

Nondomination Without Rights? An Impossibility

No one better than slaves and the stateless exemplify the lack of republican freedom, namely, freedom as nondomination. Indeed, republican freedom vanishes when individuals depend on the arbitrary will of some others, who, no matter their personal inclinations, detain a poorly constrained capacity to interfere with their subjects, whilst enjoying impunity. Yet, what these paradigmatic instances of domination also clearly epitomise is a rightless condition. If so, there seems to be a tight connection between domination and the absence of rights, and, complementarily, between nondomination and the presence of rights. Yet, what is, more precisely, the relation between nondomination and rights?

In this paper, I argue that rights and nondomination are related notions indeed, in that rights actually are a conceptually necessary constituent of nondomination. Alternatively said, rights partly define the very concept of nondomination. As such, nondomination without rights is an impossibility, and, contra the mainstream view, republicanism is necessarily rights-based. Call this the constitutive view. To develop the constitutive view, I proceed as follows.

First, I clarify how I understand nondomination and rights, respectively. In line with the republican tradition, nondomination will reveal itself a status-notion that designates a social position of robust independence from the arbitrary will of others and institutions. Rights in the strict sense will be defined, conventionally, as valid claims. On this background, I argue that the undominated status of individuals is partly constituted by rights as a matter of conceptual necessity. This is because nondomination possesses certain features that only rights can express and shape — in the same way in which a sentence constitutes the thought that it expresses.

In particular, first, only rights can express that undominated persons are normative authorities, that is, reason-givers and reason-takers whose reasons count and are taken seriously by others, as well as individuals who are able to *command* respect. For, if individuals have rights, then the reasons they provide are binding. Relatedly, rights confer upon their holders the standing and power to insist on the openness of their options, and they can be claimed by the rights-holder in particular.

Second, only rights can express a distinctive request of the non-arbitrariness condition that nondomination embodies, that is, a request for a peculiar form of accountability. Indeed, for individuals to be undominated persons, others have to be accountable *to them* in particular. Crucially, rights are indispensable for constituting such a form of accountability given the *directness* of the duties they ground.

Third, only rights can articulate the double invariance of the robustness of nondomination. For the undominated status of individuals to be possible, their options should remain open to them across changes in their preferences and in others' preferences too. Importantly, what rights prescribe is precisely that the options covered by them be enjoyed invariantly across changes in both your will and the will of another as for what you should do. If so, we can make

sense of the invariance of nondomination only if we understand it and express it as the invariance of rights.

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