

Domination and enforcement: the contingent and non-ideal relation between state and freedom

Abstract

It is common to think that state enforcement is a restriction on freedom that is morally permitted or justified because of the unfortunate circumstances in which we find ourselves. Human frailty and material scarcity combine to make the compromise of freedom involved in exclusive state enforcement power necessary for other freedoms or other goods. In the words of James Madison, ‘if men were angels, no government would be necessary’ (1990: 267). But there is an opposing tradition, according to which the very idea of freedom in society entails the necessity of state enforcement. However morally good human beings are, or whatever material conditions they find themselves in, on this view, the ideal of freedom we ought to be concerned to realise is such that it cannot be attained without state enforcement. It follows *a priori* from an important ideal of freedom that a state with exclusive enforcement power is necessary for individual liberty in society. In this paper, I argue against what I take to be the strongest argument of the *a priori* kind, which begins from the neo-republican ideal of freedom as non-domination, and thereby in (partial) defence of the alternative, Madisonian, view. Insofar as it is true that some sort of problematic domination will inevitably be present in a stateless society, I argue, the introduction of a state can do nothing to eliminate it. For the state to improve on even an *ideal* stateless society, it would need to give individuals control over the interference of potential dominators of a sort that could not be achieved in the ideal stateless society.

Keywords

Domination; non-domination; freedom; state legitimacy; state enforcement; Pettit; republicanism

It is common to think that state enforcement is a restriction on freedom that is morally permitted or justified because of the unfortunate circumstances in which we find ourselves. Human frailty and material scarcity combine to make the compromise of freedom involved in exclusive state enforcement power necessary for other freedoms or other goods. In the words of James Madison, ‘if men were angels, no government would be necessary’ (1990: 267). But there is an opposing tradition, according to which the very idea of freedom in society entails the necessity of state enforcement. However morally good human beings are, or whatever material conditions they find themselves in, on this view, the ideal of freedom we ought to be concerned to realise is such that it cannot be attained without state enforcement. It follows *a priori* from an important ideal of freedom that a state with exclusive enforcement power is necessary for individual liberty in society.¹ This tradition dates back at least as far as Kant (1999), but finds contemporary expression in the writings of present-day interpreters of Kant (Pallikkathayil, 2017; Ripstein, 2009) as well as certain defenders of a neo-republican ideal (Pettit, 2012; Spitz, 1995). This conception of the relation between state and freedom leads to a different way of thinking about the state and its moral value. If we come to see state enforcement as intrinsically bound up with individual freedom, and if we see freedom as a central goal for social cooperation, we are likely to see the state as an unalloyed good, ‘not an institution about which we should be ambivalent’

¹ That state enforcement is required *a priori* for freedom entails that even morally perfect people would be unfree without it, and so that Madison is wrong (at least if enforcement is included in what he means by ‘government’), but the latter does not entail the former. It could be that even morally perfect people would need state enforcement for freedom, though this is not true *a priori*. Estlund (2016) makes this point about the necessity of the state for resolution of conflict.

(Pettit, 2012: 181). We will see state enforcement of a certain kind as something to be welcomed, rather than something to be tolerated. If, on the other hand, we think of the state in the latter way, as an evil needed (if at all) as the best feasible means to some important end, we are encouraged to be careful, to be wary of state enforcement power, and perhaps, where possible without compromising other important values, to seek unenforced means of achieving social goals.

In this paper, I want to argue against what I take to be the strongest argument of the a priori kind, and thereby in (partial) defence of the alternative, Madisonian, view. The version of the a priori view I discuss begins from the ideal of freedom as non-domination put forward by neo-republicans like Philip Pettit. This is in many ways an attractive ideal, and there is a tempting line of thought available suggesting that it could not possibly be adequately secured without the enforcement of a coercive state. Domination, in the neo-republican sense, is a matter of dependence on the counterfactual *power* of another. One can dominate another without any *actual* interference in their affairs. If we are concerned about domination of this counterfactual kind, stateless society starts to appear inevitably troubling, and the state inherently appealing. Even in the very best stateless society, in which all are well motivated and so will not *in fact* interfere harmfully with each other, we are always subject to the *power* of others to interfere. And the state, so it is claimed, liberates us from these chains of dependence by controlling the power of others and protecting us against it.

However, I will suggest, this is a mistake. Insofar as it is true that some sort of problematic domination will inevitably be present in a stateless society, the introduction of a state can do nothing to eliminate it. For the state to improve on even an *ideal* stateless society, it would need to give individuals control over the interference of potential dominators of a sort that could not be achieved in the ideal stateless society. It would not be enough that potential dominators *in fact* track the interests of those they interfere with, because the well-motivated inhabitants of an ideal stateless society do the same. The state would additionally have to give individuals control over potential dominators that is *unconditioned*, i.e. not conditional on the will of the dominators to go along. But, I argue, the state cannot do this.

So, if we are concerned about the avoidance of domination, that gives us at best contingent reason to welcome the existence of the state, given the empirical misfortunes that we face in the world as it actually is. We cannot say, as the neo-republicans would have it, that the best conceivable society would be a state society. And if, in addition, there is something pro tanto regrettable about state enforcement as such (which I will not claim here, but seems to me plausible), it follows that the best world in terms of individual freedom, if only we could get to it, would be a stateless one. This does not mean that we should seek to be rid of the state, but it is important to recognise, I think, that insofar as state enforcement *is* morally justifiable, that is an unfortunate fact.

After describing in rough outline the two contrasting ways of thinking about the relationship between freedom and the state, I will proceed by first setting out an important challenge to the coherence of the ideal of non-domination posed in the recent literature (Simpson, 2017). This challenge, in claiming that domination is unavoidable, state or no state, would, if successful, show that the inevitability of domination in a stateless society does not demonstrate the necessary superiority of state society. Pettit and Frank Lovett (2019) have offered a response to this challenge, but, although it may save the coherence of the ideal of non-domination as such, it does not save the a priori defence of the state (see also Ingham and Lovett, forthcoming). Nevertheless, there *is* a way that republicans could respond to the challenge that might seem to identify a relevant difference between stateless society and state society. I will argue, though, that even interpreted thus, the republican cannot show that the state can improve on the best possible non-state society in terms of non-domination.

Clarifications

There are other, related but different, views that will not be the subject of my discussion here. Notably, it might also be thought that freedom in a society requires a priori that there be some form of collectively-followed rules governing that society. If rules are required a priori for freedom, it does not follow that enforcement is necessary for freedom. By ‘enforcement’ I mean, roughly, the act of intentionally making another person’s alternative options unavailable or ineligible so as to ensure that they will do something, whether or not they want to. It is possible (even if unlikely) for there to be a system of rules that is universally adhered to in a society without these rules being enforced in this sense at all.² (Such a system of rules may be complex and include higher-order sets of rules governing the making and interpretation of rules and establishing procedures or institutions for their application to cases. All of this is possible (at least conceptually; whether or not it is empirically feasible is another question) without enforcement in my sense. A complex and institutionalised system of rules could conceivably be established, universally accepted and adhered to entirely voluntarily, without any mechanism to enforce compliance.³ It is only *enforced*, in my sense,

² I have given a stipulative definition of ‘enforcement’ (although not, I don’t think, an especially idiosyncratic one). There may be a more capacious usage of the term available in English, according to which a larger range of conditions count as *enforcing* a rule or norm (such as the existence of social reactions to nonconformity that create subtle forms of pressure to comply, but without rendering alternatives *ineligible*, so that we can still reasonably say it is *up to you* whether or not to conform). It is possible that, in a broader sense of this kind, it is not possible for there to be a rule without its being enforced in some way. That is not a thought I will deny. Thanks to an anonymous reviewer for drawing my attention to this point (as well as the point that follows in parentheses).

³ To be precise, the possibility of universal adherence without enforcement requires not only that people accept and adhere to the set of rules voluntarily, but also that they do so irrespective of whether others are *forced* to comply. This, though, seems perfectly *conceivable* (whether or not likely). (It is not necessary, though, that people comply voluntarily irrespective of whether others *comply*, if there is some means other than enforcement to provide assurance of the compliance of others.)

when those subjected are *forced* to comply regardless of their will, i.e. left no choice in the matter.) The view that such a system of rules is a priori necessary for freedom is not one that I will assess here.⁴

The view that I want to discuss is the view that *state* enforcement is required a priori for individual freedom in society. A state, let me assume, is a body (an institution or group of people) that claims and exercises an exclusive right to enforce its directives over a certain population. The view is thus that enforcement by an *exclusive* enforcer is necessary for freedom. If we could show simply that enforcement (by some agent) is required a priori for freedom in society, we would have shown something quite significant. However, we would not have demonstrated the necessity of a *state* for freedom. Enforcement of collective rules, or of natural right, could be carried out by a variety of agents, by individuals and non-state groups, and this could be done in a stateless society. We might well doubt that enforcement is required a priori for freedom at all, but that will not be my target here. For the purposes of this paper, then, a stateless society is not necessarily one without enforcement, nor one without governing rules and institutions, but it is one where whatever system of rules is present is not enforced by monopolised violence and the threat of it.

Two ways of thinking about the relation between freedom and the state

On one way of thinking about state enforcement, it is a straightforward *loss* in terms of freedom. States with exclusive enforcement power impose restrictions on our freedom, and their existence makes us *less* free, less free than we would be were there no state. Holders of such a view may nevertheless think that states (or certain states) are *justified*, that their existence can be a good thing, or that they may act permissibly in arrogating to themselves the role of exclusive enforcer. But this will be *despite* their negative effect on freedom. On this view, the existence of a state with exclusive enforcement power is a restriction on freedom that is justified, if at all, in terms of some other value or moral requirement.⁵

One might think, though, that state enforcement can (also) be justified *in terms of freedom alone*. On such a view, the existence of a state is required for the achievement of individual freedom in society, or for the best feasible scenario in terms of individual freedom. State enforcement can represent a gain *in terms of freedom* over the most favoured non-state scenario. Such a view is consistent with state enforcement itself bringing about, or constituting, restrictions on freedom: it must produce *at least* a net gain, if not a pure gain.⁶ A natural, and popular, way of defending such a view argues empirically. According to the Madisonian idea mentioned above, if we were angels, no state would be necessary, but unfortunately we are not angels, and circumstances

⁴ So, given the point made in note 2, the thought that some sort of enforcement, when the term is understood in a broader sense than mine, is an a priori necessity for individual freedom is not one I will question here.

⁵ Some justifications of state enforcement that appeal to values other than freedom include Buchanan (2002), Copp (1999) and Sartorius (1999).

⁶ Thus, adherents of a 'liberal' non-interference conception of freedom (see e.g. Berlin, 1969; Carter, 1999, 2018) could take either the previous view or this one.

are such that we can only feasibly achieve (or maximise) freedom in society with the aid of state enforcement. In an ideal world, perhaps, we would secure freedom for all without a state, but because of certain empirical facts about this world, such an ideal is unrealistic. This view might be defended by something like the following argument (into which various different conceptions of freedom could be substituted):

1. In conditions of material scarcity, human motivation is such that, when left to their own devices, at least some individuals living in a given society will behave in a way that limits the freedom of others.
2. Given conditions of material scarcity and human nature, the only feasible way of adequately protecting the freedom of individuals in a society from this kind of restriction involves the existence of a state with exclusive enforcement power (or, the best feasible regime of protections of individual freedom involves a state with exclusive enforcement power).
3. The loss to freedom involved in the existence of such a state can be less than the gain it represents over the best feasible non-state world.
4. Therefore, the best feasible scenario in terms of individual freedom requires state enforcement.⁷

Such an argument has some plausibility. Whether or not it succeeds, of course, will depend on the truth of its empirical premises. And whether or not it shows that any states are morally justified or morally permitted to enforce will depend on what importance we give to freedom (however understood) relative to other values and moral requirements, as well as on what follows from feasibility claims like the conclusion above for the moral permissibility of a state's actions. Thus, although it will be my contention that we should think about state enforcement in this way, that is not to claim that state enforcement is justifiable.

But, as mentioned, there is a tradition of thought that goes further than this. It holds that state enforcement is required for individual freedom in society not because it is the best feasible way of securing or maximising freedom, but because it is a priori impossible to achieve the kind of freedom we should value without a state. Regardless of empirical facts about human motivation and material scarcity, that is, even in an ideal society of morally perfect individuals with no scarcity, state enforcement is still required to secure or maximise individual freedom.

The version of this view that I will consider here holds that state enforcement is an a priori requirement of freedom as *non-domination*.⁸ I will not attempt to argue for the claim here, but I focus on this conception of

⁷ The Hobbesian view seems to be of this sort (Hobbes, 1996).

⁸ Kantian arguments (see Kant, 1999; Pallikkathayil, 2017; Ripstein, 2009), which I will not discuss directly here, begin from a slightly different idea of freedom, but one which shares the idea that what matters for an individual's freedom is not just what she is able to do or what she is prevented by others from doing, but the relation of her capacity to act to the will or counterfactual power of others. I think similar things can be said about the Kantian arguments to what I will say here about the non-domination view. (The *primary* part of Kant's *Doctrine of Right* is, I think, in fact an argument for the necessity of a *system of rules* (an omnilateral lawgiver), but it also contains, at least on recent interpretations (Pallikkathayil, 2017; Ripstein, 2009), an argument for a state, in my sense of an exclusive enforcer. I am inclined to think

freedom because I think it provides the most plausible basis for this kind of a priori argument. It identifies something that might reasonably be thought lacking even in the best conceivable stateless society. A number of neo-republican thinkers have defended a counterfactual conception of freedom, according to which your freedom depends not only on what you are able to do, or what others interfere to prevent you from doing, but also on what others have the counterfactual *capacity* to prevent you from doing (see, for instance, Lovett, 2010; Maynor, 2003; Pettit, 1997, 2012, 2014; Spitz, 1995). On this view, the kind of freedom we ought to be exercised about is freedom from *domination* by another will, where, as Pettit states it, a person, A, is dominated by an agent, B, ‘to the extent that B has a power of interfering in [A’s choice] that is not itself controlled by A’ (2012: 50).⁹ What matters for A’s freedom as non-domination is not whether anyone in fact does interfere in her choices, but whether anyone has an uncontrolled *power* to interfere in her choices. Further, as Pettit states the view, this condition of non-domination is equivalent to the possession of a certain kind of *status*, the status of an independent member of society (a ‘*liber*’ in the Latin phrase). Thus, he says, ‘to enjoy the relevant freedom of non-domination is to be someone who commands a certain standing amongst your fellows’ (2012: 91).¹⁰ To have this kind of standing is to avoid being subject to the uncontrolled power of interference of any other.

This ideal is one with natural appeal. The paradigmatic case of domination is the relation of slave to master. There does seem to be a distinctive and serious social ill that is independent of the actual interference that the slave suffers.¹¹ To be dependent on the caprice or whims of another is to be subordinated in a morally troubling way. But once we accept a concern with non-domination, we may notice an apparent problem posed by social life. It is this problem that exercises republicans like Pettit and leads to their wholehearted embrace of state enforcement. If a group of humans living together in society are left to their own devices (in other words, if we consider a society without any special institutions or devices designed to prevent domination), relations of domination seem inevitable. People within a standard range of physical powers have the capacity to interfere with one another, and thus, however they are disposed to act, when they come

that these two parts of the argument are separable, although its proponents may disagree. Thanks to an anonymous reviewer for highlighting this.)

⁹ In previous formulations of his view, Pettit characterised domination as a capacity for *arbitrary* (rather than uncontrolled) interference (see Pettit, 1997: 22-6). For another version, see Lovett (2010: 120), and for a related but different account see List and Valentini (2016).

¹⁰ Pettit suggests that this concern is present in the republican tradition; Spitz (1995) and Maynor (2003) use language that suggests a similar concern.

¹¹ It is unclear whether this ill is really best cast as a kind of *unfreedom*. Defenders of a ‘liberal’ conception of freedom have contested that claim (see, for instance, Carter, 2009; Kramer, 2009). The defenders of the liberal conception may want to claim, further, that there is no distinctive ideal of non-domination at all. It seems to me that, even if they are right that *most* cases of domination will be ones where the range of compossible actions available to the dominated party is reduced, what is troubling about domination does not depend on it being so; if the dominator’s propensity to intervene is not responsive to the choices of the dominated party but instead on unpredictable changes of heart or mood, the domination seems similarly troubling.

together in society, they become dependent on each other's decisions to refrain from interference, and so, they become dominated by one another.

This realisation plays a similar role to state of nature stories told by social contract theorists. Like those, it provides the basis for a defence of the state as providing a good (or protecting against a bad) unavailable in stateless societies. Social contract theorists, though, tend to rely on empirical claims about human motivation and how we would expect creatures with such motivations to behave in the absence of a state. The state is thus justified because we have good empirical grounds to expect a society without such an institution to be a disastrous one. But the problem noticed above (the inevitability of domination) does not depend on any empirical facts about human motivation or external circumstances. Given that humans are creatures with potentially threatening physical powers, it just follows straight from the ideal of non-domination that a 'natural' social condition will be characterised by relations of domination. Thus, some republican writers have concluded that a stronger claim can be made in favour of the state than that made by social contract theorists. If state enforcement can serve to eliminate (or reduce) domination, and if it is the only sort of social institution that could do that, the value of the state is not contingent on humans being motivated in a certain way, it holds for any possible social condition formed by creatures with human-like physical powers. In other words, the state can represent an improvement (in terms of non-domination at least) on even the best conceivable stateless society. Thus, for instance, Jean-Fabien Spitz suggests that the protection of law and state coercion are 'analytically tied to the very concept of freedom' (1995: 188, my translation). It should be clear that two things must be shown to make good on this claim: first, that state enforcement *can* eliminate or reduce domination, and second, that there is no possible non-state mechanism for doing the same. My claim in this paper will be that the state cannot protect against domination in a way that could not be matched in even the ideal stateless society.

I will focus on the version of the argument put forward by Philip Pettit because, although it is an argument he makes fairly briefly and on which he does not put too much weight, his is a prominent and well-developed account of freedom as non-domination and the republican state.¹² Regardless of how central Pettit considers the a priori argument to his overall project, it is important to assess its merits because, first, it has significant appeal, and second, it has substantial consequences for how we think about and treat state enforcement. It leads Pettit to the conclusion that the state (at least if structured in a sufficiently republican way) is not something to be treated with suspicion and regret but rather as essentially central to a good social life, as 'the source of a great and otherwise unavailable good' (2012: 181), and these are ideas that recur in the republican literature. But, if we reject this thought, we will have reason to think quite differently about the states within which we are bound to live. If this freedom-related value of the state is contingent on empirical facts about

¹² The argument appears as a supplement to the main argument in chapter 3 of Pettit (2012: 181). That book also contains an empirical argument for the necessity of the state, as does his (1997: 94), to which I will not here object.

human motivation (perhaps coupled with certain material conditions), the fact that we need the state for the protection of freedom (if we do) is a feature of unfortunate circumstances that ideally we might transcend. So it is worth seeing if the a priori argument can be made to stand up.

Pettit's argument, then, is that full status freedom (or non-domination) would not be achieved in the most favoured stateless society in a way that it could be achieved with the addition of a state. The ideal stateless society, as Pettit imagines it, is one populated by morally motivated people who are committed to showing respect and concern for others. This, he says, commits them to not interfering with others' basic liberties and to providing resources required for their realisation. His argument does not turn on empirical claims about external circumstances, so we can presumably also assume favourable external circumstances, such as the absence of material scarcity. However, even despite this, people's status freedom would not be fully assured in this ideal stateless society:

Were people moral in the degree imagined, then the more wealthy and powerful would be disposed not to interfere with others and not to allow others to go without needed resources. But their acting on that disposition would depend on their continuing to embrace and abide by the requirements of the assumed morality... In such a world, therefore, some members would have to depend on the goodwill of others for enjoying the basic liberties. (Pettit, 2012: 182)

Thus, the addition of state enforcement could provide something unavailable in an ideal stateless society: it could make each member of society independent of the will of others. The threat of enforcement, even if not necessary to ensure compliance with just laws, removes *choice* about whether to show respect and concern for others. The addition of a state need not change anything about people's actual behaviour, nor need its enforcement involve any actual use of force, but the counterfactual enforcement that it establishes gives people a kind of status freedom that was impossible before.

I will argue below that Pettit is wrong to think that a good state would represent an improvement in terms of non-domination on even the ideal stateless society, but before I do so, there is an important challenge to the coherence of non-domination as an ideal that we should consider.

The possibility of republican freedom

Thomas Simpson has recently argued that there will *always* be domination of the sort that Pettit is concerned with, and so that republican freedom is *impossible* (Simpson, 2017). The republican view is that the domination relations that are inevitable in a 'natural' social condition can be eliminated or reduced by a properly republican state. But Simpson's claim is that domination will always be rife, state or no state. He argues that it is possible to be dominated by an uncoordinated collection of agents with the power to interfere. Nothing can protect you from potential dominators (like the state) except other people, who will have the uncontrolled capacity to coordinate to interfere, and so dominate you.

As Pettit himself thinks, although the state might protect against the sort of domination that there would be in a state of nature, its subjects need to be protected from it (so as not to be dominated by it). The only way they can be, on Pettit's view, is by the capacity of the people to resist the state. But if the people have this capacity, they must also have the uncontrolled power to interfere with any individual subject of the state, Simpson thinks. Thus, although Pettit is right (on Simpson's view) that there will always be domination in a stateless society, what this misses is that there will always be domination in a state society as well. This, if right, provides an easy way to reject Pettit's a priori argument. There is no reason to suppose that the domination inevitable in a state society is less significant or somehow preferable from the point of view of freedom to the domination that there would be in a stateless society. I think Simpson gets quite a lot right, but I think that in the end his argument does not quite suffice to reject the a priori argument. I will very briefly run through the important insights of Simpson's argument, and then I will suggest that the response that Lovett and Pettit have recently offered (2019), whether or not it successfully defends the ideal of republican freedom against the charge of incoherence, will not do to save the a priori argument. However, I think there is a way of interpreting the ideal (which is suggested by some language used by republican writers) that is not vulnerable to Simpson's arguments. I will take this interpretation of the ideal, then, as the most plausible basis for the a priori argument (whether or not Pettit intended the argument this way).

Key to Simpson's conclusion is his argument that *polyadic* domination is possible, i.e. that it is possible for uncoordinated groups (that do not meet the conditions for group agency, if there is such a thing) to dominate by virtue of having the *potential* for joint action. First, he argues that it is possible for collections of individuals (groups that do not constitute enduring group agents) to have the *power* to interfere jointly. That such groups can have the power to act jointly is illustrated by the case of 'holidaymakers on a beach, who form a chain to pull a swimmer out of difficulty' (Simpson, 2017: 37). They have the power to rescue the swimmer *together*, 'even though – because the chain is not yet formed – no individual does' (Simpson, 2017: 38). Further, he argues, when a collection of individuals has the joint power to interfere, it is implausible to say that it could not be dominating: 'Interference by a group is just as worrisome, perhaps more so, as interference by an individual. A group of agents may be less likely to interfere, but it is unclear why their collective capacity to do so at will should not compromise my freedom in the same way that an individual's capacity does' (Simpson, 2017: 42). We have just the same sorts of reasons to ingratiate ourselves with the group, and so on. If this is right, then since groups of citizens of a state that have the power to control the state must also have the power to interfere with individuals, it follows that in a state that is not *itself* dominating, individuals will be polyadically dominated by potential groups of fellow citizens.

Lovett and Pettit's republican response

Lovett and Pettit have responded to this challenge by arguing that the domination of a potentially coordinated collective depends on the collective's having the *capacity* to interfere, and that a suitably 'resistive' people can have the capacity to control the state without having the capacity to interfere arbitrarily with any individual (2019; see also Ingham and Lovett (forthcoming)). Thus, they think, domination can be eliminated (or reduced) when a republican state is controlled by its subjects. They accept Simpson's claim that polyadic domination is possible, but focus attention on the requirement that the dominating agent or collection of agents have the *capacity* to interfere. Simpson's argument depends on the thought that uncoordinated groups of individuals have such a capacity, but Lovett and Simpson deny that this is true as a general matter. Such uncoordinated groups *can* have a capacity to interfere, but do not have this capacity automatically. To have the kind of capacity to interfere that would render a potential group actor dominating, they say, the uncoordinated group 'must be poised to interfere ... should they wish to do so' (Lovett and Pettit, 2019: 377). For an uncoordinated group to act together (i.e. to act on their potential) requires that three conditions be satisfied: 'first, they must each desire that they together interfere; second, they must be aware in common of their mutual desire; and, third, they must be aware in common of a strategy whereby they can act on that desire' (Lovett and Pettit, 2019: 377). So, for such a group to be 'poised to interfere', for it to have the capacity for interference, requires that there be mutual awareness and strategy 'in such a way that did they [the potential members of an uncoordinated group actor] form a shared wish to act together against A, they would be aware in common of that desire and of a strategy for satisfying it or, at the least, of a strategy for getting together to form such a strategy' (Lovett and Pettit, 2019: 378). With the shared desire alone, without the common awareness and common strategy, an uncoordinated group cannot genuinely be said to have the capacity to interfere, and there is no reason for fear and deference. Thus, there is no domination.

It *is* possible, then, for domination to be eliminated (or at least reduced) if the state can make it difficult for groups of individuals to coordinate to interfere with one another without removing the ability of the people to control the state. On the republican view, there are strategies available to a state for inhibiting cooperation among its members. Further, Lovett and Pettit argue, the people can have the right sort of ability for coordinated control of their state 'insofar as it is a matter of common awareness in the society that should the government act abusively, then any individual protester or a group of protestors may expect to have the active or passive backing of many others in pursuing the protest' (2019: 381). This condition will be met, they think, in democracies with traditions of contestation, and where institutions and norms protect against government intimidation and citizen indifference. That people are poised to act to resist government abuse does not, though, mean that they are also equivalently poised (possess the requisite common awareness and strategy) to interfere with individuals.

There is more to be said about this. It is not clear that it really is possible for a people to have the kinds of common awareness of commitment to the general good and strategies for pursuing collective control needed to adequately control the state without also having the *counterfactual ability* to turn these to use for more nefarious ends. If the people are poised to act against an unconstitutional government, on Lovett and Pettit's account it will be 'a matter of common awareness that protesters against such a government are likely to be backed by others and ... [there will be] civic groups with the capacity to organize strategies of resistance' (2019: 382). Such a common awareness will presumably be an awareness of a shared commitment to a constitutional republican form of government that adequately tracks the interests of the people as a whole. But the requirements of such a commitment will always be open to interpretation (and there may be disagreements within the people about what it involves). It is presumably in the nature of such popular control of government that it is subject to no further checks. There can be no further institution that ensures that the people's willingness to resist reliably tracks the interests of the people as a whole rather than some subsection of it, for if there were such an institution it would be a potential dominator that in turn would need to be controlled by the people. So if there were a common commitment to resisting abuses of government power as well as strategies for its organisation, it is hard to see what mechanisms could prevent the awareness of a common willingness to resist and the availability of strategies for doing so from persisting across changes in popular interpretation of the requirements of good republican government. And so, even if a people as a matter of fact 'gets things right' (so to speak), and is committed to ensuring government tracks the shared interests of all, it is hard to see that the popular ability to control government could be restricted to interventions that genuinely do track the interests of all in a way that is counterfactually robust across changes in popular interpretation. If the people were to adopt a mistaken interpretation of good republican government that allows, for instance, for the unjust targeting of a minority group, there seems little reason to think that their capacity to intervene in its name would not persist.

These questions deserve more thought, but I will not pursue the issue further here. Below, I will argue that, even if we accept Lovett and Pettit's claim, the kind of control the people can have over the state offers no improvement in terms of non-domination over the ideal stateless society. First, though, I want to suggest that there is another way of responding to Simpson's challenge. If we give the ideal of non-domination what I think is anyway its strongest interpretation, the challenge can be answered. Thus, even though I am dubious about Lovett and Pettit's response to it, I do not think Simpson's challenge on its own offers a way of rejecting the a priori argument.

Status freedom

I believe that there are good reasons to think that the kind of instances of domination that are morally problematic, or that we ought to be concerned to eliminate, are only a subset of the instances of domination

tout court. Some of what Pettit himself says suggests this view, although other things he says suggest a different interpretation (including the fact that he does not offer this as a response to Simpson). I am thus unsure whether this is the right interpretation of Pettit himself, or of other republicans. But regardless, I think it is the most plausible interpretation of the ideal of non-domination, and it offers a good response to Simpson's challenge. Thus, I do not think we yet have a reply to the a priori argument, since it might be that the *problematic* kind of domination is ineliminable from the ideal stateless society, but can be remedied by the introduction of a state. We can see this way out if we take seriously Pettit's claim, mentioned above, that 'to enjoy the relevant freedom of non-domination is to be someone who commands a certain standing amongst your fellows' (2012: 91). This is what is meant by 'status freedom'. On a plausible interpretation, the idea is that the status freedom that matters is freedom from subjection to *asymmetrical* domination relations with others.¹³ When whatever domination one suffers at the hands of others is perfectly matched by exactly equivalent domination they suffer at your hands, we may still say that one's 'standing' or 'status' is that of a free person.¹⁴

Free persons, those who have status freedom, says Pettit, 'can walk tall, and look others in the eye. They do not depend on anyone's grace or favour for being able to choose their mode of life' (Pettit, 2012: 82). It seems plausible that this condition will be met, and all members of society will have status freedom in as full a sense as possible when all domination or dependence on the good-will of others is fully symmetrical. If, on the other hand, you are dominated by another in a way that you cannot match, your status is in some sense *inferior* to theirs. This, it might be thought, is the true or troubling kind of unfreedom. Status freedom in this sense is bound up with status equality. For all to have status freedom is for there to be status equality. It is only possible for nobody to have inferior status if all have equal status.

Understanding non-domination in this way seems like a natural way of understanding the ideal. A concern with non-domination is not merely a concern with our counterfactually robust ability to pursue our own choices. The existence of possibilities of landslides or earthquakes affects the robustness of our ability to pursue our choices, but is not dominating. It seems to matter that the power to interfere is held by another agent with a *will*. But it is unclear why we should be so concerned about being dependent on the will of another unless it is a concern about equality or status. If we are not concerned with the sphere of robustly uninterfered choice per se, then why be concerned with restrictions to that sphere imposed by others unless it is a concern for inferior status? Ordinary examples of domination are all examples of asymmetrical

¹³ There is some evidence, though, that Pettit (1997) does not understand non-domination as an egalitarian ideal in this way (see pg. 112). It is possible that he has modified his view in this direction (2012), or that this is not his view at all.

¹⁴ There is some suggestion of such a concern with inequality (asymmetrical domination) also in other modern republican thinkers. Spitz for instance describes the privation of liberty as exposure 'to the caprice of others *without the relation being reversible*' (my translation and emphasis) (1995: 194); Lovett requires an '*imbalance of power*' (2010: 120); and Maynor (2003: ch. 2) uses language that suggests a concern with inequality.

domination, relationships of superior to inferior (master/slave and so on). Indeed, relationships of dependence are characteristic of social life, and it seems misguided (not to mention quixotic) to try to eliminate these. What we *might* hope to rid ourselves of are relationships of *asymmetrical* domination.¹⁵

If what matters is *status* freedom, and thus status *equality*, then it may still be that republican freedom (of the sort that matters) *is* possible, contra Simpson. If the only sort of domination present is that among potential coordinated groups among, say, the people who keep checks on the state, there will only be troubling (asymmetrical) domination if there are differences in the capacity to interfere among the members of this group. If all individuals had equivalent capacities (which is not impossible) domination would be fully symmetrical. Though of course A would be dominated polyadically by the potential group of B, C and D in a way that the potential group of B, C and D would not be dominated by A, A's dependence on each individual as part of a potential group would be exactly matched by that individual's dependence on A as part of an equivalent potential group involving A. Perhaps, then, the trouble with the ideal stateless society is that it involves *asymmetrical* domination, and perhaps this *asymmetrical* domination could be removed by the introduction of a state. If the state's capacity to interfere were fully controlled by its citizen body, then it could succeed in removing asymmetrical domination if it can neutralise asymmetries in power *among* the citizen body. Let us see, then, whether the case can be made that there would be asymmetrical domination in the ideal stateless society of the sort that a state could eliminate.

Domination in the ideal stateless society

First, it is worth pointing out that a stateless society without any asymmetrical domination is *possible*. If the ideal stateless society (characterised by perfect moral motivations) were coupled with the absence of natural inequalities in power, there would be no asymmetrical domination. Part of the plausibility of Pettit's claim that some would be dominated by others rests on there being differences of wealth and power. However, if avoiding domination is a requirement of justice or morality, then ideal morally motivated agents ought to agree on and abide by a set of rules that, so far as is possible, rules out relations of domination. (Property accumulation and powers and privileges associated with offices or positions can only make sense against the background of a set of rules defining property rights and conferring powers, so if for some reason there could be no common set of rules, there would be no non-natural inequalities.) Thus, the inhabitants of the ideal stateless society ought to agree on rules that rule out inequalities of wealth and power sufficient to make domination possible (and there is no obvious reason to think such rules impossible). So, in an ideal stateless society with no natural inequalities, there would be no asymmetrical domination. Of course, there would be

¹⁵ Relationships of asymmetrical dependence are *also* characteristic of social life, and to say we should rid ourselves of them entirely seems too simplistic. But it is at least more plausible as a starting point than the idea that we should work to eliminate all relations of domination tout court.

domination: in the ideal stateless society people still *could* interfere, and so in this sense everybody is dependent on the wills of others. But all such domination would be fully symmetrical.

But natural inequalities are a fact of life, and the a priori argument may not be intended to claim that no *conceivable* stateless society could be free of troubling domination. It might instead claim that, given the natural powers of human beings (and the inevitable inequality thereof), we can know a priori that no possible stateless society could be free of morally problematic status unfreedom. This claim, though not fully a priori, is still independent of any empirical facts about human motivation.

In fact, there is another possible source of asymmetrical domination that does not depend on socially-constructed inequalities. If there are such things as *group agents*, corporate groups with a structure giving them the sort of unity that allows them to have and express attitudes, to set and pursue purposes, or to fulfil whatever conditions are necessary for a group to be a genuine agent with a singular will. If such group agents exist, because they have a will they will be potential dominators. And one could in principle think that it is a good thing that there be such group agents, perhaps because participation in such a group agent is a part of a good human life, in which case we would not expect members of an ideal stateless society to take measures to eliminate them. *Groups* of individuals will obviously be more powerful collectively than any individual. Thus, the presence of group agents also creates asymmetrical domination. If we assume the existence of natural inequalities and/or group agents as background, then, can we show that even the best possible stateless society would be characterised by a morally problematic kind of domination that the introduction of a state could reduce or eliminate?

It is certainly true that, even though in an ideal stateless society no agents, however powerful, will *in fact* interfere with others, the mere existence of natural inequalities or group agents creates asymmetrical domination. Even if it will not be exercised, a group agent or naturally powerful individual automatically has a capacity to interfere in the choices of less powerful individuals which those individuals have no recourse against. But can the introduction of a state improve matters?

The state can eliminate *some* asymmetrical domination. It may use its enforcement power to remove the uncontrolled capacity to interfere of all group agents and naturally powerful individuals existing within its jurisdiction. It cannot make powerful agents' interference any more *predictively* unlikely, since in the ideal stateless society it is already the case that all agents are perfectly morally motivated, and so they will not in fact interfere against another agent's will. However, the state can either *control* their capacity to interfere by attaching sanctions to transgressions, which on Pettit's view suffices to make it non-dominating, or remove the capacity altogether.

However, there remains one group agent whose capacity to interfere the state cannot control. That is the state itself. Pettit is committed to the state being an agent (2012; cf. List and Pettit, 2011). Indeed, for anyone who

holds that the freedom that matters is some sort of independence of the *will* of others, it will not be a plausible line of defence to maintain that the state is not an agent and so incapable of dominating. This would have the consequence that *no* properly constituted state could possibly dominate or limit the freedom of its subjects (or others), which surely is unacceptable. Thus, let us assume, as Pettit does, that the state's superior capacity to interfere in the choices of its citizens, which it must have if it possesses exclusive enforcement power, is potentially dominating. Unless, that is, this capacity is suitably *controlled* by its citizens. If it *is* possible for the citizens to achieve suitable control of the state (and as we saw before, Pettit thinks it is), then *asymmetrical* domination could be eliminated. A good state, we can suppose, could equalise the power of agents in society, such that if Simpson is right that it follows from a people's controlling its state that its members polyadically dominate each other, then that polyadic domination will be fully symmetrical. If citizens have *individualised*, *unconditioned* and *efficacious* control of the interference power of the state, Pettit argues, then it does not dominate them. Is it, then, possible for a democratic state to be suitably controlled in this way, and in a way that the domination inherent in a stateless society could not be controlled?

The requirement of *unconditioned* control is particularly important for the purpose of marking the difference between the ideal stateless society and the democratic state (i.e. for showing that the state can be an improvement). Influence over the behaviour of an agent is not adequate for control if this influence is conditional on the good-will of either the influenced agent or some other agent (Pettit, 2012: 59-64, 170-4).

In the ideal stateless society, because all agents are perfectly morally motivated, they will not interfere in the choices of other agents in ways not accepted by those agents. However, individual agents are still dominated in Pettit's terms by collective agents and naturally powerful individuals because their influence on the powerful agents' interference in their choices is entirely conditional on the good-will of those agents. Thus, because individuals in the ideal stateless society do not have *unconditioned* control over powerful agents, there is domination. It is essential, then, for the introduction of the state to count as an improvement, that its capacity to interfere be controlled *unconditionally* by its citizens.

How does Pettit think citizens of a democratic state can come to have *unconditioned* control of its actions? Popular influence, he answers, has to impose an equally acceptable direction on government 'independently of the willingness of government to go along and independently of the willingness of any other agency to have the government go along' (Pettit, 2012: 172). It has to be the case that if the state wanted to do otherwise it *could not*, or that there would be heavy costs associated with doing otherwise. It is not sufficient for control that the controlled agent's compliance be made *improbable*. How can citizens of a state get the sort of control where non-compliance with their democratic direction is not merely improbable, but ineligible (or sufficiently costly) for the state?

There are many ways in which constitutional and institutional design can make state usurpation of control *improbable*. Republicans discuss in detail constitutional mechanisms that can make it difficult for state officials to exercise discretion and abuse the powers of the state (e.g. Pettit, 1997: chs. 6 and 7). The dispersal of power, for instance, can reduce the degree to which subjects of a state are dependent on the will of any one official (Pettit, 1997: 177). Counter-majoritarian constitutional constraints can eliminate or reduce dependence on the will of a persistent majority (Pettit, 1997: 180-1). But what is needed is a way to control the interference power of *the state* as group agent. These sorts of constitutional measures may succeed in adequately reducing or removing the capacity of individual state officials to manipulate power to their own ends, so that subjects are no longer dominated by the individuals wielding state power. But they cannot reduce the capacity of the *state* to interfere with individual members or minority groups according to the state's group will. Unlike the uncoordinated groups of subjects that Simpson discusses, the collection of state officials or members that constitutes the state *does* possess mechanisms and strategies for coordinating its group action, so that *if* a sufficiently large proportion of the relevant officials (or members) were to coincide on a desire to persecute some individual or group, they would be able to do so. Dispersal of power makes such coincidence unlikely, but this amounts to its being unlikely that the state would want to interfere, not that it would do so if it did so desire. Counter-majoritarian constraints also only affect likelihood: there will always be a sufficiently large proportion of a state's officials or members that could, if they decided to, override or remove such constraints.

These sorts of internal structural features of a state, then, can make it improbable that the state will want to interfere against its subjects' interests, but we need more than that: it is similarly unlikely that any agents in the ideal stateless society would have such a desire. Such features of internal institutional design (while they protect against the *usurpation* of state power by officials) cannot *prevent* the *state* from interfering arbitrarily, nor make it particularly costly.¹⁶ They cannot protect against *the state itself*. And if the state is *constituted* by the same group of people that it governs, that does not alleviate the problem: it is perfectly possible, as an individual, to be dominated by (and to require protection against) a group of which you are a member.¹⁷

There seems every reason to think that the counterfactual capacity for interference of a group like the state (which is already constituted as a persisting group with internal coordination mechanisms) is just as troubling as a similar capacity of an individual. And the fact that this group agent is internally structured so as to make it *unlikely* to interfere is no improvement on powerful dominating individuals (or groups) in an ideal stateless society, since they, for other reasons, are equally *unlikely* to interfere in problematic ways. What matters, on

¹⁶ The fact that these measures reduce the likelihood of arbitrary state interference seem to improve our relations not only with officials but also with the state itself. But if that is so, it seems to show that Pettit's ideal of nondomination is not all we care about in this context. We do also care about how likely other agents *in fact* are to interfere with us.

¹⁷ Versions of this point are, I think, familiar at least since Mill (2015, 7ff.).

the neo-republican account, is that there are no *external* constraints *preventing* them from interfering *if they wanted to*. (Although constitutional constraints can make it unlikely that the state, as group agent, will form the will to interfere arbitrarily with its subjects, no republican constitution can make it *impossible* for a majority to steer a state's group will toward the oppression of a minority.) I think Pettit is sensitive to this, and for this reason he argues that the capacity to interfere that the state does have can be *controlled* by its subjects. What is supposed to make state society different from ideal stateless society, then, is not that there are no agents with the power to dominate, but that the potential dominator (the state) is *controlled* by those at risk of domination (its subjects).

Pettit says that the people can have the necessary sort of robust control when there is 'a disposition of people to rise up in the face of a government abuse of legitimacy and a disposition of government to back down in response to the fact or prospect of such opposition' (2012: 173). However, it seems a mistake to think that the sort of control that people can have by virtue of the threat of resistance allows the state to be non-dominating in a way that powerful agents in the ideal stateless society are not. In other words, individuals in a stateless society can have just the same sort of control over potential dominators there. If this sort of control is sufficient to alleviate concerning domination, then the problem in the ideal stateless society that the state was supposed to solve goes away.

The state has a capacity to interfere in the choices of each individual subject that is uncontrolled by that individual. The individual can (in a democratic state) exercise some influence over the direction taken by the state, but that influence is not unconditioned. There is nothing the individual can do to ensure that the state has *no choice* but to take account of her influence, except in concert with a large number of others. If the state were to decide to persecute, disenfranchise or interfere arbitrarily with one or two individuals, there is nothing those individuals could do to prevent it, except with the aid of a large number of their fellow citizens. If agent A has the capacity to interfere in the choices of another agent B and B has no control over that capacity so long as a third agent C (or group of agents C, D, E...) are willing to allow A to interfere with B, B seems to be just as dominated (or lacking in status freedom) as in Pettit's ordinary case of domination. Certainly, B is not plausibly able to walk tall and look A in the eye. (If a minority group can control the interference of the state, but only conditional on the willingness of the majority to resist on their behalf, it certainly does not look like domination is eliminated.)

Whether or not we want to say B is problematically dominated in such a case, the state in a 'resistive' society (to borrow Pettit's phrase) is not any more controlled by its citizens than powerful agents are in an ideal stateless society. Powerful agents in the ideal stateless society dominate individuals in that society because they have the uncontrolled and unreciprocated power to interfere in the choices of individuals. The same is true of the state. As noted above, no individual has the capacity to remove the state's option of ignoring their

influence. The individual *can* control the state's capacity to interfere in concert with others. But the same is true of individuals with respect to groups or naturally powerful individuals in the ideal stateless society. If others are willing to support an individual in resisting the interference of some powerful agent, they will together be able to prevent it from doing so. No agents in the ideal stateless society have the uncontrolled capacity to interfere with the entire society.

Thus, even though stateless societies, including ideal ones, in which there are natural inequalities and/or group agents, must necessarily be characterised by asymmetrical domination, there must also be asymmetrical domination in state societies. The a priori argument claims that a good state can improve on even the ideal stateless society because the domination introduced by the state can in turn be controlled by its subjects. But there seems no reason to think that the subjects of a state can control it in any way better than the control that can be achieved over potential dominators in an ideal stateless society. It should be clear also that even if Pettit and Lovett are right that members of a people that control their state through being poised to resist do not polyadically dominate each other, this will not help the a priori argument. It would answer Simpson's challenge, but insofar as the people do have the capacity to resist state abuses of power in virtue of having common awareness of a readiness to resist and coordination strategies, equivalent capacities will be possessed by people in ideal stateless societies. In an ideal stateless society, because all are perfectly morally motivated, it *will* be common knowledge that people will resist arbitrary interferences by powerful individuals or groups, and there is no reason that members of such a society could not develop strategies ready for resistance in the case of any such interference. Thus, it is hard to see how a citizen-controlled republican state could be an improvement on even an ideal stateless society.¹⁸

Conclusion

The argument I have discussed claimed that it can be shown a priori that a good state society will achieve an important freedom-related good that could not possibly be achieved by any stateless society characterised by natural inequalities. The strategy for showing this was to argue that even the *ideal* stateless society would be

¹⁸ It is worth mentioning at this point that, at least on one interpretation (see Pallikkathayil, 2017), the Kantian version is very similar to the republican argument, but would resist at this point, claiming that, contra Pettit, dependence on the will of the state is not a problematic form of dependence as it is dependence on an 'omnilateral' will and only dependence on another's *unilateral* will is a form of unfreedom. I am very sceptical about the idea that dependence on an omnilateral will (if we can even make good sense of that idea) is any less troubling than subjection to a unilateral will. But, setting that aside, it does not seem that there would be any dependence on the unilateral wills of others in an ideal stateless society of a kind that would not also be present in an ideal state. In a state, we are dependent on the unilateral wills of officers of the state, who could ignore the directions of the 'omnilateral' will and abuse their power. This might be thought unproblematic, as this kind of deviance is made quite unlikely in a well-ordered state by other officials and citizens given the power to check abuses. But in exactly the same way, in the ideal stateless society, deviance from the rules by any individual will be unlikely to succeed or to have much impact because other members of society will be committed to the rules, and so counterfactually committed to ensuring any deviation, were it to occur, would not be allowed to have an effect.

characterised by a morally problematic sort of unfreedom that could be remedied by a state. This argument, though, is unsuccessful. The only kinds of potentially troubling unfreedom that must necessarily persist in an ideal stateless society cannot be eliminated by a state.

I have not surveyed all existing or possible attempts to link freedom and state enforcement a priori. But the argument I have rejected is, in my view, the most plausible and intuitively appealing way to make that connection. Thus, I think, I have gone some way here to supporting the rejection of the a priori view and thereby defending an empirical way of thinking about the relation between state enforcement and freedom. There is intuitive appeal to the idea that the avoidance of domination is something that matters morally, but insofar as state enforcement is a useful tool to that end, it is because of the empirically contingent misfortunes that we face.

One thing that this shows, if correct, is that there may be an ordinary sense in which the *ideal* society (in terms of freedom at least) would be a stateless one. I have shown that the ideal stateless society is *no worse* in terms of domination or status unfreedom than the best state society, but if, as does not seem implausible, there is also something regrettable about the existence of a state with exclusive enforcement power as such, then the best possible society (in terms of freedom) would be a stateless one. If that is true, we may still be reluctant to describe the state as ‘non-ideal’. If the ‘ideal’ is something like a Rawlsian ‘realistic utopia’, then whether or not the ideal is a stateless society will depend on how *realistic* a good stateless society is. But, if the state is valuable for its promotion of individual freedom in society, that is an unfortunate (and contingent) fact. It should be stressed that this is not to say that we would be better off if we dismantled the state, nor that we would be likely to achieve a valuable sort of freedom without one. (It is also worth emphasising that this discussion has been only about the relation between state enforcement and individual freedom; there are, of course, other important values that we should be concerned for our social order to realise, and which may in numerous cases justify restrictions on freedom.) Nevertheless, it is worth bearing in mind that insofar as the state does contribute positively to our freedom, this is the result of empirical obstacles to better alternatives, not a necessary feature of social relations. Unlike the republicans, we *should* treat state enforcement with some ambivalence. It may be better (at least in terms of freedom) if we could do without it, and so it is worth considering whether there *are* any realistic opportunities for doing so, and whether, and in what ways, it might be good to approximate to a stateless society.¹⁹ We should be vigilant not only about abuses of state power by individual officials, but also about state enforcement power in general.

¹⁹ But on the dangers of attempting to approximate to an ideal, see for instance Goodin (1995, 2012), Estlund (forthcoming) and Wiens (2016).

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