Market Freedom as Antipower

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Abstract

Historically, republicans were of different minds about markets: some, such as Rousseau, reviled them, while others, like Adam Smith, praised them. The recent republican resurgence has revived this issue. Classical liberals such as Gerald Gaus contend that neo-republicanism is inherently hostile to markets, while neo-republicans like Richard Dagger and Philip Pettit reject this characterization—though with less enthusiasm than one might expect. I argue here that the right republican attitude toward competitive markets is celebratory rather than acquiescent and that republicanism demands such markets for the same reason it requires the rule of law: because both are essential institutions for protecting individuals from arbitrary interference. I reveal how competition restrains—and in the limit, even eradicates—market power and thereby helps us realize "market freedom," i.e., freedom as non-domination in the context of economic exchange. Finally, I show that such freedom necessitates "Anglo-Nordic" economic policies.

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Introduction

Republicanism, though characterized throughout its history by certain core beliefs and anxieties (e.g., an emphasis on active citizenship, a commitment to the separation of powers and the rule of law, and a deep concern over political venality), has been a diverse political tradition, especially in its assessment of commercial society. Consider, for instance, the near-contemporary republican authors Jean-Jacques Rousseau and Adam Smith.[1] Rousseau wrote approvingly of the ancient Romans' "contempt for commerce" and condemned "pecuniary interest" as "the worst of all [interests], the vilest, the most liable to corruption" (Rousseau 1997, 131, 226). His hostility to a monetized economy with its complex division of labor even extended to tax payments as a substitute for corvées:

> It is the hustle and bustle of commerce and the arts, it is the avid interest in gain, it is softness and love of comforts that change personal services [to the state] into money. One gives up a portion of one's profit in order to increase it at leisure. Give money, and soon you will have chains. The word *finance* is a slave's word…. In a truly free State the citizens will do everything with their hands and nothing with money: Far from paying to be exempted from their duties, they would pay to fulfill it themselves. (Rousseau 1997, 113)

[1] See Rasmussen (2008) for a more systematic comparison of these two thinkers on the topic of commercial society. For a broader history of republicanism's conflicted attitude toward markets, see MacGilvray (2011).

Smith, by contrast, found nothing troubling in the fact that “it is not from the benevolence of the butcher, the brewer, or the baker, that we expect our dinner, but from their regard to their own interest…. As it is by treaty, by barter, and by purchase, that we obtain from one another the greater part of those mutual good offices which we stand in need of, so it is this same trucking disposition which originally gives occasion to the division of labor” (Smith 1981, 26-7 [I.ii.2-3]). Far from viewing the “hustle and bustle of commerce” as slavery’s prelude, he saw competitive markets as a source of liberation from feudal dependence: the modern “tradesman or artificer,” he pointed out, “derives his subsistence from the employment, not of one, but of a hundred or a thousand different customers. Though in some measure obliged to them all, therefore, he is not absolutely dependent upon any one of them” (Smith 1981, 420 [III.iv.12]). Whereas Rousseau saw the market order as a deadly threat to republican values, Smith viewed it as an essential tool for their realization.

The recent revival of the republican political tradition raises anew this debated question of how republicans should regard the market economy. Neo-republicanism, whose central work is Philip Pettit’s *Republicanism: A Theory of Freedom and Government*, defends the priority of political liberty, understood as non-domination or immunity from arbitrary power.[2] Critics of this revivalist republicanism, such as Gerald Gaus, have insisted that it is “profoundly antimarket…. [In it,] the market is almost totally delegitimized” (Gaus 2003, 68), in effect pegging Pettit and other neo-republicans as Rousseauean enemies of commercial society. According to Gaus, Pettit

[2] For the purposes of this article, I will place to one side the work of Quentin Skinner and other intellectual historians who find such a conception of liberty in the classical republican tradition. For an excellent overview of republicanism, see Lovett (2010).

believes that "markets are always a clear threat to [republican] freedom" because

> unless checked…differential success at accumulating resources always involves domination. The wealthy always *could* use their resources to dominate others. Indeed, for Pettit all market competition is a form of interference—"I interfere with you if I destroy your custom by deliberately undercutting your prices." Thus, an entrepreneur who *could* destroy his rivals' custom by cutting prices appears to dominate his competition. (Gaus 2003, 68-9)[3]

If all that is required to dominate others is simply the potential to interfere, Gaus suggests, then republican opposition to market competition and the economic inequalities that frequently result from it is assured.

Republicans such as Richard Dagger and Pettit himself have firmly pushed back against this characterization. Dagger, for example, notes that "the ability to engage in free exchanges in the marketplace enables people to be self-governing," a republican *desideratum* (Dagger 2006, 158). For his part, Pettit approvingly mentions Adam Smith's belief that "far from threatening republican freedom, the market could reduce dependency and domination" (Pettit 2006b, 142). This being said, republican support for markets can at times have a half-hearted quality to it. Dagger grudgingly concedes that there is "at least…nothing immoral" about free exchange and that "markets are fine in their place," but he simultaneously emphasizes the need to "protect

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[3] The internal quote is from Pettit 1997, 54. Pettit indicates in the very same paragraph that such interference may be "morally impeccable," and as we shall see shortly, he later argues that under competitive conditions, at least, such undercutting does not count as "arbitrary interference," the republican *summum malum* (Pettit 1997, 205).

communities against the ravages of market competition," a concern to which I will return later in the article (Dagger 2006, 158, 163). In a similar manner, Pettit writes of a justifiable republican "complacency" towards even idealized market exchanges rather than enthusiasm for them, and at times he treats economists' arguments for competition skeptically, even dismissively, describing them with such terms as "allegedly" and "so it is argued" and at one point calling them a "sort of magic" (Pettit 1997, 203, 225, 2006b, 142). Granted, these are frequently matters of tone rather than substance, but they are consistent features of republican texts, and they are noticed by critics such as Gaus.

In this article, I will argue that the proper republican attitude toward competitive markets is celebratory, not acquiescent, and that republicanism demands such markets for precisely the same reason that it demands the rule of law: because both are essential institutions for protecting individuals from arbitrary interference. A system of competitive markets achieves an economic constitutionalism that parallels the more familiar political constitutionalism of the separation of powers, bicameralism, federalism, bills of rights, and judicial review. To be more specific, I will show how economic competition restrains—and in the limit, eradicates—market power and how such restraint helps us realize "market freedom," i.e., freedom as non-domination in the context of economic exchange. I believe this extension of republican thinking into exchange relations is consistent with both the spirit and the letter of contemporary republican theories, especially that of Philip Pettit, and I will make continuous reference to them throughout the article. I intend this, in short, to be a friendly amendment to contemporary republicanism, one that will enhance its appeal in certain quarters (e.g., among economists) without compromising any of its fundamental normative commitments.

This amendment will have the additional benefit of buttressing republicanism against the charge (made by Christopher McMahon, among others) that it is insufficiently determinate with respect to its policy implications (McMahon 2005; cf. Pettit 2006a). Pettit in particular has perhaps made himself vulnerable to such charges by suggesting, for example, that "there is not much of interest that can be said about republican economic policy in the abstract" (Pettit 1997, 163). I hope to show here that an abstract commitment to competitive markets follows quite readily from contemporary republicanism and that it generates a variety of policy implications regarding labor-market reform, antitrust, basic income, capitalist demogrants, etc. Some of these policies will be ones that republicans themselves have advocated, while others will be new to republicanism and at times might require republicans to revise some of their economic-policy preconceptions.

I should note that a "celebratory" attitude towards markets does not necessarily imply a commitment to libertarian or even classical-liberal policies. Market freedom requires effective competition, and only the state can secure many of its regulatory and institutional preconditions. More specifically, the republican economic model that I will argue for in this article will resemble a modified version of a common European social model, *viz.* the Nordic model, which combines flexible labor markets (including ease of hiring and firing), free trade, and bracing competition with high levels of social support in the form of generous welfare benefits and job retraining; the Danish variant of this model is sometimes called "flexicurity."[4] One problem with this model, however, is that it tolerates both strong unions and employers' associations, then depends upon their mutual restraint—grace in the exercise of their economic power—to preserve

[4] For a discussion of the four canonical European social models (*viz.* Mediterranean, Continental, Nordic, and Anglo-Saxon), see Sapir (2006).

flexible labor markets. As I will also argue, this tolerance is inconsistent with republicanism, which demands an aggressive, Anglo-Saxon approach to competition policy in all markets, including labor markets; republican economics rejects the halfway house of "reciprocal power" in favor of purging power from economic relations. The resulting hybrid, which one might call the "Anglo-Nordic" model, is the key to realizing freedom as non-domination in the context of economic exchange.

I will proceed as follows. In the next section, I will review Pettit's conception of freedom as antipower, focusing on both his understanding of power and the institutions he sees as crucial bulwarks against it. Then, in the following section, I will explore the meaning of market power, using labor markets as a case in point. Concentrations of power on either side of the market (be it monopoly, monopsony, or less extreme forms) make exploitation, discrimination, and domination possible; introducing effective competition in such contexts helps promote market freedom, understood as non-domination in exchange relations. In the article's penultimate section, I argue that market freedom is itself a kind of antipower on Pettit's own understanding of the term; I then go on to show that Pettit and other republicans anticipate this result in their own writings. I finish up the article with further reflections on how my conclusions both extend and reorient republican theory.

Freedom as Antipower

In his seminal essay "Freedom as Antipower," Pettit contends that "one agent *dominates* another if and only if he or she has a certain *power* over that other: in particular the power to interfere in the affairs of the other and to inflict a certain damage" (Pettit 1996, 578 [emphasis added]). More specifically, an agent has **power** over another when three jointly-sufficient conditions are met, *viz.*, when an agent has

1. "the capacity to interfere
2. with impunity and at will
3. in certain choices that the other is in a position to make" (Pettit 1996, 578, 581).

Liability to the exercise of such power is what republicans mean by the term "vulnerability."[5]

Let's review these three conditions in order. Pettit takes the "interference" in "capacity to interfere" to be "a more or less intentional attempt to worsen an agent's situation of choice" by means of, for example, coercion or manipulation, where "context fixes the baseline by reference to which we decide if the effect is indeed a worsening" (Pettit 1996, 578-9). To interfere in this sense "with impunity" is to do so without "penalty," be it resistance by the victim, punishment by some external authority, etc. (Pettit 1996, 580). To interfere "at will" is to do so "at [one's] own pleasure…[or] whim"; in other words, the interferer has the necessary "discretion" to act as he or she chooses (Pettit 1996, 580, 587). Such a capacity to interfere with impunity and at will, when "fully realized," "amounts to an absolutely arbitrary power" (Pettit 1996, 580). Finally, this

[5] See, for example, Pettit's use of this term (1997, 5, 122-5, 145). Vulnerability in this technical sense should not be confused with vulnerability more generally. For instance, the fact that coastal residents may be vulnerable to hurricanes does not necessarily imply that they are vulnerable in the republican sense—unless the first sort of vulnerability leads to the second (e.g., their distress after a hurricane makes them vulnerable to monopolistic pricing). Relatedly, I will argue below that the fact that workers may be vulnerable to firing without cause does not necessarily imply that they are vulnerable in the republican sense—unless they work within non-competitive labor markets resulting from employer collusion, the absence of affordable exit options, etc.

capacity for arbitrary interference will "vary in extent as well as in intensity," i.e., it will differ by domain (e.g., household, economy, government) and by degree (Pettit 1996, 581). Pettit refers to all of this as the "*procedural* sense" of power (Pettit 1997, 55). This procedural sense is later supplemented by a *substantive* one, *viz.*, that what (also) characterizes arbitrary interference is a failure to "track the interests and ideas of the person suffering interference"; thus, Ulysses' sailors are not interfering arbitrarily with him when they tie him to the mast, because by doing so they "track [his] interests and ideas."[6]

In order to secure freedom as non-domination, we must seek *immunity* from such power, i.e., **antipower**, by means of three related strategies. First, "we may compensate for imbalances by giving the powerless protection against the resources of the powerful" (Pettit 1996, 589). The most important institution for doing so will be a "nonvoluntaristic rule of law," in which laws must meet criteria of "generality, transparency, nonretroactivity, and coherence," so that no individual or group can use the law manipulatively as a means to dominate others (Pettit 1996, 590). Second, we may compensate "by regulating the use that the powerful make of their resources," whether it is in the political sphere (e.g., "limitation of tenure, rotation of office, separation of powers") or in the economic sphere (e.g., policy measures "against monopoly power") (Pettit 1996, 589-91). Finally, we may compensate "by giving the powerless new, empowering resources of their own," including certain "welfare-state initiatives" (e.g., "universal education…social security, medical care, accident insurance") (Pettit 1996, 591-2). He concludes

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[6] Pettit 1997, 55; cf. 184. He describes this elsewhere as a failure to "track the interests I am disposed to avow" (Pettit 2006b, 135-6). Analogously, he states that arbitrary interference *by the state* fails to track "the welfare and world-view of the public" (Pettit 1997, 56).

by noting that these three categories of measures—protective, regulatory, and empowering—can and often do take informal, non-state forms, including the pressures applied by various political, social, and economic movements "and even competitive market forces" (Pettit 1996, 592). Although he mentions competitive markets only in passing here, I'll show in the next section how encouraging effective competition in exchange relations can counter the dominating effects of market power.

Market Power versus Market Freedom

As I noted earlier, market power offers opportunities for exploitation, discrimination, and domination. To clarify these concepts, I will focus first on a labor-market example—specifically, a labor market having a single employer. (Anaconda Copper Mining Company, which dominated the labor market of Butte, Montana, during the late 19th and 20th centuries, roughly approximated such a labor monopsonist—see Mercier 2001.) First, a successful labor monopsonist will exploit its workers: it will hire workers up to but not beyond the point where the marginal revenue product of labor (i.e., the contribution to a firm's revenues by the last worker hired) just equals the marginal expense (i.e., the cost of hiring that last worker *plus* the additional labor costs associated with raising the wage of existing workers to the new, higher level required to attract the last worker [assuming uniform wage rates]); under monopsony conditions, though, this will typically result in a wage rate that is less than the marginal revenue product of labor, meaning that workers as a group fail to be paid according to their (marginal) contribution to the firm's revenues, as they would under genuinely competitive labor-market conditions (Nicholson 1995, 724-8). This is *exploitation* in the neoclassical sense of the term. The firm might pay its workers more than this monopsony wage rate, but it would do so as a kind of discretionary charity, adding insult to the injury of exploitation.

The previous paragraph assumed a uniform wage rate, i.e., all workers (of the same skill level) being paid an identical wage rate. If the monopsonist had perfect information about each worker's reservation wage (i.e., the lowest wage at which he or she would be willing to work), however, it could practice perfect wage *discrimination*, paying each worker no more than his or her reservation wage. Monopsonists are rarely omniscient in this way, however, so their attempts at wage discrimination will be imperfect: e.g., they will have to segment the workforce according to certain readily observable characteristics (like race, gender, or age) that have been found to correlate with the wage elasticity of labor supply (i.e., the responsiveness of workers to changes in wage rates) and pay lower wages to parts of the labor force that are relatively unresponsive to wage cuts (Nicholson 1995, 728-9).

Finally, unless the monopsonistic firm can practice perfect wage discrimination (which is extremely unlikely), it will be driven by the profit motive to employ fewer workers than it would under competitive conditions and thereby to generate unemployment: unhired workers, after all, have no alternative employers to whom to turn. Those workers fortunate enough to be employed, however, are placed in a highly precarious, vulnerable position, as they also have no alternative employers to whom they can turn and are therefore subject to the caprice of the monopsonist and his managers. This absence of meaningful exit options for workers makes them liable to arbitrary exercises of economic power, i.e., *domination*. Some aspects of this power we have already seen: the discretionary power of the firm to pay above the monopsony wage rate as a form of charity (underwritten by monopsony rents, ironically) and to practice wage discrimination according to morally irrelevant criteria. Other aspects are much darker, as the early history of industrialization suggests, including sexual exploitation and other forms of physical abuse (e.g., denial of lunch or bathroom breaks, abysmal health and safety conditions, even beatings).

Such are the bitter fruits of labor monopsony, which is market power in possibly its most extreme and disturbing form—a fact that has not gone unnoticed by some republicans. Pettit, for example, in the midst of selling republicanism's virtues to socialists, describes Marx's belief that workers are

> wage slaves…dependent on the grace and mercy of their employer…[and] exposed to the possibility of arbitrary interference…. If the employers in any area are *collectively* capable of blacklisting someone who displeases them, as many nineteenth-century employers certainly were, and if unemployment effectively means destitution, then it is clear why socialists should have thought that workers were nothing more than wage slaves (Pettit 1997, 141 [emphasis added]; cf. Pettit 2006b, 142, 2007, 5).

In this passage, Pettit illustrates that if an area's employers act as a collective monopsonist, i.e., a labor-purchasing cartel, then they can dominate their wage-slave employees, just as Marx claims, and thereby deprive them of their (republican) freedom. To advance freedom as non-domination, the state must combat such exercises of labor-market power—whether carried out by individual monopsonists or employer cartels—by antitrust action and other policy interventions, including what Pettit describes as the "discipline of nondiscrimination" in wage setting (Pettit 2006b, 142, 145 ["legislate against monopolies"]).

Labor monopsony may be market power at its most extreme, but it is also relatively rare. Less extreme forms of market power on the employer side, however, are more common (Bhaskar et al 2002). The most studied example is probably the market for hospital nurses. Even in metropolitan areas, the number of hospitals may be relatively small; moreover, these hospitals often practice what they euphemistically call "wage standardization" (i.e., oligopsonistic collusion). Collusion of this sort, be it explicit or tacit, gives individual hospitals substantial market power, a power heightened by other market features (e.g., differentiation of hospitals by location, safety records, etc.). As with monopsonists, this market power gives individual hospitals the ability to drive wages below the marginal revenue product of labor, practice various forms of discrimination, etc. (Sullivan 1989). Any degree of market power may offer opportunities for not just exploitation and discrimination but domination as well and may therefore justify policy responses of the kind mentioned above.

At the opposite extreme from monopsonistic labor markets (with oligopsonistic as well as monopsonistically-competitive labor markets filling the space between) are perfectly competitive labor markets. These markets are characterized by both large numbers of (potential) employers and workers and frictionless exit from employment relationships. Under these conditions, neither employers nor workers will have the capacity to manipulate wages; as economists would put it, they will be price-takers, not price-makers. More specifically, competition among employers and workers will drive wages into equality with the marginal revenue product of labor for each grade of labor: any employer who attempts to pay less than this competitive wage will lose his workers to another firm; any worker who tries to claim more will be replaced by another equally-skilled worker. As a result, neoclassical exploitation will be eliminated, as will discrimination: no firm will be in a position to pay lower wages to some segments of the workforce on grounds unrelated to productivity, as other firms would simply bid their wages back up. Finally, no firm will be in a position to dominate workers, given the possibility of costless exit: as Pettit himself points out, "in a well-functioning labor 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."[7]

Given these valuable features of competitive labor markets, what public policies will best promote them? First, we should note that many existing public policies undermine competition in labor markets; thus, promotion of competition will require us to abolish or reform these policies. For example, closed-shop unionism and related "for cause" dismissal clauses in labor contracts create market power for workers, making it harder for employers to hire or replace workers at competitive wages and discouraging employment; a move to right-to-work laws and universal at-will employment would reduce these labor-market frictions. Even policies that seem tangential to labor-market competitiveness may introduce frictions. One example is the U.S. government's preferential treatment of single-family housing through mortgage-interest deductions and capital-gains exclusions, which by encouraging homeownership tends to "lock" workers into particular localities and thereby reduce labor mobility, especially at times when there are many underwater mortgages.

Many public policies, of course, can and do encourage competition. I discussed antitrust action and related interventions (e.g., nondiscrimination rules) above, which make labor markets more competitive by increasing the number of competing employers (by, say, breaking up cartel arrangements) and/or making incumbent employers behave in a more competitive manner. Also, state agencies might educate employees about their contractual rights and collect and disseminate information about other job opportunities, be they local or national: ignorance can be a friction in

[7] Pettit 2006b, 142; cf. Lovett 2009, 820: "in a theoretically perfect market, all entries and exits would be costless; it follows that, since no one would be dependent on anyone else, there would be no domination under these conditions."

its own right, leading workers to stay in employment relations they would be better off leaving (cf. Pettit 1997, 159: "ignorance of relevant standards and expectations").

More radically, the state might pursue redistributive policies to make it easier for workers to exit workplaces. Workers may have a tough time, for example, saving up the money necessary to move to another place in search of work; governments could provide "relocation vouchers" to support such moves, thereby tightening local labor markets and disciplining abusive employers. In a similar fashion, the state could empower workers to find alternative employment—including self-employment—by offering "capitalist" demogrants, i.e., seed grants that would encourage the accumulation of physical, financial, and human capital; these might come in the form of small-business awards, start-up money for playing the stock market or buying an annuity to subsidize a low-paying but rewarding career (e.g., topiary gardening), educational vouchers, etc. Finally, as several republicans have proposed, the state might deliver an unconditional basic income, which would serve as a firm backstop against employment exploitation, discrimination, and domination by making it possible for workers to exit the labor market entirely (Pettit 2007; Lovett 2009, 825-8).

Up until now, I have focused exclusively on labor markets, but market power can lead to exploitation, discrimination, and domination in other sorts of markets as well, all of which can be countered by the introduction of effective competition. Consider, for example, Dagger's example of someone whose "apples are the only available source of food" and who consequently has an "effective monopoly on that good"; as he points out, this will create a form of dependency that is inconsistent with freedom as non-domination (Dagger 2006, 158). Policy interventions analogous to those surveyed above can remedy this situation by recreating competitive conditions or at least requiring market actors to behave in competitive ways, for as Pettit rightly argues,

> short of great differences in bargaining power, this arrangement does not mean that anyone is exposed to the possibility of arbitrary interference by any other or any group of others. One seller may be able to interfere with another by undercutting the other's price, but the second should be free, above the level of the competitive price, to undercut that price in turn; thus there is no question of permanent exposure to interference by another (Pettit 1997, 205; *pace* Gaus 2003, 68).

As Pettit suggests, and as I will argue more explicitly in the next section, economic competition restrains—and in the limit, eradicates—market power and helps us to realize "market freedom," i.e., freedom as non-domination in the context of economic exchange.

Market Freedom as Antipower

Competitive markets are antipower in the precise sense spelled out by Pettit: specifically, in perfectly competitive markets, participants have no capacity to interfere with impunity and at will with the economic interests of other participants. They enjoy no capacity to interfere at will because market prices are set by impersonal forces of supply and demand, so there is no room for discretionary price setting, i.e., arbitrary exercises of market power. Any attempt to deviate from this competitive price (by, say, overcharging consumers or underpaying workers) will lead to the loss of trade and the punishment of reduced profits; hence, they also have no capacity to interfere with impunity. These features of competitive markets are antipower not just in Pettit's procedural sense but in his substantive sense as well, because they "track the interests" of the participants in at least one important way: under certain conditions, perfect competition will generate a welfare optimum, securing productive and allocative efficiency and thereby making the economic pie as large as possible—a result that is in the interest of all participants, differ as they may on how that pie should be divided up.[8]

Another way to see how competitive markets are antipower is to notice their quality of, to use Pettit's terminology, "non-manipulability." Pettit uses this term to describe a certain feature of institutional "instruments" (e.g., public law) employed by the republican state:

> Designed to further certain public ends, they should be maximally resistant to being deployed on an arbitrary, perhaps sectional, basis. No one individual or group should have discretion in how the instruments are used…. The institutions and initiatives involved should not allow of manipulation at anyone's individual whim (Pettit 1997, 173).

He then proceeds to lay out "three broad conditions that a non-manipulable system will need to satisfy." I'll describe them one by one, showing how competitive markets meet them and thereby embody an economic constitutionalism parallel to the political kind that is Pettit's chief concern:

1. **Empire-of-law condition:** This condition demands that political power be exercised in a manner consistent with the rule of law, i.e., laws "should be general and apply to everyone, including the legislators themselves; they should be promulgated and made known in advance to those to whom they apply; they should be intelligible, consistent, and not subject to constant change; and so on" (Pettit 1997, 174). Prices in a competitive market meet some of these conditions, as they are general, apply to

[8] For a proof of this claim (called the First Welfare Theorem) and a specification of the conditions under which it will hold, see Debreu 1959, especially Chapter 6.

everyone, and are public in nature (transparent). To be sure, they are subject to constant change and are obviously not "promulgated," being the product of a spontaneous order rather than an organization, but they otherwise resemble an economic rule of law, one that keeps the market from becoming "a playground for the arbitrary will" of its participants (Pettit 1997, 174).

2. **Dispersion-of-power condition:** This condition requires that "powers which officials have under any regime of law should be dispersed" by familiar mechanisms such as the separation of powers, bicameralism, federalism, and international legalism (Pettit 1997, 177-80). This condition is readily met by competitive markets because they are characterized by a large number of (potential) buyers and sellers, which in combination with the other features of such markets (e.g., perfect information, free exit) turns all participants into price-takers rather than price-makers. Under perfect competition, at least, economic power is not so much dispersed as extinguished.
3. **Counter-majoritarian condition:** This condition insists that laws be insulated from "excessively easy, majoritarian change" (Pettit 1997, 180). In competitive markets, no group of buyers or sellers—including majorities of either—is in a position to exercise arbitrary power. The "tyranny of the majority" is ruled out, as is every other sort of economic tyranny.

This proposed analogy between economic and political constitutionalism is admittedly imperfect. One important difference, already mentioned above, is that the "economic law" of a competitive price is not "promulgated" in any sense and therefore would "background, not foreground, reason": i.e., competitive prices are not the product of any reasoned democratic deliberation but rather an emergent property of a certain type of economic order (Pettit 1997, 203, cf. 224-5). Such backgrounding is essential, of course, given the staggering complexity of the economic task that is involved and the gross inadequacy of central planning as an alternative solution—even if such planning were deliberative and democratic in nature—but the disanalogy nevertheless remains. Also, the notion that freedom as non-domination is achieved in a perfectly competitive market because its participants are powerless, individually and collectively, to shape something as socially consequential as prices might strike some readers as less of a realization of republicanism than a reductio of it.

Still, it would be a mistake to make too much of this disanalogy, as the republican state itself requires some measure of such backgrounding owing to the complexity of its own task. For example, administrative efficiency will often require that state agents be permitted "a substantial degree of discretion," lest we forego "all possibility of fitting government action to the needs of particular cases," yet such discretion is unlikely to be wholly guided by democratic public reason and may only with some difficulty even be constrained by it (Pettit 1997, 175-6). Perhaps even more to the point, a republican state may decide to make conscious use of mechanisms, such as lotteries to assign spots in charter schools, that leave allocative decisions to chance. So long as they meet certain conditions—e.g., reflective public endorsement, fair and impartial supervision, and the promotion of the common good—such mechanisms are surely unobjectionable. I would contend that competitive markets are similar mechanisms: so long as democratic political organs sanction them as mutually advantageous (if individually risky), set up their legal and institutional preconditions (e.g., property, contract, and tort as elements of the private law), and maintain their competitive nature over time (through antitrust and the various forms of redistribution catalogued above), these markets can be understood as legislative products of a democratic will—even if the vagaries of the price system are as little under *direct* democratic control as the motion of balls in a lottery machine. From a republican perspective, the important question to ask about markets is whether they protect their participants from arbitrary interference and track their interests in both a substantive sense (improving their life prospects) and a procedural one (submitting to both their endorsement and their supervision through a democratic political process). Competitive markets, at least, can meet these conditions and therefore realize freedom as non-domination.

One objection that may be raised to my account so far is that free exit and the associated conditions of perfect competition might sometimes fail to hold and are consequently inadequate guarantors of non-domination. Nien-hê Hsieh, for example, argues that "as an alternative to exit, workers need to be able to exercise voice—to have the capacity to express dissent without exiting," which can be achieved if the state "provides workers with the right to contest decisions within the context of the decision-making process internal to economic enterprises" (Hsieh 2005, 134; cf. Dagger 2006, 163). Consider the Anaconda Copper Mining example with which I began the last section. Perhaps at that time and place, state efforts to promote competitive labor markets—by antitrust action, rules against wage discrimination, and provision of information, travel grants, capitalist demogrants, or an unconditional basic income for all workers—were economically and/or politically infeasible. Under those conditions, the best way to secure non-domination might have been to give workers voice by, for example, encouraging not just unionization but the "narrowly defined job descriptions" and other varieties of worker protection (from "for cause" dismissal clauses to German-style "co-determination") that unions typically demand (Hsieh 2005, 135).

While Hsieh is surely right to question whether an "*exclusive* reliance on the right to exit" is sufficient under all circumstances to prevent workplace domination, "voice" carries substantial risks of *increasing* domination and should therefore remain an exception to the rule of promoting free exit and effective competition. Lovett, for instance, points out that "workplace regulations" and other attempts to "regulate…social relationships," while perhaps useful for stopping certain "gross abuses," may in the end simply substitute one form of domination for another:

> There will always be discovered new and ever-more subtle means of converting material advantage into domination. In the long run it is unlikely that public policy could ever keep pace with, much less anticipate, such innovations—except perhaps with a regulatory structure so dense and intrusive as to raise serious objections on other grounds. (For starters, a state powerful enough to accomplish this task might itself become a great source of domination.) (Lovett 2009, 825-6)

In contrast to intrusive workplace monitoring and intervention, government delivery of resources that empower workers in labor-market choices can remain largely aloof from relations within the firm, trusting instead that free exit will discipline owners and managers and prevent them from dominating their employees. To be certain, discretionary power over workers will continue to be exercised by owners and their managers, as such discretion (e.g., in task assignment) is essential to maintaining a flexible and efficient production process, but state empowerment of workers via antitrust action, resource transfers, etc., will put them in a position to choose from among a menu of workplaces that differ by kind and degree of managerial discretion exercised, *inter alia*. Such choice—including the limit choice of wholly exiting the labor market, which is made possible by capitalist demogrants or an unconditional basic income—guarantees that this residual managerial discretion is non-arbitrary, as it "tracks the interests…of the person suffering the interference."[9] These choices will typically involve tradeoffs (e.g., less discretion may mean lower wages), but

[9] Pettit 1997, 55; also, see my earlier discussion of Pettit's "substantive" sense of power.

so long as workers have been empowered in the ways I described, such tradeoffs can reasonably be viewed as tracking their interests.

Arguing otherwise has the weird implication that when I decide to order *omakase* (chef's choice) at a sushi restaurant, I thereby problematically subject myself to the capacity for arbitrary interference. So long as I have a broad array of affordable culinary options—set menus, chef's choice at other eateries, dining at home, etc.—my choice of *omakase* suggests that the discretion consequently exercised is not arbitrary (assuming that it stays within mutually understood limits, of course: e.g., I am not served a burrito). My decision to submit to the bounded discretion of a sushi chef is analogous to the decision (discussed earlier) of a democratic people to submit to the bounded "discretion" of lotteries or competitive markets: if such submission tracks their interests in both (1) substantive and (2) procedural ways, then the subsequent exercise of discretion does not constitute arbitrary interference. In the sushi case, my interests are tracked if (1) I anticipate benefiting from the discretion (i.e., the price plus the risks of being disappointed are outweighed by the expected benefits of surprise and gustatory satisfaction) and (2) I have exit options in case I do not benefit, and chef's discretion is bounded by mutually understood norms. The same logic applies to employment: when I submit to managerial discretion by accepting a job, subsequent exercises of such discretion are not arbitrary if (1) I anticipate benefiting from it (i.e., the wages I receive outweigh the expected unpleasantness of being ordered around and having to do tiresome tasks) and (2) I have numerous exit options in case I do not benefit, and managerial discretion is circumscribed by mutually understood customary and contractual rules. As a result, arbitrariness within employment relations can—at least in principle—be prevented without intrusive state monitoring and intervention in workplaces, which itself threatens domination.

Unfortunately, the dangers of relying upon voice are not necessarily reduced by replacing state power with non-state (e.g., union) power: fighting fire with fire still risks burning everyone involved. This is apparently why Pettit dislikes what he calls the “reciprocal power” strategy for achieving non-domination, which involves countering private power with private power (Pettit 1997, 67-8). In the labor market, for example, it might require countering the market power of a monopsonist with that of a union monopolist; such a “bilateral monopoly” would restrain discretion but leave wage determination to the relative bargaining power of the two sides (Nicholson 1995, 729-30). Pettit’s understandable concern with such a solution is that by it “arbitrary interference and domination may be reduced, but it is not ever going to be eliminated,” because the residual mutual interference involved fails to “track the interests and ideas of those who are affected” (Pettit 1997, 67). Even worse, systematic government efforts to enhance the market power of one side against the other may have the (net) effect of increasing domination. For example, the National Labor Relations Act, by protecting the ability of workers to organize and collectively bargain, may have reduced domination in those areas or industries in which the employer side was monopsonistic or oligopsonistic but increased it in those in which it was competitive: monopolistic unions, just like monopsonistic employers, have enormous power to exploit, discriminate against, and dominate the weaker side—in this case, unorganized firms. Consider the case of public (non-tertiary) education in the U.S. Here, a vast number of individual school districts compete for an educated, relatively mobile teacher population; hence, the employer side is reasonably competitive. The employee side, on the other hand, has oligopolistic characteristics: teachers’ unions are organized at local, state, and even national levels (under the umbrellas of the National Education Association and the American Federation of Teachers) and coordinate their activities across school districts and states. If there is market power here, it is mostly on the educator side—an advantage made possible in large part by collective-bargaining rights for public employees. If freedom is antipower, as Pettit argues, then market power must be confronted, countered, and if possible eliminated wherever it arises, and this commitment will usually mean that the state should limit its market interventions to promoting free exit and effective competition.

I believe these remarks about unions are at least broadly consistent with Pettit's writings. When Pettit praises unions, it is invariably within the context of monopsonistic or oligopsonistic labor markets and is usually historical in nature (e.g., Pettit 1997, 95 ["the industrial world of the nineteenth century"], 141-2 ["nineteenth-century employers"]). Moreover, he tends to favor exit over voice as a means of dealing with domination; for example, he states that "other protections, such as those that strong trade unions may provide, are possible against such alien control [i.e., oligopsony]. But the most effective of all protections, and one that should complement other measures available, would be one's ability to leave employment and fall back on a basic wage available unconditionally from the state" (Pettit 2007, 5). Finally, as the Pettit quote at the end of the last section shows, one seller undercutting another seller's price, which may lead to a painful loss of trade, does not qualify as arbitrary interference under competitive conditions. The missing participant here, of course, is the buyer, who dismisses one seller in favor of the other one. Pettit gives no indication that this buyer arbitrarily interferes with the existing seller by dropping their services, nor does he imply that the good in question must be a product or service—it could be a factor of production, such as labor. If so, then an employer does not arbitrarily interfere with an employee by firing him under competitive conditions; consequently, republican economic policy need not resort to empowering workers through voice (e.g., laws permitting closed-shop unions), except in cases where competitive conditions prove very difficult to establish and/or maintain.

Before concluding, I should address a potential concern about my reading of republican economic policy. Pettit says freedom as non-domination is an “inherently communitarian ideal,” and as I noted in the introduction, Dagger emphasizes the need to “protect communities from the ravages of market competition,” by which he means the instability and dislocation that can result from the mobility of labor and capital (Pettit 1997, 120; Dagger 2006, 163). Doesn’t a one-sided focus on exit, especially for employees, threaten to produce a deracinated citizenry that lacks the durable relationships and other forms of social capital that are necessary to resist domination in other domains? One thing to keep in mind is that credible threats of exit will frequently not need to be exercised: employers, aware of the rich exit options of employees in a republican state, will anticipate exit and respond appropriately, by preemptively improving wages and other conditions of employment; to use the terminology of game theory, exit will be off the equilibrium path. For a variety of reasons, however—including the irrationality of one or both parties and asymmetric information—an exit-oriented republican economic policy will probably lead to greater, perhaps much greater, labor mobility. Whether the net effect of this rise will be to increase domination (as the objection implies) or decrease it (as I have maintained) depends upon a number of factors. For example, will a more mobile labor force merely shift their allegiances from local kinds of community to non-local kinds (e.g., national professional associations, political pressure groups, and online communities), and will these new kinds of community be just as effective at resisting domination? If not, might it still be the case that increased mobility will allow people to escape not only economic domination but also the domination caused by local communities themselves (whether domestic, ethnic, or religious), and might this dual reduction in domination outweigh the increased domination resulting from the putative erosion of localized social capital? (Pettit himself reminds us of the continuing vulnerability of women and minorities to domination by families and local majority communities—see Pettit 1997, 123-4, 138-40, 143-6.)

These are difficult questions to answer in the abstract, as they depend upon a complex set of sociological assessments, and republicans are likely to divide on this matter due to the burdens of judgment (Rawls 1993, 54-8). My own sense is that the above questions can be answered in the affirmative and that an exit-oriented republican economic policy is the best way of promoting freedom as non-domination. Moreover, as I have argued throughout the article, I believe that such a policy is generally consistent with the vision of republicanism presented by Pettit and does not depend upon a strained reading of his texts. Even Pettit's claim that freedom as non-domination is an "inherently communitarian ideal" is less about preserving local community and the social capital it embodies than about encouraging solidarity among those groups (such as women, racial minorities, immigrants, homosexuals, and the elderly) that are vulnerable to domination, and it is unclear why mobility would undermine such solidarity—it might even reinforce it if it weakened competing kinds of solidarity, including localism (Pettit 1997, 120-6). Having said this, however, I recognize that other republicans would be likely to answer the above questions in the negative and thus reject, in part or in whole, an exit-oriented economic policy; Dagger (2006, 163-4) and Michael Sandel (1996) would probably be among them. What this divergence indicates is simply the continuing diversity of the republican tradition, one that I remarked upon in the introduction: it has both individualistic and communitarian strains, and they may generate somewhat different conclusions about economic policy. Given the centrality of Pettit's work to the neo-republican literature, though, my article's arguments should lead republicans of all stripes to reconsider if not revise their economic-policy positions.

Conclusion

I have shown over the course of this article how economic competition restrains—and in the limit, eradicates—market power and how such restraint helps us to realize “market freedom,” i.e., freedom as non-domination in the context of economic exchange. This finding means that a republican economic program should be primarily focused on promoting competitive conditions (including a plurality of informed buyers and sellers, free entry and exit, and price-taking rather than price-making behavior) and pursuing the policy innovations that would help us attain these conditions, such as informational campaigns, labor-market reform, aggressive antitrust, capitalist demogrants, and a basic income. These Anglo-Nordic reforms and the competitive conditions that they would support constitute an economic constitutionalism as important as the political constitutionalism with which republicans have traditionally been identified: perfect competition is a translation of the rule of law into the economic sphere. Once republicans take this lesson to heart, they will (like their commercial-republican forefather Adam Smith) look upon competitive markets with enthusiasm, not mere “complacency” (Pettit 2006b, 142).

Republicans may worry, however, that perfect competition is a lofty ideal that real-world markets will rarely approach, much less attain, even if the republican economic program outlined above were fully implemented. This concern is a reasonable one, but it applies no less strongly to the other components of republicanism. The rule of law, the separation of powers, bicameralism, federalism, and international legalism are also demanding ideals that real-world political systems at best approximate rather than achieve, because political actors motivated by various sectional, economic, and ideological interests work persistently to sidestep and even undermine them. Both perfect competition and the rule of law are regulative ideals for republicans, ones that motivate and guide principled political action—and the closer we can approach them, the closer we will be to achieving non-domination in economic and political life. Having said this, we should also be aware that these Anglo-Nordic economic policies are not *à la carte*: they must be implemented in tandem, because pursuing some in the absence of the others may increase rather than decrease domination. For example, a robust attack on union privileges without parallel efforts to diminish employer collusion in particular labor markets (e.g., hospital nursing) and enhance labor mobility may simply make workers more vulnerable to the market power of capitalists.

In closing, I'd like to point out that my friendly amendment to neo-republicanism, which I believe to be consistent with not only its spirit but its letter, helps bring it into tighter alignment with various other approaches to political economy. Economists promote perfect competition for the sake of welfare, libertarians and liberals for the sake of autonomy and (expanded) choice, and republicans (so I have argued) for the sake of non-domination. Each shares a commitment to the same "mediating" institution but sees different ultimate values at stake in its achievement. Such an overlapping consensus clearly strengthens the case for competitive markets, but it also helps neo-republicanism appear more modern and moderate and therefore more attractive to adherents of competitor doctrines. If republicanism retains the whiff of austere anti-commercialism thanks to earlier republicans like Rousseau, then nothing will better dispel it than a wider realization that true republicanism celebrates competitive markets.

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