⁸ Iris Marion Young, *Justice and the Politics of Difference* (Princeton: Princeton University Press, 1990), 41; Young, *Responsibility for Justice*.

⁴⁹ Political theory has not always paid attention to empire and imperialism. For a review of the political theory literature, see Jennifer Pitts, “Political Theory of Empire and Imperialism,” *Annual Review of Political Science* 13 (2010): 211–35. More recently, see Sankar Muthu, ed., *Empire and Modern Political Thought* (Cambridge, UK: Cambridge University Press, 2012); Jeanne Morefield, *Empires without Imperialism* (Oxford: Oxford University Press, 2014). For various perspectives on colonialism and its legacies, see Jacob T. Levy with Iris Marion Young, eds., *Colonialism and its Legacies* (Lanham, MD: Lexington Books, 2011); see also the references to postcolonial thought in Thomas McCarthy, “Liberal Imperialism and the Dilemma of Development” (this volume). For summaries of various approaches to and writings on historical injustice, see Cécile Fabre, “Reparative Justice,” in *Justice in a Changing World* (Cambridge, UK: Polity, 2007); Lukas Meyer, ed., *Justice in Time: Responding to Historical Injustice* (Baden-Baden, DE: Nomos Verlagsgesellschaft, 2004); Jon Miller and Rahul Kumar, eds., *Reparations: Interdisciplinary Inquiries* (Oxford: Oxford University Press, 2007). Among the many writings on transnational historical injustice, see Daniel Butt, *Rectifying International Injustice: Principles of Compensation and Restitution Between Nations* (Oxford: Oxford University Press, 2009). On indigenous peoples, colonialism, and transnational racial injustice, see, for example, Duncan Ivison, *Postcolonial Liberalism* (Cambridge, UK: Cambridge University Press, 2002); Iris Marion Young, *Responsibility for Justice*, esp. ch. 7; Catherine Lu, “Colonialism As Structural Injustice: Historical Responsibility and Contemporary Redress,” *Journal of Political Philosophy* 19, no. 3 (September 2011); Rhoda E. Howard-Hassman with Anthony P. Lombardo, *Reparations to Africa* (Pennsylvania: University of Pennsylvania Press, 2008); Timothy Waligore, “Cosmopolitan Right, Indigenous Peoples, the Risks of Cultural Interaction,” *Public Reason: Journal of Political and Moral Philosophy* 1, no. 1 (2009): 27–56; Duncan Ivison, Paul Patton, and Will Sanders, eds., *Political Theory and the Rights of Indigenous Peoples* (New York: Cambridge University Press, 2000).

combining a concern with domination at home and enthusiasm for domination abroad. At the same time, republicans have worried that empire abroad will corrupt republican liberty at home. Pettit explicitly brackets the question of historical justice, saying he will “set aside the question of what certain, powerful states may owe to other states as a matter of historical justice.”⁵⁰ He appears to believe that this is a question that can be answered *after* we have determined which principles ought to govern the international order. A different approach to political theorizing makes the history of domination across borders more central, focusing from the beginning on specific histories of domination, including imperialism, the use of ideas of modernization and development, settler colonialism, and racial injustice.

All four authors in section II situate struggles for non-domination in a specific historical and political context involving imperialism and domination across borders. John McCormick’s piece is historical and interpretative, and touches on the relationship between freedom at home and domination across borders. Thomas McCarthy, Charles Mills, and Duncan Ivison engage in contemporary theorizing, arguing that historical injustice cannot be bracketed in theorizing about justice. All four authors explore how the strategic or political endorsement of imperialism or associated ideas and practices can be used in political struggles to advance equality. This might be done by advocating imperialism as a rhetorical strategy to achieve non-domination at home (McCormick, interpreting Machiavelli), using “race” to engage in non-ideal theorizing, where the starting point is a world shaped by global white supremacy (Mills), using “development” as part of a critical theory given the inescapable conditions of global modernity (McCarthy), or viewing justice as dependent on actual historical practices of domination (Ivison).

Ever since the Roman Republic transformed into the Roman Empire, it has been in doubt whether republics can adequately practice and theorize non-domination abroad. The Italian city-states were often oppressors abroad, pursuing the glory of empire, while proclaiming the importance of republican ideals at home. The Italian city-state of Florence fits this example particularly well, and the Florentine Niccolò Machiavelli is usually thought to share this split outlook. In his book, *Machiavellian Democracy*, and his chapter here, John McCormick challenges this interpretation of Machiavelli.⁵¹ McCormick says that Machiavelli was not an unqualified champion of empire, and did not think that glory should come at the expense of liberty when the two collided. Rather, Machiavelli made his argument to a specific audience with a specific purpose in mind. Machiavelli’s apparent endorsement of empire was a rhetorical strategy to convince aristocratically biased

⁵⁰ Pettit, “The Republican Law of Peoples: A Restatement,” 41.

⁵¹ John McCormick, *Machiavellian Democracy* (Cambridge, UK: Cambridge University Press, 2001); John McCormick, “The (In)Compatibility of Liberty and Empire in Machiavelli’s Political Thought” (this volume).

republicans to accept a form of constitutionalism they might otherwise be hostile towards, one that would have empowered citizens and protected them from domination. He supported measures promoting socioeconomic equality that would have curbed imperial expansion. McCormick tells us that Machiavelli disapproved of how imperial acquisition corrupted republican virtue and prioritized freedom over imperial expansion.

All four authors discuss imperialism with respect to the relationship between concerns of socioeconomic and political equality and concerns of status, race, identity, or glory. In Nancy Fraser's terms, this could be seen roughly as the concerns of "redistribution" and "recognition."⁵² McCormick's Machiavelli emphasizes the former, privileging the reduction of inequality over glory when the two clash. McCarthy does not allow recognition to trump concerns of socioeconomic and political equality. He holds that for most, it is intrinsically desirable to have basic protections, to not live in misery, and to have a voice in their own affairs. He allows that modern ideas and institutions may threaten certain aspects of non-modern worldviews, but accepts this tension as inescapable. Charles Mills says that even if a principle of cosmopolitan distributive justice were applied at a global level, this would not adequately address racial injustice, if this were not seen as a payment of a debt. Relations, not merely distributive outcomes, are important. Past wrongs must be recognized as wrongs and treated differently. The correction of racial wrongs generally must involve the (re)affirmation not simply of personhood, but of racial personhood for the living and the dead. Ivison says that justice should not simply be concerned with claims regarding resources, but with what status we have in relation to others. Focusing simply on the "disadvantage" ignores the importance of the humiliation, failed policies, and embedded racism involved in the history of colonialism.

McCormick's Machiavelli is concerned with the effects of imperialism at home; his rhetorical argument for imperialism is aimed at non-domination at home, and does not seem concerned with the fate of those dominated abroad for their own sake. McCarthy, Mills, and Ivison each advocate for a form of universalism or cosmopolitanism that nonetheless demands the political use of concepts, ideas, practices that were created and shaped through the history of domination across borders. However, they see the relationship between history and theorizing about justice in different ways.

McCarthy's chapter begins by examining how ideas of development and progress have been invoked to justify domination across borders, from the settlement of the Americas to contemporary neo-imperialism.⁵³ While liberalism purports to be universal, classical liberals have both justified European

⁵² Fraser, *Scales of Justice*.

⁵³ McCarthy's chapter here is reprint of chapter 6 of his *Race, Empire, and the Idea of Human Development* (Cambridge, UK: Cambridge University Press, 2009).

domination and have been involved in the practice of it. European domination involves a cognitive dissonance for liberals, which is reduced through developmental theories. Certain types of norms and institutions are held to be universal, but European (and later US) domination over “backwards” non-Europeans is said to be necessary for them to progress and develop to the point where these norms are appropriate and these institutions achieved. This embodies the dilemma of development.

McCarthy discusses how this dilemma appears in the thought of Immanuel Kant and John Stuart Mill, and then discusses how this dilemma, and developmental thought more generally, is relevant today. McCarthy does not reject developmental theory, but uses insights from postcolonial critics of development and Jürgen Habermas’s discourse theory of democracy to argue for “a critical theory of global development.”⁵⁴

McCarthy draws on Dipesh Chakrabarty’s thought that European heritage is now a global heritage: certain modes of thought cannot be avoided. However, Europe’s ideas of modernity need to be decentered or provincialized, in that they are not adequate for non-Western peoples’ political experiences of modernity. European thought is to be renewed and rethought from the margins, and ideas of modernity pluralized, rather than completely rejected.⁵⁵ McCarthy thinks that John Stuart Mill’s type of developmental thinking is particularly problematic (as is that of Karl Marx); it turns development into a natural science, portraying progress as something for scientific prediction or technocratic manipulation. Developmental theory can be useful when seen as a practical tool in political struggles to further health, well-being, capabilities, and political voice. Still, McCarthy says that the equal standing of all peoples and individuals is made possible through modern concepts and forms like the rule of law and democracy; these may threaten certain aspects of non-modern worldviews, so the dilemma of development cannot be entirely escaped. McCarthy ends by invoking the Kantian hope that some agreement may nonetheless be reached at the global level.

Like McCarthy, Charles Mills argues for the use of concepts formed by domination across borders. Mills asks whether we should use the notion of race, even though it would not exist in ideal theory, and it is useless as a scientific concept. In other words, should we use this sociohistorical product formed through “politics,” a construct that arose through domination? Mills says yes. He invokes McCarthy’s discussion of the strategy of critical theory: hegemonic ideas are to be examined on the assumption that they have been shaped through domination, and should be reconstructed, or rejected, with reference to an order without such domination.⁵⁶ Race and

⁵⁴ McCarthy, “Liberal Imperialism and the Dilemma of Development,” 172.

⁵⁵ Dipesh Chakrabarty, *Provincializing Europe: Postcolonial Thought and Historical Difference* (Princeton: Princeton University Press, 2000).

⁵⁶ Mills, “Race and Global Justice,” citing McCarthy, *Race, Empire, and the Idea of Human Development*, 14n26.

whiteness are invented, but are still real in how they privilege and disadvantage whites and nonwhites. Invoking these concepts need not justify racial hierarchy, but can be anti-racist: it can form part of a critical race theory critiquing “global white supremacy.”⁵⁷ Mills claims that it is a problem that race is largely absent from contemporary literature on global justice. This silence contrasts with the writings of older authors, such as Marcus Garvey, Martin Delany, David Walker, W.E.B. Du Bois, and Sun Yat-sen, who recognized the subordination of the “wronged races” of the world, and spoke of white domination of the planet as central to global injustice.

One of the reasons for this silence about race, Mills says, is the dominant position liberalism has assumed, and especially the lack of attention in many prominent liberal theories regarding issues of rectification for racial injustice. In a series of works, Mills has criticized how John Rawls, the preeminent liberal political philosopher, uses “ideal theory,” invoking a hypothetical social contract among similarly situated individual parties who start from the assumption that society has not experienced a history of injustice.⁵⁸ This idealization in ideal theory obscures from the beginning the need for non-ideal theorizing about compensation for past injustice. Mills invokes a “domination contract,” a historical contract that establishes relations of subordination based on race and/or sex.⁵⁹ Mills further argues that Rawls’s theory can be adapted to non-ideal circumstances. He uses the history of racism and/or gender as part of the contract apparatus, focusing on the need for rectifying racial injustice.⁶⁰

In his chapter here, Mills suggests that a racially informed internationalism is compatible with liberal universalism, but attaches a “not yet” view towards a certain type of race-less cosmopolitanism, arguing we need to work through race to get beyond it. Mills discusses the need for compensation and to repair the legacy of colonialism’s past, including repair that pays attention to race. Mills is clear that in non-ideal conditions, we should be guided by a “non-ideal (rectificatory) ideal.”⁶¹ It may be attractive to invoke an ideal where a racialized world does not exist, but it would be a mistake to think this applicable in a world with a history of (uncorrected)

⁵⁷ This concept is discussed in Charles W. Mills, *The Racial Contract* (Ithaca, NY: Cornell University Press, 1997), 3ff.

⁵⁸ See especially Mills, “Rawls on Race/Race in Rawls,” *The Southern Journal of Philosophy* XLVII (2009): 161–84; and his contributions in Pateman and Mills, *Contract & Domination* (Malden, MA: Polity Press, 2007). See also Mills, “Racial Liberalism,” *PMLA* 123, no. 5 (2008): 1380–97.

⁵⁹ This invokes Carole Pateman. See Pateman, *Sexual Contract* (Stanford: Stanford University Press, 1988). See also Mills, *The Racial Contract*; Pateman and Mills, *Contract & Domination*; Desmond King, Carole Pateman, Charles Mills et al., “Symposium: *Contract and Domination* by Carole Pateman and Charles W. Mills,” *Journal of Political Ideologies* 13, no. 3 (2008): 227–62.

⁶⁰ In this he differs from Pateman, who rejects social contract theory.

⁶¹ Mills, “Rawls on Race/Race in Rawls,” 178–80.

racial injustice.⁶² Still, Mills can be read to suggest that we should at least aspire to overcome these non-ideal conditions through rectification, and create conditions where it is once again appropriate to be guided by an ideal suitable to a situation where injustice had not occurred (or an ideal very close to it). Indeed, Mills thinks the ultimate, long-term goal (if only in aspiration) is still, as in Rawls's ideal theory, a world without race.⁶³ This contrasts with McCarthy's view that we cannot entirely escape the ideas bequeathed to us by a history of domination, nor should we even strive to do so. Even if the history of domination were overcome, would the ideal in such a world resemble an ideal from a theory of global distributive justice (or an ideal from a theory of global non-domination) that was theorized without reference to this history? Do certain ideals become impossible or difficult to realize, such that a different ideal of justice should and must be striven for? If historical injustice can change the meaning, context, and uptake of various ideas, and political theorizing about justice focuses on claims publicly justified to others, then domination across borders could change what justice publicly amounts to.⁶⁴

Iverson tackles the relationship between history and injustice in yet another manner. In his chapter, Iverson uses the example of indigenous peoples to think about the sources of, and remedies for, domination within and across borders, as well as how this can point to a new standard of cosmopolitan justice. Like Mills and others, Iverson rejects starting from an ideal theory that ignores or marginalizes the history of domination. Indeed, the very category of indigenous peoples did not exist before European imperialism and settler colonialism. However, in his chapter, Iverson does not envision an "end" to indigenous peoples. Iverson adopts a practice-dependent approach to justice, which does not assume that there is one eternally true principle of justice.⁶⁵ The content and scope of justice depends at least in part on

⁶² *Ibid.*, 180.

⁶³ Mills makes this claim in "Rawls, Ideal Theory, and Racial Justice," forthcoming. Of course, practically speaking, Mills might say it is difficult, if not impossible, to overcome non-ideal conditions.

⁶⁴ For an argument to this effect with respect to Rawls and the social basis of self-respect, and including a discussion of Mills, see Timothy Waligore, "Rawls, Self-respect, and Assurance: How Past Injustice Changes what Publicly Counts as Justice," forthcoming in *Politics, Philosophy & Economics*.

⁶⁵ On practice-dependent approaches to justice, see Andrea Sangiovanni, "Global Justice, Reciprocity, and the State," *Philosophy & Public Affairs* 35, no. 1 (2007): 3–39; Sangiovanni, "Justice and the Priority of Politics to Morality," *Journal of Political Philosophy* 16, no. 2 (2008): 137–64; Aaron James, "Constructing Justice for Existing Practice: Rawls and the Status Quo," *Philosophy & Public Affairs* 33, no. 3 (2005): 281–316; Ayelet Banai, Miriam Ronzoni, and Christian Schemmel, "Global and Social Justice: The Possibility of Social Justice Beyond States in a World of Overlapping Practices," in *Social Justice, Global Dynamics: Theoretical and Empirical Perspectives*, eds. Ayelet Banai, Miriam Ronzoni, and Christian Schemmel (London: Routledge, 2011), 46–60.

interpreting the point of shared practices. Only if people stand in particular “practice-mediated relations” to one another do principles of justice hold. Ivison invokes a form of practice dependence that also examines how practices have had historical impact, for good or ill. While this means there may be principles of justice that are not global in scope, there are other practices that point to universal or cosmopolitan principles. Justice would emerge from the interactions between different units, including ones involving domination. Like Forst and others, and against Thomas Nagel, he does not limit justice to the state.⁶⁶ Practices of imperialism and domination within and across borders have shaped the international system and marginalized non-state actors.

Ivison draws upon Seyla Benhabib, who has used the situation of legal and illegal immigrants to point towards “another cosmopolitanism.”⁶⁷ Ivison thinks that the situation of indigenous peoples and their appeals to international law points to a form of “emergent cosmopolitanism.” This requires theorizing about the spaces between the local and the global, and cosmopolitan or universal justice emerges in a way not possible through ideal theorizing. He emphasizes how indigenous peoples have pushed for multiple, overlapping forms of citizenship, and for their recognition as “peoples” in international law, helping to re-theorize what it means to be a “people.” This includes disconnecting the idea of self-determination from independent statehood.⁶⁸ The situation of indigenous peoples has posed challenges to traditional notions of sovereignty and even inspired theories of “self-determination as non-domination” across borders.⁶⁹

Ivison notes, in a Marxian spirit, that our (mis)conceptions of what constitutes domination may leave important harms in place, and even reify them. While invoking Forst, Ivison also challenges him, saying that particular justificatory schemes can themselves be dominating. Injustice, Ivison says, is not only tied in with concerns about the *standing* to make claims, but is also concerned with the *uptake* of claims. A party’s claim may be

⁶⁶ Thomas Nagel, “The Problem of Global Justice,” *Philosophy & Public Affairs* 33, no. 2 (2005): 113–47.

⁶⁷ Seyla Benhabib, *The Rights of Others* (Cambridge, UK: Cambridge University Press, 2004); Benhabib, *Another Cosmopolitanism*, ed. Robert Post (Cambridge, UK: Cambridge University, 2006).

⁶⁸ See, for example, S. James Anaya, *Indigenous Peoples in International Law* (New York: Oxford University Press, 1996); Will Kymlicka, “Theorizing Indigenous Rights,” in *Politics in the Vernacular* (Oxford: Oxford University Press, 2001), ch. 6.

⁶⁹ Iris Marion Young, invoking Pettit, the Iroquois confederacy, and debates over the draft declaration of the rights of indigenous peoples, distinguishes between self-determination as non-interference and self-determination as non-domination. She favors the latter, and argues that it requires federalism, and could be applied at various levels worldwide. See especially Young, *Global Challenges: War, Self-Determination, and Responsibility for Justice* (Cambridge, UK: Polity, 2006).

misunderstood or may not (easily) be comprehensible as a claim of justice, given the dominant political ideas and forms of justification. The invitation to take part in justificatory processes can seem hollow when participants struggle to make their claims *heard*.⁷⁰

Dale Turner has written about how indigenous peoples are constrained to speak the language of liberalism if they want their claims understood by non-Aboriginal judges and politicians.⁷¹ Further, some indigenous writers argue that indigenous peoples should not aim to be included within institutions shaped by historical injustice, and thereby achieve standing to make justificatory claims *within* them, as this may involve buying into certain dominant discourses, and come at a high cost.⁷² Indigenous peoples have developed their own conceptions of “self-determination.”⁷³ Taiaiake Alfred and Jeff Corntassel argue that accepting “self-government” within the constitution of the settler state amounts to consenting to transnational historical injustice.⁷⁴ Corntassel discusses an “illusion of inclusion” at the international level; whereas once the United Nations excluded

⁷⁰ Amy Allen has also criticized Forst in a somewhat related, but different, manner. See the contributions, and Forst’s response, in Forst, *Justice, Democracy and the Right to Justification: Rainer Forst in Dialogue* (London: Bloomsbury Academic, 2014).

⁷¹ Turner, *This is Not a Peace Pipe: Towards a Critical Indigenous Philosophy* (Toronto: University of Toronto Press, 2006), 58–59. Cf. Turner, “Oral Traditions and the Politics of (Mis)recognition,” in *American Indian Thought: Philosophical Essays*, ed. Anne Waters (Malden, MA: Blackwell, 2004).

⁷² Taiaiake Alfred, *Peace, Power, Righteousness: An Indigenous Manifesto* (Oxford: Oxford University Press, 1999).

⁷³ See, for example, Jeff Corntassel, “Toward Sustainable Self-Determination: Rethinking the Contemporary Indigenous-Rights Discourse,” *Alternatives* 33 (2008), 105–32; Val Napoleon, “Aboriginal Self Determination: Individual Self and Collective Selves,” *Atlantis* 29, no. 2 (2005): 1–21; Grace Ouellette, *The Fourth World: An Indigenous Perspective on Feminism and Aboriginal Women’s Activism* (Halifax, NS: Fernwood, 2002).

⁷⁴ Taiaiake Alfred and Jeff Corntassel, “Being Indigenous: Resurgences against Contemporary Colonialism,” *Government and Opposition* 40, no. 4 (2005): 597–615. Further, it has been argued that indigenous ideas are incommensurable with non-indigenous ideas, so it is futile to attempt to have them recognized appropriately in non-indigenous fora. See Mary Ellen Turpel, “Aboriginal Peoples and the Canadian Charter: Interpretative Monopolies, Cultural Differences,” *Canadian Human Rights Yearbook* 6 (1989–1990): 3–45. In contrast, Angelia Means has argued that indigenous peoples must risk misrecognition in a multicultural democracy, but that their claims may be heard in the form of narrative argumentation; in this way, indigenous ideas could inform and transform what ideas mean for everyone, rather than indigenous peoples being merely passive recipients of how languages of justification are usually used. For example, Aboriginal ideas of land use might alter everyone’s conception of property. Angelia Means, “Narrative Argumentation: Arguing with Natives,” *Constellations* 9, no. 2 (2002): 221–45. However, even if intercultural dialogue is possible, it might best be achieved through recognition of indigenous

indigenous peoples, it now includes professionalized indigenous delegates more loyal to the United Nations system than responsive to their communities.⁷⁵

All four authors in section II of this volume do not simply engage in abstract theorizing about justice, but pay attention to the importance of political struggles, dialogue, and how political claims will be made and received in a specific context where domination across borders is an issue. McCormick writes about the audience Machiavelli addresses in making strategic political arguments about imperialism. McCarthy believes the political discourses of modernity—brought about through domination—are inescapable, but these norms are required for groups to have equal standing in making claims; however, postcolonial critics point out how marginalized groups have not agreed, and that we cannot assume that agreement will validate western norms and institutions in a wholesale fashion. Mills invokes Fraser's thoughts on contestation about the appropriate way to "frame" justice, as it can no longer be assumed that justice takes place in the nation-state.⁷⁶ Mills says that concerns about the legacy of colonialism have been hidden by what Joe Feagin calls a "white racial frame," which has shaped white cognition and theorizing, and ignored the need to repair the past.⁷⁷ Ivison discusses the "uptake" of political arguments, whether indigenous peoples can make their claims heard, and how historical practices point to a new standard of universal justice. In each of these ways, the authors in this section theorize political justice within a historical context of domination across borders.

3 GLOBAL GOVERNANCE, INSTITUTIONS, AND NORMATIVE THEORY

In domestic republican theory, non-domination is realized in the context of the state. Recall the definition of freedom as non-domination and its contrast with freedom as non-interference. A person who is subject to another's arbitrary will is un-free, regardless of whether the dominating person—or institution—actually interferes with their choices. Non-arbitrary law, which is formulated by the people in a constitutional

sovereignty with indigenous peoples having their own separate jurisdictions. See Michael Rabinder James, "Tribal Sovereignty and the Intercultural Sphere," *Philosophy & Social Criticism* 25, no. 5 (1999): 57–86.

⁷⁵ Jeff Cornassel, "Towards a New Partnership? Indigenous Political Mobilization and Co-optation During the First UN Indigenous Decade (1995–2004)," *Human Rights Quarterly* 29, no. 1 (February 2007): 137–66, 161.

⁷⁶ Fraser, *Scales of Justice*, ch. 2.

⁷⁷ Joe R. Feagin, *The White Racial Frame: Centuries of Racial Framing and Counter-Framing* (New York: Routledge, 2010).

republic, is, by contrast, interfering but non-dominating. Interference is problematic only to the extent that it is arbitrary, because in this case the interfering agent is “not forced to track the interests and ideas of those who suffer the interference.”⁷⁸

Individuals are thus only free as citizens of a republic; that is, as members of a representative polity whose institutions force it to track their interests. The protection against domination that state institutions provide is not conceptually distinct from these institutions themselves; republican freedom is constituted by institutions, and, as Lena Halldenius puts it, “institution-dependent.”⁷⁹

Given this strong conceptual link between non-domination and state institutions, the question remains whether the conception of non-domination can be adapted to the global context. However, several global republican theorists have attempted to do just that.

Staying close to Pettit’s interpretation of republicanism, Steven Slaughter argues that we must counter domination beyond the state in order to safeguard freedom within it.⁸⁰ His global civic republican model relies on a transformation of the state, rather than the addition of global institutions. James Bohman moves beyond the institutional model of the state. Like Slaughter, he argues that the current global order, with its delegation of political authority beyond the state, has much potential for domination. He defines domination by reference to the normative power of citizenship rather than the capacity for arbitrary interference or control.⁸¹ Non-domination is achieved in a democratic system, when “individuals are empowered as free and equal citizens to form and change the terms of their common life together.”⁸² Bohman argues that, transnationally, the best contexts for the realization of non-domination are multiple, overlapping political communities, or *démoi*. Fabian Schuppert largely follows Bohman’s global democratic account. He argues in support of dispersing power across institutional levels—local, state, regional, and supranational—but also links the achievement of global democracy to the alleviation of distributive injustice.⁸³

⁷⁸ Pettit, *Republicanism*, 272.

⁷⁹ Lena Halldenius, “Building Blocks of a Republican Cosmopolitanism: The Modality of Being Free,” *European Journal of Political Theory* 9, no. 1 (2010): 12–30, 12–13.

⁸⁰ Steven Slaughter, “The Neo-Roman Republican Legacy and International Political Theory”; Slaughter, *Liberty Beyond Neo-Liberalism*.

⁸¹ Bohman, *Democracy Across Borders*.

⁸² *Ibid.*, 45.

⁸³ Fabian Schuppert, *Freedom, Recognition and Non-Domination: A Republican Theory of (Global) Justice* (Dordrecht, NL: Springer, 2014). For another republican approach that is congenial to Bohman’s, see Andreas Niederberger, *Demokratie unter Bedingungen der Weltgesellschaft?* (Berlin: De Gruyter, 2009).

Like Bohman, Lawrence Quill adopts a global republican approach that focuses on citizenship and participatory politics.⁸⁴ Quill, however, places little faith in global institutional solutions—at least in the present context, as individuals are not yet educated for cosmo-republican citizenship. This form of citizenship, Quill explains, focuses on dissent and resistance.⁸⁵ According to Quill, cosmo-republican freedom is exercised by “communities or individuals interested in protest and dissent, exchanging ideas and proposing policy alternatives to those offered by their own territorially based governments.”⁸⁶

In international relations, Daniel Deudney has drawn attention to a tradition he calls republican security theory, according to which we can be secure (or free, in neo-republican parlance) only when both anarchy and hierarchy are avoided.⁸⁷ José Luis Martí’s article, “A Global Republic to Prevent Global Domination,” argues in support of a unified, global institutional solution to domination.⁸⁸ It stands out as the primary republican contribution to the recently resurgent literature on the world state,⁸⁹ which is part of normative scholarship on global governance.

A recent symposium issue, edited by Duncan Bell, brings together some of the most interesting work that is being done in this emerging, global republican approach.⁹⁰ Cécile Laborde has forcefully articulated the problem of global domination and its link to distributive injustice, calling on republicans to tackle the global inequalities that make possible “capability-denying relations of domination between the rich and powerful and the poor and the weak.”⁹¹

As discussed above, while many international political theorists are interested primarily in global norms and distributive concerns, including rights

⁸⁴ Lawrence Quill, *Liberty after Liberalism: Civic Republicanism in a Global Age* (London: Palgrave Macmillan, 2005).

⁸⁵ In the absence of education for world citizenship, Quill says that it will be necessary to rely on an elite of politically active, concerned citizens.

⁸⁶ Quill, *Liberty after Liberalism*, 3.

⁸⁷ Daniel H. Deudney, *Bounding Power: Republican Security Theory from the Polis to the Global Village* (Princeton: Princeton University Press, 2007). Anarchy and hierarchy can be understood as domination by private and public actors, respectively.

⁸⁸ José Luis Martí, “A Global Republic to Prevent Global Domination,” *Diacrítica* 24, no. 2 (2010): 31–72.

⁸⁹ See, for example, Luis Cabrera, *Political Theory of Global Justice: A Cosmopolitan Case for the World State* (New York: Routledge, 2004); Raffaele Marchetti, *Global Democracy: For and Against* (New York: Routledge, 2008).

⁹⁰ Duncan Bell, ed., “Global Justice and Republicanism (Special Issue),” *European Journal of Political Theory* 10, no. 1 (2010), with contributions by Lena Halldenius, Duncan Ivison, Cécile Laborde, Philip Pettit, and Quentin Skinner. On a similar topic, see also Besson and Martí, *Legal Republicanism*, especially the section on republican international law.

⁹¹ Laborde, “Republicanism and Global Justice: A Sketch,” 54.

to goods and responsibilities to provide those, others address more explicitly *political* questions of global governance. Global *governance* is best contrasted with global *government* and can be defined as “systems of rule . . . in which the pursuit of goals through the exercise of control has transnational repercussions.”⁹² Instead of focusing on the substantive content of the moral problems that characterize globalization and the current global order, global governance projects instead engage with the political question of the structure and processes by which the various policies that bear on the moral problems associated with globalization gain acceptance.

Normative global governance scholars tend to focus, first, on the normative deficiencies and challenges of the current order and, second, on the agents, institutions, and processes that may constitute or help facilitate reform. The four chapters in section III of this volume also address these two important, related questions.

The first question pertains to the “new circumstances of politics,” and asks in which respects the current global order falls short. Jürgen Habermas has described the effect of globalization on the constitutionalization of international law, which limits the power of states.⁹³ David Held has noted five “disjunctures” between globalization and democracy which demonstrate the way in which globalization has created a new political reality. He names the emergence of international law, the internationalization of political decision-making, the relationship between hegemonic powers and the international security structures, the tension between national identity and the globalization of culture, and, finally, the importance of the global economy.⁹⁴ As John Maynor describes in his chapter in this volume, the efficacy of the state has been impacted by economic globalization and the new global order, which consists not just of states but also non-state actors, such as multinational corporations, and supra-state actors, such as global institutions. This has serious consequences for individual freedom, since states have lost some of their capacity to protect residents against domination. Similarly, Hauke Brunkhorst laments the non-democratic character of global governance, arguing in his chapter that globalization has placed societal decision-making processes beyond the control of democratic legislation. Terry Macdonald in her chapter points more generally to the alienation of powerful group agents—such as those that characterize the global order—from the common goals that motivated individuals to bring them into being. As a result, individuals become affected subjects rather than active participants. Against this concern with the political, Stefan Gosepath in his chapter argues that what matters instead is the extent to which the current global

⁹² Rosenau, “Governance in the Twenty-First Century,” 13.

⁹³ Jürgen Habermas, “Does the Constitutionalization of International Law Still Have a Chance?” in *The Divided West* (Cambridge, UK: Polity, 2006).

⁹⁴ David Held, *Democracy and the Global Order: From the Modern State to Cosmopolitan Governance* (Cambridge, UK: Polity Press, 1995), 99–135.

order fails to alleviate global deprivation; he thinks that a duty to aid is more important than a duty to not dominate.

The second and related question of global governance asks how the world order can or should be reformed in line with the values we care about. Whereas cosmopolitan democrats such as Held prioritize autonomy and self-determination, the primary republican concern is the realization of non-domination beyond the state. In either case, pertinent questions include which agents ought to perform tasks of global governance and how institutions at various levels of decision-making ought to interact with, and defer to, one another. Within this literature, world state theorists, who propose a globally unified political authority, fall on one end of the spectrum, and political theorists who seek to strengthen the role of the state at the expense of other agents fall on the other. In between are global democrats—notably, Held and Daniele Archibugi—and those scholars, such as Habermas, who advocate for regional or global federalism.⁹⁵

Our volume covers a range of approaches to global governance, both with regard to the *process* of reform and the *agents* of global governance. The agents include states, international NGOs, global corporations, and international institutions. With regard to these agents, John Maynor argues that states are currently best placed to protect individuals against global sources of domination, because genuine democracy is only practiced at the state level. Appropriately, republican global institutions may emerge over time, but at present, states should continue to protect individuals from domination. Terry Macdonald and Stefan Gosepath disagree with Maynor's focus on states, albeit for different reasons. As Macdonald sees it, our world order is already a pluralist one, in which public power—a form of group agency that aims to advance common goods—is exercised by a complex set of state, non-governmental, and intergovernmental (supra-state) agents. Accordingly, republicans ought to focus on creating sources of antipower—a form of agency that counters the “choice-constraining effects”⁹⁶ of public power through participation—at those same levels: state, non-governmental, and intergovernmental.⁹⁷ Stefan Gosepath, for his part, argues that the duty to

⁹⁵ See, for example, David Held, *Democracy and the Global Order*; Held, *Global Covenant: The Social Democratic Alternative to the Washington Consensus* (Cambridge, UK: Polity, 2004); Daniele Archibugi, *The Global Commonwealth of Citizens: Toward Cosmopolitan Democracy* (Princeton: Princeton University Press, 2008); Jürgen Habermas, *The Divided West* (Cambridge, UK: Polity, 2006); Habermas, *The Crisis of the European Union: A Response* (Cambridge, UK: Polity, 2012).

⁹⁶ Terry Macdonald, “Antipower, Agency, and the Republican Case for Global Institutional Pluralism.”

⁹⁷ Macdonald's conception of public power rejects a functional interpretation of public power. For an alternative view, see Barbara Buckinx, “Global Actors and Public Power,” *Critical Review of International Social and Political Philosophy* 15, no. 5 (2012), 535–51.

alleviate (global) poverty leads to a requirement that collective agents be established. States have been shown to be effective collective agents, so, based on past experience, state-like organizations are preferable, though other candidates are emerging. Hauke Brunkhorst expresses deep skepticism about the role of global institutions in global governance. He argues that institutions are part of the problem rather than the solution, and that the democratization of world society will be spearheaded not by formal agents, but by the politics of global protest.

In addition to theorizing about the agents, global governance theorists also focus on the process of reform itself. The prolific, global democratic approach envisions three related transformations in the global order: the promotion of coordinated state action, support for effective international institutions, and the development of “multilateral rules and procedures that lock in all powers, small and major, into a multilateral framework.”⁹⁸ Habermas, James Bohman, and others—including John Maynor in this volume—look to the European Union as an exemplar of transnational constitutionalism. However, while Maynor admires the European model, he ultimately stays close to the institutional prescriptions of domestic republicanism. He argues that a world state, or more loosely organized supra-state institutions, cannot easily be brought under citizen control, and that it may thus be counterproductive to assign such institutions the task of safeguarding non-domination. Instead, citizens should be empowered to utilize state institutions to resist domination. The application of republican ideals to global institutions may remain an important goal, but the initial and primary focus should be on the continued development of state institutions in accordance with the ideal of non-domination.

In his chapter, Stefan Gosepath is interested in global institutional reform to the extent that it is necessary for the alleviation of severe poverty. Because individuals lack clarity regarding the specific nature of their individual responsibility to reduce global deprivation, a collective agent must be created or reformed to specify the contours of individual duties to aid. Such an agent can be a loose collection of individuals rather than a formal institution. A collective agent exists when it is formed on the basis of a general consensus, there is a joint definition of shared aims and moral norms, action is voluntary, and an internal organizational framework and decision-making procedure is in place. Powerful agents have a greater duty to create and reform global institutions that will solve for global poverty. The duty to form political institutions comes from the individual duty to aid, not from a duty to not dominate, as with republicans in this volume. Gosepath makes eight arguments in opposition to the neo-republican emphasis on non-domination, providing a valuable contrast to the positions of many authors in this volume. For Gosepath, politics is not the

⁹⁸ David Held, *Global Covenant*, 102.

first question of justice; deprivation is the first problem, and politics is the answer.

Terry Macdonald, in her chapter, argues that global institutional design should be responsive to the constraints that the prevailing material structures and cultural artifacts pose on the development of public power and antipower. The existence of these material and cultural preconditions explains why democracy—or any other goal of global governance—is only rarely successfully imposed through external efforts to build institutions. Instead, we must identify existing agencies of political power and then attempt to reform them in accordance with democratic norms.

The volume ends with a chapter by Hauke Brunkhorst, who thinks that the greatest source of global domination is legalization and constitutionalization, the same processes that are often offered as solutions to domination. However, the seeds of reform are contained in the same international legal framework that establishes non-democratic transnational rule. The inclusion of human rights and “democratic constitutional rhetoric” in international legal documents provides the basis for global protest movements that may ultimately help transform international law into law that secures space for democratic politics.⁹⁹

Both republicanism and international political theory have undergone a revival in the late 20th and early 21st centuries. Seen as a personal relation or structural phenomenon that involves subjection to (the will of) another or others, domination is a common concern of both literatures. This volume brings them together in an effort to advance scholarship on domination across borders.

While domination is best seen as just one form of injustice, there are systematic and pragmatic reasons to make domination, and the related ideal of non-domination, the primary locus of concern when theorizing justice and injustice across borders. The republican debate has frequently failed to take into account the various, alternative ways of conceptualizing domination as a political problem. The contributions here further suggest that what counts as domination and injustice can often only be contextually understood with reference to the history of domination. Focusing on such problems as imperialism, racism, and the subjection of indigenous peoples suggests that global institutional remedies and norms may need to reflect the global history of domination across borders. Finally, global domination can be tackled only when the contributions of a myriad of global agents—including NGOs, multinational corporations, and global institutions—to both domination and its reduction are acknowledged. Global institutional design itself must also be attentive to the problem of global domination and the role that global institutions have played, and continue to play.

⁹⁹ Hauke Brunkhorst, “Democracy and World Law: On the Problem of Global Constitutionalism” (this volume).

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