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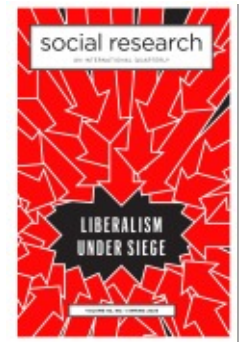
Republican Liberalism

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Republican Liberalism

ABSTRACT. Liberals in the United States today champion distinctive policies on the interpretation and importance of civil liberties, on the need for checks and balances within a democracy, and on the case for ensuring people's social securities. But is this just a shopping list of policies? Or is it a unified package? It will assume a unified and persuasive profile if the ideal of liberty is understood in the manner of the American founders and of the long republican tradition on which they drew. That ideal points us toward a republican—a small *r* republican—construal of liberalism.

THE PROJECT AND THE PLAN

Liberalism is undoubtedly under siege in the United States. But how do its opponents conceive of the liberalism they attack? And how should its defenders present it in their response?

Liberalism came into existence under its own name only in the early nineteenth century, but rapidly spread across continents, with the name being invoked to baptize a variety of creeds. In its first appearance, embracing liberalism mainly implied hostility to the monarchical order reestablished in Europe after the defeat of Napoleon, and emphasized two ideas inimical to that order: on the one side, the idea that people are equal and ought to be treated as equals by the law; and, on the other, the idea that they are each entitled to liberty and ought to have their liberty established under the law. At the time, of course, the people envisaged were often restricted to men, even just propertied men.

The reason the name of liberalism has been used to identify different creeds is that those core ideas lend themselves to different interpretations and can be accorded different weights. What equality requires may be measured in resources or welfare or some other good

and may be cast as the legal assurance of equal opportunities, equal prospects, or equal deserts in the enjoyment of that good. And what liberty or freedom requires under the law may be taken to be the absence of interference by others in a person's affairs or the absence of exposure to a power of interference, even an unexercised power of interference, on their part—that is, the absence of domination by them. Indeed it may also be taken to require the presence of a means for achieving autonomy: freedom within the self.

Every possible variation has been rung on these themes in the history of liberalism. Among the classical economic liberals of the early nineteenth century—as indeed among neoliberals today—the doctrine stands for minimizing the interference of the state and maximizing the rule of market contract. Romantic liberals like John Stuart Mill view it as guarding people against harmful interference by others—and sometimes against their power of interference (Dilullo 2022)—and facilitating their personal self-realization or growth. And for American liberals such as John Rawls and Ronald Dworkin, it champions the defense of certain basic choices or liberties and, insofar as that allows, the provision of equality in the resources, roughly, that people deserve to enjoy.¹

This crude map does little justice to the nuanced history of liberalism, but it may serve to justify in some measure what I attempt in this essay. I start from the broad policies that contemporary American liberals tend to support strongly and look at how liberalism should be best construed if this support is to make sense. The effort will be successful insofar as the construal is intuitively deserving of the name of liberalism and presents the policies as aspects of a unified, well-grounded project. I do not suggest, of course, that the construal is the only way of understanding American liberalism that can claim to satisfy those desiderata; my claim is just that it has a powerful claim on those of us who identify with liberal policies.

Although they often reflect aspects of the constitution, the signature policies that are strongly championed by self-described liberals in the United States are routinely ignored, backgrounded, misconstrued,

or even assaulted—usually, by innuendo—by their opponents. These policies fall, as I see them, into three broad categories:

1. Civil liberties. A commitment to a broad range of basic rights like freedom of conscience and religion, speech and association, movement and employment, and ownership and trade, as well as to the political rights of electoral participation in standing for office, casting a vote, and protesting against government or opposition policy. Championing such liberties puts liberals in conflict with value conservatives who invoke an ominously unspecified “common good” as the goal of the state.
2. Checks and balances. A strong commitment to the separation of legislature, administration, and judiciary that is enshrined in the Constitution and, more broadly, to the dispersion of power within the system to bodies and officials that operate at arm’s length from elected representatives. This commitment contrasts with the hostility among populists to “the deep state” and with their tolerance, even enthusiasm, for an electoral Caesarism.
3. Social securities. A commitment to a form of government designed to aid those who struggle under the pressures of natural misfortune or the misfortunes that are always possible in an economy that is built on respect for people’s civil liberties. This pledge, exemplified in FDR’s advocacy of freedom from want and fear, is anathema to those neoliberals or libertarians who rail against the regulations of “the nanny state.”

The plan is to argue that strong, characteristically liberal policies in these three categories will naturally fall into place under an interpretation in which liberty requires the absence, not of interference, but of domination—that is, the absence of a discretionary power of interference, exercised or unexercised, on the part of others in anyone’s

life, specifically in their exercise of the civil liberties. Once freedom is understood in this manner, and equality is cast as equality in the enjoyment of freedom, then liberal policies in these categories present as elements in a coherent, compelling program of action for law and government. The idea of freedom that associates it with nondomination may seem newfangled and suspect, but, as I shall try to show, it is deeply embedded in the republican way of thinking that the American founders inherited from a long tradition and bequeathed to the country.

I shall characterize that tradition mainly by reference to two English defenders of the American cause in the eighteenth century, Joseph Priestley and Richard Price. They nicely represent the views of those “Englishmen” who, according to John Adams (1776), “will convince any candid mind, that there is no good government but what is republican” and that, however the laws are formed, “a republic is ‘an empire of laws, and not of men.’” Later, of course, Adams himself contributed significantly to republican thought, as did the authors of the *Federalist Papers*.

Thus, the construal of American liberalism defended here may be properly cast as a republican liberalism, to use a name that Richard Dagger (1997) suggested over two decades ago. I have been affiliated for those decades and more with a defense of the doctrine in question (Pettit 1997), as have many others (see Lovett and Sellers 2025), most prominent among them Quentin Skinner (1998, 2025).² We in this group have tended to describe the doctrine as civic republicanism or neo-republicanism and to contrast it with liberalism. But the republicanism we espouse, however strongly represented among the founders, is not what currently passes for republicanism in the American party of that name. And the liberalism we oppose is an approach of a predominantly neoliberal cast, not liberalism in the current American sense; it is this neoliberal variant that the name is mainly used to describe outside the United States and Canada.

In this essay I look at the case for characterizing liberty as non-domination and then go on to show how policies of a distinctively liberal kind make total sense as a means of enabling people to enjoy

such freedom equally. I open with the case made for equating liberty with nondomination rather than noninterference and go on to show how the signature liberal policies can be grounded in the call for equal freedom as nondomination. I argue first that this ideal requires a regime in which civil liberties are entrenched; subsequently, that it calls for controlling a government within a system of checks and balances, where the balances include democratic election; and in a final discussion, that it supports security in access to personally important resources.

Why is it worthwhile to try to account in this way for distinctive liberal policies? Three reasons. One, the unification of the policies around a traditional, republican conception of liberty highlights their theoretical and historical appeal. Two, deriving the policies from a single overall goal suggests a heuristic for how to adjust and develop the policies—say, to expand the range of civil liberties, checks and balances, or social securities—in response to new circumstances. And three, the derivation of those policies from a single goal makes salient, as we shall see, why republican liberalism opposes three disparate doctrines championed by different groups on the right wing, or at least the far-right wing, of politics: conservatism about the common good, a Caesarist faith in electoral authority, and a neoliberal belief in the unregulated market.

But before moving on, a qualification: All the policies I characterize as liberal are subject to finer specification, and liberals, even republican liberals, will often divide on what exactly they require in practice. They may divide because of differing in their empirical assumptions or in their interpretation of the ideal of freedom I hail. That is hardly surprising, and if I do not advert to all the possible points of division, that is only for reasons of compression.

FREEDOM AS NONDOMINATION

Under almost all conceptions of the ideal, social or political freedom is opposed to interference. That someone enjoys freedom in a choice sets up a contrast with the case in which they are susceptible

to another's interference in making that choice. Interference is sometimes associated with the other's preventing the choice, making it impossible for the agent to select between the options involved. But it is generally understood in a broader sense (Berlin 1969). Others will interfere in someone's choosing among certain options, on this rendering, insofar as they remove one or more options, preventing the agent from making the choice; replace one or more options by changing the associated outcomes, as in ensuring or threatening a penalty for their selection; or misrepresent the options by deceiving the agent about them or manipulating their understanding of what the options and choice involve.

Freedom as Noninterference: An Eighteenth-Century Invention

Given that enjoying freedom in a choice is opposed to being susceptible to interference, a natural way of thinking is to hold that someone's choice will be free just to the extent that no one actually interferes with them in making it. And a natural ideal for a legal or political system, therefore, will be to promote the likelihood that people avoid interference in the exercise of choices to which others have no good reason to object. These, intuitively, are choices that can be simultaneously exercised and enjoyed by all. More on the characterization of such unobjectionable choices—in effect, such civil liberties—will come in the next section.

While it may seem natural to equate freedom with noninterference in this way, it is very striking that the equation only emerged in the late eighteenth century. John Lind, a pamphleteer for the British prime minister at the time of the American Revolution, brought it to prominence by invoking the equation in the case he made against the American cause. Liberty is “nothing more or less than the absence of coercion,” he postulated in the course of making that argument (1776, 16–18).

But while Lind made popular use of the notion of freedom as noninterference, he admitted to borrowing it from “a very worthy and ingenious friend.” This turned out to be Jeremy Bentham, who had

complained previously about Lind's failure to credit him. Bentham had explained in a letter to Lind that the definition of liberty as "the absence of restraint" was "a kind of discovery I had made" a short time before: "It may have been a half year or a year or more, I do not precisely recollect the time" (quoted in Long 1977, 56). And he claimed in substantiating his complaint that this conception of freedom was "the cornerstone of my system": the first outline, presumably, of his utilitarian system of thought. While Thomas Hobbes had defended some elements of this way of thinking in the previous century ([1651] 1994; Skinner 2008), Bentham's claim to be its inventor is pretty solid.

The notion of freedom as noninterference was a cornerstone of Bentham's utilitarian system insofar as it meant that because laws take away the freedom of others in protecting any individual, it makes sense to assess them for how far overall they promote the distinct goal of utility or happiness. Without making the utilitarian connection, Lind saw the point, arguing that "all laws are coercive"—and indeed necessarily coercive: "The law which secures my property, is a restraint upon you; the law which secures your property is a restraint upon me" (1776, 24).

Why does Lind invoke the new Benthamite conception of liberty in challenging the American case for independence? He argues that since all laws are coercive, there is no more reason for the American colonists to complain that Westminster's laws are antithetical to their freedom—their freedom as noninterference—than there is for the people in Britain to make that complaint. Certainly, the law-making power of Westminster is "dreadful" in its way, he says, but "this same power" is "exercised by the same persons over all the subjects who reside in all the other parts of this same empire," including the American (1776, 114, 124).

Freedom as Nondomination: The Long Tradition

In using the new conception of liberty to oppose the case for American independence, Lind was consciously breaking with an older way of thinking that was routinely invoked by the Americans

and their defenders. Among his own compatriots, two prominent defenders were the mathematician Richard Price and the chemist Joseph Priestley; Lind's pamphlet was written as *Three Letters to Dr. Price*. These thinkers both took the Westminster Parliament to claim the role of a master in relation to the American colonists, as in passing the Declaratory Act of 1766; this claimed "full power and authority to make laws and statutes . . . to bind the colonies and people of America." The parliament may be a gentle master, as Lind claims, but the problem according to these opponents is just that it has the power of a master, even if it exercises that power only gently or not at all; that power already makes Americans unfree. "There will be nothing but arbitrary imposition on the one side, and humble petition on the other," according to Priestley (1993, 140). And this means the colonists will suffer unfreedom, for, as Price says, "while held under the power of masters" people "cannot be denominated free, however equitably and kindly they may be treated" (1991, 77–78).

In their defense of American independence, Price and Priestley are both relying on the conception of freedom as nondomination, which had become the established way of thinking about freedom in the sixteenth and seventeenth centuries in England, being invoked in the complaints that led to the civil war in the 1640s and the Glorious Revolution that ousted James II in 1688. As Algernon Sidney explained the conception in the 1680s, "liberty solely consists in an independency upon the will of another," adding that anyone "bears the name of slave" who enjoys choice only "at the will of his master" ([1698] 1990, 17). For Sidney, as for Price, "he is a slave who serves the best and gentlest man in the world, as well as he who serves the worst" (441). This conception of freedom was a commonplace in the eighteenth century, especially among Whigs. It is well expressed in *Cato's Letters*, a radical Whig tract: "Liberty is, to live upon one's own Terms; Slavery is, to live at the mere Mercy of another" (Trenchard and Gordon 1971, 249–50).

This way of thinking about freedom had been elaborated in classical Rome, where *libertas* was opposed to *dominatio*—that is, to

living as the subject of a master, or *dominus*, even one who is gentle or gullible or mostly out of town (Arena 2012). Associated with the Roman republic, liberty in this sense was hailed as the supreme ideal by Cicero and other republicans and was resurrected among the burghers of the northern Italian cities of the High Middle Ages and Renaissance (Skinner 1978). It was imported into England in the seventeenth century, as it had been imported elsewhere in Europe, prompting a famous complaint by Thomas Hobbes, a prominent opponent of republican and related ideas: “There was never anything so dearly bought as these western parts have bought the learning of the Greek and Latin tongues” ([1651] 1994, chap. 21, para. 9).

On the older republican conception of liberty, as these observations make clear, someone can lose their freedom by virtue of living under the power of a master—in *potestate domini*—even if that master does not interfere with them, is not inclined to interfere, and is even unlikely to change their inclination. What makes for someone’s unfreedom is their having to make their intuitively unobjectionable choices under the will of another—that is, in the presence of another who may choose to interfere or not to interfere, depending on what they wish. The person will be unfree to the extent that the other has that power of interference over them—to the extent that the other is unopposed and no difficulties or costs stand in their way.

Why think that domination without interference is sufficient to make a choice unfree? The traditional line of thought on this question is that if you depend on someone else for being able to act as you will in making some unobjectionable choice—say, in speaking your mind on some issue in politics—then it is not your will that is in charge but ultimately the will of that other. If you manage to speak as you will on the relevant issue, that can only be because the other is willing to let you do so—in effect, because the other gives you permission to speak as you wish. In order to enjoy freedom as nondomination, you must be able to speak as you will regardless of the preferences of others; you must enjoy that ability securely over whatever those preferences happen to be.

The Role of Law Under the Two Conceptions

If someone's freedom as nondomination requires security in the enjoyment of noninterference within the realm of unobjectionable choice, then they will only enjoy freedom if there are obstacles that stand in the way of interference by others. But how are those obstacles to be put in place, given that they are to protect not just one individual, but people, or at least citizens, in general?

The obvious answer is that government must provide the obstacles required by framing laws that guard people equally. Price is explicit on the point, arguing that "security in the possession of" noninterference can only arise under the laws of "a free government" (1991, 82). This claim was endorsed by all those who associated themselves even loosely with the republican tradition—or the commonwealthman tradition, as it was known in Britain (Robbins 1959)—including figures often treated as early liberals, like John Locke and Immanuel Kant. Locke ([1690] 1960, 57) assumes, for example, that "where there is no law there is no freedom," and Kant (1996, 297) that it is only "a lawful constitution" that "secures everyone his freedom by laws."

Where these figures took law to be part of the infrastructure that nondomination inevitably requires, the Benthamites cast it as a contingent and alloyed instrument for promoting the noninterference with which they equated freedom. That instrument is alloyed, on their conception of freedom, insofar as the law protects the freedom of some only by restricting the freedom of others. And it is contingent insofar as it will not be needed, on this view, if those with a power of interference are disposed, whether for reasons of virtue or self-interest, to avoid interfering with others.³

How can the law interfere with subjects and yet be constitutive of freedom in anything like the sense envisaged by Priestley and Price? The assumption that endures throughout the long republican tradition is that it will do so insofar as it is not formed or applied under the arbitrary or unconstrained will of the rulers and, more specifically, that it is subject to the control of the ruled: It is formed and

applied on terms that they dictate. Such a system of law will interfere with people, to be sure. But it will not dominate them. In the phrase from the seventeenth-century author James Harrington (1992, 8) that John Adams cited, it will constitute “an empire of laws, and not of men.” Thus, as there can be domination without interference, so, under relevant constraints, there can be interference without domination.

Priestley signals the importance of nonarbitrary government when he denounces the Westminster Parliament’s presumption of power over the Americans, on the grounds that it would ensure “arbitrary imposition on the one side, and humble petition on the other” (1993, 140). Here he is echoing the link long made in the commonwealthman tradition between slavery—the antonym of freedom—and, as Locke ([1690] 1960) often puts it, the “absolute arbitrary power” of an unchecked will. What is to guard against arbitrary government power and to ensure thereby that public interference is nondominating? Price supports a radical version of the received answer, holding that those in office must be controlled, directly or indirectly, by the people: If they “are subject to no control from their constituents the very idea of liberty will be lost” (1991, 25).

There can be little doubt but that this conception of freedom, and its relation to law and government, was shared among the American colonists who were supported by Price and Priestley. Thus *The Federalist Papers* supports the conception in its constant linkage between freedom and security. While the authors argue in *Federalist* No. 1 that “the vigor of government is essential to the security of liberty,” stressing the constructive role of law, they insist in *Federalist* No. 37 that government should be answerable to the people for the law it imposes: “Republican liberty seems to demand on one side, not only that all power should be derived from the people, but that those intrusted with it should be kept in independence on the people” (Madison et al. 1987). *The Anti-Federalist Papers* strike a similar note on this abstract issue, while differing about its policy implications, as when *Anti-Federalist* No. 48 poses a nice rhetorical challenge: “Where

there is power without responsibility”—that is, accountability—“how can there be liberty?” (Jefferson et al. 2019).

John Adams picks up the theme when, focusing on private freedom, he writes that property “implies liberty; because property cannot be secure unless the man be at liberty to acquire, use, or part with it, at his discretion, and unless he have his personal liberty of life and limb, motion and rest, for that purpose” (2004, 327). But Abraham Lincoln captures the idea even more clearly in an 1854 speech at Peoria, Illinois: “No man is good enough to govern another man, without that other’s consent. I say this is the leading principle—the sheet anchor of American republicanism.”

The upshot is clear. The republican conception of liberty, which inspired resistance to Westminster rule over American colonists, entails that people are going to be free just to the extent that they avoid private domination in the realm of unobjectionable choices and avoid public domination by the government that guards them against private domination. It is not enough that they happen to avoid interference in unobjectionable choices. They must enjoy noninterference securely, and they must be secured in their enjoyment by the laws of a nondominating government—a government whose power is subject to popular control.

Why Did the New Conception Prevail?

One final question before moving on. The new conception of freedom as noninterference took over rapidly and widely in England and elsewhere, including the United States, though the American transition may have been slower (Gourevitch 2014). Why did this happen? The conception appealed to Enlightenment reformers like Bentham and his followers because they regarded the republican rhetoric as downright unscientific and unnecessarily radical (Paley 2002, chap. 5). But why did the conception of freedom as noninterference take over even in popular circles?

We have seen that the conception would certainly have appealed to those who favored colonialism, as most European countries

came to do in the course of the nineteenth century. Following the lines of Lind's argument, they could argue that ruling a distant colony from an imperial base was not inherently inconsistent with the ideal of liberty and might even justify imperialism. As in the home country, imperial law might prevent more interference in colonies than it perpetrated, satisfying the demands of freedom in this sense. But what soon became obvious was that this conception of liberty could also serve to justify the rise of novel and challenging forms of management in the new industrial workplaces.

Republicans in the tradition often failed to include women, unpropertied men, or servants in the constituency of citizens and even, down to the later eighteenth century, failed to condemn slavery; some of the American founders, alas, were among the worst offenders on this count. But at least it was clear to those of a republican bent that individuals who occupied subservient positions—and by received lights were not citizens—did not enjoy freedom. Algernon Sidney, writing in the seventeenth century, is quite clear about the status of a servant, for example: “He must serve me in my own way, or be gone if I think fit, tho he serve me never so well; and I do him no wrong in putting him away, if either I intend to keep no servant, or find that another will please me better” ([1698] 1990, 548–49).

In the world of the late eighteenth century, two things changed. One, it was fast becoming accepted wisdom, if not accepted practice, that people should be equally respected as citizens and should enjoy freedom in the same sense. Two, the treatment of workers in industrial factories amounted to domination of the kind characterized by Sidney. Industrial workers were wage slaves, as they came to be described, first in republican and then in socialist circles (Roberts 2017). These developments created a problem that the conception of freedom as noninterference promised to resolve.

The claim invoked in resolving the problem was that so long as a worker entered an uncoerced and exit-friendly contract with an employer, the ways in which the employer treated them under that contract did not impose interference. Republicans would have thought

ill of a contract, however uncoerced, in which workers lacked all bargaining power, as they generally did in the unregulated, nonunionized conditions of the early industrial world. And they would have taken the same view of any contract, however exit-friendly, in which the only alternative to employment was something close to destitution, especially when the blacklisting of unwanted workers was a common practice among employers.

The notion that freedom required just noninterference made the contractual market, including the labor market, unimpeachable in terms of freedom. And at the same time it made law look suspect, since government relied on the use of the very sort of interference that is antithetical to freedom on this account of the ideal. Thus, it enabled defenders of the new industry to argue, like neoliberals today, for maximizing the use of market contract and minimizing resort to government regulation and coercion.

CIVIL LIBERTIES

Civil liberties are usually taken to include political rights like those of voting, standing for office, and contesting public policy, but we may postpone discussion of those rights until the next section. Other civil liberties like freedom of speech and association, movement and employment, ownership and trade assume a very distinctive character under the republican conception of them. Such liberties may be taken to be types of choice such that others have no good reason to object to anyone's exercising them as they wish; in that sense, they are unobjectionable. Suitably specified, they can be simultaneously exercised and enjoyed by all, without anyone's being thereby disadvantaged.

As we saw, there is no liberty under the republican conception without security in its exercise. There is no freedom of speech in a community, for example, unless everyone is guarded against others in choosing to speak as they wish or not to speak at all. It is not enough that a person happens to avoid interference when they speak their mind; that may be the case just because they are lucky enough

to live among others who, despite having the power to interfere, are suitably indulgent or respectful. There must be protections in place ensuring that the person can speak as they wish regardless of the preferences or principles of others—in other words, that they do not depend on the goodwill of others for avoiding interference. And what holds for speech must hold for other civil liberties too. If people are to enjoy freedom in their exercise, then they must be adequately protected, and at an equal level, in choosing between the options associated with any liberty.

Law and the Civil Liberties

Only a system of law could give people in general the security required for freedom in the domain of the civil liberties; hence the anti-Benthamite idea in Locke and Kant that law is constitutive of freedom. And if the law is essential for people to enjoy freedom in their civil liberties, it must also be needed to define those protected choices. How they are defined will vary from culture to culture, of course, as there are bound to be differences between cultures as to whether others have good reason to object to someone's speaking in this or that fashion—say, in a way that offends others, defames them, or provokes violence. And similarly, there will be differences between cultures about whether others have good reason to object to someone's having a gun for private defense, owning land that controls access to a beach, trading their body parts for cash, and so on. Thus, however those issues are resolved, each civil liberty will be, in a phrase from Isaiah Berlin, “an area, artificially carved out, if need be, in which . . . a man is not obliged to account for his activities to any man” (1969, lx).

A crucial question raised by the civil liberties is how far and in what ways they need to be protected by law. That will depend in good part, of course, on whether the laws are supported by inhibiting social norms or can elicit such norms in their support. The more naturally civil a society is, the less formal protection will be required for security. But how to tell whether the protections provide enough security?

How to know whether they guard citizens adequately against private domination at the hands of other individual or corporate agents?

Perhaps the most intuitive criterion is the eyeball test, so called. By this test, people will enjoy adequate security in their civil liberties to the extent that they can look one another in the eye without reason for fear or deference based on another's power of interference. This is supported by the age-old republican observations that in dealing with others, however powerful they may be, the free person—the person secure in their civil liberties—does not have to fawn or toady or flatter, kowtow or ingratiate, tug the forelock or doff the cap. They can spurn such “bowings and cringings,” in a phrase from John Milton, that great republican of the seventeenth century (Worden 1991, 457). They can cast off the “littlenesses,” the “sly tricks,” and the “cunning” that Mary Wollstonecraft deplored over a century later ([1792] 1982, 359).

Republican liberals who follow this line of thinking will look to law and norm for an infrastructure that enables every citizen to enjoy this status in relation to others—in effect, to be their own person, not someone at the beck and call of others, not someone who needs their permission to act as they wish in exercising their civil liberties. Thus, the civil liberties embraced by American liberals are powerfully supported on the republican construal of liberalism. They assume the status of fundamental liberties, as they were known by early English republicans (Lilburne 1646), and become a rallying focus in politics; they cast off the profile of parlor-room pieties in which they are sometimes cast.

Civil Liberties and Social Justice

The rallying potential of civil liberties becomes salient as we reflect on how they evolve and may be transformed. They constitute rights on the part of individuals that are legally entrenched, and that they are legally entitled to assert in various ways, whether in appeal to the courts, in public protest, or in political action. They are mutually supportive insofar as such initiatives involve the exercise of some

liberties in order to assert and defend others. And they exist and gain specification within that evolving network of challenge and counter-challenge, under the rules of democratic life. The civil liberties may be spelled out at an abstract level in the constitution or in legislation, but the form they achieve in enabling people to enjoy freedom is a precipitate of constant cultural and legal flux, institutional, interpersonal, and indeed intercultural.

But the flux, as we well know, may not always take people to the happiest of places. It may lead to a specification of the civil liberties that leaves individuals without the breadth or depth of freedom that republican liberals should seek. Think, for example, of how things have evolved in the realm of employment, where long American practice has canonized the employer's right to fire at will, where noncompete contractual clauses inhibit employees from leaving to work elsewhere in the same industry, where corporate employers enjoy judicial privileges and financial powers that jeopardize the prospect of legal challenge, where arbitration clauses have blocked the right of employees to take class action in the courts, and where myriad influences have combined to reduce the presence and the power of trade unions.

The arrangements that have evolved in this domain give employers and their managers questionable powers of interference in the lives of their employees, powers that are legally established or that employees dare not contest. The arrangements undermine the security of employees in protesting how they are treated, in looking for promotion or a salary raise, in changing their place of employment, in appealing to the courts, and in organizing opposition to the employer among themselves. In a word, they create a space where the civil liberties are severely diminished, and diminished regardless of whether the employer is benevolent or indulgent. Benevolence will be more congenial than indifference or malevolence, to be sure, but it will not release employees from dependence on the goodwill of their boss. It will not enable them to look their employer or manager in the eye

without reason for fear or deference based on that person's power of interference. It will not give them the security that freedom requires.

The example shows that the cause of civil liberty—the cause of reducing private domination—is nothing less than the cause of social justice whether in the workplace or home, in the neighborhood or church, in corporate-community relations or across divides of a cultural or ethnic character. That the network of civil liberties and social justice is always evolving in a country like the United States means that things are never permanently fixed. And so it means that we need never despair at its failures but, equally, that we should never become complacent about its successes. Understood in the republican way, the civil liberties component is a call for action that liberals must constantly monitor and, where necessary, heed. Here, as elsewhere, the price of liberty is eternal vigilance.

CHECKS AND BALANCES

We postponed the discussion of the political liberties or rights of electoral participation and protest until this section, where the topic is the institutional ideal of checks and balances in the organization of government. The reason is that those political rights belong with that institutional ideal, since they are supported in the same way by the overarching goal of guarding against domination and thereby promoting people's freedom.

The Polycentric Popular Constitution

The institutional ideal of checks and balances was hailed under the name of the mixed constitution from the days of republican Rome to the medieval and modern republics that took Rome as a model on which to build. In a trope that Polybius made famous in the second century BCE, the mixed constitution is contrasted with the pure constitutions that would give power respectively to the many, the few, or the one. In theory, or at least in rhetoric, the mixed constitution would empower authorities associated with each. In practice, however, it only requires that different groups and bodies and officials

make their own contributions to, and impose their own constraints on, what finally emerges as the law and policy of the whole. It amounts to a polycentric system of government in which no one group or individual can hold sway over others.

In almost all its versions, ancient, medieval, and modern, the mixed constitution gave a central and often fundamental place to ordinary citizens, however restricted the citizenry were, as well as to those in official positions. Thus, the laws could only be proposed in Rome by magistrates in a senatorial elite, but those authorities had to be elected annually in a popular assembly, and the laws they proposed had to be supported by an assembly of an equally popular sort. Moreover, cases were adjudicated under those laws by courts that were run on a popular basis, where these operated independently of elite influence and even indeed of the influence of any electoral or law-making assembly. The system was polycentric in those as well as other ways, such as in appointing mutually checking authorities at every level of administration—for example, in requiring two consuls at the highest level. But in giving a decisive role to the people, it was characteristically popular as well.

The polycentric and popular aspects of the mixed constitution were closely related, and not just because the constitution allowed citizens to vote under a right of *suffragium* or to have a position of power in the courts. The dispersion of authority also meant that a citizen could call on one body, the tribunate, to challenge an official's decision, under the right of *appellatio*, and that they could call on other people to support them against an allegedly arbitrary ruling under the right of *provocatio*, demanding a public hearing or court determination. As Valentina Arena writes, “the juridical matrix composed by the right to *provocatio*, the right to *suffragium* and the legal prerogatives of the tribune of the plebs, expressed in the laws, allowed Roman citizens to conduct their lives according to their own wishes and without experiencing subjection to the whims or preferences of others” (2012, 71).

As these observations indicate, Roman republican thinkers—Polybius, Cicero, and the like—did not just link the requirement for popular control with the checks-and-balances device in the ideal of the mixed constitution. They took that constitution in both its popular and polycentric aspects to be supported by the cause of freedom as nondomination for all citizens. If the law enabled Roman citizens to avoid private domination in virtue of the protection of their civil liberties, those citizens were enabled by their popular and polycentric constitution to avoid public domination by those authorities who played a crucial role in enforcing the law.

If this is true of the Roman constitution, it is also true of the constitution designed by the American founders on essentially a Roman model (Sellers 1995). Here too, as the *Federalist Papers* emphasize, the cause of liberty requires at once that ordinary people have a shaping influence on those in office and that the individuals and bodies in power—the president, the houses of Congress, and the courts—operate in competition and potential conflict with one another in determining law and policy (Madison et al. 1987). According to those founding documents, “it is essential to liberty that the government in general . . . should have an immediate dependence on, and an intimate sympathy with, the people” (No. 52). But if in government “the whole power of one department is exercised by the same hands which possess the whole power of another department, the fundamental principles of a free constitution are subverted” (No. 47).

A Polycentric Democracy

As the ideal of popular control is linked with that of checks and balances in the republican tradition generally and in the early American tradition in particular, and as they are both grounded in the single ideal of freedom as nondomination, so they ought to be linked and grounded, I suggest, among American liberals today. These two elements in the liberal program are not as distinct—and not as diversely supported—as is often taken to be the case. They constitute a package deal: an ideal of a polycentric democracy, as we may describe it, where

democracy is taken, as the Greeks took it (Ober 2008), to consist in a system of government, whatever its precise form, under which ordinary people have considerable control over how they are governed.

As is often observed, of course, the authors of the *Federalist Papers* distinguish the republic they favor from what they call democracy. But here caution is required. The word “democracy,” originating in the Greek *demokratia*, hardly had any presence in the Roman tradition or indeed in the associated medieval and modern theories of government. It was reintroduced, ironically, by the sixteenth- and seventeenth-century absolutists Jean Bodin and Thomas Hobbes. They rejected the idea of a mixed constitution, arguing at a time of religious strife that the peace of a country required a single sovereign ruler. They preferred that the sovereign should be an absolute monarch but conceded to opponents that a country might be ruled by a corporate agent, in particular the corporate body of the whole citizenry operating under a majoritarian procedure. This led most of their opponents down to the nineteenth century to reject anything that counted as a democracy in that infeasible and independently questionable guise. The authors of the *Federalist Papers* are no exception, making clear that unlike a republic, the democracy they reject does not allow for “the delegation of government” (No. 10); it requires all citizens to participate.

Although he had other reasons not to embrace the word “democracy,” Jean-Jacques Rousseau was persuaded by the absolutist line to reject the mixed constitution, and in *The Social Contract*, published in 1762, he defended an absolutist, participatory arrangement like that envisaged by Bodin. Rousseau thought that at least in a small country, it is best for the citizens to rule themselves under majority voting. But he added a proviso: They must not be uninformed or divided or vote with a view to private rather than public interest. If that proviso were satisfied, he thought, their voting would express and impose a “general will,” where this would be as unobjectionable as the general will ascribed to the Christian god by theologians of his time (Riley 1986). His intervention had no effect on the American founders,

but populist defenders of electoral democracy dismissed the need for his proviso and argued that regardless of ignorance or division or partisanship among voters, the popular vote represents the people's will. This idea may serve the rhetoric of populists, but it is hard to see what useful role it plays in the assessment of an electoral democracy; in any case, the idea is of dubious coherence and has been undermined by a cascade of scholarly critiques (Ansell 2023, pt. 1).

But the idea of the popular collective will does at least propose a criterion, however indeterminate, for when a democracy is working well—namely, that it leads government to enact the people's will. Is there any such test that we might invoke to assess a polycentric democracy? On the polycentric conception, a suitably controlled government is meant to answer to the aspirations of members, assuming that each of them recognizes that no one is special. And so, a useful proposal might be this. A democracy will work well to the extent that it gives those citizens who are disappointed in any law or policy—some will always be disappointed—reason to think that by nature of the system in place, it was just tough luck that the offending measure was selected. Its selection does not necessarily mean that the books are stacked against them or their members, that they are subject to the will of a privileged minority, for example, or of a majority from which they are excluded. This tough-luck test for the relations between citizens and government would complement nicely the eyeball test for the relations that citizens have with one another and with any corporate body that is established among them.

SOCIAL SECURITIES

Finally, and much more briefly, how does the republican perspective make sense of the commitment of American liberals to the public provision of various resources on which people rely in their ordinary lives and that many lack through no fault of their own? Such resources range from childcare and education to subsidy for those without work or housing, to medical assistance for those who are ill or disabled, to legal and social aid in judicial representation, to

emergency relief in the case of a natural catastrophe, to the shared goods required in the infrastructure of a functioning society. The category of shared goods will include public roads and rights of way, public policing and the regulation of public spaces, the representation and defense of the country, the maintenance of a currency and financial system, and so on.

Few will worry about giving the state responsibility for a range of shared goods, but in America liberals are the only major political group that strongly supports the redistribution—or as it may be, the predistribution (Thomas 2017; Gardels and Berggruen 2019)—that would use the resources provided by some in taxation for the special support of others. There is good reason for this support if the guiding idea is the promotion of equal freedom as nondomination among citizens. To the extent to which it is serious, after all, their lack of essential resources would expose people to the domination of others, depriving them of the ability to look others in the eye without reason for fear or deference. Others could take advantage of their dependency, after all, exploiting or coercing them in an abuse of their civil liberties. Of course, some others might be philanthropically inclined and come to their aid. But even such assistance would be small comfort, for, unless the assistance could be locked securely in place, the assisted would depend on the goodwill of the providers. As a benevolent despot would dominate their citizens publicly, so a benevolent philanthropist would dominate their dependents privately; and this, even if they found the idea of dominating others utterly distasteful. Regardless of the philanthropist's attitudes, dependents would enjoy the exercise of their basic liberties only contingently on the continuing goodwill of their benefactor.

Those contemporary American liberals who take freedom to require just noninterference can still converge with republican liberals in supporting similar policies. They may treat the case for social securities, for example, as one that is independently appealing but unrelated to freedom. Or they may follow John Rawls (1971, sec. 44) in holding that the disadvantaged will not be able to enjoy freedom as

noninterference with the same benefit as others—that freedom will not have the same value for them—unless they have access to the resources that a system of social securities would provide. But while this consideration is important, and also applies when freedom is taken to require nondomination, it still makes a weak link between those securities and the ideal of equal freedom. The link is much stronger, I submit, under the republican conception.

Whatever the basis on which contemporary liberals support social securities, however, it is worth mentioning that their support is bound to be grounded in suitable cultural expectations and suitable empirical assumptions—for example, the assumption that the guarantee of such securities is consistent with a functioning market. It is not surprising, then, that the founders did not provide for the general transfer of resources between citizens even if, as we have argued, they endorsed the construal of freedom as nondomination. The guarantee of such securities would certainly have been culturally challenging for them, in the way it clearly would have been challenging for them to think of women as full citizens or to see slaves as citizens of any kind. And the guarantee of the securities would have seemed utterly infeasible in light of prevalent empirical assumptions; after all, taxation did not put many resources at the disposal of the state, and certainly not the federal state. Still, it is noteworthy that in one domain where neither culture nor economy seems to have posed a threat, the Sixth Amendment to the US Constitution requires that a criminal defendant should “have the Assistance of Counsel for his defense.”

CONCLUSION

Liberalism in the American sense of the term is associated with distinctively strong policies in three categories: civil liberties, checks and balances, and social securities. On the face of it, those policies may look like a wish list without any internal coherence; they may seem to be as disparate as counterpart right-wing commitments to an unspecified common good, to a degree of tolerance or enthusiasm for an electoral form of Caesarism, and to relatively unregulated market arrangements. But, so we argued, the appearance is misleading.

The long republican tradition on which the American founders drew assumes that the free person must enjoy a suitable degree of legally supported security against interference by others in a suitably specified range of personal choice; their freedom requires that others be unable to interfere at will in such choices, not just that they be disinclined to interfere. And the ideal of republican freedom for all—freedom as nondomination—provides a single powerful ground on which to embrace characteristically liberal policies about civic liberties, checks and balances, and social securities. Liberalism in the current American sense is a natural contemporary expression of the republicanism embraced by the American founders.

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NOTES

1. Liberals in these different camps have always co-opted to their ranks celebrated predecessors who would not have understood the word and, had they done so, would often have balked at the characterization. Thus, John Locke is cast as an early political liberal by all, James Madison and other American founders by many; Adam Smith is celebrated as the founder of economic liberalism; Immanuel Kant is hailed as a philosophical liberal; and thanks to John Stuart Mill, Wilhelm von Humboldt is identified as a cultural liberal who made the self-development of the individual into the highest social ideal.
2. In this essay I draw mainly on my own elaboration of the associated ideas. See Pettit (1997, 2012, 2014).
3. The law will be needed, of course, on the view that freedom requires domination, since the good-willed will be in control of how others exercise their basic liberties—the others will have to rely on their permission for acting as they wish—if they do have a power of interference.

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