

# Individuals, Republics, and the Human Condition

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## Introduction

In this paper I explore the implications of Vincent Ostrom's concept of a republic for the model used to explain individual behavior in institutional analysis. Vincent viewed the core of the republic (*res publica*) as an "open public realm" that allows individual citizens to participate meaningfully in the process of governance (1991). Moreover, his account of individual choice draws on Tocqueville's account of "self-interest rightly understood" in *Democracy in America* (Volume II, Second Book, Chapter VIII, 1945/1835). The public realm in the U.S. is created and sustained by constitutional liberties accorded to individuals, including the liberties of speech, press, and assembly, as articulated in the First Amendment. The purpose of these liberties is primarily public rather than private. While contemporary liberalism has stressed the importance of constitutional liberties as the bulwark of privacy values, the traditional republican standpoint stresses the importance of the use of liberty in the public realm. My plan in this essay is to show how the public use of liberty in a republic necessarily depends on something very much like Tocqueville's account of self-interest.

## The Republic as Public Realm

Vincent's "republic" is not the same as James Madison's. The point of departure for much republican thought is Madison's distinction between a republic and a democracy in *Federalist* 10. Democracies, he wrote, required the people to assemble, while republics did not. The core of Madison's republic was an elected body of representatives, not the people in assembly. In this conception, the "people" do not govern; rather, they are governed by their chosen representatives. Beyond a size limit, democratic self-governance is impossible; but in Madison's view, representation is superior anyway. Vincent—despite his deep respect for Madison as a political theorist—demurred. Vincent saw representation as a "slender thread" for connecting the people to the process of governance (1991, p. 5). In Madison's conception, a republic, or in more contemporary—if contradictory—terms a "representative democracy," is a system of government whereby the people choose their governors by means of elections and, periodically, have the opportunity to dismiss them in favor of a different set of personnel. For mainstream political science, political parties became the principal institution by which the people control their governors.

Vincent thought that Tocqueville provided a contrary argument based on his observations of what he called "democracy" in America, characterizing the United States as a *self-governing* society. Tocqueville's view stands in direct contrast to Madison's conception and to mainstream political science. Elsewhere, I have explored Vincent's critique of representation as a sufficient mechanism for popular control of government (2017). His argument hinges on the primarily retrospective quality of electoral control—necessary but not sufficient to fulfill republican purpose. One of the basic rights prized by republicans at the time of the American founding was the right of instruction—the right of the people to instruct elected representatives (Adams, 1980). When framing the First Amendment, Madison omitted it, for good reason: congressional districts would be too large for the represented to assemble so as to instruct their representatives. In *Federalist* 51, Madison too found the election of representatives insufficient: though elections are the primary means of popular control, there was need for "auxiliary precautions."

For Vincent, Madison's auxiliary republican props became something fundamental. I refer to the separation of powers, so-called checks and balances, bicameralism, and (especially) constitutionalism and federalism. These were the institutional arrangements that enabled the people to govern by means of what Tocqueville (Vol. I, Ch. 5, 1945/1835) characterized as an "invisible hand."

But *where* do the people govern? Clearly not in an assembly hall! Vincent argued that the people govern in an "open public realm," an *institutional* space rather than a *physical* space (though it is manifest in various physical spaces), created by constitutional liberties. Initially resisted by Madison as unnecessary, the First Amendment liberties endow members of the public with the constitutional authority to sustain open communication, independent of government officials. Madison, like all republicans, loved liberty, but it was his friend and mentor Thomas Jefferson who convinced him that a proper written constitution, understood as fundamental law, would for the first time give the prized republican instrument called a "bill of rights" some judicial teeth, when applied to government officials in court (Storing, 1985, p. 48). Once persuaded, Madison became its strongest advocate. Speech, press, and assembly—these are the liberties that define the contours of the public realm in America. Vincent identified the public realm with the Roman *res publica*, the core of the republic, made stronger in the Constitution of the United States than ever before.

But—again—how is a realm of public discourse able to serve as a realm of governance? If we assume that societies are governed by means of law, then the process of governance is a process of law. Vincent repeatedly emphasized—at the risk of belaboring the obvious—that laws are not self-formulating, self-applying, or self-enforcing. To this, I would add, neither are laws self-invoking. Lin Ostrom's "rules in use" (1992) can be understood as the set of rules prescribed, invoked, applied, and enforced. To participate fully in governance, the public must be involved in all four processes—prescribing, invoking, applying, and enforcing law. Representation, as usually understood, addresses only rule prescription. If the public is to govern, all four processes associated with the rule of law must occur openly, in the public realm.

What can make this happen? What can bring the *whole process* of governance—not just the election of representatives who write laws—into the public realm? The answer lies in Madison's "auxiliary precautions." Consider bicameralism. Alexander Hamilton defended it in *Federalist 73* as a means of enhancing deliberation among representatives, providing for "due deliberation," the legislative counterpart of due process in the courts. But there is more: bicameralism also greatly increases the likelihood that legislative deliberation at some point becomes public, for when the two legislative chambers disagree, that disagreement occurs in the public realm. Bicameralism brings the legislative process into Vincent's "open public realm," subjecting the making of law to public scrutiny, requiring legislators to make public arguments for their favored legal provisions. The separation of powers has an even broader impact by dividing authority to prescribe law from authority to apply law and authority to enforce law. No law is effective until it is applied and enforced. The separation of powers means that the needed interaction between prescribers and appliers of law and between appliers and enforcers of law will occur in the public realm, out in the open. Governance becomes a matter of public discourse rather than private conversation behind closed doors.

Federalism—in Vincent’s sense of a highly federalized system that includes every level of government—adds vertical structure to the public realm, creating a nested set of public spaces where governance occurs, from the tiniest township to metropolitan areas to the states of the union. When Roger Parks and I argued thirty-some years ago that governance could (and did) occur at a metropolitan level without a singular metropolitan government, our focus was on what might well be termed a metro-public realm, where the interactions among units of government create governance structures that operate publicly. All intergovernmental relations occur in the public realm.

It is important to recognize, as Vincent does, that the public thus constituted is democratic, creating a *democratic republic*: this is not an antinomy; it was Tocqueville’s label for the American political system. Madison’s anti-federalist adversaries ridiculed his conception of republics and democracies as opposites. One—the Federal Farmer—wrote that the opposite of democratic is not republican but aristocratic, and the opposite of republican is not democratic but monarchical, i.e., authoritarian (Storing, pp. 76-77). Tocqueville conceived of democracy as a condition of equality; his study of *democracy* in America was an inquiry into *equality* in America. The equal liberty accorded members of the public to participate in the public realm is the primary democratic element in republican form. This goes well beyond one person, one vote. Indeed, it enabled women to participate with great effect in the public realm before the advent of women’s suffrage. Those liberties are accorded to individuals in the fundamental law—the liberties that sustain the public realm have constitutional standing. Implicit in this arrangement is what Vincent termed the “authority of persons” (1987). It is *invoking* authority that operates according to what Buchanan and Tullock (1962) conceptualized (and largely dismissed as irrelevant): an “anyone rule.” It gives any ordinary citizen—and sometimes non-citizens as well—the full authority to invoke constitutional rights to public liberty and access coercive powers to sustain those rights. In this sense, as Vincent recognized so clearly, it mocks the Hobbesian-Weberian conception of the sovereign state as a simple monopoly on the use of coercive power. It also makes possible what we call “civil disobedience,” which Vincent argued was a necessary condition for the sustainability of republican form.

Mainstream American political science has long held fundamental aspects of the American political system in utter contempt. The charge: undemocratic. The institutional features that bring governance into the public realm—bicameralism, the separation of powers plus checks and balances, federalism, judicial review—all are viewed as impeding the ability of democratic majorities to govern. Frances Fukuyama (2014) recently ridiculed the American system as a “vetocracy” and lamented the American regard for the U.S. Constitution as irrational veneration. Vincent, in contrast, saw the principal source of political inequality in the unequal authority necessarily assigned to government officials in any system of government (1987). The counteracting force is the constitutional authority of members of the public to participate in governance in the context of the public realm. Far from posing a threat to democracy, the institutions that sustain the public realm are its guardians. The “anyone rule,” he wrote (1987), was the only basis for conceptualizing political equality among persons. When we say, “No one is above the law,” what is implied is equal access to the courts between officials and non-officials.

Public liberty is not sufficient, however, to sustain the public realm as a productive instrument of governance. The public realm makes governance by discussion possible; it becomes the open forum in which governance occurs. Like authority, however, liberty can be abused. The prevailing concept of liberty we inherited from John Stuart Mill cannot sustain the use of public liberty needed in the public realm. Mill's liberty is entirely self-regarding (see Tinder, 2007), but the use of liberty in the public realm must be other-regarding as well as self-regarding. All productive use of liberty depends on constraint that takes account of others. Speech liberty is a necessary condition of participation in the public realm; but others must be quiet in order to allow one to speak. Press liberty is essential to the scrutiny of the public over governance; but the productive use of press liberty depends on the standards associated with the profession of journalism. Yet, if the public realm is to be independent of government, the source of constraint cannot be the law. Rather than government regulation, it must rely primarily on social norms, applied and enforced by means of approval and disapproval among colleagues or among citizens. The public realm is necessarily a self-regulating realm of social behavior.

### Tocqueville: Self-interest as Social Construct

This leads us to the question of how it is that social norms develop in a regime based on liberty and equality. Enter Tocqueville. Social equality and its consequences was the focus of his inquiry in America—the displacement of aristocratic principles by democratic principles. When society was viewed as a hierarchy in which each person had a natural place based on birthright, self-interest was not a socially acceptable principle of action. Rather, in order to justify the inequality associated with aristocracy, the socially acceptable principle was to act from a sense of duty commensurate with one's social position. Upper classes justified their privileged position by their obligations to serve others: *noblesse oblige*. Changing the premise from inequality to equality removed the need to act from a sense of duty: it made self-interest socially acceptable as a principle of action. However, Tocqueville wrote, "it remains to be seen how each man will understand his personal interest" (Volume II, Book 2, Ch. VIII). Self-interest "rightly understood" would enable individuals to see themselves as members of communities that rightly constrained and directed one's use of liberty—away from actions that are purely self-regarding toward those that are other-regarding.

Tocqueville viewed self-interest as a social construct, based on the social relationships individuals develop in various contexts, structured by institutional arrangements. The township was one such context, one that caused individuals to construe their self-interest as consistent with the wellbeing of their community. The community was understood as the public intersection of private interests, sustained by a moral sense of reciprocity. In effect, the community taught a norm of reciprocity that produced community service. Reciprocity demands attentiveness to the interests of others, and public liberty becomes the opportunity to participate in a common endeavor.

A purely self-regarding use of liberty in a community context produces the collective-action dilemma identified by Mancur Olson in *The Logic of Collective Action* (1965). Vincent frequently remarked that Olson had produced a logic of collective *inaction* rather than a logic of collective action. As I have argued elsewhere, the latter depends on reciprocity (1988), a process in which individuals produce benefits for others in the absence of an explicit quid pro quo. The logic of collective action is

reciprocity, and its language is a *moral* language. “Freerider” and “holdout” are not value-neutral terms; they express social disapproval. The lesson one should draw from the collective-action dilemma is not the need to rely on either selective benefits (an explicit *quid pro quo*) or political constraint (governmental coercion) to obtain collective action; it is rather the need to cultivate public virtue in the use of liberty based on the learning of social norms.

The psychological mechanism for generating social norms was identified by none other than Adam Smith (1759/1776). The key was the human ability to imagine oneself in others’ circumstances—walking in another’s shoes, as we say. This gives rise to the faculty Smith called “sympathy,” and we today might term “empathy.” If one can sympathetically experience what others experience and empathize with them, feeling their pain or pleasure, it is also possible to imagine how others would view one’s self. Individuals can imaginatively view their conduct as an observer would view it—with approval or with disapproval. Traditional republicans construed the process of representation in a similar way—the ability of a chosen representative to represent others and give their consent to the making of laws depended on the same faculty of human empathy that Smith identified as the basis for moral feeling, producing regard for the interests of others.

If self-interest is a social construct, dependent on social norms, it follows that different norms may shape the way in which individuals construe their self interest in different social situations. When social norms are internalized, they become the basis for “self-interest rightly understood,” which varies with social context. Bargaining with a used-car dealer is governed by a different norm than contributing to a local charity. The “non-tuistic” model of rational choice used in economic analysis may then fit some situations quite well, even as it misses the mark widely in others. An economic theory of voting suggests that it is irrational to vote (as I once heard a prominent public choice economist explain why he did not bother to cast a ballot). The puzzle is then, not why turnout is low, but why anyone bothers to vote at all—why an election is simply *not* an incentive compatible institutional arrangement.

### The Difficulty with “Rational Choice”

The difficulty with the rational choice model of individual decision-making for the process of governance in a republic—where governance occurs in the public realm—is its inability to explain the emergence of social norms as well as their “enforcement” (if that’s the right word) through ordinary social processes. A calculus of individual choice based on a narrow concept of self-interest may be able to account for norm-following behavior, *given* a set of norms and their enforcement, but is unable to account for norm-creating, norm-embracing, norm-enforcing behavior. This disability has affected both institutional analysis and institutional design. By focusing on individual choices of strategy *given* a set of rules and norms, we fail even to address the important question of how institutions generate social norms and, what is more, how different institutional designs may succeed in generating social norms that reinforce those designs while others fail. Constitutional choice focuses on the choice of rules, but norms are not explicitly chosen. Social norms are an emergent dimension of institutions, and we cannot claim to understand institutions without being able to explain how different institutional configurations in different contexts generate different norms as well as more or less effective norms.

It is imperative then to recognize the social dimension of individual choice if we are to understand the republic. Role theory in sociology describes this social dimension and its effect on individual behavior. Individuals fill a variety of roles in widely different social situations, governed by different norms. Just as James Coleman and others drew on social relationships to add a new category to the economic concept of capital, it may be possible to develop a plurality of rational choice models that reflect the differing relationships between individuals in various social situations. The differences between market and non-market situations may then require different conceptions of self-interest because different institutions in different situations generate different social norms. Even market situations may require variable ways of modeling self-interest depending on the community context in which those markets are embedded.

Vincent stressed the importance of “shared understandings” in what he called (somewhat awkwardly I always thought) “communities of relationships.” The latter phrase—despite Vincent’s insistence on methodological individualism—implies that the unit of analysis is a relationship between individuals. The emergence of social norms is not individuals choosing strategies but relationships between individuals shaping mutual understandings. Institutions do not simply establish “rules of the game” but also create relationships between and among decision-makers. Those relationships create the basis for related individuals to acquire shared understandings of the consequences of their actions and inactions for one another—to build common knowledge where, as Paul Collier (2018) points out, individuals not only know the same thing but also know that each one knows the same thing. To put it differently, institutional designs create interdependencies among independent decision-makers, and those interdependencies provide a basis for the emergence of social norms. It matters what those interdependencies are: it matters who decides what in relation to whom.

Collier, a prominent development economist, has gone farther than anyone I am aware of in exploring the terrain of social norm emergence in politics and governance. He begins by positing, with Adam Smith, that individuals are social creatures who want the approval of their peers. Individuals crave the esteem awarded by others, who seek therefore to learn behaviors that others reward with their approval and unlearn behaviors that others punish with their disapproval. The knowledge of behavior that is esteemed is contained in social norms. One particular norm—reciprocity—also provides the link between “our fundamental drive for esteem to the shame and guilt that we feel when we breach an obligation” (2018, p. 29). Vincent stressed the importance of language in the development of shared understandings; Collier explains how. Language creates the capacity for narrative; it enables us to tell stories and share them, over and over again, with one another in a relational community. The narratives create social identity and illustrate social norms in action—plus the consequences for keeping and not keeping norms. Because narratives can be shared beyond face-to-face groups, a common language creates the capacity for shared identity and the sharing of social norms by large groups of people.

## Institutional Atrophy and Collapse

Through narrative, it becomes possible to transmit social norms from one generation to the next. This makes culture possible, culture being those understandings that are shared between

generations, creating the basis for social continuity over time that, in turn, makes development possible. As Collier points out, however, norms can also become dysfunctional, and in the absence of a mechanism for changing norms in the explicit manner of a rules change, institutions can fail to adapt and atrophy or collapse. Vincent was preoccupied with institutional failure and reform, but he saw reform largely in terms of constitutional choice—a choice of rules—as the instrument of institutional redesign. As I have argued, design is important, but institutional redesign does not instantly produce reformed behavior. Changing the rules of the game is not enough; and modifying the configuration of decision-making relationships—who decides what in relation to whom—requires time for supporting norms to develop.

Levitsky and Ziblatt, in their rightly celebrated *How Democracies Die* (2018), credit the success of the democratic republic in America with strong political norms, but sadly, many of those norms have weakened or collapsed. The relatively sudden collapse of long-standing norms governing congressional behavior—if 15-20 years is considered sudden—is a prime example. Norms of courtesy, reciprocity, and partisan restraint were long part of standard, textbook descriptions of Congress, but no more. Congress was in many ways a microcosm of the republic, operating largely as an open, public forum. Beyond bicameralism, Congress created a committee structure that enhanced Hamilton’s “due deliberation” and brought the legislative process fully into the public realm. Committee consideration of legislation—what Senator John McCain termed the “regular order”—was a social norm that constrained party leaders to follow norm-sanctioned procedures. Like the public realm at large, the Congress operated on the basis of public liberty—the liberty enjoyed by each member to cast a vote as he or she chose, free of party discipline. In the Senate, a single member could frustrate deliberation, but rarely was this power used. Senators followed what Levitsky and Ziblatt call a “norm of forbearance.” Congressional norms tempered and directed the way that individual members chose to use their liberty and held them accountable to one another. To earn the esteem of congressional colleagues one had to contribute to the legislative process, not simply make speeches and cast votes. No longer. It is important to note that it was mutual accountability among members that sustained the social norms of a productive legislative process, not retrospective accountability to the electorate.

Most recently, major legislation has been written in secret, dominated by party leadership, and brought to the floor with little opportunity for member, let alone public, consideration. A major departure from normative behavior in the Congress, the practice signals a sharp retreat from the public realm. Is this the party-based governance that political scientists have long yearned for? Congress as an open public forum may be dying. Presidents leap into the breach, breaking further norms of forbearance. For institutional collapse of this magnitude, institutional analysis as we have practiced it has little by way of explanation—and few if any solutions.

What we are witnessing is cultural decline—a failure to transmit social norms from one generation to another. If Collier is correct, this is a failure of narrative. It is a product of the stories that we tell ourselves. This includes the narratives that professors spin in classrooms and reproduce in textbooks. Vincent was very much aware of the importance of cultural transmission and the contribution of language to it. American political scholarship—which extends well beyond the discipline of political science—has been so preoccupied with cleansing the narrative of American politics from its



quite real, darker elements that we have failed to reproduce the narratives that bind us together as a political community. Vincent understood clearly the basic influence of a faulty paradigm for political scholarship—he wrote an entire book about it (1989). By faulty, I mean a paradigm that does not fit the system. Not only have we lost the repair manual for the republic (otherwise the public realm would have produced a reform movement focused on constitutional choice and institutional tinkering in the way that the progressive movement was), but we have also lost a coherent national narrative. In its place we hear a cacophony.

There is no way to make it through this time of peril other than by muddling through. We lack the secure knowledge needed to know exactly what we are doing. Charles Lindblom, in a 1959 article much neglected today, raised the process of muddling through to a science: incremental changes followed by evaluation and course correction. The basic structure of American institutions can still accommodate such an approach, but we need a narrative that can help us coordinate diverse efforts. Reform in the sense of changing the rules of the game must be accompanied by a narrative that tells us why we are doing it—how it fits with the traditions and contours of American political life.

## A National Narrative as Public Philosophy and Political Science

Though Vincent did not write in a narrative style, he nonetheless has provided us with the core of a new national narrative, one that is closely tied to our historical roots as well as open to a future that cannot be planned given the accelerating pace of technological change and the development of new knowledge. To be blunt: we in political science have not told the story of the republic well. A focus on representation as the core of the republic led us to a side street where political parties became the whole story. This path leads directly into the dominance of mutually exclusive ideologies and extreme partisanship. Parties have an important role to play, but only within a public realm that rests on a shared sense of identity and social norms that embrace partisans in a common endeavor, informed by a political science that connects acts with consequences. The story of the republic must focus on the public realm, not solely on parties and elections, important as these are as elements of the story.

Vincent's conception of the republic has much in common with Michael Sandel's work on republicanism in America, *Democracy's Discontent* (1996), subtitled, "America in search of a public philosophy." Sandel understands that an effective national narrative must include moral commitments—that it cannot be morally neutral, as contemporary liberalism, whether influenced by Kantians or utilitarians, would have it. The philosophical implications of Ostrom's conception of the republic are profound—departing from both utilitarian and Kantian liberalism while embracing a unique conception of republicanism that can take us beyond Sandel's analysis of the relationship between liberty and the republic.

The very existence of the public realm depends on individual liberty. But the liberties on which it depends on are public liberties in Michael Polanyi's terms (1951), not the private liberties on which Mill rested his account. Contemporary liberalism construes liberty in terms of the freedom of individuals to choose their own ends rather than the freedom to participate in the formation and implementation of public purposes, shared with one's fellow citizens. At the same time, however, the

liberties of speech, press, and assembly are *instrumental* to the republic; and in order for the public realm to function independently of government—for individuals to function as citizens independent of official supervision and sanction—the liberty that creates the public realm is in Isaiah Berlin’s terms *negative* liberty, i.e., freedom from government interference. Yet, public liberties *enable* individual-citizen participation in governance—as traditional republicans have argued, public liberty is the liberty to participate in a process of self-governance. Note, however, that liberty is not merely *consequent to* republican governance (as Sandel argues) but also *creative of* republican governance. The *use* of liberty is *intrinsic to* the republic, but the *creation* of liberty is *instrumental of* the republic.

The sustainability and productivity of the public realm, however, depends not only on liberty but also on the *proper use* of liberty. Individuals do not choose how to use their liberty in a social vacuum. The “separateness of individuals” (in Sandel’s words), i.e., the individual autonomy that animates both Mill’s and Kant’s liberalism, cannot produce a sustainable, productive republic. Rather, individuals tend to act within social parameters, which are established and enforced socially by their democratic peers in a society predicated (as Tocqueville understood) on social equality. Social norms emerge from the interaction of individuals in specific social contexts; they are not a product of autonomous individual choice. We are not even given a menu of social norms from which to choose. Rather, social norms are a cultural inheritance, a process of cultural reproduction that spans the generations. Individuals do not see themselves in utilitarian terms as “unbound by moral ties antecedent to choice” (Sandel, 1996, p. 12). Rather, the use of liberty is subject to social constraint understood as moral obligation. Importantly, however, *social* constraint is not equivalent to *political* constraint; it does not create the radical inequality that is a necessary condition of political constraint. As Vincent clearly understood, the independence of the public realm from government—from official control—is essential to the republic as a forum for self-governance. At the same time, the social equality of individuals, on which “self-interest rightly understood” is dependent, is consistent with the Kantian view (and no less the Christian view) of individuals as possessing equal dignity. From equal dignity is derived the equal liberty of individuals as members of the public and participants in the public realm—an institutional space open to all on equal terms.

At this point we must briefly heed a warning from Amartya Sen—that equal liberty does not provide equal freedom (1999). While liberty is a juridical concept, freedom is a social concept that takes into account individual access to socially provided goods and services. Equal access to the courts depends on both liberty and freedom—it requires not only juridical standing to sue but also access to a good lawyer. Many of the required social goods and services can be provided in the public realm through voluntary associations, but some may depend on government provision. The greater the proportion of community members living without adequate financial resources to support a decent standard of living (as defined, by the way, by prevailing social norms), the greater the role of government in turning liberty into freedom. This is the principal issue separating republicans (with the small case) from libertarians.

As Collier argues, a national narrative must not only display social norms but also provide an account of cause and effect, linking actions with consequences. Traditionally, the American narrative has viewed the constitutional order with deep respect and honored the rule of law—all to the good. A

view of the human condition consistent with Vincent's conception of republican governance, however, raises important, but answered, empirical questions. If the republic depends on the *proper use* of republican liberty, sustained by social norms, what are the social constraints that condition the proper use of liberty? What institutional arrangements in what contexts conduce to the emergence of relevant social norms? The work of Lin Ostrom and colleagues on common pool resource (CPR) governance suggests possible answers. What has been shown to work in CPR-governance can provide working hypotheses for inquiries into a variety of settings related to governance in the public realm.

CPR situations are characterized by high levels of interdependency among users (see Castiglione, 2017). What one user does affects other users, often profoundly. Whether it is the appropriation practices of fishers or grazers or irrigators or forest users, the ability of each appropriator to make beneficial use of the commons depends on what other appropriators do or don't do in relation to the resource. Note, again, the moral language that characterizes the discussion of the commons—freeriders and holdouts—language that connotes social disapproval because it denotes actions or inactions that are harmful to the community of users. CPR research suggests the following hypothesis: social norms tend to emerge in communities where community members experience a high degree of interdependency with regard to relatively high-stakes actions or inactions. Moreover, social norms may become formalized as rules when the costs of "informal" social monitoring exceed the costs of securing third party monitoring and enforcement.

In the CPR context, interdependency is given in what Vincent called the "structure of events" (1989), the physical or biological nature of the resource and the technology used to harvest resource units. But in the public realm, interdependency is an artifact, or institutional fact, an aspect of institutional design. To complicate matters, the effect of institutional arrangements on social norms can be expected to vary with the task-environment. At this point, for example, one can only conjecture what has caused the collapse of social norms in Congress. The CPR hypothesis would have us ask—what could undermine the interdependency among members? Levisky and Ziblatt suggest the breakup of the New Deal coalition in the Democratic Party prompted by the civil rights movement. More generally, the interdependency among legislators seems to be a product of the task environment, or rather, how the task environment is perceived: if each member wants to influence legislation, each one needs the cooperation of one's congressional colleagues. This assumes, however, that the paramount objective of individual members is to legislate. But what if the paramount objective becomes simply the representation of a point of view—an ideological position. This is accomplished as much by voicing objection and blocking action as by crafting legislation acceptable to others. If one is nominated and elected to Congress on a largely negative platform, one accomplishes that task by voting no; there is no need to engage in the often difficult process of deliberation that is required to get to yes. When the social approval of colleagues depends on adhering to ideological strictures rather than contributing to deliberation, the social norms of the institution have been replaced by a narrower set of norms with a more narrowly defined group of legislators. Think Tea Party. The ideological turn in American politics, fed not only by the collapse of the New Deal coalition but also by the influence of libertarian philosophy, may well explain the collapse of social norms in Congress—with severe consequences for the nature of the republic in America.

The social norms that define proper journalism have also eroded due to a much different causal relationship: the impact of new technology. The enforcement of standards in journalism depends on institutional screens, which have become easy to avoid and still reach a mass audience. The social norms that govern elections depend on enforcement, not by one's political colleagues, but by voters. The voting public is tantamount to an unofficial umpire, or jury, deciding when political/electoral behavior is out of bounds. The collapse of many social norms governing elections, e.g., the disclosure of tax returns by presidential candidates, reflects the unwillingness of voters to enforce the norm.

Unfortunately, the IAD framework as currently formulated is of little help in addressing these questions. In the framework social norms reside in the set of variables generally called "Nature of the Community." The difficulty with this configuration is that social norms are then viewed as entirely exogenous to action situations—the focus of analysis. Although workable from a short-term perspective, it avoids the question of how institutional arrangements may or may not foster certain social norms. As Sandel has emphasized, the formative effect of institutions in building the character of individuals is a fundamental concern in what Vincent called constitutional choice. Yet, IAD examines alternative institutional arrangements entirely in terms of short-term effects on individual choices of strategy—short-term because of taking social norms as given. Institutional analysis needs a framework that makes social norms endogenous, incorporating the effect of institutional arrangements on those factors that condition the formation of social norms—which in turn affect the strategic choices of individuals.

## Conclusion

A conception of the republic as an open public realm depends both on public liberty and on social constraint. Public liberty is a product of constitutional choice, but social constraint is a product of emergent social norms. A rational choice model can explain social choice, but it falters when asked to address the emergence of social norms. The social constraint observed in the public realm depends on a different process than autonomous individual choice. It depends instead of processes of empathy and social imagination—and on a sense of self-interest that is socially constructed rather than given in nature, i.e., self-interest rightly understood. The unit of analysis shifts from individuals to relationships. Yet, institutions remain fundamentally important, as does constitutional choice; however, constitutional rules affect more than individual choice of strategy. This is because constitutions prescribe more than the rules of a game; constitutions also structure the game by distributing authority to act among a set of decision makers, prescribing who decides what in relation to whom. This establishes structures of interdependency, which shape the formation of social norms. The public realm is also affected, however, by the structure of communication, for the public realm is essentially a communicative forum. Language and technology provide the exogenous environment to which the public realm must institutionally adapt. The effectiveness of the public realm in generating and sustaining appropriate social norms depends on the quality and extent of the socially binding narrative it can create and reproduce from one generation to the next. We must therefore attend to the stories we tell as much as to the rules we write. In the case of the United States, the future of the republic depends on both.

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