

HOW MUCH DOES NEGATIVE LIBERTY NEED POSITIVE LIBERTY IN ECONOMIC ISSUES?

<https://doi.org/10.47960/2831-0322.2022.1.26.23>

Abstract

In attempting to rectify the inequalities ensuing from the flaws of negative liberty, proponents of social justice turn to economic policies based on positive liberty. Unaware of the value provided by each of these notions of liberty, they neglect the tyrannical potential of positive liberty which results from its instrumental value. Promoting government intervention in the market and redistribution of resources as a means by which inequalities are to be redressed, allows for the concentration of power in one place, which renders individual freedom ineffective. This paper suggests that the promotion of social justice through positive liberation is damaging to individual freedom due to the government's monopoly on regulating the social structure.

Keywords: *social justice; negative liberty; positive liberty; equality; paternalism; economic freedom.*

Introduction

The debate about negative and positive liberty, to a large extent, advances the perception of negative liberty as necessary, but insufficient part of liberty, whereas positive liberty completes the gap by ensuring that all conditions for self-actualization are satisfied. This is especially true in economic affairs, where much of the criticism directed at systems based on negative liberty, such as free market, point out the co-existence of negative liberty and poverty

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Izvorni znanstveni rad

Original scientific paper

UDK: 65.01:17]

Primljeno: 2. lipnja 2021.

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characterized by the lack of opportunities for the poor. As a result, various instances of injustice are being tackled by economic policies based on positive liberty. However, reliance on positive liberty to bring about social justice is threatening to individual freedom. The aim of this paper is to uncover the tendency of positive liberty to serve as an instrument for undermining individual freedom in the name of social justice. Our work seeks to apply the notions of negative and positive liberty to economic issues regarding contemporary efforts to establish social justice.

The insufficiency of negative liberty, as noted by its numerous critics, consists of a wide-ranging negligence regarding instances of injustice, inequality, or imbalance of power between people. Its liberating power is considered deficient because it merely provides the framework within which people are treated equally and have legal access to achievement of all sorts of desirable results, but not all of them have a true opportunity to reach self-actualization due to being negatively affected by the previously mentioned power imbalance. Those in opposition to such a flawed system propose the acceptance of the notion of positive liberty as a potential remedy for this problem. Policies based on positive liberty seek to rectify power imbalance by enacting laws favorable to disadvantaged groups. This can be done, for example, by promoting preferential policies, redistribution of wealth, or government intervention in the market. However, although the authority undertakes such interventions with the intention of improving the opportunities of the worse-off, its intentions do not always correspond to the results. This discrepancy is due to the difference in the value of positive liberty in relation to its negative counterpart, which can lead to different results, even if, sometimes, the intentions are the same. Before we can make any advancements in arranging the economic structure which will be most beneficial to society at large, we must be able to discern the differences in seemingly complementary concepts and recognize their political and economic implications. This means that we need to contemplate economic issues in terms of the notions on which they are based, which cannot be done without proper understanding of the value provided by each of these notions. Since the concern for liberty should be at the center of economic decision-making, we start by explaining what is meant by liberty and how it can be misunderstood.

1. Relation between liberty and equality

In *Why Does Inequality Matter*, Thomas Scanlon accurately identifies the issue by asserting that “liberty or freedom in one form or another can be appealed to on both sides of debates about equality.”¹ One can argue that the promotion of equality interferes with liberty since redistribution or other methods of advancing equality inevitably uses resources of one party to benefit the other. However, the promotion of inequality, which results from the insurance of negative liberty, can be said to impose limitations on the liberty of those who are worse-off by obstructing the realization of their goals. In both cases, someone’s liberty seems to be endangered. Therefore, the issue requires the analysis of the arguments by which it is possible to decide in which cases the interference with liberty is justified. One common reason for objecting to interference with liberty is the coercion involved. Deliberately denying someone the realization of their intentions might seem unambiguously improper, but the lack of context makes such an explanation inadequate. The importance of context is apparent in Scanlon’s example in which coercion that is present in firing a worker because of economic inefficiency is not objectionable, as opposed to the dismissal of a worker based on a coercive threat.² Firing a worker for not conforming to a threat clearly counts as coercion, but if the reason for someone’s dismissal is their inefficiency, then, despite their negative liberty not to be interfered with, it will not be said that the person was coerced. Specifying the reason for someone’s action allows for a better understanding of its justification, but applying this method for discussing society at large generates additional issues.

Since inequality results from the insurance of negative liberty, it is difficult to identify the reason of some actions that obstruct someone else’s positive liberty. A person’s inability to purchase a desired good can simply be a result of another person’s exercise of negative liberty. Such oddity poses a difficulty in determining whether unintentional interference with positive liberty amounts to coercion. If it is correct to say that a person unable to buy a desired good is coerced, is it fair to obstruct someone’s negative liberty to help that person achieve their goal and establish some sort of equality among people, since everyone’s goals must be considered. Friedrich Hayek asserts that the only

¹ Thomas Scanlon, *Why Does Inequality Matter*, Oxford University Press, Oxford, 2018, p. 95.

² *Ibid.*, p. 101.

equality conducive to liberty is equality before law, while liberty is not only unrelated to equality, but “it is even bound to produce inequalities in many respects.”³ By contrasting liberty and equality, he disallows the promotion of equality when it is achieved by arguing for greater liberty. Leftist critics of liberalism strongly oppose such a view by suggesting that material conditions that enable the realization of certain goals increase freedom.⁴ The insurance of material conditions implies equality, which Hayek, interpreted in this sense, strongly rejects. He points out the confusion that is present in interpreting power as liberty, which “inevitably leads to the identification of liberty with wealth” which, because of its affiliation to liberty, allows for the argument supporting wealth redistribution to be made.⁵ Although the importance of power should not be neglected, it is inaccurate to use it synonymously with liberty due to the political implications of such a correlation. If a person is unable to afford an expensive piece of clothing, this is not because their freedom to do so is repressed, but because they do not have the power to complete the purchase. In addition, even with power insured, an individual can still be deprived of liberty. This is portrayed in Hayek’s example which contrasts a submissive courtier living a luxurious life with a poor peasant.⁶ Regardless of the courtier’s power to purchase commodity at will, his submission to a king renders him unfree, as opposed to a peasant who, although lacking in power, does not experience such dependency. The takeaway from Hayek’s distinction between liberty and power is that equating these two notions is detrimental to freedom from coercion because interpreting power as liberty “translates easily into a demand for power or wealth.”⁷ The promotion of equality, which manifests itself in fulfilling such a demand, thus interferes with one’s liberty on the basis of promoting liberty of all individuals. Although sacrificing negative liberty altogether in order to achieve equality cannot be justified due to the coercion involved, it is common for power or positive liberty to be promoted to a certain extent, regardless of its interference with one’s negative liberty. It is necessary to be able to identify when such an action is a result of the provision of public goods that cannot be consumed individually or assistance

³ Friedrich A. Hayek, *The Constitution of Liberty*, University of Chicago Press, Chicago, 1978, p. 85.

⁴ John Christman, “Saving Positive Freedom”, *Political Theory* 33 (2005) 1, p. 81.

⁵ F. A. Hayek, *The Constitution of Liberty*, p. 17.

⁶ Ibid.

⁷ Eugene F. Miller, *Hayek’s The Constitution of Liberty: An Account of Its Argument*, The Institute of Economic Affairs, London, 2010, p. 42.

to those who are worse-off and when it is a case of coercive interference with malicious intentions.

Robert Nozick's libertarian views, explicated in *Anarchy, State, and Utopia*, staunchly defend individual rights against interference that is employed as a method of establishing some form of equality. His defense of liberty and individual rights is portrayed in a claim that "no one has a right to something whose realization requires certain uses of things and activities that other people have rights and entitlements over."⁸ If those rights are to be violated, the interference present in such a violation of rights would be considered coercive. The idea discussed here requires the exemplification of these rights and entitlements whose violation seems impermissible. One such example concerns the earnings to which one is entitled. In defending the right to obtain that which belongs to a person, Nozick asserts that "taxation of earnings from labor is on a par with forced labor."⁹ Denying someone the income corresponding to the number of hours of work does not differ from forcing that person to work to someone else's benefit. This point becomes more apparent when the distribution of money involved in taxation is understood in terms of time one has to give up in order to support someone else. However, it is questionable whether such entitlement is justified to begin with. Scanlon's interpretation of the nature of taxation has different implications due to the assumption on which it is based. His justification of taxation is shown in the comparison to the justification of paying one's rent, whose similarity is based on voluntary decision-making and not coercion since "one's right to keep the money needed to pay one's rent is not overridden by the claims of one's landlord."¹⁰ Similarly, requiring a person to forgo a part of their possession is justified due to the mutual agreement enacted in everyone's interest. The redistribution of resources and opportunities can be justified to a certain extent, especially when it is in the interest of the entire society.

A person is likely to willingly forsake a part of their possessions to insure public goods. In discussing this phenomenon, Amartya Sen mentions particular public goods, namely environment protection, epidemiology and public health care, which he considers to be incompatible with the market

⁸ Robert Nozick, *Anarchy, State, and Utopia*, Blackwell, Oxford, 2001, p. 238.

⁹ *Ibid.*, p. 169.

¹⁰ T. Scanlon, *Why Does Inequality Matter*, p. 103-104.

mechanism.¹¹ The nature of such goods prevents the individual from making a standard transaction in which he would receive a certain private good. Ensuring a healthy environment is a collective enterprise which can never be consumed exclusively on an individual level. Therefore, the interference with one's liberty present in the pursuit of public goods can hardly be referred to as coercion. Another example concerns basic education, which is beneficial not only to those in need of such an asset, but also to the society at large due to the benefits that the promotion of basic education creates, such as economic prosperity and reduced mortality.¹² It is in the interest of the entire society to assist those who are worse-off because each individual contributes to the development of the society. When it comes to countries in transition, Sen criticizes those who advocate complete reliance on the market, especially when basic education is concerned, since the government has proved valuable in the development of literacy in such countries.¹³ Basic education constitutes one of the public goods whose promotion, especially in underdeveloped countries, cannot be easily dismissed as coercive, even though it is based on the interference with one's negative liberty, which is necessary to promote the public good at issue. Such concern for the worse-off is expressed in John Rawls's suggestion that, despite the contingency which determines starting positions, "the basic structure can be arranged so that these contingencies work for the good of the least fortunate".¹⁴

The previously discussed approach differs greatly from the promotion of equality because its foundation is not the misinterpreted notion of liberty. Even though equality and concern for the worse-off are similar insofar as their promotion is achieved through interference with one's negative liberty, they contrast in regards to their intentions and consequences. On the one hand, promoting the use of certain public goods or assets is undertaken to benefit those lacking in power and to insure goods that would otherwise be unobtainable, while preserving negative liberty to a large extent. Pushing for equality, however, eradicates negative liberty due to the excessive interference that is required for its achievement. The irrationality of advocacy for the realization of equality through insuring positive liberty is portrayed in Berlin's claim that

¹¹ Amartya Kumar Sen, *Development as Freedom*, Alfred A. Knopf, New York, 2000, p. 128.

¹² *Ibid.*, p. 128-129.

¹³ *Ibid.*, p. 129.

¹⁴ John Rawls, *A Theory of Justice: Revised Edition*, Harvard University Press, Cambridge, 1999, p. 87.

“everything is what it is: liberty is liberty, not equality or fairness or justice or culture, or human happiness or a quiet conscience.”¹⁵ It seems that one cannot argue for equality and liberty simultaneously because these two concepts, when understood correctly, cannot be said to promote the same thing.

2. The intrinsic value of negative liberty

In the previous chapter we have discussed why the appeal to positive liberty cannot be used to pursue certain social structures that eradicate negative liberty, such as equality. Now we turn to the examination of the nature of negative liberty in contrast to positive liberty which will further clarify the intrinsic value ingrained in the concept of negative liberty.

Why liberal thinkers are hesitant when confronted with the notion of positive liberty? Unlike positive liberty, negative liberty does not provide any content, but rather it merely ensures that there will be no impediments to one's actions and behavior. This characteristic implies that negative liberty is an end in itself and its intrinsic value cannot be overshadowed by the agent using it for his or her malicious intentions, while the acceptability of positive liberty depends on the end it serves.¹⁶ It is unsurprising, then, that there seems to be much skepticism in regards to the acceptance of positive liberty as a desirable method of conducting public affairs. In discussing negative liberty, Hayek points out that its value is independent of its outcome: “Liberty does not mean all good things or the absence of all evils. It is true that to be free may mean the freedom to starve, to make costly mistakes, or to run mortal risks.”¹⁷ This is partly what makes our actions significant and meaningful. The interconnection between liberty and responsibility influence the way we evaluate our actions as praiseworthy or disgraceful. Failing to recognize that the positive connotation of the notion of liberty ensues from its intrinsic value, not the consequences it produces, allows for distrust towards liberty to emerge. Such lack of understanding is usually noticeable in questioning the purpose of liberty – What good is liberty if I cannot use it for the realization of my goals? The question expresses dissatisfaction with identifying liberty

¹⁵ I. Berlin, *Liberty: Incorporating Four Essays on Liberty*, p. 172.

¹⁶ Theodore L. Putterman, “Berlin's Two Concepts of Liberty: A Reassessment and Revision”, *Polity* 38 (2006) 3, p. 435.

¹⁷ F. A. Hayek, *The Constitution of Liberty*, p. 18.

with the lack of restraint, since there are other ways in which a person can be unable to achieve their goal. However, these expectations that are based on the false interpretation of liberty cannot be used as an argument in an attempt to discredit the notion of liberty. As Hayek asserts, claiming that the concept of liberty is negative corresponds to the claim that “peace is also a negative concept or that security or quiet or the absence of any particular impediment or evil is negative.”¹⁸ The insurance of peace or security does not imply the realization of one’s goals. No degree of security can ensure the realization of one’s goals because it is wrong to consider such realization dependent only on security, although it might be said that security is one of the necessary conditions for success. Similarly, negative liberty cannot guarantee anyone their desired outcome, but, mainly due to its intrinsic value, it is considered one of the most important values of a society.

Stressing the importance of the intrinsic value of liberty seems to be more important in economic rather than political affairs because it is commonly argued that in impoverished countries the priority should be given to economic empowerment, which proves that its instrumental value is more often recognized as opposed to its intrinsic value. As we have previously mentioned, those in favor of such an argument question the purpose of negative liberty and appeal for economic empowerment on the basis of positive liberty. Contrary to the view commonly held, Sen believes that economic and political freedom are mutually complementary, which means that it is improper to give precedence to economic freedom in an impoverished society, but rather the promotion of political freedom, along with economic freedom, insures greater likelihood for the development of such a society.¹⁹ Nevertheless, the benefits gained from economic freedom outweigh its intrinsic value, which entails that we point out several arguments by thinkers who, aside from recognizing the value of freedom in regards to the ends it serves, also focus on the value of freedom itself.

The notions of negative and positive liberty are indispensable in discussing economic freedom. On the one hand, negative liberty conforms to market economy which is based on the separation of the state and economic affairs. Such a system grants the individual the domain within which they are protected from external interference. On the other hand, positive liberty promotes

¹⁸ Ibid., p. 19.

¹⁹ A. K. Sen, *Development as Freedom*, p. 146-154.

state economy which interferes with one's liberty with the intention of insuring the well-being of each individual. It is necessary to explicate the problem concerning the justification of such interference and to determine whether it is considered coercive. As Sen points out, economic freedom is often praised for the positive effects it has on earnings, wealth and economic opportunities, but the argument concerning freedom of interpersonal exchange, despite its importance, is not adequately represented.²⁰ If the agreement between two persons willing to engage in a trade is obstructed, it is objectionable not only because they were denied certain material benefits, but also because they were coerced into withdrawing from their intentions of exchanging particular goods. When discussing economic freedom, the focus on freedom itself, rather than effectiveness, is present in Nozick's Wilt Chamberlain argument, which states that voluntary actions of individuals can eliminate any pattern of distribution.²¹ In a socialist society, the state would have to obstruct the transaction between a talented basketball player such as Chamberlain and the people willing to pay to see him perform. The reason for such an intervention is Chamberlain's much higher income than that of other people, but the difference in income can be erased only by preventing individuals to engage in a transaction based on a mutual agreement, which amounts to coercion. Nozick's protest against any pattern of distribution does not consider effectiveness as the criterion for its justification, but rather, it requires freedom not to be suppressed. The value of freedom is also apparent in Milton Friedman's view that assigning functions of the market to the government "substitutes coercion for voluntary co-operation."²² The market is in harmony with freedom due to the dispersion of power that underlies such a system, while the concentration of power in one place poses a major threat to freedom. Similar skepticism towards the state's involvement in the activities of the market is present in Ludwig von Mises' description of the state as "the social apparatus of coercion and compulsion" which must not interfere with citizens' participation in the market.²³ Finally, Sen's idea that if the effectiveness of both market and state economy was similar, one would still have a reason to object to

²⁰ Ibid., p. 25-27.

²¹ R. Nozick, *Anarchy, State and Utopia*, p. 216-221.

²² Milton Friedman, *Capitalism and Freedom*, The University of Chicago Press, Chicago, 1982, p. 39.

²³ Ludwig von Mises, *Human Action: A Treatise on Economics*, Fox and Wilkes, San Francisco, 1996, p. 257.

the latter because of the obstruction of freedom.²⁴ In such a scenario, a person would be prevented from making decisions about production, consumption and other aspects of trade. The reason for the approval of economic freedom should be the concern for freedom itself as well as effectiveness of such an economic system.

Critics of negative liberty often seem to point out its insufficiency by deeming it useless for some people, but in doing so, they criticize negative liberty by arguing for something that its proponents do not disagree with. This misunderstanding is seen in the criticism provided in presenting a situation that stresses the insufficiency of negative liberty: “Consider the situation in which a child is dropped in the middle of a desert. He is free from constraints – he no longer has to go to school, eat spinach, do chores; but he is free only to starve.”²⁵ This is a legitimate argument that raises numerous questions about the solutions to the problem concerning the limits of negative liberty. It seems highly unlikely that a person would consider desirable the situation in which they are free from restraints, but lack the means to survive. However, this is not something that Berlin rejects, but rather he identifies the issue: It is true that to offer political rights, or safeguards against intervention by the state, to men who are half naked, illiterate, underfed, and diseased is to mock their condition; they need medical help or education before they can understand, or make use of an increase in their freedom.”²⁶ The insufficiency of negative freedom is also pointed out by Sen who, in addressing Nozick’s libertarianism, asserts that “the uncompromising priority of libertarian rights” can lead to terrible violations of freedom: “Even gigantic famines can result without anyone’s libertarian rights (including property rights) being violated.”²⁷ There are certainly values that are, in certain situations, more desirable than freedom. Berlin does not consider freedom an inalienable value that should never be sacrificed for something of greater importance, but rather he points out the lack of principle that would determine when such a concession is justified, which is important because of the perils arising from excessive sacrifice of freedom. The example of the potential insufficiency of negative liberty and its justified concession is provided in Sen’s discussion of the policies regarding

²⁴ A. K. Sen, *Development as Freedom*, p. 27-28.

²⁵ James A. Gould, “Positive and Negative Economic Freedom”, *Critica: Revista Hispanoamericana de Filosofía* 14 (1982) 41, p. 58.

²⁶ I. Berlin, *Liberty: Incorporating Four Essays on Liberty*, p. 171.

²⁷ A. K. Sen, *Development as Freedom*, p. 66.

economic freedom which China and India both implemented, but whose results are quite different.²⁸ China's efforts to improve economic freedom and create a market-oriented economy proved to be more successful than the similar endeavors in India because, when China started to implement these ideas, it had already insured basic education and public healthcare, which made its transition effective. On the other hand, India's population was semiliterate when the transition occurred, which prevented it from achieving the same level of success as China.

It is worth pointing out Rawls' careful consideration of the notion of liberty. In *A Theory of Justice*, Rawls clearly emphasizes the difference between liberty and its value:

The inability to take advantage of one's rights and opportunities as a result of poverty and ignorance, and a lack of means generally, is sometimes counted among the constraints definitive of liberty. I shall not, however, say this, but rather I shall think of these things as affecting the worth of liberty, the value to individuals of the rights that the first principle defines.²⁹

Although, at first glance, this difference might seem to promote the arguments put forward by the critics of negative liberty, it actually sets the foundation for the correct understanding of negative liberty. Rawls claims that a certain group of people can be equally free, but the value of liberty might not apply equally to each person due to the differences in wealth, health, and other factors. However, these factors do not constitute constraints of liberty, which means that the intrinsic value of liberty is recognized despite of its limitations in application.

Negative freedom must not be understood in terms of an overarching principle which would guarantee society's well-being. It seems as if Berlin's awareness of the limits of negative freedom makes him focus on the attempts by the proponents of positive liberty to compensate for those limits. However, these attempts can be perilous because the instrumentality of positive liberty makes it subject to distortion and manipulation.

²⁸ Ibid., p. 41-43.

²⁹ J. Rawls, *A Theory of Justice: Revised Edition*, p. 179.

3. The instrumental value of positive liberty

Skepticism towards the notion of positive liberty stems from the nature of positive liberty which makes its value dependent on the end it serves. As Berlin points out, positive liberation is achieved not through giving people the ability to choose, but through giving people what they need:

The perils of using organic metaphors to justify the coercion of some men by others in order to raise them to a higher level of freedom have often been pointed out. But what gives such plausibility as it has to this kind of language is that we recognize that it is possible, and at times justifiable, to coerce men in the name of some goal (let us say, justice or public health) which they would, if they were more enlightened, themselves pursue, but do not, because they are blind or ignorant or corrupt.³⁰

This point raises questions about the credibility of the person or entity in charge of providing positive liberty. How can I be sure that the person at issue has a noble cause in mind? Is their authority not subject to corruption? Even if their intentions are benevolent, what makes them qualified to make decisions on behalf of others? These are some of the questions troubling the critics of positive liberty. Throughout his work, Mill rejects the notion of paternalism as a justifiable method of helping those who lack the knowledge or skill necessary to achieve a desired outcome. He is aware that granting a person such a right based on their maturity might be perilous due to the difficulty in providing a precise definition of maturity which, sometimes, is “interpreted in ways that could justify despotism and deny legitimate claims to freedom.”³¹ Regardless of the degree of confidence one has about their beliefs, it is unsafe to grant a particular person power to impose certain limitations on everyone else’s freedom. The shortcomings of certainty are expressed in Mill’s description of people unaware of their fallibility: “Strange that they should imagine that they are not assuming infallibility, when they acknowledge that there should be free discussion on all subjects which can possibly be doubtful, but think that some particular principle or doctrine should be forbidden to be questioned because it is so certain, that is, because they are certain that it

³⁰ I. Berlin, *Liberty: Incorporating Four Essays on Liberty*, p. 179.

³¹ Don A. Habibi, “The Positive / Negative Liberty Distinction and J.S. Mill’s Theory of Liberty”, *ARSP: Archiv für Rechts- und Sozialphilosophie / Archives for Philosophy of Law and Social Philosophy* 81 (1995) 3, p. 361.

is certain.”³² Claiming that paternalism is concerned with liberation can have far-reaching consequences because it cannot be guaranteed that its power will not be used for wrongdoings.

Although a person can be prohibited to act in a certain way due to the damage they will do to themselves, their families and friends, or society at large, the basis for such prohibition is ignorance or negligence of appropriate behavior. Paternalistic policies are aimed at liberating the person from their faulty desires. For example, the intention of the law that prohibits drug abuse is to eliminate the faulty desire to achieve great amounts of pleasure in a short time by artificially improving one’s well-being. The validity of obstructing one’s freedom to engage in such a destructive behavior is generally agreed upon due to innumerable proofs of its destructiveness. However, people are often subject to various desires that produce unwelcome consequences. Mill points out the problems in consistent application of the reasoning promoting paternalistic policies:

If protection against themselves is confessedly due to children and persons under age, is not society equally bound to afford it to persons of mature years who are equally incapable of self-government? If gambling, or drunkenness, or incontinence, or idleness, or uncleanness, are as injurious to happiness, and as great a hindrance to improvement, as many or most of the acts prohibited by law, why (it may be asked) should not law, (so far as is consistent with practicability and social convenience), endeavor to repress these also?³³

Of course, it is highly unlikely that there is anyone who would approve of a law prohibiting idleness or uncleanness. What, then, is the criterion for deciding whether certain behavior can be justifiably prohibited? As already stated, the scope of paternalism is ambiguous, which makes positive liberty a notion that needs careful examination. It is hard to assess the validity of the law that is established with the intention of helping a person to achieve the realization of their goals by restricting some other aspects of freedom. Approving of such a concession of freedom means that we acknowledge the other person’s recognition of our true desires which need to be emancipated. Even Mill, who supports negative liberty and opposes paternalism, allows for some obstruction of freedom in situations where the lack of external interference

³² John Stuart Mill, *Utilitarianism and On Liberty: Including Mill’s ‘Essay on Bentham’ and selections from the writings of Jeremy Bentham and John Austin*, Blackwell, Oxford, 2003, p. 104.

³³ *Ibid.*, p. 152.

would lead a person to a loss of freedom. Consider Mill's bridge scenario in which he justifies the decision of a public officer to prevent a person from crossing an unstable bridge, claiming that "liberty consists in doing what one desires, and he does not desire to fall into the river."³⁴ The specifics of the situation reveal the validity of the intervention, but the reasoning on which it is based is subject to corruption. The claim that a person can rightly obstruct someone else's freedom because of a better understanding of their desires seems to be a dangerous principle. It is only when we are informed about the specifics of a situation that we can accept the principle. It is worth pointing out a similar case in which a person is prevented from selling themselves to slavery. Again, Mill argues that the prevention is justified because "the principle of freedom cannot require that he should be free not to be free."³⁵

The implications of the principle allowing emancipation through the insurance of positive liberty are pointed out by Berlin:

Once I take this view, I am in a position to ignore the actual wishes of men or societies, to bully, oppress; torture them in the name, and on behalf, of their 'real' selves, in the secure knowledge that whatever is the true goal of man (happiness, performance of duty, wisdom, a just society, self-fulfillment) must be identical with his freedom – the free choice of his 'true', albeit often submerged and inarticulate, self.³⁶

This position which enables one to impose restrictions in the name of liberation is pointed out in the second chapter, in which it was asserted that the promotion of equality through liberation – although it is actually empowerment – is, quite ironically, often established by restricting negative freedom. In that situation, the society is persuaded that their collective negative freedom must be conceded if they are to achieve liberation which would redress the situation in which some are worse-off than the others. The negative effects of absolute equality on one's liberty are undeniable since they inevitably lead to oppression. However, although we have discussed positive liberty as a means to achieve equality, it is not only equality that allows enactment through manipulative use of liberty. It is important to emphasize that negative freedom sometimes must be restricted because of the priority of the value which is promoted in such a way. While the policy which transparently takes away

³⁴ Ibid., p. 165.

³⁵ Ibid., p. 170.

³⁶ I. Berlin, *Liberty: Incorporating Four Essays on Liberty*, p. 180.

one's freedom in order to empower them seems benevolent and necessary, the attempt to deny the society the right to negative freedom in order to liberate it is highly subject to manipulation. In *The Road to Serfdom*, Hayek discerns the ulterior motive of the government trying to assign questions of economic affairs exclusively to itself. He asserts that, although the government may claim that such takeover is carried out with the intention of liberating its people from the less important aspects of life so that they are free to devote themselves to higher values, there is no purely economic interest which would restrain from seeking control over other aspects of life.³⁷ If we understand monetary rewards in terms of the possibilities they open up, it is clear that in such an arrangement a person's power would be severely affected. Moreover, the government's control could also be considered an obstruction of liberty because it creates a restriction in the form of a law that cannot be legally overcome.

How can the historical perspective provide a better understanding of the misuse of liberty or, in case of true benevolence, its false interpretation? The aforementioned French Revolution is only one of the events which portray how fighting for liberty can result in suppression of liberty. Although he did not consider Rousseau a theorist promoting tyrannical ideas, but judged his intentions as benevolent, the proponent of classical liberalism Benjamin Constant believed that the idea of positive liberty, which Rousseau supported and which inspired the French Revolution, set the foundation for despotism since, instead of dispersing the power, it allowed the power to be concentrated in a different place.³⁸ In an attempt to liberate the oppressed victims of former monarchical organization, the French Revolution used violent methods in order to satisfy the will of all people. However, the problem is that absolute and unlimited power constitutes the basis of despotism, regardless of "whether exercised in the name of one or of all men."³⁹ Reflecting on Constant's views, Berlin points out that oppression does not disappear with the replacement of the oppressor: "Constant could not see why, even though the sovereign is 'everybody', it should not oppress one of the 'members' of its indivisible self, if it so decided."⁴⁰ It is not clear how the conciliation between the general will and negative liberty should come about. In a society comprised of people with

³⁷ Friedrich A. Hayek, *The Road to Serfdom*, Routledge, London – New York, 2001, p. 91-95.

³⁸ M. E. Brint, "Jean-Jacques Rousseau and Benjamin Constant: A Dialogue on Freedom and Tyranny", *The Review of Politics* 47 (1985) 3, p. 325.

³⁹ Ibid.

⁴⁰ I. Berlin, *Liberty: Incorporating Four Essays on Liberty*, p. 210.

diverse interests and values the general will seems to be incompatible with the liberty of the individual. Alexis de Tocqueville was equally critical of the ideas which inspired the French Revolution, pointing out the conflict between collective control and individual liberty: “Collectively, the nation was sovereign – individually, citizens were confined in the closest dependence; yet from the former were expected the virtues and the experience of a free people, from the latter the qualities of a submissive servant.”⁴¹

Finally, the ideas which were primarily aimed at by Berlin’s critique of positive liberty are those that contributed to the rise of totalitarian regimes of the 20th century. Since the destructiveness of those regimes arose due to the radical abuse of positive liberty, the skepticism towards it should not be surprising. While certainly not irrelevant, the accusations of Berlin’s arguments as one-sided fail to identify his intention in criticizing the notion of positive liberty. Addressing his critics, Berlin confirmed that “the evils of unrestricted laissez-faire and of the social and legal systems that permitted and encouraged it, led to brutal violations of negative liberty – of basic human rights.”⁴² However, he considered the importance of exposing the violations of positive liberty far greater due to its corruptible nature which could not serve as a basis on which negative liberty is to be defended: “My point is that it was much less often defended or disguised by the kind of specious arguments and sleights-of-hand habitually used by the champions of positive freedom in its more sinister forms.”⁴³

4. The role of positive liberty in the pursuit of social justice

As the previous chapter revealed, positive liberty poses a serious threat to individual freedom. Where can we identify the use of positive liberty in the contemporary society and, consequently, address possible threats to liberty in its authentic form? Numerous instances of inequality in wealth and opportunities remain an ongoing problem in the contemporary society, but

⁴¹ Alexis de Tocqueville, *The Old Regime and the Revolution*, trans John Bonner, Harper & Brothers, New York 1856, p. 203.

⁴² I. Berlin, *Liberty: Incorporating Four Essays on Liberty*, p. 38.

⁴³ *Ibid.*, p. 37.

some of the attempts to rectify the situation might cause additional issues inadvertently.

Although somewhat ambiguous, social justice is interpreted as a state of more equal distribution of goods, capabilities, and opportunities. The demands of social justice are usually met through the limitation of individual freedom, which occurs when government programs and initiatives are enacted in order to benefit the worst off. Such an intervention is carried out on the basis of positive liberty, restricting individual freedom so that the impoverished have a true opportunity to prosper and pursue their goals which would otherwise be unattainable. Heated debates are held over the validity of the means by which social justice is to be achieved, but we want to point out the lack of principle guiding such an attempt, which requires us to approach it cautiously. Similarly to the reasoning behind Berlin's tendency to set aside the perils of negative liberty and focus on those of positive liberty, the priority given to objecting to government intervention, rather than *laissez-faire*, is grounded in the manipulative nature of the arguments supporting such intervention. Various government programs, such as unemployment benefits and minimum wage law, must be thoroughly examined in regards to their potential consequences, instead of uncritically accepted on the basis that they seem benevolent towards the poor. Upon losing their job, a person deprived of unemployment benefits would have their positive liberty violated and they would clearly have reason to object to such a violation. However, providing unemployment benefits has its side-effects which are not as clear as the effects of lacking positive liberty. Although providing necessary relief, unemployment benefits are often linked to prolonged unemployment period. An increase in minimum wage can enhance the autonomy of the worker, but also force some employers to fire workers or increase the price of their services. Such a policy can be particularly troublesome for young and inexperienced workers whose jobs are in danger of being eliminated from the market due to higher costs forced upon their employers.⁴⁴ Therefore, what might seem beneficial to the worse-off, can harm the same group of people it seeks to help. Various attempts by the government to help the poor can reduce poverty, but also create dependency. Large social welfare programs intend to provide security for the impoverished, but in doing so, they contribute to the

⁴⁴ Claire Hovenga – Devaja Naik – Walter E. Block, “The Detrimental Side Effects of Minimum Wage Laws”, *Business and Society Review* 118 (2013) 4, p. 463-487.

status quo, merely mitigating the effects of poverty, instead of creating the framework which allows for an escape out of poverty. The previously mentioned programs, as well as other similar programs such as high taxation and redistribution of goods, cannot be carried out without significant restriction of individual freedom.

Thinkers can discuss such economic policies which aim to rectify the unjust state of affairs and argue over the extent to which they are threatening individual freedom, but their instrumental value will always make them subject to manipulation and arbitrary use of tyrannical power, even when presented as benevolent. As Hayek points out,

... corrections of the distribution brought about in a spontaneous process by particular acts of interference can never be just in the sense of satisfying a rule equally applicable to all. Every single act of this kind will give rise to demands by others to be treated on the same principle; and these demands can be satisfied only if all incomes are thus allocated.⁴⁵

These attempts are not derived from a universal principle by which we could arrange the social structure. Rather, they are arbitrary, top-down decisions, which are highly subject to change, depending on a given state of power imbalance. It is not surprising, then, that individual freedom gradually diminishes with the rise of positive liberation. It is precisely the inconsistent application of the law and unequal treatment of people that led to much of the injustice in the past, which is now being redressed using the same principles which caused it. Interestingly, many liberal thinkers' views are not in conflict when it comes to identifying the problematic area to which the focus needs to be shifted. However, even after agreeing on the goals which social structure should pursue, the discrepancy regarding the means by which problems are to be solved remains. This is apparent in the comparison of Hayek's remark about what makes a good society and Rawls' underlying principle of his theory of justice, which provides an insight into the difference in means by which social structure should be arranged, but also the agreement about the aims towards which it should strive. Hayek notes that "we should regard as the most desirable order of society one which we would choose if we knew that our initial position in it would be decided purely by chance."⁴⁶ Although that statement could easily be attributed to Rawls, Hayek's understanding of

⁴⁵ Friedrich A. Hayek, *Law, Legislation, and Liberty*, Routledge, London – New York, 1982, str. 300.

⁴⁶ *Ibid.*, str. 290.

the society which fits such a description does not match Rawls' endorsement of social justice. On the one hand, as a means by which natural contingencies should be directed so that they produce a just framework, Rawls suggests a redress for undeserved inequalities, claiming that "since inequalities of birth and natural endowment are undeserved, these inequalities are to be somehow compensated for".⁴⁷ On the other hand, Hayek rejects the idea that such an intervention constitutes a just action. While both philosophers agree on the falsehood of describing natural contingencies as just or unjust, Hayek, as opposed to Rawls, believes it is unjust to alter them in the direction of equality. Rather, he believes that the poor are most adequately taken care of in a free market society, which primarily advocates negative liberty. Hayek points out the free market economy as a system which best achieves the goals of social justice in Rawlsian terms. Although it might seem strange to think of free market and social justice as complementary, there is no reason to think that the goals of social justice can be promoted exclusively by government intervention. Aside from relying on government, social justice can be developed by indirect means, which involves "maintaining a basic institutional framework (such as the rule of law, constitutional representative democracy, courts, and property rights) under which people will be incentivized to act in ways that spontaneously lead to growth".⁴⁸ Moreover, there is some empirical evidence in favor of this argument, which shows that economic freedom is an effective cure for poverty.⁴⁹

The decision involved in choosing between negative and positive liberty can be properly made only after careful consideration of the circumstances of a situation. Berlin's appreciation for negative liberty does not neglect the priority which might be given to positive liberty when poverty is at issue:

The Egyptian peasant needs clothes or medicine before, and more than, personal liberty, but the minimum freedom that he needs today, and the greater degree of freedom that he may need tomorrow, is not some species of freedom peculiar to him, but identical with that of professors, artists, and millionaires.⁵⁰

⁴⁷ J. Rawls, *A Theory of Justice*, p. 86.

⁴⁸ Jason Brennan, "Libertarianism after Nozick", *Philosophy Compass* 13 (2018), p. 6.

⁴⁹ James Gwartney et al., *Economic Freedom of the World: 2019 Annual Report*. Fraser Institute, 2019.

⁵⁰ I. Berlin, *Liberty: Incorporating Four Essays on Liberty*, p. 172.

This shows that Berlin's ideas are not in stark contrast to the demands of social justice, insofar as those demands are aimed not at correcting the past injustices, but making the poor better off. Since it is clear that there are circumstances in which positive liberty is not only acceptable, but necessary and desirable, we cannot but ask about the characteristics of such circumstances. Although we have previously established that the principle guiding the tradeoff between liberty and another value cannot be accurately specified, the general idea might be described in terms of Sen's basic capabilities. People lacking some capabilities which are essential for their development, such as basic education, are in a position in which they cannot make use of negative liberty. Proponents of positive and negative liberty might be able to reach a compromise if they turn their attention to addressing poverty with appropriate set of policies, instead of creating a monopoly on regulating social justice. However, contemporary demands of social justice go beyond the problem of poverty, appealing to the restriction of liberty without looking into the potential consequences of such restriction.

Conclusion

The critique of positive liberty should not be understood in terms of unyielding opposition to each deviation from negative to positive liberty. Although cherished for its intrinsic, but also instrumental, value, negative liberty is justifiably abandoned in order to promote a more important value. Public goods, which are consumed collectively, can only be insured through restriction of one's liberty. By giving up the freedom not to be taxed, a person allows a value of more importance to be promoted, such as environment protection. However, due to the corruptible nature of the underlying principle of positive liberty, a person might be wrongly persuaded that the concession of their negative liberty will emancipate them in other ways. Such reasoning generates confusion concerning the values at issue. The aim of positive liberty is not liberation, but rather the fulfillment of the value that is more desirable than liberty in a particular situation. In addressing the notion of positive liberty, Berlin is mainly concerned with faulty arguments which are used to undermine one's true liberty. Promoting equality at the expense of liberty should

not be regarded as liberating. The belief that liberty can be restricted and promoted at the same time opens up numerous possibilities for manipulation.

What is criticized in positive liberty, then, is the confusing argumentation of those who use it and its potentially harmful consequences, which is created by the lack of transparency in regards to the reasoning on which it is based. This critique is not aimed at rejecting paternalistic policies, nor is it interested in defending negative liberty, but rather it points out the corruptible elements ingrained in the notion of positive liberty.

KOLIKO NEGATIVNA SLOBODA TREBA POZITIVNU SLOBODU U EKONOMSKIM PITANJIMA

Sažetak

U nastojanju da isprave nejednakosti proizišle iz nedostataka negativne slobode, zagovornici društvene pravde oslanjaju se na ekonomske mjere temeljene na pozitivnoj slobodi. U odsutnosti znanja o vrijednostima koje pruža svaka od ovih koncepcija slobode zanemaruju tlačiteljski potencijal pozitivne slobode koji proizlazi iz njezine instrumentalne vrijednosti. Promicanje državne intervencije na tržištu i redistribucija dobara kao način na koji nejednakosti treba ispraviti omogućuje koncentraciju moći na jednome mjestu, što onemogućuje individualnu slobodu. Ovaj rad zastupa tezu da je promocija društvene pravde pomoću pozitivna oslobođenja štetna za individualnu slobodu zbog državnoga monopola nad regulacijom društvene strukture.

Ključne riječi: socijalna pravda; negativna sloboda; pozitivna sloboda; jednakost; paternalizam; ekonomska sloboda.

