

# The Unlikely Claimant

## Sovereignty and Republicanism in Hobbes

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The mantle of republican claimant does not sit easily on Hobbes's shoulders. Without exception, the principal theorists of republicanism have pointed to him as the main culprit in the perversion or loss of political liberty which comes to define political modernity (Pettit, 1997, p. 37; Pocock, 1975, pp. 370-372; Skinner, 2008, pp. xiv, 211-213; Skinner, 2002b, pp. 187). It is in his work that the liberty of the citizen is replaced by the liberty of the subject; it is here that the pursuit of selfish ends replaces the dedication to public life. In this reading, Hobbes' political theory represents the antithesis of republicanism. However, lines may not be as sharply drawn as we are led to believe by the conventional reading. If we consider the format of sovereign power that Hobbes invented, we find that it takes up republican themes, albeit inverting their sense. Understanding how these themes are implicated in the format of sovereignty promises to shed light on the extraordinary success of sovereignty as a format of government. It will also give us insight into the nature of the motive forces that are driving republican theory, driving it like a wedge into the format of sovereign power. But before we can undertake the challenges that republicanism poses to sovereignty, indeed to political theory, we would perhaps do well to reflect on the shifts in our intellectual horizon that have brought to prominence a conception of liberty which, as Philip Pettit tells us, was lost to the point of having become invisible to historians of political thought (Pettit, 1997, p. 50; cf. Skinner, 1997, pp. 117-118n29). Rather than a criticism of republicanism, what follows is an attempt to situate it as an event in the history of sovereign power. As we shall find, this attempt will in turn require us to consider the use which republican theory makes of history, how it uses history and how it depends upon it.

## REPUBLICAN THEORY AND SOVEREIGN DISCOURSE

Seeing republicanism as an event presupposes that there is in fact something out there we can identify as republicanism, a conceptual kernel or a set of basic tenets that we can situate in the history of discourse on how man should live together with his peers. However, in the face of the, at times, considerable differences between the contemporary thinkers whose work somehow revolves around republican themes, we quickly despair of finding such a conceptual kernel. Rather than look for a propositional content around which the different trajectories revolve, we prefer to speak of a shared sensibility with certain features of modern political thought as the thread that runs through republican theory. Explaining republican theory from a sensibility shared by all members of a specific group of theorists will obviously fall short of the structural differences between the bodies of work that they have produced. Indeed, what we shall have to say in the following will not do justice to the different aspects of republican theory. This is likely to invite the objection that we are being heavy-handed in our reading, but this is a risk we must accept. Only if we stay at the level of basic intuitions can we come to understand what it is that resonates in republicanism and why it is that republican theorists recognize each other as taking part in a common enterprise.

Looking at the different trajectories that we group together under the heading of republican theory, one is struck by the fact that they all tend to oscillate between, on the one hand, a critique of the liberal account of political life and, on the other hand, a reference to past forms of government that did not revolve around subjection to sovereign power. This feature of republican theory which sets it apart from rival positions in contemporary political philosophy has perhaps not received the attention it merits. We fail to grasp its significance if we understand the use of history simply as an ornament, at best, a supplementary argument. The persuasive power of republican theory hinges on the nexus between critique and historical reference. If the point of the republican critique is that the liberal account of man is reductive as it focuses exclusively on the protection of life and property, it is the reference to history which shows that the liberal account of man, however self-evident it may appear, does not represent the whole truth of his social existence. It simply represents a partial view, and whatever patterns of subjection have grown up around it do not reflect inalterable features of (human) nature.

Judging by the resonance that republican themes have had in political philosophy, this two-pronged attack on sovereign discourse has been very effective. It strips sovereignty of its symbolic power by showing it to be a discursive forma-

tion among others.<sup>1</sup> But this unsettling of sovereignty cannot be the last word. If it is a fact that sovereign discourse is only a discursive formation among others – that it has no special claim to represent the truth of man’s social existence – it is no less a fact that it has been the dominant discourse of modernity. For almost three centuries, we articulated our notions of political life and political community around it. To find out if this predominance is coming to an end and what that would mean we must first discover why republican theory has proven to be so effective against sovereign discourse. This leads us back to the question of its implication. A formal condition of the effectiveness of republican theory is its relative proximity to that against which it is directed. If republican theory can unsettle sovereign discourse, it is because it subscribes to the underlying account of political modernity that keeps it in place. It subscribes to the idea that political modernity revolves around a nexus of liberty and civil community, both in the sense that authority in a civil community must rest on and reflect liberty and in the sense that civil community represents the natural horizon of liberty.

These ideas are the foundation of sovereign power and so can be used to invalidate its normative claim. In fact, this invalidation would seem to follow as a matter of course. If we accept that civil community constitutes the natural horizon of liberty, the demand that we subject ourselves unconditionally to a sovereign power appears exorbitant, absurd even.<sup>2</sup> It is from this sense of the absurd that republican theory derives its explanatory force. However, there is a blindness in this deconstruction of sovereignty that arises out of a displacement of perspective. To republican theory, these notions of liberty are at the very heart of political modernity, as they are to sovereign discourse; but republican theory

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- 1 In the lecture series at the *Collège de France* that stretched from January 7 to March 17, 1976, published under the title of *Il faut défendre la société*, Michel Foucault pursues a parallel strategy of historicizing sovereign discourse. By assigning a position to the universalist discourse of law, sovereignty is to be replaced by “a new form of law;” a law “emancipated from the principle of sovereignty”. The problems Foucault unearths as he grapples with sovereignty shall in the following years lead him to the development of the concepts of bio-politics and governmentality. They shall also lead to a turn towards existence which, to some extent, parallels the trajectory of republican theory.
  - 2 The inability to understand the point of sovereign discourse is already evident in Hegel’s 1802 article on natural law wherein he dismisses its concepts as having no value other than to satisfy our curiosity as to the history of science, despite the fact that his own political philosophy relies upon the domestication of liberty performed by natural law.

ignores that, to sovereign discourse, these notions were not the self-evident truths we take them to be. They were hard won and their apparent self-evidence is the result of a painstaking process of acculturation that it is the feat of natural law, the format of power Hobbes invented, to have accomplished. Sovereignty had to overcome the millennial belief that the true liberty of man was manifested not within political community, even if in opposition to it, but in the defiant refusal to acknowledge the authority of any government that was of this world.

If we are to understand how sovereign discourse overcame this belief, how it succeeded in domesticating the liberty of man, we must engage with the question of the theological foundations of civil authority. It is here, in this dimension, that we find the source of the power of sovereignty. The question of political theology is not only essential to an understanding of Hobbes' philosophy, as the work of Howard Warrender and, more recently, Luc Foisneau has shown. It is also essential to understanding the critique of sovereignty by republican theory: a critique that depends upon the account that republican historiography has given of the genealogy of political thought. Only on the basis of this genealogy can republican theorists posit the nexus of liberty and civil community as an absolute, thus showing the absurdity of sovereignty's claim to obedience. To assess the merit of this critique, we must bring into focus the continuity of medieval and early modern political thought that republican theory has attempted to block out – an effort, ironically, of a mind with Hobbes.<sup>3</sup> The point is not simply that we

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3 This blocking-out is reflected in Quentin Skinner's implausible reading of a pivotal figure such as Marsilius of Padua who, with no textual support, is portrayed as a thinker of the Italian city-republic, even if the world in which he tries to articulate a doctrine of civil community, making him a precursor to Hobbes, is unmistakably that of medieval scholastic philosophy, as recent and not so recent scholarship has established. See Skinner (2002a), pp. 18, 22. To fit Marsilius into the republican narrative, one must disregard not only explain why the *civitas* remains subordinate to the imperial order of Roman law, depending on it for its cohesion; one must also disregard the bulk of his treatise, more precisely, the second discourse that contains his ecclesiology. Various attempts have been made to dissociate the first from the second discourse, supposedly not representative of Marsilius' actual views (Alan Gewirth, Cary J. Nederman). Recent scholarship has, on the contrary, emphasized the unity of the *Defensor Pacis*, noting its Romanist tendency, to which Georges de Lagarde and Jeanine Quillet pointed, and drawing attention to its proximity to certain positions of medieval orthodoxy. See Boureau (2006), p. 17; Garnett (2006), pp. 52-54, 68. A more nuanced view of the nexus of medieval and early political thought is indicated in Pockock (1997), pp. 66-67, but the indication is not further explored.

need to correct republican historiography. The point is that to understand how we can talk about political liberty today, we must rid ourselves of the notion that it is a natural fact of modern life, a structural feature of how we organize ourselves as communities. Only if we come to understand how political liberty was created discursively, can we come to understand how discourse continues to condition its exercise.

## GOVERNING THE COMMONWEALTH

Only recently have we thought to raise the question of liberty in connection with Hobbes' treatise on the commonwealth. For centuries, it was seen as a manifesto of subjection, certainly not without cause. Governed as it was by the imperative of putting an end to war, there seemed to be no place in Hobbes's universe for man's liberty. This impression is misleading, despite having been the conventional reading for centuries. Liberty is absolutely pivotal to the government of the commonwealth, but Hobbes can only develop a theory of liberty in the margins of his work. In a sense, he is every bit as much a victim to the spell of self-preservation as we are. Having constructed society around the concern for survival, he cannot move beyond the primordial situation of sovereignty to consider the life that unfolds within the commonwealth. Consequently, he cannot develop the considerations that are to govern the exercise of sovereign power. But such considerations exist. Having brought sovereign power into existence, Hobbes must show how it should be exercised so as not to be lost. This requires him to accommodate liberty in the government of the commonwealth.<sup>4</sup>

What is often overlooked is that liberty does not disappear with man's passage into society. This persistence of liberty makes sense once we take into consideration the theological foundations of power in Hobbes' work. As Howard Warrender showed, the foundation of power proposed by Hobbes makes implicit reference to the voice of God, the only voice capable of commanding in the state of nature (Warrender, 1957, pp. 200, 207-209). God commands man to construct the sovereign of whom he shall henceforth be a subject. This is the passage from the Immortal to the Mortal God of which Hobbes speaks (Hobbes, 1994, p. 109). What drives man to subject himself to a sovereign power is not self-preservation, as we are wont to believe; self-preservation is a duty towards man's creator, not towards man himself. The constitution of sovereignty rests on an obligation that

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4 This point has been made by various scholars in recent years. See Foisneau (2000), pp. 116-117; Sorell (2004), pp. 191-192.

wends from the innermost recesses of man's being. The indications contained in Warrender's work have been developed by other scholars, perhaps most impressively in the work of Luc Foisneau who has shown how Hobbes worked out the idea of sovereignty in a confrontation with and transposition of the scholastic notion of divine omnipotence (Foisneau, 2004, pp. 215-255, especially pp. 231-236). Republican theorists, most famously Quentin Skinner, have contested this reading of Hobbes. The gist of Skinner's argument is that no-one in Hobbes's own time, neither his followers nor his critics, picked up on the theological aspect of his theory. To impute to Hobbes a theory that was not only without resonance in his own time but, furthermore, he did not think to invoke in replying to his critics, is, Skinner argues, so historically implausible that, for this reason alone, the theological reading of Hobbes's theory of political obligation must stand as discredited. However plausible it may be as a reading of the *Leviathan*, it comes at the price of removing "most of the points of contact between Hobbes and the intellectual milieu in which he lived and worked" (Skinner, 2002b, p. 285, cf. p. 282).

As Skinner himself seems to have retreated from this rather excessive emphasis on context over the last decade, there is perhaps no need to rehearse the argument further beyond pointing out that Skinner is unable to maintain the line of demarcation between secular and religious argument, as he would have to in order to keep in place the republican genealogy of modern political thought. In Skinner's account of the event he singles out as the relevant context of Hobbes' theory of political obligation – the engagement controversy – the distinction between religious and non-religious positions tends to break down. Not only did the "theologians" continue to take part in the controversy, even after it had supposedly metamorphosed from its initial, religious phase, but "lay apologists" also continued to invoke the providence of God in support of the "very different" arguments which they advanced in support of engagement (Skinner, 2002b, pp. 299, 303).

Taking into consideration the theological dimension of sovereign power in Hobbes' work not only allows us to make sense of this interplay of religious and secular arguments. It also allows us to make sense of what happens inside the commonwealth where subjection is, in fact, not total. As we have seen, Hobbes' foundation of sovereign power is based on a parallel between God and the civil sovereign, but this parallel is not perfect. The sovereign commands as of right, but his right is not absolute. As a subject, man has a right he does not have as a man, that is, as a subject of God: the right of self-defence (Hobbes, 1969, p. 88;

Hobbes, 1966, pp. 177-178; Hobbes, 1994, pp. 82, 204.).<sup>5</sup> Subjection to sovereign power and the right of self-defence both reflect divine injunction. Man subjects himself to the sovereign because God commands him to preserve his life. Subjection rests on the obligation of self-preservation. But as self-preservation is the basis of man's political being, self-defence is not only a right of which he cannot be stripped; it is also an obligation he cannot shirk. It is the last vestige of the direct dominion that God exercised over man in the state of nature. As such, it reflects a religious dimension of human existence that cannot be appropriated by the sovereign; the only sacral dimension of human existence Hobbes recognizes. A good part of his work on the citizen, *De Cive* from 1641, is taken up by arguments to show that the political teachings of the Gospel consist simply in the injunction to obey ones temporal lords; faith commands nothing more than belief in the teaching that Jesus is the Christ; an argument Marsilius already used to counter the political ambitions of the Roman Church (Hobbes, 1966, pp. 281-281; pp. 420-428; Hobbes, 1994, p. 402-410; Marsilius, 1932, pp. 4-5). As the right of self-defence reflects God's direct dominion, it takes precedence over all other legal and moral considerations. It applies even to the criminal who has been justly condemned to death for his crime. Not only does he have a right to defend himself; he even has a right to join with his like in armed combat against the commonwealth (Hobbes, 1994, pp. 143, 204).<sup>6</sup>

The importance of the matter is evident: recognizing that the individual has a right of self-defence poses an absolute limit to sovereign power.<sup>7</sup> Perhaps more

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5 I cannot agree with Luc Foisneau who seems to view the original compact as being founded on the unlimited power of the civil sovereign over the life and death of his subjects. See Foisneau (1997) pp. 300-302.

6 The opposition of sovereign power and the direct dominion of God over man can also arise in the shape of the martyr, who sacrifices his life for the glory of God and in defiance of the civil sovereign. Hobbes renders martyrdom political insignificant by his insistence that only him to whom the divine precepts have been supernaturally revealed must respect them as law in the proper sense of the term, in their immediate form (Hobbes, 1994, p. 259). As the Son of God has already come, Hobbes can thus limit the category of martyrs to those who have seen Christ in the flesh (pp. 340-341). On this point, see Kodalle (1972), pp. 126, 155-158.

7 The right of self-defence mirrors the sovereign's right to punish. As all sovereign rights arise through authorization by the subjects, we would expect the right to punish to be limited by their inalienable rights. But Hobbes vacillates on this point. At times, he extends the authorization of the sovereign to encompass the right to punish (Hobbes, 1994, p. 111); at other times, he conceives of the sovereign's right to punish

importantly, it also draws attention to the fact that, unlike God, the civil sovereign does not have an unconditional claim to obedience.<sup>8</sup> But more is at stake in the question of self-defence than the limits of sovereign power. As self-defence reflects the persistence in society of God's dominion over man, it imports into society the logic that governed interaction in the state of nature. Only this time, the relevant interaction is not that between men but that between subject and sovereign. By submitting to the Leviathan, man receives assurance against the threat that his fellow men pose to him by their very existence; but what of the threat that the existence of a sovereign power poses to him?

As man subjects himself to the sovereign in order to preserve his life, it follows that any threat to his life from the sovereign liberates him from his bond of allegiance and reinstates him in the unlimited right that he enjoyed prior to his passage into society. On first reading, we would thus incline towards seeing self-defence as a legal safe-guard, posing a limit beyond which the sovereign cannot go. This is certainly the most obvious reading. But something more is going on in Hobbes' text. The primacy of the obligation of self-preservation, in relation to which man is under the direct dominion of God, means that the very existence of sovereign power poses a threat to his existence. As there is no power on Earth to which man and Leviathan are both subject, and as man is sole judge of what is necessary to preserve his life where no common coercive power exist that can give him assurance, his interaction with the sovereign will, if it is left to run its natural course, invariably reproduce the oppositional patterns of the state of nature. His right to self-defence cannot be limited to certain categories of sovereign acts, as no power exists that can give him assurance that all other sovereign acts will not eventually be to his detriment. On the contrary, he must perceive every act by which sovereign power sustains itself as a threat to his own existence because it can be used against him. Man's right of self-defence must be, as his right

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as an unfounded remnant of the right of nature (p. 204). The indeterminacy reflects the theoretical impossibility of reconciling sovereign power and the right of nature once they are brought into contact. Cf. Terrel (1994), pp. 243-244; Zarka (1995), pp. 242-245.

- 8 This view put Hobbes at odds with the English royalists who denied the right to self-defence against the King. See for example Clarendon (1676), p. 87. On the relationship of Hobbes to the royalist factions, see Hoekstra, (2004) pp. 37-38, 45-46; Lessay (1988), pp. 63-66; Sommerville (1992), pp. 35-37; Tuck (1993), pp. 312-313, 325-326.

of nature is, without limits.<sup>9</sup> The impossibility of assigning any limits is reflected in Hobbes' observation that the motive for which man transfers his right of nature to the sovereign is "nothing else but the security of a man's person, in his life and in the means of so preserving life as not to be weary of it" (Hobbes, 1994, p. 82). The passage confers an almost hedonistic quality on a right that is only formally a subject of choice. Man must not only be secure in his existence; he must also be satisfied with it. This shifts the perspective of the construction of commonwealth from the *existence* to the *perception* of sovereign power. Hobbes cannot alleviate the fear that sovereign power inspires by somehow curtailing it. Within the limits that set by the right of self-defence, sovereign power must be absolute. Hobbes can only alleviate this fear by instituting a system of screens and mirrors in which man is not confronted with sovereign power. He lives his life in a sphere from which sovereign power *seems* to be absent, even if its jurisdiction is not.

If we inquire further into Hobbes' construction of the commonwealth, we find at its centre a sphere of individual action where man is free to do as he pleases and where the presence of sovereign power is not felt. The primary signification of this liberty is corporal liberty, the liberty from chains and prison (Hobbes, 1994, p. 136). This determination corresponds to the primary objects of the right of self-defence: life and physical integrity. It circumscribes a sphere of action attached directly to the individual. But as we proceed, we find that liberty's domain extends beyond this narrow definition:

"The liberty of the subject lieth, therefore, only in those things which, in regulating their actions, the sovereign hath praetermitted [omitted] (such as is the liberty to buy, and sell, and otherwise contract with one another; to choose their own abode, their own diet, their own trade of life, and institute their children as they themselves think fit; and the like)." (Hobbes, 1994, p. 138)

The liberty of the subject comprises more than his life and his movements. It encompasses a series of contingent, yet essential aspects of human life: property,

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9 This dimension disappears from view in the work of Jean-Jacques Rousseau, for whom the alienation of man's being to society comprises the whole of his former, natural state, including the biological fact of being alive which, to Hobbes, is the umbilical cord that tied the subject to the man. To Rousseau, the sovereign is entitled to demand that a citizen lay down his life in the interest of the state. With the passage into civil society, biological existence ceases to be a "bounty of nature;" henceforth it is a "conditional gift of the state," one that can be taken away (Rousseau, 1964, p. 376).

the choice of abode, diet, trade and the up-bringing of one's children. The rather off-hand manner in which Hobbes determines the liberty of the subject should not mislead us about its significance. The imperative of edifying and consolidating a sovereign power means that Hobbes can only introduce these aspects of human existence in the margins of his theory of commonwealth. They are nonetheless essential to the workings of the society that unfolds under the rule of the sovereign. Through the cursory indications of Hobbes we begin to perceive that it is not mere existence but life that unfolds within the commonwealth. Around the kernel of natural right – life and physical integrity – a wider sphere of human existence lies. The activities that take place within this arena have all been “praetermitted” by the sovereign; in other words, they have not been made the object of sovereign decision. Man's action within this sphere is not determined by law, not because law has lost its force, but because it is not immediately present. The “praetermitted” actions fall below the threshold of law: “As for other liberties [than the liberty to defend oneself against attack], they depend on the silence of the law. In cases where the sovereign has prescribed no role, there the subject hath the liberty to do or forbear, according to his own discretion” (Hobbes, 1994, p. 143). The jurisdiction of sovereign power is unchanged; its impact on human existence is not. Man is legally bound to obey the sovereign in all aspect of his existence, but sovereign power is not manifested in all dimensions of the commonwealth. It is hidden from view such that man feels at liberty, despite the fact that, as a matter of law, he is not.

The relationship of subject and sovereign is mediated by a triadic structure that can be teased out of Hobbes' text: 1) at the core, a sphere that attaches immediately and directly to the individual. This sphere revolves around the life and bodily security of the individual and it is governed by the right of nature. 2) A wider sphere, in which man is free to live as he pleases, provided that the laws are silent. And 3) the sphere of law, seen as the expression of sovereign will. Of these spheres, only the first and the third, respectively the spheres of natural right and civil law, are engaged in the institution of the commonwealth. They are, by their very nature, contradictory but must nonetheless be brought to coincide in theory if the commonwealth is to maintain itself. In the account that Hobbes gives of the genesis of the commonwealth, he relies on the fiction of the state of nature to align the complete liberty that is the essence of the right of nature on the total submission that is the essence of civil law. This does not address the question of how men are to live together once they have made the passage into society. If the existence of sovereign power is a condition for peace, it is the existence of a sphere of individual liberty unchecked by sovereign power that allows Hobbes to show how natural right and civil law might align in government.

Within the commonwealth, the coincidence between natural right and civil law cannot be complete because, on the terms stipulated by Hobbes, the passage into society is never complete. Man will always carry within himself a dimension of liberty that the civil sovereign cannot appropriate. But the nexus of natural right and civil law can be managed so that the non-coincidence is not (too) manifest. A balance between natural right and civil law can be struck if society is constructed in such a way that, for the most part, man will not have to act under a direct threat to his life, nor under the compulsion of civil law. If he perceives himself to be acting freely, according to his own will and to his own desires, the existence of sovereign power will not be seen to constitute a threat to his freedom, and the opposition between natural right and sovereignty will not be felt to be a problem, even if it cannot be resolved.<sup>10</sup>

## REPUBLICANISM: A PLACE IN HISTORY?

Is a society where man is free only where he does not proclaim his freedom a republic? Surely not. But if the commonwealth is not a republic, this place where man is free to “do or forbear, according to his own discretion” where the laws are silent” (Hobbes, 1994, p. 143), is, in certain respects, indistinguishable from it.<sup>11</sup> The subject is free to direct his actions towards the common good as expressed in the civil laws. He is, in other words, free to be a republican. More to the point, the constitution of the commonwealth means that he has good, even compelling, reasons to make this choice. If he does not, the distribution of liberty between social spheres around which Hobbes constructs his theory of commonwealth will eventually collapse and ordered society with it. This, it will be objected, is immaterial. Prudential considerations on how power should be exercised cannot bridge the gap that separates a republic from a society in which liberty is real only as a fiction might be real. And yet, the republic still moves within the orbit of the commonwealth. Its movement is prefigured in the format of the commonwealth. Hobbes renders liberty through the use of fictions because he knows that the idea of political that liberty he has at his disposal - the liberty of the Ancients – cannot be real; it cannot be realized in the modern world because political liberty cannot maintain the cohesion of society. What Hobbes

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10 For a further analysis, see Amnon Lev, 2014, pp. 78-80.

11 Pocock (1975) notes the singular community of spirit that unites Hobbes and Harrington, the theorist of absolute sovereignty and the theorist of participatory virtue, pp. 397-400.

accomplishes by his theory of commonwealth is to introduce a measure of (civil) liberty into a society where (political) liberty has no place. He does so by maintaining a precarious balance between the imperatives of order and liberty. In a sense, the commonwealth is nothing but this precarious balance which is defined in legal terms as the fact that the civil laws and the laws of nature “contain each other, and are of equal extent” (Hobbes, 1994, p. 174).<sup>12</sup>

Within the confines of the relationship of subjection that opens up social space in the theory of Hobbes, a balancing act is carried out in which contradictory imperatives are aligned. Only if we take into consideration the plasticity of Hobbes’ format of political thought, its remarkable capacity of accommodating opposites, can we make sense of the extraordinary success of sovereignty as a format of government. Liberalism has been so resistant to sovereign discourse because it refuses to trade liberty off against something else. Republican theory does not. On the contrary, it articulates its concept of liberty in and through an act of balancing that is a strict parallel to that carried out by Hobbes. Republican liberty is a middle between positive liberty, the liberty of the ancients, and negative liberty, that of the moderns (Pettit, 1997, pp. 18-19). Pettit implies, rather than establishes, a parallel between the republican conception of liberty and the city-republic as the intermediary between the ancient and the modern form of political organization. But if we look closer at what he actually does with this dichotomy, it becomes clear that while he sees positive and negative liberty as attributes of distinct forms of political existence, they are not tied to distinct forms of political organization. Rather, they are seen as aspects of modern political community, the polar opposites between which society exists, and, as such, they are simultaneously present therein: “[The republican conception of liberty] is negative to the extent that it requires the absence of domination by others, not necessarily the presence of self-mastery ... The conception is positive to the extent that ... it needs something more than the absence of interference; it requires security against interference, in particular against interference on an arbitrary basis” (Pettit, 1997, p. 51). Positive and negative are simultaneously present in society; they are present in the balance that is struck between them.

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12 This relationship of mutual containment comprises two aspects: 1) the laws of nature only become laws in the strict sense through the commands of the sovereign power. 2) Obedience to civil law is itself a dictate of the law of nature. If justice, that is, the performance of covenant and giving to every man his own, is a dictate of the law of nature, honouring the obligation to obey the civil law which the subject takes upon himself as he passes into society is equally a dictate of the law of nature (p. 175).

Republican liberty *is* this balance which Pettit attempts to translate into a republican theory of government in the second part of his book.

The structural parallel between sovereign discourse and republican theory does of course not cancel out the distance separating the political communities which they advocate. And Pettit is right to point out that the republican conception of liberty could not have been articulated within the format of sovereignty. However, the structural parallel means that there is no formal difference between the two discourses. As an event, republicanism unfolds within the forms of sovereign discourse. The point of equilibrium is elsewhere but the basic operation is the same. This explains why Pettit can leave it to the state, the form of political organization that has always served as the vehicle of this operation, to realize the republican programme (Pettit, 1997, pp. 47-48.).<sup>13</sup> The difference between the discourse of republicanism and that of sovereignty, which sets them apart as formats of government, arises out of the way power is exercised in their respective political communities. The exercise of power that corresponds to the republican idea is found in the early modern forms of government to which republican theory makes reference. Crucially, it also informs the theory of government associated with sovereign power. One is hard put to indicate how a transition into a republican form of government would change our present form of political organization. Most of all, the contestatory democracy that Pettit advocates as an alternative to our present-day democracy looks like the 19<sup>th</sup> century ideal of liberal democracy as described by John Stuart Mill, only with the addition of a vaguely defined institutional set-up to allow for a vaguely defined form

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13 This confidence is also evident in Quentin Skinner's work, as his 2008 British Academy lecture illustrates. He proposes to reinstate the fictional concept of the state, the origin of which he locates in Hobbes' work, as it might serve to support a notion of the common good (Skinner, 2009 p. 362). Skinner does not indicate what might propel us to believe once again in this fiction. From his account, which emphasizes the distinctness of the Leviathan from the ruler and the ruled (pp. 345-347) it is not quite clear why we ever did. If the fiction of the state was able to inspire belief, it is, we would argue, only because of the almost palpable presence of the people in the constitution of sovereignty. The people is certainly not present in the exercise of sovereign power, but the incomplete nature of the foundation of sovereignty which calls for constant re-enactment means that, at all times, the people hovers just above sovereign order. It is perhaps not irrelevant to note that the wilting away of the idea of the state which becomes visible in Hegel's philosophy – an avatar of the fictional theory, as Skinner notes – goes hand in hand with a hardening of the fluid nexus between the body of the commonwealth and its representation into stark opposition.

of contestation distinct from that which takes place before the courts and the public (Pettit, 1999, pp. 179-180). It is no coincidence that the ideal of 19<sup>th</sup> century liberal democracy provides the best match for what we might term the form of republican theory: a learned battle of ideas between men, and now women, of substance about the most substantial of matters.

In a sense, Pettit concedes the points, arguing that the novelty of his theory lies not in constitutional forms but in its practice of power. If what it endorses are “established institutional ideals like the rule of law, the separation of powers, and democratic accountability,” it supports “those ideals on a distinctive basis and sometimes offer[s] quite unorthodox reformulations of their content” (Pettit, 1997, p. 172). But is this not an accurate description of the modern state composed of a political sphere that is governed by law and a civil society out of which new forms of life emerge that animate the whole? Seen in this perspective, there is not much to separate the republican form of government from that which it is supposed to replace. It is, quite literally, a matter of opinion whether Pettit is right when he tells us that his “unorthodox reformulations” are not “platitudinous.” It is a matter of whether we feel them to be so. Contestatory democracy differs from liberal democracy only for those who feel the need to engage in contestation. The reference to feeling confers a hortatory quality on republican discourse; it also means that republican discourse comes up short when seen only as theory. We may know in our hearts that republican rule would be different, but we cannot say wherein its difference consists. If this failure of language would be inconvenient for any political theorist, it is certainly not less so for one who claims to bring back an essential dimension of human life that had not only been lost to political thinkers and activists for centuries, but had even become invisible to historians of political thought.

## **MAKING SENSE OF POLITICAL THOUGHT**

The prominence of history in republican theory is not unrelated to this linguistic short-circuit, this incapacity to show in what sense republican rule would be different from the sort of rule which has grown out of the history of sovereign power. History provides this difference. It is in and through its reference to pre-sovereign forms of government that republican theory demonstrates that it is indeed different. History serves a dual purpose: it destabilizes sovereign discourse and it keeps republicanism from becoming entangled in the history of sovereign power. In the indeterminacy that attaches to republicanism, in its oscillation between what belongs to and what does not belong to the history of sovereign

power, we find a structural precondition of yet another feature of republican theory: a feature that is a cause and a reflection of what we have termed the indeterminacy of republicanism. If the truth of republicanism is manifest only within our hearts, it is there that it has its locus. This is perhaps why republicanism is so concerned with meaning, more precisely, the meaning we attribute to political thought. Whereas liberalism and communitarianism advance theories on the order of things, on the rights and duties of the state and citizens, republicanism strives to *think* about political community, and promote this activity. It reacts against the sense that political thought has become an otiose and scholastic endeavour. This fear is reflected in the remark with which Skinner concludes his lecture on Hobbes and republican liberty: that while Hobbes may have won the battle, it is still worth asking if he won the argument (Skinner, 2008, p. 216). Common sense indicates that it is pointless to pursue an argument if the battle has been lost, but it is precisely this seemingly self-evident reaction republicanism seeks to combat. It should matter what we do when we think about the conditions of the life we lead in common with others. As Emile Perreau-Saussine (2007) noted, republican theory is not really a political proposition; it is a call to action, an existential appeal to engage with the questions of political life (pp. 109-110, 119-121).

It is by this appeal that republican inserts itself into the landscape of contemporary political philosophy. Liberalism stands guard over liberty to protect it against state intervention; republicanism enjoins us to do noble things with this liberty. What concerns Pettit are not the limits placed on the exercise of liberty, nor is it the procedures that are meant to ensure the non-arbitrary nature of such limitations. His primary concern is the right of each man to relate as an equal to others, irrespective of differences in power, wealth, or social status. These concerns are shared by liberal theorists, but Pettit takes them further. Not content with the formal equality of the citizen, it is his material sense of equal worth that occupies him.

There is something compelling about republican theory's insistence that political thought is not only, and not primarily, concerned with finding solutions to problems of communal life; that it is also about how we live our lives. Yet, for all its appeal, the resonance of republicanism in contemporary political theory should perhaps give us pause to wonder. Teaching people to walk with their heads held high is indeed a noble endeavour. It must be the aim of any political theory to enjoin us to think and to live politically. But in a world where the communities that define us have stretched to include individuals whose plight will not be ended through an ever so vigorous exercise of political liberty, there is quite a bit of self-indulgence in the excessive concern with the earnestness and

the nobility of our actions. Having to “toady” to the high and mighty, an example to which Pettit returns repeatedly, is certainly something no man or woman should have to do, but a political theory that sees this as more than a marginal problem has perhaps shaded over into something that has more to do with care for oneself than with concern for the matters of the city. The possibility of this drift is inherent in political life. Political life is always also a matter of sense. Republicanism is right to remind us of this. We may need to remind ourselves that we lose the meaning of what a political life must be about if we become too concerned with the sense of it.

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