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The Domination of States: Towards an Inclusive Republican Law of Peoples

Abstract: The article aims to sharpen the neo-republican contribution to international political thought by challenging Pettit's view that only representative states may raise a valid claim to non-domination in their external relations. The argument proceeds in two steps: First I show that, conceptually speaking, the domination of states, whether representative or not, implies dominating the collective people at least in its fundamental, constitutive power. Secondly, the domination of states – and thus of their peoples – cannot be justified normatively in the name of promoting individual non-domination because such a compensatory rationale misconceives the notion of domination in terms of a discrete exercise of power instead of as an ongoing power relation. This speaks in favour of a more inclusive law of peoples than Pettit (just as his liberal counterpart Rawls) envisages: In order to accommodate the claim of collective peoples to non-domination it has to recognize every state as a member of the international order.

Keywords: domination; republicanism; group agency; self-determination; relational sovereignty; global justice

Introduction

Do states have a claim against external domination? This question might, at first sight, seem misplaced. The ideal of non-domination was developed, most notably by Philip Pettit, as an ideal of individual (political) freedom. Collectives, such as states, initially did not feature as claimants of non-domination in this account. Rather, neo-republican theory focused on a two-dimensional picture of politics: Starting from articulating a conception of individual freedom as non-domination, it spelled out how to realize it through a state that is itself non-dominating.¹ The emerging literature on implications of the ideal of non-domination in the global realm has broadened this approach by highlighting relations of domination beyond the borders of the state. Yet, largely concentrating on transnational² forms of individual domination, it has not challenged the

1 Philip Pettit, *Republicanism: A Theory of Freedom and Government* (Oxford: Oxford University Press, 1997); Philip Pettit, *On the People's Terms. A Republican Theory and Model of Democracy* (Cambridge: Cambridge University Press, 2012).

2 'Transnational' domination refers to the domination of individuals across state borders, whether by other states, individuals or private corporate agents such as companies. 'International' domination, by contrast, refers to the domination of states qua corporate agents.

individualistic approach of domestic neorepublicanism.³ In his recent work on international politics, Pettit has, however, chosen a different approach. Starting from the observation that the domination of a state entails the domination of its individual citizens, Pettit draws attention to the external relations of states vis-à-vis other states, international organizations and powerful private agents like transnational corporations. Such relations, he argues, should also be of a non-dominating kind.⁴ Hence, the corresponding international ideal of ‘globalized sovereignty’⁵ extends the two-dimensional account of non-domination to include a third dimension: ‘In a slogan, the state ought to be an internationally undominated, domestically undominating defender of its citizens’ freedom as non-domination.’⁶

As Skinner observes, such a three-dimensional picture resonates well with the views defended by early modern republicans. They believed that individual freedom can only be safeguarded in a free state which in turn presupposes not only a particular non-dominating internal set up but also non-dominating relations vis-à-vis other states.⁷ In fact, it is precisely the emphasis on the close connection between individual freedom, domestic institutions and the structure of external relations that Skinner considers to be ‘perhaps the most important contribution that the republican tradition can make to contemporary political philosophy.’⁸ However, the republican law of peoples that Pettit

3 James Bohman, ‘Republican Cosmopolitanism’, *The Journal of Political Philosophy* 12/3 (2004), 336-352; Steven Slaughter, *Liberty Beyond Neo-liberalism. A Republican Critique of Liberal Governance in a Globalising Age* (Houndmills: Palgrave Macmillan, 2005); James Bohman, *Democracy Across Borders. From Dêmos to Dêmoi* (Cambridge: MIT Press, 2007); Lena Halldenius, ‘Building Blocks of a Republican Cosmopolitanism. The Modality of Being Free’, *European Journal of Political Theory* 9/1 (2010), 12-30; José Luis Martí, ‘A Global Republic to Prevent Global Domination’, *Diacritica* 24/2 (2010), 31-72; Mark Rigstad, ‘Republicanism and Geopolitical Domination’, *Journal of Political Power* 4/2 (2011), 279-300; Barbara Buckinx, ‘Domination in Global Politics: Reflections on Freedom and An Argument for Incremental Global Change’, in Luis Cabrera (ed.), *Global Governance, Global Government. Institutional Visions for an Evolving World System* (Albany: State University of New York Press, 2011), 253-282; Iseult Honohan and Marit Hovdal-Moan (eds.), *Domination, Migration and Non-Citizens, Special Issue CRISPP* 17/1 (2014); Amy Allen, ‘Domination in Global Politics. A Critique of Pettit’s Neo-Republican Model’, in Barbara Buckinx, Jonathan Trejo-Mathys and Timothy Waligore (eds.), *Domination and Global Political Justice. Conceptual, Historical, and Institutional Perspectives* (New York/London: Routledge, 2015), 111-130.

4 Philip Pettit, ‘A Republican Law of Peoples’, *European Journal of Political Theory* 9/1 (2010a), 70-94; Philip Pettit, ‘Legitimate International Institutions: A Neo-republican Perspective’, in Samantha Besson and John Tasioulas (eds.), *The Philosophy of International Law* (Oxford: Oxford University Press, 2010b), 139-160; Philip Pettit, *Just Freedom. A Moral Compass for a Complex World* (New York/London: Norton, 2014); Philip Pettit, ‘The Republican Law of Peoples. A Restatement’, in Barbara Buckinx, Jonathan Trejo-Mathys and Timothy Waligore, *Domination and Global Political Justice. Conceptual, Historical, and Institutional Perspectives* (New York/London: Routledge, 2015), 37-70. See also: Cécile Laborde, ‘Republicanism and Global Justice. A Sketch’, *European Journal of Political Theory* 9/1 (2010), 48-69; Cécile Laborde and Miriam Ronzoni, ‘What is a Free State? Republican Internationalism and Globalisation’, *Political Studies* (Forthcoming), <<http://onlinelibrary.wiley.com/doi/10.1111/1467-9248.12190/pdf>>.

5 Pettit (2014), p. 153.

6 Pettit (2012), p. 19.

7 Quentin Skinner, ‘On the Slogans of Republican Political Theory’, *European Journal of Political Theory* 9/1 (2010), 95-102, p. 99f. Cf. Quentin Skinner, *Liberty Before Liberalism* (Cambridge: Cambridge University Press, 1998), p. 49f.

8 Skinner (2010), p. 101.

envisages remains strikingly similar in its structure to Rawls' liberal version:⁹ It does not simply extend the ideal of non-domination to all states. Only representative states 'that are fit to speak for their people'¹⁰ may raise a valid claim to non-domination in their external relations. States which do not meet this requirement, and are thus either ineffective or oppressive, have no such claim in their own right. While the details of their accounts vary, both Rawls and Pettit defend a model of international order that is based on a fundamental distinction between states that enjoy the full normative status as members of the international community and states that do not.

The article aims to sharpen the republican contribution to global justice and international politics by challenging Pettit's view that only representative states may claim non-domination in their external relations.¹¹ I start with a brief reconstruction of Pettit's account, highlighting the ambiguous role the notion of the people plays in accounting for the relation between state domination and individual domination (2). Drawing on Pettit's own theory of group agency, I then present a novel conception of collective domination that is conceptually distinct from the domination of individuals without giving up on normative individualism: Collective domination means dominating individual members, albeit not as individual agents but in their capacity and practice of collectivizing reason (3). Applied to states, this conception reveals – or so I will argue – that state domination affects a people, taken as a collectivity, even when a state is not internally structured so as to meet the criteria of representativeness. It will be dominated at least with regard to its fundamental constitutive power (4). Such domination cannot straightforwardly be justified in terms of securing individual non-domination. The compensatory rationale misconceives the notion of domination in terms of a discrete exercise of power instead of as an ongoing power relation (5). This speaks in favour of a more inclusive model of international politics than both Pettit and Rawls envisage: In order to accommodate the claim of collective peoples to non-domination it has to recognize every state as a member of the international order. And still, it does not entail closing an eye on individual domination within states. Quite

9 John Rawls, *The Law of Peoples. With the Idea of Public Reason Revisited* (Cambridge: Harvard University Press, 1999).

10 Pettit (2010a), p. 71.

11 By focusing on the domination of states I do not mean to suggest that from a neo-republican point of view, global justice is to be understood along the lines of a strictly internationalist account. Quite to the contrary: Domination matters wherever it occurs, whether on the local, national, transnational, international or even global level. However, given that in a state-based system the main responsibility for realizing non-domination is assigned to states, the domination of states is of particular interest insofar as it has implications for the state's capacity to fulfill this role. This neither implies that the state is the only agent entrusted with realizing non-domination, nor that it will necessarily remain the central agent in this respect. Wherever it proves unable to effectively remedy domination, especially on the transnational level, institutions beyond the state may be required and this may, ultimately, lead to less state-based system of non-domination.

to the contrary: The republican ideal of non-domination with its three, tightly interwoven dimensions, offers a distinct way of transcending the hard choice between an exclusive, two-class model based on the concern about individual rights on the one hand and the status quo biased insistence on strict adherence to the norm of non-interference on the other.

State Domination and Individual Domination in Pettit's Republican Law of Peoples

Pettit's account of a republican law of peoples extends the two-dimensional republican ideal of non-domination, which focuses on preventing domination among individuals through a non-dominating state, to the realm of interstate relations.¹² The basic idea is to arrange the international order such that it 'might provide each people with a collective version of individual freedom, giving it a non-dominated status in relation to other states and other international agencies.'¹³ Thus, taking the state-based system we currently have as given, Pettit spells out how peoples, taken as collectivities, can be made to enjoy collective non-domination. To this end, he distinguishes two kinds of states: Representative states are states that are controlled effectively by the people, through institutional mechanisms such as elections, contestation and accountability. Given that in such a state the people exercises popular control over the state, it can be deemed to 'speak or act as a proper representative of its people'.¹⁴ Oppressive states however, which deny their citizens such mechanisms of popular control, do not count as representative of their people. The same holds for states which 'lack the capacity to provide basic services to their population' and are thus functionally ineffective.¹⁵ The international order, Pettit contends, is to reflect this fundamental distinction: It should aim to properly accommodate representative states, 'thereby accommodating the people that it represents'.¹⁶ Non-representative states, by contrast, should not be granted the same standing, given that serving their interests may hurt rather than help the individuals who live under them.¹⁷ In other words, while the relations among representative states (and between them and other international or transnational bodies) are to be non-dominating, non-representative states have no such claim to non-domination in their external relations. Yet, Pettit recently clarified that in spite of this two-class structure of the republican international

12 Pettit (2010a); Pettit (2010b); Pettit (2014), Ch. 6; Pettit (2015).

13 Pettit (2015), p. 38.

14 Pettit (2015), p. 39; see Pettit (2010a), p. 71.

15 Strictly speaking, the distinction between representative and non-representative states only applies to effective states (see also Pettit (2015), p. 39) while ineffective ones represent a third category that even fails on providing basic goods. Elsewhere, however, Pettit suggests treating both ineffective and oppressive states as non-representative (Pettit (2014), p. 156). For a more detailed account of oppressive states see Pettit (2014), p. 179.

16 Pettit (2010a), p. 72; Pettit (2014), p. 152; Pettit (2015), p. 40.

17 Pettit (2010a), p. 71; Pettit (2014), p. 152f; Pettit (2015), p. 40.

order, every people, ‘however their states are organized internally’, has a valid claim against domination by external bodies.¹⁸ This inclusive commitment to the external non-domination of peoples expresses the unifying ideal behind the two parts of the republican law of peoples: Ultimately, they both aim to realize the ideal of ‘globalized sovereignty: that is, sovereignty extended to every people on earth’.¹⁹

Obviously, the fundamental distinction that structures the international order raises the tricky issue of where to draw the line between representative and non-representative states. At first sight, representative states are simply internally non-dominating states, that is, states which realize non-domination domestically, both among their citizens as well as with regard to citizen-state relations – after all, the notion of popular control is meant to capture precisely the requirements for setting up an internally non-dominating, democratic state.²⁰ Accordingly, only democratic states in the republican sense would count as representative states, which have a claim to full membership in the international order. However, Pettit suggests that his view is slightly less demanding: Non-democratic states that are nevertheless effective and non-oppressive may not count as representative of their people in a responsive sense, given the lack of democratic procedures. Yet, as long as they are operating in a non-oppressive manner, they may still represent their citizens in an indicative sense and thus justifiably claim the representative status.²¹ Following this line of argument, it is not democracy, i.e. full domestic non-domination, but the slightly less demanding criterion of representativeness that structures the republican law of peoples that Pettit advocates.

Independent of the particular interpretation of this criterion, the emphasis on the representativeness of a state is meant to pick up on the idea that, ultimately, it is not states but peoples, taken as collectivities, that are the fundamental unit of concern in international relations. But why exactly does an inclusive commitment to the non-domination of peoples, no matter how they are organized internally, call for an exclusive structure of international order when it comes to states? Pettit’s account allows for two alternative readings, a conceptual and a normative one. On the conceptual reading, a people as a collective only exists when organized through a representative state; in non-representative states, by contrast, citizens do not count as a people but merely

18 Pettit (2014), pp. 153f.

19 Pettit (2014), p. 153.

20 For a comprehensive account of public control see Pettit (2012).

21 Pettit (2014), p. 156. For the distinction of responsive and indicative representation see Philip Pettit, ‘Varieties of Public Representation’, in Ian Shapiro, Susan Stokes and E.J. Wood (eds.), *Representation and Popular Rule* (Cambridge: Cambridge University Press, 2009a), 61-89.

as an aggregate of individuals. Hence, the domination of non-representative states does not imply dominating the people for the simple reason that there is no people in the collective sense. There is in fact some textual evidence for this conceptual reading. Pettit maintains that we should only protect states ‘that are themselves subject to *such* control by their own people *that*, if the state is dominated, then its people are dominated’.²² Accordingly, we ‘condemn the exercise of dominating control over *legitimate* states that speak and act for their peoples’ because ‘dominating *those* states means dominating the individuals who form them.’²³ The idea behind this claim is that if suitable mechanisms of public control are in place (and thus the requirement of representativeness is met), the domination of the state will imply dominating the collective people and thus entail the domination of its individual citizens insofar as it reduces their effective influence over the operations of the state.²⁴ As Pettit highlights, it is precisely ‘this impact on individuals that argues for the importance of international sovereignty among the peoples of the world.’²⁵ This would explain why all peoples but only representative states may claim non-domination: It is the incorporation through suitable mechanisms of control which forms the collective people; and only if there is a people, state-domination translates into the domination of the people – and thus, ultimately, of its individual members.

Yet, interestingly, Pettit explicitly emphasizes that every people, independent of how their state is structured, has a valid claim to external non-domination.²⁶ So there seem to be peoples in the collective sense also in non-representative states. That suggests that the people retains some sort of collective quality even in the absence of representative structures through which individual citizens incorporate as a collective people. This idea, however, raises two questions: In what sense may we indeed speak of a collective people in non-representative states? And why is dominating their state of no concern? After all, there seems to be a collective people that may translate state domination in the domination its citizens. Addressing the second issue, Pettit refers to the potentially grave consequences a general ideal of international non-domination might have on individuals living under non-representative states: ‘To hail the external non-domination of an ineffective or oppressive state as an ideal would be madness; it could amount to licensing wholesale mayhem or murder’.²⁷ In such cases, Pettit suggests, dominating the state in question might even have

22 Philip Pettit, ‘Civic Republican Theory’, in José Luis Martí and Philip Pettit, *A Political Philosophy in Public Life. Civic Republicanism in Zapatero’s Spain* (Princeton: Princeton University Press, 2010c), 31-68, p. 56 [my emphasis].

23 Pettit (2010b), p. 153.

24 Pettit (2010a), p. 77; Pettit (2014), p. 154.

25 Pettit (2014), p. 154. See also Laborde and Ronzoni (Forthcoming), p.1, for a similar claim

26 Pettit (2014), 153.

27 Pettit (2014), p. 153; see also Pettit (2015), p. 40.

positive effects in terms of promoting individual non-domination.²⁸ In fact, he maintains that we may ‘applaud certain exercises of dominating control over illegitimate states: those that fail to serve the interests of the individuals who live within their boundaries.’²⁹ This argument points towards an alternative, normative reading of Pettit’s account: It does not maintain that the domination of non-representative states is of no import, given the lack of a collective people. Rather, it justifies limiting the ideal of non-domination to representative states on the basis of a consequentialist rationale: It is the adverse effects a general ideal of non-domination might have on the interests of individuals in non-representative state that speaks against ascribing those states a claim to non-domination – and potential positive effects that speak in favour of dominating them.

Both readings rely, normatively speaking, on the impact that collective domination has on individuals. The conceptual reading highlights the preconditions for a translation of state domination into the domination of individuals namely, the incorporation as a collective people. On this view, if there is no collective people, state domination does not matter, at least not generally, as it does not translate directly into the domination of individuals. The normative reading, by contrast, acknowledges, at least implicitly, that state domination generally constitutes an evil that calls for justification. However, it draws attention to merely contingent positive or adverse effects of collective domination that might tip the balance of normative assessment towards justifying it in the name of the interests of individuals. In order to assess the merits of these readings, it needs to be specified how to account for the impact of state domination on individuals: How exactly does collective domination entail or imply individual domination? How does this apply to states and what role does the notion of the people play in this regard? And in what sense does the people retain a collective quality in non-representative states? This is what I aim to clarify in the next two sections. I will then turn to the normative reading in the section ‘Justifying State Domination?’ below.

Individual and Collective Domination

Speaking of the domination of states or peoples obviously presupposes that groups can in fact be dominated and that this applies to states, too. This conceptual claim might seem surprising. In his seminal study *Republicanism* Pettit stated explicitly that ‘a dominated agent will always have to be an individual person or persons’ even though ‘domination may often be targeted on

²⁸ Pettit (2010a), pp. 76f.

²⁹ Pettit (2010b), p. 153.

a group or on a corporate agent'.³⁰ Still, in the context of international politics, he readily applies the notion of domination to states. But what exactly does it mean to dominate a group? To what extent does dominating a group imply that its individual members are dominated as well? Can groups be dominated in their own right at all? Or is their domination ultimately reducible to the domination of the individual members? Addressing these questions will provide a basis for critically assessing the conceptual reading of Pettit's claim that only representative states may claim external non-domination in the subsequent section.

Clarifying what it means to dominate a group requires taking a quick look at the notion of domination as applied to individuals. For the purpose of this article I will follow Pettit's somewhat classic conception of domination. It conceives of domination as an asymmetric power relation between at least two agents where the more powerful agent has the capacity to interfere arbitrarily with the choices of the other.³¹ Such relations of domination between individual agents are of normative concern in virtue of three features: First, domination obviously entails a reduction of choice. While classic accounts of freedom as non-interference stop here, the neo-republican ideal of non-domination draws attention to two further evils over and above a mere restriction of choice: It highlights the fact that already the mere capacity to interfere induces a distinct kind of uncertainty that may lead the dominated to adopt a servile attitude, trying to please their masters so as to avoid interference.³² This second kind of evil has often been read as the main characteristic that a neo-republican account of domination adds to classical understandings of freedom as non-interference. It provides an easily accessible explanation of why the mere capacity to interfere is normatively problematic by showing how it may indeed function so as to restrict choice in a mediated way. But, as Pettit stressed against his critics, the normative significance of domination is ultimately rooted in a third feature, namely that domination establishes a status asymmetry:

30 Pettit (1997), p. 52. In *A Theory of Freedom* Pettit clarified that at least the underlying notion of freedom as discursive control applies as much to collectivities as to individuals. However he maintained that a political ideal of freedom as non-domination should be restricted to individual freedom for normative reasons so as to avoid sacrificing the freedom of individuals for the sake of increasing the freedom of a collectivity (Philip Pettit, *A Theory of Freedom: From the Psychology to the Politics of Agency* (Oxford: Oxford University Press, 2001a), p. 126.

31 Pettit (1997), p. 52; for more recent, slightly modified articulations see: Philip Pettit, 'Republican Liberty: Three Axioms, Four Theorems', in Cécile Laborde and John Maynor (eds.), *Republicanism and Political Theory* (Oxford: Blackwell, 2008), 102-130; Pettit (2012), Ch. 1. For a comprehensive critique of his conception of domination see Dorothea Gädeke, *Politik der Beherrschung. Zur ambivalenten Universalisierung der Demokratie* (Frankfurt: PhD Thesis, 2013), Chs. 4-6.

32 Pettit (2001a), p. 137; Pettit (2008); Pettit (2015), p. 51. See also Skinner (1998), pp. 84-96 and Maurizio Viroli, *The Liberty of Servants. Berlusconi's Italy* (Princeton: Princeton University Press, 2012).

‘The terrible evil brought about by domination, over and beyond the evil of restricting choice, and inducing a distinctive uncertainty, is that it deprives a person of the ability to command attention and respect and so of his or her standing among persons.’³³

This standing is conceived of in discursive terms: The dominated person will not be able to speak out without risking to displease her master; she will not be taken as speaking out for the same reason and thus, is not ascribed a voice worth hearing that claims respect from others. The normative core of the individual claim against domination lies in this denial of discursive standing and the resulting asymmetry in status: Domination is bad because it constitutes an imposition of the will of one person on another.³⁴

This account of individual domination conceives of domination as an agent-centred notion: It describes social relations which undermine the capacity for reasoned choice and thus the standing as a reasoning agent.³⁵ What it means to dominate a group and how this relates to the domination of individuals therefore depends on whether groups are able to constitute reasoning agents themselves. Drawing on the debate on group agency, I distinguish three accounts of collective domination.³⁶ On the *reductionist* account, collectives such as states cannot be subject to domination as collectivities for the simple reason that they are no reasoning agents in their own right. This account is based on the eliminativist approach to group agency, which denies that groups may acquire genuine agency in their own right.³⁷ Groups are conceived of as mere aggregates of individual agents. Intentions built on the collective level are thus ultimately reducible to the intentional profiles of individual members; there is no centre of agency over and above individual agents. On this view, speaking of collective and indeed state domination is merely metaphorical. It might serve to draw attention to experiences of individual domination shared by co-citizens. Yet, strictly speaking, there is no collective domination proper. With this uncompromisingly individualistic stance, the reductionist account explains why collective domination is to be assessed in terms of the domination of individuals. However, by reducing the former to the latter, it cannot account

33 Philip Pettit, ‘Keeping Republican Freedom Simple: On a Difference with Quentin Skinner’, *Political Theory* 30/3 (2002), 339-356, p. 351.

34 Cf. Pettit (1997), p. 91; Pettit (2002), p. 350; Philip Pettit, ‘The Domination Complaint’, in Melissa Williams and Stephen Macedo (eds.), *Nomos XLVI: Political Exclusion and Domination* (New York: New York University Press, 2005b), 87-117, pp. 102-106.

35 For an account of domination and its relation to the capacity for reasoned choice see Pettit (2001a), Chs. 4 and 6.

36 Cf. Christian List and Philip Pettit, *Group Agency. The Possibility, Design, and Status of Corporate Agents* (Oxford: Oxford University Press, 2011), pp. 2-11. They distinguish four models. However, the authorization model ultimately collapses into the supervenience or eliminativist model. For a discussion on this point see Dorothea Gädeke, ‘Collective Domination. Making Sense of Collective Claims against Domination’, Manuscript (2015).

37 Cf. List and Pettit (2011), pp. 3-7 and p. 74.

for the third dimension of the ideal of non-domination: From this point of view, no state can claim non-domination in its own right; even in representative states such claims collapse into the claims of individuals. Thus, conceptually speaking, a two-dimensional account of non-domination would be sufficient; any further reference to a collective dimension seems redundant.

According to the second, *collectivist* account, the domination of groups refers to the domination of an independent group mind and thus describes a phenomenon that is distinct from individual domination. This account is based on the emergentist model of group agency that ascribes groups an ontologically autonomous reality over and above their individual members.³⁸ Such groups are characterized by a metaphysical, animated force that is neither reducible to individual agents, nor entirely accessible to them. This suggests that collective domination may not easily be reduced to individual domination either. Quite to the contrary: Given that groups have a mind of their own, they may also be dominated in their own right, independent of the domination of its individual members. Yet, what exactly this means remains unclear: Does the postulated group mind constitute a capacity for reasoning at the collective level? What is the role of individuals in collective decision-making and acting? Given the notoriously elusive metaphors by which the metaphysical force that accounts for the ontological autonomy of group agents is described, the collectivist account does not provide conceptual resources for answering these questions. Moreover, by postulating an emergent entity over and above individuals, it severs the close link between individual non-domination and the non-dominated state that a neo-republican theory is based on altogether. From this perspective, the status of states – insofar as they qualify to constitute emergent group agents – is entirely independent of that of their individual members. The collectivist account therefore does not capture the three-dimensional structure of the ideal of non-domination.

List and Pettit, however, develop a third model of group agency that arguably provides a promising basis for a conception of collective domination which is conceptually distinct from individual domination without giving up on the commitment to individual non-domination.³⁹ On their supervenience account of group agency, group agents are neither reducible to individual agents nor ontologically autonomous emergent entities. Their independence is rooted in

38 Cf. List and Pettit (2011), pp. 8ff. and pp. 73f.

39 Philip Pettit, 'Groups with Minds of Their Own', in F. Schmitt (ed.), *Socializing Metaphysics – The Nature of Social Reality* (New York: Rowman and Littlefield, 2003), 167-193; Philip Pettit, 'The Reality of Group Agents', in Chris Mantzavinos (ed.), *Philosophy of the Social Sciences. Philosophical Theory and Scientific Practice* (Cambridge: Cambridge University Press, 2009b), 67-97; List and Pettit (2011).

an epistemological argument that draws on the discursive dilemma:⁴⁰ It shows that members of a group may have a perfectly consistent set of judgments on a range of issues, individually speaking. And yet, majority voting (and indeed any aggregation function) always risks leading the group to endorse an inconsistent set of collective judgments. This is because the aggregation of individual judgments on the premises of an upcoming decision (such as past judgments of the group which are logically connected to the decision at issue) may imply a different conclusion from that which would obtain had the members voted on the decision at issue itself. Therefore, if a group is to count as a unified rational agent, collective judgments on a certain proposition cannot be a function of the individual members' judgment on the same proposition. Rather, the group will have to make sure that its collective judgments relate to one another in a consistent way by introducing feedback mechanisms that allow for collectively tracking the rational consistency of collective judgments and for modifying them accordingly. Pettit calls such a feedback system a form of 'collectivizing reason'⁴¹ as it is based on building collective metapositional attitudes about the consistency of collective attitudes. In consequence, the group may endorse a judgment that a majority or perhaps even all its individual members reject individually. Hence, there is a clear discontinuity – at least on some issues – between the intentional profile of the group and that of its individual members. Yet, this distinct collective intentional profile still depends on the intentions of its members, albeit not in a causal but in a supervenient way.⁴² While it is not a mere aggregate, it still cannot vary independent of variations in the intentional profiles of individual members. Thus, the group has an independent mind in an epistemological, but not in an ontological sense.⁴³

The supervenience account of group agency provides a useful basis for developing a conception of collective domination that is conceptually distinct from individual domination: Provided the group in question meets the criterion of collectivizing reason and thus counts as group agent proper, domination is directed at a genuinely collective centre of decision-making with a distinct intentional profile. Yet, given that the formation of collective intentions is not entirely independent of individuals, collective domination does not refer to a collectivist understanding of groups. Rather, it is ultimately fleshed out in individualistic terms: It is the individual group members who are dominated

40 Pettit (2001a), pp. 106-115; Pettit (2003), pp. 170-175; Christian List and Philip Pettit, 'Aggregating Sets of Judgments: An Impossibility Result', *Economics and Philosophy* 18 (2002), 89-110; List and Pettit (2011), Ch. 2. See also Lewis A. Kornhauser and Lawrence G. Sager, 'Unpacking the Court', *Yale Law Journal* 96 (1986), 82-117; Franz Dietrich, 'Judgment Aggregation: (Im)possibility Theorems', *Journal of Economic Theory* 126/1 (2006), 286-298.

41 Pettit (2003), p. 175.

42 See Christian List and Philip Pettit, 'Group Agency and Supervenience', *The Southern Journal of Philosophy* 44 (2006), 85-105; List and Pettit (2011), pp. 64-72.

43 Pettit (2003), p. 184.

as members of a practice of collectivising reason.⁴⁴ This, however, does not imply that collective domination is reducible to individual domination. The discontinuity between collective and individual intentions shows that collective domination does not necessarily coincide with the domination of members qua individual agents. It is directed at a different, genuinely collective centre of agency and thus affects the capacity for making reasoned collective choices that are to be enacted as a group. Therefore, conceptually speaking, two kinds of domination need to be distinguished: the domination of individuals as individual agents and the domination of individuals as members of a corporate agent, that is, in their capacity and practice of collectivising reason.

But does collective domination also constitute a distinct normative evil? Why is it bad to dominate groups? Given that the three-dimensional neo-republican ideal of non-domination is rooted in the ideal of individual freedom as non-domination, the normative relevance of collective domination will ultimately have to be related to the domination of individuals. As mentioned above, Pettit maintains that the domination of peoples matters insofar as it subjects its individual members to domination. More generally speaking, he maintains that '[i]f the things that the members do as a corporate entity are subject to the alien control of another agent or agency, then those members are themselves subject to alien control.'⁴⁵ Given the conception of collective domination sketched in the preceding section, the sense in which the domination of corporate entities affects the individual members in a normatively relevant way can now be further specified: Collective domination entails a restriction of choices that present themselves as collective choices, such as the choice of an orchestra to play Mahler's fifth symphony or the choice of a state to introduce a health care system free of charge. Such choices are choices for collectivities that individuals, taken separately, could neither enact nor choose to enact as they presuppose complex collective actions and thus mechanisms of collectivizing rational decision-making. In other words, collective domination restricts collective choices that is choices for individuals in their collective capacities.

Similarly, the uncertainty brought about by being subject to domination refers to plans that a group might want to make as a group. In consequence, the group may also adopt a servile mentality vis-à-vis its dominators, adapting collective decisions to what the powerful are expected to accept, for example by giving up on the plan of establishing free health care and cutting down on public spending instead. Given that individual projects will in some cases depend on

44 This conception makes plausible why Pettit insists that even when a group is targeted, the dominated agent will always be an individual, but 'in a collective identity or capacity or aspiration' (Pettit (1997), p. 52).

45 Pettit (2010a), p. 76; cf. Pettit (2015), p. 53.

how the group acts, collective uncertainty might also have repercussions on individual life plans and related mentalities on the individual level (one might think of doctors or nurses, whose careers depend on the health care system, or of citizens with chronic diseases whose quality of life depends on having access to particular services). Still, analytically, these are distinct. The members of a dominated group might, individually speaking, all be able to make reliable plans and yet, as a collective and that means as members of the group they can still be subject to the uncertainty that domination entails.

Finally, the asymmetry in standing established through collective domination also refers to the standing of the group vis-à-vis other (primarily collective) agents. Speaking of the collective standing of groups does not imply a collectivistic understanding of the group in question. It does not suggest that the group itself has a particular status qua group independent of its members. Rather, collective standing refers to the standing group members enjoy vis-à-vis other (group) agents in their capacity and practice to pursue collective endeavours. As such, however, it is not reducible to the standing individuals enjoy qua individual agents either: It is not the standing as an individual reasoning agent which is at stake but rather his or her standing as part of a collective reasoning agent.

Generally speaking, if choice, reliability and equal standing matters for individual agents, there is reason to assume that it also matters with regard to what individuals can do as part of a collectivity, that is, with regard to purposes which can only be pursued collectively. Hence, collective domination does not need to involve the domination of individuals qua individuals so as to matter normatively. It is of normative import simply because it means that group members are dominated in their collective capacities and practices of collectivizing reason. In this sense, it is not just conceptually distinct from individual domination; it also constitutes a normatively distinct evil.

Conceptualizing State Domination

Following this individualist and yet distinctly non-reductionist account, collective domination obviously has a direct impact on individuals. It does not necessarily entail dominating them qua individual agents; that, in fact, is a contingent matter. But collective domination conceptually means dominating individuals in their capacity and practice of collectivizing reason. The crucial question is: Does this also apply to non-representative states? Are citizens of non-representative states part of a practice of collectivizing reason? In other words: Does the practice of collectivizing reason presuppose a representative structure of incorporation? This question requires taking a closer look at the incorporation structures of group agents and the state in particular.

On the conceptual reading of Pettit's thesis that only representative states have a claim to collective non-domination it is the representative incorporation structure which ensures that individual members are affected by collective domination in the relevant way. Following the conception of collective domination sketched above, collective domination means, ultimately, dominating individuals, albeit in a collective capacity, not as individual agents. Thus, the crucial question is whether domination in this sense presupposes a particular structure of incorporation. With regard to states, this general question raises a more particular issue: I assume that the state does constitute an internally complex but unified group agent.⁴⁶ But, who is the subject that is incorporated in and acts through the state? Is it the people that constitutes itself as a corporate entity through the state? Or is it merely the government that governs the citizens, taken as a mere aggregate of individuals, through the state? To understand Pettit's central claim, addressing this question is of crucial importance. Since collective domination generally means dominating individual members of the group in their collective capacities, the distinction between representative and non-representative states cannot be based directly on different impacts on individuals. Making sense of the conceptual reading of Pettit's central claim rather requires clarifying whether dominating states means dominating the incorporated people or merely the incorporated members of the government.

On Pettit's account, the citizens of a state are incorporated as a people that thinks and acts through the state only insofar as they are represented in the judgements and decisions of the government. This does not presuppose the direct involvement of individual citizens in the decision-making process. Pettit rather maintains that 'commonly endorsed presumptions and valuations'⁴⁷ which emerge in public debates play the crucial mediating role between the people and the government: They are not the result of a consensus reached in public debate on certain matters but rather 'a fund of considerations that everyone is prepared to admit as relevant in the determination of public issues, even if individuals weight them differently in importance'⁴⁸. Binding the government to the expectation of justifying its judgments and decisions on the basis of such considerations, they make sure that decisions taken by the

46 This assumption is controversial, given that states consist of a number of various bodies and organs which count as group agents in themselves. In the common law tradition, it is precisely for this reason that the state is not conceived of as a unified agent but rather as a complex structure of different competing bodies (Janet MacLean, 'Government to State: Globalization, Regulation, and Governments as Legal Persons', *Indiana Journal of Global Legal Studies* 10/1 (2004), 173-197, pp. 176ff). However, what matters from the point of view of the supervenience account of group agency is that collective intentions are also built on the level of the state, not just on that of its organs – and that feedback mechanisms are in place so as to ensure the rational consistency on the state level (see List and Pettit (2011), p. 40).

47 Philip Pettit, 'Rawls' Political Ontology', *Politics Philosophy and Economics* 4/2 (2005a), 157-174, p. 169.

48 Pettit (2005a), p. 167.

government can be regarded as part of the body of common judgments. Hence, insofar as commonly endorsed presumptions and valuations generally guide the government's policies in the long run, the state may be seen as properly incorporating – and representing – the 'constituting people' as a 'constituted people', that is, as a corporate entity.⁴⁹ Otherwise, it seems, the government usurps the role of the people and the state will only incorporate and represent the government itself.

This way of spelling out how a government may come to properly represent a people is closely linked to Pettit's wider notion of popular control; in fact, deliberative regulation through commonly endorsed norms constitutes one of its two dimensions: They ensure that the influence that members enjoy through mechanisms of contestatory democracy effectively imposes an equally acceptable long term direction on the government.⁵⁰ And it sheds light on the claim that conceptually speaking, dominating non-representative states does not translate into dominating their members: If a state is dominated with regard to collective intentions, in which the people is not represented as a people, this merely amounts to the domination of the government, not of the people. In other words: Dominating a non-representative state means dominating the members of the government, not the citizens, in their capacity and practice of collectivizing reason. If the collective claim to non-domination is rooted in the claim of the people, as Pettit takes it to be, collective domination of non-representative states seems irrelevant because it simply does not imply dominating the people qua people. It might entail dominating the citizens in their capacity as individual agents, but that is a separate, contingent matter. Such a reading would account for Pettit's claim that

'[i]f a state is [...] non-representative, then serving that entity will not be a concern for the international order; the *only* concern will be with serving the members. But if a state is effective and representative of its people [...] [t]he concern here will rather be with accommodating the state appropriately, and thereby accommodating the people that it represents.'⁵¹

Interestingly however, this reading is not consistent with the supervenience account of group agency. Certainly, List and Pettit do characterize dictatorial groups as a degenerate kind of group agent.⁵² They seem to doubt that a dictatorial structure may indeed plausibly count as a practice of *collectivizing*

49 Pettit (2012), p. 287.

50 Cf. Pettit (2012), Chs. 4 and 5.

51 Pettit (2010a), pp. 71f. [my emphasis].

52 List and Pettit (2011), p. 53; cf. *ibid.*, p. 8.

reason and consider dictatorships ‘as just an extension of that individual’s agency rather than a group agent proper’.⁵³ And Pettit initially develops the idea of a feedback system to ensure rational unity along the lines of the broadly democratic ‘straw-vote procedure’:⁵⁴ On every issue the group first conducts a straw vote. If it turns out to be inconsistent with existing propositions the group holds, it will conduct a vote on which of the conflicting propositions is to be revised in order to maintain rational consistency and thus forms a judgment on its own judgments. Such a procedure ensures rational unity while maintaining responsiveness to the individual members. It thus may count as instantiating public control.

Yet, Pettit explicitly extends this democratic account of collectivizing reason to non-democratic groups. Active voting, he claims, is only one possible mode of endorsing collective procedures or outcomes. In fact, since it risks leading to an infinite regress, any group agent will to some extent also rely on the virtual mode of control, that is on their members ‘having a capacity for exit or contestation or something of the kind [...] but not exercising that power’.⁵⁵ Such modes of virtual control, in turn, are strikingly less demanding than Pettit’s notion of popular control – or any less demanding plausible interpretation of representativeness. They neither presuppose public deliberations which give rise to commonly endorsed norms nor do they need to be institutionalized in any demanding sense. Pettit argues that some group agents ‘may involve a membership that is largely passive, with most being involved in official decisions only *to the extent of needing to be pacified*’.⁵⁶ In fact, to be incorporated as a member of a group agent who is part of the collective endeavour of collectivizing reason, individuals need not be included in collective decision-making procedures through active voting or formalised means of contestation; nor do they need to be part of public deliberations. The mere fundamental, quasi anarchical ‘power to protest’⁵⁷ that does not even require institutionalization seems sufficient to ensure that they count as incorporated members who have some control over collective decisions – not in a deliberative but at least in a minimal sense.⁵⁸ Hence, on Pettit’s own account of group agency, a practice of collectivizing reason does not presuppose a representative internal structure (whether in the democratic or a less demanding sense). Accordingly, it seems that dominating

53 List and Pettit (2011), p. 59; see also *ibid.* p. 76. However, it remains unclear whether the argument is a conceptual or a normative one.

54 Philip Pettit, ‘Rationality, Reasoning and Group Agency’, *dialectica* 61/4 (2007), 495-519, pp. 512ff; Pettit (2009b), pp. 80f.

55 Pettit (2003), p. 189.

56 Pettit (2003), p. 189 [my emphasis].

57 Philip Pettit, ‘Collective Intentions’, in Ngaire Naffine and Rosemary O’Connell (ed.), *Intention in Law and Philosophy* (Aldershot : Ashgate, 2001b), 241-254, p. 253.

58 For a more extensive discussion of this issue see Gädeke (2015).

a group agent implies dominating all members in their capacity and practice to collectivize reason, independent of the internal structure of the group.

With regard to states, however, one might argue that the criteria for minimal control are somewhat more demanding than for other kinds of group agents. After all, what is particular about the case of states is that there is no meaningful exit option – a fundamental form of protest that gives members of other groups a fairly effective, even if basic form of control, if not over particular decisions of the group then at least over the general direction. Since this form of control is lacking in states, it will have to be replaced by other mechanisms. This is, so one might insist, why it is so important for the state to be structured in a representative way.⁵⁹ Following this argument, citizens of non-representative states might be said to remain members of the state, even though they are merely forced to do so. Yet, they do not enjoy the minimal control required to count as being part of a practice of collectivizing reason. If this point is granted, does this mean that there simply is no collective people in non-representative states that could be dominated in a collective sense? Is the only concern in such a case that its individual members not be dominated qua individual agents?

This would be a hasty conclusion. It overlooks what the fundamental power to protest amounts to in a world of states. In unrepresentative states, the people as a multitude might not be *fully* incorporated qua people, taken as a corporate entity as they lack the required minimal control over the formation of collective beliefs and thus they are not represented in particular decisions and actions of the government.⁶⁰ Yet, the people remain in the position to bring the state institutions under their control and thus to (re-)constitute themselves as the collective subject of the state. This is a collective option they face in virtue of sharing a common institutional framework that they cannot leave behind altogether. And in that sense the people constitutes a potential group agent.⁶¹ In fact, this seems to be what Pettit has in mind. He argues that for ‘each state, representative or unrepresentative, there is a people: a population of individuals at one level and at another, *at least potentially*, a collective people that can organize itself via a representative state’.⁶² Elsewhere, he suggests that even when a government usurps the role of the people, the latter still counts as an ‘aspirational’⁶³ or ‘potential agent’ for the very reason that it ‘will retain a

59 Cf. Pettit (2001a), p. 155.

60 See Philip Pettit, ‘On Rawls’s Peoples’, in Martin Rex and David A. Reidy (ed.), *Rawls’s Law of Peoples. A Realistic Utopia?* (Oxford: Blackwell, 2006), 38–55, p. 43.

61 Note that not every random group of people constitutes a potential group agent in this sense. The group needs to share a common institutional framework that is itself a group agent, but does not (yet) fully incorporate all its members. In that sense, the members are something like a proto-collective agent (Pettit also calls it an ‘embryonic group agent’ (Philip Pettit, ‘Responsibility Incorporated’, *Ethics* 117 (2007), 171–201, p. 199).

62 Pettit (2014), p. 153 [my emphasis].

63 List and Pettit (2011), p. 193.

residual power on the constitutional from: a power that is capable, in principle, of establishing and controlling a representative government.’⁶⁴

For the question of whether the people is dominated qua people when the state is dominated this fundamental, constitutive power is of crucial importance: Dominating a non-representative state might not necessarily affect the people with regard to an established practice of forming collective intentions. But it will constrain its joint capacity to create the conditions for establishing such a practice. Let’s imagine a brute dictatorship that rules over a small country A, dominated by its far more powerful neighbour B. One day a determined group of young guerrillas manages to throw A’s dictator over in order to establish what they think is a non-dominating state that also sets out to fight its external domination. However, on its own, A is not able to change the international power structure. So B remains in a dominating position. A can only realize its visions so long as B remains pleased or indifferent. This shows that the people of A does not have the constitutive power to fully appropriate the state institutions, neither before nor after the revolution: It can only do so to the extent and in a way that B does not disagree with.

This is not just a minor, somewhat secondary form of collective domination. The constitutive power of the people is of fundamental importance, precisely given that citizens cannot simply opt out and leave. To give another example: If the state is externally dominated by institutions such as the IMF or other, more powerful states, who can impose economic and political reforms in exchange for urgently needed loans, its citizens lose the capacity to (re-)appropriate state institutions and thus the minimal control they still retain. They may still protest against the policies of donors. But these donors, whether other states or multilateral agencies, who have the capacity to unilaterally demand restructuring another state’s institutions, are not themselves fully part of the common institutional context of the people in question. Hence, with regard to them, the people does not have the constitutive power to acquire control over them – and thus also loses the fundamental control over its state institutions it would otherwise retain.

This account clarifies Pettit’s claim that the domination of a people ‘that is, the people considered at least as a potential collective agent’⁶⁵ implies dominating its individual members: Collectively dominating a people does not presuppose that it already successfully incorporates through a representative state; it can also be dominated with regard to its fundamental constitutive power, that is,

64 Pettit (2006), p. 43.

65 Pettit (2014), p. 154.

in its capacity to (re-)constitute itself as a reasoning group agent that thinks and acts through the state. And such constitutive domination is particularly worrisome from a normative point of view: On the neo-republican account, states are crucial in order to realize non-domination. They are the institutional structure a people needs in order to set up a practice of non-domination that secures individual non-domination in a non-dominating way. This however requires the capacity to find context-specific solutions to the particular profile of domination it faces also and most importantly with regard to the fundamental institutional structure.⁶⁶

It is only against this background that it becomes plausible why Pettit defends the claim of all peoples to non-domination, whether organized in a representative state or not: Whether a people already enjoys a responsive, institutionalized structure of collectivizing reason or not, it must not be dominated in its constitutive power to establish one. This claim, however, translates into the general requirement that no state, neither representative ones nor non-representative ones, be dominated because state domination implies the domination of the collective people (and thus of its citizens in their capacity and practice of thinking and acting collectively) – if not in the full sense then at least as a potential group agent with regard to its residual constitutive power.

Justifying State Domination?

I have argued that Pettit's claim that the ideal of non-domination should be limited to representative states cannot be substantiated on the basis of a conceptual reading that takes the representativeness to be the decisive criterion for conceiving of state domination in terms of the domination of the people. This however leaves open to what extent it is persuasive in normative terms: Even if one follows the argument above and considers the domination of non-representative states as normatively problematic in virtue of the fact that it implies dominating the people, one might still be inclined to insist that it could be justified in the name of minimizing individual domination. This is the other strategy that Pettit mobilizes. Starting from the assumption that collective domination constitutes a '*pro tanto* evil',⁶⁷ he contends that it 'may well have compensating effects in the case of a corporate agent that serves only the interest of a few of its members, with other members being forced to join up for reasons of pressure or for want of a better alternative; controlling the corporate entity may mean promoting the non-domination of such other members.'⁶⁸ Laborde and Ronzoni equally apply a compensatory rationale to states: They argue that

66 Cf. Laborde and Ronzoni (Forthcoming), p. 11.

67 Pettit (2010a), p. 76 [original emphasis].

68 Pettit (2010a), p. 76. This holds also for states who dominate individuals abroad.

under exceptional circumstances ‘an infringement of basic non-domination might be necessary for the sake of the overall *minimisation* of domination.’⁶⁹ Just like Pettit, they think of failed states and oppressive regimes where ‘external interventions in breach of a state’s basic non-domination might be necessary’.⁷⁰ On this view, a state that is internally dominating might justifiably be subjected to domination so long as this will contribute to reducing the internal domination of its members qua individuals. Such a compensatory argument accounts for the distinction between representative and non-representative states as compensatory effects will only be expected in the case of states that do not realize or at least approximate non-domination within their borders. Hence, dominating non-representative states will be justified insofar as it has indeed compensatory effects on individual non-domination domestically, while dominating representative states which already realize or approximate non-domination domestically, remains wrongful.

Yet, there are three further considerations that provide grounds for doubting that a compensatory rationale could justify subjecting some states to domination. The first point highlights the fact that the relation between the people and the state is more complex than assumed so far. Under current conditions, the state serves as the primary context for realizing non-domination. Yet, on the one hand, it does not only do so in the political realm, but also in the economic and cultural realm. Even if a state is, politically speaking, internally dominating, it might still to some extent act in the name of its citizens economically and culturally, for example by securing basic conditions of economic exchange such as contract law and monetary stability, especially against powerful external agents. That is: Even if individual members are not incorporated equally in a political sense, they may still be fully incorporated in the economic or cultural realm. Hence, distinguishing between dominating the state and dominating the people becomes even more difficult.

On the other hand, collective domination of the state by other states or transnational corporations may aggravate domestic relations of individual domination. Forst highlights the fact that the global context is characterized by a ‘situation of *multiple domination*’ in which the dominated are dominated ‘by their own (hardly legitimate) governments, elites, or warlords, who in turn are both working together and (at least partly) dominated by global actors’.⁷¹ Yet, multiple domination does not just refer to different mutually reinforcing agents of domination. It may also crisscross through different dimensions of

69 Laborde and Ronzoni (Forthcoming), p. 12 [original emphasis].

70 Laborde and Ronzoni (Forthcoming), p. 12.

71 Rainer Forst, *The Right To Justification. Elements of a Constructivist Theory of Justice* (New York: Columbia University Press, 2012), p. 257.

domination. Critics of democracy promotion for instance argue that the imposition of formal electoral mechanisms not only inhibits collective procedures of finding one's own solutions to collective problems. It often leads to strengthening the political power of already established, dominating elites, thus reinforcing individual political domination. Besides, it also entails economic domination as fundamental economic issues are depoliticized and contained in a formal democratic system so that economic inequalities are further entrenched.⁷² Thus, to be persuasive, the argument from compensation needs to measure and evaluate compensation effects by weighing individual and collective domination each across different dimensions of domination. This is, empirically speaking, a very complex task.

The compensatory rationale, however, raises a second, more fundamental issue: It is far from evident who may subject some states – and thus also their peoples at least in their constitutive power – to domination. Given the consequentialist rationale of the compensation argument, it seems that it should be the agent who will be able to produce the best compensatory effect, possibly a larger, more powerful state. But who decides how to estimate expected compensatory effects? The powerful agent himself? That, however, would mean that he is already in a dominating position: If such issues can be decided unilaterally, this is already an instantiation of domination that cannot, as such, justify the position of domination itself. The question of whether or not to dominate would simply not be at issue. The dominator might ponder whether to exercise his power and interfere or not. But, no matter what his rationale is based on, his decision will be an instantiation of domination and, as such, will not be justified. Arbitrary power cannot be transformed into non-arbitrary power by merely providing a moral justification in the name of a greater good. The authority to legitimize interference can only be assigned within a common institutional framework of non-domination.

This consideration points to a third and related point which refers to the notion of domination itself: While interference describes a singular event of an exercise of power, domination refers to an ongoing relation of power that is characterized by the *capacity* (not necessarily the exercise) of *arbitrary* interference. On the one hand, this implies that the effects of domination are far more difficult to control or even predict than those of particular acts of interference. In contrast to interference, domination

72 Barry Gills and Joel Rocamora, 'Low Intensity Democracy', *Third World Quarterly* 13/3 (1992), 501-523; Rita Abrahamsen, *Disciplining Democracy: Development Discourse and Good Governance in Africa* (London: Zed Books, 2000); Alison Ayers, 'Demystifying Democratisation: The Global Constitution of (Neo)Liberal Politics in Africa', *Third World Quarterly* 27/2 (2006), 321-338.

itself is not an instrument that can be employed selectively in order to achieve a certain aim. It does not refer to the exercise of power in a distinct interaction but rather to an ongoing relation of power which denies standing to those subjected. Of course, relations of domination may provide ample opportunities for interference; after all, domination implies that there are hardly any checks on the decision to interfere. This fact, however, does not raise the issue of justifying domination. Instead, it draws attention to the circumstances of a decision to interfere: For, on the other hand, not every form of interference is dominating, only arbitrary interference is. Hence, the question of justified interference is to be separated from the question of justified domination: Interference may well be justified, i.e. non-arbitrary, if it is embedded within an institutional framework of non-domination. But once such institutions are in place, it is not a matter of justifying domination on the basis of a compensatory rationale anymore but rather one of possibly legitimizing interference within a common, three-dimensional framework of non-domination. This is not the same as justifying domination as such.

Towards an Inclusive Republican Law of Peoples

Drawing on the conception of collective domination sketched in section three, I have argued that Pettit's central claim, that only representative states may raise a valid claim to collective non-domination is not compelling. Conceptually speaking, state domination always implies dominating the collective people, even if only in its constitutive power. The strategy of justifying the domination of states (and thus the domination of their peoples) in the name of promoting individual non-domination fails because it misconceives the notion of domination. Hence, the domination of states has to be taken seriously not just with regard to representative states, but generally, even when the aim of domination is to fight domestic individual domination. In other words, on a neo-republican account of international politics, the principle of non-domination directly governs both, the relations between representative states as well as towards non-representative states. In consequence, a republican law of peoples needs to confer the status of non-domination on all states, whether representative or not. Their claim to non-domination is rooted in the claim of peoples to realize non-domination in an externally undominated way. Yet, since state domination implies at least dominating the people in its constitutive power, no state may be dominated. Thus, in contrast to Pettit's (and Rawls') conception, the resulting international order is of an inclusive kind. It should be emphasized, however, that this does not mean closing an eye on individual domination within the borders of a state. An inclusive republican law of peoples does not rule out external interference altogether. What it does rule out are

dominating forms of interference. The crucial question therefore is not which states may claim the status of full membership in the international order. Rather, attention is redirected to how an inclusive international order needs to be structured institutionally so as to prevent collective domination without being indifferent towards individual domination. To conclude, I will briefly sketch the institutional principles that could guide such an endeavour.⁷³

Self-determination as Non-domination

The international dimension of the ideal of non-domination serves to articulate the requirements of non-domination with respect to the external relations of a political community aimed at realizing a practice of non-domination. It rests on the fundamental claim to collective non-domination, which is borne by the people, not by states. Whether they are organized already as corporate entities who think and act through representative states and thus realize a practice of non-domination domestically or merely as aspirational group agents who find themselves under a government which usurps the state: All peoples have a claim to non-domination in their external relations. Given that collective non-domination is rooted in the claims of peoples, the international dimension of the ideal of non-domination is better conceived of as an ideal of collective self-determination as non-domination rather than of globalized sovereignty: Collective self-determination articulates the normative core that will then call for a suitable sovereignty regime.

Collective self-determination as non-domination is both stronger and weaker than the classic, liberal notion of self-determination as non-interference which underpins the conception of state sovereignty as articulated in international law. It is stronger because it is not only sensitive to actual interference, but also to the mere capacity to interfere, whether in the political, economic or cultural realm. Yet, at the same time it is weaker in the sense that it does not aim at complete independence; rather, it calls for regulating the relations between peoples in a non-dominating way through common political institutions. Moreover, in contrast to self-determination as non-interference, collective self-determination as non-domination integrates both, an external and an internal aspect: Its external dimension refers to the structure of the relations of a people towards other agents beyond its borders while the internal dimension refers to the organizational structure of the people itself. Both dimensions ultimately aim at realizing individual non-domination through a collective practice of non-domination. Thus, the claim to collective self-determination expresses the inextricable link between the three dimensions of non-domination.

⁷³ For a deeper discussion of these principles see Gädeke (2013), Ch. 9.

Relational Sovereignty

The first institutional requirement of protecting collective self-determination as non-domination consists in according the status of sovereignty to all states. Yet, sovereignty must not be conceived of in terms of formal sovereignty rights that protect exclusive authority over the internal affairs of a state. Based on self-determination as non-domination, sovereignty is a relational principle that aims at reshaping and transforming power relations through common institutions and thus at realizing normative authority within social relations instead of constraining the influence of others as far as possible.⁷⁴ This includes the establishment of new institutions wherever non-domination calls for jointly restructuring power relations, especially in the realm of economics, where currently the lack of regulation capacities results in large scale domination of both, states and individuals.⁷⁵ Regional integration may also be essential in order to balance the power of particularly powerful states.⁷⁶ Even though membership in such functionally or regionally specified institutions requires partially renouncing exclusive authority over allegedly domestic affairs in favour of developing joint solutions with other states or bodies, this is not an infringement of sovereignty. Rather, it expresses the idea of relational sovereignty: It generates the power which is necessary to secure the normative authority of states within their relation to others and thus the external preconditions of realizing the ideal of non-domination in all its three dimensions.

Transnational Democracy

Relational sovereignty, conceived of as equal membership in functionally and regionally specified institutions which generates counter-power to regulate dominating relationships, is one step towards realizing self-determination as non-domination in the international realm. Yet, taken alone, it is not sufficient since international bodies are a potential source of both individual and collective domination themselves. Pettit is fairly optimistic in this respect: Given that membership in international institutions is voluntary and that they offer a wide array of means of contestation, whether through states which are eager to ensure that their funding is used in a transparent and accountable manner or through NGOs, he holds that they are generally ‘relatively accountable and non-arbitrary’.⁷⁷ Yet, an inclusive republican law of peoples that also accords

74 For conceptions of relational sovereignty see Karen Knop, ‘Re/Statements: Feminism and State Sovereignty in International Law’, *Transnational Law and Contemporary Problems* 3/2 (1993), 293–344; Helen Stacy, ‘Relational Sovereignty’, *Stanford Law Review* 55/5 (2003), 2029–2059; Jean Cohen, ‘Whose Sovereignty? Empire versus International Law’, *Ethics and International Affairs* 18/3 (2004), 1–24; Jean Cohen, *Globalization and Sovereignty. Rethinking Legality, Legitimacy, and Constitutionalism* (Cambridge/New York: Cambridge University Press, 2012).

75 Cf. Laborde and Ronzoni (Forthcoming), p. 14.

76 Pettit (2010b), pp. 158ff; Pettit (2014), p. 173; Laborde and Ronzoni (Forthcoming), p. 14.

77 Pettit (2010a), p. 81; Pettit (2014), pp. 168–170; Pettit (2015), p. 58.

full membership to non-republican states needs to be wary of the fact that it is primarily states who interact in international bodies. Since the normative goal is, ultimately, to realize the claim to collective self-determination as non-domination in both its dimensions an international regime of relational sovereignty needs to be linked to peoples and individuals within states.

In other words, the power which is generated in international institutions needs to be reconnected with discursive processes in wider, informal, subnational, national and transnational publics which create a plurality of fora for articulating claims against multiple domination.⁷⁸ Informal publics should be complemented by reflective bodies embedded within international institutions that could, for instance, be composed of indicatively defined mini publics. They serve to enhance the transparency of policy making within international bodies as well as to identify new claims against domination voiced in informal publics that require attention.⁷⁹ Finally, both individual and collective means of contesting both, policies and actions of international bodies need to be strengthened. Such mechanisms would contribute to securing the reflexivity of international bodies that is essential for it to constitute part of a practice of non-domination.

Promoting Non-Domination

Mechanisms of transnational democracy are not the only means of reconnecting an inclusive republican law of peoples to domestic political processes. It also comprises a claim to external support in building non-dominating institutions domestically which is rooted in the internal aspect of collective self-determination as non-domination.⁸⁰ However, it insists that such assistance must itself neither dominate the individuals nor the states (and thus peoples) that it aims to support.⁸¹ On the republican account, an infringement of collective self-determination cannot be justified in the name of fostering individual or full collective self-determination as not only Pettit suggests but also some

78 Cf. Bohman (2004); Bohman (2007); Nancy Fraser, 'Transnationalizing the Public Sphere. On the Legitimacy and Efficacy of Public Opinion in a Post-Westphalian World', *Theory, Culture and Society* 24/7 (2007), 7-30.

79 Cf. Slaughter (2005), p. 215; see also Bohman (2007), Ch. 4.

80 Pettit equally holds that every people has a right to claim assistance in dealing with impoverishment and oppression, the two sources of non-representativeness (Pettit (2014), p. 183). This right, however, is qualified by the requirement that using taxes for foreign aid be authorized by the citizens so as not to impose 'coerced and involuntary philanthropy' (Pettit (2014), p. 184). Yet, if peoples do indeed enjoy a right to assistance, this calls for a suitable institutionalization that makes its enjoyment independent of the will of others. For the duty to promote non-domination see Gädeke (2013), Ch. 7 and Dorothea Gädeke, 'Externe Demokratisierung als Aufgabe Globaler Gerechtigkeit', in Peter Niesen (ed.), *Transnationale Gerechtigkeit und Demokratie*. (Frankfurt: Campus, 2012), 131-158.

81 Cf. Dorothea Gädeke, 'Externe Demokratieförderung und kollektive Selbstbestimmung. Zu normativen Grundlagen und grenzen einer umstrittenen Praxis', in Stefan Kadelbach, Stefan (ed.): *Effektiv oder gerecht? Die normativen Grundlagen der Entwicklungspolitik* (Frankfurt: Campus, 2014), 214-252.

liberal authors argue.⁸² Such a rationale not only neglects the close connection between the three dimensions of the ideal of non-domination by pitting one against the other two. It is itself an expression of domination insofar as it relies on the unilateral assessment of justifying reasons and as such cannot justify domination. In other words: Power cannot be made non-arbitrary by merely providing a moral justification in the name of a greater good. It requires an institutionalized practice that transforms an asymmetric power relation into a practice of non-domination. Hence, also the practice of foreign aid, aimed at fostering non-domination within states, needs to be restructured in order to avoid being a source of domination itself. This includes institutionally securing the availability of funds so as to prevent making some peoples depend on the goodwill of donor states (and their citizens) as well as establishing suitable means of contestation and participation with regard to policymaking and implementation in bilateral as well as multilateral aid relations.

In substance, Pettit's more exclusive account of international order might not seem all that different. In fact, he even suggests that there are grounds for including less than fully representative states in a republican law of peoples, namely on the basis of a developmental rationale: Simply treating states as if they were legitimate might press them 'to recognize in their domestic practice principles that they are led to endorse within international covenants and organizations' and enables individuals 'to launch an appeal against their own states to international bodies that states are diplomatically or formally committed to respecting.'⁸³ The crucial difference, however, is that I have argued for an inclusive republican law of peoples on normative, not on pragmatic grounds. This implies that the claim to collective non-domination cannot simply be suspended on pragmatic grounds; that, in fact, would already be an instantiation of interstate domination.

Instead, the republican ideal of non-domination with its three, tightly interwoven dimensions entails a change of perspective: Rather than asking what kind of states may claim full membership in the international order it calls for an institutionalized, reflexive practice that gradually transforms asymmetric power relations into an undominated, undominating practice of non-domination in all three domains – and thus prompts us to think harder about the required institutional means within the international realm. With this decidedly institutional perspective it offers an alternative to both, the status quo bias which maintains strict non-interference as well as to the call for an

82 See for instance Arthur I. Applbaum, 'Forcing a People to Be Free', *Philosophy and Public Affairs* 35/4 (2007), 359-400.

83 Pettit (2010b), p. 155.

exclusive, two-class model of international order. This is where republicanism may offer one of its most challenging contributions to international political philosophy.⁸⁴

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⁸⁴ A draft of this article was presented 2015 at FU Berlin; earlier versions of the conceptual parts were presented at Goethe University Frankfurt 2012, TU Darmstadt 2012, the ALSP Annual Conference in Belfast 2012 and the Conference on Groups-Challenges for Contemporary Political Philosophy in Rennes 2014. I would like to thank all participants, especially Cord Schmelzle, as well as the Editors of this journal, and particularly Miriam Ronzoni and Laura Valentini, for their thoughtful comments.