SLAVERY, EQUALITY, AND JUSTICE

By

Simon Roberts-Thomson

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As members of the Dissertation Committee, we certify that we have read the dissertation prepared by Simon Roberts-Thomson entitled Slavery, Equality, and Justice and recommend that it be accepted as fulfilling the dissertation requirement for the Degree of Doctor of Philosophy.

Date: April 8, 2010

Thomas Christiano

Date: April 8, 2010

Mark Timmons

Date: April 8, 2010

Michael Gill

Final approval and acceptance of this dissertation is contingent upon the candidate’s submission of the final copies of the dissertation to the Graduate College.

I hereby certify that I have read this dissertation prepared under my direction and recommend that it be accepted as fulfilling the dissertation requirement.

Date: April 8, 2010

Dissertation Director: Thomas Christiano
STATEMENT BY AUTHOR

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SIGNED: Simon Roberts-Thomson
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To Rebecca, Romany, and Inez
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ABSTRACT

Slavery is an unjust institution. Indeed, slavery is often seen to be a paradigmatic case of injustice. Despite this, there is little agreement on how to best explain the injustice of slavery. In this dissertation I examine and reject three main explanations of the injustice of slavery: that slavery is unjust because slaves lack freedom, that slavery is unjust because slaves are alienated from their social world, and that slavery is unjust because slaves lack self-respect. Such explanations are unable to explain the injustice of slavery itself because they cannot identify all cases of slavery as unjust. Instead, I argue that slavery is unjust because it makes it impossible for slaves to realise both their interest in self-respect and their interest in being at home in the world. Slavery is not the only institution, however, that places people in this dilemma; any institution that treats some people as inferior to others will be unjust for the same reason, although not necessarily to the same extent. Thus the explanation of the injustice of slavery also provides us with an explanation of the importance of political equality.
INTRODUCTION

Slavery is an institution with a long history. Slaves have been owned and traded in nearly every society, even the very earliest ones, although the extent and importance of slavery has varied considerably between societies.\(^1\) Slavery is not, however, an institution that has been relegated to history. Slavery and a number of similar practices are still widespread. A 2005 report by the International Labour Organization estimates that there are more than 12.3 million people in forced labour.\(^2\) Of these, more than 2.45 million people entered forced labour through human trafficking, primarily for the purpose of commercial sexual exploitation but also for economic and other types of exploitation.\(^3\)

Given the historical and contemporary importance of this institution then, it is somewhat surprising that it has rarely been the focus of sustained philosophical investigation.\(^4\) Part of the reason for this omission is no doubt due to the fact that there is no longer any real disagreement about the status of the institution; slavery is now almost universally believed to be unjust. This agreement, however, is relatively recent. It was not until the eighteenth century that slavery came to be seen as a paradigmatic form of injustice, and it was not until 1815, with the Declaration Relative to the Universal Abolition of the Slave Trade, that there was an international agreement to abolish slavery.\(^5\)

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\(^1\) Patterson (1991), pp. 11-12.
\(^3\) Ibid., p. 14.
\(^4\) Notable exceptions include Hare, (1979), Kershnar (2003), Lott (1998), and McGary and Lawson (1992).
\(^5\) See Davis (1966); Weissbrodt and Anti-Slavery International (2002).
From the perspective of the twenty-first century, it seems obvious that slavery is unjust. Indeed, the injustice of slavery seems overdetermined. Slaves are often subject to physical, emotional and sexual abuse and exploitation; they have their freedom limited in various ways; their rights are often systematically violated; slave families are often forcibly broken up; and slaves are often forced to work in difficult and dangerous conditions. As I will discuss in chapter 1, however, these features of slavery are merely contingent; we can imagine, and there have been in history, cases of slavery where some or all of these features are absent. If we are to condemn slavery \textit{per se}, and not merely specific instances of slavery, then we will need to develop another explanation of the injustice of slavery. I say ‘explanation’ rather than ‘argument’ here because the task ahead of us is not to convince people that slavery is unjust; such a task has been made largely redundant by the almost universal acceptance of the injustice of slavery. Rather, the task is to come up with an account that explains in a satisfactory way why our beliefs about slavery are justified. It is this task that will be the primary aim of this dissertation.

\textbf{The Nature of Slavery}

Before turning to an explanation of the injustice of slavery, however, it is necessary to outline the nature of the thing whose injustice it is that we are trying to explain. That is, we need to have before us an account of slavery before we can explain its injustice. The primary feature of slavery is a certain relation between two or more people, namely a relation of ownership.\footnote{Hare (1979), pp. 105-6; Kershnar (2003), p. 510.} A person is a slave if he or she is owned by another person or
A group of people. This relation of ownership is normally a legal relationship whereby the slave is denied certain rights under the law that non-slaves possess. This difference in legal status illustrates a secondary feature of slavery, namely that slaves are identified as inferior to non-slaves. The relation of ownership of one person by another thus incorporates an idea of inequality of status; slavery is necessarily a relation between unequals.

The relation of ownership, however, need not be a legal one. The presence of slavery even in the most primitive hunter-gatherer societies indicates that it is sufficient for slavery that a person is held to have certain rights of ownership over another, even if these rights are not strictly speaking legal rights. A purely coercive relation can thus count as slavery if that relation is held by the slave owner and the other members of the slave owner’s community to accord to the slave owner the rights associated with ownership, such as the right to dispose of the slave through sale or trade, the right to use the slave, and the right to benefit from the use of the slave. In this case, as in the legal case above, the relation between the slave and the owner is still an unequal relation, since the slave does not have any of the rights of ownership over the slave owner. Thus even such coercive relations are also necessarily relations between unequals.

Once we see that slavery is primarily to be understood in terms of ownership, we can see why the objectionable features of slavery described above are merely contingent features. It is possible to own someone and yet treat them in a manner that is humane,

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7 Here I side with Kershnar in arguing that, pace Hare, that, conceptually at least, the inferior status of slaves stems from, or is a result of, the relation of ownership. See Kershnar (2003), p. 510.
kind, and generally respectful. If we are to explain the injustice of slavery then we will
need to focus not on these contingent features but rather on the nature of slavery itself,
that is on the relation of ownership and the resultant inequality.

The Structure of the Dissertation

My explanation of the injustice of slavery occurs primarily in chapters 2 through 4. In
chapter 1, I examine one recent example of an attempt to explain the injustice of slavery.
Philip Pettit, in his book *Republicanism: A Theory of Government*, is a recent example of
a philosopher who takes the case of slavery as a test case for theories of justice. In his
discussion of competing conceptions of freedom, Pettit argues that freedom as non-
interference must be rejected as a theory of justice because it is unable to identify all
cases of slavery as unjust. Pettit then argues that freedom must consist not merely in
freedom as non-interference but also in what he calls freedom as non-domination.

Freedom as non-domination has three advantages over freedom as non-
interference. First, freedom as non-domination gives people the certainty needed to plan
effectively and be free from anxiety. Second, people do not need to avoid others who are
capable of interfering with them. Finally, no person will be viewed as a subordinate.
These three benefits, Pettit argues, explain why freedom as non-domination ought to be
preferred to freedom as interference. They also explain why freedom as non-domination
is able to identify all cases of slavery as unjust.

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9 Pettit (1997).
I argue, however, that there are certain cases of slavery, such as a case that I call the Chesapeake Case, that pose a problem for Pettit’s account. These cases suggest that Pettit is faced with a trilemma. If Pettit maintains that the three benefits of non-domination are necessary and sufficient for non-domination, then it turns out that non-domination is compatible with cases of slavery such as the Chesapeake Case. If, however, he allows that the three benefits for non-domination are necessary but not sufficient for non-domination, then he has two options. First he can just say that the three benefits of non-domination are necessary for non-domination without appealing to any other values. On this horn Pettit is unable to explain why slavery is unjust. Dropping the claim that the three benefits of non-domination are sufficient for non-domination also undermines two important arguments that Pettit makes later in *Republicanism*. The second option places Pettit on the third horn of the trilemma. Here Pettit avoids the conclusion that slavery is compatible with freedom as non-domination, and avoids the problems associated with the second horn, but only by appealing to the value of equality. Appealing to equality, however, in attempting to explain the injustice of slavery causes a different problem for Pettit; once we have equality as part of a theory of justice, that will be sufficient to rule out slavery as slavery is, as discussed above, necessarily associated with inequality. On this horn then freedom as non-domination turns out to be otiose.

Having established then that it is difficult for conceptions of freedom to by themselves identify all cases of slavery as unjust I turn, in chapter 2, to a different kind of argument against slavery, one based on the Hegelian idea that we all have an interest in being at home in the world. In this chapter I have three aims. The first is to outline and
defend a conception of being at home in the world. I argue that this conception has both a subjective and an objective aspect. The subjective aspect consists of three moments – the belief that the institution governed by certain principles, the affirming and embracing of those principles, and the feeling of being at home. The objective aspect of being at home in the world consists in my beliefs about the principles that govern the institution being true beliefs, and my affirming and embracing the principles that govern the institution on this basis.

The second aim of the chapter is to show that the interest in being at home in the world cannot, by itself, form the basis of an explanation of the injustice of slavery. I do this by showing that the interest that we have in being at home in the world is compatible with some cases of slavery and, even more troublesome for such arguments, that such cases are not isolated ones but in fact represent an important facet of the everyday experience of slavery. I also argue that attempts to strengthen the idea of objectivity present within the conception of being at home in the world should be rejected.

The third and final aim of the chapter is to defend the conception of being at home in the world from the charge that coming to be at home in an unjust world is a case of adaptive preference formation. I argue that adapting one’s preferences so as to be at home in the world can be perfectly rational, and that, even if it were irrational, it is not possible to construct an explanation of the injustice of slavery on this basis.

In chapter 3 I discuss the second interest that, along with the interest that we have in being at home in the world, forms the basis of the explanation of slavery that I present in chapter 4, namely the interest that we have in self-respect. In particular I focus on what
Stephen Darwall calls recognition self-respect. Recognition self-respect is the respect that I have for myself as a being of intrinsic and equal moral worth. It is distinguished from appraisal self-respect, which is the respect that I have for myself as the achiever of valuable things in the world. It is also to be distinguished from self-esteem. Self-esteem involves holding a favourable opinion of oneself, but holding such an opinion is compatible with failing to respect oneself in either the sense of appraisal self-respect or recognition self-respect.

Self-respect is held by many philosophers to be the most important personal good. An account of recognition self-respect then must both be able to account for why it has this central place in the well-being of persons, and be able to give a defensible account of the conception of equality that is present in recognition self-respect. In this chapter then I aim to present a conception of recognition of self-respect that does both of these things, an account that is based on seeing one’s own interests as being as important as those of every other person, and acting in a way that is consistent with this belief. Before defending this approach, however, I examine two different accounts of the equality present within recognition self-respect, a rights-based view and a reasons-based view. I argue that both of these views are unable to give us an adequate account of recognition self-respect, and hence should be abandoned in favour of the interest-based approach.

I begin chapter 4 by examining one final alternative approach to explaining the injustice of slavery. Both T.M. Scanlon and John Rawls offer different versions of an explanation of the injustice of slavery that is based on self-respect. These explanations have in common the view that having and maintaining recognition self-respect requires
that other people see one as an equal. These explanations, however, while they succeed in identifying some cases of slavery as unjust, are unable to explain the injustice of slavery per se; there will be many cases of slavery that are not accounted for by these explanations.

After discussing the purely self-respect based explanation of the injustice of slavery, I present an explanation that is based on the interests in being at home in the world and in recognition self-respect that were discussed in chapters 2 and 3. When people are treated as inferiors by institutions in which they have an interest in being at home, they are faced with a dilemma. If they succeed in being at home in such a social world, then they are forced to affirm their inferior status. Affirming their own inferiority is incompatible with maintaining recognition self-respect, since one cannot both agree that one is inferior and that one has an equal status. If, however, they maintain their belief in their equal moral status, then they will be alienated from their social world as holding such a belief is incompatible with affirming and embracing institutions that treat them as inferiors.

After defending this account from a number of objections, I conclude chapter 4 by showing that the explanation of the injustice of slavery also applies to any institution that treats some people as inferior to others. Any such institution places those it treats as inferior in the same dilemma as does slavery; those treated as inferiors will be forced to choose between their self-respect and being at home in the world. The explanation that I give of the injustice of slavery thus also gives us an explanation of the importance of
political equality. It is only under institutions that treat everyone as equals that all persons are able to realize their interests in being at home in the world and self-respect.

I conclude the dissertation by showing, in chapter 5, that the interest in being at home in the world that was discussed in chapters 2 and 4 can also form the basis of an argument for publicity. Publicity, as I understand it, consists of three elements – that citizens are able to find out what the principles that govern the institutions are, that they are able to understand these principles, and that they are able to see that the principles are in effect in their society. Publicity of this sort, however, is controversial. A number of philosophers, including Richard Arneson and G. A. Cohen, have argued that publicity is not a part of justice. As part of my argument for publicity then, I address these criticisms.

Before turning to these criticisms, however, I advance a positive argument for publicity. According to this argument, being at home in the world is only possible if the principles that ground the relevant institutions are public. Institutions that fail to make their principles accessible to their citizens thus make it impossible for at least some of their citizens to realize their interest in being at home. Since it is unjust for an institution to make it impossible for its citizens to realize a fundamental human interest then such institutions are unjust to the extent that some citizens are unable to realize this interest.

This chapter, when combined with the conclusion that institutions must treat citizens as equals in order to be fully just, enables us to conclude that institutions must, in order to be just, treat people as equals and do so publicly; both treating citizens as equals and having principles that publicly express this equality are necessary conditions of justice.
CHAPTER 1: SLAVERY AND NON-DOMINATION

Introduction

The institution of slavery provides an interesting test case for theories of justice. As perhaps the paradigmatically unjust institution, it is a *sine qua non* that it be condemned by any such theory. More interestingly, it arguably provides us with a test case in another respect. Not only should a theory of justice be able to say that slavery is wrong, the theory must also be able to provide us with a plausible explanation of why slavery is wrong, an explanation that, on reflection, we think adequately captures the wrongness of the institution.\(^\text{10}\)

The obvious thing to say about why slavery is wrong is that it deprives people of their freedom, conceived of in terms of non-interference. Recently, however, Philip Pettit has argued that this explanation of the injustice of slavery is inadequate, since there are plausible cases of slavery that it is unable to identify as unjust.\(^\text{11}\) To illustrate this, Pettit describes the case of the kind slave master.\(^\text{12}\) The kind slave master allows his slaves to live basically as they will, and only rarely interferes with their freedom. Although the kind slave master rarely interferes with his slaves, we still want to say that such a situation is morally wrong. The wrongness of the situation, however, seems difficult to explain in terms of the interference that does occur. Given that the kind slave master only

\(^{10}\) For a similar view, see Nagel (2002), pp. 75-76.

\(^{11}\) Pettit (1997). See also Pettit (2001), p. 145. Pettit also provides us with other reasons to think that the ideal of freedom as non-interference is inadequate (2001, pp. 132-138). For the purposes of this paper, however, it is not necessary to look at these in detail since Pettit takes the inability of a theory of justice to be able to identify all plausible cases of slavery as unjust as a sufficient reason to reject the theory.

occasionally interferes with the freedom of his slaves, explaining the wrongness of slavery in terms of interference alone seems to imply that the situation in question is not that bad. But this is surely at odds with our considered opinion. Thus there must be something else that is wrong with slavery other than merely interference.

Pettit argues that the case of the kind slave master shows that freedom must consist not merely in non-interference, but also in what he calls ‘non-domination’. This view links the moral wrongness of slavery to an idea of vulnerability. The problem with the case of the kind slave master is that, although the slaves are treated well, they remain in a position where the slave master can interfere with their lives at will.

In this paper, I will not consider whether Pettit’s criticism of freedom as non-interference is successful. Rather, I will examine whether Pettit’s own theory of freedom as non-domination is able to pass the test that he rightly sees as being a necessary condition for a plausible theory of justice. I conclude that Pettit is faced with a trilemma. On the first horn, Pettit is forced to conclude that non-domination is compatible with slavery. On the second horn, he maintains that non-domination is incompatible with slavery but is forced to give up a necessary premise in his argument for the incompatibility of non-domination with slavery, leaving us with no reason to believe that non-domination passes the slavery test. Furthermore, giving up this premise has important implications for a number of his other arguments. Finally, on the third horn of the dilemma, Pettit is able to retain the premises that are necessary for the success of his argument and maintain that non-domination is incompatible with slavery, but only by

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13 Ibid., pp. 34-5. See also Pettit (2002), pp. 342-344.
appealing to the independent value of equality. Whilst the third horn of this trilemma is the most appealing, it shows that Pettit fails to provide an account of the wrongness of slavery that appeals solely to a conception of freedom as non-domination, and so his theory fails to be a *republican* theory of justice. In order to avoid the first two horns of the trilemma then, Pettit is forced to concede significant ground to egalitarians. I will conclude the chapter by considering, in section IV, a final response that Pettit might make. This response places the burden of showing that freedom as non-domination is incompatible with slavery not on the three benefits but rather on the idea that a just state is one that will maximize non-domination.

**I. Non-Domination**

In this section, I will briefly describe freedom as non-domination and show why it is that Pettit believes that it provides us with a superior account of justice than does freedom as non-interference. I will not take issue with Pettit on this point; rather, I will use the discussion here as the basis for my criticisms in sections II through IV.

*Non-domination*

One person dominates another on Pettit’s view when and to the extent that:

1. they have the capacity to interfere
2. on an arbitrary basis
3. in certain choices that the other is in a position to make

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To interfere with someone is to intentionally make their situation worse by changing the options from which they may choose, or changing the expected outcomes associated with each choice. To do so on an arbitrary basis can mean one of two things. First, to interfere arbitrarily means that one interferes without considering the interests of those with whom one interferes. What is primary here is each person’s judgments about their interests, and not their interests objectively conceived. Thus, I interfere with them arbitrarily if I do not have to consider whether they view the act of interference as contrary to their interests. The second way in which interference can be arbitrary is if it is not forced to track the interests of those with whom one interferes as they conceive of them. Thus, even if the interference tracks the interests in question, it is still arbitrary if it does so only because the interfering agent so chooses. If it is up to the agent whether the interference tracks the other’s interests, then the act of interference is arbitrary even if it tracks the other’s interests.

Pettit says little about what it means to have the capacity to interfere on an arbitrary basis. On a natural reading, this would seem to imply that everyone dominates everyone else, since we each have the capacity to interfere with others on an arbitrary basis; I am perfectly capable of making the situation of others worse in the relevant respects. Clearly then, this is not what Pettit has in mind by the idea of a capacity. For the purposes of this paper, however, I will not attempt to elucidate the conception of a

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15 Ibid., pp. 53-4.
16 Ibid., p. 55.
17 Strictly speaking, Pettit’s view is that the interfering agent must track the relevant interests, where these are understood to be the interests “that are shared in common with others, not those that treat me as exceptional, since the state is meant to serve others as well as me” (1997, pp. 55-56 and 290-292). For a criticism of this view see Southwood (2002), pp. 19-20.
capacity that Pettit is using here. As will become clear, the criticisms that I advance in this chapter do not require that we fully understand Pettit on this point.

The three benefits of non-domination

As Pettit recognizes, freedom as non-interference does a better job than freedom as non-domination at ensuring that people have unrestricted choices; this should not be surprising since this is the sole focus of freedom as non-interference. Freedom as non-domination should nonetheless be preferred, Pettit claims, since it does better than freedom as non-interference in three other ways, which Pettit calls the three ‘benefits’ of non-domination. First, freedom as non-domination does better than freedom as non-interference at giving people the certainty needed to plan effectively and be free from anxiety. State power is inherently coercive. Thus, whenever the state acts, it potentially reduces the scope of people’s freedom. This leaves open the possibility that the best way to maximize people’s freedom as non-interference is to leave them exposed to interference from non-state sources. One example that Pettit gives here is ‘a choice between leaving employers with a lot of power over employees … and using state interference to reduce such power’. If the likelihood of employers using their power to interfere with their employees is remote, then it may well maximize people’s freedom as non-interference to allow employers to retain such power.

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18 For a detailed discussion of Pettit on this point, see Gaus (2003, pp. 65-74) and Larmore (2003, pp. 112-117).
19 Pettit (1997), pp. 85 and 89.
20 Ibid., p. 84. Pettit also uses the term ‘effect’ (e.g. p. 90).
21 Ibid., pp. 85-6.
22 Ibid., p. 85.
There is an important difference, however, between interference from a non-dominating state and interference from other sources, namely that the interference from a non-dominating state will be predictable, whereas the interference from other sources will not be. When a non-dominating state interferes, it must, in order to be non-dominating, be interference that is based upon the agent’s judgment about what is in her best interests, and so will be interference that the agent can predict. Arbitrary interference on the other hand will not be predictable. Unpredictable interference carries with it two related costs for the agent. First, the agent must endure uncertainty; she can never be sure when interference might occur. This makes planning difficult. Second, this uncertainty brings with it anxiety; since the agent doesn’t know when the interference will occur, she may well be anxious that interference will occur on the occasion at hand.

The second benefit of freedom as non-domination is that under a system that allows arbitrary interference, not only is there uncertainty and anxiety, but people also need to try and avoid those that are capable of interfering with them.

To suffer the reality or expectation of arbitrary interference is not only to have to endure a high level of uncertainty. It is also to have to keep a weather eye on the powerful, anticipating what they will expect of you and trying to please them, or anticipating where they will be and trying to stay out of their way; it is to have strategic deference and anticipation forced on you at every point.\(^\text{23}\)

\(^{23}\) Ibid., p. 86.
Unlike freedom as non-domination, freedom as non-interference is compatible with some people having the capacity to interfere on an arbitrary basis in the lives of others. In such situations, those who lack power will need to ensure that they do not do something that would precipitate such interference, either by avoiding the powerful or trying to anticipate what they might want.

Such strategic deference and anticipation brings with it real costs. In order to avoid the powerful, or anticipate their desires, those who lack power will be forced to refrain from doing things that might put them at odds, or bring them into contact with the powerful. They must ‘curtail their own choices: to tug the forelock at appropriate moments and, when that promises not to be enough, to keep out of sight’.  

The final benefit of non-domination relates to the relative status of individuals. In a society where one person has the capacity to arbitrarily interfere with another, the person who dominates will have a higher social status than the other, even if the chances of actual interference are remote. If one person has this capacity while another lacks it, this will become a matter of public knowledge, and the status enjoyed by the person who lacks the capacity will be seen as inferior to the person who has it.

The powerless are not going to be able to look the powerful in the eye, conscious as each will be – and conscious as each will be of the other’s consciousness – of this asymmetry. Both will share an awareness that the powerless can do nothing except by the leave of the powerful: that the

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24 Ibid., p. 87.
25 Ibid., pp. 87-8.
powerless are at the mercy of the powerful and not on equal terms. The master-slave scenario will materialize, and the asymmetry between the two sides will be a communicative as well as an objective reality.27

In a non-dominating society, however, people will not be subordinate in this way, since no one will possess the relevant capacity. Each citizen will be able to look every other in the eye, since none of them will view any other as a subordinate.

Non-domination and slavery

The three benefits of non-domination provide us with some reason to prefer freedom as non-domination over freedom as non-interference. The main reason to believe that freedom as non-domination is superior, however, is that freedom as non-domination, unlike freedom as non-interference, is incompatible with slavery. Thus freedom as non-domination satisfies a necessary condition for being a plausible theory of justice. Using the discussion of the three benefits of non-domination we can see why Pettit believes that freedom as non-domination is incompatible with slavery. First, even though the kind slave master does not interfere with his slaves very often, his slaves are still not able to plan their lives free from anxiety. Since the slave master has the capacity to interfere with them at will, his slaves will always have some sort of anxiety that he will interfere. Under a non-dominating system, however, no one need worry that they will be interfered with on an arbitrary basis, since no one will have the capacity to do this.

27 Ibid., pp. 60-1.
Second, the slaves of the kind slave master must continually try to please the slave master or stay out of his way, since to do otherwise is to run the risk of interference. Again, this is eliminated under a system of non-domination, as no one possesses the capacity to interfere with any other. Finally, since under a system of non-domination there is no difference in relative status between persons, at least from the perspective of institutions, no one will be subordinated. This is not true under a system of slavery.

The claim that the three benefits of non-domination are incompatible with slavery forms the first premise of Pettit’s argument. In order to establish that non-domination is incompatible with slavery, Pettit says the following:

Suppose we take steps to reduce a person’s uncertainty about interference, to reduce their need for exercising a strategy of deference and anticipation with others, and to reduce the subordination associated with vulnerability. It is hard to see how we could take such steps without at the same time advancing their freedom as non-domination. Freedom as non-domination appears to be, not just a more or less sufficient instrument for promoting those effects, but a more or less necessarily associated factor. There is no promoting non-domination without promoting those effects; and there is no promoting those effects without promoting non-domination. This may not hold in every possible world, but it certainly seems to hold under plausible assumptions about how the actual world works.28

28 Ibid., p. 90.
In worlds like ours, ensuring that people have these three benefits is just to ensure that they are free from domination and vice versa. This is the second premise in the argument. It enables Pettit to move from the claim that the three benefits are incompatible with slavery to the conclusion, that non-domination is incompatible with slavery. This premise is best thought of as being the claim that, in our world and in worlds sufficiently similar to ours, the three benefits of non-domination are necessary and sufficient for non-domination. Although I will, for the sake of simplicity, just label this as the claim that the three benefits are necessary and sufficient for non-domination, the reader should keep in mind the restricted scope of this claim.

Pettit’s argument can thus be thought of as follows:

1. The three benefits of non-domination are incompatible with slavery
2. The three benefits of non-domination are necessary and sufficient for non-domination
3. Therefore, non-domination is incompatible with slavery

Since freedom as non-domination is incompatible with slavery, we ought to prefer it as an account of justice to freedom as non-interference. Freedom as non-domination satisfies one necessary condition for being a plausible theory of justice.

II. The Chesapeake Case

In this section, I argue that although freedom as non-domination avoids the problems posed by the case of the kind slave master, there is a case of slavery that has many
features in common with the case of the kind slave master that poses serious problems for freedom as non-domination. I will call this the Chesapeake Case.\textsuperscript{29}

The Chesapeake colonies (what today is now Virginia, Maryland and part of North Carolina) were responsible for most of the tobacco production in North America during the seventeenth and eighteenth centuries. In the eighteenth century, the colony produced between 25 and 60 million pounds of tobacco annually, primarily for export to Europe. As tobacco was a labour-intensive crop and willing labour scarce, huge numbers of slaves were imported. At the time of the American Revolution, a third of the population of Maryland and North Carolina, and two-fifths of the population of Virginia were slaves. In most of the tobacco-producing areas, however, slaves accounted for more than half of the total population. Around this same time, the market for tobacco was weakening, at least in part due to a surplus of tobacco as well as the Revolutionary War. As a result, post-war Chesapeake was left with a huge number of effectively unemployed or under-employed slaves. One consequence of this was that many slaves saw a substantial increase in the amount of freedom that they had. Of particular interest to us here is that certain slaves, particularly those with valuable skills, were permitted to act essentially as independent agents. In exchange for paying their masters a set weekly fee, these slaves were able to arrange their working lives as they saw fit, including entering into contracts and keeping, and determining how to spend, the remainder of their pay. It is this subset of slaves that I will be focusing on in this section.

\textsuperscript{29} The details of this case are taken from Kolchin (1993), pp. 24-25 and 74-75.
There are two important things to note about these slaves. First, many of them were essentially free, if we conceive of freedom as the absence of interference. In this respect, we might think of this case as being an example of Pettit’s kind slave master. Second, these slaves would have been able, at least to a large extent, to predict when interference was going to occur. Given that the large amount of non-interference that they enjoyed was a result of the particular economic and social conditions of the time, it seems reasonable to think that the slaves could expect that their situations would continue to be relatively free just so long as these economic and social conditions continued to hold.

Looking at this case gives us reason to believe that these slaves had at least some of the benefits of non-domination. Since the slaves have the belief that the slave master will only interfere with them if and when the economic and social conditions change, it seems as though they would not have much uncertainty associated with this interference. If we can say of freedom as non-domination that people will not be anxious since they are able to predict when interference is likely to occur, then it seems that we should also be able to say that the Chesapeake slaves lack anxiety, since they too know when the interference is going to occur.

It is important to note here that even if the slaves are wrong about when the interference is likely to occur, all that is required in order for them to lack uncertainty and the associated anxiety is that they believe that they know when the interference will occur. No doubt at least some slaves had this belief, and so lacked uncertainty and anxiety. Given that there was a large increase in the number of slaves who were freed by their masters around this period, some slaves might even have had the belief that they
would eventually be freed, and hence that their master was unlikely to interfere with them at all in the future.\(^{30}\)

Once we see that all that is required for the slaves to lack uncertainty and anxiety is certain kind of belief, I think this should make us doubt whether Pettit has identified a reason of the right sort. The fact that a slave believes that she can predict when interference is likely to occur, and so lacks the uncertainty and anxiety otherwise associated with potential interference, does not seem to make her enslavement any less unjust.\(^{31}\)

Given the power that the slave master wields over his slaves, however, we might still think that the slaves must either stay out of his way or ingratiate themselves, and thus that the second benefit of non-domination still holds. The first thing to note in response to this is that, at least for some of the Chesapeake slaves, this is not true for much of the time. Given that these slaves arranged their working lives independently of their masters, and so at least in some cases would have had very little contact with them, it seems likely that they would have had little need to ingratiate themselves or engage in deliberate avoidance. Since non-domination is supposed to explain why it is that slavery is wrong, and in such cases one of the reasons that non-domination gives is at least reduced, this may be significant in determining whether we think that non-domination adequately explains the wrongness of slavery. If the need for avoidance and ingratiation is the only reason to think slavery is wrong, then since there will be some cases where this will be

\(^{30}\) Ibid., p. 74.

\(^{31}\) See also Matthew H. Kramer (2003), pp. 131-132.
largely absent, this seems to suggest that in some cases slavery is not that bad. This, however, seems like a mistake.

There is still the question as to whether the second benefit of non-domination holds when the slave master is around. I think the right answer here is: perhaps. Whether this will be true seems to depend strongly on the nature of the slave master. If the slave master really is kind, and kind in a general sense rather than the limited sense hitherto considered, then it is not obvious that this will be true. We can certainly imagine slave masters, and no doubt there were some, who were very tolerant and permissive. In such situations, where there is not much likelihood of interference, then the slaves will not be forced to curtail their choices out of fear of interference, since they are aware that the slave master is very unlikely to interfere. No doubt many slave masters were not like this, and the lives of their slaves correspondingly worse, but there is no reason to think that this must be the case.

Finally, let us examine the last, and to my mind most interesting, benefit of non-domination. Intuitively, it seems clear that the slaves in the Chesapeake case are subordinated; slaves have an inferior social status than non-slaves, and indeed are seen in many respects as mere objects rather than persons. This inferior social status is associated with, and partially constituted by, a lack of political power, which serves in part to ensure that they cannot challenge their subordinate position in society.

Things become less clear, however, when we ask why Pettit takes non-subordination to be valuable. There are three answers that seem broadly consistent with what he has to say. The first answer is that subordination is important because those who
are subordinated tend to do badly with respect to the fulfillment of their ends. Since they are seen as inferior,

[t]hey will fail to make the most basic claim on the attention of the more powerful, for they will easily be seen as attention-seekers: they will easily be seen in the way that adults often see precocious children. They may happen to receive attention, but they will not command attention; they may happen to receive respect, but they will not command respect.32

Lacking the respect accorded to equals, they will often fail to have their views heard and their interests taken into account. In short, since they can be ignored, they often will be. This places them in a precarious position. Without the good will of their master, slaves will often suffer setbacks to their interests, fail to realize their ends, and in general lack many of the things that seem necessary for living a good life. This interpretation of the importance of subordination is suggested by Pettit in his claim that non-domination is a primary good.33 Primary goods are instrumental goods; regardless of the ends a person has, primary goods are such that they are likely to be useful in attaining those ends.34 The claim that those who are subordinated will fail to command the attention of the more powerful is part of Pettit’s argument for the claim that non-domination is a primary good. It seems plausible then to assume that the reason why non-subordination is desirable is because people who are subordinated tend to do badly with respect to the achievement of their ends.

While there is no doubt that most slaves did do badly with respect to the achievement of their ends, we can see from the quote above that the fact that slaves are seen as inferior need not mean that they do badly in this respect. If their voices are heard, if they receive attention, then their inferior status may not affect them in this way. Of course, Pettit is correct that whether they receive attention is dependent on the whim of the slave master, but it is difficult to see how this is relevant if what is at issue is the actual attainment of their ends. So long as they receive the necessary attention, then they are not disadvantaged.

Whereas the first explanation emphasizes the difficulty that slaves have in being heard, and the effect that this can have on their realizing their ends, the second answer focuses on the way in which subordination can impact on the self-respect of slaves. Pettit argues that whenever one person is subordinate to another, this is likely to be a matter of public knowledge. More than this, however, a person who is subordinate to another is going to think of themselves as being subordinate. ‘And so it is quite possible for me to be forced to think of myself as subordinate to someone who is no more likely to interfere with me than I am to interfere with them’.\(^\text{35}\) Although Pettit does not mention self-respect here, it seems a fairly natural step to say that the reason why it is bad to be forced to see myself as a subordinate is because doing so impacts on my self-respect.

There seems to be an ambiguity in the way that Pettit puts the point here. On the one hand, if it is true that differences in status become a matter of common knowledge, then slaves will come to see that they are considered inferior. The sense in which the

\(^{35}\) Pettit (1997), p. 88; italics added.
common knowledge of status forces them to see themselves as inferior, however, does not seem directly related to self-respect. For the fact that the institution of slavery treats slaves as inferior, and that the slaves will come to realize this, just seems to imply that the slaves will come to realize that the institution treats them as inferior, and not that the institution is correct in so treating them. It is perfectly possible, and no doubt commonplace, for slaves to see that they are treated as inferiors, but to conclude from this not that they are inferior, but that the institution is mistaken or wrong. If this is the case, however, then this will not impact directly on their self-respect.36

If, on the other hand, Pettit’s claim is that the common awareness of the inferior status of slaves necessarily leads them to see themselves as inferior, then the claim seems false. The case just described, where slaves come to see that they are treated as inferiors by the institution but take this as evidence that the institution is wrong, seems perfectly plausible yet at odds with this stronger reading of the text.

Thus neither of the previous two interpretations of the importance of non-subordination seems adequate. It appears that on either interpretation non-domination is compatible with slavery. However, I think we can make sense of the importance of subordination in a way that enables Pettit to establish the claim that non-domination is incompatible with slavery. One of the interesting things about Pettit’s discussion of subordination is that he never explains to the reader why it is important. I have tried above to give two explanations of its importance, but neither of these are ones that Pettit explicitly endorses, although I think that both are compatible with the text. We might

36 I discuss the relationship between self-respect and slavery in more detail in chapter 3 and 4.
think, however, that the very lack of an explanation of the importance of non-subordination is itself telling. Perhaps Pettit offers no explanation of the importance because he doesn’t think that there is a further explanation of its importance. That is, non-subordination is an intrinsic good rather than an instrumental one.

It is not difficult to make sense of the claim that non-subordination is an intrinsic good. It will strike many people as plausible that it is intrinsically good that someone view themselves ‘as non-vulnerable … and as possessed of a comparable social standing with the other’. 37 Indeed, once we see that to be subordinated is to possess an inferior status to another, we can see that the value of non-subordination is just the value of equality of status. Indeed, Pettit suggests this when he says that

[i]f there is common knowledge of [inferior status] … it follows that the power-victim cannot enjoy the psychological status of an equal; they are in a position where fear and deference will be the normal order of the day, not the frankness that goes with intersubjective equality. 38

It is clear then that we can explain why it is that non-domination is incompatible with slavery on this interpretation. Since non-domination includes the value of equality of status, and all systems of slavery are ones that treat the slaves as inferiors, non-domination will rule out slavery.

38 Ibid., p. 63.
III. A Trilemma

I think that the above discussion shows that Pettit is in a trilemma. On the first horn of this trilemma Pettit stands by his claim that the three benefits are sufficient for non-domination, and says that subordination is problematic either because of its impact on the realizing of ends or on self-respect. On this horn, however, it turns out that non-domination is no longer conceptually incompatible with slavery. Since, as described above, there are plausible cases of slavery that are compatible with a slave planning with confidence, not ingratiating herself, and realizing her ends and retaining her self-respect then, if these benefits are sufficient for non-domination, non-domination itself is compatible with slavery. Given that Pettit takes the compatibility of freedom as non-interference with slavery as sufficient reason to reject it as a basis for evaluating institutions, then he should also take the compatibility of non-domination with slavery as sufficient reason to reject non-domination.39

If Pettit wants to maintain that subordination is problematic either because of its impact on the realizing of ends or on self-respect, one way of avoiding the first horn of the trilemma is to deny premise 2 of the argument for the incompatibility of slavery with non-domination. That is, Pettit can avoid the conclusion that non-domination is compatible with slavery by denying that the three benefits of non-domination are sufficient for non-domination. Perhaps Pettit might argue that, even if the three benefits of non-domination are compatible with slavery, his conception of freedom as non-

39 Ibid., pp. 34-5.
domination clearly rules out all cases of slavery since all cases of slavery are ones where the master has the capacity to interfere arbitrarily with his slaves.

This response places Pettit on the second horn of the dilemma. Giving up the claim that the three benefits of non-domination are sufficient for non-domination creates four problems for Pettit. The first is that he only avoids the conclusion that non-domination is compatible with slavery by giving up his argument for the incompatibility of freedom as non-domination with slavery. Thus we no longer have any reason to believe that freedom as non-domination satisfies this necessary condition for being a plausible theory of justice.

The second problem with this response is that it leaves Pettit unable to explain why slavery is unjust. As I noted in the opening paragraph, we should not only want our theory of justice to say that slavery is wrong, but also to provide us with a good explanation of why slavery is wrong. Without the claim that the three benefits are sufficient for non-domination, however, Pettit is left without an explanation of why slavery is unjust. This seems rather unsatisfactory.

The third problem is that if Pettit gives up this claim then he opens the door once again for the advocate of freedom as non-interference. Recall that the main reason to reject freedom as non-interference is that the case of the kind slave master shows that freedom as non-interference is compatible with slavery. But if all that is needed for a conception of freedom to be acceptable is that it gives the right answer in most cases, or the central cases, then it is open to the advocate of freedom as non-interference to claim that their theory also meets this standard.
The final problem associated with this horn of the dilemma is that if Pettit denies that the three benefits of non-domination are sufficient for non-domination then he undermines two of the most important arguments in _Republicanism_. The first argument that is undermined is his argument for the value of non-domination. One function that the three benefits of non-domination play in the overall structure of the book is that they explain to us why non-domination is valuable; once we see the value of the three benefits of non-domination, we also come to see the value of non-domination. This is seen most clearly in Pettit’s argument for the claim that non-domination is a primary good, although it is also central to Pettit’s claim that non-domination is a personal good.\(^{40}\) In arguing that non-domination is a primary good, Pettit shows that each person has reason to want the three benefits of non-domination, and, since the three benefits are necessary and sufficient for non-domination, that everyone has reason to want freedom as non-domination. ‘Given that freedom as non-domination is bound up in this way with the effects discussed, how could anyone fail to want it for themselves, or fail to recognize it as a value?’\(^{41}\) But if Pettit denies that the three benefits of non-domination are sufficient for non-domination, then we no longer have any reason to believe that these benefits uniquely support freedom as non-domination, since these three benefits will then be compatible with less demanding conceptions of freedom. This is not to say that Pettit is left with no argument for freedom as non-domination; clearly when he describes what institutions would be like under a non-dominating state Pettit is giving us a reason to

\(^{40}\) Ibid., pp. 82-92.

\(^{41}\) Ibid., p. 90.
accept freedom as non-domination as an account of justice. Nonetheless, it strikes me that the strength of Pettit’s position is considerably weakened.

The second argument that is undermined is related to the first. Pettit wants to show us not merely that non-domination is a value, but also that it is a value that the state ought to actively promote.\textsuperscript{42} In this respect, non-domination is different from a value like friendship.\textsuperscript{43} But in order for non-domination to be even a possible candidate for promotion by the state, it has to at least be a personal good, the kind of thing that people believe to be good for themselves and for others, and presumably a primary good. But if he denies that the three benefits of non-domination are sufficient for non-domination, Pettit undermines not only his argument for the claim that non-domination is a value, but also his argument for the claim that non-domination is a value that the state ought to promote; undermining the former argument also undermines the latter.

The above considerations suffice then to show us why Pettit cannot easily give up the view that the three benefits of non-domination are sufficient for non-domination. This brings us to the third horn of the trilemma. The third horn arises when Pettit accepts that the reason why subordination is problematic is because non-subordination is intrinsically valuable. That is, he takes the value of equality of status to be one reason to accept non-domination. If he takes subordination to be bad because it conflicts with the value of equality of status, then we can see why non-domination is conceptually incompatible with slavery. It seems then as though we might be able to accept Pettit’s argument for the incompatibility of slavery and non-domination.

\textsuperscript{42} See section IV below for a discussion of this aspect of Pettit’s view.
\textsuperscript{43} Pettit (1997), p. 92.
On the face of it, this does not seem like such a bad result for Pettit. After all, many people accept that equality is valuable. Appealing to equality of status, however, leads to two problems for Pettit. We can see the first problem when we step back and look at the bigger republican picture. The republican tradition, Pettit tells us, ‘countenanced no other end for the state – no other justified end – besides that of furthering this freedom. It depicted the ideal of non-domination as the one and only yardstick by which to judge the social and political constitution of a community’.  

Although he explicitly tells us that he is not arguing for this aspect of the republican claim (which he nonetheless finds ‘quite congenial’), he does claim to be offering an argument for the suitability of non-domination as the criterion by which institutions should be judged that does not appeal to other values.

Those who hail freedom as non-interference and who think that the minimal state is not normally satisfactory invoke other values as independent criteria of political evaluation: values like equality, or utility, or whatever. Freedom as non-domination does not call for the same sort of supplementation since … it already requires institutions that perform well in regard to values like equality and welfare; thus those values do not have to be introduced as distinct desiderata.

We can see, however, that on the interpretation that makes the best sense of Pettit’s theory, the interpretation that will perhaps enable us to accept non-domination, this is

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44 Ibid., p. 80.
46 Ibid.
false. Rather, in order to establish the claim that non-domination is incompatible with slavery and thus satisfies a necessary condition for being a plausible theory of justice, Pettit must appeal to the intrinsic value of equality. If so, then Pettit is not being true to the republican idea that a type of freedom is the sole standard by which institutions should be judged. Rather, it is freedom along with equality.47

The second problem associated with the third horn is that, although appealing to the value of equality of status helps Pettit to rule out slavery, it is not clear how appealing to equality of status can provide the kind of support that Pettit requires for his theory of freedom as non-domination. Recall that Pettit’s argument for the incompatibility of slavery and non-domination relies on the premise that the three benefits of non-domination are necessary and sufficient for non-domination. The worry for Pettit arises when we ask whether equality of status, along with the absence of a need for strategic deference and the certainty needed to plan, is sufficient for non-domination. It seems clear that, considered by itself, the value of equality of status does not uniquely support freedom as non-domination. Most other theories of justice, and perhaps all plausible theories of justice, accept the value of equality of status.48 In order for a conception of equality of status to uniquely support freedom as non-domination then, it would need to be considerably more developed than the one that Pettit describes.

Pettit does not, of course, hold that the value of equality by itself supports the ideal of freedom as non-domination, but rather that it, when considered along with the

47 McMahon (2005) also claims that Pettit must appeal to other values. McMahon, however, argues that the reason for this is that “promoting freedom as non-domination does not yield determinate conclusions about the policies that a state should adopt” (p. 77). For Pettit’s response, see his (2006).

value of the absence of a need for strategic deference and the certainty needed to plan, is sufficient for non-domination. Pettit never, however, provides us with an explicit argument for this claim. What he does provide is an argument that the three benefits of non-domination are necessary for non-domination.\footnote{Pettit (1997), pp. 82-9.} Immediately after this argument he claims that ‘[i]t is hard to see how we could [ensure that a person has the three benefits of non-domination] without at the same time advancing their freedom as non-domination. … there is no promoting those effects without promoting non-domination’.\footnote{Ibid., p. 90.}

I want to test this sufficiency claim by seeing whether a different conception of justice, namely democratic equality, is also likely to result in the three benefits of non-domination.\footnote{Anderson (1999). See also Scheffler (2003).} I will examine this particular conception of justice because it, like the interpretation of non-domination being considered on this horn of the trilemma, has an explicit commitment to equality of status.\footnote{Anderson (1999), p. 313.} Thus we just need to determine whether the other two benefits of non-domination are likely to be associated with it.

On Elizabeth Anderson’s construal, democratic equality is concerned to ensure that people have effective access to those capabilities that are necessary in order for them to function as an equal citizen and avoid oppression over the course of their whole lives.\footnote{Anderson (1999), pp. 316-321.} Let us consider how this might apply to the first benefit of non-domination, the ability to plan effectively and be free from anxiety. Here the problem with freedom as non-interference is that it permits some to be ‘in subjection to others’ where doing so...
maximizes non-interference.\textsuperscript{54} When we look at the ideal of democratic equality, it seems implausible to think that it would permit such subjection. Democratic equality ‘holds that a human society must be conceived of as a cooperative arrangement among equals, each of whom enjoys the same social standing.’\textsuperscript{55} Among the capabilities that it guarantees to people are those that ‘enable them to avoid or escape entanglement in oppressive social relationships.’\textsuperscript{56} Since relationships in which some people are in subjection to others will be oppressive relationships in which people do not have the same social standing, it seems that people in a society that realizes democratic equality will also have the ability to plan effectively and be free from anxiety.

It also seems that democratic equality will have associated with it the second benefit of non-domination, that is, the absence of a need for strategic deference and anticipation. Strategic deference is necessary when an imbalance of power exists such that the powerful can interfere with the impotent at will. But democratic equality will be incompatible with such inequalities of power, since they are associated with oppression and unequal status.

Thus democratic equality is, like freedom as non-domination, associated with the three benefits of non-domination. This being the case, it is not true to say that the three benefits of non-domination are sufficient for non-domination, at least where the third benefit of non-domination is interpreted as being the same as the value of equality. Indeed, one way of looking at this result is to think that any relatively robust conception

\textsuperscript{54} Pettit (1997), p. 86.
\textsuperscript{55} Scheffler (2003), p. 22.
\textsuperscript{56} Anderson (1999), p. 316.
of equality along the lines of democratic equality will include in it the other two benefits of non-domination. Given that the traditional target of egalitarians has been oppression and relationships of inequality it would seem unusual indeed if egalitarian theories of justice failed to rule out the types of relationships responsible for the inability to plan without anxiety and the need for strategic deference.

It appears then that this horn of the trilemma has its own associated dilemma. Either Pettit gives more content to the idea of equality of status present in the third horn of the dilemma or he does not. If he does give it more content, then the conception of equality of status is likely to be much more controversial, since it would have to rule out conceptions such as the one present in democratic equality. If he does not, then his argument for the incompatibility of freedom as non-domination and slavery fails, since there is good reason to think that the three benefits of non-domination are sufficient for freedom as non-domination.

IV. Non-Domination, Value, and Equality

In this section, I examine one response to the above criticism that is available to Pettit. This response, implicit in chapter 4 of Republicanism, says that even if non-domination is compatible with slavery at the individual level, a republican state will not permit slavery since such a state will try to maximize non-domination, and maximizing non-domination
will be best achieved by equalizing non-domination.\textsuperscript{57} Thus, equality can be derived from a concern with maximizing non-domination, without including it as a basic value.

\textit{The argument for equality}

Pettit’s argument for the claim that equality can be derived from non-domination consists of two steps. The first step is to claim that non-domination is a value that the state ought to promote rather than respect; non-domination is a value that the state ought to maximize. The second step is to argue that maximizing non-domination will be best achieved by equalizing non-domination. I will take each of these in turn.

If we assume that freedom as non-domination is a value that political systems should be sensitive to, there still remains the question of exactly what attitude the state should have to the value. As Pettit points out, there are two basic attitudes that are relevant here: the state could either promote non-domination or respect it.\textsuperscript{58} To see a value as one that we ought to promote is to see the value as an end that we ought to maximize. Traditionally, for example, utilitarians have seen pleasure in this way. To see a value as one that we ought to respect, on the other hand, is to think that the value is not one that should always be maximized; respect for the value of human beings as ends in themselves, for example, is sometimes thought to require that we never treat people

\textsuperscript{57} This response was also suggested by Pettit in personal correspondence. It should be noted that a version of this reply is also open to the advocates of freedom as non-interference. Pettit, however, finds such defences unconvincing. See Pettit (1997), p. 111.

\textsuperscript{58} Pettit (1997), pp. 97-9.
merely as a means, even if doing so would minimize the number of occasions on which people are treated merely as means.\(^5^9\)

The value of non-domination, Pettit claims, is best seen as a value to be promoted.\(^6^0\) If there is a situation in which the state could maximize non-domination by allowing domination in certain areas, for example by ‘giving judges a lot of sentencing discretion’, then ‘it would be precious, even fetishistic’ for the state to refuse to do so on the grounds that this would be an instance of domination.\(^6^1\)

The second step in the argument relies on two claims concerning non-domination. The first is that the amount of non-domination that a person has is a function of their power relative to that of others; it is, in other words, a function of their ‘power-ratio’.\(^6^2\) Any state that implements a policy that increases the powers of some relative to the powers of others is unlikely to increase overall non-domination since increasing the powers of some will decrease the relative powers of others. Given that the amount of non-domination a person enjoys depends on their powers relative to others, increasing the relative powers of some will mean that they enjoy more non-domination than they did before, but at the expense of those who now enjoy less power. There is little reason to think that this will result in a net gain in non-domination over the society.

The second claim that Pettit puts forward shows that in fact such a policy is likely to diminish overall non-domination. This is because the amount of non-domination that a change in a person’s power-ratio produces is subject to diminishing marginal

\(^{59}\) See, for example, Nozick (1974), pp. 30-33
\(^{60}\) For an extended discussion of the relationship between non-domination and consequentialism, see Nadeau (2003), pp. 120-134. See also Ferejohn (2001), pp. 83-86.
\(^{62}\) Ibid.
productivity. The greater my initial power-ratio, the smaller the increase in non-domination produced by the same increase in power-ratio. Thus, increasing the power-ratio of those who already have a greater-than-average power-ratio is going to produce less non-domination than increasing the power-ratio of those with a less-than-average power-ratio. In a situation like the one described in the paragraph above, if the people whose power-ratios are being increased are already privileged in this respect, then the diminishing marginal productivity of power-ratios implies that such inegalitarian policies will actually decrease rather than increase the total amount of non-domination.

These two considerations push then in the direction of equality. Given that the republican state ought to maximize non-domination, these considerations suggest that the best way to do this is to equalize non-domination. Hence, a state that is concerned to maximize non-domination will not permit slavery.

*The value of non-domination*

As discussed in section III above, Pettit argues that non-domination is an instrumental rather than an intrinsic good. Indeed, non-domination is a primary good. Given the account of non-domination as an instrumental rather than intrinsic good, we might naturally wonder what intrinsic goods non-domination is instrumental in bringing about. The claim that non-domination is also a primary good gives us an answer – non-

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63 Ibid., p. 115.
64 Pettit does not argue against the claim that non-domination is an intrinsic good, but only for the claim that it is an instrumental one. The claim that non-domination is an intrinsic good is one that Pettit has “no quarrel with”, but does not form part of Pettit’s view. See (1997), pp. 82-3.
domination is useful in the realizing of ends, which ends are intrinsically valuable as part of a plan of life.65

Once we have seen what is intrinsically valuable in Pettit’s picture, it is interesting to ask what attitude we ought to have to this value. Is the realization of ends a value that ought to be promoted, or one that ought to be respected? Let us assume, for the sake of argument, that the value is one that ought to be promoted. This seems to be a view that has some force, and it is more congenial to Pettit than the view that it is a value to be respected. If the realizing of ends is a value that ought to be promoted, there are two questions that need to be answered. First, should the state play an active role in promoting the value? Second, if the state should have an active role, how should it promote the value? In order for Pettit’s view that the state should maximize non-domination to be plausible, the answer to the first question must be yes, so let us assume that it is. What about the second question? Pettit’s answer here seems to be that the way that the state ought to promote the value of the realization of ends is through maximizing one of the means necessary for the realizing of ends. That is, Pettit’s view is that the way to maximize the realization of ends is through maximizing non-domination.

Once we see that this is Pettit’s view, however, then it begins to seem less plausible. It is by no means obvious that the way to maximize the realization of ends is through maximizing non-domination. Some people have ends that are fairly easily realized, whereas others have ends that are very difficult to achieve but that they see as

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65 Of course, we may want to place restrictions on the ends whose realization we count as intrinsically good, but we can leave this complication aside here.
nonetheless worth pursuing\textsuperscript{66}; the end of becoming a concert pianist, for example, is far more difficult to achieve than that of watching one’s favourite TV show this evening. In situations like these, which are, I take it, not unusual, it is not at all obvious that we will maximize the realization of ends by maximizing non-domination. Instead, it seems plausible to think that the best way to maximize the realization of ends is to allow those who have easily-achievable ends to dominate those whose ends are difficult to achieve. Such an imbalance of powers will make it more likely that those whose ends are relatively easy to achieve will actually achieve those ends, thus making it more likely that the total number of ends realized will be increased. A situation where everyone has equal powers will of course make it more likely that those whose ends are more difficult to realize will realize their ends, but given the lower initial probability of them doing so, it would seem as though the overall number of ends realized will not be maximized under such an arrangement. It may take a process of trial and error to discover exactly how much more power those with easily-achievable ends should be given when compared to others, but it seems plausible to think that the situation that will maximize the realization of ends will not be the situation of maximum non-domination, and hence not the situation of equality.

What the preceding discussion shows at least is that there is a gap in Pettit’s argument. It may well be that the maximizing non-domination will lead to equality, but given that non-domination is an instrumental value, it is an open question as to whether the state in fact ought to maximize non-domination. Merely claiming that it would be

\textsuperscript{66} Dworkin (2000), p. 31
‘precious’ and ‘fetishistic’ for the state not to do so does not seem like an adequate response. Rather, showing that the state ought to maximize non-domination would involve arguing that maximizing non-domination is the only way to show the appropriate attitude (e.g. of promotion) towards what is intrinsically valuable (the realization of ends). I have suggested in this section that such an argument is unlikely to succeed due to the differences in the ends that people have. Thus it seems as though this response to the trilemma is also unlikely to succeed.67

**Conclusion**

In this chapter I have argued that Pettit’s claim that a conception of freedom, namely freedom as non-domination, can provide us with an adequate account of justice without reference to other values is false. In order for freedom as non-domination to pass what both Pettit and I take to be a basic test of a theory of justice, that of identifying all plausible cases of slavery as unjust, it has to appeal to the value of equality.

Looking at the case of slavery, it should not be surprising that a theory that appeals to the value of equality is able to say that slavery is wrong; after all, slavery is clearly a case of an institution treating some as inferior to others. Any theory that says that people ought to be treated equally will thus see slavery as unjust. Once we realize this, however, we can see that the value of equality is doing almost all of the work in Pettit’s theory, at least insofar as the theory seeks to identify slavery as unjust; non-

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67 For a different attempt to show that maximizing non-domination will require egalitarian policies, see Lovett (2001). I suspect that, so long as non-domination is seen as an instrumental good, Lovett’s argument will be subject to the same type of problem as Pettit’s.
domination turns out to be otiose. Whilst certain instances of slavery are ruled out by other aspects of the theory, these instances are ones that point to merely contingent features of slavery; we can, as I have shown above, find cases of slavery that do not have these features but that we want to condemn nonetheless. The reason why appealing to equality enables Pettit to condemn all cases of slavery is that slavery just is an institution that treats some people unequally. This is an essential feature of slavery, and it is this essential feature that explains why it is that appealing to the value of equality is a successful way of explaining the wrongness of slavery. Once we see this, we might wonder whether the real appeal behind freedom as non-domination is not freedom at all, but rather equality.
Chapter 2: Slavery and Being at Home

Introduction

Perhaps the most famous discussion of slavery in the philosophical literature is Hegel’s master-slave dialectic.\(^68\) Here Hegel argues that slavery arises out of a desire for recognition. In an attempt to ‘raise their certainty of being *for themselves* to truth’ people engage in a life-and-death struggle with others.\(^69\) This life-and-death struggle culminates in one party submitting to be enslaved by the other in order to avoid death. In this way, the master hopes to force the slave to recognize him.

Hegel argues, however, this way of gaining recognition fails. The slave *qua* slave lacks status, and so is unable to recognize the master. Any recognition that is given by the slave will be found wanting, as the slave is considered to be unworthy of granting recognition. In order for the recognition that is offered to be seen as being of value, the person who is offering the recognition must be seen to be of comparable status to the person to whom it is being offered. In order for recognition to be possible then, mutual recognition must also be possible.

As a number of authors have pointed out, however, Hegel’s explanation of the problem with slavery fails.\(^70\) It fails because, while the master may be unable to gain recognition from the slave, she is able to gain recognition from other masters, since their

\(^{68}\) Hegel (1977), pp. 111-119.

\(^{69}\) Ibid, p. 114. Italics in original.

status is equal to hers. So long as there exists a sufficiently large group of masters, recognition and mutual recognition are possible. Hegel’s mistake then is to assume that in order for a person to be recognized it must be the case that she can be recognized by all.

Despite the inability of his concept of recognition to explain what is wrong with slavery, Hegel also discusses a second concept that might plausibly form the basis of an explanation of the injustice of slavery, namely the concept of being at home in the world. In this chapter I propose to do two things. First, I will outline the concept of being at home in the world and explain its importance. This task is necessary both for the purposes of evaluating the possibility that this concept can by itself explain why slavery is unjust, which is the second task of this chapter, and because the idea of being at home in the world will form a part of the basis for the explanation of the injustice of slavery that I propose in chapter 4.

The outline of this chapter is as follows. In section I, I will outline and explain both the conception of being at home in the social world that is the subject of this chapter, and explain why being at home is a fundamental human interest. In section II, I will explain why the conception of being at home in the world outlined in section II cannot, by itself, explain the injustice of slavery. In section III, I will discuss one possible way that the argument might be amended, namely by introducing a further objective condition into the conception of being at home in the world, and argue that this attempt is unsuccessful and unnecessary. Finally, I will in section IV discuss one objection to the conception of being at home in the world just outlined, namely that it appears to be a form of adaptive preference formation.
I. The concept of being at home

The basic idea

Human beings have a basic desire to belong. This desire can be described as a desire to fit in, a desire to belong, or a desire to be a part of their social world. To lack this feeling of belonging is to feel marginalised, excluded, foreign, or alienated. The importance of this feeling of belonging, this feeling of being at home, has a relatively long history. It is Hegel, however, who brought it to the centre of political philosophy. The importance of being at home in the social world, however, is not merely acknowledged within political philosophy. Many measures of well-being, for instance, include a component that corresponds to this idea.

To be at home in the social world, to feel that the social world is one that makes sense, is one into which I fit and belong, and is one which I can affirm, is to be reconciled to the social world. When this desire to fit in and to belong is not met, however, when I am not at home in the world and instead see the social world as incomprehensible, unacceptable, or hostile, then I am alienated from my social world. To be at home is thus to be reconciled to the social world, while to not be at home is to be alienated.

An Outline of the Conception of Being at Home

71 To speak of a ‘social world’ is to refer to ‘the framework of the central institutions and practices of social and political life of society or a society of a certain type’ (Hardimon [1994], p. 16).
73 For an example of some of the work on social exclusion, see Hills et al. (2002).
74 These aspects of being at home in the world will be explored in more detail below.
Being at home in the social world has both a subjective and an objective aspect. The subjective aspect of being at home in the social world consists of three distinct moments. The first consists in the formation of a belief about the way that the social institutions under which one lives are structured. In the normal course of events, such a belief is formed through the process of socialization. When we grow up in a society, we, both through our own experiences and through the more formal processes of education, come to form beliefs about the institutions to which we are subject. We come to believe that these institutions are structured in particular ways, and we come to have beliefs about the way this structure impacts on our lives. This is not the only way that one can come to have these beliefs, but it is perhaps the most common.

The structure of an institution is a set of explicit and implicit rules governing behaviour. With respect to some institutions, such as legal institutions, the rules are primarily explicit. In the case of institutions such as the family, however, these rules are primarily implicit. When we are immersed in a society, we come to grasp the nature and content of these rules and, in many cases at least, to adopt them as our own.

The second moment of being at home in the world consists in affirming the structure of the institutions to which I am subject. Given that affirming the way an institution is requires that I have beliefs about the way that the institution is, affirmation must, at least in principle, come after belief-formation. Affirming the institutions to which I am subject consists of two distinct parts. First, affirmation involves endorsing

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76For an account of these social rules as they apply to social roles, see Sciaraffa (2007), chapter 1.
the institutions to which I am subject. To endorse these social institutions is to see them as coherent and to see them as good, as institutions that basically correspond to the way that I think institutions ought to be. They are seen to be just, and for that reason as institutions to be supported and maintained.

The second part of affirmation involves embracing the institutions as they are. This embracing of the institutions of my society is distinct from mere endorsement. To embrace the institutions is to accept those institutions as my own, and so to see them as appropriately governing important aspects of my life. Whereas it is possible to endorse institutions from multiple states, by having the belief that they all basically conform to my conception of what an ideal institution should be, as that ideal institution would be realised given the basic facts about the relevant cultures, it seems unlikely that one can embrace what is likely to be a variety of distinct interpretations or realisations of that basic institutional model. They cannot all be embraced as mine in the relevant sense.

The embracing of the institutions of my society leads to the final moment of the subjective aspect of being at home in the world, namely the feeling of being at home. When I believe that the institutions of my society are ones that are basically just, and furthermore I come to endorse and embrace those institutions, then I feel that I am at home. This feeling is the feeling of fitting in to, of belonging to, and of being a member of, the social world. But the feeling is characterized not only positively in this way, but also negatively by the absence of uncertainty, anxiety, and fear that can be present when one is living under institutions from which one is alienated.
The objective aspect of being at home in the world is already implicit in the above discussion of the subjective aspects. To be at home in the world it is not sufficient that one has beliefs about the institutions to which one is subject, and that one feels at home in the world on the basis of those beliefs. In addition, in order to be at home in the world it must be the case that those beliefs are true beliefs, and that one has endorsed and embraced the institutions as they actually are as opposed to merely the way that one perceives them to be. This objective correspondence between one’s beliefs about the way the institutions are structured and the way that they are actually structured is the difference between merely feeling at home in the world and actually being at home in the world. It is thus possible to feel at home without being at home.

*The Value of Being at Home*

Now that we have before us the particular conception of being at home in the world that is to be the focus of this chapter, as well as chapters 4 and 5, I will turn to an explanation of why this interest has the importance that it does. Each of the three subjective moments of being at home in the social world, when considered in the light of the objective aspect, has a number of different benefits so I shall take each moment in turn.

The first moment consists in having true beliefs about the structure of the social world and its institutions. These institutions have the particular importance that they do because they have a profound and permanent impact on the life of the people that they
govern.\textsuperscript{78} These institutions are composed of rules that govern the distribution of benefits and burdens, and that to a large extent determine the life prospects of those they govern. Having true beliefs about the structure of these institutions is beneficial in a number of ways. If I understand the ways in which institutions shape my life, and the potential actions from which I can choose, then I will be better able to determine which of these actions I ought to take. An understanding of my roles and duties, and the limitations imposed on me, is essential if I am to properly evaluate my situation and decide what to do on that basis. To be uncertain as to the structure of institutions which govern my life is to be in a position in which I am unable to adequately evaluate both my current situation, and the desirability of the possible paths I can take. Indeed, the situation may be such that not only am I unable to evaluate the possible paths I can take, but I may not even be able to evaluate which paths are possible. Because of this, failing to understand the relevant social institutions makes it both more likely that I will be uncertain what to do, and that I will choose an option that will turn out to be one that is inferior to another that I could have chosen. A choice made under these conditions of uncertainty is more likely to lead to suboptimal outcomes.

That I am more likely to choose badly, however, is not the only reason to think that it is bad not to understand the institutions to which one is subject. If I am uncertain as to the ways in which the institutions will impact on my potential courses of actions, then I am likely to have a significant amount of anxiety both when I am in the process of choosing which course of action to take, and once I have made the choice, since I will

\textsuperscript{78}See e.g Rawls (1971), p. 7. On the failure of Rawls and others to note the importance of non-state institutions such as the family, see e.g Young (1990), chapter 1.
always be concerned that the course of action that I have chosen is one that some institution will interfere with in some important way. ⁷⁹

There is a further way in which failing to understand the institutions to which I am subject can impact on my choices. In order for my life to go well, it is not enough that I make good, or at least good enough, choices. Living a good life requires that the choices that I make reflect a sense of my values and are ones that I consider meaningful. ⁸⁰ If I am living in a society in which the choices available to me are determined according to values that I either do not understand or with which I do not agree, then even if I choose well from among those options, doing so will not make my life meaningful in the sense that is central to my well-being. My interest in pursuing goals that I think are valuable then is going to be set back in such a world.

Having true beliefs about the structure of my social world, and the values that ground it, enables me to avoid these problems. Having true beliefs enables me to ascertain which options are available to me, to accurately evaluate those options in the light of my values and plan of life, and to fully appreciate nature of the costs and benefits contained within each of these choices. When I do so, these choices have meaning for me, and hence I am able to choose among them according to my plan of life.

The second moment of being at home in the world is that I affirm and embrace the institutions to which I am subject. While understanding the nature of my options is important in evaluating my choices, I will not be in a position in which I am able to choose among choices that appeal to me unless the choices that are before me reflect

⁷⁹ C.f. Pettit’s (1997) discussion of the benefits of non-domination, pp. 85-6, and the previous chapter.
values that I endorse. If I find myself in a situation in which I understand the values that
ground the relevant institutions, but where those values appear repugnant to me, then if
the choices that are available to me reflect those values then the choices will also seem
repugnant. One example of this can be found in feminist criticisms of the traditional
family. Many feminists have argued that the values that underlie this traditional model
are inherently patriarchal and that, as a result, the choices that are available to women in
this situation (leave school to care for the family, raise children, perform menial forms of
labour etc.) reflect this. For those women who do reject these values, the range and
nature of the choices available to them will appear dismal indeed, and it will be difficult
for these women to find meaning in any of them.

In a situation where a person feels that they are unable to realise their conception
of the good within the dominant social roles, that person may well decide to pursue their
conception of the good despite the fact that it is not permitted or condoned by these roles.
In such situations, people who reject the dominant social roles and pursue their own
conception of the good are likely to find themselves in a situation where they are shunned
by others in their society, and perhaps even persecuted for their failure to conform. One
example of this can be found in some explanations of the persecution of witches in the
Middle Ages. According to these accounts, one of the primary explanations of the
persecution of witchcraft relates to the persecution of women, and in some cases men,
who failed to conform to, and hence were a threat to, the social roles that society thought

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81See e.g. Hartmann (1981).
appropriate for them. These persecuted were usually those who lived lives that were outside of the mainstream of society. This is just one example of the way that being alienated from one’s social world thus places one at risk of not only failing to have one’s choices in life validated by others, but also of being positively castigated, shunned, and persecuted for one’s choices.

When I am in a situation in which I affirm and endorse the structure of the institutions to which I am subject, however, and hence the values that ground them, then the choices that are available to me, which reflect these values, will likely appear valuable to me. They will fit in with my plan of life, and will be ones that offer me meaning. Thus, living in a world in which I am at home is likely to enhance my well-being.

Having a range of choices which are meaningful, and being able to evaluate these choices well, results in my having confidence in my situation; I will be confident that I am able to pursue my plan of life and choose make meaningful choices. This component of well-being is associated with being at home in the social world, and it is in part what gives rise to the feeling of being at home. This feeling comprises on the one hand the absence of the particular type of anxiety regarding my position in the world that was discussed above, combined with a feeling of belonging, of being a part of something that is good and rational. I am able to identify both with the with institutions as well as with

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82 For a discussion of this thesis, see e.g. Hester (1992), Jackson (1995), de Blécourt (2000), Bever (2002).
my fellow citizens who endorse the same basic values and are able to understand and appreciate the values that are present within my life. 83

It is important to note, however, that these benefits are only fully felt when one is in fact at home and not merely when one feels as home. To feel at home without being at home is to fail to properly grasp the way that the institutions to which one is subject actually impact on one’s life. To merely feel at home is to be in a situation where one is unable to properly evaluate the situation that one is in and the possible choices that one can make. Unlike when one is aware that one does not understand the structure of the institutions, however, when one merely feels at home there is not the associated anxiety, since this is present because one is uncertain of the structure of the institution. Although this may give the impression that merely feeling at home in the world is somewhat better than awareness that one is alienated, it should be noted that merely feeling at home may in practice lead to even poorer outcomes than being aware that one is alienated, since a person who merely feels at home will lack the caution with which the latter person is likely to approach their decisions.

The above considerations together form the basis of an argument for the claim that to be reconciled to our social world is a fundamental human interest. To say that an interest is a fundamental human interest is to say that the realization of this interest forms a significant part of the well-being of persons. To fail to be able to realize a fundamental human interest is to have one’s well-being significantly reduced. This is not to say that

people cannot lead good lives if a fundamental interest is not met, but it does mean that such people would, *ceteris paribus*, be significantly better off if that interest was realized.

In that case of the fundamental interest that we have in being at home in our social world, this is related to the fact that we are social creatures, and the way in which we relate to the institutions that govern significant aspects of our social interactions has a significant impact on how well our life goes. To feel at home in the social world is to feel that the social world in which one lives is a world into which one fits, and to which one belongs, and within which one can make meaningful and valuable choices. The institutions of the society in which we live have a profound and ongoing influence on our lives. These institutions, which include both the formal political institutions that govern a society, such as the institutions of government and legal institutions, as well as other institutions such as the institution of the family, are so powerful and pervasive that to experience them as incomprehensible, misguided, or hostile is to have one's interests set back to an almost insurmountable degree. To be alienated from one’s social world is to experience a loss of meaning, the presence of anxiety, a sense of disconnection, and perhaps the anger and frustration that often go along with these. This is not to say that the interest in being at home in the world requires that I endorse, for example, every policy that governments implement, or that I endorse every law that is passed. Being at home in the world is compatible with thinking that many aspects of the social world are imperfect.\(^{84}\) It is also compatible with the relative state of ignorance that most of us are in with respect to the particular laws and policies of the institutions under which we live.

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What is important is that I understand and endorse the basic principles that guide the institutions.

To feel that one is at home then is to feel that the ways in which the institutions govern and shape my life are ways that are generally comprehensible, predictable, and benevolent. To have this feeling is to lack the anxiety that is associated with living under institutions that are incomprehensible, and to live without what is likely to be the inevitable dread that is associated with living under institutions that one perceives as being hostile or unjust. Thus the feeling of being at home in the world is likely to form a significant part of the well-being of persons. A person who feels alienated from their social world is a person whose well-being has been set back, and the life of that person would, pro tanto, be better if he or she were at home.

II. Slavery and Reconciliation

As described above, being at home in the world requires that one has true beliefs about the structure of the institutions to which one is subject, and that one endorses and embraces this structure. Once we have this conception of being at home in mind, we can immediately recognise that many slaves will be alienated from their social world. Since they are treated as inferiors and, as a result of this, are often treated in a manner that is devaluing, degrading, or dehumanising, slaves will have good reasons not to endorse or embrace the institution of slavery. Indeed, perhaps we may even think that they ought not to embrace it, since by doing so they endorse their own enslavement and hence the treatment that often goes along with such a status. So described, the concept of being at
home in the world might form the basis of an argument against slavery along the following lines:

1. Being at home in the world requires that one understands, endorses and embraces the institutions to which one is subject

2. Slaves may understand the institution of slavery, but they cannot endorse or embrace it.

3. Hence, slaves cannot be at home in the world

4. Institutions that make it impossible for people whose lives they govern to be at home in the world are unjust

5. Therefore, the institution of slavery is unjust.

Although this argument has a lot to recommend it, and indeed I will present what I believe to be a successful argument against the institution of slavery in chapter 4 that incorporates many elements of this one, the argument as it stands is unsuccessful.

Premise 1 is just a summary of the above discussion of what it is to be at home in the world, and premise 3 follows from premises 1 and 2. I believe that premise 4 is true, and will in chapter 4 offer a defence of a more general version of it. That leaves premise 2.

The claim here is that if a slave has true beliefs about the institution of slavery, about the way it is structured, then they will be unable to endorse or embrace it. Given that institutions of slavery identify those who are slaves as objects that can be bought and sold and as deserving of fewer rights, it seems clear that many, if not most, people who are so identified will be unwilling or unable to endorse or embrace the institution of slavery.

They will not do so because so doing entails that they see the institutions as being
basically just, and furthermore as appropriately governing them. Being at home in the
world thus requires that they see their slavery as justified and appropriate.

It is far less clear, however, that all slaves will be unable to be at home in the
world. In his paper ‘Servility and Self-Respect’, Thomas E. Hill gives the example of
Uncle Tom. Uncle Tom is a black man who ‘accepts without question the idea that, as a
black, he is owed less than whites.’ Although Uncle Tom is not portrayed as a slave in
Hill’s article, it is no stretch to imagine a similar person who is a slave. Someone like
this, who thinks of himself as inferior to others, may well have no problem endorsing and
embracing the institution of slavery. He is able to do so because the institution reflects his
belief in his inferiority. It identifies him as inferior, and since this identification reflects
his own belief in his inferiority, he is able to endorse and embrace the institution.

Such acceptance, however, is not confined merely to isolated cases. Institutions of
slavery were possible, at least in part, because slaves came to accept the dominant views
of the culture in which they lived. Since these dominant views endorsed slavery, the
slaves came to see their status as slaves as fitting. This is not to say that such
acceptance was without qualification, but given that in many situations the slave masters
were significantly outnumbered by the slaves, some such acceptance was necessary for
the continuation of slavery.

Since the above argument against slavery fails to rule out Uncle Tom-type cases,
and more importantly fails to condemn what is perhaps the normal case of slavery where

86 See chapters 3 and 4 for further discussion of this scenario.
88 For a discussion of some of the relevant qualifications, see Cohen (1998), pp. 294-297.
the slaves have at least partially internalised the dominant norms of their society, it fails to condemn all cases of slavery as unjust. This is, I take it, a sufficient reason to reject this argument.

III. Objectivity revisited

At this point there are two main options with respect to constructing an argument against slavery using the interest in being at home in the world. The first response is to abandon the attempt to construct an argument that relies solely on the interest in being at home in the world and to instead develop an argument that is grounded in this interest along with other interests. It is this option that I will explore in chapters 3 and 4. Before I do so, however, it will be necessary to explain why this project seems preferable to the second main option, that of incorporating into the conception of being at home in the world a stronger objectivity than the one outlined above. Being at home in the world, if it is to place meaningful limits on the ways that institutions can legitimately be structured, must incorporate an objectivity that rules out the kind of Uncle Tom cases just discussed. This second option is the one taken by Hegel among others. For Hegel, in order for a person to be at home in the world the world must be a home, that is the social world must be one in which people are able to ‘actualize themselves as individuals and as social members’.89 I will not go into detail here about precisely what it is for a social world to be such that the individuals within it are able to actualize themselves in this way.90 Instead, I will first explain why the structure of Hegel’s theory makes his explanation of the injustice of

slavery problematic in an important way, and second explain why this approach is unnecessary.

The first reason to think that Hegel's project is unsuccessful in this regard relates to his particular view of history and the nature of his conception of being at home in the world. Recall from the first chapter that, when we are examining arguments against slavery, one of the main criteria that by which we should judge an argument against slavery is that the argument is able to rule out all cases of slavery. An argument that, for example, fails to rule out the slavery of women, or Caribbean slavery, is an argument that ought to be rejected. Ideally, an argument against slavery should be unified, in that all instances of slavery can be identified as unjust for the same reasons.

Hegel's argument against slavery, however, fails on this criterion. For Hegel, history was basically divided into three eras: the Oriental World, the Greco-Roman World, and the Germanic World. Of these, it is true only of the Germanic, or modern, World that it is a home if and only if it enables individuals to realize themselves in the manner just described. In the Oriental and Greco-Roman Worlds, Hegel thought that people were not individuals and social members in the relevant sense, and so they could be at home even if the social world did not allow the realization of their individuality or social membership. Because of this, even if we have good reason to accept Hegel's claim that the modern social world must be structured in such a way that slavery is impossible, this does not provide us with a reason to think that the innumerable cases of slavery that we find in the pre-modern world are unjust, or at least unjust for the same

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reason. We find then that Hegel's approach has two problems. First, it fails to rule out many cases of slavery. Second, even if Hegel could explain the wrongness of slavery in the Oriental and Greco-Roman Worlds, the explanation would be different from the explanation of slavery in the modern world. Hence, Hegel's explanation of the injustice of slavery will not be unified and, at the very least, this gives us reason to look more carefully for an explanation of the injustice of slavery that has this feature.

The second reason to think that the second approach to constructing an argument against slavery based on the interest in being at home in the world is less attractive than the first relates to the discussion of the value of being at home above. As described, the value of being at home in the social world is related to the goods that arise out of having true beliefs about the structure of the social world and endorsing and embracing the social world on the basis of those beliefs. These goods include the ability to plan free of anxiety, the ability to choose from meaningful alternative paths in life, and the ability to do this without fear of persecution or ridicule. Thus, there are great goods that arise out of being at home in the world, and there are significant bads that arise when one is alienated. But the goods in question that are present when one is at home in the world, and the bads that are absent, are present or absent regardless of the nature of the social world. People who are slaves are able to endorse and embrace the social world that enslaves them, and by doing so are able to avoid significant harms and gain significant goods.

That there are significant goods that are gained, and bads that are avoided, by embracing one's social world, irrespective of the nature of the social world, does not establish that there are no further goods that can be gained by living in a social world that
is in fact a home in something like Hegel’s sense, that is a social world that corresponds more completely to what we would ordinarily imagine a just social world to look like. Indeed, such a position would be untenable. It is clearly better for people to live in a social world in which their rights are respected, in which they have a wide range of opportunities to pursue their conceptions of the good, in which they can interact with others as equals, and help to determine the nature of their social world through involvement in the political process.

The problem for Hegel and others who want to argue that in order to be at home in one’s social world the social world must in fact be a home is that these goods are good independent of whether the members of this world are at home in it. The goodness of having one's rights respected does not depend on whether one believes that one's rights ought to be respected. Rather, the goodness of having one's rights respected comes from having the exclusive use of property, from having security in one's life and person, and so on. Likewise, the goodness of being able to determine the shape of one’s social world is independent of whether one believes that one should be able to do this; instead, the goodness comes out of the value of autonomy or the value of collective self-determination. If this is right, then what this shows is that any additional benefit that is gained when one puts further objective conditions on what it is for a social world to be a home just piggybacks on the value of those conditions. There is no need to appeal to those conditions as a part of our conception of being at home; the conditions either have value on their own or they do not. It would appear then that placing further conditions on the way the social world must be in order to be a home is unnecessary.
There is also a problem with this approach that is particular to the question of slavery. If we, following Hegel, want to claim that one can only be at home in social worlds that realise particular values, then we run the very real risk of begging the question with respect to the injustice of slavery. Recall that the point of the argument under discussion is to explain the injustice of slavery merely by appeal to the good of being at home in the world. But if one introduces into this conception limitations on the types of social worlds that can legitimately be a home, then it seems likely that this will beg the question, since if the strengthened conception of being at home in the world can rule out slavery, it will only be because these further conditions do, by themselves, rule out slavery. Thus this seems to assume the injustice of slavery rather than explain it.

**IV. Being at Home and Adaptive Preference Formation**

I have argued above that being at home in the world is possible even when the social world in which one lives is unjust, and even hostile to one’s own interests. Furthermore, I have argued that there are significant goods that one can realise when one comes to be at home in such a world. I now want to examine a potential criticism of this view, one that takes issue with the idea that it can be good to come to be at home in an unjust world.

The particular criticism that I have in mind revolves around the claim that coming to be at home in an unjust world is a type of adaptive preference formation. Adaptive preference formation occurs when a person changes her preferences in response to a change in circumstances, or at least the belief that circumstances have changed, where this change
results in either an expansion or a contraction of the options available to the person.\textsuperscript{93} Many instances of adaptive preference formation are perfectly normal and reasonable.\textsuperscript{94} When, for instance, I discover that it is impossible for humans to fly unaided, it is reasonable for me to change my preferred mode of travel to walking instead of unaided flying. Indeed, there seems to be something peculiar about someone who, despite knowing that unaided flying is impossible for humans, still retains as her preferred mode of travel unaided flying. Other instances of adaptive preference formation, in particular those that come about unconsciously when an agent’s options contract so that their previously preferred option is unavailable, are thought to be irrational. When, in the example that Elster uses, the fox comes to believe that the grapes that are hanging out of its reach are sour, this change in preference is irrational because it is not the result of choice or rational belief formation.

Let us now turn to the case of being at home in a world of slavery. Imagine a slave, who I shall call Uncle Tim, who believes at time A that slavery is an unjust institution that is fundamentally hostile to him. At time A, Uncle Tim is alienated from his social world. Eventually, however, Uncle Tim comes to believe through unconscious processes that there is no possibility that the institution of slavery will be overthrown. As a result of this, Uncle Tim also comes to believe at time B that the institution of slavery is basically just, and comes to endorse and embrace the institution. The case of Uncle Tim is, it might be argued, a case of adaptive preference formation. In response to a change in his perception of the impossibility of slavery being overthrown, Uncle Tim comes to

\textsuperscript{93} The term adaptive preference formation was first used by Elster (1983).

\textsuperscript{94} For a detailed discussion of the kinds of adaptive preferences that are rational, see Bruckner (2009).
endorse and embrace the institution of slavery, and so to endorse his own enslavement. According to the account of being at home in the world that I have outlined above, Uncle Tim is, \textit{ceteris paribus}, better off at time B than at time A. Indeed, we might think that the fact that he is better off at time B than at time A actually provides him with a reason to change his preferences from preferring to be free in a society without slaves to preferring to be as he is. Thus changing his preferences from those at time A to those at time B is something that Uncle Tim ought, \textit{ceteris paribus}, to do.

The idea that Uncle Tim has good reason to adapt his preferences so that he comes to endorse his own enslavement is a conclusion that many, including myself, are likely to find uncomfortable. There are two distinct issues regarding this type of case of adaptive preference formation that are relevant to the present discussion. The first is whether so adapting one’s preferences is irrational. The second is whether this kind of example provides us with some reason to think that the interest in being at home in the world can in fact form the sole basis for an argument against slavery. I will address these two issues in turn.

It is fairly easy to imagine how Uncle Tim might come to form the preference for being a slave. Once he, consciously or unconsciously, comes to believe that slavery is a permanent part of the institutional structure of his society, he might gradually come to accept the institutional structure of his society. After all, to continuously reject his society is to continuously affirm his own alienation, and such affirmation comes with some of the
costs that we have discussed above. Such a preference change would result in a lower level of cognitive dissonance and a higher level of subjective well-being.\textsuperscript{95}

According to Elster, however, an adaptive preference is irrational if it is not the result of a conscious process of adaptation.\textsuperscript{96} On this account then, Uncle Tim’s adaptive preference formation seems to be a clear example of an irrationally formed preference. But it is not at all clear that we should regard Uncle Tim’s new preference as irrational, despite its causal origins. Take a different case, where a person who once lived in a slave-owning society, and has a preference for living in a slave-owning society so that he could own slaves, instead finds himself in an egalitarian society. The Prospective Slave Owner comes over time, and through unconscious processes, to lose his desire to own slaves and instead comes to believe that living in an egalitarian society is preferable to living in a slave-owning society. This is an example of an adaptive preference formation. The Prospective Slave Owner’s option of owning slaves is removed when he comes to live in the egalitarian society and, as a result of this, he comes to abandon this preference and adopts a different one.

Even though the Prospective Slave Owner acquired his new beliefs though unconscious processes, is not at all clear that the change in preference of the Prospective Slave Owner is irrational. He might well, if asked, explain that he now prefers to live in an egalitarian society because there is a greater sense of social cohesion, or because he desired to be at home in his new social world, and thereby cease to be alienated from it. If

\textsuperscript{95} For a related discussion, see Cohen (1995), pp. 252-259. Here Cohen is describing and evaluating some of the responses of socialists to the collapse of the Soviet Union.

\textsuperscript{96} Elster (1983), p. 25.
such reasons are given, then the adaptive preference change does not seem irrational at all. But note that the same can be said of Uncle Tim. There are goods that are provided by the satisfaction of his interest in being at home in the world that he can cite in favour of his decision to change his preference, and these reasons seem to be good reasons for him to change his preferences. The difference between the two cases is, of course, that we believe that Uncle Tim is becoming reconciled to an unjust social world whereas the Prospective Slave Owner is becoming reconciled to a just social world. But it is not clear how this can explain the irrationality of so changing one’s preferences; in order for the adaptive preference formation of Uncle Tim to be irrational, it must be the case the goods that are obtained by being at home in the world cease to be good if the world to which one is reconciled is unjust, but this does not seem to be the case.

Even if we were to identify Uncle Tim’s adaptive preference as irrational, it is not clear that this provides us with any reason to think an argument against slavery can be constructed on this basis. In order for it to be the case that Uncle Tim’s adaptive preference formation is irrational, it needs to be that the goods associated with being at home in the world cease to be good if the institutions are unjust. If we accept this, however, we find ourselves unable to construct an explanation of the injustice of slavery without begging the question. The aim of the original explanation discussed in section II was to establish the injustice of slavery, but if we change the explanation to include the claim that a slave cannot rationally come to be at home in her social world, then this is to

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assume the injustice of slavery instead of to establish it. Hence, this kind of accusation of irrationality cannot help us to establish that slavery is unjust.

Finally, I want to briefly look at another approach to establishing the injustice of slavery that fails for the same reason. It is often claimed that we have a duty to support just institutions and not to support unjust ones.\(^8\) It might be thought that a slave cannot legitimately adapt her preferences so as to come to be at home in her social world because doing so would constitute supporting an unjust institution, namely the institution of slavery. It is clear, however, that this cannot be part of the basis of an explanation of the injustice of slavery, since this assumes the injustice of slavery rather than explains it.

**Conclusion**

In this chapter I have undertaken two tasks. The first was to describe the interest in being at home in the world, and to explain the importance of this interest. The second task was to show that this interest cannot by itself explain the wrongness of slavery. If the interest in being at home in the world is to form part of such an explanation then, it must be in conjunction with other considerations. I will in the following chapter consider one such consideration, namely the interest in self-respect, and show, in chapter 4, how the interest in self-respect and the interest in being at home can together form an explanation of the injustice of slavery.

\(^8\) Rawls (1971), pp. 115-7. For a related discussion of whether slaves ought to protest their slavery, see Boxill (1995).
CHAPTER 3: THE EQUALITY IN SELF-RESPECT

Introduction

Self-respect is an important good, perhaps even the most important personal good. The work that has been done over the last three or more decades has clearly established that self-respect is a heterogeneous concept.99 Broadly speaking, there are two main types of self-respect. The first, which Stephen Darwall has termed recognition self-respect, focuses on the respect that I have for myself as a person, that is, as a being of intrinsic worth.100 The second kind of self-respect is what Darwall has termed appraisal self-respect. Here the focus is not on the intrinsic worth that I have as a person, but rather on the perceived value of my achievements.101

In this paper I will be focusing on recognition self-respect. As the term suggests, recognition self-respect involves recognising that I am a being with intrinsic moral worth. As such, it is a response to a particular fact about me.102 To have recognition self-respect, however, is not merely to acknowledge that I have intrinsic moral worth; it is also to acknowledge that my intrinsic worth is equal to that of every other person.103 Thus, recognition self-respect, at least as it is usually conceived, presupposes a conception of persons as equally valuable.104

99 See e.g. Telfer (1968); Darwall (1977); Dillon (1992); Middleton (2006).
104 Of course, we could imagine a theory of recognition self-respect that did not include this idea of equality of persons. In this case, to have recognition self-respect would just be to attribute to oneself the value which one in fact has.
A minimally adequate theory of recognition self-respect must be able to do three things. First, it should be able to explain what it is in virtue of which persons possess the intrinsic value that they have. Second, it must be able to explain why self-respect is such an important personal good. Third, it must give an account of the particular conception of equality that is present within recognition self-respect. In this chapter, I will present a theory of recognition self-respect that addresses both the second and third points. As an examination of the first point will take us too far astray I will, for the purposes of this chapter, just assume that there is a significant intrinsic value that all persons have without presenting a theory of what grounds this value. To begin with, however, I will first describe in more detail these latter two desiderata of a theory of recognition self-respect. In section I, I will outline reasons why we ought to think that recognition self-respect is an important personal good. In section II, I will look at a number of examples that suggest that recognition self-respect requires that one think of oneself as an equal, and which also provide us with some test cases for theories of recognition self-respect. Sections III and IV examine and reject two other prominent theories of recognition self-respect, and in section V I present my own account.

I. The Importance of Recognition Self-Respect

In *A Theory of Justice* John Rawls argues that self-respect is ‘perhaps the most important primary good.’\(^{105}\) More accurately, Rawls’ view is that the social bases of self-respect

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together constitute the most important primary good. As such, the fact that a theory of justice, such as justice as fairness, tends to foster conditions that are conducive to people’s self-respect constitutes a strong reason in favour of that theory. Alternatively, if a theory of justice fails to foster such conditions, or if the conditions that it fosters tend to undermine self-respect, then that will constitute a strong reason against such a theory.

According to Rawls, self-respect has two aspects. ‘First of all … it includes a person’s sense of his own value, his secure conviction that his conception of his good, his plan of life, is worth carrying out. And second, self-respect implies a confidence in one’s ability, so far as it is within one’s power, to fulfil one’s intentions.’ The first aspect of Rawls’ conception of self-respect, that is ‘a person’s sense of his own value’ clearly brings to mind the idea of recognition self-respect. Rawls’ elaboration of this aspect, however, does not; it is clear that a person can think of herself as valuable qua person without thinking of herself as valuable qua holder of a worthwhile conception of the good. My sense of my value as a person is not limited to the value that I attribute to my conception of the good. Furthermore, it seems clear that one can think of oneself as having value even if one comes to believe that one’s plan of life is of little or no value. To come to see oneself as having a plan of life that lacks value is not to come to see oneself as lacking value, but merely to come to see that one ought to formulate a new plan of life.

107 Rawls (1971), pp. 441 and 544. See also pp. 178-183 for an application of this to utilitarianism.
Despite this conflation, Rawls’ discussion of the importance of his conception of self-respect nonetheless yields two important insights regarding recognition self-respect. The first is that to lack recognition self-respect is to live a life that is distorted in a fundamental way. If I see myself as either worthless or inferior to others, this has significant effects on the way I act in the world. If I have this view of myself, then I am likely to defer to others, allowing them to realise their goals instead of me; they are more deserving than I, so it is their interests that should win out when they conflict with mine. Even when there is no need to defer to others in this way, I am likely to fail to act in a way that promotes my good, since I do not see myself as deserving good. To take oneself to be worthless is to make acting in the world in a way that promotes my good also worthless. If I am uncertain as to my worth, then I will be plagued by doubt, which doubt will often interfere with my achieving my conception of the good. ‘Without [self-respect] nothing may seem worth doing, or if some things have value for us, we lack the will to strive for them. All desire and activity becomes empty and vain, and we sink into apathy and cynicism.’

This insight then explains why recognition self-respect is such a fundamentally important personal good; the possession of a modicum of recognition self-respect is necessary in order for any action to seem worthwhile, and it is only if we have a full sense of recognition self-respect, if we see ourselves as the moral equal of every other person, that we can confidently and purposefully act in the world, and so fully realise and appreciate value. To the extent that we see ourselves as being of lesser value than others, our ability to realise and appreciate value will be restricted.

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The second important insight Rawls discusses, and one that plays a central role in his argument for the priority of liberty, is that having recognition self-respect requires that others see us as having equal value.\textsuperscript{110} We can only maintain our sense of self-worth when we ‘[find] our person and deeds appreciated and confirmed by others who are likewise esteemed and their association enjoyed.’\textsuperscript{111} Our self-conceptions are not formed and maintained in isolation from the views of others. If others see me as inferior or worthless, then it is likely that I will see myself as inferior or worthless.

II. Three Examples

One of the most influential works on recognition self-respect is Thomas E. Hill’s paper ‘Servility and Self-Respect’.\textsuperscript{112} In this paper, Hill presents us with three examples of servility: Uncle Tom, the Self-Deprecator, and the Deferential Wife. Uncle Tom is a black man who always defers to whites. He does so because he ‘accepts without question the idea that, as a black, he is owed less than whites.’\textsuperscript{113} The sense in which he accepts that he is owed less relates not to anything that he has done, but rather to his moral status; Uncle Tom believes that blacks have a lower intrinsic moral worth than whites. For this reason, blacks can legitimately be treated as inferiors.

The Self-Deprecator also believes that he can be treated as an inferior. Unlike Uncle Tom, however, the reason the Self-Deprecator sees himself this way relates to his true belief that he has failed to meet the standards that both he and others have set. Since

\begin{itemize}
\item \textsuperscript{110} Ibid., pp. 440-442 and § 82.
\item \textsuperscript{111} Ibid, p. 440.
\item \textsuperscript{112} Although Hill does not use the term recognition self-respect, Darwall clearly has in mind Hill’s examples in his discussion of recognition self-respect. See Darwall (1977), fn. 17.
\item \textsuperscript{113} Hill (1995a), p. 77.
\end{itemize}
he feels that ‘nothing is owed him until he has earned it and that he has earned very little,’ the Self-Deprecator sees any abusive or demeaning treatment as justified.\textsuperscript{114} Like Uncle Tom then, what the Self-Deprecator has failed to realize is that he has an intrinsic moral value that is both equal to that of everyone else and which makes such maltreatment impermissible.\textsuperscript{115} The Deferential Wife also suffers from this failure. In deferring to her husband’s wishes in all areas of her life, even to the extent that she ‘tends not to form her own interests, values, and ideals,’ the Deferential Wife demonstrates that she fails to see herself as the moral equal of her husband.\textsuperscript{116} Instead, she is happy that she is able to serve her husband as well as she can.

The case of the Deferential Wife also points to another condition for recognition self-respect. We can easily imagine that the Deferential Wife understands that she has a moral status equal to that of others but is unwilling, perhaps because of a reluctance to change or because she gains some pleasure from being servile, to assert her equal moral status and refuse to always put her husband’s interests before her own.\textsuperscript{117} Such a refusal to assert one’s equal moral status where there is no good reason not to do so is another way in which one can lack recognition self-respect. It shows that one has failed to properly respect the value of one’s own personhood.

In the examples of Uncle Tom, the Self-Deprecator, and the Deferential Wife, we have three cases in which people seem to exhibit a lack of self-respect and also fail to see

\textsuperscript{114} Ibid., 78.
\textsuperscript{115} See also Dillon (1992), p. 126.
\textsuperscript{116} Hill (1995a), p. 78. For extended discussions of the Deferential Wife and similar examples, see Hampton (1993); McKinnon (2002), pp. 57-81.
\textsuperscript{117} Hill (1995a), pp. 84-85. On the other hand, if she refuses to assert her moral equality because she is afraid that doing so will result in the husband beating her, then we are likely to judge the case differently.
themselves as moral equals. These examples appear to be then, and have generally been taken to be, examples of a lack of recognition self-respect. Servility of the sort exhibited in these examples is incompatible with recognition self-respect. This is not to say that whenever a person lacks self-respect then she sees herself as inferior in this way; it is clear that people can lack self-respect for other reasons.\textsuperscript{118} For example, one way of lacking self-respect would be to attribute to oneself and to others a very low value, and to act in a way that is consistent with this low value. To act in this way would be to lack recognition self-respect, since this would be to act in a way that fails to respect the intrinsic value that each of us possesses as a person; to so act would be to fail to respect our humanity. Nonetheless, recognition self-respect also requires that one see oneself as the moral equal of others, and that one act in a way that is consistent with attributing this status to oneself. This is a necessary component of recognition self-respect.

III. Recognition Self-Respect and Rights

Once we have noticed that self-respect requires that one see oneself as the moral equal of others, a further question arises: in what respect does one need to see oneself as an equal in order to count as seeing oneself as the \textit{moral} equal of others? It is clear that with respect to most of the ways that we might compare ourselves with others we are not equal. Were I to think of myself as the equal of everyone in height, or intelligence, or kindness, or linguistic ability, or wealth, and so on, we are not likely to take this as evidence of my having recognition self-respect. If I were to have beliefs like this, I would

\textsuperscript{118} See Dillon (1992) for a discussion of some of the other ways that one might come to lack self-respect.
not be exhibiting self-respect but merely making a straightforward factual error. If we are to distinguish my belief in my moral equality from these mistaken beliefs, then it is incumbent on us to provide an account of the nature of this moral equality.

Perhaps the most widely accepted account of the nature of moral equality present in recognition self-respect is that to see oneself as the moral equal of others is to see oneself as having equal rights. This account has the clear advantage of being able to explain why the equality within recognition self-respect is a kind of moral equality; rights just are moral concepts. Hill, in his discussion of the three cases described above, argues for this kind of account. ‘The moral defect in each case, I suggest, is a failure to understand and acknowledge one’s own moral rights.’\(^{119}\) A person can thus lack recognition self-respect in two ways. They can fail to recognise that they have equal moral rights, or they can fail to understand ‘how they can be waived, and when they can be forfeited.’\(^{120}\) That is, they can fail to have recognition self-respect by failing to properly respect the value of their moral rights.

In his paper Hill sometimes, as in the quote just above, speaks as if what happens in the cases of servility is that servile people fail to understand, or to properly value, their rights understood in some general sense. This suggests that one can possess self-respect if one sees oneself as the bearer of rights without having any conception of what those rights are. This position is not, and for good reason should not be, Hill’s position. Any appeal to rights made in general terms such as quoted above must just be a shorthand way

\(^{119}\) Hill (1995a) p. 82.
\(^{120}\) Ibid.
of pointing to particular instances of rights.\textsuperscript{121} In the case of the Deferential Wife, for instance, it only makes sense to say that she is servile because she fails to understand, or properly value, her rights if this is just a shorthand way of saying that she fails to understand, or properly value, some particular right or rights that she in fact possesses. If there is no particular right that she possesses that she is failing to understand or properly value, then the appeal to rights in general is an empty one.

If the rights-based account of recognition self-respect is correct, then we should be able to identify in each of these cases some right or rights that are either not being recognised or not being properly valued. According to Hill, Uncle Tom ‘does not realize, or apprehend in an effective way, that he has as much right to a decent wage and a share of political power as any comparable white.’\textsuperscript{122} The Self-Deprecator fails to realise that he has ‘certain rights to fair and decent treatment that do not have to be earned.’\textsuperscript{123} Finally, the Deferential Wife fails either to understand or properly appreciate that she has a ‘right to equal consideration within the marriage’ and a ‘right not to defer to [her husband].’\textsuperscript{124}

Let us take each of these explanations. I shall begin with the Self-Deprecator, since I take this to be the case with respect to which Hill’s account fares best. The problem with the Self-Deprecator recall was that he accurately believes that he has earned very little, and on this basis takes it to be the case that he is owed very little, and

\textsuperscript{121} There are unusual instances where the appeal to rights in general makes sense, such as when we do so in order to indicate that the thing we are discussing has certain features in virtue of which it makes sense to attribute rights to them. See Raz (1986), pp. 166-167.
\textsuperscript{122} Hill (1995a), p. 82.
\textsuperscript{123} Ibid.
\textsuperscript{124} Ibid, p. 83.
hence may legitimately be mistreated. If we accept Hill’s diagnosis of the situation, then we certainly seem to be able to explain the nature of the mistake that the Self-Deprecator is making: his belief that all good treatment must be earned is false. He has a right to ‘fair and decent treatment’ irrespective of his achievements.

With respect to the case of Uncle Tom, Hill’s explanation seems to fare less well. It is certainly true that Uncle Tom ‘displays an attitude that denies his moral equality with whites,’ but it is far less clear that the wrongness of this denial can be adequately explained by his rights to a decent wage and equal political power. In describing the case, Hill says the following of Uncle Tom: ‘The attitude which he displays is that what he values, aspires for, and can demand is of less importance than what whites value, aspire for, and can demand.’ It is this, it seems to me, that constitutes the heart of Uncle Tom’s denial of his moral equality, but this denial cannot plausibly be described as just a denial of his rights to a decent wage and equal political power. Of course, if Uncle Tom may be accurately described as having rights to a decent wage and equal political power then he can, on this basis, legitimately demand that he be given a decent wage and equal political power. But these things are not the only things that people value, or to which they aspire, or that they can demand. Were Uncle Tom to believe that he possessed the rights that Hill attributes to him, and appropriately value those rights, yet believe that everything else that he values and to which he aspires is of less value that the things that whites value and to which they aspire, then I am inclined to think that we would still think of Uncle Tom as failing to attribute to himself full status as a moral equal, and

125 Ibid., p. 82.
126 Ibid., p. 77.
hence see him as lacking recognition self-respect. The rights that Hill describes cannot be the whole story here. Furthermore, it is not clear that there are any plausible rights that could supplement these rights such that a rights-based explanation would be adequate.\textsuperscript{127}

Hill’s diagnosis of the case of the Deferential Wife suffers from much the same defect. The Deferential Wife, Hill tells us, ‘does not simply defer to her husband in certain spheres as a trade-off for his deference in other spheres. On the contrary, she tends not to form her own interests, values, and ideals; and, when she does, she counts them as less valuable than her husband’s.’\textsuperscript{128} Whereas Uncle Tom takes the things that he values to be less valuable than the things that whites value, the Deferential Wife takes the things that she values to be of less importance than the things that her husband values. Just like in the former case, it is hard to see how the defect in the latter case can be explained merely by reference to the rights that Hill mentions. That the Deferential Wife has a ‘right to equal consideration within the marriage,’ and believes that she has such a right, does not require that she form her own interests, values, and ideals. Nor does it entail that she must see the things that she values as being as valuable as the things her husband values. If the Deferential Wife adopts her husband’s interests, values, and ideals wholesale, then they become hers. Indeed, she might adopt these interests, values, and ideals precisely because she sees them as being of greater value. Once she has adopted them, however, then acting on these no longer seems to count deferential behaviour.\textsuperscript{129} If the husband acts so as to realise these, then he is acting so as to realize their shared

\textsuperscript{127} I offer an explanation at the end of this section for why there are unlikely to be any such rights. \\
\textsuperscript{128} Ibid., p. 78. \\
\textsuperscript{129} Friedman (1985), p. 144.
values, and doing so seems consistent with respecting both his wife’s right to equal consideration and her right not to defer.

In addition to the failure of Hill’s account to adequately explain the problem with the above cases, there is also a general problem with the account. One of the things that we should expect an adequate theory of recognition self-respect to do is to give us an explanation of why self-respect is such a valuable personal good. The Rawlsian explanation of why self-respect is such an important personal good, outlined in section II above, links the importance of recognition self-respect to the way in which having a view of oneself as the moral equal of others makes it possible to act in the world with confidence and purpose. Failing to have this view of oneself cripples one’s agency, and makes acting in the world pointless. Hill’s rights-based account of recognition self-respect, however, fails to make this link to the importance of recognition self-respect. If I believe that I have the rights that Hill says that we possess, and also add to these the most widely-accepted set of liberal rights, then this still seems compatible with my failing to possess the requisite confidence described above. The reason for this is quite straightforward. Rights protect what we generally think to be conditions that in the normal course of events are an important part of a good human life.\textsuperscript{130} We do not usually think that rights ensure conditions that are necessary for the living of a good life, since it often seems that people live good lives even when their rights are violated. Nonetheless, to say that $X$ is a right is to point out that ensuring that $X$ is protected, and ensuring that $X$ is known to be protected, is something that can make a life better in some fundamental ways.

\textsuperscript{130} See e.g. Griffin (2008), pp. 32-9.
respect. Just as rights are not necessary for a good life, neither are they sufficient. People can lead bad lives even when their rights are protected and respected.

It is this second point, that having ones rights protected and respected is not sufficient for a good life, that enables us to see why Hill’s account of recognition self-respect is inadequate. It is possible, and no doubt commonplace, for people to understand that they have rights, and to appropriately value their rights, and yet still fail to have a view of their own value, and of the value of their goals, activities, relationship and so on, that are required in order for them to have the confidence to act in the world. If I believe that the things that I value are generally trivial, and that my friendships, activities and so on also lack value, at least when compared to those of others, then I will lack recognition self-respect even if I appropriately value my rights. Indeed, we can think of the case of the Deferential Wife as being like this; she adopts the values, interests, and ideals of her husband precisely because she thinks that her own values, interests, and ideals pale by comparison. What she lacks is not, or not just, the correct view of her rights, but also a sufficiently robust view of herself and her values, interests, and ideals.

IV. Self-Respect and Reasons

A more recent account of the conception of equality that is present within recognition self-respect has been provided by Catriona McKinnon.\textsuperscript{131} McKinnon argues that in order to have self-respect a person must ‘judge as legitimate any expectation of hers that others should offer her justifying reasons why she should perform actions which she is expected

\textsuperscript{131} McKinnon (2002), p. 68.
by them to perform, were she to have such an expectation'. The idea behind this characterisation is that the subservient person, such as those in Hill's cases described above, are those who fail to see themselves as deserving, or as worthy, of justifying reasons. They are people who accept that any action can be required of them for any reason, regardless of the weight of the reason. They fail to see themselves as having sufficient status in order for them to warrant justifying reasons. People who conceive of themselves as the equal of others, however, will not accept that they are unable to expect justifying reasons; that they see themselves as having equal status means that they see any expectation that they might have of being given justifying reasons as legitimate.

As McKinnon sees it, her approach provides an answer as to why we think that some lives are lacking, despite the fact that the relevant people are happy and content with their lot. The primary example that McKinnon has in mind is that of the Stepford Wives. The case of the Stepford Wives is a variant of Hill's case of the Deferential Wife. The Stepford Wives are women who are devoted to the care of their husbands. They are very successful in doing so, and are proud of this success. Despite this pride, we feel, as in the case of the Deferential Wife, that there is something lacking in the lives of the Stepford Wives. What is lacking, McKinnon argues, is that the Stepford Wives fail to see themselves as having a status equal to that of their husbands, which is cashed out as meaning that the Stepford Wives do not see as legitimate any desire that they might have for justifying reasons for actions that they are expected to perform.

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132 Ibid.
133 Ibid., pp. 61-72.
One potential problem for such an account of equality of status such as this, and a problem that McKinnon anticipates, is that in order for this account to be able to show that the Stepford Wives lack a conception of themselves as equals, it must be that case that reasons cannot be justifying merely in virtue of being given by a particular person. For instance, imagine that a Stepford Wife asks (and believes she is entitled to ask) why she must always cook and clean, and in response is told 'Because I said so.' If such a reason was justifying, then it would seem that McKinnon's account would fail to show that the Stepford wives see themselves as inferiors, since they could accept reasons such as these as justifying. But this seems at odds with our intuitions; we generally think that people who always take such reasons as justifying are subservient. What is needed is an account of justifying reasons that makes such reasons non-justificatory, at least absent special conditions.

Somewhat surprisingly, McKinnon does not provide us with an account of what would make a reason justifying. She does not do so because she argues that ‘there is no philosophical account of justifying reasons which endorses the ones just given as justifying tout court, and this is because such an account would clash with our moral experience.’ She goes on to say that:

> [if] all of these accounts [of justifying reasons] have it in common that, *ceteris paribus*, justifying reasons cannot count as justifying just in virtue of who it is who offers them as justifying, then there is no need to specify in any more detail

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134 Ibid., p. 69.
what it takes for a reason to be justifying, because on any account of this, the reasons that subservient people settle for *qua* subservient are not justifying.\textsuperscript{135}

Since all accounts of justifying reasons rule out subservient reasons, McKinnon argues, then her reason-based account of moral equality accounts for our intuitions regarding these cases.

Let us grant McKinnon the claim that all accounts of justifying reasons rule out reasons that purport to be justifying merely in virtue of the identity of the giver. Even if we do so, however, McKinnon's reason-based account of equality is going to be inadequate. We can see why by looking again at Hill's example of the Deferential Wife. The Deferential Wife is a woman devoted to her husband, who finds happiness in subordinating herself to his every wish. One of the important aspects of the case as Hill describes it that makes us identify her as servile is that she counts 'her own friendships and geographical preferences insignificant’ when compared to his, and ‘she tends not to form her own interests, values, and ideals; and, when she does, she counts them as less important than her husband's.’ Note carefully what is going on here. The Deferential Wife may well judge as legitimate any expectation that she has that her husband should offer her justifying reasons, reasons that are not merely of the form 'Because I say so.' What makes her subservient, however, is that she takes *all* reasons of the form 'Because it would make me happy', 'Because I prefer that things are this way', or 'Because I value these things' as being justifying. That she conceives of her own interests, values, ideals, friendships, and preferences as less important than her husbands, such that

\textsuperscript{135} Ibid., pp. 70-71.
in all cases of conflict the interests, values, ideals, friendships, and preferences of the husband outweigh hers, means that we judge her as subservient. What is crucial to our judgement of subservience then is not that she fails to judge as legitimate any expectation that she might have for being given justifying reasons, but rather that she sees her interests, values, ideals, friendships, and preferences as being of less value than those of her husband.

What this shows is that, if an account such as McKinnon's is going to succeed, then she must do more than merely point out that all accounts of justifying reasons rule out as justifying reasons that justify merely in virtue of who it is that offers them as justifying. In addition, such an account must show why cases such as that of the Deferential Wife are also cases of subservience.

V. A Different Approach

We have seen then that the rights-based approach and the reasons-based approach to constructing an account of the conception of equality that is present within recognition self-respect are both inadequate. I think, however, that the discussion of these two views suggests a different interpretation of the idea of moral equality present in recognition self-respect. Notice that what seemed problematic was not merely that the Deferential Wife failed to see herself as being worthy of being presented with reasons, but that she failed to see her friendships, preferences, values, ideals and so on as being as important as those of her husband. When the Deferential Wife fails to accord to her friendships, preferences, values, and ideals the same value as she accords to those of her husband, she
is failing to properly value the good-making features of her life. Friendships, the holding and pursuit of values and ideals, and the satisfaction of preferences are some of the things that we think make a life valuable, and hence make that life worth living. The problem with the Deferential Wife is that she thinks that those features of her life that make her life valuable are less important than the corresponding features of her husband’s life. This suggests then the following account of the idea of moral equality present in recognition self-respect:

A person considers herself the moral equal of another if she sees her interests as being no more and no less important than those of the other, and acts in a way that is consistent with this view.

The idea of an interest that is present in this account differs from that which Hill refers to above. As Hill is using the term, to say that something is an interest of mine is to point to something that I am interested in, such as stamps, football, dancing, or philosophy. Here, for something to be an interest of mine requires only that it be something that I take an interest in, that I enjoy. This is not the sense in which I am using the term here. As I am using the term, something is an interest that I have if it is the case that having that thing makes my life better objectively speaking.\(^{136}\) Examples of such interests include friendship, meaningful work, security in one’s person, and self-respect.\(^{137}\) These are things the possession of which, *ceteris paribus*, makes a life better. This is not to say that one cannot have a good life without at least some of these. We can imagine, for example,

\(^{137}\) Feinberg (1984, p. 37) calls such interests ‘welfare interests’. See below for further discussion of the interest in self-respect.
a person who does not cultivate friendships in order that she might devote more time to helping the poor, or painting great art. Such a life may well be a rich, rewarding, and valuable one. It is also, however, a life that lacks something important, namely friendship. A life such as the one that we are imagining is one that, *ceteris paribus*, would be better if it also included friendship.

Interests then are good-making properties of lives, objectively speaking. To say that they make lives better from the objective point of view, however, is to say that whether they make a life better is, at least to a large extent, independent of how the person in question views them. To take the example above again, we can imagine a great artist who sees friendship as an impediment to her work, as something that is undesirable for this reason. On my view, to say that friendship is an interest is to say that, regardless of the fact that this person views friendships as undesirable, her life would be better if it also included friendships.\(^{138}\)

To return to the case of the Deferential Wife, what is problematic here is that the Deferential Wife views her interests, understood as objectively good-making features of lives, as less important than those of her husband. She is willing to sacrifice her friendships, her chance of meaningful work, and so on, in order that her husband may realise his interests. If she does so because she does not accept that her interests are as important as those of her husband, then it seems clear that she lacks recognition self-

\(^{138}\) Of course, in saying that her life would, *ceteris paribus*, be better if it also included friendships we must recognise in the context of a real life other things cannot always be equal. In some situations, for example where friendships would make our imagined artist incredibly uncomfortable and distressed, including friendships in her life may not be something that makes her life better. But this says nothing against the value of the interest in friendship as such.
respect; she views the good-making properties of her life as less valuable than the corresponding properties of the husband’s life. If, on the other hand, she accepts that her interests are as important as those of her husband, yet consistently fails to act in a way that reflects this acceptance, such as by always sacrificing her interests in favour of those of her husband, then she also lacks recognition self-respect; recognition self-respect also requires that one act in a way that reflects the view that one's own interests are as important as those of every other person.

The same type of problem is present in the Uncle Tom case. He lacks self-respect because he sees the interests of whites as being more important than his own. The interests that he has in realising value, in pursuing his goals, and in demanding what is rightfully his, are ones that he fails to properly value, and it is this failure, and the actions that stem from it, that constitute his subservience.

The case of the Self-Deprecator can be explained in two ways. One possibility is that the Self-Deprecator fails to realise that he has an interest in fair and decent treatment. This interest is one that does not rely on his having met some standard, self-imposed or otherwise. Rather, fair and decent treatment is something that makes his life better even, and perhaps even especially, when he does not see himself as deserving of it. The second possible failure of the Self-Deprecator is that he fails to treat himself as though he had such an interest. To submit meekly to poor treatment, even when he could stand up for himself with little or no fear of retaliation, is to fail to properly appreciate the value of his
interests, and to fail in this way is another way in which one can fail to have recognition of self-respect.  

As discussed above, one of the interests that people have, and indeed perhaps the most important interest, is the interest in self-respect. That this is so might seem problematic for my account, as it might be seen to lead to a type of vicious circularity. If to have self-respect is in part to have recognition self-respect, and to have recognition self-respect is to see one's own interests as being as important as those of any other person, then we end up with the following account of self-respect: self-respect is, at least in part, the interest that we have in seeing our interests as being no more and no less important than those of anyone else, and acting in a way that reflects this. It should be clear that there is no circularity here. Rather, my account has the implication that recognition self-respect, and by extension self-respect, is a type of higher-order interest; the interest in self-respect says something about how we should view our other interests, that is our interests other than our interest in self-respect, relative to the interests of other people. We can describe the interest in recognition self-respect then as follows:  

Recognition self-respect is the interest that we have in (1) recognizing that we have intrinsic moral worth, (2) seeing that our other interests are no more and no less important than those of any other person, and (3) acting in a way that is consistent with this view.  

One potential problem with seeing recognition self-respect as a higher-order interest is that, although recognition self-respect requires that I see my other interests as

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being as valuable as the same interests as present in the lives of others, it does not require that I see my interest in recognition self-respect as being as valuable as the interest that others have in recognition self-respect. It might be objected then that if I can place a higher value on my interest in recognition self-respect more than I place on the interest in recognition self-respect that others have, then the higher-order view of recognition self-respect cannot contain a conception of equality, or at least one of the right sort. This objection, however, misses the mark. In order for me to place a higher value on my interest in recognition self-respect relative to that same interest in others, I would have to place a higher value on some other interest or interests that I have relative to the same interest or interests in others. This is the case because the interest in recognition self-respect just consists in the way that I see my own interests relative to others, along with recognizing that I have an intrinsic moral worth. But I cannot see my other interests as being more valuable than those of any other person consistent with me maintaining my own interest in recognition self-respect. So I cannot both have recognition self-respect and believe that my interest in recognition self-respect is more valuable than the same interest in the lives of others.

The view that recognition self-respect, and by extension self-respect, is a higher-order interest gives us an explanation of why it is that self-respect is regarded by many as being the most important interest. Self-respect is the most important interest because it affects the way in which all other interests are viewed. A person who lacks recognition self-respect will, for example, think that their interests in friendship and in meaningful work are less important than those of others. They may well then, like in the cases Hill
discusses, fail to object when others place their interests in front of theirs, since they do not believe that their interests deserve equal consideration.

Once a person has realised their interest in recognition self-respect, however, then acting in the world, striving to realise their other interests, becomes meaningful and worthwhile. If I have recognition self-respect then it is just as worthwhile for me to act in the world so as to develop and maintain friendships, to develop my talents, to seek meaningful work, and to generally realise and appreciate value as it is for anyone else; to have recognition self-respect is to see one’s own interests as being as valuable as those of any other, and to act in accordance with this belief. To so act will be to not always defer to others, to not accept any treatment as justified, and to not act in a subservient manner.

This explanatory feature of my account is a second respect in which it is superior to both Hill's and McKinnon's. It is not clear how seeing oneself as having rights, or as worthy of being given reasons, can establish self-respect as being the most important interest. The account of self-respect as a higher-order interest, however, makes it clear that self-respect has a special value. To lack self-respect is to fail to see one’s interests as being as valuable as those of others. When a person sees her interests in this way, then it is likely that she will act in a subservient manner; in cases of conflicts of interests, a person who sees her interests as being of lesser value will normally allow the interests of others to take precedence. If a person sees her interests as not merely of lesser value but of little or no value, then this will have a catastrophic impact on the way in which she relates to others, the way in which she forms plans and acts on them, and hence on her ability to live a life that partakes in value.
Conclusion

In this chapter I have argued that the best conception of the equality present within recognition self-respect, the one that manages to meet both of the desiderata of such a theory, is the interest-based one that I have presented. This theory manages to both give an adequate explanation of the problem with the three cases that Hill presents, and is also able to explain the unique importance of self-respect.
Chapter 4: An Explanation of the Injustice of Slavery

Introduction

The institution of slavery is an unjust institution. Indeed, it is perhaps the paradigmatic example of an unjust institution. Intuitively, the most obvious explanation of the injustice of slavery is that the slaves lack freedom.\(^{140}\) In this chapter, however, I want to argue that there is another explanation of the injustice of slavery, one that emphasises not that the slaves lack freedom, but rather that they are treated as inferiors. On my account then, that the slaves lack freedom is just one manifestation of their inferior status.

The main aim of this paper is to provide an explanation of why slavery is wrong. Two points need to be made about this aim. First, for the majority of this paper I will be focusing on what is perhaps the central case of slavery, where one person is permanently and involuntarily owned by another.\(^{141}\) This is, for example, the type of slavery that was present in the antebellum United States.\(^{142}\) I believe, however, that the explanation of the injustice of slavery that I propose in this paper can be applied to any form of slavery. To demonstrate this I will, in section V, show how the explanation applies to two other form of slavery, namely Greek slavery and voluntary slavery. Second, as the title of this paper suggests the injustice of actual institutions of slavery is overdetermined. There are many reasons to think that actual institutions of slavery are wrong - they limit the freedom of

\(^{140}\) For a discussion of the relationship between slavery and freedom, see Patterson (1982) and (1991) and chapter 1.

\(^{141}\) See Hare (1979), pp. 105-106; Stephen Kershmar (2003), p. 510. This description is not intended to spell out the necessary and sufficient conditions for this form of slavery, but merely to indicate the basic form of slavery that I am concerned with here. For an account of the nature of slavery, see the introduction.

\(^{142}\) For an overview of slavery in the U.S., see Kolchin (1993).
slaves, they expose the slaves to various forms of abuse, they threaten the dignity of slaves, and so on.\textsuperscript{143} These features of slavery, however, tend to be merely contingent features of slavery, and if they are the only reason to think that slavery is wrong then it should be possible to develop a form of slavery that avoids these problems. If so, and if these are the only reasons to think that slavery is unjust, then a just form of slavery is possible. In this paper, however, I want to argue that slavery is necessarily unjust, and thus that there is no way of constructing it such that it would be just.

In addition to this main aim, however, I also wish to suggest that the explanation of the injustice of slavery that I present below might form the basis of an argument for political equality. The same considerations that tell against slavery also tell against other institutional structures that treat some people as inferior to others. Thus, the explanation of the wrongness of slavery gives us a reason to think that only institutions that treat people as equals are fully just.

I. Self-Respect and Slavery

Before turning to the positive argument, however, I will explore one further possible explanation of the injustice of slavery. In the last chapter I argued that in order to have self-respect a person needs to think of herself as the moral equal of others. In this section, I will consider how this might, by itself, form the basis of an explanation of the injustice of slavery.

\textsuperscript{143} See e.g. Cohen (1998); McGary and Lawson (1992); Hare, (1979).
In section II of the last chapter, I described two important insights that Rawls makes in his discussion of self-respect. The first, which I discussed in the previous chapter, was that a life that lacks recognition self-respect is distorted in a fundamental way. The second, which I shall discuss here, was that the possession of recognition self-respect requires that one be seen as an equal by others whom one in turn respects as equals. Once we see that systems of slavery treat slaves as inferiors, as people whose interests count for less than those of non-slaves, we can see the beginning of an explanation of the injustice of slavery. According to such an account, one reason to think that slavery is unjust is that slavery makes it impossible for slaves to realise their higher-order interest in self-respect, and that this scars the slaves in a permanent and disabling way. That institutions of slavery have this effect on the lives of slaves is a powerful reason to think that institutions of slavery are unjust.

An argument of this form is given by T.M. Scanlon, although Scanlon is not concerned specifically with slavery as such but rather with the more general question of what grounds we might have for the promotion of equality.\(^{144}\) For Scanlon, one powerful reason that we might have for objecting to institutions that treat people unequally is that unequal treatment can lead those who are treated as inferiors to feel shamed and humiliated.\(^{145}\) Being shamed and humiliated in this way, and so being deprived ‘of the sense of their own value and the belief that their lives and accomplishments are worthwhile’, clearly impacts on their self-respect.\(^{146}\) To not have a sense of one’s own

\(^{144}\) Scanlon (2003), pp. 204-5 and section III.
\(^{145}\) Ibid, p. 213.
\(^{146}\) Ibid, p. 215.
value, to not be able to see one’s own interests as being of worth, or of as much worth as the interests of other people, is to lack recognition self-respect. Institutions of slavery are institutions that, because of the clear way in which slaves are treated as inferiors, are among the most likely to impact on the self-respect of individuals. For this reason, we are able to condemn the institution of slavery, and at the same time explain why it is unjust.

Neither argument, however, whether in the form that Rawls gives it or the form in which we find it in Scanlon, provides us with a satisfactory explanation of the injustice of slavery. Let us first examine Rawls’ version of the argument. Notice that what Rawls says is that self-respect requires that we ‘[find] our person and deeds appreciated and confirmed by others who are likewise esteemed’, but the argument requires that we ‘find our person and deeds appreciated and confirmed by all others who are likewise esteemed.’ This is a very different and much more controversial claim. Indeed, the claim seems false. All that is required for self-respect is that I grow up in and live in a community of persons in which there is reciprocal respect and appreciation.147 This community does not need to be universal, nor does it need to consist of all the members of a particular state. We can see this by looking at our own experiences. The opinions of people that matter the most, that have the most profound effects on our self-conceptions, are those of people who are close to us and who we admire and respect. The development and maintenance of self-respect then is compatible with the institution of slavery. So long as slaves are embedded in communities such as the family or a religious community, then they will be able to develop and maintain self-respect, at least under most conditions. The

Rawlsian argument against slavery based solely on the damage it does to the self-respect of slaves thus seems to fail.

Scanlon’s version of the argument suffers from much the same defect. It is certainly true that living under conditions of inequality such as slavery can shame and humiliate people. It is also certainly true that sometimes this shaming and humiliating treatment can lead to the slaves failing to appreciate the value of their interests, and so lead to them either never gaining, or losing if they had it, their sense of self-respect. The institution of slavery clearly expresses the idea that the lives and interests of those who are slaves are worth less than the lives and interests of those who are free. Indeed, the worth of slaves is measured primarily in their market value, as befits their status as objects. Given that the evaluations that the slaves make of their lives are going to be heavily influenced by the evaluation of society, it is likely that many slaves will come to see their lives as being of value only insofar as they are objects to be bought and sold. Such an attitude is incompatible with a healthy sense of self-respect, since they do not see themselves as equals in the sense just described.

Although there is a clear link between at least some forms of unequal treatment and those who are treated as inferiors lacking self-respect, in order for Scanlon’s explanation of the injustice of slavery to be acceptable it must be the case that it identifies all cases of slavery as unjust. Scanlon’s explanation, however, fails to make this necessary connection. It fails because, although it is no doubt true that many if not most slaves came to internalise, at least to some extent, their inferior treatment and so came to lack recognition self-respect, there is no reason to think that this is true of all slaves.
Indeed, that many slaves took part in active resistance, or attempted and in some cases succeeded in escaping their masters, suggests that this is clearly false.\textsuperscript{148} Many slaves did not internalise their inferior treatment in the way just described, and so their enslavement was not unjust for this reason. But if this is correct, then Scanlon’s explanation of the injustice of slavery is unable to explain why all cases of slavery are unjust; it is unable to explain the injustice of the enslavement of those people in whom such feelings of inferiority are not engendered. It is, at best, a partial explanation of the injustice of some cases of slavery and not an explanation of the injustice of slavery itself.

\textbf{II. The Injustice of Slavery}

Up to this point in the dissertation, I have considered three basic explanations of the injustice of slavery. The first, examined in chapter one, was that slavery is unjust because it denies slaves their freedom. The second, discussed in chapter two, was that slaves are likely to be alienated from their social world. They will rightly see the institution of slavery as one that is hostile to them, they will refuse to endorse the institution, and so will be unable to be at home in the world.\textsuperscript{149} Finally, I examined above the idea that slavery is unjust because it impacts on the self-respect of slaves.

\textsuperscript{148} See Kolchin (1993), pp. 155-166.
\textsuperscript{149} To put these points in Hampton’s terminology, the slave who comes to believe that she is inherently less valuable has had the experience of being degraded. The slave who retains her self-respect, on the other hand, does not have the experience of being degraded but rather of being demeaned; she feels as though she is being treated as though her value is lower than she perceives it as being. Endorsing the institutions that enslave her thus requires that she not merely endorse this demeaning treatment, but that she no longer perceives the treatment as demeaning. Rather she sees the treatment as befitting her status as a slave. See Hampton (1988b).
I have argued, however, that none of these explanations of the injustice of slavery are satisfactory. Many slaves will have significant amounts of freedom. Many slaves will reconcile themselves to their social world through internalising the norms and values of the society in which they live. Many slaves will be able to maintain their self-respect despite being treated as inferiors. In order to explain the injustice of slavery as such, that is to explain what it is about the institution of slavery that is unjust as opposed to some of the evils that may but do not necessarily occur under an institution of slavery, we need to explore a different approach.

The approach that I want to outline in this chapter takes as its starting point the interests that we have in being at home in the world and in self-respect. Although these interests cannot explain why slavery is wrong when considered alone, together they fare much better. Under the institution of slavery, the slave is placed in a dilemma. Either she conforms her beliefs so that they reflect, and are reflected by, the institution, or she does not. If she does this, then she is at home in the world. The institution will be one that makes sense to her, and will be one that she endorses. But having beliefs like this is incompatible with recognition self-respect. To see the institution as good is to believe that her subordinate position in the world is correct, that she really is inferior to others, and hence that her interests are less important than those of others. She accepts, perhaps, that she is merely an object. If, however, she retains the belief that she is an equal, that her interests are as valuable as the interests of others, and hence that the institution of slavery is mistaken and hostile, then she is alienated from her social world. Thus, the slave
cannot have her interest in self-respect and her interest in being at home in the world realised simultaneously.

This fact about the institution of slavery, that it makes it impossible for slaves to realise at least one of their fundamental interests, explains why slavery is unjust. While there is considerable disagreement about exactly what the role of institutions ought to be, for the purposes of this paper I want to defend the claim that institutions that make it impossible for people to realise their fundamental interests are for that reason unjust. It is useful to contrast this claim with two other possible views. The first of these, present in certain forms of consequentialism, is that institutions ought to maximize interest-satisfaction. The second is that although institutions do not need to maximize interest-satisfaction, they nonetheless need to make positive efforts in order to ensure that people are able to satisfy their interests in order to count as being just. Unlike these two conditions, the condition that I am defending here is merely a negative one. Institutions should not make it impossible for people to satisfy their interests, but they are not required to make any positive efforts at all. Although I think that it is likely that institutions need to do far more than this in order to count as just, for the purposes of this paper this premise will suffice. That an institution makes it impossible for people to realise their fundamental interests is sufficient to make the institution unjust.

One possible objection to this claim is that it is too strong. It is too strong because there is at least one type of institution that makes it impossible for people to realise at least some of their fundamental interests that is not unjust. The institutions I am referring
to are those associated with punishment, for example the prison system.\textsuperscript{150} It might be thought perhaps, for example by a retributivist, that one of the aims of a prison system is to prevent the prisoners from realising at least some of their fundamental interests. The example of a well-functioning prison system then, which let’s assume for the sake of argument is just, shows that the premise that I am using here is too strong.

Even if we accept that one aim of a prison system is to prevent prisoners from realising at least some of their fundamental interests, this doesn’t constitute a counter-example to the premise in question. It is not a counter-example because the prison system, at least as we ordinarily conceive of it, cannot make it impossible for people to realise their interests. Take the two interests discussed above. If one is imprisoned, one is not forced to choose between recognition self-respect and being at home in the world. One can both endorse the institutions under which one lives and retain recognition self-respect. Let us examine two cases, one where I am wrongly imprisoned and another where I am justly imprisoned. Take the case where I am wrongly imprisoned. Even if I was innocent but found guilty, I could still endorse the legal system of my society. Given that no legal system can get every case right, even with a presumption of innocence, I might retain the view that the legal system that imprisoned me is just.\textsuperscript{151} Hence, I can be at home in the world, that is I can endorse and embrace the structure of the legal system. Likewise, there is no need for me to give up my self-respect; nothing about the prison system requires that I see my interests as counting for less than those of others. In this

\textsuperscript{150} This example was suggested to me by Robert Young.
\textsuperscript{151} Although such a case is unlikely, for the purposes of this argument all that matters is that it is possible.
case then, unlike the case of slavery, being at home in the world is compatible with recognition self-respect.

Imagine now the case where I am justly imprisoned; I committed a crime and was tried and found guilty. Can I see myself as having an equal and intrinsic worth and also endorse the institution? It seems clear that in many cases that such a person may lose self-respect; they may come to see that what they did was wrong, that their imprisonment is justified, and thus come to believe that they are a person of little worth. It also seems plausible that many people may instead rail against the institutions that have imprisoned them, and try to maintain their self-respect in this manner. Although both of these are likely paths for guilty prisoners to take, I don’t believe that such people are required to make this choice. It is always possible for the guilty to recognize that they are justly imprisoned, and so remain at home in the world; they think that the institution has treated them in accord with their desert. In doing so, however, these people are not required to give up their self-respect. The fact that they see themselves as receiving appropriate punishment does not require that they see their interests as being of less value than the interests of others. In order for guilty persons to realise both of their fundamental interests, it only seems that they must accept that they are being treated as they deserve, and that this is compatible with their retaining their intrinsic and equal worth. Holding these two views seems perfectly possible, so it is not the case that the institution of punishment makes it impossible for the guilty to realise their fundamental interests. Hence, the institution of punishment is not, or at least not for this reason, unjust.
One might of course introduce other fundamental interests, and argue that a prison system could make it impossible for a prisoner to realise those interests. One likely candidate here is the interest in living a life of one’s own, that is, the interest that we have in determining the way that our life goes. Again, however, it seems difficult to see how a prison system could make it impossible for someone to realise this interest; it is always open to a prisoner to come to endorse prison life as the way they would like their life to go.

What this discussion makes clear is two things. First, the idea of impossibility that I have here is literally an idea of impossibility. When I say that an institution is unjust if it makes it impossible for someone to realise one of their fundamental interests, this is meant to be distinguished from an institution merely making it very difficult, but not impossible, for someone to realise their interests. I am not taking a stand in this paper on this latter claim. The second point is that we can now see that it is the particular way in which the interests in being at home in the world and in self-respect are structured that leads slaves to make a forced choice between the two. If these interests are not as I have described them, then the forced choice may not arise.

The above discussion then suggests the following argument against slavery:

1. Since institutions of slavery identify slaves as being inferior to other members of society, in order to be at home in the world slaves must endorse and embrace their status as inferiors. This is incompatible with self-respect.

2. In order to retain their self-respect, slaves must view the institution of slavery as mistaken or hostile to them. This is incompatible with being at home in the world.
3. Therefore, it is impossible for slaves to both be at home in the world and retain their self-respect.

4. It is unjust to make it impossible for a person to realise their fundamental human interests.

5. Self-respect and being at home in the world are fundamental human interests.

6. Therefore, the institution of slavery is unjust.

The fact that it is impossible for slaves to satisfy both of these interests simultaneously is an essential feature of slavery. Slavery just is an institution that treats some people as inferior to others. An institution that treated all of its members as equals could not be the institution of slavery. If this is correct, then this argument should be able to identify all cases of slavery as unjust.

We can see an example of this by looking at what my argument has to say about examples where slaves have a large degree of freedom, such as when they have a master who refrains from interfering in their lives. One problem for freedom-based arguments against slavery is that they find it difficult to identify such cases as unjust. On the account that I have presented here, however, it is clear that such cases are unjust. They are unjust because, despite the fact that the slaves are relatively unhindered and can determine the basic shape of their lives, the slaves are still forced to choose between their interest in self-respect and their interest in being at home in the world. The institution identifies them as being inferior, as being appropriately subject to the will of another, and in so doing the institution places the slaves in the dilemma described above. Since it does so, the institution is unjust.
III. The Case of the Utilitarian Slave

I want to turn now to a potential problem for the argument as outlined above, which I shall call the case of the utilitarian slave. The utilitarian slave is a slave who believes both that utilitarianism is true and that slavery is necessary for the maximization of utility. Since he thinks that slavery is necessary for the maximization of utility, he is able to be at home in the world; he understands and endorses the institution of slavery. Likewise, since he sees the institution as a means for the maximization of utility, he can retain his sense of self-respect. His life is valuable, since he is contributing to the maximization of utility, and he sees himself as an equal, albeit only in the moral sense, advocated by utilitarianism, of his welfare counting equally when calculations are made. Hence, it seems as though the utilitarian slave is able to both be at home in the world and retain his self-respect, and so avoids the dilemma posed above.

In order to see whether this really is a counterexample to the argument presented above, we need to examine the case more closely. One initial point that needs to be made is that in order for the utilitarian slave to be at home in the world, it must not merely be the case that he believes that slavery is necessary for the maximization of utility, but it must also be that the institution is such that it is actually guided by the principle of utility. Recall that, as described in chapter 2, being at home in the world involves not merely believing that the principles that guide the institution are correct, but rather having a true belief about which principles guide the institution, and endorsing and embracing those

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152 The slave might, for instance, believe something like the thesis suggested by Williams (1944).
principles. That is, if a slave believes falsely that the institution is guided by the principle of utility, and endorses and embraces that principle, then the slave is not at home in the world; his beliefs do not accurately reflect the institution. That he has false beliefs about the fundamental principles that guide the institution means he is alienated from it. In order for the utilitarian slave to be at home in the world, the institution of slavery in question must actually be guided by the principle of utility and see each life as counting equally in calculations of utility.\(^{153}\)

The case of the utilitarian slave then is of a slave who believes that utilitarianism is true, that slavery is necessary for the maximization of utility, that the institutions are guided by the principle of utility and have the institution of slavery in place in order to maximize utility, that his slavery is at least permissible on this basis, and who lives in a society where the institutions are in fact guided by the principle of utility and where slavery is publicly justified on this basis.

The reason why the case of the utilitarian slave appears to gain traction as an objection to my argument is through its use of a particular conception of equality, namely that each person counts equally when calculations of utility are made. Since there is a sense in which the utilitarian slave conceives of himself as a moral equal, he is able to be at home in the world and maintain his self-respect. In the context of this argument, however, it is not enough that the case of the utilitarian slave makes reference to a conception of equality. In order to be a counterexample to the argument, the case of the

\(^{153}\) Note that this point rules out ‘government house’ utilitarianism, where the principles of justice are not revealed to the citizens. This is ruled out because it would result in the alienation of all citizens; they would have false beliefs about the principles that underlie the institutions. See e.g. Sidgwick (1981), pp. 480-92; Williams (1973), pp. 138-40.
utilitarian slave must include a conception of equality that is plausibly a part of the conception of self-respect that the argument utilises, namely recognition self-respect.

As was outlined in the previous chapter, the most plausible conception of the moral equality that is present in recognition self-respect relates to the fundamental interests that people have. To have self-respect a person must view her interests as being as valuable as those of any other person, and act in a way that is consistent with holding this view. It is clear that the utilitarian slave is able to see himself as an equal in this way. According to the utilitarian, the interests of every person counts equally, and so the utilitarian slave is able to see himself as having interests that are as valuable as those of every other person, and his acquiescing to his enslavement is consistent with this view.

That the utilitarian slave is able to see himself as having interests that are as valuable as those of every other person strengthens the objection to my explanation of the injustice of slavery. Before we can conclude that this objection is decisive, however, we must examine the other component of recognition self-respect, namely the idea that each person possesses an intrinsic moral worth. In order for the utilitarian slave to avoid the dilemma, he must be able to both see his interests as having equal worth and recognise and appropriately respect his intrinsic value.

One way of approaching the utilitarian slave objection would be to argue that the utilitarian slave is unable to recognise and respect his intrinsic moral worth because doing so is incompatible with endorsing and embracing an institution that allows him to be whipped, publicly humiliated, sexually abused, or castrated.\textsuperscript{154} I certainly think that

\textsuperscript{154} These examples are taken from Kolchin (1993), pp. 118-127.
endorsing and embracing such institutions is incompatible with self-respect, and furthermore it is true that many if not most institutions of slavery permitted such treatment. The problem with this approach, however, is that institutions of slavery need not grant masters such broad powers over slaves. As noted in the introduction, the right of ownership of a slave is a complex right that is composed of a number of different rights, such as the right to benefit from the use of the slave and the right to dispose of the slave. Not all systems of slavery need to, nor indeed did, grant to masters complete freedom with respect to the treatment of their slaves. We can certainly imagine systems of slavery that allow masters to determine when and where slaves work, and to benefit from this work, but do not allow them to treat their slaves in any manner that they deem fit. Systems of slavery then could specify real limitations on the way in which slaves can be treated. It is not obvious that a utilitarian slave is unable to be at home in such a world while maintaining self-respect.

In order to respond to the utilitarian slave objection then I need to say something more about the intrinsic moral worth that is a part of recognition self-respect. Perhaps the most plausible, and certainly one of the most prominent, accounts of the intrinsic worth 155 Institutions of slavery tended to vary greatly in the rights that they accorded to slaves. The Alabama slave code of 1852, for example, prohibited the killing or ‘cruel punishment’ of slaves, and required that they be provided with sufficient food, clothing, and health care. In practice, however, these rights were very rarely enforced, in part due to the fact that slaves lacked the right to testify against whites. Where they were enforced, it was often in cases where the slave owners brought cases against other whites for damaging their slaves (Kolchin [1993], pp. 127-132). I think that the best way to think of such situations is to say that, although slaves had at least some formal rights, the fact that these rights were almost never enforced except when the interests of other non-slaves were harmed expresses the idea that these rights are not really rights at all. In such cases where the institutions are so profoundly inconsistent, I suspect that no one can be at home in the world since this would require that one endorses a contradiction. If, however, there was an institution of slavery that really did accord to slaves some rights, then that institution would be an institution to which slaves could become more reconciled, but it would not be an institution to which slaves could be fully reconciled. Although the slaves would have some rights, they would still be treated as inferiors, and so would still be unable to be at home in the world.
of one’s personhood was first suggested by Immanuel Kant. Kant’s second formulation of his categorical imperative proposed that in order to respect the intrinsic moral worth of persons, one must treat oneself and others always as an end and never merely as a means.\textsuperscript{156} Accepting this as perhaps the most plausible interpretation of what it is to respect one’s intrinsic moral worth, we can see why the utilitarian slave is unable to maintain recognition self-respect. The problem with the case of the utilitarian slave is that he is being used as a mere means in order to ensure that others are well off.\textsuperscript{157} Under the institution of utilitarian slavery, the slaves are used as a mere means for the maximisation of utility; the interests of slaves are being sacrificed in order that the interests of others are better realised. In order for the utilitarian slave to be at home in the world then, he must accept that he is a mere means. But accepting that he is a mere means requires that he give up his recognition self-respect, since in order to have recognition self-respect the slave must view himself always also as an end. The utilitarian slave, however, cannot do this. Hence, the utilitarian slave is caught in a dilemma and must choose between his self-respect and being at home in the world.

This discussion of the intrinsic value of persons, however, might be thought to give rise to a different problem for my explanation of the injustice of slavery. As I am presenting it, recognition self-respect involves recognising that I have an intrinsic value that precludes viewing or treating myself as a mere means, recognising that my interests are as valuable as those of others, and acting in a way that is consistent with recognising both of these things. But to say that recognition self-respect involves recognising both of


\textsuperscript{157} This echoes Rawls’ criticism of utilitarianism. See Rawls (1971), pp. 179-183.
these entails that these parts of recognition self-respect are facts about myself. I am a
person who has an intrinsic moral worth and whose interests have a value equal to the
value of the interests of every other person. It is this aspect of recognising some fact
about my worth that, at least in part, distinguishes self-respect from self-esteem. But if
these are facts about me, then we might wonder why we cannot just derive an explanation
of the injustice of slavery from these facts alone without recourse to the dilemma. That is,
according to this objection, there is a direct argument from the impermissibility of
treating persons as mere means and the equal value of interests to the injustice of slavery.
Given that people ought not to be treated as mere means, and that their interests are
equally valuable, institutions ought to treat people as equals. The dilemma is now otiose.

In order to respond to this objection, I want to return to a desideratum of an
explanation of the injustice of slavery that was mentioned in chapter 1. In order to be an
adequate explanation of the injustice of slavery, the explanation must adequately capture
the wrongness of the institution, and in order to adequately capture the wrongness of the
institution the explanation must be able to point to some respect in which the institution
of slavery impacts negatively on the life of the slave. The explanation must go ‘through’
the slave in this way. An explanation that is disconnected from the life of the slave will
fail to meet this criterion, and so fail to be an adequate explanation. Hegel’s master-slave
dialectic, to the extent that it points to the failure of the master to achieve recognition as a
reason to think that slavery is unjust is an example of this type of failure.\textsuperscript{158} The direct
argument, if it goes directly from the intrinsic value of persons and the equal value of

\textsuperscript{158} Hegel (1977), pp. 111-119.
interests to the injustice of slavery, seems to suffer from the same problem. In failing to make any reference to the way in which slaves are negatively impacted by slavery, in failing to have the explanation go ‘through’ the slave in the right way, the argument fails to meet this criterion, and so fails to be an adequate explanation of the injustice of slavery.

A proponent of the direct argument might counter this by saying that in fact the direct argument can go through the slave in the right way. It can go through the slave because the reason why the intrinsic value of persons and the equal value of interests are incompatible with slavery is because institutions that treat some people as inferior to others either make it impossible for slaves to have self-respect, or that in failing to make it the case that every person’s interests are equally realised they are failing to respect the equal value of those interests. The first of these, that institutions of slavery make it impossible for slaves to have self-respect has already been dealt with in section I above; slaves can believe that they have an intrinsic moral worth and that their interests are as valuable as the interests as others even when institutions treat them as if this were not the case. The second approach, that people’s interests cannot be realised equally, also fails. Nothing about the institution of slavery guarantees that masters will have their interests realised to a greater extent than slaves. Masters can be alienated from their social world, see themselves as lacking intrinsic value, or fail to see their interests as being of equal value. In cases where masters are alienated or lack recognition self-respect, it could be the case that their interests are satisfied to the same extent, or even possibly a lesser extent, than the interests of slaves.
In order for the direct argument to succeed then, in order for it to be able to go through the slave in the right way and do so in a way that necessarily rules out all cases of slavery, the direct argument has to be able to point to some way in which the interests of slaves are necessarily set back in a way that those of masters are not set back. But this is just what the dilemma presented above does. In order to give an explanation of the injustice of slavery then, then direct argument must depend on the dilemma. There is then an interesting relationship between the direct argument and the dilemma. The dilemma relies on the truth of the premises of the direct argument, namely the intrinsic value of persons and the equal value of interests, and the direct argument must rely on the truth of the dilemma in order to establish that the interests of slaves are necessarily set back under the institution of slavery. That there is this complex relationship is sufficient to show that the dilemma is not otiose; rather it is a necessary component of any argument from the intrinsic value of persons and the equal value of interests to the injustice of institutions that treat people unequally.

On the explanation of the injustice with slavery presented in this chapter, the problem with slavery is not that it results in an unequal realisation of interests, or that it makes it impossible for slaves to realise their interest in self-respect since, as discussed above, neither of these necessarily occur under slavery. Instead the problem is that the institution of slavery makes it impossible for slaves to realise all of their fundamental human interests. This idea represents a basic moral minimum that institutions must meet. If an institution is structured such that slaves do not have the opportunity to realise all of their fundamental human interests, then such an institution violates a minimum standard
of treatment that is owed to all persons. This idea is thus a kind of positive sufficiency thesis; it claims that ensuring that all persons have some adequate opportunity to realise their fundamental human interests is a matter of great moral importance. Institutions of slavery, in failing to provide slaves with such an opportunity, violate this moral minimum and so are unjust.

IV. Other Systems of Slavery

In constructing my argument against the institution of slavery, I have been primarily focused on permanent and involuntary slavery such as was present in the antebellum south of the United States. In this section, I will briefly examine two other types of slavery and show how they too are shown to be unjust by the argument just outlined. I will begin with the case of Greek slavery, and then turn to voluntary slavery.

Greek Slavery

The case of Greek slavery is interesting for a number of reasons, but for present purposes I shall highlight just two. First, Greek slavery was not a form of racial slavery in which the slaves came from a different racial group than the masters. In this respect, it was significantly different from American slavery. For this reason, no racial group in ancient Greece came to be identified as natural slaves. Second, and of course closely related, it

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159 See Casal (2007) for a discussion of positive and negative sufficiency. To say that the thesis is a positive sufficiency thesis is to allow that other distributive principles such as equality or priority may also be important.

160 For a brief introduction to slavery in the ancient world, see duBois (2010).
was possible for any Greek citizen to become a slave.\footnote{Westermann (1955), p. 5.} Citizens could become slaves in a number of ways, including through capture in war, through kidnapping, or in payment for a debt.\footnote{Westermann (1955), pp. 4-5.}

These two differences raise the possibility that the argument that I have outlined in this chapter may not apply to Greek slavery as well as to American slavery. Take, for instance, the case of a Greek citizen who is sentenced to be a slave in order to repay a debt. We might imagine that, prior to his enslavement, this citizen was at home in the world; he had true beliefs about the structure of the institutions of his state, and he endorsed and embraced these institutions. Such a citizen may also have possessed self-respect; he believed that his interests were as important as those of other people, and acted accordingly. Once enslaved, perhaps the slave might continue to be at home in the world and retain his self-respect. If so, then my argument against slavery fails to meet the condition that I outlined in chapter one of applying to all cases of slavery.

Let us examine then the case of this citizen turned slave. Once he has become a slave, in order to be at home in the world he must be able to endorse and embrace the institutions of his state, in particular the institution of slavery. In order to do this, however, he must believe that the way in which he is treated by the institution is appropriate, and that the institution appropriately governs his life. In the case of Greek slavery, in common with every other type of slavery, the slave was not considered a person, but rather an object that belonged to his master.\footnote{Westermann (1955), p. 16 and p. 20.} As such, in order to be at home
in the world, the former citizen has to believe that he is in fact an object, that he has no legal personality, and hence that he may legitimately be bought and sold and treated in almost any way his master saw fit.

As should be clear, viewing oneself in this way is incompatible with recognition self-respect. In order to have recognition self-respect one must see one’s interests, that is the good-making properties of one’s life, as being of as much value as the interests of every other person. But it is clear that one cannot believe this and also believe that one is an object. Objects do not have interests, so if the former citizen believes that he should be treated as an object then he must also believe that he ought to be treated as though he lacked any interests at all. But if so, then he either believes that he has no interests, or he believes that he has interests but that they lack value, or he believes that his interests are of as much value as those of any other person but fails to act in accordance with this belief. Regardless of which of these possibilities is the case, the former citizen will lack self-respect.

It is clear then that the non-racial nature of Greek slavery, nor the fact that citizens could become slaves, has any bearing on whether slaves are able to be at home in the world while maintaining their self-respect. Greek slaves, like slaves in the antebellum South, are caught in the dilemma described above.

*Voluntary Slavery*
I will end my explanation of the injustice of slavery by looking at the case of voluntary slavery. People might choose to sell themselves into slavery for a number of reasons, but the most likely reasons, and perhaps the most understandable, is when they do so in order to benefit some other person such as a family member. This may be the only way in which they feel that they can provide for the future well-being of their other family members.

It should not be surprising, given the reasons that have been outlined above, that voluntary slaves are unable to retain both their recognition self-respect and be at home in the world. In order to be at home in the world, the voluntary slave, like every other type of slave, must endorse their status as an object, and the treatment that may be meted out to them on that basis. Such endorsement, however, is incompatible with self-respect for the reasons just outlined; such endorsement is a denial of the equal value of their interests, and hence a denial of their status as equals.

What this discussion of Greek slavery and voluntary slavery shows then is that the dilemma that slaves face is present regardless of the origin of their enslavement, regardless of the racial or ethnic origin of the people who are identified as slaves, and regardless of whether the enslavement is perceived by the slave as being for their benefit, or the benefit of others. Instead, the dilemma arises because slaves are treated as inferiors, and it is this inferior status that compels slaves to choose between their interests in self-respect and being at home in the world.

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164 For a discussion of some of the reasons for prohibiting voluntary slavery, see Feinberg (1980), pp. 121-125.
V. The Argument Generalized

So far, I have been solely concerned to provide an explanation of the injustice of slavery, one that seems to be able to account for all of the cases that I am considering here. In this section, however, I want to provide a brief sketch of how this same explanation might also provide us with an argument for political equality.

The explanation of why slavery is wrong that I have presented in this paper is that the institution is hostile to fundamental human interests, which interests are vital to living a good life. The problem just described, however, is not unique to slavery. Any institution that treats some people as inferior will make it impossible for those people to both be at home in the world and have recognition self-respect. Those who are treated as inferior will be forced to choose between their recognition self-respect and being at home in the world. If the institution treats them as inferiors, then this entails that the institution treats their interests as less valuable than the interests of those who are superior. But if the institution views the interests of those identified as inferior as being less valuable than the interests of others, then in order to be at home in the world those identified as inferiors must agree that their interests are worth less than those of others. But viewing their interests in this way is incompatible with recognition self-respect.

This conclusion may seem strange, since it may be seen as having the implication that every institution that treats some as better than others is as bad as slavery. Whilst most of us want to condemn caste systems for example, we might not want to say that the caste system is as bad as slavery. Nor are we likely to say that societies that deny certain
groups the right to vote, or deny them some of their civil rights, are as bad as slavery.\footnote{See Christiano (2004), p. 275 for a discussion of the relationship between voting, civil rights, and political equality.}

It is important to note, however, that the interests at stake here are ones that we can have satisfied to a greater or lesser degree. Institutions can be seen to be more or less hostile to our interests, and so can be ones to which we can be more or less reconciled. Thus we can evaluate institutions by seeing the degree to which they treat some as inferiors, and so the degree to which these people can become reconciled to them whilst maintaining self-respect.

An ideal political institution, the institution that we should \textit{ceteris paribus} be striving to realise, will be one that allows all people to realise all of their fundamental interests. Just institutions are ones that are not hostile to fundamental interests, and so just institutions will be ones that enable us to realise our interests in, among other things, self-respect and being at home in the world. The only institutions that can do this are ones that treat everyone as equals.

Two points should be made about this argument. The first point is that the argument for equality that I have given here is an instrumental argument for equality; equality is valuable because it is necessary for the realization of the fundamental interests that we have in self-respect and being at home in the world. One problem that many instrumental arguments for equality tend to face is that they seem to permit inequality whenever doing so increases the amount of the relevant good at issue. They do not, then, seem to give us a sufficiently strong argument for equality. The argument that I have presented here, however, does not suffer from this defect. This is because the condition of
equality is the only condition under which it possible for people to fully realise both their interest in self-respect and their interest in being at home in the world. Since it is the only such condition, and justice requires that institutions not make it impossible for people to realise these interests, equality is a necessary condition for justice.

The second point to note about the argument is that the equality that is defended here is a type of equality of status. If I am right then, egalitarianism is best thought of as being what Elizabeth Anderson calls ‘a relational theory of equality’ rather than in the first instance a distributive one.\footnote{Anderson (1999), p. 313. See Scheffler (2003).} What is primary are the social relationships that people stand in to one another, since it is the relationship of inequality that slaves stand in relative to non-slaves that places them in the dilemma. Thus distributions are just insofar as they tend to ensure that these social relationships of equality are brought about and preserved, and hence that no person is forced to choose between self-respect and being at home in the world.

**Conclusion**

In this paper I have argued that one explanation of the injustice of slavery is that it makes it impossible for slaves to realise their fundamental interests, in particular their interests in self-respect and in being at home in the world. The nature of these interests, and the way that they interact with each other, are such that if the institutions to which one is subject treat one as an inferior then one is unable to both maintain self-respect and be at home in the world. I have also argued that this dilemma is present whenever one has
institutions that treat some people as inferior to others. Thus one reason to think that slavery is unjust also provides us with an argument for political equality. It might be thought that this argument for political equality begs the question, since the idea of equality of status is already present within the interest that we have in recognition self-respect. Such an objection, however, misses the mark. As the case of the utilitarian slave shows, there is no reason to think that the fact that people have equal moral status entails that they should be treated as equals in the political realm. Political equality cannot be justified by appeal to equality of moral status alone.
Chapter 5: Publicity and Justice

Introduction

In the previous chapter, I argued that the structural properties of the fundamental interests that people have in self-respect and in being at home in the world, together with a particular view of just institutions, enables us to conclude that only institutions that treat people as equals are fully just. In this chapter I will argue that an examination of the interest in being at home in the world enables us to say something further about the nature of just institutions, namely that only institutions whose fundamental principles are public are fully just. Institutions whose principles are not public cannot be considered to be fully just.

The idea that publicity is a part of justice is controversial. Richard Arneson and G. A. Cohen, for example, have both argued that publicity is not a part of justice. As a part of a defence of publicity then, I will, in sections IV and V below, examine both of these arguments against publicity and show that they do not defeat the positive considerations put forward in section III. I will also distinguish the conception of publicity that I am defending here from John Rawls' conception and explain why the conception that I favour is significantly less demanding.

I. An Outline of a Conception of Publicity

When I say that the principles that underpin an institution are ones that must be public, I mean that they must meet the following conditions:

1. Any normally functioning person is able to find out what the principles are,
2. The principles are able to be understood by any normally functioning person, and
3. A normally functioning person is able to see that the principles are in effect in their society.

The conception of publicity that I will be arguing for in this paper has been termed ‘weak’ or ‘narrow’ publicity. For the purposes of this paper I will use the former term. To say that a conception of publicity is weakly public is to say that it does not require that all the members of society agree on the principles of justice, only that the principles be accessible. Weak publicity then refers to a certain state of epistemic accessibility. On the account presented here, this state of epistemic accessibility has three components, corresponding to the three principles. The first is that a public principle is one that normally functioning persons are able to discover. If, for instance, one is living in a state governed by Rawls’ two principles of justice, then one should be able to find out that the two principles are the basic principles of justice in a fairly simple and straightforward way. In many societies, this would ideally be done by examining the constitution, since this is supposed to spell out the basic principles of a society. In societies that either lack a

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168 The former term is used by Christiano (2004, p. 270), the latter by Arneson (2004, p. 55)
169 I discuss Rawls’ strongly public principle in the next section.
constitution, or lack one that identifies the basic governing principles in a simple and straightforward manner, the basic principles of justice may be accessible in other ways.

The second component of publicity is that the principles of justice are able to be understood by any normally functioning person. As should be clear, it is perfectly possible for a principle of justice to meet the first requirement of publicity but fail the second. Given that publicity is a state of epistemic accessibility, public principles should be ones that citizens are able to understand. Principles that are exceedingly complex, for example, or ones which rely on specialist understanding, might fail this test. In order for a citizen to be able to come to know a principle, he or she must be able to understand the principle.

The final component of publicity is that citizens are able to see that the principles of justice are in effect in their society. Strictly speaking, of course, a person can understand a principle, and understand that it is the principle of justice that governs the society, without being able to see that the principle is affecting the distribution of goods. Nonetheless, for reasons that I will discuss in section III below, I think that this third condition is one that all principles of justice must meet. Citizens ought to be able to come to know that the principles that are believed to govern the distribution of goods actually are governing the distribution of those goods. For example, if we live in a society that is governed by a principle of equality of opportunity, we might take as good evidence for the claim that the principle is effective in governing the distribution of opportunities that there is no correlation between socio-economic status, race, gender and so on with

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170 The term ‘goods’ here is intended to be neutral as to the types of things that principles of justice might distribute, for example rights, duties, welfare, resources, and opportunities.
the positions in society in which people end up. This need not be the only such evidence, but in order for the principles of justice to be public there must be some such evidence that is accessible to the citizens of the society.

There are two general points that need to be made about the conception of publicity that I am proposing. First, whenever we are talking about notions such as epistemic accessibility, there is always the question ‘to who must these principles be accessible?’ It is clear that, in order to be even remotely plausible, the answer to this question cannot be ‘everyone’. Every society will have people who, due to cognitive deficits or lack of education or for some other reason, will be unable to access, understand, or see to be in effect, the principles of justice of the society, even when those principles of justice are relatively simple. A complete theory of epistemic accessibility would have to spell out in some detail exactly which members of society must be able to access the relevant principles. For the purposes of this paper, I shall leave this task aside, and appeal solely to the notion of ‘normal functioning’. I think it is clear both that public principles cannot be accessed by every member of society, and that, whatever the right answer is as to who should be able to access the principles, the conception of publicity that I am proposing here will be able to accommodate it.

The second point that needs to be made is that in order for principles to be epistemically accessible, at least in the sense that I am proposing, the relevant people must be able to access the principles in a reasonable period of time given a reasonable attempt to do so.\textsuperscript{171} Again, exactly what counts as a reasonable time and a reasonable

\textsuperscript{171} Christiano (2004), p. 270.
attempt is somewhat vague. Clearly, if the principles require a lifetime, or even a year or two, of study in order to understand them, then the principles will not count as public. In a modern state, where we have division of labour and increasing specialization, and where the amount of time that people spend working seems to be ever increasing, most people will be unable to spend long periods of time devoted to discovering the nature of the relevant principles. Furthermore, the interest that is relevant to publicity, namely the interest in being at home in the world, is just one interest among many. If people are in a situation where they must spend extended periods of time just focused on the principles that guide institutions, then this is likely to come at the expense of other interests that they have. What is required then is that the principles are ones that most citizens of a modern state will be able to understand if they attempt to do so. Given that one will most probably learn about these principles within the educational system, I expect that the principles should be ones that could come to be understood by most students during their time within this system. They may not, as I will discuss in the section below, come to understand the reasoning behind the principles, but they should be able to understand the principles themselves, and be able to access the information required to judge that the principles are in effect in the society in question.

II. A Comparison with Rawls

In order to clarify the conception of publicity that I have in mind here, it will be useful to compare it to what is perhaps the best-known conception of publicity, namely that found

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172 The relationship of this interest to publicity is discussed below in section III.
in the work of John Rawls. In *Political Liberalism* and elsewhere, Rawls discusses two related concepts: that of a well-ordered society and the publicity condition. A well-ordered society according to Rawls is one that meets three criteria:

First (and implied by the idea of a publicly recognized conception of justice), it is a society in which everyone accepts, and knows that everyone else accepts, the very same principles of justice; and second … its basic structure – that is, its main political and social institutions and how they fit together as one system of cooperation – is publicly known, or with good reason believed, to satisfy these principles. And third, its citizens have a normally effective sense of justice and so they generally comply with society’s basic institutions, which they regard as just.\(^{174}\)

The first two of these criteria define what Rawls calls the ‘first level’ of the idea of publicity, that everyone accepts, and knows that others accept, the principles of justice that guide the basic structure of society.\(^{175}\) The second level of publicity is that everyone in a society agrees on a large set of background beliefs relevant to justice, such as “general beliefs about human nature and the way political and social institutions generally work”.\(^{176}\) The third and final level is that the justification for the principles of justice be publicly available so that anyone is able to come to know this justification should they so wish.\(^{177}\)


\(^{174}\) Rawls (1993), p. 35.

\(^{175}\) Ibid., p. 66.

\(^{176}\) Ibid.

\(^{177}\) Ibid., p. 67.
It should be clear that Rawls’ conception of publicity is significantly more demanding than the one that I am defending here. The first way in which Rawls’ conception is more demanding is that his requires not merely that people are able to understand the principles, but that they also accept them. While it certainly makes sense that Rawls should want to insist that everyone accept the principles of justice, given the contractualist nature of his theory, understanding publicity as a form of epistemic accessibility does not seem to require that we insist on this condition. Furthermore, such a condition seems almost impossible to meet given the plurality of comprehensive doctrines that is the mark of modern liberal democracies. Unlike Rawls then, I am not claiming that every citizen must accept, that is understand and endorse, the principles of justice of society. Rather, it is sufficient that citizens can discover and come to understand the principles with some modicum of effort. This is not to deny, of course, that it is better that people also accept the principles of justice, but merely to claim that we need not regard this as a part of publicity.

Two further ways in which Rawls’ conception of publicity is stronger than the one defended here relates to his second and third criteria respectively. Whereas Rawls requires broad agreement on background beliefs relevant to justice, my conception says nothing about such beliefs. A conception on my account then can be properly public even in the face of disagreement on these matters. Finally, I have said nothing about the justification for the principles of justice, whereas Rawls requires that this also be accessible to all citizens. The reason for not insisting that the justification for the principles of justice should also be publicly available is not because I think it unimportant
that people should be able to access such a justification. Indeed, I suspect that such a justification should be available to those who wish to examine it. Rather, the reason for omitting this condition from this conception of publicity is merely that it seems to be something over and above an idea of epistemic accessibility; understanding a particular principle is something that can be done without understanding the grounds of the principle.

One reason that defenders of Rawls, although perhaps not Rawls himself, might have for insisting that the justification be publicly available is because they deny the claim made in my last sentence. That is, they might think that understanding the principle requires that one understand the justification of the principle. While there is no doubt that something is learned about a principle when we learn its justification, it is not at all clear that in order to understand the principle one must understand its justification. When, for instance, we are interested in finding out whether a person understands the principle of utility, we ask them, among other things, questions about the meaning of the terms used in statement of the principle, and determine whether they can apply the principle in a fairly straightforward way. If a person can answer these questions satisfactorily, then we conclude that they understand the principle.

A further problem with this line of response is that it seems to commit one to the claim that in order to understand a principle one must understand the whole chain of justification that supports the principle. If, in order to understand a principle, I must understand the justification of that principle, then that seems to imply that one must also

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178 Thanks to Nicholas Southwood and Matthew Sleat for suggesting this line of response.
understand the principle that grounds the principle in question. For if one doesn’t understand this grounding principle, then one doesn’t understand the justification of the original principle. This same point applies equally to the grounding principle; the principle that supports it must also be understood in order to understand the grounding principle in question. If this is correct, then in order to understand any principle, one must also understand every principle that is part of the justificatory chain, as well as all of the considerations that support these principles. Such a requirement strikes me as an unreasonable demand.

Despite these differences, there are two main points of agreement. First, entailed by Rawls' claim that the principles of justice must be accepted by all citizens is that all citizens must be able to access and understand these principles. Thus Rawls is in agreement with conditions 1 and 2 above. Second, Rawls says that citizens must have (at least) the justified belief that the basic institutions of their society conform to the accepted principles of justice. Thus Rawls also accepts something like condition 3, although he also endorses the stronger claim that citizens must actually have such justified belief whereas I have merely claimed that people must be able to come to have such a belief.

III. An Argument for Publicity

As I described in chapter 2, the interest in being at home in the world consists of both subjective and objective components. The subjective component itself has three parts: the belief that the institution is governed by certain principles, the affirmation of those
principles, and the feeling of being at home. The objective component of being at home in the world consists of the correspondence between one's beliefs about the principles that govern the relevant institution and the principles that actually govern the institution. In this section I aim to show how this interest can form the basis of an argument for publicity as it is described above.

The argument for publicity that I am proposing is as follows:

1. In order to be at home in the world a citizen must be able to affirm the principles that govern the institution
2. In order to be able to affirm the principles that govern the institution, a citizen must have epistemic access to the principles
3. A citizen is considered to have epistemic access to principles when she can discover what the principles are, and come to understand those principles, in a reasonable time given a reasonable effort
4. At least some citizens will not be able to discover what the principles are, or to understand them, in a reasonable time given a reasonable effort if those principles are not public
5. Therefore, institutions whose basic principles are not public make it impossible for some people to be at home in the world
6. An institution is unjust if it makes it impossible for a person to realise a fundamental interest
7. Being at home in the world is a fundamental human interest
8. Therefore, institutions whose basic principles are not public are to that extent unjust.

Premises 1, 2, 6, and 7 have been defended elsewhere in this dissertation (in chapters 2 and 4) so I will not rehearse these arguments here. Subconclusion 5 and the conclusion follow from premises 1 through 4 and 5 through 7 respectively and hence do not require additional justification. In the remainder of this section then I shall focus on defending premises 3 and 4. I will begin with the latter.

On the understanding of being at home in the world that has been put forward in chapter 2, we can see that there is a clear connection to publicity; in order to understand the principles of justice that govern the institutions of one’s society, one must be able to access the principles. Thus, in the normal case, being at home in the world will only be possible when the principles of justice are public. If the principles are inaccessible to citizens, then it is unlikely that those citizens will be able to access those principles. It is possible, however, to imagine a society in which the principles that guide the institutions are not public, but where some people nonetheless understand and endorse them. Some people, for example, may think that the principles that in fact guide the institutions are the ones that should guide the institutions, although they remain unaware that the principles guiding the institutions are the ones they endorse. Such people, however, are not at home in the world. As described in chapter 2, being at home in the world also involves having the belief that the principles that one endorses are actually the ones that are guiding the institutions; it is this belief that is required in order to endorse and affirm the institutions, and so to feel at home. In a society where the principles of justice are not
public, it is likely that most people in this situation will lack this further belief, and so will fail to be at home in the world. Although they meet the objective condition for being at home in they world, they fail to meet the subjective condition. They will see the institutions as mistaken or hostile because they wrongly believe that the institutions are guided by principles other than the ones that they endorse.

It may be, however, that a subset of this group of people will also have the belief that the institution is guided by the principles that they endorse, even when the institutions deliberately try to deceive them. Perhaps, for example, they have misunderstood the principles that the institutions have said that they are guided by and have mistaken them for the principles that the institution is actually guided by and which they endorse. Or perhaps, somewhat more plausibly, they have managed to figure out by observing the actions of the institutions that they are in fact guided by principles other than the ones they are purportedly guided by. In such a situation, it may be that such people will be able to be at home in the world. They meet both the subjective and objection conditions for being at home; they believe that the institutions are guided by principles that they endorse, and the institutions are in fact guided by those principles.

That there can be people who are at home in the world despite the principles not being public might seem to threaten the claim that publicity is necessary for justice. If one can have one’s interests satisfied then, at least on the minimal account of justice being discussed here, the institutions are not unjust. When we move from the individual to the societal level, however, then things look slightly different. For although it might be possible for a few people to have their interests satisfied in a society in which the
principles of justice are not public, it seems wrong to say that everyone can have their interests so satisfied. In order for everyone to have their interests satisfied, it would have to both be the case that the institution professes to be guided by one set of principles but everyone correctly believes that it actually guided by another set of principles. It is difficult to see, however, how this could be possible. Recall that publicity, as I have described it, requires that the principles be easily accessible – people can find out what those principles are and understand them. In the ordinary case, these principles are accessible in part due to them being constitutionally enacted, so that one can find out what they are merely by looking at a copy of the constitution. This is not, however, the only way that principles can be public. In a situation where everyone knows what the principles are, it would be very easy to find out what the principles of justice guiding the institutions are. One only has to ask. But if this is the case, then it is not possible both for everyone to know what the principles of justice are and for the principles to not be public. A lack of publicity requires that at least a significant number of people not know what the principles are, and so that means that a lack of publicity requires that some people not have their interest in being at home in the world satisfied. Publicity is thus necessary for justice even on the minimal conception of justice that I have put forward.

We can see then that this discussion supports premise 4. If it is not possible for everyone to come to understand which principles guide the institutions in a society where those principles are not public, then that gives us premise 4; there will be at least some people, most likely a significant proportion of the population, who lack epistemic access to the principles in societies where the principles are not public. If premise 4 is sound
then, and my defences of premises 1-3 and 6-7 discussed elsewhere also acceptable, then we are able to derive both 5 and 8. Publicity is thus necessary in order for institutions to be fully just.

The discussion of the interest in being at home in the world also gives us reason to think that the appropriate conception of publicity is as I have outlined above; that is, it gives us reason to accept premise 3. In order for the objective component of the interest in being at home in the world to be satisfied, that is in order for there to be a correspondence between a citizen's beliefs about the principles that ground the institution and the actual principles, citizens must be able to access the principles. They must be able to discover and understand the principles. Although, as discussed above, there may be individual exceptions in unusual cases to this, in order for every citizen to be able to be at home in the world, the principles must be accessible. Furthermore, the same holds true for the subjective component. A citizen cannot affirm and endorse the principles that ground an institution, and so feel at home in the world, unless she is able to access those principles.

The third component of publicity, namely that people are able to see that the principles are in effect in their society, does not, however, follow so straightforwardly from the interest in being at home in the world. One can be at home, that is affirm and endorse the principles that govern the institutions, independently of seeing that the institutions are effective in putting those principles into effect. The interest in being at home in the world, however, does give us reason to think that this should be a part of publicity. Recall that, as discussed in chapter 2, the reason why our relationships with the
institutions of our society are so important is that they have such a profound impact on the way that our lives go. Institutions can ensure that our lives go relatively badly, or they can place us in a position where we are able to take advantage of many opportunities and experience many goods. If institutions failed to be effective, that is that they failed to ensure that the aspect of society that they govern reflects their basic principles, then they would not have the impact on our life prospects that make our relationship with them so important. If the institutions, and our relationship to them, are important because of the effect of institutions on our lives, then failed institutions will not be so important. This gives us reason then to include the third aspect of publicity.

IV. Arneson on Publicity

Recently Richard Arneson has argued against the claim that publicity is a part of justice. The section of his paper which I shall address has two aims. The first is to show that publicity is not a part of justice. The second is to show that the only system of government that can satisfy the publicity requirement is democracy. Given that the latter claim is outside of the scope of this paper, I shall just address the former.

Arneson’s argument against publicity is rather brief. He invites us to consider a situation in which we must choose between publicity and some other aspect of justice. The particular situation he uses is one where we must choose between our aim of publicity and the aim of preventing murders. “Let us say we must choose between a policy that over the long run secretly prevents more murders or an alternative policy that

prevents fewer murders but does so in a way that satisfies publicity."\textsuperscript{180} In situations such as this, Arneson argues, not only do we judge that the aim of preventing murders should outweigh the value of publicity, but furthermore he argues that examples such as this show that “publicity should have no weight at all in conflict with other justice values”, and hence that publicity is not a part of justice.\textsuperscript{181}

There are a number of issues to pick apart in this argument, so I shall take them in turn. I will, for the moment, accept that Arneson’s initial intuition, that reducing the number of murders outweighs publicity, is correct. I will return to this later. Let us focus then on the example that Arneson presents us with. If in all cases the aim of preventing murder takes precedence over the aim of publicity, what does this tell us? One thing that we might conclude from this is that the aim of publicity is not a part of justice. Such a conclusion, however, is unwarranted. Conflicts between parts of justice are not uncommon, and we might expect that some parts of justice, such as the prevention of murders or genocide, normally take precedence over others, such as ensuring that everyone has an equally good education. That some parts of justice normally outweigh others does not establish that the parts that are outweighed are not a part of justice. If this were true, then ensuring equality of education would not be a part of justice.

Indeed, we can go further than this. If such an argument were to work, and there is within justice some end that normally outweighs others, then this argument would entail that there could be only one (or perhaps a few) elements of justice, since repeated iterations of the argument would progressively weed out all of the elements of justice that

\textsuperscript{180} Ibid, p. 56.
\textsuperscript{181} Ibid.
are normally outweighed by others. Only one element, or at best a few that are normally of equal weight, would remain.

Arneson, however, does not merely claim that publicity is outweighed. He claims that publicity has no weight relative to elements of justice. This claim is, presumably, meant to establish that publicity is not a part of justice. It is not clear why Arneson says this. It follows directly after his example of achieving publicity at the expense of more murders, but he gives us no explanation of why it follows. It is clear that the claim that publicity has no justice-type weight does not follow from the claim that it is always outweighed by other elements of justice – that Z has less weight than W, X, and Y does not entail that Z has no weight. To put the issue more concretely, that we always choose to save Jack when have to choose between preventing Jack's murder and ensuring that Jill gets a good education does not entail that Jill's education has no weight relative to Jack's life. It merely tells us that Jill's education has less weight.

Since the claim that publicity is not a part of justice does not follow from the claim that publicity is normally outweighed, or even always outweighed, by other elements of justice it seems that we must assume that Arneson believes that, given that we think that publicity is always outweighed, it is reasonable to believe that publicity is not a part of justice. This is, presumably, in line with the intuition that Arneson has in such cases. But Arneson gives no argument as to why we should think this. To find an argument to the effect that publicity has no justice-type weight, we must look elsewhere.
V. Cohen on Publicity

In his book *Rescuing Justice and Equality*, G. A. Cohen argues against the claim that publicity is a part of justice, and hence against the claim that publicity can have justice-type weight. Fundamental to Cohen's critique of both constructivism and publicity is the distinction between fundamental principles and rules of regulation. Rules of regulation are rules that we adopt because they serve a certain end or value. If, for example, we had as our end the maximisation of happiness, then we would adopt in the light of this end particular rules that we expect will help us to realise this end. These rules that we adopt are rules of regulation; they have value only insofar as they help us to achieve our end. Rules of regulation can be good or bad, depending on how well they serve the value. Rules of regulation then are fact-dependent. Unlike rules of regulation, however, fundamental principles are not fact-dependent. Rather, “fundamental principles represent our convictions.” They are the things in the light of which we adopt rules of regulation.

This distinction between fundamental principles and rules of regulation gives rise to an objection to the publicity requirement. Publicity requirements, such as the one that I have outlined above, claim that principles of justice must be made accessible. Whether or not a principle is accessible will depend on facts about human capacities, and facts about the particular institutional structures that are possible in the light of these capacities.

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182 The main target of his criticisms are constructivism (in chapter 6) and Andrew Williams' (1998) conception of publicity (in chapter 7). Many of the other criticisms that he makes of these theories are specific to the theories themselves and need not concern us here. For Williams' defence of constructivism, see his (2008).

183 See chapter 6, and pp. 274-279.

Since fundamental principles are fact-independent, and publicity is fact-dependent, then publicity is not a fundamental principle, nor can it be a part of a fundamental principle. Instead, it must be a rule of regulation, that is a rule whose worth is dependent merely on whether or not it properly serves the value in question.

Cohen also says that the idea that publicity is a desideratum of justice is unintelligible. It is unintelligible because it commits a category mistake.\textsuperscript{185} Such an idea is a “misprojection of discourse appropriate for what is right for regulative rules onto the specification of principles that define a virtue”.\textsuperscript{186} Cohen shows us how such misprojections can occur through his discussion of the virtue of loyalty and the presumption of innocence. With respect to loyalty, we can understand how, at least in some circumstances, loyalty is a virtue, and we can understand that when we are trying to determine whether someone has been loyal we will need to develop criteria for loyalty. But such criteria do not help us to understand what loyalty is, but instead are dependent on a prior conception of loyalty for their formulation. Likewise, the presumption of innocence is a rule that we generally think is beneficial in a number of ways. But the construction of such a rule requires that we have an idea of what innocence is in the first place.

Turning now to my argument for publicity, it is clear that according to this argument publicity is not a fundamental principle. It is not a fundamental principle for two reasons. First, that we are able to give an argument for the publicity in the way that I have above shows that publicity is not a fundamental principle. On Cohen’s account, we

\textsuperscript{185} Ibid, p. 366.

\textsuperscript{186} Ibid.
are unable to give arguments of this sort for fundamental principles, since the existence of such an argument would be evidence that the principle is based on some more fundamental principle. Of course, this account does not rule out the possibility of giving explanations of the importance of fundamental principles, but these explanations will not be arguments for the fundamental principles strictly speaking. The second piece of evidence in support of Cohen here is that my argument for publicity relies heavily on facts, in particular facts about the capacities of citizens and the way in which those capacities make it necessary for institutions to be structured in particular ways.

It seems clear then that the principle of publicity defended in my argument is not a fundamental principle; instead it is a rule of regulation. Cohen claims that we can conclude then that publicity is not a part of justice, and that institutions can be just without being public. Furthermore, Cohen would assert that any claim that publicity is a desideratum of justice is also problematic. To so assert is to commit a category mistake.

At this point, I want to distinguish between two distinct aims. The first, which Cohen wants to pursue, is that of determining the nature of justice itself. When one is pursuing this aim, one seeks to determine the conception of justice that is the most plausible or the most defensible. A second type of aim is a more practical one, namely that of determining what a just institution or a just society would look like. When we are pursuing this type of aim, we are only interested in the first aim to the extent that different conceptions of justice give different recommendations as to how institutions or societies should be structured; if all theories provide us with the same answer, then there
is no need to determine which theory is the all-things-considered best theory of justice itself.

It is clear that Cohen’s focus is on the first aim. My focus in this chapter, however, has been on the second aim; I have sought to establish that any institution must, if it is to count as fully just, be based on principles that are public in the sense that I have described. Justice requires that such principles be public. Once we have in mind these distinct aims, we can see that Cohen’s criticism, at least as it applies to my argument, turns out to be unimportant. From the point of view of designing institutions, it is irrelevant whether publicity is a part of justice itself and hence a part of a fundamental principle, or whether publicity is a necessary rule of regulation. In either case, we have to say that just institutions are institutions whose principles are public, and that any institution whose principles are not public is to that extent unjust. If publicity is a necessary rule of regulation, then it is a necessary part of what justice is for an institution. Cohen’s argument then turns out to be irrelevant; if a rule of regulation is a necessary rule of regulation, then it is a necessary part of what it is for an institution to be just.

Looking at the project this way, we can also respond to Cohen’s unintelligibility objection. On my account, to say that publicity is a desideratum of justice would be to assert that it is a rule of regulation that an institution must include if that institution is to be fully just. Such an approach then does not misproject discourse that is suited to discussion of regulative rules onto a specification of justice. Instead, to say that publicity is a desideratum of justice just is to say something about the appropriate regulative rules
for institutions. It is discourse that is appropriate for rules of regulation applied to a rule of regulation.

It might be argued, however, that this line of response to Cohen leaves me exposed to Arneson’s argument. Recall that Arneson argued both that publicity has no justice-type weight at all, and that publicity is not a part of justice. I will take these two points in reverse order. When examining Arneson’s argument, it is important to be clear about the level at which he is working. Arneson is not, it seems, trying to establish the nature of justice itself in the manner of Cohen. We can see this by the type of example that he is using. He says that we are choosing between policies, one of which preserves publicity and the other of which prevents murders. He is then trying to determine what a just institution would look like. Once we see this, however, we can see that publicity does have a weight that is comparable to other parts of justice. An institution that fails to be public, like an institution that fails to put in sufficient protections for its citizens, will be one that is unjust. When an institution fails to be public, it fails to ensure the conditions that are required in order for citizens to realise their fundamental interests, and it is the value of the fundamental human interest in being at home in the world that gives publicity the importance that it has.

We are also able to see that there is no reason to think that publicity will always be outweighed. If publicity is related to the interest in being at home in the world as I have argued, and this interest is an important one, then when this interest conflicts with the very important interest in not being murdered we should not think that the former interest is necessarily outweighed. Much will depend on the particular facts of the case,
but if concealing particular principles from the public results in only a small reduction in
the number of murders whilst alienating large sections of the population, then it may well
be that the interest in being at home in the world outweighs other interests. There is no
reason to rule out this possibility tout court.

Conclusion

In this chapter I have argued that publicity is a necessary condition for justice. A society
in which the principles of justice are ones that reasonable people are unable to discover,
understand, and see to be in effect is an unjust society. When we pair this conclusion with
the one from the last chapter, we can see that a just society is one where people are
treated equally and publicly so. Equality and publicity are both necessary conditions for
justice.
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