

## Unit 16

# Freedom and Liberty

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### Learning Objectives

Once you have studied this unit you should be able to understand

- the concepts of Liberty and Freedom from the early thinkers
- also provide different theoretical standpoints on Liberty and Freedom as a political value
- assess the debate on freedom and liberty

## 16.1 Introduction

Before we discuss Liberty, it will be useful to distinguish the value of liberty from other closely associated terms – 'Liberalism' and 'Libertarianism'. Liberalism signals a cluster of political ideals advocated (and put into practice) within a tradition of political thought and political activity. Major contributors to the literature of liberalism include thinkers as diverse as Locke, Montesquieu, the Federalists, Constant, de Tocqueville, J S Mille, T H Green, Karl Popper, P Hayek and latterly, John Rawls and Joseph Raz. Probably the only thing that unites members of this list is that they all subscribe to a strong value of individual liberty. For some, the heart of liberalism is captured in Locke's claim that all men are born free and equal; others shudder at the commitment to equality. For still others, liberalism requires the opportunity to participate in democratic institutions; some liberals discount this, insisting that democracy represents a separate or subordinate value, or no value at all, or even a threat to liberty.

Key liberal themes include the right to private property and advocacy of the rule of law as well as defence of the traditional freedoms – freedom of speech and artistic expression, freedom of association, religious freedom, freedom to pursue the work of one's choice and freedom to participate in political decision procedures.

Libertarianism is the theoretical stance of one who strictly limits the competence of government to collective defence, the protection of negative rights, rights of non-interference, and enforcement of contracts.

Liberty in one sense can be focussed as a political value. It is also claimed that liberty is not a value-neutral concept, it is always normative, always accompanied by a positive ethical charge. Thus to describe a condition as one of liberty is to attribute a positive value to it and hence to begin making out a case for it. The distinction between liberty and freedom is also important. The concept of freedom is thinner than that of liberty and carries less evaluative baggage

John Stuart Mill begins his essay, *On Liberty*, with a disclaimer in the first sentence: "The subject of this Essay is not the so-called Liberty of the Will, so unfortunately opposed to the misnamed doctrine of philosophical Necessity; but Civil, or Social Liberty".

#### Box 16.1: Democracy and Civil Liberty

Mill may be right to separate these philosophical questions. His specific objective limits the range of the concept of liberty, since it ought to be an open question whether the question of liberty is exhausted when we have investigated 'the nature and limits of the power, which can be legitimately exercised by society over the individual'. Mill imposes this latter restriction deliberately because he believes that, in his day, democracy poses sharp threats to civil liberty. He has in mind the possibility of majority tyranny and the levelling spirit of democracy, which may lead to an intolerance of social experimentation and personal eccentricity. He believed in de Tocqueville's reports of democracy at work in America; give a measure of power to everyone at the town meeting and conformity will soon become a parochial priority. These dangers are real, but liberty may require democratic institutions just as surely as democratic institutions requires strong liberties.

## 16.2 Berlin's and The Republican Theory

We will now turn to an analysis of liberty and freedom.

### Isaiah Berlin : Negative and Positive Philosophy

Isaiah Berlin's Inaugural Lecture, "Two Concepts of Liberty", has proved to be one of the seminal contributions to political philosophy in the 20<sup>th</sup> C. Berlin distinguishes negative and positive liberty and, on his account, these different senses of liberty are elicited as the answers to two different questions.

If we ask 'what is the area within which the subject — a person or group of persons — is or should be left to do or be what he is able to do or be, without interference from other person?' we characterize an agent's negative liberty. 'Political liberty' in this sense is simply the area within which a man can act unobstructed by others'. If we ask instead, 'what or who, is the source of control or interference that can determine someone to do, or be, this rather than that? We aim to describe the agent's positive liberty. This is summarized later as 'the freedom which consists in being one's own master.

### Negative Liberty

The clearest exponent of the simplest version of negative liberty was Thomas Hobbes, who defined a free man quite generally as, 'he, that in those things, which by his strength and wit he is able to do, is not hindered to do what he has a will to'. Negative liberty is often glossed as the absence of coercion, where coercion is understood as the deliberate interference of other agents. Negative liberty of the Hobbesian kind that is compromised by coercive threats as well as other modes of prevention, is often contrasted with theories which imply that mere inabilities inhibit liberty. This point is made clear by this phrase: 'It is not lack of freedom (for people) not to fly like an eagle or swim like a whale'.

**Reflection and Action 16.1**

Outline the concept of “negative” liberty. Discuss its shortcomings and make notes in your dairy.

Berlin insists that we should distinguish between the value of (negative) liberty and the conditions, which make the exercise of liberty possible. Thus there may be freedom of press in a country where most citizens are illiterate. For most, the condition, which would give point to the freedom – literacy – does not obtain. In these circumstances, Berlin would insist that illiteracy does not amount to lack a lack of freedom. Clearly, something is amiss in a society, which fails to educate its citizenry to a level where they can take advantage of central freedoms, but that something need not be a lack of freedom. A basic education, which includes literacy may be an intrinsic good, or it may be a human right. Its provision may be a matter of justice, its denial, transparent injustice. But however this state of affairs is described, we should distinguish a lack of freedom from conditions under which it is hard or impossible to exercise a formal liberty.

The important point Berlin wants us to recognize is that different fundamental values may conflict. The demands of justice or security may require truncation of liberty, or vice versa, in circumstances of moral dilemma or irresolvable tragedy.

**Box 16.2: Berlin and Positive Liberty**

Isaiah Berlin defines positive liberty as follows: the ‘positive’ sense of the word ‘liberty’ derives from the wish on the part of the individual to be his own master. I wish my life an decisions to depend on myself, not on external forces of whatever kind. I wish to be the instrument of my own, not of other men’s, acts of will. I wish to be a subject, not an object; to be moved by reasons, by conscious purposes which are my own, not by causes which affect me, as it were, from outside. I wish to be somebody, not nobody; a doer - deciding, not being decided for, self-directed and not acted upon by external nature or by men as if I were a thing, or an animal, or a slave incapable of playing a human role, that is, of conceiving goals and policies of my own and realizing them. This is at least part of what I mean when I say that I am rational, and that it is my reason that distinguishes me as a human being from the rest of the world. I wish above all, to be conscious of myself as a thinking, willing active being, bearing responsibility for my choices and able to explain them by references to my own ideas and purposes. I feel free to the degree that I believe this to be true and enslaved to the degree that I am made to realize that it is not.

The analytical summary of Berlin’s historical sketch of liberty is as given below:

**a) Self-Control and Self-Realisation**

This involves my working on my own desires - ordering, strengthening, eliminating them - in line with a conception of what it is right or good for me to do or be. This is a complex notion, with its heart in a sophisticated account of freedom of action. In modern times the development of this account can be traced through Locke, Rousseau, Kant and Hegel. It has re-emerged in the recent work of Harry Frankfurt and Charles Tylor. We are well

used to the idea that we exhibit self-control when we resist temptation. Freedom of action consists in our ability to appraise the desires which we prompt us to act and to decide whether or not to satisfy them. On this account, the paradigm of freedom consists in our going against what we most want, doing what we think best. But as Hegel pointed out, the best of all worlds for the free agent is that in which what, after due reflection, we believe is the right thing to do is also what we discover we most want.

#### b) Paternalism

Suppose I am not able to exercise this self-control. I may be ignorant of what is best for me. I may not understand the full value of alternatives. I may not understand the full value of alternatives. Like the child who does not wish to take the nasty-tasting (but life-saving) medicine, I mistake my real interests. In such circumstances, the wise parent will not be squeamish. She will force the medicine down. Might it not be justifiable, then, for you to exercise the control over me that I am unable to achieve or sustain? Might not freedom require whatever control over me that you can exercise - absent my own powers of self-control? This thought is particularly apt where your paternalistic intervention creates for me or sustains conditions of autonomous choice that my own activities thwart.

#### c) Social Self Control

But if I exercise my freedom through self-control, and if you promote my freedom by appropriate paternalistic intervention, may not my freedom be further enhanced by institutional measures that I endorse? In the Republic of Rousseau's Social Contract, citizens achieve moral and political liberty by enacting laws, backed by coercive sanctions, which apply to themselves as well as to others. If, as an individual, I cannot resist a temptation, which will likely cause me harm, wouldn't it be a wise stratagem to devise some social mechanism, which will bolster my resolve? If I realise that the threat of punishment against me will keep me on the straight and narrow path which wisdom alone cannot get me to follow, shouldn't I institute and accept social restraints which are more forceful than my unaided moral powers? And in doing so, don't I expand my true freedom?

#### d) State Servitude

An unwise citizen, unable to exercise immediate self control and insufficiently far-seeing to enact or endorse devices of social coercion, can nevertheless attain freedom indirectly and at second hand if the state effects the necessary control, notwithstanding his disapproval or lack of participation. The state can control us in the service of our real interests - and thereby make us free.

### 16.3 The Value of Freedom

Marx's conception of 'freedom' is in fact quite close to the notion of autonomous self-control taken by Durkheim, and is definitely not to be identified with the utilitarian view. The words 'free' and 'rational' are as closely associated in Marx's writings as they are in that of Hegel. Hegel dismissed the notion, implicit in utilitarianism, that a man is free to the degree that he can do whatever his inclination lead him to desire. The man in the street thinks he is free if it is open to him to act as he pleases, but his very arbitrariness implies that he is not free. Freedom is not the exercise of egoism, but is in fact opposed to it. A course of action is 'arbitrary'

rather than 'free' if it simply involves irrational choice among alternative courses of action with which the individual is liberated. An animal, which chooses, in a situation of adversity, to fight rather than to run from an enemy, does not thereby act 'freely'. To be free is to be autonomous, and thus not impelled by either external or internal forces beyond rational control; this is why freedom is a human prerogative, because only man, through his membership of society is able to control not only the form, but also the content of volition. In Hegel's view, this is possible given the identification of the individual with the rational ideal. For Marx, it presupposes concrete social re-organization, the setting up of a communist society.

#### **Box 16.3: Individual and Society**

The position of the individual in society will be analogous to that characteristic, for instance of the scientists within the scientific community. A scientist who accepts the norms, which define scientific activity is not less free than one who deliberately rejects them; on the contrary, by being a member of the scientific community, he is also to participate in a collective enterprise which allows him to enlarge, and to creatively employ, his own individual capacities. In this way, acceptance of moral requisites is not the acceptance of alien constraint, but is the recognition of the rational.

This is not to say that there are no important differences in the respective standpoints of Marx and Durkheim which can be regarded as of 'ahistorical' significance. Durkheim is emphatic that the individual personality is overwhelmingly influenced by the characteristics of the form of society in which he exists and into which he is socialised. But he does not accept a complete historical relativism in this respect: every man, no matter whether 'primitive' or 'civilised', is a homo duplex, in the sense that there is an opposition in every individual between egoistic impulses and those which have a 'moral' connotation. Marx does not adopt such a psychological model; in Marx's conception, there is no asocial basis for such an implicit antagonism between the individual and society. For Marx, 'The individual is the social being... Individual human life and species life are not different things. The egoistic opposition between the individual and society which is found in a particularly marked form in bourgeois society is an outcome of the development of the division of labour. Durkheim's identification of the duality of human personality, on the other hand is founded upon the supposition that the egoism of the infant, deriving from the biological drives with which he is born, can never be reversed or eradicated completely by the subsequent moral development of the child.

Both Marx and Durkheim stress the historical dimension in the conditioning of human needs. For Durkheim, egoism becomes a threat to social unity only within the context of a form of society in which human sensibilities have become greatly expanded: 'all evidence compels us to expect our effort in the struggle between the two beings within us to increase with the growth of civilisation.

#### **Reflection and Action 16.2**

Describe the egoistic opposition between individual and society. Can this be reversed or eradicated?

Unless what we want is itself of some value, the freedom to pursue it is just about worthless. So, freedom of thought and discussion is valuable because

thought and discussion is valuable. In the most impressive recent work on freedom, Joseph Raz suggests that freedom is of value since it is defined as a condition of personal autonomy.

#### a) Freedom of Action

To act freely, reason must be brought to bear on my desires. Important elements of free action can be traced in Locke, Rousseau, Kant and most thoroughly in Hegel's Philosophy of Right. It captures one strand of thinking about autonomous action - we are free when we are in control of what we do, acting against what, phenomenologically, are our strongest desires; when this is called for, by reason or morality or the ethical demands of communities, we recognize as authoritative.

#### b) Autonomy

The value of freedom can be swiftly inferred. It is the value of getting what we want, doing as we please. Thus the value of freedom is instrumental; it amounts to the value of whatever we want, which our freedom is instrumental in enabling us to get. If we are unfree in a given respect, we either cannot get, or can get only at too great a cost or risk (of punishment, generally) whatever is the object of our desire. This account of the value of freedom has the great virtue of being simple and straightforward. Moreover, it enables us to rank freedoms in respect of their value to us. This will be a function of the value of the activities that freedom permits. The more important is the object of desire, the more important the freedom to get it, the more serious the restriction in cases where we are made unfree.

We can grant the Kantian autonomy is exercised under conditions of freedom, which permit agents significant opportunities to work out what is the right thing to do, but if this is the core value of freedom we may find that freedom does not provide the best circumstances in which autonomy may be developed.

#### c) Moral Freedom

On Rousseau's account, this is the freedom, which is attained by those who can control their own desires. It is developed further in Kant's account of autonomous willing which stresses how we bring to bear our resources of rational deliberation in the face of our heteronomous desires, those desires which we are caused to suffer by the nexus of our (internal) human nature and (external) nature. If we follow reason's guidance we shall act freely, willing actions which it must be possible in principle for all to accomplish laws which all must be able to follow.

The laws, which keep us and our fellow citizens on what we recognize to be, the straight and narrow path of duty do not infringe our liberty. This is a dangerous argument, and the danger comes from two different quarters. First, there is the obvious threat that others may determine what our duty requires and then regiment us to perform it. This danger is avoided so long as we insist that the moral liberty, which is achieved by state coercion be the product of political liberty, of democratic institutions. The second threat is that democratic majorities may get it wrong, proscribing under penalty of imprisonment and like measures of punishment activities, which are innocent. Since the decisions of democratic bodies do not of themselves constitute verdicts on what is or is not morally acceptable, this is a permanent possibility. The pursuit of moral liberty may land us in political chains.

**Box 16.4: Limits on Democracy**

There are a number of complimentary answers.... The first is that we should buttress our specification of the institutions, which promote political liberty with some condition that sets limits on the competence of the democratic decision procedures. The second, an explicit implication of Mill's principle, is a public recognition that the wrongs which may be prohibited consistently with liberty do not include wrongs which citizens may do to themselves alone – that is the issue of paternalism.

**d) Toleration**

If there is a such thing as a liberal virtue, it is toleration. But as one commentator said 'it seems to be at once necessary and impossible'. Toleration is necessary because folk who live together may find that there are deep differences between their moral beliefs, which cannot be settled by argument from agreed premises. It is impossible because of the circumstances of deep conflict which call for the exercise of toleration are all too often described in terms of the obtuseness and stubbornness of the conflicting parties. These differences, historically have been of a kind that causes savages conflict. The point of disagreement may seem trivial to a neutral observer. Toleration requires one not to interfere in conduct which one believes to be morally wrong.

For instance, think of a state with majority and minority religions, or more generally, one with religious divisions and where the power to legislate is in the hands of one religious community alone. Should the state tolerate those who do wrong in the minds of the legislators by breaking the dietary laws their religion prescribes? Briefly it may be argued that morality has a universal dimension, which is belied by one who conceives its source to be an authoritative religious texts. Of course, the believer will affirm the universal authority of the prescriptions - one can't expect such problems to be so swiftly settled - but the direction of liberal argument can be easily grasped.

**16.4 Free States and Free Citizens**

Rousseau says that in the state of nature, our freedom derives from our free will, our capacity to resist the desires which press us, together with our status as independent creatures, neither subject to the demands of others nor dependent on them to get what we want. As contractors, we shall be satisfied with nothing less than that social state, which best approximates to this natural condition. Natural freedom is lost, but the thought of it gives us a moral benchmark by which we can appraise the institutions of contemporary society. In society, a measure of freedom can be recovered along three dimensions: moral freedom (we have already discussed), democratic freedom and civil freedom.

**a) Democratic Freedom**

The essence of the case for democracy as a dimension of freedom is simple: democracy affords its citizens the opportunity to participate in making the decisions, which as laws, will govern their conduct. For Kant, autonomous action consists in living in accordance with the laws, which one has determined for oneself as possible for each agent to follow. Democracy represents a rough political analogue of this model: freedom consists in living in accordance with laws one has created as applicable to all citizens, oneself included.

Berlin argued that democracy is a very different ideal to liberty – major decisions can threaten liberty, as J.S Mill argued. It is a mistake to view this

consideration, plausible though it may be, as decisive. Any system other than democracy will deny citizens the opportunity to engage in an activity that many regard as valuable. Democratic activity gives us the chance to assert that we are free of claimants of authority. Democracy may be necessary to freedom, but it carries its own distinctive threats.

#### b) Civil Liberty

Citizens who value liberty and express this through their participation in democratic institutions which liberty requires will, in all consistency, be reluctant to interfere in the lives of their fellows, whether by law or less formal mechanisms. Their deep concern to establish institutions, which empower every one will make them cautious about introducing measures which constrain individual choice. Accepting the necessity of democratic institutions and their associated freedoms, valuing strongly the opportunities these offered for citizens to embody their various conceptions of the good life in constitutional and prescriptive laws, they will be hesitant to constrain their own pursuit of these values. To the rational man, it is a miserable thought that others may defy the canons of rationality. Just as we are prepared to approve external constraints on our decision-making, recognising our vulnerability to temptation, so, too, must we be prepared to adopt institutions, which guard against the worst of human folly.

### 16.5 Conclusion

Berlin's work on liberty represented a notable advance on the prevailing standards of philosophical correctness. He showed that an important ethical concept is susceptible of (at least) two, and possibly two hundred, different analyses. There is no one coherent way of thinking about liberty; there are at least two – and these amount, each of them, to rich traditions; each tradition dissolving into disparate components which challenge fellow contenders for the torch of 'the best way of thinking about the value of liberty'. If there are many ways of thinking clearly about liberty, as about democracy or justice, the important question concerns which way we are to select as most apt to characterise judgements about the importance of liberty as a political value. The accounts of selection are complex and following are the chief characteristics.

Basically agents are free when they are not hindered in their pursuit of what they take to be the good life. Hindrances are to be construed widely. In a political, or more widely social context, they will include laws backed by sanctions as well as the coercive instruments of positive morality. But individuals can also claim to be unfree when governments in particular fail to empower them in sufficient measure to attain levels of accomplishment which are the necessary preconditions of a life which is authentically their own. Political institutions can foster liberty on this capacious understanding in a range of ways. A sound theory of liberty should recognise the Janus-face of the criminal law in particular. It can serve as a protection, demarcating with the force of sanctions the boundaries which freedom requires if the pursuit of the good life is to be safe within them. Governments and citizens individually should be modest in respect of both their ambitions and effectiveness concerning the likelihood of their interference promoting the good of their helpless and obdurate fellow citizens.

### 16.6 Further Reading

Giddens, Anthony. *Capitalism and Modern Social Theory*. CUP, 1994.

John Lechte (2004). *Fifty Great Contemporary Thinkers - From Structuralism to Postmodernity*.