CHAPTER 7

Liberty, Equality, and Authority: A Political Discourse in the Later Roman Republic

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This chapter presents—in relatively discursive mode—a sketch of the physiognomy of the concepts of liberty, equality, and (with more limited ambition) authority, as they functioned in interrelationship with each other in the political discourse of late republican Rome, and of some of the arguments that deployed or examined them, in historical and philosophical writing as well as oratory. The plan is to listen to the Romans themselves talking about libertas, aequitates, and ius sanguinis (equal rights), and to reflect on what we hear as we go along. Cicero’s testimony will inevitably bulk large, but authors writing after him who share the same political vocabulary and reflect the same political culture, even if they write about earlier periods of Roman political history, will also join the conversation.

1 Liberty

In the British Museum are a couple of coins, evidently struck at Rome by Marcus Junius Brutus, and dated by the experts to 54 B.C., which tell us a great deal about Roman republican ideology (Crawford 1974: 455–456; Wiseman 2009: 17–18, 190). One has on the obverse an image of Brutus’ great ancestor Lucius Junius Brutus, a leading figure in the overthrow of the last of the Roman kings, Tarquin the Proud, and one of the first two consuls (509 B.C.), who would die a noble death in battle against the Tarquins’ forces. On the reverse is an image of another of Brutus’ ancestors, Gaius Servilius Ahala, who in 439 B.C. on instructions from the dictator Cinnausus killed Spurius Maelius, a populist politician suspected by the political establishment of harboring tyrannical ambitions. The other coin also shows an image of Lucius Junius Brutus, this time on the reverse. On the obverse is the head of a goddess, identified by the legend as LIBERTAS. In due course Marcus Brutus was himself to participate in the assassination of Julius Caesar, likewise regarded by him and his associates as a tyrant, and was later to pay for that with his
own life. "Was it my authority [auctoritas, or authoritative influence]," asks Cicero in the second Philippic (Phil. 2.26), "that incited Brutus to liberate our country—Brutus who every day would see in his ancestral home images of Lucius Brutus and A talla too, and had them as authorities [auctore, or authoritative models prompting emulation] enough?"

Liberation from tyranny was what the Roman Republic was all about: everyone agreed about that. But consensus ended there. For who were the tyrants, and who the liberators? Only a few years earlier than Brutus' coin issue, for example, popular sentiment turned against Cicero, who after suppressing the Catilinarian conspiracy in 63 BCE had been praised in senatorial circles as father of the country. In 58 BCE he was driven into exile, and as Dio reports in his matter-of-fact manner (Dio Cass. 58.17.6): "His property was confiscated, his house was razed to the ground as though he were a public enemy, and they dedicated its site for a temple of Liberty." By the next year the mood had swung again, and Cicero was back in Rome, singing—in the end successfully—for the restoration of his property. In one of the speeches he made in this connection, he waxes eloquent about the temple erected in the shell of his house (Deus 1.10): "What is the goddess [i.e., to whom it is dedicated]? It's Liberty, he says "[he]" being Publius Claudius, the populist politician close to Julius Caesar who as tribune had promoted the vote to have Cicero exiled. So were you [Cicero, again] the person to install liberty in my house—something that you have abolished in the city as a whole? Is it an image of liberty that you have installed in that house, the house which was itself a proof of the exceeding cruelty of your own domination [dominatio] and of the exceeding wretchedness of the servitude [servitutem] of the Roman people?" To Claudius, it was Cicero who had behaved like a tyrant, when as consul he had had Catiline and his associates executed without trial—hence the triumphalist consecration of the site of his house to Liberty. To Cicero, that got things exactly the wrong way round: Claudius' actions showed him to be the enemy of the people, intent on depriving them of their liberty by his attack on their savior in the critical days of 63 BCE.

That is just a glimpse of the way the idea of liberty saturated Roman self-identity, in their conception of the res publica (i.e. the Roman commonwealth), their sense of their own history, their political arguments, their propaganda, and their religion. Above all, liberty was an ideal and (it was hoped) a reality to fight for. Certainly this was the way it seemed to subsequent Roman historians as they looked back on the political development of the Republic through constant vicissitudes. Thus Sallust, accounting for the transition from monarchy to republic, explains it (Cat. 67) as a reaction to the degeneration of rule by kings, which had initially served to "preserve liberty and build up the commonwealth," i.e. promote the common good, into "arrogance and domination [dominatio]." By replacing the kings with two rulers (imperatores) subject to annual turnover, they thought "the human spirit would have least opportunity to grow above itself through having no constraints on it" (per licencias: a word often used to denote the abuse of liberty, as when Livy talks of the young members of the nobility as "quite openly preferring their own licencias to the libertas of all" (3.37.8), following the coup staged by the decennvirs in 498 BCE) and domination—dominatio always carries an echo of the power the master exercises over his slave—is something of a Sallustian kitmotif, often accompanied by reflection on the power liberty itself constitutes or enables. In the great speech by Gaius Memmius (111 BCE), Sallust's emblematic populist leader in his Jugurthine War (Jug. 31.11), for example, the popular assembly is reminded that slaves who have been purchased do not put up with unjust directions (imperia) from their masters: so will the people, "born in command [imperium], tolerate slavery with equanimity?" After quite a bit more in similar vein, he dismisses any thought of compromise with the nobility (Jug. 31.23): "Their desire is to be masters [dominat[i], yours to be free." Catiline in the Catilinare tells those he urges to exercise their rights that they have been brought up to behave as slaves (servi) instead of exercising command (imperium): liberty and the exercise of imperium go hand in hand, and with liberty the prospect of riches, honor and glory—present the exclusive preserve of those who lord it over them (Cat. 20.8, 14.17). In a fragment of a speech by Scipio Aemilius a generation earlier than Memmius, but on the opposite side of the political fence) imperium is likewise represented as flowing from the dignitas which brings a man honor—and from imperium libertas in its turn (Malcolmov, ORF, 3rd edn., 21.18).

The bottom line was independence from foreign rule. A populist assembly would hear Cicero conclude the sixth Philippic, speaking of the threat posed by the populist Mark Antony, with the words (Phil. 6.19): "Other nations can endure slavery: freedom is what is natural to the Roman people." In 41 BCE the thought was still potent: Josephus has Gaius Claudius, author of the successful plot to assassinate Caligula, talk of the way his "country, once unequalled in liberty, has been reduced to slavery" (AJ 19.57). At the very beginning of their history it was in this sense that the Romans fenced with their arms "liberty, country, parent[s]" (Sal. Cat. 6.5). This is the libertas which according to Cato the Censor motivated the Rhodians to hope that the Macedonians would not be completely crushed by the Romans, as they gradually brought the whole of the Mediterranean world under their single rule (Gell. 6.3.15). But in most political contexts it was popular sovereignty, and the constitutional guarantee and the legal rights which went with that, thanks to a long if often obscure sequence of political gains achieved over several centuries, which those who talked of liberty had in their sights. For Cicero and Claudius alike, the liberty of the populus Romanus is the rallying call, and by that each meant something from the arbitrary rule of a tyrant or would-be tyrant. Anyone might be perceived as a tyrant who was or could be seen as riding roughshod over fundamental citizen rights, or the proper procedures enshrined in the constitution (or, for a senior anti-populist politician like Cicero, "libertas in taking part in public affairs". Foss. 1.8.3).

One favored way of making the point was to contrast liberty with kingship. Livy tells us that when the Romans were urged by a neighboring power to restore the Tarquins, they replied (2.15.3): "The Roman people exists not under kingship, but in liberty," a sentiment that in effect captures the theme of his second book as a whole. Tacitus famously begins the Annals with the sentence (Ann. 1.1.1): "The city of Rome was originally in the possession of kings; liberty and the consuls were instituted by Lucius Brutus." Another favored contrast carrying similar import was no less famously deployed by the emperor Augustus, in the opening sentence of his Res Gestae (1.1): "I emancipated the commonwealth, oppressed as it was by the domination of a faction, into liberty." Here Augustus deliberately echoes a republican trope (Witszuski 1950: 103–106) that had before him tripped off the tongues of Cicero and Sallust (and no doubt countless Roman politicians), most immediately in the form Julius Caesar had given it when he defended his return under arms from Gaul to Italy, thus triggering civil war. Caesar explained that he did so "to emancipate into liberty himself and the Roman people, oppressed as it was by the faction of a few" (B G r. 2.2.5).
“People” in such contexts generally signifies “the citizen body.” Of course, Cicero, a leading representative of the anti populist senatorial “faction” in Caesar’s eyes, would for his part see claims by a Catiline or a Clodius to be defending the liberty of the Roman people as masking an attempt to enlist the support of the common people—the plesbs, the multitudnis—in what was in reality a bid for tyranny. And although he sometimes allows use of the expression popularius to characterize someone who truly has the safety of the populus as the whole citizen body at heart (e.g. Cat. 4.9), something politicians who accepted the designation would no doubt have insisted (Brunt 1988: 52–53), he generally means “popularist” when he describes a political actor in these terms: i.e. someone who may talk of the interests of the citizen body, but is really aiming to please the masses—as in his classic distinction between those in public life who wish to be and to be considered popularers, on the one hand, and optimates, “the best sort,” on the other (Stat. 96). Gaius Gracchus he counted as the popularius or popularist par excellence (Dom. 24).

When Sallust applies the familiar emancipation trope to the Gracchi, he has no hesitation in saying approvingly that they “began to emancipate the plesbs—the common people—into liberty, and to expose the crimes of the few,” to the consternation of the nobility, conscious of their guilt (Ing. 42.1). His Memmius (a generation later) takes it for granted that it is the plesbs who are the true representatives of the populus (people). In the context of the theory of the mixed constitution in the De re publica, when Cicero refers to the plesbs as the third element in the mixture he talks of keeping some matters “for the judgment and will of the masses [multitude],” as contrasted with the principes, the leading citizens (De rep. 1.69), but also of the entitlement of the populus to liberty (De rep. 2.57): he means plesbs both times round. One might say that this simply mirrors what had actually happened with the Roman constitution: plebsista, resolutions of the plesbs, initially required ratification by an assembly of the whole populus if they were to become law, but by Cicero’s own day their validity (thanks to the lex Hortensia of 287 BCE) was unconditional. The double use of Greek dēmos is an obvious comparison; and as with multitudine in Aristotle’s Politics, it may sometimes be unclear which meaning of populus is being employed—perhaps to the writer himself.

In Cicero’s De republica, his dialogue “on the best constitution for the citizen body and on the best citizen” (Q. Fr. 3.3.1), the sovereignty of the populus as citizen body is fundamental (Schofield 1995). The res publica is actually defined as the res, the affairs and interests, of the populus (De rep. 1.39), reflecting its original spelling as res populi (Wienen 2009: 1). That such a populus must be a people possessed of liberty is taken as a given by all participants to the conversation: with the possible exception of Socrates Mummius, a minor character, who in the fragmentary Book 3, apparently after advocating aristocracy as the best form of the commonwealth, and preferring to it kingship, ends by saying that even so he would rather have kingship (than a “free people” (liberum populus)—the third kind of system makes for a most defective commonwealth (De rep. 3.46). Scipio, the leading speaker in the dialogue, notes Mummianus’ characteristic aversion to the ratio populiaria, which I take to mean something like “the populist scheme of things” or “the populist program.” But after querying Mummianus’ preference for aristocracy over kingship, he offers the sophisticated democratic constitution of Rhodes as a legitimate form of commonwealth governed by the people (a popularia res publica: De rep. 3.47; for Rhodes under Roman rule, see Rhodes with Lewis 1997: 274–275).

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here—however Mummianus may have been conceiving of the reference of populus—the idea is government by the citizen body. In the rarefied air breathed by participants in the fictitious representation of a philosophical debate, it was evidently possible to argue for monarchy or to express an aversion to the idea of popular liberty not to be risked in the public arena. The De republica invests quite a lot of energy into thinking out what might or might not need to be involved in talk of a liber populus. What Mummianus assumes is that a liber populus means democracy, in undiluted form. Earlier in the discussion Pelinus, a weightier contributor to the debate, had articulated, but at the same time by implication queried, the same assumption (De rep. 3.23): “If the people has the greatest power, and everything is governed by its decision, that is called liberty, but is really licentia [license, absence of restraint].” In Book 2 of the dialogue Scipio has already offered his own answer to the question of the best form of constitution for a commonwealth. He proposes a mixed constitution, incorporating elements derived from each of the three basic forms: kingship, aristocracy, democracy. A mixed constitution of this sort, with “enough power in the magistrates, enough authority in the advice given by leading citizens, and enough liberty in the people,” has “in a strong sense a kind of aequabilitas [equality], which is something free men are hardly able to do without for very long” (De rep. 2.57). That claim brings us inexorably to the issue of equality.

2 Equality

One recurring phenomenon in texts relating to republican Rome is the association of liberty with equality (Wieszulska 1956: 9–15). If we can trust Livy, when the common people or their advocates demanded more rights or a greater say in the government of the commonwealth, they frequently argued the case on the grounds of aequa libertas, equal liberty. Even if Livy is reconstructing events and arguments with little solid historical warrant, more important is what the way the reconstruction is done tells us about the Roman republican ideology that we have seen being echoed by the emperor Augustus, as well as permeating the writings of Cicero and Sallust. That appeal to libertas should have been made in such arguments should come as no surprise. What is significant for our immediate purposes is that such appeals take the necessary association of liberty with equality to be something nobody could deny—nor do we ever hear it being denied.

A key episode is Livy’s account of how a proposal from the tribunes, after a long period of class struggle, led to the suspension of the constitution in the middle of the fifth century BCE, and the appointment of a board of ten (the decemvirs) to draw up fresh legal provisions—resulting in the drafting of the original Ten (later Twelve) Tables, whose distinctive feature seems to have been publication in written form of what had been for the most part customary law. The tribunes had asked for measures to be proposed by a panel of legislators, drawn from both the plesbs and the patricians, which would be advantageous to both sides and would represent the equalizing of liberty (aequalitatem libertatis) (3.31.7). Their request succeeded (except that the panel appointed was exclusively patrician); and in due course the decemvirs in reporting on their proposals claimed that they had indeed equalized rights (iura) for all, high and low (3.34.3; something once achieved under the kings, according to Cicero: De off. 2.4.1). Evidently what they meant was that
it was now incontrovertibly established that all citizens had the same rights where private law (as it would later be categorized) was concerned. And that does indeed seem to have been the case. Whether it was quite all the tribunes who had in mind (as Livy represents them) is another matter.

When, though their work was done, the decemvirs tried to hang on in power, there followed some months of turbulence, brought to a temporary end by the election once again of two consuls (Lucius Valerius Potitus and Marcus Horatius Barbatus) in 449 B.C. Livy’s narrative of the turbulence and his account of the legislation Valerius and Horatius are said to have promoted indicate what for the plebs remained unfulfilled in the business of equalizing liberty. The one thing that agitated the plebeians, he tells us, was how they could recover the power of the tribunes, their champions under the constitution and the "bulwark for liberty" (3.37.5)—but a function suspended like other elective offices for the duration of the decemvirate. Valerius and Horatius soon emerged as "leaders of the masses" (3.49.3), and following success in isolating the decemvirs from support in any quarter, were received by the plebs as "liberators" (3.53.2). The Senate duly resolved that the decemvirs must abdicate, and that there should be an election of tribunes of the plebs on the Aventine hill, where (the plebs are reminded) "you inaugurated the first beginnings of your liberty" (3.54.5–9; by secession from the city en masse, 2.3.1–3.3).

We now reach the moment critical for the issue of equality. Livy next tells us that Valerius and Horatius, now elected consuls, carried three laws, designed to safeguard the "liberty of the plebs," something the patricians saw as a threat to their own power, even though in reality they were subject thereby to no injustice (3.55.1–2): one making resolutions of the plebs in the comitia tribuna binding on the Roman people; a second restoring the citizen’s right of appeal to the people if impeached (praemunire), "a unique bastion of liberty" (it was also ordained that no magistracy should be created that was not subject to similar appeal); and a third giving the office of tribune (and some other functions intimately concerned with the rights of the plebs) the protection of religious sanction (3.55.3–7). Thus was "the power [potestas] of the tribunes and the liberty of the plebs firmly established" (3.56.1). "Equal liberty," as the plebs and their protagonists saw it, ought to mean not just that any individual citizen should have the same rights in the private sphere as any other, but that they as a body should have legally protected political rights, which would give them collectively powerful balancing those of the patri- cians (as vested in the consulate and the senate) on arrangements of power, see also Mouritzen, Chapter 9 and Tatsumi, Chapter 15).

Couching an argument in terms of equality elevates it above the appearance of mere sectional or factional interest. That point emerges with particular force and clarity as Livy’s narrative moves on a few years, when he gives the tribune Gaius Canuleius a speech putting the case both for opening the consulsip to plebeians and for allowing them to intermarry with patricians. "Does supreme power [imperium] belong to the Roman people or to you," he asks the patricians at the beginning of his peroration (4.5.1). "When the kings were forced out, did that produce domination for you or equal liberty for all?" Canuleius is here claiming the moral and political high ground. He is attacking the patricians for the kind of negation of liberty associated with kingship. And he makes the plebeian case the cause of the sovereign of the Roman people itself as such, and represents that as equivalent to the liberty of all of them equally. The plebs’ concern, he will go on to say, is the unity of the citizen body, hope of reward for virtue, and the basic principle that marks any political society, the key to equalizing liberty: obeying and ruling in turn in annual magistracies (4.5.5; cf. 3.39.8: "the sole key to equalizing liberty").

The commentator (Winzenbusch 1956: 111.1, Ogilvie 1966: 470) notes that Canuleius’s formulation of "the key to equalizing liberty" seems to echo Aristotle’s treatment of the rotation of offices as one of the indicative characteristics of freedom—which is the head- line value democrats claim as special to democracy (Pl 6.2.1317b2–3; it was actually widely regarded as a mark of any non-monarchical political system: Pl 2.2.1261a37–b5, 3.6.1279a8–10; further texts as e.g. in Oakley 2005: 514–15). Is Livy implying that Canuleius himself was reasoning for democracy? Certainly he is going further than the position allegedly achieved by Valerius and Horatius, which was an equal liberty—or an equalizing of liberty—constituted by a balance between one set of political rights, secured for the plebs, and another, monopolized by the patricians. The equalization of liberty envisaged by Canuleius would do away with the monopoly, with the rotation of magistrates opened to plebeians as well as patricians. But it could still be argued that the division of powers and responsibilities as between consilium and Senate, on the one hand, and the people, on the other, fell far short of democracy, and indeed of real liberty or real equality.

Precisely such an argument is put by Scipio in Book 1 of Cicero’s De republica, when he develops (without endorsing) the case for what its advocates would recognize as democracy (De rep 1.47, translation adapted from Zetzel 1999: 20–21):

How can liberty be equal? (I won’t speak about kingship, in which slavery is not even hidden or ambiguous) in those states in which everyone is free in name only? They vote, they entrust commands and offices, they are censored and asked for their support, but they give what must be given even if they are unwilling, and they are asked to give to others what they do not have themselves. They have no share in power [imperium], in public deliberation, or in the panels of select judges, all of which are apportioned on the basis of pedigrees or wealth.

Scipio then draws a contrast with a truly free people such as Rhodes or Athens—though unfortunately the detail of the contrast is lost. From what he has already said, together with what he will say about the Rhodians in Book 3 (De rep 3.48), one might guess that the people of Scipio’s Rhodes are seen as possessing a truer liberty inasmuch as its constitution provides that the assembly has as much power as the Senate, and especially because it is not just the magistrates that are subject to rotation, but membership of the Senate itself. In short, from the Rhodian perspective true liberty at Rome would require a much more radical reshaping of the basic structure of the constitution than anything attempted by Canuleius: one that really would ensure (in line with the idea of democracy now articulated by Scipio) that "the rights of those who are citizens in the same commonwealth" are "among themselves . . . equal"—even if talents and financial resources cannot be equalized (De rep 1.49).

One might wonder whether what I have called the Rhodian perspective on liberty and equality captures or reflects anything Roman would recognize as at authenti- cally Roman. After all, the debate Cicero is staging at this point in De republica—about the comparative merits of monarchy, aristocracy, and democracy—is a thoroughly Greek debate, which we meet first in the pages of Herodotus (albeit represented in the form of a discussion between leading figures in the Persian nobility; Hdt 3.80–82), but which is given classic expression in Book 3 of Aristotle’s Politics, often seen as directly or
indirectly, through Peripatetic reworkings, the main source Cicero must be supposed to be exploiting here (Solmsen 1938; Frede 1989). Whatever source material he used has, however, been comprehensively Romanized, particularly where the basic philosophical justification for democratic equality is concerned. Here is how the case is presented (De rep. 1.49):

Since law is the bond of citizen association, and the justice [ius] of law is equal [aequale], then by what justice can an association of citizens be held together, when the status of citizens is not equal [pari]? For even if making financial resources equal [aequari] is not appealing, even if everyone’s mental capacities cannot be equal, definitely the rights [iusa] of those who are citizens in the same commonwealth ought among themselves to be equal. For what is a citizen body [civita] other than an association in justice?

This is a pregnant piece of argumentation, which will require some midwifery to deliver its significance.

The final clause, articulating the assumption governing the whole train of thought here, directly echoes Cicero’s formulation a few pages earlier of one of the basic ingredients in his definition of res publica or commonwealth, as the res or “affairs and interests” of a populare (people) (Schofield 1995). A people, he says, is “an assemblage of some size which forms an association by virtue of agreement created by justice [or law as justice: ius] and sharing in advantage” (De rep. 1.39, later on that agreement is already being referred to as a vinclum, “bond”; De rep. 1.42). The last sentence of the present passage recapitulates “association,” but can omit everything else but “justice” as irrelevant to the thesis being advanced. But as well as reminding the reader of the original definition of a people, it serves also to draw attention to the opening move in the reasoning here—and to indicate that it was already implicit in the definition. For if we return to the “since…” clause at the beginning of the passage, we find Cicero unpicking the assumption underlying the argument, stated in such compressed form at the end, a bit more fully, distinguishing the law and the justice elements in ius.

First we get the claim that law is the bond of citizen association. This initial premise is not in the least unRoman. Indeed, as James Zetzel points out in his commentary on De republca (Zetzel 1985: 129), Cicero’s formulation puts one in mind of a famous purple passage in a speech to the court of 66 BCE (over ten years earlier), when he says of the laws (Clu. 146): “This is the bond that secures the esteem [dignitas] we enjoy in this commonwealth, this is the source of equity [aequitas]. The intellect and mind and thinking and judgement of the citizen body [civitas] are located in the laws.” The second premise—that the justice (ius) of law is equal—is if anything still more Roman. Pro Cæcina, a still earlier speech of Cicero’s (dated to 69 BCE), but probably “his last effort before the civil bar” (Frier 1985: xii), is saturated with appeals to aequitas, which as he uses it has been analyzed (Frier 1989: 120) as “a concept of ‘internal or inmanent fairness’ that mediates between an abstract general rule and the concrete, specific case”—precisely what in De republca he seems to have in mind, talking of the justice of or in the law. As Bruce Frier comments regarding Pro Cæcina (Fyer 1989: 122): “It is plain that Cicero enjoys the high ground of aequitas and the spirit of the law.” He must have expected on the occasion that invoking them to counter more literalist and legalistic interpretation of legislation would do much to help sway the jury in his client’s favor—as it probably did (Frier 1989: 231–232).

The adjecitives that would ordinarily correspond to the noun aequitas are aequibilis, meaning “equal,” when the focus is on aequitas as equality (e.g. Cic. De off. 2:41–42: “Equal justice is what people always seek [i.e. from laws embodying aequitas]—justice cannot be anything else”), or aequum, which is ambiguous as between “equal” and “fair.” The note of fairness is probably the one struck more loudly when Cicero says of the private individual—evidently by way of an intended commonplace—that he ought to live aequus et pari cum civibus iure, “in fair and equal justice with the citizens” (De off. 1.124). But when Livy makes a speaker talk of aequum ius being impossible unless the plebs have, through access to power, (impleensus) an equal (pari) share with the patricians in the commonwealth (6.37.4), his point is plainly one about the terms on which equal justice or equal rights are possible. In the second premise of his argument here, however, Cicero makes the unusual choice of aequitas as epithet (again meaning “equal”). I suspect this is because, while still wanting to evoke all the powerful associations of aequitas and ius aequum, talking of ius legis aequale (with the adjective in the neuter) allows him to hint at a significant wordplay: fairness = equal law, aequum ius[x].

However that may be, the consequence Cicero draws from his two premises, and then spells out further in terms of equal rights, is both entirely logical and again thoroughly Roman. If a citizen society is bonded by law embodying equal justice, then it follows that its members—the citizens—must have an equal status as they are to receive justice: they must have equal rights. That is precisely what Cicero thinks himself—and indeed takes to be uncontroversial as applied to private individuals. They should live in fair and equal justice with other citizens (De off. 1.124). The Ten Tables may have done little to ensure that the plebs as a class had political rights that achieved a balance with those reserved for patricians. Nonetheless the decemvirs insisted that they had “equalized rights” (Livy 3.34.3), a claim Livy represents as endorsed by the plebeians’ champion Tiberius Gracchus (Valerius 3.61.6), and as accepted with regret by the patricians (3.67.9). Although reconstructing the style and content of the Ten Tables is a hazardous business, it seems clear that the main achievement was to give definitive written formulation to customary private law. That will presumably have counted as an equalization of laws inasmuch as it provided any citizen, rich or poor, plebeian or patrician, with the same access in principle to knowledge of an established corpus of laws that applied to all equally as citizens, and that did not discriminate in content between citizens—hence the outrage when the decemvirs added their two further tables of “unfair” laws (imperium legis). Including the notorious rule prohibiting intermarriage between plebeians and patricians (e.g. Cic. De rep. 2:62–63).

So Cicero makes the democratic argument for equal rights exploit his own definition of what makes a res publica a res publica, in terms entirely at home in Roman thought, to achieve a general formulation of citizen equality which at that level of generality would constitute not just a valid deduction, but one any contemporary Roman would be more than happy to embrace—as the very foundation of Roman civil order. But of course, to work as a rationale for democracy the argument has to be taken more specifically as appealing to a conception of what political justice consists in if it is to generate the conclusion that all citizens should have equal political rights. And that is something no longer uncontroversial. Cicero makes Scipio argue on his own account that where, as in a radical democracy, all political business is transacted by the people itself, this is an equality (aequabilis: cf. Panorm. 1973) that is inequitable (inequum), because it provides for no distinctions in rank (dignitas) or honor (bonum) (De rep. 1.43; cf. 1.53). His view
is that the people will do better to entrust the management of what remain their interests and affairs to those with more capacity for deliberation and policy (consilium) (Schofield 1995: 77–81).

Sallust himself introduces a different kind of arguementative maneuver, but one designed likewise to undermine the case for democracy. In De agrikal he has his brother Quintus allege it is universally appreciated that the law providing for the secret ballot at elections has “deprived the best sort [optimates] of all their authority [auctoritas].” This was something, he goes on, that “a free people [populus liber] never wanted—they asked for it only when oppressed by the domination and sway of leading citizens” (i.e. populatarii politici) (De leg. 3.34; Cicero’s response at De leg. 3.38–39 is more nuanced, but he indicates that his own proposal on the subject is designed to present the form of libertas while preserving the auctoritas of “good men” (Niccol 1970). A very similar line of thought is developed at greater length in the Pro Senatu (56 a.c.), Cicero’s fullest political manifesto, where the general resistance of “the true people” (verus populus, Sen. 108, 114) to populatarii and their causes is given extensive chapter and verse. It is the Senate that is the constitutional guardian, custodian, and champion of the res publica. Magistrates are to be guided by its authority (auctoritas), and it is its historic responsibility to protect and enlarge the liberty and interests of the plebs (Sen. 137). Authority—auctoritas—is the final main topic on our agenda.

3 Authority

Sallust passes a grim verdict on the last decades of the Roman Republic (Cat. 38.3):

All who troubled the commonwealth pretended concern for the public good, with slogans that sounded honorable, some maintaining that they were defending the rights of the people, others that they were intent on maximizing the authority (auctoritas) of the Senate. But they were contending each for his own control of events (potentia).

The rights of the people (which have been getting the lion’s share of the attention in this chapter so far) are contrasted by Sallust with the authority of the Senate. But these could also be represented as complementary—indeed Sallust himself is probably implying that there was a time when they actually were (cf. Leg. 41.2). By the time Cicero composed his Philippics (44–43 a.c.), their pairing has become almost a mannerism when he wants to talk of the twined fundamental political values anyone who cares for the res publica will commit himself to upholding and championing (Phil. 4.5, 10.23, 13.33, 47). Senate and people together gave Rome its constitutional identity, as the emperor Augustus recognized when he claimed to have restored the commonwealth from his own power to the arbitrium (decision-making) of the Senate and the Roman people (Res Gestae 54.2)—and as was of course in the acronomy SPQR (Senatus Populusque Romanus) gives symbolic expression on countless coins and inscriptions as well as on military standards. There was a crucial difference in constitutional status, however (see Rhodes, Chapter 8).

The formal designation of the Roman state was res publica populi Romanorum Quiritium, “the commonwealth of the citizens of the Roman people” (Varro, Ling. 6.86). The people were the sovereign body, and its decisions (in legislation, trials, and elections) were needed to legitimate the outcomes of the processes in question. These and other powers, such as the Roman version of habeas corpus (prisoners), or again the powers of the tribunes to act on behalf of the plebs, were exercises of that sovereignty—of its liberty. What the Senate exercised, by contrast, was auctoritas: not the legally authorized exercise of imperium, but authority in the sense of authoritative influence, deriving formally from its constitutional role as the chief forum for deliberating public policy and for advising the consuls and other senior magistrates on the decisions they needed to take—executive decisions were for magistrates, not the Senate itself—in order to implement it (for the institutional context, see Mommsen, Chapter 9).

This was undoubtedly a rather extraordinary form of “influence.” The Senate was the one relatively cohesive and stable political entity at Rome, with descendants of the same wealthy landowning families appearing generation after generation, acculturated to a strong aristocratic military ethos. In influence when at its height represented enormous power, even if formally speaking that remained “advice,” or “leadership” (dirigerentia), as Livy’s Greek contemporary Dionysius of Halicarnassus conceptualized it in his Roman Antiquities (e.g. An. Rom. 6.71.3, 6.74.3, 6.85.1, 7.50.4; cf. Plut. Rom. 13.4). That advice could be formally expressed in senatus consultum, which were conceived as resolutions magistrates would ignore at their peril, with the senatus consultum ultimum a resolution “of last resort,” which would purportedly authorize emergency action (overriding the laws) to protect the commonwealth from unusual danger.

What the late Republic called the authority of the Senate was the descendant of what Livy when writing about the early Republic called “the authority of the fathers” (e.g. 3.21.1, 6.19.4), i.e. of the hereditary aristocracy known as “patriarchs” from their designation corporately as patres, “fathers.” Quite why they were so designated is unclear. Likewise: “It is very uncertain precisely what the auctoritas patrum amounted to” (Cornell 1995: 541). The Roman paterfamilias’ legal powers over his family and household and its properties, if not universally absolute, fell not far short of being so. His authority in this sphere by the same token constituted something very stronger than paternalistic “advice,” “leadership,” or “influence” (although Plutarch graphically explains how Romanus called senators “fathers” precisely to encourage them to exercise paternal care and consideration, without inspiring fear or envy [Plut. Rom. 13.3]). It more resembled sovereignty. Yet, as everyone knew, sovereignty was not vested in the Senate, nor even in the early largely patrician Senate. The associations of the expression “the authority of the fathers” perhaps occupied a more indeterminate (and thereby the more potent) hinterland between advice commanding respect on account of its source, and the powers vested by law in a paterfamilias. Did talk of “the authority of the Senate” convey something of the same indeterminate resonance, reassuring or threatening, depending on circumstance and one’s place in the social and political order?

Certainly the dynamics of popular liberty and senatorial authority ran in opposite directions: broadly speaking, democratic and oligarchic respectively. Livy writes the entire history of the early Republic as an unceasing sequence of struggles between these countervailing forces. On the other hand, given the constitutional division of responsibilities between consuls, Senate, and people, there was obviously no theoretical incompatibility between the authority of the Senate and the liberty of the people. In Book 2 of De republica Cicero—here following Polybius and conceivably also Pausanias, Greek theorists of the mid-second century a.c. (De rep. 1.34, 2.27; Polyb. 6.11–18)—represented the contemporaneous Roman Republic as having achieved a balance between consular power, senatorial authority, and popular rights that made for harmony, not conflict. Whether or
not it really did do that, there is nothing intrinsically impossible in the idea of a mixed constitution that could achieve it: the ideal form of constitution is what Cicero takes as his formal objective in the dialogue (cf. De rep. 2.64–66).

But it appeared to observers that in the last decades of the Republic any such balance had been and was being progressively shattered. In their assessment there had been a fatal blurring of the distinction between defense of the authority of the Senate and the concern for their own dignitas, their desired status or pre-emience in the perception of the people and of their peers, on the part of its leading members—something not in itself illegitimate. Long ago, early in the second century B.C., Cato the Censor had said (Malcomi, ORF, 3rd edn., 8.252): “Justice, law, liberty, the commonwealth—these must be things we share. Glory and honor are to be enjoyed as each achieves for himself.” Now, however, to quote Sallust again, “the nobility began to turn their dignitas and the people their liberty into unrestrained desire” (Iug. 41.5), perhaps echoed in Livy’s observation on how different from the struggle between liberty and dignitas that has prevailed in his own times was the “moderation, fairness [sequinitur], and elevation of spirit” of which the people as a whole showed themselves capable in the period following the turbulent episode of the decadvrate (4.6.11–12).

Cicero complained in a letter to Lentulus Spinther of 55 B.C. that the great aim of men who had succeeded in public life—“dignitas in expressing our views and libertas in taking our part in public affairs”—was altogether lost under the dominance of “the few,” i.e. the triumvirate of Cæsars, Pompey, and Caesar (Iug. 1.8.3). In other words, in his evidently partisan perception the dynasts had crushed both the liberty of the people, which not merely gave the plera their rights, but ensured senior statesmen their own place in public life, and the proper dignitas they could expect to have recognized when they fulfilled their public responsibilities. Nor was it that dignitas just (as he saw it) then own. Two years later we find Cicero writing to the spirited young Curio urging him at a time of affiliation for the commonwealth to “prepare, reflect, and think” so as to be able to emancipate it into its “old dignitas and libertas” (Iug. 2.5.2; cf. e.g. Phil. 3.19: “the libertas and dignitas of the Roman people,” i.e. the freedom and respect it used to enjoy). Others might have thought that Cicero’s confidence that the dignitas and libertas of his own political class and those of the Roman people survived or fell together simply illustrated the historical diagnosis Sallust and Livy were subsequently to articulate.

4 Concluding Reflections

Before the full Latin version of Augustan Res gestae was reconstituted, it was generally supposed that Mommsen must have been right in thinking that the emperor had ended his testament with the unpersuasive claim that, while he outstripped everyone in dignitas, he had no more power than those who were his colleagues in the magistracies he held (Res gestae 34.3)—on the reasonable assumption that assima in the Greek version best translates into Latin as dignitas. In fact with the discovery of the Monumentum Antiquorum it transpired that the word in question was auctoritas, something that was indeed inherent in one’s dignitas (Cicero in an early work actually defined dignitas as “auctoritas deserving of devotion, honor, and respect” [Iul. 2.166]).

Richard Heine, author in 1925 of the foundational modern study of the concept of auctoritas, observed that while all societies have to have room for a notion of authority, there is something distinctively Roman in auctoritas, highlighted by the comparison with Greece. The word signified a mutually reinforcing union of social and political standing and of impressiveness in character and judgment, with a consequential power to exert influence which was often summed up as gravitas (Hellekson as ‘1962: 229–230).

Assima is in fact better fitted to render dignitas than auctoritas (for which there is no entirely obvious or satisfactory Greek equivalent), and neither asima nor any similar Greek concept represented—as did auctoritas at Rome—a vulture fundamental to the ideological basis supporting the operation of the political system and the apparatus of government (Heine 1925: 363–364). Greek political thought, both theoretical and practical, respected wisdom and judgment, and of course in many Greek cities there was a council (boule) to advise or prepare business for the popular assembly (see Rhodes, Chapter 8; cf. Rhodes with Lewis 1997: 475–497). But there was no expression yoked habitually to boule as was auctoritas to senatus, to indicate the weight of its deliberation or the respect it carried or deserved to carry. Timai ("honors"), the most obvious Greek equivalent for auctoritas, was no less important as a motivation to politics; and in Athenian political offices were standardly called timai ("honors"). But the Greeks seemed to have lacked the intense sense of hierarchy that led the Romans to devise the rigid career ladder of the cursus honorum, or the various forms of gradation governing the composition and procedures of the centuriate assembly.

Although equality and liberty were by contrast concepts fully at home in Greek as in Roman political discourse, their role in Roman republican culture was significantly—and by now not unexpectedly—different. Henriq Mouritsen has written (Mouritsen 2001: 11; also Chapter 9):

Libertas was the common ideal invoked by all Romans who aspired to power, no matter what their political views and methods might otherwise have been. ... All political acts and arguments must be justified within the ideological framework of the liberty of the res publica and the populus Romanus. And precisely because it was such a fundamental tenet of the identity of the Roman state, all political agents could draw mental capital from it and capitalize it for their own purposes.

Greek politicians and theorists of politics of course invoked the idea of freedom a good deal, not least when celebrating their escape from Persian tyranny or warning against similar threats. But for the Greeks it never constituted the framework within which different factions competing for power and for the moral high ground had to develop their rhetoric. Similarly, whereas Greek romanitas usually meant equal individual political rights (though classical Greek had no developed vocabulary of rights), and is often virtually synonymous with democracy, Roman talk of jus sequinum or leges sequinum could be applied to classes as well as individuals and their citizen rights, and once again was common ground for all Romans—it struck no distinctively democratic resonances (Wiszubski 1950: 13–15).

In Greece it looks as though the warring or potentially warring classes subscribed to quite different ideologies—which could indeed be nuanced to appropriate some of the opposition’s rhetoric and lines of thinking, but remained in essence poles apart. At Rome things were different. It may never have achieved the harmony of the mixed constitution celebrated by Cicero’s Scipio. Yet the liberty of the Roman people and the fundamental significance of the idea of the res publica constituted shared values, so that the
struggles between the plebs and their champions and the Senate and its protagonists sound much more like family debates and fractures than ever was the case in Greece—as Greek observers themselves commented (Dionys. Ant. Rom. 7.66.4–5; App. B. civ. 1.1.1).

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REFERENCES

Arena, V. 2012. Libertas and the Practice of Politics in the Late Roman Republic. Cambridge.
Wenzel, T.C. 1950. Libertas as a Political Idea at Rome during the Late Republic and Early Principate. Cambridge.

FURTHER READING

There are two excellent well-established general studies of the subject matter of this chapter, each taking the idea of libertas as its main focus, and providing authoritative guidance on the whole topic. Winzheim 1950 is an attractively written monograph, although readers whose Latin is not as fluent as they might wish will need to have translations or dictionaries at hand, since the frequent quotations are left in the original. The chapter in Braud 1988 entitled “Libertas in the Republic” does not present the same problem. It engages with the historical realities in greater detail and depth, as well as offering acute discussion of many of the conceptual issues. A major new treatment (Arena 2012) highlights the Romans’ common understanding of liberty as fundamentally non-domination, but argues that optimism and populism appeals to libertas typically reflect two distinct, well developed intellectual traditions.

For understanding the way the vocabulary of liberty, equality, and authority functioned in political discourse, a useful resource is Helfgenourch’s 1965. Cicero’s political theory in On the Commonwealth (De republica) and On the Laws (De legibus) is best approached via Zetzel 1999, which as well as its translation supplies introduction, bibliography, synopsis, and notes on key terms. Cicero is inevitably a main source, though his voice as always needs counter-balancing with, for example, Sallust’s viewpoints associated with more “popularis” political leaders, to whose ambitions, activity, and ultimately ascendency Cicero was so bitterly opposed, are unsurpassed and sympathetically assessed in Wiseman 2009—which relates also to an ongoing scholarly debate about how much the people (whether in its powers as a formally constituted body or as the Roman plebs) really mattered in late republican politics.

The sphaira of the Roman ideal of libertas in the Western political tradition has received considerable attention in recent years; see, for example, Skinner 1998 (with bibliography). Contemporary political philosophers have developed and advocated a theory of “republican liberty,” as what might be seen as a middle way between political philosophy in communautarian style and the prevailing individualistic political liberalisms: see Pettit 1997.