The Instability of the Restrained Domination Conception of Political Realism

Saranga Sudarshan

2020

Abstract

When political realism is construed as a theory of political legitimacy, coercively enforced political principles are legitimate if they are conclusively justified as 'acceptable' in a particular context to all reasonable people. On Matt Sleat's recently proposed conception of political realism – the Restrained Domination Conception – the context that plays the role in conclusively justifying coercive political principles is a person's place in their society's democratic procedures, accompanied by the requirement that any coercion people face in their deliberations must be restrained. Sleat argues that, unlike the orthodox Restrained Domination Conception, it does not depend on any moral consensus or on the complete absence of any coercion influencing people's deliberations. As such, Sleat argues the conception can actually show reasonable people how to achieve a stable political order given their deep moral and political disagreements within the real circumstances of politics. I argue that despite its advantages over the orthodox Non-Domination Conception, the Restrained Domination Conception cannot achieve what it claims because the conception relies on the implausible assumption that simple democratic majorities will always exist, and permit democratic majorities to coerce minorities in ways that justify resistance.

1   Introduction

In the last two decades political theory has seen the rapid development of 'political realism' as an alternative to what some dub as the 'political moralism' of post-Rawlsian theorising in political philosophy.[1] This critique has taken on many forms. For some theorists, this critique is a methodological one.[2] For others, the critique is a metanor-

---

[1] See Williams (2005), Galston (2010), Geuss (2008), and Rossi and Sleat (2014).

[2] Theorists claim political theory ought to be done in a "practice-dependent" or "non-ideal" way rather than focusing on idealised societies or moral ideals. See Sangiovanni (2008), Mason (2010), Finlayson (2017), Valentini (2012), and Philip (2010, 2012).

mative one.[3] But my focus in this paper is on political realism as a first-order normative critique. Specifically as an alternative type of theory of political legitimacy to a particular form of political moralism: political liberalism.[4]

As a theory of political legitimacy, political realism is the view that, roughly speaking, coercively enforced political principles are legitimate if they are conclusively justified as 'acceptable' in a particular context to all reasonable people. For political realists, this type of theory, as opposed to political liberalism, gives "greater autonomy" to political thought and action.[5] By taking into account the context in which people weigh their moral reasons as well the content of those reasons, it provides theories that can show reasonable people how to deal with their profound disagreements about the right and the good as they truly are in the real circumstances of politics. As a result, it provides theories that, unlike political liberalism, can actually show how reasonable people can live together in a stable political order in a shared social world.

Political realists aim to show precisely how reasonable people can achieve a stable political order by proposing the specific contexts that matter and the way these contexts feature in deliberation to allow them to generate conclusive justifications for political principles. On the most prominent conception of political realism, Williams (2005, 2002) and those who follow him argue that the history of a society's particular social and cultural context is the relevant context in addition to a requirement that people's interpretation of that context must not be influenced by the coercive enforcement of the political principle they are deliberating.[6] Call this the 'Non-Domination Conception'. Its advocates argue that by taking the history of society's social and cultural context as a shared set of facts, the theory avoids the utopian and ultimately non-existent consensus of moral values required by conceptions of political liberalism. They argue that by requiring the justification not be produced by the coercive enforcement of the political principle that is being deliberated itself, the theory also provides a bulwark against the justification of oppressive political principles in societies with histories of oppressive governments or civil wars. As such, political realists argue that it can actually show reasonable people with deep moral and political disagreements how to achieve a stable political order.

However, some theorists have argued that the Non-Domination conception cannot achieve what it claims.[7] They argue the Non-Domination conception relies on an

---

[3]Theorists claim that political theory has its own distinct normativity and the normative force of political principles depends on facts and values that are completely different to that which moral principles depend on. See Newey (2010), Rossi (2012), Galston (2010), Jubb (2019), and Jubb and Rossi (2015a,b).

[4]See Rossi (2019) on "ordorealism" and Jubb (2015) for political realists who interpret the debate as I do.

[5]See Williams (2005), Sleat (2013) and Rossi (2019).

[6]See Horton (2010), Rossi (2013), Hall (2015), and Freyenhagen (2011). Arguably Judith Shklar (1989) also defends such a conception with her sensitivity to historical context and non-domination to legitimate a 'liberalism of fear'. See Forrester (2012) for a good overview of this issue.

[7]See Sleat (2013, pp. 121–123, 2010, pp. 489–501), and Sudarshan (2020, pp. 163–168).

implausible consensus in people's historical interpretations, as well as a counterfactual about coercion that will almost always be violated. In the former the conception does not recognise that people's historical interpretation will contain political judgements about the justice or moral relevance of historical events that are as deeply contested as their moral and political judgements about certain laws and institutional arrangements. In the latter, the conception does not recognise the structural coercion of the state that develops people's ability to conduct their historical interpretations. All in all, the conception fails to show how reasonable people can create a political order despite their deep moral and political disagreements.

In an effort to salvage political realism, Sleat (2013) proposes an alternative conception. Sleat proposes that a person's membership of either the majority or the minority in a democratic procedure is the context that, together with the content of people's moral reasons, can allow people to deliberate in a way that generates conclusive justifications for the political principles that the majority endorses. Call this the 'Restrained Domination Conception'. Sleat claims that by taking into account the varied relations that individuals stand in with respect to others in a democratic procedure, and by dropping the requirement that people cannot be influenced by the coercive enforcement of the political principle that is being deliberated itself, his theory avoids the problems of the Non-Domination conception. As a result it can actually show how reasonable people with deep moral and political disagreements can achieve a stable political order.

In this paper, I argue that independent of its the objections against the Non-Domination conception, the Restrained Domination conception Sleat proposes cannot achieve what it aims to. I argue that the conception relies on the implausible assumption that simple democratic majorities will always exist, and permit democratic majorities to coerce minorities in ways that justify resistance. The upshot of this is that it shows the conception cannot show how reasonable people can achieve a stable political order. To that end, the rest of this paper proceeds as follows. In §2 I clarify what makes a theory of political legitimacy a political realist one and how we ought to evaluate them. In §3 I outline the Restrained Domination Conception and explain how it claims to show how people can achieve a stable political order. In §4 I argue the conception faces the No Simple Majority Objection, consider two responses political realists might make to this objection, and reply to each. In §5 I argue that it also faces the Weak Restraints Objection, consider two responses political realists might make and reply to each. I conclude that for political realism to be a serious alternative to political liberal theories of legitimacy, political realists require some conception that does not use any form of consensus, and still provides restraints on how political principles can be enforced that do not lead to instability themselves.

2   Normative Standards and the Metric of Evaluation

Before exploring how the Restrained Domination Conceptions works and my objections to it, it is worth clarifying what makes it, and in fact what makes any theory, a *political realist* one and how we ought to evaluate it. So far I have said that political realism as a theory of political legitimacy is the view that "coercively enforced political principles are legitimate if they are conclusively justified as 'acceptable' in a particular context to all reasonable people". But what does this actually mean? I propose that it simply expresses the political realist normative standard for the political legitimacy of coercive political principles. However, getting clear on the precise normative standard being used is difficult. Political realism as a first-order normative theory of political legitimacy is both heterogeneous and less developed than political liberalism. Theorists have argued for a political realist theory of legitimacy without clearly specifying what makes their theory a *political realist* one. For that reason, in the same way that political liberalism has been defined by extracting the idea of public justification from its earliest proponents - largely Rawls – I take the normative standard that defines political realist theory of political legitimacy to be what Bernard Williams (2005, pp. 3, 62–63, 135–138) first introduced as "meeting the Basic Legitimation Demand" . This is the idea that political legitimacy involves offering an "acceptable solution to the first political question". This involves justifying the political principles that are coercively enforced by an institutional structure like the modern state to secure "order, protection, safety, trust, and the conditions of cooperation". When such political principles are justified they 'meet the Basic Legitimation Demand (BLD)'.

The important point is that this provides a normative standard with two distinct features: it is context-dependent and justifies a purely practical attitude of acceptance.[8] Its context-dependence means when coercively enforced political principles 'meet the BLD', both the content of reasonable people's moral reasons *and* the context in which they deliberate together allow them to deliberate and justify the principles. That the deliberation justifies a purely practical attitude of acceptance towards coercive principles means that people have sufficient moral reason to comply with them rather than endorse them as their own or merely comply with them out of fear of coercion. This is a purely practical attitude towards political principles which realists claim is exemplified by the actual practice of politics. It is an attitude where reasonable people might show indignation and resentment towards the principle, but nevertheless have sufficient moral reason to comply with it. Political realists use the metaphor of games and contests that are won or lost to illustrate how one can accept the outcome of a contest, but nevertheless believe a different outcome ought to have been realised.

Both of these features stand in contrast to political liberalism and its normative of public justification, where coercively enforced political principles are legitimate if they

---

[8]See Williams (2005, pp. 3, 13, 77–78, 135–138) and Sleat (2013, pp. 139–145, 153, 156).

are conclusively justified to all reasonable people as principles to endorse..[9] In public justification the nature of conclusive justification is context insensitive. This is because the facts that justify a principle or rule are purely the content of reasonable people's moral reasons. And, the attitude justified towards the political principles is endorsement. This is to say that when a principle or rule is publicly justified it is internalised as a requirement of justice or morality broadly construed.

With the normative standard of 'meeting the BLD' in hand, political realists then propose different conceptions of political realism by differing on precisely what the relevant context is and how it features in people's deliberations to result in conclusive justifications of coercive political principles. But, this brings us to the question of how we ought to evaluate a conception of political realism? The obvious answer is to evaluate them, just like conceptions of political liberalism are evaluated, based on whether they can show the principles that allow reasonable people with deep moral and political disagreements to achieve a stable political order. This means evaluating how a theory fares on two dimensions: creating a political order and maintaining a political order. The ability to show how reasonable people can create a political order amounts to showing how reasonable people's balance of reasons can provide them sufficient moral reason to coordinate on coercively enforced political principles despite their disagreements about the justice or moral rightness specific distributions of rights, opportunities and resources amongst individuals, institutions and social systems.. The ability to show how reasonable people can maintain a political order amounts to showing how reasonable people's balance of reasons can be maintained so they continue to have sufficient moral reason to coordinate on coercively enforced political principles despite the endogenous and exogenous forces disturbing their balance of reasons. When a theory has the ability to show both of the above things, it shows which political principles allow reasonable people to live in a stable political order. The rest of this paper deals with showing how the Restrained Domination Conception fails to show this metric.

3   Restrained Domination Conception

The Restrained Domination Conception of political realism is best summarised as:

Restrained Domination Conception: A political principle is legitimate if there is a convergence of reasons amongst reasonable people, in virtue of their deliberations as members of either the majority or minority in a democratic procedure, that conclusively justifies it as a principle to accept.

This is the theory, taking inspiration from Carl Schmitt and Chantal Mouffe, Matt Sleat

---

[9]See Gaus and Vallier (2009) on the "Public Justification Principle", but also Rawls (2005, pp. 69–71, 136, 387–388) Gaus (2016, Ch. 4, 2011, Ch. 5, 1999), Vallier (2019, pp. 4–5) Quong (2011, pp. 180–191) for less formal versions.

(2013, 2014, 2011) proposes as "liberal realism". It relies on two core ideas. The first idea is that the general political framework that underpins reasonable people's deliberation about political principles should involve a "democratic political constitution". This means that what is required for coercively enforced political principles to be legitimate is that they are deliberated about under a constitution that simply *is* a democratic procedure. The second idea is the distinction between "friends", "adversaries", and "enemies" which defines the precise context that people occupy in a democratic political constitution. Specifically, when people are friends and adversaries of a political principle they share the set of "ends, values and moral commitments" the political principle realises, whereas when they are enemies they do not. The combination of these two ideas results in the core claim of the conception: if reasonable people deliberate as friends, adversaries and enemies within a democratic political constitution, then they can all find some conclusive reason to accept the political principle proposed by the majority. This is because when friends and adversaries are the majority they have their ends, values and moral commitments reflected in democratic outcomes, and the enemies, despite being coerced by the majority, are coerced in a restrained way. The rest of this section explains how this combination of ideas works to actually show reasonable people how to achieve a stable political order.

According to the conception reasonable people can create a political order despite their moral and political disagreements because their deliberations are normalised by taking place under a democratic political constitution. As Sleat (2013, p. 169) argues, the basic political framework under which reasonable people ought to deliberate is a "political and democratic constitution". This follows the "political constitutionalism" argued for by theorists like Richard Bellamy (2007) and Jeremy Waldron (1999). The basic idea is that a society's constitution or basic political framework is merely the democratic procedure of elections and representative legislative assemblies. This means all aspects of the institutional structure a political principle prescribes are implemented on the basis of democratic majoritarianism. This is opposed to a framework of "legal constitutionalism" where the constitutive elements of the basic political framework are settled in a special type of law outside the purview of ordinary legislative procedures. Examples of this would include constitutional republics or monarchies where a special form of law describes the constitutive arrangements of an institutional structure and takes precedence over the democratic decision making of a legislative body. Under political constitutionalism these constitutive elements are ordinary pieces of statute law passed by majorities in a legislature.

Within this sort of constitution, Sleat (2013, pp. 153–155, 160–164) argues that reasonable people will be either "friends", "adversaries" or "enemies" of a political principle. For Sleat, "friends" are those reasonable people whose specific interpretation of their ends, values and moral commitments are realised by a political principle. In the case of "adversaries", that political principle only realises a plausible interpretation of their ends, values and moral commitments. In the case of "enemies", that political prin-

ciple does not realise any interpretation of their ends, values and moral commitments at all.

Sleat (2013, pp. 155–157) then argues that when the friends and adversaries of a political principle are the majority, their deliberations will necessarily provide them conclusive reason to accept it. This is because they will share a set of ends, values and moral commitments which given the political and democratic constitution they will pursue and realise. Friends will straightforwardly have conclusive reason because they in fact endorse the political principle. Adversaries on the other hand will have conclusive reason to accept because the principle realises at least a plausible interpretation of their ends, values and moral commitments, and they still occupy a place within the democratic procedure of their society. This means they can participate in democratic politics and shift the institutional structure to pursue their specific ends, values and moral commitments, in which case they would become "friends" and others "adversaries".

This will leave the "enemies" of the political principle in the minority with the ends, values and moral commitments of the majority imposed on them by coercive political power. Sleat argues (2013, pp. 160–161, 172–174) they will have conclusive reason to accept the political principle because their deliberations are normalised by recognising their context within a democratic political constitution. This means recognising that the political principle imposed on them is a result of authoritative collective decision making. The decision is authoritative because they are members of the collective body whose decision establishes the authority of a particular political principle.[10] Even though that decision depneds on the support of only the majority within that collective body. This normalisation provides them with conclusive reason to accept the political principle even though they do not share any of the ends, values and moral commitments it realises.

But, this raises the question of why this convergence of reasons will not result in political principles that simply dominate the minority and, as a result justify the minority of "enemies" to resist their domination? After all even though they are part of the collective decision that authorises the principles it seems they do not have any influence on what those principles are. As such, even though they can create a political order with their fellow reasonable people the conception does not show how people can maintain that order?

To that question, the Restrained Domination conception proposes that reasonable people can maintain a political order because a democratic political constitution entails the majority being committed to two ideas: a "transformative constitutionalism" and a "restrained" domination of the minority. With the first idea, the basic thought is that in a democratic political constitution, when a political principle is enforced by the majority, it is permissible for that majority to coercively transform enemies and adversaries into friends of that principle. Sleat (2013, pp. 158–160) explains this by adopting

---

[10]See also Waldron (1999, Ch. 3) and Bellamy (2007, pp. 164–166) on this point.

Stephen Macedo's notion of a "transformative constitutionalism" whereby reasonable people may permissibly maintain a political order by using public schools to shape the "intellectual development and moral character of future citizens" and restrict people's opportunities in the political sphere. For example, reasonable people may permissibly mandate that the religious publicly proclaim "the practical meaninglessness of their religious convictions as a condition of being allowed to serve." Of course, it is not hard to imagine other ways a state might try to transform the beliefs of its enemies like the use of publicly funded museums and historical exhibits or state funded media organisations. All this is to strengthen the support for the political principle being implemented and reduce the number of enemies that may find it is unjustified to them.

The second idea that shows how reasonable people can maintain a political order is that despite aiming to transform enemies, the friends and adversaries ought to respect them as reasonable people. This involves placing substantive limits on how the majority enforces a political principle. The majority show they are "restrained masters" by placing limits to the coercive costs involved in transforming enemies. This involves enforcing a political principle with coercive costs that are consistent with that political principle and consistent with the aim of maintaining order. According to Sleat (2013, pp. 161–164) this will mean enforcing a political principle only by placing additional coercive costs (over and above simply being made to live according to values one doesn't agree with) on enemies when they try to actively destabilise the political order. Although Sleat (2013, p. 163) acknowledges that what precisely those costs can permissibly be is a "heavily contextual matter which will equally rely upon a huge degree of political judgement", he does say that some measures might include "denying them equal rights, representation, toleration, liberty". If the enemies do not actively destabilise the political order, even through the democratic procedure, they must be treated as if they were friends and adversaries of the political principle being imposed on them. This is what maintains their balance of reasons for accepting the political principle. They are not subject to coercive costs beyond what friends and adversaries are subjected to if they themselves do not comply with their society's institutions. They are respected by the majority as if they were a part of it.

All in all, the Restrained Domination Conception shows how reasonable people can achieve a stable political order with the idea that reasonable people's deliberations are normalised by their political context. This is the context of being either friends, adversaries or enemies of a given political principle under a democratic political constitution. When friends and adversaries are in the majority and enemies are in the minority their balance of reasons provides them all sufficient reason to accept and continue to accept a political principle. This improves on the Non-Domination Conception by not assuming that the justification of the principle must rely on a consensus in historical interpretations, or that it cannot be the result of any coercion at all. The conception recognises that interpretations of a society's history will be as contentious as any other moral or political topic and that people will always be influenced by the structural coer-

cion of the political principles that shape a society's social institutions.

4   No Simple Majority Objection

However, one problem with the Restrained Domination Conception is that its use of the idea of a democratic political constitution for proposing how reasonable people can create a political order assumes a society will always contain a simple majority of friends and adversaries such that they all share a set of ends, values, and moral commitments. But, there is no reason to assume this will be the case. Democratic procedures can and do sometimes involve only pluralities of people who share ends, values, and moral commitments. For instance, it is entirely plausible that a society's population is split into groups of 40%, 30% and 30% with each group sharing a distinct set of ends, values, and moral commitments that is incompatible with the others. In such a case the Restrained Domination Conception cannot show how reasonable people can justify any political principle and therefore cannot show them how to create a political order. The society would be in a state of political paralysis unable to actually legitimate any political principle. Under the democratic political constitution there would always be a majority that are enemies of a political principle and therefore do not have sufficient moral reason to accept it. Any attempt to implement a political principle would be voted down by a majority. The point here is not that this will always be the case, but that the Restrained Domination Conception has to assume it will never be the case when it is entirely plausible that the constituency of reasonable people is split into three distinct groups who are "enemies" to each other. In such a case the Restrained Domination Conception cannot show people how to achieve a stable political order because there will always be a majority who do not have sufficient moral reason to accept a political principle. This is what I call the No Simple Majority Objection.

Political realists might be tempted to respond that all the Restrained Domination Conception needs is an additional condition that reasonable people have to find a set of ends, values, and moral commitments that *can* garner majority support and only the principles that realise that set are candidates for being pursued coercively. But, even this is too optimistic. There is no reason to think such a majority will exist given as political realists, and others have pointed out, modern societies involve reasonable people having deep disagreements about justice and interpersonal morality.[11] In these disagreements, reasonable people disagree about some of the most fundamental aspects of how they see the world and interpret it, like what counts as evidence or a morally relevant reason.

---

[11]See political realists like Sleat [15, 46–57, 113–114]sleat13, Williams (2005, pp. 3, 77), and Waldron (1999, pp. 101–103) on the "circumstances of politics" involving "radical and permanent political disagreement", Ranalli (2018, pp. 2–4), Hazlett (2014, pp. 12–13), Kappel (2018, p. 1), Fogelin (1985), Gaus (2018, p. 647, 2017, 2016, pp. 145–146, 2011, pp. xv–xvii, 2, 38–42) and Muldoon (2016, pp. 1–4) on "deep disagreement".

As such, it is entirely plausibly that in diverse modern societies there may not be a way to search for some minimal set of ends, values, and moral commitments that at least a simple majority share. It is entirely plausible that there will never be a simple majority who all share a set of ends, values, and moral commitments.

A more worrying point is that this sort of response undermines the entire motivation of the Restrained Domination Conception. The additional condition on finding a simple majority is a substantive constraint on candidate political principles that tries to engineer a minimal consensus. But, one of the main motivations for the Restrained Domination Conceptions was to move away from relying on any consensus to achieve stable political orders. The whole point of moving away from the orthodox Non-Domination Conception was that, given the depth and permanency of disagreement in modern societies, consensus will not necessarily be found with respect to any object of thought, be it conceptions of justice, historical interpretations or, discrete ends values and moral commitments. Simply adding a condition that reasonable people ought to look for a minimal consensus is a move open the Non-Domination Conception as well. In which case there would be no reason to consider the Restrained Domination Conception in the first place since we have explained away the problem that led to it. To that end, I submit the way the Restrained Domination Conception proposes reasonable people can create a political order fails in a very a plausible political circumstance, namely democracies made up of pluralities as opposed to simple majorities and minorities.

5   Weak Restraints Objection

However, even in cases where a simple majority does exist, there is another problem with the Restrained Domination Conception. This is that the conception's restraints on how the friends and adversaries of a political principle can coercively enforce it against their enemies when they are in the majority, are too implausibly weak. Specifically they are weak in two crucial ways. The first way is that the conception permits treating a minority of reasonable people as if they were unreasonable for the sake of stability. The second way is that the conception permits friends and adversaries to undermine the conception's own basis for stability by moving away from democratic majoritarianism itself. In both ways the restraints on friends and adversaries are weak enough that reasonable people cannot maintain their balance of reasons to accept a political principle.

To see how the restraints are too weak in the first way, consider a case where the reasonable people who are "enemies" of the majority's political principles believe in reforming the democratic political constitution. This is perfectly plausible if, for instance, the "enemies" believe in the "legal constitutionalism" as opposed to the "political constitutionalism" that Sleat favours. As such they would hold a traditional legal constitution as an end or moral commitment in opposition to the majority's commitment to

the democratic political constitution. According to the Restrained Domination Conception these enemies have to be treated as if they were friends and adversaries by being part of the democratic procedure and only being dominated (over and above having to live according to political principles they disagree with) when they actively undermine the political order.

But this is a problem because when minorities actually try to be full members of their society this will count as a threat to the stability of the institutional structure. This is because one aspect of taking part in democratic procedures is to make arguments and persuade people to try and change their minds as to which ends, values and moral commitments ought to be realised. If minorities try to reform the democratic procedure itself and introduce some statutory barriers like judicial review, or some form of constitutional counter balance to the majoritarianism at the heart of the democratic political constitution it will count as destabilising the political order. In these cases the Restrained Domination Conception permits political principles that aim to stop them for the sake of stability. For instance Sleat (2013, pp. 162–163) says on the topic of how a state might protect its stability:

> Protecting the stability of its political framework is therefore a legitimate aim of any (legitimate) political association and can be pursued via a number of different means, part of which can often include imposing additional costs, psychological and physical, on its enemies.

But more specifically on the topic of those who threaten the political framework through democratic means, Sleat (2013, p. 163) says, "How the liberal state should respond to those who are pursuing the democratic route is going to be a heavily contextual matter which will equally rely upon a huge degree of political judgement," and that "it is an open political question whether those who seek to undermine or destabilise the liberal state via democratic means should be subject to additional costs or not." So despite enemies being treated as if they were friends and adversaries of the political principles underlying the state, if they *behave* as if they are full members of the society by trying to persuade their fellow citizens to change the constitution it will be legitimate for the state to use coercive power to stop them. In the Restrained Domination Conception this could potentially take the form of restrictions on people's right to take part in democratic procedures or worse highly coercive measures to transform enemies into adversaries. The point here is not that the Restrained Domination Conception *guarantees* this will happen, but that its measures to prevent it are too weak. There is nothing in the Restrained Domination Conception that prevents the coercion of the state spiralling out of control once it detects minorities as threats to stability. In the end the restraints on majoritarianism are too weak such that they permit coercive measures that give enemies a reason to resist the state's coercion. It permits coercive measures that puts them in the bind of either being merely passive participants or being branded as threats to the stability of the political order.

Aside from the restraints on majorities being weak on how they may treat the minority, the restraints are weak in another way as well. To see how, consider a case where the friends and adversaries as the majority in a society decide that majoritarian decision-making is unjust and they vote to move to a different system entirely. Perhaps they decide to move to a constitutional monarchy or a super-majoritarian constitution. On the Restrained Domination Conception's own reading this is both perfectly legitimate, and yet destabilising because the basis of how reasonable people create a political order is that a majority of them support a political principle within a democratic procedure. The point here is that the Restrained Domination Conception cannot show the majority how they can sustain their own political order. They can, legitimately, at any time decide to move away from the Restrained Domination Conception's own ideas about what is sufficient for political legitimacy. This is implausibly self-undermining. In such a case the conception's own basis for stability – the majoritarianism and its restraints – would not be justified to the majority. The point in all of this is that, even when reasonable people are treated as friends, adversaries and enemies with the restraints the Restrained Domination Conception proposes, it permits actions that do not maintain their balance of reasons.

Political realists might respond to the Weak Restraints Objection in two ways. To the problem that majoritarianism is not restrained in any way from abolishing itself, realists could respond that all we need is a substantive requirement that the majority ought not change the majoritarian basis of stability. To the problem that the restraints on majoritarianism permit coercing enemies who use democratic procedures, political realists could respond that in fact these are just cases where the majority do actually show restraint, but these efforts are not recognised or appreciated. For instance, Sleat (2013, pp. 172–174) argues that the primary role of the idea that the coercive enforcement of a political principle ought to be done in a restrained way is that it justifies the legitimacy of this enforcement to the majority undertaking it. The fact that the adversaries and enemies do not accept that these are successful justifications does not detract from the fact that these are justifications nonetheless. As such, the majority will have to resign themselves to the fact that some adversaries and enemies will not appreciate the restraint that they show.

But I do not think either of these responses avoids the objection. With the first response, adding a requirement that the majority cannot change the majoritarian basis of stability commits the conception to a form of legal constitutionalism which the conception was trying to avoid in the first place. The whole motivation for the idea of political constitutionalism was that a purely democratic and procedural framework could allow people to have disagreements and make authoritative decisions without any consensus on ends, values or moral commitments. A requirement that the majority ought not change the majoritarian basis of stability would then undermine this motivation.

With the second response, defending the restraints on majoritarianism as actually merely restraints on the ruling majority commits the Restrained Domination Concep-

tion to the idea that some reasonable people may permissibly not have coercive political principles actually justified to them. This fundamentally concedes the motivation for offering a theory of political legitimacy in the first place. This is because it would mean treating reasonable people the same as unreasonable people which would defeat the whole motivation of trying to theorise about political legitimacy given the existence of reasonable disagreement. If the restraints on domination do not justify a political principle to reasonable people then there is no sense in which they have conclusive reason to accept it. They are merely oppressed.

This speaks to the general problem of the Restrained Domination Conception's strategy of using the idea of *restrained domination* to weave a line between the oppressive domination that all realists wish to avoid and the idea of non-domination in the orthodox Non-Domination Conception. The idea is supposed to sit between compliance purely out of fear of coercion and compliance for purely non-coercion related reasons. But, one of the accepted sources of instability is the oppression of the individual by the coercion of the state and the way this coercion justifies resistance. Simply accepting that sometimes oppression is permissible undermines the whole project of theorising about political legitimacy and showing how reasonable people can achieve a stable political order. To make sense of the idea of restrained domination, political realists have to provide some account of how the restraints on domination are acceptable *to those dominated*. Otherwise, there is no distinction between it and oppressive domination.

6 Conclusion

Matt Sleat proposes the Restrained Domination Conception as an alternative to the orthodox Non-Domination Conception of political realism. It is supposed to avoid the objections that plague the Non-Domination conception and yet show how reasonable people can achieve a stable political order without resorting political liberalism. But, I have argued in this paper that the Restrained Domination Conception of political realism cannot show how reasonable people can achieve a stable political order because it faces two serious objections: the No Simple Majority Objection and the Weak Restraints Objection. With the No Simple Majority Objection I argued that there is no reason to assume, as the conception requires, that there will be a simple majority of people who share a set of ends, values, and moral commitments. As such, the conception cannot show how to create a political order and would not avoid political paralysis. With the Weak Restraints Objection I argued that the restraints on how the majority of reasonable people can implement political principles are weak in two problematic ways. They permit the majority to treat the enemies of a political principle oppressively for simply participating in their democracy and the majority to implement political principles that move their society away from majoritarianism itself. This means that the restraints on coercive power are too weak for reasonable people to maintain a political

order. The upshot of all this is that to be a serious alternative to what they see as 'political moralism' political realists must find a conception that sheds any use of consensus, and provides more plausible restraints on how political principles can be enforced.

References

Bellamy, Richard. *Political Constitutionalism: A Republican Defence of the Constitutionality of Democracy*. Cambridge University Press, 2007.

Finlayson, Lorna. "With radicals like these, who needs conservatives? Doom, gloom, and realism in political theory". In: *European Journal of Political Theory* 16.3 (2017), pp. 264–282.

Fogelin, Robert. "The logic of deep disagreements". In: *Informal Logic* 7.1 (1985), pp. 1–8.

Forrester, Katrina. "Judith Shklar, Bernard Williams and political realism". In: *European Journal of Political Theory* 11.3 (2012), pp. 247–272.

Freyenhagen, Fabian. "Taking reasonable pluralism seriously: an internal critique of political liberalism". In: *Politics, Philosophy & Economics* 10.3 (2011), pp. 323–342.

Galston, William A. "Realism in political theory". In: *European Journal of Political Theory* 9.4 (2010), pp. 385–411.

Gaus, Gerald. "Is Public Reason a Normalization Project? Deep Diversity and the Open Society". In: *Social Philosophy Today* 33.1 (2017), pp. 27–52.

— "Reasonable Pluralism and the Domain of the Political: How the Weaknesses of John Rawls's Political Liberalism Can be Overcome by a Justificatory Liberalism". In: *Inquiry* 42.2 (1999), pp. 259–284.

— "The Complexity of a Diverse Moral Order". In: *The Georgetown Journal of Law & Public Policy* 16.1 (2018), pp. 645–680.

— *The Order of Public Reason: A Theory of Freedom and Morality in a Diverse and Bounded World*. Cambridge University Press, 2011.

— *The Tyranny of the Ideal: Justice in a Diverse society*. Princeton university Press, 2016.

Gaus, Gerald and Kevin Vallier. "The roles of religious conviction in a publicly justified polity: The implications of convergence, asymmetry and political institutions". In: *Philosophy Social Criticism* 35.1–2 (2009), pp. 51–76.

Geuss, Raymond. *Philosophy and Real Politics*. Princeton University Press, 2008.

Hall, Edward. "Bernard Williams and the Basic Legitimation Demand: A Defence". In: *Political Studies* 63.2 (2015), pp. 466–480.

Hazlett, Allan. "Entitlement and Mutually Recognized Reasonable Disagreement". In: *Episteme* 11.1 (2014), pp. 1–25.

Horton, John. "Realism, liberal moralism and a political theory of modus vivendi". In: *European Journal of Political Theory* 9.4 (2010), pp. 431–448.

Jubb, Robert. "On What a Distinctively Political Normativity Is". In: *Political Studies Review* 17.4 (2019), pp. 360–369.

— "Playing Kant at the Court of King Arthur". In: *Political Studies* 63.4 (2015), pp. 919–934.

Jubb, Robert and Enzo Rossi. "Political Norms and Moral Values". In: *Journal of Philosophical Research* 40.4 (2015), pp. 445–458.

— "Why Moralists Should Be Afraid of Political Values: A Rejoinder". In: *Journal of Philosophical Research* 40.4 (2015), pp. 465–468.

Kappel, Klemens. "Higher Order Evidence and Deep Disagreement". In: *Topoi* (2018), pp. 1–12. URL: https://doi.org/10.1007/s11245-018-9587-8.

Mason, Andrew. "Rawlsian Theory and the Circumstances of Politics". In: *Political Theory* 38.5 (2010), pp. 658–683.

Muldoon, Ryan. *Social Contract Theory for a Diverse World: Beyond Tolerance*. Routledge, 2016.

Newey, Glen. "Two dogmas of liberalism". In: *European Journal of Political Theory* 9.4 (2010), pp. 449–465.

Philip, Mark. "Realism without Illusions". In: *Political Theory* 40.5 (2012), pp. 629–649.

— "What is to be done? Political theory and political realism". In: *European Journal of Political Theory* 9.4 (2010), pp. 466–484.

Quong, Jonathan. *Liberalism Without Perfection*. Oxford University Press, 2011.

Ranalli, Chris. "What is Deep Disagreement?" In: *Topoi* (2018), pp. 1–16. URL: https://doi.org/10.1007/s11245-018-9600-2.

Rawls, John. *Political Liberalism: Expanded Edition*. New York: Columbia University Press, 2005.

Rossi, Enzo. "Being realistic and demanding the impossible". In: *Constellations* 26.4 (2019), pp. 638–652.

— "Consensus, compromise, justice and legitimacy". In: *Critical Review of International Social and Political Philosophy* 16.4 (2013), pp. 557–572.

— "Justice, legitimacy and (normative) authority for political realists". In: *Critical Review of International Social and Political Philosophy* 15.2 (2012), pp. 149–164.

Rossi, Enzo and Matt Sleat. "Realism in Normative Political Theory". In: *Philosophy Compass* 9.10 (2014), pp. 689–701.

Sangiovanni, Andrea. "Justice and the Priority of Politics to Morality". In: *The Journal of Political Philosophy* 16.2 (2008), pp. 137–164.

Shklar, Judith. "The Liberalism of Fear". In: *Liberalism and the Moral Life*. Ed. by Nancy L. Rosenblum. Harvard University Press, 1989.

Sleat, Matt. "Bernard Williams and the possibility of a realist political theory". In: *European Journal of Political Theory* 9.4 (2010), pp. 485–503.

— "Legitimacy in Realist Thought: Between Moralism and Realpolitik". In: *Political Theory* 42.3 (2014), pp. 314–337.

Sleat, Matt. "Liberal Realism: A Liberal Response to the Realist Critique". In: *The Review of Politics* 73.3 (2011), pp. 469–496.

— *Liberal realism: A realist theory of liberal politics*. Manchester University Press, 2013.

Sudarshan, Saranga. "Disagreement, Concepts and Convergence: A New Theory of Political Realist Legitimacy". PhD thesis. University of St Andrews, 2020.

Valentini, Laura. "Ideal vs. Non-ideal Theory: A Conceptual Map". In: *Philosophy Compass* 7.9 (2012), pp. 654–664.

Vallier, Kevin. *Must Politics Be War?: Restoring Our Trust in the Open Society*. Oxford University Press, 2019.

Waldron, Jeremy. *Law and Disagreement*. Oxford University Press, 1999.

Williams, Bernard. *In the Beginning Was the Deed: Realism And Moralism In Political Argument*. Princeton University Press, 2005.

— *Truth & Truthfulness: An Essay in Genealogy*. Princeton University Press, 2002.