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Book Review: Niederberger, Andreas, and Schink, Philipp, eds. Republican Democracy: Liberty, Law and Politics.

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case of a rural boy's family tradition of carrying knives, passed down from father to son (2 and 93). He says knife carrying for the rural boy is a matter of his "identity as a man in his community" (2), which will be destroyed if his ability to carry his knife is abridged (2–3). Maybe the case is set up by stipulation to be exactly identical with the case of the Sikh boy so far as the implication of religious obligation with "a unique sense of individual and personal identity" is concerned (32). But that stipulation may be uninteresting if it does not characterize any real cases or if cases of religious identity have features that distinguish them in various ways—important as matters of concern or fairness—from secular identity. The difficulty here is that Leiter has more or less ruled out any exploration of the distinctiveness of religious identity, by saying early on that an identity element should not be included in the definition of religion because identity can be formed in other ways (32–33).

This is a poorly organized book, and it does not really present any well-structured arguments. In a blurb on the back of the book, Christopher Eisgruber says that "every serious scholar of religious toleration will have to contend with Leiter's bold claims." That would have been so if Leiter had proceeded less precipitously to the question that interests him and then focused on it more steadily—if, for example, he had first identified the classic arguments for toleration and criticized them and had then gone on to argue that neither the classic tolerationist arguments (such as they are) nor any other principled arguments can make a case for religious accommodations. That would have been a bold and bracing argument. But poor structure and lack of clarity with definitions make it harder to see what is at stake in any of the arguments and what position exactly Leiter is counselling us to take.

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There's been enough renewed interest in republicanism over the past thirty years that we can call it a "republican revival." If you know about this revival, it's probably through the Quentin Skinner cum Philip Pettit excavation of a third way between Isaiah Berlin's conceptions of negative and positive freedom. For republicans, Skinner and Pettit tell us, freedom is (or at least requires) *nondomination*. Living without domination requires neither the absence of interference nor the actualization of ideals associated with positive liberty—autonomy, self-mastery, and so on. Suppose I want to drink less, but I just can't sober up. So I hand over my liquor cabinet's key to a friend, on the understanding that she will only return it after a day's notice. This is one of Pettit's favorite examples. He thinks it shows how interference doesn't always compromise freedom. If I beg you for the immediate return of my key, and you refuse as per my instructions, you interfere with me, but you don't reduce my freedom because you interfere on my terms. Interference makes me less free only when it isn't on my terms—such interference is "arbitrary"

as republicans often say. Arbitrary interference always reduces freedom. Suppose you stole the key in hopes of helping me overcome alcoholism. Your actions might lead to increased self-mastery, but you left me worse off in a freedom-specific way nonetheless.

Pettit thinks that a robust commitment to democracy falls right out of this conception of freedom. The republican tradition rejects outright William Paley's claim that life under "the edicts of a despotic prince" might be "no less free than the purest democracy" (*The Principles of Moral and Political Philosophy* [Indianapolis: Liberty Fund, 2002], 314). Why? Because however religiously they leave us alone, despotic princes hold a power of arbitrary interference. The promise of democracy, from a republican perspective like Pettit's, is that a democratic regime is one where the state interferes only as bidden by the people. He claims that there is thus a deep, maybe even conceptual, connection between republicanism and democracy.

If Andreas Niederberger and Philipp Schink's *Republican Democracy* has a signal virtue, it's this: the essays assembled here collectively demonstrate how problematic Pettit's claim is in light of history's republicanism and how much theoretical spadework remains to be done to substantiate it. The fact is that history's republicans have often looked askance at democratic politics. The will of the people, for many in the tradition, is just another potentially despotic will. Better not to be ruled by people. Better to be ruled by law. Given this checkered history with regard to popular rule, those of us who agree with Pettit that democratizing republicanism is a worthy endeavor will benefit from a hard look at why the tradition has often disagreed. Several of the essays in *Republican Democracy* provide light for such hard looking, in particular, those from Marco Geuna, Jack Rakove, John Ferejohn, and Pettit himself. Rainer Forst, Philipp Schink, Galya Benarieh Ruffer, and Ralph Bellamy provide further theoretical resources and possible course corrections for the democratization project. Three essays—James Bohman's, Cécile Laborde's, and Niederberger's—examine the prospects for a democratized republicanism at the international level. One essay—John McCormick's—argues that democratizing the republican tradition is a fool's errand.

This taxonomy of *Republican Democracy* is not quite identical to the editors'. Here's why. As Niederberger and Schink point out in their introduction, the history of republicanism is a history of republicanism: "there is no unified school of republican political thought" (1). Unfortunately, if you come to *Republican Democracy* without at least a working knowledge of the particular histories of republicanism's disunified schools, you may not be well served reading the essays in the order you find them. The editors officially delegate historical exposition to the anthology's first three essays: Geuna's "The Tension between Law and Politics in the Modern Republican Tradition," Rakove's "Impotence, Perspicuity and the Rule of Law: James Madison's Critique of Republican Legislation," and Bohman's "Kant, Madison and the Problem of Transnational Order: Popular Sovereignty in Multilevel Systems." Even so, to my mind, the most general and accessible introduction to the history of republicanism here is Ferejohn's "Two Views of the City: Republicanism and Law." Some readers might do well to start here instead of with the essays officially tagged "historical" by the editors.

It is difficult to extract a common core from the republican tradition, but Ferejohn's emphasis on two particular claims is probably the way to go: (i) there

is such a thing as “the public interest” or “the common good,” and (ii) government must be restrained so that it pursues the common good, and only the common good. Ferejohn unwinds the “classical” and “modern” strands of republicanism from different understandings of these two ideas. For classical republicans, the common good must be forged from the perpetual striving of popular versus aristocratic interests; modern republicans reject the idea that there is any such thing as a perpetual division among class interests. Instead, modern republicans adopt the social ontology usually associated with liberalism: the common good is worked up from the interests of citizens qua individuals, not qua proles or qua plebs. The varied institutional recommendations generated on either side of this classical/modern divide are a function, Ferejohn argues, of what different republicans regard as the common good’s primary competitor. The interest of a dictator? The mob? The aristos? This is among the anthology’s most helpful interpretive insights, particularly because republican attitudes toward democracy usually turn precisely on whether they regard “the people” as the primary guardian or the primary threat to the common good.

On Ferejohn’s way of dividing the field, most Italian-Atlantic republicans should be dubbed “classical,” while contemporary republicans like Pettit who identify with the Italian-Atlantic tradition should be grouped with the “moderns” along with Franco-German republicanism. Pettit’s link to the Italian-Atlantic tradition, and what divides him from fellow modern republicans like Rousseau and Kant, is his understanding of the institutional arrangements that best minimize domination. The contrast between Italian-Atlantic and Franco-German republicanism is the theme of Pettit’s own contribution: “Two Republican Traditions.” Here, he traces Bodin’s and Hobbes’s metaphysics of sovereignty through to Rousseau’s and Kant’s rejection of the Italian-Atlantic claim that a mixed constitution, with avenues of access for a “contestatory” citizenry, is necessary to realize nondomination. Of course, for Rousseau and Kant, the monarchial sovereign favored by Bodin and Hobbes is replaced by a sovereign people, but the metaphysics remains. Sovereignty, though relocated, is no less indivisible, unitary, and absolute for Rousseau and Kant, thus their rejection of Italian-Atlantic institution recommendations. If sovereignty is indivisible and unitary, it cannot be distributed across various “branches” of government; if popular sovereignty is absolute, there is no place for legitimate contestation. The rejection of this element of Kant’s republicanism in favor of James Madison’s doctrines of distributed popular sovereignty is the primary historical element of Bohman’s essay, which is otherwise given over to applying Madisonian innovations to the problems of multilevel systems like the European Union. Given that Pettit’s analysis of Kant is the more accessible of the two, I recommend reading Pettit first or saving Bohman to be read in conjunction with Laborde and Niederberger, who share his cosmopolitan focus.

It is not quite right to say, as the editors seem to in their introduction, that Pettit’s essay defends his own neorepublicanism against populist and Kantian criticisms from fellow contributors to *Republican Democracy*. The specifically Kantian criticism he faces here—in Forst’s sketch of a “Kantian Republican Conception of Justice as Nondomination”—has nothing much to do with the Kantian doctrines Pettit opposes in “Two Republican Traditions.” In fact, the most recent iterations of Pettit’s republicanism move him close to Forst on certain fronts. For example, the second chapter of Pettit’s *On the People’s Terms* is at least an attempt to agree

with Forst that republicanism does indeed “imply a notion of *justice* with respect to a basic social and political structure” (154), and the conception of justice Pettit develops there shares Forst’s “status, not goods” emphasis. Ironically, given Pettit’s devotion to the Italian-Atlantics, the populist opposition arrayed against him here is more Machiavellian than Rousseauian. Marco Geuna’s essay introduces this additional fault line within the Italian-Atlantic tradition, with Machiavelli as primary representative of populist republicanism against aristocratic alternatives. John McCormick goes much further. He argues that Machiavelli is a “self-avowed *dissenter* from the republican tradition” (121) and that Italian-Atlantic republicanism, up to and including Pettit’s variety, is irreducibly elitist and antidemocratic. Now, there’s evidence in Pettit’s latter-day work that he takes McCormick’s criticisms very seriously. In *On the People’s Terms*, Pettit explicitly claims that his project is congenial to more radically democratic theories like McCormick’s. Unfortunately, McCormick does not directly consider any of Pettit’s work after 2004’s “Depoliticizing Democracy.” It would have been interesting to see McCormick engage more recent material.

While McCormick takes Pettit to task for not endorsing more robust forms of popular control, his other primary critic in *Republican Democracy*—Schink in “Freedom, Control, and the State”—mounts a general critique of the role control plays in Pettit’s recent work. As noted above, Pettit leans heavily on examples like that of the sobriety-assisting friend to show how interference is consistent with nondomination, and so with freedom. Schink’s essay begins by reminding us that Pettit wants to use something like the same mechanism to show how the interference of an active republican state is consistent with, and in fact constitutes, the freedom of that state’s citizens. The final three chapters of *On the People’s Terms* are an extended argument for the claim that the interference of such a state might be no more a source of domination than the interference of the sobriety-assisting friend. For the argument to go through, the control exercised by the recovering alcoholic must have a direct analog in the people’s control of the republican state. Of course, Pettit acknowledges that the analogy is imperfect—perhaps most importantly, whatever control individual citizens exercise must be reconciled with the equal right of fellow citizens to control the state. Even so, Schink’s arguments that not enough of the analogy remains to connect Pettit’s conception of nondomination with his vision of a nondominating state are generally persuasive. In sum, both McCormick’s and Schink’s contributions seem to me to ask Pettit precisely the right questions, whether or not we conclude that his republicanism in its current form has the resources to answer them.

So, *Republican Democracy* shows us a republicanism divided along several fronts: classical versus modern, populist versus aristocratic, Franco-German versus Italian-Atlantic. The editors produce yet another, and perhaps the most interesting, division as they push republicanism away from liberalism—the rival in opposition to which the “revival” has always defined itself. The essential republican critique of liberalism, say Niederberger and Schink in the introduction, is that “such a normative program is oblivious to the political and legal conditions necessary for peaceful, free, just and democratic coexistence” (1). This will probably strike some readers as an odd remark. After all, you might think the search for such conditions is the obsession of late Rawlsian political theory, paradigmatic liberalism though it is. We have to wait until Niederberger’s essay—the last in the

anthology—for a better idea of what they might have in mind. The essential difference between republicanism and liberalism, he says here, is that for the latter and not for the former “[the] theoretical justification of normative claims often precedes the question of their realization, or, to put it another way, their justification is distinct in a way that it retains a critical capacity even where the normative claims have seemingly been put in to practice: Their theoretical justification can thus never be fully contained in their practical realization.” Whereas for the republicanism he seems to favor, “[Normative] claims are inextricably linked to the way they are put into practice in structures or institutions. Thus, the way in which claims are realized is in itself essential when it comes to justifying claims” (306–7).

The idea seems to be that liberalism does, and republicanism doesn’t, allow for what we might call pre- or extrainstitutional normative claims. For republicanism, on this reckoning, what Forst calls a “right to justification” is exhausted by the presence of legitimate institutions; for liberals, it remains in force even in that context. Now, I’m not concerned here with the fairness of this assessment of liberalism. What interests me is its merits as an assessment of republicanism. By my reckoning, a significant swath of the republican tradition is on the liberal side of the divide sketched by Niederberger here. Pettit is a prime example. While he certainly would agree that nondomination cannot be instituted extrainstitutionally, he allows domination complaints to have traction even within a suitably democratic, republican commonwealth. Madison’s warning, quoted at the end of Rakove’s essay, has a similar spirit: “wherever” we find “the real power” a threat to republican liberty remains, even if “the real power lies in the majority of the Community” (58).

Whether or not Niederberger is correct that rejecting extrainstitutional normative claims is essentially republican, Ruffer and Bellamy argue that such rejection is an essential feature of the best republicanism. Ruffer claims that a “courageous” citizenry will have a “mature skepticism” about preinstitutional rights; Bellamy goes so far as to say that the idea of a right “outside of any polity” that could constrain democratic politics is “both unjustifiable and incoherent” (253–54). His argument for this turns centrally on the idea that specifying and applying rights-based claims requires democratic forums. I’m inclined to agree with Bellamy about this, as will many contemporary republicans, but to say that such forums are required in this way does not show that there are no rights without them. And what about each individual’s claim against domination? Bellamy maintains that all of us have a legitimate claim to “inclusion as a political equal within the decision-making processes of those powerful bodies capable of exercising domination over our lives” (363). Why not call this claim on inclusion a *right*. If it is a right, and a right held by individuals over even (internally) democratic bodies, should we not regard it as in some sense extrainstitutional and even prepolitical? For those who think we should, a more liberal variety of republicanism remains an attractive alternative.

The anthology concludes with two essays in the cause of republican cosmopolitanism: Laborde’s “Republicanism and Global Justice: A Sketch” and Niederberger’s “Republicanism and Transnational Democracy.” Laborde demonstrates—I believe conclusively—that long-standing worries about the adaptability of republican concerns to problems of international justice are ill founded. Niederberger joins Bohman in pressing the need to abandon world-state models of

cosmopolitanism. With Bohman, he presses the instability of a republicanism that tries to confine its applications to the relation of traditional states and their citizens. He differs from Bohman primarily in what form he thinks those applications should take. While Bohman thinks the best bet for realizing nondomination across national boundaries involves the expansion of the deliberative democratic model, Niederberger looks to something more like an international judiciary. Both are rather frustratingly abstract in their institutional recommendations, but this is forgivable given the ground-level nature of both essays.

A recurring theme of *Republican Democracy* is that bounded civic conflict is necessary to a flourishing republican polity. Perhaps. What's certainly true is that a flourishing republican revival, especially one with vibrant populist ambitions, must come to terms with the tradition's internal conflicts about the value and form of democratic rule. That all sides of this conflict are generating interesting work, as manifest in this anthology, is a good sign of the tradition's health.

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