

From the Guest Editor

Introduction

After having read the contributions for this second special edition on the ethics of reconciliation, I was finding myself contemplating power relationships and domination. Can reconciliation ever take place without also transforming the power structures that have sustained injustice, or that risk producing new forms of it? While the three articles by George Kodimattam Joseph, Hans Vium Mikkelsen, and Gary Slater, do not explicitly address power and domination, they each, in their own way, touch upon the question of under what conditions people can live together without being subjected to another's will. In Kodimattam Joseph's account of Gandhi, this work begins in the ethical sphere – with *ahimsa*, the refusal to let one's will reduce the other to an instrument of harm or vengeance. Instead, action must be bound to truth, and therefore answerable to the other. Mikkelsen, meanwhile, shifts the question from individual will to the political life of memory. He shows how monuments and memorial practices on the one hand can acknowledge suffering and enable responsibility, but also how they may fix identities, freeze injury into permanence, and become vehicles of symbolic power. Slater, in turn, examines the territorial and institutional architecture of post-war Bosnia, arguing that the Dayton settlement preserved the form of sovereignty while emptying it of civic reciprocity, producing a “toxic Westphalianism” in which borders segregates rather than enable shared political life.

What these insights bring into focus is the role of domination and arbitrary power in reconciliation processes. While memorial practices, apologies, and truth commissions are important forms of moral redress, my understanding is that they must be accompanied by sustained measures addressing the political, social, and historical structures that made domination possible.

Reconciliation as a moral and political matter

If one takes this perspective seriously, reconciliation must, I believe, be understood as both a moral and a political matter. It raises questions of recognition, guilt, and responsibility, but also of law, participation, and – most importantly – institutional design. Yet I have rarely seen non-domination applied as an explicit normative framework for morally acceptable reconciliation and transitional justice processes. Likewise, institutional questions – for example, how truth commissions should be organised from a non-domination perspective – have not been centrally addressed.

What should we require of a normative framework that considers the power structures and dominant orders that produced the conflict or oppression in the first place? While this editorial is not the place for theoretical development, I would nevertheless like to take the opportunity to examine the idea that reconciliation processes must be

characterised by non-domination more closely. What might such an idea look like, and what could it achieve?

Let us begin with the neo-republican conception of non-domination. The contemporary republican tradition, as developed by, among others, Philip Pettit, understands freedom as non-domination – which is a condition in which no one is subject to another's arbitrary power.¹ Pettit illustrates this with the well-known master–slave example. Even if a master refrains from interfering with or mistreating a slave, the slave remains unfree because the master retains the arbitrary power to interfere in the slave's life. Thus, unlike liberal non-interference accounts, Pettit argues that domination can exist without actual interference, and interference can occur without domination.²

This conception of freedom draws on a long republican tradition that goes back to Cicero, which employed relations of domination and servitude to clarify what it means to be free. Pettit's neo-republicanism adapts and systematises this idea to scrutinise how institutions, laws, and civic rights can be designed to remove the very possibility of arbitrary domination rather than merely limiting concrete instances of interference. Republicanism is usually construed as a theory arguing for an order in which states do not dominate their denizens, but it has also been extended to a global or transnational theory of non-domination.³

Although republicanism emphasises non-domination, it has paid little attention to reconciliation as a distinct subject.⁴ Drawing on the question on which I opened the editorial, I want to make the argument that republicanism's focus on non-domination may sharpen how we conceive of reconciliation as both a moral and a political matter. Although my argumentation must remain brief, I believe that from a republican point of view, there would be at least two grounds for insisting that reconciliation and its related processes be non-dominating.

First, reconciliation commonly implies that former adversaries can meet as equals. Pettit uses a metaphor of the “eyeball test” – of being able to “look others in the eye” – as a practical test for domination and non-domination.⁵ The parties must be able to interact without fear of subordination, intimidation, or arbitrary pressure. Importantly, this equality is in Pettit not merely moral but institutional as it presupposes rights, procedures, and other forums that protect from arbitrary power, and secure meaningful participation. In other words, Pettit's eyeball test could be seen as pointing to a minimum institutional condition for reconciliation: Unless social and legal structures remove the conditions for arbitrary domination, any encounter between former opponents will remain asymmetrical and fragile. Nevertheless, as Pettit argues in “The Globalized Republican Ideal”, individuals can enjoy private non-domination, that is, sufficient legal protection and material security in everyday relations that enable interaction without fear or deference,

¹ Philip Pettit, *Republicanism. A Theory of Freedom and Government*. (Oxford: Oxford University Press, 1997). Chs. 1-3 (esp. pp. 51-79).

² Pettit, 1997, p. 23 ff.

³ Cf. e.g. Pettit, 1997, pp. 150-53; P. Pettit, “A Republican Law of Peoples”, In *European Journal of Political Theory*, 9(1), 2010, pp. 70-74. P. Pettit, “The Globalized Republican Ideal”, In *Global Justice: Theory Practice Rethoric*, 9(1), 2016, pp. 47-69.

⁴ There are however scholars who have touched upon the issue. See J. Braithwaite and C. Parker, “Restorative Justice Is Republican Justice,” in *Restorative Juvenile Justice*, ed. Gordon Bazemore and Laurence Walgrave (Palisades, NY: Criminal Justice Press, 1999), pp. 103–126, where they link restorative justice to republican non-domination in the context of criminal justice.

⁵ P. Pettit, *On the People's Terms: A Republican Theory and Model of Democracy*. (Cambridge: Cambridge University Press, 2012), p. 82 ff.; Pettit, 2016, esp. p. 52, 55, 59.

while still suffering *public domination*.⁶ By the latter he means that a state, elite, or colonial regime may retain the capacity for arbitrary interference because its power lacks effective institutional constraints. Citizens can therefore relate to one another on fairly equal terms even while living under a government that could at any moment reimpose subordination. Applied to the Sámi in Sweden, they may enjoy the same legal protections as other Swedish citizens while nevertheless being exposed to public domination through state or commercial decisions on land, water, forestry and mining that threaten reindeer husbandry, cultural practices and community viability. What this shows is that private non-domination can persist even where there are no binding institutional limits on arbitrary public power. Thus, even if the situation at first glance passes the eyeball test – appearing as formal equality – public non-domination will only exist when legal rights to land and resources, effective consultation and real accountability are binding and enforceable.

Second, reconciliation requires shared, publicly endorsed standards for truth, responsibility, and justice.⁷ These, in turn, presuppose institutions and procedures through which those standards are enforced. On a neo-republican account, such standards have normative weight because when entrenched in institutions that function as standing constraints on the exercise of power, they limit the scope for arbitrary power in the very processes that determine what is to count as truth, guilt, and appropriate redress.⁸ Thus, freedom as non-domination requires that institutions be structured to prevent arbitrary interference, concentration of power, and one-sided control over historical narratives and normative judgments. Truth commissions, public hearings, courts, reparations schemes, etc. must therefore be arranged so that no party can make itself judge in its own cause, unilaterally controlling the production of facts, the allocation of responsibility, or the interpretation of past wrongs. From a republican perspective, this requires both a separation and dispersal of powers, and procedures that compel those who decide to “always listen to the other’s side”⁹: to give public reasons, answer objections, and shape outcomes so they accommodate the range of interests and perspectives present.¹⁰ It also requires that those subject to these institutions enjoy standing not merely as recipients of decisions but as claimants, with an acknowledged capacity to contest, seek review, and press for revision of outcomes that purport to speak in their name.¹¹ Thus, republicanism reframes the significance of shared standards in institutional terms by shifting the question from “Do we agree?” to “Are the mechanisms of those institutions consistent with non-domination?”.

But whose institutions? And can they be non-dominating?

A republican perspective on reconciliation seems to be promising, particularly because it calls for institutions and norms that prevent continued dependence and domination.

⁶ Pettit, 2016, p. 53.

⁷ See e.g. D. Philpott. *Just and Unjust Peace: An Ethic of Political Reconciliation*. *Studies in Strategic Peacebuilding* (New York, 2012; online edn, Oxford Academic. 20 Sept. 2012), p. 50.

⁸ Pettit, 1997, pp. 67 ff.

⁹ Q. Skinner, Q. *Reason and Rhetoric in the Philosophy of Hobbes* (Cambridge: Cambridge University Press, 1996), pp. 15-16; Pettit, 1997, p. 189.

¹⁰ Pettit, 2012, esp. chs. 3–4, where Pettit develops how institutionalised control and procedural requirements make non-domination practically possible.

¹¹ Braithwaite and Parker, 1999, pp. 108–114.

However, this institutional argument immediately invites objections. Whose institutions are these? Institutions can themselves be instruments of domination – imposed by victorious parties, ruling elites, colonial powers, ethnic majorities, or international actors. And more fundamentally, can institutions ever be non-dominating in contexts where the conflict is between groups, not simply individuals?

An alternative conception of non-domination that may evade this critique is the one developed by Rainer Forst. Forst does not tie his concept of non-domination to the question of whether someone has power over you or not, but to the justification of the very existence of power – to whether all parties involved can participate on equal terms in the normative process.¹² This opens up a theory of power and justification that is more general than the republican theory. In his book *Normativity and Power: Analyzing Social Orders of Justification*, Rainer Forst treats non-domination as the foundation for transnational justice, arguing that it is impossible to discuss justice beyond the state without also addressing “the many and complex relations of domination that exist within, between, and beyond states that mark our current global predicament”.¹³ The conception of domination Forst adopts is a Kantian, discourse-theoretical one, which entails that domination consists in relations of arbitrary power that cannot be justified to those subject to them. Non-domination, in Forst’s terminology, therefore, requires that norms, institutions, and practices be justifiable to all affected through reciprocal public discourse grounded in Kantian respect for persons and their autonomy.

The difference between Pettit’s republicanism and Forst’s critical theory is that for republicanism power is problematic when it is arbitrary – but it becomes legitimate when there are institutions that can bind power so that it cannot be exercised without the ruling power being subject to scrutiny and held accountable.¹⁴ For Forst, by contrast, power is problematic when it is not justified to those over whom it is exercised.¹⁵ Thus, dominance cannot be reduced to merely someone being able to intervene in your life.

One way to make the difference between these two understandings of domination and non-domination concrete is to test them on existing reconciliation processes. If we take the Truth Commission for the Sámi people as an example, we can see that Pettit and Forst would approach the question in quite different ways. The commission investigates the Swedish state’s historical abuses against the Sámi, including linguistic and cultural assimilation, forced relocations, racial biology, colonisation of land, and political marginalisation. From a republican understanding of non-domination, the central question would be whether these groups have lived – and continue to live – under arbitrary state domination. The analysis would focus on whether, and to what extent, the Swedish state had the capacity to intervene in the Sámi people’s lives at its own discretion, without being answerable to those affected. It would also ask whether the Sámi have had – and have – genuine access to political influence and legal mechanisms to control the state, and whether the Truth Commission appears likely to lead to institutional reforms that reduce domination through increased self-determination and obligations to consult. In this way the commission is legitimate if it leads to new or reformed institutions that reduce or eliminate future domination.

¹² R. Forst, *The Right to Justification: Elements of a Constructivist Theory of Justice*, (New York: Columbia University Press, 2014), p. 6, 21 f.

¹³ R. Forst, *Normativity and Power: Analyzing Social Orders of Justification*, (Oxford: Oxford University Press, 2017), p. 153.

¹⁴ Pettit, 1997, e.g. p. 25 f, 35 f.

¹⁵ This permeates many of Forst’s writings, e.g., Forst, 2014 and Forst, 2017.

Forst would instead pose a more radical and critical question: “Has the Swedish state ever justified its norms and decisions to the Sámi – and have the Sámi had the opportunity to reject them?” An analysis of Swedish assimilation policy, such as the imposition of language bans, forced relocations, and the placement of Sámi children in boarding schools, would show that it was in no way justified in a manner that recognised the affected as equal, moral subjects. Instead, the state has for centuries demanded obedience and conformity without ever asking for justification. From a Forstian understanding of non-domination, a Truth Commission would be legitimate if it demonstrably made the past visible and recognised that the power exercised lacked legitimacy.

Nevertheless, a Forstian conception of non-domination does not fully address the risks of power and domination in reconciliation processes. Taking the Swedish Act (SFS 2022:66) on Consultation in Matters Concerning the Sámi people as an example: The act was introduced to strengthen Sámi influence over administrative decisions by establishing a statutory duty to consult the Sámi Parliament and other Sámi bodies before decisions that particularly affect the Sámi (for example, the use of land for tourism, mining, and so on). The act requires consultations to be conducted so as to promote Sámi participation at all levels – government, national agencies, regions, and municipalities. The consultation act seems, *prima facie*, to meet Forst’s requirement that the state ought to justify its decisions to the Sámi people. Its implementation, however, displays substantial shortcomings, not least that a relationship of domination between the Swedish state and the Sámi persists, and that the rule preserves the state’s final say, and thereby upholding the reproduction of domination. This suggests that domination remains only partially constrained, leaving persistent deficits in the Sámi people’s right to justification and institutional arrangements that permit arbitrary action. As Forst’s theory is chiefly procedural and relational, it seems to offer limited guidance on the institutional form a court or a Sámi administrative area would need to take to avoid reproducing domination.

However, rather than dismissing these possible objections to both republicanism and Forst’s conception of non-domination, I contend that Forst’s critical perspective could serve to deepen the republican insights. Neither Pettit’s nor Forst’s concept of non-domination can, on its own, articulate a requirement that institutions (for example, state agencies or municipal councils, as in the case of the Swedish consultation act) be designed so as not, by definition, to place the Sámi in a subordinate position. While institutions may be designed to restrain domination, they may nevertheless embody histories of exclusion, colonialism, or majoritarian control.

Yet the two theories together can be powerful. Forst’s insistence on the right to justification would force republicanism to confront forms of domination that are embedded in the very creation and authority of institutions. In fact, this is precisely the aim of critical republicanism, as developed by Cécile Laborde.¹⁶ Although Laborde focuses on religion and secularism, her demand for a self-reflective, power-critical republicanism – one that interrogates its own norms, symbols and institutional practices – is central to reconciliation and transitional justice.

¹⁶ See e.g. Cécile Laborde, *Critical Republicanism: The Hijab Controversy and Political Philosophy*, (Oxford: Oxford University Press, 2018).

Reconciliation as non-domination

Going back to the three articles for this special edition the contributions to this issue offer – in my reading – three distinct ways of identifying and challenging forms of arbitrary power – in the will, in memory, and in space. George Kodimattam Joseph's article "Conflict Resolution and Reconciliation: Lessons from Gandhian Thought" begins with the ethical dimension of reconciliation. Ahimsa and satyagraha are understood as a disciplined refusal to let the will become arbitrary. Non-violence is a constraint placed on one's capacity to exercise power over another. It binds action to truth rather than impulse or retribution. Of course, Gandhi does not develop an institutional theory of reconciliation, but he offers an ethical precondition – the refusal to turn another person into an object of unchecked power. "In Memorials and Memory: The use of memorials and monuments as a part of the process of reconciliation", Mikkelsen shows how memorials and monuments can sustain the conditions for reconciliation – acknowledgment, responsibility, mourning, but in my reading also how they – under certain circumstances – could contribute to domination. Memory can make power accountable, but it can also entrench it – it is a public practice in which power can be rendered contestable, or in which alternative voices can be silenced. In "Reconciliation Across Religious/Political Borders: Westphalian Norms and the Legacy of the Bosnian War", Gary Slater, turns to territory and borders. Slater's argument is that borders must be transformed – from frontiers into spaces of encounter, where the presence of the other does not signal threat but the possibility of political relationship. What emerges from these reflections is that reconciliation – to be normatively meaningful – should be understood as a practice of establishing non-domination. It concerns the creation of conditions under which former adversaries can relate without arbitrary power secured by institutions that enable accountability, participation, and justification.

Johanna Romare, Guest Editor

Bibliography

- Braithwaite, J., & Parker, C., "Restorative Justice Is Republican Justice", In *Restorative Juvenile Justice*, ed. Gordon Bazemore and Laurence Walgrave, Palisades, NY: Criminal Justice Press, 1999, pp. 103–126.
- Forst, R., *The Right to Justification: Elements of a Constructivist Theory of Justice*, New York: Columbia University Press, 2014.
- Forst, R., *Normativity and Power: Analyzing Social Orders of Justification*, Oxford: Oxford University Press, 2017.
- Laborde, C., *Critical Republicanism: The Hijab Controversy and Political Philosophy*, Oxford: Oxford University Press, 2018.
- Pettit, P., *Republicanism. A Theory of Freedom and Government*, Oxford: Oxford University Press, 1997.
- Pettit, P., "A Republican Law of Peoples", In *European Journal of Political Theory* 9(1), pp. 70–74. 2010. <https://doi.org/10.1177/1474885109349406>
- Pettit, P., *On the People's Terms. A Republican Theory and Model of Democracy*, Cambridge: Cambridge University Press, 2012.
- Pettit, P., "The Globalized Republican Ideal", In *Global Justice: Theory Practice Rethoric*, 9(1), 2016, pp. 47–69. <https://doi.org/10.21248/gjn.9.1.101>

Philpott, D. Just and Unjust Peace: An Ethic of Political Reconciliation. *Studies in Strategic Peacebuilding* (New York, 2012; online edn, Oxford Academic. 20 Sept. 2012). <https://doi.org/10.1093/acprof:oso/9780199827565.001.0001>.

Skinner, Q. *Reason and Rhetoric in the Philosophy of Hobbes*, Cambridge: Cambridge University Press, 1996.