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Whose Realism? Which Legitimacy? Ideologies of Domination and Post-Rawlsian Political Theory

Abstract: There is something amiss about post-Rawlsian efforts to bring political theory down to earth by insisting upon the political primacy of the question of legitimacy, peace, or order. The intuition driving much realism seems to be that we must first agree to get along, and only then can we get down to the business of pursuing justice. I argue that the ideological narratives of the powerful pose a political problem for this primacy of legitimacy thesis. To prioritize the achievement of democratic legitimacy seems to make sense only to the extent that we already live in a world in which systematic domination—and its ideological baggage—has been stamped out. I draw on the social study of domination for the sake of combatting in political theory the temptation to focus on the static design of the constitutional state at the expense of ignoring or even condemning the social processes that motivate legal and constitutional changes.

Keywords: domination, ideology, political realism, social theory, legitimacy, weapons of the weak

> "'Now there is just you and me and our interest in justice'—is alarmingly like the press of
> millions of bodies against one another..."
> Jeremy Waldron

> "...ubi solitudinem faciunt pacem appellant".
> [They make a desert and call it peace]
> Tacitus[1]

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1 Introduction

This essay attempts to work out two intuitions. The first is that there is something amiss about post-Rawlsian efforts to bring political theory down to earth by insisting, in one way or another, upon the political primacy of the question of legitimacy, peace, security, or order. Different theorists go about this in different ways, and so there is a danger here of conflating divergent positions (see, e.g., Forrester 2012; Galston 2010; Horton 2010; Sleat 2016; Valentini 2012; Williams 2008). Nonetheless, there seems to be broad convergence around the notions that the Rawlsian reconstruction of liberalism, in the priority it places upon establishing principles of justice, is too 'moralistic', and that this moralism detrimentally obscures the *political* importance of first establishing a legitimate political authority, and the *theoretical* importance of focusing on "the structures and processes that are needed to house our acting together under circumstances of moral and political disagreement" (Waldron 2016, 311, n. 24).[2] These being modern times, everyone seems to qualify 'legitimacy' so as to make it clear that what they really mean is *democratic* legitimacy (Bavister-Gould 2013; Galston 2010, 389; Horton 2010, 438–9; Pettit 2012, 25; Williams 2008, 6). The terms of peace have to be broadly acceptable to everyone. But the thought seems to be that there is a clear priority here: first, we must agree to get along, and only then, within the confines of our getting along, can we pursue the business of pursuing justice.

My dissatisfaction arises from remembering a slogan that (so *The Spectator* assures me) "has been around since the 1970s among the chanting classes" (Wordsworth 2014): *No justice, no peace*. To more conservative auditors, it is a threat (e.g., Istook 2014). To more sympathetic ears, it is a social scientific hypothesis: "Without justice, ... peace will be an elusive goal" (Mazie 2014). I have always heard it as an expression of hope: *We hope that, if justice is not done, people will continue to fight and struggle*. This is the hope of organizers, of activists. It is the hope of those who believe in collective action against social domination. The hope is that the condition of domination—the 'solitude' or 'social death' of the

2 This phrase is not found in the originally published version of Waldron's lecture.

dominated that the dominators call 'peace'[3]—will provoke the dominated to band together and to fight, to turn the non-peace of being subject to the uncontrolled power of another into the open struggle that might bring justice and, with it, peace. What if the protesters are right? What if peace is not a precondition of the pursuit of justice, but something made possible, hopefully, by justice's achievement? What if the salient barrier to peace is not war but domination? Would that change the 'realistic' assessment?

The second intuition is that the political problem posed by ideology has been badly mischaracterized by many of those who invoke the term. When theorists worry about ideology, they are often concerned with the old problem of 'voluntary servitude', as it has been transmitted through Lukács's appropriation of Engels's term, 'false consciousness' (Geuss 1981; Rosen 1996).[4] The concern, in short, is that the oppressed have internalized their oppression, or that external, worldly oppression—when some people are empowered to subject others to their whims and 'double binds' (Frye 1983)—gives rise to, or is even founded upon, an internal, psychological oppression (Bartky 1990; Geuss 1981; Newman 2022). I suspect that both the prevalence and the political salience of this phenomenon have been overstated (see Scott 1990). (Political organizers know that it is generally easy to persuade people that they deserve more and better; the hard part is convincing them that they can get more and better by joining your particular organization or movement.) Under-conceptualized and relatively unthought, however, are the ideologies that justify domination to those with the social and legal status to impose themselves on others.[5]

To dominate another is to be able, persistently and with a reasonable expectation of impunity, to mess with them. The power to mess with someone may be occasional and incidental. Sometimes people are trapped, at the mercy of another, but without any persistent relationship accompanying this power. This occasional sort of vulnerability can, unsurprisingly, be traumatic—hostages and robbery victims can attest to this—but these sorts of short-lived and *ad hoc* situations will not likely give rise to any significant behavioral patterns (see Gädeke 2020).

When domination is systematic and institutionalized, however, things change. Some people—the dominated—get used to negotiating a social world fraught

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3 'Social death', of course, is Orlando Patterson's conceptualization (1982). Tacitus's *solitudo* that is called peace is both 'solitude' and 'desert'. I owe my knowledge and appreciation of Tacitus's description to Sharp (2022).

4 Neither Engels nor Lukács actually used 'false consciousness' to explain 'voluntary servitude'. I cannot discern when and by whom the equation was made between ideology and a false consciousness that secures voluntary servitude.

5 See, however, Therborn (1999) and Ince (2018).

with the risk of getting on someone's bad side, or of simply being in the wrong place at the wrong time. They develop strategies for negotiating this risk and get used to altering their comportment and plans to take account of it. Other people—the dominators—get used to being able to mess with people—even if they never did anything to choose the power they have by virtue of their membership in a privileged group—and get used to not even *needing* to mess with people, since the people they *could* mess with already know they have this power, and often try to preempt any trouble by going along to get along. When you are used to having this sort of power over others, the world becomes a different place, populated by new phenomena and in need of new stories to make sense of it. I think these narratives of the powerful are salient for theories of democratic legitimacy. They do not affect what legitimacy is, but they do affect, I will argue, how we might go about pursuing it, and what we should expect legitimate government to achieve. In short, to prioritize the achievement of democratic legitimacy, as the realist rejoinders to Rawls recommend, seems to make sense only to the extent that we already live in a world in which systematic domination—and its ideological baggage—has been stamped out.

In order to flesh out my argument, I will turn to historical and empirical studies of systems of domination. Domination is not a simple or a static affair.[6] Its social existence is marked by strategies and counterstrategies, dynamic tensions and processes. These intricacies have been studied by sociologists, social historians, and social theorists, but this literature remains virtually *Terra ignota* among more juristic and constitutionally minded political theorists. Much of the argument of this paper consists in insinuating the social study of domination into political theory and observing what happens. I do so for the sake of combatting in political theory the temptation to focus on the static design of the constitutional state at the expense of ignoring or even condemning the social processes that motivate legal and constitutional changes.

I am trying to follow Marx here. In his opposition to the utopian socialists and other benevolent reformers, Marx insisted that—in one formulation—"social

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6 Throughout, I will understand the condition of domination to be one in which someone (A) has a power to interfere with another's (B's) choices and actions, and this power to interfere is uncontrolled by B. In a formula, domination is 'uncontrolled power-over'; see Pettit (2012, chap. 1), Lovett (2010, chap. 2) and Wartenberg (1990, chap. 6). This approach contrasts with that of Wartenberg, who understands domination as *harmful* power-over; see Wartenberg 1990, chap. 6. Pettit's definition has the virtue of not needing a generic account of objective human interests in order to do its critical work. It also contrasts with the Weberian understanding of domination (*Herrschaft*) as the ability to have one's orders obeyed. This definition erases the strategic drama of the relation of domination by making success a minimum condition of domination itself. The dominant may wish that they will be obeyed, but power over others is very far from effective control.

reforms can never be brought about by the weakness of the stronger"—he means the philanthropy or sympathy of the bleeding heart—"they must and will be called to life by the strength of the weak" (Marx and Engels 1976, 279). The notion was that emancipation could only come from below, from the dominated themselves. Only they had an *interest* in their liberation. Therefore, the only freedom that could be had would have to be the freedom that they could make. Whenever Marx wrote of a "scientific socialism," he meant, therefore, a socialism that "limit[ed] its science to the knowledge of the social movement made by the people itself" (Marx and Engels 1973, 635). Or, as Martin Luther King, Jr., put it ninety years after Marx, "The fact is that freedom is never voluntarily given by the oppressor. It must be demanded by the oppressed—that's the long, sometimes tragic and turbulent story of history" (King 2012, 177). I think this perspective could make a valuable contribution to political theorists' sense of the line between realism and moralism.

2 The Priority of Legitimacy Thesis

Giving priority to legitimacy takes different forms in different authors. It is not a defining feature of realism in political theory. Raymond Geuss does not advance this priority claim.[7] Nor does Jeremy Waldron (although he seems to imply it in a couple of places). The fullest argument for the priority of legitimacy comes from Philip Pettit, who is not usually classed among the realists. Finally, it is not clear that the arguments offered by the various proponents cohere into a unified position. Enzo Rossi is explicitly skeptical of Williams's understanding of legitimacy, for example (Rossi 2013), and Williams is explicitly skeptical of the neo-republican view of popular control that undergirds Pettit's conception of legitimacy (Williams 2008, 75–96). The priority of legitimacy is not, therefore, part of a unified theoretical position.[8]

Nonetheless, there are a couple common intuitions at work in many of these authors, including those, like Waldron, who do not explicitly embrace the priority of legitimacy. One intuition is expressed well in Williams's "basic legitimation demand". In order that a state meet this demand, count as a legitimate state at

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7 I believe Geuss's (1981) reconstruction of ideology critique in *The Idea of a Critical Theory* entails a sort of priority of legitimacy claim, according to which institutions of rule are always founded on the legitimacy-beliefs of the ruled, but demonstrating this and showing how it ties in with the version of the priority of legitimacy I am concerned with here would take me too far afield.

8 Bagg (2022) has differentiated meta-normative and procedural arguments for giving priority to legitimacy, and I am in substantial agreement with his discussion here.

all, and offer "an 'acceptable' solution to the first political question", Williams argues, "the state has to offer a justification of its power *to each subject*" (Williams 2008, 4). Williams thinks that we can get from this basic legitimation demand "a constraint of roughly equal acceptability (acceptability to each subject)," and that this constraint "is implicit in the very idea of a legitimate state, and so is inherent in any politics" (Williams 2008, 8).

A second intuition is voiced by Waldron, when he glosses the ethics of responsibility as a "duty of respect for the structures and procedures that frame the political enterprise and that make deliberation and action with others possible" (Waldron 2013, 17). The institutions that order political life and political interaction have a prior claim on us, precisely because they make possible disagreement without disunion and cooperation without consensus. Waldron is concerned that an emphasis on justice or any other political ideal can blind us to this priority of institutions, and can encourage us to cut through the procedures that seem to impede our motion but actually preserve us from tumbling pellmell into the abyss.[9]

When these intuitions come together, the result is an approach to politics and to political theory that promotes finding, securing, and protecting mutually agreeable institutional frameworks—rules, procedures, and structures of interaction, debate, and decision-making—as the first task of politics. Before we decide what to do, we must decide how we will decide what to do. Before we pursue any policy or any end, we—all of us—must get on the same page about the procedural constraints on our possible pursuits. We must rule certain things out, and bind ourselves to only pursue policies that are, in some sense, acceptable to everyone. This does not require consensus about policy, but it does require a broad consensus about the procedures for setting policy. This broad consensus on procedures is legitimacy, and legitimacy has to come first.

Pettit expresses this priority of legitimacy in the claim that, "Whatever policies the government supports, and whatever policies any one of us wills on government, none should be put in place unless it is implemented under a form of popular control in which *we all equally share*" (Pettit 2012, 25; emphasis added). Hence, universal democratic citizenship and the governmental legitimacy that comes with it are the preconditions for robust social justice—a matter of policy—and must always be secured and protected as a prerequisite of social justice. Only a legitimate state—one that dominates no one—can protect citizens against domination by other citizens. The pursuit of social justice must, therefore, follow rather than precede the securing of democratic legitimacy.

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9 Arendt is the acknowledged inspiration for this view. Again, I recommend Bagg (2022) for a more thoroughgoing dissection of the various argumentative strands in the realist camp.

I think political theorists are wrong to insist upon this priority. The legitimacy of government is more likely to be an *index* of the absence of social domination than a *precondition* of that absence. The priority of legitimacy thesis presupposes that dissensus about procedures—contestation over the framework for decision-making—is akin to a high fever or uncontrolled bleeding: a symptom of illness or injury that must be treated before the underlying condition may be addressed. First you bring the fever down. First you stop the bleeding. Otherwise, the patient may die before you can treat the causes. I incline, instead, to the view that a lack of legitimacy is akin to the growth of a boil, and that healing may well require encouraging the conflict over procedures to come to a head.

Prioritizing legitimacy occludes two important political phenomena. First, socially dominant groups are prone to digging in their heels politically whenever legislation, policies, or procedures seem to threaten their social dominance. Hence, democratic legitimacy may be an impossible goal wherever social domination is present, at least in any systematic way, because it is prone to being held hostage by the socially dominant group. Second, popular struggles against domination tend to produce internal forms of secondary domination as a strategic necessity in order to produce and sustain the conditions for collective action. These forms of counter-domination are, as a rule, more vulnerable to governmental interference than are the primary forms of social domination to which they are responses. Given this, the search for democratic legitimacy in the context of social domination is likely to place an asymmetrical stress on the dominated surrendering these 'weapons of the weak'.

If the socially dominant are prone to holding legitimacy hostage, then advocating for the priority of legitimacy over social justice would play into this tendency, perversely incentivizing the dominant to dig in their heels. If legitimacy is compatible with cracking down on the weapons of the weak, then prioritizing legitimacy is a poison pill for the dominated, asking them to disarm unilaterally.

My argument draws upon social theory by highlighting the dynamic social processes that arise out of conditions of social domination. Viewed historically and sociologically, domination is not just an evil to be avoided, but a family of social formations and institutions. It is only exceptionally or superficially a relation obtaining between two (or a few) individuals. The standard case of domination, on the other hand, is a system of institutions and practices, deeply embedded within or even structuring society as a whole. Even as a personal relation, domination is, in Orlando Patterson's words, "a complex interactional process, one laden with tension and contradiction in the dynamics of each of its constitutive elements". As a set of social institutions, it is "no less dynamic" (Patterson 1982, 13). I hope to show that prioritizing legitimacy over justice gives

rise to perverse consequences as soon as the world of domination and freedom is set in motion.

Any system of domination is liable to give rise to forms of *secondary* domination. These are secondary in an analytical sense, but also in an ontological and normative sense. Which domination is primary and which is secondary can be discerned by the social theorist, if not always by the social agent on the ground. I will be concerned in what follows with two forms in particular, which I will call *external counter-domination* and *internal counter-domination*.

External counter-domination is secondary domination that aims to check a primary domination by direct counter-threat. In systems of social domination, external counter-domination does not take the form of an arms race among competitive and roughly equal powers. Rather, it generally consists in an asymmetrical set of tactics that blunt or limit the application of the dominant group's power without counter-balancing that power. An IWW pamphlet on sabotage is indicative of the form external counter-domination normally takes: "Let the capitalists be reasonably certain that any attempt to judicially strangle the spokesmen of the workers will be met by a prolonged series of mishaps in the industries, and their hands will be stayed. Let the depriving of the workers of their liberty be a signal to deprive the employer of all profits, and arrests will cease to multiply" (Flynn, Smith, and Troutman 2014, 82). The workers' power of industrial sabotage does not negate the capitalists' legal and economic domination, or make things even between the two parties. It can, however, mitigate or blunt the force of the bosses' domination.

Internal counter-domination is secondary domination that attempts to counter a primary domination by enforcing conditions of group solidarity among the dominated. (This is generally if not always for the sake of effective external counter-domination.) Anti-scab cultural norms and practices among the working class—everything from insulting and shunning to the physical assault of strike-breakers and replacement workers—are classic examples of this type. In the absence of closed shop legislation, strikes—themselves instances of external counter-domination—are only possible if solidarity is maintained. Anti-scab norms and practices seek to secure the conditions of collective action by raising the cost of defection.

3 First Phenomenon: Holding Democratic Legitimacy Hostage

External counter-domination is a problem for democratic legitimacy because it underscores the fact that social domination establishes a deep, abiding, and

high-stakes *strategic* relationship between dominator and dominated. A crucial consequence of this strategic relationship is that, in particular, dominators are not amenable to reasoning about anything that touches upon their dominance.[10] Of course, they have a strong interest in maintaining their dominance; they receive significant status and/or material rewards from the power they possess. More importantly, however, they—being human, and, therefore, being interested in justifying themselves to themselves and to their fellows—have developed legitimation narratives for their power. These narratives assure the dominant that their dominance is for the best. They also immunize the dominant against evidence that would put the lie to these beliefs. These legitimizing narratives are, in short, flawed ideologies, beliefs that are highly resistant to rational revision in the light of evidence (Stanley 2015, chap. 5). If dominators had only a strong interest in the continuance of their domination, then it would be reasonable to expect them to participate in deliberating about the common good. The existence of strong interests is not, by itself, enough to make someone unreasonable. A strong belief in a flawed ideology, however, is another matter.

Historical studies allow us to make three closely connected generalizations about the self-legitimating ideologies of the dominant.

First, these ideologies represent the dominated as simple-minded and stupid, or as duplicitous and conniving, or as both. As Eugene D. Genovese documented, for instance, "Southern ideologues repeatedly retreated into the view, to which their racism lent plausibility, that their slaves could not take care of themselves and that their masters had a Christian duty to do it for them" (Genovese 1974, 76).[11] This was but one instance of a universal regularity among slaveholding peoples; the Roman myth of the chatty, inept, irresponsible, deceitful, and untrustworthy *Graeculus* is a note-for-note prefiguration of the Southern 'Sambo' and the Caribbean 'Quashee' (Patterson 1982, 91). The memoir of a West Indies planter claimed that blacks "are unjust, cruel, barbarous, half-human, treacherous, drunkards, proud, lazy, unclean, shameless, jealous to fury, and cowards" (James 1989, 17). Something very close to this catalogue of contradictory character traits has been applied to ghettoized European Jews, the colonized Irish and Algerian, women under patriarchy, and a thousand other subject population groups.

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10 Like all of my claims about dominators and dominated, this is an empirical generalization, not an apodeictic certainty. Systems of domination consist in structures of norms and incentives. There will be individuals who rebel against the norms and defy the incentives tied to their social position. Also, like all of my claims, it is possible that more systematic empirical study would falsify (or significantly qualify) it. That is the price of 'realism.'

11 Unfortunately, Genovese spent so much time studying the ideology of the planter class that he became, in his later life, a believer in some of their paternalistic fantasies.

So-called men's rights activists and 'pick up artists' refer to women as having a biological 'anti-slut defense', which means that they cannot be believed when they refuse or resist sexual advances (Teevster 2013). Aristotle's claim—that women have a deliberative capacity, but it lacks authority (Aristotle 1984, *Pol.* I.13.1260a12)—echoes through history; women can make arguments, but they are swayed by passion rather than ruled by reason. Hence, Rousseau could claim that "women have, or ought to have, but little liberty; they are apt to indulge themselves excessively in what is allowed them" (cited by Wollstonecraft 1995, 162). These and analogous myths have grown up about every class of people subject to domination: the child-like and superstitious peasant, the intemperate and obsequious worker, and so on. The dominated always appear in the discourse of the powerful in the guise of the simple, the irresponsible, the weak of mind and will, the deceitful, the dishonest.[12]

As a consequence, the dominated are imagined to be untrustworthy and ineligible for rational conversation. This was true of American slavery. Frederick Douglass testified that "slaveholders ever underrate the intelligence with which they grapple", for "ignorance is a high virtue in human chattel" (Douglass 2003, 62). It is true of male domination. "For us men", proclaims the website *Return of Kings*, "it is important to understand that women are by nature so irrational and emotional, so capricious, fickle, and flaky, that often what we perceive to be games is for them simply ordinary behavior" (Contrary 2014). It is also true of modern class domination. *Chav*, a derogatory British term for someone from the working class, is likely derived from a Romany word, *chavi*, meaning *child*; it connotes someone stupid, poor, and violent (Oxford English Dictionary 2022). And it is also true of colonial and neo-colonial relations. Israeli soldiers are told that Palestinians are completely unpredictable; "One can never know what they'll try next. . . . They have no inhibitions. They'll stop at nothing" (Na'aman 2012).

Finally, the dominant also generally believe that the only alternative to their dominance is their subjugation to those they currently dominate. That is, the dominant are ideologically committed to the ineliminability of systematic domination, and to the belief that struggles over freedom are a zero-sum game. When a president of the Royal Society opposed proposals for the education of the English working class, he predicted that education "would render them fractious and refractory. . . . It would enable them to read seditious pamphlets, and . . . would render them insolent to their superiors" (Genovese 1974, 561). The Governor of Martinique believed that "the safety of the whites demands that we keep the

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12 Nietzsche well-understood that the spontaneous social psychology of the dominant made out the dominated to be "neither upright nor naïve, nor honest and straight with himself" (Nietzsche 1997, 21). He was less clear on the epistemological failings of this ideology.

Negroes in the most profound ignorance" (James 1989, 17). Bosses imagine that workers want to give the orders. Slaveholders imagine that their slaves want to become their masters. Patriarchs imagine that women want to castrate and rule them. Occupiers imagine that "If you didn't have [your weapon], and if your fellow soldiers were not beside you, they would jump on you, . . . beat the shit out of you, and stab you to death" (Na'aman 2012). Equality seems practically unimaginable from the position of the dominant.

These common features of dominant ideologies have the consequence that the dominant are singularly incapable of being reasonable about the social system that secures their dominance. Ironically, the dominant are not reasonable about anything touching on their domination *because* they are ideologically committed to the belief that the dominated are not reasonable. The dominant, as Frederick Douglass noted, "never encourage that kind of communication" with the dominated "by which they might learn to measure the depth of his knowledge", and, as a result, "reason is imprisoned here, and passions run wild" (Douglass 2003, 61–2). The dominant are also not reasonable about anything touching on their domination because they have an exaggerated estimate of the costs of reform. Because they cannot imagine sharing a social status with those they dominate, they are prone to believing that freedom for the dominated would entail their own subjugation.

At least as important as the existence of these ideological beliefs of the dominators is the fact that these beliefs are also based in a robust body of empirical observations. The ideologies of the dominant may be flawed, in the sense that they give rise to predictable epistemological failures, but this does not mean that they are free-floating fictions. On the contrary, part of what makes them and their flaws so resilient is that they find regular confirmation in everyday phenomena. They find this confirmation, in part, because they direct attention to the phenomena that seem to confirm them, giving rise to a 'perceptual farce' (Siegel 2015). But all manner of biases can give rise to perceptual farce; the ideologies of the dominant are *also* sustained by the shape of the social world and by the pattern of incentives and constraints that world presents to the dominated. The ideology of the dominant is inseparable from the institutions and practices of domination. For understandable reasons, the dominated *seem* to perform the roles prescribed for them by the ideology of the dominant.

Being dominated gives a person every incentive to be duplicitous, and to pretend to be simple-minded or clueless. As Harriet Jacobs argued, 'cunning' is something slaves were "constantly compelled to resort to". After all, "it is the only

weapon of the weak and oppressed against the strength of their tyrants" (Jacobs 2015, 96).[13] When Mary Wollstonecraft argued that, "Whilst they are absolutely dependent upon their husbands", women "will be cunning, mean, and selfish", she was not condemning women, but their dependency—that is, their domination (Wollstonecraft 1995, 230–1).

Domination *incentivizes* cunning and stratagem among the dominated. To be dominated is to be exposed to the power of others. The dominant can interfere in the lives of the dominated at will, laying down rules, giving commands, enforcing sanctions, and expecting to be backed up by the institutions of society at large in the event of any conflict. In this context, it makes sense for the dominated to say what they think the dominant want to hear, whether it is the truth or not. It makes sense to play dumb. It also makes sense to eschew long-term planning, since "it doesn't pay off to save for an uncertain future if the reward they are waiting for sometimes is not there after the wait" (Berkman 2015).[14]

As a consequence of how the dominated—rationally and realistically—respond to the strategic circumstances of their domination, the dominant will tend to see the dominated as irrational and untrustworthy. As C.L.R. James noted regarding the enslaved of San Domingo, "those who wished to believe and to convince the world that the slaves were half-human brutes, fit for nothing else but slavery, could find ample evidence for their faith" (James 1989, 16).

Israeli checkpoints in and around the Occupied Territories present an especially acute and intense relation of localized domination, but for that reason, they illuminate the character of the strategic relationship at the heart of all domination. I quote from Oded Na'aman's memoir in *The Boston Review* (Na'aman 2012):

> The circumstances instill in soldiers and Palestinians an intense interest in each other's minds. This same interest subverts their capacity to recognize each other. There can be neither truth telling nor lying at the checkpoint. No obligations, no gestures, no smiles, and no insults. There can be neither respect nor disrespect, neither shame nor honor. Palestinians will say and do whatever they think is most likely to get them through the checkpoint. Soldiers will say and do whatever keeps the Palestinians scared enough to do nothing but obey.

Because the dominated depend, for the fulfilment of their plans and desires, upon the will of the dominator, the dominated become mind-readers and charlatans, by necessity. If the discourse of the dominant attributes to the dominated

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13 While cunning is an indispensable weapon of the weak, it is not actually the only one.
14 This statement is not as precise or as strong as it might be. The future is always uncertain, to some extent, but the habit of thinking that one is dependent upon the good will of others makes waiting for a reward seem especially foolish.

every contradiction—they are stupid and cunning, indolent and violent, child-like and unjust—the dominated are themselves aware of the need to have a "dual personality" (James 1989, 18). Because dominators seek to control the dominated, they are acutely aware of the opacity of the dominated. The ideology of the dominant is *not wrong*. The dominated need to be untrustworthy, irresponsible, dishonest, and obtuse. They need to lack self-control. They need to be shameless and servile and abject. The ideology of the dominant is a faithful portrait of the social situation of domination itself. It goes wrong because it attributes this social situation to the dominated, in their persons, rather than seeing in the manifest personality of the dominated a consequence of the social power relations imposed by the dominant.[15]

Given a background of social domination, therefore, it is unreasonable to expect that the dominated "should accept that whatever the proposals any one of us makes on public matters, they should only be implemented or maintained under the proviso that . . . they command democratic support" (Pettit 2012, 25). This demand to put democratic legitimacy first is unreasonable because it implies that both dominant and dominated should "enjoy equal access to a system of popular influence and that system of popular influence has to give the state an equally acceptable direction", equally acceptable, that is, to both the dominant and the dominated. Knowing what we know about relations of domination, we cannot expect that the dominant will be reasonable assessors of public initiatives.

Pettit argues that effective democratic controls on the state will make it the case that, when decisions go against any citizen's wishes, they "can only think that it was just tough luck", not "the sign of a malign will at work against [them] or [their] kind". He admits that this holds only for those who "are not subject to excessive anxiety or distrust", but clearly assumes that this will be an exceptional condition, not a broad social pathology (Pettit 2012, 177). If my argument is correct, Pettit's assumption is out of place; the presence of social domination will make both dominant and dominated subject to profound anxiety and distrust. This anxiety and distrust will be appropriate in the case of the dominated, but excessive in the case of the dominant, because it will reflect their flawed ideology. They will not be good democratic citizens and will likely hold the democratic legitimacy of the state hostage if they have the opportunity to do so. Putting legitimacy first would commit us in principle to giving them that opportunity.

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15 In order to get anything like a true picture of the dominated, one must instead take the trouble "to observe them away from their masters and in their intercourse with each other" (James 1989, 17).

4 Second Phenomenon: Cracking Down on the Weapons of the Weak

There is also a second problem with giving priority to legitimacy. To the extent that socially dominant groups are willing to play along with the search for democratic legitimacy, and to accept the direction given to the state, it may be because the policies that seem capable of securing broad democratic support, regardless of their apparent neutrality as between socially dominant and socially dominated, will likely weigh more heavily against the counter-domination of the subordinated than against the primary system of social domination. Prohibitions in criminal and regulatory statute are, by necessity, aimed at actions or patterns of action. Whether those actions reinforce or resist a system of social domination cannot, generally, enter into the letter of the law itself; hence, the law itself does not discriminate between primary social domination and the counter-domination that seeks to keep it in check. Hence, the magnificent neutrality of the law is plausibly achievable even in a world marked by social domination.

But this formal neutrality does not imply anything, on its own, about practice. That the state is not itself authoritarian, and that all citizens have formally equal rights against it, are not sufficient conditions to ensure that the state will not, by its actions, reinforce an existing system of social domination. In this case, we might speak of the state not as a *dominator* in its own right, nor as an *instrument or tool* of the dominant (as if they were in deliberate control of it), but as an *agent* of social domination. My contention in this section is that the state may, while seemingly satisfying the conditions for democratic legitimacy, nonetheless be an agent of domination, enunciating and enforcing formally non-dominating laws in such a way as to buttress a system of social domination by attacking forms of counter-domination that emerge from the dominated.

These forms of counter-domination (especially, perhaps, the internal ones) are, considered on their own, objectionable. They can be quite ugly. There is no need to downplay or deny the facts. However, as James Scott observes, "power relations generated among subordinate groups are often the only countervailing power to the determination of behavior from above" (Scott 1990, 27). He points to the vocabulary frequently used by subordinates to describe those who seek to improve their own lot by currying favor with the dominant, and, by so describing, to punish and prevent such individualist strategies: "toady, ass-kisser, rate-buster, bootlicker" (Scott 1990, 26–7). He adduces a couple concrete examples:

> Tenant farmers in the Malaysian village I studied had developed a strong norm among themselves condemning anyone who might try to secure or enlarge his acreage by offering the landlord a higher rent than the current local tenant paid. Fifteen years ago, someone

apparently defied the norm; since then, the family is poorly regarded and has not been spoken to or invited to feasts by any kin or friends of the offended family. In a comparable case, no Andalusian farmworkers would dare work for less than the minimum wage. If they did, they would be given the cold shoulder, ostracized, or branded 'low' or a 'creeper' (Scott 1990, 27).

As he draws out the lesson of such "cultures of conformity" among the dominated, "the more or less coercive pressure . . . serves not only to suppress dissent among subordinates but may also place limits on the temptation to compete headlong with one another—at the expense of all—for the favor of the dominant" (Scott 1990, 27).[16]

While the examples given here—shunning and name-calling—are not the sorts of actions that are easily touched by legislation, the repertoire of internal counter-domination includes many practices that are well within the reach of the law. Attention to these practices may give the impression that they are intolerable from the point of view of a democratic state. A striking example of this impression is provided by Vilfredo Pareto's description of early twentieth-century France:

> Legally, a privileged caste does not yet exist; and if we study only the law, we have to say that the worker is as much subject to the law as the bourgeois, the striker as much as the worker who wants to work, and indeed that the law punishes those who aim to deprive others of their freedom to work. But, if we start to study the facts directly, we are led to entirely opposite conclusions. . . . These workers are above the law, because the police do not oppose their overbearing behavior; or—what amounts to the same thing—oppose it ineffectively; because if they commit crimes, they are not prosecuted; or if they are prosecuted, the government forces the judges to acquit them. Moreover, no witnesses will give evidence for the prosecution, because those who could do so know that they would have no protection against the revenge of the accused; and, if by any chance, they should be convicted in court, they will soon be pardoned (Pareto 2014, 242–3).

Note that, for Pareto, it is the 'freedom to work' that is trampled by strikers. This indicates that, despite his vagueness about the 'overbearing behavior' in question, the internal counter-domination of the subordinate group is, to the economist's eyes, the only form of domination that exists in this scenario. The workers are 'above the law' because they are able to enforce a norm separate

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16 Scott's analysis, unfortunately, does not clearly distinguish between internal counter-domination and what we might call *cascading* domination – where the domination of a group enables or encourages a second relation of domination within the dominated group—but lumps the two together as 'domination within domination'. In any concrete instance both functions may be present—a norm of 'snitches get stitches' may both check the domination of racist cops and strengthen the hand of criminal gangs over the rest of the community—but it is still crucial to separate the two analytically.

from that of the state, and the government and judiciary allow this autonomous enforcement to happen.

Pareto is complaining that the state takes no action, or insufficient action, to stop the working class's coercive self-regulation. I maintain, however, that the state is much more likely to take *this* sort of action, to use the police against the internal counter-domination of the subordinate, than it is to address the primary domination to which this is a response. Pareto's sensitivity—like that of economists in general, perhaps—is an index of the nervous responses of the modern state itself. This selective sensitivity of the state manifests itself in cases where the state is not a direct dominator, but the enforcer or agent of a domination that arises outside of the state itself.

In many of these cases, the state enforces formally neutral laws in a discriminatory manner, such that socially dominated communities bear the brunt of enforcement. In these cases, the flawed ideology of the dominant shows up again as biases in the judgment calls that determine where and how police power is exercised, and how cases are treated by the legal and prison systems.

For example, women who respond to intimate partner violence with physical self-defense face several inequities in their treatment under the law. "The 'equal force' requirement of the law of self-defense fails to take into account that a woman's lesser strength"—and lesser socialization into the ways and means of violence—"may require a weapon to equalize force". Similarly, "the 'imminent danger' requirement fails to account for such inequities [sic.] of force as well as for a history of past abuse". Finally, "although abusive men who kill their wives or girlfriends receive widely differing bail judgments and sentencing, often benefitting from a 'domestic discount' . . . because 'killing out of anger . . . decreases moral blameworthiness', women who kill their abusers are generally arrested without bail, charged with first-degree murder . . . and given heavy sentences, including a higher proportion of death sentences" (Hirschman 2003, 117). Similar double standards are faced by men of color, and especially black men, and poor people in general. As victims of criminal acts, they are under-protected; as criminal agents, they are over-policed, over-prosecuted, over-convicted, and over-sentenced.

In these and similar cases, state actors are not denying equal protection of the law in order to ensure their own power, or to further the aims of the state's top officeholders or functionaries. Women who defend themselves against abusive men are not a threat to the state. Neither are black teenagers. On the traditional understanding, it is not tyranny—or even bureaucratic overreach—when they

are subjected to police and judicial bias.[17] The rules to which they are subject may be unobjectionable from a democratic perspective, and the procedures by which they were arrived at may be agreeable to all. Moreover, in the US, at least, "racial disparities" in criminal arrest, conviction, and incarceration "are mostly not a result of the injustice of biased treatment *inside* the criminal justice system, but rather the foundational injustice of American racial inequality outside it" (Clegg and Usmani 2019, 49). That is, the impetus for the domination comes from outside the state itself. State actors are vectors by which the ideologies of the socially dominant achieve effective expression on a terrain of disparate social power.

Given these dynamics, it is natural to expect that the various modes of counter-domination practiced by the dominated—internal and external—will come in for greater police scrutiny and less prosecutorial leniency than the forms of social domination they combat. In this sense, then, the democratic legitimacy of the state will go hand in hand with the state enforcing the terms of social domination. Asking the dominated to accede to legitimacy first is asking them to swallow a poison pill.

5 Conclusion

The considerations I have brought forward in this paper are, undoubtedly, both roughhewn and controversial. They are drawn from a cobbled-together and all-too-narrow archive of historical and sociological studies, memoirs, and anecdotes. And my cases are most definitely selected on the dependent variable. There might, therefore, be any number of factors that make people persistently unreasonable or ideological, and those factors might intersect with social domination in all manner of ways. As a response to the 'realist' critics of Rawlsian and post-Rawlsian social justice talk, these considerations may seem to amount to little more than: 'That's not how the world works!' This may be effective as a *tu quoque*: the proponents of *realistic* and *political* theory are actually just as unrealistic and moralistic as the ideal theorists they criticize. As Katrina Forrester has noted, "born of an attempt to repoliticize moralist liberalism", the various strands of political realism have proven themselves prone "to a different kind of deradicalizing moralism that appealed not to universal principles but to history" (Forrester 2019, 265).

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17 There are important exceptions to this generalization. The people of Ferguson, Missouri, have clearly been the victims of a deliberate regime of quasi-feudal extraction, insofar as the city government systematically uses racist law enforcement practices to generate revenue (US Department of Justice 2015).

If 'history' is replaced by 'institutions', Forrester's thesis is my own. But does this foray into the social theory of domination accomplish anything more than adducing a bunch of empirical cases to add anecdotal heft to Forrester's diagnosis?

Perhaps. If the story I have told about ideologies of domination is far from empirically established, it is nonetheless a plausible story about life in this world. It is also fragile: it stands or falls with a set of claims about how people are likely to act in certain social circumstances, and how different circumstances are likely to produce different beliefs about the social world. If the price of realism is this sort of fragility, then any political theory that aspires to be realistic has to commit itself both to a social theory that goes far beyond "the general facts about human society" (Rawls 1999, 137), and to an approach to institutions that does not presume that "deliberative and deliberate processes" that "slow things down", "stretch things out", and "provide an irritating place for the raising of inconvenient questions", are *ipso facto* markers of "a free society" (Waldron 2013, 23).

But this move to inject social theory into our political theorizing also troubles the very terms in which political realism is distinguished from political moralism. If it is not realistic to put legitimacy before justice in conditions of social domination, then the consequence is that 'justice-first' moralism is, at least sometimes and to some extent, more realistic than realism. 'No justice, no peace' is a *reasonable* hypothesis. Therefore, a social theoretical investigation of the presence, extent, intensity, and forms of social domination is a necessary prelude to any pronouncement about what might be a realistic political resolution.

References

Aristotle 1984. *The Politics*. Chicago: Universityof Chicago Press. Translated by Carnes Lord.

Bagg, S. 2022. "Realism against Legitimacy: For a Radical, Action-Oriented Political Realism." *Social Theory and Practice* 48 (1): 29−60.

Bartky, S. L. 1990. *Femininity and Domination: Studies in the Phenomenology of Oppression. Thinking Gender*. London: Routledge.

Bavister-Gould, A. 2013. "Bernard Williams: Political Realism and the Limits of Legitimacy: Political Realism and the Limits of Legitimacy." *European Journal of Philosophy* 21 (4): 593−610.

Berkman, E. 2015. *Poor People Don't Have Less Self-Control. Poverty Forces Them to Think Short-Term*. New Republic. 22 September 2015. (accessed March 13, 2022).

Clegg, J., and A. Usmani. 2019. "The Economic Origins of Mass Incarceration." *Catalyst: A Journal of Theory and Strategy* 3 (3): 9−53.

Contrary, C. 2014. "Women Do Not Understand Themselves." *Return of Kings (Blog)*. 26 March 2014. Archived version (accessed March 13, 2022).

Douglass, F. 2003. *My Bondage and My Freedom*, edited by J. D. Smith. New York: Penguin Classics, Penguin Books.

Flynn, E. G., W. C. Smith, and W. E. Trautmann. 2014. *Direct Action & Sabotage: Three Classic IWW Pamphlets from the 1910s*, edited by S. Salerno. Oakland: Charles H. Kerr Library, PM Press.

Forrester, K. 2012. "Judith Shklar, Bernard Williams and Political Realism." *European Journal of Political Theory* 11 (3): 247−72.

Forrester, K. 2019. *The Shadow of Justice: Postwar Liberalism and the Remaking of Political Philosophy*. Princeton: Princeton University Press.

Frye, M. 1983. *The Politics of Reality: Essays in Feminist Theory*. *The Crossing Press Feminist Series*. Trumansburg: Crossing Press.

Gädeke, D. 2020. "Does a Mugger Dominate? Episodic Power and the Structural Dimension of Domination." *The Journal of Political Philosophy* 28 (2): 199−221.

Galston, W. A. 2010. "Realism in Political Theory." *European Journal of Political Theory* 9 (4): 385−411.

Genovese, E. D. 1974. *Roll, Jordan, Roll; the World the Slaves Made*. New York: Pantheon Books.

Geuss, R. 1981. *The Idea of a Critical Theory: Habermas and the Frankfurt School*. *Modern European Philosophy*. Cambridge: Cambridge University Press.

Hirschmann, N. J. 2003. *The Subject of Liberty: toward a Feminist Theory of Freedom*. Princeton: Princeton University Press.

Horton, J. 2010. "Realism, Liberal Moralism and a Political Theory of Modus Vivendi." *European Journal of Political Theory* 9 (4): 431−48.

Ince, O. U. 2018. *Colonial Capitalism and the Dilemmas of Liberalism*. Oxford: Oxford University Press.

Istook, E. 2014. "'No Justice; No Peace!' Chants in Ferguson Are Actually Saying, 'We Want Revenge!'" In *The Washington Times*. Archived version (accessed March 13, 2022).

Jacobs, H. 2015. *Incidents in the Life of a Slave Girl. Oxford World Classics*, edited by R. J. Ellis. Oxford: Oxford University Press.

James, C. L. R. 1989. *The Black Jacobins*, 2nd ed. New York: Vintage Books.

King, M. L., Jr. 2012. *All Labor Has Dignity*. *King Legacy*, edited by M. K. Honey. Boston: Beacon Press.

Lovett, F. 2010. *A General Theory of Domination and Justice*. New York: Oxford University Press.

Marx, K., and F. Engels. 1973. *Werke*, Vol. 18. Berlin: Dietz Verlag.

Marx, K., and F. Engels. 1976. *Karl Marx, Frederick Engels: Collected Works*, Vol. 6. New York: International Publishers. 50 vols.

Mazie, S. 2014. *"What Does 'No Justice, No Peace' Really Mean?" Big Think*. 5 December 2014. (accessed March 13, 2022).

Na'aman, O. 2012. "The Checkpoint." In *Boston Review*. 13 November 2012 (accessed March 13, 2022).

Newman, S. 2022. "La Boétie and Republican Liberty: Voluntary Servitude and Non-domination." *European Journal of Political Theory* 21 (1): 134−54.

Nietzsche, F. 1997 *On the Genealogy of Morality*, *Cambridge Texts in the History of Political Thought*, edited by K. Ansell-Pearson. Cambridge: Cambridge University Press. Translated by Carol Diethe.

Oxford English Dictionary Online. 2022 (March). "chav, n.". Oxford University Press.

Pareto, V. 2014 *Manual of Political Economy: A Critical and Variorum Edition*, edited by A. Montesano, A. Zanni, L. Bruni, J. S. Chipman, and M. McLure. Oxford: Oxford University Press.

Patterson, O. 1982. *Slavery and Social Death: A Comparative Study*. Cambridge: Harvard University Press.

Pettit, P. 2012. *On the People's Terms: A Republican Theory and Model of Democracy. The Seeley Lectures*. Cambridge: Cambridge University Press.

Rawls, J. 1999. *A Theory of Justice. Rev*. Cambridge: Belknap Press of Harvard University Press.

Rosen, M. 1996. *On Voluntary Servitude: False Consciousness and the Theory of Ideology*. Cambridge: Harvard University Press.

Rossi, E. 2013. "Consensus, Compromise, Justice and Legitimacy." *Critical Review of International Social and Political Philosophy* 16 (4): 557−72.

Scott, J. C. 1990. *Domination and the Arts of Resistance: Hidden Transcripts*. New Haven: Yale University Press.

Sharp, H. 2022. "Spinoza on the Fear of Solitude." In *Oxford Studies in Early Modern Philosophy*, Vol. 11. forthcoming.

Siegel, S. 2015. "Epistemic Evaluability and Perceptual Farce." In *The Cognitive Penetrability of Perception: New Philosophical Perspectives*, 405−24. New York: Oxford University Press.

Sleat, M. 2016. "Realism, Liberalism and Non-ideal Theory or, Are There Two Ways to Do Realistic Political Theory?" *Political Studies* 64 (1): 27−41.

Stanley, J. 2015. *How Propaganda Works*. Princeton: Princeton University Press.

Tacitus, P. C. 1899. *De Vita et Moribus Iulii Agricolae*. Boston: Allyn & Bacon.

Teevster 2013. "Anti-Slut Defense: What it Is & How to Handle it (Long and Detailed)." In *NextASF*. 19 April 2013. Archived version (accessed March 13, 2022).

Therborn, G 1999. *The Ideology of Power and the Power of Ideology*, 4th impressionVerso Classics ed. London: Verso.

United States Department of Justice 2015. *Investigation of the Ferguson Police Department*. US: Department of Justice, Civil Rights Division.

Valentini, L. 2012. "Ideal vs. Non-Ideal Theory: A Conceptual Map." *Philosophy Compass* 7 (9): 654−64.

Waldron, J. 2013. "*Political* Political Theory: An Inaugural Lecture." *The Journal of Political Philosophy* 21 (1): 1−23.

Waldron, J. 2016. *Political Political Theory: Essays on Institutions*. Cambridge: Harvard University Press.

Wartenberg, T. E. 1990. *The Forms of Power: From Domination to Transformation*. Philadelphia: Temple University Press.

Williams, B. 2008 *In the Beginning Was the Deed: Realism and Moralism in Political Argument*, edited by G. Hawthorn. Princeton: Princeton University Press.

Wollstonecraft, M. 1995. "A Vindication of the Rights of Men with a Vindication of the Rights of Women and Hints." In *Cambridge Texts in the History of Political Thought*, edited by S. Tomaselli. Cambridge: Cambridge University Press.

Wordsworth, Dot 2014. "Where Did 'No Justice, No Peace' Come from?" In *The Spectator*. 18 January 2014 (accessed March 13, 2022).