

Civic Republicanism and Social Justice

Political Theory
2016, Vol. 44(5) 687–696
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DOI: 10.1177/0090591716663275
ptx.sagepub.com


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Philip Pettit's *On the People's Terms* presents a new, comprehensive, and compelling statement of the contemporary civic republican political doctrine.¹ Building on the framework influentially laid down in his earlier *Republicanism: A Theory of Freedom and Government*, Pettit significantly improves on many arguments and restates others in more compelling terms, while also weaving in much new material developed in the intervening fifteen years or so.² In short, *On the People's Terms* will undoubtedly become the new bible of contemporary civic republicanism.

Among the innovations to be found in Pettit's latest book are first, that he revises his view regarding what the promotion of political freedom in the design of public policies and institutions should properly entail; and second, that he now describes this view explicitly as a republican account of social justice. Accordingly, my aim in this review will be to assess Pettit's account of republican social justice. In this respect, it concentrates on only one of the three major strands of argument found in *On the People's Terms*, discussing the other two (freedom and legitimacy) only insofar as they relate to social justice. Since overall our views are very close, the points on which I here apply critical pressure should be regarded as contributions to internal debates within the civic republican fold. Nevertheless, in reading and responding to his latest work, my own understandings with respect to many subjects have been greatly deepened and, in some cases, significantly revised. For this I am, as always, substantially in his debt.

I

One very sensible way to characterize theories of justice is according to their respective answers to two very basic questions: first, what is it that ultimately

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counts as valuable from a justice point of view? and second, in what way should we respond to that value? Thus, for example, utilitarians answer the first question by arguing that what ultimately matters is how much happiness each individual experiences, and the second by arguing that we should aim to maximize the sum total happiness experienced by all. Rawls's conception of justice as fairness, by contrast, answers the first question by arguing that shares of primary goods rather than levels of happiness are what ultimately matters, and the second by arguing that we should aim to distribute primary goods equally except where unequal distributions might be to the advantage of all.

Proceeding along these lines, we might suppose that a republican conception of justice would have to be one in which freedom from domination is what ultimately counts from a justice point of view.³ In recent years, of course, it has been the central preoccupation of civic republican authors to articulate precisely what is meant by non-domination in the relevant sense, and to make the case for regarding non-domination as a centrally important political value.⁴ Since these debates are no doubt familiar to most readers, we need not rehearse them in any great detail here, though perhaps we should briefly consider how Pettit characterizes political freedom in *On the People's Terms* specifically.⁵

Let us say that some person *A* has the ability to φ if and only if *A* commands internal and external resources sufficient to φ in the event that (a) she chooses to φ and that (b) no other person or group intentionally frustrates her φ -ing. On Pettit's current view, then, we can say that some person *A* is free to φ provided that:

- (1) *A* has the ability to φ . Call this the *non-vitiation* condition.
- (2) No other person or group *B* has the uncontrolled ability to frustrate *A*'s φ -ing. Call this the *non-domination* condition.

So characterized, it is not precisely freedom as non-domination that Pettit now regards as the central concern of republican theory, but rather what we might term freedom as un-dominated ability. Domination and vitiation correspond roughly to what in earlier work Pettit described as factors compromising freedom on the one hand, and factors conditioning it on the other.⁶ The latter distinction has now been absorbed directly into his preferred account of freedom. While this strategy raises some interesting and difficult questions, I will set them aside for the purposes of discussion here.⁷

We should emphasize, however, that Pettit's non-domination condition does not refer to whether *B* actually frustrates *A*'s φ -ing or not, but only to whether his ability to do so is controlled. Without getting wrapped up in the

technical details, let us say that *B*'s ability to frustrate *A*'s ϕ -ing is "controlled" in the relevant sense provided that *A* exercises a sufficient degree of directed influence over that ability, and that it is "uncontrolled" otherwise.⁸ Significantly, on this view there will be cases in which *B* actually does frustrate *A*'s ϕ -ing, but insofar as that frustration is suitably controlled by *A* it will not count against her freedom to ϕ . To illustrate this point, Pettit considers an example in which *A* has given the keys to her alcohol cupboard to *B* with strict instructions not to hand them over except on twenty-four hours notice. When *A* subsequently wants a drink and *B* refuses to hand over the keys, *A*'s freedom to drink is certainly frustrated, but not in a way that we would intuitively regard as detracting from her freedom. This is because, according to Pettit, *B*'s ability to frustrate *A* in this regard is controlled by *A* in the relevant sense.⁹ Of course, this again raises many interesting issues that unfortunately are beyond the scope of this discussion.¹⁰ Provided we have a reasonably good sense of what Pettit means by freedom, our discussion may proceed.

II

Let us turn then to the second question, how a republican would say we should respond to the value of freedom from domination. Pettit is a consistent consequentialist about republican freedom: that is to say, on his view freedom is something we should promote in the design of public institutions and practices, not something we should honor as a side-constraint.¹¹ This commitment, however, does not as such determine a specific account of how freedom ought to be distributed.

In earlier work, Pettit argues that the best way to promote republican freedom is to aim to maximize it, though in practice the maximum sum total freedom will probably be reached when it is distributed more or less equally among citizens.¹² Furthermore, he says, we must keep in mind that state itself constitutes a group agent with the ability to frustrate the activities of its citizens: if this ability in turn remains uncontrolled, our efforts at reducing domination through state action may be self-defeating. Pettit terms the danger posed by the state *imperium*, as contrasted with the danger posed by other persons or groups termed *dominium*.¹³ On the view that our aim is to maximize republican freedom, we must calibrate the design of public institutions and policies so as optimally to combat the twin dangers of *dominium* and *imperium*: let the state be too weak and it may be ineffective in reducing the former, but let it be too strong and it may itself impose the latter.

On the People's Terms presents a somewhat different view. On the one hand, in place of minimizing *dominium*, our aim is now described as securing a sufficient share of un-dominated ability for all. Enjoying a secure sufficient

share of un-dominated ability constitutes a special sort of status that can be held by everyone equally—the status of being a free citizen.¹⁴ Pettit now characterizes this aspect of the republican theory as an account of social justice. On the other hand, in place of reducing *imperium*, we are now asked to ensure that the coercive order imposed by the state be legitimate. For such an order to be legitimate, he says, means “that attempts to change unjust laws should be restricted to measures that are consistent with the regime’s remaining in place.” In other words, legitimacy “requires you to acknowledge the state as the appropriate arbiter and decider of legal issues, rather than taking the law into your own hands.”¹⁵ Interesting to note, since a principle of maximization is in each case replaced by a threshold condition, the tension between (what are now termed) social justice and legitimacy is for all practical purposes removed. On the earlier account, it is obvious that states imposing greater dangers of *imperium* might be more effective at reducing *dominium* or vice versa. On the new account, however, provided we assume there exist feasible socio-political orders satisfying both threshold conditions, we can secure all the social justice and legitimacy that republicanism demands. Pettit does not explicitly describe this is an advantage of his new approach, but one might regard it as such. Alternatively, if one believed the tension very real and important to address, one might regard it as a problem that his new approach cannot articulate it so easily as the old.

It should be observed that Pettit uses the terms “social justice” and “legitimacy” somewhat differently than others might. In Rawls, for example, social justice—as distinct from global or local justice—refers to the justice or injustice of all the basic institutions and practices of a society, *including* its basic political institutions. Contrastingly, Pettit uses social justice to refer to the justice or injustice of a society’s basic institutions and practices *apart from* its basic political institutions. Legitimacy, for Rawls, is something distinct from justice, whereas for Pettit it refers to the justice or injustice of basic political institutions specifically—in other words, that aspect of justice not covered by social justice.¹⁶ Nothing really hangs on how we define these terms, but it is important to keep in mind the scope of the discussion that follows.

III

How attractive is Pettit’s account of republican social justice? Obviously, our answer will in part depend on how Pettit defines the sufficient bundle of un-dominated ability constituting equal citizenship—both on *how much* republican freedom the bundle should contain overall, and on *which* freedoms in particular should be included. The bundle so designated for special entrenchment Pettit terms the fundamental or “basic liberties” of republican citizenship.¹⁷ Our

challenge can thus be framed as one of determining what should count as a basic liberty in a society considered just from a republican point of view. Interestingly, Pettit gives two distinct answers to this question, and it is not entirely clear how the two answers are meant to cohere.

The first and simpler answer is what Pettit terms the “eyeball test.” This is roughly the idea that whatever bundle of basic liberties we select, it ought to be sufficient to ensure that by local social and cultural standards, all fellow citizens of ordinary courage “can look others in the eye without reason for the fear or deference that a power of interference might inspire; they can walk tall and assume the public status . . . of being equal in this regard with the best.”¹⁸

The second answer is more complex. Roughly speaking, Pettit suggests that “the domain of fundamental liberties” should be given by the “range of choice where all can operate at once . . . without getting in one another’s way.”¹⁹ He provides a detailed discussion of how we should flesh out this intuition, which we may briefly summarize.²⁰ Suppose we start with the set of all possible freedoms an individual might enjoy. We then narrow this set to those freedoms which are co-exercisable, meaning not only that the said freedoms are capable of being exercised by each, but also that everyone is capable of exercising the said freedoms all together. This screens out such things as the freedom to run a mile in under five minutes (which many cannot do), or the freedom to see a specific production of *Hamlet* (which not everyone can do together). Among the co-exercisable freedoms we narrow the set further to those freedoms which are co-satisfiable, meaning not only that the welfare of people who exercise the said freedoms would be enhanced, but also that everyone’s welfare would be enhanced if everyone exercised the said freedoms. This screens out such things as the freedom to smoke (which is not good for the smoker), or the freedom to vacation in the Poconos (which would lose their appeal if everyone went there). What remain are the particular freedoms constituting an appropriate bundle of basic liberties: the “basic liberties ought to include *only* choices that meet these two criteria. And they ought to include *all* the possible choices that do so.”²¹ This complicated two-part test Pettit terms the “free-person heuristic.”²²

Either answer has some plausibility, but it is not offhand obvious that they give the *same* answer. In other words, it would be an incredible stroke of good fortune, it seems to me, if the particular bundle of freedoms sufficient to ensure that fellow citizens can look one another in the eye without fear or deference in some society turns out to be exactly the same as the set of all co-exercisable and co-satisfiable freedoms in that same society (and vice versa). But then how are we to understand the intended relationship between the two standards?

One possibility is that we might define one of them in such a way as to automatically incorporate the other, thus ensuring by definition that they generate equivalent results. Some passages suggest this might be what Pettit has in mind. For example, in thinking about what sorts of freedoms are genuinely co-exercisable, he notes that our answer may depend on how much resourcing we are willing to provide: the freedom of ordinary mobility, for instance, is co-exercisable provided we are willing to give wheelchairs to the disabled. But with sufficient resourcing we could perhaps also make the freedom to climb Mt. Everest co-exercisable. How are we to decide which freedoms to resource? "The answer can only be determined by the eyeball test," says Pettit.²³ In other words, we should resource those freedoms specifically which are necessary to ensure that fellow citizens can look one another in the eye without fear or deference. Here it seems that the eyeball test partly determines which freedoms are genuinely co-exercisable and co-satisfiable in the relevant sense, thus ensuring equivalence.²⁴ Another passage suggests a different route to the same result. Why should *all* co-exercisable and co-satisfiable freedoms be counted among the basic liberties? Pettit answers that "any shortfall in the choices that the state safeguards would be an unnecessary restriction on the freedom that can be enjoyed by citizens and would not fit well with the traditional image of a free person."²⁵ Perhaps the idea is that citizens will *not be able* to look one another in the eye if some co-exercisable and co-satisfiable freedoms remain unprotected in their community. Here it seems that the free person heuristic determines which bundle of freedoms are necessary to pass the eyeball test, thus again ensuring equivalence.

If Pettit does not mean to incorporate one of the standards into the other, however, there are at least two other ways in which they might plausibly be seen as connected. The first is suggested by remarks to the effect that the republican ideal of an equal status of free citizenship for all is a sufficientarian approach to social justice. "That each is required to enjoy this threshold of free undominated choice is consistent with some people having such private sources of power and wealth that they enjoy free undominated choice in a yet greater range and with yet greater security."²⁶ But how is this consistent with the stated requirement that we should entrench the largest possible set of co-exercisable and co-realizable freedoms as basic liberties? A possible reconciliation of the two thoughts is to say that the free person heuristic gives us an upper bound while the eyeball test gives us a lower bound. In other words, no freedoms should be entrenched as basic liberties unless they are co-exercisable and co-satisfiable, but among those that are, enough should be so entrenched as to ensure that fellow citizens can look one another in the eye without fear or deference.

A second way the two standards might be connected is if they are addressed to different aspects of the same problem. Our challenge is to determine what configuration of public policies and institutions will satisfy the republican ideal of securing the status of free and equal citizenship for all. This challenge has two aspects. On the one hand, we need first to identify the specific bundle of equal liberties citizens ought to enjoy, and perhaps the free person heuristic is meant to independently provide an answer for a given society at a given time.²⁷ On the other hand, we need also to specify what degree of entrenchment through laws and norms those basic liberties should be granted, and perhaps the eyeball test is meant to independently provide an answer for that same society at that same time. Thus “the choices to be entrenched are the basic liberties,” and “the level of entrenchment to be secured is whatever is necessary for passing the eyeball test” (88). Though sometimes ambiguous, this last view seems best supported by a plain reading of the text.²⁸ Obviously, he would do well to clarify his account on this point.

IV

Setting aside this issue, we must finally discuss a potentially serious problem Pettit’s account of basic liberties is likely to face—namely, the classic problem of conflicts-of-liberties. The relevance of this problem here can be explained as follows.

Suppose that two possible freedoms, f_1 and f_2 are co-exercisable and co-satisfiable in the sense discussed previously. In other words, it is both possible for everyone to exercise and derive satisfaction from f_1 at the same time, and likewise possible for everyone to exercise and derive satisfaction from f_2 at the same time. Unfortunately, it does not follow that f_1 and f_2 are jointly realizable. This is obviously the case with many particular freedoms, for instance, the freedom to spend one’s morning sleeping late and the freedom to spend it jogging in the park. Pettit observes that, for this very reason, we ought to secure not particular, but rather more general and distal, freedoms: the freedom to spend one’s morning as one pleases, for instance, which presumably includes a freedom to resolve conflicts between the various ways one might spend it as one chooses.²⁹

Unfortunately, it is not clear how this strategy will work when the freedoms in question require the cooperation of others for their realization. Consider, for example, the freedom of association and the freedom of lifestyle choice. In order for A to fully enjoy a freedom of lifestyle choice, it seems we must limit the freedom of B and C and so on to decline association with A , and vice versa.³⁰ Since in such cases the freedom of each depends on the actions of others, it is not clear what more general or distal freedom we

could grant individuals that would eliminate the conflict. Or to use another example, suppose we have public resources sufficient to realize a freedom of mobility for everyone, or a freedom of home ownership for everyone, but not both.³¹ Since neither freedom can be realized without substantial public investment and policy coordination, we cannot simply grant citizens a lump sum and let them choose which they prefer to enjoy independently. Given such conflicts, Pettit's free person heuristic will not generate a specific bundle of basic liberties, but rather (at best) a set of candidate basic liberties, from which an indeterminate number of possible combinations might be drawn. We are still left with the problem of deciding *which specific combination* to prefer.

In conclusion, to reiterate what was said in the introduction, the various points on which I have criticized Pettit's new work represent disputes internal to civic republicanism, and should not be seen to overshadow large areas of agreement. *On the People's Terms* is an exceptionally rich and sophisticated work with many interesting things to say on a myriad of topics relevant to all contemporary political theorists and philosophers, whatever their overall commitments. On that basis, I cannot recommend it too highly.

Declaration of Conflicting Interests

The author declared no potential conflicts of interest with respect to the research, authorship, and/or publication of this article.

Funding

The author received no financial support for the research, authorship, and/or publication of this article.

Notes

1. Philip Pettit, *On The People's Terms: A Republican Theory and Model of Democracy* (Cambridge: Cambridge University Press, 2012).
2. Philip Pettit, *Republicanism: A Theory of Freedom and Government* (Oxford: Clarendon Press, 1997).
3. Non-domination might count exclusively, or it might count alongside some other centrally important goods.
4. See for example: Philip Pettit, "The Freedom of the City: A Republican Ideal," in *The Good Polity: Normative Analysis of the State*, ed. Alan Hamlin and Pettit (Oxford: Blackwell, 1989); Pettit, *Republicanism*; Quentin Skinner, "The Paradoxes of Political Liberty," reprinted in *Liberty*, ed. David Miller (Oxford: Oxford University Press, 1991); Quentin Skinner, *Liberty before Liberalism* (Cambridge: Cambridge University Press, 1998); Maurizio Viroli, *Republicanism*, trans. Antony Shugaar (New York: Hill and Wang, 2002);

- Frank Lovett, "What Counts as Arbitrary Power?" *Journal of Political Power* 5 (2012): 137–52. See also the papers in Cécile Laborde and John Maynor, eds., *Republicanism and Political Theory* (Malden, MA: Blackwell, 2008).
5. This account of political freedom emerges gradually in *On the People's Terms*, chap. 1; what I have termed the "non-vitiation condition" is discussed especially at 35–43, 69–70; and the "non-domination condition" at 43–44, 49–67, 71–73.
 6. Pettit, *Republicanism*, 75–77, 104–6.
 7. Among other difficulties, one might wonder why, if vitiation can be credited alongside domination against our freedom in the politically relevant sense, interference cannot also be so credited.
 8. Pettit, *On the People's Terms*, 153–56.
 9. *Ibid.*, 56–58.
 10. For instance, we might wonder why control over *B* must necessarily be vested in *A* specifically. While this might be the most reliable sort of control in many circumstances, it is not clear why other possibilities must be ruled out by definition.
 11. Pettit, *Republicanism*, 97–102; *On the People's Terms*, 123–24. The distinction between promoting and honoring is discussed in Philip Pettit, "Consequentialism," in *A Companion to Ethics*, ed. Peter Singer (Oxford: Blackwell, 1991), 230–40.
 12. Pettit, *Republicanism*, 103–6, 110–17. This is also the view I take in Frank Lovett, *A General Theory of Domination and Justice* (Oxford: Oxford University Press, 2010), 173–79.
 13. Pettit, *Republicanism*, 105–6, 171–72.
 14. Pettit, *On the People's Terms*, 83–84, 87–88. In making this shift, Pettit brings his view into closer alignment with some other republicans such as James Bohman, *Democracy across Borders: From Dêmos to Dêmoi* (Cambridge, MA: MIT Press, 2007), 27; and Cécile Laborde, *Critical Republicanism: The Hijab Controversy and Political Philosophy* (Oxford: Oxford University Press, 2009), 11.
 15. Pettit, *On the People's Terms*, 137.
 16. Here see *ibid.*, 76–77, 144.
 17. *Ibid.*, 83 and *passim*.
 18. *Ibid.*, 84.
 19. *Ibid.*, 83.
 20. *Ibid.*, 92–101.
 21. *Ibid.*, 93, emphasis added.
 22. *Ibid.*, and *passim*.
 23. *Ibid.*, 86.
 24. Only partly because some freedoms might be co-exercisable and co-satisfiable even without any resourcing, in which case the eyeball test would not come into play.
 25. Pettit, *On the People's Terms*, 93.
 26. *Ibid.*, 88.
 27. For reasons he discusses at *ibid.*, 104–7, however, we should not expect the answer to be the same for *all* societies at *all* times.

28. For additional passages seeming to support this view, see *ibid.*, 47, 83–84, 88, and 109–10; passages ambiguous between this view and one of the others discussed can be found at *ibid.*, 85, 87, and 104.
29. *Ibid.*, 102–3.
30. This tension is evident in a careful reading of J.S. Mill, *On Liberty* (Indianapolis, IN: Hackett Publications), chap. 3.
31. An interesting related issue concerns whether we should assume that republican social justice requires that we *maximize* public resources first, and then resource as many freedoms as possible out of that fund.

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