# Peter Berkowitz II Transcript



*Taped, March 2, 2018*

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**I: Liberal Democracy and its Critics (0:15 – 39:35)**

KRISTOL: Hi, I'm Bill Kristol, welcome back to CONVERSATIONS. I am joined today by my friend Peter Berkowitz, senior fellow at the Hoover Institution, author of many books, articles, fine teacher, formerly at Harvard University – I have to mention that out of pride there – and the author, maybe for the point of this conversation, the one book I guess I might mention is *Virtue and the Making of Modern Liberalism*, since we are going to talk about liberalism. Liberalism in the broad sense, though: liberal democracy; the liberal tradition, which, we'll get to this, whether it includes some of modern conservatism, etc.

So, liberalism is under assault in a way that maybe we wouldn't have expected ten, fifteen years ago. Sort of an intellectual, I would say, assault. It seems that way to me. Is that your sense, too?

BERKOWITZ: Yes, and it's a kind of renewed assault, right?

Because what we think of as liberalism – and, of course, here I guess we should pause, you kind of gestured at it in the introduction – is what everybody thinks of as "Liberalism" in ordinary political discourse, right? We think of the left wing of the Democratic Party; we think of using government to promote equality, to regulate, to redistribute.

But there's – often when *we* talk about it, we actually think of something larger. We think of the tradition of freedom. We think of nation states devoted to protecting rights that are shared equally by all. That tradition – yes, is, again, under assault.

What is surprising these days, I think, is a lot of the assault is coming from the right, not the left. We remember the left-wing assault, the Marxist critique. But today, some of the strongest critics of this tradition of freedom are coming from the right, from conservatives.

KRISTOL: And conservatives have always had their doubts and questions, but it seems to me it has gone another stage. You said it's a renewal, so talk about that a little.

BERKOWITZ: So, for short, modern American conservatism, what we think of as conservatism today, that's born really in the aftermath of World War II, as you know. And it arises in response to two kinds of threats: the threat of statism at home, and collectivism, the Communist threat abroad.

And people like Hayek, like Kirk, like William F. Buckley who synthesized it all, social conservatism and libertarianism, of course attacked the thing they called "Liberalism." But, again, by that they mean the left wing of the Democratic Party, or a big part of the Democratic Party.

Buckley was emphatically a defender of the tradition of freedom, a tradition that we trace back to the American founders. So he was – maybe every time he wrote he wasn't so careful in distinguishing the two, but we should.

So yes, American conservatism is grounded in this defense of the tradition of freedom that extends back from our Founders all the way to John Locke. And today many conservatives are saying that tradition itself is not only imperfect, just [inaudible], but is actually poisoning American politics.

KRISTOL: And this argument has been made before?

BERKOWITZ: Sure. This argument has been made before. When I was a young undergraduate at Swarthmore College, I read books by Roberto Unger, who was then a young professor at Harvard Law School. By a couple of other very impressive thinkers, Charles Taylor, a philosophy professor. Alasdair MacIntyre around this time, early 1980s, is publishing *After Virtue*.

And all three in different ways are arguing that thinking takes a profound wrong turn with the rise of liberal thinking. John Locke is a kind of turning point. This focus on the atomized individual; focus on choice of the individual; belief or supposed belief that all political decisions, all political arrangements can be derived from abstract reason. And indeed, what we can derive from abstract reason is one right way to live for all human beings.

So yes, this critique has been around for a long time, and we're seeing a renewal in recent years.

KRISTOL: So let's talk about what's true about the critique and what's overstated, in your opinion. And I guess my particular obsession is the degree to which some of the critiques today don't even appreciate that intelligent liberals have always understood these challenges and have tried to think about how to deal with them.

BERKOWITZ: Yes. Well, your view, of course, is right about what is most important. The liberal tradition turns out to be an extremely rich tradition – and, by the way, it includes a left wing and a right wing.

My judgment, the left wing of the liberal tradition has taken some of these ideas about the individual, about his or her capacity for choice, about the power of universal reason, about universal government, has taken or has developed liberal premises in ways that would seek to vindicate those ideas. Those ideas themselves are actually misguided – represent, I think, an inaccurate interpretation of the liberal tradition.

But there was pushback within this larger tradition of freedom by – well, most importantly by Edmund Burke, but also by Tocqueville. Thinkers – I believe these thinkers belong, certainly belong within this tradition. And here maybe I should pause for a moment: *Why do they belong within this tradition?* How do you know that a thinker belongs within this greater tradition of freedom?

In a way, it's easy. What distinguishes the modern tradition of freedom from other traditions is its commitment to a view, at once descriptive and moral, that human beings are by nature free and equal. If you accept that premise, you're in this tradition.

Now, you may be a renegade member of this tradition; you may misinterpret the purpose; you may be defending it. And if you reject it, you're not within it. So let me take two examples to illustrate.

KRISTOL: Yes, please.

BERKOWITZ: Great as they were, I don't think Plato and Aristotle belong in this tradition. Much as I find Plato and Aristotle's thinking indispensable, they are not parts of the tradition of freedom. Why? Because they are political-thinking. Their thinking about human beings does not start from the premise that human beings are by nature free and equal.

Biblically based politics also is not exactly within this tradition. Why? Actually, the Biblical tradition, I think, provides maybe our most profound teaching about human equality in the idea that we encounter in Chapter 1 of Genesis: that all human beings are by nature free and equal.

And the Bible, just to make sure that you understand what is implied in this notion of human equality, emphasizes in chapter 1, "Zachar unekevah bara otam" meaning, "Male and female, He created them." Just so there's no misunderstanding, when I say "God created man in His image," we mean *male* and *female*; we mean human beings.

But that teaching is based upon biblical revelation, so that's not exactly the tradition of freedom, either. It's another argument that the modern tradition of freedom is derivative from the biblical tradition, an argument that I not only respect, but I think is sound.

Nevertheless, so this is what distinguishes the modern tradition of freedom – the premise that human beings are by nature free and equal. And on that definition, Edmund Burke, Alexis Tocqueville fit easily in that tradition. Sure, Burke writes *Reflections on the Revolution*

*in France* to condemn the misunderstandings of freedom that he sees emerging in the French Revolution, fueled in part by Rousseau's thought.

Rousseau is also part of that tradition of freedom. It's a tradition; there are various sides of that tradition. It's our job to determine the soundest parts of that tradition and preserve it.

KRISTOL: And the title of your book suggests – I want to get to the way in which liberalism can perhaps learn from both Aristotle and the Bible, and maybe, almost self-consciously is set up in a way so as not to simply exclude or reject them, but allow elements *in*, if I can put it that way.

But just to get back to liberalism itself. I mean, the founder, it would traditionally be considered, John Locke, I suppose? Or Locke and other contemporaries. And then the Enlightenment tradition and the Founders of the American regime. And I guess the normal account of that, or the cartoon account of it maybe, is very individualistic, atomistic: it's all rights, no duties; erodes the moral capital. How much did the founders think about that, how much did others then come to grips with those challenges? Are there some justice to those challenges?

BERKOWITZ: Yes, let's start with the final question. Sure, there's some justice to it. But we have to keep in mind what – let's start with Locke, who is – John Locke was not the first human being to think about human beings as by nature free and equal, but his work is widely regarded as a classic and justly so.

What is Locke's purpose in the *Second Treatise*? It is not to give a comprehensive account of politics. Many of the critics say, "What does Locke teach us about the non-political foundations of political life, such as the family, such as religion? Where is Locke's discussion of the virtues? Where is Locke's discussion of the 'spirit of the laws' we get in Montesquieu? So much is missing from the *Second Treatise*." That's true, just as much will be missing from our conversation today, because we have limited time and a limited purpose.

Locke had a limited purpose in the *Second Treatise*. What was his purpose? He is writing in a historical period in which the notion of Divine Right monarchy is becoming ever more incredible to people. But this poses a big problem, because the idea that a monarch's right to rule is grounded in divine authority is the principle, was the *main* principle of legitimacy at the time. Locke understood that if this dissolves, if this becomes ever more incredible, we need to find a new principle of political legitimacy, a new justification for the exercise of political power. That's his task in the *Second Treatise*.

In the course of searching for a new principle, he makes an argument that human beings are of a certain sort. "We are by nature free and equal," and what does he mean by that? He means that there are many ways of understanding freedom. Liberalism, this tradition takes different routes.

His view is simple, and I think it's hardly seriously for most people today to deny its evidence. His claim is nobody else, by right – *by right* – rules over you. No other human being by right rules over you. And he says if that is true – this is now the task of the *Second Treatise* – what do political institutions, what must they look like?

And his short answer, because we have a limited time here, is that government will have to protect individual liberties. To protect those liberties effectively, it will have to be limited, to be effectively limited. Powers will need to be divided. And human beings will need to retain a right. When government becomes destructive of their rights, the human beings who live under it will need to retain a right to constitute a new form of government, when government rebels against them by not honoring their rights. There's more to it.

That was his purpose. It was not Locke's intention to say in the *Second Treatise*, "Virtue: irrelevant to politics. Family: irrelevant to politics. Community: irrelevant to politics."

If I may, just add this to the point. And we know emphatically, for example, that Locke didn't think virtue was irrelevant to politics. How do we know that? Because he wrote a book called *Some Thoughts on Education*, which was a bestseller in his day, in which he elaborated in considerable detail the form of education that is parents' obligation, duty, to undertake to prepare their children. Locke says, by the way, "Nine-tenths of what I have to say here applies as much to daughters as to sons." The education parents need to undertake to prepare their children for the opportunities and responsibilities of freedom.

KRISTOL: Our friend Nathan Tarcov, who teaches at the University of Chicago, wrote his PhD thesis, I believe, on Locke's book on education. And it has been published and was published at the time, shortly after, and is worth reading.

And I think Nathan was very moved, as a lot of us have been in our different ways throughout our professional careers, by this question. Can liberalism – it seems the only solution in the modern world that is sort of decent and viable. One saw fascism and one saw communism, and now one *has seen* communism.

But then liberalism has these questions, and one of them is the one that you just mentioned. But it turns out Locke addressed it – leaving aside many other people who addressed it subsequently. So yeah, I think it is very important to remind people that this isn't something that was unknown to Locke, let alone many, many other thinkers who followed him.

BERKOWITZ: Right, and it's a rich account. We should add that Nathan Tarcov and Ruth Grant then produced an edited version – edited version of *Some Thoughts Concerning Education*. It's easily available to all who are interested.

But we should add as well that Locke's account, and this goes back to a question you were mentioning before about the relevance of Plato and Aristotle. Nevertheless, it's true: Locke's account of the virtues is not Aristotle's account of the virtues. Aristotle's large account of the

virtues, though, helps us understand Locke's account of the virtues. Aristotle prepares us to appreciate that all regimes require certain qualities of mind and character in order to sustain themselves.

In other words, virtues, political virtues are going to be relative to the regime. Locke's account of the virtues, excellences of character, are relative to the kind of regime that he cares about and wishes to preserve, and that is a regime devoted to freedom.

And you can say that they are somewhat one-sided or somewhat biased towards freedom. After all, freedom is not the only imaginable political goal. Aristotle and Plato agreed that if we want to understand politics properly, we always have to keep in mind that there is an alternative – certainly, an alternative to freedom or equality – and that is a regime devoted to excellence.

In other words, what would unqualified virtue look like? Not those virtues that specifically enable us to enjoy and maintain our freedom, but what about those virtues devoted to human excellence? Locke is not as rich on that score as Plato and Aristotle are. But it's – it borders on a disgrace that much of higher education and much of the teaching of Locke is either totally oblivious of John Locke's teaching concerning the virtues; John Locke's emphatic view that liberalism is both compatible and depends upon a doctrine of the virtues.

KRISTOL: And Locke's regime that lets us read Aristotle and decide that we need a dose of Aristotle, perhaps, in life that can be introduced within a liberal regime, to some degree, I think you would argue.

BERKOWITZ: Oh, hugely important. It may be true that we can't today have an Aristotelean politics or a biblical politics, but we can have a politics that is, and a political society that is, open to the wisdom of Aristotle and open to the wisdom of the Bible. That we can have. And that has provided, I think, and that's in no small measure one of the great benefits of the politics that is yielded by the tradition of freedom.

KRISTOL: I guess one argument would be, well, that's nice for you to say in theory; but in practice, the tradition of freedom then becomes a tradition of progress, and then people look back with some contempt on these older things. And it took rediscovery in the 20$^{th}$ century, in some ways, of the ancients, the classics and a different way, of the biblical tradition, to make it respectable.

I mean, I suppose – when I teach, like in little summer programs or whatever, the Declaration, I do use that one sentence, the core sentence: "All men are created equal, that they are endowed by their Creator with certain unalienable Rights," and, "a just government by consent of the governed." That really is the core – from Locke, obviously – rights and consent. You could organize things otherwise, but most of the attempts to organize things otherwise haven't worked out so well, especially in the modern world, and I think we end up with that.

Jefferson has that wonderful letter in 1826, his last sort of public letter, where he does a – just to make your point about how it does seem sort of evidently true. He says, "All eyes are opened to the rights of man, but to the truth" – what is it? – "that no man is -–

BERKOWITZ: Born with spurs on his heels?

KRISTOL: Yeah, "booted and spurred, ready to ride the other by the grace of God," or something. Which is a beautiful statement of the kind of truth of human equality. But I would say the Jefferson letter is striking in that he has a kind of confidence in progress: "all eyes are opening to the rights of man."

And one could say in the late, in the early 21st century here, how much of that is intrinsic to liberalism? How much of it is good? I mean, it is a reasonable view, after all, there is all of this scientific progress and some political progress, maybe. How much of it could be corrected? I mean is there excessive faith in progress that comes out of liberalism?

BERKOWITZ: Great question. It is complicated. On the one hand, a fair amount of it is intrinsic to liberalism. On the other hand, liberalism has extraordinary self-correcting mechanisms to deal with it. We've already mentioned Burke and Rousseau. The argument that the liberal tradition gives rise to an excessive faith in reason and unqualified contempt for tradition is not new to the last five years or 50 years.

This is the core of Edmund Burke's critique of the French Revolution, which he believed to embody the ideas of Rousseau. Is this the authentic interpretation of the tradition of freedom of John Locke? I would say not the authentic, certainly not even the best.

Can we understand how elements in the tradition of freedom give rise to these excesses? Sure. There is something unstable in the idea of human freedom. That is, *where does the demand for freedom stop?* Locke begins the *Second Treatise*, again, with the assertion that. He doesn't use – he doesn't say, I'm not interested in metaphysical freedom.

I'm not interested in those constraints on your will which arise from your inability to fly on your own powers. I'm not interested in those constraints on your freedom that come from your lack of ability or other people's gifts and fortunes. I'm interested in political freedom, which means not subject to somebody else's or some other group's arbitrary will.

Well, we have a tendency to regard more and more exercises of authority as themselves expressions of arbitrary will. So not just the laws that come from government, but custom, inherited practices, tradition itself. The wisdom that comes from tradition.

Liberal education – who are professors to tell us what we should learn? Eventually, even the principle of freedom is seen as an assault on our freedom. This would take us, if you want to pursue this, it would take us into the theme of postmodernism, which of course is another, I think, prodigal child of the tradition of freedom.

KRISTOL: Yeah, that is yet another – that was in a way, it seemed like 15 years ago, that was the threat, it seemed to me, to a sound liberalism.

But it is funny, on the right, people who presumably are hostile to postmodernism to some degree – it's the relativism and everything that goes with it – have now reemerged to sort of attack an equally simple version of liberalism.

BERKOWITZ: Yes. And now, in defense of those critics of the tradition of freedom, you can see what that is. I am thinking about this in part because I have been reading our friend, Leon Kass' new book on the meaning of the dignified life. I don't remember the precise title, but a collection of his essays. [*Leading a Worthy Life: Finding Meaning in Modern Times*]

KRISTOL: Right.

BERKOWITZ: And you can see, these essays were written in the 1980s and 1990s, early 2000s. And the threat there is more relativism, postmodern relativism. So when we were on campuses, teaching, that was the principle threat.

But no longer on campuses. It's not postmodern relativism; it's actually progressive dogmatism that dominates in the universities. On what grounds are universities stifling free speech? On what grounds are universities denying due process? On what grounds are they hollowing and politicizing the curriculum? Not on relativistic grounds, but on dogmatic grounds.

They know what's true about the past. It is disfigured by our past, the Western Civilization past. Disfigured by racism, sexism, class. Needs to be overcome. We know which are the true opinions; we need to promote them. We know which are the false and pernicious opinions; we need to purge the university of them. It's a new dogmatism.

And so maybe in some sense the conservatives who are attacking liberalism today are now attacking – they are in part attacking this new dogmatism that they blame liberalism for now.

KRISTOL: Liberalism, presumably, has resources to criticize that progressive dogmatism?

BERKOWITZ: I think so.

KRISTOL: I mean, the most famous defense of liberty is by John Stuart Mill, who was a liberal – and a progressive in many ways, in terms of his own views of how society should be organized, relations between the sexes. But he saw this, and maybe learning from Tocqueville in part and just looking around in the 19th century, that progressivism could itself challenge, threaten liberty, the kind of uniformity of opinion, and not just the government, either.

BERKOWITZ: Mill, I'm glad you mentioned Mill. Mill had an acute appreciation of this problem. I actually group Mill along with Burke and Tocqueville as among this tradition of freedom's greatest thinkers, in part because he understood weaknesses of the tradition.

Yes, he understood progressivism could go too far. In fact, he was living in a progressive moment in which he saw that social morality or, I should say, popular opinion was one of the greatest threats to freedom of speech.

There were two great threats. One, excessive government authority. Two, popular opinion. And so he wrote what remains, I think the most powerful defense of freedom of speech in Chapter Two of *On Liberty*, "Of the Liberty of Thought and Discussion."

I believe for the sake of liberal education, all freshmen should read Chapter Two of *On Liberty*. Mill had a progressive side, but I think it's worth taking a moment to point out that as a relatively young man, Bill, was the editor of *The London and Westminster Review*. He was the editor.

In the late, mid 1830s, he published – mid– to late-1830s, he published tributes to Jeremy Bentham and Samuel Taylor Coleridge. These were remarkable. Why remarkable? Because Bentham was the great progressive of his era. "He was a rationalist reformer," as Mill writes, "who asked of every institution, how can you possibly justify yourself and wanted to correct them." He was the great progressive of his day.

But within a couple of years of publishing that, he published a review, a tribute to Coleridge who was the great conservative thinker of his day. He was also a poet and a philosopher. And Mill says Coleridge approached institutions entirely differently.

He didn't say "how do you justify yourself?" He said, "This institution or practice has been around for so long, what reason explains its longevity? What benefit has it conferred upon people?" Mill then goes on to say something hugely important.

He says, "Bentham is the most profound progressive of our age; Coleridge was the most profound conservative. But each man was a one-eyed thinker." What does he mean by one-eyed thinker? He said Bentham really understood the progressive point of view, but he was totally blind to the conservative case.

Coleridge understood the conservative case; totally blind to the progressive view. "What do we need?" Mill is, by and large, thought of as a progressive, but he is emphatic here. What we're looking for, "We need to be students of both Bentham and Coleridge." We need a synthesizing view which learns from both, let's say now, to use other language from Mill, "the party of progress," the party of improvement.

Bentham and Coleridge, "the party of order" or preservation. We need both sides. We need them desperately. This was a Millian view, and I think we have much to learn today.

By the way, I don't think is an eccentric Millian view. This is – Burke would have never put it this way, but we could talk about how Burke's critique of the French Revolution actually reflects such a sensibility. And I believe Tocqueville's probably unsurpassed exploration of

democracy in America also reflects such a sensibility.

KRISTOL: Right, and Burke was a defender of the American Revolution and a critic of the French Revolution. Not – a lot of students of Burke's just shove one or the other aside, usually the first, the American Revolution. If you are reactionary conservative, in a sense, he loved the old regime. But he was a modernizer; he was a Whig and not a Tory.

BERKOWITZ: He was a Whig.

KRISTOL: And Tocqueville, of course, I think one of the best statements of his version of maybe Mill – I don't know if Mill, maybe got it from someone different – but doesn't he say something about the tragedy of Europe or France, "the spirit of liberty is set against the spirit of religion." "And the genius of America," he says, claims, "is that it was able to incorporate both."

BERKOWITZ: Yes.

KRISTOL: And then tries to show throughout the book how that could be done, maybe done better. But I think when he says "the spirit of liberty, the spirit of religion," that is what he means. In a way, these two elements that are at odds with each other, but needn't, you could have a country, a regime, a society that does some justice to both.

BERKOWITZ: Yes. And if I can, I would follow up on both of your points.

KRISTOL: Please.

BERKOWITZ: Burke was not only a defender of the American Revolution; before that, and at considerable political cost, Burke was a defender of the religious rights of Catholics in Ireland. It actually cost him his first parliamentary seat.

And as you know, Burke paid a very high price for defending the, this is Burke's language, "for defending the natural rights of the indigenous population of India," against the deprivations of British rule there. So there is a powerful, I don't know if I would go so far as to call it progressive element in Burke, but a powerful defense of individual rights, of freedom and equality in Burke. Along with, in his *Reflections on the Revolution in France*, a powerful critique of the excesses to which the natural-right teaching can be taken.

It seems to me that we have an extraordinary amount to learn from Burke in his fullness. I mean, you could ask, *which is the true Burke?* The Burke that defended the rights of the Irish, defended their religious liberty; defended the rights of the Americans to rebel, defended the rights of – actually, not quite the rights of the Americans to rebel, but the wrongness of the Brits in acquiescing to American demands.

But the Burke who emphatically defended the rights of the indigenous population of India, or the Burke of the *Reflections*? It seems to me the answer is the true Burke is the Burke who made all of those arguments. And we have to understand that Burke understood that in some circumstances, the defense of liberty requires standing up for minority rights.

In other circumstances, the defense of liberty requires the most careful possible attention to the virtues on which liberty depends – to the religious, to the openness to religion and the education that religion provides.

That liberty also depends upon limited government; that liberty also depends on traditional institutions and practices which cannot be, which mustn't be overturned in a moment and can't be built in a moment. The whole Burke, the true Burke is that whole Burke. That's the Burke we need to understand.

KRISTOL: And what about community? I mean, Burke is often thought to be a philosopher or a thinker of, was pro-community and order, as opposed to liberty. I think that is not the case.

BERKOWITZ: It is clearly not the case. In fact, in the passage in which he famously speaks about "the little platoon," he says that "the little platoon" – by which he means the family, the community, we would say neighborhood today – he said, "This is the place where your political sense, your political principles, your capacity for allegiance to anything are formed."

In other words, family and community are essential. But he also makes clear that you rise from that to a capacity to embrace larger political principles. Those larger political principles include freedom. Even in that polemical writing, which earns Burke the title, which I think he deserves, of a father of modern conservativism, Burke is clear that the purpose of politics is still freedom.

The French Revolutionary's mistake was not to see freedom as a goal of politics; their mistake was to think that in order to achieve political freedom, you've got to repudiate tradition wholesale. You've got to use government to impose virtue. You've got to forget about community, or at least you have to forget the community has to come from the people themselves.

But Burke has tremendous respect for faith, for religion, but he's not in favor of theocracy. He doesn't think government's task is to promote religion; what he thinks is it's a great evil if government puts itself in the position of destroying religion.

KRISTOL: I mean, it seems that these liberal thinkers, like Burke and Tocqueville, Montesquieu, share in the sense that freedom is an achievement, not simply a premise, I guess. It's not so easy just to preserve it. You can't just assert it and then move on.

BERKOWITZ: I think that's right. A good example of this comes from a lecture I heard, now, I guess, 20 years ago, by the African-American music critic Stanley Crouch, a radical in his youth, who was giving a lecture at Harvard on how the American Constitution is like jazz and the blues.

He makes this very interesting argument. He says that jazz and the blues are the one form – they constitute a form of music, the only form of world historical music which incorporates improvisation into the classic pieces. In other words, if you're playing Mozart, you're not allowed to add or subtract notes.

KRISTOL: There are cadenzas sometimes – I just want to sort of defend Mozart here. And they are left in the piano concerto for people to -– but -–

BERKOWITZ: But generally, in the most part.

KRISTOL: But that would actually strengthen the point, not weaken it, that the best classical thinker –

BERKOWITZ: A little room, but not, certainly not like jazz. In any case, it doesn't affect the major point. The major point is actually about the American political system. He says you know, the Constitution also creates, like jazz – and maybe like Mozart in some places – creates opportunities for improvisation.

His example is Article V, which allows for amending the Constitution, allows for improvisation without starting all over.

But now I want to move from that, because Crouch was a great jazz critic. When I heard this lecture, I also got to thinking about some arguments that Mill makes in Chapter 3 of *On Liberty*. In which he insists also that freedom properly understood is an achievement. Yes, government should be limited, but freedom, fully understood, is an achievement.

I think about that in the same way I think about improvisation in music – or, for that matter, any sort of well executed play in sports or in dance. That is, who improvises in a jazz band? Not somebody who is invited up on the stage from the audience and has never held a guitar or a saxophone. It's somebody who, he or she was invited to improvise. That is, do something freely, not constrained by the rules and regulations, within certain broad parameters. This is a person who has spent decades practicing on his or her own and is someone who has spent probably quite a while practicing with this band. And there are rules and regulations, let's call them "forms" or a framework, which sets certain limits. But within those limits, excuse the formulation, something new and beautiful is created.

So yes, we mean freedom and traditional freedom in two senses. I don't want to lose the first sense, which is that just by virtue of being a human being, you've got rights that the government should protect, and those rights that we all share impose limits on the

government.

But there is a higher notion of freedom. And that comes, that depends upon, well, it depends upon the love and good rearing of your parents; it depends upon, in part, on good fortune. It depends a lot upon education; it depends a lot upon the virtues that are cultivated in you. And that's necessary for the fullest achievement of freedom.

Here's where a big mistake comes in. Some people think that if you believe that there is a fulfillment in freedom, you must also believe that it is government's job to bring about that fulfillment. Or, if you believe that it's not government's task to promote the highest virtues, then you can't possibly believe in virtue.

But I want to argue – I think we both want to insist that Americans are perfectly capable of holding in their minds these two thoughts: That the full freedom requires cultivation, but we're very worried about government being in that business. Because that opens government to all kinds of abuses of rights that the tradition of freedom warns us about.

**II: Reclaiming the Liberal Tradition (39:35 – 1:04:48)**

KRISTOL: Yeah. I mean, do you think it is possible that – this is something that struck me the last time – the left side, that they were progressives. They didn't like the word "liberals" anymore. I think they decided that mostly for just political reasons, that "liberal" had become unpopular in politics.

BERKOWITZ: Yes.

KRISTOL: But actually it seemed to me, a sort of reverse way, that it would be nice for people like us who would mostly be considered conservatives to recapture the word "liberal." I mean, it's a word that Hayek makes a big point, actually, of how he considers himself a liberal.

[Leo] Strauss, who is considered a fan of the classics and therefore maybe dubious about aspects of modern liberalism, goes out of his way – I was always struck by that, late in life, in the '60s when he didn't have to really write, to title a book of his essays *Liberalism*; to write an essay, I think, of the liberalism of classical political philosophy.

BERKOWITZ: Yes.

KRISTOL: It's almost as if he – when you really read the essay, it's a little unclear – not unclear, but it's complicated, let's say, what he means by that. But I think he sort of wants to have a signal that you can't just give up on the – The liberal tradition remains the broad tradition within which one can recapture the classics. In Hayek's case, in which one can limit the government.

I don't know, do we have a chance to retake the word liberal? Maybe not Liberalism, but liberal? This is my conceit, but I think it's probably just a conceit, but -–

BERKOWITZ: Well, I hope it is actually not just a conceit. Because as the people who used to be called and used to call themselves Liberals began to adopt the term *progressivism*, I actually cheered this on because for all sorts of reasons implicit in your question. Because it was deeply misleading.

Because the more I studied, the more I appreciated and want to say – to add to your remarks about Strauss – the more I came to the appreciation that an urgent task today was to reclaim that tradition.

I mean, often we see this – we juxtapose those who want to reclaim tradition and those who are Liberals. They care about freedom. But it occurred to me in the course of my studies that, actually, the tradition that we were most and urgently in need of recovering was the tradition of freedom. Yes, Hayek says in one of the several prefaces to the several re-editions of *The Road to Serfdom* that he understands his task.

His phrase is "preserving the liberal tradition." Milton Friedman says, "The proper term for me is liberal." And one shouldn't, one doesn't want to confuse Hayek and Friedman with Leo Strauss, but I strongly agree with you that Strauss emphatically signaled – and not just in the collection of essays, essays on *Liberalism Ancient and Modern*, but in the introductions to several of the books that he published in the late '50s, early '60s. That as a political matter, we've got two choices. He's right in the height of the Cold War. One is totalitarian communism and the other is liberal democracy. Choose liberal democracy. That's the choice consistent with dignity.

Now, of course, Strauss' argument is, as I hardly have to tell you, you know better than I, is extremely rich. And Strauss' recovery of the wisdom embodied in and the dignity of the liberal tradition depends very much on his study of the classics. Of course, Leo Strauss doesn't jettison Plato and Aristotle. Enriched by his appreciation of the variety of political regimes.

Enriched – I'll mention only one point – by Aristotle's advice in the *Politics* that in general, you have three possibilities. There's the very best regime; you're very unlikely to see it anywhere on earth. There's the best practicable regime under the circumstances. Not much chance for that, either.

There's the regime in which you live. And for that regime, your most urgent task on a day to day basis is to prevent it from deteriorating. Okay? This throws a little cold water on tremendous dreams for transformation. The more I thought about it, the more it seemed to me to be sound.

And it is partly the spirit in which I understood Strauss' defense of liberal democracy. He wasn't arguing that it was the best practicable regime ever thought of by a human being. He's not arguing it's the best regime if one set one's mind to it, one could discover through the exercise of reason.

In our circumstances, which by the way, which circumstances are those? Not just the Cold War, but the circumstances of secularism, science and technology. You mentioned before, capitalism. We can add globalism, although globalism is more capitalism, really.

In those circumstances, our regime is clearly preferable. It respects freedom; it respects equality; it respects our opportunity to learn from Plato and Aristotle and the Bible. And therefore, we need to defend it, which involves at least two kinds of actions.

One is, where possible, improving it, helping it live up to its promises. And second, it means preserving its wisdom, preserving the material moral conditions for defending freedom. In other words, we're back to Mill, Bentham and Coleridge, but we're also back to, I already mentioned, there's something very similar in Burke, where he says toward the end of *The Reflections*, "My model of a statesman is the disposition to preserve and the ability to improve." He wants them both.

KRISTOL: One can get guidance from the best practical regime in terms of directions to push.

BERKOWITZ: Yes, indeed.

KRISTOL: And some of those can be from, I think it is very important in Tocqueville to look beyond the natural horizon, you might say, of modern egalitarianism. Even though you, of course, accept it and live within it, to get some guidance on which institutions could be strengthened and in what ways that are consistent with modern egalitarianism, but simply don't flow from it, I guess. I mean, right?

BERKOWITZ: I think that is exactly right. I see – like Tocqueville strongly counsels us, don't dream of returning to the age before our age – he calls it "the democratic age" and it includes much of what we have been talking about as characteristic of our age.

Don't dream of returning to the aristocratic age. However, *do learn from* the aristocratic age, because just as the democratic age has its specific virtues and vices, the aristocratic age had its specific virtues and vices. The vices were real, but so are the virtues.

And we can – part of our task in preserving liberal democracy today is to understand those parts of a fully human life that the democratic age is weak on. Learn about them from the aristocratic age and then discover institutions to which you can preserve some of those virtues. Now those institutions, I should add practices and beliefs, still need to be consistent with the spirit of the democratic age. But they can also push against it.

KRISTOL: Yes, I think that's – liberalism seems to allow institutions within it to push against it, at their best. Now, it also erodes them in some ways –

BERKOWITZ: Exactly.

KRISTOL: And threatens them, I suppose, in some ways. I was struck, I mean, it seems to me one of the biggest reversals of the last few years – not to exaggerate some of these current writers – but religious – let's just say Jews and Catholics, the Christians including Catholics, leaving aside maybe what is happening with Islam, which is a whole different kind of story.

But it did seem to be a very much of an accommodation, you might say, between, in a Tocquevillian sense, between the spirit of religion and the spirit of liberty. Whether it's John Courtney Murray here in the U.S., or Pope John Paul II, or various serious Jewish thinkers. That, you know, liberal democracy provides – it has to be shaped a little bit, some aspects of it have to be pushed back against a little bit, but it provides the best place for religion itself and religious faith and religious virtues in order to flourish.

And I think there was a lot of interesting work done on that. Practically, what does that mean, and there are all kinds of policy questions you could then get into; you're a little friendlier to religion in the public square.

It really and suddenly in the last several years it seems to me, and you've written on this some, there seems to be an upsurge of a sense of liberalism is so corrosive of faith.

BERKOWITZ: Yes.

KRISTOL: It so undermines – the progressive element is so strong that it wants to steamroll religious liberty. And the sort of progressive – and the scientific, materialist element is so strong that it seems to steamroll any sense of the faith or the spiritual. And that somehow that it's led to more of a reaction against the liberal regime as a whole than I guess I would have expected.

BERKOWITZ: Yes.

KRISTOL: I don't know how many people this involves exactly, but certainly some thinkers.

BERKOWITZ: Certainly some influential thinkers. As you suggested, there have been periods in our history where, even in our recent history, where there was more of a – the relationship between religion and politics was seen as more of an alliance.

But there was also a period not so long ago when people, and I suppose one of the most influential figures was Father John Neuhaus, was condemning what was then called liberalism for denuding the public square, the naked public square. Aggressively expelling all religion from politics. Argued against that. But he seemed to believe that his arguments could

be effective. And within the broader Constitutional framework, it would be possible to correct that excess and bring religion back in, consistent with limitations imposed by our Constitutional order. And it was a kind of conservative argument.

Today, the conservative argument is, no rapprochement is possible. We've reached the end. We know that there is a fundamental, unresolvable hostility between religion and classical liberalism, and even the liberalism that infuses the American Constitutional order. Serious religious people are going to have to choose.

I share, I think I share with you a sense that that feud goes far, even way too far. What one aspect of it that sometimes surprises me is – and here I must be careful because I'm not a scholar of Christianity – but it seems to me to be in some tension with Christian teaching. That is, when exactly was politics well-aligned with the imperatives of Christian faith?

Don't we already learn from Jesus' teaching that the realm of Caesar is one realm, and that God's realm is another? Isn't that reiterated in a profound way by Saint Augustine? Isn't it the lot of a serious religious person to constantly be grappling with the gap between religious hopes and religious demands and the realities of this broken, often unjust, fallen world?

I suppose you can make the argument that today the world is particularly broken, unjust, and fallen. But I'm not so sure that that's in the spirit of the teaching. Moreover, I make this additional observation: American liberal democracy, consistent with the original vision, the founding vision, leaves a great deal of space for those who wish to withdraw to their private, relatively disconnected religious communities to do so. And still, by the way, get a lot of the benefits of capitalism, globalism, you know. Still live in nice homes and still have good food to eat and conveniences of modern technology and decent healthcare and so on.

So, of course, the critics have a point about the crudity of popular culture. We've talked a bit about liberal education, part of the story of liberal democracy. We've talked a bit about its sad condition, its hostility to what I regard as the principles of freedom. Has there been a breakdown of community? Sure. They help us understand what our tasks are. But, to my mind, they haven't provided an argument, a convincing argument to abandon the tradition of freedom.

KRISTOL: Why do you think it has – there seems to be such a, in my mind, a kind of cavalier neglect of the virtues of liberty or freedom? The importance of it, that the kind of core defense of it remains the most important thing? People take it for granted? They're just disillusioned by the kind of society it's produced?

BERKOWITZ: It's hard to say comprehensively, but in the university world I think it's because of the unchecked development of bad ideas. The idea developed, the idea took root that liberalism was only about one thing: individual choice, or justifying institutions of government. And of course, it was easier to teach that one idea and to develop various cottage industries around it.

So it seems to me we have here an example of a very significant cost of the lack of serious study of the tradition. Wrong-headed, inaccurate ideas about the tradition of freedom were promulgated. That is, that it is oblivious of the requirements of virtue.

Now, we can say that there are elements of that tradition which discourage the focus on the virtues. There is a tension between freedom and virtue. Freedom does mean, its core meaning is, *doing as I wish to do*; and virtue is a kind of constraint.

I don't want for a minute to paper over that tension. Actually, to the contrary, I want to bring it to the fore. Because that tension is more – it's not itself evident, but that tension is something that liberal thinkers wrestled with.

We need to take seriously that reconciling the claims of freedom with the claims of virtue is not simple and straightforward, and that we have a lot to learn. Locke was not the only figure in this tradition who wrote about the virtues.

Mill wrote about them; Kant wrote about them. Before Locke, he may have only been a proto-liberal, but it's even more striking that Thomas Hobbes wrote about the virtues. In fact, he says, in a neglected passage, to be pedantic for just a moment.

KRISTOL: Please, do.

BERKOWITZ: In Chapter 15 –

KRISTOL: What's the point of having a former professor on if you can't have a little pedantry, you know?

BERKOWITZ: Actually, maybe I'm being too kind to myself, as if I haven't been pedantic all the way through.

KRISTOL: No, no.

BERKOWITZ: In any case. You know, Hobbes famously – he's mechanical, and he articulates 19 laws of nature. At the end of this enumeration, Chapter 15 of *Leviathan*, he says, "By the way, I admit it. These laws of nature, they're not really laws. Actually, they're virtues, qualities of mind, of character. And the true civic science is the study of virtue and vice."

*Thomas Hobbes*, the Maestro of Malmesbury, says that central to the understanding of politics is the understanding of the qualities of mind and character that individuals bring to political life.

So I want to acknowledge, yes, when you focus on freedom you encourage a kind of hostility to constraint. Virtue is a kind of constraint. And yet, the makers of modern liberalism understood that virtues in citizens, the formation of a certain kind of citizenry, is absolutely

essential both to the enjoyment of freedom and to the maintenance of free institutions. That's what we should be studying.

KRISTOL: That's great. Let me ask one last question. This has been very interesting for me, and I hope – I'm sure for our viewers. We've discussed sort of Locke through Tocqueville and Mill, roughly, and a little bit of Strauss and Hayek. What other thinkers – it seems to me, though, that sometimes with those earlier thinkers they didn't really experience the 20th Century, they didn't experience communism and fascism, they didn't deal with the thought of Nietzsche, or maybe even Marx.

Well, not Marx, except for Tocqueville's kind of contemporary, I guess, and Mill knows about Marx. But they didn't really come to grips with that. And so that's all sort of an earlier liberalism; it's a little unsophisticated. And we mentioned Strauss and Hayek, who very much were self-conscious about having to deal with these later thinkers, Nietzsche and Marx and others.

But what about – are there other thinkers who have dealt more modern, let's just say it that way, who you would recommend to people to read who have this kind of more complex, deeper, more nuanced understanding of liberal democracy? There's certainly plenty of simpleminded stuff out there, both in defense and in opposition. Are there -–

BERKOWITZ: Well, there is this obscure fellow, listeners to your CONVERSATIONS will have never heard of him. His name is Harvey Mansfield.

KRISTOL: Yes, Mansfield. We will stipulate that they should certainly read him. Doesn't he say something where his task is, what, to defend the defensible liberalism?

BERKOWITZ: He certainly does say in a little book that was published in, I think, the late '80s, I think it is called *The Spirit of Liberty*, several essays.

KRISTOL: *The Spirit of Liberalism*.

BERKOWITZ: *The Spirit of Liberalism*. And I remind you that in the '70s, I forget exactly where he said it, but your father, Irving Kristol, in the '70s said something like, "The task of intellectuals today is to defend liberalism from the liberals."

I mean, you want a place where people might look, essays people might read to define, to discover how to defend a richer conception of liberalism. One answer is to randomly open up the pages of *The Public Interest*. You know, the truth is that there -–

KRISTOL: Any other thinkers influence you particularly, [Raymond] Aron in France, any British thinkers? I am just curious.

BERKOWITZ: I read some Aron, not much. I read, I was, in the 1990s I was influenced by the revival of liberalism in France. A few British thinkers here and there. But, for my money, the people who have been most effectively rediscovering, recovering the liberal tradition in its richness have been the students of Strauss.

KRISTOL: Of which Mansfield is one.

BERKOWITZ: Of which Mansfield is one.

KRISTOL: Many others, some of them focused on America, some of them focused on other thinkers, obviously, great thinkers.

BERKOWITZ: There are a number of other books which have influenced me over the years. And as a result of recognizing the urgency of reclaiming the tradition of freedom, they're books whose task is not to reclaim this tradition, but who are expounding this aspect or that aspect of the tradition of freedom.

You know, in a way, you could think of Justice Scalia as in this tradition. Scalia renewed a way of thinking about the Constitution that is actually grounded in appreciation of the founding. It is actually the doctrine of originalism or textualism.

The idea that Supreme Court justices should only overturn acts of Congress or invalidate or declare acts of the president unconstitutional if there's authority well-grounded in the text of the Constitution understood as it was understood at that time.

Well, that partly comes from a reclaiming of Anglo-American understanding of jurisprudence; but very importantly, it stems from an understanding of the role of courts in a liberal democracy. Whose understanding of the role of courts in a liberal democracy? Actually, the understanding of the Framers, of the Founders. So, that's not really, in a way it is responding to your question, with Scalia, but it's also taking us back to the Framers.

KRISTOL: I think it's a very important point and maybe a good one to close on, or almost close on, in the sense that I'm old enough to remember when Scalia was a law professor and Bork was a law professor. And their project of trying to combat progressivism in the legal profession, in the law schools.

And then there were a few kind of cartoon versions of conservatism, you know, maybe a kind of dogmatic originalism or just a traditionalism, I guess. You know, "This is too risky," this progressivism. And not a foolish point, but it's not like – but not really something you could hang onto, in a sense. And it looked hopeless. I mean, I very much admired Scalia and Bork when I first met them in the late '70s, but it seemed just to be, you know, that's a very interesting intellectual enterprise, but surely –

And it's a very good lesson, I think, that things that look hopeless, twenty years later could become quite powerful and forty years later can have many, many adherents, students, different school, sub-schools, actually, of originalism, interesting debates. Affect the real world, affect legal education.

The same with Milton Friedman. I mean, when I went to Harvard, Milton Friedman was a kind of a crank. I mean, his technical work on monetary policy was respected, but the idea that he was this broadly, could be as important an economist as Samuelson or the kind of big Keynesian economist was regarded as just ridiculous.

I don't know enough to know exactly how he ranks now compared to some of those other people, but Hayek was a very fringe figure.

So it's interesting how fast these things can turn around when one gets despairing about the current moment, I think. Maybe that's a good note to end on. Do you agree with that or are you going to bring me back to earth and say it's hopeless, we're finished?

BERKOWITZ: I am certainly not. I am only going to echo the sentiment and the observation that it's a terrific thing that free societies create all of this space to correct the excesses of freedom.

KRISTOL: No, that is really well said. And people should, of course, read your books and articles, because they have been a major contribution to this debate and to this enriching our idea, our understanding of the liberal tradition and liberal democracy. Peter Berkowitz, thank you very much for joining me today.

BERKOWITZ: Thank you very much.

KRISTOL: And thank you for joining us on CONVERSATIONS.

[END]