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# Reproductive justice: Non-interference or non-domination?

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## Abstract

The reproductive justice movement started by black women's rights activists made its way into the academic literature as an intersectional approach to women's reproductive autonomy. While there are many scholars who now employ the term 'reproductive justice' in their research, few have taken up the task of explaining what 'justice' entails in reproductive justice. In this paper I take up part of this work and attempt to clarify the relevant kind of freedom an adequate theory of reproductive justice would postulate. To do so, I compare two approaches to reproductive freedom: an approach based on freedom as non-interference and an approach based on freedom as non-domination. I then argue that the non-domination approach better fits the ideals of the reproductive justice movement as set forth by its founders and should be treated as one of the necessary conditions in any non-ideal account of reproductive justice. Towards the end, I single out epistemic non-domination as crucial in shaping the narrative around reproductive justice.

## KEYWORDS

Reproductive justice, intersectionality, non-domination, non-interference, epistemological non-domination

## 1 | INTRODUCTION

Spurred by the Cairo Conference in 1994 that espoused the cause for reproductive rights, an activist group of twelve American women of colour first introduced the concept of 'reproductive justice'.<sup>1</sup> Loreta Ross, one of the founders of the reproductive justice movement, mentioned that upon attending the conference the group recognised that women's ability to control what happens to their bodies is constantly challenged by poverty, racism, environmental degradation, colonialism, sexism, homophobia, transphobia, structural inequalities, and so on.<sup>2</sup> 'Reproductive justice' was a term coined by

them to introduce a broader approach that moved away from the restrictive notion of choice and addressed the aspects of women's social status and intersectional forms of oppression that threatened Black women's bodily integrity. It soon became a larger movement towards reproductive dignity by incorporating women of colour from across the world.

While the intersectional aspect of reproductive justice has garnered a good amount of scholarly attention, the theoretical outlining of justice (that includes intersectionality) has received little to none. In this paper I attempt to clarify the relevant kind of freedom an adequate theory of reproductive justice would postulate. To do so, I first elucidate the features of reproductive justice as understood by the founders of the reproductive justice movement (Section 2). I then compare two approaches to reproductive freedom: an approach that takes freedom as non-interference as integral to reproductive justice (Section 3) and an approach that sees freedom as non-domination

<sup>1</sup>Ross, L.J. (2017). Reproductive Justice as Intersectional Feminist Activism. *Souls*. 19(3), 286–314.

<sup>2</sup>Silliman, J., Fried, M.G., Ross, L., & Gutierrez, E. (2004). *Undivided Rights: Women of Color Organizing for Reproductive Justice*. Cambridge, Mass: South End Press.

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as an essential component of reproductive justice (Section 4). I then argue that the non-domination approach better fits the ideals of the reproductive justice movement as set forth by its founders and should be treated as one of the necessary conditions in any non-ideal account of reproductive justice. I also single out epistemic non-domination as crucial in shaping the narrative around reproductive justice (Section 4.1).

## 2 | REPRODUCTIVE JUSTICE MOVEMENT AND REPRODUCTIVE JUSTICE: THE DEFINING FEATURES

The reproductive justice movement focuses on reproductive justice praxis and on elaborating the connection between activism and intersectional feminist theory. But there are some underlying features of the movement that can lend themselves towards conceptualising the notion of reproductive justice in general. I predominantly derive these features from Loreta Ross' *'Reproductive Justice as Intersectional Feminist Activism'*, a foundational work that captures the ethos of the reproductive justice movement and establishes the criteria for the use of reproductive justice as a form of activism.<sup>3</sup>

To begin with, Ross has clarified that reproductive justice should not be seen as a framework to replace the existing frameworks of reproductive health or reproductive rights but rather as an extension of these. The reproductive justice framework is based on three interconnected sets of human rights, viz. i) the right to have a child under circumstances of one's own choosing; ii) the right not to have a child and freedom to use the legitimate means available for it; and (3) the right to parent a child in safe and healthy environment which is free from individual and state violence.<sup>4</sup> As such, the language and framework of human rights is essential in conceptualising reproductive justice.

Second, the reproductive justice movement was meant to probe the insistent "biological and non-biological power relationships between people of colour and variations of "white people".<sup>5</sup> It began with the identification of the interlinked matrix of oppression and culminated into a necessary move away from the gender-specific accounts that neglected how differences and disparities largely shape people's material realities. The movement continues to provoke and interrupt the *status quo* and to reimagine a future that, the founders of the movement believe, can only be brought "through far-reaching resistance and critique".<sup>6</sup> This entails that the notion of reproductive justice must take into account all conflicting power differences wrought by citizenship, gender, race, caste, ethnicity, class, abilities, and the like.

Third, the founders of the reproductive justice movement believed in discovering the underdiscussed, or oftentimes ignored, reproductive vulnerabilities that have been shaped by not just

misogyny, but also by "white supremacy and neoliberalism".<sup>7</sup> This essentially means that marginalised groups, who owe their marginalisation to multiple layers of structural oppression, need to be placed at the forefront of any discussion on reproductive justice.

Lastly, and as a potpourri of non-exhaustive criteria mentioned by Ross, intersectionality, universality, connecting the global and local, making links between the individual and the community, addressing government and corporate responsibility, fighting eugenics (or forms of population control), leadership development to enable power-shifts, and immersion in politics to bring about policy changes,<sup>8</sup> are all features of the reproductive justice movement that must not only be reflected in reproductive justice praxis but also, as much as possible, in its theory.

Human rights, particularly the three mentioned afore, appear to be at the core of the reproductive justice movement. The rights sought under the reproductive justice movement include liberty rights (which include rights to life, bodily integrity, fulfilment of basic needs, freedom of movement, conscience and expression, and equality before the law) and political rights (that every person irrespective of their social status should be able to meaningfully participate in collective decision-making that affects their reproductive and parenting options). And while the movement is nominally concerned with rights, for conceptual clarity it would be best to describe the movement as primarily concerned with *freedoms* as opposed to rights. More specifically: the freedom to choose the circumstances to have a child, freedom to use available legitimate means to not have a child, freedom from individual and state violence to parent a child in a safe and healthy environment, and freedom to participate in collective decision-making. This view would also be in consonance with Valentini's freedom-centred view of rights, who understands human rights to be derived from the universal right to freedom, "namely each person's innate right to a sphere of agency within which to pursue her ends and goals without being subject to the will of others."<sup>9</sup> This does not entail that human rights are only focused on liberty; Valentini conceptualises human rights as entitlements that any political authority must secure to qualify as reasonably just or legitimate. So, although human rights are 'natural', they also have a political dimension. Human rights transform from proto rights existing in a state of nature into claim rights as soon as political authorities are established.<sup>10</sup>

Note that rights can either be seen as *liberty rights* (rights that entail freedoms or permissions for the right-holder and do not necessitate obligations upon other parties) or as *claim rights* (rights that entail corresponding duties, responsibilities, or obligations on other parties in relation to the right-holder).<sup>11</sup> But reproductive rights are

<sup>3</sup>Ross, op. cit. note 1.

<sup>4</sup>Ibid: 290.

<sup>5</sup>Ibid: 292.

<sup>6</sup>Ross, L., & Solinger, R. (2017). *Reproductive Justice: An Introduction*. Univ of California Press; Silliman, Fried, Ross, Gutierrez, op. cit. n. 2; Ross, op. cit. note 1: 286–314.

<sup>7</sup>Ross, op. cit. note 1: 291.

<sup>8</sup>Ibid: 301.

<sup>9</sup>Valentini, L. (2012). Human Rights, Freedom, and Political Authority. *Political Theory*. 40(5), 573–601.

<sup>10</sup>Ibid: 574.

<sup>11</sup>Feinberg, J., & Narveson, J. (1970). The Nature and Value of Rights. *The Journal of Value Inquiry*. 4(4), 243–260; Wellman, C.H. (2005). Feinberg's Two Concepts of Rights. *Legal Theory*. 11(3), 213–226.

essentially *compound rights* (mix of both liberty and claim rights).<sup>12</sup> The paper looks at rights as derived from a universal right to freedom, and as a result it might appear to some that I am neglecting, or do not acknowledge, the existence and importance of reproductive *claim rights*. Such a reading would be misleading. It is not that I neglect or regard reproductive claim rights as unimportant; rather, it is simply that I do not examine or try to make them explicit because doing so falls outside of the main goal of the paper (i.e., to clarify the conceptual scope of freedom that is aligned with the ideals of the proponents of the reproductive justice movement).

Understood through the lens of freedom, the movement-led notion of reproductive justice, with its basis in human rights, is a broad approach that seeks to address various aspects of women's social status that interfere with their powers, their bodily integrity, and their ability to employ means of family planning. And though the features enumerated by the founder(s) of the reproductive justice movement give a fair sense of its practical goals, the theoretical conception of reproductive justice is still lacking a distinct form. Therefore, it becomes important to clarify the relevant kind of freedom that an adequate theory of reproductive justice would postulate. The next section takes up the task of looking at an approach that sees freedom from interference as the proper framework for reproductive justice.

### 3 | REPRODUCTIVE JUSTICE AS NON-INTERFERENCE

Justice has been connected with freedom for a long time. For instance, Rawls' first principle of justice holds that "[e]ach person has the same indefeasible claim to a fully adequate scheme of equal basic liberties, which scheme is compatible with the same scheme of liberties for all."<sup>13</sup> Giving a general description of liberty, he writes:

[liberty] has the following form: this or that person (or persons) is free (not free) from this or that constraint (or set of constraints) to do (or not to do) so and so. Associations as well as natural persons may be free or not free, and constraints may range from duties and prohibitions defined by law to the coercive influences arising from public opinion and social pressure.<sup>14</sup>

A number commentators read Rawls' claims as a confirmation of a negative notion of freedom (similar to Berlin's as will be discussed below), arguing that Rawls understands freedom in terms of

non-interference.<sup>15</sup> The reproductive justice movement recognises the importance of women's power to resist other people's unwanted interference in cases of forced marriages, ability to choose sexual partners (choice before the choice),<sup>16</sup> sexual assault, genital cutting, female infanticide, sex-selective abortions, contraceptive decision-making, and birthing procedures. A number of social practices around the world interfere with some of the most fundamental aspects of a woman's reproductive autonomy and bodily integrity.<sup>17</sup> Any conceptualisation of reproductive justice cannot be divorced from the idea of being free from threats to women's autonomy and bodily integrity. Therefore, for some Rawlsian theorists it might be tempting to couch reproductive justice (or, more specifically, reproductive *freedom*) in terms of freedom as non-interference.

Many other theorists have also written about freedom in the sense of non-subjection to the will of others. Kant has expressed that while human will is dependent on many external things, "what is harder and more unnatural than this yoke of necessity is the subjection of one human being under the will of another. No misfortune can be more terrifying to one who is accustomed to freedom."<sup>18</sup> Isaiah Berlin, through his 1958 lecture and subsequent work on *Two Concepts of Liberty*,<sup>19</sup> became a leading proponent of the liberal notion of freedom as non-interference. Berlin argues that persons are free to the extent that they are not impeded in their actions, "[i]f I am prevented by others from doing what I could otherwise do, I am to that degree unfree".<sup>20</sup> Berlin distinguishes between 'negative' and 'positive' liberty; in the former liberty is understood as a mere absence of things like barriers, obstacles, constraints, or interference from others, and the latter liberty, though harder to define, requires the presence of things like self-mastery or self-control.<sup>21</sup> Freedom as non-interference seems to be best captured by negative liberties.

<sup>15</sup>Spitz, Pettit, and Skinner, for instance, understand Rawlsian approach to justice as one of non-interference and call it an ideal situation of liberty. See Spitz, J.-F. (1994). The Concept of Liberty in "A Theory of Justice" and Its Republican Version. *Ratio Juris*. 7(3), 331–347; Pettit, P. (1999). Republicanism: A Theory of Freedom and Government. Republicanism. Oxford University Press; Skinner, Q. (1983). Machiavelli on the maintenance of liberty. *Politics*. 18(2), 3–15. However, there are others who argue that Rawls' notion of liberty in some important respects resembles the republican notion of freedom as non-domination. See Victoria Costa, M. (2009). Rawls on Liberty and Domination. *Res Publica*. 15(4), 397.

<sup>16</sup>Kasai, M., & Rooney, S. (2012). The choice before the choice: Partner selection is essential to reproductive justice. In J.C. Chrisler (Ed.), *Reproductive Justice A Global Concern* (1st ed., pp. 11–29).

<sup>17</sup>Chrisler, J.C. (2012). *Reproductive justice: A Global Concern*. Santa Barbara, Calif.: Praeger.

<sup>18</sup>Kant, I. (2010). *Notes and Fragments*. (P. Guyer, C. Bowman, & F. Rauscher, Trans.) (Reissue edition). Cambridge: Cambridge University Press. Note that some commentators argue that the talk of 'subjection' in Kant's work could be closer to non-domination than non-interference. See Kolodny, N. (2019). Being under the Power of Others. In G. Rousselière & Y. Elazar (Eds.), *Republicanism and the Future of Democracy* (pp. 94–114). Cambridge: Cambridge University Press.

<sup>19</sup>Berlin, I. (1998). *Four Essays on Liberty*. Oxford University Press.

<sup>20</sup>Ibid: 122.

<sup>21</sup>The notion of positive liberty carries many troubling implications, chief amongst which is the danger of promoting paternalism, for which it was rejected by Berlin and other liberal philosophers who lean more towards the notion of negative liberty. See Crocker, L. (1980). Criticisms of Positive Liberty. In L. Crocker (Ed.), *Positive Liberty: An Essay in Normative Political Philosophy* (pp. 82–109). Dordrecht: Springer Netherlands.

<sup>12</sup>Hohfeld has maintained that "[i]n the strictest sense" all rights are claims. See Hohfeld, W.N. (1919). *Fundamental Legal Conceptions as Applied in Judicial Reasoning*. In W. Cook (Ed.), *Yale Law Journal*. New Haven: Yale University Press.

<sup>13</sup>Rawls, J., & Kelly, E. (2001). *Justice As Fairness: A Restatement*. Cambridge (Mass.): Harvard University Press, 42–45.

<sup>14</sup>Rawls, J. (1999). *A Theory of Justice* (revised edition). Cambridge (Mass.): The Belknap Press of Harvard University Press, 177.

### 3.1 | Some problems with non-interference: from interference to domination

When understood in terms of negative liberties, freedom from interference from others might at times pit authority against freedom. Rewording Berlin to explain liberty from state interference would somewhat be: if I am prevented by the state from doing what I could otherwise do in areas over which the state has authority, I am to that degree unfree. Simply put, the lesser I am governed, the freer I am. Though an oversimplification of the liberal position (as most liberals would agree to giving up some liberties in order for a state to perform necessary functions), this would still not be a notion of liberty fully in consonance with the ideals of the reproductive justice movement. The movement recognises the need for state interference against threats to women's reproductive autonomy as quite often these threats come from groups that are in privileged positions.

Furthermore, the notion of negative liberty can sometimes be seen as incompatible with other claims for social justice and equality. Policies such as affirmative action for marginalised groups, welfare schemes (like benefits), regulating some kinds of speech, or even higher wealth taxes, these appear to come as the cost of other people's liberties. Pursuing certain social equality programs does not lead to an aggregate gain in liberty, but rather to certain costs in individual liberties.<sup>22</sup> This often leads to tensions between the interest of the individual vs. collective good and freedom vs. equality.

Negative liberty focuses on the individual and her unobstructed set of options to do or not to do certain things. It fails to take into account the numerous ways in which individuals make choices and how those choices are by-products of larger social contexts. Negative liberty would narrowly construe all structural and social circumstances that shape a person's choices as 'interferences', which makes it harder to arbitrate on the kind of structures that would, in the real world, enhance a person's agency. Furthermore, neither does negative liberty alone account for the ways in which actual living conditions of individuals diminish their freedom, nor does it take into account the 'quality' of options available to choose from.<sup>23</sup>

The focus of negative liberty is on obstructions or interferences with choices and actions and not on the structures and institutions that lead to those choices and actions. For these reasons, amongst others, scholars have suggested that the notion of freedom as domination better encapsulates the idea of justice.<sup>24</sup> To best illustrate the difference between interference and domination Philip Pettit uses the illustration of a master and slave relationship. A slave could have a master (with an institutionally protected right to treat his slave as he pleases) who is kind and who does not interfere in the life

and actions of the slave, but this does not mean that the slave is not dominated or is freer by any means.<sup>25</sup> It could be possible that the dominant never interferes in the life of the dominated, but this does not make the dominated any less in a dominated institutionalised condition. A slave will remain a slave whether the master chooses to exercise their power or not. For this reason, among others, the concept of freedom as non-domination, as we will see in the next section, better suits the features of the reproductive justice movement as any notion of justice stemming from the movement must account for all conflicting power differences wrought by social structures.

## 4 | REPRODUCTIVE JUSTICE AS NON-DOMINATION

The reproductive justice movement uses intersectionality and the language of human rights to address the power asymmetries that arise due to citizenship, gender, race, caste, ethnicity, class, abilities, and so on. Most of the feminist scholarship on power revolves around relationships that can be easily and accurately characterised as relations of domination.<sup>26</sup> These relationships were traditionally defined in terms of gender differences, or male and female power differentials, but since the concept of intersectionality has been introduced,<sup>27</sup> most notably since the work of Kimberlé Crenshaw,<sup>28</sup> it has changed the manner in which we perceive power or powerlessness in feminist discourse.

Crenshaw has criticised the orthodox framework for understanding power relationships, which she calls the 'single-axis framework' because it conditions us to think about disadvantage due to subordination playing out as a single identity. She finds the single-axis framework problematic because it treats race and gender as mutually exclusive categories of social experiences. Crenshaw gives examples of prioritised experiences of privileged black people (in sex or class) in race discrimination cases and privileged women (in race or class) in sexual discrimination cases and demonstrates how the single-axis framework innately prioritises the perspectives of the privileged members of oppressed and marginalised groups. For Crenshaw, the single-axis framework misrepresents the experiences of most black women who suffer multiple and intersecting forms of subordination simultaneously.<sup>29</sup>

By adopting the intersectional approach, the reproductive justice movement rejects the single-axis framework of understanding

<sup>22</sup>Berlin, op. cit. note 19: 125.

<sup>23</sup>Einspahr, J. (2010). Structural Domination and Structural Freedom: A Feminist Perspective. *Feminist Review*. (94), 1–19.

<sup>24</sup>Shapiro, I. (2012). On Non-domination. *University of Toronto Law Journal*. 62(3), 293–336. See also Bachvarova, M. (2013). Non-domination's role in the theorizing of global justice. *Journal of Global Ethics*. 9(2), 173–185.

<sup>25</sup>Pettit, P. (1997). *Republicanism: A Theory of Freedom and Government*. Republicanism. Oxford University Press, 34.

<sup>26</sup>Allen, A. (2016). Feminist Perspectives on Power. In E.N. Zalta (Ed.), *The Stanford Encyclopedia of Philosophy* (Fall 2016). Metaphysics Research Lab, Stanford University.

<sup>27</sup>The concept of intersectionality has a long and complicated genealogy, see Collins, P. (2011). Piecing Together a Genealogical Puzzle: Intersectionality and American Pragmatism. 3(2), 88–112.

<sup>28</sup>Crenshaw, K. (2018). Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory, and Antiracist Politics [1989]. *Feminist Legal Theory* (pp. 57–80). Routledge.

<sup>29</sup>Crenshaw, K. (1991). Mapping the Margins: Intersectionality, Identity Politics, and Violence against Women of Color. *Stanford Law Review*. 43(6), 1241–1299.

dominant power relationships and moves closer to the “matrix of domination”<sup>30</sup> approach that explains that even though issues of oppression are recognised through different social classifications (like race, class, gender, etc), they are all interconnected. Any non-ideal theory of reproductive justice must look into freedom from such “matrix of domination”. For this, Pettit’s account of non-domination can be useful since he holds that a person or group of persons enjoy freedom to the extent that no other person or group of persons have “the capacity to interfere in their affairs on an arbitrary basis”.<sup>31</sup> Here domination is approximately translatable to arbitrary or uninhibited power.<sup>32</sup> Which means that, in the republican tradition to which Pettit’s theory belongs, freedom consists in the safe enjoyment of non-domination.

At this point one might be tempted to consider that non-domination simply appears to be another way of talking about the assurance of non-interference.<sup>33</sup> But we should reject this view. In fact, republicans, like Pettit, have done so and have argued that it is possible to secure a low level of non-interference in more ways than one, and that the republican idea of freedom is not entirely indifferent to the method adopted.<sup>34</sup> For instance, a benevolent master would lead one to be reasonably secure in the expectation that one’s actions will not be negatively interfered with (or at least not often), but the liberal notion of non-interference would tolerate having a master. Contrarily, the republican idea of freedom explicitly expects us to refrain from making a master a better person and to instead render him less of a master.<sup>35</sup> The only way this can be achieved is to either reduce the slave’s dependency on the master or curtail the master’s arbitrary power.

The notion of freedom as non-domination is therefore useful for reproductive justice because it places emphasis on the circumstances that make separate instances of oppression possible rather than on the individual and her choices. Non-domination focuses on the ways in which human beings are systematically situated in relation to the structures that limit (or empower) us. Similar to non-interference, non-domination comes in degrees, meaning that a person is not either free or unfree, but *relatively* free depending on the extent of non-domination the person enjoys. The framework of non-domination leads us to question the extent to which people,

groups, or institutions are positioned to interfere in our lives in ways that are possibly arbitrary or the extent to which a person is able to participate in influencing the structures that shape our agency. Therefore, instead of a narrow focus on negative liberty, non-domination framework also captures the conditions under which positive liberties can be exercised.

To be free it is not enough to merely be left alone while one’s interests are represented by a benevolent husband, well-meaning politician, or by a privileged person from one’s gender or social group.<sup>36</sup> A just society would be where women are not systematically dominated by not just men but also by oppressive structures such as class, caste, creed, race, nationality, citizenship, abilities, poverty, etc. The reproductive justice movement was a response to, what I call, the ‘marginalised-within-the-marginalised’ feeling that their voices seeking reproductive rights were ignored, and often hijacked, by people who did not truly understand what it meant to be a woman within an ‘interlocking system of oppression’.<sup>37</sup> This brings me to an important aspect of non-domination for reproductive justice. Certainly, non-domination from *all* oppressive structures would be the aspirational ideal of reproductive justice, but I am mostly interested in the non-ideal concept of reproductive justice, one that stems from the reproductive justice movement and one which can reasonably be achieved within our non-ideal worlds. One form of non-domination in particular requires specific attention as it concerns the academy and can reasonably be achieved: epistemological non-domination. I will briefly discuss this type of domination in the next section.

## 4.1 | Epistemological non-domination

If we adopt the idea of non-domination as a necessary requirement of reproductive justice, epistemological non-domination cannot be overlooked given its importance in shaping the narrative around reproductive justice. I would define ‘epistemological non-domination’ as a state of being where women, especially marginalised women of colour, are freely and equally able to participate in influencing the knowledge structures that would help shape social and institutional arrangements which would eventually influence their agency.

Marginalised women have faced a persistent epistemic exclusion that has hindered their contribution to knowledge production, such

<sup>30</sup>Hill-Collins, P. (1990). Black Feminist thought in the Matrix of Domination. In P. Hill-Collins (Ed.), *Black Feminist Thought: Knowledge, Consciousness, and Politics of Empowerment* (pp. 221–238). Boston: Unwin Hyman.

<sup>31</sup>Pettit, P. (1999). Republican Freedom and Contestatory Democratization. In I. Shapiro & C. Hacker-Cordon (Eds.), *Democracy’s Value* (pp. 163–190). Cambridge, UK: Cambridge University Press, 165.

<sup>32</sup>See Pettit, P. (2012). *On the People’s Terms: A Republican Theory and Model of Democracy*. Cambridge: Cambridge University Press; Lovett, F. (2010). *A General Theory of Domination and Justice*. Oxford, New York: Oxford University Press; Wartenberg, T. (1991). *Forms Of Power: From Domination to Transformation*. Philadelphia: Temple University Press.

<sup>33</sup>For arguments along similar lines see Kramer, M. (2003). Liberty and Domination. In C. Laborde & J.W. Maynor (Eds.), *Republicanism and Political Theory* (pp. 31–57). Blackwell; Carter, I. (2008). How Are Power and Unfreedom Related. In C. Laborde & J.W. Maynor (Eds.), *Republicanism and Political Theory* (pp. 58–82). Blackwell.

<sup>34</sup>Pettit, op. cit. note 25: 73–74.

<sup>35</sup>Lovett, F. (2012). The Path of the Courtier: Castiglione, Machiavelli, and the Loss of Republican Liberty. *The Review of Politics*. 74(4), 589–605.

<sup>36</sup>Einspahr, op. cit. note 23: 17.

<sup>37</sup>Intersectionality has its fair share of critics; from those who believe that it remains “trapped within the logic of identity” (Puar) to those who think that it has been hijacked by white-dominated feminist theory (Carastathis). In response to some of the earlier (and similar to the preceding) criticisms of intersectionality Patricia Hill Collins, building on the statement of Combahee River Collective, proposed the term ‘interlocking systems of oppression’ to better convey the idea behind intersectionality. See Collins, P.H. (1995). Symposium: On West and Fenstermaker’s “Doing Difference”. *Gender & Society*. 9(4), 491–494; see also Smith, B. (Ed.). (1983). The Combahee River Collective Statement (1977). In *Home Girls, A Black Feminist Anthology*. New York: Kitchen Table: Women of Color Press Inc. See further Puar, J.K. (2012). “I would rather be a cyborg than a goddess”: Becoming-Intersectional in Assemblage Theory. *PhiloSOPHIA*. 2(1), 49–66, 60; Carastathis, A. (2014). Reinventing Intersectionality as a Provisional Concept. In N. Goswami, M. O’Donovan, & L. Yount (Eds.), *Why Race and Gender Still Matter: An Intersectional Approach* (pp. 59–70). Pickering & Chatto, 59.

persistent exclusion termed as 'epistemic oppression' by Dotson,<sup>38</sup> can often be seen in the larger reproductive justice discourse. Williams argues that the heterosexual white middle-class focus in reproductive rights debate has led to vast allocation of resources to the singular fight for abortion rights (or the focus on 'choice').<sup>39</sup> While the struggle for abortion rights is of course important and very much needed, it has often come at the cost of issues that may be of equal, or greater, importance to other marginalised groups of women. Issues like forced sterilisations, drug treatment for pregnant addicts, prenatal care, access to contraception, right to choose sexual partners, maternal nutrition, etc., are of great significance to poorer women or women of colour. But these are either irrelevant or low on priority for white middle-class women, as such, a large amount of knowledge production activity (that often leads to influencing policy decisions) has also focused on 'choice' over other equally valid reproductive concerns.<sup>40</sup>

Collins notes that black women "must accept the possibility that their knowledge claims will be limited to those claims about Black women that are consistent with a white male worldview".<sup>41</sup> For the founders of the reproductive justice movement Collins' quotes would possibly include a 'white female' worldview as well. The reproductive rights narrative has been dominated by a predominantly white female's understanding of choice, motherhood, and other reproductive concerns.<sup>42</sup> A major problem for marginalised women is that certain conceptions of motherhood, sexuality, and choice are more or less imposed on them. This imposition has either come from a patriarchal lens or from a white-dominated feminist theory. Even though this imposition is not a strict example of interpersonal domination (as in the slave case discussed above), it can be characterised as a form of epistemic domination, and this idea cannot be absent from a substantive (and non-ideal) theory of reproductive justice.

## 5 | CONCLUSION

The reproductive justice movement has been instrumental in placing a focus on empowering the 'marginalised-within-the-marginalised'. The women of colour who founded the movement adopted the human rights language and the framework of intersectionality to address various aspects of women's social status that interfere with their power in dominant relationships, their bodily integrity, and their ability to employ means of family planning. While the movement is focused on the practical aspects of reproductive justice, the theoretical aspects lack a properly developed framework. In this paper I provided some bricks for the framework. I suggested that any

non-ideal conceptualisation of reproductive justice must necessarily take into account women's reproductive freedoms. Such freedoms can either be understood as freedom from interference of others in their reproductive decision-making or as freedom from domination. I argued that the non-interference framework lacks finesse and does not truly encapsulate the ideals of the founders of the reproductive justice movement. For that reason, I proposed that the framework of freedom as non-domination best accommodates the intersectional aspect of the reproductive rights movement and should be part of any theory of reproductive justice. The non-domination approach moves away from women's individual choices and focuses on structural aspects of reproductive freedoms that vindicate the concerns that were at the forefront of the reproductive justice movement. Additionally, I placed special emphasis on epistemological non-domination since that particular form of non-domination is essential in shaping the narrative around reproductive justice. All of this with the expectation that when an exhaustive account of reproductive justice is eventually proposed, it does not ignore the interlocking structures of oppression that shapes the agency of marginalised women.

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## CONFLICT OF INTERESTS

None to declare.

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<sup>38</sup>Dotson, K. (2014). Conceptualizing Epistemic Oppression. *Social Epistemology*. 28(2), 115–138.

<sup>39</sup>Williams, S. (1993). Feminist Legal Epistemology. 8 *Berkeley Women's Law Journal* 63 (1993).

<sup>40</sup>See further Carastathis, op. cit. note 37: 59–70.

<sup>41</sup>Collins, P.H. (1989). The Social Construction of Black Feminist Thought. *Signs*. 14(4), 745–773, 773.

<sup>42</sup>See Ross, Solinger, op. cit. note 6; Williams, op. cit. note 39.