



Does a Mugger Dominate? Episodic Power and the Structural Dimension of Domination*

DOROTHEA GÄDEKE

Philosophy, Utrecht University and University of Johannesburg

IMAGINE you are walking through a park in the twilight. Suddenly, a mugger points a gun at you, threatening to shoot you if you do not hand over your valuables. Is this an instance of domination? Many authors working within the neo-republican framework—including Philip Pettit himself—are inclined to say ‘yes’.¹ After all, the mugger case seems to be a paradigmatic example of what it means to be at someone’s mercy; to be dependent on someone else’s will. However, I argue that this conclusion is based on a misleading, purely interactional account of domination that misconceives its essentially structural character. Domination, I maintain, is a structurally constituted form of power. Whether the mugger in the park dominates you or not can only be established by analysing the wider power structures in which your interaction is embedded.

My argument is a contribution to neo-republican debates on the concept of domination. I focus on a power-theoretic analysis of the structural dimension of domination. I do not address the merits of non-domination as a conception of freedom (though I briefly highlight implications of my argument for critics of Pettit’s theory of freedom in Section III). Neither do I provide a full account of domination. My aim is limited: I will show that domination, as conceived of in neo-republican terms, is best interpreted as a structurally constituted form of power. This holds for both interpersonal and systemic domination. While this argument contributes to the recent debate on ‘structural domination’,² my point

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¹See Pettit 1997a, pp. 68–9; Lovett and Pettit 2018, p. 375.

²See Einspahr 2010; Gourevitch 2013; Thompson 2013; Haugaard and Pettit 2017.

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is not that neo-republicans fail to take structures seriously. Rather, I argue that because of its structural dimension, domination should be kept distinct from interactional, opportunistic forms of power.

I start with a brief reconstruction of Pettit's seminal account of domination, highlighting his emphasis on the mere capacity of interference being sufficient for domination. Against this background, I introduce the mugger case to show that Pettit's account points to a conceptual dilemma. Either the mugger is taken to dominate everyone that he *could* shoot; this interpretation, however, seems too indiscriminate to capture the social reality of domination. Or the mugger dominates only the person at whom he points his gun. Yet, following this interpretation, the notion of domination loses its distinctiveness and collapses into an account of interference.

In a second step, I propose a solution to this dilemma, which specifies the social reality of domination without jeopardizing its distinctiveness vis-à-vis interference. The notion of domination, I argue, refers only to structurally constituted forms of power. I distinguish two kinds: *interpersonal* domination is based on a robust capacity to interfere; *systemic* domination highlights the systematic disempowerment the dominated suffer over and beyond their relation to a particular dominator. Purely *interactional* forms of power, which are based on an opportunistic capacity to interfere, however, are not instances of domination. Hence, whether and whom the mugger dominates depend on whether his power is structurally enabled and thus serves as the basis of a persisting status asymmetry.

In the last section, I argue that keeping an account of domination distinct from opportunistic kinds of power matters for three reasons. First, conceptualizing both opportunistic and robust capacities to interfere as forms of domination risks losing sight of what is distinctive of non-domination as opposed to non-interference. Secondly, it is precisely on the grounds of conflating opportunistic forms of power with domination that Pettit's theory of freedom has been misread as a choice-based rather than a person-based account of freedom by some of his critics. Third, distinguishing domination from opportunistic forms of power proves crucial for critical social analysis; otherwise we risk misconstruing domination as an anomaly perpetrated by individual wrongdoers instead of as a feature that pervades society.

I. A PUZZLE ABOUT THE NOTION OF DOMINATION

The notion of domination is at the heart of neo-republicanism as developed, most systematically, by Philip Pettit. Originally meant to articulate an ideal of political freedom as non-domination, it has resonated well beyond theories of freedom. The core idea is that domination does not require the exercise of power; the mere capacity to interfere is sufficient (Section I.A). This idea, however, proves ambiguous: as the mugger case reveals, it either points towards a conception that is far too broad to capture the social reality of domination or it collapses

into an interference-based view that loses touch with what is distinctive about domination (Section I.B).

A. THE IDEA OF DOMINATION AS THE CAPACITY TO INTERFERE

The notion of domination is meant to express the classic Roman concern about the dependence on the will of others. According to Pettit's seminal definition, 'someone has dominating power over another ... 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'.³ This core idea of domination as the *capacity* to interfere (arbitrarily)⁴ sets it apart from the classic liberal notion of interference. It draws attention to the crucial relevance of power asymmetries over and beyond the exercise of power and, more particularly, instances of interference. Whether you suffer from interference is not essential. I might not care, at least for now, how you choose to act and let you go about minding your own business. And yet, as long as I retain the capacity to interfere, you depend on my remaining benevolent or indifferent with regard to what you do. This dependence 'on my will remaining a goodwill'⁵ is what the idea of domination as the capacity to interfere is meant to capture.

Pettit's emphasis on the mere capacity to interfere and the resulting dependence on someone else's will shows that domination describes an evil which is distinct from interference. Domination does not merely restrict choice. As Pettit points out, the 'terrible evil brought about by domination, over and beyond restricting choice, and inducing a distinctive uncertainty, is that it deprives a person of the ability to command attention and respect and so of his or her standing among persons'.⁶ Thus, domination is a status-related notion. It refers to how we are related to one another and to whether we can speak out forthrightly without reason for fear or deference, that is, whether we are equally taken to be 'a voice worth hearing and an ear worth addressing'.⁷

Given that domination refers to the mere capacity to interfere arbitrarily, securing non-domination requires more than just the absence of interference. It calls for removing the capacity to interfere at will altogether—and thus for *robust* non-interference. If you merely enjoy non-interference because your wishes happen to coincide with mine or in virtue of my good mood, you depend on our wishes coinciding or on my staying happy. I will have replaced each of your options by that-option-provided-it-is-to-my-taste.⁸ In order to enjoy non-domination, your enjoyment of non-interference needs to be robust across

³Pettit 1997b, p. 52.

⁴My focus is on a power-theoretic discussion of the capacity point; I will not be able to provide an account of arbitrariness, but merely characterize dominating power as systematically disempowering (see Gädeke 2017, ch. 5, for a discussion of the arbitrariness condition).

⁵Pettit 2012, p. 7.

⁶Pettit 2002, p. 351.

⁷Ibid., p. 350.

⁸Cf. Pettit 2007a, p. 215.

changes regarding what I want or what you want. Non-domination needs to repeal your dependence on my will. Hence, it requires safeguards, provided by suitable legal institutions, which give you a form of ‘antipower’⁹ by establishing an equal status for all.¹⁰ With this core idea of domination as the capacity to interfere (arbitrarily) in mind, I will introduce a case, which shows that the core idea of domination as the capacity to interfere does not easily capture episodic forms of power.

B. THE MUGGER CASE AND A CONCEPTUAL DILEMMA

Imagine you are walking in a park in the twilight. Suddenly, a mugger points a gun at you, threatening to shoot you if you do not hand over your valuables. Is this an instance of domination? At first sight, one might be inclined to say ‘yes’. If domination is characterized by the dependence on the will of the powerful, who has the capacity to interfere at will, the mugger case seems to be a paradigmatic example. After all, whatever you do, you depend on the good will of the villain to let you do it. Even if you decide to comply and hand over your valuables, there is no guarantee that you won’t be shot. The mugger has not simply altered your choice set by removing the joint option of leaving the park alive and with your valuables. He has replaced each of the options x , y , z that you previously had with the options x^* , y^* , z^* , where $*$ stands for ‘if the mugger allows’.¹¹ Or, to take up another metaphor that Pettit uses, the mugger has not only closed some doors which used to be available to you, he has taken up the role of the doorkeeper who could close any door if you decided to choose it.¹² This is what it means to be in the power of someone else, that is, to be dependent on someone else’s will. Hence, Pettit himself explicitly considers the mugger to be an instance of domination.¹³

However, a closer look at the mugger case reveals that it is not so clear cut. Paradigmatic cases of domination, like slavery and marriage, are institutionally stabilized forms of relationships. In these cases, domination is a power relation that stretches over time. For as long as you are a slave or a married woman, the slave holder or husband retains the capacity to interfere with you at will. The transient, episodic nature of your encounter with the mugger, by contrast, raises the question: when exactly does the mugger start or cease to dominate you? Are you only dominated once he points his gun at you? This first reading seems misleading. After all, the point about the notion of domination is precisely that it is not essential what the dominator does. Pointing a gun at you is certainly a (fairly intrusive) form of interference. And yet, for a power relation to constitute domination, the capacity to interfere is sufficient, whether it is exercised or not.

⁹Pettit 1996.

¹⁰Pettit 1997b, pp. 66–73 and chs 5 and 6.

¹¹Pettit 2008, pp. 113f.

¹²Pettit 2011, p. 709.

¹³See Pettit 1997a, pp. 68–9; Lovett and Pettit 2018, p. 375.

But why then does it matter that the villain puts a gun to your head at all? Wouldn't the mere capacity to point a gun at you be sufficient to constitute domination? This second reading, however, seems too indiscriminate to capture the point about being dependent on the will of another. Are you dominated simply because there happens to be someone in the park who carries a gun that he could point at your head? As Richardson has pointed out, it is implausible to say that a kidnapper dominates all potential victims, which might include all of us.¹⁴ After all, 'a mugger or pickpocket is not even focusing his attentions on a particular person at the outset; and once he has chosen a victim, the crime consists in what he does to the victim, not what he makes the victim do'.¹⁵

Another way to bring out these ambiguities is to ask: who is dominated? Regarding slavery or marriage, the answer seems straightforward: slaves are exposed to the capacity of arbitrary interference by their slaveholders; likewise, married women are exposed to the capacity of arbitrary interference by their husbands. But who is dominated by the mugger? Everyone who has a gun at her head? Or everyone who is in the park and *could* get shot? The first reading seems too narrow. It disregards the fact that domination does not require the exercise of power. In this respect, the second reading is more plausible. After all, the capacity point highlights precisely that it doesn't matter whether the mugger points a gun at your head. What matters is that he *could*. Yet this second reading proves too indiscriminate to capture what it means to be dominated. Is there no relevant difference between the person who has a gun at her head and the guy who sits on the grass, sunbathing, not even having noticed the gunman?¹⁶

Pettit specifies two constraining conditions that must be satisfied for a capacity to interfere to effectively constitute domination. The first stipulates that the powerful needs to have the *actual* capacity to interfere, that is 'a capacity that is more or less ready to be exercised—not a capacity that is yet to be fully developed'.¹⁷ Otherwise, we would speak of *potential* not of *actual* domination. A villain, for instance, who possesses a gun, but did not bring it to the park, only has a potential capacity to interfere with you and does not actually dominate you. Even though such potential domination may be of concern, precisely because it may turn into actual domination, from a conceptual point of view, these cases are distinct.

The second constraint is a specification of the first. Conceptually speaking, it does not matter whether you have seen the mugger or know of his gun. But as long as the mugger is not aware of his capacity to interfere with you and your vulnerability to him, his capacity is not an actual capacity that he might choose

¹⁴Richardson 2002, p. 34.

¹⁵Richardson 2005, p. 219.

¹⁶The difference, one might say, lies between domination-cum-interference and domination without interference; see Pettit 2002, p. 343. However, if the relevant difference is explained in terms of interference, the distinctiveness of the evil of domination gets lost.

¹⁷Pettit 1997b, p. 54.

to actualize at will.¹⁸ Think of a visitor to the park who carries a gun in his bag without knowing he does. Or think of someone who carries a gun, but has not realized that you are a potential victim, say because you are at the other end of the park and he has not yet seen you. In such cases, on Pettit's account, you are clearly not dominated. This point even holds when it is only due to your precautions and 'self-denying steps' that the villain has not registered your vulnerability; domination requires the dominator's awareness of his capacity to interfere vis-à-vis the dominated.¹⁹

The awareness condition does confine the social reality of domination to those people in the park the mugger has noticed. However, the two constraints do not solve the tension between the two possible interpretations of the mugger case. In fact, these two alternative interpretations point towards two horns of what seems to be a conceptual dilemma. Either it is, effectively, the mere capacity to interfere which constitutes domination—this reading, however, seems far too broad to capture the social reality of domination. Or we restrict the notion of domination to situations in which the powerful actually *exercise* power over you—this reading, by contrast, seems too narrow, as it loses contact with what is distinctive about domination: that it refers to the mere capacity, not actual interference.

The dilemma brought forward by the mugger case reflects some of the most pertinent critics of Pettit's conception. Grappling with the problem of how to account for the social reality of domination over and beyond interference, they tend to reduce domination to interference. Waldron maintains that 'it is the prospect of interference, not the mere potential, that is important ... All we are doing, with the capacity idea, is figuring out the probability of its occurrence'.²⁰ Similarly, Shapiro holds that 'having that capacity does not itself constitute domination; rather it creates the potential for domination'.²¹ Friedman proposes to redefine Pettit's conception of domination in terms of 'actual or attempted arbitrary interference', precisely to avoid an overly broad, indiscriminate conception.²² In what follows, I propose a solution to the conceptual dilemma, which preserves the distinctive nature of the notion of domination without entailing too broad a conception that does not provide a discriminate account of the social reality of domination. However, it requires giving up on the idea that the mugger necessarily dominates his victim.

II. ON THE STRUCTURAL DIMENSION OF DOMINATION

The conceptual dilemma brought forward by the mugger case points to the fact that the notion of domination does not easily capture episodic forms of power. I argue that it can be solved by conceiving domination as a structurally constituted

¹⁸Pettit 2008, p. 107.

¹⁹Ibid., p. 107, n.10.

²⁰Waldron 2007, p. 155. See Carter 1999, p. 238; Kramer 2003, p. 139, for similar points.

²¹Shapiro 2012, p. 324.

²²Friedman 2008, p. 252.

form of power. It is based on norms and practices that systematically empower some, while systematically disempowering others. This structural dimension of domination holds for interpersonal domination (Section II.A), as well as for what I call systemic domination (Section II.B).

A. INTERPERSONAL DOMINATION AS A *ROBUST* CAPACITY TO INTERFERE

To see what is wrong with the mugger case, it is worth going back to paradigmatic cases of domination such as traditional marriage or slavery. Marriage and slavery are institutionalized forms of social relationships. They are based on legal rules, which determine and circumscribe the powers of the agents involved. The institutional form of marriage implies that the husband does not dominate his wife merely in virtue of his supposedly superior physical power. His supposedly physical superiority only serves as a power resource that outlasts the actual *exercise* of violence when violence against women is not effectively sanctioned and thus can be exercised at will. His dominating power is constituted by the legal institution of marriage, which confines female economic activities, makes the woman economically dependent on him and grants him the power to enforce sexual contact at will. Similarly, when it comes to power resources like physical strength or intellectual wit, the slave may well outclass his master. However, the latter holds a crucial power: the legally entrenched power of ownership over the slave that comes, among others, with the power to extract labour through coercion; a power which is backed up by legal sanction. In other words, the husband's and the slaveholder's capacities to interfere arbitrarily with the dominated are *legally constituted* capacities. It is only through the legal institutions of marriage and slavery that existing power resources such as physical superiority are turned into the basis of a dominating relationship.

This point does not only hold for legally institutionalized forms of domination. Domination, I propose, is best conceived of as generally characterized by the *structurally constituted* capacity to interfere (arbitrarily).²³ Social structures²⁴ can be legal ones, such as in the case of marriage or slavery, but they can also consist in informal social norms and practices, which mark some as powerful and others as vulnerable.²⁵ Imagine, for instance, a society where the sexual harassment and rape of women are commonly accepted. They are considered as an expression of the natural game of flirting that involves making women accept what they initially don't accept, but what they are assumed to want anyway. Any 'no' on the part of women is deemed part of this game. In fact, a woman who complains

²³Note that the capacity and the arbitrariness points are conceptually distinct. Not every structurally constituted capacity to interfere is dominating. The power of a judge is structurally constituted, yet whether it is subject to effective controls—and thus whether it is dominating—is a separate matter.

²⁴I conceive of social structures as norms and practices which are patterned in a certain way and structure social interactions accordingly. Such norms and practices may be formally institutionalized or of an informal kind.

²⁵See Coffee 2012 for the importance of informal norms.

about unwanted advances by men will be taken to play the game of flirting; her 'no' is interpreted as a move that is supposed to arouse even more interest in her male counterpart. Even if rape is outlawed, women who press charges against their tormentor will be reminded that rape is, ultimately, their fault, since they aroused men by rejecting their advances—after all, this is what flirting is all about.

These salient sexist norms are not legally entrenched. Yet they put men and women in asymmetrical positions of power to one another. From the point of view of domination, it doesn't matter whether a man exercises his capacity to enforce sexual contact. What matters is the systematic vulnerability that these norms create and that shapes any interaction women might have with men, whether privately, at the workplace, or in public. Whatever happens between them, women do not have the authority to interpret what it is—let alone to challenge it. If they do insist on their uneasiness, there is something wrong with them, not with the practice. It is neither in virtue of his physical or mental capacities, nor as a result of mere opportunistic coincidence, that a man in this society may enforce sexual contact on women. This capacity is constituted through sexist norms, which systematically empower men while systematically disempowering women.

The example of sexual harassment highlights three important points: first, thinking of domination in terms of a structurally constituted capacity to interfere means that this capacity itself is a *robust* one. It does not merely depend on the dominating and dominated agents having or lacking certain contingent features like superior physical strength or owning a gun. Neither does it depend on certain contingent features of the circumstances of their encounter. It obtains even when these vary. Think of a rapist in a gender-equal society. He might be able to rape a woman, given that there is no one around who could and would stop him. But as soon as someone turns up, he will be stopped and sanctioned. His capacity is an opportunistic one, based on favourable circumstances, and vanishes once these circumstances change. By contrast, think of a rapist in a sexist society. Whether he is particularly strong, whether the woman is trained in self-defence, whether there are other people in the park does not matter. Even if someone calls the police, he won't end up in jail, as rape and sexual assault are hardly ever brought to court and almost never result in conviction. He will get away with whatever he does. His capacity to interfere with women is a robust one. It does not merely constrain the choices of his victim; rather, it expresses a deeper asymmetry in status—the core idea of domination.

Second, on this robust view of domination, the bilateral picture that is often used to analyse domination proves misleading. Interpersonal domination is a relationship between identifiable persons who stand in asymmetrical positions to one another, such as a wife and her husband. But merely looking at their relation to one another misses a crucial point. These asymmetrical positions are co-constituted and reproduced by countless other agents, who reaffirm the common interpretations of sexual harassment as flirting and rape as part of the game of

flirting by acting upon them or implicitly accepting them (these can be both men and women, of course). Thus, interpersonal domination is not a dyadic, but a triadic relationship between dominator, dominated, and what Wartenberg calls *peripheral agents*.²⁶ With regard to a domination dyad, they are not themselves dominators, since they do not enjoy a robust capacity to interfere arbitrarily with the dominated. But they are part of the dominating relationship because they sustain and reproduce aligned social practices that constitute the power of the dominator, as well as the disempowerment of the dominated.

Third, structurally constituted, robust domination is not itself an *action*. It is not something I can choose to do or refrain from doing. Rather, it is a *position* of power. Whether I welcome the privileges attached to it or resent them, I dominate those subjected to my power simply in virtue of being in this social position. This is not to imply that the interactional dimension in relationships of domination does not matter. The husband in a sexist society may choose to use his power in particularly bad ways, say by raping his wife. Surely, from her point of view, this seems worse than domination without interference. Yet the criteria by which to pass this judgement are external to the notion of domination itself. It is because of the effects of physical harm and emotional trauma, which being raped brings about, that we think of traditional marriage involving rape as worse than traditional marriage as such. Acknowledging this harm does not alter the fact that both are instances of domination. What the husband does, and especially whether he chooses to take advantage of his power, does not alter the fact that he dominates his wife simply in virtue of his position within a sexist structure of social power.²⁷

I have claimed that domination is a structurally constituted, robust form of power which relies on aligned social norms and practices. This conception expresses the core idea of domination as a denial of status. Since I think of status (as well as of domination) as a social practice between humans, I do not consider the mere conceptual possibility of an exceptionally powerful entity, say a deity or an alien, who might be able to wield robust dominating power without relying on the support of aligned norms and practices upheld by peripheral agents, a power, in fact, so overwhelming that it is impossible for humans to control.²⁸ In contexts of human interaction, no single agent may ever acquire such robust power over others without it being at least tacitly enabled by others not constraining such power. A strictly dyadic form of domination which does not involve any enabling

²⁶Wartenberg 1990, pp. 144–5.

²⁷Social structures, which systematically empower some while systematically disempowering others, may vary in scope. A school bully may dominate others based on sexist markers, which reflect sexism in larger society. But relevant markers may also be of a more insular kind, for instance ‘kids who like Star Wars’. Such markers serve as the basis of domination when they are at least implicitly accepted by other children and staff at the school and thus form part of the school’s normative order that makes the bully go unchallenged. I owe special thanks to Alan Coffee for pressing me on this point.

²⁸I owe these examples to an anonymous referee who pressed me to clarify this point.

broader social context may, at the most, be imagined on an isolated island with only two inhabitants.²⁹

The conception of domination as a structurally constituted capacity to interfere helps specify who is dominated by the mugger in the park. Put briefly, whether the mugger dominates you depends on context, not on what he does. Imagine in our sexist society that mugging women is tolerated or even encouraged; it attests to and reinforces the perception of women as weak and vulnerable. Men who mug women generally go unchallenged; it is part of what is considered normal behaviour. This means that women are certainly dominated by the mugger in the park—not just the woman who has a gun pointed at her head, but also other women who are around and who the mugger is aware of. However, male visitors to the park are not dominated, even if the gunman could also overpower them. But if he did, he would be effectively sanctioned; so his power does not express an asymmetry of standing vis-à-vis male victims. Likewise, if it wasn't a sexist society, and the mugger were just an ordinary criminal who hadn't been captured yet, due to his wit, he will certainly constitute a physical threat to all visitors to the park. Yet he won't dominate any of them, because his power is not structurally enabled and thus does not serve as the basis of a persisting status asymmetry.³⁰

One might object that Pettit's account of arbitrariness points to a similar, structural solution to the conceptual dilemma brought forward by the mugger case. He repeatedly emphasizes that domination is characterized by a capacity to interfere 'at little cost'³¹ or, as he put it earlier, 'with impunity and at will'.³² This specification of dominating power as arbitrary or uncontrolled³³ seems to capture precisely the idea that dominating power is structurally enabled. After all, whether a mugger may interfere 'at little cost' seems to depend on the social context.

This alternative solution to the mugger scenario starts from a broad account of power and draws on a robust notion of non-arbitrariness to avoid an overly broad conception of domination. However, it fails to avoid the other horn of the dilemma. If opportunistic forms of power count as domination, it is not clear why the issue of control or non-arbitrariness can only be addressed at a structural level. Why is my pepper spray or even my gun not enough to protect me against

²⁹A limiting case might be an enduring kidnap situation, though, again, questions as to why no one in the neighbourhood took any notice or why the police failed to respond need to be asked to understand how this case is embedded in broader power structures that result in denying status.

³⁰Thus my account avoids including what McCammon calls 'cheap domination'; McCammon 2015, pp. 1033–43. However, the point is not that ordinary human interactions are not important enough to instantiate domination; rather, their importance depends on whether they express a structurally constituted asymmetry in standing.

³¹Pettit 2012, p. 7.

³²Pettit 1996, p. 578.

³³Pettit 2012, p. 58.

the domination by an opportunistic mugger?³⁴ Why does the idea that the mugger may interfere at little cost refer to a wider social context and not to the lack of an opportunistic power of retaliation on the part of his victim? There remains a tension between a broad account of domination that includes opportunistic forms of power and a structural account of non-arbitrariness, that is, non-domination. As I will show in Section III.A, it is this tension which accounts for misinterpreting non-domination as mere unlikely interference and thus for jeopardizing the distinctiveness of the ideal of non-domination.

Moreover, with his focus on the dominator, Pettit's solution cannot solve the remaining puzzles about the mugger case. So far, I have followed Pettit's view that domination presupposes an actual capacity to interfere—and thus only applies to cases where the gunman is aware of the vulnerability of someone else to his power. However, one may still wonder: what about women in the park whom the gunman has not yet noticed? Are they really not dominated and thus in the same situation as male visitors to the park in all relevant respects? And how about the timeframe of domination: when does it start? Only once the gunman sees you? Highlighting the structurally constituted nature of domination can also shed light on these questions by distinguishing between two kinds of structurally constituted power: interpersonal and systemic domination.

B. INTERPERSONAL AND SYSTEMIC DOMINATION

Analysing the social reality of domination as structurally constituted requires more than merely looking at the power of the dominator and its structural conditions. It also needs to consider the systematic disempowerment of the dominated. Both are a result of the wider system of social norms and practices in which a dyad of dominator and dominated is embedded. Such norms and practices not only make some powerful, they also constitute the markers of vulnerability that render a particular group subject to their domination. Women are not exposed to male domination merely because men are constituted as powerful through legal norms licensing rape. They are exposed to domination because they lack, as Pettit famously put it, anti-power.³⁵ This lack is not due to

³⁴Schmidt has recently argued that equalizing relevant power resources may amount to a situation of 'mutual domination'; Schmidt 2018, p. 189. While I agree that a balance of reciprocal deterrence power may remain dominating, this does not mean it is *mutually* dominating. Even if I had a gun, this would not transform the asymmetry in standing on which the domination by the mugger in a sexist society is based. In fact, it is precisely because it has structural roots that domination may not be overcome by equalizing deterrence power, but rather requires an institutional status.

³⁵Pettit 1996.

natural factors; it is a socially produced disempowerment that comes with the marker of being a woman.³⁶

From the point of view of the disempowered, the dominating power structure remains omnipresent even when there happens to be no specific dominator in their life. A woman in the sexist society might avoid relationships with men. She might work at a helpdesk for women and live in a female community project. Yet, even if there is no man in her life who enjoys the *actual* capacity to interfere with her, she is still confronted with sexist norms and practices that posit her as the object, not the subject, of sexual relations. Think of advertisements displaying female bodies to promote car sales, movies which celebrate female submissiveness, and casual remarks on her physical appearance that men drop when passing by on the street. They send the message that it is men who shape and interpret her sexuality.

Thus, a woman may try to avoid being dependent on the will of a particular man, yet she remains dependent on the impersonal, accumulated will of all those who reproduce these norms and practices in their everyday lives and thus circumscribe her sexuality in a way that she cannot control. They do not dominate her per se; their role is that of peripheral agents. And yet she suffers systematic disempowerment—not vis-à-vis an identifiable dominator, but rather vis-à-vis the very system of norms and practices that circumscribe her status and that she cannot shape or interpret. She thus lacks the status as a normative authority. I propose to call this kind of disempowerment *systemic domination*.³⁷

While *interpersonal domination* is characterized by the structurally constituted capacity of the empowered to interfere with the disempowered, *systemic domination* refers to systematic disempowerment in situations in which a disempowered person does not face a particular dominator with an actual capacity to interfere. Just like interpersonal domination, it denies status, and, just like interpersonal domination, it is mediated through social norms and practices. But systemic domination is an indirect, impersonal form of social relation where the element of direct interpersonal power is not present. I do not suggest that, phenomenologically speaking, interpersonal and systemic domination are experienced in exactly the same way. While the former refers to the direct submission to a specific person's will, the latter describes being subject to an impersonal kind of disempowerment that is based on the accumulated wills of numerous other agents who do not necessarily stand in any direct relation to the dominated agent. However, both are forms of domination in that they refer to the

³⁶Not every system of norms and practices is disempowering in this sense. Language is a system of norms and practices that both constrains and empowers us to communicate. But usually it does not systematically empower some while disempowering others. Any speaker participates in generating meaning, interpreting, subverting, and ultimately changing the rules, and thus acts as a normative authority over what counts as part of the language game. I am grateful to Philip Pettit for pressing me on this point.

³⁷Note that my use of the term differs from Laborde's: first, she conceives of systemic domination as an institutionally based form of what I call interpersonal domination. Second, her account explicitly allows for a separate form of 'agent-relative domination' (i.e. interactional domination) based entirely on personal resources—which is precisely what I reject; Laborde 2010a, p. 57.

experience of being placed in a position of disempowerment that denies the equal status of a normative authority, or, as Pettit puts it, the ability to command respect as ‘a voice worth hearing and an ear worth addressing’.³⁸

Note that this view of systemic domination differs from what has recently been discussed as ‘structural domination’. First, my point is not that republicanism has ignored structure.³⁹ In fact, my proposal to conceive of domination as structurally constituted highlights that, on a republican view, domination is essentially status-denying and hence needs to be conceived as a structural phenomenon, even when it is of an interpersonal kind. This is why I call the second kind *systemic* (rather than structural) domination.

Second, the systemic perspective on domination is stronger than what Pettit has recently called ‘structural domination’.⁴⁰ He acknowledges that ‘it is usually because of the way that marriage law or workplace law is structured that husbands or employers have dominating power over their wives or workers’; these structures, he maintains, do not in and of themselves dominate; yet, they ‘facilitate the worst forms of invasion and domination in a society’.⁴¹ In Pettit’s view, ‘structural domination’ merely refers to *potential* domination; accordingly, a non-married woman in a sexist society who avoids any kind of relationship with men is not dominated, but rather exposed to the risk of domination. She is only dominated once she is subjected to the direct personal power of, say, a husband or a male employer and thus to interpersonal domination.

The systemic perspective on domination, however, does not merely highlight how structures *may facilitate* interpersonal domination. (In fact, I maintain that interpersonal domination is *always* constituted through suitable structures.) Rather, the systemic perspective draws attention away from the power of dominators towards analysing the disempowerment of the dominated. Their status-denying disempowerment is a social reality over and beyond particular interpersonal relations. In a sexist society, women are positioned as disempowered not just vis-à-vis particular men, but vis-à-vis the very social norms and practices that constitute their disempowerment. Such systemic domination does not merely matter because it may turn into interpersonal domination. It matters in its own right, for the very same reasons as interpersonal domination: systemic domination does not just restrict choice and induce a distinctive uncertainty; it ‘deprives a person of the ability to command attention and respect and so of his or her standing among persons’.⁴² This denial of standing is not produced by a particular dominator who imposes himself on a dominated person. It is rooted in the very sexist norms that pre-structure any encounter women may have with men as an asymmetrical one.

³⁸Pettit 2002, p. 350.

³⁹See, for instance, Gourevitch 2013; Thompson 2013, pp. 282–3.

⁴⁰Pettit 2012, p. 63.

⁴¹Ibid.

⁴²Pettit 2002, p. 351.

Third, on my view, systemic domination is not entirely independent of interpersonal forms of domination.⁴³ First, it is not the system as such that has power, over and beyond the agents acting within it. The impersonal, systemic form of domination emanates from the daily interactions of countless peripheral agents who do not themselves dominate a particular individual, but reproduce the disempowering norms and practices.⁴⁴ Second, systemic and interpersonal domination are two aspects of one and the same dominating power structure. Both are structurally constituted. The social norms and practices that constitute the disempowerment of the dominated are the same as those that render them vulnerable to interpersonal domination. The balance between the two forms of domination may shift. Under conditions of complex global interdependencies in late capitalist societies, there is reason to think that systemic forms of domination play a far more important role than they did in ancient Rome or the 17th or 18th century⁴⁵—without, however, displacing interpersonal forms of domination altogether.

The systemic perspective on domination clarifies the remaining puzzles about the mugger case. First, it further differentiates the analysis of who is dominated. Assume, once more, the park is situated in a sexist society. Women in the park whom the mugger has not yet noticed are not dominated in an interpersonal sense. In fact, they may escape interpersonal domination by hiding behind a tree. Yet they remain subject to sexist norms that systematically disempower them and thus they remain dominated in the systemic sense. The same holds for women in the park when there is no gunman around. In fact, the denial of their standing is not due to the gunman who points a gun at their head and *thereby* denies them standing. It is rooted in the very sexist norms that structure their encounter with the gunman as one of interpersonal domination. This encounter merely testifies to the fact that they do not enjoy standing and respect within the sexist society. However, male visitors to the park are not dominated, not even in a systemic sense. The reason is that the sexist norms do not systematically disempower, but rather empower them (even if they do not make use of their power).

Second, the distinction between interpersonal and systemic domination also clarifies the temporal dimension of domination. Interpersonal domination presupposes that the mugger is aware of you and your vulnerability to him. That means that domination, in an interpersonal sense, only sets in once the mugger notices you. It ceases to obtain as soon as you manage to get out of sight, since then the mugger no longer enjoys an actual capacity to interfere with you (at least, assuming that your encounter is of an episodic nature and that you do not

⁴³This is the view Lovett ascribes to Hayward; Lovett 2010, p. 72.

⁴⁴While systemic domination is not agent-less, it is misleading to describe systemic domination as ‘decentralized domination’ where the agents of domination are ‘the complete set of masters’; Lovett 2010, p. 53. Peripheral agents do not enjoy an actual, but only a potential capacity to interfere with a particular dominated person. And yet they form part of a status-denying relationship of power and in that sense are agents of domination.

⁴⁵Bohman 2004, pp. 338–40; Hayward 2000, pp. 37–9.

stand in an otherwise mediated relationship to one another).⁴⁶ However, that does not mean that you are not dominated. You are still subject to the sexist norms that systematically disempower you. Your systemic domination outlasts (and indeed precedes) the interpersonal domination you may suffer in the episodic encounter with the mugger.

Before moving on, let me briefly clarify two points. First, note that structurally constituted forms of power do not presuppose a formalized system of norms and practices. In an imagined state of nature, both interpersonal and systemic domination are endemic precisely in virtue of the lack of institutionalized norms and practices which alone could structure social relations as relations between equals (and thus prevent domination). This lack results in systematically empowering the forceful—an informal, structurally constituted, albeit unstable form of domination, which is socially produced in that it is a pattern that structures interaction and that could be overcome if only effective institutions were established.⁴⁷

In real-world cases, even those often portrayed as a state of nature, however, there is a more stable system of norms and practices that structures empowerment and disempowerment along lines that go beyond the empowerment of mere force. European colonialism, for instance, was embedded in and enabled through the norms and practices of racial capitalism. Similarly, in cases where the lack of effective law enforcement results in endemic violence, this lack likely creates a situation of pervasive domination, both systemic and interpersonal; yet to understand how this situation is socially produced and reproduced and to what extent it constitutes domination, we need to analyse the social dynamics which give rise to the lack of law enforcement. For instance, endemic crime in racialized poor neighbourhoods rife with organized crime and no police presence in an otherwise fully functioning state is a different pattern of domination from the breakdown of law enforcement under conditions of civil war. From the point of view of domination, it is not enough to look at the occurrence of violent interference; what matters is how violence is socially enabled.⁴⁸

Second, my emphasis on some being systematically empowered while others are systematically disempowered is not meant to suggest that every agent can only play one role: a dominated, a dominating, or a peripheral agent. One and the same person may belong to several groups which are dominated, such as an unemployed black woman, while others, like a white female entrepreneur, are

⁴⁶Not all forms of interpersonal domination are transient in this way. Paradigmatic forms of domination like slavery are stabilized relationships that outlast episodic encounters. It is precisely the episodic nature of the mugger scenario which calls for a contextually differentiated assessment.

⁴⁷Given the instability of the balance of forces, dominating power in a state of nature may not be enduring; however, it would still be a position (not an action) of power, upheld through minimally aligned actions of others and robust over changing preferences of both the dominating and the dominated agent. It only ceases to be a context of domination once it is imagined as a context of pure violence rather than of power; for this distinction see Forst 2015.

⁴⁸I am grateful to Christopher Meckstroth and an anonymous referee for pressing me on this point.

dominated in one respect, but find themselves in the position of a dominating agent in others. Moreover, as the example about endemic crime in racialized neighbourhoods suggests, it is not always immediately obvious who the dominating agent is. A mugger may well himself be dominated, say on racial grounds, irrespective of whether he dominates others or not.⁴⁹ Analysing how domination is structurally enabled helps to illuminate these complexities of the social reality of domination.

To sum up, the conception of domination as structurally constituted that I propose solves the conceptual dilemma brought forward by the mugger scenario. It specifies the idea of domination as the capacity to interfere by limiting it to structurally constituted forms of power. This, in turn, allows an assessment of episodic cases of power without falling back into a purely interactional model of power. In fact, episodic forms of power are only instances of domination when the relevant power is itself structurally enabled. If they are based on a mere opportunistic capacity to interfere, they are not cases of domination (though they may be cases of other objectionable kinds of power or violence). If the mugger is just a criminal who has not been captured, but does not rely on, for instance, sexist or racist norms that will let him go unchallenged, he certainly constitutes a physical threat, but does not dominate.

III. WHY IT MATTERS TO DISTINGUISH DOMINATION FROM OPPORTUNISTIC FORMS OF POWER

Structurally constituted forms of domination may well be important ones, and yet one may object that reducing domination to them seems unwarranted. Why not simply be ecumenical and distinguish between two kinds of domination: a structurally constituted one (whether in the form of interpersonal or systemic domination) and a purely interactional one, characterized by a mere opportunistic capacity to interfere with the other? To conclude, I will argue against such theoretical ecumenism. Distinguishing the notion of domination from mere opportunistic forms of power matters for reasons of conceptual clarity (Section III.A), especially regarding a conception of the freedom of persons (Section III.B), as well as for the purpose of critical social analysis (Section III.C).

A. CONCEPTUAL CLARITY

Pettit himself holds an ecumenical view. For him, any capacity to casually interfere at will counts as domination. His conception of domination incorporates both robust and mere opportunistic forms of power. Even though he maintains that *non*-domination requires *robust* non-interference, domination does not presuppose a *robust* capacity to interfere.⁵⁰ However, it is precisely this conceptual asymmetry between an ecumenical account of domination and a robust account

⁴⁹Thanks to Livia de Souza Lima for raising this concern.

⁵⁰Lovett and Pettit 2018, p. 375.

of non-domination which jeopardizes the distinctiveness of the ideal of non-domination.

Pettit's account of domination highlights important structural elements. He acknowledges that 'it is usually because of the ways a society is organized, culturally, economically, legally, that some people have such power in relation to others that they dominate them directly, and dominate them without necessarily wishing for domination or even approving of it'.⁵¹ Thus, the source of domination may well be structural. While domination requires a capacity to interfere intentionally, the social reality of domination itself is not necessarily intended, not even in a broad sense of being something the dominator can control.⁵² Moreover, Pettit emphasizes that domination is of a systematic quality: the idea of domination as the mere capacity to interfere implies that individuals suffer from domination in virtue of certain markers, which make them vulnerable to interference from others—and which they, usually, share with others. Domination refers to a 'vulnerability class', even though, ultimately, it is individuals who are dominated.⁵³

Accordingly, Pettit emphasizes that realizing *non*-domination requires a fundamental restructuring of social relations through political institutions. In fact, it is precisely because domination refers to vulnerability groups that realizing non-domination 'cannot be just an atomistic project; it will have to be articulated at the level of group grievance and group assertion, as well as at levels involving individuals as such'.⁵⁴ Robust non-interference means that interference is not just made unlikely; the idea is that the capacity to interfere arbitrarily is removed altogether.

However, while non-dominating institutions (together with supporting social norms) may successfully target the structurally enabled capacity to interfere, they are not able to block opportunistic capacities to interfere once and for all. Even in a non-dominating polity that fully protects the equal status of non-domination for everyone, criminal assaults will still be possible. Such assaults do not target a particular group of people—given that there is no structurally marked vulnerability class, they choose victims opportunistically and on occasion. And they may not be widespread—given that perpetrators are likely to be effectively sanctioned. Thus, they do not express an asymmetry of standing; in fact, the effective sanctioning of crime vindicates the status of the victims. But, given their purely interactional, opportunistic nature, non-dominating institutions are not able to prevent them from occurring. They may make them unlikely, but not impossible.

⁵¹Pettit 2012, p. 63.

⁵²The quasi-intentional nature of what the dominator can do (Pettit 1997b, pp. 79, 52) refers to interference, not to the capacity to interfere, i.e. domination. This point has been overlooked by various critics; see Kramer 2008, pp. 40–1; Gourevitch 2013, p. 600.

⁵³Pettit 1997b, p. 122. Consistent with his broad notion of domination that includes opportunistic forms of power, Pettit holds that, in principle, a vulnerability class may consist of just one person.

⁵⁴*Ibid.*, p. 124.

This shows why the ecumenical view of domination jeopardizes the distinctiveness of domination vis-à-vis interference. By including opportunistic forms of power, it falsely suggests that all that non-dominating institutions do is render interference unlikely by sanctioning perpetrators—and that non-domination, ultimately, means unlikely interference. It is only once the conceptual asymmetry between a robust account of non-domination and an ecumenical account of domination is resolved by limiting domination to structurally constituted forms of power that the distinctiveness of the ideal of non-domination emerges: the structural dimension of dominating power accounts for *why* non-domination calls for more than merely rendering interference unlikely. It is *because* domination is based on disempowering social norms and practices, which mark some as vulnerable, that non-domination requires restructuring social relations as relations between equals, by addressing the disempowerment that lies at its roots. If purely interactional forms of power count as domination, just as structurally constituted forms do, it is indeed not clear why non-domination is any different from mere unlikely interference.

B. FREE PERSONS AND FREE CHOICES

That conceptual clarity matters is best exemplified with regard to the context of theories of freedom in which the notion of domination has, initially, been developed. Proponents of the broad conception of domination that includes robust as well as opportunistic forms of power might argue that it seems counterintuitive to maintain that the freedom of the mugger's victim is not necessarily compromised. Isn't the gunman scenario a prime example of an assault on your freedom? Yet I argue that Pettit's account of political freedom as non-domination would greatly benefit from reducing domination to robust forms: it helps to bring out the distinctiveness of freedom as non-domination as an account of the free *person*, not of free *choice*—and thus helps to resolve some of the controversies around his account of freedom.

Pettit's account of freedom as non-domination has faced two main objections. Libertarians challenge the view that freedom as non-domination is distinct from the liberal ideal of freedom as non-interference. They hold that it merely emphasizes the probability of interference.⁵⁵ Others argue that non-domination offers an implausible conception of freedom because it is moralized: the focus on *arbitrary* interference, they hold, has problematic implications. As List and Valentini put it,

we would have reason to be suspicious of a conception of social freedom according to which an imprisoned criminal is free. It is hard to imagine what could possibly justify defining freedom in a way that so starkly departs from how competent users of the language understand it.⁵⁶

⁵⁵See Carter 1999, p. 238; Kramer 2003, p. 139.

⁵⁶List and Valentini 2016, p. 1051.

Both points of critique view freedom as non-domination and freedom as non-interference as more or less demanding ideals of freedom of choice. Yet freedom as non-domination is of a different kind: while freedom as non-interference is a theory of free choice, freedom as non-domination is a theory of the free person.⁵⁷ The main reason why Pettit's account of freedom as non-domination is so often misunderstood as a mere theory of free choice is precisely that his conception of domination incorporates both structurally constituted and purely interactional, opportunistic forms of power. While the latter operate on the level of choice, the former refer to the status of free persons. If both equally count as domination and thus as compromising freedom, it is indeed hard to see why non-domination is more than unlikely non-interference and how an imprisoned criminal may still remain free because statements about free choice and free persons cannot be clearly distinguished.

Thinking of domination as structurally constituted, by contrast, implies thinking of non-domination as an account of the free person. It means that freedom as non-domination is not simply a property of an option that is either available or not. Rather, it is a structural property of the relations between persons. It asks whether these relations are structured so as to secure the control of persons over their own choices and actions, and thus their status as normative authorities.⁵⁸ This is why I call the robust capacity to interfere *interpersonal* domination as opposed to *interactional* forms of power: it is a relation between persons, not actions, and it denotes denying the status of a free person.

Reducing the notion of domination to structurally constituted forms of power and thus thinking of non-domination as an account of the free person, not of free choice, helps to address the objections raised to Pettit's theory of freedom. From this perspective, the distinction between non-domination and improbable interference is clear-cut: non-domination is not just the more or less likely absence of interference with a choice; it denotes the status as a person that will be vindicated against any assault that may occur. Likewise, there is nothing counterintuitive about holding that the justly imprisoned criminal retains her status as a free person even though her options and thus her freedom of choice are significantly limited. Similarly, the mugger in the park certainly compromises your freedom of choice. But whether your freedom as a person is compromised does not depend on what he does. It depends on the context, which situates you either as systematically empowered/disempowered—that is, as free/unfree—or as equals. This equal status is expressed precisely in the fact that the mugger's capacity to interfere with your choices remains a mere opportunistic one.

⁵⁷Pettit 2003; Pettit 2007b.

⁵⁸Thinking of domination as structurally constituted does not imply ignoring the dimension of free choice, but rather thinking about whether and how far free choice matters from the perspective of a free person.

C. CRITICAL SOCIAL ANALYSIS

Regardless of the issue of how to conceptualize freedom, one might still deem it an advantage if the notion of domination is able to cover both purely interactional and structurally constituted forms of domination. The ideal of non-domination is often taken to articulate an overarching political value. In fact, Pettit explicitly posits it as ‘a value with a distinctive claim to the role of yardstick for our institutions’ and as a ‘primary good’ that incorporates addressing lots of other concerns we may have.⁵⁹ One might insist that reducing domination to cases of a robust, entrenched form of power loses out on what makes non-domination an attractive normative ideal in the first place.

However, it is precisely because the struggle against domination is of such fundamental importance that it matters how to keep the books. For critical social analysis, it is crucial to be able to distinguish systematic forms of dominating power from the simple case of one having opportunistic power over another. Losing sight of this difference means that a theory of domination is not able to speak to systematic injustices like racism or sexism. It would think of and analyse such phenomena in parallel terms to mere ordinary crime. That means, in a racist and sexist society, a white man mugging a black woman would resemble a black woman mugging a white man in all relevant respects. For establishing whether these are instances of domination, the sexist and racist nature of the society would indeed be irrelevant. Domination would be treated as an anomaly, caused by an individual wrongdoer, rather than as a feature that pervades society and targets specific groups. The result is a normalizing and trivializing of systematic disempowerment and subordination.

This point is not of mere diagnostic importance. The issue of how to analyse a society as a structure of social power is intimately linked to the normative issue of responsibility. Treating domination as an anomaly that is based on some people misbehaving suggests, wrongly, that all that needs to be done is to sanction the wrongdoers. This view overlooks the non-intentional nature of domination, as well as the crucial role of peripheral agents and the dominated themselves, in upholding dominating norms and practices. To be sure, Pettit clearly sees this problem. After all, he puts a lot of emphasis on the importance of legal institutions that do not merely effectively sanction a perpetrator, but restructure social relations as relations between equals. This is precisely why his account of non-domination requires *robust* non-interference. Yet, as noted above, it remains unclear why opportunistic forms of power would call for such a fundamental restructuring of social relations in the first place.

One might contest the idea that a theory of domination aims at critical social analysis. One might think that its aim is to formulate an attractive normative ideal which incorporates as many of our well-considered intuitions as possible.

⁵⁹Pettit 1997b, pp. 80, 90–2.

But, at least for critical republicans,⁶⁰ the distinction between domination, both interpersonal and systemic, on the one hand and opportunistic forms of power on the other is crucial. They hold that emancipation from systematic subordination is the ultimate commitment and motivation for analysing the notion and the social realities of domination. Merging structurally constituted forms of power with opportunistic power risks missing, disguising, and ultimately naturalizing the true character of society.

IV. CONCLUSION

The core idea of Pettit's account of domination is that domination does not require the exercise of power; the mere capacity to interfere is sufficient to constitute the status-denying dependence on the will of someone else characteristic of domination. When applied to episodic forms of power, however, this core idea of domination proves ambiguous: as the mugger case reveals, either it points towards a reading which is far too broad to capture the social reality of domination or it collapses into an interference-based view that loses touch with what is distinctive about domination. The reason for this conceptual dilemma is that Pettit's account includes structurally constituted as well as opportunistic forms of power.

I have proposed to solve this dilemma by conceiving of domination as a structurally constituted form of power only. In this view, domination is based on norms and practices that systematically empower some, while systematically disempowering others. *Interpersonal* domination is characterized by a *robust* capacity to interfere. *Systemic* domination, in turn, highlights the systematic disempowerment that the dominated suffer over and beyond their relation to a particular dominator. Purely *interactional* forms of power, which are based on an opportunistic capacity to interfere, however, are not instances of domination (though they might still be objectionable on other grounds).

This account solves the conceptual dilemma by showing that the assessment of episodic forms of power, like the mugger case, hinges on context: whether the mugger dominates his victim depends on whether his power is structurally enabled and thus serves as the basis of a persisting status asymmetry. Limiting the notion of domination to structurally constituted forms also helps to counter some of the most pertinent criticisms of Pettit's account. In fact, it is precisely Pettit's ecumenical conception of domination that includes opportunistic forms of power, which accounts for why critics tend to misread domination as a choice-based account of how to make interference unlikely. The contextualist assessment of episodic forms of power is geared towards critical social analysis that aims at understanding how domination pervades society, rather than misconstruing it as an anomaly perpetrated by individual wrongdoers. And it seems in line with the classic republican emphasis on the social embeddedness of the individual and the nature of the republic as a socially and historically situated achievement.

⁶⁰Cf. Laborde 2010b; Bohman 2012; Gädeke 2017; Gädeke 2019.

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