

## *Introduction. The republic, old and new*

### THE PROJECT

Every philosophy of the good society starts with an account of the canonical complaint that the state should help to put right: the evil that the society should drive out by means of political organization and initiative. The complaints targeted for political rectification come in two broad families. On the one side, personal afflictions like misery or poverty or inequality; on the other, social failures like division or disorder or perhaps an excess of customary restriction.

The more personal complaints generate a powerfully motivating agenda, since most of us would rejoice in a state that silenced them. But these complaints are liable to seem politically over-demanding. While it would be good to be rid of misery or poverty or inequality, not everyone will agree that the state could, or should, be given the job of dealing with them. The removal of the less personal evils is not politically over-demanding in the same way, for most people will think that the state is able to remedy such failures. But these complaints may fail to motivate appropriately: their rectification falls short of what many of us feel that we in a politically organized society can and should collectively provide for our members.

Republican philosophy identifies a complaint that is meant to be at once personally motivating and politically feasible. It indicts the evil of subjection to another's will – particularly in important areas of personal choice – as an ill that we all recognize and recoil from and at the same time as an ill that the state is well placed to deal with. I shall be arguing in the course of this book that such subjection can be effectively corralled and reduced, though certainly not wholly eliminated, by means of political initiative. And yet it takes only a little imagination to realize just how repellent this subjection can be.

Think, by way of exercising such imagination, of how you would feel as a student if you depended for not failing a course on the whim of an instructor. Or as a wife if you had to rely on the mood of your husband

for whether you could enjoy an unmolested day. Or as a worker if you hung on the favour of a manager for whether you retained your job. Or as a debtor if you were dependent on the goodwill of a creditor for whether you had to face public ignominy. Or as someone destitute if you had to cast yourself on the mercy of others just to survive or maintain your family. Or think about how you would feel as the member of a cultural minority if you had to rely on the humour of majority groups for whether you escaped humiliation; or as an elderly person if you depended on escaping the notice of youth gangs for walking safely home; or as a citizen if you were dependent on winning the favour of some insider group for whether you or your kind ever caught the eye of government.

It is a commonplace in most cultures that such involuntary exposure to the will of others is inherently troubling and objectionable. Even when those others do not exercise their power in actual interference, the very dependency involved is something from which we naturally recoil. The possible modes of subjection are many and diverse, as these examples already testify, but it should be clear that the state is capable of curtailing them in various ways. Without assuming the cast of a Leviathan in their lives, it can assure its people of a level of protection, support and status that frees them from at least the more egregious forms that such dependency can take.

Already in classical, republican Rome, the evil of subjection to the will of others, whether or not such subjection led to actual interference, was identified and indicted as the iconic ill from which political organization should liberate people, in particular those in the fortunate position of citizens. It was described as the evil of being subject to a master, or *dominus* – suffering *dominatio* – and was contrasted with the good of *libertas*, or ‘liberty’. The accepted wisdom was that people could enjoy liberty, both in relation to one another and to the collectivity, only by being invested with the power and status of the *civis*, or ‘citizen’. Being a free person became synonymous with being sufficiently empowered to stand on equal terms with others, as a citizen amongst citizens (Wirszubski 1968: Chapter 1).

The idea that citizens could enjoy this equal standing in their society, and not have to hang on the benevolence of their betters, became the signature theme in the long and powerful tradition of republican thought. Familiar from its instantiation in classical Rome, the idea was reignited in medieval and Renaissance Italy; spread throughout Europe in the modern era, sparking the English Civil War and the French Revolution; and inflamed the passions of England’s American colonists in the late eighteenth century, leading to the foundation of the world’s first modern democracy. With citizenship becoming more and more inclusive as a category, the idea was

that the state could provide for all citizens in such a measure that they would each be able to walk tall, live without shame or indignity, and look one another in the eye without any reason for fear or deference.

The recent revival of republican thought is built on this idea that there is an ideal for the state to promote – freedom understood as non-domination – that is both personally motivating and politically implementable. Freedom in this sense is not meant to be the only value in life, or the only value that ultimately matters. The claim is merely that it is a gateway good, suited to guide the governments that people form and sustain. Let government look after the freedom of citizens in this sense, so the line goes, and it will also have to look after a plausible range of other goods and do so at a plausible level of provision. It will have to guard against division and disorder and intrusive regulation and it will have to provide in a decent measure against misery and poverty, unfairness and inequality.

This book joins a growing body of contributions in political theory that are guided by the republican ideal and more generally by the republican tradition of thought.<sup>1</sup> While the volume offers an outline history of the tradition, an analysis of freedom as non-domination, and an account of what the ideal requires by way of social justice in people's relationships with one another, the main focus is elsewhere. It is on what the ideal demands by way of political legitimacy in the relationships between citizens and their state. The book argues that while the state has to guard people against private domination – that is, the requirement of social justice – it also needs to guard against itself practising a form of public domination. The requirement of guarding against public domination, thereby delivering political legitimacy, turns out to demand a rich array of popular controls over government: in effect, a distinctive form of democracy. It enables us to explain why and how government should be forced, in the title of the volume, to operate on the people's terms.

<sup>1</sup> The recent movement, as I think of it, began from the historical work of Quentin Skinner (1978) on the medieval foundations of modern political thought, and from his subsequent articles in the 1980s on figures like Machiavelli, who wrote within the republican tradition identified by John Pocock (1975). An up-to-date list of English works in contemporary republican thinking should include these books: Pettit (1997c); Skinner (1998); Brugger (1999); Honohan (2002); Viroli (2002); Maynor (2003); Lovett (2010); Marti and Pettit (2010); McGilvray (2011); these collections of papers: Van Gelderen and Skinner (2002); Weinstock and Nadeau (2004); Honohan and Jennings (2006); Laborde and Maynor (2007); Besson and Marti (2008); Niederberger and Schink (2012); and a number of studies that deploy the conception of freedom as non-domination, broadly understood: Braithwaite and Pettit (1990); Richardson (2002); Slaughter (2005); Bellamy (2007); Bohman (2007); Laborde (2008); White and Leighton (2008).

This theory of democracy, which takes final shape in Chapter 3, will not be very persuasive unless we can offer at least a rough model of how it might be institutionally realized. That is what the final two chapters provide. While the model developed there may be rejected or amended by many who still want to stick with the basic republican theory, it should at least help to show that the theory is not institutionally infeasible.

The model developed in chapters 4 and 5 suggests that democracy operates at its best in a dual process involving, in the short haul, the exercise of popular influence over government and, in the long haul, the imposition of a popular direction on government. As a result of the short-term electoral and contestatory influence that democracy can give them, so the idea goes, the people gain the power to force government over the longer term to conform to widely accepted norms of policy-making. The combination of these two processes, each with its own temporal register, can ensure that the *demos*, or 'people', enjoy a significant degree of *kratos*, or 'power', over the laws that govern and shape their lives, thereby avoiding public domination. The model offers a picture of how public institutions might serve to implement the republican version of the democratic ideal, giving people channels of influence that conjoin to form a river of popular control. Readers who are interested in this model, rather than in the republican theory on which it is based, might go directly to the final two chapters, using the propositional summary offered in the Conclusion to orientate their reading.

In the remainder of this Introduction, I outline the main ideas in the historical tradition of republican thought, distinguishing them from liberal and communitarian ideas, and explaining how I make use of them in the philosophical argument that follows. That argument begins in Chapter 1 with an account of the republican ideal of freedom as non-domination, and continues in the following two chapters with the theory of social justice and political legitimacy that republicanism would support. As already suggested, social justice constrains the relations that the members of a society should have with one another, and political legitimacy the relations that they should have with their government and, more broadly, their state. The theory of republican legitimacy turns out to offer a theory of democracy, since it requires a very specific form of equally shared, popular control over government. Having developed that theory in Chapter 3, I then go on in chapters 4 and 5 to outline the dual-aspect model of the sort of democracy required.

Even where it covers ground that I have traversed elsewhere, my presentation of republican history and theory has shifted somewhat as a result of the many recent discussions of these topics. The historical outline in this Introduction coheres with the story of republican development that I have

presented in earlier writings, building on the work of Quentin Skinner, but it sharpens the contrast between the Italian–Atlantic republicanism with which I identify and the form of republican thought introduced by Rousseau. The argument in the first three chapters is broadly faithful to lines of thinking I have defended in other works but is novel on a number of counts. It builds the discussion around the distinction between freedom of choice and freedom of the person. It uses an analysis of the fundamental liberties, and of their grounding in public norm and law, to articulate the ideal of freedom as a person and the requirements of republican justice. And it develops a theory of republican legitimacy at proper length, marking it off from the theory of republican justice on the one side and non-republican theories of legitimacy on the other.

### THREE CORE IDEAS

Three ideas stand out as landmarks on the terrain of traditional republican thought. While the ideas received different interpretations and emphases in different periods and amongst different authors, they constitute points of reference that were recognized and authorized by almost everyone down to the late eighteenth century who has a claim to belong to the tradition.

The first idea, unsurprisingly, is that the equal freedom of its citizens, in particular their freedom as non-domination – the freedom that goes with not having to live under the potentially harmful power of another – is the primary concern of the state or republic. The second is that if the republic is to secure the freedom of its citizens then it must satisfy a range of constitutional constraints associated broadly with the mixed constitution. And the third idea is that if the citizens are to keep the republic to its proper business then they had better have the collective and individual virtue to track and contest public policies and initiatives: the price of liberty, in the old republican adage, is eternal vigilance.

The mixed constitution was meant to guarantee a rule of law – a constitutional order – under which each citizen would be equal with others and a separation and sharing of powers – a mixed order – that would deny control over the law to any one individual or body. The contestatory citizenry was the civic complement to this constitutional ideal: it was to be a citizenry committed to interrogating all the elements of government and imposing itself in the determination of law and policy. These institutional measures were taken to be essential for organizing a government that would promote the equal freedom of citizens without itself becoming a master in

their lives – in other words, that would protect against private forms of domination without perpetrating public forms.<sup>2</sup>

Freedom as non-domination, the mixed constitution and the contestatory citizenry were all represented in Roman republican thought and practice, and they were articulated in different ways amongst the many writers who identified with Roman institutions. These authors included the Greek-born historian, Polybius, the orator and lawyer, Marcus Tullius Cicero, and the native Roman historian, Titus Livius or, as we know him, Livy. While they drew freely on earlier Greek sources, including Plato and Aristotle, they were united in the belief that it was Rome that first gave life and recognition to the key republican ideas.<sup>3</sup>

Leading thinkers in medieval and Renaissance Italy drew heavily on Polybius, Cicero and Livy when, more than a thousand years later, they reworked the republican ideas in seeking a political philosophy that would reflect the organization and experience of independent city-states like Florence and Venice (Skinner 1978). The neo-Roman framework of thought that they crafted in the course of this exercise – in particular the framework outlined in Nicolo Machiavelli's *Discourses on Livy* – served in turn to provide terms of political self-understanding for northern European countries that resisted or overthrew absolute monarchs.<sup>4</sup> These included the Polish republic of the nobles in the sixteenth and seventeenth centuries, the seventeenth- and eighteenth-century Dutch republic and the English republic of the 1640s and 1650s.

While the English republic was the shortest lived of these regimes, it had the widest influence and the deepest impact. The republican ideas

<sup>2</sup> There are three ways, according to most contemporary normative theories, in which a government and state might fail to be satisfactory (Fukuyama 2011). It might fail to operate impartially by systematically favouring members of a particular grouping, like a family or tribe. It might operate impartially but fail to operate according to established, stable rules in decision-making; that is, it might be ad hoc or capricious, rather than constitutional. Or it might operate impartially and constitutionally but fail to be accountable to its subjects. The first danger introduces partial, as distinct from impartial, rule; the second particularistic rule, as distinct from constitutional rule – the rule of law; and the third paternalistic rule, rather than accountable rule. We might say that in the republican tradition the mixture of the mixed constitution is meant to ensure impartial rule, the constitutionalism of the mixed constitution to ensure constitutional rule, and the contestatory character of the citizenry to ensure accountable rule.

<sup>3</sup> Eric Nelson (2004) has identified a Greek tradition in later republican thought that coexisted with the neo-Roman tradition in which I am interested. I do not give attention to this tradition here.

<sup>4</sup> For a vigorous and impressive argument that Machiavelli gave the contestatory element such emphasis that he should be seen as a distinctive figure in the tradition – a radical democrat rather than an aristocratic republican – see McCormick (2011). Chapter 6 of that book takes me to task for not being more Machiavellian in that sense and I hope that the current work may help to counter its depiction of the republicanism I espouse as being aristocratic in character.

that emerged in the thought of defenders such as James Harrington, John Milton and Algernon Sidney became a staple of political thought in eighteenth-century Britain and America, albeit often adapted to make room for a constitutional monarchy (Raab 1965). And they were incorporated deeply, if not always overtly, into the enormously influential work of the Baron de Montesquieu (1989) on *The Spirit of the Laws*. However differently interpreted or applied, the ideas were more or less common property to the Whig establishment in eighteenth-century Britain; to their Tory opposition, at least as that was formulated by the 1st Viscount Bolingbroke (Skinner 1974); to radical Whigs who were a constant sting in the side of every establishment (Robbins 1959); and, of course, to the American colonists, and their British apologists, who came to feel that the Westminster Parliament ruled its colonies in a manner that betrayed the ‘commonwealthman’ or republican heritage (Bailyn 1967; Reid 1988; Sellers 1995). Republican ideas provided the framework for the arguments made in support of the cause of American independence over the 1760s and 1770s – including arguments made by contemporary English supporters such as Richard Price (1991) and Joseph Priestley (1993) – and for the arguments put forward in the constitutional debates of the 1780s between federalists and anti-federalists (Madison, Hamilton and Jay 1987; Ketcham 2003).

Amongst the three ideas associated with the republican tradition, the conception of freedom as non-domination is the most distinctive. If you are to enjoy freedom as non-domination in certain choices, so the idea went, then you must not be subject to the will of others in how you make those choices; you must not suffer *dominatio*, in the word established in Roman republican usage (Lovett 2010: Appendix 1). That means that you must not be exposed to a power of interference on the part of any others, even if they happen to like you and do not exercise that power against you. The mere fact that I can interfere at little cost in your choices – the mere fact that I can track those choices and intervene when I like – means that you depend for your ability to choose as you wish on my will remaining a goodwill. You are not *sui juris* – or not ‘your own person’ – in the expression from Roman law. You are unfree, as the eighteenth-century republican Richard Price (1991: 26) explained, because your access to the options will depend on an ‘indulgence’ or an ‘accidental mildness’ on my part. To quote from a seventeenth-century republican, Algernon Sidney (1990: 17, 304), freedom in this tradition requires ‘independency upon the will of another’ – an ‘exemption from dominion’ in relations with others. In an equivalent slogan from a popular eighteenth-century tract, ‘Liberty is, to live upon one’s own

terms; slavery is, to live at the mere mercy of another' (Trenchard and Gordon 1971: II, 249–50).

In arguing that the state should be concerned in the first place with the equal freedom of its citizens, republicans held that citizens should each be assured of enjoying non-domination in a sphere of choice that came to be described as that of the fundamental or basic liberties (Libourne 1646; Pettit 2008a). This might be identified, in contemporary terms, with the sphere of choice required for being able to function in the local society (see Sen 1985; Nussbaum 2006). They thought that a state organized under a mixed constitution, and disciplined by a contestatory citizenry, was the best hope of promoting this ideal.

The citizenry was traditionally restricted to mainstream, usually propertied, males and, under the republican vision, a citizen would be a *liber*, or a 'free-man', insofar as he enjoyed sufficient power and protection in the sphere of the basic liberties to be able to walk tall amongst others and look any in the eye without reason for fear or deference. John Milton (1953–82: VIII, 424–5) captured the idea nicely in arguing that, in a 'free Commonwealth', 'they who are greatest . . . are not elevated above their brethren; live soberly in their families, walk the streets as other men, may be spoken to freely, familiarly, friendly, without adoration'. In the vision of contemporary republicans, this ideal ought to be extended to an inclusive citizenry; freedom as non-domination ought to be secured for all more or less permanent residents, independently of gender or property or religion.

#### THE LIBERAL OPPOSITION

These remarks constitute the broadest of brush strokes but the pattern that they project on to the intellectual and institutional swirl of political history is not a capricious imposition; it is not like the figures that we may think we see in the snow, or the clouds, or the stars. The Italian–Atlantic tradition that we have been describing constitutes a firm reality that endured across classical, medieval and modern times (Pocock 1975). The best sign of its independent importance is that the set of ideas described constituted a vivid and salient target of attack for those who espoused a rival way of thinking about liberty – a way of thinking that eventually gave rise to classical liberalism – in the later eighteenth century. The main figures here were utilitarian thinkers like Jeremy Bentham and William Paley (Pettit 1997c: Chapter 1).<sup>5</sup>

<sup>5</sup> For a somewhat divergent reading see Kalyvas and Katznelson (2008).



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Hobbes had already set himself against the republican way of thinking about freedom in the 1640s, offering a somewhat complex alternative – though not one that had a lasting influence – in its place (Pettit 2008c: Chapter 8; Skinner 2008b). Without explicitly drawing on that earlier precedent, Bentham reported in the 1770s ‘a kind of discovery I had made, that the idea of liberty, imported nothing in it that was positive: that it was merely a negative one: and . . . accordingly I defined it “the absence of restraint”’ (Long 1977: 54). On this definition you are free in a given choice just insofar as others do not restrain the selection of any option: not the option you actually prefer, for sure, but also – at least on what came to be the standard reading (Berlin 1969: xxxix; Pettit 2011b) – not any option you might have preferred but didn’t. This conception makes the absence of actual interference on the part of others enough for the freedom of a choice; it does not require the absence of a power of interference on their part. Even though you avoid interference only because of my being good-willed and indulgent, then – even though you can choose as you wish only because I permit it – still, on this new approach, that is enough to make you free.

Bentham and Paley and their ilk were reformers, committed to having the state cater for the freedom – and more generally for the utility or happiness – of the whole population, not just the freedom of mainstream, propertied males that government had traditionally protected. So why would they have weakened the ideal of freedom so that it is not compromised by having to live under the power of another, only by active interference? My own hunch is that it was more realistic to argue for universal freedom if freedom was something that a wife could enjoy at the hands of a kind husband, a worker under the rule of a tolerant employer – in other words, if it was an ideal that, unlike universal freedom as non-domination, did not require redressing the power imbalances allowed under contemporary family and master–servant law (Pettit 1997b: Chapter 1). It may be for this reason that Paley (2002: 315) described freedom in broadly the republican sense – an idea that ‘places liberty in security’, in accord with ‘common discourse’ (313) – as one of those versions of ‘civil freedom’ that are ‘unattainable in experience, inflame expectations that can never be gratified, and disturb the public content with complaints, which no wisdom or benevolence of government can remove’.

The rejection of freedom as non-domination raised a question about the linked ideas of a mixed constitution and a contestatory citizenry. Those devices were required on the traditional, republican way of viewing things because they were supposed to ensure that when the republic makes laws

that protect its citizens against private domination, it does not impose those laws in a publicly dominating manner. The idea was that if the interference imposed by the state is not under the control of any single agency, as the mixed constitution more or less guarantees, and if it is itself subject to the control of those on whom it is imposed, as a contestatory citizenry would ideally ensure, then it will not be dominating. It will not involve subjecting people to the unchecked will of a distinct, independent agent. It will be a non-dominating – or, as it was often called, a non-arbitrary – form of interference.

Once freedom came to be construed as non-interference, however, it was no longer clear why such constraints were necessary. Every system of law coerces and penalizes its subjects – and every system of law presupposes taxation – so that there is no law without interference. If freedom means non-interference, therefore, then there is no freedom-based requirement to make the interference non-dominating, as the mixed constitution and the contestatory citizenry promised to do. The best system will be that in which there is the least overall interference, public or private. And it may just be that the best system is one in which a benevolent despot coerces people so that they don't interfere with one another, yet keeps the coercion it perpetrates to a minimum. William Paley (2002: 314), surely Bentham's most clear-headed associate, embraced the point when he noted as early as 1785 that the cause of liberty as non-interference might be as well served, in some circumstances, by 'the edicts of a despotic prince, as by the resolutions of a popular assembly'. In such conditions, he said, 'would an absolute form of government be no less free than the purest democracy' – and, by his lights, no less free than the most classical republic.

While Bentham and Paley were mainly interested in advancing the utilitarian programme, they shaped the way in which early nineteenth-century liberals thought about freedom and the requirements of freedom. We might define liberalism – somewhat tendentiously, in view of the many meanings given to the term – as any approach to government that makes freedom as non-interference paramount or central. And in that sense it contrasts quite sharply with the republican approach in which freedom as non-domination plays the central role. Liberalism in this sense may be right-of-centre, as classical liberals or libertarians generally were, making freedom as non-interference into the only concern of government. Or it may be left-of-centre, making freedom as non-interference into just one of government's goals: perhaps a goal derived from the broader concern with happiness, as in the case of utilitarians; perhaps a goal that is paired with a