
REPUBLICANISM AND STRUCTURAL DOMINATION

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Abstract: What is domination? According to a leading strand of republican political philosophy, a person is dominated when under the unconstrained power of another. Call this the dyadic conception of domination, because it involves a two-person relation. I argue that domination is better understood structurally. Structural domination is domination by institutions. Rather than a master dominating a slave and a boss dominating a worker (as in dyadic domination), structural domination holds that the institution of slavery dominates the slave and labor law dominates the worker. Without the structural conception, I contend, one misdescribes the power dynamics of paradigm cases of domination.

1. Forms of domination: Dyadic and structural

What is domination? According to a leading strand of republican political philosophy, a person is dominated if she is subject to the unconstrained power of another – that is, if she is under the thumb of a particular individual who can act in ways that disregard her interests.¹ Historically, the paradigm case of domination is the slave in relation to the master. Modern paradigm cases include the wife whose husband can assault her with impunity, and the employee who cannot raise a complaint against her employer without threat of termination. Call this the dyadic conception of domination, because it locates domination in a relation between two persons.² Republicans who hold this conception of domination (hereafter, dyadic republicans) argue that states ought to protect individuals from person-to-person domination relationships. The freedom of ‘not having to live under the potentially

harmful power of another,' writes one prominent dyadic republican, should be 'the primary concern of the state.'³

At first glance, dyadic republicanism is normatively appealing. Clear cases of domination do seem to be ones in which one person can force another to do something against her will. Moreover, dyadic republicans' methodological strategy for doing normative political theory is laudable. They begin with an idea that can garner widespread support from within a variety of reasonable political perspectives – namely, that it is bad to live at the mercy of others. From this ecumenical starting point, they develop a theory of the forms of state intervention necessary to prevent this bad outcome.⁴ By focusing attention on obvious imbalances of power, dyadic republicanism aims to be practically feasible.⁵

But, despite dyadic republicanism's attractive features, the view does not adequately explain the forms of domination that motivate republican theorizing (call these the paradigm cases). I contend that the paradigm cases are better understood structurally, not dyadically. As we have seen, dyadic domination is the domination of one individual by another individual. Structural domination – a more abstract, less intuitive concept – is domination by social, economic, and legal institutions that both enable and are sustained by instances of dyadic domination. When domination is understood dyadically, a master dominates a slave, a husband dominates a wife, and a boss dominates a worker. When domination is understood structurally, the institution of slavery dominates the slave, patriarchy dominates the wife, and labor law dominates the worker.

Without further clarification, however, to argue that structures or institutions dominate will strike some as unhelpful personification. After all, the definition of 'dominate' – 'to bear rule over, control, sway' – suggests an agent who intentionally acts on another.⁶ On the view I develop below, to hold that institutional structures dominate people is not to engage in a controversial metaphysics of agency. Rather, the view proposes that institutional structures create social roles (e.g., master, husband, and boss), thereby enabling particular people (e.g., particular masters, husbands, or bosses) to occupy these roles. The authority conferred by these roles allows the individuals who inhabit them to illegitimately constrain others in ways that are sanctioned by the broader society and its central institutions. The concept of structural domination thus locates domination in the way that institutionally created roles give meaning and social license to the forms of ill-treatment that the powerful inflict on the subordinated.

Of course, the very notion of a social role depends on its being occupied by individual people. So, one might ask, what is really lost if one restricts the concept of domination to dyadic relations, maintaining that it is the person occupying the role, not the role itself, who does the dominating? That is, why think that institutions dominate people, as opposed to thinking that

institutions simply create the background conditions for some people to dominate others?

In what follows, I argue that unless one adopts the structural conception, one will misdescribe the form of power at work in paradigm cases. If viewed purely dyadically, domination appears to consist in force relations – that is, in the dominator’s material ability to thwart the interests of the dominated. But dominating power is not the bare physical force required to bend another to one’s will. Rather, domination involves forms of subordination that are *authorized* by institutions.

Consider this: A mugger may corner me and force me to conform to his will, but society does not authorize the force he wields. At least in most ordinary cases of mugging, the mugger does not take himself to have a *right* to my wallet (neither does anyone else). And the mugger is not trying to ‘put me in my place’ by getting me to recognize a social standing that he has and I lack. In other words, the mugger has no societally recognized dominating power. Slave owners are not like muggers. Their power is constrained and shaped by relations of socially sanctioned hierarchy and entitlement. As we will see below, in many actual slave-owning societies, the master’s power over the slave was not that of brute force. Rather, the master had complex, and sometimes highly constrained, relations of authority – as conferred by legal, economic, and other social institutions. Because slaves were denied equal standing as persons, the master took himself, and was taken by others, to be *justified* in his actions. Thus, something important about the concept of domination – namely, social legitimacy – will be lost if one tries to assimilate the mugger to the slave owner.⁷

In order to express the distinction between the mugger/mugged and master/slave relationships, I will use ‘force’ to refer to forms of behavior that are not societally sanctioned (mugging) and ‘authority’ for forms of behavior that are or have been societally sanctioned (slaveholding). I use ‘power’ as neutral between force and authority.⁸ It goes without saying that the form of authority at work in domination is *de facto* and not *de jure* – domination concerns what people are taken (wrongly) to have a right to do, not what they genuinely have a right to do.

Unsurprisingly, the dominated themselves are often acutely aware of the distinction between *de facto* authority and force. As James Baldwin writes:

[W]hite people, who had robbed black people of their liberty and who profited by this theft every hour that they lived, had no moral ground on which to stand. They had the judges, the juries, the shotguns, the law – in a word, power. But it was criminal power, to be feared but not respected, and to be outwitted in any way whatever.⁹

And Frederick Douglass:

[The plantation is] separated from the rest of the world ... public opinion ... seldom gets a chance to penetrate its dark domain ... the whole place is stamped with its own peculiar, iron-like individuality ... crimes, high-handed and atrocious, may there be committed, *with almost as much impunity as upon the deck of a pirate ship*¹⁰

When Baldwin writes that white people ‘had the judges, the juries, the shotguns, the law – in a word, power,’ he is not reducing law *per se* to what I have called force. He implies that in a just society the law might be more than a mere shotgun. In a racist society, however, the law is not a genuine order of reasons, only an obstacle ‘to be outwitted in any way whatever.’ Similarly, Douglass’s description of the plantation as ‘almost’ like a pirate ship depends for its rhetorical force on the plantation’s misconception of itself as a zone of legitimate authority. Both Baldwin’s and Douglass’s critical reduction of authority to force presupposes that the two are in fact conceptually distinct. It is precisely the false pretense of justified authority in domination relationships that allows the unmasking of it as mere force to count as social critique.

Most politically salient forms of domination involve authority and not force relations. Modern power is almost always in the business of justifying itself. So if dyadic republicans cannot adequately explain authority, we must look elsewhere for a republican theory for our times.¹¹

My argument proceeds as follows. Section 2 suggests that contemporary instances of domination may not be reducible to dyadic domination. Call this the non-reducibility claim. Section 3 argues that even forms of domination that might initially appear dyadic will be mischaracterized if one does not view the structural elements as conceptually primary. Call this the conceptual priority claim. Section 4 continues the defense of the conceptual priority claim by arguing against an aspect of dyadic republicanism that I term the facilitation view. According to the facilitation view, structures provide background, enabling conditions for domination, but do not themselves dominate. Against the facilitation view, I suggest that structures shape the nature and meaning of dominating actions and thus partially *constitute*, rather than just *facilitate*, domination. Section 5 suggests that a core element of domination is the denial of equal institutional authority or standing (terms I use interchangeably). Section 6 argues against dyadic republicanism’s interpretation of equal standing. Section 7 concludes. If the argument of these sections holds, then, absent the work of social institutions in creating complex forms of hierarchy and entitlement, no dyadic relationship could be meaningfully classified as one of domination.

2. Beyond the dyadic paradigm? The non-reducibility claim

Republican theory should help us understand the forms of domination that structure the contemporary world. Can dyadic republicanism meet this task?

With this question in mind, consider Sheila, a single mother who lives in Baltimore. Sheila works at a fast-food restaurant for an annual salary of \$15,080 per year (the current federal full-time minimum wage). She has three children, all of whom attend failing schools with the lowest per-pupil funding in the country. Sheila's manager has made threatening sexual advances, but she feels unable to quit her job, because she has no special skills and alternative employment options are scarce. She cannot realistically attend community college to develop new skills because she has no access to childcare.¹² To make matters worse, her landlord has recently notified her that she has to move out within 2 months, because he is renovating the building to make way for luxury condos.¹³

According to dyadic republicans, Sheila is dominated because she must depend on the arbitrary power of others (e.g., her landlord and employer) to pursue her essential interests (e.g., shelter and food). Dyadic republicans hold that the state ought to protect Sheila from these domination relationships. But can dyadic republicanism truly understand Sheila's domination? In order to answer this question, we must first more clearly understand dyadic republicanism's understanding of domination. One prominent dyadic definition holds that domination is a 'power of interference on an arbitrary basis.'¹⁴ There are two essential components to this definition. (1) Dominating power is *arbitrary*. (2) Domination requires only a *power* or capacity to interfere, rather than actual interference. Let me briefly explain these familiar ideas in turn.

(1) The master, husband, and employer enjoy *arbitrary* power because they can make choices for the subordinated without considering the interests of the subordinated themselves. The decisions of the powerful are not 'forced to track what the interests of [the dominated] require according to their own judgments.'¹⁵ (2) The master, husband, and employer enjoy an arbitrary *power* because what matters for domination is not what the dominator actually does but what he *could* do. So think of 'power' in the sense of capacity.¹⁶ The thought here is that the subordinated are not free if the only reason they can satisfy their interests is that the more powerful happen to be in a good mood. To take a paradigm case: Suppose a slave finds herself owned by a benevolent slave owner who affords his slaves considerable license. In that case, the slave may be unhindered in most of her choices and so may *appear* to be free. But the slave actually lacks control over her own life, because whatever freedom of choice she may appear to have is contingent on the continuing goodwill of her master. According to (2), domination is to be identified counterfactually. The slave is dominated because *if* the master's inclinations change, the slave will no longer be able to choose.¹⁷

Applying this to the case of Sheila, dyadic republicanism will hold that she is dominated because (1) other people dictate the terms of her life without regard to her essential interests and (2) she is asymmetrically dependent on agents who have the capacity to interfere in her life, whether or not they

actually act on it. For example, Sheila's lack of education and material resources means that she has little choice but to remain working for her employer, despite his sexual harassment. Because he has a power of interference over her, she must tolerate his inappropriate behavior. Even if he sometimes treats her with dignity and respect, Sheila's ability to live uninhibited depends simply on how her manager feels and not on her power to check his behavior. Moreover, the threat of homelessness means that Sheila will most likely rent wherever she can afford. As a result, she may not feel able to complain if her new landlord does not adequately maintain the building or keeps the heat dangerously low. She may fear that her complaints will bring about forms of retaliation, such as unexpected rent increases and possible eviction.¹⁸ In sum, for dyadic republicans, Sheila's life appears to be largely defined by a series of personal relationships in which particular people dominate her.

But do Sheila's relationships with particular people tell the complete story of her domination? Recall republicanism's underlying idea: Domination threatens our social and political freedom. Are Sheila's relations with specific people like her landlord and employer the *only* salient factors in assessing whether or not she is socially and politically free? What about her lack of access to childcare and community college? What about the fact that her children attend failing schools and that her salary for full-time work is less than a living wage?

Let us focus on an aspect of Sheila's life that initially looks amenable to the dyadic conception: her relation to her landlord. Can we explain the landlord's power in *purely* dyadic terms? To see why the dyadic account is insufficient even here, consider the reasons Sheila's landlord might have to evict her in order to build luxury condos. In the first instance, his decision has to do with the vicissitudes of the housing market, which has made building luxury condos profitable. But that market is itself determined by the entirely legal actions of a number of agents – not just Sheila's landlord, but also other landlords, renters, and buyers, as well as mortgage lenders, real estate brokers, transportation planners, building and zoning commissioners, and so forth.

Assume that all of these agents abide by relevant legal rules such as anti-discrimination laws. Nobody refuses to rent to Sheila because she is a single mother, or because of the color of her skin. Suppose that the commissioners responsible for restrictive zoning and building policies are simply enacting their mandate to prevent neighborhood sprawl or overcrowding. Suppose that these factors have greatly increased Sheila's landlord's property taxes over the last few years. Perhaps creating luxury condos is the only way he can continue to make his mortgage payments on the building. In this scenario, it is not entirely accurate to say that Sheila lives at the mercy of individual dominating wills, because the landlord himself is greatly constrained by market and other social forces over which he has little control.

Furthermore, it is not a foregone conclusion that increased rent will necessarily throw Sheila into dire straits. Under what conditions would having to leave her apartment be so disastrous? Perhaps, for instance, when the nearest affordable neighborhood is miles away, public transportation is limited, and jobs are scarce. In that case, if Sheila moves, she will either have to purchase a car in order to keep her current job or face unemployment. But because of her low income she will not qualify for a car loan. Here, it is the absence of affordable housing and transportation, not the landlord's decision *per se*, which is the cause of Sheila's ultimate predicament. Or rather, the landlord's decision can severely constrain Sheila's choices and act against her essential interests only because of the complex structures in which it is embedded. Of course, this is not to rid the landlord of all accountability for Sheila's plight. After all, the impersonal structures of the real estate market enter into Sheila's life via the decisions of her landlord. Her landlord surely wields *some* discretion as to how structural policies are implemented. But ultimately the power he exercises depends on the social role he occupies, and this role is itself constructed and authorized by legal, socioeconomic, and other institutional policies.

I do not intend the example of Sheila to serve as definitive criticism of dyadic republicanism. At this stage of my argument, I wish only to motivate the suspicion that dyadic republicanism cannot adequately capture the complex interdependence of structure and agency that characterizes domination in the modern world.¹⁹ As we will see in Section 4, dyadic republicanism explains the role of structure in lives like Sheila's by arguing that institutions enable domination without directly dominating. The question is whether this view is conceptually tenable.

Before investigating this question, I must address an important objection about the way republicans of *any* sort, dyadic or structural, classify the putative wrongs at stake in Sheila's life. Why insist that one central concept – domination – fully captures the varieties of socially produced disadvantage that Sheila suffers? Philosophers from the liberal egalitarian tradition are likely to hold instead that many of the putative wrongs at stake stem from the fact that Sheila is denied fair equality of opportunity or the social goods required for self-respect.²⁰ Philosophers from the critical theory tradition might maintain that the role of institutions in Sheila's life is better described as 'oppressive' rather than 'dominating.'²¹

My response to the liberal egalitarian is that the concept of domination emphasizes an aspect of Sheila's situation neglected by theories of justice solely focused on equality of opportunity and distributive justice. This is the role of power and coercion in creating unequal opportunities and unfair distributions of goods. Sheila lacks meaningful opportunities. But this is because of what other agents have *done* to her, either directly (dyadic domination) or – the proposal on offer – indirectly, through the structures that confer authority on their actions. In other words, the domination

framework allows us to think not only about the unjust outcomes in Sheila's life (i.e., about what she lacks) but also about the actions and actors that created those outcomes; it thus brings to the forefront of political analysis the social agency at work in producing and maintaining the structures that constrain Sheila's life.²² Undoubtedly, we also need a set of concepts pertaining to what exactly Sheila is owed. For that, principles like fair equality of opportunity might play a role. But the domination framework emphasizes the conceptually prior question of what exactly constitutes the wrongness of the actions to be remedied.

I do not wish my argument to hang on word choice. But to the critical theorist I respond that the language of oppression *encourages* (though it by no means necessitates) a problematic habit of thought that runs in the opposite direction of the dyadic conception of domination. This is a tendency to imagine structures without agents. Many things can be 'oppressive' – for example, built environments, social norms, and traditions. The language of 'domination' allows us to keep closer sight of *people* acting on other people, even though, as I will now argue, the forms of power at issue depend on social authorization.²³

3. *The conceptual priority of structure I: The historical record*

Sheila's situation suggests that *if* one views institutional structures like housing markets as agents of domination, then domination cannot be reduced to the abusive treatment a particular landlord has the power to visit on his tenants. (Something similar could be said about work and Sheila's relationship to her boss.²⁴) But, even if one accepts this point, clearly Sheila's domination involves both structural and dyadic elements, for example, real estate markets *and* landlords, labor markets *and* bosses.²⁵ In this section, I use concrete historical cases to raise the possibility that in order to understand the nature of domination, one must treat the structural element as conceptually primary. This is so even in cases that initially appear to be aptly described in terms of one person falling under the power of another. I develop this claim by returning to the paradigm case of the master's relation to the slave.

If one tries to understand slavery dyadically, it will appear as though the master has absolute power over the slave. The only element of the situation that can come into view is one person who lives under another's reign of terror and fear. To appreciate the inadequacy of this account, consider the following episode from the history of slavery in the American South.²⁶ In 1820s North Carolina, John Mann shot and wounded Lydia, an enslaved person whom he had been renting for the year, as she tried to escape from being whipped by him for an unknown infraction. A jury of 12 white men from Mann's town found him guilty of battery, and the court assessed a

five-dollar fine. In *State v. Mann* (1829), the North Carolina Supreme Court overruled the conviction on the grounds that ‘the power of the master must be absolute to render the submission of the slave perfect.’²⁷ Here, slavery superficially looks like a dyadic relation in which Mann holds total power of life and death over Lydia.

But notice that what confers this power on Mann is not Mann himself but the North Carolina Supreme Court. Accordingly, in 1858, the American legal theorist John Codman Hurd defined slavery ‘as that condition of a natural person, in which, by the operation of law, the application of his physical and mental powers depends, as far as possible, upon the will of another *who is himself subject to the supreme power of the state*’ (emphasis mine).²⁸ Hurd’s definition makes explicit that the master’s power is not self-given but rather authorized by law. But if this is so, then the relation between master and slave is not purely dyadic. Instead, the social positions of master and slave, and the profoundly asymmetrical power dynamic between them, are thoroughly embedded within and mediated by an ensemble of legal and political (as well as economic, religious, and cultural) institutions. Both master and slave move in a space of authorizations, rights, and entitlements (or, in the slave’s case, lack thereof), as defined by slave law.²⁹

The legal codification of masters’ authority imposes forms of limitation and constraint on their actions. In many cases, the state had the jurisdiction to expropriate a slave if a master was convicted of a criminal offense, did not pay his taxes, or was determined to be too cruel (though of course the extent of legally tolerable cruelty was nearly endless). An 1830 Kentucky law states, ‘slaves, if inhumanely treated, shall be taken from their masters and sold to others.’³⁰ By the end of the 18th century, premeditated and unprovoked murder of a slave was a crime, which might explain why Mann was brought before a court in the first place.

The consequences of legal ordering are clearly on view in the colony of South Carolina. In just under 100 years, South Carolina moved from conceiving of the master-slave relationship as a purely private matter of the master’s absolute power over the slave, to instead viewing the slave as property, which meant that both master and slave fell under a highly codified system of laws and the mediating role of the state. This imposition of juridical form onto what was formerly a private relationship created a new set of obligations for masters. For instance, they were now required by law to punish slaves for ‘unruly’ behavior (despite any leniency they may have personally wished to show), and the use of violence against slaves beyond the (already draconian) punishments ordained by law was now prohibited.³¹

These historical reflections are in no way meant to suggest that slaves are somehow less dominated when the master’s power is defined and circumscribed by law, though, as we will see in Section 6, some dyadic republicans do hold this view. Neither is it to deny that, as a matter of fact, such laws were often disregarded without punishment, in part because slaves

lacked the legal standing to testify to masters' violations of the law. Whether the master's power is absolute or legally constrained, the slave is unequivocally unfree. All I wish to highlight is that slave law defined the status of Black people and, in so doing, controlled masters too. Thus, modern American slavery will be misdescribed if it is understood as an institution in which one person falls under the absolute power of another.³²

In order to better grasp the role of authority in masters' domination of the enslaved, consider how the violence inflicted by masters was understood by some of those on the receiving end. Here is Douglass describing a particularly cruel master, Mrs. Hamilton, who starved and almost constantly whipped her two slaves, Henrietta and Mary:

Mrs. Hamilton's treatment of her slaves was generally condemned, as disgraceful and shocking; but while I say this, it must also be remembered, that the very parties who censured the cruelty of Mrs. Hamilton, would have condemned and promptly punished any attempt to interfere with Mrs. Hamilton's *right* to cut and slash her slave to pieces. There must be no force between the slave and the slaveholder, to restrain the power of the one, and protect the weakness of the other; and the cruelty of Mrs. Hamilton is as justly chargeable to the upholders of the slave system, as drunkenness is chargeable on those who, by precept and example, or by indifference, uphold the drinking system.³³

Douglass is not simply pointing out the brutality of Mrs. Hamilton's treatment. Other members of white society could censure Mrs. Hamilton for this force, and the weight of their censure could in principle be sufficient to restrain her. Rather, Douglass is foregrounding Mrs. Hamilton's claim to justified authority, her *right* to inflict violence at will. He directly connects Mrs. Hamilton's purported right to use force to a web of social relations that extends beyond Mrs. Hamilton, Henrietta, and Mary, to the entire society of white people that allows masters such horrendous 'rights.' Under the slave system, Douglass suggests, Mrs. Hamilton's actions are grounded in reasons and are not simply emanations of brute force; they concern what she *ought* or *may* do, according to the institutions under which she lives. This awful encounter exists firmly within the domain of *de facto* authority relations.

Dyadically understood, Mrs. Hamilton acts through unrestrained force. Structurally understood – viewed through 'the slave system' – she acts by right. So once again, even what looks like a personal relation of subjection is mediated through an institutional structure.³⁴

4. The conceptual priority of structure II: Structures as facilitators?

- i The facilitation view: Some doubts

How will dyadic republicanism understand the role of the institution of slavery in John Mann's domination of Lydia, or in Mrs. Hamilton's domination of Henrietta and May? As we might expect, dyadic republicans often explicitly reject the idea that something as abstract as an institution could be said to dominate. For instance, Pettit writes, 'dominating power ... requires an agent [personal or corporate] as bearer and an agent as victim'; 'it cannot just be a system or network or whatever.'³⁵ And Lovett holds that 'domination is always a relationship among different persons or groups, never a relationship between people and structures as such.'³⁶ When the same dyadic republicans occasionally accept that institutions or structures dominate, they hold that they do so by 'facilitat[ing] the [domination] by some people of the choices available to others.'³⁷ In other words, institutions or structures are dominators only insofar as they enable some individuals to dominate others: The 'basic sense' of domination is dyadic.³⁸ Call this the facilitation view. It is dyadic republicanism's rejection of the conceptual priority of structure.

Applied to the paradigm case of slavery, the facilitation view will hold that the legal, cultural, and other institutions surrounding slavery are like instruments or tools of power; they provide resources that masters seize upon in order to act against the interests of the enslaved. Dominating agents are free to use such instruments, but their domination is fully conceivable apart from them. Just as a mugger may use a gun to hold me up, the master may use the powers bestowed on him by slave law to rule over his slaves. According to the facilitation theorist, the phenomenon being picked out in talk of 'domination' remains neutral between cases of agents wielding force against another, and agents – empowered by social institutions – acting with *de facto* authority against another. In both cases, domination is the power to arbitrarily set back the interests of another.

There are at least two doubts one might have about the facilitation view.

- 1 The language of facilitation suggests that any particular instance of dominating power has meaning and actuality independently of the social structures in which it is embedded. After all, to say that X 'facilitates' Y means that, although Y may be hard to bring about without X, X and Y are independently intelligible. You might need a gun in order to successfully mug me – after all, we are roughly equal in size. But this does not mean that there is a necessary conceptual relation between the act of mugging and the use of a gun – maybe a large knife would work just as well. Applying this form of thought to the history of slavery in South Carolina, the facilitation theorist will hold that while the appearance of slave law both enabled and circumscribed the slave master's domination in various ways, it did not fundamentally transform the nature of his actions. In Section 5, I develop the

claim that this is not how some of the enslaved understood their social condition.

- 2 To hold that the slave system ‘facilitates’ the slave master’s domination makes it appear as though being a slave master is conceptually independent of the socioeconomic and legal processes surrounding slavery. But don’t these processes define and codify what it is to be a slave master at a particular place and time and so legitimize actions that dominate slaves? If so, then the institution of slavery does not simply facilitate dyadic domination relationships but constitutes the very terms of the master-slave relationship, and thereby in some sense *produces* the social actors who act within those terms.³⁹

With respect to (2), facilitation theorists sometimes grant that agents of domination can be constituted by particular institutional roles they did not create.⁴⁰ I think this admission places great strain on the language of ‘facilitation,’ but I let this pass and pursue (2) no further. With respect to (1), they will still insist that structures merely instrumentally enable dyadic domination – greasing the wheels for one agent to wield power over another. If this were true, then clearly the dyadic form is conceptually basic.

In the remainder of this section, I aim to substantiate my claim that the structural form is conceptually basic by considering a hypothetical example in which someone is dominated even though no particular dominating agents are yet in view. I use this case to motivate the idea that structures do not simply enable one agent to dominate another but are in fact the key factor in explaining what makes a power–relation one of domination in the first place. I then anticipate responses on behalf of the dyadic republican to this hypothetical example and suggest that these responses cannot entirely capture plausible intuitions about the domination phenomenon we are trying to understand.

ii The unmastered slave: Power and standing

Suppose there is a Black man in the slave-owning South who currently has no master. Perhaps no white person in the area has the resources to capture him or even the interest in doing so. Maybe they are on friendly terms with him or admire his indomitable spirit. Nevertheless, I think many republicans will want to say that this person – call him the ‘unmastered slave’ – is dominated, precisely because the system of slave law has defined him as ‘masterable.’ After all, most republicans treat domination as a counterfactual: To be dominated is for some other agent to have a *capacity* to interfere in one’s life, regardless of whether that agent actualizes that capacity.⁴¹ Domination does not require that my interests actually be frustrated, only that they *could be* frustrated should the more powerful be disposed to do

so. So even though there is no particular dominating person currently within the orbit of the unmastered slave, he is still dominated, for he lives under the menacing shadow of a possibility. Through its laws and institutions, the slave-owning South endows certain people with the capacity to interfere – and that capacity is itself the domination.⁴²

The unmastered slave looks to provide an example of a domination relationship where the relata are not two persons but rather a person and institution. The unmastered slave is dominated *now* because he has no power to prevent dominating agents from arising in the future. By contrast, to hold that the legal institution of slavery merely facilitates the domination of the unmastered slave has the implication that he is not yet dominated but might soon be if a master appears.⁴³ His subordinate legal status is only a potential tool for his future domination. The domination of the unmastered slave is not yet here, but lurking around the corner.

Faced with this implication, dyadic republicans have two options. Either they could accept the implication that the unmastered slave is not yet dominated – the plausibility of which I have raised some doubts about, based on the core republican emphasis on the counterfactual nature of domination – or they could deny that the facilitation view has this implication in the first place. How might dyadic republicans account for the intuition that the unmastered slave is dominated *now*? I discuss two strategies.

First, they might hold that masters act as a group agent. In that case, the unmastered slave's domination can still be primarily explained as a dyadic relation, where the relata are person and group.⁴⁴ On this view, although it is true that the unmastered slave currently has no master, this is because masters have conspired together to create laws that allow any of them to enslave him should they so choose. The law facilitates their capacity of domination, but the masters are ultimately the ones doing the dominating.

The problem with this response is that group agency, at least on one prominent dyadic republican understanding of the concept, involves the capacity to treat the group as a 'conversable agent' – that is, as an entity with procedures for forming a united will and judgment and to which one can engage with reasons in the realm of discourse.⁴⁵ With this feature of group agency in mind, it is unclear whether, in the absence of lobbies or explicit corporate structures, slave masters constitute a group agent. (Although there is more work to be done here, my suspicion is that if dyadic republicans relax their requirements on group agency by eliminating the conversable agent attribute, they are actually just talking about structures by another name.)

Putting aside debates about group agency, a second option is for dyadic republicans to assert that the unmastered slave is dominated *now* by every member of a group who has the legal power to capture him – roughly, all white people of certain status and means. The form of domination that marks the life of the unmastered slave can be explained in terms of the capacity of any white person to dyadically dominate him.

But notice that the unmastered slave is not currently victim of any physical treatment that might strike one as dominating. It thus seems somewhat strained – and threatens regress – to locate his domination in the *possibility* of agents acquiring *capacities* to mistreat him.⁴⁶ In my view, a more natural and direct conclusion to draw is that if the unmastered slave is dominated *now*, then what dominates him is his unequal legal and social standing. He is marked out as inferior, as there ‘to-be-enslaved.’ Such standing is the product of institutions. It is laws, practices, and social norms that designate some people as inferior to another. Inferior standing *is* just an institutional status.

If this is a plausible understanding of the predicament of the unmastered slave, then in assessing the facilitation view, the central question becomes, what is the relation between lacking equal standing and being dominated? Is being denied equal standing merely an instrument for people to dominate you? That is, is the unmastered slave’s unequal standing significant only because it makes it more likely that some white person will subject him to arbitrary and unjustified treatment? Or is the denial of equal standing the very feature that constitutes a power–interaction as one of domination instead of mere force? Is inferior standing an instrument for domination or intrinsic to its meaning? Let us call the first the instrumental view and the second the constitutive view.

On the constitutive view, domination is not a mere aggregate composed of two distinct components – subjection to force and denial of equal standing, the latter of which instrumentally enables the first. Lacking equal standing and being subject to the power of another do not combine in domination as an *accidental unity* – that is, two factors that have the same meaning and content when grouped together as they do when isolated from one another. Rather, a relationship in which one agent has the power to act against the interests of another is properly characterized as domination only when that power is realized through authority and so expresses forms of subordination that are embedded in institutional structures and accepted by society at large. In other words, domination *is* just power aimed at expressing lack of standing. According to the constitutive view, it would be a profound mistake to think that the way to understand domination is simply to add a new element – denial of equal standing – to the mugger/mugged relationship. Rather, the element of unequal standing entirely transforms the nature of the interaction and so the very form of power at stake.⁴⁷

If the relation between equal standing and dominating power is constitutive rather than instrumental, then the facilitation view cannot be correct. If the denial of equal standing transforms what would otherwise be a relation of mere force into one of domination, and if it is institutional structures and not individual people that define someone’s lack of standing, then institutional structures partially constitute the meaning of domination; they do

not merely facilitate it. The role of institutions in domination is thus not conceptually derivative of the dyadic case.

What grounds favor the constitutive view? Section 5 shows how the constitutive view better accounts for the nature of the ‘domination complaint’ offered by some of the enslaved themselves.⁴⁸ Section 6 offers independent arguments in favor of the constitutive view, while also acknowledging the temptation of the instrumental view.

5. *Domination and equal standing: The constitutive view*

My feelings were not the result of any marked cruelty in the treatment I received; they sprung from the consideration of my being a slave at all. It was *slavery* – not its mere *incidents* – that I hated.

– Frederick Douglass⁴⁹

In this section, I suggest that Douglass, an acute theorist of domination from the perspective of the dominated, provides compelling evidence in favor of the constitutive rather than instrumental understanding of the relation between domination and equal standing. I highlight two aspects of his account. First, Douglass shows that one cannot understand the violence of slavery without seeing it as an expression of inferiority. Second, Douglass implicitly offers the following argument against the instrumental view. Suppose that unequal standing was just a tool that masters use to impose horrendous treatment on their slaves. Suppose further that the master’s domination of the slave just refers to their ability to treat their slaves in these terrible ways. In that case, if an enslaved person can somehow manage to hinder her master’s ability to inflict such treatment, then she has thereby reduced her domination. But, Douglass suggests, the capacity of a slave to hinder her master’s ability to mistreat her is, in certain cases, perfectly consonant with her still being dominated. To assess whether a slave is dominated, Douglass maintains, one must look to the *source* rather than the *effects* of the constraints slaves can impose on their masters. Specifically, one must examine the nature of the reasons that prohibit masters from mistreating the enslaved.

i Violence as *punishment*

To better understand the relation between lacking standing and being subject to the dominating power of another, consider Douglass’s description of an attempt of a young enslaved woman to complain to her master about her brutal treatment at the hands of her overseer. Douglass expects the master to ‘interpose his *authority*, to protect and shield a young woman.’ He is shocked to find the master respond to the woman that ‘she *deserved* every

bit' of the overseer's violence.⁵⁰ The overseer brutally beat and – as Douglass's narrative insinuates – sexually assaulted the young woman, but the master's word makes this violence appear to be an instance of justified punishment, what the young woman 'deserves.'

Contrast this, once again, with an ordinary case of interpersonal violence. Describing a standard case of mugging as the mugger *punishing* the victim would simply make no sense. Moreover, if the violence is one of punishment, then it is intelligible (though perverse) for the dominator to *resent* or *blame* the victim for failing to heed their commands. This seems to be the case in the encounter Douglass describes. The master blames the young woman for not accepting that the beatings of the overseer are, in fact, deserved. By contrast, it would be very strange to say that the mugger resents his victim for escaping his clutches. The conceptual distinction between the brute force of the mugger and the violent punishment of the slave master speaks to the constitutive nature of authority in explaining situations of domination. If the meaning of an action is determined in part by the way it is taken up and received by others, then clearly the fact that the master's domination involves a whole host of attitudes that find no traction in force relations indicates that the slaves' lack of standing or authority fundamentally shapes and constitutes the meaning of what is done to them.⁵¹ Douglass suggests that to misconceive the horrible violence suffered by the young woman as a beating (or brute force) instead of as punishment is to think of her treatment as 'part of the man,' rather than as 'part of the system.'⁵²

ii Source versus effects of constraint

Reflecting further on the meaning of the encounter between the young woman and slave master, Douglass writes:

A privilege so dangerous as that of appeal, is ... strictly prohibited; and any one exercising it, runs a fearful hazard. Nevertheless, when a slave has nerve enough to exercise it, and boldly approaches his master, with a well-founded complaint against an overseer, though he may be repulsed, and may even have that of which he complains repeated at the time, and, though he may be beaten by his master, as well as by the overseer, for his temerity, *in the end the policy of complaining is, generally, vindicated by the relaxed rigor of the overseer's treatment.* The latter becomes more careful, and less disposed to use the lash upon such slaves thereafter. It is with this final result in view, rather than with any expectation of immediate good, that the outraged slave is induced to meet his master with a complaint. *The overseer very naturally dislikes to have the ear of the master disturbed by complaints; and, either upon this consideration, or upon advice and warning privately given him by his employers, he generally modifies the rigor of his rule, after an outbreak of the kind to which I have been referring.*⁵³

The young woman's complaint is, in some sense, heard by the master. Like the force of public opinion on Mrs. Hamilton's treatment of Henrietta and May, her complaint may have the effect of reducing violence against

her. But, and this is Douglass's crucial point, this is not because she herself has any standing to complain. Rather, whatever reduction in harsh treatment will come about is only because 'the overseer very naturally dislikes to have the ear of the master disturbed by complaints.' Douglass thematizes the young woman's lack of standing when he describes her complaint from the overseer's point of view as a mere 'outbreak,' akin to a force of nature or nuisance with which he must strategically reckon. Similarly, when at a later point in life Douglass protests against his brutal treatment by fellow white dock workers, he writes of his master's response, 'His indignation was really strong and healthy; but, unfortunately, it resulted from the thought that his rights of property, in my person, had not been respected, more than from any sense of the outrage committed on me *as a man*.'⁵⁴

In both cases, the speech of the enslaved is relevant to the master only insofar as it relates to the master's own interests. Restricting savage violence may be good for the internal order of the plantation, but it corresponds to no right on the part of the slave. In these passages, Douglass locates domination directly in the fact that the slave system denies the equal authority of the enslaved, their capacity to make claims on another that are responded to simply for the reason that, *qua* rights-bearers, they have the authority to make them.⁵⁵ This is so even if the words of the enslaved have the effect of reducing their ill-treatment. In other words, because lacking standing is not just a means to being dominated but domination itself, one does not escape the condition of domination just because, as a matter of fact, one's actions or words reduce another's capacity to inflict violence. What matters is what the reasons or grounds are for that hindrance. (I will return to this issue in the next section.)

Douglass's narration of numerous episodes from his life indicates that the institution of slavery demands that the enslaved enact and sustain social roles that express their own social and legal inferiority, that is, their lack of authority to make claims on others. Douglass is dominated by having no choice but to occupy a social role that expresses his lack of equal standing – and it is no single person but a set of institutions that makes this so. The pressure to enact such a role involves many of the behaviors that dyadic republicans recognize as unjust – for example, gestures of deference, the inability to look others 'in the eye,' and the necessity to 'bow and scrape.'⁵⁶ However, the injustice is not to be located in the effects of these behaviors but rather in the denial of social equality they express.⁵⁷

In sum, when Douglass famously writes that his hatred of slavery stems not from 'any marked cruelty in the treatment I received' (though as readers of his *Autobiographies* know, the psychological and physical cruelty he suffered is nearly unimaginable) but from 'consideration of my being a slave at all,' so that it 'was *slavery* – not its mere *incidents* – that I hated,' he designates his complaint as residing not exactly in what people do to him – after all, he does have limited powers to constrain the 'incidents' – but in how such treatment reflects his institutional status, the ultimate substance of his domination.⁵⁸

6. *Equal authority: A defense of the constitutive view*

i The source problem

Let me defend Douglass's insights into the constitutive connection between standing and dominating power by examining some implications of the opposite, instrumental view. As I've suggested, to view the denial of equal standing instrumentally rather than constitutively is to think that lacking equal authority is a harm only because it enables cruelty at the hands of others. To articulate what is unsatisfactory about this interpretation, let us turn from lacking equal standing to its opposite: having equal standing. If the former is to be understood instrumentally, then so is the latter. That is, if lacking equal standing is a bad thing because it helps people dyadically dominate you, then, inversely, having equal standing is a good thing because it protects against dyadic domination.

Not surprisingly, when dyadic republicans acknowledge the importance of equal standing for social and political freedom, they construe such standing as of only instrumental importance.⁵⁹ Equal status provides protection against the power of others to interfere with one's material interests in well-being; it is merely a means of being 'relatively proof against arbitrary interference by others ... and of being able to enjoy a sense of security.'⁶⁰ Under this view, if Douglass really understood what he was up to, he would appreciate that the only reason he finds not being treated as 'a man' problematic is that being treated as a man would provide him better protection against the constraining power of others. Having equal standing is something like wearing a bullet-proof vest to ward off muggers during a late-night jog.

To see the shortcomings of this view, let me further develop Douglass's insight into what I called the source versus the effects of constraint. Imagine the following case. Suppose one lived in a society in which Black people were marked as socially inferior, but in which laws, drafted by the white people in power, mandated that white people could not arbitrarily interfere in the lives of Black people. White people face state-enforced legal sanctions for doing so. Are Black people thereby not dominated? If one thinks of the relation between standing and power instrumentally, one will be forced to conclude that while lacking equal standing may subsequently enable white people to subject Black people to their wills, Black people's lack of such standing is not at this moment domination. That is, attributing to Black people equal standing is a good thing to do only because it makes it less likely that white people will dominate them in the future.

Here is dyadic republicanism's understanding of a closely related scenario:

Suppose that a power-bearer acknowledges a code of *noblesse oblige* This is going to mean ... that the power they have over someone else is at least less intense than it might have been; there is a certain reduction in the domination they represent, by virtue of their being exposed to the possibility of effective rebuke.⁶¹

According to this passage, a slave experiences a reduction in domination even if what restricts the power of the master are the very institutional or legal principles that deny the slave equal authority in the first place. All that matters is that the master's ability to dominate the slave is coercively constrained. So the slave's domination is reduced (relative to what it might have been) if other slave masters will punish the master for going too far in restricting the slave's freedom (similar to what we saw in the Mann case). It follows from this that the young woman's and Douglass's complaints partially reduced their domination. After all, as Douglass himself acknowledges, the master's censure of the overseer will likely hinder his capacity to inflict future ill-treatment on the young woman.

But how is being protected against domination because of a moral code the slave does not share any different from being protected against domination because of the master's arbitrary good will? If the second is an instance of domination – it is dyadic republicanism's paradigm case – then so is the first.⁶² After all, the code of *noblesse oblige* only shields the slave from domination based on the arbitrary good will of a larger group of masters. If one disagrees with dyadic republicans that living under a code of *noblesse oblige* reduces domination, then one is working toward the thought that one can be dominated because of an unequal status. Slave society is not dominating because the unequal status of Black people jeopardizes their future equal treatment. Slave society is dominating because it denies the equal authority of Black people.

One might think that in order for a slave to truly live an undominated life, the reasons for which the master cannot dominate the slave must be the very same reasons that the slave cannot dominate the master – for example, because both are citizens or legal persons and so fall under the same structures of accountability and justification. By contrast, if non-domination only requires that the master be checked by some set of reasons (regardless of what those reasons are), then the slave is not dominated if, for instance, laws protecting animals and property happen to apply to slaves and thereby constrain the master's treatment. This cannot be right. Under such laws, the master abuses his powers, and the slave is harmed, but the master is not considered to have directly *wronged* the slave, because the slave is not the bearer of any right.⁶³

ii The case for the instrumental view?

Dyadic republicans might object to the argument of the preceding section as follows: One will only hold that a shared order of reasons is necessary for

non-domination if one accepts the authority as opposed to force-based view of domination. But there is no need to accept to this view. After all, surely some force relationships are also appropriately described as domination. Consider a mob boss. With respect to those outside of the crime family perhaps his acts appear as mere force. His actions within the family – for instance, ordering around his foot soldiers – might appear as authority, because these people accept reasons for what he does. It seems that the authority-based view of domination has the unwelcome implication that the mob boss dominates the crime family but not innocent victims outside of it.⁶⁴

My response is that whether or not this implication is unwelcome depends on the specifics of the case. I recognize that some cases of domination contain a complex mix of force and authority. (This may in fact be true for Sheila, who we encountered in Section 2. Only some of the ways in which she is treated seem to express that she is less worthy of respect and concern than other citizens and so lacks equal standing.) To return to the case at hand, clearly some slaves accepted the legitimacy of the system. If so, they may have thought of the master's orders as providing *reasons* for them to do something. Conversely, more rebellious slaves, such as Douglass, may have thought of the master's 'reasons' as simply indications of the threat of force. For these slaves, the words of the master function as an alarm bell, pointing to a mode of influence – physical violence – that operates outside of the space of reasons. Thus for loyal slaves, the master had authority. For rebellious slaves, the master's 'authority' was mere force. I am willing to accept the implication that if neither any slaves nor anybody else *ever in any way* acknowledged the legitimacy of the master's power, then it would not make sense to call slavery an order of domination. Rather, it would be an arrangement of sheer force. Analogously, if those subject to the power of the mob boss truly unequivocally reject his entitlement to act – if, for example, they accept *no* cultural or other social norms legitimizing the necessity of organized crime – then application of the domination concept is in fact strained. But this does not mean that the concept cannot be applied in borderline cases.

Moreover, just because in certain derivative cases of domination elements of force may coexist with authority does not mean that the nature of force is not transformed when the authority element is present. I have argued that one will go astray if one's definition of domination treats as paradigm dominators both the mob boss ordering hits on outsiders and the plantation owner, operating under a highly codified system of state-authorized law, ordering his slaves to work the fields. By treating cases that involve relations of unequal standing as the paradigm, the authority-based view better accounts for what domination is like, and what specifically is unjust about it.

I note in passing that the authority-based view may also help solve an internal problem with dyadic republicanism. Recently, several critics have

pointed out that dyadic republicanism's way of articulating the counterfactual nature of domination has overly broad implications, establishing that nearly everybody is dominated.⁶⁵ After all, it is almost always the case that even if no one agent currently has the power to interfere with my choices, there is a collection of agents who *could* dominate me were they to act together and constitute themselves as a group agent. Dyadic republicans attempt to prevent overgeneralization problems like these by restricting the counterfactual to 'nearby possible worlds.'⁶⁶ But this is too vague to be of much assistance. By contrast, the authority view can help specify the relevant range of possible worlds. What matters is not the bare logical possibility that agents might band together to dominate me but that pre-existing authority relations render it legitimate for them to do so.⁶⁷

7. *The way forward*

Through internal critique of dyadic republicanism, I have arrived at three interrelated desiderata for a more adequate republican political theory. First, such a theory should locate domination in *de facto* authority relations, not in mere force. Second, it should understand dyadic instances of domination as constituted by institutional structures that confer unjustified authority on particular agents. Third, it should conceptualize forms of domination as inhering in unequal authority, where the denial of equal standing is not a mere means to domination but domination itself. Of course, there is a tradition of political thinking that accepts (1)–(3). This is nothing other than the German tradition of *Recht* – represented in different ways by Kant, Fichte, and Hegel. Perhaps reanimating this tradition is the way forward.

8. *Acknowledgments*

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NOTES

¹ The literature is vast. Essentials include Pettit (1997) (hereafter *R*); Pettit (2012b) (hereafter *OPT*); Pettit (2014) (hereafter *JF*); Skinner (1998) (hereafter *LL*); Skinner (2003, pp. 237–268); Skinner (2008, pp. 83–101); and Lovett (2010) (hereafter *GTDJ*).

² It might also include the domination of an individual by a group agent (e.g., a corporation), where group agency entails explicit rules of coordination between individual agents and consciousness of group membership. I return to this point in Section 4.

³ *OPT*, p. 5.

⁴ For example, *R*, pp. 11–12, 95–97.

⁵ See especially *JF*, pp. xi–xxvii.

⁶ *Oxford English Dictionary*.

⁷ By contrast, dyadic republicans insist on the parallel between the two. See Lovett and Pettit (2019, pp. 375–377) and Pettit (2002, p. 344). For insistence on the distinctness of the two cases, see Hodgson (2010, pp. 815–817) and, more extensively, Gädeke (2019, pp. 1–23). Gädeke, however, seems to think that what I call the structural dimension of domination can be accommodated within current forms of republicanism.

⁸ For parallel distinction drawing, see Wolff (1998) and Hobbes (1994, pp. 50, 102).

⁹ Baldwin (1962).

¹⁰ Douglass (1994, p. 160) (emphasis mine) (hereafter *MBMF*).

¹¹ As is well known, there is a rich tradition of social theory that does not conceptualize domination in dyadic terms. For example, Marx (1973, pp. 162–164) speaks of life under capitalism as domination ‘by abstractions.’ He contrasts the ‘impersonal domination’ of the modern worker with ‘personal relations of domination and servitude’ (Marx, 1977, p. 247). Similarly, Pierre Bourdieu (1977, p. 184) writes that in modern society, ‘relations of domination have the opacity and permanence of things and escape the grasp of individual consciousness and power.’ This paper aims to open space for eventual *rapprochement* between republicanism and social theory. For other such attempts, see Hayward (2000) and Roberts (2017).

¹² Perhaps she lacks childcare because she has no way to plan her work schedule more than a few days in advance. This is because her employer at the fast-food restaurant, acting under orders from the franchisor, uses scheduling software to plan his workers’ shifts. This software deploys complex algorithms to determine in real time if and when particular workers are needed. For a real example of this hypothetical, see Kantor (August 13, Kantor 2014).

¹³ For closely related portraits, see Stiliz (2011, p. 100); Young (2013, pp. 43–52); and Krause (2013, p. 190).

¹⁴ *R*, p. 52. *R* defines domination as ‘arbitrary’ power (p. 52); *OPT* as ‘uncontrolled’ power (p. 28). Pettit treats these two definitions as roughly equivalent, a claim I will not assess in this paper.

¹⁵ *R*, p. 55.

¹⁶ Recall the term’s neutrality between force and authority.

¹⁷ See *R*, pp. 21–26; *OPT*, p. 7; *JF*, pp. 2, 43; *LL*, pp. 39–41, 84–85; and *GTDJ*, pp. 43–47, 154–156.

¹⁸ For real-life examples of this predicament, see Desmond (2016).

¹⁹ Compare Pettit (2005, pp. 105–106) with Sewell (1992, pp. 1–29).

²⁰ See Rawls (1971, pp. 83–90). A Rawlsian approach focused on the basic structure of society might seem well equipped to account for structural domination. After all, Rawls links freedom to a broad set of social institutions – ‘liberty is a certain pattern of social forms’ (Rawls 1971, p. 63) – and he conceives of institutions in structural terms rather than simply as aggregates of dyadic interactions (p. 55). He even explicitly argues that just dyadic interactions can produce unjust structural outcomes. See Rawls (2005, pp. 265–267). But in contrast with this paper’s view of structural domination, Rawls downplays the mechanisms of social power that maintain such structures.

²¹ The concept of oppression is often used to pick out the role played by what is impersonal and anonymous in constraining a life. See Frye (1983, pp. 1–16) and Young (2011, chapter 2).

²² See *OPT*, p. 11; Young, *JPD*, pp. 18, 25; Anderson (1999, pp. 297–337); and Forst (2013, pp. 154–168).

²³ I thank an anonymous referee for encouraging me to clarify my position on this.

²⁴ See Anderson (2017).

²⁵ For discussion of the interplay of the interpersonal and the structural, see Haslanger (2012, pp. 411–418).

²⁶ For other juxtapositions of American slavery with republican political theory, see Gooding-Williams (2009, pp. 162–209); Gourevitch (2015); Watkins (2016, pp. 846–870); and Rogers (forthcoming).

²⁷ *State v. Mamm*, 13 N.C. 263.

²⁸ Hurd (1858) cited in Oakes (1990, pp. 155–156).

²⁹ Of course, slave law was drafted, at least in part, by slave owners, but one cannot simply understand slave law, and the constraints it imposes on slaves’ and masters’ lives, as the direct imposition of masters’ wills. For slavery, once juridically articulated, becomes part of a complex legal system, not all parts of which serve masters’ interests. Oakes raises the possibility that the legal regulation of the master’s power opened the conceptual space for the eventual recognition of slaves as legal persons and thereby for the eventual abolition of slavery (Oakes 1990, p. 159).

³⁰ Cited in Oakes (1990, p. 157).

³¹ See Grant (2015, pp. 611–617).

³² By contrast, the theorization of slavery from which contemporary republicans draw stems from Roman law. According to Justinian, ‘slavery is an institution ... by which someone is, contrary to nature, subject to the dominion of someone else.’ Translation and commentary by Skinner (1998, p. 248). See also Skinner (2008, pp. 85–86).

³³ *MBMF*, p. 220.

³⁴ This is not to deny that Douglass sometimes describes slavery as direct subjection to the unconstrained will of a master, unmediated by legal institutions. For instance, he describes his first awareness in early childhood of his status as enslaved as follows: ‘I was a slave – born a slave – and though the fact was incomprehensible to me, it conveyed to my mind a sense of my entire dependence on the will of *somebody* I had never seen’ (*MBMF*, p. 147; emphasis in original). Moreover, he characterizes the plantation as like ‘a little nation of its own ... the laws and institutions of the state, apparently touch it nowhere’ (*MBMF*, p. 160). (Though I take the

qualifier ‘apparently’ to be significant.) However, one might plausibly read *My Bondage* as Douglass’s narration of his own developmental self-understanding of slavery. As a child, slavery appears to him as the absolute power of a master; as an adult, he grasps that power as an emanation of the slave system.

³⁵ *R*, pp. 79, 52.

³⁶ *GTDJ*, p. 25.

³⁷ *OPT*, p. 44. See also *JF*, pp. 52–54; *OPT*, pp. 63–64; and *GTDJ*, pp. 40–49, 88–89.

³⁸ Lovett and Pettit (2019, p. 364).

³⁹ On the role-constituting function of power, see Foucault (2000, pp. 326–348). For criticism of Pettit with respect to this issue, see Garrau and Laborde (2015, p. 60).

⁴⁰ For example, *JF*, p. xv.

⁴¹ For a republican who rejects this claim, see Shapiro (2012, p. 324).

⁴² At one point, Pettit acknowledges that preventing non-domination may necessitate ‘putting obstacles in place against the formation of agents or agencies that could have [dominating] power’ (*OPT*, p. 68). But he makes little of this.

⁴³ *GTDJ*, pp. 48–49.

⁴⁴ Here, I draw from *R*, pp. 52, 122–123, 144–145.

⁴⁵ See List and Pettit (2011, pp. 1–41).

⁴⁶ Compare *R*, pp. 54–55.

⁴⁷ My critique of the instrumental view is structurally akin to Matthew Boyle’s critique of what he calls ‘additive theories of rationality.’ Boyle argues against a view of rational reflection as merely adding a further power to the capacities for perception and desire that we share with animals. Rather, Boyle argues, our capacity for reason fundamentally transforms the way in which humans perceive and desire. See Boyle (2016, pp. 527–555). Similarly, I suggest, denying the subordinated equal standing is not merely a further power a dominating agent can deploy against the dominated. Rather, it fundamentally transforms the nature of the power at stake. Within the history of political philosophy, an outline of a transformative conception of domination can be found in Rousseau (2011, pp. 64–67).

⁴⁸ Pettit (2005, pp. 87–117).

⁴⁹ *MBMF*, p. 228 (emphases in original).

⁵⁰ *MBMF*, p. 173 (emphases mine).

⁵¹ On the social conditions of action specification, see Pippin (2008, chapter 6).

⁵² *MBMF*, p. 173.

⁵³ *MBMF*, pp. 173–174 (all emphases mine).

⁵⁴ *MBMF*, p. 334 (emphases in original).

⁵⁵ A person, Rawls reminds us, is a ‘self-originating source of valid claims.’ See Rawls (1980, p. 546). See also Feinberg (1980, pp. 143–157). On the normative presuppositions of equal moral authority, see Darwall (2006). The historical antecedents here include Locke, Smith, Rousseau, and Kant. Clearly, Douglass is indebted to the Declaration of Independence’s language of inalienable rights, which draws from some members of this philosophical tradition. See Gooding-Williams (2009, p. 192).

⁵⁶ *R*, p. 87.

⁵⁷ On the conceptual irreducibility of relations of equality in understanding the nature of social and political freedom, see Kolodny (2019, pp. 94–114) and Kolodny (2017, p. 105). Through a different argumentative route, Kolodny arrives at conclusions similar to my own. He argues that the republican concern with domination is best understood as a concern with not being subordinated ‘to a superior person in an established social structure’ (Kolodny 2019, p. 107). The difference between us is that he appears to think that the conceptual materials of dyadic republicanism are sufficient to include the idea of equal standing, whereas I think that doing so would require a fundamental shift in conceptual framework. John Lawless also locates the unfreedom of slavery in the denial of the moral personhood of enslaved people, as this is expressed in their lack of equal standing. See Lawless (2018, pp. 14–15). However, he does not

directly connect this issue to the role of institutions in domination. In my view he, like Kolodny, mistakenly takes neo-republicanism to be ‘broadly compatible’ (p. 2) with this view of freedom.

⁵⁸ Lovett reads this same passage in a way that effaces the idea of equal standing and a person-to-institution domination relation. On Lovett’s interpretation, Douglass is saying that what he hates in being a slave is not a contingent outcome (e.g., how kind a particular master is) but rather the master’s capacity to interfere. The ‘incidents’ in question refer to particular modes of ill-treatment, and ‘slavery’ refers to masters’ capacity to inflict such treatment. See *GTDJ*, pp. 45–46.

⁵⁹ Pettit sometimes insists that on his view, institutions that guarantee equal standing constitute and do not merely cause freedom as non-domination. For example, *R*, pp. 106–109; *OPT*, p. 124; and Pettit (1993, p. 29). But it is clear from surrounding context that by ‘X constitutes Y’ he means only ‘X is a necessary means to Y.’ He does not intend any claims about conceptual interrelation. Hodgson also notes Pettit’s instrumentalist use of the constitutivist language. See ‘Kant on the Right to Freedom,’ p. 813. This is downplayed by Forst (2013, pp. 162–163) and Gädeke (2019, pp. 2, 13).

⁶⁰ *R*, p. vii; See also *R*, pp. 87–88, 93, 99; *OPT*, p. 11; and *JF*, pp. 25, 56–57; Pettit (2002, pp. 350–351); and Pettit (2007, pp. 709–718). Dyadic republicanism’s instrumentalism about equal standing follows from its general consequentialist framework, on which rights merely entrench the protection of especially important interests and so lack genuine deontological status. See Pettit (2012a, pp. 41–70). See also *R*, p. 99; and *OPT*, p. 11. For a different diagnosis, see Gädeke (2019, p. 19).

⁶¹ *R*, p. 64. For similar scenarios, see Lovett (2012, p. 147); *GTDJ*, p. 116; Lovett (2016, p. 114); and Skinner (2008, p. 90).

⁶² For related criticisms of Pettit, see McCammon (2015, pp. 1044–1050) and Markell (2008, p. 14).

⁶³ For historical discussion, see Nicholas (1976, p. 69). On the need for a shared normative framework to understand the concept of one agent wronging another, see Thompson (2004, pp. 333–384).

⁶⁴ For further discussion of this example, see McCammon (2018) and Richardson (2003, p. 34).

⁶⁵ McCammon calls this the problem of ‘cheap domination’ (McCammon 2015, p. 1030). See also Simpson (2017, pp. 27–53); Gädeke (2019); and Dowding (2011, pp. 301–322).

⁶⁶ For example, *R*, p. 24.

⁶⁷ Dyadic republicans have recently suggested a similar response. They argue that one must look to social norms in order to appraise the likelihood of any aggregate of people forming awareness of themselves as having a shared purpose in domination. See Lovett and Pettit (2019). For skepticism as to whether they are entitled to this solution, see Simpson (2019, pp. 412–424).

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