

Freedom in the market

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abstract

The market is traditionally hailed as the very exemplar of a system under which people enjoy freedom, in particular the negative sort of freedom associated with liberal and libertarian thought: freedom as noninterference. But how does the market appear from the perspective of a rival conception of freedom (freedom as non-domination) that is linked with the Roman and neo-Roman tradition of republicanism? The republican conception of freedom argues for important normative constraints on property, exchange, and regulation, without supporting extremes to the effect that ‘property is theft’ or ‘taxation is theft’ or anything of that kind. It does not cast a cold eye on commerce; it merely provides an alternative view of the attractions.

keywords

liberty, market, liberalism, libertarianism, republicanism, domination, property, exchange, regulation

The market is traditionally hailed as the very exemplar of a system under which people enjoy freedom, in particular the negative sort of freedom associated with liberal and libertarian thought: freedom as noninterference. The appeal of the market from within that viewpoint is that it represents a regime of unobstructed consumer choice and, as a bonus, a regime in which consumer options may be expected to increase and diversify under the pressure of competition.

In this article, I want to look at how the market appears from the perspective of a rival conception of freedom (freedom as non-domination) that is linked with the Roman and neo-Roman tradition of republicanism — so, at any rate, a number of recent authors claim, myself included among them.¹ In pursuing this task, I do not say that the appeal of the market as a forum of unobstructed choice among ever-improving options is in any way bogus or suspect. Setting aside that issue, I want to examine the credentials of the market in republican as distinct from characteristically liberal or libertarian terms.

The article is in four sections. First, I outline the republican conception of freedom as non-domination, identifying some relevant aspects of the approach. Then in the three sections following, I look respectively at three features of the market (property, exchange, and regulation) and at the ways in which they appear from within the republican perspective. The republican conception of freedom argues for important normative constraints on these arrangements without supporting rhetorical extremes to the effect that ‘property is theft’ or ‘taxation is theft’ or anything of that kind.

1. Freedom

There are three distinctive aspects to the republican conception of freedom. First, it concentrates on social freedom, as we might describe it, rather than freedom outright. Second, it takes the primary danger to social freedom to consist not in just any form of interference, but in arbitrary interference only. Third, it argues that social freedom requires protection against arbitrary interference, not just probabilifying the absence of such interference. I will go over each of these features quickly, drawing on work done elsewhere.

Social freedom

Suppose we want to know how much freedom someone enjoys in making a particular choice. In raising this question, we may be concerned with how far the agent’s access to the options given is unhindered on any front, whether in virtue of psychological pathology, physical incapacity, natural impediment, social constraint, or whatever. Alternatively, we may be interested in how far the agent’s access to options is unhindered, not in general, but on one or another front in particular. Thus we may be interested in how far an agent is free in psychological or physical terms to do something (that is, how far he or she has the capacity to do it, as it is more often put) or with how far the natural world leaves them free to do it (that is, how far it provides the requisite opportunity for action). Then again, we may be interested in how far access to options is unaffected on the social front by the interference of others. This is the sort of freedom that concerns republicans.

If our interest is in outright freedom, then social obstacles to freedom will be no more important in themselves than natural obstacles. If our interest is in social freedom, then such obstacles (different forms of interpersonal interference) will be the primary target of attention. Other hindrances will be seen as factors that do not compromise social freedom in itself, but only reduce the range over which, or the ease with which, that freedom can be enjoyed. They affect the worth of social freedom, not its presence or absence; they condition freedom as distinct from compromising it.² The fact that I am not physically able to do something, for example, will not mean that I am socially unfree to do it, but it will mean that

I cannot enjoy the social freedom to do it; I cannot enjoy the fact of not being subject to any social hindrances to its performance.

Why would we be interested in social freedom rather than freedom outright? Why would we focus only, or focus at least primarily, on a mere subset of obstacles to choice, not on all the obstacles there are? The reason, I suggest, is that social obstacles enable us to think of freedom as a chooser-based rather than a choice-based property and that this has a natural appeal. With both outright and social freedom, it is possible to describe either choices or choosers as free. But the primary bearer of the property of outright freedom is bound to be the choice, the primary bearer of the property of social freedom the chooser.³ This claim is of crucial importance to the argument of the article.

A person can be described as free outright only in the measure (the inevitably imperfect measure) in which his or her choices happen to be unhindered overall. What else could it mean for someone to be free outright? It might in principle mean that the person is marked out by enjoying a certain shielding against obstacles; in that case, what would make the chooser free is not the fact that his or her choices happen to be unhindered, but rather the fact that they are unhindered as a result of the protective shield. But there is no such shielding available in practice against the obstacles whose absence is required for the enjoyment of outright freedom. Among those obstacles many will derive from genetic bad luck, accidental disablement, chronic illness, climatic catastrophe, and the like. There is nothing about any individuals that could mark them off as particularly shielded against obstacles of this kind (such is the human condition) and so free in a distinctive, chooser-based manner. Inevitably, outright freedom has to be a property of choices in the first place, choosers in the second; a choice will be free outright so far as it is unobstructed, while a chooser will be free outright so far as his or her choices are free.

Things are quite different with social freedom, however, since there are familiar ways in which people may be shielded against the interference of others. In particular, there are familiar ways in which people may be shielded against the sort of interference by others over which they have no control (more on what this means will follow when we discuss arbitrary and nonarbitrary interference). What are the ways in which people may be socially shielded from such interference, then? People may be shielded by virtue of their physical strength, organizational embedding, financial resources or cultural clout, or they may be shielded by measures that can empower all citizens equally: a suitable rule of law or a regime of protective norms. Let a person be equal before the law and norms of a constitutional democracy, for example, and normally he or she will be marked out thereby as someone who enjoys a certain degree of immunity or resistance to interference: a certain degree of 'antipower'.⁴ This fact enables us to conceive of social freedom, not as a choice-based, but as a chooser-based, property. We can say that choosers are socially free just to the extent that they are more or less shielded against social obstruction: just to the extent that they have

the requisite shielding resources. Moreover, we can say that choices are socially free just so far as they are exercises of such chooser-based freedom.

On a choice-based view, the social freedom of a person would depend only on how far their choices happened (perhaps as a matter of sheer luck) to be socially unobstructed; choices would be free so far as they escaped interference and choosers would be free so far as their choices were free. On the chooser-based view, choosers will be free so far as they have resources that give them a shielded standing among others and their choices will be free so far as that standing ensures that they are not obstructed in making those choices; we can say that in making those choices they exercise or manifest their social freedom as choosers. Thus it will be possible on this view to say that while some people managed to do this, that or the other, they did not have the social freedom to do it; we can acknowledge that while they succeed in achieving this or that goal, their success came about despite the lack of social freedom, not because of it.

Whereas we have to think of outright freedom in a choice-based way, the natural way to think of social freedom is in this chooser-based manner. There is little reason why we would focus on social obstacles to choices if our interest were solely in how far choices happen to be unhindered. Why pay attention to those particular hindrances rather than others? But there is every reason for focusing on social obstacles if our interest is in how far a person has a standing among others that gives them a presumptive immunity, partial or total, to such obstacles. I shall assume for these reasons that whereas freedom in the outright sense is a choice-based notion, freedom in the social sense is chooser based. Choices are free outright so far as they are unhindered and choosers are free outright so far as their choices are free outright. Choosers are socially free so far as they have a standing that guards against the prospect of interference and choices are socially free so far as the choosers exercise their social freedom in making those choices.

The republican tradition focuses on social freedom in this chooser-based sense, asking as it does after the conditions under which someone counts as a 'freeman' rather than a 'bondsmen', a *liber* rather than a *servus*.⁵ From the perspective of this conception of freedom, it may be a very good thing that people's choices are unobstructed and that the options between which people choose are increased and diversified, at least up to a certain limit, as the competitive market is said to ensure; this will improve the value of people's social freedom, allowing them to enjoy it over a greater range or with greater ease. Thus the republican tradition can join with the liberal and libertarian traditions in hailing the market for what it achieves on this front. But the main issue within the conception of freedom as non-domination bears on the extent to which the market can respect and strengthen people's social freedom as such: the extent to which it is consistent with their enjoying a shielded standing. This is a separate issue, because a person's choices might be unobstructed without the person having a high degree of social freedom; after all, the slave of the rich and kindly master may enjoy an enormous range of choice without having any social freedom whatsoever.

Arbitrary and nonarbitrary interference

In order to understand the republican conception of social freedom, we need to do two things: first, to explain exactly what sort of interference people are shielded against under this conception and, second, to explain what is involved in their being shielded in that way. I proceed now to these two tasks.

To interfere with a choice, as that notion is understood here, is always to put an obstacle in its way intentionally, or at least in such a manner (say, such a negligent manner) that blame may be in order.⁶ I do not interfere with you just through happening, like a natural obstacle, to be in your way or just through doing something that has the unforeseen effect of hindering you. Nor do I generally interfere with you just through allowing such an obstacle to get in your way, or through allowing another person to interfere: not, at any rate, unless contextual criteria give such an omission a positive interpretation. Given that social freedom is what is at issue, I have to represent an obstacle of a distinctively human, interpersonal kind and this means, in effect, that I have to be intentionally or quasi-intentionally obstructive; the point is likely to be granted on many sides.⁷ I may be obstructive on my own, but I may also be obstructive, of course, in the company of others. I may be part of an obstructive corporate agency or I may contribute a small amount of obstruction in a context in which others do so too (perhaps unknown to me) and in which the aggregate obstruction reaches a significant level.

Interfering with a choice does not necessarily mean rendering the choice of a particular option impossible.⁸ Interference may certainly involve removing an option from a set of otherwise available options (say, reducing options A, B, and C to options A and B), thereby rendering the choice of that option impossible. But, plausibly, it may also involve changing the options by adding a penalty to one of the alternatives; this might reduce the set to A, B, and C-minus, where 'C-minus' refers to C with a penalty. Equally plausibly, it may mean misleading the agent about the options available. Misinformation can be a very effective way of rendering the choice of an option effectively impossible or difficult, transforming the subjective if not the objective options in place.

An act of interference in the sense explained will not be an affront to freedom under almost any approach, so long as it is subject to the control of the person interfered with: so long as it is akin to the interference that his sailors practiced on Ulysses when they kept him tied to the mast. But there are different views on what it is for an 'interferee' to control the interference of another. One view would put the emphasis on historical consent, for example. This is not very plausible, however, since it may have been a past, now very alien, self that consented to a form of interference under which I now bristle; that is one reason why we naturally object to the slave contract. Another view would moralize freedom and argue that if a form of interference is morally justified, or is at least justified by moral standards to which I subscribe, then it is subject to my control. This approach implies that a morally justified intervention can never restrict my freedom, however, and that is surely counterintuitive.

The republican approach on this matter has been to assume that I control the interference of another so far as that interference is forced to track the interests that I am disposed to avow. This assumption is usually extended so that I control the interference of the state so far as that interference is forced to track the interests that I am disposed to avow in common with my fellow citizens, though there are different possible accounts of how those interests are to be identified. The word that is used to describe interference that is subject to such a mode of individual or shared control is ‘nonarbitrary’.⁹ Nonarbitrary interference, like a natural obstacle, may reduce the sphere in which people enjoy social freedom, but under the republican approach it will not take such freedom away.

Protection and probabilification

The upshot of the discussion so far is that on the republican conception of freedom, you will be a free person so far as you have a social standing that shields you against interference by others, in particular against their arbitrary interference. But what is it for your social standing to shield you against arbitrary interference? How, in particular, does it impact on the probability of your escaping interference?

If your social standing shields you fairly effectively against arbitrary interference, it will generate a high probability of your escaping such interference, given what you actually prefer to do and given how other people, including powerful people, actually feel about you. But it will also do something more. Since that standing is not going to change under changes in what you prefer or changes in how other people feel about you, it will shield you under those contingencies too. Thus, it will generate a high probability that you will continue to escape arbitrary interference in the event of preferring to do something else instead or, crucially, in the event of others turning sour on you.

This is to say that enjoying social freedom (having a status that guards you against arbitrary interference) means being proof or at least being relatively proof against interference of that kind. No matter what your preferences are, and no matter what the feelings of others happen to be, your social standing will still serve you well. It will provide a protective field that makes you resistant to the arbitrary incursions of others. It will ensure that, intuitively, you are in control of what you choose.

This is fully in line with republican tradition. Were the actual-world probability of escaping arbitrary interference the only thing that mattered, then subjection to a benign dictator could be very good for your freedom; it might make arbitrary interference less likely than under other regimes. But for traditional ways of thinking about freedom, this is a *reductio ad absurdum*. Subjection to any master, kindly or otherwise, means that you are, precisely, a subject: someone under the will of another. That means that you are not a ‘freeman’, but a ‘bondsmen’. You live *in potestate domini*, in the power of a master.

The problem with the subjects of a kindly master is that while arbitrary inter-

ference in their lives may actually be unlikely, it will not be unlikely in virtue of their social standing, only in virtue of the contingent fact of the master's goodwill or indifference or inattention. This means that if people have to rely consciously on such contingent facts they will be constrained, at whatever cost in dignity, to keep their masters sweet by practicing self-censorship and self-ingratiation; in the absence of a suitable social standing, groveling of this kind will be their only protection. The cringing, toadying, fawning sycophant becomes the exemplar of someone in this position, whether that person be a cunning slave, a slavering dependant, or a woman who depends on her mincing gait and swooning smile to keep her husband in check. The theme is already there in Roman comedies¹⁰ and it retains a central place in later writers. It is the constant refrain, the signature motif, of those who look to the republican commonwealth (or to the constitutional monarchy for which some republicans settled) as the only forum where freedom is to be found.

Subjects who are dominated in this way are not in control of what they choose from among contextually given choice sets. Perhaps their masters allow them to choose at will from among the options available in any instance. But they will do this only so far as they remain happy to let the subjects choose. Thus, they can be seen as exercising a remote or virtual control over the subjects' choices.¹¹ So long as the subjects follow paths that appeal, the masters will let them be. But should they ever deviate from such paths (or should the paths taken cease to appeal) then the masters have a capacity to step in and ensure that they adopt other ways. This alienation of agential control is going to be undesirable by most lights, whether or not the subjects are aware of it. An awareness of the control will tend to prompt recourse to measures of self-censorship and self-ingratiation, as already mentioned, but such measures will not remove the control; at best they will help to make it more palatable.

In guarding you against interference in the event of your wanting something else, or in the event of others turning against you, it should be noticed that protection will typically be insensitive to the degree of probability attaching to such a change of mind. You will be protected under any relevant shift of attitude on your own part or on the part of others, however unlikely that shift of attitude may be. Does this probabilistically unweighted form of conditional protection represent an inefficient use of resources? Does it offend against efficiency in failing to allow for the probability or improbability of the condition under which protection will be required?

From a republican point of view, it does not. The perspective we take on ourselves and others as agents blocks us from treating the things we or others might do as possibilities that are significant and worthy of concern only to the extent that they are probable. Within this agential perspective we inevitably employ a notion of what we or others could do as agents (that is, with a notion of what is accessible to our control as agents) and we concern ourselves with such possibilities to the extent that they are accessible, not to the extent that they are

probable. When I deliberate I have to think of the options before me as things I could just do, independently of the probability of my doing them; I have to abstract from probability. When I think of you as a deliberative agent, then, I have to think of you as also representing your options to yourself in the same way, and given the symmetry between us, as rightly representing them in that way.

It follows that when you think of yourself as an agent, you will naturally have a (probabilistically unweighted) concern with not suffering interference in the event of choosing any option. Otherwise you will be unable to see yourself as in control of which option to choose. It will follow that when you think of others as agents, you will naturally have a (probabilistically unweighted) concern with avoiding interference in the event of their taking against you. Otherwise you will have to see them as having control over what you do; they will not interfere so long as they are happy for you to go your own way, but however unlikely they are to choose it, interference remains an accessible option.

This being the case, it need not be inefficient to have protection available in a measure that does not correlate with the probability of its being required (that is, the probability of one or another triggering condition), or at least that will be so to the extent that there is not some other protective cost. It may be that the higher the level of your conditional protection, the lower the level of your protection under prevailing conditions. In that case, we would have to decide about how to trade one against the other, and nothing in the republican idea of freedom would prevent a trade-off that favored actual over conditional protection.

In summary

Republican freedom, to sum up these considerations, involves the sort of standing among your fellows that we think of as social freedom. It involves a standing that is challenged by arbitrary or uncontrollable interference, not (or at least not directly) by interference of the nonarbitrary sort. Moreover, it requires not that you have a high probability of escaping arbitrary interference, no matter by what means, but rather that you be properly protected against such interference. In a word, freedom requires that no one stand over you in the position of a *dominus* or master who can interfere arbitrarily in your life. Freedom consists in non-domination. With these matters clarified, we can turn now to the connections between freedom understood and valorized in this way and three aspects of the market: property, exchange, and taxation.

2. Property

Let us assume that in every society there will be conventions that define the titles and rights of private ownership and that have the backing of legal sanction. The titles will determine who has an exclusionary claim to what and the rights will fix what it means to have such an exclusionary claim to something, where the

meaning of the claim may differ between different sorts of object: the rights associated with owning a dog, a house, and a car may be very different from one another. Let us assume, in addition, that the conventions that are in place do not ascribe any titles or rights of ownership that are necessarily in conflict with everyone's enjoying non-domination (that is, they do not give anyone ownership over another, for example, as in a slave regime) and that they are not themselves the product of domination (that is, they do not reflect the dominating power of one class or caste or whatever). Let us assume, finally, that even if there has been no fraud or theft, this system will have produced an inegalitarian distribution of holdings. It will have put more property in the hands of some than in the hands of others; and this, not as a result of any breach of the rules, but as a result of differences in talent or effort or fortune, whether fortune in enterprise or inheritance or prior possession.

I want to defend two claims about the connection between freedom and property, so understood. The first is that the property system and property distribution envisaged, however inegalitarian, is not inimical to freedom just on the grounds of being inegalitarian. The second is that if the property system or distribution has the contingent effect of allowing domination, then that makes a case for institutional adjustment, assuming that some beneficial adjustment is available.

The reason why the property system or distribution will not be inimical as such to freedom is that, assuming as we have done that it does not license or issue from any form of domination, it will not entail that anyone is in dominating charge of another. The property regime can have the aspect of an environment akin to the natural environment. Like the natural environment, it will certainly affect the range or the ease with which people enjoy their status as undominated agents, and it may warrant complaint on that account, but it will not itself be a source of domination. It will not be a source of domination so far as it is the cumulative, unintended effect of people's mutual adjustments, where that history of adjustment may or may not have begun in government initiatives.

There are two distinct ways, as we have seen, in which your freedom as non-domination can be negatively affected. The first is via the domination of another agent or group of agents in your life. The second is via the intrusion of a factor that reduces the range or the ease with which you enjoy freedom as non-domination, without itself being dominating: it may be a natural constraint or a controllable, nonarbitrary form of restriction. The first sort of factor compromises your freedom as non-domination, as we put it earlier, but the second only conditions it.¹²

The sort of property regime we have been imagining does not mean in itself that anyone is dominated and that is why it is not inimical as such to freedom. But the regime will naturally put restrictions in place on what different individuals can do without risking legal sanction. In addition, the restrictions imposed at any point will fall unequally on individuals, so far as some people

enjoy greater property holdings than others. Under my assumption, however, this inequality of non-dominating restriction need not compromise anyone's status as an undominated member of the society, any more than natural differences of physique or intelligence or geography do so. I may regret the fact that under the existing property regime you have more opportunities than me to enjoy our common status as free persons, but the fact of that regret does not mean that you stand over me in the position of a dominating power. I may be just as well protected against your arbitrarily interfering with me as you are protected against my interfering with you.

This point can be put more abstractly. Suppose that certain choice sets are randomly distributed among individuals, perhaps by natural accident, perhaps as the aggregate, unintended result of social adjustments. Suppose also that this distribution of choice sets does not itself expose anyone to domination and is not the product of domination. If their freedom is not to be compromised, then people must certainly enjoy control over the options available in those choice sets; they must not be subject to the control of others, having to endure or be exposed to arbitrary interference. But it need not matter that the choice sets are randomly and, no doubt, unequally distributed. While this inequality will mean that some people's freedom is conditioned more than that of others, it will not necessarily mean that anyone suffers domination at the hands of others.¹³

The picture will be very different, of course, if we assume that the system of property titles and property rights is created and sustained by continuing government intervention.¹⁴ This assumption would lead us to judge government behavior in relation to property from a baseline of no ownership, not from a baseline of traditionally established and accepted holdings. If the property system is a continuing creation of government, then every choice made in altering or maintaining it will involve interfering with citizens and will have to be interrogated for how it should best be made on the supposition that freedom as non-domination is to be maximized or, at the least, that government is to be nonarbitrary.

I do not go along with this assumption about the continuing role of government. I am supposing here that the property regime sprang from a history of individual adjustments in which no domination occurred, whether a history originating in pre-governmental conventions or a history that began with state initiatives. In addition, I am assuming that the regime in place does not itself allow inequalities of a kind that facilitates what by independent criteria would count as domination. Under those assumptions, any infringement of one person's property rights by another will give cause for government concern, since it will have the aspect of arbitrary interference: it will arbitrarily impact on the property-holder's options in disposing of the property. But the bare fact that one person has more than another need not activate such concern: absent a suggestion of wrongdoing within the system, there need be no question raised by the inequality.¹⁵

The second claim about property that I made is that if the property system or

distribution has the contingent effect of allowing domination, then that makes a case for institutional adjustment, assuming that some beneficial adjustment is available. There are a variety of ways in which a property regime might have the contingent effect of allowing domination. The rules of the system might turn out for contingent reasons to facilitate domination, say, through being extended (as they have recently been extended in many countries) to give intellectual property rights over aspects of the human genome. Alternatively, the distribution that emerges under the system might occasion a level of poverty or inequality that makes domination highly likely. For convenience, I will concentrate on this second possibility here. It may involve the absolute or relative impoverishment of some individuals in relation to others, or the impoverishment of individuals in relation to corporate entities.

If freedom as non-domination is to be cast as an important political value, then as with any other values that are taken seriously in contemporary thought,¹⁶ what will be important is that people in a society (individual people, I shall assume, not collective entities¹⁷) are treated as equals in respect of that value. Indeed, the value itself has an inherently egalitarian aspect, since at any point of inequality in its enjoyment, the best way of increasing the quantum enjoyed overall is likely to be by giving to the weaker rather than the stronger.¹⁸ This is due to the fact, first, that increasing resources in one party may increase vulnerabilities in others so that it can be more or less productive of non-domination, depending on those affected; and second, that increasing the resources of the weaker will generally be more productive of non-domination than increasing those of the stronger.

Suppose, then, that the property regime is generating inequalities in non-domination, with the rich and strong having a capacity, limited or widespread, to lord it over the poor and weak. The value of non-domination (or, if you like, equal non-domination) will argue for putting those effects right: for redistributing property or restricting the powers associated with absolute or relative wealth, so that inequality in non-domination is minimized. There are many redistributive and restrictive strategies available whereby this goal might be pursued, but this is not the place to go into that level of detail. The important point is to note the fact that economic redistribution or restriction will be supported under a republican political theory, so far as material poverty or inequality is productive of non-domination.

I think that this line in policy-making will be attractive to many. It avoids the extreme of making material equality a good in itself. It links the evils of inequality and poverty with one another. In addition, it represents them as evils that connect with a plausible political ideal, not just a moral or religious value, in such a way that a presumptive task of the state will be to remedy these evils – or at least to do this so far as it is institutionally feasible.

There are standard libertarian objections to this sort of redistribution and restriction, but I will turn to them in discussing the implications of republicanism for regulation of the market; both redistribution and restriction can be seen as

instances of regulation. This must suffice by way of commenting on the connection between freedom and property and we should turn now to the quite distinct topic of market exchange.

3. Exchange

Assume that the imbalances of property and power that shape the exchange of goods and services do not have the effect of allowing domination within market exchange. There are no possibilities of arbitrary interference, or at least no preventable possibilities of interference, that they are allowed to facilitate: no predatory pricing, insider trading, market manipulation, and so on. Assume, further, that market exchanges are subject to a discipline of nondiscrimination, whether as a result of normal incentives or legal restraints. Parties are not disposed or allowed to ignore and marginalize some particular others, thereby depriving them of normal options; they generally take their custom where the returns look best, regardless of the individuals or groups involved. Assume, finally, that market exchanges in which one or another party accepts or risks domination by the other in return for some good (this, as in the slave contract) are prohibited. Conditions are such that workers who contract into employment, for example, are not subjected to anything approximating what came to be described in the republican tradition (the phrase appeared among socialists only later¹⁹) as wage slavery.

Can republicanism look with complacency, under these assumptions (these extremely idealistic assumptions), on market exchanges? I shall argue that it can. There is no particular threat to people's freedom as non-domination associated with participation in the market. In taking this line, I am being faithful, I believe, to the tendency of Roman and neo-Roman republicanism (if you like, the classical version of the approach) and break only with Rousseau's romanticized reworking of republicanism. Rousseau seems to have thought of any economic status that fails to ensure self-sufficiency as a source of dependency and domination – in contrast to his view that subjection to the general will did not have such an effect. Adam Smith was more faithful to classical republicanism, and inherently more persuasive, in insisting that far from threatening republican freedom, the market could reduce dependency and domination.²⁰ For example, in a well-functioning labor market (and, of course, it may be very difficult to establish such a market), no one would depend on any particular master and so no one would be at the mercy of a master: he or she could move on to employment elsewhere in the event of suffering arbitrary interference.

The case for complacency about market exchanges derives from the intuitive contrast between the influence that people exert on one another in making market overtures and in securing market deals and the influence associated with coercion or force or anything of that kind.²¹ Market exchanges are voluntary, even if the relative benefits to different parties vary in a way that reflects

their relative bargaining power. They come about as a result of people accepting reciprocal offers of reward in the event of acting as they require of one another. Furthermore, such offers of reward are not coercive in the manner of penalties or threats of penalty.

So at least it seems, for it may not be obvious that the intuitive contrast between market influence and coercive pressure is as significant as this suggests. A number of thinkers have argued that if interference can consist in the threat of a penalty, even the bluff threat of a penalty, as it can under the approach described here, then the offer of a reward, sincere or insincere, has equal claim to be treated as a form of interference.²² Moreover, if it does count as interference, then being exposed and susceptible to market exchange will constitute a form of domination. Rousseau will be vindicated.

It is crucial for my purposes, then, that I be able to make out a case for the existence of a normatively significant distinction between the threat of a penalty and the offer of a reward, in particular, the offer of a market reward. I believe that such a case is easily made.

The offer of a market reward is always the offer of a reward that you are allowed to refuse. Suppose, then, that as things stand you have the option of choosing any of three options: A, B, or C. Suppose also that someone offers you a reward for doing A – an offer to pay you something, for example, in return for doing A. I assume that whereas an option changes if it is associated with a prospective penalty, or indeed reward, it will not change just in virtue of the addition of an extra option to the set in which it appears as a member.²³ What the party will do in making an offer to reward the choice of A, then, is reveal that you actually have four options: the existing options, A, B, and C, and a new option, A-plus (that is, A together with the reward).

In enjoying the offer of the market reward, then, you will have your range of choice expanded; the options you had at the beginning are left on the table and a fourth, distinct option is added. There is a natural contrast here with the case in which you are threatened by a penalty. If you are threatened with a penalty for doing C (or if, indeed, you are threatened with an inescapable reward for doing C), then your options will be changed to A, B, and C-minus (that is, C together with the inescapable penalty or reward).

This shows that there is a contrast between the coercive penalty and the market reward; they involve a different structure. But is the contrast normatively relevant? Opponents may say not, on the grounds that there is no important difference between my trying to coerce you by a threat to do something and my trying to induce you to do it by offering you a reward. In each case, I am seeking to exert an influence on your decision. In the one case, if I am successful, I will get you to avoid C by imposing absolute costs on doing C; in the other case, I will get you to choose A by imposing opportunity costs on your doing anything else: if you do anything else, you will now have to forego more benefits than you had to forego previously.

But notwithstanding these parallels, the threat and the offer still stand in morally significant contrast. The claim can be made salient in light of the distinction that we drew earlier between the case in which an option is accessible (that is, you are in a position to control whether you choose it) and the case in which an option is probable (that is, you are more or less likely to choose it). I may affect the probabilities attaching to different options in both the case of the threat and the case of the offer. But I will affect the accessibility of the options, and thereby deprive you of some control, only in the case of the threat. When I coerce you by making a credible threat, I deprive you of a certain level of control by changing the options you face or take yourself to face; options A, B, and C become A, B, and C-minus. When I make you a market offer (or at least a regular, non-mesmerizing offer) I do not deprive you of control in that or any other way.

Thinking of yourself as an agent who is made the offer, you will have to see yourself as retaining access to all the options that were there previously, while enjoying access to a fourth option as well: A-plus. Furthermore, thinking of you as someone who is right to think of yourself in that way, I too will have to see myself as leaving control in your hands. There is no doubt, of course, that in putting A-plus on the table, I am likely to have an influence on what you choose – that, as we can each recognize, is why I make the offer. But from the agential perspective on your choice, I may have this sort of influence on your decision without depriving you of any control. I will leave you access to the same options as before, even as I shift the probabilities that bear on what you choose.

The upshot is that making a market offer is different in a normatively significant way from making a threat. If we embrace the ideal of republican freedom, arguing for the value of protection against the control of others, then we will naturally adopt a very different view of offers and threats. The influence I have on you when I make a market offer need be no more inimical to your status as an undominated agent than the influence I have on you in revealing a mistake in your deliberative assumptions or transitions.²⁴ The influence I have on you when I make a threat, however, is the influence of an alien, dominating source of control.²⁵

4. Regulation

In previous discussions, we assumed that the state would be entitled in principle to rectify the negative effects of a property regime on freedom as non-domination and we assumed, equally, that the state would be permitted in principle to prohibit slave contracts and to guard against other abuses of the market. This is to assume that the political regulation of the market can be unobjectionable and I turn in this final discussion to consider why this might be so within a republican way of thinking.

Regulation will inevitably involve the coercive taxation of individuals and cor-

porations, since without a tax base the state would be unable to do anything. But it will also tend to have at least two other aspects. It may restrict what people or corporations can do with their property or how they may act in the course of market exchange; it may legislate against monopolies, for example, or against private campaign financing. In addition, it may seek to redistribute property toward those who are poorer, whether by relying on progressive taxation to provide universally available services, by relying on taxation of any kind to provide services available only under a means test, or by more or less direct transfer. In speaking here of regulation, I shall abstract from whether it is the regulation implicit in taxation, in the restriction of what people may do, or in the redistribution of property toward the less well off.

The assumption that regulation is permissible in principle will face standard, libertarian lines of objection. One objection is that, under this policy, some are benefited by robbing (restraining) others and that such robbery (restraint) is never right, whether perpetrated by criminals or by the state.²⁶ Another is that if state robbery (restraint) can be justified, that will only be to the extent that it is outweighed by a decrease in the private imposition of such ills that the state can be reliably expected to produce. The first objection would raise a problem about how regulation could ever be justified, short of consent. The second would raise a problem about how it could be justified over and beyond a minimal level: a level, we may presume, at which it will fail to do all that can be done for equalizing freedom as non-domination.

The first objection, if successful, would not just challenge the legitimacy of a republican level of regulation, but the legitimacy of any regulation whatsoever; it would put the very legitimacy of the state in question. This objection is as much a problem for libertarian as for republican theorists of the state, then; indeed, it is the problem that Robert Nozick tries to address on behalf of libertarianism.²⁷ That being so, I shall concentrate in what follows on the second objection.

According to this objection, regulatory interference is permissible only to the extent that the interference perpetrated against individuals is more than compensated for by the interference prevented or likely to be prevented overall. If freedom is equated with noninterference, or with some probabilistic function of noninterference, then this will be to say that the state is permitted to abridge some people's freedom by regulating their activities only so far as this increases the net expected freedom in the society.

Against this sort of objection, republican theory will naturally run two lines. It will argue, first, that regulatory interference by the state need not be as bad as the private interference against which it guards. Second, it will argue that in guarding against private interference it can help to secure a benefit of more importance than mere noninterference: it will help to ensure that people enjoy non-domination. Put in the currency of republican freedom, the first line of argument is that state interference is not necessarily a way of compromising freedom, only of conditioning it; the second line of argument is that what state interference

is designed to guard against is precisely a way of compromising freedom in that more damaging sense.

The first argument turns on what republican theory sees as a big difference between regulation imposed by the state and analogous activities by private parties. There is interference involved in both the public and the private activity envisaged, but unlike the private interference, state interference need not be arbitrary. State interference in the lives of individuals will be nonarbitrary so far as it is subject to a suitable degree of control by the interests that members of the community are disposed to avow as common. What makes for suitable control and suitable organization is a topic at the heart of republican thinking and connects with issues in constitutional and democratic theory.²⁸ I cannot hope to do justice to the topic here and I will simply assume, as an empirical matter, that some version of the republican thesis can be realized. The assumption is that there is a possible way of organizing political life such that those who are subject to political coercion would not have to see the power that coerces them as a master or *dominus* in their lives: it would represent a will which is governed by goals and constraints that they are disposed to endorse in common with their fellows.

The other line that republicans will run about regulation is that the evil against which it is meant to guard on the private front goes beyond the evil associated with actual interference by others. The interference you undergo at the hands of private parties will tend to be arbitrary or uncontrollable in character; that is why it calls for regulation and prevention by the state. But it is not just bad that arbitrary interference should occur in society; it is bad even that it is accessible to some parties in their dealings with others. Those who can access arbitrary interference will dominate those who are vulnerable to interference, and they will dominate them whether or not that access is ever activated. Regulatory interference by the state will not just reduce the incidence of private interference, then, but also reduce the access of any parties to such interference. So, it ought to help promote the freedom as non-domination of people in society.

Under the libertarian equation, regulatory interference by the state is permissible just to the extent that it is outweighed by the interference or expected interference it prevents. Under the republican equation, things are easier in two ways. First, it will take less resources to justify regulatory interference, since this interference, as I assume, can be nonarbitrary and non-dominating in character. Second, there are potentially more resources available to justify such interference: justification can be provided not just by the effect of reducing the incidence of private, arbitrary interference, but also by the effect of reducing access to such interference, and so the level of domination overall. There will be a lighter burden of justification and there will be a heavier benefit available to outweigh that burden. The scales will shift in favor of justifying precisely the sort of regulation that republican theory is likely to seek.

Conclusion

Let freedom as non-domination be cast as a central political value (let it be cast in the role in which freedom is generally cast) and the market assumes an interesting profile, or at least it does so under some idealizing assumptions about how it works. Not only will it appeal on the grounds on which it is often recommended, as a means of generating unobstructed options: indeed, ideally, options that are ever increasing and ever diversifying. It will appeal, in particular, for the way it can respect people's undominated standing in relation to one another, allowing them to exchange things on a noncoercive basis. Indeed, it may also strengthen this standing, reinforcing it as a result of facilitating its exercise and recognition.

There is no market, however, without property and without regulation. I hope that this article will serve not just to demonstrate the republican credentials of the market, but also the acceptability of both of these arrangements. The distribution of property may tend toward inegalitarian extremes, and it may be necessary to regulate against the effects of those extremes on people's overall enjoyment of freedom as non-domination. Again, the system of rules governing titles to property and rights of ownership may assume forms in which people's enjoyment of freedom as non-domination is suboptimal. But short of such distributional effects and such systemic forms, there need be nothing inimical to republican freedom in the existence of a regime of private property. On the contrary, the property regime may serve freedom well in facilitating the emergence of a suitable market.

Market regulation may refer to the restriction of certain activities, to the redistribution of property, or to the taxation that is necessary for either of those initiatives. Let freedom as non-domination be a central ideal in political life and not only will it be likely to make a case for a variety of forms of regulation, it will also explain how regulation by a coercive state need not be viewed with quite the reluctance that other ideals would generate. Take freedom as noninterference and regulation will be justified only so far as it perpetrates less interference than it is expected to prevent. Take freedom as non-domination and the equation changes. In perpetrating public interference, the state can be a nonarbitrary presence that conditions but does not compromise people's freedom, and in preventing private interference it can serve to block the compromise of freedom that goes with access to such interference, not just with its exercise.

These are brisk comments on a broad topic, but I hope they will serve a useful purpose. Arguments for the permissibility and desirability of the market, and for various ways of organizing the market, are generally associated with libertarian and liberal conceptions of freedom. These are distinguished by incriminating all forms of interference, nonarbitrary as well as arbitrary, and by looking in many contexts for the probabilification of noninterference rather than its protection. I hope that my observations in this article will indicate that even if freedom is

conceptualized differently on these fronts (even if it is conceptualized on the older republican pattern), it can still provide a useful perspective on the market. Republicanism does not cast a cold eye on commerce; it merely provides an alternative view of the attractions.

notes

I was enormously helped by the comments received from participants at the conference at Tulane University in April 2005 on 'The Economic Implications of Republicanism'.

1. J. Maynor, *Republicanism in the Modern World* (Cambridge: Polity Press, 2003); P. Pettit, *Republicanism: A Theory of Freedom and Government* (Oxford: Oxford University Press, 1997); Q. Skinner, *Liberty Before Liberalism* (Cambridge: Cambridge University Press, 1998); M. Viroli, *Republicanism* (New York: Hill and Wang, 2002).
2. Pettit, *Republicanism: A Theory of Freedom and Government*, Ch. 2; J. Rawls, *A Theory of Justice* (Oxford: Oxford University Press, 1971).
3. P. Pettit, 'Agency-Freedom and Option-Freedom', *Journal of Theoretical Politics* 15 (2003): 387–403.
4. P. Pettit, 'Freedom and Antipower', *Ethics* 106 (1996): 576–604.
5. Pettit, 'Agency-Freedom and Option-Freedom'.
6. D. Miller, 'Constraints on Freedom', *Ethics* 94 (1984): 66–86.
7. See, however, P. van Parijs, *Real Freedom for All* (Oxford: Oxford University Press, 1995).
8. Pace I. Carter, *A Measure of Freedom* (Oxford: Oxford University Press, 1999); H. Steiner, *An Essay on Rights* (Oxford: Blackwell, 1994).
9. Pettit, *Republicanism: A Theory of Freedom and Government*.
10. Skinner, *Liberty Before Liberalism*.
11. P. Pettit, *A Theory of Freedom: From the Psychology to the Politics of Agency* (Cambridge and New York: Polity and Oxford University Press, 2001), Ch. 2.
12. Pettit, *Republicanism: A Theory of Freedom and Government*.
13. There is a question as to whether republicans should be concerned, not just with how much control people enjoy over the options in contextually given choice sets, but also with how those choice sets are fixed in the first place. My inclination is to say that choice sets that are fixed by nature or as the unintended consequence of undominating human adjustments should be left as they are to the extent that they do not facilitate what would count independently as domination. What if government has a role to play in fixing choice sets? In that case, it is hard to imagine that anything relevant could argue for less than an equal division, with the choice sets being as significant as that equality allows: the options should be as numerous, diverse, and important as possible.
14. L. Murphy and T. Nagel, *The Myth of Ownership* (New York: Oxford University Press, 2004).
15. Suppose that most people were mistaken about this, so that the interests they perceive themselves (mistakenly) to have as citizens could require a nonarbitrary government (a government that is forced to track common perceived interests) to

- redistribute a certain amount of the property held by a minority. What to say in such a case? This is a difficult issue, related to one raised in C. McMahon, 'The Indeterminacy of Republican Policy', *Philosophy and Public Affairs* 33 (2005): 67–93. See my reply in P. Pettit, 'The Determinacy of Republican Policy', *Philosophy and Public Affairs* 34 (2006).
16. R. Dworkin, *Taking Rights Seriously* (London: Duckworth, 1978).
 17. C. Kukathas and P. Pettit, *Rawls: A Theory of Justice and its Critics* (Cambridge and Stanford, CA: Polity and Stanford University Press, 1990).
 18. F.N. Lovett, 'Domination: A Preliminary Analysis', *Monist* 84 (2001): 98–112; Pettit, *Republicanism: A Theory of Freedom and Government*.
 19. M. Sandel, *Democracy's Discontent: America in Search of a Public Philosophy* (Cambridge, MA: Harvard University Press, 1996).
 20. D. Winch, *Adam Smith's Politics: An Essay in Historiographic Revision* (Cambridge: Cambridge University Press, 1978).
 21. R. Nozick, 'Coercion', in *Philosophy, Science and Method: Essays in Honor of Ernest Nagel*, edited by P.S.S. Morgenbesser and M. White (New York: St Martin's Press, 1969).
 22. Carter, *A Measure of Freedom*; Steiner, *An Essay on Rights*.
 23. J. Broome, *Weighing Goods* (Oxford: Blackwell, 1991); P. Pettit, 'Decision Theory and Folk Psychology', in *Essays in the Foundations of Decision Theory*, edited by M. Bacharach and S. Hurley (Oxford: Blackwell, 1991), reprinted in P. Pettit, *Rules, Reasons, and Norms* (Oxford: Oxford University Press, 2002).
 24. P. Pettit and M. Smith, 'The Truth in Deontology', in *Reason and Value: Themes from the Moral Philosophy of Joseph Raz*, edited by R.J. Wallace, P. Pettit, S. Scheffler and M. Smith (Oxford: Oxford University Press, 2004).
 25. Note that even though an offer leaves me in control of what I do, and in that sense respects my freedom, it may be very unwelcome. I may not want to be subject to the temptation that goes with having an expanded set of options. I may even be constrained by the extra option available, as when it triggers expectations of politeness and makes it difficult for me to choose what I really would like to have chosen.
 26. R. Nozick, *Anarchy, State, and Utopia* (Oxford: Blackwell, 1974).
 27. *Ibid.*
 28. P. Pettit, 'Democracy, Electoral and Contestatory', *Nomos* 42 (2000): 105–44.