

Domination in Majoritarian Democracy

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Republicans claim one is unfree if one is subject to the arbitrary (or uncontrolled or unconstrained) power of another, even if that power is not used to interfere with one's choices.² This claim would seem to underwrite an especially strong objection to a form of majoritarian democracy in which there are no institutional obstacles preventing a majority from imposing its will. Even if the majority were likely to use its power responsibly, in a manner that served the common good, there would be no institutional constraints to prevent it from doing with the individual whatever it liked.

Because this objection is independent of assumptions about how political power is likely to be exercised, however, it may fail to capture an intuition that is widely held among critics of majoritarian democracy. It is commonly assumed that this kind of majoritarian democracy endangers the freedom of vulnerable minorities in particular, rather than every citizen's freedom in equal measure. If one accepts a conception of freedom as noninterference, one can readily account for that intuition—vulnerable minorities are especially likely to suffer interference at the hands of majorities. But that explanation is unavailable to republicans. If a citizen's freedom is independent of whether and how majorities wish to exercise their power, then it is unclear why pure majoritarianism would pose any special danger to the freedom of those who are likely to find themselves on the losing side, beyond the generalized danger it poses to everyone, equally.

To illustrate the thought, consider a majoritarian democracy with some cleavage along ethnic, racial, religious or other lines, a recent history of mistreatment of the citizens who fall into the minority as defined by this cleavage, and continuing polarization of political opinions along the same dimension. For concreteness, suppose the relevant dimension is ethnicity. Take any member, A, of the ethnic majority, and any member, B, of the ethnic minority. I assume B is dominated: the ethnic majority has the power to interfere with her choices (by electing representatives who will enact policies with this effect), and in a majoritarian democracy this power is inadequately constrained. But A is also dominated, despite belonging to the ethnic majority: there is a group of citizens, constituting a numerical majority of the electorate, with the power to interfere with his choices (again by electing representatives who then choose policy), and this power is also inadequately constrained. In fact, there is an unimaginably large number of majorities empowered in the same way. If the electorate has n members, every set that excludes A but contains more than $n/2$ voters is a group with dominating power. Similarly, every set that excludes B but contains more than $n/2$ voters dominates B, irrespective of its ethnic composition. Pick any two individuals, and they face symmetrical constellations of dominating majorities. Thus, it seems, we must

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² Lovett (2010); Pettit (1997, 2012); Skinner (1998, 2002).

conclude that everyone is equally dominated and everyone participates (as the member of various potential majority coalitions) in the domination of everyone else. That some of these numerical majorities will remain merely “latent” coalitions, majorities who never exercise their power, is no objection to the argument. Whether a group of agents dominates an individual does not depend on whether the group is likely to exercise its power.

If this argument is sound, the republican critique of majoritarian democracy would arguably lose some of its force, at least for republicans who prioritize equalizing freedom from domination. According to the argument, majoritarian democracy need not run afoul of that egalitarian commitment. It puts everyone in a similar state of subjection.

The question I take up here is whether and how republicans can articulate and defend the intuition that majoritarian democracy can produce an asymmetrical pattern of domination, where just one subset of the population (e.g., the ethnic majority) dominates everyone else, or dominates to a greater degree than generic majorities. I argue one can explain the possibility of asymmetrical domination if one considers the mechanisms by which large groups of citizens acquire and exercise abilities in a democracy. In particular, one should consider how social norms structuring deliberation can not only create a common awareness of shared political values and aspirations, but also have the opposite effect, stifling expression and preventing the members of a group from discovering their shared aspirations. In the kind of society imagined, where there is a history of oppression or marginalization of an ethnic minority and the norms structuring public deliberation are likely to deviate from what a well-ordered republic requires, which of these effects predominates will depend on who is the target of a prospective policy intervention. The pattern may plausibly produce an asymmetrical pattern of constraints on the abilities of different majorities, and thus an asymmetrical system of domination.

Preliminaries

I will assume throughout we are dealing with a society divided along the lines of race, ethnicity, class, religion, or some other feature of a person’s identity that is relatively stable, unchosen (or at least hard to manipulate), and publicly observable, such that public authorities can (if only imperfectly) determine a person’s identity group and use it as a basis for (perhaps only imperfectly) discriminatory treatment. For the sake of concreteness, I will make the dimension of interest ethnicity, and assume there are just two ethnic groups, one significantly larger than the other. The assumption is that we are dealing with a society where the division is salient because the ethnic majority has in recent history used its political and social power to mistreat the minority, and political opinion reliably correlates with ethnic identity.

Define a *pure majoritarian democracy* as a regime in which, for any hypothetical piece of legislation, any group of (adult) citizens making up a numerical majority of the whole has means of enacting the legislation. Majorities may have “direct” means of enacting legislation, such as when their members can collect enough signatures to put a measure on the ballot and then vote to approve it, or “indirect” means, as when they can elect members of their group into the legislature where their representatives will make up a coalition sufficient to enact the legislation in question. The critical assumption is that there are no institutionalized constraints on the kind of legislation that popular majorities can enact in this regime.

By a *potential majority coalition*, I mean any group of citizens who are a numerical majority of the electorate. The critical observation is that while the ethnic majority is itself a potential majority coalition, it is not the only one. For all practical purposes there are infinitely many.³ An important point to keep in

³ As an illustration, with just seven individuals there are already $\binom{7}{4} + \binom{7}{5} + \binom{7}{6} + \binom{7}{7} = 64$ distinct subsets of the group that constitute numerical majorities.

mind is that a potential majority coalition need not have any consciousness of itself as a political force, need not share preferences or opinions, need not be organized or be ready to engage in collective action. The *potential* qualifier is meant to remind the reader of this aspect of the definition. Almost all potential majority coalitions comprise members of both ethnic groups, so I will sometimes refer to them as multiethnic majority coalitions (except when referring to the special case of the ethnic majority). For a given potential majority coalition, call the subset of the electorate that does not belong to it, and that constitutes a minority of the electorate, its *corresponding minority*.

Our question is whether every numerical majority—whatever its ethnic composition—has the same degree of dominating power in majoritarian democracy, or whether instead members of the ethnic minority might be exposed to a greater degree of domination than everyone else. If all potential majority coalitions dominate their respective minorities, I will say that the pattern of domination is *symmetrical*; if the ethnic majority dominates the ethnic minority to a greater degree than the generic potential majority coalition dominates, then I will say the pattern is *asymmetrical*.

This inquiry is distinct from questions about whether the ethnic minority is more likely to suffer interference—or, for that matter, injustice, oppression or any other burdens distinct from domination. A central tenet of republican theory is that freedom is compromised by another's mere possession of arbitrary power, even if they choose not to exercise it. The benevolent master dominates the slave even if he does not use his power to interfere with the slave's choices. Similarly, a potential majority coalition may dominate everyone else in virtue of its power to enact legislation even if it does not exercise the power, or even if it exercises that power responsibly and within whatever moral constraints apply. While the ethnic majority is presumably more likely to form a shared preference to oppress the minority than multiethnic majority coalitions are to form a shared preference to oppress their corresponding minorities, that is not a reason to conclude it dominates to any greater degree.

One must take care to distinguish two senses in which a majoritarian democracy might be associated with domination. Like any other form of government, a majoritarian democracy could produce laws that institute relations of domination among a particular majority and its corresponding minority. For example, Jim Crow laws in the American South contributed to relations of domination between the white majority and black minority. But whether a majoritarian democracy produces 'majority domination' in this sense is not the question at issue. Non-democratic regimes can also produce 'majority domination' in this sense. The question is whether majoritarian democracy gives all majorities, or just one particular majority (e.g., the ethnic majority) an arbitrary, domination-constituting power over minorities *simply* in virtue of the power over legislation it confers, and irrespective of whether this power is used to impose laws that institute (further) relations of domination among citizens. The question concerns the power relations inherent in the structure of a majoritarian democracy, not the laws that such a democracy would produce.

Republicans often argue that this kind of democracy is inferior to a constitutional democracy in which there are various kinds of constraints on popular majorities.⁴ The arguments for this view are a natural point of departure for our inquiry, but there is no guarantee they will provide an answer. They aim to show that the state would not be a source of domination in a constitutional democracy, or that the distinctive features of a constitutional democracy would minimize the degree to which it dominates. Even

⁴ Lovett (2010, 218), Pettit (1997, ch. 6). Other authors deny that democratic institutions for producing legislation could be a source of domination (Bellamy 2007, 160; Hayward 2011, 478). If one accepted their views, the answer to our question is immediate: the ethnic majority does not dominate to any greater extent than generic majorities because none of them dominate. See Ingham and Lovett (2022) for an argument that even democratically organized legislative authority introduces some amount of domination.

if we grant their conclusions, these arguments do not tell us why there should be just a single majority that uniquely dominates in the absence of the rules and institutions that distinguish constitutional democracy from majoritarian democracy, rather than a situation where everyone is dominated by the countless potential majority coalitions to which they do not belong; or why that single majority would dominate to a greater degree than any other potential majority coalition. For example, let us grant for the sake of argument that there should be constitutional protections for a right to religious liberty, which place it beyond the reach of ordinary legislation. It remains an open question why the benefits of this protection, measured in freedom from domination, would redound primarily to members of religious minorities, rather than to everyone equally. What explains why without this protection the religious minority in particular would suffer domination at the hands of the religious majority, rather than everyone suffering domination equally at the hands of all the potential majorities empowered to interfere with their religious activities?

The same is true of arguments that a well-ordered republic would create opportunities for individuals to contest majority decisions, that its citizens would be engaged and ready to make use of such opportunities, and that in such an environment, citizens would be motivated to deliberate with each other on equal and inclusive terms (Pettit 1997; Richardson 2002; Maynor 2006). These aspects of a well-ordered republic may be critical for preventing the state from dominating citizens, but we may still reasonably wonder why a pure majoritarian democracy, lacking the institutions and civic culture these arguments identify as desirable, would produce a situation where a single majority dominates everyone else, rather than an equal and symmetrical pattern of domination for all.

What we need is an explanation for why a majoritarian democracy might have mechanisms that prevent generic potential majorities from dominating (or reduce the degree to which they do), but fail to have comparable effects on the degree to which the ethnic majority dominates. The challenge is to explain where the asymmetry comes from.

Alternative approaches

As Pettit (2012) describes the “problem of majority tyranny,” it involves a deviation from the ideal of equal influence. Domination is subjection to another’s uncontrolled power of interference. Control, in general, consists in influence that imposes a pattern or direction on its object; popular, democratic control consists in the citizens’ sharing “equally both in exercising influence over government and in determining the direction that influence is to impose” (Pettit 2012, 169). The state’s power to interfere will be dominating unless it is under the citizens’ equal control. The problem of majority tyranny arises when a minority, lacking adequate influence over the state, cannot be said to share equally in citizens’ control of the state.

Under what conditions might the members of a minority have less influence?

On one or another range of issues there may always be a more or less sticky divide between a majority and a minority and, if there is, then on that range of issues people will not enjoy equal access to influence, not having the same *ex ante* chance of being on the winning side; the patterns of electoral or legislative voting may shut out the minority. (Pettit 2012, 212)

By a “sticky divide between a majority and a minority,” think of decisions like whether to create an established church or whether to authorize only the majority language for government affairs. In these cases, there will be “*ex ante* reason, associated with their independently fixed identity, to think that certain individuals will be in the minority on a given issue.” People in this position “can enjoy equal influence over government only insofar as they are able to contest the appropriateness of majority voting” for determining such issues (Pettit 2012, 212—214). The claim is that otherwise the sticky minority will be exposed to a power of interference over which they lack influence in the following sense: they have no

chance of winning electoral and legislative battles to determine how the government will exercise its power of interference, given the facts about “independently fixed identity” that make it likely that a majority will have preferences opposed to theirs.

If successful, this argument would vindicate the intuition that a majoritarian democracy threatens to produce an asymmetrical pattern of domination in which members of the ethnic minority are dominated by the state’s power to interfere to a greater extent than members of the ethnic majority. There are several difficulties, however.

One question is why a person’s ex ante probability of finding themselves on the winning side of a political decision should matter to an assessment of their influence. Echoing Barry (1980), one might claim this probability is a measure of a person’s luck, not their political power or influence.

A common measure of voting power is one’s ex ante probability of casting a pivotal vote. If probabilities are calculated under the assumption that all other voters vote independently and with equal probability for either alter- native, then we have the Banzhaf (or Banzhaf-Penrose) measure of voting power (Banzhaf 1965; 1966; Penrose 1946). By that measure, simple majority rule with one vote per person would equalize voting power, and members of a permanent minority would have no less power or influence than anyone else, as the Banzhaf measure calculates pivot probabilities using a hypothetical probability distribution according to which all possible divisions of the vote are equally probable.

Perhaps one should calculate voting power using an alternative probability distribution, however. It may seem natural to use one that reflects information about the empirical distribution of political opinions, putting more weight on divisions of opinion along actual social cleavages. The resulting measure of voting power would support the judgment that members of persistent minorities have less power to influence political decisions.⁵

There is no compelling rationale for using maximally “realistic” estimates of pivot probabilities in the construction of voting power measure, however. In the limiting case where one can condition one’s estimate not just on a voter’s ascriptive identities but on information that perfectly predicts voting behavior, the most “realistic” estimate of pivot probabilities is that everyone has zero probability of being pivotal, except in the special case where one predicts the vote will be a tie or decided by a margin of exactly one vote. Barring this special case, one’s measure of voting power would then imply that everyone, members of the persistent minority and the majority alike, is equally powerless.⁶

A related challenge for an approach along these lines is to explain the special significance of identity characteristics like ethnicity, religion, class, or race. Imagine a minority of inveterate contrarians who, on account of fixed features of their temperaments, reliably find themselves disagreeing with majority opinion. Most of us would not wish to say they have less power or influence just because fixed features of their personality cause them to disagree with the majority. Again, the right description of their situation is that they are unlucky, not that they are less powerful than anyone else.⁷ On the account I suggest below,

⁵ See for example Abizadeh (2021).

⁶ Kolodny (2014, 321, 322) makes a similar point. Abizadeh (2021, 751) responds to Kolodny’s criticism by departing from approaches that identify power with probabilities of being pivotal, appealing to cases of overdetermined causation to motivate an alternative approach to conceptualizing power.

⁷ As I understand Abizadeh’s discussion of the related example of the “bellwether” voter, he would deny that the inveterate contrarian has less power on the grounds that the negative correlation between his preferences and

what makes identity categories relevant is their significance for the processes of public deliberation and political mobilization through which majorities exercise their power, a significance that does not extend to personality characteristics like contrarianism.

Before presenting this account, let me suggest one further intuitive judgment about majority domination that we should try to accommodate. Consider the positions of two young adults in our hypothetical society, one a member of the ethnic majority and one a member of the ethnic minority, and each just shy of reaching the age at which they are granted the political rights that are the basis for a share of political influence and control. If one believes the fully enfranchised adult members of the ethnic minority are especially vulnerable to domination in a majoritarian democracy, presumably one also has the intuition that the not yet enfranchised youths of the ethnic minority are more vulnerable to domination than their similarly not yet enfranchised counterparts in the ethnic majority. If so, we must look for an explanation different from the kind we have been considering. However one chooses to calculate voting power, all the disenfranchised have the same amount of voting power, namely none.

I have noted difficulties with an approach that starts with putative differences in power or influence between an individual member of the ethnic majority and an individual member of the ethnic minority, and then proceeds to derive from those differences the conclusion that (in the kind of majoritarian democracy we are contemplating) the ethnic majority dominates to a greater degree than generic potential majority coalitions. What we should consider instead are explanations that start by identifying a relevant difference between the ethnic majority and all the other potential majority coalitions, and then use that difference as the basis for distinguishing between the freedom of individuals. As an illustrative example of the kind of explanation I have in mind, consider an argument that takes the ethnic majority to be a kind of group agent, but denies that generic potential majority coalitions qualify as agents, and claims that only agents are capable of dominating anyone. I think this particular argument is unsound because groups are capable of dominating even when they do not qualify as group agents,⁸ but it has a structure similar to the argument I make below. It starts from a putative difference between the ethnic majority and all other potential majority coalitions, and then derives from that difference a conclusion that individual members of the ethnic minority are dominated to a greater extent than individual members of the majority. The argument I will make is that the ethnic majority enjoys abilities that are not subject to the same constraints that hamper the analogous abilities of other potential majority coalitions. As a consequence of that difference between the ethnic majority and other potential majority coalitions, members of the ethnic minority may be dominated to a greater degree than everyone else.

Asymmetrical domination

I will draw on the analysis of domination in Ingham and Lovett (2019). Suppose an individual, B, will at some future point have a choice of whether to perform some action ϕ , and suppose it is possible for a group of individuals, A_1, A_2, \dots, A_m , to *intervene* in B's choice, in the following sense: there are actions available to them such that, if the actions are taken jointly, they would affect either the possibility of B's ϕ -ing or the consequences of ϕ -ing. For example, a majoritarian democracy allows potential majority coalitions to intervene in individuals' choices by electing representatives who then enact legislation, which can either make it impossible for individuals to take actions they could otherwise take or (more often) makes those actions prohibitively costly.

majorities' preferences is explained by a feature of his psychology, rather than his position in a social structure (Abizadeh 2021, 754).

⁸ On this point, see Ingham and Lovett (2019), Lovett and Pettit (2019).

A group does not dominate simply because such an intervention is possible, however. Whether a group dominates depends on whether the group can be said to have a genuine ability to undertake such interventions, and, if so, whether that ability is adequately constrained.

Domination. A group of agents, A_1, \dots, A_m , dominates an individual B if the agents have an insufficiently constrained collective ability to frustrate B's choices.

This formulation is similar to previous ones in the literature, although where others distinguish between arbitrary and non-arbitrary power, or controlled and uncontrolled power, it distinguishes between adequately constrained and inadequately constrained abilities.

Using this formulation, there are two possible explanations for asymmetrical domination in our hypothetical democracy. If there is asymmetrical domination, then there are either asymmetries in the abilities of the various potential majority coalitions or asymmetries in the adequacy of the constraints on those abilities.

Asymmetries in groups' abilities

When does a group have an ability to bring about an outcome its members desire? The answer cannot be just whenever its members can each choose actions that, in the aggregate, would bring about the desired outcome. That answer ignores the possibility of collective action problems. If every worker refused to work for anything less than a fair wage, then they would thereby prevent employers from hiring workers for less than a fair wage. But we should not say, merely on the basis of that observation alone, that workers considered as a group have a collective ability to compel employers to pay fair wages. If workers had that ability, it would only be because further conditions were met, such as workers' being organized and poised to act in coordinated fashion to pursue their shared interests.

More generally, one should not attribute abilities to groups unless they are capable of overcoming collective action problems. In a collective action problem, individuals have available actions that, taken jointly, would suffice to realize some collective good, the provision of which would benefit each individual, but the individuals lack incentives to undertake the required actions. They may have incentives to "free ride," refraining from doing their individually costly part in the provision of the collective good because they believe enough others will do theirs. Or they may fear that too few of the other members of the group will contribute, rendering their own contribution a costly exercise in futility. In such circumstances, one should not attribute an ability to the group to intervene, even though an intervention is possible.

These observations motivate the following definition:

Collective ability. A group of agents A_1, \dots, A_m has the *ability to frustrate* B's choice of whether to φ if

- (i) even when preferring to φ , B will choose not to φ if each agent A_1, \dots, A_m chooses an action such that the profile of their actions constitutes an intervention; and
- (ii) if each agent A_1, \dots, A_m prefers for B not to φ and cares enough, then each will choose an action such that the profile of their actions constitutes a joint intervention (Ingham and Lovett 2019, 781).

Because of collective action problems, there is no generally applicable reason for believing that condition (ii) is automatically satisfied for generic groups, and thus no reason to believe that generic groups have

abilities to interfere with individuals' choices.⁹ This gives us an explanation for why, contrary to Simpson (2017), domination at the hands of latent group coalitions is not ubiquitous. Everywhere one looks, one finds groups of individuals for whom condition (i) is satisfied (although their members may not know this, or know that the other members of the group know this, and so on.) But in general condition (ii) will fail. Even if each member of the group prefers the outcome of an intervention, that will not on its own motivate each person to do her necessary part. The group poised to resolve collective problems as they arise, ready to intervene whenever each of its members happens to prefer for an intervention to take place, is the exceptional case.¹⁰

Turning back to majoritarian democracy, condition (i) will clearly be satisfied for any group of citizens who make up a majority. By nominating some of their own number as candidates for office, casting enough votes to elect them into office, and by these candidates then implementing the policies favored by the majority, the majority coalition will cause the state to intervene in the individual's choices in the manner they wish. Note that as far as condition (i) goes, it does not matter whether the individual members of the potential majority coalition are likely to undertake these actions, or whether they have any reasons to do so. Thus the condition will be met just as easily for generic potential majority coalitions, however improbable the prospect of their formation, as for the ethnic majority.

What of the second condition? To the extent the institutions of representative democracies empower citizens, they do so in part by facilitating collective action. Indeed one could argue that the critical difference between democracy (majoritarian or otherwise) and non-democratic authoritarian regimes is just the manner in which the institutions and civic culture of democracy help groups of citizens overcome collective action problems. In the authoritarian regime, large groups of individuals may have actions by which they could, in principle, direct the powers of the state, in the manner required for condition (i) to obtain: were they all to engage in mass protest, united behind a collective demand to implement a particular law, and with their readiness to topple the regime made manifest, the rulers might oblige, thereby becoming the means by which the group of protesters intervene in the choices of their fellow subjects. Of course such a scenario is improbable because authoritarian regimes are organized to suppress collective action. Because of restrictions on political speech the individual members of these hypothetical coalitions may not even realize they have a shared preference. Even when there is a general awareness of shared preferences, individuals cannot easily communicate their readiness to engage in collective action, and therefore cannot easily verify others' readiness. The regime prevents collective action by preventing the commonality of their preferences and willingness to act from becoming common knowledge. Prospects for collective action are better in democracy, however. With protections for free speech and an open public sphere, citizens can publicly express their opinions, and they—and enterprising politicians in particular—can learn how widely their opinions are shared. If the members of a latent majority coalition all wished to see the state undertake some course of action, enterprising politicians can often find this out and campaign on a promise to pursue their shared goal, or members of the coalition can themselves run for office. When this is the case, these latent coalitions will have abilities to frustrate the choices of their fellow citizens.

⁹ Suppose a group currently finds itself in a collective action problem, such that condition (ii) fails. But some individuals could create structures of group decision-making or other mechanisms that, once in place, would facilitate the group's collective action whenever conditions (i) and (ii) are met in the future. Then we should say that the group currently lacks an ability to frustrate B's choice, but might acquire one in the future.

¹⁰ The argument is elaborated further in Ingham and Lovett (2019). See also Lovett and Pettit (2019), especially pp. 14–15.

To explain asymmetrical domination in majoritarian democracy, these considerations suggest we look not for asymmetries in majorities' abilities, but rather for asymmetries in the constraints on those abilities. Before turning to that question, I note one mechanism that might produce asymmetrical abilities, although to make it the centerpiece of an explanation of one-sided majority tyranny would sit awkwardly with other elements of republican political thought.

In a representative democracy a group's principal means of interfering with the choices of other citizens is its ability to elect representatives who will carry out its wishes, together with the related ability to remove an incumbent representative who fails to do so. In a society with a history of interethnic conflict that leaves a legacy of mistrust, voters may be less willing to vote for candidates who do not share their ethnic identity, which they may treat as an informational shortcut, a rough indicator of whose interests a politician is most likely to serve if elected (Conroy-Krutz 2012; Ferree 2006). Aware of that fact, prospective candidates may campaign by appealing to ethnic identities rather than the policy preferences that the members of a latent multiethnic coalition share, thereby reinforcing and fulfilling voters' expectations. Lacking candidates who campaign on and can be expected to implement those desired policies, the multiethnic coalitions would lack the abilities of the ethnic majority, and there would be asymmetrical domination.

This line of reasoning does not entirely vindicate the intuition about majority tyranny, however. It identifies a potential mechanism behind asymmetrical majority domination but one that is inseparable from elections. It does not yield an explanation for why institutions of "direct democracy," such as popular referendums or ballot initiatives, should be thought to create asymmetrical majority domination. Moreover, the explanation works only by identifying a mechanism (interethnic mistrust) that makes some voters uncertain whether a prospective candidate would carry out their electoral promises. In a representative democracy where elected officials could be bound by mandates, required to implement the policies they promised during the election, the mechanism would fail. But representation, and in particular the independence and discretion that elected officials are expected to enjoy in the absence of binding mandates, have traditionally been seen as guards against majority domination, rather than part of the mechanism that facilitates it.

Rather than questioning the symmetry in different majorities' abilities to interfere, republicans might ask whether all majorities' abilities are equally unconstrained, or whether conditions of ethnic division might result in a special kind of constraint on the abilities of the latent multiethnic coalitions.

Asymmetrical constraints

I began this chapter by considering an argument that every potential majority coalition dominates in a majoritarian democracy, and that everyone is therefore equally dominated, whether they belong to the ethnic minority or the majority. That argument resembled a familiar criticism of republican political theory according to which domination—and thus unfreedom as republicans conceptualize it—are ubiquitous and unavoidable. Kramer (2010) claims that "the republican objective is a sheer fantasy that can never be realized in any society" because (he assumes) republicans are committed to the view that "freedoms exist only if the occurrence of dominating interference by other people is not merely unlikely but impossible."¹¹ Even in the kind of society republicans wish to realize, a person's opportunities will be "dependent on the wills of legal-governmental officials, who if they are so inclined can act concertedly to remove any of those opportunities (if necessary, by slaying the person)." Simpson's (2017) argument is another example of the pattern. The common move these arguments make is to attribute to republicans a conception of domination with extremely lax sufficient conditions, and thereby attribute to them an excessively demanding conception of freedom as nondomination.

¹¹ Kramer (2010, 843–4). See also Kirby (2016).

As an example to illustrate both the critique and a response to it, imagine an armed police officer standing outside a polling station, in broad daylight and surrounded by witnesses, in a country where police officers are reliably punished if they break the law, and where this fact is common knowledge. The officer has the ability to prevent a would-be voter from entering and casting a ballot, either by physically restraining the person or using his firearm to maim or kill. He has actions that would prevent the voter from entering the polling station and voting, and if he desired to stop the voter and cared enough about achieving this end, then he would rationally take these actions. Admittedly, caring “enough” in this situation means he is seriously deranged, so bent on stopping the person from voting that he deems a lengthy stay in prison a worthwhile price to pay. But if the antecedent of the counterfactual conditional were met, improbable as it may be, then the consequent would follow. Thus he has an ability to frustrate the person’s choice of whether to vote.

As Kramer interprets the republicans’ position, it commits them to saying the police officer dominates the voter. But republicans can instead say an agent may have an ability (or power) to interfere with another’s choices yet not dominate when the ability is adequately constrained. Intuitively speaking, the officer’s ability to interfere will be adequately constrained in the imagined scenario because he knows that he will be arrested and imprisoned if he breaks the law. Thus his power is not dominating. Republican unfreedom is not “everywhere” (as the title of this section of Kramer’s article has it) just because abilities to interfere are.

I will consider an analogous strategy for defending the view that a majoritarian democracy would create an asymmetrical pattern of domination, enabling the ethnic majority to dominate to a greater degree than generic potential majorities. The starting point is the notion of an adequate constraint on an ability to interfere.¹²

The officer’s ability is constrained in the mundane sense that his social and physical environment constrains his set of actions such that he cannot both stop the voter from voting and keep himself out of prison. Everyone’s abilities are constrained in this generic sense. Consumers have budget constraints, producers have physical constraints, and so on; everyone faces constraints that force them to make trade-offs if there is any complexity at all to what they care about. But the constraints on the officer have a practical significance that generic constraints lack. The constraints reflect commonly known facts about the situation, such as that there are laws forbidding the officer from intervening and the laws are reliably enforced, and those facts, together with the commonly known fact that people generally have a strong desire to stay out of prison, suffice to make it as good as common knowledge between the officer, the voter, and other relevant actors that he will not exercise his ability to interfere. This is as good as common knowledge in the sense that, if it were to become common knowledge that he is not prepared to exercise the ability, no one would act any differently. Everyone already ignores the possibility that he might stop the voter from voting, and reasonably so. Because the constraints on the officer’s ability suffice to make it as good as common knowledge that he will not exercise it—they suffice to make it reasonable to ignore this possibility—they are adequate as far as the voter’s freedom is concerned (see Ingham and Lovett (2019), pp. 778–780, and Lovett (2022), pp. 75–77, for further discussion).

The same is not true of the benevolent slave master in the canonical example of domination. The master may be “constrained” in various trivial ways—he cannot, say, both command the slave to perform grueling, humiliating work on his behalf and also, at the same time, maintain his self-image as a humane and benevolent master. But the fact that issuing the command would have this psychological consequence is not a public, commonly known fact; for all everyone else knows, he may be capable of so much self-deception that the behavior would not affect his self-image. Nor will it be common knowledge between him, the slave, and other observers that he cares more about maintaining such a self-image than achieving

¹² Here I am following Ingham and Lovett (2019).

whatever might result from issuing the command. The constraints fail to make it as good as common knowledge that he will refrain from exercising his ability to interfere, so one cannot reasonably ignore this possibility. His ability is not adequately constrained.¹³ Adequate constraints, on this analysis, are those external factors that make it as good as common knowledge that an agent will not exercise an ability to interfere.

Returning now to our topic, what kind of constraints might hamper the abilities of generic majorities, but not the ability of the ethnic majority? Pettit's (2012) model of popular control, drawing on Habermas (1995), posits a deliberative process (the "acceptability game") governed by "a norm to the effect that participants should only offer considerations for or against a policy that all can regard as relevant" (Pettit 2012, 254).

Under the pressures of the acceptability game, it is inevitable that participants will generally comply with the regularity of seeking out considerations that all others, no matter what their interests or opinions, can treat as relevant in collective decision-making; else they will have little impact. And it is equally inevitable that participants will register this fact in common awareness as well as registering at the same time that any failure of compliance will attract the inhibiting derision or disapproval of others. Those who present considerations that can only carry weight with a particular subgroup will be laughed out of court. (Pettit 2012, 254)

Pettit offers this model of deliberation as part of an account of how the right kind of democracy might generate popular control, preventing the state from dominating citizens. I wish to draw on the idea from this passage because it suggests a potential constraint on a majority's ability to pursue certain policy agendas. By considering how public deliberation might depart from this idealized model in societies with recent histories of oppression or marginalization of the minority, we can identify a mechanism that would produce asymmetric constraints on the abilities of the ethnic majority and of potential multiethnic majorities.

Public deliberation in the kind of society we are contemplating might be better modeled as a plurality of acceptability games, being played by different (perhaps overlapping) subsets of the population, where, in each, the operative norm is to advance considerations that all other participants in that particular instantiation of the acceptability game can regard as relevant, as opposed to considerations that all citizens can regard as relevant. For example, in the 2016 Republican Party presidential primaries, the main participants—candidates and primary voters—could be seen as participants in a deliberative process that deviated from the idealized model in this respect. When Trump proposed to ban immigration from Muslim-majority countries, he was not concerned to advance considerations that he expected Muslim-Americans to regard as relevant, and the reaction to his speech from Republican primary voters suggests that they also did not accept any norm requiring him to do so. Muslim-Americans were not seen by Trump or his listeners as participants in the conversation they were having (as Trump's distinctions between "us" and "them" in his references to Muslim-Americans made perfectly clear).¹⁴ Other subsets of

¹³ Kirby claims "there is no principled distinction" between the gentle giant and the deterred criminal because "when we unpack the concept of 'cost'—such as the cost of going to prison—"we reveal that it simply turns upon the agent's valuation of that feature of the conjunctive option, which itself is a function of the agent's subjective dispositions" (Kirby 2016, 376). There are various principled distinctions one might draw between the cases; the distinction proposed in the text, using the concept of adequate constraints, is what I currently see as the most promising attempt to reconstruct the intuition that motivates the republican theory of freedom as non-domination. See also Lovett (2022), pp. 75–77, 125.

¹⁴ From Trump's speech after the Orlando nightclub shooting, referring to an earlier shooting in San Bernadino: "But the Muslims have to work with us. They have to work with us. They know what's going on. They know that he was bad. They knew the people in San Bernardino were bad. But you know what? They didn't turn them in. And you know what? We had death, and destruction."

the electorate could be seen as participating in distinct processes of deliberation—distinct acceptability games—each governed by a norm applying to and binding its particular participants.

A natural hypothesis is that in our contemplated society, where an ethnic majority has in recent memory oppressed and marginalized the ethnic minority, there will not be a society-wide norm to the effect that participants in deliberation must present considerations acceptable to *all* citizens, including all members of this historically marginalized group. Instead, some portion of the ethnic majority will participate in deliberation structured as a conversation among members of the ethnic majority, where the operative norm requires only that participants appeal to considerations that the other participants—rather than all citizens—can regard as relevant. This is not to deny that there will be deliberation across ethnic lines, nor to deny that many people might be motivated by a commitment to include all citizens and to restrict themselves to giving reasons that they expect all citizens to recognize as weighty. It is just to doubt that there will be a genuine social norm to this effect. A norm, as Pettit plausibly characterizes it, is “a regularity of behaviour amongst the members of a group such that, as a matter of shared awareness, almost everyone complies with it, almost everyone expects others to approve of compliance and/or disapprove of non-compliance, and this expectation helps to keep the regularity in place” (254). It is not enough for large numbers of citizens to follow the rule of offering considerations that all citizens consider relevant; (near) universal compliance and an expectation that non-compliance will meet with disapproval must be common knowledge. That is a tall order for a society with a recent history of oppression and marginalization.

Suppose, then, that our hypothetical society fails to meet that requirement, and now imagine that the members of the ethnic majority would like to see the state restrict some of the minority’s basic liberties, such as restricting their abilities to travel within the country or to and from it. Because the protections of the deliberative norm do not extend to all, individuals will not be restrained by fear of social disapproval from advancing policies and considerations that the minority would regard as unacceptable. Thus one cannot reasonably ignore the possibility that the members of the ethnic majority might wish to enact this policy and feel strongly enough about it that some of them propose it, others campaign as candidates on a promise to enact it, and the rest throw their electoral support behind the effort. It will be far from as good as common knowledge that the members of the ethnic majority are not inclined to exercise their power in this way, seeing as there are no robust social norms or any other significant constraints on their ability. We can conclude that the ethnic majority dominates the members of the minority with respect to their choices about whether and where to travel.

There is domination even supposing that, in actual fact, the majority has no desire to exercise this ability, and even supposing that the absence of desire is easily discoverable by means of public opinion polls and known to well-informed political observers. Perhaps a well-informed observer, conditioning her belief on the available information, would accurately estimate the probability of the ethnic majority’s mobilizing behind this agenda to be near zero. Still, there are no constraints on the majority’s ability that suffice to make this fact as good as common knowledge.

Now consider the basic liberties of a member of the ethnic majority. There are various potential multiethnic majority coalitions that exclude this particular person (although they of course comprise some other members of the ethnic majority by necessity). In a majoritarian democracy, every such potential coalition has an ability to frustrate this individual’s choices in various ways. For example, consider the position of a native-born white American who holds extreme conservative political opinions, a QAnon supporter, say. Take any subset of the electorate that excludes this individual but makes up a numerical majority. This potential majority coalition has the ability to elect politicians who campaign on a promise to circumvent due process and carry out mass arrests of QAnon supporters, detaining them indefinitely at an offshore military compound. If each member of the majority preferred for the state to carry out this policy, and cared enough about achieving this goal, then they would take actions that would result in this

policy's implementation, let us suppose. Obviously this scenario is extremely improbable. Importantly, however, it is improbable not merely because a majority is unlikely to form this policy preference. Even if each member of a potential majority coalition did privately wish to see the state enact the policy, individuals would be deterred from even broaching its possibility in public debate. Given the history and political culture of the country, they would not expect many others to share their wish to see this policy enacted—even if they believe that a majority of their fellow citizens feel nothing but contempt for QAnon supporters—for they would not expect members of their target audience to regard a person's extreme conservative opinions as relevant to whether the state is permitted to treat them in this manner. Anyone who contemplated proposing this policy would expect to suffer scorn and ridicule—they would risk being “laughed out of court,” as Pettit says. The norms that govern public deliberation in America may not require participants to advance considerations that *all* Americans can be expected to regard as relevant (as Trump's campaign illustrates), but they do still impose constraints. Given the social costs to advocating policies like this one, it is as good as common knowledge that none of the theoretically possible majority coalitions that could mobilize around such policies will exercise their abilities to do so. Those abilities are adequately constrained; majorities do not dominate QAnon supporters with respect to the choices that would be affected by this hypothetical policy.

More generally, one might hypothesize that in a majoritarian democracy divided along ethnic lines, the constraining effects of deliberative norms will be asymmetrical. They will constrain potential majorities from enacting various kinds of policies that cannot even be broached, much less defended, except by advancing considerations that would attract scorn and ridicule. But given the patterns of marginalization and exclusion and the fracturing of deliberation along ethnic lines that one might expect to find in such a society, deliberative norms will not have the same constraining effect on members of the ethnic majority who wish to direct the powers of the state against the ethnic minority. As there is an asymmetry in the constraints on the abilities of different majorities, there is an asymmetry in the pattern of domination. Under these circumstances, one may reasonably worry that majoritarian democracy enables, not a generalized and symmetrical tyranny of numerical majorities, but rather the tyranny of one majority in particular.

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