

Liberal and Republican Conceptions of Freedom

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In recent years there has occurred a remarkable surge of interest in classical republicanism. Among the different currents in this republican revival, the most important, I believe, traces itself back through Machiavelli and his Discorsi sopra la prima deca di Tito Livio to the political thought of ancient Rome. It has been the subject of a series of important historical studies by Quentin Skinner,¹ and in the Anglo-American world it has found its most ambitious theoretician in Philip Pettit. Indeed, the republican model of political life has received in his hands the sort of detailed exposition which it never enjoyed before. His book, Republicanism. A Theory of Freedom and Government, is a landmark work.²

A few minor differences apart, Skinner and Pettit have essentially the same vision of what is of enduring importance in the republican tradition, namely its understanding of freedom. In this conception they are joined by a third contemporary neo-republican, Maurizio Viroli.³ I am convinced that the republican theory of freedom, which the three of them have been at one in advancing, represents an

¹ See in particular Skinner, Liberty Before Liberalism (Cambridge: Cambridge University Press, 1998).

² Pettit, Republicanism. A Theory of Freedom and Government (2nd ed. with postscript; Cambridge: Cambridge University Press, 1999).

³ His most recent work is Republicanism (Italian original 1999; New York: Hill and Wang, 2002).

invaluable contribution to our political thinking. All the same, I also believe that they have not properly understood the true character of their achievement. Since Pettit is the most systematic thinker in the group, I shall begin by laying out the neo-republican argument primarily in the terms which he has provided, though I shall also embroider some of the points in my own way, this being an expression of my large measure of agreement. My ultimate aim, however, is to examine this movement's problematic relation to the modern liberal tradition.

1. Three Concepts of Liberty

At the center of the neo-republican enterprise is a conception of political liberty which Pettit and the others call 'non-domination'. According to this view, we are free to the extent that we do not find ourselves under the domination of others, subject to their will and thus exposed to the vicissitudes of their desires. The conception goes back to Roman law, according to which a free person is one who, unlike a slave, does not find himself in potestate domini. But in the republican tradition of the 16th and 17th centuries, its meaning broadened into a comprehensive political ideal. "Liberty", wrote Algernon Sidney, the great republican thinker executed for treason in 1683, "solely consists in an independency upon the will of another".⁴

This notion of freedom, we may begin by noting, refers to a condition in which we can find ourselves, namely, the condition where we are not living under the thumb of another. It does not mean the exercise of a capacity, and so in particular it does not signify the control which an individual or community exercises over the

⁴ Sidney, Discourses concerning Government (first published 1698 ; ed. by T.G. West, Indianapolis: Liberty Fund, 1996), p. 17.

shape of its own existence. Another way to put this contrast lies with the categories deployed by Isaiah Berlin in his classic essay of 1958, “Two Concepts of Liberty”.⁵ The idea of freedom as non-domination forms a ‘negative’, not a ‘positive’ conception. In general, identifying freedom with a condition entails equating it with the non-occurrence of those factors which are regarded as significantly diminishing a person's possibilities, and in the present case the factor whose absence is deemed essential to freedom is living at the mercy of another's will. Nothing is said, so far as freedom itself is concerned, about what is to be done with the possibilities secured by the absence of domination.

Freedom as non-domination does not therefore consist in rational autonomy or democratic self-government, as freedom has often been positively defined. Much less does it signify the activity by which we supposedly realize our true nature or give expression to our higher self, which are the sorts of conclusions to which positive conceptions of freedom typically lead. To be free from the domination of a master does not mean being the master of oneself, since it is a condition which people may enjoy in a variety of ways – as much by letting themselves be carried away by passion (a dangerous thing when at the mercy of the powerful) as by bringing themselves under the rule of their own reason.

Positive conceptions of freedom are not without their plausibility, and I shall return to this point in section 3. But in Pettit's eyes as in mine, they fail to capture all that we should value as political freedom, or even its most fundamental dimension. A free people is one whose freedom essentially consists in the character and the extent of the possibilities which lie open to them. Their freedom has a broader compass than

⁵ Reprinted in Berlin, Four Essays on Liberty (Oxford: Oxford University Press, 1969), pp. 118-172.

participation in democratic self-government, and it need not involve their shaping their lives “autonomously”, according to a plan of their own devising. Political freedom is best understood as a ‘negative’ concept referring to a condition of existence, rather than as a “positive” concept denoting a particular sort of activity.

Nonetheless, freedom as non-domination differs fundamentally from the understanding of negative freedom that Berlin himself advocated. In fact, one of Pettit's most important contributions consists in having broadened the range of theoretical options. Negative freedom as Berlin conceived of it is the domain of action where individuals can do as they may want without interference on the part of others. Like Hobbes and Bentham before him, he viewed individual freedom as the absence of actual obstacles. “A Free-Man”, Hobbes declared, “is he, that in those things, which by his strength and wit he is able to do, is not hindered to do what he has a will to do”, and Berlin explicitly endorsed this definition.⁶ To be sure, Berlin cautioned that a person's freedom should not be said to consist in the absence of obstacles to the fulfillment of his desires. Such a definition would allow the person to increase his freedom simply by extinguishing his unsatisfied desires. The obstacles relevant for judging the extent of a person's negative liberty ought rather to be

⁶. Hobbes, Leviathan (Harmondsworth: Penguin, 1968), Part II, ch. 21, para. 2; Berlin, op. cit., p. 123, fn. 2. See also Leviathan, Part I, ch. 14, para. 2, where Hobbes claims that “by LIBERTY is understood, according to the proper signification of the word, the absence of external impediments”. For Bentham's understanding of freedom, see his treatise Of Laws in General (ed. H.L.A. Hart, London: Athlone, 1970), p. 253: “Liberty then is of two or even more sorts, according to the number of quarters from whence coercion, which it is the absence of, may come”. See also his letter to John Lind of 1776, quoted by Pettit in Republicanism, p. 44. There Bentham writes of his discovery that “the idea of liberty imported nothing in it that was positive: that it was merely a negative one: and that accordingly I defined it ‘the absence of restraint’”.

conceived as obstacles to his possibilities, as roadblocks standing in the way of the courses of action that he might choose to pursue.⁷

Berlin did not waver, however, in defining our negative freedom by reference to actual interference, even when it is our possibilities which are thereby limited. As a result, people must count as free in this sense, even when another could encroach upon their projects (present or possible) and yet decides not to do so. Negative freedom, Berlin once remarked, is not compromised by a despotic regime, so long as the despot happens to be benevolent and chooses to pursue an indulgent policy toward his population. Reserving all political power to himself, such a ruler may otherwise leave his subjects a large measure of freedom to pursue their various projects as they please.⁸

Yet surely it is wrong, Pettit objects, to hold that people are then free, inasmuch as they pursue their projects at the mercy of a prince who, well-disposed for the moment, can at any time change his mind and policies. So too workers are not free if, to have a job at all and earn enough to survive, they have no choice but to work for a single employer who, well-meaning though he may be, can at any time

⁷ Berlin, *op. cit.*, p. 139. See also the “Introduction” in the same volume, pp. xxxviii-xxxix. John Gray puts this point well by remarking that for Berlin, in contrast to Hobbes and Bentham, negative freedom consists, not in the unobstructed pursuit of one's desire, but in “the capacity for choice among ... options that is unimpeded by others”. Behind Berlin's conception stands the idea of ‘self-creation through choice-making’. See Gray, Isaiah Berlin (Princeton: Princeton University Press, 1996), pp. 15-21.

⁸ Berlin, *op. cit.*, p. 129: “It is perfectly conceivable that a liberal-minded despot would allow his subjects a large measure of personal freedom.”

shut up shop or move his enterprise elsewhere. Freedom really entails an absence of both actual and possible interference at the hands of others.

Or more exactly, Pettit adds, it consists in being exempt from all such arbitrary interference. For suppose that we inhabit a society governed in accord with just laws: we will not thereby escape the possibility of interference in our affairs. For even then, the state must stand ready to discourage and punish any infractions of the laws. But the point is that the institution of such conditions, which put an end to the threat of arbitrary interference, marks a qualitative difference. The rule of law does not amount to exchanging one form of domination for another, as though its utility consisted in offering us a greater net balance of freedom over constraint than we would otherwise have if living under despotic rule or under no rule at all (in a 'state of nature'). Domination itself, so Pettit rightly insists, has come to an end when the authority of just laws replaces the will of particular individuals.

Freedom as the absence of domination differs therefore in two respects from any view like Berlin's that equates negative freedom with the absence of obstacles.⁹ On the one hand, domination can occur without any actual interference. Our freedom is abridged by the simple fact that we depend on the goodwill of others, since their power to meddle in our life can be so great that, even if they choose not to exercise it, we find ourselves obliged to anticipate their possible actions, modify our plans, and curry their favor. On the other hand, every act or threat of interference need not constitute domination. If just laws have the function of making us free by checking the arbitrary will of others, their influence on our conduct and the prohibitions they impose do not amount to a reduction in our freedom.

⁹ Pettit, Republicanism, pp. 22ff.

It is on this latter score that the two “negative” conceptions of freedom differ most tellingly. For Hobbes and Bentham and those who follow in their footsteps, every law as such diminishes our freedom, even if its objective is to prevent the greater loss of freedom that would ensue from the absence of law. Berlin himself made the point explicitly. “Law is always a ‘fetter’”, he wrote, “even if it protects you from being bound in chains that are heavier than those of the law”. Similarly, “every law seems to me to curtail some liberty, although it may be a means to increasing another”.¹⁰ On this view, civil freedom, the liberty we enjoy within political society, becomes the silence of the law, since all law is in itself an intrusion and liberty begins where law ends. As Hobbes wrote,

The Liberty of a Subject lyeth therefore only in those things, which in regulating their actions, the Sovereign hath praetermitted.

Or again:

Liberties ... depend on the silence of the law. In cases where the Sovereign has prescribed no rule, there the Subject hath the liberty to do, or forbear, according to his own discretion.¹¹

According to the republican conception, by contrast, law and liberty do not stand intrinsically opposed. The exact character of their relationship depends on the substance of the laws in question. To the extent that just laws deliver us from the

¹⁰ Berlin, op. cit., pp. 123 (ftn.), xlix (ftn.).

¹¹ Hobbes, Leviathan, Part II, ch. 21, paras. 6 and 18. In the second of these passages, Hobbes is talking in fact about those “other liberties” of the subject besides that in virtue of which he may refuse without injustice to obey any explicit command of the Sovereign not to defend his own person. This latter freedom, he maintains, is the one natural freedom which can never be surrendered upon entering civil society.

relations of domination in which the natural course of things would otherwise place us, they make up freedom's condition of possibility, not its antithesis.¹² Here is the way that Machiavelli summed up the point:

Only the name of freedom is extolled by the ministers of license, who are the men of the people, and by the ministers of servitude, who are the nobles, neither of them desiring to be subject either to the laws or to men. But when it happens ... that by the good fortune of a city there rises in it a wise, good, and powerful citizen by whom laws are ordered by which these humors of the nobles and the men of the people are quieted or restrained so that they cannot do evil, then that city can be called free.¹³

Law should not, of course, aim at abolishing every relation of domination.

Some ways in which people find themselves exposed to the arbitrary will of others are relatively insignificant, and the limited resources of the state need to be focussed on graver injustices. Other relationships among people, such as love, represent forms of flourishing whose very nature involves living at the mercy of another's good intentions. Finally, the state ought not to acquire so much power to intervene that it becomes itself a behemoth of domination. In all these regards, we need to remember that the legal regulation of human affairs has to weigh costs along with benefits and that freedom, however conceived, is not the only good to be considered.

¹² Pettit, *op. cit.*, p. 35; Viroli, *op. cit.*, p. 9.

¹³ Machiavelli, *Istorie fiorentine*, IV.1.

2. Freedom and Self-Government

In the light of these initial observations, it should be plain that the idea of freedom as non-domination, distinct though it is from the “positive” conception of freedom as autonomy, provides nonetheless a ready rationale for the institution of democratic self-rule.¹⁴ Universal suffrage and the widespread participation of citizens in political life offer the best guarantee that the laws will be just, instead of serving particular interests and private concentrations of power. For those who see the essence of freedom as the absence of interference, there exists no such internal connection between liberty and democracy or self-rule. For them, as we have seen, extensive freedom may co-exist with government by the few. Berlin was displaying an admirable consistency when he declared that “freedom in [my] sense is not, at any rate logically, connected with democracy or self-government”.¹⁵ He was drawing the same implication from the notion of freedom as non-interference which Hobbes did when observing in a famous passage of the Leviathan (directed explicitly against the republican writers of his time):

There is written on the Turrets of the city of Lucca in great characters at this day, the word LIBERTAS; yet no man can thence inferre, that a particular man has more Libertie ... there, than in Constantinople. Whether a Commonwealth be Monarchicall, or Popular, the Freedome is still the same.¹⁶

¹⁴ Pettit, op. cit., pp. 8, 183ff.

¹⁵ Berlin, op. cit., pp. 129-130.

¹⁶ Hobbes, Leviathan, Part II, ch. 21, para.8.

For Hobbes like Berlin, freedom depends on the absence of actual interference, whatever may be the source of the limits on conduct represented by the law.

Once freedom is understood as the absence of domination, it takes on a more intimate relation to the idea of democracy than Hobbes or Berlin could allow. Popular self-rule then appears as an indispensable means to the creation of the just laws which make for the very possibility of liberty. That was James Harrington's point, when the 17th-century republican writer quipped in response to the passage just quoted from Hobbes, "The mountain hath brought forth, and we have a little equivocation", Hobbes having missed, he claimed, the all-important difference between liberty "from" and liberty "by" the laws.¹⁷ Yet at the same time, we need to keep in mind that such a conception does not go so far as to equate freedom with the exercise of self-government. The kind of republican theory that it inspires – Pettit calls it "neo-Roman" (not least because its early-modern exponents drew so often upon Machiavelli's Discorsi)¹⁸ – has therefore quite a different shape than another strand of political thought which has also styled itself "republican", but which has taken its bearings from a positive notion of freedom. This other version of republican thought Pettit appropriately calls 'neo-Athenian', and he finds it exemplified by writers such as Hannah Arendt and Michael Sandel. Often invoking a highly idealized view of the Greek polis, these thinkers express an unqualified admiration for "the liberty of the ancients". They tend to identify freedom with self-rule because they

¹⁷ Harrington, The Commonwealth of Oceana (1656) and A System of Politics, ed. J.G.A. Pocock (Cambridge: Cambridge University Press, 1992), p. 20.

¹⁸ Pettit introduced the distinction between neo-Athenian and neo-Roman versions of the republican tradition in his essay, "Reworking Sandel's Republicanism", Journal of Philosophy (vol. XCV, no. 2, February 1998), pp. 73-96.

regard political life, in which common purposes are discussed, decided and acted upon, as the primary domain in which the virtues are exercised and the human good achieved.

Other names too might be added to Pettit's list of contemporary "neo-Athenians". Indeed, I believe that a purer example of this intellectual current than the two figures he mentions is J.G.A. Pocock, though I hasten to add that I mean, not so much Pocock the historian whose admirable book, The Machiavellian Moment, played an essential role in the rediscovery of the republican writers of early-modern Europe, as rather Pocock in his own theorizing moments. The key text is his essay of 1981, "Virtues, Rights, and Manners". There Pocock asserts that the republican idea of freedom was at bottom the 'positive' one of participating in the activity of self-rule because it drew on the civic-humanist vision that "*homo* is naturally a citizen and most fully himself in a vivere civile".¹⁹ During the course of the 17th and 18th centuries, Pocock argues, this republican conception was shoved aside by a "jurisprudential" paradigm that regarded freedom as merely the ability to pursue one's own affairs unimpeded by others. The language of virtue gave way to the language of rights, as the focus of attention shifted from the relations in which people stand to one another, sharing in the construction of their common life, to the relations in which they stand to things (that is, to property), secure from interference on the part of others.

¹⁹Pocock, Virtue, Commerce, and History (Cambridge: Cambridge University Press, 1985), p. 39. See also pp. 40-41: "The republican vocabulary ... contended that homo, the animale politicum, was so constituted that his nature was completed only in a vita activa practiced in a vivere civile".

Pocock's historical thesis may appear attractive in its simplicity, yet it is too simple to be true. The increasing importance of rights in early modern thought did not reflect solely a concern for the protection and disposability of property. On the contrary, the notion of rights – particularly those of conscience and free association – recommended itself also as a way to order the relations between people themselves, in light of the deep and abiding disagreements which had emerged about the nature of the human good. The language of fundamental rights was a modern development, not merely because it served “bourgeois” interests, but also because it aimed to put an end to the Wars of Religion and provide the new basis of a common life. Not by accident, it played a significant role even in the thought of 17th century thinkers who, taking Machiavelli's Discorsi as their inspiration, must certainly count as “republican”, but whose republicanism differed markedly from Pocock's in that they defined liberty as not living at the mercy of another's will and did so not least with an eye to that form of domination which consists in some single but contested vision of the human good enjoying a favored status in the political community. Algernon Sidney is a perfect case in point.²⁰ Like other figures in the “neo-Athenian” current, Pocock regards the virtues of active citizenship as defining the essence of the human

²⁰ See A.C. Houston, Algernon Sidney and the Republican Heritage in England and America (Princeton: Princeton University Press, 1991). To the extent that early modern notions of rights remained housed within theories of natural law whose fundamental concept was that of duty (rights being understood as powers to fulfill one's duties and as entitlements to be treated by others in accord with theirs), no great distance separated this current of thought from the republican devotion to civic virtue. See Knud Haakonssen, Natural Law and Moral Philosophy. From Grotius to the Scottish Enlightenment (Cambridge: Cambridge University Press, 1996), pp. 326-327.

good. Whence his conviction that sharing in the exercise of self-rule represents the core meaning of freedom.

The different pattern of republican thought which Pettit champions sees self-government as instead a pre-condition for the maintenance of a free society, freedom itself consisting in an individual's being able, out of the shadow of the arbitrary will of others, to pursue his good as he best understands it.²¹ Democracy's relation to freedom is consequently that of an essential means, instead of being a privileged expression. Certainly, this conception too must insist on the importance of participation in political life. But in contrast to the neo-Athenian model, it has no reason to engage in the inflationist rhetoric which trumpets civic virtue as the very heart and soul of the moral life. As a result, there need be no obscurity about the quite specific tasks which civic virtue is called upon to fulfill. Attention can be given to the particular traits of character which citizens must possess, if the distinctive feature of a republican regime, the substitution of the authority of law for personal dependence, is to be sustained.

Thus it is that Pettit himself distinguishes three basic habits of mind that the citizens of a republican polity must display.²² First, the rule of law can be a reality only in a society where citizens respect the law for its own sake, instead of seeking to circumvent it or adhering to it solely out of a fear of sanctions. It is also necessary, if the law is not to turn into an instrument of particular interests, that citizens make a point of taking part in public life, so that their own needs and concerns are heard.

²¹ Skinner takes this view as well (*op. cit.* p. 74, ftn. 38), as does Viroli (*op. cit.* pp. 11, 42, 49).

²² Pettit, *Republicanism*, pp. 246ff. and "Reworking Sandel's Republicanism", pp. 81, 87-89.

Finally, they must practice a constant vigilance, staying on the lookout for excessive concentrations of power, which never cease to be a danger.

These traits of character are far from spontaneous. They require fostering, and are no doubt considerably weakened today by the countless pressures encouraging a consumerist approach to social life, in which each person seeks to make the best bargain for himself instead of working with others to tame the powers, particularly economic, which set the terms for their calculations. But the key theoretical point is that civic virtue as Pettit defines it is a specifically political virtue, necessary for the securing of a society without domination. Its role is to make possible the pursuit of different visions of the good life and not to define the human good itself.

3. Freedom and Pluralism

The republican conception of freedom as the absence of domination has many attractive features, some of which I have already indicated. It would be unwise, however, to conclude that non-domination constitutes the true meaning of political freedom. A number of distinct values, none of them negligible, have each taken the name of freedom, and our concern ought to be, not to settle which of them really captures its essence, but to recognize the differences between these ideals, chart their motivations and interconnections, and determine the conditions under which one or the other of them may be at stake or prove to be of greater importance.

Berlin himself, I believe, saw things in basically this way. He had no intention of arguing that negative liberty (as he understood it) forms the whole of freedom or that the conception of freedom as self-rule ought to be rejected.²³ His concern lay

²³ Cf. Berlin, *Four Essays on Liberty*, p. xlvii: “‘Positive’ liberty ... is a valid universal goal. I do not know why I should have been held to doubt this, or, for that

with the fact that, though the negative idea of freedom as the absence of interference had often been invoked to license the creation of inhuman conditions, particularly in the economic realm, the misuse of the positive idea had historically gone further and turned the notion of freedom itself into a synonym of tyranny, proclaiming the individual's 'higher self' to be the Nation or the Party. As everyone knows, Berlin's deepest conviction was his pluralism, according to which there exists an irreducible and conflicting plurality of human goods. This doctrine, in fact, informed his thinking about freedom in two ways: not only did he prize negative liberty precisely because it enables people to pursue their diverse ideals of the good life, but liberty itself, he rightly recognized, has given rise to different and justifiable understandings.²⁴

The same outlook of value-pluralism does not, I believe, inform the neo-republican discussions of freedom. To be sure, freedom from domination represents an important value, and Pettit in particular has shown how its contours differ significantly from those of non-interference and self-rule. He also has presented cogent reasons for attributing to this republican ideal a more fundamental role in our political life than the other two ideas of freedom. It may well be true that democratic self-government draws its chief rationale from the need to do away with relations of

matter, the further proposition, that democratic self-government is a fundamental human need, something valuable in itself, whether or not it clashes with the claims of negative liberty”.

²⁴ Berlin, *op. cit.*, p. lviii (ftn.): “I am not offering a blanket endorsement of the ‘negative’ concept as opposed to its ‘positive’ twin brother, since this would itself constitute precisely the kind of intolerant monism against which the entire argument is directed”.

domination, and that ceasing to live at the mercy of powerful individuals and interests is of far greater moment than simply living unobstructed by others.

Nonetheless, it ought not to be denied that the absence of interference, the ability to act as we wish, is also one of the things we mean by “freedom”, and its abridgement, even for the sake of a greater good, will often and rightly be seen as a loss. Certain laws, however just they may be (one need only think of tax codes, for example), require us to give up some of our freedom to do as we please which we may reasonably regret having to surrender, even if on balance we judge it to be for the best. Or again, suppose that two possible laws each equally limit the influence of powerful interests, yet differ in how much they interfere with the daily lives of citizens; surely we ought to prefer the less intrusive one and for the reason that the absence of interference, all other things being the same, is something of value. By arguing as he does that non-domination is the correct view of political liberty, Pettit seems committed to denying – and to my mind, wrongly – that acting unimpeded by others is itself a form of freedom as well as a good in its own right, even if one of secondary importance.

Other contemporary republican theorists proceed in a similarly monistic fashion. Though Skinner differs a bit from Pettit on the nature of freedom, he too fails – one might say, for the opposite reason – to recognize that the idea of freedom is in reality the site of a number of competing human goods. In his opinion, the neo-Roman line of thought stretching from Machiavelli through the English commonwealthmen of the 17th century measured a person's freedom by the “absence of constraint”, constraint meaning (here his point of disagreement with Pettit) both

interference and domination.²⁵ Perhaps certain writers did engage in so expansive a way of thinking. But if they did, they were not thereby deploying any single coherent notion of freedom, as Skinner seems to assume. Non-interference and non-domination give rise to contrary conceptions of freedom, which are destined to conflict, as the opposing views they imply about the relation between freedom and law suffice to show.

In a number of writings subsequent to the publication of Republicanism, including the 1999 postscript, Pettit inches his way closer to a recognition of the fact that ‘freedom’ is the name of a number of distinct values, none of them insignificant, although they may prove to be of different moment. Sometimes, for instance, he observes that interference as such constitutes a “secondary evil”. Yet to the extent that he also phrases this point by saying that interference counts as a “secondary offence against freedom”,²⁶ he falls back into a unitary conception of freedom, just as he did in the book itself when he described the non-arbitrary interference represented by the rule of law as making people, if not “unfree” (as domination does), then “non-free” all the same.²⁷ The truth he half-glimpses but never acknowledges is that “freedom” in this context actually denotes two different values, equally real, though of unequal importance. After all, the person who, living by another’s leave, then meets with actual interference from that quarter, has not only had to reckon with two

²⁵ Skinner, op. cit., pp. 82-84.

²⁶ Compare Pettit, Republicanism, pp. 301-302 and his essay “Keeping Republican Freedom Simple”, Political Theory 30 (3), June 2002 (pp. 339-356), pp. 342. 347.

²⁷ Pettit, Republicanism, pp. 26, 76.

blows against his freedom, but has also seen his freedom compromised in two quite different respects.

Another, very interesting sign of Pettit's lack of clarity on this issue is his repeated disclaimer of “any Rousseauesque paradox to the effect that submission to the law is a form of self-emancipation”.²⁸ In reality, the supposed paradox is no paradox at all, and the feeling that it is one comes from failing to distinguish the different meanings of freedom. To the extent that freedom is understood as the absence of domination, just laws form its precondition, and therefore forcing the recalcitrant individual to comply with these laws is indeed tantamount to forcing him to be free – free namely in the sense of no longer living at the mercy of the eminent and powerful. There is nothing paradoxical in Rousseau saying of such a person, “on le forcera d'être libre”, since the notion of freedom as non-domination sometimes requires nothing less, as Rousseau himself immediately explained (Du contrat social I.7):

Car telle est la condition qui donnant chaque citoyen à la Patrie le garantit de toute dépendance personnelle.

Any sense of paradox comes from confusing the absence of domination with the absence of interference, as though Rousseau supposed that coercion (that is, interference) might liberate a person from coercion.²⁹

²⁸ Pettit, Republicanism, p. 302 and “Keeping Republican Freedom Simple”, pp. 346ff.

²⁹ Viroli, by contrast, is admirably clear about why Rousseau's famous statement involves no paradox. See his book, Jean-Jacques Rousseau and the 'Well-ordered Society' (Cambridge: Cambridge University Press, 1988), pp. 150ff.

Nor is there anything alarming in the notion that one may have to compel people to be free, so long as it is clearly understood that the sense of freedom at issue is freedom from the arbitrary will of others, and that such compulsion does abridge a person's freedom in another and no less real sense, namely by interfering with his ability to do as he pleases. Once we recognize, as I believe Pettit does not, that the broad idea of freedom is in itself pluralistic, encompassing a number of different values, we should be able to accept without misgiving that obedience to the law is in itself one form of freedom, if not the only one.

Why does the idea of freedom exhibit this sort of complexity? That is a large and difficult question that takes us beyond our present concerns. But the answer, I suspect, lies in the fact that we cannot make sense of what we mean by freedom except by reference to other human goods and that more than one kind of good can prove relevant. We no doubt begin with a vague notion of freedom as the absence of constraint. Yet not every structuring of our activities can count as a constraint, if the notion is to have any discernible content; some must be regarded as preconditions of freedom. How could grammar, for instance, count as a curtailment of our freedom, when without it intelligible speech and thought would not even be possible? The only way to draw the necessary distinctions, however, is by appealing to other things we hold dear. Thus, to the extent that we see the satisfaction of desire as a good, all interference on the part of others can seem a constraint. But if we attend to the good that consists in being able to look others in the eye as our equals, then a system of just laws will appear, not as a constraint, but as the very basis of our freedom. Indeed,

toward the end of this paper I will have more to say about the moral principles that serve to shape the neo-republican idea of freedom as non-domination.

4. Republican vs. Liberal

There is another matter of equal theoretical consequence on which I believe that the contemporary neo-Roman thinkers – I mean Pettit, Skinner, and Viroli – go astray. It is the opposition that they all set up between their republican conception of freedom and the modern liberal tradition. In their view, liberal thinkers have uniformly adhered to the principle that freedom means non-interference.

“Liberalism”, so Pettit writes, “has been associated over the two hundred years of its development, and in most of its influential varieties, with the negative conception of freedom as the absence of interference, and with the assumption that there is nothing inherently oppressive about some people having dominating power over others, provided they do not exercise that power and are not likely to exercise it”.³⁰ When liberals have wanted to criticize relations of domination, such as poverty or job insecurity, social conditions in which no interference may actually take place, they have therefore had to fall back, he says, on other values such as equality or the satisfaction of basic needs. The republican conception of freedom, by contrast, is held to be of sufficient substance that it can serve all by itself as the basis of a cogent ideal

³⁰ Pettit, Republicanism, pp. 8-9. He continues to hold to this conception of liberalism in his 1999 Postscript to the book, p. 298.

of social justice. It represents, in his view, “the supreme political value”.³¹ In sum, Pettit presents his republicanism as a fundamental alternative to the liberal understanding of political life.

Skinner too likes to play off the republican doctrine of freedom as non-domination against an entity called “liberalism” and identified with the view of freedom as simply the absence of interference.³² And though Viroli begins his own account by declaring his opposition to “the conventional view ... that republicanism is an alternative to liberalism”, he turns out to mean merely that liberalism, once again equated with the notion of freedom as non-interference, represents an “impoverished” version of republican thought.³³ All three writers agree therefore that on the central question of freedom republican and liberal thought stand dramatically opposed.

Despite their unanimity, I find this pattern of argument importantly mistaken for two distinct reasons. Here as elsewhere, Pettit shows himself to be the most systematic thinker in the group, and thus I shall explain my dissatisfaction by reference to his account. First of all, it is not right to suppose that the liberal tradition displays a monolithic allegiance to the notion of freedom as non-interference. The evidence which Pettit adduces to defend this interpretive thesis is partial and misleading. But in addition, the exposition which he goes on to give of his own republican theory does not really make of non-domination the supreme political

³¹ *Ibid.*, pp. 80-81.

³² Skinner, *op. cit.*, pp. x, 113.

value, and the character of this failure is telling. For he finds himself obliged to appeal to recognizably liberal principles in order to define the precise content of his republican conception of freedom. In the end, Pettit belongs to the very liberal tradition that he imagines he has transcended.

I shall begin with the first point, reserving a discussion of the second to the next section.

It is indisputable that some thinkers do fit the picture which Pettit draws of the liberal point of view. Isaiah Berlin is a perfect example. Distinguishing two grand conceptions of freedom, the absence of interference and autonomy, Berlin held that democratic self-government is a good only so far as it remains subordinate to a respect for individual rights. For this reason, liberalism tended to signify for him a political vision whose fundamental commitment is to the negative conception of freedom as non-interference. Nonetheless, the fact that this conception found its first detailed exposition in Hobbes' writings ought to give us pause. The Hobbesian theory of the state scarcely looks like a liberal philosophy.

Of course, one might reply that Hobbes, while no liberal himself, furnished some tools – among them an idea of freedom – which later thinkers were able to exploit in constructing a model of the open society that can properly be called “liberal”. And indeed, freedom understood as the absence of interference was later taken up by Bentham, and it went on to inspire an important current of liberal thought. In the 19th century, its most eminent representative was John Stuart Mill,

³³ Viroli, *op. cit.*, pp. 6, 10, 43, 61.

who argued that “the only freedom which deserves the name is that of pursuing our own good in our own way” and who conceived of law, which like “all restraint, qua restraint, is an evil”, as a necessary limit on individual freedom so that “we do not attempt to deprive others of theirs”.³⁴ Obviously, it has had its followers in the 20th century as well.

But the question is whether liberalism as a whole coincides with this line of thought. One signal difficulty is that John Locke, incontestably a founding father of the liberal tradition, went out of his way in his political writings to reject equating law with a limit on freedom. Distinguishing sharply between ‘liberty’ and ‘license’--

Although this [state of nature] be a state of Liberty, yet it is not a state of License... The State of Nature has a Law of Nature to govern it (Second Treatise, §6),

Locke insisted on the role played by law in the very constitution of freedom. Such a view is, as we have seen, a corollary of the republican concern with non-domination. And Locke's asseverations in §57 of the Second Treatise of Government could not have been bettered by any avowedly republican theorist:

Law in its true notion is not so much the limitation as the direction of a free and intelligent agent to his proper interest... The end of law is not to abolish or restrain, but to preserve and enlarge freedom... Where there is no law, there is no freedom.

³⁴ Mill, On Liberty, chapter 1, paragraph 13, and chapter 5, paragraph 4.

Pettit deals with this problem by placing Locke among the republicans.³⁵ But that is a desperate remedy. Surely something is amiss in a definition of liberalism which accommodates Hobbes, but excludes Locke. The way out of this impasse is obvious, and it consists in admitting that the liberal tradition is not all of a piece. On the one hand, an identification of freedom with the absence of interference has often been at work, perhaps most explicitly in utilitarian thought. (In this as in other regards, Bentham and John Austin were close students of Hobbes). But on the other, a great many thinkers whom it would be hard to classify as anything other than 'liberal' have rejected an essential opposition between freedom and law. In their eyes freedom seems therefore to have meant something very much like the absence of domination.

Let us take as another example Benjamin Constant and his famous evocation of "the liberty of the moderns". Pettit follows Berlin in regarding Constant as an illustrious advocate of the fundamental value of non-interference.³⁶ But how did Constant himself portray modern liberty? Here is what he said:

C'est le droit de n'être soumis qu'aux lois, de ne pouvoir ni être arrêté, ni détenu, ni mis à mort, ni maltraité d'aucune manière, par l'effet de la volonté arbitraire d'un ou de plusieurs individus.

[It is the right to be subject only to the laws, such that one cannot be arrested, detained, executed, or mistreated in any way by virtue of the arbitrary will of one or more individuals.]³⁷

³⁵ Pettit, Republicanism, p. 40 and "Reworking Sandel's Republicanism", pp. 84-85.

³⁶ Pettit, Republicanism, pp. 18, 27, 50; Berlin, Four Essays on Liberty, pp. xlvi, 124.

³⁷ Constant, "De la liberté des Modernes comparée à celle des Anciens", in De la liberté chez les modernes (Paris: Pluriel, 1980), pp. 494-495 (emphasis added). I have amended Biancamaria Fontana's translation in Constant, Political Writings

Freedom thus defined certainly differs from the collective exercise of sovereignty, that is, from the liberty of the Ancients in Constant's terminology. But does it therefore amount to the freedom of non-interference? I have underlined the phrases indicating that for Constant "modern liberty" consists in being subject to the law and not to the arbitrary will of another, and that its opposite is not merely actual interference in the harmful ways mentioned, but also the possibility of such mistreatment. The passage seems so clear an expression of the republican idea of freedom as the absence of domination that one might think it had been taken from the pages of Pettit's own book.

Naturally, we cannot be sure of Constant's intention, since he did not differentiate between the two negative conceptions of freedom – absence of interference, absence of domination – and so never formally rejected the one in favor of the other. But precisely in this respect Pettit's true achievement comes into view. He is the first to have analyzed in a systematic way the difference between these two conceptions. His work has put us in a position to appreciate some of the crucial obscurities and disagreements surrounding the notion of freedom within the liberal tradition itself. Not only ought we to recognize, as I have suggested, the existence of two quite distinct lines of thought about freedom within that tradition, one distinctive of utilitarianism, the other attuned to the unity of freedom and law, but we should also expect that single thinkers may sometimes be drawn in the one direction and sometimes in the other. A fine example is Locke himself. Though in his political

(Cambridge: Cambridge University Press, 1988, p. 310), because it fails unfortunately to preserve the key terms which I have underscored.

writings he readily declared (like a good republican) that “freedom is not a liberty for every man to do what he lists”, he seconded the Hobbesian definition in the Essay concerning Human Understanding: “freedom [consists] in our being able to act or not to act, according as we shall choose or will”.³⁸ Having grasped the distinctive concerns that underlie the republican ideal of not living at the mercy of another's will, we should now be able to devote ourselves to a more careful articulation of liberal principles. Unfortunately, however, this is not the spirit in which Pettit has presented his republican theory of government. Instead, he has chosen to set up a grand opposition between liberal and republican thought. Understanding is not thereby advanced.

Consider as a final example Pettit's attempt to draw John Rawls too within the maw of his critique of liberalism. Rawls' idea of the “priority of liberty”, the principle that “liberty can be restricted only for the sake of liberty”, serves as Pettit's chief evidence for placing him among those who hold that we are free to the extent that we escape interference from others.³⁹ On Pettit's telling, that principle expresses the characteristic view of Hobbes and Bentham, for whom law, even when just, constitutes a restriction of freedom to be accepted only because its absence would entail an even greater loss of freedom. This interpretation misses, however, the real meaning of Rawls' principle. The import of that principle is to require that liberty (or more exactly, the scheme of equal basic liberties)⁴⁰ never be compromised in order to

³⁸ Locke, Second Treatise §57 and Essay concerning Human Understanding II.xxi.27.

³⁹ Rawls, A Theory of Justice (Cambridge, MA: Harvard University Press, 1971), pp. 244, 302; Pettit, Republicanism, p. 50.

⁴⁰ As Rawls wisely made more explicit in his later writings, what is important from a political point of view is not liberty in the abstract, but instead that set of basic

promote some other good such as a fairer organization of the economic conditions in society. Rawls invoked the “priority of liberty” precisely with the aim of underscoring the subordinate importance to be assigned to his second main principle of justice, the difference principle, whose domain includes the distribution of income and wealth. Consequently, this position resembles that of Pettit himself when, declaring that freedom is the supreme political value, he argues that existing relations of domination should be tolerated only if they happen to constitute the best means for promoting non-domination overall.⁴¹

Pettit's argument for aligning Rawls with the Hobbesian theory of freedom is unpersuasive. That does not mean, of course, that we should abandon the idea of figuring out whether Rawls conceived of liberty as the absence of interference or as the absence of domination. Nonetheless, I believe not only that there emerges no clear-cut answer to this question, but also that we should not be surprised to come up with none. Only as a result of Pettit's own work are we in a position to formulate precisely the distinction between these two conceptions and to grasp their different implications. One might well expect that Rawls sometimes leaned toward the one, and sometimes toward the other.

liberties which citizens require in order to develop and exercise their sense of justice and their ability to pursue a conception of the good, what he calls their two key “moral powers”. See the clarification in his Justice as Fairness: a Restatement (Cambridge, MA: Harvard University Press, 2001), pp. 44-45. Yet even if liberty is in this way a “list”-concept, there remains the question of how liberty itself is being understood.

⁴¹ Pettit, op. cit., p. 102.

In fact, just this fluctuation is what we find when looking at Rawls' writings in the light of our preceding remarks. His general definition of liberty undeniably speaks the language of non-interference:

This or that person (or persons) is free (or not free) from this or that constraint (or set of constraints) to do (or not to do) so and so.... Persons are at liberty to do something when they are free from certain constraints either to do it or not to do it and when their doing it or not doing it is protected from interference by other persons.⁴²

Yet many of the things that Rawls went on to say about political liberty show an affinity with the republican conviction that freedom consists in the absence of domination. The freedom which he made the object of his first principle of justice counts as a value only to the extent that it embodies an equal freedom for all, a scheme of basic liberties which each person enjoys compatibly with a similar scheme for everyone else. Why regard equality as essential to freedom? Were non-interference the only concern, then citizens ought not to worry about some people having a more extensive set of basic liberties than theirs, provided that they themselves are able to pursue unobstructed their individual purposes. If equal liberty forms the paramount principle, the point must be that people should be free, not only from undue interference by others, but also from the unfair influence or domination of others, when such fundamental matters as religious conscience, association, and political voice are at stake.⁴³

⁴² Rawls, A Theory of Justice, p. 202.

⁴³ Pettit himself (op. cit., p.111) notes that the value of equal liberty makes most sense when freedom is understood as absence of domination.

Another reason for thinking that Rawls did not really equate freedom with the absence of obstacles is his evident reluctance to regard law as in itself an abridgement of liberty. “Whether men are free,” he wrote,

is determined by the rights and duties established by the major institutions of society. Liberty is a certain pattern of social forms.⁴⁴

Note that in this statement the fundamental laws of society are described as determining whether citizens are free at all. Law is very far from appearing as an abridgement of freedom designed to prevent a still greater loss of liberty. No devotee of the Hobbesian conception of freedom could have penned those words.

But again, my aim is not to suggest that in his heart of hearts Rawls adhered to the republican conception. A well-defined distinction between the two views of freedom was not available, when he wrote A Theory of Justice or Political Liberalism. Nothing impelled him to take a stand one way or the other. Here then lies Pettit's real contribution. His work forces us to be more explicit than before about what we mean when we say that freedom is “freedom from”.

What we should not do, however, is to seek in the republican ideal of freedom the makings of a non-liberal theory of political association. Pettit himself imagines

⁴⁴ Rawls, op. cit., p. 63. See also p. 202, right in the middle of the passage I cited earlier as showing his allegiance to the idea of freedom as non-interference: “Liberty is a certain structure of institutions, a certain system of public rules defining rights and duties”. In the later postscript to Republicanism (p. 301, ftn.), Pettit admits that passages like this suggest an understanding of freedom as non-domination. Still, he discounts them as not shaping Rawls' theory “in any distinctive way”. I indicated in the previous note why that verdict is unfair: Rawls' “equal liberty” principle, which plays so central a role in his theory, makes most sense when liberty is understood as the absence of domination.

that he stands outside the liberal framework. In reality he does not, and this will become clear as we examine more closely the way he proposes to understand freedom as the absence of domination.

5. Domination and Respect

So far, indeed, little has been said about the nature of domination itself, the concept which occupies so central a place in the neo-republican thought of Pettit, Skinner, and Viroli. Pettit holds, as I have indicated, that we are free from domination to the extent that we do not find ourselves subject to the arbitrary will of others. What, however, does this proposition mean exactly?

Pettit's analysis of domination distinguishes three components.⁴⁵ An individual A is dominated by another (individual or group of individuals) B to the extent that

- (i) B has the capacity to interfere,
- (ii) on an arbitrary basis, and
- (iii) in certain choices that A is in a position to make.

The first condition involves one important difficulty, which I shall discuss briefly, before turning to a close examination of condition (ii). For it is this second condition which must form our main focus. Clarifying what counts as an 'arbitrary' basis of interference will bring into view the essential relation between republican freedom and liberal principles.

First, however, what can it mean to say, in accord with condition (i), that in dominating another a person has a capacity to interfere arbitrarily? For the time

⁴⁵ Pettit, Republicanism, p. 52.

being, we may understand by 'arbitrary' interference the sort which a system of just laws is intended to prevent. And broadly speaking, we may say that people have the capacity in question when they are able to interfere, when they have the means at their disposal to obstruct the possibilities of others, even should they choose not in fact to intervene. The puzzle, however, is whether such a capacity is really eliminated by a system of just laws, as on Pettit's analysis it must be, if domination is to cease. Do such laws actually end or even diminish people's ability to interfere at will, or do laws rather make it more costly for them to do so, in virtue of the sanctions involved?⁴⁶

In many cases the law can do no more than the latter, namely, deter. Sometimes offenders can be stopped in the act, and sometimes the law can bring a situation back to the status quo ante, by restitution or compensation. But seldom can the law undertake to eliminate the ability some people have, as a result of their position, wealth, or talents, to interfere arbitrarily in the first place. Anti-monopoly legislation, which takes away resources, and laws protecting unions, which equalize bargaining power, are the exception. As a rule, law can serve only to discourage people from taking advantage of the power differentials they possess. Pettit's condition (i) needs therefore to be modified, if just laws are to serve as a general remedy against domination, even in cases where the capacity to interfere arbitrarily remains unchanged.

⁴⁶ This important objection is raised by Gerald Gaus, "Backwards into the Future: Neorepublicanism as a Postsocialist Critique of Market Society", Social Philosophy & Policy, 20 (1) [2003, pp. 59-91], pp. 69-73. The following three paragraphs attempt to answer the objection.

At this point, it is useful to explain more carefully than before why good intentions are no substitute for just laws. Why is there not similarly an absence of domination when those in a position to interfere at will in the lives of others would never think of doing so because they are kindly and well-disposed? The reason cannot be that the chances of their nonetheless deciding to interfere are greater than the likelihood that they might do so, were the deterrent force of the law in place. In some cases, the difference in the odds may be insignificant. The explanation, I believe, lies in what a system of just laws represents, in contrast to individual cases of goodwill – namely, a public commitment which all can acknowledge, and which ideally all do, to hold in check any ability they may have to interfere arbitrarily with one another. We do not cease to live at the mercy of others, be the chances of their obstructing our choices ever so low, if we rely solely on their virtue. For in that case it is only by their leave that we live unimpeded. We need to take our fate out of the hands of particular persons and entrust it to an impersonal, collective agency. Such is the function of the law. Only when laws, not individuals, guarantee our status as free and equal citizens does personal dependence come to an end, so that we can look one another in the eye. Only then are we free to pursue our own goals without worrying that we must win or keep the goodwill of the powerful.

The rule of law would fail to be a reality, of course, if it did not include penalties against possible infractions. Yet sanctions are important, not just because they deter, but also because, as part of the law, they too express, in emphatic form, the common resolve to abolish dependence on the personal will of others. Indeed, their aim is to have compliance with the law itself turn as much as possible – given

the inevitable fragility of human institutions – on something more impersonal than simply the good intentions of the citizenry.

In this light, condition (i) in the definition of domination should therefore be amended to read, let us say:

(i') B has the publicly unchecked capacity to interfere.

But I also wish to underscore the point that a society free of the most egregious forms of domination is one in which citizens regard themselves as standing in a public relation of fundamental equality with one another, a relation which they can all jointly acknowledge. This result will prove important again, as we explore the meaning of condition (ii) in Pettit's definition, and to this topic I now turn.

The state has the capacity to interfere in the affairs of its citizens. But provided that the basis of its interference is not arbitrary, it does not count – so the republican believes – as exercising a power of domination. How then ought the key term 'arbitrary' to be defined?

Pettit's answer is that the basis for possible interference is not arbitrary if it leads to interference aimed at “tracking” or promoting the interests, or more exactly the politically relevant, the common and collectively actionable interests, of the individuals who are its object.⁴⁷ For instance (this is Pettit's example), it is in the common interest that each citizen pay his taxes, so that even if I do not want to pay my own, the coercion that the government may then employ to force my payment does not constitute an arbitrary interference. Yet how should the common interests of the citizens be ascertained? Is it a matter of the interests which the citizens

⁴⁷ Pettit, Republicanism, pp. 55, 287.

themselves can be taken to avow? Or is it a matter instead of their “real” interests, of which they may have only an imperfect grasp?

Pettit embraces the first alternative. Determining the interests which state power can pursue on a non-arbitrary basis is a question which only the political deliberation of the citizens themselves can ultimately decide.⁴⁸ This position is undeniably attractive. But it gives rise to a further question, namely, what are the principles which ought to govern this collective deliberation? In the absence of both institutional and normative structures already in place, debate will lead to no result, or the outcome will have no claim to being fair and just.

This point is not lost on Pettit himself, who proceeds to lay down two conditions which political deliberation, as it determines the interests deserving legal protection, ought to satisfy.⁴⁹ First of all, citizens should rely solely on conceptual distinctions and forms of inference which “no one in the community has a serious reason to reject”. And second, the fundamental notions on which they do rely must nonetheless be substantial enough to permit an adequate articulation of their various grievances and goals. Pettit argues that the value of non-domination fulfills these conditions far better than does the understanding of freedom as the absence of interference. The latter, he declares, expresses well the concerns of entrepreneurs and professionals seeking to keep back government intervention, but it does not resonate so well with workers, for example, whose lives are marked by economic insecurity

⁴⁸ Pettit, *op. cit.*, pp. 56, 63. Choosing the first alternative entails, as he says in the Postscript (p. 288), ranking “process” over “policy”.

⁴⁹ *Ibid.*, pp. 131ff.

and who stand to gain by state regulations. That may be true. Yet several crucial aspects of his argument demand comment.

As Pettit admits, the two conditions he places upon political deliberation have a normative content. What then is the underlying value they express? The requirement that citizens and legislators make their legally-binding decisions without appeal to convictions which their fellow citizens have good reason to reject embodies in fact a basic kind of respect for the individual, though Pettit himself never acknowledges its underlying role.

Respect, of course, has many different meanings: only one is relevant here, namely respect for persons (distinguishable, for instance, from respect for their views), and that in a quite specific sense. If we think of persons as beings capable of thinking and acting on the basis of reasons, then making their conduct answerable to coercive rules (as political principles must be) would amount to treating them solely as means, not also as ends, unless they could accept the justification of these rules in the light of their own reason. Only then would their reasons for compliance include, besides the fear of sanctions, the very considerations presumably counting in favor of instituting those principles.⁵⁰ Return now to Pettit's claim that just laws derive, not from the bargaining power of various interests, but from arguments that in principle can meet with the assent of each person's reason.⁵¹ For this to be so, persons must figure as something more than simply means to an ulterior end. The good involved in their obedience to the law has to involve more than whatever may be the benefits

⁵⁰ For more on this notion of respect, see my essay, "The Moral Basis of Political Liberalism", Journal of Philosophy, December 1999, pp. 599-625.

⁵¹ Ibid., pp. 187ff.

(notably, the sense of security) which their compliance affords everyone else. They are being seen as ends in themselves, the exercise of their reason having – in this context at least – an intrinsic value, which the terms of political life ought to reflect.

This fundamental principle of respect for persons turns out therefore to constitute the deepest stratum in Pettit's republican theory. It guides the determination of the interests which non-arbitrary, that is, just laws ought to promote. And if such interests form part of the definition of what is to count as the absence of domination, then Pettit is hardly right to assert that the republican notion of freedom can serve as the supreme political value. We are not in a position to figure out whether domination is at hand, either in society at large or in the operations of the state, unless we rely upon the relevant notion of respect for persons.

But there is more. For what does this norm of respect embody if not the cardinal principle of liberalism, at least as one important strand of the liberal tradition has conceived it? Respect requires, as we have seen, that the fundamental terms of political life be such as to meet with the reasonable agreement of all who are to be bound by them. And that requirement is precisely what Rawls, for example, has termed the “liberal principle of political legitimacy”.⁵² It is from this principle that there derives the sort of neutrality which Rawls, in company with many other liberal thinkers, has held that the state must practice with regard to those comprehensive conceptions of the good life which remain an object of reasonable disagreement. Yet Pettit, too, effectively accords this conception of respect a fundamental importance, since only by implicitly relying on it can he explain what he wants to understand by

⁵² Rawls, Political Liberalism (New York: Columbia University Press, 1996), pp. 137, 217. See also Larmore, The Morals of Modernity (Cambridge: Cambridge University Press, 1996), chapter VI.

non-domination. This conception along with the state neutrality it entails shape the first of the two conditions to which deliberation about the common interest is supposed to conform. Pettit's republican model is therefore not really in conflict with the essentials of liberalism, even though it does stand opposed, that is clear, to the Benthamite current which reduces freedom to the absence of interference.

No doubt there exist other ways to define non-domination than the path adopted by Pettit himself. Some ways of conceiving the idea of not being subject to the arbitrary will of another might very well deny that an individual's reason has any real bearing on the issue. We are truly free – so some may suppose – and no longer live at another's leave, when we place ourselves under the authority of God or the Nation, whatever our own reason may say. One might therefore be ‘republican’ without being liberal. But that is manifestly not the kind of republicanism which Pettit envisions, nor the kind, one presumes, which other contemporary neo-republican thinkers would wish to see..

Again and again in his book, Pettit declares that contestability counts for more than consent in his ideal republic.⁵³ Only if citizens stand ready to challenge the government's decisions, can they make sure that it will not slip into the arbitrary exercise of its powers, advancing its own particular interests and catering to the concerns of the powerful, as it can easily do. There is good sense in this observation, and certainly actual consent, shaped as it generally is by a motley of pressures, ought to be an object of suspicion. But Pettit goes too far when he asserts that “once a contestatory democracy is in place, then of course everything is up for grabs”.⁵⁴ Not

⁵³ Pettit, Republicanism, pp. ix, 63, 184ff.

⁵⁴ Ibid., p. 201.

everything can be subject to revision, if contestation is to mean anything like what Pettit himself has in mind. Not the principle of respect for persons which serves to delimit the very idea of arbitrary power, animates therefore the appropriate spirit of contestation, and gives Pettit's ideal republic a recognizably liberal character.

I mentioned earlier that a society without domination has to rely on a shared understanding among its citizens that they are committed to bringing about such a society. Only a system of just laws, as the public expression of that commitment, can truly eliminate relations of personal dependence. Now it belongs to the very heart of the liberal norm of respect for persons that our political life should rest on principles which all can jointly acknowledge. If our political principles are ones we affirm only because all of us together have reason to endorse them, they constitute a common point of view that we share with others precisely on the understanding that it is sharable. In this sense, the relation in which we stand to one another as citizens is an essentially “public” relation.⁵⁵ And thus in this regard too, Pettit's republican concerns become fully intelligible only within a liberal framework.

This brings me to a final point. If any value has a claim to constituting the foundation of the sort of political order which republican and liberal thinkers can be at one in seeking, it is not freedom in any of its senses, but rather the idea of respect for persons. Powerful currents in our culture push against a recognition of this fact. Freedom, in all its various meanings, is continually invoked as forming the ultimate framework for all our moral thinking. Individuals can really be bound, it is said, only

⁵⁵ For more details, see my essay “Public Reason” in S. Freeman (ed.), The Cambridge Companion to Rawls (Cambridge: Cambridge University Press, 2003), pp. 368-393.

by principles of conduct which under suitably ideal conditions they would give themselves. So too it is commonly said that a democratic people is one in which free and equal citizens in their collective capacity themselves determine the principles by which they will live. These self-descriptions do not go deep enough, however. They blind us to the true structure of our moral world. As I noted at the end of section 3, the freedom we prize is always a freedom shaped by other moral principles, principles whose authority moreover we do not so much establish ourselves as acknowledge. Political freedom in particular, if it is to have a shape which we today would welcome, will take its bearings from the obligation to respect one another as persons.⁵⁶

⁵⁶ For further reflections along these lines, see my essays “The Moral Basis of Political Liberalism” and “Le ‘nous’ moral que nous sommes”, Comprendre vol. 1 (Paris: Presses Universitaires de France, 2000), pp. 219-234.