

The Positive Dimensions of Negative Liberty

by

Stefano Edoardo Mingarelli

B.A. Concordia University, 2004

A Thesis Submitted in Partial Fulfillment of the
Requirements for the Degree of

MASTER OF ARTS

in the Department of Philosophy

© Stefano Edoardo Mingarelli, 2006
University of Victoria

All Rights Reserved. This thesis may not be reproduced in whole or in part, by photocopy
or other means, without the permission of the author.

The Positive Dimensions of Negative Liberty

by

Stefano Edoardo Mingarelli
B.A. Concordia University, 2004

Supervisory Committee:

Prof. James H. Tully, (Department of Political Science)
Supervisor

Dr. Cindy Holder, (Department of Philosophy)
Departmental Member

Dr. Colin Macleod, (Department of Philosophy)
Departmental Member

Prof. Jeremy Webber, (Faculty of Law)
External Member

Supervisory Committee

Prof. James H. Tully, Supervisor (Department of Political Science)

Dr. Cindy Holder, Departmental Member (Department of Philosophy)

Dr. Colin Macleod, Departmental Member (Department of Philosophy)

Prof. Jeremy Webber, External Member (Faculty of Law)

Abstract:

This thesis will critically examine some of the central issues that revolve around the understanding and defense of negative liberty that Isaiah Berlin presented in his famous lecture "Two Concepts of Liberty." By taking into consideration a variety of positions we shall observe that theories of negative liberty are not only based on a set of institutional preconditions but also necessitate some idea concerning our ends and our identities in order for us to discriminate between alternative spaces of non-interference. Such a position seems to infer that any concept of liberty must contain both positive and negative dimensions - it must be both an *opportunity* concept and an *exercise* concept. In this sense, this thesis presents an attempt to overcome the impasse between positive and negative liberty. Voiced in another fashion, the thesis presents an effort to resolve the dilemma articulated close to two hundred years ago by Benjamin Constant: how do we bring the liberty of the ancients and that of the moderns together?

<u>Table of Contents:</u>	Page
<u>Supervisory Committee:</u>	p.ii
<u>Abstract:</u>	p.iii
<u>Table of Contents:</u>	p.iv
<u>Acknowledgments:</u>	p.v
<u>Dedication:</u>	p.vi
<u>Introduction:</u>	p.1
<u>Chapter 1: The Great Divide(s)</u>	p.12
<u>Chapter 2: Isaiah Berlin's "Two Concepts of Liberty"</u>	p.29
<u>Chapter 3: 'Who shall be Judge?' Charles Taylor and the Positive dimensions of Negative Liberty</u>	p.73
<u>Conclusion:</u>	p.89
<u>Bibliography:</u>	p.92

Acknowledgments:

This thesis would not have been possible without the intellectual support and guidance of James H. Tully. Professor Tully has been a tremendous influence and help in making sense of the ideas presented in this essay. Although he may very well disagree with some aspects of these conclusions, he has always remained optimistic towards the path taken. Indeed, the supervisor-student relationship has been one - to paraphrase the great poet Robert Bringham - in which '[I] have taken less than what [he] has offered and a great deal more than what [I] could give.' For your kind generosity, I sincerely thank you.

Secondly I would like to acknowledge and thank the members of my committee – Dr. Holder, Dr. Macleod and Prof. Webber - for their penetrating comments, helpful suggestions and generous intellectual support.

Thirdly, I thank the members of the 'Victoria Colloquium on Social, Political and Legal Theory' and 'Demcon' - Avigail Eisenberg, Cindy Holder, Colin Macleod, James Tully, Jeremy Webber as well as all the faculty and student participants of the events - for having provided an excellent dialogical environment within which the friendly exchange of critical ideas was made possible.

Fourthly, I would like to thank everybody in the Philosophy Department of the University of Victoria. The intellectual rigor of the academic setting has not only facilitated my philosophical development but has also made my research all the more enjoyable. Fellow student and friend, Warren Heiti, is recognized for his many engaging discussions and kind friendship. To Liz Wick, Jill Evans and Colin Macleod for their unconditional help in guiding me through the bureaucratic dimensions of graduate studies – many, many thanks. I am also grateful to the University of Victoria as well as the people of Canada through the Canadian Government's Social Science and Humanities Research Council for having generously provided much needed financial assistance throughout my studies.

Lastly, and more importantly, I warmly thank everybody in my family. My sister Carolina, my grandmother Oliviana Mingarelli and brothers Paolo and Giosafat, have been supporting me in their respective fashion in every stage of my studies. This is a good time and place to tell them that I love them and am grateful for all the help and encouragement they have given me throughout the years. In the end, a memory is kindled for my grandmother Dorothy Tobin-Painchaud and grandfather Giosafat Mingarelli; they remain our greatest teachers.

*--To my Mother and Father--
With Everlasting Gratefulness and Love*

Introduction:

Liberty is, uncontroversially, one of the most significant political values of western modernity; the testament that historically it has been one of the most contested of political values may vindicate this point. What liberty *is*, and what perhaps it *should* be, is a philosophical question of utmost importance because our understanding of liberty places demands on us, as both individuals and citizens, and on the institutions that facilitate and regulate our common social, economic and political existence. No other idea, except perhaps equality, has fueled more debate, and facilitated more conflict, than that of 'Freedom.'¹ Indeed, our appreciation and longing for liberty shows itself not only in the finger-pointing and partisan clamors of the floors and bleachers of democratic and parliamentary institutions but also in the strategic and cooperative acts of social and cultural, economic and political movements that point their fingers, make demands, and negotiate compromises with other social actors, institutions and governments. These practices, symbols and struggles that have, are, and will inevitably be pursued for this ideal are not only an expression of our fervent dedication to it, but are constitutive of the very ideal itself.

What liberty *is*, like most philosophical questions, is a particularly challenging one, not simply because practically every single philosopher of the western tradition has attempted to articulate the proper definition and conceptual boundaries of liberty, but because the concept of liberty is intricately linked to other ideas, such as the limits of coercion and obligation, as well as the proper source and legitimacy or authority, of that coercion and the respective conditions which that source and legitimacy require.

¹ I will be following prevailing custom and will be using the terms interchangeably throughout the thesis.

Notwithstanding these conceptual intricacies, the dynamics and development of western modernity have shaped the way most of us generally think of liberty in a quite drastic fashion. The expansion of 'liberalism' within and outside Europe has brought with it a particular way of thinking about freedom or liberty which has come to have considerable influence in recent years at the global level. One can say that this negative idea of liberty, which found its humble beginnings in the middle of the seventeenth century² and played such a tremendous role in determining the outcome of the twentieth century,³ has come to shape a large part of what Charles Taylor has called our 'social imaginary.' That is, it has played an enormous (but not at all exclusive) role in shaping "the ways people imagine their social existence, how they fit together with others, how things go on between them and their fellows, the expectations that are normally met, and the deeper normative notions and images that underlie these expectations."⁴ So significant is this idea of liberty that it appears that no other *definition* can be given than that of being free from institutional, individual or public interference in our activities. To most of us, this picture, most commonly reflected in the notion of human rights, remains the most lucid portrait of our liberty. But this idea or definition, although deeply embedded in our cultural and political history, is only one *aspect* of a much larger commitment that we have towards freedom.

The past fifty years have yielded many interesting insights into this notion and its development. Intellectual historians and philosophers have done extremely fascinating

² I will take it for granted that the idea of negative liberty as we know it, is first articulated by Thomas Hobbes in the middle of the 17th century. Whether Skinner is right that this juridical way of thinking of freedom is a creature of the renaissance jurists studying the Justinian Digest is a question I simply cannot answer.

³ Of course, this is a purely conjectural not to say rhetorical, claim.

⁴ Taylor (2004) p.23.

work in uncovering, as it were, the debates and discussions that surrounded the origins of our understanding and valuation of freedom and how it has determined the way we think about ourselves and our social, political and cultural surroundings and the manner in which we act within its respective political, cultural and economic institutions. These historians have shown that from its earliest beginnings in the Homeric world to the great divides of the 20th century, the way freedom *was thought* has always been intricately associated to other values and vices, hopes and fears. In his great study of freedom, Orlando Patterson explains that the ideal of freedom has, is and probably will always be considered in relation to a corresponding notion and understanding of slavery.⁵ When discussions of servitude and exploitation, domination or inequality, are raised in the forefront of a culture's or community's viewpoint and concerns, there will always be an ensuing discussion concerning what freedom is and how the ideal can be achieved.

As Quentin Skinner has shown in his study of the 13th and 14th centuries, discussions of liberty surfaced in contexts where the Italian city-states fought for independence from papal authority.⁶ Turning to the 17th century, one could examine how the need and growing concern for some form of security fuel a dispute concerning a notion of liberty that enables the cultivation of a realm of commercial autonomy and individual independence.⁷ At the dawn of the French and American revolutions, notions of democratic or popular sovereignty emerge under the banners of freedom as a result of the growing tyranny of monarchical and aristocratic forms of governance.⁸ By the 19th century, demands for the expansion of the franchise, more dignified forms of labour

⁵ See the introduction to Patterson (1991).

⁶ Skinner (1978) Vol.1 chap.1.

⁷ Hobbes (1994) for the canonical articulation of this claim.

⁸ Rousseau (1966) of course is the champion of this cause.

policies, more egalitarian economic arrangements and hosts of other political, economic and social reforms all take shape under growing demands for freedom.⁹ Even when we look to the twentieth century, the totalitarian experiments are criticized on their blatant neglect for proper human rights¹⁰ and negative liberty.¹¹ Moreover, many of the post-colonial struggles and transformations that took place during this century were consolidated under an ideal of freedom as self-determination.¹² At present, growing awareness of global inequalities such as socio-cultural, political and economic asymmetries between and within nations is creating much discussion concerning the unfreedom of 'neo-liberal' forms of governance and regulation.

It is certainly a legitimate question to ask what these movements' understandings of freedom have in common? Such a study could perhaps reveal to us the necessary requirements or properties that a theory of freedom should exhibit? It could clarify what freedom is ultimately about and to what spheres of our lives it relates? As philosophers, there is a natural tendency to search for family resemblances among the tropes that have been advanced within these contexts.

For example, David Miller, in a recent survey, has categorized three main families of conceptions of liberty – Republican, Liberal and Idealist.¹³ The republican family conceives liberty in a straightforwardly *political* way. Freedom within this context is most often understood in terms of specific types of political arrangements and activities that are expressions of a fully self-governing community. Depending on which conception we choose within this family, a particular emphasis will be placed on the

⁹ Marx and Engels were champions of this cause.

¹⁰ Lefort (1986) articulates this claim quite well.

¹¹ See Berlin (2002) for the classic argument in this context.

¹² Cassese (1995) has a very explicit statement of these transformations.

¹³ See the introduction to Miller (2006).

actual active participation of the members in the rule and governance of that particular community. The Liberal family perceives freedom as a property that is given to individuals - an individual is free to the extent that he exhibits property A (say non-interference). This conception is *loosely* political. As Miller nicely puts it “whereas the republican sees freedom as being realized through a certain kind of politics, the liberal tends to see freedom as beginning where politics ends.”¹⁴ This implies that freedom is an extra-political property. Even though governments secure and protect the freedom of their citizens, they can also threaten to restrict or remove it through the imposition of laws backed by the use of force. The property is extra-political in the sense that even if the property is created through a certain type of politics¹⁵ and maintained by government, it is a legal and moral space protected from government. As Miller points out, “[liberals] all share the view that freedom is a matter of the scope or extent of government rather than of its form or character.”¹⁶ The Idealist family of conceptions, according to Miller, focuses not on social and political arrangements and activities but on the internal forces that determine people’s actions. These conceptions of liberty are political only when they relate to certain political arrangements as necessary to the realization of liberty. In essence, these conceptions do not factor exogenous variables into their theories of freedom but deal with purely internal and mainly psychological elements.

What this brief and rudimentary survey enables us to see is the basic multiplicity of conceptions of liberty that are or have been at play within political discourse and

¹⁴ Miller (2006) p.3.

¹⁵ The type of politics I have in mind here is best expressed in Rawlsian terms as that which pertains “to the basic structure of a modern constitutional democracy – meaning that which applies to a society’s fundamental political social and economic institutions and how they fit together into one unified system of social cooperation.” See Rawls (1999) p.389.

¹⁶ Miller (2006) p.3.

debate. In any case, it ought to be stressed that in all particular cases where a singular idea has come to dominate a social imaginary it is important to recall and reconsider that those ideas have not emerged without extensive criticism from the plurality of other conceptions being articulated. In political matters where diverging values are at play, dissent and disagreement are inevitable. As such, one must remain wary of assertions, like those that some philosophers have recently made, that they have uncovered the one common denominator or established *the* proper definition of freedom - in most cases a 'freestanding' or 'archimedean' concept, to invoke a term of art - which is not sullied by some type of partial or biased axiology that can commensurately garner the most agreement possible.¹⁷ In effect, to hold such a view in relation to the nature and value of political concepts is a highly debatable, if not outright mistaken, assumption.

Political concepts and categories are simply not 'archimedean' or 'freestanding' entities; they are highly contingent entities that are formed by, and emerge from, a diversity of factors; including historical, cultural, political and economic concerns and realities. However, we must not, like some thinkers unfortunately have, throw the baby out with the bath water and infer that, given these subtle and colorful circumstances, the objectivity and very validity of these concepts and categories are now put into question. Concepts are always, and have always been, in question; it is simply a matter of keeping a more balanced and open-ended outlook – or to put it in other words, a both charitable and critical spirit - on such issues as the objectivity and validity of concepts.

*

In the past decades there has been a resurgence of discussions concerning the concept of liberty. The ideological storms that have battered our time have brought us to

¹⁷ See MacCallum (1967), Feinberg (1973), Oppenheim (1981).

question how we view and value freedom. Isaiah Berlin's analysis of the distinction between negative and positive liberty has reinvigorated a debate that has spawned tremendous attention on what exactly we mean when we understand ourselves to be *free from* a certain set of externally imposed coercive impediments (i.e. negative liberty) or what we mean when we claim to be *free to* lead a given way of life (i.e. positive liberty).¹⁸

This Berlinian analysis, however, has not evolved without serious objections to the prescribed typology. Quentin Skinner,¹⁹ among others, has argued that another or third concept of liberty can be identified which does not fit within Berlin's typology.²⁰ Others, such as Charles Taylor²¹ and John Pocock²² have objected, quite rightly, that Berlin's construal of positive liberty is seriously deficient. Indeed, it still remains a fully open question what negative or positive liberty implies. Notwithstanding the disagreements, the debates have shed a significant degree of light on the history, development and present appreciation of freedom which our social, political and economic culture and institutions express.

By taking into consideration some of the conclusions that these debates have generated, this thesis will show that any defensible understanding of negative liberty cannot be a totally freestanding concept. We will argue that any definition or understanding of negative liberty necessitates some substantive ground upon which it can stand - it requires some 'positive' aspect upon which it can adjudicate its boundaries. In

¹⁸ Berlin (2002).

¹⁹ Skinner (1998) (2000) (2002 – Vol. 2.).

²⁰ Skinner has been arguing this position for some time now. However for a more perspicuous discussion see his *Berlin Lecture* Skinner (2000) while a more historically detailed analysis is given in Skinner (1998) - which provides a nice genealogy of the idea within the political discourse of early modern Britain.

²¹ Taylor (1985b).

²² Pocock (1973) (1985) (2006).

other words, we contend that the concept of negative liberty, like Isaiah Berlin's, is unable to measure and justify the sphere of non-interference that its respective conceptual position entails without recourse to some facet of the positive conception of liberty proposed and endorsed by Charles Taylor. Moreover, we shall show, following Quentin Skinner that the concept of negative liberty simply cannot stand on its own without some democratic institutional structure to sustain it. The objective is not to discredit or eliminate the Berlinian concept of negative liberty, but rather to emphasize that any proper understanding of negative liberty we advocate will necessitate some 'positive' dimension as well.²³

In other words, if we envisage liberty as simply a sphere of non-interference, we are still left with unresolved questions. Firstly, how shall we articulate what, why, and how the space of opportunity itself will be construed? And in a second but intricately related way, who shall do the articulation? That is to say that the parameters that will delineate what those boundaries will be *must* stem from somewhere and *must* ultimately pass a test of legitimacy. One way to resolve the issue is to construe the idea of liberty in a way that encapsulates both the ideals of democracy understood as the active voicing of substantive claims of good and that of the rule of law understood as those goods translated in terms of right. Freedom understood in this way allays the dichotomy between the bourgeois liberty that Marxists for so long have diagnosed as the major pathology of modernity itself (i.e. civic privatism)²⁴ and the idea of democratic citizenship that so many critical theorists, civic republicans and democrats have struggled

²³ It ought to be noted that Skinner refuses to acknowledge that his third (or neo-Roman) account exhibits positive dimensions [see his Skinner (1998) p82-86]. However, as Pettit has argued, the neo-Roman account may very well exhibit such properties [See Pettit (1997) p. 51].

²⁴ See Habermas (1973) p.81-90.

to recapture.²⁵ Here, we find ourselves paralleling the very concern that Benjamin Constant voiced. How do we bring the liberty of the moderns and that of the ancients together?²⁶

The study is divided in three chapters. The first chapter consists of a detailed examination of Benjamin Constant's famous distinction between ancient and modern liberty. The rationale for this examination is to challenge the assertion made by Isaiah Berlin that negative liberty is a direct descendant of Constant's 'liberty of the moderns.' This chapter not only shows that Berlin was deeply mistaken in this respect but, moreover demonstrates how Constant's conclusions about the relationship between ancient and modern liberty are still very central concerns of our liberal societies. Indeed, the spirit of Constant's conclusion are of further importance to us given his insistence that both modern and ancient liberty must be addressed because of their intrinsic relationship. This facet of Constant's work will have strong resonance in our investigation of Berlin's own conceptual conclusions between negative and positive liberty and their relationship.

Having set this general tone, the second chapter will provide a rather detailed analysis of Berlin's inaugural lecture "Two Concepts of Liberty." We shall note that Berlin's understanding and defense of negative liberty is not, in all respects, a particularly novel one. Berlin's own justification for negative liberty may have been original, however, the *scope* and *character* of the concept has very strong and deep historical roots. From Hobbes to Mill, freedom understood as a sphere of non-interference is not an especially novel interpretation. Moreover, given the mainly juridical character of the

²⁵ Holmes (1984) p.4 –10. Pocock (2003) (2006), Skinner (1998).

²⁶ See Constant (1997) p. 618. "*Loin donc, Messieurs, de renoncer à aucune des deux especes de libertés dont je vous ai parlé, il faut, je l'ai démontré, apprendre à les combiner l'une avec l'autre.*" ["Gentlemen, far from renouncing either of the two species of liberty which I have discussed; we must, I have showed, learn to combine one with the other." – translation my own].

liberal tradition, it is not surprising that Berlin continues this ‘negative constitutional’²⁷ tradition by understanding negative liberty as an essentially juridical concept intimately linked to the idea of an individual human right.²⁸

The third chapter examines the idea of positive liberty that is introduced and affirmed by Charles Taylor. We shall show that Taylor’s position may prove to be a viable alternative to the positive conception of liberty Berlin rejects. Moreover, the introduction and review of this alternative, coupled with certain Lockean insights, will not be targeted at overturning the viability and coherence of the negative conception but will rather be directed at questioning the validity or justification of the ‘freestanding’ status of the negative concept itself.

By making this last argument, we conclude our study largely where we started; that is, with two concepts of liberty. However, far from endorsing Berlin’s conclusions and dichotomy, our understanding of negative liberty cannot be disassociated from some underlying positive dimension or value. Indeed the greatest criticism against Berlin was the only one he did not answer. If a negative conception of liberty is defined in terms of the boundary of non-interference that protects a given *initiative*, then what that boundary will be and what valued activity it promotes must ultimately stem from some value and must be voiced, introduced and protected through some process or institutional mechanism. In effect, the reason Berlin could not answer this question was because it situated itself right in the middle of his doctrinal division between the question concerning what the space of non-interference *is* and the question concerning the source

²⁷ According to Holmes (1995), negative constitutionalism is a doctrine that views constitutions as “primarily preventive or inhibitory devices meant to check or repress tyranny and other abuses of power.” In other words constitutions are “designed primarily to limit the power of the sovereign” p.7.

²⁸ For a historically nuanced discussion concerning this relationship between liberty, law, liberalism and rights. See Pocock (1985) p.43-48.

of the interference (its authority). In order to maintain a purely operational understanding of liberty, Berlin neglected to pay closer attention to the positive dimensions that the negative conception may necessitate.²⁹ This dilemma and problematic had been understood very appropriately by Constant close to two hundred years ago. Let us now turn to that particular moment.

²⁹ It ought to be noted that Berlin was aware of this concern. The claim he made in relation to this facet was the vague assertion that there exists a minimal space – “the always recognizable frontier” - that should not in any circumstances be interfered. This ‘always recognizable frontier’ for Berlin is articulated through the liberal values and institutions that have come to draw up the liberal ideal. In any case, Berlin’s silence in this regard is unsatisfactory. See discussion below - pp 68-71.

Chapter 1: The Great Divide(s)

I

Distinctions between kinds are not unfamiliar in philosophy. In political philosophy, distinctions do not only clarify and strengthen theoretical positions; they also help to demarcate the diverse and competing visions of political life and organization that various actors in society uphold. In essence, these diverging visions are what create and fuel political debate. Under this context, one of the responsibilities the political philosopher has towards this reality, as Isaiah Berlin quite rightly acknowledged, is to “examine the models, paradigms, conceptual structures that govern various outlooks whether consciously or not and compare the various concepts and categories involved with respect, for example, to their internal consistency or their explanatory force”³⁰

The concept of liberty has not, as we have seen, been exempted from this practice. In our century, Isaiah Berlin developed an 18th century distinction made by John Lind between negative and positive liberty.³¹ In ‘Two Concepts of Liberty’, Berlin chose to limit his examination of liberty to two historically central tropes. By doing so, he associated himself with Benjamin Constant³² who, in perhaps the most novel performance on the subject in the history of political argument, analyzed the relationship between the liberty of the ancients and the moderns.³³ By restricting his analysis to two concepts, Berlin was not advocating that these were mutually exclusive categories. Indeed, he was very well aware that there were maybe more than two hundred other

³⁰ Berlin (1978) p.167.

³¹ I owe this to Pettit (1997) p.17.

³² This association is not only implicit in his inaugural lecture but made somewhat more explicit in his encyclopedia article on the subject. See Berlin (2002 – chap.7).

³³ See Constant (1997) “De la liberté des Anciens comparée à celle des Modernes.” Sect. III. p.589-619.

concepts of liberty lurking within the tradition.³⁴ However, the reason he did restrict the analysis was because his aim in the lecture was to understand the underlying ideas that promoted the ideological conflict of the mid-twentieth century – the ‘cold war’ between ‘Communism’ and ‘Liberalism’ - and to assess the coherence of the underlying philosophical positions of this great ideological divide.

According to Berlin, the two concepts differ in the questions they seek to answer. The concept of negative liberty provides an answer to the question “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 by other persons?”³⁵ The positive concept, on the other hand, answers the question “what or who is the source of control or interference that can determine someone to do or be this rather than that.”³⁶ Berlin, as is well known, advocated the negative concept for philosophical and political reasons that will be assessed later. What is of significance to us here does not relate to Berlin’s defense of negative liberty but rather to his self-appointed philosophical relationship to Benjamin Constant.

In his encyclopedia article ‘Liberty,’³⁷ Berlin provided a toned down version of his major lecture and associated the negative concept of freedom with Constant’s ‘the liberty of the moderns’ and the positive concept with Constant’s ‘the liberty of the ancients.’ Similar to his analysis in “Two Concepts of Liberty,” Berlin distinguished Constant’s ancient and modern conceptions by examining the underlying questions to which both concepts seek to provide answers; the modern concept (like its negative

³⁴ Berlin (2002) p. 168. “I do not propose to discuss either the history of this protean word or the more than two hundred senses of it recorded by historians of ideas.”

³⁵ Berlin (2002). p.169.

³⁶ Berlin (2002). p.170.

³⁷ Reprinted in Berlin (2002) Chap. 7.

counterpart) dealt with the question “how much government should there be?” while the ancient concept (like its positive counterpart) dealt with the question “who shall govern me?”³⁸

However, even though one could easily make the connection between the two concepts, as Berlin in fact did, it is a serious mistake to uphold it. Although Constant advocated the inescapable need to support the liberty of the moderns, he did not, altogether, do away with the ancient one in the same way and with the same confidence Berlin put aside the positive concept. A careful examination of Constant’s lecture and conclusions will show how the problematic that Constant focused on may provide some valuable insight into the dichotomy that Berlin propagated in his lecture.

II

In 1819, Benjamin Constant, addressing a group of Parisian citizens, gave a public lecture on the topic of liberty. The topic, like that of Berlin much later, was timely. The French revolution had occurred yet the ideals that guided it gave way to a state of Terror - a ‘despotism of liberty’ and ‘reign of virtue’ arose under the banners of political and economic stability to displace some of the crowning ideals of the revolution itself.³⁹ Notwithstanding, the French revolution had, in many respects, achieved its purpose. *L’Ancien Regime* had disappeared and with it surfaced the ideals of equality and individual rights, representative government and ‘popular sovereignty.’ The debates that ensued the revolution still flagged their own ideals of liberty and justice; as one camp argued for more and more popular control, another voiced in favor of less central authority and more individual independence. Within this carnival of voices, some even

³⁸ Berlin (2002) p.283.

³⁹ See Wright (1990) for a short history of the revolution and its aftermath.

argued for a return to a social and political arrangement similar to that of the '*ancien regime*.'⁴⁰

In "The Liberty of the ancients compared with that of the moderns" Constant attempted to provide an answer to the divisions that marked French political culture. According to Constant, the proponents of ancient liberty understood liberty, roughly, to be the active and direct participation of each and every citizen in the collective exercise of the community's sovereignty. Such an understanding of freedom took the whole of society as greater than its individual parts. The individual gave himself to his community and to the realization of the greater good. According to the ancient conception of liberty, because the "society's jurisdiction was unlimited,"⁴¹ it was not inconsistent to uphold that the individual would give himself, as it were, to the complete authority of the demos.⁴² As Constant notes, "the laws regulated customs, and as customs touch on everything, there was hardly anything that the laws did not regulate"⁴³

The liberty of the moderns, in contrast, consisted of a set of rights that permitted a distinct sphere of life where a cluster of activities that were mainly conducive to commerce and the private enjoyments of related benefits could be exercised. Modern liberty "consists of peaceful enjoyment and private independence"⁴⁴ As Constant explains,

[Modern liberty] is for each of them the right to be subjected only to the laws, and to be neither arrested, detained, put to death or maltreated in any way by the arbitrary will of one or more individuals. It is the right of everyone to express their opinion, choose a profession and practice it, to

⁴⁰ See Goldstein (1997) for an anthology of these various positions.

⁴¹ Constant (1997) p.596. "[...] la juridiction sociale était illimitée."

⁴² Constant (1997) p.594. "[...] mais en même temps que c'était là ce que les anciens nommaient liberté, ils admettaient, comme compatible avec cette liberté collective, l'assujettissement complet de l'individu à l'autorité de l'ensemble."

⁴³ Constant (1998).p.311.

⁴⁴ Constant (1998). p.316.

dispose of property, and even to abuse it; to come and go without permission and without having to account for their motives or undertakings. It is everyone's right to associate with other individuals, either to discuss their interests, or to profess the religion which they and their associates prefer, or even simply to occupy their days or hours in a way which is most compatible with their inclinations or whims. Finally it is everyone's right to exercise some influence on the administration of the government, either by electing all or particular officials, or through representations, petitions, demands to which the authorities are more or less compelled to pay heed.⁴⁵

According to Constant, the distinction between the ancients and the moderns is reflected at many levels. For instance, within the ancient world, where the size of the state is smaller and the internal and external structure of economic and political relations are drastically different, the citizen has much more political power and influence and is provided with much more time and capabilities to engage in these practices. His private life means very little since his public life carries much more importance. The modern world, by contrast does not provide the institutional and political environment to practice this sort of activity. Consequently, the citizen carries much less importance at the political level and his personal activities carry more importance to him than his public persona. In essence, as nicely summarized in this passage,

[T]he aim of the ancients was the sharing of social power among the citizens of the same fatherland: this is what they called liberty. The aim of the moderns is the enjoyment of security in private pleasures; and they call liberty the guarantees accorded by institutions to these pleasures.⁴⁶

Constant was well aware of the possible dangers associated with the practical implementation of either conception. A total surrender to the demos as the ancients would profess, could only come to the detriment of individual self-perfection and private enjoyment. By contrast, whereas modern liberty upholds and promotes the private pursuit

⁴⁵ Constant (1998). p.310-311.

⁴⁶ Constant (1998). p.317.

of wealth, happiness and self-development, it can advocate or cause the neglect of our rights to the collective share of power and, thus, radically reduce our sense and practice of patriotism.⁴⁷

In his attempt to mitigate the problematic between the ancients and the moderns, Constant opted for a more realistic and tempered position. Rather than opting for an absolute stance on the issue, Constant attempted to resolve two things. On the one hand, Constant sought to clarify a certain confusion perpetrated by the quarrel itself. In particular, he sought to show that the proponents of the ancients were not misguided in their appreciation of their ideal but that they were somewhat shortsighted with respect to the institutional vision upon which the ideal rested. It was partly due to this vision that they unjustly accused the moderns for their lack of patriotism or participation. In effect, Constant's critique did not intend to reject the liberty of the ancients but, rather, to state that their criticisms were, in a sense, unjustly inspired and incorrectly targeted.⁴⁸ On the other hand, the study had a more forensic component that attempted to analyze the causes for the cultural and institutional effects of the revolution – that is, the representative form of government as well as the diverse liberties and leisurely life-style that emerged thereon - and show why those effects were so inconceivable to the ancient world and its institutional structure. By studying the causes of the cultural and institutional effects of the revolution, Constant was also providing the backdrop with which he would resolve

⁴⁷ see Constant (1998) p.326.

⁴⁸ As he puts it, “[les auteurs ...] on essayé de contraindre [la France] à jouir du bien qu’elle ne voulait pas, et lui ont disputé le bien qu’elle voulait” Constant (1997) p.592 - or in Biancamaria Fontana's translation: “[these authors] sought to force her (i.e. France) to enjoy the good she did not want, and denied her the good which she did want.” [Constant (1998) p.30] - It should be stressed that much of the rhetorical undertones are lost in this translation.

and clarify the confusions perpetrated by the quarrel between the ancients and the moderns.

A large aspect of Constant's lecture is a 'sociological' explanation concerning the role, emergence and vital importance of commerce and commercial activity within the modern world. Constant argued that the ideal of liberty the ancients upheld and envisioned could not, as things stood, be implemented in the modern setting. The institutional structure and moral fiber of modern society had reached a point in historical development that precluded the possibility of maintaining an ancient system and understanding of political liberty. The demands and structure of commercial society were much too incongruent with the particular understanding of liberty that the ancients cherished. Indeed, the advent of commercial society for Constant, transformed so many aspects of modern society that the very idea of ancient liberty as it was known was irreconcilable with contemporary modes of living and institutional organization.⁴⁹ The most fundamental of these transformations had been the emergence of a representative system of government as well as the set of liberties or individual rights guaranteed by law. Moreover, the importance of these transformations is not without consequence. According to Constant, the emergence of representative government provided a surrogate for the political liberty that the proponents of the ancients hoped for while simultaneously

⁴⁹ See Constant (1997). p.599-600 for four aspects of these transformations. Also notable is Dunn (1990) p.61- Referring to Berlin's claim that Constant is the champion of the negative notion of liberty and thereby equating the negative concept of liberty with Constant's "liberté moderne", Dunn replies, that "it is far from clear that Constant himself would have welcomed the assimilation since it elides the principle reason which led him to wish to draw the distinction so sharply in the first place, *and insistence on the impossibility in principle of realizing the ancient conceptions of political agency within the inhospitable practical organization of modern political societies, and on the murderous consequences that are likely to result from the confused attempt to realize them in this profoundly alien setting.*" (Italics are my own).

providing the structure upon which the liberty of the moderns could be sustained. It is precisely for this reason that against Rousseau,⁵⁰ and more importantly Malby,⁵¹ who

just as the ancients, took the authority of the social body for liberty; and to [whom] any means seemed good if it extended his area of authority over that recalcitrant part of human existence whose independence he deplored⁵²

Constant sternly argued that

Individual independence is the first need of the moderns: consequently one must never require from them any sacrifices to establish political liberty. It follows that none of the numerous and too highly praised institutions which in the ancient republics hindered individual liberty is any longer admissible in the modern times.⁵³

However, it was quite clear, for Constant, that what was needed was not modern liberty *tout court*, but an equilibrium between modern and ancient liberty in such a way as to both promote the ideals of the revolution itself while maintaining the efficiency and protection or guarantees of modern liberty. As we have seen above, both conceptions have their dangers and Constant tried to mitigate the possible negative consequences that both conceptions gave way to.

In this spirit, the quarrel between the ancients and the moderns is worked out by declaring that even though modern liberty is an indispensable aspect of modern existence, we, commensurately, cannot dispense of our political liberty (Constant's *reductio* for ancient liberty). Albeit, how this political liberty is conceptualized, is much different than

⁵⁰ However, I should stress that Constant had a very profound appreciation for Rousseau and understood very well how the Jacobins had transformed him.

⁵¹ It is worth noting that Constant's criticisms are not only aimed at Rousseau and Malby but at any other type of direct or participatory democrat in the past or in the future. In this respect, Constant is attempting to make a universalist argument about representative democracy being the only legitimate form of government. (I thank James Tully for stressing this point).

⁵² Constant (1998). p.318.

⁵³ Constant (1998). p.321.

that demanded by the ancients themselves. Indeed, the strongly historicist dimension of his argument can hardly be neglected. As he accentuates, “we are moderns”⁵⁴

[And] since we live in modern times, I want a liberty suited to modern times [...] Individual Liberty, I repeat, is the true modern liberty. Political Liberty is its guarantee; consequently political liberty is indispensable. But to ask peoples of our day to sacrifice, like those of the past, the whole of their individual liberty to political liberty, is the surest means of detaching them from the former and, once this result has been achieved, it would be only too easy to deprive them of the latter.⁵⁵

In fact, Constant’s logic is quite perceptive. Instead of rigidly defending the liberty of the moderns against that of the ancients, Constant goes on to suggest that those who support the ideal of ancient liberty are not mistaken as such, but only in thinking that the same standards that ancient society held for themselves can function in drastically different social, economic and political environments.⁵⁶ Thus by not disqualifying either concept, Constant places himself in a better position to mitigate the conflict by showing that given the realities of our modern existence, we need a conception of liberty that is proper to our times. The upshot of his argument is that this conception of liberty is not possible without a commensurate system of government that replaces and satisfies our need for self-improvement and self-realization through self-government or political liberty. In this sense, the liberty of the ancients is safeguarded - albeit, in a different institutional form - by making it instrumental (subservient) to the existence of our modern liberty. By contextualising the situation Constant is able to assure his audience that

it is not political liberty which I wish to renounce; it is civil liberty which I claim, along with other forms of political liberty. Governments, no more than they did before, have the right to arrogate to themselves an illegitimate power. But the governments which emanate from a legitimate

⁵⁴ Constant (1998), p.323.

⁵⁵ Constant (1998), p.323.

⁵⁶ See Constant (1997) p.612-615.

source have even less right than before to exercise arbitrary supremacy over individuals.⁵⁷

In other words, his ultimate conclusion is that the allegedly 'arbitrary' welding of power that the liberty of the ancients promotes – like the social ostracism of the Greek-City states, the political censure of the Roman republic or the modern version contained in the educational policies of the 'reign of virtue' – cannot be sustained in constitutional democracies of the modern world. The arbitrariness of the practices would be "ineffective and intolerable"⁵⁸

Moreover, it should be emphasized that even though the emergence of representative government provides a division of labor which now permits man to enjoy his modern liberty, Constant was well aware that certain dangers, mainly apathy, disinterestedness and lack of patriotism could easily arise. It is under this pretense that Constant insisted that it was in our interest that our modern political right to representative government must be protected through our continuous and conscientious vigilance. Using the analogy of like a rich man who delegates some of his responsibilities to another party in order to free up some leisure time, Constant maintained that the citizen must keep his representative(s) in unremitting check. Indeed, he asserts that

The people who, in order to enjoy the liberty which suits them, resort to the representative system, must exercise an active and constant surveillance over their representatives, and reserve for themselves, at times which should not be separated by too lengthy intervals, the right to discard them if they betray their trust, and to revoke the powers which they might have abused.⁵⁹

The reason for this system of democratic accountability is twofold. Firstly, they must check their government representatives in order to ensure that the limits of power are not

⁵⁷ Constant (1998). p.324.

⁵⁸ Constant (1998). p.322.

⁵⁹ Constant (1998). p.326.

transgressed, and in a second, intricately related way, the modern danger of excessive privatization may signal or encourage governmental institutions to take unwarranted expansion in the constitutionally established domain of individual self-perfection. As he harshly concluded “let them confine themselves to being just. We shall assume the responsibility of being happy to ourselves.”⁶⁰

In effect, the emergence of representative government did not only provide a democratic right for Constant, but carried with it a profound and significant responsibility. Even though he doesn't make the activity obligatory, like the ancients would have, Constant still believed that it was not only our civic, but our personal duty to engage in the public and democratic spheres. As one commentator has noted, “[for Constant] the capacity of citizens to mobilize and organize resistance is the ultimate guarantee that officials will not violate the public trust.”⁶¹ Moreover, our share in sovereign power, for Constant, compelled us to perpetually “re-examine our interests, [it] expands the human spirit, ennobles our thoughts and creates a sort of intellectual equality which glorifies and strengthens nations”⁶² As he puts it, “political liberty is the most powerful, the most effective means of self-development that heaven has given us.”⁶³ In essence, Constant's vision of representative government offered him two things; not only did it provide him a surrogate for the liberty of the ancients in modern times, but it also showed the supporters of ancient liberty, who saw in the new constitutional order nothing

⁶⁰ Constant (1998). p.326.

⁶¹ Holmes (1984) p.247 – It should be noted that whether Holmes is right about attributing this belief to Constant is highly debatable.

⁶² Constant (1997) p.617. - “La liberté politique soumettant à tous les citoyens, sans exception, l'examen et l'étude de leurs intérêts les plus sacrés, agrandit leur esprit, anoblit leurs pensées, établit entre eux tous une sorte d'égalité intellectuelle qui fait la gloire et la puissance d'un peuple.”

⁶³ Constant (1998). p.327.

but a pretext for national apathy, civic atrophy and an elite rule of the wealthy, that out of their right to representative government can stem “a pure, deep and sincere patriotism.”⁶⁴

III

As we have just seen, Constant was neither attempting to reject the democratic basis of the revolution nor was he attempting to promote a purely laissez-faire liberalism. In his discussion of ancient and modern liberty, Constant established that the liberty of the moderns was unable to sustain itself without some form of democratic legitimacy. It was precisely for this reason that Constant hailed the revolution “happy” even though it had led to Terror.

Constant saw in the new revolutionary constitution innovative modes of collective engagement that precluded the excessive and arbitrary practices of the liberty of the ancients. As he understood it, the constitution and its representative government sustained the legality and legitimacy of modern individual rights by establishing a democratic right for every citizen to participate in the institutions of the nation. It was through these ‘lenses’ that Constant saw in the representative institutions a means by which the “the greatest number of citizens possible could be elevated to the highest moral dignity.”⁶⁵ Through the enactment of their representative democratic rights, citizens were provided with an opportunity to exert their ‘influence’ on the public-will. Constant was well aware that in this setting the influence would be minimal in comparison to the smaller ancient polis, but he nevertheless believed that the nation’s networks of communication, along with the various forms of free associations and other democratic representative rights which the constitution gave to the people would bring citizens from

⁶⁴ Constant (1998). p.327.

⁶⁵ Constant (1997) p.618. – “[les institutions] atteignent d’autant mieux leur but qu’elles élèvent le plus grand nombre possible de citoyens à la plus haute dignité morale”

all classes and professions to escape from their daily routines and private industries and suddenly find themselves at the public level where they would “choose with discernment, resist with energy, disconcert the ruse, defy the popular menace and nobly resist seduction.”⁶⁶

It is extremely important to notice that the character of most of these practices is negative. In a sense, the openly controversial positions lead for Constant to larger and larger debates within the newly emerging public official sphere.⁶⁷ It is in these passages that we understand to what extent Constant’s thought was not simply an adulation of the private sphere of enlightened self-interest.⁶⁸ To uphold this reading is to ascribe to Constant the belief that the private sphere takes precedence over the public one. But this is an unwarranted and prejudicial interpretation of Constant because it presupposes that both spheres are antithetical to each other. If there is one thing that Constant did not ascribe to, it is that the democratic order and the exercise required of us is diametrically opposed (if not to say logically impairing) to the enjoyment of our private rights and the concept of public persons. But as we have seen in the last section, this cannot be farther from the truth. Holmes is quite articulate here when he states, “the public and private realms are not hostile alternatives. They mutually stimulate and disencumber, and strengthen one another.”⁶⁹

In a sense, the ultimate conclusion Constant reached was the realization that in the modern world, a distinct sphere of private enjoyment was inescapable and secondly, that

⁶⁶ Constant (1997) p.618. - “[...] choisir avec discernement, résister avec énergie, déconcerter la ruse, braver la menace, résister noblement à la séduction.”

⁶⁷ On the emergence and importance of the public sphere - see Taylor (2004) chap. 6 & 7.

⁶⁸ For a nicely argued criticism of this interpretation of Constant’s thought see the epilogue of Holmes (1984) p.246-257.

⁶⁹ Holmes (1984) p.241.

it was untenable without support from democratically regulated institutions. For Constant, “there is not legitimate authority without the consent of the governed and that consent cannot be merely habitual acquiescence but must be conscious acceptance arrived at through free public debate.”⁷⁰ Of course, the form and influence the debate would take would be radically less direct and confrontational than the ancient stance held, but it would also, for a while, take place outside the properly political sphere of representative government, yet simultaneously respecting the individual rights of each citizen. Indeed, the seventeenth and eighteenth centuries had taught Constant a great deal about the consequences of prejudice and persecution against human diversity. It was only within a context where private rights would not be trampled that a strong and vital public realm of democratic will-formation could flourish. As Holmes notes “the idea of ‘publicity’ as an arena for give and take, for controversy, debate, and the exchange of ideas, was crucial for Constant. When ideas are tested in public, truth has a chance to prevail over error.”⁷¹ Moreover, the existence of publicity and an openly responsive institutional setting not only had educational repercussions but also motivational ones as well. As Constant saw it, the political institutions themselves need to play role in shaping the demos.

By respecting their individual rights, securing their independence, refraining from troubling their work, they must nevertheless consecrate their influence over public affairs, call them to contribute by their votes to the exercise of power, grant them a right of control and supervision by expressing their opinions; [...]⁷²

⁷⁰ Holmes (1984). p.240.

⁷¹ Holmes (1984). p.245.

⁷² Constant (1998) p.328. It should be noted that this point was stringently attacked by Marx who argued that this view effectively displaces the central concern of the working classes’ view of freedom by placing property outside the spheres of debate and within the modes of production. In this sense, the whole socialist and egalitarian tradition is ousted and silenced by Constant’s dichotomy.

We can now clearly appreciate to what extent Constant held publicity to be “a vehicle for freedom”⁷³ Holmes is quite clear on this point when he argues that

Constant did not believe that public opinion was merely a barrier against authority. *La discussion publique* was much more creative than this. It was a stimulant as well as a depressant. Publicity not only discouraged misgovernment; it offered a new system for making laws and setting national priorities.⁷⁴

IV

The last two sections have examined Benjamin Constant’s celebrated lecture on ancient and modern liberty and the ways in which Constant attempted to mitigate the conflict between the two concepts. However, before we conclude the chapter, let us examine the ways, if any, in which Constant’s understanding of liberty reflects Isaiah Berlin’s own distinction between negative and positive liberty. The reason for this is twofold. On the one hand, Berlin thought of himself as an intellectual successor of Constant - an ally, as it were, in the freedom wars. This is a question for the history of ideas. On the other hand, the issue is relevant because it will be a part of this essay’s argument to show that far from being an intellectual ally, the most important criticism that can be raised against Berlin’s understanding and defense of negative liberty, I shall argue later on, can be traced to and interpreted using some of Benjamin Constant’s insights.⁷⁵

In his short encyclopedia article where his relationship with Constant is most explicit, Berlin begins by asserting that “in the modern world, a new idea most clearly formulated by Benjamin Constant – makes itself felt; namely that there is a province of

⁷³ Holmes (1984) p.245.

⁷⁴ Holmes (1984) p.245.

⁷⁵ In other words, instead of making the two idioms discontinuous, as Berlin did, Constant decided to reduce one to the other. We, on the other hand, shall aim to argue that far from being totally discontinuous paradigms or ‘two divergent and irreconcilable attitudes to the ends of life,’ the central concerns of both ideals can actually crystallize through the humanist and republican modes of thinking about freedom.

life with which it is thought undesirable, save in exceptional circumstances, for public authority to interfere.”⁷⁶ This last quotation formulates and appears to reflect a direct relationship between Berlin’s negative liberty and Constant’s ‘liberty of the moderns.’ Following Constant’s primary formulation, Berlin concluded that the liberty of the ancients logically gave way to arbitrary and convoluted forms of prejudice and authority. To ground the legitimacy of our modern view of liberty within such an order was beyond Berlin’s vision of what liberty was. To his credit, much like Constant, Berlin recognized that the horrors and prejudice of ancient liberty were intolerable in their modern dress. But unlike Constant, the only lesson Berlin drew from this was that “the modern world proceeds on the assumption that there is a frontier between public and private life; and that, however small the private sphere may be, within it I can do as I please.”⁷⁷ This, by and large, was what Berlin understood as negative liberty. Of course, he relied heavily on the liberal tradition, including Constant, to make his argument; however, the conclusion he drew has no relation with what Benjamin Constant held freedom and its preconditions to be. In a discussion similar to our own, Stephen Holmes has quite correctly suggested that both ancient and modern liberty for Constant were what Berlin calls positive concepts. They are freedoms to do whatever the liberty establishes and secondly freedoms to engage in the democratic will formation and sovereignty of one’s government.⁷⁸ As Holmes puts it

Modern liberty as Constant conceived it, is just as much a capacity for positive action as ancient liberty had been. The difference lies only in the character of the action and the field where it unfolds. Modern liberty too must be strenuously exercised, not merely enjoyed. Constant distinguished between the two types of positive freedom in order to investigate the

⁷⁶ Berlin (2002) p.283.

⁷⁷ Berlin (2002). p.284.

⁷⁸ Holmes (1984) p. 31-32.

essential relation between them, the way in which they are not only compatible but even mutually enhancing.⁷⁹

Unfortunately, this was a conclusion that Berlin did not retrieve in his self-appointed relationship with Constant. The reasons why Berlin did not read Constant this way are largely due to the manner in which Berlin characterized the concept of positive liberty and its relationship to the negative concept. Even though Berlin was aware that democratic rights and participation in the political institutions of one's country was a good, he was ultimately unwilling to concede that it was necessary to the protection of our liberty.⁸⁰ By keeping Constant's insights in mind, we will now turn to Berlin's distinction and attempt to show that far from being a freestanding or archimedean concept, the idea of negative liberty cannot be disassociated from some understanding(s) of the positive concept. Let us now turn to an examination of the negative concept of freedom.

⁷⁹ Holmes (1984). p.31-32.

⁸⁰ Or indeed, a necessary part of what we understand by liberty. What this means is that for Berlin, we could very well choose to place more value on democratic rights and participation, but we have to be clear that this choice would come at a cost to our individual liberty – i.e. an increase in democracy comes at the expense of our negative liberty. It goes without saying that Berlin's position is drastically different than the one advocated by Constant.

Chapter 2: Isaiah Berlin's "Two Concepts of Liberty"

I

Some one hundred and forty years after Constant gave his famous address in the French Lyceum, Isaiah Berlin gave an equally important lecture at Oxford University in reception of the Chichele chair in social and political theory. The political context within which this philosophical reflection surfaced, unlike Constant before him, was not the aftermath of a horrible dictatorship, but rather during an equally tense political climate brought about by the threat of a very different type of authoritarian system ideologically rooted in Marxist philosophy.⁸¹

In keeping with Constant's speech, Berlin's lecture analyzed and compared two very different conceptions of liberty that had significant political influence at the time of the reflection. Yet, as we have seen, Berlin's philosophical relationship with Constant's own conclusions is far from obvious. Whereas Constant offered a comparative analysis of the liberty of the ancients - proposed by more participatory democrats - and the liberty of the moderns - advocated by more 'liberal' minded citizens - he ultimately concluded that both conceptions of freedom should ultimately be surrogated under the banner of modern liberty in terms of a right to democratic representation. Conversely, Berlin offered a comparison between a notion of freedom understood negatively, as a space of non-interference where fundamental choices between mutually incompatible ends could be

⁸¹ The Soviet Republics' ideological infrastructure was "Marxist" understood in the broadest sense of the term. It could be argued that the Soviet empire was anything but Marxist but that is a totally different issue. Nevertheless, it should be noted that at the time Berlin's *Four Essays on Liberty* was published he was surely not alone in keeping distance from the Marxist and positivistic undercurrents of his intellectual environment. Raymond Aron's *Democracie et Totalitarisme*, Merleau Ponty's *L'Humanisme et Terreur* in France and Hanna Arendt's *The Origins of Totalitarianism* and *The Human Condition* in the U.S, were all examining and critiquing some of the central tenants or strands of Marxist or Leninist, fascist or 'positivist' thinking across the west. Berlin's work is now seen as part of a larger group of highly influential thinkers who were criticizing at least one aspect of the Marxist orthodoxies current within the larger international academy, exemplified by thinkers like Hook, Marcuse, Carr, Sartre, Althusser, and Lukacs to name a few.

made, and a notion of freedom understood positively, either as the fulfillment of our *True* selves or as the realization of some *Rationally* prearranged axiological or social order. Ultimately, Berlin famously concluded that the only *ethically* viable conception of liberty was negative in character.

Berlin's inaugural lecture is now considered a classic of contemporary political philosophy not only because it is one of the first tracts of political theory written in the distinctive spirit of Oxford's philosophical analysis, but also because it is one of the first articulations of conceptual analysis to diverge from some of the central tenants of the philosophical methodology that was prevalent at Oxford during that time.⁸²

When the lecture on liberty was written in 1958, we clearly see, for Berlin, what was living and what was dead of Oxford's distinctive philosophical spirit. We notice in the lecture the influence left by the Oxfordian analytical thinkers and logical positivists with their emphasis on the analytical clarity of conceptual abstraction. However, unlike those analytical schools, Berlin, on the one hand, did away with their infatuation with scientific method and its theoretical requirement for a principle of verification to adjudicate the validity and meaning (indeed the very intelligibility!) of an idea but did not, on the other hand, disregard the importance of context or historicity in the analysis and understanding of concepts and categories.

It was in the context of such an intellectual atmosphere that Berlin once wrote that "we should abandon our search for a criterion [of knowledge and meaning] altogether or even declare the demand itself to be senseless, saying that 'meaning' is meaning - an unanalysable concept, that 'to understand' is an ultimate activity like seeing or hearing,

⁸² For a brief exposition of Berlin's methodological environment and his discontents with it, see Bernard Williams's introduction to Berlin (1978) as well as Crowder (2004) p.14-21.

that ‘empirical’ is an ultimate category and cannot be explained or defined otherwise than ostensively.”⁸³ It was in light of such a critique that he concluded against the logical positivists that “one ought rather say that verifiability depends on intelligibility and not vice-versa, only sentences which are constructed in accordance with the rule of logic and of grammar and describe what can logically be conceived are significant, empirical statements and propositions.”⁸⁴

This particular mixture of common sense, crude empiricism and mitigated skepticism was applied in his lecture on liberty where, criticizing the Oxford analysts of his time, he asserts that “to neglect the field of political thought, because its unstable subject matter, with its blurred edges, is not to be caught by the fixed concepts, abstract models and fine instruments suitable to logic or linguistic analysis [...] is merely to allow oneself to remain at the mercy of primitive and uncriticised political beliefs.”⁸⁵

In effect, Berlin’s “Two Concepts of Liberty” was not only a novel application of the conceptual analysis of Oxford’s philosophical methodology to the realm of political theory, but it was also, more concretely, an attempt to bring that abstract conceptual analysis back to real-world problems – i.e. to the investigation of the historical and philosophical roots of the ideological divisions that marked the twentieth century.⁸⁶

⁸³ Berlin (1978) p.29.

⁸⁴ Berlin (1978) p.29.

⁸⁵ Berlin (2002) p.167.

⁸⁶ Ignatieff’s (1998) biography of Berlin has an explicit discussion of his role as a ‘cold-warrior.’ Nevertheless, it should be noted that the ideological divisions that marked the geo-political landscape of his time were also present within the Oxfordian, and larger intellectual, climate at the time of the inaugural lecture. It goes without saying that the lecture was also a rebuttal to the general ‘Marxist’ undertones of much political and social thinking within the academy during the 1950’s and 60’s. Hence the quip about the visitor from Mars being forgiven about the lack of attention to properly *political* problems. Of course, what Berlin means by political questions is a question whose general concern is ends, not means. The latter, according to Berlin, are the concern of Marxists philosophers who think political questions are “capable of being settled by machines.” That is, Berlin is reading Marx through a positivist lens – who, as a son of the enlightenment, thinks political problems can be settled technologically, like scientific questions.

This particular aspect of his outlook is plainly stated in Berlin's acknowledgment that political and human value conflicts are the substance of philosophical thinking and analysis in ethics and political philosophy.⁸⁷ This feature is clearly expressed in his paper "The Pursuit of the Ideal" wherein he argues against more "scientifically" driven enterprises in ethics and politics:

If we are to understand the often violent world in which we live, we cannot confine our attention to the great impersonal forces natural and man made, which act upon us. The goals and motives that guide human action must be looked at in the light of all that we know and understand; their roots and growth, their essence and above all their validity, must be critically examined with every intellectual resource that we have.⁸⁸

This statement is significant not only because it mandates a certain philosophical research program in ethics and politics that insists we be more attentive to the historical genesis and validity of the underlying values and ideas at work in our human relations and actions; but because it elucidates and focuses on the presupposition about human motives and the respective goals it invokes. In other words, the idea that ethics and its application to social relations – political philosophy - address the central conflicts of our time presupposes something about the nature of values and their role in our lives. In an early paper entitled "Does Political theory still exist?" Berlin elucidates this particular feature of his outlook with relation to the history of ideas. He tells us in a fairly long but central passage,

If we ask the Kantian question 'In what kind of world is political philosophy – the kind of discussion and argument in which it consists – in principle possible?' *the answer must be 'Only in a world where ends collide.'* In a society dominated by a single goal there could in principle only be arguments about the best means to attain this end – and arguments

⁸⁷ "[...] To understand such [historical] movements and [political] conflicts," Berlin tells us, "is, above all, to understand the ideas or attitudes to life involved in them, which alone make such movements a part of human history, and not mere natural events" Berlin (2002) p.168.

⁸⁸ Berlin (1990) p.2.

about means are technical, that is, scientific and empirical in character: they can be settled by experience and observation or whatever other methods are used to discover causes and correlations; they can, at least in principle, be reduced to positive sciences. In such a society no serious questions about political ends or values could arise, only empirical ones about the most effective paths to that goal.⁸⁹

With this premise in mind, Berlin concludes

[it] follows that the only society in which political philosophy in its traditional sense, that is an inquiry concerned not solely with the elucidation of concepts but with the critical examination of presuppositions and assumptions and the questioning of the order of priorities and ultimate ends, is possible, *is a society in which there is no total acceptance of any single end.*⁹⁰

This particular 'metaphilosophical' or methodological outlook suggests two things. Firstly it tells us what political philosophy *does*. Secondly, and as we shall see more importantly, it tells us under what conditions political philosophy is possible. It is the answer to this second question which helps Berlin develop and sustain an idiosyncratic justification of the liberal or negative conception of liberty against what he understood to be the totalitarian ideology's philosophical counterpart - the positive concept.

According to Berlin, political philosophy can only be practiced in an environment where ends are, or at least can be, in conflict. It is the nature of the discipline to study and examine the presuppositions and coherence of the values that create these conflicts of ends. It follows that Berlin's first premise is an empirical claim: *human beings hold different underlying values important for different reasons and because it is in the nature of values to inherently conflict with one another, it is possible for human beings to hold conflicting values.* Given this pragmatic reality, it is the mission of political philosophy to critically analyze the concepts and categories that are presupposed in the conflicting ends

⁸⁹ Berlin (1990). p.149 *italics are my own.*

⁹⁰ Berlin (1990). p.149-150 *italics are my own.*

and value commitments of the various parties involved. Unlike most strands of positivist political philosophies, the purpose of political philosophy, for Berlin, is not to discover the underlying laws and purposes of political organization and design a way in or out of their challenges, but rather a *process* whereby people will better comprehend their political and moral positions and therefore facilitate their own reflective and thoughtful choices between worldviews and life-projects.⁹¹

With these considerations in mind, it is not surprising that the concept of negative liberty – i.e. the ability to choose between various alternatives without being interfered with by an outside agent – was one of Berlin's most important concerns and discourses. In effect, we realize that the concept of liberty was not only at the heart of a powerful, even world-historical, political and ideological conflict, but at the center of his entire philosophical vision as well. A philosophical vision whose philosophical impact in the twentieth century is beyond doubt and whose *political* conclusions are not only still prevalent today but of growing importance during these transitional phases of our post-communist world.

*

The analysis of liberty Isaiah Berlin has presented in “Two Concepts of Liberty” plays itself out at many levels. The justification for his conclusion that the only viable concept of liberty has to be a negative one is fundamentally presented in two ways. On the one hand, Charles Taylor has shown that Berlin presents an analytical distinction

⁹¹ Berlin's ultimately Socratic approach to philosophical and axiological concerns has been taken up in Bernard Williams's own thought - see his Williams (1985). Moreover, the idea that political philosophy is simply exercised to facilitate and enrich ethical action places Berlin within the practice-based liberalism of tolerance as opposed to a more universalist undercurrent to the liberal project found in the works of Kant more specifically and certain readings of Locke and Mill. For a more thorough discussion of these two strands within the liberal tradition - See Gray (2000).

meant to secure an understanding of negative liberty, drawn in terms of a space of ‘opportunity’ where choices can be made without outside interference, taking precedence over and against a positive understanding of liberty drawn in terms of an ‘exercise’ the *purpose* of which is to achieve or fulfill some predetermined anthropological end *traditionally* understood and justified in metaphysical terms.⁹²

On the other hand, Berlin provides a distinctive justification of the liberal ideal by defending the negative conception of liberty against the positive one by recourse to a meta-political axiology that necessarily requires a minimum space of non-interference where choices between radically plural, and sometime incommensurable, values can be made.⁹³ This value-pluralism, as it is now called, which underlies Berlin’s justification of negative liberty is crucial since it is the essential factor that permits Berlin to generate and maintain the distinction between the negative and positive concepts of liberty. In other words, because Berlin deems that positive theories of freedom are all grounded on monist axiologies, they are unable to do justice to the inescapable fact that values conflict. The negative conception on the other hand, will ultimately be better suited to support the reality of value-pluralism and the ultimate choices that we make in the face of such value conflicts.

This chapter will provide an analysis of Berlin’s defense of negative liberty. Berlin’s understanding and defense of negative liberty is not, in all respects, a particularly novel one. Berlin’s own justification for negative liberty may have been original; however, as we have seen with Benjamin Constant, the scope and character of the concept has very strong and deep historical roots. Accordingly, the second section gives

⁹² See Taylor (1985b) pp.211-229.

⁹³ See Gray (1996) Chap.1-2-6 for an examination of this facet of Berlin’s defense of negative liberty.

an overview of these roots by examining the respective conceptions of negative liberty advanced by Thomas Hobbes and John Stuart Mill - two philosophical defenses that have had significant influence in the history of western modernity's political thought. The third section examines in more detail Berlin's inaugural lecture. Following a brief outline of the major divisions of Berlin's paper, we attend to his critique of the positive conception. By setting out George Crowder's⁹⁴ three main theses that underlie Berlin's critique of the positive conception we will find ourselves in a better position to engage in a detailed examination of his novel understanding and defense of the negative concept. Finally, we conclude by raising the central problem that Berlin's defense of negative liberty must address – i.e. the problem regarding the measurement of the sphere of non-interference and the necessity for a positive dimension to the conception of negative liberty.

II

The negative idea of liberty has a quite extensive pedigree in the liberal tradition. Political thinkers from Hobbes to Rawls have in some manner deployed and defended a concept of liberty that is negative in character. As is well known, depending on how one construes this moral and political tradition and how one chooses who participates in its development, we can construe very different narratives of its history and propose very different visions of its values and prerogatives.⁹⁵ Cutting the liberal pie any way one

⁹⁴ Crowder (2004) chap. 4.

⁹⁵ It goes without saying that there are many forms of liberalism. Alan Ryan once suggested liberalism is a very broad church indeed. Someone can be a rights-based liberal, one can advocate a romantic liberalism, one can even champion a perfectionist liberalism, a deliberative liberalism, a political liberalism or even opt for a liberalism of fear ... As one commentator [Gray (2000)] has shown, liberalism has developed at least 'two faces' that rival each other even if both stem from the same essential value. In any case, the point is that within this broad church there are certain values and institutions that are crucial for membership in the church; say an acknowledgment of the value and importance of the rule of law, of the idea of toleration or liberty, egalitarianism, impartiality, constitutionalism, etc...

wishes will not deny the fact that the history and development of the concept of liberty in western modernity is intricately and complexly related to the history of liberalism.

Within this *mélange* of intellectuals, there are two thinkers who have provided significant conceptual formulations and theoretical justifications to the idea of negative liberty. Of these two figures, one of them does not properly fit within the liberal tradition but remains necessary to understanding the negative concept of freedom. The other will reputedly remain as one of its ablest defenders and progenitors. The former is Thomas Hobbes and the latter is John Stuart Mill. Both these thinkers are critical since their respective formulations of the concept of liberty have largely shaped the idea of freedom that is operative within our social imaginary; an idea that Berlin has done much to promote and reinforce.

The conceptions of both thinkers have shaped the '*basic structure*,' as it were, of the negative idea of liberty. This was done, on the one hand, via Hobbes by transforming the character of the law into the architect of the boundaries of liberty. That is, by making the law the means by which spheres of free-action not only emerge but are designated, Hobbes has effectively identified the very activity of liberty outside of the law. With Thomas Hobbes and the liberal tradition that ensues, the idea that the law will make you free takes on a whole different meaning. As recent intellectual historians have demonstrated, in the republican pamphlets of the Italian Renaissance and English Revolution, the law was viewed as a mechanism by which liberty was not only exercised but ultimately expressed. Indeed, because the law is not only inhibiting but also democratic in nature, the law was not only the articulation of the citizen's interests but also the expression of the city's commitment to the attainment of the common good. In

the republican ideology, we are not dependent upon the law's authority; the law is dependent on us for its authority.⁹⁶ However, with Hobbes, the law's character is simply seen as controlling the number of optional actions available to its subjects. Within this perspective the law mainly imposes obligations on its citizens. It follows that where obligation ends - that is, "where the law ends, liberty begins." This new conceptual apparatus has the effect of subordinating liberty to the discretion of sovereign authority. Indeed, this characteristic is clearly and best seen in Hobbes' work where the sovereign is not only the architect and author, through the law, of what liberties and obligations will be available to its subject; it is also brilliantly expressed by John Stuart Mill in his redaction of the harm principle where the principle is used to appraise, as it were, not only when and how the law will impose its force to regulate individual behavior but society as well.

Both thinkers shaped the understanding of negative liberty by not only theorizing the very structure within which freedom is now possible but for presenting justifications for negative freedom's necessity. They provided accounts for the importance of having certain spheres of activity *open*. In other words, whereas the first aspect interprets under what conditions negative liberty is possible, the second one establishes the proper methods by which the actual spheres of freedom should be formed. Hobbes executed this move by recourse to a 'naturalized' *anthropology* that serves to delineate what is necessary for peaceful coexistence and good commerce, whereas John Stuart Mill defined it through a solid discussion of the importance, value and complex internal relationship of

⁹⁶ See Skinner's "The idea of negative Liberty: Machiavellian and modern perspectives" in (2002 Vol.2). For the English "republicans" perspective to the Hobbesian position, see Skinner (1998), contrast Pocock (1985), (2003), (2006).

truth, individuality and *moral* authority with the existence of political liberty. Let us examine what these two conceptions are.

*

Hobbes's *Leviathan* is famous, first and foremost, for having provided a normative account and justification for the absolute authority and discretionary (de facto) power of the sovereign over his subjects with the aim to sustain a minimum level of social order that can facilitate peaceful coexistence.⁹⁷ However, the work is also important for having commensurately developed a distinctive philosophical anthropology to ground his novel account of sovereign authority.

There are basically two features to point out when elaborating Hobbes's conception of liberty. The first is that Hobbes is actually trying to draw 'scientific' conclusions from his account. His work is written in geometric form. According to this form of reasoning (of Euclidian ancestry) if the premises and axioms are properly defined and "proved" or agreed upon, then any conclusion that will ensue from these premises cannot be false. Within this context, Hobbes concludes, rather aggressively, that because "understanding is nothing else but conception caused by speech,"⁹⁸ words must therefore bear proper definitions if they are to be understood. As such, by stressing the establishment of proper definitions for the words and concepts he utilizes, Hobbes is in a better position to argue that his conclusions have acquired 'scientific' status.

This facet of the work is important since, objective content aside, it provides his conclusions with the 'rhetorical' force any political work of this magnitude requires.⁹⁹

⁹⁷ For a more sensitive study to the political context and underlying political aims of Hobbes work see Skinner (1973) (1996) (1998) (2002 vol. 3).

⁹⁸ Hobbes (1994). p.21.

⁹⁹ On the rhetorical dimension of *Leviathan* see Johnston (1986) compare Skinner (1996).

This is essentially why, when Hobbes defines the meaning of the word 'liberty,' he continuously emphasizes the fact that his definition is the 'proper' one. For instance, the first time he defines the concept of liberty in *Leviathan*, it is during a discussion of absurdity

if a man should talk to me of a [...] a free subject, a free will or any free but free from being hindered by opposition, I should not say they were in error, but that his words were without meaning, that is to say, absurd.¹⁰⁰

More pertinently, this attitude reoccurs again when he defines liberty in chapter XIV,

By liberty is understood, *according to the proper signification of the word*, the absence of external impediments, which impediments may oft take away part of a man's power to do what he would, but cannot hinder him from using the power left him, according to his judgment and reason shall dictate to him¹⁰¹

We find statements of this character whenever Hobbes defines the concept of liberty. For instance, in the chapter 'on the liberty of subjects' in the second part of the book, Hobbes maintains that "liberty, or freedom, signifieth (*properly*) the absence of opposition (by opposition, I mean external impediments of motion) [...]."¹⁰² Hobbes's emphasis in this context raises two things that are relevant. Firstly, the mere fact that Hobbes not only devotes one full chapter to the concept of liberty but that he continuously stresses that liberty must be properly understood are sufficient evidence that the concept of liberty was a major problem and concern at the time of *Leviathan's* publication.¹⁰³ It is useful to recall that not only did the schools have a tremendous influence in the overall philosophical culture at the time but that, as Skinner has argued, the concept of liberty

¹⁰⁰ Hobbes (1994). p.24.

¹⁰¹ Hobbes (1994). p 79 - *italics are my own*.

¹⁰² Hobbes (1994). p.136 *italics are my own*.

¹⁰³ For the suggestion that the mere fact that a topic is being talked about shows us that it is an actual problem is clearly discussed in one of Michel Foucault's interviews entitled "On the genealogy of ethics" Foucault (1997) p.257.

was at the center of a heated ideological debate between the Royalists and English republicans.¹⁰⁴

The second, and more important, feature of Hobbes's philosophy relates to the structure and boundaries of liberty. Hobbes's *Leviathan* not only provides an account of the legitimate authority of the state but also introduces a distinctive philosophical anthropology to support the account and justification of authority. However, within the intricate relationship between man and sovereign that Hobbes discusses is the role of law. The law in Hobbes's political cosmology is of prime importance since it is through the law that the individual experiences his liberty, i.e. that his voluntary actions are constrained. It is through the law that the subject's interests and needs are materialized. It is true that Hobbes's sovereign is given absolute authority, but that authority is supposed to define and facilitate the subject's needs and interests. As Hobbes rather clearly puts it in chap xviii, "every subject is by this institution author of all the actions and judgments of the sovereign instituted"¹⁰⁵ or later in chap. xxi "nothing the sovereign representative can do to a subject, on what pretence whatsoever, can properly be called injustice, or injury, because every subject is author of every act the sovereign doth."¹⁰⁶

As such, where the boundaries of liberty are delineated is not simply an arbitrary decision made by some external spectator but is *supposed* to be based on the needs and interests of individual subjects. It is for this precise reason that *Leviathan* begins with a discussion concerning the proper nature of man. Once Hobbes articulates man's primary needs and interests, or 'desires' as he calls them, then Hobbes can go about providing the normative bases for the sovereign's transfer of right. As a result, Hobbes develops the

¹⁰⁴ See Skinner (1998).

¹⁰⁵ Hobbes (1994) p.112.

¹⁰⁶ Hobbes (1994) p.138.

now famous state-of-nature concept where man's life is nasty, brutish and short - a philosophical anthropology rooted, as he insinuates in *De Cive*, in a fundamentally suspicious gaze.¹⁰⁷

In this sense, the law becomes intricately tied to the architecture of the boundaries of liberty. Where those boundaries end is where man finds himself not in the realm of liberty but of obligation. In effect, liberty and obligation stand in total opposition to each other even though they are intricately related. They relate in the fact that both are ultimately bound within a realm or field of power and action. Moreover, they relate because theoretically we are the ones who transfer our liberty to the sovereign in return for an appropriate and proper system of regulation. In this sense, our right, understood in Hobbesian terms as a voluntary act, to transfer our liberty to a sovereign, permits the creation of Law, understood as a rule that obliges us to a given sphere of action.¹⁰⁸ As Hobbes explains in a lengthy passage,

But as men have made an artificial man which we call commonwealth, so also have they made artificial chains called civil law, which they themselves by mutual covenants have fastened at one end to the lips of that man or assembly to whom they have given the sovereign power and at the other end to their own ears. These bonds, in their own nature weak, may nevertheless be made to hold by the danger (though not the difficulty) of breaking them.

In relation to these bonds only it is that I am to speak now of the liberty of subjects. For seeing there is no commonwealth in the world wherein there be rules enough set down for the regulating of all actions and words of men (as being a thing impossible), it followed necessarily that in all kinds of actions by the laws praetermitted men have the liberty

¹⁰⁷ Hobbes (1949) Chap 1-2. What is meant here is the simple fact that because Hobbes's account of the state-of-nature is fundamentally violent, individuals within this state will regard one another in a fundamentally suspicious way. This is the main reason why they contract with one another to establish sovereign power. In effect, Hobbes view of human nature is not only bleak but based on a fundamental suspicion about our natures.

¹⁰⁸ See Hobbes (1994) p.79 for difference between a right and a law, and chap. XIV more generally for the consequence and relation of this distinction.

of doing what their own reasons shall suggest for the most profitable to themselves.¹⁰⁹

From these premises, Hobbes concludes that “[T]he liberty of a subject lieth only in those things which in regulating their actions, the sovereign hath praetermitted.”¹¹⁰

The crucial aspects that must be remembered in this philosophical system with regards to the concept of liberty of the subject is that Hobbes has, on the one hand, created a very powerful and influential precedent for looking at, and thinking of, political concepts in this ‘scientific’ or ‘analytical’ way. On the other hand, Hobbes has created a precedent for seeing the proper role and purpose of authority in regard to conduct as purely regulatory by maintaining an anthropology that sees the relationship *between* subjects as fundamentally conflicting and violent - a postulate, one could maintain, that has seeped its way into the social and, more importantly, juridical or legal imaginary of western culture. As with Benjamin Constant and John Stuart Mill, the Hobbesian idea that the law regulates the external boundaries of individual liberty, understood as the absence of impediments, where a subject’s reason and judgments can be exercised and embodied in actions, has not thoroughly disappeared.

*

John Stuart Mill’s *On Liberty* provides us with a drastically different normative account and justification for the concept of liberty. Written some two centuries after *Leviathan* and a quarter century after Constant’s famous comparison, *On Liberty* can, of course, be interpreted *rhetorically* as an apology for the negative concept of liberty. However, from the philosophical perspective it remains a quite eloquent account and powerful defense of the ideal of negative liberty. All things considered, *On Liberty* is a

¹⁰⁹ Hobbes (1994). p.138.

¹¹⁰ Hobbes (1994). p.138.

relatively short treatise; yet its content still remains immensely rich in insights and resolute in its conclusions.

The particular fact that Mill begins his treatise with a disclaimer is not unimportant. What is important in the disclaimer is not that the subject of his essay is “not the so-called ‘liberty of the will’ [...] but civil or social liberty,”¹¹¹ but that civil or social liberty is defined in terms of “*the nature and limit of the power* which can be legitimately exercised by society over the individual.”¹¹² What is interesting about this statement is that liberty is characterized not, as he will later characterize it, “as a sphere of action in which society, as distinguished from the individual, has, if any, only an indirect interest”¹¹³ but that liberty is still seen in relation to the “*nature and limit of the power* which can be legitimately exercised by society over the individual.”¹¹⁴

It should be noted that Mill is not necessarily very distant from Locke in this regard. “Where there is no law there is no freedom.”¹¹⁵ However, Mill does differ from Hobbes in at least one important respect, Mill does not give de facto power or full discretionary authority to the sovereign (understood as a person or as an institution). According to Mill, there must in principle be some area in human life which must not suffer at the helm of opinion or brute force. In effect the similarity occurs in the fact that in both authors the law is meant to protect a specific sphere of action. As he affirms,

¹¹¹ Mill (1956) p.3.

¹¹² Mill (1956) p.3. *italics are my own.*

¹¹³ Mill (1956) p.15-16.

¹¹⁴ *supra.* n.112. *italics are my own.* It should be stated once again that what is similar between both Hobbes and Mill is the fact that liberty is defined and constrained by a field of power. However, what or how and by whom that power is wielded is what constitutes the drastic difference between both of them.

¹¹⁵ Locke (2003) p. 306. It should be noted that this interpretation of Locke is highly debatable. Para 57 of the second treatise can, of course, be read as saying that where there is no law, there is no liberty. However, it should be noted that Locke’s emphasis is that the law should be seen as a facilitator of individual development in such a way that the actual subjection of an agent to the Law permits the development of better capacities to make use of his liberty. In this sense, where there is no law there can be no freedom since there can be no good use of a subject’s judgment. In the other two cases, the law does not facilitate development in as much as it regulates inter-personal behavior.

there is a limit to the legitimate interference of collective opinion with individual independence; and to find that limit, and maintain it against encroachment, is as indispensable to a good condition of human affairs as protection against political despotism.¹¹⁶

Given this premise, Mill continues that

The practical question where to place the limit – how to make the fitting adjustments between individual independence and social control – is a subject on which nearly everything remains to be done. All that makes existence valuable to anyone depends on the enforcement of restraints upon the actions of other people. Some rules of conduct, therefore, must be imposed – by law in the first place and by opinion on the many things which are not fit subjects for the operation of law. What these rules should be is the principle question in human affairs; but if we except a few of the most obvious cases, it is one of those which least progress has been made in resolving. No two ages, and scarcely any two countries, have decided it alike; and the decision of one age or country is a wonder to another¹¹⁷

It is in this regard that we come to appreciate that Mill's general purpose in the work is to provide such a principle with which we, as individual people, communities and nations, will be able to set and adjudicate the boundaries of individual liberty. As he famously declares

The object of this essay is to assert one very simple principle, as entitled to govern absolutely the dealings of society with the individual in the way of compulsion and control, whether the means used be physical force in the form of legal penalties or the moral coercion of public opinion. The sole end for which mankind is warranted, individually or collectively, in interfering with the liberty of action of any of their number, is self-protection. That the only purpose for which power can be rightfully exercised over any member of a civilized community, against his will is to prevent physical harm to others. His own good, either physical or moral is not a sufficient warrant.¹¹⁸

Putting the interpretative importance of this passage aside, this declaration is a dramatic departure from Mill's Benthamite upbringing. Whereas Bentham would have justified the state's restriction of a person's liberty or the legitimate exercise of power, in *any*

¹¹⁶ Mill (1956) p.7.

¹¹⁷ Mill (1956) p.8.

¹¹⁸ Mill (1956) p.13.

form, granted that it facilitated or guaranteed the growth of human welfare or *utility*, Mill seems ready to distance himself from such a position in order to contend that it is not the calculation of *welfare* per se that directs the power of the law, but the calculation of *harm* to another agent that prompts us to invoke morality's strong arms through the mechanisms of public opinion and legal authority.¹¹⁹ Mill explicates this very firmly,

[...] To justify that, the conduct from which it is desired to deter him must be calculated to produce evil to someone else. The only part of the conduct of anyone for which he is amenable to society is that which concerns others. In the part which merely concerns himself, his independence is, of right, absolute. Over himself, over his own body and mind, the individual is sovereign.¹²⁰

It is through these lenses that Mill declares, “ the only freedom which deserves the name is that of pursuing our own good in our own way, so long as we do not attempt to deprive others of theirs or impede their efforts to obtain it.”¹²¹ In essence, if I were to act in such a way that my actions are likely to produce consequences that may inhibit or prevent the exercise of your liberty and thus consequently affect the realization of your well-being, then in such circumstances I would be *harming* you and the use of force to prevent me from acting or the use of opinion to deter me for my wrongdoing would be *morally* justified. Nevertheless, as it is well known, the actual adequacy of the harm principle is extremely questionable since the scope and degree of the potential harm can never really be clearly delineated. Nonetheless it is still reasonable to acknowledge that the idea behind the principle is far from being absolutely absurd or inherently incoherent.

¹¹⁹ This particular interpretation of Mill's work is suggested by Alan Ryan's study of John Stuart Mill's political thought. For an abridgement of his position see his “John Stuart Mill and the Arts of Life” in Gray & Smith (1991).

¹²⁰ Mill (1956) p.13.

¹²¹ Mill (1956) p.16.

Liberty, according to Mill, is of fundamental significance because it permits us to engage in activities which are essential to our development. In this respect Mill, essentially gives us two related normative justifications for the establishment of a sphere of liberty free from the constraints and authority of others. The first justification is an *epistemic* one reflected in the idea that a flourishing marketplace of ideas is not only beneficial to the attainment and protection of truth but is significant and essential because it facilitates the recognition of our fallibility and therefore enhances the possibility that some opinion or idea, however different, can be essential to the development of our own character. However, it should be noted that, for Mill, the condition upon which this justification rests is the ongoing active debate of individual citizens. If this activity is not effectively practiced then there is ultimately no point to the instantiation and protection of liberty. The second justification is an *ethical* one. In regard to this explanation, Mill argues that the protection and sustenance of a sphere of liberty is necessarily tied to the importance of fostering a more diverse society of eclectic individuals. In other words, liberty permits the promotion of an ideal of individualism with which a more diverse citizenry of multiple eccentric characters can be sustained. As he puts it,

As it is useful, that while mankind are imperfect there should be different opinions, so it is that there should be different experiments of living; that free scope should be given to varieties of character, short of injury to others; and that the worth of different modes of life should be proved practically when anyone thinks fit to try them.¹²²

Mill's argument essentially maintains that communities generally tend to impose on individuals a certain uniformity of thought and action through the maintenance of customary norms. These customary norms act as standard bearers that, through the mechanism of popular opinion and morality (what he sometimes calls tradition), aim to

¹²² Mill (1956) p.68.

narrow and preclude the development of multiple and eccentric characters which could upset the stability and maintenance of the social order. However, Mill indicates that far from facilitating the promotion of truth and human nature, the only real effect these practices have is that they preserve and protect the same prejudices that frustrate the epistemic and ethical development of the community at hand.

In response to this situation, Mill suggests that it is only through the protection of a certain sphere where the individual is sovereign or free from these customary and legal restraints, that a spirit of toleration can emerge and promote the ideal of individual authenticity and experience. An ideal which can foster a more diverse collection of multiple points of view and thereafter facilitate greater discussion and debate with the purpose of encouraging and advancing the epistemic and ethical development of a community. However, it should be emphasized that this state of affairs for Mill is only facilitated and promoted through the active engagement of citizens. If this condition is not satisfied, then you remain within a social and political system where the only things liberty protect are the prejudicial and conservative customs and opinions of tradition.¹²³ According to Mill, these reasons are sufficient to illustrate that the moral authority of society and law should be restrained from encroaching upon the particular field of action where these activities are to be upheld.

*

We have just examined two distinctive variations of the concept of liberty that have marked the theoretical landscape of the negative ideal in important ways. Firstly, we noted that the negative ideal is always formed within, or structured by a coercive apparatus. In this regard, we have observed that the concepts of liberty promoted by both

¹²³ This, moreover, is ultimately why liberty is tied to the idea of progress.

Hobbes and Mill are conceived as limit devices against the infringement of the coercive legal apparatus and customary authorities upon a certain space. Secondly, we have noted that the actual space left open by the legal apparatus is itself normatively conceived. For both thinkers, the actual space itself is determined and justified by way of a specific philosophical anthropology. When both these facets are combined, we find a conception of freedom which is not very far from Constant's liberty of the moderns. We notice a conception of liberty that is intimately related to the concept of an individual human right. In this respect, the ideal of negative liberty fits nicely within the negative constitutional tradition.¹²⁴ Liberty is herein viewed in terms of a normatively designed and coercively protected field of action where no restraints of any kind can be imposed within it to regulate the behavior of the subject.

Keeping these conclusions in mind, the next section focuses our attention on Berlin's analysis of the positive and negative conceptions of liberty. The concept of liberty Berlin defended in his celebrated paper is not very distant from Hobbes's, Mill's or Constant's own conception. However, from the justificatory point of view, Berlin's defense of negative liberty is drastically different from all three thinkers. From Berlin's point of view, the reasons why we ought to protect a given sphere of non-interference are radically novel in comparison to Hobbes's, Constant's or Mill's own concerns.

III

Berlin's "Two Concepts of liberty" is divided into eight sections. The first and second sections respectively outline the scope and content of the negative and positive conceptions of liberty. The negative conception according to Berlin's analysis, deals with the area within which a subject is free from coercive interference while the positive

¹²⁴ *Supra* fn.27.

conception deals with the source and authority of that actual coercion. In view of that, the negative conception is defined in terms of a space of non-interference while the positive conception is roughly defined in terms of self-direction and mastery or self-perfection and realization. The third section provides a detailed presentation of the more traditional approaches to positive liberty – drawn either in terms of a dialectic of self-mastery between the higher and lower *natures* of man or in terms of a conception of self-perfection realized through a practice of self-abnegation. The fourth section examines the second most common form that the positive theories may take – the theory of freedom as self-realization. According to this form, liberty is usually equated with the idea that what I can *know* for or about myself can, in essence, set me free. According to this theory, knowledge of my *true* self or knowledge of the *real* world may provide me with valuable data to the inner workings of *realities* that could be jeopardizing my freedom or happiness or realization. The purpose is to access an *epistemic* point of view that basically *knows* the subject better than the subject *know* itself and that can therefore liberate the subject by facilitating the realization of its *true* essence or *real* nature or ultimate purpose(s). The fifth section examines some of the root causes and vicissitudes of the positive conception's problems. Berlin's diagnosis, here, effectively states that most positive theories are grounded in convoluted epistemic or metaphysical systems that are coupled with excessively pre-determined philosophical anthropologies – *weltanschauungs* that insist, for example, that all men have *one* true nature or purpose, that the ends of life, like the structure of the world *must*, in principle, fit into one harmonious and elegant pattern regulated by some underlying law(s) or mediated by a common entity (say Reason or Love or God or Production). According to these

foundationalist theories, freedom will be attained only if we follow the counsel or dictates – authority - of these regulatory or mediating entities in the hope to fulfill and protect this pattern and harmony. In this respect, these theories share a problematic presupposition that maintains that political conflicts, like any scientific or metaphysical problem, are not only, in principle, solvable, but that the solutions to these problems are in essence compatible and inter-related with solutions to other political, moral, aesthetic or economic issues. The sixth section scrutinizes the theory of positive liberty understood via claims of external recognition and internal self-government and concludes that even though the ideas of recognition and self-governance are closely related to the concept of liberty, they reflect, in the final analysis, a very different value. The seventh section examines the relationship between liberty and sovereignty. Herein, Berlin criticizes the understanding of liberty defined in terms of popular sovereignty by recourse to the traditional problem concerning the fate of minorities in relation to purely majoritarian democracies. The final section appraises and establishes the idea that values are essentially plural, and in some cases mutually conflicting entities. With this premise at hand, Berlin argues that because the positive conceptions of liberty are essentially grounded in monistic axiologies they are unable to account for, and practically accommodate, the reality of value-pluralism. Thereupon, Berlin concludes by arguing the essential viability of, and internal coherence between, negative liberty (understood in terms of the absence of coercive interference where fundamental choices can be made between conflicting ends) and the reality of value-pluralism.

*

My outline indicates that most of the critical energy in his inaugural lecture is spent exploring the practical consequences of the positive conception of liberty in its different manifestations. As he tells us in a highly revealing introduction to *Liberty*,¹²⁵ his original thesis was to argue that

historically the notion of 'positive' liberty diverged from that of 'negative' liberty and that this gulf widened as the notion of the self suffered a metaphysical fission into, on the one hand a 'higher' or a 'real' self or an 'ideal' self set up to rule a 'lower' 'empirical' 'psychological' self or nature, on the other, into 'myself' at my best as master over my inferior day to day self.¹²⁶

From there, he contends that,

In the course of this process, what had begun as a doctrine of freedom turned into a doctrine of authority and, at times, of oppression, and became the favored weapon of despotism.¹²⁷

We infer from this statement that the approach by which Berlin defended the negative conception of liberty in "Two Concepts of Liberty" was an essentially *negative* one. By mounting an intricate argument showing the perverse conclusions which the positive conception could (in theory) lead to, or has (in practice) led to, Berlin believed that he could defend the main idea behind the negative conception of liberty more effectively. His approach basically *resembled* that of Michael Oakeshott's critique of rationalism in political discourse and Judith Shklar's defense of the liberalism of fear.¹²⁸ Under this pretense, the strategy with which Berlin threw doubt on the viability of the positive conception was by essentially characterizing the concept in its most Rationalistic and Metaphysical form. Berlin's overall defense of the negative conception was presented *in*

¹²⁵ Berlin (2002).

¹²⁶ Berlin (2002) p.36.

¹²⁷ Berlin (2002) p.37.

¹²⁸ See Oakeshott (1991) chap.1 and Shklar (1998) chap 1 - It goes without saying that I suspect Berlin would not in any way agree with Oakeshott's conservative conclusions but one suspects that he would be sympathetic to some of Shklar's. The point is simply that the spirits of their arguments are similar.

passing as a more humane and ultimately realistic option for the realities that make up human political experience and behavior than the positive conception could ever be.

It goes without saying that Berlin's assessment plays itself out at many other levels. However, it doubtlessly needs argument that the greater part of Berlin's essay is essentially aimed at undermining the philosophical presuppositions of the positive conception of liberty. George Crowder has meticulously shown in his comprehensive study of Berlin's thought that one can discern at least three central 'levels' to Berlin's examination and critique of the positive conception.¹²⁹

The first level of analysis, Crowder calls 'the inversion thesis.' This is the idea that the positive concept of liberty can too easily be turned into an enslaving or repressive value in contrast to an emancipating or liberating value. According to Berlin, there inheres within the very definition of positive liberty certain ideas or values that may turn the ideal of liberty into an authoritarian concept. Berlin envisions the dangers in characterizing the positive conception of liberty: "enough manipulation of the definition of man, and freedom can be made to mean whatever the manipulator wishes."¹³⁰ In effect, the problem is clearly expressed in the way in which the positive conception of liberty defines the conditions of one's liberation. As Berlin puts it

The monstrous impersonation which consists in equating what X would choose if he were something he is not, or at least not yet, with what X actually seeks and chooses, is at the heart of all political theories of self-realization.¹³¹

The irony in this passage is the claim that the last person to choose how he will realize his life is the actual self trying to realize that life. One could restate the point by using the

¹²⁹ See Crowder (2004) Chap. 4.

¹³⁰ Berlin (2002) p.181.

¹³¹ Berlin (2002) p.180.

language proposed by Bernard Williams in that the positive conceptions of liberty are essentially *moral* theories.¹³² In this sense, both Berlin and Williams agree that positive liberty becomes something akin to a theory of obligation, or duty to an external authority. This is why Berlin suggests at one point that “freedom [in the positive sense] is not freedom to do what is irrational or stupid or wrong”¹³³ Only in a sphere where complete authority is lacking can one choose to smoke one’s life away or to take the risk of jumping off a bridge. One can do so under the negative conception because the subject is accorded a space of non-interference where it can freely choose to engage in these types of practices. In stark contrast, according to the positive conception, “a law which forbids me to do what I could not, as a sane being, conceivably wish to do is not a restraint of my freedom.”¹³⁴ In this sense, the inversion thesis is made possible through the, “the common assumption [of these theories] that the rational ends of our true natures must coincide or *be made* to coincide, however violently our poor, ignorant, desire ridden, passionate, empirical selves may cry out against this process.”¹³⁵ In other words, because theory dictates practice, the fact that one chose to throw his health away is not testament that the subject is free but that the subject is a slave to its passions. It therefore follows according to the positive conception that laws must be implemented to suppress this desire at whatever cost in order to liberate the subject from such irrational behavior. In this sense, Berlin expresses that the positive conception makes “liberty coincide with law:

¹³² For Williams distinctions see his (1981) and (1985).

¹³³ Berlin (2002) p.194.

¹³⁴ Berlin (2002) p.195.

¹³⁵ Berlin (2002) p.194.

autonomy with authority.”¹³⁶ Primo Levi and Solzhenitsyn are reverberating testimonies of this unfortunate characteristic of the positive ideal.¹³⁷

Following from this first level of analysis is the second thesis which Crowder calls ‘the confusion thesis.’ This thesis suggests that according to Berlin the adherents of positive liberty have blurred the boundaries between liberty and another idea or value, consequently confusing the concept of liberty with some other entity. This thesis is reflected in Berlin’s vague discussion in section six regarding the relationship between a person’s or people’s desire for recognition and the concept of liberty. According to Berlin, the colonial demands for political and cultural recognition that surfaced in the middle of the twentieth century should not be understood to be demands for civil liberty. Although Berlin was sympathetic to the concerns and intuitions of the post-colonial struggles for recognition that were taking place, he was reluctant to acquiesce that what they were fighting for was political liberty. As he puts it,

What [these groups] want, as often as not, is simply recognition (of this class, nation, race, color) as an independent source of human activity, as an entity with a will of its own, intending to act in accordance with it, and not be ruled, educated, guided, with however light a hand, as being not fully human and therefore not quite fully free.¹³⁸

However, far from concluding that what these struggles for recognition are aimed at is the realization of freedom, Berlin concludes that

It is not with individual liberty, in either the positive or negative sense of the word, that this desire for status and recognition can easily be identified. It is something no less profoundly needed and passionately

¹³⁶ Berlin (2002) p.195.

¹³⁷ The negative conception does have its aberrations. Authors as different as Dickens and Morris keep reminding us of the perversions that have resulted from a fetishization of the negative ideal. Nevertheless, Berlin acknowledged this reality and ultimately concluded that the problems that arose from an ultra-individualist interpretation of the negative ideal was a pragmatic error resulting from a negligent application of values, not a full-fledged tragedy resulting from the conceptual foundation or inner workings of the positive ideal. The validity of this argument, however, is still an open question...

¹³⁸ Berlin (2002) p.202-203.

fought for by human beings – it is something akin to, but not itself freedom; although it entails negative freedom for the entire group, it is more closely related to solidarity, fraternity, mutual understanding, need for association on equal terms all of which are sometimes – but misleadingly – called social freedom¹³⁹

This conclusion may rightly seem quite strange. As most of us know, the decolonization struggles of the twentieth century have been some of the most remarkable expressions of freedom our world has known. Yet, if we are to follow Berlin here, we are misled because

The essence of the notion of liberty [...] is the holding off of something or someone – intruders and despots of one kind or another. The desire for recognition is a desire for something different; for union, closer understanding, integration of interests, a life of common dependence and common sacrifice.¹⁴⁰

In this respect, Berlin is quite resolute in his thinking when he states that “it is this desire for reciprocal recognition that leads the most authoritarian democracies to be at times consciously preferred by their members to the most enlightened oligarchies.”¹⁴¹ This very important aspect of Berlin’s thought will be discussed later.

Placing this last observation to the side for the moment, let us turn to the last level of analysis and critique that Crowder highlights from Berlin’s discussion. This third thesis relates to the idea that, according to Berlin, the axiological presuppositions of the positive conception are incorrect. Berlin’s argument here is not only that historically the positive conception of liberty has been tied up with metaphysical assumptions and postulates which prescribe a particularly monist vision and understanding of values, but that there is good reason to suggest that our axiological framework may be totally different from the vision proposed by the positive conception. In Berlin’s analysis, these

¹³⁹ Berlin (2002) p.204.

¹⁴⁰ Berlin (2002) p.204.

¹⁴¹ Berlin (2002) p.203.

monist accounts of value, according to which there can either be a *real* priority, or intrinsic ordering, of values in the world that can scientifically or philosophically be specified and discovered, have historically lead not only to the inversion of liberty into its opposite, or to outright confusion about what liberty stands for but, ultimately, to the most brutal forms of tyranny and despotism recorded in human history. As Berlin avers,

One belief, more than any other is responsible for the slaughter of individuals on the atlas of the great historical ideals [...] This is the belief that somewhere, in the past or in the future, in divine revelation or in the mind of an individual thinker, in the pronouncements of history or science or in the simple heart or an uncorrupted good man, there is a final solution. This ancient faith rests on the conviction that all positive values in which men have believed must in the end, be compatible and perhaps even entail one another.¹⁴²

In other words, this idea that men can be made to fit into a procrustean mold has been at the origin of every savage regime in the history of mankind. According to Berlin, the single constant that reoccurs in practically every one of these philosophical systems is the suggestion that in relation to human nature, there must be a predetermined ordering of values that supports and facilitates that nature. If that were the case, then political theory should simply resign itself to discovering the right axiological ranking in the order to administer to the realization of man's essential nature. However, for Berlin, the very practice of political theory is based on the assumption that ends sometimes conflict with one another. Indeed, it is because values like liberty conflict with those like equality, or self-determination, happiness or recognition that we must be allotted a space to choose between competing rankings. In other words, for Berlin if we choose to enjoy more liberty, then this will come at the expense of democracy or equality, etc. However, if we choose the other way around and decide to allot more equality, this will come at the

¹⁴² Berlin (2002) p.212.

expense of our liberty. This suggestion is ultimately why Berlin finds such choices between ends so ‘agonizing.’ Because of the radical plurality of values, there can be no clear and fixed rule about how to rank or measure the spheres of non-interference. This sophoclean stance towards the nature of humanity coupled with the irreducibly plural nature of values enables Berlin to contend that negative liberty is the most humane and ultimately pragmatic conception of liberty. For Berlin, we not only encounter these agonizing choices between different sets of values in our everyday lives but we experience this daily in the ongoing debates and engagements of citizens across the world and in the historical events that have shaped our present societies. In this respect, Berlin places the burden of proof on the positive conception with its monist presuppositions and suggests that

If we are not armed with an a priori guarantee of the proposition that a total harmony of true values is somewhere to be found – perhaps in some ideal realm the characteristics of which we can in our finite state not so much as conceive – we must fall back on the ordinary resources of empirical observation and ordinary human knowledge.¹⁴³

Indeed, if we are not to render the phenomenological experience of our ethical lives in total incongruence with our theoretical articulations, then we should give real weight to the thesis that the values of our world are plural and that we mediate these values via something akin to the choices that are freely made within spheres of non-interference – i.e. the negative concept of liberty. As Berlin argues this point,

[It is because] the world we encounter in ordinary experience is one in which we are faced with choices between ends equally ultimate, and claims equally absolute, the realization of some of which must inevitably involve the sacrifice of others. [...] That men place such immense value upon the freedom to choose¹⁴⁴

¹⁴³ Berlin (2002) p.213.

¹⁴⁴ Berlin (2002) p.214.

It is under these premises that Berlin famously concluded that

Pluralism with the measure of negative liberty that it entails seems to me a truer, more humane, ideal than the goals of those who seek in the great disciplined, authoritarian structures the ideal of positive self-mastery by classes or peoples or the whole of mankind. It is truer, because it does, at least recognize the fact that human goals are many, not all of them commensurable and in perpetual rivalry with one another. [...] It is more humane because it does not (as the system builders do) deprive men, in the name of some remote or incoherent ideal of much that they have found to be indispensable to their life as unpredictably self-transforming human beings.¹⁴⁵

*

This last statement is extremely important since it succinctly summarizes Berlin's basic conclusions. If we come to accept the idea that our moral world is structured by a pluralism of values, then we must also acknowledge the necessary entailment that only the negative conception of liberty can accommodate such an axiological reality. In effect, the way in which Berlin understood the concept of negative liberty was essentially as a choice-based notion. This particular feature suggests that the idea that freedom is effectively related to the possibility of making choices between radically plural ends has severe implications on the account and role of coercion in his ideal. This implies that, according to Berlin's account of liberty, the structure of coercion is always conceived as a nuisance or impediment to a possible choice-set. Secondly, as John Gray has rightly maintained, this position is significant since it suggests that underlying Berlin's stance, one can find a distinctive vision of human nature and agency that is necessary for the internal structure and coherence of his philosophical outlook. As Gray explains, "the locus of this coherence is in the centrality Berlin accords to the activity of choice in the

¹⁴⁵ Berlin (2002) p.216.

constitution of human nature.”¹⁴⁶ However, this nature, Gray continues, “is not, for Berlin, something within us that awaits discovery and realization. It is something invented, and perpetually reinvented, through choice, and it is inherently plural and diverse, not common or universal.”¹⁴⁷ From the above, Gray concludes that Berlin’s position, far from being rudimentary, presents itself through a quite sophisticated philosophical vision.

All the same, the negative conception does not vary to any great extent from what previous liberal thinkers and negative constitutionalists had suggested. “Political liberty in this sense is simply the area in which a man can act unobstructed by others.”¹⁴⁸ Or better yet for Berlin, “you lack political liberty or freedom only if you are prevented from attaining a goal by human beings”¹⁴⁹ Indeed, because Berlin defines the instances of coercion as “the deliberate interference of other human beings within the area in which I could otherwise act”¹⁵⁰ he can idiomatically conclude that “the wider the area of non-interference, the wider my freedom.”¹⁵¹ Of course, this is simply a result of the fact that if there is less coercion, then there are more choices available. One is reminded that the account of coercion presented in this theory is quite crude. At any rate, we get additional indications of Berlin’s fundamental position when he states,

The extent of a man’s negative freedom is, as it were, a function of what doors, and how many, are open to him; upon what prospects they open; and how open they are. This formula must not be pressed too far, for not all doors are of equal importance, inasmuch as the paths on which they open vary in the opportunities they offer. Consequently, the problem of how an overall increase of liberty in particular circumstances is to be

¹⁴⁶ Gray (1996) p.13.

¹⁴⁷ Gray (1996) p.23.

¹⁴⁸ Berlin (2002) p.169.

¹⁴⁹ Berlin (2002) p.169.

¹⁵⁰ Berlin (2002) p.169.

¹⁵¹ Berlin (2002) p.170.

secured, and how it is to be distributed (especially in situations, and this is almost invariably the case, in which the opening of one door leads to the lifting of other barriers and the lowering of still others) how, in a word, the maximization of opportunities is in any case to be achieved, can be an agonizing problem, not to be solved by any hard-and-fast rule¹⁵²

The idea behind this statement is that the negative concept of liberty is not only a choice-based concept but a quantitatively and qualitatively elaborated notion of choice. It is important to recall that Berlin is trying to remain within the purely descriptive and operational realm in his definition of liberty. Even if Berlin very well realizes that there are qualitative aspects to the choice of ‘open doors,’ we must remember that Berlin’s aim is to simply tell us ‘what liberty is,’ not to tell us who will, and how to, rank the choice of ‘open doors.’ Because of his ontology of values, Berlin is not willing to draw any normative conclusions about the choice of doors and their quality. But this leads us to a problem. Even if we do acknowledge that the choice of ‘open doors,’ for Berlin, is based on purely qualitative considerations, we are still left wondering who will make the choice, and on what account, concerning which doors shall be open and which doors shall be closed. Here, Berlin remains silent. He is adamant that there will be no *transcendental* method of evaluation but is extremely slow to acknowledge who the author of these qualitative considerations about the various ‘doors’ will or should be.

In any case, Berlin’s overall conclusion is rather well articulated when he indicates three important facets about the negative conception of liberty. The first facet is reflected in the belief held by John Stuart Mill that non-interference is good in itself simply because it facilitates the promotion of a certain type of character or as he put it in *On Liberty* “Individuality requires its own field of action.”¹⁵³ For Berlin this argument

¹⁵² Berlin (2002) p.41.

¹⁵³ Mill (1956) p.82.

confuses two distinct notions that should not prove jointly sufficient for the instantiation of negative liberty. The idea that, on the one hand, all coercion is bad as such, and that all non-interference is intrinsically good should not be causally linked to the idea that liberty is instrumental to the realization of a specific type of individual. This was a philosophical conclusion Berlin was unwilling to ascertain. Indeed, Berlin upheld that to impose the second condition along with the first is simply to confuse what liberty properly is. In this regard, Berlin took James Stephen's argument quite seriously that individual eccentricity and strength of character are not a necessary consequence of the absence of constraints on human behavior. In other words, to argue, as Mill did, that the rationale behind deploying and securing negative liberty within society is that it promotes a certain type of individuality is to confuse what the purpose of liberty is with what liberty *in fact* is.

The second facet is that negative liberty is a distinctively modern notion. Following Condorcet and Constant, Berlin argued that the ancients did not have a negative concept of liberty because the presumption that our private lives have an intrinsic worth was alien to them.¹⁵⁴ It is only with the arrival of the modern world where the idea that our private enterprises have value in and for themselves that an ideal of negative liberty emerges - for instance, through the notion of individual human rights.

The third facet is that the concept of negative liberty "is not incompatible with some kinds of autocracy, or at any rate, with the absence of self-government."¹⁵⁵ This last point is by far the most important in Berlin's analysis. The reason is that this particular statement clearly demonstrates what the concept of negative liberty essentially is.

¹⁵⁴ This position, of course is highly debatable. Certain strands of Catholicism, for example, which predate the modern age place incredible value on the private and meditative dimensions of existence. In this sense, the idea that our private lives mean something only as a result of modernity is a crudely formulated historical observation. cf. Arendt (1998) for a more nuanced account.

¹⁵⁵ Berlin (2002) p.176.

According to Berlin, even though self-government is a better guarantor of negative liberty, there is nothing fundamentally incoherent with the presence of an autocratic society that provides certain minimum rights to its agents. In this respect, Berlin starts looking more and more like a very liberal Hobbesian. Shklar elucidates this point quite well when she argues that,

Berlin's negative liberty [...] is kept conceptually pure and separate from the 'conditions of liberty,' that is, the social and political institutions that make personal freedom possible." That is entirely necessary if negative liberty is to be fully distinguished from what Berlin calls positive liberty.¹⁵⁶

The reason for this separation, Shklar adds, is because "it cannot be denied that this very clear demarcation of negative liberty is the best means of avoiding the slippery slope that can lead us to its threatening opposite."¹⁵⁷ Under this pretense, liberty is what it is (or stays what it is): a sphere of non-interference closely related to the idea of an individual human right - a space where one can do what one pleases without being bothered by any type of coercive authority, a space where the possibility to make fundamental choices between equally ultimate ends can be accommodated without the constant intervention or surveillance of authority looking over everything one does.

*

Having provided a general outline of the lecture as well as some of the central conclusions regarding his critique of the positive conception of liberty and defense of the negative concept, there are several fundamental questions that must be raised. Indeed, if Berlin's conclusions concerning the negative conception are to withstand critical scrutiny, it is wise to ask whether the conception of positive liberty he presented in the

¹⁵⁶ Shklar (1998) p.10.

¹⁵⁷ Shklar (1998),p.10.

inaugural lecture is a theoretically viable challenge. In this respect there are at least three fundamental questions that ought to be asked.

The first question concerns the possibility that the positive conception of liberty Berlin presented in his celebrated lecture could in fact be a 'straw man' construed to rhetorically facilitate and promote the negative theory. Is it not possible to frame the concept of positive freedom in such a way as to suspend or soften those aspects that made the concept problematic? In other words, could it be possible to construe the positive concept in such a way as to make it compatible with the pluralism of values that Berlin finds inescapable? Conversely, is it not equally possible to make the philosophical anthropology associated with most positive conceptions less deterministic and more open-ended than Berlin suggests?

The answer, we shall hope to show in the next chapter, is positive in both respects. Indeed, even the negative conception itself is not free from anthropological and axiological suppositions. Moreover, the negative conception of liberty, conceptually speaking, simply cannot stand on its own ground. *Pace* Berlin, there cannot be a purely analytic definition of negative liberty. As such, we shall argue that there are always positive dimensions to our conceptualization of liberty – the latter are simply inescapable.

The second question concerns why we should accept Berlin's claim that democratic self-determination is a confusion of the concept of liberty. As we have seen above,¹⁵⁸ Berlin concludes that the desire to be recognized leads some people to prefer a life in the most authoritarian democracies than in the most enlightened oligarchies. However, my intuitions with respect to this claim do not necessarily follow Berlin's conclusion here. It is one thing to suggest, as Berlin does, that democratic self-

¹⁵⁸ See above p. 55-56.

determination or cultural recognition, although valuable ideals to strive for in themselves, are not really articulations of the idea of liberty at all, and quite another to suggest, following the spirit of Constant's analysis, that even if the idea of democratic self-determination is a valid ideal of freedom, it is not necessarily the most adequate one to strive towards, given the circumstances. The problem here, is that Berlin has simply not given us a clear enough indication of why we should not accept the idea that these values, far from being a confusion of the idea of freedom, are indeed a valid if not necessary aspect of the ideal? According to at least one highly influential figure, President Roosevelt, the struggles for cultural recognition and democratic self-determination that took place in the middle of the twentieth century were not only extremely valuable in themselves but also quintessential expressions of freedom.¹⁵⁹ Why then, should we accept Berlin's conclusion that there is nothing essentially wrong with the idea that one can be free with an 'enlightened oligarchy' or 'salt-water despot?' As Judith Shklar maintains

if negative freedom is to have any political significance at all, it must specify at least some of the institutional characteristics of a relatively free regime. Socially that also means a dispersion of power among a plurality of politically empowered groups, pluralism, in short, as well as the elimination of such forms and degrees of social inequality as expose people to oppressive practices. Otherwise the "open doors" are a metaphor – and not, politically, a very illuminating one at that.¹⁶⁰

It seems as though Berlin's contention that there is no incoherence behind the idea that a person or group of persons can be free while living under a autocratic or oligarchic regime, not only makes the very idea of negative liberty *morally* and *substantively* inconsequential but adds an insult to some of the greatest democratic experiments the twentieth century has witnessed. Few people, would at this time, seriously contend that

¹⁵⁹ The Introduction and Chap. 1 of Cassese (1995) has a well documented history of the U.N debates on the de-colonization struggles that took place.

¹⁶⁰ Shklar (1998) p.10.

Indians were freer under British Colonial rule than under a democratically elected and constitutionally enacted Indian Government. The symbolic ramifications of the positive conception of liberty in this respect are enormous. In other words, if we agree with Berlin that a necessary minimum of negative liberty is to be upheld at whatever cost, then the feasibility of the ideal promoting and maintaining a minimally just society is bound to be fruitless.

The reason why our intuitions do not properly ‘jive’ with this aspect of Berlin’s account is not due to the fact that we do not *see* freedom in the idea of human rights but that we also welcome it in the idea that people should govern *themselves*. In this respect, Quentin Skinner has recently shown that there is a tradition of political thought that has valued this approach to negative liberty – a tradition deeply rooted in the Justinian legal codes of Ancient Rome and adopted by the renaissance Jurists through to the English Republicans and Commonwealthmen of the early modern period. Under this broadly negative vision,¹⁶¹ freedom is not the exclusive property or status of individual persons but of whole states or peoples; “a free state is a community in which the actions of the body politic are determined by the will of the members as a whole.”¹⁶² Skinner of course, reassures us that what these theorists mean when they refer to the will of a people is not the mysterious all authentic spirit Berlin’s alludes to in the context of his positive conception but “nothing more than the sum of the wills of each individual citizen.” In this respect, the neo-Roman theory, as he calls it, essentially envisions the idea that “a free state should ideally be such as to enable each individual citizen to exercise an equal right

¹⁶¹ The defenders of the neo-Roman vision of liberty, as Skinner tells us “have no quarrel [...] with the liberal tenet that, as Jeremy Bentham was later to formulate it, the concept of liberty ‘is a merely negative one’[...].” Skinner (1998) p.82.

¹⁶² Skinner (1998) p.26.

of participation in the making of laws.”¹⁶³ If this state of affairs does not materialize, then citizens are said to be unfree with respect to their government. It is important to recognize as a consequence that liberty is essentially deprived if someone is placed in a position of dependence to some other agency. In this sense, the neo-Roman view differs from liberal accounts of negative liberty in the way they “interpret the underlying idea of constraint.”¹⁶⁴ As Skinner explains,

what the neo-roman writers repudiate *avant la lettre* is the key assumption of classical liberalism to the effect that force or the coercive threat of it constitute the only forms of constraint that interfere with individual liberty. The neo-Roman writers insist, by contrast, that to live in a condition of dependence is itself a source and a form of constraint.¹⁶⁵

It is in this sense that the neo-Roman writer can be adamant in his indication that

if you wish to maintain your liberty, you must ensure that you live under a political system in which there is no possibility that your civil rights will be dependent on the goodwill of a ruler, a ruling group, or any other agent of the state. You must live, in other words, under a system in which the sole power of making laws remains with the people or their accredited representatives, and in which all individual members of the body politic – rulers and citizens alike – remain equally subject to whatever laws they choose to impose on themselves.”¹⁶⁶

What is of interest to us here, in relation to Berlin’s conceptual conclusion that there is, in principle, nothing incoherent with the presence of an enlightened oligarchy and the realization of negative liberty, is that for the neo-roman writers, the mere possibility of discretionary power is a sign of dependence - and therefore unfreedom. In this respect, the neo-Roman theorist sees nothing essentially wrong with Berlin’s conception of negative liberty; they simply reiterate its validity by adding the necessary condition that stipulates the presence of a free state or people. In this sense, the neo-Roman theory not

¹⁶³ Skinner (1998) p.30.

¹⁶⁴ Skinner (1998) p.85.

¹⁶⁵ Skinner (1998) p.84.

¹⁶⁶ Skinner (1998) p.74.

only provides us with an alternative vision which supports our intuitions but one that also supports Shklar's criticism of Berlin.

The third question that ought to be raised relates to what Berlin is attempting to do by establishing the empirical, or at least philosophical, justification of value-pluralism. The critical issue is that even if we grant Berlin's conclusions that the positive conception of liberty is an essentially monistic philosophical doctrine, and that this particular aspect makes the concept, in principle, impracticable in relation to the alleged existence of the plurality of values, Berlin still needs to account for the ultimate eventuality that there needs to be some decision, or 'haggling' as he puts it, about where the space of non-interference will be demarcated.

At this point, a serious query concerning how much or how little of this or that value will be protected or distributed is inescapable; and any discussion or indeed decision that will take place concerning the borders of that minimum space will blur the boundaries between one value and another. What is important here, *pace* Berlin, is not that we are choosing one value, say liberty over another value, say equality, but that the actual mixture of values *is itself*, as it were, an expression of liberty. In relation to this facet, two claims should be put forward. On the one hand, following Skinner and Shklar, the question concerning who takes the decision is an important consideration to take into account. On the other hand, a related question concerning the actual articulations of the kinds of considerations that will discriminate between given choices must be elaborated. Of course, Berlin is not interested in this kind of argument since, as we have seen, negative liberty according to his analysis can on the one hand be sustained even in an autocratic state and on the other, because there can be no prior articulation of these

considerations, this concern is not part of his conception of liberty. Liberty is what it is - the space of non-interference. The limits of that space are essentially exogenous to the definition of negative liberty

This problem is not necessarily new. John Stuart Mill, that most celebrated champion of liberty, argued, in his *Principles of Political Economy*, within the context of a discussion concerning the necessity of state intervention, that there still remains a very important question facing political philosophers regarding the appropriate limits that ought to be placed on our liberty. As he so eloquently stated,

That there is, or ought to be, some space in human existence thus entrenched around, and sacred from authoritative intrusion, no one who professes the smallest regard to human freedom or dignity will call in question: the point to be determined is, where the limit should be placed; how large a province of human life this reserved territory should include.¹⁶⁷

Mill, as shown, considered that this area should be limited in such a way as to prevent our activities from hindering or affecting the interests of others. His recommendation to this problematic, as we have seen, has come to be known as the harm principle. Of course, Berlin was well aware that there was a problem regarding the articulation of the scope of the area of non-interference. Summing up the English liberal tradition on the issue of negative freedom he concludes that

Because [the classical English political philosophers] perceived that human purposes and activities do not automatically harmonize with one another, and because (whatever their official doctrines) they put high value on other goals, such as justice, or happiness, or culture, or security, or varying degrees of equality, they were prepared to curtail freedom in the interests of other values and indeed, of freedom itself. [...] Consequently, it is assumed by these thinkers that the area of men's free action must be limited by law.¹⁶⁸

¹⁶⁷ Radcliff (1966) p. 68.

¹⁶⁸ Berlin (2002) p.171.

In regard to this, Berlin continued that these thinkers not only thought that the law must protect their sphere of free action but that

there ought to exist a certain minimum area of personal freedom which must on no account be violated; for if it is overstepped, the individual will find himself in an area too narrow for even that minimum development of his natural faculties which alone make it possible to pursue, and even to conceive, the various ends which men hold good or right or sacred.¹⁶⁹

It was in light of such a reading of the history of the negative concept that Berlin vaguely concluded with the liberal tradition “that a frontier must be drawn between the area of private life and that of public authority.”¹⁷⁰ He even acknowledged that “where [the frontier] is to be drawn is a matter of argument, indeed of haggling”¹⁷¹ but refused to admit that such an argument or haggling was itself an expression of freedom.

Following this line of argument, one can conclude that Berlin’s most pressing political concern was not the size or source of the sphere of non-interference but that political liberty understood as negative liberty is a more prudent, humane and fundamental ideal than the positive conceptions deployed throughout the tradition by Platonists, Stoics, Catholics, Kantians, Hegelians, Marxists or British Idealists and other types of metaphysically driven alternatives. As we have just seen, the only conclusion Berlin drew from his study is that it is not *conceptually* (i.e pertaining to the definition) important to what negative liberty *is*, where the divisions between the realm of private self-indulgence and justified public authority rest; but that “liberty in this sense is liberty *from*; absence of interference beyond the shifting, but always recognizable frontier.”¹⁷²

IV

¹⁶⁹ Berlin (2002). p.171.

¹⁷⁰ Berlin (2002). p.171.

¹⁷¹ Berlin (2002). p.171.

¹⁷² Berlin (2002). p.174.

At this point Berlin's Oxfordian colors are more noticeable. The particular type of conceptual analysis, in effect, drove him to canonically state, "there is no necessary connection between individual liberty and democratic rule. The answer to the question 'who governs me?' is *logically distinct* from the question 'how far does government interfere with me.'¹⁷³ In a way, Berlin's position oddly echoes that of Charles I who, from the scaffold, exclaimed "the people's liberty under law had nothing to do with their having a voice in government."¹⁷⁴

As we have seen in this chapter, there is nothing essentially new or reconstructive in this way of characterizing negative liberty. If one thing is made clear, it is that the liberal or negative tradition has essentially come to consider the instantiation of freedom as an essentially extra-political affair – 'liberty now exists where *politics* ends.' In light of this 'innovation,' one of the main consequences of the negative theory is the underlying supposition that one can effectively displace and disassociate properly *political* concerns from conceptual ones. In effect, the main problem here is that by maintaining a clear distinction between what liberty properly is and what it is that limits liberty, one is essentially saying that whatever (or wherever!) the coercive boundaries are that regulate our options is of no principled importance to our understanding of the ideal.¹⁷⁵ This basically reaffirms Berlin's conclusion that the coercive boundaries are not *part* of our field of freedom – "Political liberty in this sense is *simply* the area which a

¹⁷³ Berlin (2002) p.177. *italics are my own.*

¹⁷⁴ Quote taken from Pocock (1985) p.40.

¹⁷⁵ Berlin set up the impasse quite clearly when he suggests that the negative ideal's answer to the question - "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 by other persons?" - and the positive ideal's answer to the question - "what or who, is the source of control or interference that can determine someone to do or be this rather than that?" - 'may overlap,' they, nevertheless remain "two profoundly divergent and irreconcilable attitudes to the ends of life."

man can act unobstructed by others.”¹⁷⁶ In other words, the *conceptual* understanding of liberty encompasses the area of non-interference or the sphere of action only; the *authority, legitimacy* or *architecture* of the coercive mechanisms are, in essence, exogenous to the negative ideal. This is an extremely narrow view to hold and it makes an enormous difference to the ideal’s relation to our own lives how those boundaries are set up, and what those boundaries *are*.

In spite of this, some thinkers still argue that the concept of freedom is best understood and experienced through a type of political praxis that *actually* engages in these particular types of normative considerations. The next chapter will explore one position that still locates an essential aspect of our idea of liberty within political, or praxis-oriented, concerns without ultimately excluding the useful and humane, or *positive* characteristics of the negative conception.

¹⁷⁶ Berlin (2002) p.169. *italics my own*.

Chapter 3: Who shall be Judge? Charles Taylor and the Positive Dimensions of Negative Liberty

I

Until now, our discussion has explored a concept of liberty that is operative in the political imaginary of western liberalism - a concept shaped and structured *through* law and manufactured and distributed in the form of an individual human right. We began our examination by considering Isaiah Berlin's distinction between negative and positive liberty and its supposed relationship to Benjamin Constant's celebrated comparison between ancient and modern. Far from concurring with Berlin that 1) Constant's modern liberty was analogous to Berlin's negative conception or that 2) Constant thought the liberty of the moderns to be the only valid ideal, we demonstrated firstly that, following Holmes, Constant's position with respect to modern liberty, is, while keeping a modern dress, closer to a positive conception than a negative one and secondly that, for Constant, the problem with ancient liberty was not that it was philosophically incoherent but that it was sociologically inappropriate. In effect, we noted that rather than dismissing either concept as incoherent and invalid, Constant's conclusion was to bring both conceptions together (to create a surrogate as it were) – an insight of Constant's work that, we have seen, was not recognized by Berlin in his inaugural lecture.

A reason why this facet was perhaps not taken into consideration by Berlin was probably because of the characterization he attributed to the positive conception. Unlike Constant who fashioned the liberty of the ancients in terms of a fully majoritarian (*qua* mob-rule) form of democratic governance; Berlin designed the positive conception of liberty in a sometime mystical, but always metaphysically and epistemologically robust philosophical system - a system whose theoretical validity came at the cost of practical

incoherence. Indeed, for Berlin, such systems did nothing but ultimately force human beings to fit within a tightly constructed mold. This type of construal of the positive concept of liberty was not only intended as the analogue to Constant's ancient liberty, but also as the fundamental basis for his theoretical justification and defense of the negative concept.

The second chapter addressed Berlin's famous distinction. The chapter appraised how Hobbes and Mill - two major figures of the modern tradition - have understood the concept of liberty. We showed firstly that both conceptions not only share negative characteristics but are also presented within a fully coercive legal structure, and secondly we noted that both concepts are justified and *architected* by recourse to anthropological considerations. With those considerations in mind we undertook a detailed analysis of Berlin's famous distinction. After having explained how Berlin understood and criticized the positive conception, we examined his interpretation and justification of freedom as non-interference.

This chapter, on the other hand, will look at an author who has argued a position concerning the concept of liberty that has emphasized its positive aspects. As we shall see, this theory is positive in the sense that even though it does not conform to Berlin's conceptual criteria (i.e. the monist and rationalistic dimensions of the ideal he found in particular instances of the tradition); it provides an answer to the question Berlin ascribes to the positive conception - who or what is the source of the interference or coercion? In this respect, unlike Berlin who was too eager to displace the relative importance of these positive considerations in order to remain within the purer conceptual realm, this thinker has both acknowledged and encouraged the importance of negative liberty while

simultaneously addressing seriously the positive dimensions that the concept possesses in theory and in practice. Indeed, he has appropriately shown that the pragmatic issue relating to the limits and internal structure of the negative conception becomes a theoretical concern only when we realize that without these positive considerations, the negative conception is a relatively useless and substantively empty concept.

II

As revealed by our analyses of Constant, Hobbes and Mill in the last chapters, positive considerations (of selfhood, agency or institutional preconditions) are always in the background when discussions of liberty are at play. Secondly, we further noted with Mill that the question concerning where the limits of authority will be placed is a question that necessarily does not create consensus every time it is raised. In such circumstances, discussions and deliberations must ultimately take place in order for decisions to be made concerning where these boundaries will lie. Of course, Berlin realized this quite well but still refused to give it significant conceptual weight. Nevertheless, these activities are not only critical, but essential expressions of freedom.

A case to consider in this regard is John Locke's *Second Treatise of Government*. Locke's position is ultimately a consensus-based philosophy.¹⁷⁷ There are certain philosophical foundations and epistemic assumptions at play within his overall philosophical outlook that place Locke in a very delicate position. Indeed, Locke is problematic in this sense, because he could be interpreted as advocating an ultimately Berlinian type of positive conception.¹⁷⁸ In any case, Locke does present us with certain insights concerning the concept of liberty that should be taken into consideration.

¹⁷⁷ See for instance, Forster (2005) for an illuminating discussion.

¹⁷⁸ It should be noted that Berlin did not position Locke in the positive camp.

In the Fourth chapter of the *Second Treatise* Locke gives a preliminary definition of the concept. Here he tells us that

The liberty of man in society is to be under no other legislative Power, but that established, by consent, in the common-wealth, nor under the dominion of any will, or restraint of any law, but what the legislative shall enact according to the trust put in it.¹⁷⁹

It is suggestive that Locke actually begins his definition by delineating the institutional preconditions of the ‘liberty of men in society’. Moreover, far from upholding the negative conception in the pure form that Berlin defended in the last chapter, Locke continues

Freedom then is not what Sir R[obert] F[ilmer] tells us, *A liberty for every one to do what he lists, to live as he pleases, and not be tyed by any Laws*; But Freedom of men under Government, is, to have a standing rule to live by, common to every one of that society, and made by the Legislative Powers erected in it; A liberty to follow my own will in all things, where the Rule prescribes not; and not to be subject to the inconstant uncertain, unknown, Arbitrary will of another Man.¹⁸⁰

It should be emphasized that the Law Locke speaks of in these passages is characterized not by its power to essentially limit behavior but “as the proper direction of a free and intelligent Agent to his proper interest.”¹⁸¹ In this sense the Law is not taken as a simple Hobbesian hedge but as a means by which we can “preserve and enlarge our freedom.”¹⁸² As he so famously affirmed, “where there is no law, there is no Freedom.”¹⁸³

It is important to recognize that Locke’s conception of liberty does have some affinities with the negative conception we have previously reviewed. Nevertheless, he would certainly not have concurred with Berlin’s claim that negative liberty is not

¹⁷⁹ Locke (2003) p.283.

¹⁸⁰ Locke (2003) p.283-284.

¹⁸¹ Locke (2003) p.306.

¹⁸² Locke (2003) p.306.

¹⁸³ Locke (2003) p.306.

antithetical to the presence of an oligarchic or autocratic regime. The very existence of such a regime would have shown an arbitrary power over a subject's will. In this respect, the passage quoted¹⁸⁴ articulates Locke's position on this issue quite well; it is the legislative power that facilitates the realization of liberty, since the *best* guarantee of liberty is ultimately rooted in the trust the people have in their Government. As Locke explains in the last chapter of the *Second Treatise* concerning the dissolution of Government, it is the people who have a right (perhaps even an obligation!) to dissolve government "when the Legislative, or the Prince, act contrary to their trust."¹⁸⁵ It is the people, according to Locke, "who shall be judge whether the Prince or Legislative act contrary to their trust"¹⁸⁶ This is one of the most profound insights of Locke's *Second Treatise*. The ultimate power is vested in the people, not the institutions.¹⁸⁷ It is the community which possesses the final authority, not the Prince nor the legislature.

By retrieving this insight into our study of liberty, we can suggest against Berlin that liberty cannot be coherently and fully sustained in a autocratic system in which the holder of liberty has no say on what or where the limits to his liberty will be placed, or wherefrom such liberty shall emerge. Locke's statement has a striking resonance in this respect - it is the people who shall be judge where that limit will be placed, and what will support it, it is they who will in the last analysis construe the content of our liberty. With these Lockean undertones in mind, let us consider Charles Taylor insights and contributions to the ideal.

III

¹⁸⁴ see above p.76 n.179.

¹⁸⁵ Locke (2003) p.412.

¹⁸⁶ Locke (2003) p.426.

¹⁸⁷ Of course, my reading places the theological dimensions of Locke's position aside.

Charles Taylor's *oeuvre* has not only provided a timely critique of the development of scientism and instrumentalism in modern culture but also of its rising prevalence within the human sciences. Taylor has been one of the most forceful protagonists of the debate concerning the objective value and neutrality, nature and purpose, of the so-called social or human sciences. His work has not only developed and defended a hermeneutical approach to the objectivity and methodology of social scientific research, but has also been instrumental in advancing what our post-Heideggerian culture has called the hermeneutic turn in twentieth century philosophy. Like Berlin, Taylor is wary of approaching questions that concern value with the same optics as those whereby we approach questions of fact. In this sense, both Berlin and Taylor want to stay clear of broadly 'scientific,' 'formalist' and 'reductive' considerations in the realm of moral or political discussion. Furthermore, Taylor is one of the few self-proclaimed 'hedgehogs'¹⁸⁸ that takes the philosophical reality of pluralism and diversity quite seriously. However, unlike Berlin, Taylor is not ready to dismiss any specifically ontological question or conclusion about selfhood from the agenda of liberty, ethics or politics and is not quick to reject the idea of positive freedom without some reflection about its distinctive value and how it can enhance our appreciation of the liberal tradition's understanding of liberty as non-interference.¹⁸⁹

In his seminal article, "What's wrong with negative liberty"¹⁹⁰ Taylor finds himself making two very important claims that, unfortunately, have not been seriously considered by the secondary literature on Berlin. Most of the discussants that cite Taylor,

¹⁸⁸ Taylor (1985b) p.1.

¹⁸⁹ Patten (1996), Honohan (2002), Crowder (2004) are few exceptions which have given Taylor a 'fair' examination.

¹⁹⁰ Taylor (1985b) pp. 211-229.

cite him *en passant*, for having clarified the negative conception of liberty as an ‘opportunity concept’ and the positive conception of liberty as an ‘exercise concept.’ However, Taylor makes two much *deeper* and more important claims about liberty. The first claim is conceptual and concerns the understanding and measure of negative liberty itself. The second is an equally significant claim that relates to the *epistemic* and *evaluative* component of any discourse on liberty.

In other words, one of Taylor’s main concerns is not only that there are good reasons to maintain that there is a distinction between the negative conception and its positive counterpart, but that some sense of the positive concept is inescapably linked to the negative one – and, the purpose of the above-mentioned paper is to clarify this “strange asymmetry.”¹⁹¹ Taylor also calls into question the actual validity of talking about liberty without having any substantive assumptions in the background – the result is that it is impossible to defend the negative conception without recourse to some set of background motivations, what Taylor calls ‘strong evaluations,’ that concern our understanding of ourselves and our world and what kind of agents or community we wish to become or inhabit. These two facets that Taylor brings to the foreground are intricately linked to each other and are part of a larger discourse Taylor is already engaged in concerning the strongly historicist, interpretative and inter-subjective nature of the modern self.¹⁹² Putting this aside for the moment, let us address these important aspects about our understanding of liberty.

In “What’s wrong with Negative Liberty,” Taylor reprimands Berlin for having caricatured the two concepts of liberty and for having upheld the ‘Maginot-line’

¹⁹¹ Taylor (1985b) p.212.

¹⁹² I will not delve into this aspect of Taylor’s work which is brilliantly exposed in his opus *The Sources of the Self* see Taylor (1989).

mentality which unfortunately prejudices our appreciation of the content that the positive conception of liberty can add to our understanding of the negative one. One of Taylor's main concerns is that it is realistically *impossible* to justify negative liberty without recourse to some aspect of the positive conception. For instance, defining liberty as non-interference presupposes that the reason we value an area of non-interference is because of our post-romantic belief in personal or autonomous self-fulfillment and self-realization – an aspect which has been closely linked with the development and conceptualization of the positive concept. To argue that the negative concept of liberty is simply defined as the ability to do what we want or choose whatever value we please, within an area which cannot be infringed by any agent or institution, cannot properly be justified as an adequate justification of liberty. One of the main forces behind the negative conception of liberty is that it carries with it some of the import-attributing factors that the positive conception has developed, such as self-fulfillment and personal self-realization. The reason this concept is able to defend itself so easily against the extreme versions of positive liberty is because it has the ability to curb the dangerous inferences that stem from the positive conception. In this sense, the negative concept is able to 'cut the tree at the roots' of the caricatured positive concept. For instance, Taylor rightly acknowledges the problem that the negative theorist has with positive liberty as one concerning the ease with which the adherents of the positive conception can move from a consideration of qualitative discriminations about motives to metaphysical consideration concerning *true* or *genuine* freedom. For Taylor,

one can represent the path from the negative to the positive conceptions of freedom as consisting of two steps: the first moves us from a notion of freedom as doing what one wants to a notion which discriminates

motivations and equates freedom with doing what we *really* want or obeying our *real* will, or *truly* directing our lives¹⁹³

Obviously, the negative theorist will harshly criticize the second part of the second step the positive theorist makes as metaphysical hogwash - as we have seen above with Berlin. However, the negative theorist in rejecting this last move, is perhaps too crudely, rejecting the first part of the move as well. This is problematic for Taylor since it is precisely the discrimination between motives that the negative theorist will need in order to properly justify his conception of liberty. If the negative theorist resists accommodating some notion concerning the motivations behind the desire for a sphere of non-interference, then he will be left with a putatively 'instrumental' or 'reductive' justification for his position such as one finds in much contemporary libertarian literature which takes its insights from basically Hobbesian assumptions about human agency and purpose. However, for Taylor, to maintain this conception in light of our present understanding of the role and nature of human agency and political liberty will prove to be deficient when compared to the important contributions a more nuanced account of negative liberty can have in our political and social organizations. If the accommodation of the opportunity to simply satisfy brute desires or make radical choices are the only bases upon which the limits of non-interference will be set, then why is it that we ordinarily conceive of a society which permits religious worship to be more free than one which has less traffic lights or more casinos (or both!), but prohibits all religious practices to its citizens? Of course, the Hobbesian or orthodox utilitarian will produce a philosophical rebuttal to this argument which simply states that we value religious belief more than traffic regulation or straightforward gaming. Moreover, when we will push

¹⁹³ Taylor (1985b) p.217. *italics are my own.*

them to answer why we value this more than that, they will provide us with a colorful picture which depicts human beings as putting more utility on religious worship than blackjack. Nevertheless, for Taylor, this justification will not do because it is simply too crude and, more significantly, too arbitrary a picture of why we value *this* particular liberty in the first place. It does not tell us what is *importantly* right or wrong about preventing religious worship or supporting gambling practices - about why our society places greater value on certain practices, or certain conceptions of human nature (like that of Berlin's) or on having certain opportunities open rather than others. In this context, the crude negative line fails to significantly adjudicate the measure of the area of non-interference.¹⁹⁴

In turn, Taylor considers that this issue concerning the very *measurement* of the opportunities in question must be at the basis of any theory of freedom; and it is here that he provides us with some of his most compelling insights. As he eloquently asserts,

Even when we think of freedom as the absence of external obstacles, it is not the absence of such obstacles *simpliciter*. For we make discriminations between obstacles as representing more or less serious infringements of freedom. And we do this because we deploy the concept against a background understanding that certain goals and activities are more significant than others.¹⁹⁵

These background considerations, for Taylor, are embedded within the very understanding of ourselves as moderns. Nevertheless, this insight is not necessarily new to the debate. If Dunn is correct, even Benjamin Constant was aware of this particular reality.¹⁹⁶ However, unlike Constant, Taylor's insight concerns not only the reality of the contemporary political organization that we inhabit but the moral considerations that are

¹⁹⁴ Indeed, as we have seen in the last chapter, Berlin is unable to provide such an account because of the emphasis or value he placed on the centrality of choice and its related ontology of values.

¹⁹⁵ Taylor (1985b) p.217-218.

¹⁹⁶ *Supra* p. 18 fn. 49.

at play within our liberal society itself. If we are to protect the Maginot-Line between negative and positive liberty by insisting that all positive concepts are ostensibly authoritarian and homogenizing, we will be unable to defend any negative concept of liberty in the first place. The reason Taylor provides is that the very idea of negative liberty defined purely as the absence of external constraints is, by definition, indefensible given our contemporary understanding of liberalism and liberal society. This is why, for Taylor, much of the debate is misplaced- because fundamentally, the crude version of the negative concept of liberty is impossible to defend without recourse to some sort of ‘strong evaluations’ about the motives of the area of non-interference in question.¹⁹⁷ In this sense, “freedom is no longer the absence of external obstacles *tout court*, but the absence of external obstacles to significant action, to what is important to man.”¹⁹⁸ It is this latter qualification that gives ‘import attributing’ character to negative liberty – it is precisely this aspect that makes negative liberty defensible against Berlinian positive concepts. In other words, we dodge the significant foundation upon which negative liberty rests if we continuously uphold the division between pure non-interference that provides us with a cluster of opportunities against a conception of freedom which prescribes *externally* what we have to do or become in order to attain liberty.

This significant foundation for Taylor comes from what he calls strong evaluations - that is, the ability for us to have desires about desires, following Harry Frankfurt’s insight that what differentiates us as properly human as opposed to the other

¹⁹⁷ It ought to be noted that on Taylor’s account, one of those motives could be an anthropology similar to that which Berlin presented. However, unlike Berlin who, whether consciously or not, neglected to make explicit his underlying motivations and considerations, Taylor is quite comfortable discussing them publicly. Indeed, this is part of what we need to do as citizens of a democracy.

¹⁹⁸ Taylor (1985b) p.218. In Berlin’s case the necessity of choice between supposedly radically plural values.

species is our ability to have evaluated desires.¹⁹⁹ That is, we are able to have second-order desires. For Taylor, however, this is important because these second-order desires are not only desires about desires but are desires which are inescapably tied to our conception of who we are and want to be. They are the articulations of qualitative discriminations concerning things of worth to ourselves and to our sense of being. In this sense, strong evaluations provide us with an *opportunity* to articulate and express what we find of value and of worth in our lives and how these are historically, morally and politically shaped by a background of motives and understandings. As Taylor puts it in “What is Human Agency”²⁰⁰ when distinguishing between the act of strong evaluation and weak evaluation, Taylor remarks that whereas a weak evaluator will find herself dumbly *silent* when asked why he chooses this alternative over that one

The strong evaluator is not similarly in-articulate. [For her] there is the beginning of a language in which to express the superiority of one language of higher and lower, noble and base, courageous and cowardly, integrated and fragmented and so on. The strong evaluator can articulate superiority just because she has a language of contrastive characterization. So within an experience of reflective choice between incommensurables, strong evaluation is a condition of articulacy [...]²⁰¹

This type of articulateness for Taylor comes to the foreground with respect to the motives that underlie our specific choices. Unlike the crude conceptions of human agency and choice, the idea of strong evaluations is based upon a ‘thick’ conception of the self which

¹⁹⁹ Frankfurt (1998) Chapter 2. The purpose of Frankfurt’s article is to repudiate Strawson’s conclusion about how we are able to individuate between a person and other animals. For Frankfurt, “One of the essential differences between persons and other creatures is to be found in the structure of a person’s will. Human beings are not alone in having desires and motives, or in making choices. They share these things with other members of certain other species, some of whom even appear to engage in deliberation and to make decisions based upon prior thought. It seems to be peculiarly characteristic of humans, however, that they are able to form what I shall call “second order desires.” [...] “Many animals appear to have the capacity for what I shall call “first order desires” which are simply desires to do or not to do one thing or another. No animal other than man, however, appears to have the capacity for reflective self-evaluation that is manifested in the formation of second order desires.” (p.12).

²⁰⁰ Taylor (1985a) Chap 1. pp.15-44.

²⁰¹ Taylor (1985a) p.24.

inescapably plays a role in the determination of all choices. We weigh or compare between alternatives using a contrasting language of discrimination as to the worth of those options open to us. Using such a language will facilitate the articulations of those properties or values that are of real importance to our identity, and articulate how that identity has come to be forged. Through the deployment of such evaluations, we come to reflect upon what is truly essential to our well-being and self-fulfillment. However, unlike the crude positive theorists Berlin has attacked, with strong evaluations, “there can be and often is a plurality of ways of envisioning a specific predicament, and the choice may not simply be between what is clearly the higher and the lower, but between two incommensurable ways of looking at this choice.”²⁰² It is by looking at the ‘objects’ of our evaluations in question, that we come to realize certain things that mark its value or its worth. By deploying strong evaluations, we engage ourselves, in a “stance of openness,”²⁰³ in re-interpreting things and objects which are often thought to be of importance and of value to our sense of who we are. This language will attempt to delineate and re-articulate how the shape of our experience, and how our various horizons, have lead us to value such and such an object. It may even, in some cases, drastically alter these objects or things, but it will always do so against a certain background.

Of course, one may ask what does this talk of strong evaluation have to do with our understanding of liberty. For Taylor, this aspect of our agency is inescapable to understanding and appreciating why it is that we ought to choose this value or that value; why we ought to provide for this type of opportunity over that type of opportunity.

²⁰² Taylor (1985a) p.26.

²⁰³ Taylor (1985a) p.25.

Secondly, the language of strong evaluation helps us to understand some of the deepest motives that lie behind our defense of negative freedom. For instance, if we take Mill's conception of liberty, one of the limits that was important to any measure of non-interference was the famous harm principle. As we have seen in the last chapter, we realize that what was of value to Mill was the subject's ability to have a space provided which could secure not only one's very practice of self-creation and individual authenticity but which would also secure other people's ability to practice the same thing. Mill permitted us to limit our behavior because harm is a reality we want to avoid as a society. In Berlin's case, we can come to appreciate that his commitments behind his defense of the negative conception were not only the importance he placed upon value-pluralism but the commensurate importance he placed on the necessity to choose for oneself, on the importance of cultural and personal 'self-realization.' In effect, part of our last chapter was aimed to show that Berlin's defense was not simply conceptual, but had underlying evaluations of what kind of society celebrated negative liberty and how we ought to treat our fellow citizens.²⁰⁴

Unlike the crude version of negative liberty, these more nuanced interpretations provide us with a means to evaluate and construe the dimensions of non-interference in terms of concepts and self-understandings which have a certain importance and significance to human beings as historically and socially situated agents. By looking to strong evaluations, we do not necessarily have to disregard the import-attributing facets of the positive conception of liberty in our conception of negative liberty. Only the

²⁰⁴ It should be noted that this interpretation of Berlin is debatable. Most people read the paper as providing a simple analytic elucidation of negative and positive liberty. See Gray's (1996) or Crowder's (2004) for a more in depth account of Berlin's thought.

holders of the analytic distinction will insist upon such a chasm; however this is an unsustainable position. To conclude, for Taylor

Freedom now involves my, [(and I would like to add) our], being able to recognize adequately my more important purposes, and my being able to overcome or at least neutralize my motivational fetters, as well as my being free of external obstacles.²⁰⁵

Under this context, we can no longer “understand freedom just as an opportunity concept.” Indeed, the crude view surrenders too much by simply evading the positive questions concerning what type of society, agents or political community we wish to become. Here, Taylor is perhaps right to claim that dismissing these questions altogether and evading the *responsibility* we have to see freedom as “only fully realizable only within a certain form of society”²⁰⁶ is not something that brings us nearer to some tyrannical conception of freedom. In effect, the type of society Taylor is alluding to in this respect is an essentially democratic one. Because the qualitative discriminations between values and activities and self-understandings need to be made by actors already within the societies in question, Taylor’s position, at least, minimally necessitates a conception of active citizenship and democratically structured institutions.²⁰⁷

To sum up, one of the most important conclusions we should draw from Taylor’s insights about what’s wrong with negative liberty is not the conception’s emphasis on non-interference per se, but that any talk of freedom must be balanced against, and understood through, an implicit background which fuels a set of important, if not inescapable, considerations about who or what we are and want to become. In this sense, what’s wrong with negative liberty is that if we defend it without some attention to the

²⁰⁵ Taylor (1985b) p. 228.

²⁰⁶ Taylor (1985b) p. 229. also see the last section of the chapter entitled “Atomism” chap. 7 in the same volume (paying close attention to pp. 202-210).

²⁰⁷ See also Taylor (1985b) Chaps. 7 & 8.

positive contributions it permits us to deploy we unfortunately rid it of its distinctive worth.

In any case, it should be stressed that Taylor's position ultimately demands that citizens engage in political practices and exercises in order for their claims to be made and more importantly listened to.²⁰⁸ One consequence of Taylor's outlook is that it not only gives us a thicker and, ultimately more substantive, vision of human liberty but it also essentially brings together two apparently radically different conceptions – one understood in the liberal terms of non-interference and the other understood through a more republican and democratic imagery of direct political practices and actions. Whereas Berlin was slow to attribute any importance to the positive ideals of self-mastery, self-determination or self-realization in his account of negative liberty (mainly because of the way in which the Tradition had 'over-determined' the notion of Self that was to be realized, determined or mastered); Taylor has effectively 'deflated' the content of this self to not only *situate* it within social space and time but ultimately free it from its traditionally teleological structure.

²⁰⁸ For this aspect of Taylor's outlook, see his "The Politics of Recognition" in Taylor (1995) chap. 12.

Conclusion:

This thesis has critically examined some of the central issues that revolve around Isaiah Berlin's understanding and defense of negative liberty. By taking into consideration a variety of insights from thinkers as far ranging as Benjamin Constant, Thomas Hobbes, John Stuart Mill, John Locke, Quentin Skinner and Charles Taylor we have noticed that theories of negative liberty are 1) not only based on a set of institutional preconditions but 2) also necessitate some idea concerning our ends and our identities in order for us to discriminate between alternative spaces of non-interference. This position seems to infer that any concept of negative liberty must be both an *opportunity* concept and an *exercise* concept.

In line with this thought, the preceding chapters have shown, following Quentin Skinner that the negative conception of liberty must be structured by recourse to some democratic or institutional preconditions. Only if these conditions are present can liberty truly be established. Moreover, we have shown, through the work of Charles Taylor, that it is through our practices of strong evaluations that a normative measure of negative liberty is provided in our post-romantic liberal societies. These 'positive dimensions' not only make negative liberty a more viable and humane ideal but also help shape the measurement of the space of non-interference by facilitating a language with which to create rankings of rival spaces of non-interference. In this respect, Skinner and Taylor have even offered us an approach by which to answer one of the most important challenges that remains concerning the concept of liberty which was asked, close to two hundred years ago, by one of its most celebrated thinkers Benjamin Constant;

Gentlemen, far from renouncing either of the two species of liberty which I have discussed; we must, I have showed, learn to combine one with the other. As the distinguished author of the History of Medieval Republics has said, the institutions must accomplish the destiny of the human species; they better attain their goals when they elevate the highest possible number of citizens to the highest moral dignity.²⁰⁹

Indeed, we *must* learn to combine both understandings of liberty not only to better attain our ends but to immanently unearth and bring forth in ourselves and our fellow citizens a profound sense of human dignity.

The way this will be achieved is, in stark contrast to Constant who opted to solve the impasse by reducing the liberty of the ancients into a modern right to democratic representation, through the attempt we respectively find in Skinner and Taylor's work to allay the conflict between negative and positive liberty by articulating the ideal in terms which ask that the source and authority of the boundaries that structure the space of non-interference come from citizen's own reflections and initiatives (Taylor) within a requisite set of democratic institutions (Skinner).

In other words, instead of making the two idioms discontinuous like Berlin, we followed the road paved by Constant and attempted to bring both concepts together. However, instead of reducing the ancient concept by transforming it into a modern liberty like Constant, we argued that the central concerns of both ideals can actually crystallize through the humanist and republican modes of thinking about freedom. Indeed, far from being totally discontinuous paradigms or "two profoundly divergent and irreconcilable

²⁰⁹ Constant (1997) p.618. - "*Loin donc, Messieurs, de renoncer à aucune des deux espèces de libertés dont je vous ai parlé, il faut, je l'ai démontré, apprendre à les combiner l'une avec l'autre.* Les institutions, comme le dit le célèbre auteur de l'histoire des républiques de Moyen Age, doivent accomplir les destinées de l'espèce humaine; elles atteignent d'autant mieux leur but quand elles élèvent le plus grand nombre possible de citoyens à la plus haute dignité morale. - *italics are my own.*

attitudes to the ends of life,²¹⁰ like Berlin concluded, freedom can be understood as a type of democratically drawn and instituted space of non-interference.

²¹⁰ Berlin (2002) p.212.

Bibliography:

- Arendt, Hannah. (1998) *The Human Condition (2nd Edition)*. Chicago: University of Chicago Press.
- Berlin, Isaiah.(1978) *Concepts and Categories* (ed. Henry Hardy) London: Hogarth Press.
- Berlin, Isaiah (1990) *The Crooked Timber of Humanity: Chapters in the History of Ideas* (ed. Henry Hardy) London: John Murray.
- Berlin, Isaiah.(2002) *Liberty* (ed. Henry Hardy) Oxford: Oxford University Press.
- Cassese, Antonio. (1995) *Self Determination of Peoples : A legal Reappraisal*. Oxford : Oxford University Press.
- Constant, Benjamin.(1997) (ed. Marcel Gauchet) *Benjamin Constant : Ecrits Politiques*. Paris: Gallimard.
- Constant, Benjamin. (1998) (ed. Biancamaria Fontana) *Political Writings*. Cambridge: Cambridge University Press.
- Crowder, George. (2004) *Isaiah Berlin: Liberty and Pluralism*. New York: Polity Press.
- Desiderio, Giancristiano. (2003) *Le Uova e la Frittata: Filosofia e Liberta in Benedetto Croce, Hannah Arendt, Isaiah Berlin*. Macerata: Liberilibri.
- Dunn, John. (1990) *Interpreting Political Responsibility*. Cambridge: Polity Press.
- Dworkin R. Lilla, M. Silvers, R. (1992) (eds.) *The Legacy of Isaiah Berlin*. New York: New-York Review of Books.
- Dworkin, Ronald. (2004) "Hart's Postscript and the Character of Political Philosophy" in *Oxford Journal of Legal Studies*. Vol. 24. No.1. pp.1-37.
- Feinberg, Joel. (1973) *Social Philosophy*. Oxford: Oxford University Press.
- Foucault, Michel (1997) *Ethics: Subjectivity and Truth. (Vol.1)* (ed. Paul Rabinow) New-York: The New Press.
- Frankfurt, Harry. (1988) *The Importance of What we Care About: Philosophical Essays*. Cambridge: Cambridge University Press.
- Goldstein, Marc Allan. (1997) (ed.) *Social and Political Thought of the French Revolution: An Anthology of Original Texts*. New-York: P. Lang.

- Gray, John and Smith, G.W. (eds.) (1991) *J.S. Mill's On Liberty in Focus*. London: Routledge.
- Gray, John. (1996) *Isaiah Berlin* Princeton: Princeton University Press.
- Gray, John (2000) *The Two faces of Liberalism*. New York: The New Press.
- Habermas, Jürgen. (1973) *Legitimation Crisis*. Boston: Beacon Press.
- Hobbes, Thomas. (1994) *Leviathan*. Indianapolis: Hackett Publishing Company.
- Hobbes, Thomas (1949) *De Cive or The Citizen* (ed. Sterling Lamprecht) New-York: Appleton-Century-Crofts Inc.
- Holmes, Stephen. (1984) *Benjamin Constant and the Making of Modern Liberalism*. New Haven: Yale University Press.
- Holmes, Stephen (1995) *Passions and Constraint: On the Theory of liberal Democracy*. Chicago: University of Chicago Press.
- Honohan, Iseult (2002) *Civic Republicanism*. London: Routledge Press.
- Ignatieff, Michael. (1998) *Isaiah Berlin: A Life*. London: Penguin Books.
- Johnston, David. (1986) *The Rhetoric of Leviathan*. Princeton: Princeton University Press.
- Lefort, Claude. (1986) "Politics and Human Rights" in *The Political Forms of Modern Society*. (ed. J. Thompson) Cambridge: MIT Press.
- Locke, John (2003) *Two Treatises of Government*. Cambridge: Cambridge University Press.
- MacCallum, Gerald. (1967) "Negative and Positive Freedom" in *The Philosophical Review*. Vol. 76. No. 3. pp.312-334.
- Manent, Pierre.(2001) *Cours Familier de Philosophie Politique*. Paris: Gallimard.
- Mill, John Stuart. (1956) *On Liberty*. New-york: MacMillan Publishing Company.
- Miller, David. (ed.) (2006) *The Liberty Reader*. London: Paradigm Publishers.
- Oppenheim, Felix. (1981) *Political Concepts: A Reconstruction*. Chicago: University of Chicago Press.

- Patten, Alan. (1996) "The Republican critique of Liberalism" in *British Journal of Political Science*. Vol. 26. No.1. pp.25-44.
- Patterson, Orlando. (1991) *Freedom (Vol.1): Freedom in the Making of Western Culture*. New-York: Basic Books .
- Pettit, Philip. (1997) *Republicanism: A Theory of Freedom and Government*. Oxford: Oxford University Press.
- Pitkin, Hanna Fenichel. (1988) "Are Freedom and Liberty Twins?" in *Political Theory* Vol 16, 4. pp.523-552.
- Pocock, J.G.A (1985). "Virtue, Rights and Manners" in his *Virtue, Commerce and History: Essays on Political Thought and History Chiefly in the Eighteenth Century*. Cambridge: Cambridge University Press. pp. 37-50.
- Pocock, J.G.A.(2003) *The Machiavellian Moment: Florentine Political Thought and the Atlantic Republican Tradition*. Princeton: Princeton University Press.
- Pocock, J.G.A (2006) "Foundations and Moments" in *Rethinking the Foundations of Modern Political Thought*. (ed. Brett and Tully) Cambridge: Cambridge University Press.
- Radcliff , Peter (ed.) (1966) *Limits of Liberty: Studies of Mill's On Liberty*. Belmont: Wadsworth Publishing.
- Rawls, John. (1999) "Justice as Fairness: Political not Metaphysical" in *Collected Papers*. (ed. Samuel Freeman) Cambridge: Harvard University Press.
- Rousseau, Jean-Jacques.(1966) *Du Contrat Social*. Paris: Garnier-Flammarion.
- Ryan, Alan (ed.) (1979) *The Idea of Freedom: Essays in Honour of Isaiah Berlin*. Oxford: Oxford University Press.
- Shklar, Judith. (1998) *Political Thought & Political Thinkers*. (ed. Stanley Hoffmann) Chicago: University of Chicago Press.
- Skinner, Quentin. (1973) "Thomas Hobbes et la défense du pouvoir 'de facto'" in *Revue Philosophique de la France et de L'Étranger*. Vol. 98 No.2 pp.131-154.
- Skinner, Quentin. (1978) *The Foundations of Modern Political Thought* (2 vols.) Cambridge: Cambridge University Press.
- Skinner (1996) *Reason and Rhetoric in the Philosophy of Hobbes*. Cambridge: Cambridge University Press.

Skinner, Quentin. (1998) *Liberty before Liberalism* Cambridge: Cambridge University Press.

Skinner, Quentin. (2000) "The Third Concept of Liberty" reprinted in Miller (2006) pp.243-254.

Skinner, Quentin. (2002) *Visions of Politics* (Vols.2 and 3.) Cambridge: Cambridge University Press.

Taylor, Charles. (1985a) *Philosophical Papers Vol. 1: Human agency and Language*. Cambridge: Cambridge University Press.

Taylor, Charles. (1985b) *Philosophical papers Vol. 2: Philosophy and the Human Sciences*. Cambridge: Cambridge University Press.

Taylor, Charles. (1989) *Sources of the Self*. Cambridge: Harvard University Press.

Taylor, Charles. (1995) *Philosophical Arguments*. Cambridge: Harvard University Press.

Williams, Bernard. (1978) "Introduction" printed in Berlin (1978) pp. i-xiii.

Williams, Bernard. (1981) "Internal and External Reasons" printed in *Moral Luck* Cambridge: Cambridge University Press pp. 101-113.

Williams, Bernard. (1985) *Ethics and the Limits of Philosophy*. Cambridge: Harvard University Press.

Williams, Bernard. (1992) "Liberalism and Loss" in Dworkin R. Lilla, M. Silvers, R. (eds.) *The Legacy of Isaiah Berlin*. New York: New-York Review of Books.

Wright, D.G. (1990) *Revolution and Terror in France 1789-95*. (2nd Edition). New-York: Longman Group.