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DEFENDING NEGATIVE LIBERTY



Chandran Kukathas

The importance of there being no impediments to action

What is it that every man seeks? To be secure, to be happy, to do what he pleases without restraint and without compulsion. — Epictetus

If we could act without restraint and without compulsion we would surely be free. And who would know better than Epictetus (c.50 – c.130 A.D.), the teacher of Stoicism who, having lived as a slave, surely knew better than most what it was to be unfree. Sharing with the Cynics a disdain for theory, he lived a life which exemplified *autarkeia* or independence, and in his moral writings stressed the importance of understanding humans as capable of making choices and taking responsibility for their deeds.

Nonetheless, liberty or freedom remains a troublesome concept which has been (and continues to be) widely disputed. The reasons are not hard to find. However intuitively attractive and commonsensical Epictetus's understanding may be, it still has to be asked what is meant by compulsion and what counts as a restraint. And giving an unambiguous and uncontroversial answer to these questions is no easy matter.

Yet the problem is not an impossible one. In this article I want to suggest that freedom is best understood as the absence of constraints on action. This means that freedom is, in a sense, a negative notion: it is what remains when obstacles to human conduct are absent. Such a view does, however, require a defence because some have denied its plausibility and even its coherence.

The concept of liberty. In his essay, 'Two concepts of liberty', Isaiah Berlin argues that, in the history of ideas, liberty has had two quite different meanings or senses. In the first, 'negative' sense of the word, a person is free 'to the degree to which no man or body of men interferes' with his activity. 'Political liberty in this sense is simply the area within which a man can act unobstructed by others' (Berlin 1979: 122). In the second, 'positive' sense of the word, a person is free to the extent that he is his own master, whose life and decisions depend upon himself and not upon external forces of any kind. A person who is autonomous or self-determining – who is 'a thinking, willing, active being, bearing responsibility for [his] own choices and able to explain them by references to [his] own ideas and purposes' – is 'positively' free (Berlin 1979: 131).

Gerald MacCallum, however, rejects Berlin's distinction between two concepts of liberty. Freedom, he argues, is always one and the same triadic relation. 'Whenever the freedom of some agent or agents is in question, it is always freedom from some constraint or restriction on, interference with, or barrier to doing, not doing, becoming, or not becoming something.' (MacCallum 1991: 102) Freedom is always *of* something (an agent or agents), *from* something, *to* do or not do, become or not become, something. Any statement about freedom must take the form 'x is (is not) free from y to do (not do) z'.

Are there two concepts of liberty, or is there only the single, triadic concept of liberty MacCallum describes? I would argue that MacCallum's challenge to Berlin is, in the end, not successful. This is because MacCallum's triadic formula comprehends only negative liberty. The negative libertarian is concerned fundamentally with the presence or absence of obstacles to the action of an agent. Whether or not a person is free depends upon the existence (and extent) of constraints upon action. These constraints may be 'external' obstacles, such as those posed by physical objects (e.g., chains) or legal provisions (e.g., official prohibitions). However, they may also be 'internal' obstacles, created by the individual's psychological state: someone might be negatively 'unfree' to perform an action because of particular religious beliefs, or fears (whether baseless or well-founded), or even long-established habits which make him incapable of considering changing his practices.

The positive libertarian, however, is not concerned fundamentally with the presence or absence of constraints upon individual action. He is concerned, rather, with the *nature of the agent* whose negative freedom or unfreedom may also be at issue. Whether or not the agent is positively free depends not on whether the agent is obstructed by external obstacles; nor upon whether the agent is constrained by internal ones. It depends on the nature or character of the agent himself. Thus MacCallum's triadic concept is simply inapplicable, because the issue for the

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positive libertarian is not whether x is free from y to do z ; the issue is 'what is x '.

In this respect, the positive libertarian is not concerned fundamentally with the individual agent's actions or options. He is concerned, rather, with the extent to which the agent conforms to an idea of what it is to be a human agent. It is in this sense that we can say that, for example, Karl Marx had a theory of positive freedom. For Marx, freedom would be realized only after the final triumph of communism, which meant the full self-actualization of human essence in history. In this view, the subject of freedom is not the individual but the species: 'true freedom' is the unhampered development of all the faculties of man as a 'species being' (See Walicki 1984: 239-40). So the question of freedom is not one of whether there are obstacles in the way of some particular agent; it is, rather, a question of what kinds of agents there are.

On this understanding of the difference between negative and positive liberty, the distinction is not to be drawn as it has been by Charles Taylor, who suggests that negative freedom is usually an 'opportunity concept', while positive freedom is always an 'exercise concept' (Taylor 1979). In Taylor's analysis, negative liberty is usually an opportunity concept because it suggests that 'being free is a matter of what we can do, of what it is open to us to do, whether or not we do anything to exercise these options'. Positive freedom, however, is an exercise concept because doctrines of positive freedom 'are concerned with a view of freedom which involves essentially the exercising of control over one's life. On this view, one is free only to the extent that one has effectively determined oneself and the shape of one's life' (Taylor 1979: 176). The key to Taylor's distinction, as he understands it, lies in the fact that the opportunity concept sees only 'external' obstacles to action as obstacles to freedom. By contrast, to recognize freedom as an exercise concept is to accept that the 'internal' obstacles of the mind, which affect our motivations, our self-control and our capacity for moral discrimination, also affect our freedom (Taylor 1979: 179).

The problem with Taylor's view is that there is no reason why, for the negative libertarian, only external obstacles count. 'Internal' impediments to action may just as easily be regarded as obstacles which affect an individual's freedom. Physical barriers, legal prohibitions, and credible threats reduce my negative liberty since they are impediments or constraints upon my action. My negative liberty is similarly reduced if I am drugged or brainwashed, or if I am manipulated or deceived into taking particular actions: the 'internal' obstacles reducing my liberty are the false beliefs with which I have been inculcated. My negative liberty can, however, also be reduced by

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my submission to irrational fears or my inability to shake off, or even re-consider, old habits. The obstacles, on this occasion, are the beliefs (or the obsessions or the anxieties) which make it difficult for me to take certain options.

Now, Taylor argues that, once it is conceded that 'internal' obstacles restrict freedom the negative libertarian is no longer using freedom as an opportunity concept but is using it as an exercise concept. This is because to be free of internal obstacles invariably involves actively 'exercising' freedom by removing those internal barriers (Taylor 1979: 177-78). This seems to be a mistake. While removing or surmounting internal obstacles, such as fears or anxieties, involves action, the same is also true of the overcoming of external obstacles. Whether or not activity is required to enjoy freedom is irrelevant. Furthermore, as Baldwin tellingly observes, one might agree that overcoming internal obstacles involves one in action, 'but it does not follow that the freedom thereby attained is more than an opportunity to act' (Baldwin 1984: 131-2).

Negative freedom, then, is always to be understood as an opportunity concept; but the contrast to be drawn is not between negative liberty meaning the mere absence of external obstacles and positive liberty meaning the active overcoming of internal obstacles. Negative liberty is what an agent enjoys when there are no impediments, internal or external, to action. Positive liberty, however, is a matter of the condition of the agent.

What's wrong with negative liberty? There is, however, the further question of which of the two concepts of liberty is to be used in addressing issues of liberty, since some maintain that negative liberty cannot capture certain important dimensions of freedom. Taylor argues that it is a weakness of the negative notion that it takes no account of human purposes. For the negative libertarian, all obstacles reduce liberty. But if we consider the example of the murderer, Charles Manson, Taylor suggests, this gives us counter-intuitive results. 'Should a Manson overcome his last remaining compunction against sending his

minions to kill on caprice, so that he could act unchecked, would we consider him freer, as we should undoubtedly consider the man who had done away with spite or unreasoning fear?' Hardly, says Taylor, because what Manson sees as his purpose 'here partakes so much of the nature of spite and unreasoning fear'; indeed, 'it is an aspiration largely shaped by confusion, illusion and distorted perspective' (Taylor 1979: 192). Distinctions involving freedom depend upon the significance of the purpose which is fettered or enabled. Thus we cannot deny 'that it makes a difference to the degree of freedom not only whether one of my basic purposes is frustrated by my own desires but also whether I have grievously misidentified this purpose' (Taylor 1979: 192).

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VERY BADLY.

Yet if we understand negative liberty to mean the absence of 'internal' as well as 'external' obstacles, the language may not be as impoverished as Taylor suggests. We might be able to say of Manson that he was negatively unfree, unable to overcome the obsessions and confusions which clouded his mind. But this would not satisfy Taylor, for reasons which serve to illustrate the difference between negative and positive liberty. For Taylor, the question is not a matter of obstacles; the point is that, if Manson wants to do these things, he *can't* be free, for he *must* be the victim of illusion, confusion and distorted perspective. To have such wants indicates something profoundly unsatisfactory about the agent's condition – something to be analysed in terms of (a lack of) freedom. For the negative libertarian, however, there is no *necessary* connection here between the agent's preferences and the agent's freedom. If the agent has appalling purposes or prefers appalling ends this *may* indicate that he is some-

how deluded or overcome by obsessions which prevent him from judging aright. On the other hand, it may simply mean that he has – quite freely – chosen terrible ends. He might therefore be described as foolish or malevolent or evil; but he is not unfree.

For the positive libertarian, this indicates what is wrong with the negative notion of liberty: it refuses to recognize that having the wrong desires can mean that we are unfree. The standard example invoked here is the case of the avowedly contented slave who, having trimmed his desire for manumission, must be regarded by the negative libertarian as free. But the fact is that the slave cannot be free; he is a slave, and his preference for his condition does not make him freer but indicates the depth of his enslavement. Yet the theorist of negative liberty does have a reply here to indicate that his understanding of liberty does not issue in absurdity. First, the contented slave is not always negatively free. For one thing, his contentment may be the product of brainwashing, or of violence which has rendered him incapable of thinking clearly about his condition. He may be unfree because he has been duped into thinking that this is the best he can expect of life. For another thing, he may be unfree because, while content with his lot, he is in fact restricted in numerous ways by (external) barriers and prohibitions minimizing his opportunities. Though his second order desire is to remain a slave, his first order desires may be to be able to take the opportunities denied him by his (contented, or even voluntary) enslavement.

Yet what if the slave is not seriously restricted by external barriers but lives under a benevolent master from whom he could escape at any time – the condition in which Uncle Tom found himself in Harriet Beecher Stowe's novel. The slave who prefers slavery to escape, according to the positive libertarian, must be (positively) unfree. But it is more plausible, I would suggest, to argue that such a slave can be negatively free, for his decision might be the result not of confusion or illusion but of reason. His case might be analogous, for example, to that of Socrates in his prison facing the choice between taking hemlock and taking flight. We might think that Socrates chose wrongly (say, because his imprisonment was unjust), but we can also recognise that he was negatively free to choose between escape and execution. We can see that he was free because he chose his course not in a state of deluded anxiety but on the basis of considered reasons (even if not very good ones). The case of Uncle Tom under the rule of his benevolent master is precisely analogous. Tom chooses not to escape because of compassion, a sense of loyalty and moral conviction. There is a plausible sense in which he is free; and it would be difficult to argue that he was confused or deluded, even if not difficult to

argue that he was wrong. (None of this, of course, is to suggest that there is nothing unattractive about this slave's condition just because we can say that he is negatively free).

The negative concept of liberty is, then, perfectly serviceable. Moreover, it has the advantage of enabling one to discuss whether or not a person is free without presuming that it is not possible for someone both to be free and to act very badly.

Liberalism and Negative Liberty. There is another objection to negative liberty which challenges its coherence by denying that its defenders have been able to put it into operation. These defenders tend to be liberals. While there are many variants of liberalism, they share the view that liberty is enjoyed by individuals to the extent that their activities are not constrained or interfered with. The problem has always been to account for what counts as a constraint or interference which restricts liberty. After all, rules of property might be regarded as restrictions on liberty since they render individuals unfree to do many things – like trespassing or stealing. Indeed, all systems of rules create opportunities and impose constraints upon those who work within them. So when can we rightly complain about loss of liberty?

Many attempts to meet the challenge this question poses – classical liberal attempts included – have been found wanting. But does this mean that all such attempts are without value, if not entirely pointless? John Gray suggests so, claiming that classical liberalism has no good answer to the question of why negative liberty understood in terms of the absence of coercion is intrinsically valuable (Gray 1993:78). In the end, he argues, it is not negative liberty but the positive notion of 'autonomy' which will be found to be valuable.

But Gray is mistaken: there is a reason why negative liberty is valuable. Free actions are *my* actions. Infringements of my negative liberty make some of my actions no longer my own; if serious and extensive enough, they make my activities – or even my life – no longer my own. Restrictions on my liberty (which, say, close off particular options) restrict the fulfillment of *my* desires and aspirations. When I have negative liberty I can create value through the pursuit of *my* ends, by the satisfaction of *my* desires. This is not to say that objects or activities can have no value in themselves. But many things have value only because we seek them; they cannot have value if we cannot seek them; and they will not be valued by us if we are forced to gain them. They have value because we are free to seek them, and seek them freely.

Nothing in this appeals to autonomy, though it looks as if I am conceding that the value of negative liberty lies in its contribution to autonomy. What I am arguing is that many actions and activities acquire value because we

are free to undertake them and undertake them freely. We need not choose to do so autonomously. The action may not be that of an 'authentic', 'self-directed' person involved in a process of 'self-creation'; it may be thoughtless and ill-considered. It may still have value, however, because it is *my* action, an expression of *my* preference. Consider the case of a football hooligan, who spends his waking hours drunk and his sober hours asleep. When alert enough to speak he tells us he attends Collingwood's matches (to hurl abuse at opposing fans). When asked if he has nothing better to do he replies, 'what do you mean?' A less autonomous person would be hard to find. Yet he would suffer a loss if forced one weekend to go to a St Kilda match; he values going to Collingwood because he

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has always hurled his abuse at their matches. The infringement of his liberty has made his activity worthless to him, though it has not occasioned any loss of autonomy.

Many of our own activities, while perhaps not as degenerate as those of our football hooligan, do not reflect any degree of autonomy. They are the product of whimsy rather than reflection; caprice rather than deliberation; random selection rather than choice. Yet they are still free and have value to us. If I decide, on impulse, to go (again) to see *Rocky IV* at the movies but am denied admission (by a policeman who fancies himself as a film critic), I suffer a loss of liberty – and value – which may not be compensated by a free ticket to see *Citizen Kane* playing next door. This infringement of my negative liberty is a bad thing, but not because autonomy is in any way involved.

Negative liberty is undoubtedly an important value, and classical liberals are right to place great store by it. It is not the only value; but this is not to deny its importance. John Gray, I fear, has underestimated its importance, just as he has overrated the value of autonomy. By 'autonomy' Gray means 'the condition in which a person can be at least part author of his life, in that he has before him a range of worthwhile options, in respect of which his choices are not fettered by coercion and with regard to which he possesses the capacities and resources

presupposed by a reasonable measure of success in his self-chosen path among these options' (p.78). The crucial part of this definition is the first, which emphasises the importance of a person being 'part author' of his life. The remainder of the definition tries to indicate what makes for such authorship.

The problem, however, is to specify the extent to which a person must be the author of his life to qualify as autonomous. Consider again, for example, the case of the slave-hero, Tom, in *Uncle Tom's Cabin*. A slave since birth, Tom nonetheless has an assuredness and self-control born of deep Christian conviction. To his new master's promise to possess him 'body and soul' Tom replies that his owner may do what he will with his body, but not his soul – which belongs to another. Tom's independence of spirit contrasts sharply with the pitiable character of his owner, Simon Legree. For all his confident brutality, he is revealed to be the prisoner of his own upbringing, tormented by superstitious fears, with little capacity to shape or give meaning to his life.

According to Gray's definition, it would seem that the slave-owner here qualifies as autonomous: he has a range of worthwhile options (though he chooses badly); he is not coerced; and he has the capacities and resources to pursue worthwhile ends. Tom has none of these things and so cannot qualify as autonomous. Yet this cannot be correct; it is, in this instance, the slave who is autonomous.

The point here is that there is a vagueness about the idea of autonomy which makes it of dubious value. Since the key to autonomy is self-direction or self-authorship it has to be admitted that autonomy depends a good deal on one's character and state of mind. Whether or not one becomes autonomous will therefore depend on the factors which build one's character. Having resources and being free from coercion may be important for one to be able to *exercise* that autonomy in certain ways; but these things do not make one autonomous. Indeed, it is a mark of an autonomous person that he is able to make the most of what few resources and opportunities he has. Gray appears to recognize that autonomy may be the product of many things when he notes that 'autonomy is a complex status, not definable by reference to the presence or absence of any single condition' (p.78). But he does not then draw the more likely conclusion: that the notion of autonomy is too indeterminate in its nature to give us much help.

The ideal of autonomy is the ideal of the intellectual. It is the ideal of those who stress the importance of our *rational* faculties: our capacity to reflect, to deliberate, to 'choose'. These abilities are undoubtedly a part of our make-up; but only a part. Most of our pursuits are not the product of rational deliberation; nor are they 'chosen' in any sense other than that they are the result of voluntary

action. Though it would be going too far to say that we are simply constituted or determined by our social context, it would not be to say that we tend to prefer, to value, to attach ourselves to the familiar and the attractive. Such inclinations are not rational but emotional; and we worry less about whether we are self-directed than about whether we are obstructed.

The upholder of autonomy often forgets that people are too busy living their lives to worry about directing them; too often he remembers, and exercises his ingenuity looking for ways of forcing them to be autonomous. At worst, this involves doing violence to the actual practices and lives people pursue; at best, it means paternalistic action to 'create the conditions' which make autonomy possible – though it has to be asked how autonomous one can be if someone else takes charge of the task of ensuring that possibility.

None of this is to suggest that there are no difficulties associated with the negative notion of liberty. Taking the view that liberty is to be understood as the absence of constraints demands a clear statement of what counts as a constraint. Within the liberal tradition a variety of answers has been offered. And the debate goes on. The only point insisted upon in this article is that it is within the tradition of negative liberty that the debate should continue. ■

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