**Guarding Against *Imperium*: Implications of Pettit’s Theoretical Framework for a Model of (Neo-)Republican Democracy**

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**Abstract**

 In recent years, Phillip Pettit (2008, 2012) has introduced the idea of *counter control* to his theoretical framework of freedom as non-domination in order to meet analytical criticisms from contemporary liberal theorists and better illuminate the possibility of ‘unmoralized’ interference without domination. While this idea has helped to clarify one of the distinguishing theorems of freedom as non-domination, it has also revealed some disparities between Pettit’s theoretical framework and the practical model of governance to which he ascribes – disparities which call into question the model’s overall ability to guard against *imperium*. In this paper, I review two of these disconnects. First, I discuss how Pettit’s interpretation of ‘equality in the exercise of influence’ leads him to overlook some of the institutions that would be necessary to satisfy this theoretical constraint. To ensure a more robust equality in terms of ‘influence,’ I suggest that the neo-republican model of government will have to avoid certain electoral systems, as well as employ institutions designed to ease socioeconomic barriers to legislative office. Second, I illustrate how Pettit fails to account for his ‘axiom of positionality’ when discussing the institutions that allow citizens to exert ‘unconditioned’ influence, or control over legislative ‘direction.’ To overcome the latent power differences between elected legislators and non-elected citizens, I argue that ordinary citizens be given ‘positional’ resources by which they can ‘check’ these public officials and ‘impact’ legislative outcomes more directly. In concluding, I note that guarding against *imperium* may have overlooked institutional implications for the judicial function of government as well.

**Introduction**

 The lasting impact of the neo-republican concept of freedom as non-domination within contemporary political thought has been, in many respects, quite remarkable. After first being articulated within the analytical works of Quentin Skinner (1998) and Phillip Pettit (1997) a little more than a quarter century ago, the *lingua* of non-domination has come to permeate a number of conversations within the overall discipline of political theory. Indeed, the historical endeavors of Skinner now seem only a small piece of the cottage industry that has developed around ‘domination’ in the history of political thought subdiscipline.[[1]](#footnote-2) What’s more, the concern with domination has been found to be equally informative to interdisciplinary discussions of contemporary democracy and political economy,[[2]](#footnote-3) and has even been looked to by some scholars as providing a potentially allying framework for the commitments and goals of contemporary feminism.[[3]](#footnote-4)

 The growing interest in non-domination as a political ideal which can both illuminate contemporary issues and serve as a yardstick for ‘what public life might be’ has undoubtedly been abetted by the tenacious efforts of both Pettit and Skinner to defend this concept from those who continue to think from within the dominant philosophical paradigm of the age. Over the course of two decades, these neo-republican theorists[[4]](#footnote-5) have had to respond to a number of analytical challenges from interlocutors questioning the conceptual space between freedom as non-domination and the more traditional, liberal understanding of freedom as non-interference. Of course, doubts about the efficacy of freedom conceived as non-domination have been longstanding within the modern liberal tradition, as evidenced by the lengthy discussion Pettit affords to addressing the remarks of the classical liberal, William Paley, in his inaugural *Republicanism*.[[5]](#footnote-6) More recently, however, Pettit and Skinner have had to address an invigorated and, perhaps, more exhaustive reformulation of these concerns from contemporary scholars like Matthew Kramer and Ian Carter.

The overarching thrust of this reformulation can be split into two distinguishable claims. The first is that freedom as non-interference is analytically more encompassing than either classical liberals or neo-republicans like Pettit and Skinner suggest. As Carter asserts, “Even if republicans are correct in accusing certain liberals of a blindness to the freedom-restricting nature of domination, they are wrong to lay the blame on the negative conception of freedom itself, and should instead accuse those liberals of failing fully to comprehend certain characteristics and implications of their own conception of freedom.”[[6]](#footnote-7) Specifically, Kramer and Carter argue that the neo-republican idea of *unfreedom* without interference can just as easily be captured by the pure negative conception. The reason for this is that, under said conception, what is essential to unfreedom is not the actual issuing of threats, but the foreclosure of options or *sets* of options.[[7]](#footnote-8) As a result, it is maintained that the neo-republican framework for freedom as non-domination fails to offer any further insight about freedom itself.

Naturally, Skinner has offered a formidable response to the notion that republicanism does not have anything distinctive to contribute to the analysis of freedom. Though he admits to some mischaracterization of pure negative liberty on his part, the republican theorist claims that both Carter and Kramer continue to oversimplify and, consequently, misunderstand the nerve of the republican theory of freedom – or the idea that there is a disconnect between the presence of unfreedom and the imposition of interference. While Kramer focuses in on the loss of conjunctive choice as a corollary of domination, the fact remains that this loss is only a *possibility* for republican theorists. As Skinner contends, republicans recognize that no conjoined options have definitely been rendered impossible of performance.[[8]](#footnote-9) As a consequence, the lack of freedom suffered by slaves is not fundamentally due to their being constrained or interfered with in the exercise of any of their specific choices – or, for that matter, sets of choices. Instead, the loss of liberty is due to the life of uncertainty which accompanies being under the sway of arbitrary power.[[9]](#footnote-10) Thus, it can be said that Carter and Kramer’s account of ‘resilient non-interference’ only continues to “confuse the existential condition of slavery with the predicament in which slaves find themselves once they begin to reflect on their servitude.”

Nevertheless, there has been a second and more fundamental objection to the analytical framework of Pettit’s freedom as non-domination revealed in these dialogues. In addition to the aforementioned criticisms of conceptual overlap, Carter indicates that there is ample reason to reject the second premise emanating from Pettit’s concept of freedom – the idea that a person can suffer interference without being dominated.[[10]](#footnote-11) He claims that it is not only thoroughly counterintuitive – for both liberals *and* republicans – to suggest that being prevented by someone else from physically doing something is an insufficient condition for being unfree, but it also signifies an implicit attempt by Pettit to *moralize* the concept of freedom.[[11]](#footnote-12) As Carter makes clear, whether or not an obstacle or act of interference – say, from one’s government – constitutes a constraint on an agent’s freedom will ultimately depend on *if* and *to what extent* said agent privileges the common interest over personal interest. For when there is conflict between these interests, the extent to which interference is considered freedom-restricting becomes dependent upon a point of view “having to do with the proper role of the state and the proper procedures determining public policy.” Thus, by implicitly incorporating the moral expectations that people hold in regard to the state, Pettit’s account of non-domination fails to treat freedom as an independent ideal.

Both Skinner and Pettit, it would seem, have had a much more difficult time clarifying the *arbitrary* or *alien* clause in their account of republican freedom.[[12]](#footnote-13) Most recently, however, Pettit (2008; 2012) has introduced the idea of ‘counter-control’ in an effort to defend the notion of ‘non-arbitrary’ interference from these concerns. As the neo-republican theorist explains, ‘non-arbitrary’ or ‘non-alien’ are not the evaluative terms that Carter presumes them to be. Rather, ‘non-arbitrary’ is defined by whether or not the interfering agent, as a matter of *fact*, can be checked in some capacity by the interferee. The thought behind this idea is that the ‘alien’ control which makes for domination ought to be considered *relative* in nature. Someone, B, will only have his or her freedom reduced by another agent or agency, A, to the extent that A has the *power* to interfere in that choice, and that power of interference is not itself controlled by B. If B has the resources or capacity to cancel out or *counter* A’s power of interference, then he or she remains free from A’s ‘alien’ control – despite any interference, actual or otherwise, from A.[[13]](#footnote-14) Under these circumstances, A will have no choice but to track B’s avowed interests, “regardless of whether or not those interests are true or real or valid, by some independent moral criterion.”[[14]](#footnote-15)

Assuming this idea of ‘counter control’ will be enough to assuage the “moralizing” criticisms of Pettit’s liberal interlocutors, the neo-republican’s theorem of interference without domination becomes not only a viable one, but one that holds enormous promise. Indeed, the idea of interference without *unfreedom* isn’t just foundational to Pettit’s concept of freedom as a whole, it is also largely responsible for what makes his concept so attractive as a contemporary political ideal. As the theorist has made clear time and again, it is because of this theorem that freedom as non-domination is capable of providing a foundation for political legitimacy that is *sorely* missing under the ideal of freedom as non-interference.[[15]](#footnote-16) Under this more traditional conception of freedom, there is no way in which the subjects of the law can enjoy full freedom of choice. They will be subject to state interference in some capacity, and so to a loss of freedom, insofar as the state decides what laws to put in place.[[16]](#footnote-17) Under freedom as non-domination, however, such issues are avoided altogether. So long as the people governed by a state are able to exert control over the interference practiced by government, they “may continue to enjoy their freedom in relation to the state.”

Nevertheless, the presumptive advantages provided by the concept of non-domination in relation to political legitimacy will largely depend on how this *democratic* control comes to be both defined and operationalized by neo-republican theorists. The importance of these tasks is certainly recognized by Pettit, who makes them a primary focus in his latest volume on non-domination.[[17]](#footnote-18) Here, the neo-republican theorist defines the idea of public ‘control’ in a manner that ought not to invite any serious opposition from those working to advance the ideal of non-domination:

To have a degree of control over a result two things are essential. First, you must have some influence over the process leading to the result. And second, you must use that influence to impose a relevant direction on the process, helping to ensure that a suitable result transpires.[[18]](#footnote-19)

The first requirement in this definition – the need for influence – is seemingly obvious. Of course, one would be hard-pressed to claim that citizens can exert control over a state without having any input in the process that determines those rules which ought to govern their lives. The more striking takeaway here is that influence *in itself* does not amount to control. As Pettit suggests, if citizens are to exercise control over a state and prevent *imperium*, their influence-bearing inputs must give rise to a recognizable pattern in the law-making process, and that pattern must be one that is sought. Influence must not only make a difference in the end result – that is to say, the laws that are produced – “it must make a *designed* difference.”[[19]](#footnote-20)

So much for defining the type of citizen control which will be necessary to fend off domination in relation to the state. But what about how these definitional requirements come to be operationalized in Pettit’s model of republican democracy? Here, I argue, there *is* some room for opposition – particularly from those who see some merit in having freedom as non-domination serve as a contemporary political ideal. In what follows, I contend that Pettit’s (2012) institutional model for republican democracy would leave ordinary citizens ill-equipped to *control* a potentially dominating, political state.[[20]](#footnote-21) When looking to the definitional requirement of “influence,” Pettit fails to acknowledge the latent differences in the type of influence afforded to elected legislators and that which is afforded to non-elected citizens. As a result, his legislative system ignores some of the institutional resources which may be necessary to ensure “equality in the exercise of influence.” Possibly more damaging, however, is that Pettit offers no ‘positional’ guarantees that this ‘equally-accessible influence’ will, in fact, impose a desired direction on legislative outcomes. To overcome the latent power differences between public officials and others, I suggest that ordinary citizens ought to be given the institutional resources which allow them to ‘check’ these public officials and ‘impact’ legislative outcomes more directly. In closing this paper, I indicate that the degree of citizen control that would be necessary to guard against *imperium* may have overlooked, institutional implications for the judicial function of government as well.

But first, let us examine more closely the extent to which Pettit’ suggested political framework enables a citizenry to secure themselves against domination in the public domain.

**Building a Freedom-Centered Approach to Political Legitimacy**

 In his most recent volume on freedom as non-domination, Pettit presents a potential model of republican democracy – one in which a people are afforded the opportunity to control governmental interference, and thus, maintain freedom in the face of state domination. Naturally, within this model, Pettit focuses in on legislative assemblies as the governmental arena of primary concern. If a people are to be free from state domination, suggests the neo-republican theorist, they must exert control over the processes of law-making – they must attain influence, and then be able to use that influence to impose a suitable direction on government.[[21]](#footnote-22)

 Underneath these definitional guidelines, Pettit explores the historical variants of legislative assemblies, moving quickly against the historical notion that only a plenary assembly meets the requirements of democratic control.[[22]](#footnote-23) Instead, he offers three reasons as to why a responsively representative assembly[[23]](#footnote-24) scores decisively better than alternative types from the republican perspective. First, and in line with the democratic theories of scholars like Joseph Schumpeter and Jürgen Habermas, Pettit claims that responsively representative assemblies tend to reinforce a number of basic liberties, many of which are essential if citizens are to share equally in a system of independent influence over government.[[24]](#footnote-25) Second, such assemblies are more likely than the alternatives to make it possible for people to not only influence, but also impose a direction on government.[[25]](#footnote-26) Finally, notes Pettit, responsively representative assemblies are able to avoid a certain sort of domination found in indicative representative assemblies.[[26]](#footnote-27)

 Given the extent of Pettit’s rationale here, one would be hard-pressed to argue against his claim that responsively representative assemblies offer more incentive than alternatives for governing members to respond to the desires of their constituents. Certainly, the long-romanticized idea of a plenary assembly is no longer a viable option, particularly given the political structure of the modern nation-state system. Still, a pivotal question lingers in the background of the author’s discussion of non-plenary, legislative assemblies: *Does the presumed responsiveness of Pettit’s preferred, representative assembly amount to the level of control that would be necessary for citizens to counter imperium, or potential domination by the state?* Does the responsiveness of such an assembly offer citizens a form of control that is all together – to borrow Pettit’s own terminology – ‘individualized,’ ‘unconditioned,’ and ‘efficacious?’ I contend that the answer to this question is a resounding “No,” and there are several reasons why.

 Let us start with the first definitional requirement of control discussed by Pettit – the need for democratic *influence*.

**Ensuring ‘’Individualized’ Influence**

As the neo-republican makes clear, “equality in the exercise of influence” is a pivotal component for individualized control over government,[[27]](#footnote-28) and it requires equal access to the system of popular influence – or, an opportunity for participation in the system that is available with equal ease to each citizen. Under Pettit’s model of republican democracy, this means simply that every individual should have the same voting power. That is to say, “access to voting should be equal for all and votes should be aggregated in a way that privileges no voter over others; for short, every vote should have the same value.”[[28]](#footnote-29) This means, according to Pettit, that a good republican system will have to guard against the exclusionary voting polices that are typical in many parts of the United States, whereby it becomes “more difficult for some individuals to vote, due to poverty or other pressures.”[[29]](#footnote-30) It also means that a republican model of democracy cannot operate under voting systems where individual votes hold unequal value. For Pettit, this occurs when the districting system allows electorally equivalent districts to vary in the size of population.[[30]](#footnote-31) According to the neo-republican theorist, so long as the size of the population remains constant for electorally equivalent districts – or rather, so long as the number of representatives varies according to population size – every vote will retain the same value, and “equality in the exercise of influence” will be preserved.

 Nevertheless, there are several issues with the institutional implications Pettit derives from his “equality in the exercise of influence” directive. First, and keeping with Pettit’s notion that it is enough to ensure equal voting power in order to meet this greater directive, it can be argued that Pettit’s discussion of electoral systems and the role they play in preserving equal voting power is somewhat incomplete. While a republican model of government would certainly need to avoid the malapportionment that accompanies any system which allows electorally equivalent districts to vary in population size, such a model would have to control for more than just this if it is to avoid the unequal weighing of votes altogether. In his theoretical analysis of political equality and its relationship to election systems, for example, Jonathan W. Still (1981) notes that the criteria of ‘universal suffrage’ and ‘equivalent *electoral* shares’ only partially define the construct of equality in voting systems. As the author discusses, even when both of these conditions are met, a system can still fail to weigh votes equally if the *effect* of people’s votes remains dependent upon the positions they occupy in the electoral structure.[[31]](#footnote-32) Thus, a further requirement of equal voting power is that the result of any election be “the same under all possible distributions of the voters among the positions in the structure of the election system.” As Still proclaims, what ought to count “is the votes that are cast, not who casts them (or where they are cast from).”[[32]](#footnote-33)

What does this mean for a neo-republican model of government that aims to preserve “equality in the exercise of influence?” Well, as one might infer from the above discussion, it means that a neo-republican system of government based on freedom as non-domination will be incongruent with any voting system that allows for the possibility of *gerrymandering*, or efforts to influence the outcomes of elections to representative bodies by manipulating the boundaries of electoral districts.[[33]](#footnote-34) This is not an inconsequential detail, as the practice of intentional gerrymandering (for racial or partisan reasons) has a long, historical association with the single-member district electoral system (SMD) that characterizes congressional elections in the United States. Research has highlighted that partisan efforts to strategically “gerrymander” state and federal congressional districts were wide-ranging as early as the post-Civil War era, and often affected both election outcomes and partisan control of the federal government.[[34]](#footnote-35) In the modern period, these partisan efforts have been just as prevalent, though studies on the electoral consequences of “gerrymandering” in this period have not been quite as conclusive.[[35]](#footnote-36) Given this robust history, however, the SMD electoral system seems – at the very least – an unreliable conduit for a government which aims to secure individual influence in terms of “equal voting power.”

Still, it is not just the possibility of *intentional* gerrymandering that would prevent this electoral system from meeting the needs of a neo-republican model of government. Even if the drawing of district lines were to be taken out of the hands of partisan mapmakers, an SMD electoral system might still fail to meet the directive of *equitable* voting power for all citizens. The idea that *unintentional* gerrymandering can be equally endemic to this type of electoral system is certainly something that is supported by current research. For instance, while many have suggested placing control over redistricting into the hands of independent commissions, empirical evidence suggests that this alternative has not fared much better in terms of limiting the unequal weighing of votes.[[36]](#footnote-37) Additionally, Chen & Rodden (2013) used automated simulations to examine the electoral consequences of a hypothetical districting process without any intentional partisan or racial gerrymandering. The results of these simulations show that even without overt gerrymandering, residential patterns and human geography work to introduce bias into districting schemes all on their own.[[37]](#footnote-38) Given such findings, one can argue that the SMD electoral system characteristic of U.S. congressional elections isn’t just unreliable as a means to satisfy Pettit’s “equal voting power” directive, such a system is actually *incompatible* with this theoretical constraint altogether.

What voting system, then, would best serve Pettit’s “equal voting power” directive? Spencer, Hughes & Richie (2015) offer some insights that may be useful to non-domination theorists in this regard. The authors describe a proposal that adapts lessons from voting rights acts and congressional laws mandating single-member districts into a more equitable standard for congressional elections, while also addressing the concerns that led to the SMD mandate in the first place.[[38]](#footnote-39) This equitable standard is achieved by combining multi-winner districts with a non-winner-take-all voting method that is commonly used in other nations – what is often referred to as “ranked choice voting.”[[39]](#footnote-40) As the authors suggest, ranked choice voting in multi-winner elections effectively maximizes the number of voters who can elect a candidate of choice, allowing groups of voters to achieve representation roughly in proportion to their share of the vote.[[40]](#footnote-41) It also effectively eliminates the discussed voting distortions associated with gerrymandering and inherently tied to the SMD electoral system.[[41]](#footnote-42) Given these benefits, an electoral system that combines ranked-choice voting with multi-winner districts seems most likely to satisfy the requisite of equal voting power which extends from Pettit’s “equality in the exercise of influence” directive.

Leaving these issues of equal voting power aside, however, there is still a much larger issue with Pettit’s overall interpretation of “equality in the exercise of influence.” Simply put, the neo-republican theorist’s scope is *unnecessarily* narrow. As I alluded to in the beginning of this discussion, Pettit seems to suggest that it is enough to ensure equality in “voting power” in order to satisfy this particular directive of popular control. But the rationale for this argument remains unclear, especially given that some citizens are afforded a more robust *kind* of influence under Pettit’s preferred model of representative government.[[42]](#footnote-43) If “equality in the exercise of influence” is to be encompassing, then, it will have to be applied to *all* of the forms of legislative influence given to citizens. This means that influence will have to be properly individualized not only in the “virtual” and “reserve” sense, but in the more “active” sense as well.

Satisfying this demand is certainly a more sizable task for those working to institute a government around freedom as non-domination, which is perhaps why Pettit limits his discussion of “equality in the exercise of influence” to voting standards for non-elected citizens. Still, it is not an impossible task. It does not necessitate, for instance, the replacement of the preferable, responsively representative assembly with the more traditionally democratic, plenary-style assembly.[[43]](#footnote-44) No, it is possible to leave the responsively representative assembly at the heart of Pettit’s model, so long as citizens are given an equal *opportunity* to exert the more “active” form of influence that accompanies membership within such a body. This means, in essence, that a neo-republican model of government based upon a responsively representative assembly will have to incorporate those institutional devices which help to ensure its citizens, no matter their background, have an equal footing when it comes to occupying legislative office.

It is this insight which partially frames the critique of Pettit’s model of government in John McCormick’s (2011) *Machiavellian Democracy*.[[44]](#footnote-45) McCormick’s work reflects a broader sentiment within the modern republican tradition, one which gets lost in the neo-republican account of democracy. This is the idea that the electoral process in itself has an aristocratic effect, and thus, can only ensure “equality of access to the system of popular influence” in a *formal* sense.[[45]](#footnote-46) To ensure that this access holds true in a more *informal* sense, McCormick follows the great Florentine thinker, Niccolo Machiavelli, in calling for the use of extra-electoral institutions like lottery and class-specific eligibility stipulations to ensure non-elites have an equal footing in the electoral process.[[46]](#footnote-47) Neo-republicans would do well to explore McCormick’s suggested electoral safeguards if their model of legislative government has any hope of satisfying this first directive of control, more broadly interpreted.[[47]](#footnote-48)

Nevertheless, even the incorporation of McCormick’s electoral institutions would be insufficient, for ‘individualized’ access to this more “active” form of influence also has temporal implications – which is to say, it requires that each and every citizen has an equal probability of exerting “active” influence over legislation *over time*. This insight suggests that neo-republicans must also be willing to think through and endorse those institutional devices which help to ensure a healthy rotation of office. Unfortunately, any such discussion and endorsement seem to be notably absent within the neo-republican literature. The use of the word “notably” here is deliberative, as the association between rotation of office and democracy is one that not only extends as far back as Ancient Greece, but also finds expression among post-Machiavellian proponents of popular republics. Late-eighteenth century Pennsylvania constitutionalists, for example, offer neo-republicans with two such devices to incorporate into their model of government – frequent elections and term limits.[[48]](#footnote-49) Instituting such devices would not only help to ensure that citizens have a more equitable, lifetime probability of exerting “active” influence over legislative outcomes, but would also be feasible enough to implement under modern political conditions.

Of course, a system of government that meets all of the above requisites for individualized influence need not count as a democracy of popular control *just yet*. Indeed, even if the river of popular influence is allowed to flow wide and deep – that is to say, even if access to influence was, in the fullest sense of the term, *equally* distributed among the citizens of a state,

…it might still fail in actual fact to give government such a direction. It might impose a large range of constraints, but only with the effect of inducing a series of showdowns and stalemates in the interaction of people and government. In the event of such gridlock, the government might be frustrated in its own ambitions, defensible or otherwise, but it would still dominate the people in particular decisions; it would impose on them coercively, without the coercion being suitably controlled.[[49]](#footnote-50)

No, as Pettit suggests, collective control over legislative government requires more than the adoption of institutions designed to promote equality in the exercise of influence. To effectively guard against *imperium*, a citizenry must also have some institutional means by which they can ensure the translation of their values, attitudes, beliefs *into* concrete, legislative outcomes. Influence “must give rise to a recognizable pattern in the process and that pattern must be one that [citizens] seek; the influence, as we say, must control for the appearance of a desired pattern.”

Unfortunately, this popular “direction” requisite presents another set of institutional issues for Pettit’s responsively representative assembly – issues which I deal with in the following section.

**Ensuring ‘Positional’ Control Over Legislative Direction**

In the previous section, I make the case that a neo-republican model of legislative government will require a more intricate institutional design than that which is currently offered by Pettit (2012) if it is to guard against *imperium* and do so successfully. If the neo-republican is to satisfy the foundational requisite for popular control – individualized influence over government – his model will not only need to adopt an electoral system that ensures outcomes remain the same under all possible distributions of individual voters, as well as incorporate a myriad of institutional devices which help to ensure equalized access to legislative office.

Nevertheless, as I suggest at the end of the previous section, a model of government which is able satisfy the institutional demands of this primary requisite, even in the fullest sense, ought not to be considered a government of popular control just yet. There is a secondary requisite that must be met for a government to be considered as ‘under the control of its collective citizenry.’ As Pettit so cleverly articulates, democratic control is not just about people having influence over government, it is about them having a *directive* influence over government. Their influence must have a *desirable* impact on the decision-making process. It must produce legislative outcomes which correlate to their attitudes, values, and beliefs. In his sense, control requires that popular influence not only be ‘individualized,’ but that it also be ‘unconditioned’ and ‘efficacious’ in character. It must be ‘unconditioned’ in the sense that the correlation between popular demand and government supply remains robust across variations in the will of government or in the will of any party other than the controlling people,[[50]](#footnote-51) and it must be ‘efficacious’ in the sense that people within the system are able to think of unwelcome decisions as a matter of tough luck, and not evidence of a malign will working against them and their kind.[[51]](#footnote-52)

Designing a model of government that satisfies this ‘popular direction’ requisite is an even tougher task for neo-republican institutionalists, for as Pettit discusses, the threats to an ‘unconditioned’ and ‘efficacious’ popular influence are multitudinous within a representative democracy. The neo-republican theorist notes, for instance, that the electoral mechanism, in practice, could have counterintuitive effects in terms of popular direction. The prospects of re-election may lead to a scenario where politicians become motivated by their own self-interest, rather than the directives of popular influence, when selecting policy outcomes.[[52]](#footnote-53) Likewise, the leadership of political parties may encourage elected politicians to actively ignore inputs from the electorate, moving such figures instead toward those policy outcomes which will best serve the party in the competitive struggle for political power.[[53]](#footnote-54) But perhaps even more problematic, the strength of popular influence in representative assemblies can easily become diluted by outside sources. Private lobbies are often able to achieve undue influence in legislative outcomes by making politicians financially dependent on their support in electoral campaigns, or by creating electorally adverse publicity.[[54]](#footnote-55) The overall effect of these barriers to popular influence is enough to weaken the electoral mechanism at the heart of Pettit’s institutional model – so much so, that his government becomes unable to offer a citizenry with any guarantee that the outcomes of the legislative assembly will, in fact, reflect a popular direction. Quite obviously, then, figuring out how to deal with these barriers ought to be considered just as much of a priority for neo-republican institutionalists. If the advantages of a government based on freedom as non-domination are to be fully realized – that is to say, if the dangers of *imperium* are to be minimized or avoided altogether – it will be just as necessary to think through those institutional devices which can help to ensure the individualized influence at the heart of the neo-republican model is also ‘unconditioned’ and ‘efficacious.’

Unfortunately, Pettit’s own discussion of these sort of measures leaves much to be desired. On the one hand, the theorist’s general endorsement of a mixed constitution and the contestatory citizenry – features of government that are typically associated with the greater republican tradition – can be considered wholly insufficient as a solution, as such institutional devices present ordinary citizens with, at best, only a partial means for dealing with the problems at hand.[[55]](#footnote-56) On the other hand, there are plenty of reasons to believe that some of Pettit’s other, more specific institutional recommendations would, in actuality, make the issues discussed above much worse. For example, in order to deal with the conditioning effects that re-election often has on lawmakers’ individual and collective decision-making, Pettit suggests that it may be necessary to keep some areas of policymaking at arm’s length from elected politicians – instead, placing these sensitive policymaking areas into the hands of independent bodies.[[56]](#footnote-57) Doing so, however, would only exchange one danger for another. For by completely removing the one means of accountability[[57]](#footnote-58) given to ordinary citizens, there is very little hope of insulating such independent decisionmakers from the powerful influence of private lobbies. Even if a safeguard were put in place – even if the recommendations produced by such a commission were subject to, say, a referendum – there is still no guarantee that the power of these private sources of influence will be suitably controlled *during* the decisionmaking stages. This means that unless additional resources are put in place – resources which help to ensure the interests of a citizenry *alone* are directing the policy recommendations produced by these commissions – the most ordinary citizens can hope to do with their veto power is prevent such an independent body from “assuming a dominating role in its own right.” This, however, is a far cry from the promise of *directive* influence that this neo-republican model claims to provide.

Clearly, then, there is another disconnect that neo-republicans will have to resolve if citizens are to look at this model of legislative government as a vessel of republican democracy, and not a potential source of *imperium*. The issue, from an analytical perspective, is that the resources Pettit offers as assurances of *directive* or ‘unconditioned’ influence fail to establish a degree of control that meets the standard set within his axiom of ‘positionality.’[[58]](#footnote-59) Under Pettit’s current model, the institutional resources afforded to a citizenry to help drive legislative outcomes in a ‘public’ direction are simply *unequal* to the resources that incentivize lawmakers to shape policy around private interests (whether those interests be their own, or those of a private organization/corporation). Take, for example, the mechanism of electoral accountability at the heart of this model. Pettit’s argument that this institution, by itself, is able to provide ordinary citizens with a sufficient tool for preventing lawmakers from making policy decisions based on their desire for personal enrichment, rather than the interests of the collective citizenry, is somewhat disputable.[[59]](#footnote-60) That is not all, however. Perhaps even more problematic, is that this model fails to offer citizens with any institutional means of combatting the undue influence of megadonors and private lobbies – entities that are often able to direct policymaking by making individual legislators (as well as political parties) financially dependent on their support in electoral campaigns, or by issuing threats to such campaigns in the form of electorally adverse publicity.[[60]](#footnote-61) If this model of government is to meet the requisite of ‘unconditioned’ influence and avoid the problems associated with *imperium*, then, Pettit and others will have to think about incorporating additional devices which aim to ensure that the interests of a citizenry, *by themselves,* are what directs the lawmaking process.

Though an overview of possible solutions to the problem of ‘unconditioned’ influence is beyond the scope of this paper, here, I briefly outline two such devices for neo-republicans to consider adopting into their overall model. The first of these is the direct recall – or the removal of elected representatives from office before the end of their term. Though often considered an instrument of direct democracy, the direct recall is perhaps better characterized as an instrument of “empowered representative democracy” – its aim is not to give direct legislating power to citizens or to question the very idea of having representatives, but rather, to improve the democratic character of representation itself.[[61]](#footnote-62) By offering up the power to initiate and decide on the removal of lawmakers who prove themselves to be incompetent, dishonest, unresponsive or irresponsible, the recall increases ordinary citizens’ opportunities to ‘control’ their representatives, thereby increasing the incentives for representatives to care about public opinion during the policymaking process. Of course, the one expected downside to incorporating something like the direct recall (to anticipate Pettit’s argument) is that this institution might create an atmosphere of permanent suspicion toward representatives, with the result of reinforcing distrust.[[62]](#footnote-63) One could argue, however, is that the value of increased accountability from such a device may actually improve citizen perceptions of electoral representation, and there is some rudimentary empirical evidence to support this counter-claim (Qvortrup 2011). Given these potential benefits, then, incorporating the use of direct recall seems like an easy choice for a model of government looking for ways to diminish sources of undue influence.

The second institutional avenue I would like to encourage neo-republicans to adopt into their governmental framework is the citizen referendum and initiative. Whereas the intention of the direct recall is to afford greater weight to the interests of the citizenry in the minds of its elected policymakers, the intention of referendum procedures is to offer citizens with a more direct means of controlling the legislative process altogether. By offering the opportunity to overrule an unpopular policy emanating from the legislature, for instance, the referendum ensures public policy will continue to reflect the interests of ordinary citizens, even when those interests differ from political and socioeconomic elites. Thus, to elected legislators, it will matter a great deal less if political donors and party leadership stand for or against a particular legislative policy. Knowing that citizens have the opportunity to reject any proposal they consider against their interests, lawmakers will have no choice but to select only they policies they feel are unlikely to draw the ire of the public. But that is not all! Through the initiative, ordinary citizens are also given the opportunity to put radically new proposals on the agenda.

Not that I have fully discussed the institutional gaps that need to be addressed in order to bring Pettit’s neo-republican model of government in line with his analytical account of political non-domination, I can now offer some concluding remarks about the greater implications of these discussions.

**Discussion**

 As I briefly discuss in this opening of this paper, the addition of *counter-control* to Phillip Pettit’s theoretical framework for freedom as non-domination holds enormous promise from a normative perspective. Not only does this concept of *control* help to provide a direct answer to the problematic ‘moralizing’ criticisms of neo-liberal scholars like Kramer (2008) & Carter (2008), it also provides a source of legitimacy for political institutions in contemporary democracies – something that is sorely missing under the liberal account of freedom as non-interference. In this sense, the concept adds significant weight to the idea that the neo-republican understanding of freedom as non-domination can serve as a standard or ‘yardstick’ for contemporary political life.

 Nevertheless, meeting the demands of *counter-control* will require neo-republicans to embrace a model of government which moves far beyond status-quo, liberal institutions. Even when the scope of such a model is narrowed to the legislative arena, avoiding the pitfalls of *imperium* will require tremendous institutional change. To have the type of ‘individualized’ influence that popular legislative control dictates, the neo-republican model will need to avoid commonly used, electoral systems – like the SMD system of voting that is characteristic of U.S. Congressional elections – which are susceptible to the unequal weighing of votes. Not only that, meeting this demand will also necessitate the incorporation of more creative electoral devices – like socioeconomic stipulations for office holding, lottery, term limits, etc. – so that all citizens may have an equal opportunity, over time, to exert what Pettit calls ‘active’ influence over the legislative process. In addition, creating a legislative system in which the people’s influence remains ‘unconditioned’ – that is, a system in which the people also maintain control over legislative ‘direction’ – will require even greater institutional change. To satisfy this particular demand, the neo-republican model of legislative government will also have to incorporate institutions of participatory democracy, like the recall of public officials and the citizen initiative and referendum, so that ordinary citizens may have the ‘positional’ resources to *counter* any outside sources of influence. One of the overarching takeaways of this paper, then, is that meeting the institutional demands of *counter-control* will require a model of legislative government that is radically different than those found in most contemporary democracies.

 This, however, is not the only inference that ought to be drawn from these discussions. A much larger takeaway is that this focus on the legislative arena, perhaps, presents an incomplete understanding of what it would take to meet the demands of *counter-control*. While instituting popular *control* over the legislative process is certainly an important part of avoiding potential *imperium*, such resources may not be sufficient to avoid these issues altogether. In the United States, for example, the power of judicial review conferred on an unelected Supreme Court can serve – and often has – as a powerful resource of counter-majoritarian *control*.[[63]](#footnote-64) So powerful, in fact, that even if the U.S. were to implement the extensive list of institutional reforms suggested within this paper, its citizenry would still not have any meaningful *control* over policy outcomes. Given this, it is safe to say that neo-republicans will have to move well beyond the legislative arena if their model of government is to fully satisfy the demands of *counter-control*.

 Finally, while the institutionalization of resources of *counter-control* – whether in the legislative, judicial, or even executive arenas of government – can help to establish conditions of non-*imperium*, such resources, alone, will never be enough to *maintain* said conditions. The reason for this is that a state of non-*imperium* will always be threatened by the presence of *dominium*, or domination in private relations. Recognition of the implicit connection between *imperium* and *dominium* certainly deserves greater emphasis in neo-republican literature, and despite the more recent historical accounts of the *dominium* concept in American republicanism, there is still, at present, a dearth of understanding in how best to deal with this threat at an institutional and/or constitutional level. If, however, neo-republicans are serious about building a model of government based on freedom as non-domination, it will be necessary to move beyond institutions of *counter-control* in the public domain, and more about institutions of *counter-*control in private relations.

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1. Over the last several decades, a growing number of scholars have continued to expose how *dominating* power operated as a principal concern for not only the modern political thinkers associated with the Atlantic Commonwealth tradition, but also for some thinkers who are commonly placed outside of this tradition. In addition to Skinner and Pettit, see Wood 1969; Pocock 1975; Kramnick 1990; Houston 1991; McCormick 2003. Likewise, the concern for domination observed within western political thought now takes us well into the late-modern period. Though by no means an exhaustive list, see Viroli 1988; Ellenbogen 1996; Gourevitch 2015; Coffee 2015; Coffee 2017. [↑](#footnote-ref-2)
2. See McCormick 2011; Pettit 2012; Thompson 2008; Neuhouser 2013; Halldenius 2014; Kolodny 2014; Mayville 2015; Rahman 2017; Thompson 2018. [↑](#footnote-ref-3)
3. Though the historical research of Coffee (2015, 2017) and Halldenius (2014) has been pivotal to these considerations, it is Serena Mocci who details in full the potential for such an alliance. See Mocci 2018. [↑](#footnote-ref-4)
4. It is worth noting here that Skinner actually prefers the moniker ‘neo-Roman,’ though he admits to having lost this linguistic battle. As such, I will continue to reference non-domination theorists as ‘neo-republican’ throughout this essay. See Skinner 2008, p. 84. [↑](#footnote-ref-5)
5. An intellectual precursor to negative-liberty theorists, it is Paley who first suggests that those concerned with domination erroneously fail to distinguish between the concept of freedom and its *security*. See Pettit 1997, p. [↑](#footnote-ref-6)
6. Carter 2008, p.58. [↑](#footnote-ref-7)
7. Kramer’s discussion of *conjunctive exercisability* is particularly illuminating in this regard. He writes, “[T]he overall freedom of each person *P* is largely determined by the range of the combinations of conjunctively exercisable opportunities that are available to him. If *P* is free to Φ, but if his Φ-ing will sharply reduce his future opportunities, then his freedom-to-Φ does not add much to his overall liberty (since only a small number of the combinations of conjunctively exercisable freedoms that make up his overall liberty will each include his freedom-to-Φ as an item…That verdict follows straightforwardly from the doctrine of negative liberty; there is no need to augment or modify that doctrine in order to reach such a verdict” See Kramer 2008, 34-5. See also Kramer 2003; Carter 2000; Carter 2008. [↑](#footnote-ref-8)
8. Skinner writes, “These theorists do not take it to be the case – and nor do they suppose that slaves take it to be the case – that anyone living in servitude *will* be stopped or penalized if they behave in insufficiently humble or furtive ways. Rather they maintain that the situation in which slaves find themselves is that, while they *may* be stopped or penalized, they may be left entirely unconstrained.” See Skinner 2008, p. 98. [↑](#footnote-ref-9)
9. “[Slaves] never know what may or may not be about to happen to them. But if this consideration leads them, as it probably will, to act with the servility routinely expected of them, this will not be because they will be undoubtedly be stopped or penalized if they behave otherwise. Rather, it will be because, in consequence of their basic sense of uncertainty, they feel an understandable disposition to play safe.” Ibid. See also Pettit 2008, p. 106-08. [↑](#footnote-ref-10)
10. Under Pettit’s framework, there is such a thing as ‘friendly coercion’ which does not restrict the freedom of the coerced, given that it ‘tracks their interests.’ For example, even though the sailors of Ulysses refuse to unbind him from the mast of his ship when sailing past the sirens, his freedom is not restricted given that the sailors are following his orders in refusing to do so. [↑](#footnote-ref-11)
11. “A moralized definition of freedom states that obstacles do not restrict one’s freedom as long as they are morally legitimate obstacles. For example, libertarians often assume a rights-based moralized definition of freedom when they claim that a minimal state leaves everyone’s freedom intact. The assumption, here, is that obstacles are sources of unfreedom only if they violate property rights.” Carter 2008, 64-65. See also Carter 2000. [↑](#footnote-ref-12)
12. Understandable, given – as Skinner puts it – that “few republican writers cared to address these lurking difficulties.” For a small historical overview, see Skinner 2008, p. 86-88. [↑](#footnote-ref-13)
13. See Pettit 2012, p. 50. [↑](#footnote-ref-14)
14. Ibid., 116-18. [↑](#footnote-ref-15)
15. Ibid., p. 147. [↑](#footnote-ref-16)
16. This, he notes, often prompts two reactions among those who equate freedom with non-interference: the first is to think that the concern is misplaced and should be given up, and the second is to argue that there is a special circumstance (for example, with the consent of the subjects) in which the state may yet be legitimate. In either case, however, “the conception of freedom as non-interference raises a dilemma for understanding legitimacy in a freedom-centred way. Either, to take the first response, legitimacy in that sense ceases to count as an ideal that a state or social order ought to satisfy, which is problematic. Or, to take the second, it becomes an ideal that no actual state or social order is capable of satisfying, which is equally problematic. Either the ideal is irrelevant, in effect, or it is infeasible.” Ibid., p. 149-52. [↑](#footnote-ref-17)
17. “While the volume offers an outline history of the tradition, an analysis of freedom as non-domination, and an account of what the ideal requires by way of social justice in people’s relationships with one another, the main focus is elsewhere. It is on what the ideal *demands* by way of political legitimacy in the relationships between citizens and their state.” Ibid., p. 3. [↑](#footnote-ref-18)
18. Ibid., p. 153. [↑](#footnote-ref-19)
19. Ibid., p. 154. [↑](#footnote-ref-20)
20. To clarify, the model I call into question is the one that emerges in the final chapters of Pettit’s *On the People’s Terms.* In using this as the basis for my arguments, it would be careless on my part not to acknowledge Pettit’s own convictions – or lack thereof – concerning the model itself. He states, “For all I know, there may be a better, perhaps even radically different, alternative available. My commitment to the model goes less deep, therefore, than my commitment to the theory. I offer it in the spirit of a realistic proposal, as I take it to be, which shows that the republican ideal of legitimacy and democracy is not other-worldly; it is an ideal that can inform politically serious contemporary debate” (Ibid., p. 180-81). Given such remarks, the arguments presented in this paper should not be taken as an attempt to find fault with Pettit, but instead, as part of the continuing effort to develop a ‘realistic’ model for republican democracy. [↑](#footnote-ref-21)
21. Ibid., p. 187. [↑](#footnote-ref-22)
22. Pettit is correct to highlight that contemporary societies are too large to allow citizens to come together in a regular assembly, as well as to note that plenary assemblies often lead to a discursive dilemma, in which individual responsiveness jeopardizes collective rationality. It ought to be mentioned, however, that both of these objections are tangential to the discussion of a freedom-centered approach to political legitimacy. Ibid., p. 191-94. [↑](#footnote-ref-23)
23. Here, Pettit distinguishes between two types of representative assemblies: indicative and responsive. The former is envisaged as a compositional microcosm of the community as a whole and is often associated with institutions like the lottery. The latter is made up of members who are appointed to office on the basis of their electoral promises and may be presumed to be responsive to the wishes of their constituents. Ibid., p. 195-98. [↑](#footnote-ref-24)
24. “A system of open, competitive, periodic election would require the satisfaction and reinforcement of a number of basic liberties, depending for its very operation on their successful exercise. But a system that was designed to facilitate indicative rather than responsive representation – or, for that matter, a plenary assembly system – would not be likely to have the same salutary impact.” Ibid., p. 201. [↑](#footnote-ref-25)
25. Given that members are elected to the legislative body, one can presumably expect such governing deputies to be responsive to their constituents on pain of losing power. Additionally, “The elected legislators have every incentive to search out policies that are likely to go down well with voters, competing as they do for voter support, so that they may be expected to generate a rich supply of candidates. And when they go to the electoral polls – and when they record voting intentions in opinion polls – the electing voters will have every incentive to scour both the policies proposed and the policies implemented to see how far they measure up to whatever metric they impose.” Ibid., p. 203. [↑](#footnote-ref-26)
26. As the theorist maintains, the indicative body has the power to determine both the issues it considers and the resolutions that they are given. And without being subject to electoral challenges, the assembly’s will may be difficult for the people to control. Ibid., p. 204-05. [↑](#footnote-ref-27)
27. Pettit’s inclusion of the “equality” constraint stems, once again, from the notion of alien will: “[P]opular control of government will not ensure someone against public domination, if they have little or no part in the exercise of that control: the interference of government will continue in that case to be imposed on them by an alien will. Thus the first requirement on popular control is that it should be individualized appropriately, giving each an equal share in the control of government.” Ibid., p. 167. [↑](#footnote-ref-28)
28. Ibid., p. 210. [↑](#footnote-ref-29)
29. Pettit offers two examples of the kind of exclusionary policies that would violate equal access to the system of influence: “where the papers that voters have to produce in proof of their identity at the polls are not always in the possession of the poorer; or where those who are convicted felons lose their right to vote, even when they have completed their prison sentences.” It should be noted, however, that these examples are not exhaustive. Attempts to limit the voting opportunities in low socioeconomic neighborhoods are also common in parts of the United States and will also require institutional remedies if equal access to voting is to be maintained. Ibid. [↑](#footnote-ref-30)
30. Examples of this type of system include the Australian or the U.S. Senate, where states of different sizes elect members in equal numbers. As Pettit notes, such a system may not be a problem if such houses had different functions from the lower chambers in these countries, but as things actually stand, they do present a problem from the standpoint of non-domination and would require reform. Ibid. [↑](#footnote-ref-31)
31. For Still, such conditions violate the criterion of voting equality known as “Anonymity.” The author captures this violation by imagining a five-member city council, where each council member is elected from a separate district containing 20,000 voters. In this imaginary city, there are two opposing groups of 36,000 voters, both of whom would like to control the council. The first group has 12,000 voters in each of three districts, while the second group has 7,000 voters in each of four districts and 8,000 voters in the remaining district. Given this distribution, the first group is able to elect three members to council and secure the adoption of any ordinance it favors; the second group is unable to elect even one council member. Thus, despite having equivalent electoral shares in the selection of individual council members, the voters in this system do not share equally in their impact on the outcome of the overall election. We can say that the votes of the people in the second group “weighed less” because of where they were positioned in the structure of the election system. See Still 1981, p. 382. [↑](#footnote-ref-32)
32. Ibid., p. 383. [↑](#footnote-ref-33)
33. The main techniques for gerrymandering are “packing” (concentrating voters of one party in a relatively small number of districts) and “cracking” (dispersing voters of one party among a relatively larger number of districts). By “packing” opposition party voters into districts into a small number of districts in which they constitute large majorities and by “cracking” dominant party voters across a larger number of districts in which they constitute small, but predictably reliable majorities, a dominant party is able to increase its expected share of legislative seats in a representative body. See Beitz 2019, p. 326. [↑](#footnote-ref-34)
34. See Engstrom (2006). [↑](#footnote-ref-35)
35. However, a recent study conducted by Stephanopoulos & McGhee (2015) reported that the severity of today’s gerrymandering did, in fact, have profound consequences for the 2012 election. Using a new measure of efficiency gap – the difference between the parties’ wasted votes in an election – these researchers found that extreme gerrymandering netted Republicans an average of 1.58 seats at the congressional level, and 6.07 percent at the state house level during this election. Even worse, these electoral consequences look to be quite entrenched. The authors note the congressional plans of Florida, Ohio, Pennsylvania, and Virginia in the current cycle have gaps of at least two seats that are unlikely to dissipate given plausible changes in voters’ preferences. Similarly, the state house plans for 13 states have gaps of at least 8 percent that are also unlikely to fade away in future elections. See Stephanopoulos & McGhee (2015) p. 836. [↑](#footnote-ref-36)
36. California provides an excellent example for how limited independent redistricting is in affecting outcomes. California’s map, drawn in a consciously non-partisan environment and with non-partisan intent, still shows signs of voting dilution. In 2014, for instance, Democratic candidates won 57%of the vote, yet took 73.6% of seats. See Spencer, Hughes, & Richie 2015, p. 388. [↑](#footnote-ref-37)
37. One of the consistent findings in these simulations is that Democrats were at a disadvantage in translating votes to seats simply because their voters are inefficiently clustered in urban areas. This suggests that voters in urbanized states are arranged in geographic space in such a way that the traditional districting principles of contiguity and compactness will still generate substantial electoral bias, even in the absence of intentional partisan or racial gerrymandering. See Chen & Rodden 2013, p. 262-65. [↑](#footnote-ref-38)
38. As the authors note, the SMD mandate of 1968 aimed to address concerns of voting dilution under a winner-take-all, at-large electoral system. Under this election method, voters could cast as many votes as there were seats up for election, allowing a unified majority to sweep every seat in the multi-winner contest. See Spencer, Hughes, Richie 2015, p. 381-83. [↑](#footnote-ref-39)
39. Also sometimes called “preference voting” or “choice voting,” ranked choice is system of voting where voters rank candidates in order of choice, from first to last, and votes count for the highest ranked candidate that they can benefit, in a round-by-round tabulation. [↑](#footnote-ref-40)
40. “In a three-winner district, for example, a candidate must receive more than 25% of the vote to win election, meaning that a minimum of three in four voters will generally directly help elect a candidate for whom they voted, with many of the rest likely ranking an elected candidate highly as well…If more than 25% vote for one candidate, that candidate’s excess support counts toward the totals of whomever those voters ranked next, and if a group of like-minded voters split their votes among similar candidates, the weakest candidates will be eliminated, allowing their supporters to help elect their back-up choices.” Ibid., p. 395. [↑](#footnote-ref-41)
41. “Even though districts would still be used, the non-winner-take-all nature of the elections means that those within each district would be represented fairly, making any attempt to affect outcomes through creative districting prohibitively difficult.” Ibid. [↑](#footnote-ref-42)
42. It is true that the centering the neo-republican model of government around a responsively representative assembly does not limit influence, in the total sense of the term, to only those elected to legislative office. As Pettit makes clear, non-elected citizens still maintain their influence in a “virtual” and “reserve” sense – by selecting and reselecting the individuals who are most likely to embody their interests directly in the legislative assembly, and by communicating any changes in their interests with those individuals, respectively – and in doing so, are able to share equally in the influence over legislative outcomes. Nevertheless, whether a people engage in a policy-first or deputy-first process of representative selection, those selected will still have a good deal of discretion in the formulation of a legislative agenda, in the selection of public policy candidates to be reviewed, and in the final selection of policy outcomes. The “virtual” influence of non-elected citizens may help to shape this process, but one would be hard-pressed to argue that this influence is akin to the more “active” form of influence afforded to those who serve as representatives. [↑](#footnote-ref-43)
43. Though a plenary-style assembly would certainly satisfy the demand, the benefits of such an assembly, as Pettit notes, are clearly outweighed by the impossibility of its institutionalization under modern political conditions. [↑](#footnote-ref-44)
44. Along with the more general criticisms levied against electoral democracy. See also Manin 1997. [↑](#footnote-ref-45)
45. According to McCormick, the institutional arrangements of modern republics – those largely endorsed by Pettit – would strike many adherents of pre-modern popular government as odd, unjust and dangerous: “From their viewpoint, it wealthy citizens are free to stand for all magistracies, if they can participate in every public council, and if unqualified election is the only device that determines officeholding or assembly attendance, the wealthy would hold distinct and persistent political advantages over poorer citizens. The rich would simply overwhelm the political process. After all, wealth enables such citizens to cultivate greater reputation, a more distinctive appearance, and better public-speaking skills such that voters almost inevitably choose them in electoral contests. In addition, financial resources allow the wealthy to fund, groom, and/or bribe non-wealthy candidates to serve their interests at the expense of the broader constituencies. Put simply, election is a magistrate selection method that directly and indirectly favors the wealthy and keeps political offices from being distributed widely among citizens of all socioeconomic backgrounds. See McCormick 2011, p. 91-92. [↑](#footnote-ref-46)
46. Ibid., p. 168-69. [↑](#footnote-ref-47)
47. It is worth noting here that Pettit openly admits to the shortfalls of electoral democracy and seems to take no issue with exploring institutional supplements prescribed by McCormick and others. Nevertheless, he seems to avoid admission of any need to ensure a more equal distribution of legislative offices among citizens. See Pettit 2012, p. 209-11. [↑](#footnote-ref-48)
48. By subjecting legislators to annual elections, Pennsylvania constitutionalists believed they could establish a greater rotation of office, which would keep the channels of political and social mobility open to common citizens. Instituting periodical exclusion from office, moreover, would help to prevent political power from becoming entrenched within a small number of individuals. After four annual terms, legislators were to “return to mix with the mass of the people and feel at their leisure the effects of the laws which they have made.” Wood 1969, p. 231.  [↑](#footnote-ref-49)
49. See Pettit 2012, p. 240. [↑](#footnote-ref-50)
50. “Let the correlation be contingent or conditioned in this way, and it will be the agency on which the correlation depends that enjoys power or control, not the people whom that agency choose to benefit.” Ibid., p. 218. [↑](#footnote-ref-51)
51. Ibid., p. 229. [↑](#footnote-ref-52)
52. “Seeking re-election as they do, they will each favour measures that appeal especially to more pivotal or marginal voters in their constituency or to the supporters on whom they particularly depend. And equally they will tend to strike idealistic postures that cast them in a good light as individuals…rather than endorsing the compromise solutions that they might otherwise be disposed to support.” Ibid., p. 200. [↑](#footnote-ref-53)
53. Ibid., p. 241. [↑](#footnote-ref-54)
54. Elected politicians may even be tempted “to accept hidden payments for the favours they can do for certain individuals, corporations and other bodies.” Ibid., p. 233-34. [↑](#footnote-ref-55)
55. While Pettit is right to suggest that the required separation and sharing of powers that is typical of the mixed constitution would make it much more difficult for any one agency (say, the legislative arm of government) to ignore or push back against popular resistance, it can hardly be stated that this typical system of checks and balances is enough to render such an outcome altogether impossible – either for said agency, or for government considered in its entirety. Likewise, the presence of a contestatory citizenry – one that, as Pettit imagines, takes institutional form in watchdog, public-interest bodies – may make it more difficult to ignore the public’s interests by helping to identify instances where said influence fails to direct political outcomes. However, without the power to challenge these public proposals and policies directly, or the power to reprimand or sanction officials and/or bodies engaging in such anti-democratic behaviors, such institutions would fail to provide the public with any reassurance that its interests will remain *unconditioned*. Ibid., p. 220-228. [↑](#footnote-ref-56)
56. Ibid., p. 232-33. [↑](#footnote-ref-57)
57. That is, their capacity to vote lawmakers out of office. [↑](#footnote-ref-58)
58. Pettit introduced the term ‘positionality’ in his efforts to clarify the type of counter-control that makes an act of interference arbitrary, or dominating: As the neo-republican theorist explains, we can think about the “arbitrary” in arbitrary control as a zero-sum term. The resources which give an interfering agent control over another only have such an effect to the extent that they shift the relativities – that is, they change the position of one in relation to the other. Without this relative change in resources, there is no benefit in terms of power or control. Give the interferee a similar set of resources and he/she can foresee and personally obstruct any effort at control, thus *countering* or cancelling out what the interfering agent does and leaving no one in a position of alien control over the other. See Pettit 2008, p. 108-09. [↑](#footnote-ref-59)
59. While theories of electoral accountability suggest that competition for votes can motivate elected officials to represent the interests of their constituents (Downs 1957), some electoral studies have shown that there is often a disconnect between corruptive legislative behavior and electoral ramifications (Rundquist et al. 1977, Reed 1996, Chang et al. 2010, and Golden 2010). A possible explanation for this disconnect is the informational asymmetry that exists between elected legislators and their voters. Corruption is hard for voters to detect, whether because of a lack of media reporting, political control of the media, high levels of illiteracy, or a lack of prosecution of corruption cases. Additionally, politicians go to substantial lengths to conceal their corrupt activities. Knowing that voters disapprove of corruption, candidates have an incentive to actively mislead the public – either by explaining away accusations of corruption as politically motivated, partisan attacks, or by accusing competitors of corruption, even if this information is false. See De Vries & Solaz 2017, p. 396-98. See also Winters & Weitz-Shapiro 2013, p. 419-20. [↑](#footnote-ref-60)
60. As Pettit notes, these challenges are particularly difficult to resolve in presidential systems like the U.S. While limiting private campaign finance, providing public funds to match private campaigning funds, and restricting the use of expensive advertisements are all possible modes of dealing with the problem, such steps would be very hard to implement, since the courts treat money spent on elections as protected political speech. See Pettit 2012, p. 233-35. [↑](#footnote-ref-61)
61. See Vandamme 2020, p. 2. [↑](#footnote-ref-62)
62. Pettit discusses the need to avoid the extreme of the so-called knave’s principle, as empirical evidence suggests such a position may be counter-productive. See Pettit 2012, p. 246-47. [↑](#footnote-ref-63)
63. Forbath (1991) details, for instance, how this constitutive power served as the principal difference for labor politics in the United States and England during the Gilded Age. Despite similar successes between the U.S. and English labor movements in electing candidates and passing reforms, only the English were successful in seeing their legislation through. The one difference? The U.S. Court’s power of judicial review. “Not only could judges strike down labor laws, they could also nullify them by hostile construction. And nullify they did.” See Forbath 1991, p. 16-18. [↑](#footnote-ref-64)