

Spinoza on being *sui iuris* and the republican conception of liberty

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Abstract

Spinoza's use of the phrase "*sui iuris*" in the *Tractatus Politicus* gives rise to the following paradox. On the one hand, one is said to be *sui iuris* to the extent that one is rational; and to the extent that one is rational, one will steadfastly obey the laws of the state. However, Spinoza also states that to the extent that one adheres to the laws of the state, one is not *sui iuris*, but rather stands under the power [sub potestate] of the state (*TP* 3/5). It seems, then, that to the extent that one is *sui iuris*, one will not, in fact, be *sui iuris*. In this paper, I offer an interpretation of Spinoza's notion of being *sui iuris* that enables us to overcome this paradox and sheds light on Spinoza's relationship to the republican tradition. I work towards this goal by distinguishing between two ways in which Spinoza uses the locution, which correspond to two different conceptions of power: *potentia* and *potestas*. This distinction not only allows us to save Spinoza from internal inconsistency, it also enables us to see one important way in which Spinoza stands outside of the republican tradition, since he conceives of liberty not as constituted by independence, or citizenship in a *res publica*, but as being *sui iuris* in the first sense described above: being powerful.

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English translators of Spinoza's *Tractatus Politicus* [hereafter: *TP*] are well aware of the difficulties in finding an adequate way of rendering the juridical locution *sui iuris*.¹ This crucial phrase has been translated as "independent,"² and somewhat more literally, if more clumsily, as "in control of one's own right,"³ and "possessed of one's own right."⁴ The problems associated with Spinoza's use of the term *sui iuris* are not limited to finding a suitable translation. His use of the phrase in the *TP* gives rise to the following paradox. According to Spinoza, one is *sui iuris* to the extent that one is rational, and to the extent that one is rational, one will steadfastly obey the laws of the state. However—and here is the rub—to the extent that one adheres to

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¹Both A.G. Wernham (Spinoza, *The Political Works* (Oxford: Clarendon Press, 1958), 46) and Samuel Shirley (Spinoza, *Political Treatise* (Indianapolis: Hackett, 2001), p.42n31) note the difficulty in translating this phrase.

²R.H.M. Elwes's translation of Spinoza's *Theologico-Political Treatise* and *Political Treatise* (New York: Dover, 1951).

³Shirley, op. cit.

⁴Wernham, op. cit.

the laws of the state, one is not *sui iuris*, but rather stands under the power [*sub potestate*] of the state (TP 3/5). It seems, then, that to the extent that one is *sui iuris* one will not, in fact, be *sui iuris*.

In this paper, I offer an interpretation of Spinoza's notion of being *sui iuris* that enables us to overcome this paradox and sheds light on Spinoza's relationship to the republican tradition. I will work towards the first goal by distinguishing between two ways in which Spinoza uses the locution, which correspond to two different conceptions of power: *potentia* and *potestas*. On the one hand, he uses it to denote something like rational self-control or internal causal power [*potentia*]; on the other hand, he uses it to denote something more like authority or coercive power [*potestas*]. Once we disambiguate these two senses of being *sui iuris*, we can show that there is nothing contradictory in Spinoza's views about being *sui iuris*.

This distinction not only allows us to save Spinoza from internal inconsistency, it also enables us to see one important way in which Spinoza stands outside of the republican tradition. While republicans typically cleaved to a conception of political liberty as constituted by citizenship in a *res publica*, or self-governing state, Spinoza indicates that the regime form that a commonwealth takes—whether monarchy or republic—is not essential to the promotion of liberty, since liberty, or being *sui iuris* in the first sense described above, consists in being powerful, and there is nothing *intrinsic* to a republic that would necessarily secure this. Nor is there anything about a monarchy that would preclude its being able to endow its subjects with such power to act. Liberty depends not so much on the *source* of the laws as on the *content* of the laws.

This paper will be divided into three main sections. In the first section, I set the stage for the discussion of Spinoza's relationship to the republican tradition by introducing the republican conception of liberty and considering the textual evidence that would lead one to suppose that Spinoza's conception of political liberty is fundamentally republican. In the second section, I turn to the notion of being *sui iuris*. Here I will delineate and, ultimately, dissolve the paradox described above. In the final section, I draw out the implications of the analysis of being *sui iuris* for understanding Spinoza's conception of liberty and its relationship to the republican tradition.

Spinoza and the republican conception of liberty

According to republican conception of liberty, one can only be free when one is a citizen in a free state. In humanist texts of the renaissance and early-modern periods, this notion of liberty was often associated with the Roman republic, in which, as Chaim Wirszubski writes, “freedom of the citizen and internal freedom of the State are in fact only different aspects of the same thing.”⁵ Quentin Skinner, who has done more than anyone else to resuscitate this model, explicates this view in a similar way, claiming that “any understanding of what it means for an individual citizen to possess or lose their liberty must be embedded within an account of what it means for a civil association to be free.”⁶

What, then, makes a state free? Minimally, it must be independent from foreign rule. Moreover, it must be free from the arbitrary rule of a despot. As the seventeenth-century English republican Marchamont Nedham puts it, “the only way to prevent arbitrariness, is, that no laws or dominations whatsoever should be made, but by the people's consent.”⁷ From this characterization, we can see that republican liberty can be understood as having both a positive and negative aspect: it is at once a matter of non-domination (negative) *and* consent or participation (positive). This way of conceiving of liberty, providing as it does motivation for opposing despotism as such, is a hallmark of the republican tradition.

Recently, several commentators have suggested that Spinoza's political writings can be fruitfully viewed as contributions to the larger body of republican literature.⁸ It is not surprising then that many of these same

⁵Chaim Wirszubski, *Libertas as a Political Idea in Rome During the Late Republic and Early Principate* (Cambridge: Cambridge University Press, 1950), 4.

⁶*Liberty Before Liberalism* (Cambridge: Cambridge University Press, 1998), 23.

⁷*The Excellency of a Free State*, ed. Richard Baron (London, 1767), 32–3.

⁸Raia Prokhovnik's *Spinoza and Republicanism* (London and New York: Palgrave Macmillan, 2004) provides an exemplary case. See also Susan James, who claims that most scholars “underestimate the republican antecedents of [Spinoza's] analysis of freedom” (“Power and Difference: Spinoza's Conception of Freedom,” *The Journal of Political Philosophy* 4(3) (1996), 209n4). Steven Smith too cites “self-government” as one of the “cardinal ingredients” of Spinoza's conception of political liberty (*Spinoza, Liberalism, and the Question of Jewish Identity* (New Haven: Yale University Press, 1997), 164). And Quentin Skinner claims that standard interpretations “underestimate

commentators have espied in Spinoza's account of political liberty a republican dimension. Raia Prokhovnik, for instance, baldly states that "the political liberty upon which Spinoza focuses characterises the commonwealth, the public domain, not the political individual. The liberty of subjects in civil society is guaranteed by the state, by its being self-governing."⁹ Spinoza invites such a conclusion when he approvingly refers to Machiavelli—who establishes himself in the *Discourses* as the arch-republican—as a "well-known advocate of freedom" (*TP* 5/7).¹⁰ In order to make a reasonable assessment of Spinoza's attitude towards the republican conception of freedom, we must look more carefully at his defense of democracies, or republics more generally.

It is widely agreed that, other things being equal, Spinoza prefers republics to monarchies. What we want to consider here is the role of *libertas* in his defense of popular governance. Let us start with the earlier political work, the *Tractatus Theologico-Politicus* [henceforth: *TTP*]. Spinoza's defense of democracy in the *TTP* is multi-pronged. The most prominent and impressive line of defense, and the one that is reprised with even greater gusto in the *TP*, is that the interests of subjects are better served in a democracy, where "there is less danger of foolish decrees" (*TTP* 16/135). Also, Spinoza argues that democracies are marked by less internal discord and greater stability than monarchies. To illustrate this, Spinoza draws on the case of Israel, with its serenity before, and strife after, the establishment of a king (see e.g., *TTP* 18/195). The greater overall stability that democracies promise redounds to the welfare of the individual, for whom the "safety and security" of a stable commonwealth is to be contrasted with what he refers to as the "life of anxiety" (*TTP* 16/129).

These arguments do not yield the republican implication that participation in government (i.e., citizenship) itself guarantees liberty; rather, they demonstrate that democratic procedures tend to produce salutary outcomes. However, there is one further argument in the *TTP* that Spinoza gives on behalf of democracy, in which he appeals to something like the republican conception of liberty. He maintains that one of the fundamental features of a democracy is that it "come[s] nearest to preserving the freedom which nature allows the individual" (*TTP* 16/137). Unfortunately, he does not tell us what is meant by "natural liberty"; however, we can get a sense of what he meant by looking at how the locution was used by other political thinkers of his time. This concept, along with the associated notion of natural equality, was often appealed to by seventeenth-century republicans to oppose claims of natural hierarchies. For instance, in his criticism of Robert Filmer, Algernon Sidney maintains that natural liberty is a common notion, "written in the heart of every man, denied by none."¹¹ Hobbes too—whose influence on Spinoza's political works is unmistakable, if sometimes exaggerated—utilized the notion of natural liberty (meaning power to preserve oneself in accordance with one's own judgments), but he argued that so long as it is retained, men will remain locked in a *bellum omnium contra omnes*.

In the *TTP*, Spinoza seems to accept Hobbes's view that natural liberty is something like authority over one's own actions. However, against Hobbes, he promotes the republican thesis that in a democracy one always retains this authority, without sacrificing peace and security. He writes, "in a society where sovereignty is vested in all, and laws are made by common consent, obedience has no place, and the people remains equally free whether the number of laws is increased or diminished, because it acts by its own decision and not by the authority of another" (*TTP* 5/95). One could scarcely find a clearer expression of the republican ideal of liberty in Cicero, Machiavelli, or Harrington. Elsewhere in the *TTP*, he articulates the position of the citizen in a democracy in a somewhat milder, though no less republican, manner: "in [a democracy] no one transfers his natural right to another so completely that he is never consulted again, but each transfers it to a majority of the whole community of which he is a member. In this way all remain equal, as they were before in the

(footnote continued)

the extent to which Spinoza is restating classical republican ideas, especially as developed by Machiavelli in the *Discourses*" ("The Idea of Negative Liberty: Philosophical and Historical Perspectives," *Philosophy in History*, ed. Richard Rorty, J.B. Schneewind, Quentin Skinner (Cambridge: Cambridge University Press, 1984), 217n35), the liberty of self-governance being one of the primary ideas.

⁹Spinoza and Republicanism, 204.

¹⁰All quotations from the political works are taken from Wernham's translation (see note 1). Citations of the *TTP* refer to the chapter, followed by page number (e.g., 5/95 refers to chapter 5, page 95). Citations of the *TP* refer to the chapters/sections (e.g., '5/4' refers to chapter 5, Section 4).

¹¹*Discourses Concerning Government*, ed. Thomas G. West (Indianapolis: Liberty Fund, 1996), 8.

condition of nature” (*TTP* 16/137). Democracies preserve the natural liberty and natural equality of their citizens, because in them one is a participant in one’s own governance.

These passages seem to support Prokhovnik’s contention (above) that Spinoza’s conception of political liberty is fundamentally a matter of self-governance. They seem to express an allegiance to a republican conception of liberty. However, it is not clear whether Spinoza consistently adheres to these views and whether he really values republican liberty as much as these passages seem to suggest. In fact, I think that, although these passages cannot be ignored, the textual evidence in the *TTP* for Spinoza’s endorsement of republican liberty is quite meager. Only in these two passages does he rest significant argumentative weight on this notion of liberty; and such a conception is altogether absent from his later political treatise (*TP*). We will see that in the later work liberty is primarily explicated in terms of being *sui iuris*. And while the *sui iuris/in potestate* dichotomy is historically connected with the *free man/slave* dichotomy, which is central to the republican tradition, Spinoza uses the division *primarily* to overturn the republican conception and replace it with his own power-based conception of liberty. To grasp the significance of the vocabulary shift in the *TP*, it behooves us to briefly survey the history of the notion of being *sui iuris*.

Being *sui iuris*: a paradox and a solution

A brief history of the concept

This notion of natural liberty is altogether absent in Spinoza’s later *Tractatus Politicus*. In its place, Spinoza uses a concept that was closely associated with natural liberty, namely that of being *sui iuris*, which, as I noted in the introduction, means roughly being possessed of one’s own right. The concept of being *sui iuris* comes from Roman law, where it falls within the law of persons [*ius personarum*]. At the beginning of Justinian’s *Digest* we are told that the “great divide” within the law of persons is between freemen [*liberi*] and slaves [*servi*]. Here, freedom is defined by Florentinus as that “natural power [*naturalis facultas*] of doing what one pleases.”¹² More significant for our purposes is the definition of slavery, which is “an institution of the *ius gentium*, whereby someone is against nature made subject to the ownership of another [*dominio alieno contra naturam subicitur*].”¹³ From this definition, we see that one of the constitutive features of servitude is that one stands under another’s dominion, which is why Skinner contends that “if we wish to understand the essence of servitude [in Roman law], we need to take note of a further distinction within the law of persons: the distinction between those who are, and those who are not, *sui iuris*.”¹⁴ The dichotomies of free man/slave and being *sui iuris/in potestate* are not, strictly speaking, coextensive, since those who are *in potestate* include not only slaves (1.6.1), but also children (1.6.3) and women who are not heads of households [*matres familiarum*]. Nevertheless, the close connection between these pairs is immediately evident. Being *sui iuris* amounts to being a free, moral agent: the author of one’s actions. And one who is *in potestate* cannot be a free man.

The accounts of liberty and self-jurisdiction in Roman law likely played a decisive role in shaping the ideas of the Roman moralists and historians who stand at the base of the republican tradition. In fact, Skinner has gone so far as to claim that “the views of these ancient authorities had ... been derived almost entirely from the Roman legal tradition eventually enshrined in the *Digest* of Roman law,”¹⁵ citing examples in Seneca and Livy. It is certainly the case that the Roman moralists often suggested that freedom [*libertas*] was possible only if one does not stand under the power of another (i.e., only if one lives in a *civitas libera*) and that the *civitas libera* was only possible in the absence of a *dominus*, in the form of an emperor. This view was later embraced by renaissance and early-modern inheritors of the republican ideals. For instance, English republican Algernon Sidney wrote that “liberty solely consists in an independency upon the will of another, and by the name of slave we understand a man, who can neither dispose of his person nor goods, but enjoys all at the will of his master.”¹⁶ This characterization of the difference between a free man and a slave precisely

¹²*The Digest of Justinian*, 4 vols., trans. Alan Watson, et al. (Philadelphia: University of Pennsylvania Press, 1995), Section 1.5.4.

¹³*The Digest of Justinian*, 4 vols., trans. Alan Watson, et al. (Philadelphia: University of Pennsylvania Press, 1995), Section 1.5.4.

¹⁴*Liberty Before Liberalism*, 40.

¹⁵*Liberty Before Liberalism*, 38; cf. p. 42.

¹⁶*Discourses Concerning Government*, 17.

mirrors the Roman law distinction of being *sui iuris* and being *in potestate*, right down to the suggestion that liberty is an ownership over one's own person (i.e., independence). Thus, while the term '*sui iuris*' is not a conspicuous part of the republican nomenclature, the concept to which it refers is at the very core of republican thought.

The term *sui iuris* was used explicitly in several important juristic works in the sixteenth and seventeenth century. In these works, it is used in connection with the notion of natural liberty, which, as we have seen, was deployed in the service of an apparently republican argument in Spinoza's *TTP*. Grotius uses this expression in his early work *De Iure Praedae*, where he writes:

God created man ἀτεξουσιον, "free and *sui iuris*", so that the actions of each individual and the use of his possessions were made subject not to another's will but to his own. Moreover, this view is sanctioned by the common consent of all nations. For what is that well-known concept, "natural liberty", other than the power of the individual to act in accordance with his own will?¹⁷

Grotius's tendency "to treat liberty as a piece of property," as Richard Tuck puts it,¹⁸ which is well captured by the notion of being *sui iuris*, betrays the influence of sixteenth century Spanish jurist Fernando Vázquez de Menchaca. Like de Soto before him, Vázquez conceives of liberty as something very close to *dominium* [property].¹⁹ Vázquez also used the locution '*sui iuris*' to denote liberty *qua* self-ownership. As Annabel Brett shows, according to Vázquez, "the man who is free, *homo liber*, is also *extra commercium nostrum*, recalcitrant to *dominium* and servitude. A man is free (from servitude) who is *sui iuris*, under his own right and not anyone else's. This is the natural condition of man as of all *res*."²⁰ Man is, by nature, *sui iuris*, and servitude is introduced by the *ius gentium secundarium*. And, while neither Grotius nor Vázquez used the concept of being *sui iuris* to defend a republican form of government and the liberty that it affords—indeed, Vázquez regards this natural liberty as something that must be restricted or regulated if there is to be order—we have seen that in the *TTP* Spinoza regards popular forms of government as preferable in part because they preserve this natural liberty. So, we might well expect Spinoza to make a similar sort of claim in the *TP*, substituting the concept of being *sui iuris* for that of natural liberty.

Spinoza on being sui iuris: a paradox

Despite these expectations, we find Spinoza arguing in the *TP* that within any commonwealth whatsoever "it is clear ... that a citizen is not in possession of his own right, but is subject to the right of the commonwealth [*videmus unumquemque civem non sui sed civitatis iuris esse*], and is bound to carry out every one of its commands" (*TP* 3/5; cf. *TTP* 17/151). Before turning to consider why it is that Spinoza thinks that all citizens are *in potestate civitatis*, we should note that he also maintains that citizens can nevertheless be *sui iuris* to a significant degree. Specifically, "those whose reason is most powerful, and who are most guided thereby, are also most fully *sui iuris*" (*TP* 2/11). These remarks taken together yield the rather strange implication that one can be *sui iuris* insofar as one is rational, while also being *alieni iuris* (or *in potestate*) insofar as one is bound to obey the laws of a state. To add further confusion, Spinoza also claims that "the more a man is guided by reason, i.e., the more free he is, the more steadfastly will he observe the laws of the state and carry out his sovereign's commands" (*TP* 3/6; cf. *TTP* note 33). This leaves us with the following paradox:

1. To the extent that one does what reason dictates, one will be *sui iuris* (*TP* 2/11).
2. Reason exhorts us to obey the laws of a state (*TP* 3/6).

¹⁷*De Iure Praedae* (Oxford: Clarendon Press, 1950), 18.

¹⁸*Natural Rights Theories: Their Origin and Development* (New York: Cambridge University Press, 1979), 60.

¹⁹See Annabel Brett's claim that de Soto thought of "*dominium in seipsum* or liberty" as one sense of right (*Liberty, Right and Nature: Individual Rights in Later Scholastic Thought* (Cambridge: Cambridge University Press, 1997), 166), while Vázquez adopts the Roman law definition of liberty (from Florentinus—*Digest* 1.5.4) to define *dominia*. Vázquez's account of the relationship between liberty and *dominia* is, however, somewhat more complicated (*Liberty, Right and Nature*, chapter 5).

²⁰*Liberty, Right and Nature*, 195.

From these claims, it follows that to the extent that one obeys the laws of a state from the dictates of reason, one will be *sui iuris*. However, this seems to conflict with the claim that:

3. Insofar as one is made to obey the law *from any motive whatsoever*, one stands under the right of the commonwealth, and thereby is not *sui iuris* (TP 3/5).

Indeed, Spinoza directly and unequivocally observes that, since reason bids us to obey the law, “sound reason cannot dictate that everyone should remain *sui iuris*” (TP 3/6). So it seems that if one is rational, and thus *sui iuris*, one will stand under the right of the sovereign, and so not be *sui iuris*. To see how Spinoza gets out of this paradox, we must consider more carefully what it means, according to him, for one to be *sui iuris*. This, in turn, requires that we examine what he understands by “right” [*ius*] and “power.”

It is well known that in both of his political works Spinoza holds that a thing’s natural right is coextensive with, and perhaps best understood in terms of, its power (see TTP 16; TP 2/4). For this reason, if we are make sense of what it means to be *sui iuris*, or to be in control of one’s own right, it would seem that we must better understand what is meant by power. Spinoza uses two different terms that are translated in English as “power”: *potentia* and *potestas*. Both of these terms will be relevant to our study, since I will ultimately claim that Spinoza actually uses the term *sui iuris* in two different ways, which correspond to the two distinct notions of power. So that we may see this, let us begin by looking at what Spinoza means by *potestas*.

Being sub potestate

The term *potestas* can mean a number of things. In Spinoza, it is probably best understood as something like ‘authority’ (or control), and is rendered in relational terms, i.e., I am either under my own authority [*sui iuris*], or I am under the authority of another [*sub alterius potestate*].²¹ On the surface, being under one’s own authority or *potestas* would seem to be very much like being in a condition of natural liberty in the sense invoked in the TTP; and the *sui iuris/in potestate* dichotomy would seem to map on to the republican distinction between the independent *homo liber* and the dependent *servus*. However, the sense of dependence that Spinoza has in mind when he refers to the condition of being *in potestate* is much broader than the dependency opposed by republicans. To see what Spinoza means by standing under another’s power or authority, we should look at the examples that he provides in Chapter 2 of the TP:

One man has another in his power [*sub potestate*] when he holds him in bonds; when he has disarmed him and deprived him of the means of self-defense or escape; when he has inspired him with fear; or when he has bound him so closely by a service that he would rather please his benefactor than himself, and rather be guided by his benefactor’s judgment than by his own. (TP 2/10)

From these examples it is clear, again, that this relation [*sub potestate*] is one of dependency; but in what exactly does this relation consist? The final example, of one who would “rather be guided by his benefactor’s judgment than by his own” because of some benefit [*beneficium*] rendered or promised, is at once the most revealing and the most opaque. How can one be guided by the judgment of another rather than one’s own, if it is also the case that “the man who decides to obey all the commands of the commonwealth, whether through fear of its power, or because he loves tranquillity, is certainly pursuing his own security and advantage *in accordance with his own judgment*” (TP 3/3—my emphasis). If whenever one decides to do something, one acts from one’s own judgment, it would appear to be impossible to act from the judgment of another (since another’s threats or offers are only effective via one’s own judgment). Coercive or persuasive forces lead one to *form* one’s judgments in a particular way; they do not lead one to act from another’s judgments rather than from one’s own.²²

²¹Barbone and Rice suggest that we understand “*potestas*” as “permission, authorization, or privilege that is conferred upon the individual. *Potestas* represents a power that is not essential to the individual, but a capacity that is super-added” (“Introduction,” Benedict Spinoza, *Political Treatise*, trans. Samuel Shirley (Indianapolis: Hackett, 2000), 17). Hans Blom recommends rendering *potestas* as “coercive power” (“The Moral and Political Philosophy of Spinoza,” *The Renaissance and Seventeenth Century Rationalism*, ed. G.H.R. Parkinson (London and New York: Routledge, 1993), 341).

²²This is Hobbes’s point when writes that the sovereign is empowered to “con-forme” this wills of subjects, even though the wills themselves remain the wills of subjects (*Leviathan*, ed. Richard Tuck (Cambridge: Cambridge University Press, 1996), 120–1).

But perhaps when Spinoza imagines a condition in which one would “rather be guided by his benefactor’s judgment than by his own,” he just means that one has *allowed oneself*—in some sense—to be moved by the demand or request of another. This would involve an act of judgment or acquiescence on the part of the actor, but would make his/her actions dependent on the judgment of another in the following counterfactual sense: if S had not asked Q to Φ —or, more generally, if Q did not believe that s/he were satisfying some request, demand, or even unexpressed desire of S’s—Q would not have Φ -ed. The fourth example of being *in potestate* could thus be understood in the following way:

One acts from the judgment of another (and is hence *in alterius potestate*) if and only if one performs (or refrains from performing) a particular action *because* (understood counterfactually) another has requested or demanded it, *even if performing (or not performing) such an action is also in one’s interests* because of some service rendered in return.

This sort of counterfactual dependency seems to be precisely what Spinoza has in mind. In response to the very quandary that I delineated above concerning how one can ever act from another’s authority, he writes in the *TTP*:

[W]e cannot form a true idea of how far the right and power of the state extends unless we note that its power is not restricted to the power of coercing men by fear, but it includes every means it has to make men obey its commands; since it is not the motive for obedience which makes a man a subject, but the will to obey. For if a man decides to carry out a sovereign’s commands, it does not matter whether his motive is fear of punishment, or the hope of some reward for obedience, or love of country, or any other emotion whatsoever; *his decision arises from his own deliberation, yet his action is still determined by the sovereign’s authority*. We must not therefore jump to the conclusion that because a man’s action arises from his own deliberation he does it by his own right and not by the right of the state; for since his actions always arise from his own deliberation and decision, both when he is bound by love, and when he is forced by fear to avoid evil, there would on that view be no sovereignty at all, and no right over subjects whatsoever. The alternative is that sovereignty necessarily includes every means by which it can induce men to decide to obey it; from which it follows that *anything a subject does in response to a sovereign’s commands, whether he does it from ties of affection, or compulsion of fear, or (and this is more usual) from hope and fear together, or from respect, a passion compounded of fear and admiration, or from any other motive whatsoever, he does by the right of the state and not by his own [ex jure imperii, non autem suo agit] (TTP 17/151—my emphasis)*.

As this passage makes clear, anyone who is bound to obey the commands of a sovereign, “from any motive whatsoever,” stands, to that extent, under the right of the state, rather than under his/her own right (i.e., is *imperii iuris*, not *sui iuris*). Are we to conclude from the fact that men (subjects) stand under the authority of the state (*sub potestate civitatis*) that they lack freedom—that they are like slaves? Spinoza categorically denies this, distinguishing dependence from unfreedom or slavery:

[S]omeone may think that this is to turn subjects into slaves; on the ground that a slave is a man who acts by order, and a free man one who does as he pleases. This, however, is not entirely true ... what makes a man a slave is the objects of his action. If its object is not the benefit of the agent himself, but of the man who gives the order, then the agent is a slave, and useless to himself. But in a state where the welfare of the whole people, and not of the ruler, is the highest law, he who obeys the sovereign in everything must not be called a slave, useless to himself, but a subject. Thus the state whose laws are based on sound reason enjoys the greatest freedom; for in it everyone can be free whenever he wishes. (*TTP* 16/135)

The difference between a free man and a slave turns not on whether or not one stands in a relationship of dependency on others, but rather on whether or not one’s interests are served.²³

We can see from this analysis that Spinoza’s account of what it means to be dependent on the will of another, or *sub alterius potestate*, differs from a republican account in a couple of significant ways. First, he

²³For a useful analysis of Spinoza’s notion of servitude, see Lee Rice, “*Servitus* in Spinoza: a Programmatic Analysis,” *Spinoza’s Philosophy of Man. Proceedings of the Scandinavian Spinoza Symposium*, ed. Jon Wetlesen (Oslo/Bergen/Tromsø: Global Book Resources Ltd., 1978), 179–91.

conceives of dependency in a broader way than most republicans. For instance, when Sidney writes that “to depend on the will of a man is slavery,”²⁴ he takes dependency to signify a non-consensual condition. By contrast, for Spinoza, in addition to the ways in which one can be dependent on, or in the power of, another that would have been recognized by republicans—being held in bonds, being stripped of means of self-defense, and being terrorized—there is a fourth and less pernicious mode of dependency that Spinoza mentions that was not part of the republican tradition, namely, consensual dependency, wherein one is led to honor the requests or demands of another because of some good or service received in return. Relationships of various sorts, including friendships, could be understood as dependencies in this sense, where one gladly performs an act desired or requested by another.

Given this more expansive understanding of dependency, we should not be surprised that Spinoza’s attitude towards the condition of dependency is considerably different from that of republicans like Sidney. He makes it clear that when it comes to freedom, what matters is the extent to which one’s interests are served, i.e., the extent to which one is empowered, not the extent to which one is *sui iuris* in the sense of being independent. Indeed, making oneself dependent on others is generally far wiser than remaining, or trying to remain *sui iuris*. For instance, Spinoza makes it quite clear that although one who is not moved by the laws of the state remains *sui iuris* (TP 3/8), s/he is consequently to be regarded as an enemy of the state [*hostis imperii*]. And because individuals are essentially powerless in comparison with the power of the sovereign (TP 2/15), remaining in control of one’s *potestas* drastically diminishes one’s essential causal power [*potentia*].

This is as true for a monarch as it is for a subject. A monarch who is maximally *sui iuris* will legislate without consulting or otherwise making himself or herself dependent on his or her subjects. However, the less a monarch responds to the interests and demand of his or her subjects, the more he or she will arouse the indignation of the masses in whose power sovereignty ultimately resides (TP 2/17), and the more cause for fear he or she will have (TP 8/4). But rather than just concluding that the more *sui iuris*, or independent, one is, the more vulnerable one is, Spinoza actually claims that the more *sui iuris*, or independent, one is, the less *sui iuris* one will be. For instance, he writes that “the more completely the right of a commonwealth is transferred to one man, the less is [the monarch] *sui iuris*” (TP 6/8). Conversely, a king will be maximally *sui iuris* when he “gives most heed to the general welfare of his people [*maxime sui iuris erit ... quando maxime communi multitudinis salutis consulit*]” (TP 7/11), i.e., when he makes himself dependent on, and responsive to, others—and so stands *sub potestate populi*. In these remarks we find an echo of the original paradox: the more one is *sui iuris*, i.e., acts from one’s own considerations alone, the less one will be *sui iuris*, i.e., powerful, and vice versa. To see that this is not in fact a paradox, we must recognize that Spinoza uses the term *sui iuris* in another way, which corresponds not to *potestas*, but to *potentia*.

We have now seen that Spinoza at times contrasts the notion of being *sui iuris* with that of being *in potestate*, the upshot being that it is in our best interest in many cases to make ourselves dependent on others. Being *sui iuris* in this sense is on the whole undesirable for essentially the same reasons that Hobbes thinks retaining one’s natural liberty is undesirable: it leaves one isolated and vulnerable to external threats. Spinoza never connects this sense of being *sui iuris*, or independent, up with liberty; this is because being free (in the primary sense) is not so much a matter of not being subject to the will of another as it is being capable of acting rationally and having one’s interests served. I want now to suggest that Spinoza uses the notion of being *sui iuris* in another way, which signifies not independence from the will of another, but rather power [*potentia*] or freedom. This will show us the way out of the paradox.

Potentia agendi and being sui iuris

There is evidence throughout the treatise that Spinoza thinks that one is *sui iuris* to the extent that one is powerful [*potens*]. We see this in the passage that I cited above when presenting the paradox: “those whose reason is most powerful, and who are most guided thereby, are also most fully *sui iuris*” (TP 2/11). This point is also made in a later passage where Spinoza draws an analogy between the individual and the state: “just as in the state of nature the man who is guided by reason is most powerful [*maxime potens*] and most fully *sui iuris* (by Section 11 of the previous Chapter), so also the commonwealth which is based on and directed by

²⁴*Discourses Concerning Government*, 17.

reason will be the most powerful [*maxime potens*] and most fully *sui iuris*” (*TP* 3/7). And later, the connection between being powerful and being *sui iuris* is repeated without the reference to reason: “citizens are undoubtedly more powerful [*potentiores*], and therefore more fully *sui iuris*, in proportion as their cities are larger and better fortified” (*TP* 7/16). In short, there is a sense of “right” (*ius*) that is bound up not with *potestas*, or authority, but with *potentia*, or power/strength; and there is a corresponding sense of being *sui iuris* (being of one’s own right) that is coextensive with being powerful.²⁵ But what exactly does Spinoza take *potentia* to be?

Potentia, or power, is a central concept for Spinoza’s metaphysics. Indeed, it may be regarded as the fundamental unit of ontology as evidenced by his claim in the *Ethics* that “God’s power [*potentia*] is his essence itself” (*EIP*34). Furthermore, what holds of God also holds of his modes, which express his power in a certain and determinate way: “the power [*potentia*] of each thing, or the striving by which it (either alone or with others) does anything ... is nothing but the given, or actual, essence of the thing itself” (*EIIIP*7dem.). This way of conceiving of *potentia* is adopted in Spinoza’s political works as well, although here he makes a point to connect this notion of power with that of right:

... from the fact that the power [*potentia*] of things in nature to exist and act is really the power of God, we can easily see what the right of nature is. For since God has the right to do everything, and God’s right is simply God’s power [*Dei potentia*] conceived as completely free, it follows that each thing in nature has as much right from nature as it has power to exist and act [*potentiae existendum et operandum*]; since the power of every natural thing by which it exists and acts is nothing other than the power of God, which is absolutely free. (*TP* 2/3)

God’s right or power is free, because God is fully causally active, i.e., God is the source of all causal activity, and is acted upon by no extrinsic entities, since there are no extrinsic entities. But unlike God, humans are causally active, or powerful, to limited degrees, having bodies and minds that are constantly acted upon or restrained by extrinsic bodies and minds. So while it is the case that whatever we do, we do by right or by power, in cases where we are guided by passions rather than reason, our causal contribution to the action is rather limited (*TP* 2/5). That is to say that we should recognize a distinction between acting *by right* or power (characterizes *every* action) and acting *powerfully*. Spinoza makes this very point in *TP* 5 when he remarks: “I do not assert that everything which I say is done by right is done in the best way; it is one thing to cultivate a field by right, and another to cultivate it in the best way” (*TP* 5/1). The scope of our *potentia* will be determined by the scope of our causal activity, which is why Spinoza generally refers to the power that is constitutive of things as *potentia agendi* (power of acting) or *potentia existendi* (power of existing). Since Spinoza consistently envisages *potentia* as a kind of causal power or power of acting, we may grasp why he claims that one is *sui iuris* (in this sense) to the extent that one is causally powerful.

Overcoming the paradox

In light of the preceding discussion, we can dissolve the paradox that we limned at the outset of our discussion of the *TP*, since we can now decouple the two senses of being *sui iuris* (which correspond to the two notions of power). On the one hand, Spinoza uses the notion of being *sui iuris* in a rather customary way, meaning something like independence. This sense of being *sui iuris* signifies something very much like possessing the natural liberty of the *TTP*. On the other hand, Spinoza uses the phrase in an idiosyncratic way, meaning having a powerful body/mind. This is continuous with the way in which he conceives of liberty in the *Ethics*. Once we separate these two senses of being *sui iuris*, we can see that there will be tradeoffs between them. The more *sui iuris* one is in the sense of being rational or powerful, the less one will seek to be *sui iuris* in the sense of acting independently of the interests (demands/requests) of others; conversely, the more

²⁵The claim that one is *sui iuris* to the extent that one is powerful seems to be a special case of the general principle that one’s *right* is coextensive with one’s power [*potentia*], which is a fundamental tenet of Spinoza’s political philosophy. For instance, he claims that each person has “as much right over Nature as his power extends” (*TP* 2/4; cf. *TTP* 16). This reveals just how idiosyncratic his (second) conception of being *sui iuris* is, since, as we noted when discussing his first notion of being *sui iuris*, this was traditionally understood as a binary predicate (one is either *sui iuris* or *in potestate*); here, being *sui iuris* is a matter of degree.

independently one acts, the less powerful one is likely to be. There is nothing paradoxical about this account, so long as we distinguish between these two senses of being *sui iuris*.

Only one of these senses of being *sui iuris* signifies a valuable condition, all things considered. If we are to satisfy our basic interests, we must join with others (*TP* 2/13), and this requires that we sacrifice our independence or *potestas*, putting ourselves under the authority (*sub potestate*) of the sovereign. Spinoza tells us directly that one “must carry out every command laid upon him by common decision; or (by Section 4 of this Chapter) be compelled to do so by right” (*TP* 2/16). One must sacrifice the right to “live as [one’s] own nature and judgment dictate[s]” (*TP* 2/9) in order to live in security. And because the individual in a commonwealth has “no right to decide what is fair or unfair, moral or immoral,” Spinoza maintains that the “citizen is not in possession of his own right [*non sui iuris*], but is subject to the right of the commonwealth” (*TP* 3/5). Since reason dictates that we become citizens, rather than enemies of the state, it also decrees that we consign ourselves to subjection, for in this subjection lies our security and our power (*TP* 3/6).

Spinoza’s claim that one cannot remain *sui iuris*, in the sense of being free from subjection, seems to lie athwart the view advanced in the *TTP* that in a democracy one can retain one’s natural liberty. Here the claim seems to be that this sort of liberty or right over oneself must be sacrificed if one wants to live in peace and flourish. What really matters for Spinoza is not whether one retains one’s natural liberty, but rather whether one takes provisions to be as powerful as possible. The sense of “being *sui iuris*” that refers to a valuable condition is synonymous with “being free,” which—in both the *Ethics* and the political works—signifies a condition of control over one’s affects and actions. This is illustrated in *Ethics* IVP73, where Spinoza writes that one is “more free in a state, where he lives according to a common decision, than in solitude, *where he obeys only himself*” (II/264). It is freedom, in the sense of power, that matters, not independence. The sense of being *sui iuris*, or free, about which Spinoza most cares is not the natural liberty or authority of the republicans, but rather the liberty that consists in rational self-control.

Spinoza and republicanism reconsidered

On the basis of the preceding discussion, we are now in a position to bring the contrast between Spinoza’s account and the republican ideal of liberty into full relief. Let us recall that advocates of the latter model contend that, as Skinner puts it, “a self-governing republic is the only type of regime under which a community can hope to attain greatness at the same time as guaranteeing its citizens their individual liberty.”²⁶ In short, according to the republic tradition, living in a self-governing republic is at least a necessary, if not also a sufficient, condition for the liberty of citizens.²⁷ It should be clear from the analysis in section two that, *pace* Prokhorovnik, for Spinoza political liberty consists not in being a citizen in a republic, but rather in power and interest-satisfaction. A state need not be self-governing in the strict sense (non-monarchical) in order to be free, since even monarchies can be rationally organized and can thus empower its citizens.

Spinoza’s account of liberty stood him in good stead in post-1672 Holland. Some Dutch republicans, like Pieter De la Court, argued that freedom is only possible within a strictly popular government and so was only properly gained in the Dutch republic after the death of William II, the stadholder or quasi-monarchical figure, in 1650. This conception of liberty gave one a powerful incentive for instituting or defending a purely republican form of government, but left its proponents with little to say about the prospects of liberty after the stadholdership was reestablished in 1672, in the person of William III. In the *TP*—which was written after, and perhaps prompted by, the events of 1672—Spinoza scoffs at the emphasis on regime-types, remarking that “the people of Holland thought that to regain their freedom they had only to secede from their count and cut off the head of the body politic; they never thought of reorganizing their state, but left all its other parts in their original form; and so Holland has been left a county without a count [*comitatus sine Comite*], like a body

²⁶“The Republican Ideal of Political Liberty,” *Machiavelli and Republicanism*, ed. Gisela Bock, Quentin Skinner, Maurizio Viroli (Cambridge: Cambridge University Press, 1993), 303.

²⁷Skinner again: “their thesis—to put it as bluntly as possible—is that it is only possible to be free in a free state” (*Liberty Before Liberalism*, 60). See Machiavelli’s claim that free cities are those that are “governed by their own will” [*per loro arbitrio*] (*The Discourses*, trans. Leslie J. Walker, Brian Richardson, ed. and Introduction Bernard Crick (London: Penguin, 1983), I, 2.

without a head, and the real government has been left without a name” (*TP* 9/14; cf. *TTP* 18/201–203). His point is that the way in which a commonwealth is organized—specifically, whether the interests of all its members are held in equilibrium or not—matters far more than its nominal form.²⁸ By de-emphasizing the importance of regime form, Spinoza deviates from orthodox republicanism.²⁹

Furthermore, whereas most advocates of the republican conception of liberty in Spinoza’s time regarded “being free” as a binary predicate—either one was free (i.e., a citizen of a republic) or one was not—Spinoza conceives of liberty as a matter of degree, corresponding to the degree of one’s power of acting. By emphasizing organization rather than regime type, and by regarding liberty as a graduated concept, Spinoza was able to maintain that, if the commonwealth is well-constituted, “people can preserve quite a considerable degree of freedom under a king” (*TP* 7/31).³⁰ Seen in this light, it should be clear that the *Tractatus Politicus* is not a treatise in defense of republican liberty. Indeed, it is more appropriate to regard it as a handbook for the stadholder, an account of how the freedom of citizens can be advanced, and how the state can flourish, even when the purity of the republic has been lost.

²⁸Indeed, the best form of regime will vary from place to place, depending in part on what people are accustomed to. See e.g., *TP* 7/26; *TP* 10/7; *TTP* 18/201–3.

²⁹Cf. J.G.A. Pocock, “Spinoza and Harrington: An Exercise in Comparison,” *Bijdragen en Mededelingen betreffende de Geschiedenis der Nederlanden* (1987), 102.

³⁰Cf. *TP* 11/2, where Spinoza suggests that practically speaking “there is little to choose” between democracies and aristocracies.