

De Libertate Romanorum

In order to understand the rise and fall of Rome, it is necessary to understand the meaning of *libertas* (liberty) to the Romans (and the ancients in general) and how the liberty of the ancients differs with the liberty of the moderns. For liberty was an important facet of Roman culture, of the constitution of their political system, and of their internal and external struggles. And though the liberty of the moderns is not in every way an improvement on the liberty of the ancients, the liberty of the ancients suffers from three important and related defects that played a role in both the rise and fall of Rome. This paper attempts to clarify the differences between, and the strengths and weaknesses of, the liberty of the ancients and of the moderns in light of Ronald Syme's *The Roman Revolution*.

Ronald Syme tells us that “[a]t Rome all men paid homage to *libertas*, holding it to be something roughly equivalent to the spirit and practice of republican government.”¹ Benjamin Constant argues much the same thing: The liberty of the ancients...

consisted in exercising collectively, but *directly*, several parts of the complete sovereignty; in deliberating, in the public square, over war and peace; in forming alliances with foreign governments; in voting laws, in pronouncing judgments; in examining the accounts, the acts, the stewardship of the magistrates; in calling them to appear in front of the assembled people, in accusing, condemning or absolving them.²

Syme contrasts *libertas* with *dominatio* and *regnum*, which he loosely defines as “illicit and exorbitant power,”³ but which are more precisely defined as despotism and royal power (or tyranny) respectively.⁴ In other words, *libertas* in its primary political meaning for the ancients refers to the sovereign independence and autonomy of a people and is intimately connected with republican government as its realization.⁵ He

¹ Ronald Syme, *The Roman Revolution* (Oxford: Oxford University Press, 2002 [1939]), p. 155. Italics in original.

² Benjamin Constant, “The Liberty of the Ancients Compared with that of the Moderns,” in *Political Writings* (Cambridge: Cambridge University Press, 1988 [1819]), p. 311. Emphasis mine.

³ Syme, p. 418; also, see pp. 155 & 516.

⁴ *Cassell's Concise Latin & English Dictionary* (New York: Wiley Publishing, Inc. (formerly Hungry Minds, Inc.), 1987 Reissue Edition), pp. 73 & 192.

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

who lacks *libertas* is a slave or subject (of a king or some other master with absolute and arbitrary control over him).

However, Constant argues that the ancients “admitted as compatible with this collective freedom the complete subjection of the individual to the authority of the community.”⁶ Slavery was widespread in Rome and throughout the ancient world, and was not considered to be contrary to nature.⁷ Roman imperialism was predicated upon maintaining Roman *libertas*, generally at the expense of the *libertas* of other peoples. And even the individual Roman possessing *libertas* was not entirely free. The content of *libertas* was determined by the rights and duties of *civitas* (citizenship) and by positive law. Here it is useful to contrast the liberty of the ancients with the ideal liberty of the moderns. The moderns understand liberty to mean everyone having

the right to be subjected only to the laws, and to be neither arrested, detained, put to death or maltreated in any way by the arbitrary will of one or more individuals. It is the right of everyone to express their opinion, choose their profession and practice it, to dispose of property, and even to abuse it; to come and go without permission, and without having to account for their motives or undertakings. It is everyone’s right to associate with other individuals, either to discuss their interests, or to profess the religion which they and their associates prefer, or even simply to occupy their days or hours in a way which is most compatible with their inclinations and whims. Finally it is everyone’s right to exercise some influence on the administration of the government, either by electing all or particular officials, or through representations, petitions, demands to which the authorities are more or less compelled to pay heed.⁸

Frédéric Bastiat echoes this: “What is freedom? It is the sum total of all our freedoms. To be free, on one’s own responsibility, to think and to act, to speak and to write, to labor and to exchange, to teach and to learn – this alone is to be free.”⁹ Modern political liberty is primarily individual liberty from coercion and individual rights are conceived of as being an individual’s rights over and against society; control over the administration of government is only a corollary or secondary consideration here. This de-emphasis on direct political participation can be seen as a major deficiency of the modern conception of liberty. In contrast, political liberty is primarily thought of by the ancients as the freedom of one group of

⁶ Constant, p. 311.

⁷ Wirszubski, p. 2 n. 3.

⁸ Constant, pp. 310-311.

⁹ Frédéric Bastiat, “Academic Degrees and Socialism,” in *Selected Essays on Political Economy* (Irvington-on-Hudson, New York: Foundation for Economic Education, 1995 [1848]), p. 247.

people from domination by another group and as the individual's privilege, as part of a group, to participate directly in the group's political system; individual liberty in the modern sense of one's freedom, over and against society, from coercion was hardly conceived of as a right by the ancients and was subject to the content of the law (and therefore to the balance of power between the various groups in society).

All three of the defects of ancient liberty hinted at in the beginning of this essay have been implicit in the foregoing analysis. They are: 1) that ancient liberty is a collectivist rather than an individualist concept; 2) that ancient liberty is primarily about the freedom of particular groups from domination by other groups and the privilege of individuals to participate directly in their group's political system; and 3) that the concept of ancient liberty is determined by positive rather than natural law.¹⁰ That the first and second defect are related is obvious, for they logically entail one another; that the third is a corollary and consequence of the other two may not be so obvious. The connection is well illustrated by Syme in *The Roman Revolution* in a section dealing with the use of *libertas* for propaganda purposes in the pursuit of political power:

The purpose of propaganda was threefold – to win an appearance of legality for measures of violence, to seduce the supporters of a rival party and to stampede the neutral or non-political elements.

First in value come freedom and orderly government, without the profession of which ideals no party can feel secure and sanguine, whatever be the acts of deception or violence in prospect. At Rome all men paid homage to *libertas*, holding it to be something roughly equivalent to the spirit and practice of Republican government. Exactly what corresponded to the Republican constitution was, however, a matter not of legal definition but of partisan interpretation. *Libertas* is a vague and negative notion – freedom from the rule of a tyrant or a faction. It follows that *libertas*, like *regnum* or *dominatio*, is a convenient term of political fraud. ***Libertas* was most commonly invoked in defense of the existing order by individuals or classes in enjoyment of power and wealth. The *libertas* of the Roman aristocrat meant the rule of a class and the perpetuation of privilege.**

Yet, even so, *libertas* could not be monopolized by the oligarchy – or by any party in power. **It was open to their opponents to claim and demonstrate that a gang (or *factio*), in control for the moment of the legitimate government, was oppressing the Republic and exploiting the constitution in its own interests.** Hence the appeal to liberty.

¹⁰ Regarding the third defect, see Wirszubski, p. 2 n. 3.

Nobody ever sought power for himself and the enslavement of others without invoking *libertas* and such fair names.¹¹

As individual liberty lacked fundamental importance for the Romans, it was subject to the vicissitudes of power politics practised by warring groups within society and subordinated also to *libertas* and civic duty.

The right to property must be respected if an individual's right to liberty is to be protected and exercised, yet Bastiat defies anyone

to find in all antiquity a tenable definition of [property]. Nowadays we say: "Every man owns himself, and consequently his labor, and, accordingly, the product of his labor." But could the Romans conceive such an idea? As owners of slaves, could they say: "Every man belongs to himself"? Despising labor, could they say: "Every man is the owner of the product of his labor"? This would have been tantamount, in effect, to collective suicide.

On what, then, did antiquity base the right to property? On the law – a disastrous idea, the most disastrous that has ever been introduced into the world, since it justifies the use and abuse of everything that it pleases the law [and those who make and enforce the law] to declare *property*, even the fruits of theft, even man himself. In those barbarous times, freedom could be no better understood.¹²

Individual liberty was largely determined by the balance of power between groups, which group one belonged to, and one's power, wealth, and influence. Moreover, Syme seems to be of the opinion that only a small minority really enjoyed *libertas* even in the Roman republic: the governing class of oligarchs who had the most power, wealth, and influence.¹³

I should clarify at this point that an analysis of the differences between ancient and modern liberty, and whether *libertas* was a natural faculty of man, is not explicitly present in Syme's work. His book, however, provides throughout many excellent illustrations of the nature of ancient liberty in both its collectivist and conventional aspects. Not only individual liberty, but *libertas* itself was an acquired right rather than a natural right, meaning that it is more

¹¹ Syme, pp. 154-155. Italics in original; bolding added for emphasis. See also, among others, pp. 59, 152-153.

¹² Bastiat, p. 247. Italics in original. By law, here, Bastiat means positive law.

¹³ Syme, p. 2. I take Syme to mean *libertas* here and not individual liberty.

appropriate to speak of them as privileges rather than rights. This is confirmed by the fact that slavery was not considered to be contrary to nature, that one could be deprived of *civitas* and therefore of *libertas*, and so forth. There may well have been some exceptions to this conventional view of liberty, such as some Epicureans and Stoics, and Cicero. But even Cicero, I would argue, tended to conflate the idealized traditions of republican Rome with natural law; and the largely unphilosophical Roman population certainly did not make such fine and difficult distinctions.

There is a fundamental difference between ancient liberty and modern liberty in the opposite importance they give to the collective exercise of political sovereignty on the one hand and to individual liberty on the other. It can be argued that Roman *libertas* as realized in republican government freed up ambition in a way that Rome's old monarchy could not, thus promoting the love of martial glory and civic virtue that led to Rome's military greatness. However, I would also argue that the lack of fundamental importance given to individual liberty in Rome, and in the rest of the ancient world, resulted in policies, both foreign and domestic, that eventually resulted in Rome's downfall.