

9 Liberty and Democratic Insurgency

The Republican Case for the Right to Strike

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The strike is the oldest form of resistance to domination in the republican tradition. Yet, throughout the tradition's long history, most republicans have attempted to suppress this fact. The most famous metaphors and institutions handed down to us are meant to communicate images of harmony and balance. Consider, for instance, the famous metaphor of the body politic. In Book II, Livy has Senator Menenius Agrippa chastise a group of rebellious plebs who come into conflict with the "Senatorial belly":

In the days when all the parts of the human body were not as now agreeing together, but each member took its own course and spoke its own speech, the other members, indignant at seeing that everything acquired by their care and labour and ministry went to the belly, whilst it, undisturbed in the middle of them all, did nothing but enjoy the pleasures provided for it, entered into a conspiracy; the hands were not to bring food to the mouth, the mouth was not to accept it when offered, the teeth were not to masticate it. Whilst, in their resentment, they were anxious to coerce the belly by starving it, the members themselves wasted away, and the whole body was reduced to the last stage of exhaustion. Then it became evident that the belly rendered no idle service, and the nourishment it received was no greater than that which it bestowed by returning to all parts of the body this blood by which we live and are strong, equally distributed into the veins, after being matured by the digestion of the food.

(Livy 1905, 2.32)

While everyone remembers the image, few recall the context: a general strike of Roman peasants, often called "plebeian secessions." Invoking the organic harmony of the body politic was a last-ditch effort to convince the plebeians to stop disrupting the natural order of things. On Livy's telling, Agrippa was the first in a long line of strike mediators of unconvincing impartiality. The plebs eventually went back on strike, to the point of nearly handing Rome over to the approaching Volsci. As a consequence, the plebeians finally won a reprieve of their debts and, even more importantly, the first of the famous institutions of republican

liberty: the tribunes.¹ Many of the other political attributes identified with republican liberty – abolition of debt-slavery, popular suffrage, plebeian representation – only emerged after other plebeian secessions (Lintott 1999, 191–231).

The plebeian secessions ought to interest us because they were the major way plebs won a measure of liberty in an oligarchic republic where political inequality blended almost seamlessly with private domination. These are similar concerns to our own. To be clear, I do not seek in the plebeian secessions some ancient mode of politics that can correct a modern problem. Rather, I wish to remind us of how old this kind of collective resistance to arbitrary power is. The plebeian secessions are the ancient analogs of the events like the Chartist struggles of the 1830s and 1840s, the American strike waves of 1877, 1894, 1919, the 1930s, and the 1960s, or the mass actions in China today.²

The case for the right to strike I wish to make here is that it is a more democratic reading of republican politics than the one to which we are accustomed. By democratic, I mean the exercise of popular power under conditions of domination. That is to say, I speak of the kind of insurgent exercise of power against uncontrolled rule, rather than of an ideal theory of the institutions that would guarantee everyone political equality and self-rule.³ That was how the plebs used it and it is how modern workers have often used it. The strike is one version of this insurgent exercise of power in the name of republican liberty.

One reason it is important to make this republican case for the right to strike is that neo-republicans have been better at specifying the ideal conditions of a republican constitution than they have been at thinking about how, in the absence of anything approximating that ideal, the dominated may respond to their domination. Part of the reason for this aporia is the tendency to begin with first principles and then to derive free-floating institutional prescriptions from those principles. While that is one valid way of proceeding, it leaves a wide swath of the actual political world untouched. The various attempts to organize and exercise power under persistent conditions of domination barely come in for evaluation beyond condemning them as unjust. An alternative way of thinking about the principle of republican liberty, then, is to ask not “what, ideally speaking, does it require institutionally?” but “what, given

¹ I take this to be one of the primary lessons of the middle part of Book 2.

² On strikes in China today, see Friedman 2014.

³ On democracy as a capacity or anti-normative exercise of popular power, see Ober (2008, 3–9); Wolin (1994, 11–25). The insurgent mode I have in mind is not as fugitive as Wolin’s or as broad as Ober’s because it is oriented towards a specific principle: the resistance to domination.

the circumstances, may actually existing actors do in its name?" What are the *politics* of liberty? One republican argument must be: workers may go on strike.

To make this argument I must first give an account of how the modern workplace, under typical economic circumstances, is shot through with domination. Then I explain why the strike is one important way of resisting and, in some cases, overcoming this domination. Although general strikes are the most heroic, and sometimes most tragic, instances of this resistance, the republican argument comprises more than these extraordinary instances. Even the standard, more contained, and defensive strike should be part of the repertoire of democratic insurgencies against domination.

1 Domination and the Workplace

On June 1, 2016, nearly 40,000 Verizon workers went back to work after forty-five days on strike. Like strikes of an earlier era, a major sticking point was control over the workplace. Among other things, strikers demanded an end to disciplinary procedures, arbitrary suspensions, and unreasonable work demands (Gourevitch 2016c). Unlike many American workers and workers around the globe, Verizon workers are lucky enough to have a well-organized union, yet they still face these forms of arbitrary control. Up and down the labor market, contemporary workers find themselves subject to a wide range of arbitrary power. Workers may be fired for their physical appearance, sexuality, or political views, or they may be required to stay after work without pay or accept unpredictable work schedules each week (for some examples, see Gourevitch, Robin, and Bertram 2012). Those with few choices and little power, like migrant workers, have found themselves wearing diapers, locked in workplaces, forced to change religious practices, or unfree to go out with whom they please, all on pain of being fired (Garrison, Bensinger, and Singer-Vine 2015; Mason, McDowell, Mendoza, and Htusan 2015; Singh 2016). We might see these abuses as distinct injustices of diverse origin, but I propose we see them as forms of the same problem of varying severity: domination. Strikes are one way of resisting that domination.

There is some disagreement among neo-republicans about how to understand domination. I must bracket that disagreement for the purposes of this essay. I will just say that an agent is dominated when she is subject to uncontrolled interference with her choices. The paradigmatic example is, of course, the master-slave relationship. The master dominates simply in virtue of having the uncontrolled power to interfere

with the slave's choices. The slave is unfree in virtue of his relation to the master, prior to any act of interference.

Modern economic domination, as it exists today, differs from its ancient analogs because it arises from within a different social ontology. There are no legally prescribed social orders and slavery is (for the most part) abolished.⁴ Slavery and independent proprietorship have been replaced by wage-labor as the dominant form of the work process. Most production takes place outside the household, giving the economy a more impersonal and quasi-public character. Broadly speaking, the development of universal citizenship, free labor, and the modern workplace can give the impression that economic domination is not a major concern. More specifically, it gives the impression that because wage-labor is based on consent among *independent* parties the only concern is whether the labor contract is truly free.⁵

There are multiple mistakes in this view. For one, even at an ideal level, there is no way to derive all power relations in the workplace from the contract itself (Anderson 2015; Gourevitch 2013). That is the force of Elizabeth Anderson's argument in this volume. So even if, in principle, we could make the contract truly or fully free, that would be an incomplete achievement in minimizing economic domination. My further point, though, is that a proper social analysis of actually existing economic relationships must recognize the domination that both precedes and comes after the making of the contract. In the typical case, domination arises from sources that are relatively independent of the contract itself.

In the past, I have suggested that we distinguish between structural and personal domination (Gourevitch 2013; 2016a). Workers face structural domination insofar as they find themselves unequally forced, by their lack of reasonable economic alternatives, to enter the labor market and work for an employer. They are unequally forced because others, due to the money they have made or inherited, are not similarly forced into the labor market for their able-bodied years. This is structural domination in the sense that workers find their options limited in an uncontrolled way not by a single agent but by the entire legal structure of unequal control over productive property. There is no way for most people to maintain access to necessary goods except by finding a job, earning money, and buying them. This structural domination corresponds to a specific kind

⁴ On the sense in which Rome was a society of orders, based on legally distinguished ranks and powers, see Nicolet (1980, especially 17–48, 317–342).

⁵ I discuss the liberal interpretation of republican liberty and free labor in Gourevitch (2014, ch. 2).

of dependence: dependence on an employer. This is not some kind of abstract, mutual dependence on society at large or a form of mutual, equally situated dependence. Rather, it is a dependence predicated on significantly unequal control over essential resources.

Structural domination is a wrong in itself. But it is all the more problematic from a republican standpoint for how it feeds into the creation and preservation of personal domination between employer and employee. In the standard case, it tends to give employers greater bargaining power than employees when negotiating terms. Even when terms are agreed, though, the full extent of personal domination appears in the workplace itself in the various forms of uncontrolled power that employers wield in relation to their employees. Although it is sometimes thought that the power and authority of employers can be derived from the contract itself, this is false both as a matter of fact and theory. Actually, existing workplace power relations are determined by various laws and material realities. These facts are not mere historical accidents or unfortunate aspects of policy, but a product of the way that labor contracts are inherently incomplete. They are incomplete in general ways as well as in ways specific to the fact that a person's physical and intellectual powers are rented to another,⁶ and that the workplace is, anyhow, a form of government (Anderson 2017). Structural domination is an important part of what makes these workplace government relations into relations of domination. So the upshot is, in virtue of structural domination, most workers are forced to enter relations of personal domination because, no matter how dominated or nondominated the contract, their workplace is itself a site of domination. But domination in what sense?

Employers enjoy uncontrolled power for overlapping reasons of law and material fact. It is worth taking some care in differentiating these sources of power because this allows us to better understand what is at stake when strikers resist this domination.

One source of managerial domination comes from legislatively and judicially granted *legal prerogatives*. In the United States of America these are called "core managerial prerogatives." Within certain very broad boundaries, bosses are free to make decisions about investment, hiring and firing, plant location, and work process without workers having any formal, legal control over these decisions.⁷ For instance, managers may fire employees whose political views or sexual orientation or even

⁶ On human rentals, see Ellerman (2015).

⁷ On the injustice of "managerial prerogatives," see Stanczyk ("Marginal Liberalism," unpublished manuscript).

physical appearance they disapprove of.⁸ Or they may introduce surveillance devices that, say, monitor whether a truck driver buckled his seatbelt before or after turning on the vehicle (Bruder 2015).

There is also legal discretion that managers have not by judicial or legislative grant but in virtue of *contractual alienation* that takes place in specific agreements with workers. For instance, workers might sign a contract that permits managers to require employees to submit to random drug testing or to searches for prohibited substances (American Civil Liberties Union 2018). Or they might sign non-compete clauses that make it nearly impossible to get another job in the area for which they are qualified. That is the condition of nearly 30 million Americans, including 14 percent of those who make under \$40,000 per year (Office of Economic Policy 2016, 4). Though these kinds of legal authority derive from voluntary agreement among contracting parties, they are often just the kinds of powers that workers must alienate in virtue of dominated bargaining relationships. That is to say, workers are forced to alienate control to get a job.

The first two forms of workplace domination take the form of legal authority – as *legal prerogative* or *contractual alienation*. But managers also can have the *material power* to issue commands, even when these commands are illegal. Employers can have this power because of an employee's fear of losing her job or fear of the way the boss will exercise one of his legally permitted powers to punish her. Such commands can include getting workers to do things that might not be part of the job, say walking the boss's dog. Or they might include actions prohibited by law – like forcing workers to perform sexual favors, change their religious practices, or work in unsafe conditions (Garrison, Bensinger, and Singer-Vine 2015). In these cases, the manager is not exercising any lawful authority to give the specific orders he is giving, but he nonetheless has the power to give these orders.

So there are three mutually reinforcing dimensions of personal domination in the workplace: *legal prerogatives*, *contractual alienation*, and *material power*. Each of these describe swaths of arbitrary power that employers enjoy over their employees. Further, employers enjoy this personal domination over employees against the background of the structural domination of workers. The contours of each and the degree to which they reinforce each other will vary country by country, and within countries. But in all existing capitalist societies they hang together to provide employers with large swaths of uncontrolled power over workers.

⁸ On the history and legal content of managerial prerogatives, see Pope (2004); Burns (2011, 47–55); Atleson (1983, 67–96).

Although it does not count as a separate form of domination, I wish to highlight just one specific way in which an employer's domination is exercised that is of particular relevance to the topic of this book as a whole. Nineteenth-century figures regularly worried that employers would use their power to corrupt politics, not just through undue influence on elections and judges, but by using their power over employees to influence their political activities (Gourevitch 2014, ch. 4). Recent research confirms that employers regularly interfere with their employee's political activities in a variety of ways, from requiring that they engage in certain kinds of actions to forcing them to listen to certain kinds of political advocacy (Hertel-Fernandez 2015b). This is one way in which a more aristocratic republican order is protected from its more democratic variant.

2 Why Strikes?

Political philosophers tend to react to economic domination by fashioning proposals to eliminate it. For instance, some neo-republicans defend a universal basic income because it gives workers a real ability to exit employment. The workers' credible threat of exit limits the dominating power of employers (Lovett 2009; Pettit 2007a). Others, including Elizabeth Anderson in this book, reach even further, proposing forms of workplace democracy or a major redistribution of property.⁹ It is natural to respond with technocratic proposals, even utopian ones. After all, eliminating domination can appear like the most urgent and most fundamental question. And that looks like a question about the best policies and ideal institutions.

That approach has its place, but it also directs our attention away from the question: what, here and now, may the dominated do to resist their domination? This is, we might say, a republican version of the famous political question "who can do what to whom?" Here is where the strike comes in. The strike is one way that workers resist their domination. It is a way of resisting that domination where they experience it: at work.

As I have argued elsewhere, the strike is a way of resisting by reversing the normal relations of domination (Gourevitch 2016c). Under the normal state of affairs, workers can quit the job but they can't quit work. That is the simplest way of expressing the overlapping forms of structural and personal domination in the workplace. During a strike, however, workers quit working but they don't quit the job. After all, all strikes

⁹ See Anderson (2017); Domènech and Raventós (2007); Gourevitch (2013; 2016a); Hsieh (2005); White (2017).

are work stoppages to achieve some end. The work stoppage inverts the normal conditions; instead of workers losing their jobs, employers lose production. But the way that strikers tend to stop production is by refusing to work and by preventing others from doing that work. Replacements, on this view, have no right to do the work that workers refuse to perform. On its face, this appears like a bizarre assertion by workers of a right to a job they refuse to do. Yet, given the oppressive legal and social structure of labor markets, it is an inescapable part of the strike. Workers cannot avoid making the claim that they are quitting work but not the job. This formal inversion reflects the attempt to invert the prevailing relations of power. Instead of workers being forced to submit to the employer's will out of fear of not having employment, employers must submit to the workers' collective will out of fear of not making profits.

Nothing in the previous paragraph justifies the strike, it only explains some of its apparently quixotic features. Nor does it explain what is specifically republican about the argument for a *right* to strike. But note that the foregoing account emphasizes the way collective power is exercised, not what its object is. On a liberal justification of the right to strike, we might think that the legitimate object of a strike is to achieve certain distributive ends or to make labor contracts fair (Gourevitch 2016c). Or we might think that distributive unfairness, like low wages, inadequate benefits, or broad inequalities, explain why workers should have some labor rights. It has to be said in passing that almost no current philosophical liberals even argue that. Here, however, is where the republican emphasis on domination is of special value. It allows us to open up the arena of workplace power relations and make them, too, a reason for striking.

That is not a purely theoretical result. It helps us make sense of some actual strike practices and demands. As mentioned, a recently concluded strike at Verizon made workplace control a central issue, nor was it alone. Control over rules, resisting bosses, and seeking more power over investment and production decisions has historically been a central feature of strikes (Montgomery 1980, 91–101). That does not mean that bread-and-butter issues, like wages, benefits, and hours, are *not* relevant to the republican view. Rather, to the degree unequal distributive outcomes are a product of relations of economic domination, then they too are the important objects of contestation. This means that we can see even normal strike demands as ways of resisting domination – via resisting its effects. From the republican standpoint, then, the right to strike is a right to resist domination regardless of whether a particular strike happens to be about workplace control, or compensation, or both. Striking is the

act of resistance. Demands are as varied as the sources and effects of domination.

We might worry that the typical strike tends to be about domination in a particular workplace. It only tends to address the structural dimension of domination to the degree that it shapes relations among employees and a particular employer. That is only natural given that the most immediate and regular way in which workers experience their domination is via the daily commands of their managers. Natural as this may be, it tends to mean structural domination remains in place. One response is that the reduction of structural domination does sometimes become the central demand, as it was in the case of the plebeian secessions in Rome or during general strikes in the modern period. But that is rare and tells us little about the typical strike. It does raise the question of just which kinds of strikes the republican argument is meant to defend and whether some strikes have priority over others. To answer that question, we need to deepen the republican argument for why workers have a *right* to strike.

3 Which Strikes?

We might think that the republican case for a right to strike hinges on the actual success of strikes in reducing the domination that workers experience. The strikes that stand the best chance of reducing the greatest amount of domination are the ones that republicans ought most to prefer. Therefore, we might think general strikes have pride of place over, say, workplace strikes, since the latter have a narrower application, do less to reduce structural domination, and might even displace domination onto other, even-less-powerful workers. However, there are multiple considerations here.

Recall that, in the republican tradition, one of the great evils of domination is the way in which it tends to produce habits of servility. While the existence of servile dispositions is not, in itself, proof of domination, nor is a condition less dominating because the dominated have not become servile, it is nonetheless the case that the inability to look others in the eye is said to be one of the central wrongs of domination.¹⁰ For this same reason, those forms of collective action that overcome servile, or at least more passive, dispositions should be seen by republicans as good *in themselves*. It is the recovery and realization of a capacity for self-rule that had been suppressed or lay dormant.

¹⁰ On the relationship between servility and domination see Skinner (2008). Pettit has formalized this as the “eyeball test” in Pettit (2012a).

As anyone who has read accounts of strikes knows, that kind of awakening-to-freedom is a frequent experience.¹¹ In my own research, interviewed Verizon strikers frequently mentioned the way their strike gave them a new feel for their own power and a greater willingness to stand up to arbitrary demands by management. As one strike leader told me, “They thought they could put the pressure on us and we would crack. I think it has had the opposite effect.” He mentioned, among other things, a greater willingness to stand up to managers and challenge arbitrary directives. Another striker confirmed this newfound sense of freedom. She said, “now you have a whole workforce that has extensive strike experience. We know what it takes. We’ve been through it. We’re the new battle tested union members” (Gourevitch 2016b).

We find these expressions of pride and independence throughout the modern history of strikes. That is why one republican argument for the value of strikes is that it involves the dominated in exercising their own power. This very exercise tends to be a way of overcoming the passivity or servility that is normally demanded of them. That is a republican justification for a right to strike that is independent of their material consequences.

We should not underestimate the importance of that kind of justification, but it is insufficient alone. It cannot bear the full weight of justifying a right to strike for all workers. For one, this moral-psychological effect is an essential byproduct. It depends generally on strikes having desirable consequences. Otherwise, whatever feelings of independence they generate would be more like exercises in self-deception; workers would feel independent despite the fact that they were regularly and predictably undermining their own interests or failing to win their professed causes.

The central republican justification for the right to strike is that strikes tend to limit or reduce the domination to which workers are subject. I take it as given that republicans think there is a general right to resist domination. The strike is one particularly effective way of resisting domination at the point in the economy at which workers find themselves. This instrumentalist justification does mean that there is a kind of moral hierarchy to strikes. Those strikes that address a more extreme form of domination, or that reduce domination for a larger share of the population, are superior to those that involve lesser forms of domination or fewer workers. So, for instance, a mass strike that is able to change

¹¹ I do not seek to downplay the disheartening experience of defeat, which can not only break families and destroy organizations, but lead to even more profound acquiescence and servility.

the structure of ownership as well as the day-to-day operations of most workplaces is of greater value to republicans than a strike at a single store.

However, before we think that this is an argument that anything short of revolution is of little significance to a republican, we must take into account some complications. For one, we have to discount strikes by their likelihood of success. This is not a matter of known probabilities, but of rough judgments given the inevitable uncertainties of collective action. While a successful large-scale strike might do more to reduce structural domination than smaller-scale strikes ever could, the former are, under most conditions, distant theoretical possibilities. They are extremely unlikely even to get off the ground, let alone have a chance of success. So rejecting some local strike on the grounds that it fails to transform society is just an apology for inactivity, not a defense of truly transformative action. Given the emphasis of my argument on what actually-existing workers may do now, in the face of compounded economic domination, it is important that we not dismiss real possibilities in the face of imaginary desires. Another consideration is that those large-scale strikes do not emerge out of nowhere.¹² They tend to arise after long periods of not-always-successful lower-level strikes. To the degree that the success of a strike matters for our evaluation of the right to strike, then, we have to allow that “success” can refer not just to winning actual demands, but to developing the capacity required to eventually carry off more effective strikes.

However, it cannot be denied that there will be times when different strike cultures and forms of labor organization will conflict.¹³ That is when the question of the priority of a locally exercised right to strike against a broader struggle matters. Under some conditions, powerful unions can end up protecting the interests of their members, even carrying out quite successful strikes in the name of those interests, at the expense of addressing wider relations of domination. They might win a measure of freedom for their workforce, but by refusing to develop the broader connections needed to challenge structural domination. In those circumstances, the republican argument must be against those more partial efforts because they undermine attempts to redress more significant relations of domination. That judgment would rest on social analysis, not on categorical views about the superiority of mass strikes over local ones.

¹² The study of strike waves is barely a part of social science. On their history in the United States of America, see Brecher (2014). For social science material, see Naidu and Yuchtman (2018); Cramton and Tracy (1998); Currie and Ferrie (2000); Tilly (1974).

¹³ Unions have at times gone to war with other unions, and national leaderships have often differed with more militant locals. For example, on the Clinton Corn and the Hormel strike, respectively, see Fantasia (1988, 180–225) and Rachleff (1993).

So the republican case for the right to strike rests on an argument about resistance to domination, but we cannot draw any concrete conclusions from that general point when it comes to which kinds of strikes we ought to favor. It can only tell us that workers have a right to strike and that the evaluation of particular strikes requires finer-grained analysis of the political conditions under which those strikes take place. The wider theoretical point is that the right to strike and the many considerations that come with it do not even come into view unless we ask what the dominated may do. In the face of compound relations of domination, they are not required to wait until philosophers have designed the perfect institutions for eliminating domination and until states have implemented these institutions. They are justified in seeking to emancipate themselves, in whatever limited way available to them. This moral right that they exercise is a claim on the community. In some cases, this right of resistance is even a claim against the requirement to obey the law, or a morally justified rejection of dominant norms and rules, so long as that community is structured in a way that subjects its workers to overlapping relations of domination.

4 A Democratic Qualification to Republicanism?

So far I have made the right to strike appear unproblematically republican. In important ways it is part and parcel of the revolutionary republican tradition, which runs like a red thread from the plebeian secessions through to the anti-monarchical rebellions of the sixteenth to eighteenth centuries, to the social or “red” republicanism of the nineteenth and early twentieth centuries. However, neo-republicans might worry that there is something too democratic about this republican case for the right to strike. After all, I have not defended a moral argument for a legal right to strike but, rather, a moral right to strike. That is something a bit broader and less constrained by law. After all, the economic domination analyzed above is itself a product of law – of illegitimate law on the republican view. But if workers may assert this right to strike against employers and even the state, then it looks like the response to domination is just another form of domination. The strikers are free to exercise their own judgment about when to use their collective power to try to force employers or the state to meet workers’ demands. What could be more arbitrary or uncontrolled than that?

There are two unsuccessful responses to this concern. One is that we should revise the republican case to be a moral argument for a legal right. The state ought to give workers a suitably designed, and legally protected, right to strike. It is true that the state ought to do that. The

state ought to do a great many things that it doesn't do. That is an underlying point of this whole essay. We are asking what the dominated may do in the face of systematic domination, not what the state ought ideally do. Moreover, since by stipulation we are talking about actually existing states, whose property, contract, corporations, and labor laws create the very domination we are concerned with, the problem is about how the dominated should respond *given* the state's participation in dominating them. It is non-responsive to say that the very same state ought to adopt a legal right to strike. That just transforms this entire argument into another version of the ideal republican proposals mentioned at the outset of this argument.

A second unsuccessful response is to say that the republican right to strike is not problematic because it is morally justified. The exercise of coercive collective power, which at least some justified strikes necessarily involve, is nondominating when it involves eliminating relations of domination or creating institutions that maintain the liberty of individuals. On its face, this sounds similar to the neo-republican argument that some forms of interference are not dominating.¹⁴ Those forms of interference, like legitimate law, that constitute interpersonal relations as nondominating are not themselves acts that compromise the freedom of individuals. One example would be taxation and redistribution. A tax interferes with those who are taxed, but, if properly designed, does not change their material situation such that they are now economically dominated by others. Meanwhile, those who receive the transfers see a decrease in their domination because of their new economic independence.¹⁵

This version of the argument could somehow apply to the right to strike, but only if we were to see the fact that the right is morally justified as analogous to the fact that a reasonable tax policy were the product of legitimate law. We might then say that the right to strike is morally justified in the sense that all those affected – not just workers, but employers too – would accept it if they were thinking reasonably rather than putting their personal interests over the general interest. This, however, stretches the concept of control too far. We cannot say that a mass strike would be controlled in the proper republican way just because everyone *would* agree to it if they were thinking about republican morality properly. The reason that the rule of law has been an enduring feature of

¹⁴ Pettit was the first to develop this formulation (1997, 22–24). It has somewhat subsided as a theme of neo-republican theory. However, for better and worse, I take it to be an important conceptual feature distinguishing the republican from the liberal view.

¹⁵ This is Pettit's reasoning when it comes to a basic income in Pettit (2007a).

the republican view is that laws are public, known, and enforced by an agreed authority who, on the republican view, each citizen participates in controlling. The republican idea is that non-arbitrary political power requires an ineliminable element of active control as well as publicly known standards by which shared norms and laws are enforced. At the very least, there is meant to be some more direct connection between the legitimate authority enforcing law and the will of each citizen. Self-government is part of individual liberty because it secures the conditions under which the exercise of coercive public power is properly controlled by each member. But that kind of control does not exist when it comes to saying the right to strike is grounded in republican morality. Invoking some kind of hypothetical consent is far too weak. We cannot avoid the fact that strikers will, in many cases, be imposing their will on others, without employers having the kind of control over strikers that would make that interference nondominating.

Does this mean that the republican impulse to resist or eliminate domination comes apart from the democratic one? Is the insurgent character of strikes, especially industrial and mass strikes, something that places them outside republican theory? After all, the standard republican response to arbitrary power is either to eliminate or tame it, not develop justifications for its exercise. We might think that, even when it comes to something like the general strike, a republican would require a general framework of law that establishes the rightful versus unlawful exercise of that power, its scope conditions, the limits to the kinds of means that may be used, who has standing to call these strikes, the acceptable forms of worker representation, and so on. The democratic point of view, on the other hand, puts the people before the law. The constituent power forms itself out of its own activity, meaning by its very nature the *demos* is a kind of arbitrary power, a power unto itself. And the version of the right to strike formulated here might appear more like that way of thinking.

Yet if we take seriously the thought, going back to Livy, revived and developed by Machiavelli, and reworked in various ways by the social republican tradition, that open factional conflict is the only condition under which those who seek to avoid domination can hope to do so, then we have a different perspective on the matter.¹⁶ The permanent threat that the many will step outside the normal order, violate the rules, and impose their will on society, which they re-articulate in the less

¹⁶ On Livy and the value of plebeian social conflict, see Lintott (1999, 27–39). On Machiavelli and conflict as the path to freedom, see McCormick (2011); Winter (2012, 736–766).

momentous, daily forms of resistance like the typical strike,¹⁷ is itself a condition for winning a measure of liberty. I consider this the more democratic tradition within republican thought, which stands in tension with the more conservative emphasis on the rule of law. It is democratic because it embraces the role of self-constituting popular power in winning and defending liberty. It is part of that insurgent tradition of democratic politics, which asks not what would the ideal conditions of self-rule look like, but rather how do the people, given actually existing options, exercise their capacities of self-rule and resist the usurpation of those powers?

It is true, as some republicans have written, that this way of thinking about a democratic republicanism runs the risk of populism – to which I can only say the following. First, this is not a defense of pure form or of the authority of “the people,” whatever they do. It is one attempt to unite a form, popular power, with a principle, republican liberty. The people may violate the rules in order to resist domination. That is of course incomplete because the deep question is, who decides? To that I can only offer the second response: there are always risks in politics. Those who favor institutional designs have often hoped that there is a way to eliminate or neutralize these risks. I do not think that is possible. At various times neo-republican thought has ended up reproducing the familiar Madisonian problem of limiting majoritarian tyranny to the point of creating various pathways for the domination of society by minorities.¹⁸ The argument to make against populist forms of activity that reinscribe rather than resist relations of domination is to reply that they violate the very principle that ought to orient their action. That is a common and valid response to misguided, failed, or indefensible strikes.

5 Conclusion

Among political philosophers, the repertoire of republican action is poorly developed. We have numerous policy proposals and institutional models. But we have little to say about the connection between collective action and political liberty. One reason for that is that we tend not to ask what the dominated may do to resist their domination. The strike is not the only form of collective action that neo-republicans should support, but it should be a central part of any republican thinking about the present. Workers enjoy a right to strike because they have a right to resist

¹⁷ On the extra-legal aspects of plebeian resistance to domination in Rome, see Nicolet (1980, 343–381).

¹⁸ See John P. McCormick's contribution in this volume (Chapter 7).

the economic domination to which they are subject. The strike should enjoy some pride of place because, as a form of resistance, it is not just a social performance expressing disagreement or dissatisfaction with current arrangements. It is also forceful and effective at limiting, or even transforming, relations of domination.

Given the great diversity of the kinds of strikes that might occur, it is evident that a republican ought to favor those strikes that will do the most to counter the worst forms of domination for the greatest number of people. That naturally favors the more solidaristic forms of strikes, which are common to the traditions of industrial unionism and broad, class-based organizing, as opposed to the narrower, craft traditions. But even the latter have their place, at least until they stand in the way of the development of those wider social practices.

In the actual world, many valid strikes will find themselves in conflict with the law, and very occasionally they will produce more revolutionary situations. From this and other facts about strikes, republicans might be inclined to turn away, since it means one form of domination is met by another. That is a mistake. We ought to embrace this account of the right to strike as still republican, not just because it is motivated by the desire to resist domination, but because it is a way of opening up a more democratic reading of the republican tradition. The insurgent mode of popular power has often been what democratic politics has looked like in modern times. We can see strikes as insurgencies for the sake of resisting domination. In oligarchic times like our own, there is every reason for republicans to make the republican case for the right to strike.